

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF

THE FIRST SESSION

OF

THE THIRTY-NINTH CONGRESS.

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BY F. & J. RIVES.

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ple of the country for the support of this class?

Sir, I know that it is perfectly useless to appeal to the Constitution of the United States. It is a dead letter. It has no more weight or consideration in the legislation of Congress, in my judgment, than any other piece of printed matter. Not only are the negroes of the South set free, by which the object and the aim of all the abolitionists in the land was accomplished as we supposed, but a bill is passed by Congress conferring upon them all civil rights enjoyed by white citizens of the country, and they are now selected out from among the people of the United States, the public Treasury put at their disposal, and the white people of the country taxed for their support. Lands to which you claim title by virtue of a purchase under a tax sale, lands, therefore (if you have the title) of the United States, you take and give to the negroes in South Carolina. You give these lands to no white person. If it be said that it is not an absolute gift, you may make money of it, the answer is that you say you sell them to negroes for \$1 50 an acre. If you have the title to these lands, what is the reason that you select out the negro race and fix the price at \$1 50 an acre, when, if your title be perfect, you can command perhaps fifty or one hundred dollars an acre for these cotton lands? If it was proper to make the remark in the Senate of the United States, I could say that you could have a purchaser without going out of the Senate at ten dollars an acre, taking the whole of them, every acre of the sixty-odd thousand acres which you propose to sell to these negroes at \$1 50 an acre. If you have the title to these lands, that is the way you propose to dispose of them at a nominal price to the negro race.

Mr. President, I shall attempt no review of the operations of the Freedmen's Bureau. I never believed that Congress had any right to establish any such bureau to take under its charge any particular portion of the people of the United States and to provide for them out of the public Treasury or out of the public lands. Such legislation was unknown in the early history of the Government, unknown until these extraordinary times; but, sir, it seems that we have become so much wiser than our fathers that we have discovered new principles of government, and have found somewhere within our legislative power the authority to become guardians for four million negroes.

Mr. President, there is one aspect of this case, and it will apply to many other cases that come before Congress, that it is time for the American people to begin to consider. If there is anything in private life to which I am opposed; if there is anything that I would oppose as a legislator, it is the repudiation of a debt. I do not believe in the repudiation of a private debt, and I do not believe in the repudiation of a public debt. This species of legislation taxes an unwilling people to support negroes in idleness, gives away your lands, if they be your lands, to negroes, that they may live in idleness upon them; deprives citizens of the United States of their title to lands contrary to the principles of the Constitution of the United States, which declares that they shall not be so divested except by due process of law. Pile up your public debt until it becomes so onerous that the people cannot and will not further bear it, and there are men in this country so anxious for political power, so anxious for political promotion that they will start a party in this country to wipe out that debt and get clear of the burden which you wish to impose upon them. I do not wish to see this; I wish to see the national faith and the national honor maintained; but, sir, there is a limit to oppression and there is a limit to taxation beyond which the people will not suffer. Already, not in the South, for I have seen no indications from that quarter of any intention to repudiate this debt, but I will tell you, sir, that now, in your own free States, there are men, in my judgment, who would hail the day when your public debt—at least so much of it as has accrued from the appropriation of money to sup-

port these negroes in idleness—there are men, I say, who would gladly see that portion of the public debt wiped out.

This may be plain talk. No man can charge me with a design or a purpose or a wish that such should be the case; but you must know that men are governed by interest. Your public debt is now over \$3,000,000,000. You have added to it enormously during the present session. You propose to continue taxes upon the people of the United States to support this Freedmen's Bureau for two years longer, and what will be the amount of expenditure under this bill no one can tell. The Commissioner may appoint just as many agents as he pleases, at a salary of not less than \$500 each. It is impossible, therefore, for you to determine the amount of expenditure that will take place under this bill. It is so much more needlessly added to your public debt.

Why, sir, it seems to me that we have got to conclude that there is no end to the resources of this country or the ability of the people to pay taxes. It used to be that a public debt of \$100,000,000 was considered a great burden. An annual expenditure for the purposes of Government of fifty or sixty or seventy-five million dollars was considered such a wasteful expenditure of the public money that when you met in Chicago in 1860 you proclaimed yourselves the friends of retrenchment and reform, and were going to administer this Government upon more economical principles, at a less expenditure than it had been administered theretofore. And yet, sir, in the five or six years you have been in power you have piled up a debt of some five thousand million dollars. You yourselves admitted, the chairman of the Committee of Ways and Means in the House at the commencement of the session admitted that the public debt was \$4,000,000,000 and more, and you are levying taxes upon the people of the country to pay the interest upon this enormous debt, and you propose to pay a portion of the principal. Where is the money to come from? There is taxation burdensome, onerous, upon all classes of the community, a stamp upon everything, the necessities of life two or threefold higher in price than heretofore, and you suppose the people of this country are so absolutely demented that for mere love of the idle, worthless negro race they are going to submit to all this burden of taxation, and that this false philanthropy, the parent of idleness and vagabondism as far as that race is concerned, is going to wait you again into the seats of power and that a tax-ridden and tax-burdened people are going to hail you as the great party to save the country upon the principles of liberty and there to meet you with hosannas wherever you bear your partisan standards and cast their votes to continue you in the high places of power.

Sir, there are periods in the history of the world, of all nations and people, when madness seizes upon the mind, when the judgment flies to brutish beasts. We have for a long time been in that situation, passing through it, in it, however, still; but, thank God, the symptoms of a political and a bright dawning begin to appear. The people of this country at least are beginning to wake up to the true character of this legislation. Sirs, you sit not quietly in your seats; you are not entirely calm when you can be so alarmed at the call for a little meeting in Philadelphia. It shows that you yourselves begin to think that there is something in your past political action that the judgment of the American people may not approve. You cannot pretend now that we are in the midst of a war. You cannot set up that plea of necessity, the last refuge of every man without any legal authority to support his action. You cannot set up such a plea as that, and say that there is any necessity for this Freedmen's Bureau. When the people of this country are called upon for their taxes, which, in part, are to be appropriated to the support of this Freedmen's Bureau, you cannot plead that we are now in a state of war and it is necessary to break down the military power at the South;

it is necessary to preserve the integrity of the country; for I presume that in view of your legislation you yourselves will even now blush to say that you ever have preserved the American Union. You can plead none of these things. It is a direct, plain, palpable proposition to the American people to put their hands in their pockets, pull out the earnings of their labor, and appropriate them to support the negroes in idleness. It seems to me that you believe sincerely and honestly that they will respond to such a call as that.

But, Mr. President, there is a feature in this bill that undertakes to declare and almost undertakes to say that that shall be so which cannot in the very nature of things be so. This bill says that these agents of the Freedmen's Bureau, these guardian angels of the saintly negroes, these protectors of the idols of your heart, shall be under the military protection and subject to the military jurisdiction of the United States. What are they? Are they persons belonging to the Army or Navy of the United States? And can you by act of Congress say that A B, who in fact is in civil life, shall for certain purposes be considered as belonging to the military service? If you can say that the agents of this Freedmen's Bureau, who cultivate the cotton lands of the South by negro labor for their own benefit, and who dispense your alms to those freed negroes, shall be under the military jurisdiction and protection of the United States, you may say that every member of this Senate and every private citizen of the United States shall be subject to the military protection and under the military jurisdiction of the United States; that he shall be protected by and have a remedy by and through the military power of the United States. How, sir, do you reconcile that with the Constitution of the United States, which declares that all civilians shall be subject to the civil law, and that only those persons who are engaged in the land and naval forces shall be subject to the military jurisdiction of the United States?

An attempt is made by this bill, therefore, to subvert a plain, palpable provision of the Federal Constitution by rendering civilians subject to military jurisdiction and affording them military protection. And what will be the consequence of this? If one of these agents, clothed with a little brief authority, dares to invade the right of any citizen of any State in which he shall be located, and the citizen seeks redress in the courts of law against him, you say by your bill that he shall be subject to the military jurisdiction and have the protection of the military power. You bring him in direct conflict with the civil authority of the States wherever any branch of this Freedmen's Bureau shall be located. He is to be protected by the military authority of the United States, and you exempt him in fact from trial for any wrong whatever, murder, breach of the peace, or any crime that can be committed. You exempt the party committing such offenses from responsibility to the civil tribunals. Some little military hero, who perhaps has never smelled gunpowder in battle, but who has been placed in charge of this Freedmen's Bureau, is to step in and say to the highest courts in the States and to the highest civil authority, "You shall not take cognizance of offenses against the laws, for I am the great man, above the State law and all State authority, that is to determine whether this one of the pet lambs of congressional legislation shall be held amenable for his action or not."

This provision of this bill is totally subversive of the civil law of the land, and it is subjecting the civil authority in time of peace to the military authority. But, sir, that is not all. There is another provision of this bill. It used to be thought that it required many years of long labor and study to become a judge. It used to be a maxim that twenty years at least were required; but, sir, you are making judges fast. These commissioners and agents are by the provisions of this bill actually constituted judges—men who neither know the definition of an estate for life, for years, or in fee, who

know nothing in the world about land except they see the dirt of which it is composed and the vegetation that springs out of the ground. They are made judges, and judges in reference to title to lands, and judges, too, from whose decision there is to be no appeal. This bill expressly declares that these commissioners and agents shall determine the title to lands, and it gives no appeals from their very learned and grave decision. Any ignoramus that has never seen a law book, and perhaps if he ever saw one could not read it, and every fellow who never conceived a principle of law or a principle of justice, is to sit in solemn judgment in reference to the title to estates, and from his decision no aggrieved party can appeal.

Mr. President, I question not the motives of others; I have no right to question them; but I have a right to speak my own honest opinions, and I think that the wit of man could not have framed a bill obnoxious to more serious objections in point of law than this bill to extend the operations of the Freedmen's Bureau; and certainly if it had been the design to frame a bill impolitic in its character, unwise in its provisions, ingenuity could not have possibly devised a bill to accomplish such a purpose more effectually than this. But, Mr. President, it is a foregone conclusion that this bill is to pass. A war, it seems, has been got up between the President of the United States and another portion of his party. The hostile armies on either side are arrayed. I will not be even a private in the ranks of either. I support the President wherever I believe he is right, and I oppose him where ever I believe he is wrong; and while I believe that you by your legislation are greatly promoting his political interests, and peradventure may lead to a renewal of his term of office, yet I claim not to belong to his party nor to yours—neither detachment nor wing of the party. But, sir, it seems this war has been got up, feeling has been engendered; and then when the President of the United States sends in a message assigning the strongest possible reasons why your bill should not become a law of the land, the bill must be fought out on this line though it takes all summer—no truce, no cessation of hostilities. All I have got to say is, keep on if you think there is no hereafter. It will not be long before the American people will decide upon the merits of this controversy. Passion is not going to last always; men are not going to be maddened always; the time for clear deliberation and calm thoughtfulness will come at last, and, when it does come, I apprehend the reaction will be as powerful as was the invasion of constitutional liberty and constitutional principles by the now dominant party.

The people of this country will not always submit to this species of legislation, but resorting to the peaceful method of the ballot-box, tired of the control and mismanagement of a party that keeps one third of this Union practically out of the Union, which shuts the halls of legislation against the representatives of eleven States of the Union, and assumes to legislate not only for the States they represent but for those who are denied a voice in the councils of the nation, the time will come, I humbly hope and believe, when the American people, aroused to a sense of their own dignity and their own character and their own interests will, by filling these Halls with representatives of their will, forever put an end to this species of legislation and again restore the Government to the principles upon which it was administered by the founders of the Republic.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, the objections of the President notwithstanding? This question, under the Constitution, will be taken by yeas and nays.

The question being taken, resulted—yeas 53, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart,

Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Buckalew, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Nesmith, Norton, Riddle, Saulsbury, and Van Winkle—12.

ABSENT—Messrs. Cowan, Dixon, Lane of Kansas, and Wright—4.

The PRESIDENT *pro tempore*. Two thirds of this body have passed the bill, and it having been certified to this House that two thirds of the House of Representatives have voted for this bill, the objections of the President notwithstanding, and two thirds of this body having also voted for the bill, after reconsideration, the objections of the President notwithstanding, I now pronounce that this bill has become a law.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives announced that the Speaker of the House had signed the enrolled bill (S. No. 222) further to prevent smuggling, and for other purposes; and it was signed by the President *pro tempore*.

#### INDIAN APPROPRIATION BILL.

The message also announced that the House agreed to some, disagreed to others, and agreed with amendments to other amendments of the Senate to the bill (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending the 30th of June, 1867; asked a conference on the disagreeing votes of the two Houses, and appointed Mr. J. A. KASSON of Iowa, Mr. W. E. NIBLACK of Indiana, and Mr. SIDNEY CLARKE of Kansas, managers on the part of the House.

Mr. SHERMAN. I move to take up the Indian appropriation bill with a view to the appointment of a committee of conference.

The motion was agreed to; and the Senate proceeded to consider its amendments to the bill (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending the 30th of June, 1867, disagreed to by the House of Representatives.

Mr. SHERMAN. I move that the Senate insist upon its amendments disagreed to by the House and agree to the conference asked by the House.

The motion was agreed to.

Mr. SHERMAN. I move that the committee of conference on the part of the Senate be appointed by the Chair.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The following bill and joint resolution of the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 787) exempting pensions from the internal revenue tax—to the Committee on Finance.

A joint resolution (H. R. No. 188) for the appointment of a commission upon transportation between the western States and the Atlantic sea-board—to the Committee on Military Affairs and the Militia.

#### NORTHERN PACIFIC RAILROAD.

Mr. HOWARD. I move now to take up the Northern Pacific railroad bill and as I yielded for the purpose of acting on the President's veto, I hope the Senate will consent to take it up. I do not propose to go on with it this evening any further.

Mr. JOHNSON. It will come up to-morrow.

Mr. CONNESS. Not unless it is taken up now.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 387) to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, July 16, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER. The first business in order is the call of States and Territories for bills and joint resolutions on leave, to be referred to their appropriate committees, and not to be brought back into the House by motions to reconsider.

JOHN GORDON.

Mr. MILLER introduced a bill to increase the pay of John Gordon, principal messenger to the Postmaster General; which was read a first and second time and referred to the Committee on the Post Office and Post Roads.

#### PREEMPTION AND HOMESTEAD LAWS.

Mr. FERRY introduced a bill amendatory of the preemption and homestead laws; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### MINNESOTA RAILROAD GRANT.

Mr. DONNELLY introduced a bill making a grant of land to the State of Minnesota to aid in the construction of a branch railroad from the waters of Lake Superior to the British possessions; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### CEDING PUBLIC LANDS TO STATES.

Mr. HENDERSON introduced a bill ceding the public lands to the several States in which they lie; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### ORDER OF BUSINESS.

The call of States and Territories for bills and joint resolutions having been concluded, the next business in order during the morning hour was the conclusion of the call of States and Territories for resolutions, commencing with the Territory of Colorado, where the call rested on Monday last.

No resolutions were introduced under that call.

The next business in order was the consideration of resolutions which have laid over under the rule.

#### TRANSPORTATION FROM THE WEST.

The first resolution was the following, submitted by Mr. RAYMOND on the 2d of April:

*Resolved by the House of Representatives, (the Senate concurring.)* That a commission of five persons be appointed by the President of the United States to consider and report to Congress at its next session upon the necessity of some more speedy, cheap, and reliable means of transportation between the western States and the Atlantic sea-board; and to submit some plan, whether by law or treaty, whereby the national Government can aid in providing for said necessity if it shall be found to exist: *Provided*, That said commissioners shall receive no compensation for their services, and no payment of any kind except for such traveling expenses as they may actually incur in discharging the duties imposed upon them by this resolution.

Mr. RAYMOND. I presume there will be no opposition to the passage of this resolution. Its object is simply to consider the question of promoting speedy and cheap communication between the western and eastern sections of the country. It involves no expense, nothing but an investigation and expression of opinion.

The SPEAKER. The Chair would suggest to the gentleman from New York [Mr. RAYMOND] that as this resolution provides for an appointment to be made by the President, it should be a joint resolution and not a concurrent resolution.

Mr. RAYMOND. I accept the suggestion of the Chair, and will modify it so as to make it a joint resolution.

The joint resolution was then read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. RAYMOND moved to reconsider the



vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DAILY HOUR OF MEETING.

The next resolution was the following, offered by Mr. PRICE on the 9th instant:

*Resolved*, That on and after Tuesday, the 10th instant, and until otherwise ordered, the House will commence its sessions at eleven o'clock a. m.

Mr. PRICE. I move to amend the resolution by striking out the word "tenth" and inserting in lieu thereof the word "seventeenth." I presume the House is well satisfied by this time that there is very urgent necessity for the passage of this resolution, and I therefore call the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

The question was taken upon the resolution as amended; and upon a division there were—ayes 51, noes 39; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. PRICE and J. L. THOMAS.

The House divided; and the tellers reported—ayes 48, noes 51.

So the resolution was not agreed to.

#### RIGHT OF WAY—MILITARY RESERVATIONS.

The SPEAKER. The next business in order is a joint resolution (H. R. No. 183) concerning the right of way of railroad companies through military reservations, and for other purposes. This resolution was introduced on the 9th of July by the gentleman from Missouri, [Mr. ANDERSON,] under the call of States, and, giving rise to debate, it went over under the rules. The question is on ordering the resolution to be engrossed and read the third time.

The joint resolution, which was read, provides that, subject to the approval of the President of the United States, to be filed with the Secretary of the Interior, the right of way not exceeding one hundred feet in width on each side of the track, with the necessary grounds for depots and stations, shall be granted to all railroad companies for the construction and operation of their roads over and upon all military reserves. The President is authorized to restore from time to time to the public domain any portion of such reserve over or near which the Union Pacific railroad or any of its branches may pass, and which shall not be required for military purposes; the same, when so restored, to be subject to existing laws concerning public lands in the same manner as if the reserve had never been made. It is provided further that the President shall not permit the construction of any railroad upon any such reserve, or diminish such reserve in any manner so as to impair its usefulness for military purposes so long as it shall be required therefore.

Mr. RANDALL, of Pennsylvania. Has this joint resolution been before any committee?

The SPEAKER. The Chair understood the gentleman from Missouri to state last Monday that the resolution had been considered by the Committee on Public Lands.

Mr. ANDERSON. Mr. Speaker, this resolution was considered by the Committee on Public Lands, who are unanimous in recommending its passage. The resolution grew out of a petition to Congress to grant the right of way to the eastern division, Union Pacific railroad, through the Fort Riley reservation. General Grant, General Sherman, and other military officers who have examined the matter, are not in favor of granting the right of way to this railroad through that particular reservation, but are willing that there should be granted four or five thousand acres of the lands reserved for military purposes, but the committee thought it would be sufficient to grant one hundred feet on each side of the road. When this resolution was introduced the other day, several gentlemen rose to debate it, and there seemed to be objection to it. But I do not see why there should be objection to the measure. The whole

matter is subject to the approval of the President. There are some twenty-two thousand acres of land in the Fort Riley reservation. Under this joint resolution not more than one thousand acres will be taken for railroad purposes, leaving still twenty-one thousand acres for the reservation. The War Department states that the fort will be abandoned in the course of a year, and that nineteen thousand acres will be amply sufficient for all military purposes. The resolution does not grant the right of way except subject to the approval of the President, and not even in that event if the land is necessary for military purposes. I hope gentlemen will not persist in their objections to the measure. I call the previous question.

Mr. WASHBURN, of Illinois. Mr. Speaker, when—

The SPEAKER. Does the gentleman from Missouri [Mr. ANDERSON] yield to the gentleman from Illinois?

Mr. ANDERSON. Certainly.

Mr. WASHBURN, of Illinois. When the gentleman from Missouri, on last Monday, asked the House to pass this bill, I had to interpose a very resolute objection, and I think that the House will second me to-day in that objection, when the attention of members is called to the first section. I desire particularly the attention of the chairman of the Committee on Military Affairs to this point, for the bill, would appropriately come from that committee, if from any. The first section provides—

That, subject to the approval of the President of the United States, to be made and filed with the Secretary of the Interior, the right of way, not exceeding one hundred feet in width on each side of the track, with the necessary grounds for depots and stations, is hereby granted to all railroad companies for the construction and operation of their roads over and upon all military reserves.

This proposes that every railroad in the United States shall have the right to go over the military reservations of the country—

Mr. ANDERSON. Subject to the approval of the President.

Mr. WASHBURN, of Illinois. As every bill is subject to the approval of the President; and I hope that he will veto a great many bills of this kind. Now, sir, can we afford to pass such a bill? I think the House will not consent to pass any such measure; and I hope the gentleman from Missouri will withdraw his call for the previous question, and consent to the reference of the bill to the Committee on Military Affairs.

Mr. ANDERSON. I yield ten minutes to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. Mr. Speaker, the gentleman from Missouri having yielded the floor to me, I will avail myself of the opportunity to say that I trust no general resolution or act of this kind will be passed. There have been three or four applications for the privilege of constructing railroads through military reservations at this session of Congress, each one of which in succession has been referred to the Committee on Military Affairs, each one of which has been carefully considered, and the report in each case has been made, allowing the privilege, but restricting it according to the particular circumstances of the case.

Now, for instance, one application was made for the construction of a road along the border of the Columbia river, between a bluff and the river, to which this resolution would not at all apply, where there was not one hundred feet to be given on either side, or scarcely one hundred feet at all; and after the consideration of the whole matter it was found absolutely essential to guard the public interest by putting in a provision not more than was barely sufficient should be occupied for the track, and there should be no houses or constructions of any kind in connection with the railroad which should interfere with any other canal or railroad that may be constructed hereafter between the bluff and the river. The committee, after examination, came to the conclusion there was underneath the application, if not designed, at least the possibility of the railroad having the entire monopoly of the transit

along that route to the exclusion of any other public interest in all time to come.

Again, in the case of a horse railway between the city of Leavenworth and Fort Leavenworth, it was found necessary to require that, if operated by steam, the railroad should run beneath the bank to be out of the way, and not to obstruct the military reservation for the proper use of the Government; and they found more than fifty feet could not be granted, while this authorizes a grant not exceeding one hundred feet. My inference from all this is, the United States, as the proprietor of these military reservations, ought to grant, according to the special circumstances of each case, the privilege when applied for, and no general act whatever is necessary. There have been, as I have said, three or four applications, each one of which has differed from the other, and the recommendation of the committee in each case has been made to conform to the circumstances of the case. I think that had better be the way hereafter. Under a general law an opening may be left under the broad discretion granted which may be abused. I hope, therefore, the resolution may be referred to the Committee on Military Affairs to consider the necessity and propriety of such a general law. That committee has had under consideration three or four special cases, each of which has been acted on, as I have said, according to the peculiar circumstances attending it. I move to refer the resolution to the Committee on Military Affairs.

Mr. ALLISON. It seems to me that this resolution goes further than it would seem from the explanation given by the member who reports this resolution. It is provided in the second clause that the President shall restore from time to time to the public domain any portion of said reserves over or near the Union Pacific railroad, or any of its branches, which shall not be required for military purposes, the same, when so restored, to be subject to the existing laws concerning the public lands in the same manner they would have been if said reserves had never been made. This resolution will not only grant the right of way, but, if those lands are restored to the public domain, it will grant to these companies a large portion of the public lands in addition. These military reservations comprise many thousands of acres of the most valuable lands. The resolution should not pass.

Mr. ANDERSON. There has been more opposition than I expected, and I do not object to the reference of the resolution.

The resolution was then referred to the Committee on Military Affairs.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was referred to the Committee on Military Affairs, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is the call of the States and Territories for resolutions and bills on leave, in inverse order, commencing with the Territory of Montana.

#### PUBLIC MINERAL LANDS.

Mr. HIGBY introduced a bill to legalize the occupation of the public mineral lands and to extend the right of preemption thereto; which was read a first and second time and referred to the Committee on Mines and Mining.

Mr. HIGBY moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HIGBY. I ask unanimous consent that the bill be printed.

No objection was made, and the bill was ordered to be printed.

#### PAY OF A MEMBER.

Mr. WILSON, of Iowa. I offer the following resolution:

*Resolved*, That there be paid out of the contingent fund of the House to Hon. JOHN L. THOMAS, jr., \$1,235 34, the same being the amount of salary accruing between the 4th day of March, 1865, and 1st day of August, 1865.

For the information of the House I will say that the gentleman from Maryland was not elected until the August preceding the commencement of this Congress, and he cannot draw his salary, there having been another member elected from his district to the Thirty-Ninth Congress who never qualified. I ask the previous question.

Mr. PHELPS. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. For what purpose?

Mr. PHELPS. To make an explanation in connection with this subject.

Mr. WILSON, of Iowa. Oh, yes, sir; I withdraw the demand for the previous question.

Mr. PHELPS. I wish to state that the case covered by the resolution offered by the gentleman from Iowa is precisely the case which has been already acted upon by this House in relation to the claim of Mr. Daniel W. Gooch, a member elected to this House from the seventh district of the State of Massachusetts, who resigned his seat for the same purpose that the predecessor of my colleague [Mr. J. L. THOMAS] resigned his, and he did it about the same time. He resigned his seat for the purpose of accepting the office of naval officer of the port of Boston, and the predecessor of my colleague, Colonel Webster, resigned to accept the collectorship of Baltimore. That has established a precedent in this case, in which the amount of pay from the time the Congress commenced on the 4th of March has been awarded by this House in the case of Mr. Gooch, and should be awarded for the same reasons to Colonel Webster in the case now pending. That is the explanation I wish to make. I trust the House will not put itself in the position of having awarded this pay to a member from Massachusetts and under the same circumstances refuse to a member from Maryland the same emolument.

Mr. WILSON, of Iowa. I do not wish to encumber this resolution with anything in relation to the pay of Mr. Webster. I understand that there are two other members in the same position.

Mr. PHELPS. I wish to offer a substitute for the resolution.

Mr. WILSON, of Iowa. I will hear what it is.

Mr. PHELPS. It is precisely the same resolution that was passed in the case of Mr. Gooch, but applying to Colonel Webster, the name only being changed.

Mr. WILSON, of Iowa. If it only relates to that of course I cannot yield to have it offered as a substitute. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. PHELPS. I desire to ask the gentleman from Iowa a single question.

The SPEAKER. The House is acting under the previous question.

Mr. WILSON, of Iowa. I have no objection to the gentleman asking me a question, if the House will permit it.

No objection was made.

Mr. PHELPS. I wish to ask the gentleman if, in his opinion, the passage of this resolution would reverse the action of the House in the case to which I have called attention, and preclude Colonel Webster from receiving the same emolument that has been already voted to Mr. Gooch, of Massachusetts.

Mr. WILSON, of Iowa. I do not suppose that the passage of this resolution would prevent the House from disposing of so much of its contingent fund as would pay Mr. Webster from the 4th of March up to the 4th of August. That is a question for the House to consider.

The resolution was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. PHELPS. I desire now to offer my resolution.

The SPEAKER. The State of Iowa is now being called, and the gentleman does not represent that State.

#### COINAGE, WEIGHTS, AND MEASURES.

Mr. KASSON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of State be directed, if compatible with the public interests, to communicate to this House any information he has received from the United States commissioner general to the Paris Exposition in relation to international movements for a reform of the system of coinage, weights, and measures.

#### PAY OF HON. E. H. WEBSTER.

Mr. HUBBARD, of Iowa, submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, directed to pay Hon. E. H. Webster, who was elected a member of the House of Representatives for the Thirty-Ninth Congress, from the second district of Maryland, the amount of his salary from the 4th of March, 1865, to the day of the date of his resignation as a member of this House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PAY OF CLERKS OF COMMITTEES.

Mr. WASHBURN, of Illinois, submitted the following resolution, upon which he called the previous question:

*Resolved*, That the several clerks of the committees of the House, whose pay has heretofore been four dollars per day, shall be paid at the rate of five dollars per day during this Congress for the time actually employed.

The previous question was seconded and the main question ordered.

Mr. WARD. I rise to a question of order. There has been adopted by this House a resolution directing that all propositions for increase of salary or compensation of the employés of this House shall be referred to the Committee of Accounts without debate.

The SPEAKER. The House has ordered the main question to be now put, no member making that point in time.

Mr. WASHBURN, of Illinois. With the permission of the gentleman from New York [Mr. WARD] I will say that the salaries of most of these clerks have been increased at this rate. And this is but simple justice to the others, if we are going to deal alike with all, "without regard to race or color," and all that sort of thing.

The question was taken upon agreeing to the resolution; and upon a division there were—ayes 43, noes 29; no quorum voting.

Tellers were ordered; and Mr. WARD, and Mr. WASHBURN, of Illinois, were appointed.

The House again divided; and the tellers reported—ayes 63, noes 35.

Before the result of the vote was announced, Mr. WARD called for the yeas and nays.

The yeas and nays were not ordered.

The resolution was accordingly agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EXEMPTING PENSIONS FROM TAXATION.

Mr. INGERSOLL introduced a bill exempting pensions from the internal tax; which was read a first and second time.

The bill was read at length. It provides that from and after the passage of this act any person receiving a pension from the United States is hereby authorized to deduct, in addition to the \$600 now exempted, the amount of such pensions in making the return of his or her income required under the internal revenue law.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. INGERSOLL. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. INGERSOLL. I call the previous question upon the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAY OF HON. R. S. HALE.

Mr. KUYKENDALL submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, directed to pay to Hon. R. S. HALE, from the sixteenth congressional district of New York, the amount of salary due from March 4 to August 24, 1865.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. KUYKENDALL moved to reconsider the vote by which the resolution was agreed to; and also moved to lay motion to reconsider on the table.

The latter motion was agreed to.

#### PAY OF HOUSE CLERKS AND EMPLOYÉS.

Mr. WASHBURN, of Illinois. I rise to a question of privilege, to the correction of the records of the House. It will be recollected that the gentleman from Vermont [Mr. WOODBRIDGE] introduced a resolution providing for the increase of pay of the clerks and employés of the House. I moved an amendment providing that the salaries of all officers of the House which had been increased at the present session should not extend beyond the first day of next Congress. That was the nature of my amendment, as the Speaker will very well recollect, because he made the suggestion. But the resolution has been engrossed so as to read "shall not extend beyond the first session of the next Congress." I ask that the correction be made in accordance with the facts.

The SPEAKER. The Chair cannot state whether the gentleman from Illinois said "first day of the next Congress" or "first session of the next Congress." The gentleman did not reduce his amendment to writing; and the Clerk took it down as he supposed was intended.

Mr. WASHBURN, of Illinois. I said "the first day of the next Congress." I offer the following resolution, to conform to what I believe the House understood:

*Resolved*, That the salaries of the employés of the House, increased at this session of Congress, shall not extend beyond the first day of the next Congress.

The SPEAKER. The gentleman having already offered one resolution, unanimous consent is necessary to allow him to offer another.

Mr. WOODBRIDGE. I object.

Mr. COOK. I submit the following resolution:

*Resolved*, That the salaries of all officers of the House, increased at the present Congress, shall not extend beyond the first day of the next Congress.

Mr. ROLLINS. I suggest to the gentleman to modify his resolution by inserting after the word "officers" the words "and employés."

Mr. COOK. I modify the resolution in that way.

Mr. RANDALL, of Pennsylvania. We have heretofore agreed to grant these employés a certain amount, and no doubt they have drawn it. Why should we now take it back?

Mr. COOK. This simply limits the increase to the present Congress. I call for the previous question.

The previous question was seconded and the main question ordered.

On agreeing to the resolution, there were—ayes fifty-seven, noes not counted.

So the resolution was adopted.



Mr. COOK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POLITICAL RIGHTS OF REBELS.

Mr. FARNSWORTH submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be, and is hereby, directed to furnish this House with copies of opinions given by members of the so-called cabinet of the confederate States of America to Jefferson Davis, at or about the time of the negotiations preceding the surrender of Johnston to General Sherman, concerning the effect of such surrender upon the political rights of the people then in rebellion against the United States; and also any other papers in the War Department relating to the same subject.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLICATION OF MAIL CONTRACTS, ETC.

Mr. BAKER. By request of the chairman of the Committee on the Post Office and Post Roads, I submit the following resolution:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of repealing so much of the act of June 25, 1864, to expedite and regulate the printing of public documents, and for other purposes, as directs that the annual reports of the Postmaster General of officers received and contracts made for conveying the mails be no longer printed, or of repealing so much of the act to change the organization of the Post Office Department, approved July 2, 1830, as requires such reports to be annually made to Congress.

The resolution was considered and agreed to.

#### PAYMENT FOR SLAVES ENLISTED.

Mr. HARDING, of Kentucky, submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the debts and obligations of the Government should be held sacred, especially such as have been solemnly recognized by law as just, and their payment provided for by appropriating and setting apart a fund for that purpose; and the repudiation of any such debts, whether they be for partial compensation to loyal men for slaves taken and employed in military service by the Government or for other property, should be discontinued and condemned by all loyal men and by every department of the Government.

On seconding the demand for the previous question, there were—ayes 23, noes 70.

Mr. HARDING, of Kentucky, called for tellers.

Tellers were not ordered.

So the previous question was not seconded.

Mr. KERR. I move that the resolution be laid on the table.

Mr. HARDING, of Kentucky. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 32, not voting 62; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Banks, Benjamin, Bidwell, Bingham, Boutwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Dawes, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Elliot, Farnsworth, Grinnell, Hart, Henderson, Higby, Holmes, Hooper, Hotchkiss, Ashbel W. Hubbard, John H. Hubbard, James R. Hubbell, Hulbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McKee, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Thayer, Trowbridge, Van Aernam, Ward, Warner, Elitha B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Windom—88.

NAYS.—Messrs. Ancona, Baker, Boyer, Dawson, Eldridge, Finck, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, Johnson, Kerr, Latham, McCullough, McRuer, Morris, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Sitgreaves, Taber, Taylor, Thornton, Trimble, and Wright—32.

NOT VOTING.—Messrs. Baldwin, Barker, Baxter, Beaman, Bergen, Blaine, Blow, Brandegee, Bromwell, Broomall, Chanler, Coffroth, Cook, Culom, Culver, Darling, Davis, DeForest, Denison, Dixon, Dodge, Dumont, Farquhar, Ferry, Garfield, Goodyear, Griswold, Abner C. Harding, Harris, Hayes, Hill, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Le Blond, Loan, McIndoe, Mercer, Orth, Paine, Patterson, Pomeroy,

Radford, William H. Randall, John H. Rice, Shanklin, Sloan, Smith, Starr, Stilwell, Strousse, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, Robert T. Van Horn, Stephen F. Wilson, Winfield, and Woodbridge—62.

So the resolution was laid on the table.

During the vote,

Mr. TROWBRIDGE stated that Mr. CROFTH and Mr. FARQUHAR were detained from the House by illness.

The vote was then announced as above recorded.

The SPEAKER then announced that the morning hour had expired.

#### DORANCE ATWATER.

The SPEAKER laid before the House a communication from the Secretary of War transmitting, in compliance with a resolution of the House, the papers in the case of Dorence Atwater, late a private in the general service United States Army; which, on motion of Mr. HALE, was ordered to be printed and referred to the select committee on the subject.

#### PUBLIC LANDS IN CALIFORNIA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in compliance with a resolution of the House, transmitting a report of the Commissioner of the General Land Office in relation to the public lands within certain limits in the State of California; which, on motion of Mr. HIGBY, was ordered to be printed and referred to the Committee on Public Lands.

#### BREVETS IN THE REGULAR ARMY.

The SPEAKER also laid before the House a communication from the Secretary of War transmitting, in compliance with a resolution of the House, a report of all brevet ranks conferred upon officers of the regular Army since April 12, 1861, to the date of the report; which was ordered to be printed and referred to the Committee on Military Affairs.

#### MERCHANTS' NATIONAL BANK OF WASHINGTON.

Mr. HOOPER, of Massachusetts. I am instructed, Mr. Speaker, by the Committee on Banking and Currency to make a report in the case of the Merchants' National Bank of Washington.

Mr. RANDALL, of Pennsylvania. I call for the reading of the report.

Mr. HOOPER, of Massachusetts. I was going to move that the report and the documents referred to therein be ordered to be printed.

Mr. RANDALL, of Pennsylvania. I will yield if the motion embraces the printing of the entire testimony.

Mr. HOOPER, of Massachusetts. I cannot agree to that. The testimony is submitted with the report, and is voluminous; and it appears to me if the report and documents referred to therein be printed it will be quite sufficient. There are some six hundred pages of the testimony. I think a great deal of it will be found to be of little interest. The report and the documents referred to are all that can be needed to give the public a complete knowledge of the whole subject.

Mr. RANDALL, of Pennsylvania. Then I shall exercise my privilege and call for the reading of the report.

Mr. HALE. I have the floor, and yielded to the gentleman from Massachusetts, but if the reading of the report be demanded I hope it will be withdrawn.

Mr. RANDALL, of Pennsylvania. I shall insist on having the report read; and I move that all of the evidence taken be printed with the report.

Mr. ASHLEY, of Ohio. I move to suspend the rules, so as to dispense with the reading of the report.

Mr. HOOPER, of Massachusetts. I withdraw the report for the present.

#### PACIFIC RAILROAD.

Mr. PRICE. I ask unanimous consent to report back from the Committee on the Pacific Railroad Senate bill No. 20, granting lands to aid in the construction of a railroad and tele-

graph line from the States of Missouri and Arkansas to the Pacific coast.

Mr. WRIGHT. I object.

#### INDIAN APPROPRIATION BILL.

Mr. KASSON. I am instructed by the Committee on Appropriations to report back the amendments of the Senate to House bill No. 337, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1867. As preliminary to the proposition I have to submit I wish to make a brief statement. This is the regular Indian appropriation bill, intended to provide supplies called for by treaties with the various Indian tribes. It was so reported from the Committee on Appropriations, and it went to the Senate as a bill appropriating about two million one hundred and fifty thousand dollars. It comes back from the Senate appropriating something over four million dollars. Nearly all of the \$2,000,000 added in the Senate is for supplies called for by new treaties made with the Indians.

In connection with these new treaties, the Committee on Appropriations have proposed to non-concur in the amendment of the Senate, *pro forma* in order to obtain proper information from the conferees on the part of the Senate touching the provisions of the treaties under which these grants are made. Some of these treaties introduce a new practice and provide annuities for forty years, while formerly they were limited to twenty years, with here and there an exception as far as thirty years. The Committee on Appropriations have deemed it proper, if possible, to come to some understanding with the Senate as to the extent to which the treaty-making power should be carried in binding us to carry out treaties.

I wish here to submit a statement of the yearly appropriations for Indian expenditures. In the year 1829 the appropriation was \$199,102 53; in 1839 it was \$603,693 45; in 1861 it was \$1,822,930 43; in 1863 it was \$1,866,835 88; in 1864 it was \$2,131,865 67; in 1865 it was \$2,257,932 96; in 1866 it was \$3,036,848 91; and now, under this bill, it is about \$4,050,000.

With this increase in the appropriations for this one branch of the public service, mainly arising from the unlimited discretion of the Senate in making treaties with Indian tribes, it has seemed to the Committee on Appropriations necessary, in connection with this bill, to come to some understanding that will limit this extravagant increase in the appropriations for this branch of the public service. With this intention the Committee on Appropriations propose that the House non-concur in the amendments of the Senate involving appropriations to carry out the new treaties, so that the committee may examine the treaties and ascertain whether any guard can be thrown around the expenditure of appropriations for Indian affairs. We have, therefore, recommended a non-concurrence in all the miscellaneous extra treaty appropriations in the bill with a view to a free conference with the Senate on the proper mode of arranging these matters for the future as well as in the present bill. If the House concurs in the propriety of this course, I propose that the action recommended by the Committee on Appropriations be concurred in in gross, and the bill allowed to go to a committee of conference for the purposes which I have named.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (S. No. 343) to quiet land titles in California.

The message further informed the House that the Senate had passed a joint resolution and a bill of the following titles, in which he was directed to ask the concurrence of the House:

Joint resolution (S. R. No. 132) authorizing the Secretary of the Treasury to audit and set-

the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco; and

A bill (S. No. 408) making appropriation for the erection of a military hospital at Yokohama, in Japan, and for other purposes.

#### INDIAN APPROPRIATION BILL—AGAIN.

The SPEAKER. The gentleman from Iowa [Mr. KASSON] states that the amendments of the Senate to this bill increase the appropriations made by the House nearly \$2,000,000; and that the Committee on Appropriations recommend that all the amendments of the Senate be non-concurred in.

Mr. KASSON. No, sir; not all the amendments of the Senate—only the essential ones. We recommend a concurrence in some immaterial amendments.

Mr. HENDERSON. I understand that this bill contains an appropriation of \$40,000 for the payment of Indian indebtedness in Oregon and in Washington Territory. I wish to say that the amendment of the Senate in regard to that matter is of great importance to the whites, as well as to the Indians upon that coast. Friends around me suggest that I had better let the bill go to a committee of conference, and I submit to their better judgment; but I still wish to urge upon the House the great importance of a fitting appropriation for the payment of Indian claims upon that coast. We are in a condition of perpetual warfare with the Indian tribes there, and have been for years; and we shall probably continue to be so unless these claims arising out of treaties already made, shall be settled.

Mr. KASSON. I wish simply to add that so long as we adopt the plan of paying the Indians for every breach of the peace they commit, and rewarding them for every war they commence, so long will wars be continually renewed upon us by the Indian tribes. I will read from the report of General Pope to Lieutenant General Grant in support of what I have said. General Pope says:

"The treaty of peace which Governor Edmonds proposes to make, and which he thinks the Indians will be very willing to make, is, I presume, such a treaty as it has been the unvarying practice of the Indian department to make heretofore. A supply of food and presents, to induce the Indians to assemble, and to satisfy them during negotiations, is first bought and transported to the place where the Indians are to meet the negotiators.

"A treaty is then made which provides that the United States Government shall pay certain annuities of goods and money so long as the Indians remain at peace. In other words, the Indians are bribed not to molest the whites. Past experience shows very conclusively what the Indians think of such a transaction. No country over yet preserved peace, either with foreign or domestic enemies, by paying them for keeping it. It is a common saying with the Sioux that whenever they are poor and need powder and lead they have only to go down to the overland routes and murder a few white men, and they will have a treaty to supply their wants. If such is the kind of treaty which will be satisfactory to the Government, I do not doubt that Governor Edmonds is right in saying he can make one, either with the Sioux or any other Indians whatever. He has only to notify the Indians, hostile or not, that if they will come to a certain place he will insure their safety, going and coming, and will give them presents and food, and make arrangements for continuing to supply them, provided only, they will sign a paper promising to keep the peace toward the whites. But the very Indians with whom he now proposes to treat have signed such a paper and gone through the same absurd performance once before at least, some of them oftener. Is there any reason to suppose that they are going now to keep their word any better than they did then? Of one thing we may be sure, and that is, that they will now demand a higher price for signing such a promise than they did before, and in six months or less will be ready for another treaty at a still higher price.

"It seems idle to pursue the subject. It seems to me that no man can fail to understand, if he wishes to understand the matter at all, that such a practice as this only encourages Indians to commit hostile acts. Every time they do it they are thus paid for it. The treaties I have directed military commanders to make are simply an explicit understanding with the Indians that so long as they keep the peace the United States will keep it; but as soon as they commit hostilities the military force will attack them, march through their country, establish military posts in it, and as a natural consequence their game will be driven off or killed; that the Indians can avoid this by keeping the peace and in no other manner. This is a peace which involves no expenditure of public money for annuities or presents, and is no doubt objectionable to Indian officials on that account; but as it certainly will not involve any more Indian wars than have hitherto occurred, and will be

certain again to occur under the present Indian system, it will have the merit at least of greater economy. Indians will keep the peace when they fear the consequences of breaking it, and not because they are paid (and badly paid, too) for keeping it, and when they can by the present system of treaty-making really make more by committing hostilities than by keeping the peace.

"The Indians with whom Governor Edmonds proposes to treat are Indians who are now violating a former treaty. What have they done to entitle them to presents and annuities, or to greater confidence in their promises; unless, indeed, the violation of former treaties and the murder of whites is to be thus compensated?

"I am very willing to unite with Indian officials or anybody else to secure peace with the Indians; but not willing, if I can prevent it, to pay Indians for outrages committed upon innocent women and children, and thus encourage them to a renewal of the same atrocities. I oppose the proposed treaty of Governor Edmonds, because it will only lead to renewed hostilities, and very certainly, in the future as in the past and the present, involve the necessity of exactly the same operation in treaty-making."

I will not read further from the report of General Pope. I will now submit my motion that the House agree to the recommendations of the Committee on Appropriations, to agree to some and to disagree to others of the amendments of the Senate to the Indian appropriation bill, and to ask for a committee of conference upon the disagreeing votes of the two Houses. And upon that motion I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. KASSON was agreed to.

Mr. KASSON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TAX ON CIGARS, ETC.

Mr. STEVENS. I ask unanimous consent to introduce a joint resolution to correct an error in the internal revenue bill lately passed by Congress, which has caused some trouble to the Department.

No objection was made, and the joint resolution was introduced and read a first and second time.

The joint resolution was read at length. It provides that such parts of the act entitled "An act to reduce internal taxation and to amend an act entitled 'An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes,' approved June 30, 1864, and acts amendatory thereof," as referred to the tax or duty on cigars, shall be so construed that the *ad valorem* duty of twenty per cent. shall be levied only on the excess of value above twelve dollars per thousand.

Mr. STEVENS. A word or two of explanation is all I have to say. When the question of the tax on cigars left this House, cigars valued at twelve dollars per thousand and under were subject to a tax of four dollars per thousand; above that value, forty per cent. was added to the excess of value above twelve dollars. We supposed that the committee of conference had left it precisely in that position, except reducing the *ad valorem* from forty to twenty per cent. I suppose that was really the intention of Congress when the bill was passed. But the Department say that they cannot so construe it; that, as it now reads, it must be so construed as to mean not only four dollars per thousand for cigars valued at twelve dollars per thousand and under, but that the twenty per cent. *ad valorem* must be added to the cigars up to twelve dollars per thousand, making two dollars and forty cents more or six dollars and forty cents on the cigars which it was intended should be four dollars. It was not so in the original bill; it was not so in the amendment which was lost, and not so, I suppose, in the report of the committee of conference. It is to correct that error that I have introduced this joint resolution.

Mr. ALLISON. I desire to say one word. It was the intention of the committee of conference, as I understood, to charge upon cigars valued at twelve dollars per thousand and upwards a tax of four dollars per thousand, and

twenty per cent. upon the full value of those cigars; but upon cigars valued at less than twelve dollars per thousand four dollars only. If I understand the proposition of the gentleman from Pennsylvania, [Mr. STEVENS,] it is to charge upon cigars valued over twelve dollars per thousand a tax of four dollars per thousand, and twenty per cent. *ad valorem* upon the excess over twelve dollars. Now, it seems to me that such a proposition deserves a little further consideration. If, as the gentleman states, the law is construed to mean that cigars valued at twelve dollars per thousand and under, shall also pay the twenty per cent. *ad valorem*, in addition to the four dollars per thousand, then I will say that, as I understood, that was not the intention of the committee.

Mr. STEVENS. I suppose the committee of conference wanted to make it the same as the original bill, except reducing the *ad valorem* from forty to twenty per cent. However, if the gentleman wants time to examine this joint resolution, I shall not object.

Mr. ALLISON. I do not know that I shall object to it; but I do not now understand thoroughly the effect of it.

Mr. STEVENS. In order to give time for examining the joint resolution I have introduced, I will move that its further consideration be postponed until to-morrow immediately after the reading of the Journal.

The motion was agreed to.

#### ASSAULT UPON A MEMBER.

Mr. DEMING. I call for the regular order of business.

The House accordingly resumed the consideration of the resolutions reported by Mr. SPALDING, from the select committee on breach of privilege, in the matter of Hon. LOVELL H. ROUSSEAU, of Kentucky, and Hon. JOSIAH B. GRINNELL, of Iowa.

Mr. HALE. Mr. Speaker, it is an ungracious task, with the mercury at ninety degrees and upwards, in such a House as this, to attempt to secure the attention of this body or to occupy much of its time.

It is with no little hesitation that I have risen to advocate my view of this question, which differs from that of the entire committee—with the more hesitation from the high standing and character of that committee, which commend it to every member of this House. But entertaining the views which I do, I cannot do otherwise than attempt to the best of my ability to vindicate briefly those views.

I do not propose to differ with the finding of the committee as to the facts. Nor do I differ with the committee in its conclusions as to the power of this House to vindicate its own privileges to the widest and fullest extent. I trust that I shall not be found regardless of the high privileges of this House. I trust I shall not be found to undervalue the importance of the fullest protection to the personal privileges of members of this House. It is, sir, because I esteem those privileges highly, because I would prevent this House from becoming a scene of disorder and violence, because I would protect its members not only from violence but from insult, that I have offered the amendatory resolution, now pending, which I now rise to advocate.

As to the peculiar form of the resolution, or the precise shape in which the conclusions of this House may find expression, I am not strenuous. That to which I object and against which my remarks will be directed is what seems to me an unjust and improper discrimination in the case before this House against one who acted under provocation—against the man who, I believe, has been "sinned against" certainly not less than "sinning."

The chairman of the select committee, in discussing this question on Saturday, anticipated various lines of argument that might be used against the propositions of the committee; questions as to the power of Congress—questions as to its power in different directions. None of those lines of argument which he then



anticipated and met do I propose to follow. I admit in its fullest extent the power of this House to punish any and every person for a breach of the privileges of its members. I admit that this power extends as well to the protection of their persons and characters outside the walls of this Hall as inside. I admit that there can scarcely be found a limit to the power which this House may exercise for the full protection of personal freedom from violence and freedom from insult. I put this case simply upon its peculiar facts; and I shall argue that, simply as a question of propriety, as a question of desert, we ought not to adopt the propositions either of the majority or the minority of the committee.

First in order, I propose to consider the character of the assault committed by Mr. ROUSSEAU upon Mr. GRINNELL; and I suppose that in a case involving directly the action of the House upon those persons it is proper I should speak of them by name, instead of designating them in the usual manner, by the States which they represent. If I am right in this I shall continue to speak of these parties by their names.

The assault committed by General ROUSSEAU upon Mr. GRINNELL is admitted by the committee and shown by the whole evidence to have been an assault rather for purposes of insult and disgrace than for the purpose of perpetrating personal injury. The committee report this fact expressly. It does not, as has been charged outside of this House and in the public prints, partake in any degree of the character of brutality in the sense of personal injury intended. I mention this, not as claiming that thereby it is any the less the subject of the protection of this House by animadversion or punishment to be inflicted upon the party offending; but I simply desire to trace in connection the whole case and consider what ought to be done and not what may be done. And right here permit me to refer to a single branch of the report of the committee upon the facts, which I regret to find is not quite so full and explicit as the facts in the case would warrant, and failing in this respect to present the circumstances as they were admitted in the argument of the chairman of the committee on last Saturday. The committee, in their report, refer to the fact that three men were present armed; and they used this language:

"Three persons were present as friends of Mr. ROUSSEAU: the first, on account of information received from Mr. ROUSSEAU that a personal assault was possible, if not probable; the second, on account of a suggestion or call from the first; and the third followed Mr. ROUSSEAU to the portico, on account of his excited appearance and manner when passing through the Rotunda. It does not appear that any one of these parties was informed of his intended action except the first. These friends of Mr. ROUSSEAU were all armed with loaded revolver or pistol."

The chairman, in the discussion of the case on Saturday, conceded that the report ought to be modified so as to say three persons were present who were friends of Mr. ROUSSEAU—not that they were present as friends, which would seem to imply they were present on his invitation, and in the capacity of friends at a fray. I asked the chairman while reading the evidence in regard to their presence, whether it did not appear before the committee that General ROUSSEAU had no knowledge they were armed, and he answered that it only appeared by the declaration of General ROUSSEAU himself to that effect. I then asked the gentleman to read five lines on top of page 21, which I hoped he would do, and call attention to the fact that there was other evidence in the same direction. There Mr. Pennybaker, when upon the stand being questioned by Mr. ROUSSEAU, answered as follows:

"Question. Was it so understood that you were not to interfere between Mr. GRINNELL and myself?"

"Answer. Yes, sir."

"Question. Did I have any knowledge of your having arms?"

"Answer. No, sir; nobody had."

There is the testimony of an additional witness negating the idea of knowledge on the part of General ROUSSEAU of such armed pres-

ence; and there is no evidence whatever to the contrary.

So far, then, as the assault is concerned, the report of the committee leaves it simply here: a member of this House, without arms upon his own person, without any calling in of armed friends, for the purpose of inflicting insult and disgrace on another member of the House assaulted him at the door of the Capitol and inflicted personal chastisement on him. That case, standing simply thus, without other circumstances of extenuation, of excuse, or apology, certainly stands strongly enough and should most imperatively call upon this House to vindicate its own character and protect the privilege of the assailed member.

Nor do I propose, Mr. Speaker, to justify this action of Mr. ROUSSEAU. I do not feel called upon to discuss the question of the legal or moral justification. We are all familiar with the legal rule that there can be no legal justification of violence by provocation of any words, however insulting or abusive. Perhaps in a moral sense the same rule holds, that there can be no moral justification of an assault or personal violence by words of insult. But we all know, and there is not a man in this House, I venture to say, who would not so act if circumstances called for it—we all know there is a great class of cases where perhaps no legal or moral justification in a technical sense exists, where the person technically guilty of a wrong may be so far excused, his provocation may so far extenuate the act itself, that no body of men, no jury even, would be found to visit upon him the extreme penalty of the law, even of the moral law. Although not justified, he may be excused and his conduct extenuated.

Am I wrong in making this proposition? Suppose I meet a member of this House in the street and deliberately and wantonly there insult him, calling him, if you please, a liar or thief or coward, and he knocks me down on the spot for my words. Nobody can doubt Congress has the right to interfere, that the power of Congress to interfere and protect the person of its member may be lawfully exercised; that the assailant may be brought in here and dealt with for breach of privilege. But I ask gentlemen to say, if that state of facts should occur, whether anybody would believe it would be a proper case for the interposition of Congress? Where one by his own deliberate misconduct brought, perhaps wrongfully so far as the assailant is concerned, but certainly wrongfully so far as the insulter is concerned, where he has brought this personal violence upon himself, will it be claimed that Congress ought to interfere? I certainly think not. I need not refer to a large class of similar cases where the whole tone of public sentiment enunciates that where a party has by provocation on his own part drawn violence upon himself, he should not be the one to invoke the aid of the law or the extreme penalty which a parliamentary body may impose for his own protection.

Now, what was the provocation which led to this assault? Upon the 11th day of June last, according to your record, Mr. GRINNELL, rising in his place in this House to a personal explanation, by leave of the House, used certain language, which I now ask the Clerk to read.

The Clerk read as follows:

"JUNE 11, 1866.

"Mr. WINDOW resumed the floor.

"Mr. GRINNELL. I ask the gentleman to yield a few moments for a personal explanation.

"Mr. WINDOW. Certainly.

"Mr. GRINNELL. Mr. Speaker, it is with the greatest reluctance that I rise to say anything which might seem personal. I have been a member of this House for three sessions, and in all that time I have had no personal contest, and no unkind feeling toward any person in the House. I claim to be a man of peace. I claim first to be a gentleman. But, sir, when any man, I care not whether he stands six feet high, whether he wears buff and carries the air of a certain bird that has a more than usual extremity of tail, wanting in the other extremity, says that he would not believe what I utter, I will say that I was never born to stand under an imputation of that sort.

"The gentleman begins courting sympathy by sustaining the President of the United States preparatory to his assault upon me. Now, sir, if he is a de-

fender of the President of the United States, all I have to say is, God save the President from such an incoherent, brainless defender, equal in valor in civil and in military life. His military record! Who has read it? In what volume of history is it found?"

"Some time ago the gentleman asked some of us, 'What did you do in the rebellion but make speeches?' And he told us that he was in the field and got some little reputation with half-way secession Kentucky. But where was he in any great fight? Ask General Grant, or any of the leading officers. Where was he in the great fights? Ask General Grant if you want his private opinion about him. Go to the general officers; and since he has alluded to Iowa, I will give the opinion of a leading officer from that State, for not two weeks ago he told me that when there was a noise in camp the men said it was either a rabbit or General ROUSSEAU. He the defender of the soldiers of Iowa! Sir, they want no such defender; they want none of his defense. He has not led them in the battle, and it is all pretense; it is the merest mockery; it is the merest trickery, the merest blowing of his own horn, for him to say that he led our soldiers. Where was the deadly hail when they were under his command? But he comes here to traduce a humble person like myself. In the first place, he charged me with saying what I never did say. When he went down to make a speech to the Fenians in New York he is reported to have said this: 'As I said on the floor of Congress on one occasion, as a thing was made at my native State by a pitiable politician from Iowa. [Hisses.] You will excuse me for giving his name, but I believe it was one GRINNELL.'

"It was 'one GRINNELL' that he alluded to. But I never made any fling at Kentucky. That is my name. I am so called and so known where I live. But that is not all. He was not content with using my name, but he refers to the honorable gentleman from Pennsylvania [Mr. STEVENS] in these terms: 'I say that man is a miscreant, and I cannot find words to express my disgust and contempt for him.' To whom does that relate? To a member of this House! And here he stands up, six feet and over, calling himself a buttoned-up general officer."

"Now, sir, I wish to deny any unfriendliness toward the gentleman or toward the State of Kentucky. I deny that I ever made any remark which could be construed to mean anything unfriendly in that respect. So far from that being the case, I have held Kentucky in high regard. I have held in high regard the gentleman who preceded in Congress the gentleman from Kentucky who has spoken to-day. His predecessor writes to me that he will be returned here by five or ten thousand majority.

"Now, sir, why should I speak of this matter? Certainly not because I believe that my people would doubt my word. Sir, allusion has been made to the soldiers of the different States. I am proud to say that I represent a district that sent thirteen thousand men into the Army. Can the gentleman say as much? I did speak something about the men from Kentucky fighting on both sides. Sir, I have been sent here by a majority of seven thousand; and I do not go to the State of Kentucky for indorsement, nor do the soldiers of Iowa. Their record is made, and it was not made under the leadership of any man from Kentucky. It was made under the leadership of their own colonels and generals, and under General Grant and General Sherman. When the gentleman gets up here and claims the honor of having led the Iowa soldiers, I say that they were not so led; that they spurn such an intimation; and in this I mean nothing personal."

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. COOPER, his Private Secretary, returned to the House of Representatives, in which it originated, the bill of the House (H. R. No. 613) entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes," with his objections thereto in writing.

ASSAULT UPON A MEMBER—AGAIN.

Mr. HALE. Mr. Speaker, I have sent those extracts to the Clerk's desk to be read for the purpose of including in my remarks here the whole history of this transaction from the beginning to the end; and also for the purpose of placing before this House the remarks of Mr. GRINNELL upon the occasion in question, as originally taken down by the reporters at the desk, the remarks to which we all listened here, and which remarks, as afterward published in the Congressional Globe, differed so widely from the spoken remarks as to deprive them of many of their most stinging and wanton insults. What does this language amount to? Passing by the trivialities, if they may be so called, of the ridicule cast upon Mr. ROUSSEAU as to his person, his dress, his manner, his intellect, his resemblance to a peacock, and all that style of certainly most insulting and unparliamentary comment; passing by all this as unworthy to occupy any time here, in view of what remains of this case, I say that



this language, in the first place, charges General ROUSSEAU with cowardice; it charges him over and over again, in all the forms of stinging innuendo, with that most contemptible and lowest of all vices in a military man—cowardice! It charges upon him that he has no military record; that he has been in no great fight; that he never led the soldiers of Iowa in battle; that he is held in no estimation by General Grant, and other leading officers of the Army; that they regard him with contempt; that he was compared by one leading officer to a rabbit, an animal certainly not remarkable for its valor; and that with this inefficient, worthless, and cowardly military career he has stood up in this House and falsely, and as a vain-glorious braggart blown his own horn, and pretended to an honorable military record; that he has falsely claimed the honor of having led Iowa troops in battle, and that the soldiers of Iowa shun him and his pretenses, and would scorn to go to Kentucky for indorsement. That is the length and breadth of the charges made upon General ROUSSEAU by Mr. GRINNELL in this paragraph.

Now, sir, the fact that these charges are made upon a member of this House is enough, certainly, to call for an inquiry as to the violation of the privileges of the House by the member using that language. In this case there are circumstances connected with the career of General ROUSSEAU which, I think, I may properly allude to, and which I ought to allude to in this connection, to show how much more stinging, how more flagrantly wanton, and unjust was this attack made upon him than it might have been had it been made upon most of us who sit upon this floor. There are circumstances in General ROUSSEAU's career which, I think, fairly entitle him, in the consideration of all right-minded men, to at least the ordinary treatment of a gentleman in this House. Who of us has forgotten, or who can forget, his first political record upon the breaking out of the great rebellion; how he stood in the Senate of Kentucky, not hesitating, not halting, not planting himself upon a platform of half neutrality, but, almost alone, against an immense majority, standing up from the beginning to the end nobly, strongly, truly, to maintain the Union of this nation—to stand by his country and his Government? Who of us can forget how he fought that battle until the time came to take up arms, and how, then, within the first few months—ay, within the first few weeks of the rebellion, he resigned his seat in the Senate to enter the field, and was commissioned first as colonel, and then as brigadier general? Who can forget the services that he rendered at Shiloh, at Corinth, at Perryville, at Stone River, at Chickamauga? He has left his military record in the reports of his commanding officers. He never was in battle where he failed to elicit their warmest commendations for his gallantry, his skill, and his superior ability as an officer. His commission as a major general recites upon its face that it was conferred for highly meritorious service in the field.

I allude, sir, to these things not as bearing upon the question of his right to commit an assault or his justification in committing it, but I think I have a right to allude to them that I may ask the House to consider how much more stinging these insults, thus wantonly uttered upon this floor, must have been to such a man. Now, sir, how can such a man be supposed to comport himself after such an attack under such circumstances? I protest that whatever act of anger he may have committed, that almost any extreme even of personal violence resorted to under such provocation would be a thing that every man of us on this floor might well hesitate to bring in question and try. I submit that there is no man upon this floor but ought, before condemning anything that a man does under such a provocation as that, to examine himself and say whether, with such a provocation, he might not be led to do much greater wrong and violence.

Mr. BOUTWELL. Will the gentleman from New York [Mr. HALE] allow me to ask him a question?

Mr. HALE. Certainly.

Mr. BOUTWELL. I would inquire of the gentleman from New York [Mr. HALE] if he means the House and the country to understand that if a member here feels himself aggrieved in debate by a fellow-member; and feels also that the House does not furnish him with that protection to which he is entitled, thereupon and elsewhere, and in such manner and by the use of such weapons as he may choose, he is to exact what he may consider a compensation for the wrong done him?

Mr. HALE. It is very evident that what I have said so far has been said to very little purpose, or has not been listened to by the gentleman from Massachusetts, [Mr. BOUTWELL,] or he would not have asked me the question he has. In the very beginning of my remarks to-day I disclaimed entirely any question of justification. I have argued the whole case upon the ground that it was merely a question for the discretion of this House, and nothing else. I have said nothing which would warrant the gentleman from Massachusetts in the conclusion to which his question would seem to indicate he had come in regard to my line of argument. If he will do me the honor to listen to me, I am sure that before I get through he will see that I claim nothing of the kind which he would seem to indicate that I claim. Now, sir, right here I will allude incidentally to a single matter which is covered by the remarks of the gentleman from Massachusetts, [Mr. BOUTWELL,] and that is the lapse of time that occurred between the assault made upon this floor, and the assault made upon the steps of the Capitol. It has been alluded to repeatedly, out of this House if not in it, as taking this case out of the ordinary rule of action, under the heat of passion or aggravating circumstances, but with the facts in the case as they appear from the report of the committee, it seems to me such is not the case.

It appears that an intimation was made, probably from an unauthorized source, to Mr. ROUSSEAU that an apology would be made in the House by Mr. GRINNELL for this language; that in expectation of that apology he waited from day to day for four days, in order to give ample time for what he felt was due to him from his antagonist. In doing that it seems to me that we ought not to say that he aggravated any possible offense that he might have committed, and that he took away the palliation of passion and anger. For I submit to any man, whether resting under such insults from day to day for four days, with the expectation and what he believed to be the assurance that an apology was to be made, it is not to be presumed that his anger will necessarily continue to be inflamed the more from day to day, instead of cooling from day to day, by the persistent omission to apologize? Waiting for a deserved apology which fails to come, is not giving time for passion to cool, but for passion to become more and more inflamed. Now, sir, it is assumed, and the gentleman from Massachusetts in his question to me assumes it, that the language used by Mr. GRINNELL toward Mr. ROUSSEAU was language used in debate upon this floor. In a certain sense it doubtless was debate; within the rules permitting this House to regulate the conduct of its members, and to protect them from what may be uttered here, it was undoubtedly, in one sense, debate.

But in the fair, legitimate, proper use of the word "debate" I submit that the remarks of Mr. GRINNELL which have been read at the Clerk's desk were not used in debate. He was not discussing any question before this House; he was not discussing any measure of legislation or any subject that might properly occupy the time of the House. He asked the leave of the House to make a "personal explanation," an explanation of something involving himself, with the purpose, as I understand it, of setting

himself right before the public. Availing himself of that occasion, not only outside the range of "debate" proper of the legislative action of this House, but outside the range, as I understand, of any right conferred by the favor of the House for a matter of "personal explanation," he utters this most insulting language.

Mr. WILSON, of Iowa. If the gentleman from New York will allow me, I desire to remind him that the language of the Constitution is that "for any speech or debate in either House they (that is, Senators and Representatives) shall not be questioned in any other place."

Mr. HALE. I will relieve the gentleman entirely from the necessity of making any point of that kind. I conceded at the outset of my remarks that it was within the constitutional power of this House to punish, and that so far as technicality goes, the language used furnishes no justification whatever for the assault.

Mr. WILSON, of Iowa. The gentleman seemed to be commenting upon the word "debate." I simply wished to remind him that the language of the Constitution is more comprehensive, the words being, "for any speech or debate."

Mr. HALE. I comment on the word "debate," not as contending that this House has not the same power to protect its members from accountability elsewhere for anything said on this floor, but solely on the general proposition that no suppression of the proper "freedom of debate" has been here attempted.

Mr. ALLISON. I desire to say right here, if the gentleman from New York will allow me, that, as I understand the facts, my colleague [Mr. GRINNELL] rose to a personal explanation because the gentleman from Kentucky, in the course of his remarks, made a charge upon my colleague, and refused to allow him at the time to make an explanation.

Mr. HALE. I hardly think, Mr. Speaker, that I ought to be interrupted for the purpose of such a statement as that. I have not assumed to discuss any provocation between these parties prior to the occasion of which I have been speaking. I believe that no possible provocation could induce a man having a proper regard for himself or a proper sense of the proprieties of this House to rise here and deliver such remarks as were uttered by Mr. GRINNELL on that occasion. I do not propose to go back to consider whether there had been prior provocation. I will content myself with saying that, in tracing back the history of this matter to the beginning, it will be found that the first personal attack came from Mr. GRINNELL upon General ROUSSEAU, and not from ROUSSEAU upon GRINNELL; and the columns of the Congressional Globe will bear me out in this statement.

Now, sir, as I said, I do comment on the word "debate," not, as I have repeated more than once, for the purpose of implying in any degree any limitation upon the power of this House to protect its members, but that gentlemen shall not put this case upon the ground that "freedom of debate," in its proper, ordinary, well-understood sense, is in any manner brought in question in this case. Is it "freedom of debate" for a member to rise in this House, no question whatever being before the body, and deliberately and wantonly insult another member? If so, sir, I confess I have misapprehended the ordinary meaning of the word "debate." I do not think that is the sense in which it is used by those who use language correctly. Nor do I think that the term "freedom of debate" has any particular application to such a case. If "freedom" means simply "license," without limitation of rule, or law, or anything else, then this man did exercise freedom in the words he uttered. But in any proper sense of the term "freedom of debate" he can no more be covered by it than any man who, without any ground whatever, simply rises here and attacks another member by abusive language in defiance of all rules.

The Speaker of this House, in his ruling

upon this very case, recognized, and I doubt not very properly, the distinction which I here make. When the language to which I have called attention was uttered by Mr. GRINNELL I for one sat, here astonished beyond measure that a member of this House was permitted to proceed in the use of such language. I did not deem it my place to call him to order, for, inexperienced as I was in the usages of parliamentary assemblies, I supposed, in my innocence, that it was the duty of the Speaker to restrain such language. The Speaker himself, in afterward stating the line of action which he pursued and the reasons for it, stated that the precedents were the other way; that, by the practice of the House, the Speaker not being invited to yield his consent to a personal explanation, and being the only member of the House who is not so invited, the rest of the House having granted the leave, it is, according to usage, for the rest of the House to regulate the debate, not for the Speaker to interfere in the first instance. If I had understood that rule—which is undoubtedly the correct one as stated by the Speaker—if I had so understood it, I most certainly would take to myself still greater shame and self-abasement that I had set here in my seat and been privy to permitting such a proceeding to go on here. Today, sir, I say frankly, I look back with self-abasement and self-reproach to the part I took in this transaction in being a silent spectator of such a proceeding.

Now, sir, the point to which I come is this: that in the report made by the committee they have been guilty of what seems to me—and I beg pardon for using the word guilty, perhaps I ought not to use it—they have committed an error which strikes me as a most palpable one, especially when taken in connection with the remarks of the chairman of that committee on Saturday. This committee report that the assault made by General ROUSSEAU on Mr. GRINNELL was intended for the purpose of disgrace and insult, and not for the purpose of serious personal injury. They report that it was provoked by the unparliamentary, improper, and untrue language of Mr. GRINNELL. They report that the charge of cowardice and improper conduct as an officer which he made upon General ROUSSEAU was unfounded; that General ROUSSEAU's military record is unblemished. Then most singularly they fall out of the line of the argument they pursue, and in reference to which the chairman in his remarks claps the climax by saying, and I think most justly and properly, that if he had made such remarks upon this floor as were made by Mr. GRINNELL, he should have thought he ought to be expelled from the body. Taking that line of facts reported by the committee and that admission made by the chairman in his argument on Saturday, it seems to me a most extraordinary spectacle that the majority of this committee have reported as the punishment of one of those insults the expulsion of the misdoing member from the House, and as to the other insult which provoked the former, an insult I submit in the eyes of every right-minded man quite as flagrant, a charge of cowardice against an officer, a charge of falsehood and false pretense upon this floor against a member, as damning an insult as a blow; for the first of these insults equal in extent, prior in time, the provoker of the other, they say—what? Not expulsion, not a reprimand at the bar of the House by the Speaker, not a censure, but the mild expression that such things "merit the disapproval of this House." It is most delicately put. To call a gallant officer, an honorable member of this House, falsely, a coward, a liar, a braggart, upon this floor, to do it deliberately under color of vindicating his own personal reputation from aspersion, is conduct in the language of this resolution which "merits the disapproval of this House."

Sir, I cannot believe that the immense distinction which was here taken between the insult offered by GRINNELL to ROUSSEAU and the insult offered by ROUSSEAU to GRINNELL duly received the attention and consideration of that

committee. I cannot believe they intended to say here, we will for one gross and wanton insult, not only to a member of this House, but to the privileges of the House, indicate our disapproval, our sense that it merits the disapproval of the House, and will visit the other with the extremest punishment this House can inflict.

The gentleman from Massachusetts [Mr. BOUTWELL] asked me a little while ago if I proposed to assert here that any person who considered himself insulted upon the floor of this House was at liberty to go out of the House and vindicate himself by an act of violence upon the offending party. I disclaimed in the beginning any such argument. I disclaim it now. I simply say, and I say by my resolution, when such an assault, such an insult is committed upon the floor of this House and the member insulted fails to receive the protection of this House, and follows it with action not monstrously disproportioned to the aggravation received, I will not say he is justified, but I will not discuss the question of justification.

I contend that when this House has permitted one of its members thus to make an attack upon the character of another member, and has failed to protect the member assailed, I, for one, say that when he, in following up that insult, and avenging it as he may see fit, does not do it in such a way as to be grossly and monstrously disproportioned to the offense committed, it is a matter which the House should not inquire into. In this case, the fault originated with the party finally injured. He ought to have been dealt with by the House for his violation of its privileges. Whether General ROUSSEAU was justified in his subsequent conduct I leave it to his own conscience to decide. But, sir, in my judgment, whether the House shall adopt the amendment which I have offered or not, whether they shall deem that action ought to be taken here such as will properly vindicate the rights of members or not, one thing is certain, and that is, that their action should not look to the punishment of Mr. ROUSSEAU only. This House ought not to put itself in the position of condemning severely the party who acted under great provocation and let off the party who gave that provocation with the mildest possible expression of disapproval.

Mr. PRICE. I wish to ask the gentleman a question; and it is simply this—whether he does not know now that the first provocation on the day of which he speaks came from the gentleman from Kentucky; whether that gentleman did not say that there was not a member upon the floor who believed a word my colleague said? Does not the gentleman know that that was the first provocation on that day?

Mr. HALE. I do not know any such thing.

Mr. PRICE. The record shows it.

Mr. HALE. If it be true it is immaterial.

Mr. PRICE. It is not immaterial.

Mr. HALE. The record shows that the first personalities on that occasion were used by Mr. GRINNELL, who made a personal attack upon Mr. ROUSSEAU. I do not think it is necessary to go further back than this, and I can only say, that if the member from Iowa, or other member upon this floor, thinks that a declaration that his colleague is not to be believed in an assertion which he has made, in regard to the military career of General ROUSSEAU, is to be answered by charges of cowardice and false pretenses and braggart lying he certainly has a very peculiar taste, very peculiar ideas, and very remarkable notions regarding the proper reply to an insult.

Mr. RAYMOND obtained the floor.

#### FREEDMEN'S BUREAU—VETO MESSAGE.

Mr. ELIOT. With the permission of the gentleman from New York I desire to have the President's veto message laid before the House, and then I propose to move that it be laid upon the table and printed, giving notice that I will call it up to-morrow after the morning hour for action.

Mr. RAYMOND. I must decline to yield for the purpose of having the message read,

though I have no objection to having it presented and laid upon the table.

The SPEAKER. It is always considered respectful to the President that messages of this character should be read. Does the gentleman from New York yield for that purpose?

Mr. RAYMOND. If it is a matter of respect to a higher authority I will yield.

The SPEAKER then laid before the House the following veto message from the President of the United States:

#### To the House of Representatives:

A careful examination of the bill passed by the two Houses of Congress entitled "An act to continue in force and to amend an act to establish a Bureau for the relief of Freedmen and Refugees, and for other purposes," has convinced me that the legislation which it proposes would not be consistent with the welfare of the country, and that it falls clearly within the reasons assigned in my message of the 19th of February last, returning, without my signature, a similar measure which originated in the Senate. It is not my purpose to repeat the objections which I then urged. They are yet fresh in your recollection, and can be readily examined as a part of the records of one branch of the national Legislature. Adhering to the principles set forth in that message, I now reaffirm them, and the line of policy therein indicated.

The only ground upon which this kind of legislation can be justified is that of the war-making power. The act of which this bill was intended as amendatory was passed during the existence of the war. By its own provisions it is to terminate within one year from the cessation of hostilities and the declaration of peace. It is therefore yet in existence, and it is likely that it will continue in force as long as the freedmen may require the benefit of its provisions. It will certainly remain in operation as a law until some months subsequent to the meeting of the next session of Congress, when, if experience shall make evident the necessity of additional legislation, the two Houses will have ample time to mature and pass the requisite measures. In the mean time the questions arise, why should this war measure be continued beyond the period designated in the original act; and why, in time of peace, should military tribunals be created to continue until each "State shall be fully restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States?" It was manifest, with respect to the act approved March 3, 1865, that prudence and wisdom alike required that jurisdiction over all cases concerning the free enjoyment of the immunities and rights of citizenship, as well as the protection of person and property, should be conferred upon some tribunal in every State or district where the ordinary course of judicial proceeding was interrupted by the rebellion, and until the same should be fully restored. At that time, therefore, an urgent necessity existed for the passage of some such law. Now, however, the war has substantially ceased; the ordinary course of judicial proceedings is no longer interrupted; the courts, both State and Federal, are in full, complete, and successful operation, and through them every person, regardless of race and color, is entitled to and can be heard. The protection granted to the white citizen is already conferred by law upon the freedmen; strong and stringent guards, by way of penalties and punishments, are thrown around his person and property, and it is believed that ample protection will be afforded him by due process of law, without resort to the dangerous expedient of "military tribunals," now that the war has been brought to a close.

The necessity no longer existing for such tribunals, which had their origin in the war, grave objections to their continuance must present themselves to the minds of all reflecting and dispassionate men. Independently of the danger in representative republics of conferring upon the military in time of peace extraor-



dinary powers—so carefully guarded against by the patriots and statesmen of the earlier days of the Republic, so frequently the ruin of Governments founded upon the same free principle, and subversive of the rights and liberties of the citizen, the question of practical economy earnestly commends itself to the consideration of the law-making power. With an immense debt, already burdening the incomes of the industrial and laboring classes, a due regard for their interests, so inseparably connected with the welfare of the country, should prompt us to rigid economy and retrenchment, and influence us to abstain from all legislation that would unnecessarily increase the public indebtedness. Tested by this rule of sound political wisdom, I can see no reason for the establishment of the "military jurisdiction" conferred upon the officials of the bureau by the fourteenth section of the bill.

By the laws of the United States, and of the different States, competent courts, Federal and State, have been established and are now in full practical operation. By means of these civil tribunals, ample redress is afforded for all private wrongs, whether to the person or the property of the citizen, without denial or unnecessary delay. They are open to all, without regard to color or race. I feel well assured that it will be better to trust the rights, privileges, and immunities of the citizen to tribunals thus established, and presided over by competent and impartial judges, bound by fixed rules of law and evidence, and where the right of trial by jury is guaranteed and secured, than to the caprice and judgment of an officer of the bureau, who, it is possible, may be entirely ignorant of the principles that underlie the just administration of the law. There is danger, too, that conflict of jurisdiction will frequently arise between the civil courts and these military tribunals, each having concurrent jurisdiction over the person and the cause of action—the one judicature administered and controlled by civil law, the other by the military. How is the conflict to be settled, and who is to determine between the two tribunals when it arises? In my opinion it is wise to guard against such conflict by leaving to the courts and juries the protection of all civil rights and the redress of all civil grievances.

The fact cannot be denied that since the actual cessation of hostilities many acts of violence, such perhaps as had never been witnessed in their previous history, have occurred in the States involved in the recent rebellion. I believe, however, that public sentiment will sustain me in the assertion that such deeds of wrong are not confined to any particular State or section, but are manifested over the entire country, demonstrating that the cause that produced them does not depend upon any particular locality, but is the result of the agitation and derangement incident to a long and bloody civil war. While the prevalence of such disorders must be greatly deplored, their occasional and temporary occurrence would seem to furnish no necessity for the extension of the bureau beyond the period fixed in the original act. Besides the objections which I have thus briefly stated, I may urge upon your consideration the additional reason that recent developments in regard to the practical operations of the bureau in many of the States show that in numerous instances it is used by its agents as a means of promoting their individual advantage; and that the freedmen are employed for the advancement of the personal ends of the officers, instead of their own improvement and welfare, thus confirming the fears originally entertained by many that the continuation of such a bureau for any unnecessary length of time would inevitably result in fraud, corruption, and oppression.

It is proper to state that in cases of this character investigations have been promptly ordered, and the offender punished whenever his guilt has been satisfactorily established. As another reason against the necessity of the legislation contemplated by this measure, reference may be had to the "civil rights bill,"

now a law of the land, and which will be faithfully executed as long as it shall remain unreppealed and may not be declared unconstitutional by courts of competent jurisdiction. By that act it is enacted "that all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States, to make and enforce contracts, to sue, to be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

By the provisions of the act full protection is afforded, through the district courts of the United States, to all persons injured, and whose privileges, as there declared, are in any way impaired; and heavy penalties are denounced against the person who willfully violates the law. I need not state that that law did not receive my approval; yet its remedies are far preferable to those proposed in the present bill; the one being civil and the other military.

By the sixth section of the bill herewith returned, certain proceedings by which the lands in the "parishes of St. Helena and St. Luke, South Carolina," were sold and bid in, and afterward disposed of by the tax commissioners, are ratified and confirmed. By the seventh, eighth, ninth, tenth, and eleventh sections, provisions by law are made for the disposal of the lands thus acquired to a particular class of citizens. While the quieting of titles is deemed very important and desirable the discrimination made in the bill seems objectionable, as does also the attempt to confer upon the commissioners judicial powers, by which citizens of the United States are to be deprived of their property in a mode contrary to that provision of the Constitution which declares that no person "shall be deprived of life, liberty, or property without due process of law." As a general principle such legislation is unsafe, unwise, partial, and unconstitutional. It may deprive persons of their property who are equally deserving objects of the nation's bounty as those whom by this legislation Congress seeks to benefit. The title to the land thus to be portioned out to a favored class of citizens, must depend upon the regularity of the tax sale under the law as it existed at the time of the sale, and no subsequent legislation can give validity to the rights thus acquired as against the original claimants. The attention of Congress is therefore invited to a more mature consideration of the measures proposed in these sections of the bill.

In conclusion, I again urge upon Congress the danger of class legislation, so well calculated to keep the public mind in a state of uncertain expectation, disquiet, and restlessness, and to encourage interested hopes and fears that the national Government will continue to furnish to classes of citizens in the several States means for support and maintenance, regardless of whether they pursue a life of indolence or of labor, and regardless also of the constitutional limitations of the national authority in times of peace and tranquility.

The bill is herewith returned to the House of Representatives, in which it originated, for its final action. ANDREW JOHNSON.

WASHINGTON, July 16, 1866.

Mr. ELIOT. I move that the message be laid on the table and printed.

The motion was agreed to.

Mr. ELIOT. I give notice now that immediately after the morning hour to-morrow I

shall call this bill up and ask immediate action upon it, without debate.

Mr. NIBLACK. I move that two thousand extra copies of the message be printed.

Mr. LE BLOND. I hope the number will be made twenty thousand copies. I think this is a good document. I would suggest to the author of this bill whether he had not better take action upon it immediately. It may be too long to wait until to-morrow morning to pass it over the veto, and without debate. The sooner action is taken the more apparent will be the bad animus.

Mr. ELIOT. I have no objection. [Cries of "There is none."] I move, then, to reconsider the vote by which the matter was postponed.

The motion to reconsider was agreed to.

The SPEAKER. The question is, Shall this bill become a law, the objections of the President to the contrary notwithstanding?

Mr. ELIOT. Upon that I call the previous question.

The question was taken upon seconding the call for the previous question; and upon a division, there were—ayes 68, noes 30.

So the previous question was seconded and the main question ordered.

Mr. ROGERS. I rise to a question of order. Can this subject be taken up in preference to all other business without a two-third vote?

The SPEAKER. It can, for, this is a constitutional question.

Mr. ROGERS. I do not see why we need be in such a hurry.

Mr. ASHLEY, of Ohio. One of your own side [Mr. LE BLOND] suggested that the vote better be taken now.

Mr. ROGERS. Well, he was not in earnest, of course. [Laughter.]

Mr. LE BLOND. I hope the gentleman from New Jersey [Mr. ROGERS] will make no objection.

Mr. WARD. I submit that the Democrats should choose their leader, and not confuse us in this way. [Laughter.]

The SPEAKER. The question must be taken by yeas and nays.

The question was then taken; and it was decided in the affirmative—yeas 104, nays 33, not voting 45; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Dawes, DeFrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Ferry, Garfield, Grinnell, Griswold, Hale, Hart, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Julian, Kasson, Kelley, Ketcham, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Thayer, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—104.

NAYS—Messrs. Ancona, Boyer, Dawson, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Hogan, Humphrey, Johnson, Kerr, Kuykendall, Le Blond, Marshall, Niblack, Nicholson, Neill, Phelps, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rouseau, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, Henry D. Washburn, and Wright—33.

NOT VOTING—Messrs. Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Broomall, Chanler, Coffroth, Cullom, Culver, Darling, Davis, Denison, Dixon, Dodge, Dumont, Farnsworth, Farquhar, Goodyear, Abner C. Harding, Harris, Hayes, Hill, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Jones, Kelso, McCullough, McIndoe, Paine, Patterson, Pomeroy, Radford, John H. Rice, Schenck, Sloan, Smith, Starr, Stitwell, Strouse, Francis Thomas, Upson, and Winfield—45.

During the call of the roll, the following announcements and statements were made:

Mr. MOULTON. I desire to state that my colleague, Mr. CULLOM, is absent on account of indisposition. If he was present he would vote for the bill.

Mr. DAWES. My colleague, Mr. BALDWIN, is detained in his room by indisposition. If he

was present he would vote for the passage of this bill.

Mr. ELIOT. I desire to state that the gentleman from New York, Mr. POMEROY, is paired with his colleague, Mr. HUMPHREY, on this question.

Mr. HUMPHREY. The understanding with Mr. POMEROY was that when I left the city we were to be paired. I told him I would not leave until the latter part of this week.

Mr. ELIOT. I only stated what I understood from Mr. POMEROY.

Mr. ORTH. I desire to state that my colleague, Mr. FARQUHAR, is detained from the House by indisposition. If he was present he would vote for this bill.

Mr. COBB. I desire to state that my colleague, Mr. PAINE, is absent from the Hall today on account of indisposition. My colleague, Mr. SLOAN, is absent and paired on this question with Mr. HARRIS. Both of my colleagues, if present, would vote for this bill. Mr. HARRIS, I think, would vote against it if he were here. [Laughter.]

Mr. ASHLEY, of Ohio. My colleague, Mr. SCHENCK, was compelled to leave the House about an hour ago by indisposition. He would vote for the bill if he were present.

Mr. DRIGGS. My colleagues, Mr. BEAMAN and Mr. UPSON, are absent on account of illness. If they were here they would both vote for this bill.

Mr. EGGLESTON. My colleague, Mr. HAYES, is absent on account of indisposition. I am authorized to state that if he was present he would vote for this bill.

Mr. J. L. THOMAS. My colleague, Mr. F. THOMAS, is absent on account of indisposition. If he were present I am satisfied he would vote for this bill.

Mr. WARD. I desire to say that most of my colleagues are opposed to this veto.

Mr. JOHNSON. My colleague, Mr. DENISON, is absent on account of serious illness. If he were present he would undoubtedly vote against the passage of this bill. And I desire to say further that there are a great many more members voting "ay" now, than there will be in the next Congress upon similar measures.

Mr. ALLISON. I wish to say that Mr. INGERSOLL stated to me that he was obliged to leave the House on account of indisposition. If he were present he would vote for the passage of this bill.

Mr. PERHAM. My colleague, Mr. RICE, has been compelled to leave the city. If he was present he would vote "ay."

Mr. HOTCHKISS. My colleague, Mr. HUBBARD, is absent on account of indisposition. If he was present he would vote for the bill.

The SPEAKER. The Chair has received a note from Mr. DODGE stating that he is detained from the House by indisposition.

Mr. ANCONA. I desire to state that the gentleman from Maryland [Mr. McCULLOUGH] has been called away from the House within the last few minutes. If he were here he would vote in the negative.

The call of the roll being concluded,

The SPEAKER. On the reconsideration of this bill, entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes," the vote is 104 in the affirmative and 33 in the negative. Two thirds having voted in the affirmative, the bill has, notwithstanding the objections of the President, again passed. [Applause.]

#### ASSAULT UPON A MEMBER—AGAIN.

Mr. RAYMOND. I yield the floor to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. Mr. Speaker, there was a time in the history of this Government when a breach of the privileges of the House of Representatives by an assault upon one of its members for words spoken in debate would have been considered a very grave offense. But, sir, judging from the remarks which have been made upon the case we are now considering, one would be justified in concluding that

that time has passed. Around the members of this body the Constitution has thrown its special protection; but that does not seem to be regarded as of any consequence now. One might conclude from the run of the debate upon this occasion that my colleague is upon trial rather than the member from Kentucky.

Now, sir, I wish to examine for a few minutes the character of the offense of which the gentleman from Kentucky is guilty. The Constitution of the United States, in the fourth section of the first article, provides as follows:

"The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House they shall not be questioned in any other place."

That is the language of the Constitution of the United States. The gentleman from Kentucky, when he at the beginning of the session presented himself as a member of this body, was required by the law and the Constitution to take at the Clerk's desk, in the presence of the House and the country, an oath to support that Constitution. His oath covered as much the section I have read as any other section of the Constitution. He therefore is guilty of a higher offense than would be involved in an act of like character committed by a person not a member of this body. If a person not a member of this House should commit an assault upon a member for words spoken in debate, although guilty of a great offense, he would not have resting upon his conscience a violation of that obligation which requires every member of this body to observe the Constitution of the United States. Therefore I say that the offense which the gentleman from Kentucky has committed is the gravest which can be committed against the privileges of this House and its members. That, sir, is the character of his offense, a violation of the Constitution which his solemn oath requires him to observe, respect, and maintain.

This being the character of the offense, the gentleman from New York [Mr. HALE] who last addressed the House on this case, might well have said that he would not claim that the gentleman from Kentucky was justified, by any circumstances attending this case, in making the assault; that he would not discuss the question of justification; that he would put that altogether aside. And I was amazed that a gentleman of his intelligence should, while thus insisting upon the absence of justification, make a speech which, in spirit, was, throughout its length and breadth, a justification of the assault committed on the person of my colleague. And why? Because my colleague, in a debate upon this floor—or, if the gentleman from New York says that it was not in "debate," I will say in a speech upon this floor—used language which was distasteful to the member from Kentucky—language of such grossly insulting character, as insisted by the gentleman from New York, that the member from Kentucky could not resist that natural impulse which required at his hands a castigation of the member uttering such language.

Now, I propose to see whether there is not another side to this case. I propose to see whether the gentleman from Kentucky, whose conduct is sought to be palliated, if not justified, has so governed his utterances in this House as to keep himself entirely from the charge of having furnished provocation to the gentleman from Iowa to retort in the manner he did.

The difficulty between the gentleman from Kentucky and my colleague had its origin in the month of February. During that month the gentleman from Kentucky made a speech on the Freedmen's Bureau bill. In that speech he made use of language to which my colleague excepted; and in some remarks which he made on the 5th of February I find the following:

"Mr. GRINNELL. History repeats itself. I care not whether the gentleman was four years in the war on the Union side or four years on the otherside; but I

say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him."

The allegation by the gentleman from Kentucky was that he would shoot a negro who would cause his arrest by an officer of the Freedmen's Bureau.

Mr. ROUSSEAU. Will the gentleman yield to me?

Mr. WILSON, of Iowa. Certainly.

Mr. ROUSSEAU. I never used such language as that on any occasion.

Mr. WILSON, of Iowa. The gentleman will not have any question with me when he hears me through. I said that was the charge alleged by my colleague as to what the gentleman from Kentucky said in his speech. It was made before the publication of the speech in the Globe, the gentleman from Kentucky having withheld his speech for revision. The gentleman from Kentucky, on the 6th day of February, having read in the Globe the speech of the gentleman from Iowa, rose to a personal explanation, and I read from the Globe the following:

"Mr. ROUSSEAU. I desire, Mr. Speaker, to make a personal explanation. Before doing so I will ask the Clerk to read a paragraph which I have marked in the report of yesterday's debate, as published in the Daily Globe of this morning."

"The Clerk read as follows:

"Mr. GRINNELL. History repeats itself. I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him."

"Mr. ROUSSEAU. Mr. Speaker, I did not use the language imputed to me by the member from Iowa, [Mr. GRINNELL.] And I pronounce the assertion that has just been read, that I have degraded my State and uttered a sentiment unworthy of an American officer, to be false, a vile slander, and unworthy to be uttered by any gentleman upon this floor."

Now, Mr. Speaker, the language of the gentleman from Kentucky made use of on that occasion was of course entirely pure, chaste, and parliamentary. He only denounced the utterance as false and a vile slander unworthy to be uttered by any gentleman on this floor. This is all entirely competent and parliamentary, having been made by the gentleman from Kentucky.

Mr. ROUSSEAU. I ask the gentleman, was that not a proper reply to an assertion that I had degraded my State and uttered sentiments unworthy of an American officer?

Mr. WILSON, of Iowa. I am not here to pass any special judgment on the action of the gentleman from Kentucky as to what in his opinion may or may not be proper language for him to use. I am now, sir, endeavoring to show that there is at least some shadow cast across the bright, brilliant, and unexceptionable parliamentary pathway which has been claimed for that gentleman.

On that same occasion my colleague sought the floor for an explanation and used this language:

"Mr. GRINNELL. Mr. Speaker, I have no explanation further than to say that the gentleman has withheld his remarks, and that I have published mine. I alluded to his remarks as I understood them, and stated distinctly that I had no desire to do the gentleman any injustice. I criticised his language as I understood it, and I stand by that criticism. If I did not represent his language correctly, then I make an apology to him in regard to that. But if I understood his language correctly I make no apology for my criticism of it. The gentleman from Kentucky responded. My object was not to obtain an apology from the gentleman, but to say what I have said."

And this is the way in which this gentleman who says he waited four days for an apology met the intimation from my colleague that if he had misrepresented him he was ready to make an apology. He did not want an apology. He was not prepared to receive an apology. He had uttered his unparliamentary language for its own sake. Even after the colloquy my colleague offers if he was mistaken to make an apology, but the gentleman from Kentucky wanted no apology—he merely wanted "to say what he had said."

Mr. ROUSSEAU. I wish to say, Mr. Speaker, that there was so much confusion in the Hall on that occasion that I merely heard the word

apology. I did not know whether it was the refusal or an offer to make one.

Mr. WILSON, of Iowa. I do think that if the gentleman was particularly anxious for an apology, and heard my colleague use the word apology, without knowing whether he was tendering one or refusing one, he might, without any great breach of decorum, have made some inquiry into that subject.

Mr. ROUSSEAU. I did not want to do so.

Mr. WILSON, of Iowa. Well, then, the gentleman presents a bar to his own explanation, when he says that he did not want an apology on that occasion.

Thus the case between these two gentlemen rested until the 8th of February, 1866, when my colleague rose to a personal explanation, the speech of the gentleman from Kentucky having appeared in the Globe in the mean time. He said upon that occasion:

"Mr. Speaker, the member from Kentucky [Mr. ROUSSEAU] who used unparliamentary language in reference to myself, is, I observe, in his seat, and I embrace the first opportunity since the publication of his speech to show him what my *animus* toward him was in the remark I made, and that I had no desire to do him injustice or to impugn his honor. Here is his own language in the Globe. It presents the question of fact, and I read it:

If you intend to arrest white people on the *ex parte* statement of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty."

Now, the discrepancy between what was originally charged by my colleague and what was really said by the gentleman from Kentucky, was that my colleague understood him to say that he would shoot the negro who might cause his arrest, or so charged. But it appeared when the speech came out that he really stated that he would kill the United States officer who would arrest and punish him on the *ex parte* statement of a negro; that he would wreak his vengeance upon a sworn officer of the Government, and not upon a negro.

Mr. ROUSSEAU. I wish the gentleman to do me the justice to read what I said upon the subject, referring to the arrest of a man's wife and child, and the holding of them over to await the convenience of the agent of the Freedmen's Bureau to try them. My remark was in reference to that.

Mr. WILSON, of Iowa. I remember very well that the gentleman used that as an illustration in his speech.

Mr. ROUSSEAU. I was speaking about that and nothing else. I was referring to the arrest of women and children, not allowing them to remain at home, but keeping them in jail for trial the next day, either for conviction or acquittal. It was about that I was speaking.

Mr. WILSON, of Iowa. The gentleman can make his own speech, if he desires to do so, when I am through. I have been stating the case as it is made up between these two gentlemen in the Globe. I have been presenting the language used by them during the progress of this difficulty. It is not for me to account for the motives of the gentleman from Kentucky; his language is what I have to deal with.

Now, sir, there was a correction made here by my colleague, presenting the gentleman's own language as it appeared in the Globe after it had passed under the revision of its author. But the gentleman from Kentucky, not being satisfied with what had occurred, brought the subject up again on the platform in New York, and made some remarks to which my colleague took exception in his remarks of the 11th June. Some two months had elapsed between the last occasion on which the subject was referred to in the House and the reference to it by the gentleman from Kentucky in New York, before an audience in a community where my colleague formerly lived. He denounced him as "a pitiful politician," all of which was, of course, entirely appropriate, and I suppose if it had been said by him upon the floor of this House would have been claimed to have been entirely parliamentary.

We come now to the 11th day of June, when the offense was offered by my colleague which

is claimed to be a justification of the assault upon him, or at least in mitigation of it. This was some four months after the original offense and after the gentleman from Kentucky had stated in the House that he did not want an apology from my colleague.

Let me refer to the strictly parliamentary language used by the gentleman from Kentucky in the elaborate speech which he made upon that occasion. He said:

"I had under my command and fighting under me from that member's State, some of the bravest troops from any State in the Union. I was in the war from the beginning of it until the end. In the Northwest I was known to have been in the Federal Army; but that member said he did not know whether I was on the rebel or the Federal side. I do not suppose a member in this House believed one word of what he said."

At this point my colleague rose and endeavored to make an explanation; but the gentleman from Kentucky said:

"No, sir; I cannot be interrupted now. I wish to say that when a member can so far depart from what everybody believes he ought to know, and does know is the truth, it is a degradation, not to his State, for he cannot degrade her, but to himself. Iowa is not to be degraded by any one or even by all of her members on this floor. She is a gallant State, and I know what her people are."

Well, this may be regarded as a kind of general fling at the Iowa delegation. But I let that pass inasmuch as, with the exception of my colleague, [Mr. GRINNELL,] we have no particular interest in the matter beyond the protection of the privileges of members of this House. But I did not read all of his language. I will go further back in his speech, and read another extract from it:

"I said, sir, awhile ago, that flings had been constantly made at my native State, in my hearing, upon this floor; and last and least of all things and everybody, let us give a moment's attention to the member from Iowa, [Mr. GRINNELL,] who first assailed her here. Shortly after Congress assembled he assailed my State and myself; he charged that I had degraded my native State saying that I would defend my family against the agent of the Freedmen's Bureau. That member was pleased to say on the floor, in answer to a suggestion of my colleague, [Mr. SMITH,] that he did not know whether I had fought four years on the rebel side or on the Federal side in the late war."

Now, I affirm there is just as much of insult in what the member from Kentucky said on that occasion in reference to my colleague as there was in what my colleague said in reference to the gentleman from Kentucky. And let me remind the House here that the whole attack of the member from Kentucky on that occasion was based upon a misrepresentation of what my colleague had said; a misrepresentation of the language which the gentleman from Kentucky himself had studied and made the basis of a personal explanation in this House. Let it be borne in mind that he here asserts and makes it the ground of his attack that my colleague had said that he did not know whether the gentleman from Kentucky had fought on the rebel side or on the Federal side, and remember in this connection that on the 6th day of February, 1866, the gentleman from Kentucky made a personal explanation, to which I have already referred, in which he quoted the language of my colleague, and which he at that time saw and knew to be as follows:

"I care not whether the gentleman was four years in the war on the Union side or four years on the other side."

Not "I do not know," but "I care not." The gentleman from Kentucky gets up in this House to a personal explanation, having read that language in the Globe, having conned it over, having had it read from the Clerk's desk as the basis of his personal explanation. And then, after nursing his wrath for more than four months, he misrepresents the language in order to make an attack on my colleague.

Mr. ROUSSEAU. Will the gentleman allow me a moment?

Mr. WILSON, of Iowa. Certainly. Mr. ROUSSEAU. My colleague [Mr. SMITH] told me, and the gentleman from Massachusetts [Mr. BANKS] agreed with him, that the gentleman from Iowa [Mr. GRINNELL] said he did not know and did not care whether I had served four years on the one side or the other. The gentleman from Massachusetts

[Mr. BANKS] so informed the gentleman from Iowa [Mr. GRINNELL] before the committee. Therefore I did not misrepresent, and did not intend to misrepresent, what was said on that occasion.

Mr. WILSON, of Iowa. The gentleman does not help his case one particle by his statement. He says now that the gentleman from Kentucky [Mr. SMITH] and the gentleman from Massachusetts [Mr. BANKS] told him that my colleague said he did not know and did not care whether he [Mr. ROUSSEAU] served in the rebel army or in the Union Army. That is not what the gentleman from Kentucky said in June. He then said that the language of my colleague was that he "did not know."

Mr. BANKS. My statement before the committee was that my impression and my recollection of the language of the gentleman from Iowa [Mr. GRINNELL] was that he "did not know."

Mr. WILSON, of Iowa. It would be a sorry thing for this House to establish as a precedent that it will take the recollection or the impression, as the gentleman from Massachusetts [Mr. BANKS] says, as to what language members use in debate, casting aside the report of their remarks in the Globe entirely. The gentleman from Kentucky, in February, made use of the Globe as the basis of his personal explanation. The language therein contained was what he found fault with on that occasion; and yet he changes the language when he comes to speak in June, and refuses to give my colleague an opportunity to explain, declines to yield the floor for an explanation.

Sir, we have had too much "impression" about this case already; altogether too much "impression." Instead of being guided by the imprint which the official type have made upon the official records of this House, the impressions of gentlemen have been resorted to. This is the case so far as the words used in debate are concerned. But I am not ready to yield the case to the gentleman from Kentucky yet. There is one other thing worthy of our attention. After my colleague had responded to the gentleman from Kentucky the gentleman from Kentucky sought the floor again to reply. He did reply to what was said on that occasion by my colleague, and he closed his reply in this language:

"I hope now that I have heard the last of the member from Iowa. I hope I shall never have occasion to recur to the subject again. Whatever glory he has gained in this contest I am content he should wear."

Such, sir, was the parting language of the gentleman from Kentucky to my colleague. He in effect declared that he desired to hear nothing more in relation to the case; that he desired to have nothing more to do with my colleague. With that declaration imprinted upon the records, the member from Kentucky deliberates for four days—"expecting an apology," though he had once notified my colleague that he would not receive one; and closing in the House with the remarks I have just quoted, again notifying my colleague that he wanted nothing to do with him. The belligerents retired from the field. All was at peace, so far as that controversy was concerned. "I won't receive an apology; I do not want an apology. The storm is over. I am satisfied with what I have made, and if the gentleman from Iowa is satisfied with the laurels he has won, let him wear them; I am content." Four days pass; and what then do we find? The gentleman from Kentucky seeks my colleague on the eastern portico of this Capitol and there administers to him a caning—for what? Why, sir, as the record shows, for language used in debate in this House, for which the Constitution which the member from Kentucky swore to support and maintain, declares no member shall be questioned elsewhere. Now, it may be that there is nothing but sunshine on that side of the case; but I want to know from members, whether they are to be driven or coaxed away from their duty of maintaining sacredly the privileges of this body by any sympathy that persons may seek to create here in behalf of the gentleman from Kentucky, who seems to



be so abundantly able to take care of himself, and who refuses apologies when tendered. Why, sir, from the nature of the discussion we have had it seems that in this country no man's character is worth anything unless he has been a military man. You may charge a man with being a "liar," a "mere thing," a "pitiable politician;" you may use all kinds of opprobrious epithets toward him; but that is nothing, if he be a civilian; he is nobody. But when a gentleman like the gentleman from Kentucky comes in here from the military service—and whether he performed his duty well or ill, I am not going to question—when such a gentleman comes in here and uses unparliamentary language like that I have read from his remarks, attacking the character of other members of the House, he is to be shielded by that immunity which his service in the Army throws about him. Sir, I trust it will be very long before this House will adopt that doctrine.

Why, sir, the character and reputation of a civilian are as dear to him as the character and reputation of a military man are to him; and when one is attacked it is certainly quite as much a provocation for a return of the attack in the body where the attack is made as language uttered by another is provocation for the military gentleman to change his base outside of this Hall and make his attack there.

Now, sir, I have occupied the attention of the House longer than I had intended when I sought the floor; but I desired to present, at least in an imperfect manner, the side of the case to which very little attention had been given during this discussion. I wish, also, before I conclude, to remind the House of the circumstances attending this assault. The gentleman from Kentucky had been thinking over it for four days. It was a deliberate, malicious assault upon a member of the House for words spoken on the floor. It was not only deliberate on the part of the gentleman himself, but his purpose was conveyed to at least one other person whom he invited to be present, and who by some cunningly devised means managed, without a formal invitation, to have one other there, both of them being armed. The second one testifies that he did not arm himself for the purpose of taking a part in this difficulty; that he did not know that the difficulty would occur. But by some means this man Pennybaker, who was notified of the assault, procured the attendance of these other innocent men who did not know anything about it. It was strange, but it is true.

Now, of course, these parties were all innocent, and this congregating together of three or four persons to assault a member of Congress amounts to nothing. I suppose, from the course this case has taken, that the privileges of this body amount to nothing, that the independence of the representative character, the independence of the legislative body of this nation amount to nothing if you only have its privileges infringed upon by some gentleman who comes here surrounded by military glory such as is claimed for the gentleman from Kentucky.

Mr. NIBLACK. I want to call the gentleman's attention to a question of construction which I think is of some importance, about which I confess my own mind is not fully settled, which has been suggested to me and which I think had better be presented for notice in this discussion. In defining the privileges of members of Congress the Constitution declares that "for any speech or debate in either House they shall not be questioned in any other place." It has been suggested to me, and I claim no credit for originality in the matter, that it does not extend to a case of the sort we are now considering; that an assault upon a member of the House outside of the House for what he may say in the House does not fall within the meaning of these words of the Constitution; that these words relate to legal proceedings elsewhere, to an action for libel, to an action for slander; that such an action could not be taken elsewhere for words spoken in debate. It has been suggested to me

that a collision growing out of words spoken in debate, outside of the House, does not amount to such a questioning in another place, and therefore does not reach to the extent of a breach of privilege.

I concede, Mr. Speaker, that when a high crime is committed you may expel a member; that you may expel a member for this or for any other misconduct; but the point I make is that this does not amount to a breach of privilege, but is an assault and battery to be punished by the courts as in other assaults and batteries.

Mr. SPALDING. I have an authority here which I should like to read.

Mr. STEVENS. Do I understand the gentleman from Indiana to mean that for words spoken in debate a man outside of the House shall not ask him a question but turn to and flog him? [Laughter.]

Mr. NIBLACK. My point is this: whether flogging is a question within the meaning of the Constitution. I call the gentleman's attention to the point. I think it is at least worthy of the consideration of the House.

Mr. WILSON, of Iowa. I suppose the gentleman is serious because he says he is; but that question has been decided time and again. There is no doubt about it. It would be a most remarkable thing to say that you cannot sue a man for slander for what he may say here, but when you get him out of the House you may flog him, you may beat him, you may kill him. There is no ground in this clause for any such construction. The House may have all its members beaten for what they may say in debate until you cannot secure a quorum. Members may all be confined to their beds under the gentleman's doctrine, by assaults made upon them, and the House of Representatives has no power whatever to interfere. As the gentleman from Pennsylvania has well said, under this construction you have only to thrash a member without asking a question and you are safe, but if you ask a question and then thrash him you place yourself within the jurisdiction of the House. [Laughter.]

Mr. JOHNSON. Suppose the provision of the Constitution referred to declaring that members shall not be questioned elsewhere for language spoken in the House had not been adopted, would then a member be free to be questioned by assault and battery in any other place?

Mr. WILSON, of Iowa. That question is not involved in this case. When it arises I am prepared to answer. I am not disposed to discuss issues which cannot properly be brought into this case.

Mr. JOHNSON. If the member were protected by the law at that time, why then was this inserted into the Constitution for his protection?

Mr. STEVENS. The gentleman says certain things could by no possibility come into this question. I would like to know under the ruling of the Chair, what in God's name could not come in. [Laughter.]

Mr. WILSON, of Iowa. I will admit the question propounded to me is one most difficult to answer under the ruling in this case, and inasmuch as the resolution for the censure of my colleague has been reported by the committee, and the Speaker has decided the point against me, I will take but a moment in again referring to it. My colleague is arraigned before this House by a resolution reported from a committee that gave him no notice whatever that it intended to proceed against him in any manner for any purpose. They subpoenaed him as a witness, and not until the report was in this House had he any idea of such a proceeding as this.

And here I wish to remark that it may be well for the Speaker to reflect upon before this question is raised again in some other case. It was said by the Chair, in ruling upon the point of order which I made, that the whole subject was referred to this committee. Now, suppose I grant that; suppose the whole subject was referred to the committee; what could

the committee do? Why, they could examine into and report on the case. How? In accordance with law, in accordance with the rules of the House. Has a committee, because a subject is referred to it, power to overturn the law, and to overturn the rules of the House?

When this committee was conducting its examination, it found that my colleague had used certain language in debate to which the gentleman from Kentucky took exception, and thereupon they said the language was improper and a resolution should be reported to censure the member from Iowa for using it. I deny their right to do this. They might have recommended the adoption of a new rule for future application if the present rules were not thought to be sufficient. But the rule under which they were acting, just as the courts act under a statute, said that unless certain things had taken place on the occasion of the use of that language, the person using it should not be censured or be subject to the censure of the House. And yet, with that rule before them for a guide—just as much a guide to the committee as a statute is a guide to a court—the committee recommend to this House the passage of a resolution which is a palpable and direct violation of one of its rules.

Mr. THAYER. Will the gentleman from Iowa allow me to ask him a question?

Mr. WILSON, of Iowa. Certainly.

The SPEAKER. Before the gentleman from Pennsylvania asks his question, the Chair will suggest to the gentleman from Iowa that it is rather late to review and criticize the ruling of the Speaker. The time for that was when he made his decision, as his decisions are all subject to the reversal of the House. But the Chair will ask the gentleman to permit him to have read that part of the sixty-first rule relating to the subject, so that it may go into his speech.

Mr. WILSON, of Iowa. Oh, certainly.

The SPEAKER. That portion of the rule is as follows:

"And no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken."

Now, exceptions were taken two or three times to the remarks of the gentleman from Iowa; and that is all that is required as a preliminary to a vote of censure.

Mr. WILSON, of Iowa. I beg leave to state to the Chair, that I did not intend this as a criticism upon the ruling of the Chair; and the Chair will remark that the point which I am now making was not specifically made on that occasion, because I did not discover the necessity of the point until after the decision had been made. I supposed that the other reasons assigned were sufficient. I am not presenting this for the purpose now of rediscussing the propriety of the decision of the Chair. I am presenting it, not as a question of order, but as involving the privileges of my colleague as a member of this House; and I am asking the House to protect him in the enjoyment of his privileges, the report of the committee to the contrary notwithstanding. I think this question is so important that a little discussion of it can do no harm.

As to the first part of the rule, it will be observed that the mischievous semicolon which figured here the other day does not occur in any part of the sentence relative to the excepting to and taking down of words. That part of the sentence is divided merely by commas. It reads as follows:

"If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table."

Now, this constitutes a complete division of the sentence, that if a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's desk. For what purpose? Well, the reason for that rule was stated the other day in the ruling of the

Chair. It was to prevent members of this House being called to account for words used, after other business had transpired, and when the memories of persons hearing them might not present the language exactly as it was used. It was to get rid of "impressions." Injustice might otherwise arise, for if members could be questioned the next day, they might be questioned the next week; if they could be questioned the next week they could be questioned the next month, and if they could be questioned the next month they could be questioned at the next session of the same Congress. To prevent that and to avoid its attendant danger this rule was adopted. And under it the exception is not perfect unless the words are repeated and taken down at the Clerk's desk.

Now, I ask the House to consider, before they vote to adopt the second resolution reported by the committee, whether it is not an infringement of the privileges belonging to my colleague as a member of this House, and which must be protected in his person, in order that they may be secured for the enjoyment of every other member of this body. Sir, I now submit this case, so far as I am concerned, to this House; and in conclusion I ask members not to lightly regard the solemnity and gravity of the question involved.

Mr. RAYMOND resumed the floor.

Mr. STEVENS. With the permission of the gentleman from New York, [Mr. RAYMOND,] I would like to inquire of the chairman of the select committee [Mr. SPALDING] when I can be allowed to have an opportunity to offer an amendment. I cannot do so now, for I understand that there are two amendments now pending.

Mr. SPALDING. I propose to call the previous question as soon as the gentleman from New York [Mr. RAYMOND] concludes his remarks.

Mr. STEVENS. I hope the gentleman from Ohio [Mr. SPALDING] will simply call the previous question upon the amendments.

Mr. SPALDING. That is what I intend to do. I propose to call the previous question on the amendment to the amendment, but after that to allow all the opportunity for debate the House may desire.

Mr. RAYMOND. If the gentleman from Pennsylvania [Mr. STEVENS] would prefer it I will yield the floor now for the previous question on the amendment of my colleague, [Mr. HALE,] and make my remarks afterwards.

Mr. STEVENS. That would suit me.

Mr. SPALDING. Then I call the previous question on the amendment to the amendment. The previous question was seconded and the main question ordered, which was upon the amendment of Mr. HALE to the amendment of Mr. RAYMOND.

The amendment of Mr. HALE was as follows:

*Resolved*, That this House, while expressing its unqualified condemnation and reprobation of the practice of personal reflection and remarks upon the floor of the House, reflecting upon the character of members in the House, and acts of violence toward members upon any provocation of words, however severe and unmerited; and while expressly asserting its power and authority to protect the privileges of its members, both as respects person and character, yet, under all the circumstances of the case, deem it inexpedient to take any further action in the matter of privilege now pending, so far as affecting Hon. LOVELL H. ROUSSEAU and Hon. JOSIAH B. GRINNELL.

The question was taken; and upon a division there were—ayes 27, noes 66.

Before the result of the vote was announced, Mr. GRIDER called for the yeas and nays. The yeas and nays were not ordered. So the amendment was not agreed to.

The question recurred upon the amendment of Mr. RAYMOND to the report of the committee, to substitute for the first resolution reported by the committee the following:

*Resolved*, That Hon. LOVELL H. ROUSSEAU be summoned to the bar of the House, and be there publicly reprimanded by the Speaker for the violation of the rights and privileges of the House, of which he was guilty in the personal assault committed by him upon Hon. J. B. GRINNELL for words spoken in debate.

Mr. STEVENS. I desire to move to amend by striking out the first two reported by the

committee and insert in lieu thereof the resolution reported by the minority of the committee.

The SPEAKER. But one resolution is now before the House for amendment, as the gentleman from Ohio [Mr. SPALDING] has notified the House that he shall ask a separate vote on the resolutions reported by the committee.

Mr. RAYMOND. The gentleman from Pennsylvania [Mr. STEVENS] can do as my colleague [Mr. HALE] did—move a substitute for my amendment to the resolution now pending, giving notice that if his substitute is adopted he will move to lay the second resolution on the table when it comes up.

The SPEAKER. That is the question now before the House. The second resolution, when it comes up, can be agreed to or laid on the table.

Mr. STEVENS. My desire is to get some amendment which will embrace the first two resolutions reported by the select committee.

Mr. ALLISON. You can move to amend the first, and then move to lay the second resolution on the table.

Mr. STEVENS. No, sir; I want to purge the record of the second resolution by a direct vote. The chairman of the select committee [Mr. SPALDING] must perceive that there might be a very different vote, if we are compelled to vote separately upon these resolutions, from what there would be if I could be allowed to offer an amendment to embrace the first two resolutions. If my amendment should be voted down, then a separate vote can be called upon the resolutions. That would be more satisfactory to many gentlemen than to be obliged to vote first upon the resolutions separately. I presume all that is wanted is a satisfactory conclusion of this whole matter.

Mr. SPALDING. I desire to have a distinct vote taken on the first resolution. But if it will subserve the purpose of the gentleman from Pennsylvania for me to withdraw temporarily the call for a separate vote, I will do so, in order to accommodate him.

Mr. STEVENS. Then I move to strike out the first two resolutions and insert the resolution reported by the minority of the committee. I trust I shall have an opportunity, before the vote is taken, to explain briefly my reasons for making this motion.

Mr. HARDING, of Kentucky. I ask the gentleman from New York [Mr. RAYMOND] to yield to me a moment that I may offer an amendment to his amendment.

Mr. RAYMOND. I will hear it.

Mr. HARDING, of Kentucky. I propose to offer the following as a substitute for the resolution reported by the minority of the committee:

*Resolved*, That in view of all the circumstances connected with this case, and although the provocation to Hon. LOVELL H. ROUSSEAU was great, still this House does not excuse, but disapproves the assault made by him on Hon. Mr. GRINNELL.

Mr. RAYMOND. I prefer not to yield for that amendment. I desire that a vote shall be taken on the distinct proposition made by my motion. I propose that the remarks which I have to make shall be confined to that motion, (which is to substitute the resolution reported by the minority for the first resolution reported by the majority,) and also the motion now made by the gentleman from Pennsylvania. I desire, however, to state that, as several gentlemen desire to introduce other business, and as the hour is somewhat late, I will, if it meets the convenience of the House, yield to the gentleman from Massachusetts [Mr. HOOPER,] that he may move to postpone this subject.

Mr. HOOPER, of Massachusetts. As the usual hour of adjournment is now reached, I move that this subject be postponed until tomorrow after the morning hour.

The motion was not agreed to; there being—ayes 43, noes 55.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the commit-

tee had examined and found truly enrolled a bill (S. No. 222) entitled "An act further to prevent smuggling, and for other purposes;" when the Speaker signed the same.

Mr. COBB, from the same committee, reported that the committee had examined and found truly enrolled a bill (S. No. 145) entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph;" when the Speaker signed the same.

#### ADJOURNMENT.

Mr. RAYMOND. I yield to the gentleman from Pennsylvania [Mr. STEVENS] who desires to move an adjournment.

Mr. STEVENS. I move that the House adjourn.

On agreeing to the motion there were—ayes 54, noes 49.

Mr. WENTWORTH called for tellers.

Tellers were ordered; and Messrs. HOOPER of Massachusetts, and WENTWORTH, were appointed.

The House divided; and the tellers reported—ayes 52, noes 42.

So the motion was agreed to; and thereupon (at four o'clock and forty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. FINCK: The petition of C. A. Olds, and others, citizens of Pickaway county, Ohio, praying for the passage of a law of Congress for the regulation of inter-State insurances of all kinds.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Greene county, Pennsylvania, for an increase of duties on foreign wool and protection to American interests generally.

By Mr. SCHENCK: The memorial of A. Gieson, and five others, of New York, officers lately of United States volunteers, who were promoted from the ranks after the 3d of March, 1865, praying that the law may be so amended as to extend to them the benefit of the three months' extra pay.

#### IN SENATE.

TUESDAY, July 17, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. WILSON, and by unanimous consent, the reading of yesterday's Journal was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON. I desire very much to get up this morning House bill No. 3, to revive the grade of General in the United States Army. It has been postponed day after day for a long time.

Mr. GRIMES. We have already passed it in the Army organization bill.

Mr. RAMSEY. I hope we shall be allowed to get through with the morning business.

The PRESIDENT *pro tempore*. The Chair will receive petitions.

Mr. MORRILL presented two petitions of citizens of Maine praying that aid may be granted to the European and North American railway; which were referred to the Committee on Foreign Relations.

Mr. CRESWELL. I move that the papers in the matter of the claim of George C. M. Roberts be withdrawn from the files of the last Congress and be referred, together with certain other papers which I now present, to the Committee on Claims.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom were referred the amendments of the House of Representatives to the bill (S. No. 236) to authorize the construction of certain bridges, and to establish them as post roads, recommended a concurrence in the House amendments, with an amendment.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred a bill (S. No. 416) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron, asked to be discharged from its further consideration.

He also, from the same committee, reported a joint resolution (S. R. No. 134) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron; which was read and passed to a second reading.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the memorial of the Legislature of Wisconsin for the relief of Alexander F. Pratt, reported a bill (S. No. 435) for the relief of Alexander F. Pratt, accompanied by a report. The bill was read a first time and passed to a second reading; and the report was ordered to be printed.

Mr. HARRIS, from the Committee on the Judiciary, to whom the subject was referred, reported a bill (S. No. 437) in relation to the district courts of the United States in the State of Florida; which was read a first time and passed to a second reading.

He also, from the Committee on Private Land Claims, to whom was referred the memorial of Mrs. Mary E. Bouigny, reported a bill (S. No. 438) for the relief of the heirs of John E. Bouigny; which was read a first time and passed to a second reading.

#### INTERNAL TAXATION.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, submitted by Mr. VAN WINKLE on the 14th instant, reported it without amendment, and it was considered and agreed to, namely:

*Resolved*, That there be printed for the use of the Senate five thousand copies of the internal tax laws now in force, so that the several provisions in relation to the same subject shall be inserted in connection, together with a suitable index, the whole to be compiled and prepared for printing under the direction of the Commissioner of Internal Revenue.

#### GRADE OF GENERAL.

Mr. WILSON. I now move to take up House bill No. 8.

The motion was agreed to; and the bill (H. R. No. 8) to revive the grade of General in the United States Army was considered as in Committee of the Whole. Its first section revives the grade of "General of the Army of the United States," and authorizes the President, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a General of the Army of the United States, to be selected from among those officers in the military service of the United States most distinguished for courage, skill, and ability, who being commissioned as General may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States.

The second section provides that the pay proper of the General shall be \$400 per month, and his allowances in all other respects shall be the same as were allowed to the Lieutenant General by the second section of the act approved February 29, 1864, entitled "An act reviving the grade of Lieutenant General in the United States Army;" and that the General may select for his chief of staff a brigadier general from among the officers of the Army holding that rank, and may appoint upon his staff such number of aids, not exceeding six, as he may judge proper, who shall each have the rank, pay, and emoluments of a colonel of cavalry.

The Committee on Military Affairs and the Militia proposed to amend the bill by striking out all of the second section after the enacting clause and inserting the following in lieu thereof:

That the pay proper of the General shall be \$400 per month, and his allowance for fuel and quarters, when his headquarters are in Washington, shall be at the rate of \$300 per month, and his other allowances in all respects the same as are allowed to the Lieutenant General by the second section of the act approved February 29, 1864, entitled "An act reviving the grade of Lieutenant General in the United States Army," and the chief of staff to the Lieutenant General shall be transferred and be the chief of staff to the General, with the rank, pay, and emoluments of a brigadier general in the Army of the United States; and the act approved March 3, 1865, entitled "An act to provide for a chief of staff to the Lieutenant General commanding the armies of the United States," is hereby repealed; and the said General may

appoint upon his staff such number of aids, not exceeding six, as he may judge proper, who shall each have the rank, pay, and emoluments of a colonel of cavalry. And it is hereby provided, that in lieu of the staff now allowed by law to the Lieutenant General, he shall be entitled to two aids and one military secretary, each to have the rank, pay, and emoluments of a lieutenant colonel of cavalry.

Mr. YATES. Mr. President, the war through which the country has just passed developed many great military men whose names are associated with this or that particular campaign, or this or that particular field of battle. But viewing the war from its commencement to its close, what man is there whose name, like that of Grant, is connected with almost every really effective military movement which marked its progress? What a record is his. How marvelous are the ways of Providence in the affairs of nations and of individuals. What changes, surpassing the enchantments of romance, may be seen in four short years. Is it not a matter of profound wonder that a man of such stolid simplicity of character and of such surpassing modesty; that the plain, unassuming, quiet citizen of Illinois, who five years ago sought the humblest service in the armies of the Union, should prove to be the only man whose rare genius and energy rose in proportion to the colossal demands of the war; who should rise from the humblest clerkship and step by step ascend every grade of promotion to the exalted rank of Lieutenant General? Is it not strange that such should be the man who has conducted the most gigantic of all wars to a successful conclusion, and whose name, glory-crowned with shining victories, shall fill thousands of history's brightest pages and live in freedom's anthems to the end of time?

It would be affectation in me not to acknowledge a personal as well as State pride in aiding the bill before the Senate with my voice and my vote. As a Senator from the State where General Grant resides, which claims not only an interest in common with other States, but also a special and particular interest in the fame of her illustrious son, I feel it my duty to advocate this measure. Some remarks from me also may not be inappropriate on account of certain personal and official relations in which I stood to him at the commencement of the war.

In April, 1861, I first saw General Grant. I knew nothing of him. I did not then know that he had seen service in Mexico; that he had fought at Palo Alto, Resaca de la Palma, and at Monterey under General Taylor; or that he had served under General Scott in his memorable campaign from Vera Cruz to the city of Mexico; or that he had been made first lieutenant on the field for gallantry at Molino del Rey and brevetted a captain for the gallant and skillful manner in which he had served a mountain howitzer upon the heights of Chapultepec under the observation of his regimental, brigade, and division commanders, as appears from the official reports of the battle by General Worth and other officers. In presenting himself to me he made no reference to any merits, but simply said he had been the recipient of a military education at West Point, and now that the country was assailed he thought it his duty to offer his services, and that he would esteem it a privilege to be assigned to any position where he could be useful. I cannot now claim to myself the credit of having discerned in him the promise of great achievements or the qualities "which minister to the making of great names" more than in many others who proposed to enter the military service. His appearance at first sight is not striking. He had no grand airs, no imposing appearance, and I confess it could not be said that his was a form

"Where every god did seem to set his seal  
To give the world assurance of a man."

He was plain, very plain; but still, sir, something, perhaps his plain, straightforward modesty and earnestness, induced me to assign him a desk in the executive office. In a short time I found him to be an invaluable assistant in my office and in that of the adjutant general. He was soon after assigned to the command of the

six camps of organization and instruction which I had established in the State.

Early in June, 1861, I telegraphed him at Covington, Kentucky, (where he had gone on a brief visit to his father,) tendering him the colonelcy of the twenty-first regiment of Illinois infantry, which he promptly accepted, and on the 15th of June he assumed the command. The regiment had become much demoralized from lack of discipline and contentions in regard to promotions. On this account Colonel Grant, being under marching orders, declined railroad transportation, and for the sake of discipline marched them on foot toward the scene of operations in Missouri, and in a short time he had his regiment under perfect control.

He was assigned to the protection of the Quincy and Palmyra and the Hannibal and St. Joseph railroads, and his success in organizing the troops under his command, and his vigorous and successful prosecution of the campaign in north Missouri, soon procured for him the rank of brigadier general. He was transferred to Cairo, the most important strategic point in the Mississippi valley, and, after organizing his army with marvelous celerity and infusing into these suddenly raised troops the proper *esprit de corps*, he marched upon Paducah and fought the desperate battle of Belmont. And here commenced that series of splendid victories, from Belmont to Lookout Mountain, which turned the tide of our national fortunes, dispelled the gloom and despondency which defeat, poor strategy, irresolution, inaction, and blunders had brought upon the country, lifted the veil and revealed to the Republic at last the man so much needed to lead her armies to complete and final victory.

At Belmont, at Donelson, and at Shiloh, he broke the shell in which secession sought to shelter itself and dissipated the dream of fancied southern invincibility. At Vicksburg he probed its very vitals and destroyed the monster in the Mississippi valley, never more to rise. Its importance as an objective point and as affecting the destinies of the war was fully seen by the leaders of both the contending powers. Jeff. Davis aforesaid fully realizing the importance of Vicksburg as a strategic point, in a speech to the Mississippi Legislature, on the 6th December, 1862, declared—

"That the fall of Vicksburg would cut off their communications with the trans-Mississippi department, whence they drew vast supplies, and would permanently sever the eastern and western portions of the confederacy."

The enthusiastic Sherman with rare foresight, which has been verified by subsequent events, declared in a speech at St. Louis, "The possession of Vicksburg is the possession of America." Grant, as evidenced by all his plans and movements, was of the same opinion. New Orleans was already ours, and Port Hudson, as a consequence of our capture of Vicksburg, soon fell into our hands. From Cairo to New Orleans the great river had been held by the enemy, and the black banner of secession had flaunted defiantly from all its strongholds; but now, thanks to General Grant and his invincible armies, every foot on either shore was wrested from him, and in some fifteen battles, with no serious reverse to our arms, the shattered and dismayed legions of the enemy were driven from their supposed impregnable fortresses to new and interior positions remote from the river, and millions of loyal hearts rejoiced that this great artery of the continent unvexed by treason's barriers was once more, and as we hope forever, free. Scarcely less important were the campaigns of General Grant, terminating in the brilliant victories of Lookout Mountain and Missionary Ridge, and securing to us the permanent possession of Chattanooga, which was regarded by military men of both armies as the next most important strategic point in the rebel States, and it was made the base of that magnificent military movement which is without a parallel in the annals of war, when Sherman and his veteran warriors swept like an avalanche from Atlanta to the sea through the very heart and home of treason.



These successes of Grant in the West filled the nation's cup of joy, and President Lincoln wisely read the nation's will in committing to him the command of all our armies, and particularly of the unlucky but heroic army of the Potomac which, baffled but not beaten, had stood for long years like a wall of fire against the assaults of treason. And here, again, victory followed the invincible Grant, and in a series of battles more bloody than Waterloo, more brilliant than Austerlitz, he displayed the sterling qualities of the great commander. Those forty days of hand-to-hand fighting in the battles of the Wilderness, which carried the army of the Potomac from the Rapidan to the James, amid the fearful shock of brigades and divisions and the onset of army against army along their whole lines, through scenes of fearful slaughter, while the murky air resounded with the thunders of artillery and crash of musketry, and the night was forced to disclose by the lurid light of continued conflict horrid sights beyond all power to tell, bring to the memory the traditions of the fierce wars of the ancients, reminding us of old Marathon:

"As on that morn to distant glory dear,  
The camp, the host, the fight, the conqueror's career,  
The flying Mede, his shaftless, broken bow,  
The fiery Greek, his red pursuing spear;  
Mountains above, earth's, ocean's plains below;  
Death in the front, destruction in the rear."

Now is not the time, nor this the place, but it is for the historian in ample pages to follow the shining record of Grant, written in the triumphs of Henry, Donelson, Shiloh, Corinth, Vicksburg, Chattanooga, the Wilderness, and the siege of Richmond; written in the blood and sacrifices of our living and slaughtered braves, and upon the hearts and memories of the loyal millions who, amid alternate hope and fear, have watched our leader as with resolute front, step by step, he has led the nation through the night of gloom and despondence to the day of final and glorious deliverance.

General Grant possesses personal courage to a high degree. Amidst the most horrid carnage and the wildest tumult of battle, he was imperturbably quiet, his mind clear, scanning critically all movements on the field, and never giving a thought to danger or to death. At the same time if he saw a weak point in his line of battle or a column wavering, where his personal presence might inspire courage, he would fly to that point or dash like a McDonald to the head of that column, plunge into the thickest of the fight, and hold up the standard upon the last outpost of danger and death. No general can command the entire confidence and bring out the full fighting strength who himself has not personal courage, and whose headquarters are not in the field. Men will fight and brave the highest feats of lofty daring, scale the heights, or face the most frowning batteries, when they see their beloved commanders sharing their fortunes in the dread hour of conflict. Understanding this, Grant dashed along the lines at Belmont and had his horse shot under him while rallying his men, who were confounded by the double fury of their foes, suddenly reinforced by fresh battalions, and a terrible storm of projectiles from their artillery at Belmont and Columbus.

On the first day at Pittsburg Landing—a black and terrible day—all day he rode along his decimated lines and inspired the weary troops to stay the stormy tide of disaster which was beating them back through Shiloh's dark and bloody woods to the water's edge. I sat on my horse near him at Port Gibson, upon an eminence where our artillery was posted and where he was exposed to a most terrible fire of the enemy's musketry and artillery. While he was surveying the field and patiently waiting for the assault of Osterhaus's division as it moved upon the main force of the enemy, who had massed themselves in their full strength upon the Grand Gulf and Port Gibson road, suddenly the batteries and musketry of the enemy opened and poured showers of shot and shell and hissing minie balls on the point at which we were posted. I noticed that while a regiment of ours held in reserve at that point,

and which was much exposed, was ordered to seek shelter in a ravine close by, Grant, seemingly insensible to danger, quietly smoked his pipe and coolly watched the movements of the contending forces. Only once he said to me jocosely, "Governor, it's too late to dodge after the ball has passed." I watched him narrowly, and the thought of personal danger did not seem once to have entered his mind. As for myself I felt much relieved when after a short interview with General Rawlins, his chief of staff, he said, "Governor, we will go and order Logan up."

Was not his a courageous spirit who, with fame already secure by the bright record of a hundred victories, dared to accept the crushing responsibility of commanding the army of the Potomac, where so many generals had been sacrificed, and where so many bloody reverses had almost dispirited the Army and shrouded the land in mourning? Here he was to confront the flower of the rebel army, led by their greatest commander, who, in their estimation, wore the charm of invincibility. Here he must contend with a foe which, up to this time, had courageously maintained his position, elated by the success of several victories and dashing raids, and who now to the pride of victory had added the fierce courage which despair inspires in men fighting for the last rampart left them by adverse fate. But with the same unselfish spirit which had animated his whole life he did not pause to count the consequences to himself, but came at the call of his country. He accepted the heretofore fatal command, and his watchword was "On to Richmond!" as before it had been "On to Vicksburg!" Self-reliant, he formed his own plans and started out on a route which had already been condemned by our military men. His first battle in the Wilderness appalled the world at the sight of its sanguinary slaughter. I think it almost safe to say that no general living save Grant himself would, after such dreadful slaughter and in the face of so many frowning obstacles, have persevered in the plan which he had marked out for himself. But Grant did persevere. From the beginning his method had been to move on the enemy's works wherever he could find them, and if he did not utterly overwhelm and destroy him in every instance, he yet considered himself successful if he maintained his ground and as much loss was inflicted upon the enemy as he himself received.

Grant's intuition taught him that it was a question of endurance, a contest between the patient, stubborn courage of the North and the enthusiastic dash of the South, and that victory would necessarily reward that party which with greatest loss could yet continue the contest. To him it was the two-handed sword of *Cœur de Lion* against the flashing cimeter of the Paladin; it was the ax of the Norseman thundering on the light shield of the Saxon or the Celt. I cannot better illustrate his idea than by quoting from his official report, in which, with great clearness, he indicates part of his plan:

"To hammer continually against the armed force of the enemy and his resources, until by mere attrition, if in no other way, there should be nothing left to him but an equal submission with the loyal portion of our common country to the Constitution and laws."

And so, though the first battle of the Wilderness may have been a drawn battle, and though in the second our loss was counted by thousands upon thousands of our slaughtered heroes, though nature seemed in league with treason against us, and frowning batteries, impregnable fortifications, impenetrable swamps, and tangled thickets confronted him at every step of his chosen path, while from the cover of every shrub, tree, and rock an unseen foe assailed him with storms of bullets, and hundreds of cannon poured their murderous fire upon his army, still relying upon himself and his plans with a confidence that was sublime, he pressed forward, and coolly telegraphed to the Secretary of War, "I propose to fight it out on this line if it takes all summer." Sir, he did fight it out on that line, for though Lee,

in his blasphemous order of May 14, said, "The heroic valor of this army, with the blessing of Almighty God, has thus far checked the principal army of the enemy and inflicted upon it terrible losses," yet, sir, day by day Lee was driven back toward Richmond, an unwilling witness to the skill, strategy, and tenacity of his unconquerable antagonist. His tenacity of will is wonderful. He is never whipped. If his losses are greater than the enemy, or if he has drawn back, still he is not whipped. He will not admit that there is any obstacle. While the great Lincoln with long strides nervously paced his executive chamber at midnight and mourned as unpropitious to the plans of Grant the storm which beat in mad fury upon the roof and along the corridors and upon the window-panes of the White House, yet Grant accepts the situation, and uses the storms of heaven as his appliances, as he did most effectually on the third day of the battles of the Wilderness. It never could be said of him, as of the great Napoleon at Waterloo, that a shower of rain had lost him a battle.

Mr. President, while General Grant is possessed of extraordinary courage and tenacity of purpose, it must not for a moment be supposed that these constitute his chief claim to greatness. I am here to claim for him military strategy of the highest order; what facts and results have established and what history will proudly vindicate—that wonderful power which so few men have exhibited in the great contests of nations—the genius which with comprehensive glance sweeps over vast fields of conflict, perceives the grand objective points, arranges and combines the proper forces, provides against the contingencies which make up so much of war, carries out every detail of the most complicated plan, and with certain prescience commands all needful agencies to move in synchronous march upon the enemy. The success of his Mississippi campaign is not to be attributed to courage alone, but to that grand strategy displayed in a thorough understanding of the plans, positions, and movements of the enemy, and in making such a disposition of his own forces as to employ and thwart the enemy at every point, and yet to keep pressing inevitably and irresistibly forward upon his own line toward Vicksburg, the objective point of all his operations. It was not simply to drive the enemy from Belmont, Island No. 10, Fort Henry, Memphis, and to fight his way straight down the Mississippi by storming him in every stronghold—this he could do with his invincible legions of the Northwest, and this he did do in a series of shining victories which blaze on the annals of history—but he had also to take in his plans a vast territory of hostile States; the Cumberland, the Tennessee, and the Arkansas, from their mouths to their headlands; and to cut off the enemy in all lateral directions upon his interior lines, keep up his own baselines, and leave no enemy in his rear to overrun Illinois, Missouri, and southern Kentucky; and he displayed the greatest military genius by such a disposition of his forces and such timely movements as not only to carry victory along the banks of the Mississippi, but to carry it in a broad belt on either side, until finally he could and did concentrate all the divisions of his army in the overthrow of the rebel Gibraltar—Vicksburg.

His decisions were rapid and quick; he laid the whole field before him clear as a map, and turned the severest reverses and most formidable obstacles to advantage by instant and rapid combinations. It was my good fortune to witness his operations before the capture of Vicksburg. Having succeeded with great labor and difficulty in transporting his troops through intricate bayons and swampy roads to a point below Vicksburg, he conceived the bold strategy of supplying them with stores and heavy ordnance and with transportation of the troops by running his gunboats and transports by the batteries at night. The precipitous cliffs for miles above and below the city were lined with tiers of heavy artillery and rifle pits swarming with infantry down the water's edge.

Every preparation had been made for the perilous enterprise. Night closed in with rayless darkness. I stood with Grant upon the deck of a small steamer in the middle of the Mississippi, from which he kept an eye to the movements of his fleet. It was then I saw sights men rarely see. Eight gunboats and three transports dropped quietly into the channel and floated down the current. Suddenly the batteries and rifle pits opened their simultaneous fire, while the gunboats returned from heavy guns broadside after broadside upon the devoted city. The whole bluffs were a blaze of fire. Indeed, sir, it looked as if a mighty wall of lightning from earth to sky stood still and motionless, while deep thunders rolled, reminding one of the scene—

"When Jove from Ida's top his horror spreads:  
Thick lightnings flash; the muttering thunders roll  
Wide o'er the field, high blazing to the sky;  
And o'er the forest rolls the flood of fire;  
And 'dreadful gleamed the face of iron war!'"

Our boats, contrary to my expectations, safely passed below, and so far Grant's strategy had not failed. But still great obstacles confronted him, and he must resort to new strategy. Before he could attack Vicksburg from below, Grand Gulf must be taken. Grand Gulf was a strongly fortified position at the mouth of the Big Black river, and here Grant gave a striking display of his strategic skill, which attracted the attention of military men everywhere, and which proved to be a pivot upon which turned the mightiest events, results, and destinies of the war.

On the morning of April 29, the six gunboats moved down the river to the assault, while the transports with the troops on board followed, ready to debark and storm the heights as soon as the batteries should be silenced. Our gunboats, under the command of that great naval commander, Porter, ran close inshore under the enemy's guns within pistol shot and poured their broadsides upon his works, to which the enemy responded with a terrific fire from the throats of his heavy guns on the heights above. From a tug-boat in the middle of the stream we witnessed the scene. All around, distinctly visible to the naked eye, we could see the cannon balls flying through the air and skipping in wild leaps along the surface of the river, while—

"Howling and screeching and whizzing  
The bomb-shells arched on high;  
And then, like fiery meteors,  
Dropped swiftly from the sky."

But the batteries could not be silenced, and Grand Gulf could not be stormed. After four hours' bombardment we boarded the flag-ship Benton, and Grant, after a short interview with Admiral Porter, seemingly on the instant decided upon a *coup de main*, which proved his power as a strategist, and from the jaws of defeat he snatched the standard of victory. He ordered his troops to debark and marched them to a point below Grand Gulf, ran the batteries with his boats, embarked his troops again, crossed the river, and fought the battle of Port Gibson, gaining the first of that splendid series of victories which terminated in the fall of Vicksburg. Here again Grant adapted himself to the circumstances of the case, and made a plan of his own contrary to that which had been laid down for him at Washington. I presume General Grant never received a higher compliment or one that he so much prized as one contained in a letter of Mr. Lincoln of July 3, 1863. Mr. Lincoln said:

"When you got below and took Port Gibson and Grand Gulf, I thought you should go down the river and join General Banks; and when you turned northward east of Big Black I feared it was a failure. I now wish to make a personal acknowledgment to you, that you were right and I was wrong."

Grant had great confidence in the pluck and mettle of his army, and he considered the victory was half won whenever he made up his mind to let the brave Illinoisans and other troops of the Northwest go into the battle. His policy was to "let 'em fight," and to fight the enemy wherever he could find him. Still it cannot be laid to his charge that he was reckless of the lives of his officers and men, for he never

asked them to go where he was not willing to lead. In the battles of the Wilderness he did not, as has been charged, run heedless upon the intrenchments of the enemy. He resorted to flanking movements, concentrating his strength first upon one wing and then upon another; or, having divided the forces of the enemy, he threw his whole force like an avalanche upon the center, and drove him back to new positions, until, dispirited and besieged, the confederate capital fell like ripened fruit into his hands.

When he assumed supreme command as Lieutenant General he changed radically the whole plan of our military operations. He discontinued the plan of independent spasmodic movements by our different armies—a plan which had enabled the enemy to move as upon a pivot, and to confront our divided forces now at one point and then at another, and to baffle us by a superior concentration of his forces. But, sir, I read from his own report to show what this policy was which all now see was necessary to turn the tide of fortune in our favor. He says:

"I therefore determined first to use the greatest number of troops practicable against the armed forces of the enemy, preventing him from using the same force at different seasons against first one and then another of our armies, and the possibility of repose for refitting and producing necessary supplies for carrying on resistance."

The anaconda of which so much had been said early in the war was no longer a myth. If he was not the author of the comprehensive idea conveyed by that word to the public mind he was the first to vitalize and make it real. He did not simply move forward the army of the Potomac, but for the purpose of employing the enemy at every point and preventing the concentration of his forces upon any given point, General Grant set in motion all the armies of the Union—Sherman against Johnston; Butler moved up the James, Sigel up the Shenandoah valley, Banks against Shreveport, Sheridan against Early, and other generals in their appropriate places, in the mighty drama which ended in the death of the rebellion.

Mr. President, when the history of this war is carefully read with the map of the campaigns before you; when all the details of departmental organization are understood; and when all the orders, correspondence, and dispatches are properly weighed; when all the coöperative movements of the various divisions of his armies are carefully studied; the vast territory he had to overlook, to conquer, and to defend; vast communications by land and water; immense supplies and transportation to be provided; a confronting enemy ever vigilant, brave, confident, commanded by skillful leaders; and all the splendid results of his great plans are considered, we may truthfully pronounce him the model commander of the age in which he lives. I know well the secret of his power, for when I saw him at headquarters, upon the march, and on the battle-field, in his plain, threadbare uniform, modest in his deportment, careful of the wants of the humblest soldier, personally inspecting all the dispositions and divisions of his army, calm and courageous amid the most destructive fire of the enemy, it was evident that he had the confidence of every man from the highest officer down to the humblest drummer-boy in his command.

He also judged men with the most unerring accuracy, so that when the choicest with him he always selected the right man in the right place. Need I mention Sherman, McPherson, Meade, Hooker, Hancock, Thomas, Howard, Logan, and many others who were relied upon by him, each for some particular excellence or fitness assigned a specific duty? With what sagacity, too, did he select those two gallant chieftains, Grierson in the West and Sheridan in the East, as *avant couriers* to herald his own mighty coming.

It is needless to recount here the details of Grierson's grand raid, in which, with three regiments only, he suddenly abandoned all communications with his base and supply trains, almost without artillery, and beset on all sides

by hostile forces, and, subsisting entirely upon the enemy's country, he swept through the confederacy, cutting telegraph lines, destroying railroad communications, burning depots of military supplies, and spreading dismay among the people, and after destroying millions' worth of the enemy's stores, marched into New Orleans, with streaming colors and glad music, amidst the wild acclamations of the army of the Gulf.

I need not refer to Sheridan. His heroic deeds outshine the romantic stories of the past, when mailed knights fiercely strove with gods around the walls of Troy. Such was Grant's confidence in Sheridan that it is said he hardly ever gave him an order in detail. When he asked the privilege of attacking the enemy in his stronghold at Winchester, Grant's simple order was, "Go in." And on another occasion he said to Sheridan, "Go and whip Early." It is said that Napoleon was greatly disturbed and uneasy during the battle of Bautzen, until he heard the sound of Ney's guns thundering on the left, when he sat quietly down and wrote Marie Louise the victory was gained. Such confidence as Napoleon in Marshal Ney, Grant had in gallant, glorious Phil. Sheridan.

The American people have not lavished upon their heroes costly presents or princely estates, nor stately pile nor royal titles, such as England bestowed upon her Marlboroughs, her Nelsons, and her Wellingtons, but for their great services this nation has conferred upon Washington, Jackson, and Taylor a position of more value than heaps of shining gold and prouder than that of emperor; and monarchs may well envy them the title of citizen President of the United States of America.

Who among the long roll of honored names has achieved a grander success or given to his people a nobler boon than Grant? Black-visaged war desolated the land; horrible dread froze up the fountains of hope; from every house went up to heaven wails for the loved and lost, louder than Israel for her first-born; and from foreign despotisms came the shouts of exultation over the fading fortunes of our great experiment for universal liberty. And when there was no eye to pity or arm to save, suddenly a light gleamed athwart the sky, hope banished sickly fear, order was where confusion reigned, and victory snatched our chastened nation from the jaws of ruin and clothed her anew with the garlands of immortal youth; and the people saw high above the common plane their two deliverers, Lincoln and Grant. Alas! how soon the dread javelin seeks the shining mark and leaves but one. Long may he wear the charmed life; Ithuriel-like, within our Eden, be "armed with a spear of celestial temper."

And now, sir, why should we not eagerly seize the opportunity to confer upon General Grant the grade of General of the armies of the United States? It was conferred on Washington, and who will say it was not justly and worthily bestowed? Then why shall we do less to him who dared all and conquered all in a darker and grander crisis of our fate? If it is objected that we should not lavish honors and emoluments upon one where all, officers and privates, have done so well, I reply, if reply is necessary, that in honoring him we honor all his comrades in arms, and I am sure that not one, from the highest officer, from the great Sherman down, down through all the ranks to the humblest private soldier, will say no to this tribute to the exalted worth of their great commander.

I repudiate the imputation of prodigality of the people's money in advocating the small appropriation proposed to be added to the salary of General Grant by this bill. While I believe this grateful and magnanimous nation will not object to this almost nominal increase of his salary, I believe they are also willing to be taxed to the extent of making all our soldiers equal in bounty and pay for their services in rescuing the country from total ruin, and for that reason I desire to vote for any measure that will accomplish that measure at the earliest

est possible moment. If this Congress should issue one hundred-year bonds, with interest, to be appropriated to the support of our wounded and penniless soldiers and of the widows of such as died by disease or wounds in the service, and for the liberal education of the orphans of our poor dead soldiers, do you suppose our nation would be any poorer for such a boon to its brave defenders who saved its very life? No, sir, but far richer, for then, indeed, would this nation be strong in a race of heroes; every cabin would be a fortress and every woman a soldier; and while our posterity, who had the principal of the debt to pay, would celebrate the achievements of the men who had borne aloft the flag, they would also indorse the acts of the statesmen who had done some little to reward the heroes who had offered themselves a willing sacrifice upon the altars of patriotism and liberty.

It has come down from age to age, as the shame of the ancient republics, that they were ungrateful to public benefactors; that those who had borne their eagles farthest over conquered kingdoms, or rendered most service to their country, either in the field or council chamber, were the most liable to censure, ostracism, and even death to gratify the popular caprice. The poet thus characterizes this popular caprice in the sudden transfer of the popular favor from the defeated Pompey to the victorious Cæsar, by words put into the mouth of a tribune of the people, who says:

"Wherefore rejoice? What conquests brings he home?  
What tributaries follow him to Rome,  
To grace in captive bonds his chariot-wheels?  
You blocks, you stones, you worse than senseless things!  
O, you hard hearts, you cruel men of Rome,  
Knew ye not Pompey? Many a time and oft  
Have you climbed up to walls and battlements,  
To towers and windows, yea, to chimney tops,  
Your infants in your arms, and there have sat  
The live-long day, with patient expectation,  
To see great Pompey pass the streets of Rome;  
And when you saw his chariot but appear,  
Have you not made an universal shout,  
That Tiber trembled underneath her banks,  
To hear the replication of your sounds  
Made in her concave shores?  
And do you now put on your best attire?  
And do you now cull out a holiday?  
And do you now strew flowers in his way  
That comes in triumph over Pompey's blood?  
Be gone;  
Run to your houses, fall upon your knees,  
Pray to the gods to intermit the plague  
That needs must light on this ingratitude."

Mr. President, never let it be said that this Republic shall incur the shame of ingratitude to public benefactors which spreads a cloud over the bright glories of the great republics of the past.

But, Mr. President, I should not finish the picture were I to stop here. Grant is free from inordinate ambition, and from many of the faults and vices which have sullied the characters of many others who have been chronicled as great men in history. He is an honest man; he is gentle and kind, magnanimous to the vanquished; of rugged virtue; stern simplicity; plain, republican manners; true to freedom without regard to caste; spotless purity of life, and elevated devotion to country, standing out before the world as Washington and Lincoln stood, an ever-present and sublime illustration that exalted greatness and exalted goodness are one and inseparable.

I do not wish to deal in panegyric. I know that Grant cares as little for it as any man. He never sought glory. There is nothing about him of the pomp or vain-gloriousness or glare which men call glory. All that he desires is truth. He is the last man who would have ascribed to him achievements which he never wrought, or praise for words he never uttered. As we look upon that calm, reticent, statue-like figure, it is hard to realize that he is the man who stood self-poised and unmoved by the discordant elements of the great revolution through which we have passed, and with the certainty of fate directed the destiny of a continent. But time, which at last sets all things even, will reveal him to the world and blazon him greater in history than Alexander, whose ambition the conquest of a world did not sat-

isfy; greater than Cæsar, who sacrificed the glory of republican Rome for the pageantry of universal empire; and greater than Napoleon, who bartered the victories won by the sword for the vain magnificence of the imperial purple.

Grant welcomed the end of conquest as a national blessing. His name will go shining down the ages lustrous with the halo of great achievements and of great beneficence, without the stain of selfishness; and will be enshrined in the hearts of the coming millions as the man to whom we are most indebted for the success of our arms, the triumph of truth and liberty, and the preservation of our national Union.

Mr. GRIMES. I notice that in the twenty-seventh line of the committee's amendment this language is used: "and the said General may appoint upon his staff such number of aids," &c. I suppose the chairman of the Committee on Military Affairs does not claim that the General would have the authority to appoint officers in the regular Army. I suppose the committee intended to use the word "select," and not "appoint." I propose, therefore, to amend the amendment by striking out the word "appoint," in line twenty-seven, and inserting, "select from the line of the Army for service;" so as to read, "and the said General may select from the line of the Army for service upon his staff such number of aids, not exceeding six, as he may judge proper, who shall each have the rank, pay, and emoluments of a colonel of cavalry," and between the words "who" and "shall" I move to insert "during the term of such service."

The amendment to the amendment was agreed to.

Mr. GRIMES. I move further to amend the amendment by inserting after the word "cavalry," at its close, the words, "during the term of such staff service;" so as to make that portion of the amendment read:

And it is hereby provided that in lieu of the staff now allowed by law to the Lieutenant General, he shall be entitled to two aids and one military secretary, each to have the rank, pay, and emoluments of a lieutenant colonel of cavalry during the term of such staff service.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

#### INDIAN APPROPRIATION BILL.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate, the Chair will announce the appointment of Mr. SHERMAN, Mr. DOOLITTLE, and Mr. NESMITH, as the committee of conference on the part of the Senate on House bill No. 387, being the Indian appropriation bill.

#### MAIL SERVICE TO CHINA.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate joint resolution No. 98.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is in order, which is Senate bill No. 387.

Mr. CONNESS. With the consent of the friends of that measure, I should like to get a vote upon the resolution that I have named. It has been already discussed in the Senate, and, for my own part, I do not wish to say anything more upon it. It will only occupy a few moments, and I am very anxious to get a vote upon it.

Mr. SHERMAN. What is it?

Mr. CONNESS. It is the joint resolution in regard to the China mail service. It has been lying over now for about three weeks.

Mr. HOWARD. I understand that that measure will not occupy the attention of the Senate for more than a few minutes, in all probability, and I am willing that the order of the day shall be informally laid aside in order that it may be taken up.

Mr. CONNESS. I only wish to get a vote upon it.

The PRESIDENT *pro tempore*. By common consent, the unfinished business may be laid aside. No objection being interposed, it is laid aside; and it is now moved that the Senate proceed to the consideration of Senate joint resolution No. 98.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 98) to amend an act entitled "An act to authorize the establishment of ocean mail steamship service between the United States and China," approved February 17, 1865; the pending question being on the amendment offered by Mr. WILSON to strike out all after the word "that," in the third line of the resolution, and to insert:

The Pacific Steamship Company is hereby authorized to establish a monthly steamship line between San Francisco and the Sandwich Islands, instead of touching at Honolulu, as required by law, with their steamships engaged in carrying the mails between the United States and China.

Mr. SUMNER. This question is not free from embarrassment, especially where one is in favor of the line to Japan, and also in favor of a line to the Sandwich Islands, as is the case with myself. I am anxious to see each of these lines established—believing as I do that each is important to the general welfare and especially to the commercial interests of the country. But strong as is my desire, I have not been able to see how the line to Japan can be advantageously held to turn aside and stop at the Sandwich Islands. To bring these two objects into one voyage is not unlike the idea of the elderly person who wished her Bible to be the smallest size book and the largest size type. The two things do not go together.

And yet, sir, I confess that the interest which I take in the Sandwich Islands inclines me to do all that I can to strengthen and increase our relations with them. I do not forget that these islands, though originally discovered by a British navigator, are mainly indebted for their present civilization to the United States. Missionaries of our country have planted churches and schools at an expense of at least a million dollars. One of our countrymen, the late John Pickering, of Boston, the eminent philologist, invented the alphabet by which the native language was reduced to a written text. The whalers of New England have made these islands a resting-place. Our ships on their way to China have made them a half-way house. Of all the foreign ships which reach there five sixths are of our country. Such are the ties of beneficence and of commerce by which we are bound to these islands. There is no other nation that has an interest in these islands comparable in character or amount to ours. Meanwhile the native population has been constantly decaying at an annual decrease of eight per cent., so that I presume now it is not more than fifty thousand.

This brief review will furnish a glimpse of our interest in these islands. They are the wards of the United States. We cannot now turn away from them. The Government must add its contribution also. It is on this account, that I have heard with pleasure that a national ship, under the command of one of our most intelligent officers, is to be stationed at the Sandwich Islands. Her presence there will exercise a salutary influence in sustaining the interests of our people. This is something. But I confess that I should like to see these islands bound to our continent by a steam line.

While confessing this desire, and giving my reasons for it, I am not satisfied that it is proper to require the Japan line to perform this service. It is clear from unanswerable testimony that the stoppage of this line cannot be effected without such a deviation as materially to interfere with its operations.

The testimony presented by the report is positive. Here, for instance, is what is said by that eminent authority, Admiral Davis:

"These considerations, with regard to the eastern voyage, appear to dispose of the whole question.



They show that touching at the Sandwich Islands, on the return from China, would prolong the voyage so many days unnecessarily that an additional line of steamers must soon be established, provided the intercourse between China and America is to acquire that importance which is confidently expected."

This concerns the voyage from Japan to San Francisco. But Admiral Davis is also against stopping at the islands on the outward voyage.

It seems clear, then, that the Japanese line, in order to be effective and to accomplish what is so much desired, must be left to itself without being obliged to turn aside for any incidental purpose. It must be a Japanese line and nothing else; and you must not forget that just in proportion as you impose upon it any additional obligations you will impair its efficiency as one of the splendid links of commerce destined to put a girdle round the globe.

I am ready, therefore, to release the Japanese line from stopping at the Sandwich Islands; but at the same time I declare my hope that some other means will be found to secure a line to these islands.

In releasing the company from this service, I am willing to leave to them the full subsidy already appropriated. But I think they should be held to shorten their voyage in proportion to the time gained. This provision will remove an objection which has been made. I offer the following amendment to come in at the end of the resolution:

*And provided further,* That the schedule time of the route fixed by the existing contract shall be reduced not less than ten days for each round voyage.

I hope that my friend from California will accept this amendment.

Mr. GRIMES. I have an advantage over the Senator from Massachusetts in this matter. I have no difficulty in reaching the conclusion to which I think I ought to come in regard to this subject. There are no conflicting interests in my State behind me pulling me different ways. There is no China trade that is peculiar to my State which may be interested in making quick passages; nor on the other hand is there a large whaling interest that may be interested in touching at the Sandwich Islands. I can readily conceive that in the division of counsels there must be among those men who approach the Senator from Massachusetts on this subject, it is difficult for him to reach an accurate conclusion, even according to his own judgment, because it is the interest of the large wealthy men in Boston and New York, who have houses at Canton and Shanghai and Hong Kong and other Chinese and Japanese ports, that there should be as speedy a passage as possible from San Francisco to their respective houses on the west coast of Asia; and if you could approach those gentlemen in New York and Boston who are interested in those houses I suspect you would find that they would be unanimously in favor of such a proposition, and so far as their influence goes in the Chamber of Commerce in New York, I have no doubt it has been exerted in favor of such a proposition; but go to New Bedford and Provincetown, and among the commercial men where wealth has not been so greatly concentrated as it has been in New York and Boston, and I apprehend you will find that there there is almost a uniform sentiment in favor of this company being compelled to maintain its original contract and touch at Honolulu.

Mr. STEWART. I should like to inquire of the Senator if that is not a very good argument in favor of this resolution—the fact that men who are interested in attempting to build up this trade see the necessity of quick passages. The object of the subsidy was to build up the trade.

Mr. GRIMES. I do not think it is a good argument in favor of the measure. I think the interest of the Government would be most subserved by requiring these parties to perform their contract and touch at both places precisely as they agreed to do. What difference does it make to us whether the steamers of this company, which must make, according to the terms of the contract, twelve round trips in the year, make the passage in thirty-one days between

Hong Kong and San Francisco, or make it in twenty-six days? It may be some advantage to a particular man on our eastern coast; but it is of no particular advantage to the Government, so far as I can see. While it is an advantage to one particular man that there should be that speedy communication, it is an advantage to fifty men that the vessels should touch at Honolulu. The navigation of the country, the commerce of the country, and the naval interests of the country, as I undertook to show when this subject was under consideration before, require that these vessels should touch at Honolulu, for that is the great rendezvous of the whaling commerce, and at which nearly every whaling vessel that we have in the Pacific touches; furnishing an opportunity to the commercial men in Maine, in Massachusetts, in Connecticut, and in Rhode Island, to communicate with their vessels that are employed in the Pacific ocean.

Mr. President, it is rather too warm to discuss this subject much to-day. I have only to say that the issue is fairly presented before us, whether or not we shall allow this exceedingly rich company, that has entered into a contract with us to perform certain services upon payment by us to that company of half a million dollars a year, to be released from the terms of that contract, without any attempt hardly to perform the contract, without having, at any rate, attempted to make a single trip, without consideration, and without restoring to us or proposing to restore to us any portion of the half a million of dollars which we have agreed to give them provided they will fulfill their part of the contract.

Mr. President, I had occasion the other day to see some comments that were made upon an observation that I dropped in the Senate here, that it was very important that these packets should be compelled to touch at Honolulu on account of the interest that our Navy had in the subject; and I believe there were some remarks that indicated that that was a most extraordinary proposition. Why, sir, Great Britain requires her vessels to touch at not less than fifteen different ports for no other purpose than to keep up a constant communication with her naval vessels throughout the world; and, as I said then, the fact that we shall thus be enabled to communicate with our naval vessels at the Sandwich Islands and in those seas, was one of the reasons why I was reconciled to the passage of the original bill over a year ago. Now, sir, suppose we pass this resolution; what does the Senator from Massachusetts tell us? He says that he trusts that he shall have the privilege at the next session of Congress of voting another subsidy to establish a line between San Francisco and Honolulu.

Mr. SPRAGUE. That is the intention, I believe.

Mr. GRIMES. And I understand from the friends of this resolution that that is the intention. There is the issue. I have nothing further to say upon it.

Mr. McDUGALL. Mr. President, I had the opportunity to advocate this measure originally, and to represent it next to the then chairman of the Post Office Committee, Mr. Collamer, who is not now among us. It has been a long time desired by the people of the commercial cities of the East and the far West to establish a communication, that should overcome competition on the part of England and France, from our western coast to China and India. The original bill was framed with that purpose, and at the same time the Sandwich Islands were embraced. The spectacle was then presented of legislation by persons who were not practical masters of the particular subject-matter. I was not, nor was my colleague, Mr. Latham, who was then in the Senate with myself, when the measure was first introduced, practically acquainted with the subject. It turns out to be true that by the laws of the winds and the waves it is much more convenient and much more economical to go by a far northern line; that is to take two turns.

One is the great circle which makes a shorter distance between the two extremes, as known to all persons who know anything about navigation; and then the currents of the Yellow and North Asiatic seas throwing themselves on our western coast, carry them down; and it makes a much shorter trip from Victoria, the principal possession of England on our western continent, than it would be if we had to run by the Sandwich Islands on the route to Hong Kong or Shanghai.

The object of this amendment is to enable our vessels to run to Japan and China and the Indies and compete with the vessels of two European Powers that have already been put upon the sea. The subsidy afforded is nothing in comparison to the interest engaged. If it should be true that a subsidy will be asked for to carry the mail from San Francisco to Honolulu, it would not be a bad policy. We have got many lessons to learn yet. We ought to learn lessons from the history of States where the science and art of government and public policy are cultivated. There would be no question about this if it were a measure before the British Parliament, because the economy and advantage of a direct line, so as to compete successfully with France, would establish the conclusion itself, and the giving of \$50,000 as a subsidy for a mail between San Francisco and Honolulu would be a mere bagatelle. We have (and I choose to say it now) lost much in being afraid to embark in enterprises in the way of development and in the way of profit and in the way of trade.

This enterprise is one in which the people of our whole country are interested. If it can be improved so as to out rival Great Britain and France, it should be so improved. The measure as it is now proposed will enable us to out rival them on the Pacific ocean. There is the greatest field there is in the world for great enterprise. The wealth of China and the wealth of the Indies we have hardly touched. We have never commenced to command it. We are in a position to command the wealth of China and the Indies, and all policies tending thereto should be pursued with carefulness and with earnestness; and this is one of them. Those persons who say now that they can better compete against opposition by abandoning this idea of touching at Honolulu are men of experience. The Chamber of Commerce of the city of San Francisco are men of eminent ability; and they and the Chamber of Commerce of New York and commercial men—for it is a question of commerce to begin with—know more about these things than men who are mere speculators in this Chamber. My opinion is that it would be for the advantage of the country to release this company from this obligation; and when they are released from the obligation, then I or my colleague or somebody else will ask for a communication with Honolulu.

Mr. CONNESS. I was enabled to get this resolution before the Senate this morning by the kindness of the Senator from Michigan, and others interested in the pending measure, and therefore cannot be provoked into a lengthened discussion upon the subject.

I was a little surprised, and at the same time pleased, to discover the real secret, perhaps, of the opposition of the honorable Senator from Iowa when he was upon the floor. He stated that he was unembarrassed upon this subject; that he did not come from a State that had anybody in it interested in making short voyages to Japan and China, or from there to the United States; nor was he embarrassed by having anybody in his State interested in making short voyages between San Francisco and the Sandwich Islands. I regret very much that considerations of that kind should enter into the discussion of a subject of the magnitude of the one that we now have before us. From the isolated position that I myself occupy in the Union, as a citizen of California, if I were to pursue the same rule, I should be at times illiberal and ungenerous toward many other States of the Union, and toward some

of the mightiest interests belonging to this nation. If, for instance, I pursued the policy of saving the greatest amount of money in the present hour and at the present time and at the present day to the people that I in part represent here, I would vote against all protective duties, because there is no State perhaps in the Union where there is less capital engaged in manufactures than in the State that I represent, the State of California. There are no people in this Union that pay so high a tax proportionably to their numbers in the shape of imposts upon goods sent into the State for consumption. But, Mr. President, in my votes upon that subject I am not guided nor governed by what I call the immediate interests of the people of California, but feel myself rather controlled to support a policy which is the best policy for our nation, the best policy for every part of it, and eventually the very best and wisest policy and the highest statesmanship for California—that policy which shall induce them to vary their industry, to invest their capital in manufactures, and to become eventually their own suppliers and the purchasers from their own people.

But, sir, enough of that. It appears to me that that policy should govern us in all things, and I wish it did govern all in regard to the questions that come before the American Congress. We should then have less of State rights; we should have less of particular measures in support of particular interests than we now have. We have now before us a measure which contemplates, what? Merely making a short voyage to the ports of Japan and China? Merely making a voyage to the Sandwich Islands? No, sir. The object and purpose of the establishment of the great line that we are now discussing was that it might grasp and seize from foreign hands the mighty trade of the East Indies and deposit that trade at a near and early day in the hands of our people and nation, thereby enriching us, according to the calculations of wise men, a hundred or a thousand fold.

But, sir, it happened that in the contract originally made this line was required to stop at the Sandwich Islands; and now a release is asked from that part of the contract because it is found that it will extend the voyage so as materially to embarrass, if not entirely defeat, the great project and measure. But, say gentlemen, if these parties are released in this respect they should also consent to the reduction of the subsidy that they obtained from Congress in the contract existing. Why, sir, I would agree to that instantly, and favor such a proposition; nay, would have introduced it originally, if by the release the expenses of these voyages, the expenses of the great crusade against other nations for commercial supremacy in those great oceans were to be reduced; but the fact is that they are to be increased; and if the amendment proposed to be offered by the honorable Senator from Massachusetts be adopted, reducing the time within which those voyages shall be made ten days or eight days or seven days, necessarily the speed will be increased upon those ships and the expenditure proportionably increased; so that in place of making cheaper voyages to this company, you make at once more expensive voyages to them; for no person here, I apprehend, is such a tyro in reference to the management of a steam marine as not to know that in proportion as you increase the speed you likewise, proportionally, increase the expenditures.

But there is a fear that we may be asked hereafter to make an appropriation of \$50,000 per annum for a connection between San Francisco and the Sandwich Islands. Mr. President, I do not appear here in behalf of the company who have made this contract; but I appear here in behalf, and speak in behalf, of the great interests that induced the establishment of the line and the making of the contract; and if the success of that great measure is to depend upon this release, and upon a subsequent appropriation of \$50,000 annually, I

say it is but a mere bagatelle compared to the great national gain. We talk of passing measures for public improvement for the purpose and with a view of increasing the national resources. I ask gentlemen whose object it is to bring money into the Treasury of the United States what measure can be proposed that will accomplish that with more certainty than giving us supremacy in these new commercial fields.

But, Mr. President, I cannot pursue this line of discussion or take up the time of the Senate. I am only astonished that any number of Senators should be found who would oppose the proposed release, for it is virtually an opposition to the very purposes of the establishment of this line.

The honorable Senator from Iowa, when he was on the floor, told us that the British Government required their ships to touch at their naval stations. They do require some of their ships to touch at naval stations in the West Indies and elsewhere; but which of their steamers do they require to touch at those stations? Are they those engaged with rival lines seeking for commercial supremacy? No, sir. And you might as well require and expect this line to fill the purpose of its institution by stopping at the Sandwich Islands as the British Government should expect to maintain the supremacy of the Cunard line and at the same time require them to touch at the Bermudas or at Nassau.

Mr. FESSENDEN. Will the Senator be good enough to inform me what rival line there is from San Francisco to China?

Mr. CONNESS. The rival lines to this are already in existence, and have been for years and years, and the Senator must know it. The time made by one of the rival lines, now, from Shanghai to London is fifty-five days, by way of the Isthmus of Suez. The time made by another line, by way of Marseilles, is forty-seven days. Give us this release; give this company an opportunity to plow the deep at the rate they will by this grand line, and your passage will be made from Hong Kong and Shanghai to San Francisco in less than twenty days, and from San Francisco to New York in twenty days, making forty days altogether, thus at once, and before the construction of the Pacific railroad, overcoming the European lines. Why, sir, we are now receiving from those parts of Japan and China the silks and the teas that are laid down in New York through English merchants and paying profits to English merchants in that trade. Is there anybody who cannot favor the change of these great commercial currents? A grasp of the subject seems to me to be only necessary to see the great advantage.

But the Senator fears that we shall call for \$50,000 annually for steam communication between San Francisco and the Sandwich Islands. Well, Mr. President, "Sufficient unto the day is the evil thereof."

On one point more a word, and I am done. This company did not bid for this contract at less than the subsidy offered. They would not have made a bid for less. They had no competitors, although it was advertised for months and announced that it would be given to the lowest responsible bidder, which proved that no other company would engage to do the service for the subsidy offered. They not only engaged in it, but engaged in it upon a scale that is creditable to the American name and character and to the age in which we live.

I hope, Mr. President, that the amendment offered by the Senator from Massachusetts [Mr. WILSON] will not be accepted by the Senate. I am willing to accept, so far as I am concerned, the amendment offered by the other Senator from Massachusetts, [Mr. SUMNER,] but would advise that in place of reducing the time ten days he reduce it eight days. It is the object of the company, I say to him and to the Senate, to make the least possible time. They are building the ships to do it with, and they will not fail of success if you give them the incentive.

Mr. SUMNER. In selecting ten days, I

rather followed what seemed to be the testimony of Admiral Davis; I thought that possibly ten days would not be too much; but I wish to make the provision one that shall be agreeable to the Senator from California.

Mr. FESSENDEN. I suggest to the Senator that his amendment amounts to nothing, because the bill itself under which the contract was made only provides for twelve round trips, and does not fix the time within which they shall be made. To make the time ten days shorter than nothing would amount to nothing.

Mr. CONNESS. I will say that the length of the voyage from the port which these ships shall leave to the port at which the goods are delivered is the point that commerce seeks.

Mr. FESSENDEN. This amendment does not reach that at all.

Mr. SUMNER. The Senator from Iowa suggests to me that if I require two additional trips I shall accomplish something; but that would be obviously requiring too much.

Mr. GRIMES. Why so? If, as the Senator says, Admiral Davis thinks they can make ten days' shorter time than they would make now, then the time gained, twelve times ten, would enable them to make two additional trips and have some extra time left over.

Mr. CONNESS. I think Admiral Davis's calculation was seven days, not ten.

Mr. GRIMES. That would enable them to make two additional trips, and have ten days left over.

Mr. CONNESS. I think that this whole matter can be left with the greatest possible safety to the company that have engaged in this business. The Senator from Maine smiles. I am convinced, nevertheless, from my acquaintance with the scale on which they are entering on this work, that their object, their determination, is to make it a success over other nations, and that, without any restriction, they will reach the goal of success.

Mr. McDOUGALL. Mr. President, I will take occasion to remark here that there has been a struggle on the part of Great Britain and on the part of France and on the part of Russia to obtain command of the commerce of the Pacific, and, obtaining the command of the commerce of the Pacific the command of China and India. We have been at fault in not maintaining a positive policy. Our diplomatic relations with the countries on the Pacific have not been equal to those of other States. It is time that we should go to work to maintain ourselves firmly there and command that commerce. A gentleman who went from Boston to China, an eminent merchant, was at Hong Kong, where he talked with a tea merchant from the interior who was worth a hundred millions. Said he, "You must be a very important man in your part of the country." "No," he replied, "the salt merchants do not recognize me." Sir, the silver and gold of the world have been poured in there for eighteen or twenty centuries. They are there now, and the trade of those countries is sought for by all the intelligent States of Europe. Portugal made great efforts for it at one time; Holland did at one time; England has done it since; and France is trying for it now, as she has got relations with Siam. We have by right, by right of power, the command of China and India and the islands of the Pacific—the greatest field for commerce that the world has known.

Questioning about these small things is questioning about cents when millions are involved; and a subsidy of \$500,000, in regard to its relations to our country and its wealth, is a mere bagatelle. What is the wealth of our country? It is the wealth of individuals, not the wealth of the State, for from individuals in a republican Government comes the material that makes and maintains the State. If we can command the commerce of the Pacific we shall command a wealth that cannot be responded to by any part of Europe, and by our communications with Europe can make it our own, possess it ourselves; and every enterprise that tends in that direction is strengthening our Republic.

It is not worth while to argue this matter *in extenso*. Argument will have no effect upon those who have not studied political economical science well enough to know that development is wealth, that the wealth of the individual is the wealth of the State, that the wealth of the community is the strength of the community. We now owe, say, three or four thousand million dollars. How are we going to pay it? By taxation on a circumscribed line? No. It is by bold, brave enterprise, by bringing the wealth of other lands and making it subject to our own land; and those who do not understand the philosophy of that policy have lost the lessons of history. It was done in old Rome; it was done in Greece before; England has proved it well; it has been our own sound policy, but we have not yet been bold enough to throw off the shackles on our enterprise. Out of enterprise grows wealth; out of that grows strength; out of that grows the power of the Government. It has been so all through history. If we could only indoctrinate into this Government the policy that England adopted long ago of subsidizing vessels to run to all the ports of the world so as to command their commerce, England would be but simply an island in the sea, and we should be the great nation of the world. That is all we want to do; and if we are wise we shall do it. It is written in every book, it is the deduction of every sound thinker who studies political economical science. We have got the power, we have got the opportunity, to command both the Atlantic and the Pacific oceans and the Indian sea, and if we do not do it we shall be false to our own great office.

Mr. WILSON. I have, what the Senator from Iowa says he had not, a strong pressure from two classes of men in my section of the country who are interested in this line. The one class desires the quickest communication with China and Japan, and great interests are involved in that. The other class desires communication with the Sandwich Islands, and they are very earnest and pressing in securing that communication. Now, I am desirous of securing both of these ends. I believe that this steamship company has entered upon this work with the highest purposes and with the resolution to achieve the quickest communication with China and Japan. My colleague is about to modify his amendment so as to require the company to make annually one more trip between California and China. That will accomplish the desire of the commercial men of the country, and in fact of the whole country, that the most rapid communication that can be made shall be made between the Pacific coast and China and Japan.

Now, sir, I propose to change the amendment which I offered the other day requiring this company to put on a line between San Francisco and the Sandwich Islands; I propose to modify it by giving for this service an additional subsidy of \$50,000 annually.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair understands that this is a modification of the Senator's previous amendment.

Mr. WILSON. Yes, sir.

The PRESIDING OFFICER. It will be so modified. It is in the Senator's power to modify it, no action having been taken upon it.

Mr. SUMNER. But, as I understand my colleague, he will now move his amendment as an addition to the resolution, not as a substitute for it. As it was first offered it was a substitute.

Mr. WILSON. Certainly my object is to move it as an additional section.

The Secretary read the amendment of Mr. WILSON as modified, which was to add the following as an additional section to the resolution:

SEC. 2. And be it further resolved, That the Pacific Steamship Company is hereby authorized to establish a monthly steamship line between San Francisco and the Sandwich Islands, instead of touching at Honolulu as required by law, with their steamships engaged in carrying the mails between San Francisco and China; and for the service thus required there shall be allowed an additional sum of \$50,000 annually.

Mr. WILSON. It may be that Senators think this is making an appropriation of \$50,000 that we ought not to make. I certainly think we ought to deal generously with this company. We ought to encourage them in the work they have undertaken, and undertaken on a larger scale than we expected or than we required of them. If now we require them to make one more trip a year, and also require them to make communication with the Sandwich Islands so that both objects will be attained, I think an addition of \$50,000 annually is a very small matter, and I think that we had better settle it now, than to wait for legislation at the next session of Congress. Let the country understand that we have settled this whole question, and that communication with China and with the Sandwich Islands is to be completed at the earliest possible day.

Mr. SUMNER. I wish to modify my amendment and put it in final form. I withdraw the amendment which I offered and submit this to come in at the end of the resolution:

And provided further, That in addition to the twelve round voyages now required, one additional round voyage shall be required.

Mr. CONNESS. There is only one objection that I see to the amendment of the Senator from Massachusetts [Mr. WILSON] in its present shape; and that is that it will bring on this company what of course they would not prefer, the charge that they undertake to monopolize the control of all the Government subsidies in the Pacific ocean. There are other steamship owners both East and West who, if there was an opportunity to bid for a short service to the Sandwich Islands, might, perhaps, bid for it, though I doubt very much whether any would at the amount proposed by the section offered by the honorable Senator, namely, \$50,000 a year. The service has generally been estimated to be worth about seventy thousand dollars. I have no doubt this company would be willing and able to perform the service for the additional compensation proposed; but they would not prefer, and do not prefer, to enter upon it, because they are now engaged in the great line from San Francisco to New York by the Isthmus of Panama; and when you add to that the business of their line from San Francisco to Japan and China and the field to be traversed by it, the amount of capital engaged, you will see that their hands are already sufficiently filled. If there is any project that they look to beyond these two, it is eventually to putting on a line of their own across the Atlantic, so that passengers may go upon their ships either in Europe or at China and go through by their lines.

Mr. KIRKWOOD. I wish to say to the Senator from Massachusetts [Mr. WILSON] that as I understand his amendment, it does not secure the trip to the Sandwich Islands.

Mr. WILSON. Yes, a monthly line.

Mr. KIRKWOOD. You authorize the company to run such a line and propose to give them \$50,000 if they do; but there is nothing making it obligatory on them that they shall do it, nothing making it a condition of releasing them from making the Sandwich Islands a point on their round trip that they establish this line.

Mr. WILSON. I have modified it so as to read, "authorized and required."

Mr. KIRKWOOD. How can you require an outsider to do anything? You may make it a condition that if they do not do it they are to be still held to their former contract. You may authorize me to run a line from San Francisco to the Sandwich Islands, and say you will give me \$50,000 a year if I do it, but if I do not choose to do it you cannot make me do it.

Mr. WILSON. This is a joint resolution proposing to change the terms of the original contract. The first section states the change that is to be made, releasing them from the requirement of stopping at the Sandwich Islands. Then this section comes in which makes a new contract, and that is, that instead of stopping at Honolulu, as was before provided,

they are authorized and required to run a monthly line to the Sandwich Islands, and for that service they are to receive in addition to what they now receive the sum of \$50,000 annually. I think we shall secure both objects by passing it in this form.

Mr. KIRKWOOD. I think I understand it. The Government has made a contract with this steamship company that they shall run a line of vessels from San Francisco to China, passing by the Sandwich Islands, and that for that service they shall receive \$500,000 a year. A contract has been made to that effect. Now, the first section of this resolution proposes to release them from that contract so far as it requires them to touch at the Sandwich Islands. The second section, which is offered as an amendment, authorizes and requires them, as modified, to establish a new line from San Francisco to the Sandwich Islands; but when you change the original contract and do not make the new requirement a condition, a part of the contract, and have their assent to it before the old contract is changed, you do not hold them to it. There cannot be any doubt about the proposition. You propose to them that they shall do this; you say they shall; but it is not made a condition of the change of their contract.

Mr. WILSON. If the Senator will have my amendment read, I think he will see that it is so.

Mr. FOSTER, (Mr. POMEROY in the chair.) I move that this resolution be recommitted to the committee that reported it and that the subject be postponed until the next session of Congress, the first Monday in December next. I make this motion, not because I am hostile to the measure in either of its aspects; that is, with reference to trade between this country and China and Japan, or trade between this country and the Sandwich Islands; but friendly to both, and am desirous that the interests of both should be promoted to the extent of our power.

It is very apparent that this measure is not matured with reference to both these aspects. As they now stand, they are antagonistic. They can, as I believe, be harmonized and made to promote each other. As the honorable Senator from Iowa [Mr. KIRKWOOD] has just suggested, the proposition to allow or rather to direct this company to send monthly a steamer from San Francisco to the Sandwich Islands, imposes no obligation, but as that section now stands it would be optional with the company to accept or refuse that and to go on with this contract as we shall modify it; that is, to perform a part of the service which they contracted to perform at the full price.

Mr. McDUGALL. I wish to make an inquiry as to a principle of law. Would not this measure, if passed now in this form, make a provision that would govern the whole contract, if accepted? If they accepted it, they would be held to accept it subject to this condition; or if not, the old contract would stand.

Mr. FOSTER. I should doubt it.

Mr. McDUGALL. I think that is unquestionably the law.

Mr. FOSTER. No doubt the law can be so framed as to work out that result; but I do not think this resolution does it now. My object in making this motion is that the measure may be referred to the committee; and as the honorable Senator from California [Mr. CONNESS] suggested that this company do not wish to monopolize the whole matter of carrying mails in the Pacific, the Post Office Committee on conferring with the Post Office Department may come to the conclusion that it will be advisable to advertise again for proposals for carrying the mail from San Francisco to the Sandwich Islands, and so make a new contract for this portion of the service. Meantime there is no injury either to the Government or to this company by allowing the matter to stand over until the next session, for by the original contract, entered into under the law of February, 1865, nothing is to be done by this company for the Government until after the 1st of January



1867. By the second section of the act of February 17, 1865, it is provided:

"That any contract which the Postmaster General may execute under the authority of this act, shall go into effect on or before the 1st day of January, 1867."

It is not until after the 1st of next January that anything is to be done. We are, therefore, really delaying nothing in the strictest sense; we are simply postponing the matter as it now stands, so that we may be prepared to perfect it before, under the terms of the contract, they shall begin to execute it.

I submit, then, that in order to harmonize these interests, to promote, as it is the object of us all to promote, trade and commerce between the Sandwich Islands and the Pacific coast, and between the Pacific coast and China and Japan, we should postpone the resolution, recommit it to the committee, and ascertain whether there will not be, as I have no doubt there can be, an entire unanimity of opinion arrived at as to how these conflicting interests may be harmonized. It is most desirable that it should be done; that instead of being made antagonistic they should be made really promotive of each other.

Sir, the Postmaster General does not in his letter intimate that there is any haste about action in this matter. On the contrary he says distinctly in his letter as given to us on page 6 of the committee's report:

"In determining the question when the company's steamers shall be relieved, if at all, from calling at the Sandwich Islands on their voyages in either direction, it should be borne in mind that, until the completion of the Pacific railroad, the general interests of commerce will not be materially advanced by permitting the steamers to take the direct route either way."

That is a most significant remark. Why should we relieve this company from a portion of the contract most desirable to be performed, if it is not to facilitate commerce in another direction? No doubt it promotes the interests of the company to diminish their expenses, while you allow them the same rate of compensation. The company are no doubt watchful of their interests; but we should be watchful of the interests of the Government and of the people; and the Postmaster General says distinctly that the interests of commerce will not be materially promoted by taking a different route either way until the completion of the Pacific railroad, "as prior to that time"—he now goes on to give the reason—"the line between China and Europe, via San Francisco and New York, will not be an equal competitor in point of expedition with the existing lines between Europe and China via Suez."

I know that my enthusiastic friend on my left [Mr. CONNESS]—and intelligent as he is enthusiastic—thinks that we shall at once, by this direct route, distance all competition either by way of Marseilles or by way of Suez; but the Postmaster General thinks otherwise, and it is possible that the honorable Senator from California may be mistaken. At all events I think this officer at the head of the Department, having all the facts before him, speaks in such a way as that we should give heed to what he says, especially when this contract does not begin to be executed until after January 1, 1867, by its own terms.

Mr. President, I repeat that I believe, and must believe from the evidence here before us, that the interests of the country, the interests of commerce, the whaling interest, the commercial interests between China, Japan, and the United States, the trade in teas, silks, and all kinds of merchandise will be promoted by having this resolution recommitted to the committee and something more perfect and mature presented to us than we have now before us. It is, perhaps, not quite impossible at this stage of the session, when the thermometer ranges as it does, to perfect the details of this measure, but it is most inconvenient, and wholly unnecessary, as it is not to go into effect until after the 1st of January next. I submit, therefore, with great confidence that it will be the part of wisdom to recommit the resolution. Nobody's interests will be preju-

diced, and nobody will be delayed; but the prosperity as well as the comfort and interest of all will be promoted.

Mr. McDougall. Mr. President, there is a disposition exhibited on the part of Senators, I think, to delay matters of great moment. They complain of the extreme heat and the condition of the climate. Well, remove the seat of Government to Boston. That will correct that difficulty. On our tables and in committees are matters of the gravest importance, and this is one of the most grave import. This is not a measure that is to transpire in 1867 but at the present time. The gentlemen engaged in the enterprise are having their ships upon the sea. The enterprise has already commenced. There is no controversy that I know of between any interest at the Sandwich Islands and the making of the trip by the north. I do not know of any conflicting interests; but if there be any they are all accommodated by the amendment of the Senator from Massachusetts, [Mr. Wilson,] which provides for communication with the Sandwich Islands, which amendment I approve. Five hundred thousand dollars subsidy and \$50,000 in addition is a small amount for this Government to expend every year. Twice that much to establish ourselves on the Pacific coast, which must be the greatest source of our moneyed wealth, would be not too much for the object in view.

I do not believe in this policy of adjourning important questions because the thermometer stands at ninety-eight degrees. We came here to transact the public business, and I myself desire to see it transacted. I will not run away if the thermometer gets to be one hundred and fifteen degrees. I have seen worse than that.

The measure is of the first importance. As I had occasion before to state, Russia and France and England are struggling for ascendancy on the Pacific, and we are substantially doing nothing. They have been doing everything by their diplomacy, by their appropriations, by their expenditure for the purpose of subsidizing communications. It is not worth while for us to be slow if being fast is right. I have always heard that the American people were a fast people. When we get to be a slow people we had better go and marry ourselves to the Chinese. I protest against the policy of postponing measures when there is no reason for it. There is no controversy about this question among the friends of the measure. The \$50,000 suggested by the Senator from Massachusetts as a subsidy for a Sandwich Islands line answers the whole question and furnishes the communication. Fifty thousand dollars goes out of the pocket of the Government every five minutes and accomplishes no such result as is contemplated by this enterprise. I cannot see the wisdom of throwing off our shoulders the responsibility of action upon great questions that involve policies which concern the general welfare and prosperity of the nation.

Mr. CONNESS. I shall only occupy a moment.

Mr. HOWARD. Let us have a vote.

Mr. CONNESS. I am compelled necessarily to ask the Senate not to agree to the motion to postpone.

The PRESIDING OFFICER. The motion is to recommit.

Mr. CONNESS. The postponement was included. I hope the Senate will not do this. I thank the honorable Senator from Connecticut for his compliment to myself. It was not intended to be much of a compliment.

Mr. FOSTER. I intended all that I said.

Mr. CONNESS. I have no doubt that the Senator intended all that he said in his allusion to his "enthusiastic friend." I thank God that I have been blessed by Him with some enthusiasm planted in my nature. It is a quality that I would not be without. There is something generous in it. It adapts us to something outside of what concerns ourselves and fits us for many of the offices that life imposes upon us. It is very often suspected shrewdly that the very useful quality of sense

is regulated somewhat by it. Perhaps it is. I have great enthusiasm on the subject of this great project, as I have called it.

The Senator has read from the letter of the Postmaster General, and called our attention to the remarks made by him, in the letter, touching the importance of the change to be made before the Pacific railroad is constructed. In what connection are those remarks made? I will show the Senate. The central idea on which he bases the attempt to establish this line is the eventual transfer of the center of the exchanges of the world from London to New York. That cannot be accomplished now, as I stated when I was up before and on a former occasion, by releasing these ships from stopping at the Sandwich Islands now, nor before the Pacific railroad shall be constructed. But, sir, it is not less certain that the great advantage can be gained that I pointed out, namely, that of making more rapid voyages from China and Japan to the city of New York than are now made from those ports to the city of London; and that was all that I claimed. The Postmaster General in his letter alludes to this in another paragraph, and says:

"It will be seen from the foregoing that the primary object in commending to Congress the grant of a subsidy was to establish, under the sanction of the Government, a first-class American line of mail steamships between San Francisco, Japan, and China that would successfully compete with the British steamship lines via Suez for the commerce of the East, to the end of practically placing the United States between the eastern continent and Europe, and transferring the commercial center of the world from London to New York."

That was the object of the line. But in another respect we are to have either a gain or a loss by refusing to act upon this subject now. How, sir? I will tell you. I stated it upon a former occasion. By the existing contract, this company were required to construct steamers of not less than three thousand tons. Two of those steamers are now being constructed. Their hulls are nearly completed. Their steam-engines are being made. They are to be of four thousand tons, a thousand tons each greater than the requirement of the law. It is important that the other two to be constructed for this service, for they are to be constructed immediately, (their places being supplied in the mean time by two of their finest vessels on the Pacific side, nearly new,) shall be constructed of the same size, namely, four thousand tons burden. But if we refuse to make this release now, there will be no certainty that it will be granted, and before the 1st of January, 1867, comes around the contract for making the two additional ships to complete this great line must be executed, and they are at a loss to know whether to go on with the line upon the magnificent scale on which they have begun or to reduce the vessels to the contract size, and thus be required to put off their two great ships upon another service and construct four new ships of a more limited size. This is one of their greatest purposes in seeking the release now. Having explained that to the Senate, I will not detain them longer, but hope we shall take the vote *seriatim* upon the amendments now before us.

Mr. HOWARD. I gave way upon the request of my friend from California and yielded the floor in order that this resolution now before the Senate might be acted upon, supposing it would consume very little time. The order of the day was the Northern Pacific railroad bill. I hope the Senate will come to a vote upon the measure now before it, and let us then proceed to take up the Northern Pacific railroad bill again and dispose of that. I really cannot give my consent to any further loss of time on this question.

The PRESIDING OFFICER. The pending question is on the motion of the Senator from Connecticut [Mr. FOSTER] to recommit the joint resolution, with the amendments, to the Committee on Post Offices and Post Roads, with instructions to report at the next session of Congress.

Mr. GRIMES. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Anthony, Clark, Cowan, Fessenden, Foster, Grimes, Guthrie, Kirkwood, Morgan, Norton, Pomeroy, Riddle, Salisbury, Sherman, Sprague, Turnbull, Willey, and Yates—18.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness, Creswell, Henderson, Hendricks, Howard, Lane of Indiana, McDougall, Morrill, Nesmith, Nye, Ramsey, Stewart, Sumner, Wade, Williams, and Wilson—19.

ABSENT—Messrs. Cragin, Davis, Dixon, Doolittle, Edmunds, Harris, Howe, Johnson, Lane of Kansas, Poland, Van Winkle, and Wright—12.

So the motion was not agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. SHERMAN. What is that amendment?

The Secretary read the amendment, which was to add at the end of the joint resolution the following proviso:

*And provided further, That in addition to the twelve round voyages now required one additional round voyage shall be required.*

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment moved by the Senator from Massachusetts, [Mr. WILSON,] to add the following as an additional section:

*And be it further resolved, That the Pacific Steamship Company is hereby authorized and required to establish a monthly steamship line to carry the United States mails between San Francisco and the Sandwich Islands, instead of touching at Honolulu as required by law, with their steamships engaged in carrying the mails between the United States and China, and for the service thus required there shall be allowed an additional sum of \$50,000 annually.*

Mr. HOWE. I think that amendment needs further amendment. I am not prepared to state what it should be. I agree with several Senators who have spoken, that it imposes no obligation upon the company as it now stands; that they would be at liberty to repudiate that contract, and that you will still be bound by the release you have executed. I think it had better be referred to a committee. From what committee does this measure come?

Mr. FOSTER. The Committee on Post Offices and Post Roads.

Mr. CONNESS. A vote has just been taken on such a motion, and it was voted down. I hope the motion to refer will not be made.

Mr. HOWE. I understood the motion just voted upon to be to refer and postpone.

Mr. CONNESS. I hope that motion will not be made again. It will be very easy to amend this section so as to make it a condition of the release.

Mr. McDOUGALL. It is a condition as it stands.

Mr. CONNESS. But it can be made plainer.

Mr. McDOUGALL. It is an absolute condition as it stands.

Mr. HOWE. I should like to have it reported again.

The Secretary again read the amendment.

Mr. HOWE. I am told by the Senator from Massachusetts that there is no doubt but what that is a condition to the first section. I respectfully submit that there is very grave doubt about it.

Mr. STEWART. If the Senator will allow me, I will move an amendment to make it clear. I move to insert after the word "required" the words "as a condition of this release;" so that it will read:

That the Pacific Steamship Company is hereby authorized and required as a condition of this release to establish, &c.

Mr. GRIMES. I wish to make this inquiry: suppose they do not do it, what is the penalty?

Mr. McDOUGALL. The law does not go into operation.

Mr. GRIMES. Exactly; but I suppose the purpose of the Senator from Massachusetts is to compel it to go into operation.

Mr. FESSENDEN. I should like to ask, if anybody can inform me, whether there is any estimate as to how much this subsidy ought to be. Is it mere guess-work? Who knows whether it is too much or not?

Mr. CONNESS. I will answer the Sena-

tor. An offer was made recently by the California Steam Navigation Company to do this service for \$70,000 annually. The Senator from Massachusetts proposes to require, as a condition to the release, that this company shall do it for \$50,000.

Mr. FESSENDEN. How do we know, then, that \$50,000 is enough?

Mr. GRIMES. The truth is that neither of the propositions of the Senators from Massachusetts amount to anything, so far as this will operate authoritatively and compel this company to do anything. Suppose the company do not consent to be required to do this, then what? Exactly what the Senator from California said would be the result; they will not put on this line. Then the Senator will have gone off shearing and come back shorn himself.

Mr. HOWARD. Let me inquire of the Senator from Iowa how he would contrive to compel any contractor to perform his contract. He would not take him by the hand and force him to do it. He acts under his liability to the law.

Mr. GRIMES. Mr. President, the Postmaster General has entered into a contract with this Pacific Mail Company to do certain work. Now, we come here and say that that company shall be required to do certain other work upon our paying \$50,000. Does the Senator from Michigan insist that we have a right to do that? The proper way is, as I understand it, to refer this matter to some agent of the Government to reduce the contract to writing, giving to our agent authority to expend \$50,000 annually for this purpose, if we see fit. If the Senate do not propose to postpone the consideration of this resolution until the next session, and I see that that is the sentiment of the Senate, the proper way is to commit it to the Committee on Post Offices and Post Roads and let them put it into shape and report it back to us in the morning. Then we shall have the resolution in a condition in which we can understand it and know what we are voting. I do not propose to make any such motion myself, but I hope it will be made and adopted.

Mr. McDOUGALL. I wish to ask the gentleman from Iowa, who is a lawyer and I know can answer me exactly, is not that an absolute condition of the law as it stands now? Is there any question about it? Can you start a question about it? Is it not the condition of the law now?

Mr. GRIMES. No, sir.

Mr. McDOUGALL. Why is it not?

Mr. GRIMES. I suppose that this is an entire new proposition that we proffer to this Pacific Mail Steamship Company. We authorize and require them to put on a line. The terms of the proposition are not that we authorize and direct the Postmaster General to enter into a contract for the purpose of subsidizing another line. If we are going to put on a new contract there that is the way it ought to be framed, so that there shall be a competition between this company and others. The bill ought to be referred to the committee and let them put it into some form.

Mr. HENDRICKS. If it is intended to make this last section a condition of the law, it had better be so expressed; otherwise it will not have that effect.

Mr. CONNESS and Mr. STEWART. It is so expressed.

Mr. HENDRICKS. Do I understand that the friends of the measure desire the adoption of this section?

Mr. CONNESS. Certainly; we have no objection to it at all.

Mr. HENDRICKS. Then I want to ask a further question: is it probable that \$50,000 is too high for that service?

Mr. McDOUGALL. No.

Mr. HENDRICKS. Is it \$50,000 for each trip?

Mr. STEWART. Fifty thousand dollars for each year for running monthly trips between San Francisco and the Sandwich Islands.

Mr. HENDRICKS. Is it probable that they will perform the service for that sum?

Mr. STEWART. If they do not, they do not get this law.

Mr. HENDRICKS. I do not see why we cannot vote upon it now. Certainly we can understand that proposition very well.

Mr. CONNESS. There is no reason why we should not vote upon it at once. The opposition is made for the purpose, unquestionably in part at least, of opposition. I ask the Secretary to report the amendment again.

The PRESIDING OFFICER. Does the Senator from Massachusetts accept the modification of his amendment suggested by the Senator from Nevada?

Mr. WILSON. Certainly.

The PRESIDING OFFICER. The amendment will be reported as modified.

The Secretary read it, as follows:

*And be it further resolved, That the Pacific Steamship Company is hereby authorized and required, as a condition of this release, to establish a monthly steamship line to carry the United States mails between San Francisco and the Sandwich Islands, instead of touching at Honolulu, as required by law with their steamships engaged in carrying the mails between the United States and China; and for the service thus required there shall be allowed an additional sum of \$50,000 annually.*

Mr. FOSTER. I move to amend the amendment by striking out the words "and for the service thus required there shall be allowed an additional sum of \$50,000 annually." The original contract required both these services to be performed. Now, if the company prefer performing part of the service and putting on a line from San Francisco to the Sandwich Islands, to run monthly, so as to give twelve trips, making twelve communications with the Sandwich Islands, it will, in fact, be doing what they contracted to do. If they prefer to do that rather than to run according to the contract, I am willing, for one, that they should do it; and if they are not willing to do it, I am not willing to make the change.

Mr. STEWART. The resolution now requires an additional trip of them.

Mr. FOSTER. If this amendment shall be adopted, I shall be willing to strike that out. I would not impose another trip upon them. Let the contract stand as it is. If they, instead of performing the contract as it stands, are willing to put on a monthly line from San Francisco to the Sandwich Islands, and also run their line direct from San Francisco to Japan, I am perfectly willing to allow them to do it; but to pay them full price for half the service, because we are paying away \$50,000, as one gentleman has said, every five minutes from the national Treasury, and to add another \$50,000, I am not willing.

Mr. CONNESS. The object of this amendment is very palpable. It has been presented to the Senate with some clearness that this company never would have made a bid for the service to Japan and China at less than \$500,000. In proof of that, although advertised for months, no other person or company made a bid, and they made no bid for less than that sum. They are now building ships costing \$1,000,000 each, and we are to palter with the company that is entering upon that great service for the amount of \$50,000!

Mr. FOSTER. I am not disposed to question the liberality or the princely magnificence or munificence of this company; and I am not disposed to palter with them or with anybody else; but as guardians of the public Treasury I think it is not to be considered mean if we refuse to vote away \$50,000 without the slightest possible consideration or reason. This proposition is simply a donation to this company of \$50,000 on a contract; and that is the whole of it. It may be mean to decline to agree to it. I must stand the charge of meanness if it be so, for I do decline. I know of no reason on earth why the Government of the United States should give \$50,000 to this company over and above what they have agreed to give on an honest contract, which the company do not claim they cannot perform and make money on, which by its terms the company are not to begin to perform until next January. We propose now to give them \$50,000, pre-



liminary to their beginning to perform it; and to palter with this company the Senator thinks is very improper.

This company, it seems to me, do not place themselves in a very enviable position by coming before this Senate and asking the Senate, nearly one year before the time when their contract was to be executed, to relieve them from the performance of at least one third of the expense they incurred, without diminishing one dollar of the amount of money to be paid. Why cannot this company have a little of this princely magnificence and say, "Inasmuch as we ask the Government to relieve us of one third of the expense, which, by the terms of the contract, we were to be charged with, if Government will relieve us, we will perform the residue of the service for two thirds of the amount of the contract." Why do not the company do that? Is the Government of the United States paltering with them because we hold them to a contract which they do not claim is a heavy one?

The honorable Senator says they would not have offered to make this contract unless they had supposed they were going on the direct route from San Francisco to China or Japan. Did this company make this contract openly, avowedly, in writing, plainly, explicitly, with a secret reservation that as soon as it was made they would get it altered? Is that what is meant by their understanding of the contract? Surely the contract was a straight contract enough. There is no doubt about what the contract means. This company were required by their contract to go from San Francisco by the way of Honolulu, to China and Japan, twelve times, if I mistake not, per annum for \$500,000. Now, they come here, and the honorable Senator says that that is a very round-about way to go to Japan, and they want to go to Japan, and they want to go in a straight line, instead of going round by Honolulu. Mr. President, was this munificent company composed of landlubbers who did not know the way by water from San Francisco to China and Japan when they made their contract? Did they not know something about the great circles and Maury's charts of the sea and the difficulty of getting to China by way of the Sandwich Islands as well when they made this contract as they do now? Why, sir, it looks to me, the more I examine this matter, as though, had it been made further down East, we should have talked about some little Yankee trickery in a contract of this kind; and that they made a contract in this way with a view, after it was done, of being relieved from the onerous and burdensome part of it, and holding on to the part that was profitable to the company. That may be a most ungenerous suspicion; but when the gentleman talks about the Government paltering with the company because we refuse to give them a *douceur* of \$50,000, I think it is as well to look the whole contract over. But for the stipulation that the steamers should touch at Honolulu, out and back, I would not have voted for this subsidy in the outset—without that stipulation, I do not believe it would have passed Congress. It is an important part, to my constituents the most important part of the service.

Now, I say, Mr. President, that it is fair to treat this company just according to the terms and sense of the contract, saying to them, "You have made this contract; now go on and perform it." If you find at the end of it, or at the end of one year, that there has been something mysterious which we did not know when we began, which calls upon the Government, acting liberally, honestly, and fairly, to make an additional appropriation to them, I shall be one of those, if I should chance to be here, who will vote to pay them an additional price over and above the contract price, if it appears that the contract has proved a hard one for the parties under circumstances which they could not reasonably foresee. But when the contract stands as this does, perfectly fair, open, honest, and above-board, for us now to give them \$50,000 more by way of addition

before they begin to perform it, is throwing away money; and it is not, as it seems to me, the most liberal course or the most upright and honorable for this company to ask it at the hands of this Government.

Mr. CONNESS. I would not say one word more on this subject were it not for the fact that all that the Senator has said is based upon an assumption of the Senator's own, namely, that in making this release the company are relieved from one third of the expenses of running the line. Who told the Senator that that was so? Certainly it does not appear in the report made. I presume that the Senator knew that of his own knowledge. He assumes it merely; but I say to the Senator that he is entirely mistaken. Here is San Francisco on the map that I have before me; here are the Sandwich Islands; and here is Japan, the next point to be touched at.

Mr. FOSTER. Will the Senator pardon me for a moment?

Mr. CONNESS. Certainly.

Mr. FOSTER. The Senator says that I assume that this proposition relieves the company from one third of the expense of running the line. I may have used one third as an illustration, not meaning of course to speak of that as the precise sum. He assumes, however, that I assert of my own knowledge, without any evidence, that this is relieving the company of a portion of their expenses. I beg leave to read the last sentence of the letter of the Postmaster General, to be found on the sixth and seventh pages of the report:

"The facts, however, must not be overlooked, that by adopting the shortest routes the company will be relieved from heavy expenses in the coaling, &c., of their steamships for four days' steaming in one direction and three days in the other, in addition to the cost of the necessary accommodations at the port of Honolulu."

That may be all a figment of the imagination, possibly, too.

Mr. CONNESS. Mr. President, it is a figment of the imagination, whether it comes from the Postmaster General or the honorable Senator or any one else. There is nothing better known by the merest tyro in connection with nautical affairs and with the running of steamships than that when you are compelled to increase the speed you increase the consumption of fuel, not in a small ratio, but in an extraordinary ratio. If this company are compelled to touch at the Sandwich Islands, speed at once is set aside; they do not enter upon the race at all, but make slow voyages. If, on the contrary, a release be granted, then they at once take the short trip, put on steam, increase their speed, increase their expenses, and in place of relieving them from expense the release absolutely increases their expenditures. There is nothing more certain than that. It is an error that the Postmaster General might have very readily fallen into; for though an enlightened officer, and I will say the most so perhaps that ever was placed at the head of the Post Office Department, it is very easy for him to be mistaken or to fall into the error that the Senator has fallen into, doubtless in the same manner, that because you shorten the voyage you therefore reduce the expenses. Sir, I would not vote to release this company from touching at the Sandwich Islands upon any condition unless it shall be a condition that shall compel them to make more rapid trips, thereby increasing their expenditures.

Mr. FOSTER. It was a little unfortunate, that being the state of things, that the joint resolution, as reported, did not provide for anything but the same number of round trips per annum that the original contract provided for; and so far from making it necessary that the steamers should run faster, they might have performed their contract and run slower; and for aught that the contract or that the joint resolution reported by the committee would impose on the company, they could save money in two ways: first, by not having to run so many days, and secondly, by running even at a less speed than before.

Mr. CONNESS. I will simply say, in reply to that, that had I, or the committee, the slightest doubt that this company were engaged in the true spirit of the undertaking, in a great work, more anxious than the Government could be to make it a great success, that condition would have been imposed; and as soon as it was presented or even spoken of by the honorable Senator, he will bear me witness that I at once accepted it.

Mr. NYE. Mr. President, I am sorry that the discussion of this question has elicited any particular heat and warmth of debate owing to the thermometer. The honorable Senator from Connecticut, whose voice I am always glad to hear in the discussion of these questions, as we hear it so seldom—

Mr. FOSTER. Some things are to be prized on account of their rarity.

Mr. NYE. The honorable Senator from Connecticut has seemed to assume that this company has been guilty of some wrong, or that they made a contract which they themselves did not understand. I do not think that either of those facts exists. This company made a contract to run ships of three thousand tons burden by way of Honolulu to China, touching at Japan. In commencing their operations they were met by the fact that the British Government, with more formidable ships than theirs, was competing for the mastery of this trade; and they at once in a spirit, I think, of great magnanimity, instead of a spirit of meanness or a spirit of ignorance, set themselves to work to build ships of a thousand tons burden more, thereby increasing the cost of the ships largely, for the purpose not only of performing their contract with the Government, but of doing what is more essential to this country, controlling the commerce of that great eastern country. I have no particular friendship for this company, and do not know them except as a company. I know that such a company exists. But I assert that instead of its being any evidence of their meanness or any evidence of their ignorance, they have attempted to rise to the importance of the occasion and to do for this country what it is most anxious to secure—the control of the commerce of this eastern country.

Now, sir, I do not think it even partakes of Yankeeism (and being a Yankee I have a right to speak as freely on that subject as the honorable Senator from Connecticut) when they build ships a thousand tons larger than they agreed to do. They have not only done that, but instead of acting anything but the part of magnanimity and honor they come here, in advance of the time, as the honorable Senator from Connecticut says, to lay this state of facts before the Congress of the United States, and ask it to relieve them from that portion of the contract requiring them to touch at Honolulu. Why do they ask that? Does the honorable Senator assume that it is because it is simply and solely a question of profit to them? I answer that that is not fairly inferable at all. They undoubtedly can make this trip quicker, and I will assume for the purposes of this argument a little cheaper, by running direct instead of round about by Honolulu; but, sir, they hold out to the Government this great incentive: they say the Government is threatened with opposing lines to control this great commercial intercourse of this country.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. NYE. Certainly.

Mr. GRIMES. What lines are we threatened with now that we were not threatened with at the time this contract was made?

Mr. NYE. I will answer the Senator from Iowa by saying that I read in a San Francisco paper that not only the British Government but the French Government were now in negotiations for the purpose of putting on two lines between San Francisco and Hong Kong, in China. This is the evidence that I have.

Mr. GRIMES. A San Francisco newspaper.

Mr. NYE. Yes, sir, a San Francisco newspaper, as much entitled to credit and which

keeps as close a lookout upon the commercial interests of that country as the Iowa papers do for the commerce of the Mississippi, and is as much to be believed. If there was not a newspaper on the earth that had uttered it, if not an individual in this Senate Chamber or anywhere else had uttered it, it is in the logic of the location itself. It is as a matter of course that this great commerce will be contended and contested for.

Now, I say that this company comes here not for the purpose of cheapening their expenses, but to lay the question fairly before Congress, and to submit to them as a great measure of national importance, "Is it not better for you to so alter and amend this contract as to make the most expeditious line to China from San Francisco?" I have great respect for the opinion of the Senator from Connecticut, and great respect for the late Postmaster General, and I shall be pardoned for saying that my respect for him has increased lately; but, sir, I will not refer this question to any Postmaster General that has been or is to be; and the Postmaster General has no more right to speak of the commercial effect of a certain transaction than any man upon this floor. When any Postmaster General attempts to say that because this contract for carrying the mails does not go into effect until a year from this time, its commercial disadvantages cannot be great until that time, he asserts what a true view of the case will not sustain him in asserting.

Sir, this channel of commerce is not a new one. It has been sought for for years. The control of this great Pacific commerce has awakened the cupidity of all the oriental and eastern nations. It is that which placed French troops in Mexico. What the French are now sustaining the empire in Mexico for is to control the great commerce of the Pacific coast. Against that and to prevent that this company have come here, and I say, in a manly spirit, to submit this great question to Congress who are the guardians of every interest of this great nation, and ask them whether it is not better that they shall be relieved from this portion of the contract for the purpose of making it sure that they can, not only by the character of their ships, but by the power and speed which they put into them, control this commerce. I do not see how this company could act more fairly. I think when the honorable Senator from Connecticut says that it is a donation to them of \$50,000 he puts it in a very wrong light.

Now, Mr. President, that we should keep up close, intimate commercial relations with the Sandwich Islands is too palpable to need discussion. There they lie right in the middle of the great Pacific ocean, and their fertility is unsurpassed. The variety of their productions caters to every appetite in the enlightened world. That we should seek by every means to obtain the control of the leading commercial interests of the Sandwich Islands, I repeat, is too apparent to deserve a moment's discussion here. How do we propose to do this? By preventing this great company from assuming and obtaining this great mastery by lengthening its trips from three to five days? By no means. But, sir, in order to do this we propose to give this company, as a condition to the alteration of this charter, \$50,000 more, and have a monthly communication direct from San Francisco to the Sandwich Islands by another line. What will be its effect? I know that \$50,000 is a great deal of money; and I know at the present time, after the large appropriations that have been made, that \$50,000 seems considerable money. It is; but, sir, \$50,000 is not much money when it is appropriated in such a way as to give us the commercial control of these great Pacific islands. The duties on a single cargo of goods from the Sandwich Islands to San Francisco might be equal to this annual appropriation; at least, it would not be unfair to presume that many of their cargoes would yield half that amount of duties to our Government. If this can be done in the green tree, what will

be done in the dry? Looking ten years ahead, this appropriation of \$50,000 a year will amount to \$500,000. Before that time rolls around, and before the next year shall have rolled around, the custom-house at San Francisco will have received more than what it will receive now under the present circumstances, more than twice \$50,000,000 to pay this Government for its encouragement of this great commercial enterprise. Not only that, but it will be evidence to the world that America is going to control the commerce of the Pacific ocean. Sir, it is ours to control, and I submit, with great diffidence and deference to the opinions expressed by the honorable Senator from Connecticut and the honorable Senator from Iowa, that it is a matter of great national economy that we should control it; and that we can at this juncture is as certain as that the sun rolls its rounds.

Now, the question submitted to this Congress is, will we grasp this prize that is within our reach? Will we seize this commercial power while it stands at our door to be seized, or shall we do with it, as I suggested the other day, as we have done with our Atlantic commerce—reduce it to that extent that to-day our mails are carried to Liverpool by British ships? England, wiser than America in this respect, has well earned the name of being the commercial mistress of the seas. England's flag is the master of the sea. It is time now, and the opportunity is presented when we can seize that flag and make it our own.

The honorable Senator from Maine the other day said that these Pacific coast gentlemen were very liberal in their votes and their appropriations. Sir, the Pacific coast, as a people—and I presume they will not feel hurt by my alluding to it—are a pretty liberal people. They have been the sturdiest adventurers upon this continent. They have made that distant country bud and blossom like the rose, and magic-like have their commercial ports sprung up upon that heretofore unpeopled ocean coast. They have battled the dangers of the mountains and the valleys, and they have conquered them all. They have hewn the mountain-side and have filled up the valleys; and to-day, through their enterprise, the whistle of the locomotive is heard upon the dizzy heights of the Sierras. They are an enterprising people; but their greatest boast, after all, is that they are a part of the people of this great Government, warmly interested in its success. Standing every day where they look out upon this vast and inviting ocean and seeing the coming wealth to be acquired from its trade in future years, they come here to their parent Government, to which they are warmly attached, and ask, as is no more than their due, that these great enterprises, if they commend themselves to the judgment of the Congress of this nation, shall be heard, without reproach being cast upon their representatives.

Mr. President, I do not feel like prophesying; it would not become me to do so; but I am satisfied of one thing, that the true attitude to be assumed by Congress on this question is to yield every possible encouragement to control the great interests of the Pacific. Sir, that Pacific coast woke from a long slumber when our armies drove the Castilians out. Where their large league farms were once seen are now seen villages thickly studded with the happy abodes of Union-loving men. The whole coast bespeaks the character of its inhabitants. I submit to the Senator from Connecticut whether he would not rather give \$50,000 more, although our expenses are great and our appropriations large, if he was sure that in the future it would give you back the proud privilege of gathering the commerce of those great nations of the East; and this is their natural avenue out if we can control it. I have no feeling particularly in regard to this subject. I have no local feelings. I speak here to-day as a citizen of this Republic when I assert that I believe it to be the true interest of this Government, or any other that desires to be great, to be greater in her commerce than

any other nation. The facilities we have; the opportunity is now presented; and it is a question which is submitted to the sound judgment of the American Congress whether they will improve it or not.

Mr. GRIMES. The argument that has been urged in favor of the passage of this joint resolution from the time that it was first introduced, a few days ago, has been, that it was necessary that greater facilities should be extended to the Pacific Mail Steamship Company in order to enable that company to compete with foreign companies; and we have had some very learned and eloquent and able arguments upon the necessity of this country maintaining her commercial supremacy. I judged from the remarks that were made by the Senator from Massachusetts the other day, and by the Senator from California, that we really were in a bad way in that regard; that it might be possible that we should not be able to maintain our present position among the commercial nations of the earth. But when I come to interrogate the Senator from Nevada in regard to the rival opposition that it is said has been started against this steamship company since they entered into the contract by which they agreed to carry our mail to and from China, by the way of Japan and Honolulu, it turns out that he saw a notice in a California newspaper, which looks as sharply after the interests of California, as the newspapers of my State do after the commercial interests of the Mississippi valley, that the French Government and the English Government were about to put on two rival lines from San Francisco—a city in one of our own States—to China; and hence it was necessary that we should furnish additional facilities to this Pacific Mail Steamship Company in order to enable them to successfully compete with those French and English lines that are to ply between one of our own ports and one of the Chinese ports! Really, it struck me that that was an additional reason why we should require one of these lines at least to touch at the Sandwich Islands.

It does seem to me, and I submit that to the consideration of Senators who are here representing commercial interests and who seem to believe that it is only necessary to have communication with the Sandwich Islands on one side—it does seem to me that it is important to the commercial interests that we should have communication with the Sandwich Islands from the west side as well as from the east. It does seem to me that if a whaler goes out from New Bedford to the Sandwich Islands for the purpose of being filled up with bone and oil in the Sandwich Islands that have been brought there from the Chinese seas, it may be important for that vessel to have communication by a steamer coming from the west as well as one coming from the east; but it seems that the Senators from Massachusetts and gentlemen representing commercial cities do not entertain that opinion, and are willing to accept a proposition which will only require the steamships to connect with Honolulu on the east, allowing the steamship company to abandon its contract, which required it to touch at Honolulu going both east and west.

Mr. FOSTER. If the Senator will permit me, I will say that I am not one of those who think that is by any means a compensation. I think that paying them \$50,000 and allowing them to send a steamer monthly from San Francisco to the Sandwich Islands and back will be no fair and full performance of the original contract, by any means. It will not be as advantageous to the Government, not nearly as advantageous to the American interests at the Sandwich Islands, and by no means a full and fair performance of the original contract. Hence, to do the best I could under the circumstances, I proposed to strike out the \$50,000, for it is really giving \$50,000 for not performing the contract as well as they might do. If they are not to perform the contract as well as they might do, let us pay them the original price without paying them anything more.

Mr. STEWART. I will state that the objection that the Senator from Iowa makes about getting communication from the East to the Sandwich Islands is a matter of no importance whatever, for the reason that the steamers coming from the East will make three, four, or five days quicker time to San Francisco than they otherwise would. It is only about a five days' trip from there to the Sandwich Islands. There will only be a difference of a day or two days in mail facilities from China, and I apprehend that that is not a very important consideration.

Mr. GRIMES. I will suggest to the Senator that it is possible that the steamer going from San Francisco to the Sandwich Islands might not start on the day that a steamer reached San Francisco from China; and they might not possibly make a close connection.

Mr. STEWART. There might be a day or two lost.

Mr. GRIMES. But, Mr. President, I suppose it is a foregone conclusion that this joint resolution is to pass, and I have no disposition to press any further objections to its passage, except that I desire to record my vote against it. I have this to say: when it was first introduced, as I then said, my whole opposition was predicated upon statements that had been made to me by gentlemen connected with the Navy. Since that time I have received a large number of communications from gentlemen connected with commerce, especially from men who are engaged in the Pacific ocean trade, thanking me for my opposition and desiring that I should continue it. I do not feel that I am constrained to do so after the Senators from Massachusetts—a State that owns the principal part of that commerce—have ceased to entertain any hostility to the measure.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Connecticut to the amendment of the Senator from Massachusetts.

Mr. CONNESS. I hope that will not be adopted.

Mr. McDOUGALL. Mr. President, it is extremely singular how persons are wisely informed about the commerce of the Pacific who could not give the locality of an island in all that vast sea. Its policies and its necessities seem to be without the range of information that generally obtains. I do not complain, because we have been kindly and well treated by the Federal Government, but many Senators take exceptions and raise points in regard to things about which they must be ignorant. The subsidy of \$500,000 is not a donation for that service; it is an inducement to furnish that service. I doubted much when that inducement was offered by Congress whether it would induce any one to engage in that great enterprise. This company were induced to engage in it. They sustain a policy which belongs to the public as much as it does to themselves, because we would have no business to pay a subsidy to this line unless it was a public enterprise. It is to command the commerce of the Pacific, to establish our relations with Japan and China, to add to the wealth of the nation, and \$500,000 was thought here to be a reasonable sum in payment for it. I did not think then that it was sufficient; I do not think now it is large enough. Eight hundred thousand dollars a year was paid to the Collins line of steamers for running across the Atlantic, only two thirds the distance across the Pacific, and that on a line where there was a very large amount of travel and an established business. I trust this will not be considered as a matter of giving, but as a matter of inducement. To make a rapid line between our coasts and China is of public importance. To establish our relations with the Sandwich Islands is also a matter of importance. As the joint resolution stands, with the amendment of the Senator from Massachusetts, I do not think that any person can make a reasonable objection to it, because for the \$550,000 millions will roll into the public Treasury as the result of it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut [Mr. FOSTER] to the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 22; as follows:

YEAS—Messrs. Clark, Cowan, Fessenden, Foster, Grimes, Guthrie, Johnson, Kirkwood, Morgan, Norton, Pomeroy, Riddle, Saulsbury, Sherman, Sprague, Trumbull, and Willey—17.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness, Cragin, Creswell, Harris, Henderson, Hendricks, Howard, Howe, McDougall, Nesmith, Nye, Ramsey, Stewart, Sumner, Van Winkle, Wade, Williams, Wilson, and Yates—22.

ABSENT—Messrs. Anthony, Davis, Dixon, Doolittle, Edmunds, Lane of Indiana, Lane of Kansas, Morrill, Poland, and Wright—10.

So the amendment to the amendment was rejected.

Mr. HOWE. I move to amend the amendment of the Senator from Massachusetts by adding as a proviso:

*Provided, That the release contained in the first section shall not take effect until said Pacific Mail Steamship Company shall enter into contract with the Post Office Department to make one additional trip to China and Japan, and also a monthly trip to Honolulu, for the compensation provided in the second section.*

Mr. WILSON. I accept that amendment as a modification of my amendment.

The PRESIDING OFFICER. The question, then, is on the amendment of the Senator from Massachusetts as modified.

The amendment, as modified, was adopted.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. GRIMES. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 15; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Conness, Cowan, Cragin, Harris, Henderson, Hendricks, Howard, Howe, Lane of Indiana, McDougall, Nesmith, Norton, Nye, Ramsey, Stewart, Sumner, Van Winkle, Wade, Williams, Wilson, and Yates—24.

NAYS—Messrs. Clark, Fessenden, Foster, Grimes, Guthrie, Johnson, Kirkwood, Morgan, Pomeroy, Riddle, Saulsbury, Sherman, Sprague, Trumbull, and Willey—15.

ABSENT—Messrs. Anthony, Creswell, Davis, Dixon, Doolittle, Edmunds, Lane of Kansas, Morrill, Poland, and Wright—10.

So the resolution was passed.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 436) to reorganize the clerical force of the War Department, and for other purposes; which was read twice by its title and referred to the Committee on Military Affairs and the Militia.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 133) to change the place of holding the terms of the circuit court for the district of West Virginia; which was read twice by its title and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 90) in regard to rations of Union soldiers held as prisoners of war; and also that the House had concurred in the report of the committee of conference on the disagreeing vote upon the bill (S. No. 343) to quiet land titles in California.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph; and it was thereupon signed by the President *pro tempore*.

LEGISLATIVE, ETC., APPROPRIATION BILL.  
Mr. FESSENDEN submitted the following report:

The committee of conference on the disagreeing

votes of the two Houses on the amendments to the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 62, 113, 116, 117, 122, 123, 136, 137, 139, and 145, and agree to the same.

That the Senate recede from their one hundred and eighteenth, one hundred and thirty-first, one hundred and thirty-second, one hundred and thirty-third, and one hundred and thirty-fourth amendments.

That the House recede from their disagreement to the one hundred and fortieth amendment of the Senate, and agree to the same with an amendment as follows:

Strike out all of said Senate amendment, being section six, and insert in lieu thereof the following: "Sec. 6. And be it further enacted, That the female clerks and counters employed in the several Departments and bureaus whose appointments are made by the several heads of Departments under the provisions of law, and whose legal compensation has heretofore amounted to \$720 each per annum, and the female clerks employed at the Post Office Department shall, from and after the 30th day of June, 1866, receive in lieu of all other compensation an annual salary of \$900 each per annum; and the amount necessary to pay the increased salaries herein provided for, for the fiscal year ending June 30, 1867, is hereby appropriated out of any money in the Treasury not otherwise appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-fourth amendment of the Senate and agree to the same with an amendment as follows:

In line nine of said amendment, strike out all after the words "authorized to" down to and including the word "due," in line ten, and insert in lieu thereof the following words: "make said adjustment;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the eighty-seventh amendment of the Senate, and agree to the same.

That the Senate agree to so much of the amendment of the House to the one hundred and twenty-fourth amendment of the Senate as is embraced in the first, second, third, fourth, fifth, and to and including the word "dollars," in the sixth line of said House amendment; and disagree to the balance of said amendment, and the House agree to the same as so modified.

That the House recede from their amendment to the thirtieth amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the sixty-first amendment of the Senate, and to their amendment of the same; and agree to said Senate amendment with an amendment as follows:

Strike out all of said Senate amendment after the word "services," in line five, and insert in lieu thereof the following words: "Provided further, That so much of the appropriation of \$250,000 granted by act approved March 2, 1865, for compensation to temporary clerks in the Treasury Department and for additional compensation to clerks in the same Department as remains unexpended, shall be paid to the clerks in said Department of the first and second classes, who have not received any additional compensation out of said appropriation, and who shall have served in said capacity for one year previous to July 1, 1866; and \$100 shall be paid to each person employed in said Department, appointed by the Secretary, at an annual salary amounting to less than \$1,200, and who shall have served under such appointment for one year previous to July 1, 1866; and if the balance of said appropriation remains unexpended shall be insufficient to pay said clerks and appointees, the sum of \$100 each as herein provided the deficiency shall be supplied and paid out of any money in the Treasury not otherwise appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate, and agree to the same with an amendment, as follows: in line five of said amendment insert the following words: "who shall be the draughtsman;" and the Senate agree to the same.

W. P. FESSENDEN,  
GEORGE H. WILLIAMS,  
T. A. HENDRICKS,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
JOHN A. KASSON,  
*Managers on the part of the House.*

The report was concurred in.

#### NORTHERN PACIFIC RAILROAD.

Mr. HOWARD. I now move to take up Senate bill No. 387.

The PRESIDING OFFICER. That bill having been informally laid aside is now regularly before the Senate.

The Senate resumed the consideration of the bill (S. No. 387) to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes.

Mr. HOWARD. I wish to amend one of



the amendments of the bill in which the Senate have already concurred. In lines nine and ten of section three, on page 4, I move to strike out the words "the issuing of" and insert after "patents" the words "shall become due," so as to read, "that the lands to which said company shall be entitled shall not be subject to any general or local taxation for any purpose whatever for the period of five years after patents shall become due for the same." It might occur that the company would omit to take out the patents for an unreasonable length of time; hence the necessity of making the exemption to commence from the time the patents are due under the charter. The amendment was agreed to.

Mr. HOWE. Mr. President—

Mr. SHERMAN. I now submit the motion which I indicated yesterday, to recommit this bill. I have a number of amendments, but I will not offer them until that question is disposed of. I move that it be recommitted to the committee, so that we may consider it during the vacation.

The PRESIDING OFFICER. The Chair recognized the Senator from Wisconsin. Does he yield to the Senator from Ohio?

Mr. HOWE. No, sir.

Mr. SHERMAN. We had better vote on the recommitment. I have a number of amendments which I wish to offer if my motion is voted down.

Mr. HOWE. I have some amendments which I propose to offer before the bill is recommitted.

Mr. SHERMAN. Of course if the Senator is entitled to the floor he will do as he pleases.

Mr. HOWE. I supposed that I was in favor of this bill; I certainly am in favor of the construction of a road to the Pacific through the northern portion of the United States, and I supposed that such a bill was before the Senate as I could support. The Senator from New Hampshire, [Mr. CRAGIN,] in the remarks he made yesterday, gave me the first intimation I had that there was anything in this bill that was specially objectionable. Since then I have examined the bill, and without some pretty serious amendments I shall be obliged to vote against it, and I propose now to indicate what those objections are which I wish removed. I hope the Senator from Michigan will give me his attention, if no one else does.

In the first section of the bill it is provided that the United States shall guaranty the stock of the company. "Whenever and as often as the commissioners named in the fourth section of the act of incorporation shall report the completion of twenty-five or more consecutive miles of said road," the Secretary of the Treasury is requested "to pledge the credit of the United States in such form as the Secretary of the Treasury shall prescribe, to the payment of the interest of the stock of the said company on the portion of said road thus completed, and at the rate per mile hereinafter specified, from the date of the issue of the same and for a period not exceeding twenty years from the date of said issue."

In other words, whenever the company shall have built twenty-five miles of road the Secretary of the Treasury is authorized to guaranty the stock of the road equal to the construction as estimated hereafter in the bill, and guaranty the interest on that stock from the date of the issue of the stock; so that if on the organization of the company the company shall issue the whole \$150,000,000 of stock receiving the smallest percentage down and subject to call hereafter, whenever the last twenty-five miles is completed, then for a certain amount of that stock, although it may not be completed for fifteen years from this time or from the time the stock is dated, the Secretary is called upon to guaranty interest upon it from the date of the issue of the stock. I think it is sufficient if the interest on this stock is guarantied from the date of the completion of the section, and I shall move to amend it in that particular.

Mr. HOWARD. I supposed that to be the effect of the bill as it stands.

Mr. WILLIAMS. So I understood.

Mr. HOWE. I think that is not the effect of it. In line fourteen of section one I move to strike out the words "issue of the same" and insert "completion of said section."

Mr. SHERMAN. Now, pending that amendment, I submit the motion to recommit.

The PRESIDING OFFICER. The Senator from Ohio moves to recommit this bill to the Committee on the Pacific Railroad.

Mr. SHERMAN. I have quite a number of amendments to offer; but it is not worth while to take up time with them if the bill is to be recommitted.

The PRESIDING OFFICER. Does the Senator propose to commit with instructions?

Mr. SHERMAN. No, sir; I move to recommit without instructions.

Mr. HOWE. I wish the Senator to withdraw that motion. I have several amendments which I wish to offer.

Mr. SHERMAN. So have I, and I have more amendments than the Senate is willing to devote time to considering on this bill. I wish to avoid any further controversy, because I believe—I hope at least—that the Senate will let the bill go over until the next session. The motion to recommit will clear this bill out of the way of the other business of the session.

Mr. HOWARD. I wish the Senator from Ohio would withdraw his motion and let this amendment be made. It simply makes the clause more definite and exact in its phraseology and meaning. I think the amendment does not alter the legal effect of the clause, and I am entirely willing to accept the amendment of the Senator from Wisconsin.

Mr. SHERMAN. I prefer that the motion to recommit be made now. I am notified that other Senators have amendments. There is no use in wasting time with them.

Mr. HOWARD. If the Senator from Ohio will insist upon his motion and cut off so simple an amendment as this, I am willing to submit it to the Senate.

Mr. SHERMAN. I have to say, in reply to the observation of my friend from Michigan, that if this bill be recommitted, as he seems to be in favor of the amendment, he will have ample opportunity in committee to amend it in this and several other particulars; and I have some other amendments.

Mr. HOWARD. I am entirely aware of that; but I do not intend, so far as depends on me, to have it recommitted. I think that entirely unnecessary. I understand quite well that the Senator from Ohio is opposed to the passage of any such measure as this, and the recommitment, therefore, is proposed at this time as one of the means of getting rid of the bill and finally defeating it. I do not propose to reargue the whole of the subject at this time on the motion to recommit. The Senate are already sufficiently possessed of the contents of the bill, its object, and the necessity of it, if there be such necessity. I hope the Senate will not recommit the bill.

Mr. CONNESS. I wish to say, before the vote is taken on this proposition to recommit the bill, that I think it is better that the Senator should prepare his amendments and offer them to the bill. I am prepared, though friendly to the bill, to vote for some amendments which will make some changes in the grants made, but opposed to recommitting.

Mr. SHERMAN. Aside from my opposition to this bill—it is not necessary for me to repeat it—I say in good faith to the Senator that the bill in its present shape would be, I think, a very absurd thing to pass, aside from its general merits, and I have amendments which I did submit to the Senator from California on which I desired the judgment of the Senator from Michigan. When we take this bill up in committee I will submit the amendments to the committee. We shall have ample time to discuss it. No injury can be effected by the delay in the passage of this bill; the lands are still unsold and our Government credit is still

unaffected. You will be no worse off in legislating next winter, and I think the loss of a few months in the construction of this work will not be very serious.

Mr. HOWARD. It is certainly not an unreasonable request to make of the Senator from Ohio that he would present his amendments now and let us consider them. My own idea is, that we can very easily perfect this bill, and if it has friends enough in the Senate we shall have time to pass it. It is essential to this company that they should be informed whether it be the purpose of Congress to render them any aid during the present season to assist them in carrying on this great and magnificent undertaking. It is important to them to know whether they can go into the market and borrow money upon anything like reasonable terms, as other railroad companies are compelled to do in order to prosecute their undertakings; and it seems to me that if the honorable Senator from Ohio is in any degree willing to render the company aid by granting the credit of the Government to it, in this or any other form, this is the time when he ought to express it, and certainly the time when the Senate ought to express it. They cannot raise a dollar of money by borrowing in the markets at the present time unless they borrow upon their own individual responsibility, for the reasons which I stated yesterday. The markets are full of the bonds and securities of those other great railroad corporations which we have chartered and which are now engaged in the prosecution of their work, and possess far broader facilities for borrowing money than this road does. I regard this road as necessary to the prosperity of the country and its true interests as even the Union Pacific railroad, and I see no reason for making fish of one and flesh of the other.

Mr. SHERMAN. I call for the yeas and nays on my motion to recommit.

The yeas and nays were ordered.

Mr. HOWARD. I wish to know whether this motion contemplates the postponement of this measure until the next session of Congress or not.

The PRESIDING OFFICER. The motion is to recommit the bill to the Committee on the Pacific Railroad. There is no further motion.

Mr. HOWARD. The effect of recommitting will be to throw it over to the next session.

Mr. SHERMAN. Undoubtedly that is my purpose. I never conceal a matter of that kind.

Mr. EDMUNDS. Before the vote is taken, I desire to state that I have paired off on all questions about this road with the Senator from West Virginia, [Mr. VAN WINKLE.]

The question being taken by yeas and nays, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Cowan, Davis, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Johnson, Kirkwood, Morgan, Kiddle, Sherman, Sprague, Trumbull, and Willey—20.  
NAYS—Messrs. Conness, Cragin, Hendricks, Howard, Howe, McDougall, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Stewart, Sumner, Wade, Williams, Wilson, and Yates—19.  
ABSENT—Messrs. Chandler, Creswell, Dixon, Doolittle, Edmunds, Lane of Indiana, Lane of Kansas, Saulsbury, Van Winkle, and Wright—10.

So the motion to recommit was agreed to.

#### PERSONAL EXPLANATION.

Mr. WILSON. The other day, when a debate arose here with regard to the tariff bill, in reply to the Senator from Indiana, [Mr. HENDRICKS,] who had referred to the chairman of the Committee of Ways and Means of the other House, Mr. MORRILL, of Vermont, I said that Mr. MORRILL had put upon him, by a vote of the House, an increase of duties on iron and on coal. I learn that I am reported as having said "wool" instead of "coal." I certainly could not have so intended, because no such vote was taken. On iron and on coal the House of Representatives increased the duty over the rates reported by Mr. MORRILL. I regret that this mistake should have been made, either by a slip of the tongue on my part or by an inaccuracy in the report. It is more

likely that I made the mistake myself. I regret it because I have seen some papers in the country reflecting very severely upon Mr. MORRILL on that subject. I make this explanation in order to put myself right toward him.

## EXECUTIVE SESSION.

Mr. SHERMAN. In twenty minutes more we take a recess, by order of the Senate, and as it is necessary that we should have an executive session, I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

## HOUSE BILL REFERRED.

The joint resolution (H. R. No. 90) in regard to rations of Union soldiers held as prisoners of war was read twice by its title and referred to the Committee on Military Affairs and the Militia.

## SOLOMON P. SMITH.

Mr. HARRIS. I move that the Senate proceed to the consideration of Senate bill No. 410.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 410) for the relief of Solomon P. Smith. It directs that there be paid to Solomon P. Smith, late a captain in the one hundred and fifteenth regiment of New York volunteers, the sum of \$260, for his pension from the 14th of January, 1865, when he was mustered out of the service, until the 15th of February, 1866, the date of the filing of his application for a pension with the Commissioner of Pensions.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## ORDER OF BUSINESS.

Mr. WILSON. I move to take up the bill that was specially assigned for to-day at one o'clock, the bill for the equalization of the bounties of soldiers, for the purpose of getting an adjournment upon it, so as to leave it as the unfinished business. It was put aside at one o'clock by the Northern Pacific railroad bill.

The PRESIDING OFFICER. The Senate having made an order to take a recess to-day—

Mr. TRUMBULL. It is not half past four o'clock yet. We want to get this bill up first.

Mr. WILSON. This will not interfere with that order.

The PRESIDING OFFICER. If the Senator's bill should be taken up now, that would leave it as the unfinished business when the Senate comes together again in the evening.

Mr. WILSON. This bill was specially assigned for to-day.

Mr. POLAND. I hope this motion will not prevail. The bankrupt bill was made the special order for yesterday at one o'clock, but was crowded out by the unfinished business of Saturday, and I think I am entitled to have that taken up to-morrow. The assignment of that bill was in advance of the assignment of the bill to which the Senator from Massachusetts refers.

Mr. HOWE. I propose as a compromise that both Senators allow me to make a report.

Mr. WILSON. I merely ask that the bill be taken up now.

The PRESIDING OFFICER. The motion of the Senator from Massachusetts is in order, and the question is on that motion.

The question being put, there were, on a division—ayes three—

Mr. TRUMBULL. I suggest to the Chair that the time fixed for a recess has arrived and there is not time to finish the count.

The PRESIDING OFFICER. The hour of half past four o'clock having arrived, the Senate will now take a recess until seven o'clock this evening.

## EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

## ADVERSE REPORTS.

Mr. CLARK. I move to proceed to the consideration of the adverse report of the Committee on Claims on the petition of James Larry.

The motion was agreed to.

Mr. CLARK. I move that the prayer of the petition be rejected.

The motion was agreed to.

Mr. CLARK. The next adverse report on the Calendar is report No. 41, in the case of Ephraim Hunt. The committee report that the prayer of the petitioner ought not to be granted.

The report was agreed to.

Mr. CLARK. The next adverse report of the Committee on Claims is report No. 62, on the petition of H. Clay Wood. The report is that the prayer of the petition be rejected.

The report was agreed to.

Mr. CLARK. The next is report No. 66, in the case of Mrs. Catharine Ferguson. The report is that the prayer of the petitioner cannot be granted.

The report was agreed to.

Mr. CLARK. The next is No. 67, the case of O. Holman. The committee recommend that the prayer of the petitioner be denied.

The report was agreed to.

Mr. CLARK. The next is report No. 73, on the case of George Mack, and twenty-five others, enlisted men of company G, eighth regiment United States Veteran volunteers. The committee report that the prayer of the petitioners cannot be granted.

The report was agreed to.

Mr. CLARK. The next is report No. 77, in the case of T. S. Briscoe. The committee report that the prayer of the petitioner cannot be granted.

The report was agreed to.

Mr. CLARK. The report No. 77, in the case of F. M. Faircloth, is that the prayer of the petitioner cannot be granted.

The report was agreed to.

Mr. CLARK. The report No. 81, on the petition of George P. Kensberg is that the prayer of the petitioner be denied.

The report was agreed to.

Mr. CLARK. The adverse report, No. 82, in the case of Eli W. Goff, is that the petitioner's prayer ought not to be granted.

The report was agreed to.

Mr. CLARK. The next adverse report is No. 91, on the petition of C. F. Johnson.

Mr. BUCKALEW. I hope that will lie over.

Mr. CLARK. It may be passed over at the request of the Senator from Pennsylvania.

The PRESIDING OFFICER *pro tempore*. The report will be passed over.

Mr. CLARK. The next adverse report is No. 92, in the case of Henry Roy De La Reintree. It is an old case that has been a good many times before Congress. The report is that the prayer of the petitioner should not be granted.

The report was agreed to.

Mr. CLARK. The next is No. 93, an adverse report on the claim of Benjamin Tilley. I move that the prayer of the petitioner be not granted.

The motion was agreed to.

Mr. CLARK. In the case of D. D. Sublett, report No. 94, the committee recommend that the petitioner have leave to withdraw the petition.

Leave was granted.

Mr. CLARK. No. 95 is an adverse report upon the petition of Joseph W. J. Holmes. The committee report that the prayer of the petitioner ought not to be granted.

The report was agreed to.

Mr. CLARK. No. 101 is an adverse report on the claim of James B. Johnson. The committee report that the prayer of the petitioner cannot be granted.

The report was agreed to.

Mr. CLARK. No. 113 is a report on the petition of George W. Tarleton. The committee ask to be discharged. I move that the prayer of the petition be not granted.

The motion was agreed to.

Mr. CLARK. No. 123 is an adverse report on the petition of Sarah A. Monaghan. I move that the prayer of the petition be not granted.

The motion was agreed to.

## HENRY M. WHITTLESEY.

Mr. CLARK. All the adverse reports having been disposed of, I move to take up Senate bill No. 46, for the relief of Henry M. Whittlesey.

The motion was agreed to. The bill provides that in settling and adjusting the accounts of Henry M. Whittlesey, of Michigan, late assistant quartermaster and acting chief quartermaster of the twentieth corps, there be allowed and credited to him or his representatives the sum of \$5,000, the proceeds of a draft for that sum from Captain J. M. Blair, commissary of subsistence department of the Cumberland, on the United States depository at Louisville, Kentucky, in 1864; such proceeds having been accidentally and without fault of Captain Whittlesey irrecoverably lost.

Mr. CLARK. The committee report adversely upon the bill. I move that it be indefinitely postponed.

The motion was agreed to.

## EDWARD P. M'KINNEY.

On motion of Mr. CLARK, the bill (H. R. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence, was considered as in Committee of the Whole. It is an authorization to the proper accounting officers of the War and Treasury Departments to allow to Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence, upon the settlement of his accounts, the sum of \$475, or so much thereof as the proof shall establish, upon his proving satisfactorily to such officers that that sum was properly paid by him prior to the 13th of August, 1864, to men of the first Rhode Island cavalry, and the first, second, and fifth United States cavalry regiments, and that his vouchers therefor were forcibly taken from him and destroyed by the enemy on the 13th of August, 1864, between Harper's Ferry and Winchester, Virginia, without his fault.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## HENRY HORNE.

On motion of Mr. CLARK, the bill (H. R. No. 521) for the benefit of Henry Horne was considered as in Committee of the Whole. It provides for the payment to Henry Horne of the sum of \$400 in gold, or its equivalent in United States currency, being the amount advanced by him for the use of Federal prisoners at Andersonville, and used for their benefit while prisoners of war at that place during the years 1864 and 1865. The payment of this sum is to operate as a full release of the note given to Horne by Father Wheelan, under whose supervision the money was expended.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## LEWIS DYER.

On motion of Mr. CLARK, the bill (S. No. 383) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers, was read the second time and considered as in Committee of the Whole.

It is a direction to the Secretary of the Treasury to audit and settle the accounts of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers, and allow him the pay and emoluments of surgeon of volunteers, from the 6th day of April, 1863, to the 26th day of May following, deducting therefrom any amount which may appear to have heretofore been paid him by error.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## JAMES G. HOLLAND.

On motion of Mr. CLARK, the bill (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy, was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to credit James G. Holland, late acting assistant paymaster of the Navy of the United States, with the sum of \$500, in the settlement of his accounts with the Fourth Auditor of the Treasury; such credit to be given for the sum of \$500 in Treasury notes of the United States lost and destroyed without any fault or neglect on his part, but the final order for the allowance is not to be made until the whole subject connected with the said alleged loss shall be fully investigated by the Fourth Auditor, and he shall certify thereto.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## LISTON H. PEARCE.

On motion of Mr. CLARK, the bill (H. R. No. 517) for the relief of Liston H. Pearce, was considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to pay to Rev. Liston H. Pearce the sum of \$540, in full for his services as chaplain of the one hundred and thirty-second regiment of Illinois volunteers during the recent rebellion.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## WILLIAM H. WHEELER.

On motion of Mr. CLARK, the bill (H. R. No. 695) for the relief of William H. Wheeler, of Bangor, Maine, was considered as in Committee of the Whole. The preamble recites that William H. Wheeler, of Bangor, Maine, in the month of February, 1865, lost a United States bond of the denomination of \$500, issued under the act of 25th February, 1862, No. 18,374, with all the unpaid coupons attached, which bond has since been found mutilated and partially destroyed; and that thirteen of the coupons have been reclaimed in such condition as to be paid at maturity; and it is uncertain whether the remaining coupons are not still in existence; and the bill proposes to authorize the Secretary of the Treasury to issue and deliver to William H. Wheeler a duplicate of the bond, No. 18,374, without coupons attached; but before issuing it Wheeler is to deliver to the Secretary of the Treasury all the remaining fragments and parts of the bond, excepting the thirteen coupons which have been reclaimed as aforesaid.

The Committee on Claims reported an amendment, to add to the bill the following words:

With a good and sufficient bond with security, to be approved by the Secretary of the Treasury, to indemnify the United States against all loss, costs, or damages incurred by reason of the issuing of said duplicate bond.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

## JOHN WELLS AND SONS.

On motion of Mr. CLARK, the joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore, was considered as in Committee of the Whole. It proposes to authorize the Quartermaster General, with the proper accounting officers of the Treasury Department, to remit to John Wells & Sons, of Baltimore, Maryland, so much of the penalty incurred by them by reason of their failure to comply with their contract entered into on the 4th day of October, 1863, with Captain S. H. Dunau, assistant quartermaster, under the direction of the Quartermaster General, for repairing the steamer City of Albany, as may not be covered by the actual loss of the Government by reason of the delay in completing the steamer in accordance with the strict terms of the contract.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## ISAAC RANNEY.

On motion of Mr. CLARK, the joint resolution (H. R. No. 119) for the relief of Isaac Ranney, internal revenue collector for the eighth district of Ohio, was considered as in Committee of the Whole.

The preamble recites that on the night of the 25th of June, 1865, the office of Thomas J. Robinson, deputy collector of Isaac Ramsey, internal revenue collector for the eighth district, Ohio, located at Mansfield, was burglariously entered by persons whose names are unknown; and that the burglars did, by means of drills and gunpowder, break into and enter the iron safe of the deputy collector, and feloniously steal and carry away revenue stamps therefrom belonging to the Government of the United States to the amount of \$632 23; and that this burglarious entry and larceny was not attributable to any neglect of duty on the part of Robinson as deputy collector, and that the office and safe were in all respects such as were required by the law and the regulations of the revenue department. The bill therefore proposes to direct the Secretary of the Treasury in the settlement of the accounts of Isaac Ramsey, as internal revenue collector, with the Government of the United States, to allow and give credit to him for the amount of the stamps stolen.

The Committee on Claims reported an amendment, to strike out the name "Ramsey" where ever it occurs in the resolution and to insert "Ranney."

Mr. CLARK. Ranney is the proper name, and the correction should be made.

The PRESIDENT *pro tempore*. That amendment will be made without putting the question, it being the correction of a clerical mistake.

The joint resolution was reported to the Senate as amended and the amendment was concurred in. It was ordered that the amendment be engrossed and the joint resolution read a third time. The resolution was read the third time and passed. Its title was amended by striking out "Ramsey" and inserting "Ranney."

## CAROLINE A. RANDALL.

On motion of Mr. CLARK, the joint resolution (H. R. No. 170) for the relief of Caroline A. Randall, administratrix and widow of Charles B. Randall, deceased, was considered as in Committee of the Whole.

It is a direction to the proper accounting officers of the Treasury Department to pay to the legal representatives of Charles B. Randall, deceased, late lieutenant colonel of the one hundred and forty-ninth regiment New York volunteer infantry, who was killed in action on the 20th of July, 1864, at the battle of Beech-Tree Creek, Georgia, the sum of \$175, as payment for one private horse used by Randall in the military service, which horse was lost by starvation five days after his death.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## HORACE I. HODGES.

Mr. CLARK. I desire unanimous consent to report back and put upon its passage at this time House bill No. 526. I think there is no dispute about it. The Committee on Claims unanimously directed me to report it.

The bill (H. R. No. 526) for the relief of the heirs of Horace I. Hodges was considered as in Committee of the Whole. It provides that in the settlement of the accounts with the Treasury of Horace I. Hodges, deceased, late captain and assistant quartermaster United States volunteers, there shall be allowed in his favor the sum of \$1,256 40 on account of the loss of that amount of public funds in his hands by the capture of Plymouth, North Carolina, by the rebels on the 20th day of April, 1864, the loss being without neglect or fault on his part, and he having lost his life at that time in attempting to carry orders from the commanding officer at Plymouth to the United States gunboats.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## WILLIAM G. LEE.

On motion of Mr. CLARK, the bill (H. R. No. 629) for the benefit of William G. Lee, was considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to pay William G. Lee, or his legal representatives, the sum of \$28,428 50, in full payment of his claim against the United States on account of corn purchased by him in the department of Kentucky, as the agent of the quartermaster's department under the agreement made by him with Captain John A. Morris, in 1864, and which corn spoiled on his hands by reason of the Government failing to furnish transportation for it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## MILTON M'KINNON.

On motion of Mr. CLARK, the joint resolution (S. R. No. 111) for the relief of Milton McKinnon was considered as in Committee of the Whole. The Committee on Claims reported an amendment as a substitute for the bill in these words:

That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to Sergeant Milton McKinnon the sum of \$58 45, being the amount of a draft drawn in his favor by Major M. L. Martin, late paymaster United States Army, on the Assistant Treasurer of the United States in New York, dated March 24, 1864, and which was lost in its transmission to New York: *Provided*, That the said Milton McKinnon shall file a duplicate of said draft, duly authenticated, with the Secretary of the Treasury: *Provided also*, That the payment herein authorized shall not be made until said McKinnon shall execute to the United States a bond, with good and sufficient security, to indemnify the United States against loss on account of said draft.

The amendment was agreed to.

The resolution was reported to the Senate as amended and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, and was read the third time and passed.

## SUE MURPHEY.

On motion of Mr. CLARK, the bill (S. No. 413) for the relief of Miss Sue Murphey, of Decatur, Alabama, was read the second time and considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to cause to be paid to Miss Sue Murphey, of Decatur, Alabama, \$7,000, in full compensation for damages done her farm in Decatur, Alabama, by reason of the same being occupied for military purposes, and for the destruction of the buildings and other property thereon.

Mr. WILSON. I do not like the reading of that bill. I wish to hear an explanation of it.

Mr. POMEROY. I should like to hear the bill read again. I do not know what it is for. Is it for damages because our troops encamped on somebody's farm?

Mr. CLARK. Not at all. This lady lives at Decatur, Alabama. Her farm was occupied



by our troops, and it became necessary to fortify the place. Her house was upon her farm, situated exactly in the corner of the fortification that it was necessary to erect. She is proved to have been an eminently loyal person by all those who had acquaintance with her. The Government destroyed her house entirely, took it down, and built a fortification right upon it; it became absolutely necessary to do so for the defense of the place.

Mr. POMEROY. I think this must be a case about like the Armes case.

Mr. CLARK. It involves the same principle as the Armes case; but here the house was taken down and a fortification put upon the spot.

Mr. POMEROY. Have we passed the Armes bill?

Mr. CLARK. We passed it once, but it stands on a motion to reconsider.

Mr. WILLIAMS. This was taken by order of the commanding officer directly.

Mr. CLARK. There is no question of it.

Mr. POMEROY. I will not oppose this, because I am in favor of the Armes bill.

Mr. CLARK. It is a claim that ought to be paid.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

#### AMELIA FEASTER.

Mr. CLARK. I move next to take up Senate bill No. 434.

The motion was agreed to; and the bill (S. No. 434) for the relief of Mrs. Amelia Feaster, of Columbia, South Carolina, was read the second time and considered as in Committee of the Whole. It provides for the payment to Mrs. Feaster of \$10,000 as reimbursement for money expended by her in alleviating the sufferings of officers and soldiers of the United States Army confined in rebel prisons in South Carolina during the late rebellion.

Mr. CLARK. I ask that the report may be read in that case.

Mr. RAMSEY and Mr. JOHNSON. Oh, no; there is no objection to the bill.

Mr. CLARK. If there is no objection to the bill, and nobody desires to listen to the report, it need not be read.

Mr. JOHNSON. The only objection I have is that the amount is not half enough.

Mr. CLARK. It is all we thought we could give her.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

#### WASHINGTON CROSLAND.

On motion of Mr. CLARK, the bill (S. No. 431) for the relief of Washington Crosland was read the second time and considered as in Committee of the Whole. It provides for the payment to Washington Crosland, of St. Louis, Missouri, the sum of \$20,000, in satisfaction of all damages which accrued to him by reason of the construction of a railroad across his two lots of land in the city of St. Louis by the United States for military purposes.

Mr. CLARK. The bill is printed wrongly. The amount agreed upon by the committee was \$2,000. I move to strike out "twenty" and insert "two." I am told this is a mistake of the printer.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BARK MARIA HENRY.

On motion of Mr. CLARK, the bill (H. R. No. 518) for the relief of the owners of the bark Maria Henry was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay \$12,000 to George Hearn, agent and part owner of the bark Maria Henry, of Portland, Maine, in full compensation for the use and detention of that vessel by the military authorities of the United

States, from the 26th day of February to the 26th day of May, 1865, inclusive.

The bill was reported to the Senate.

Mr. HOWE. I think the language of the bill does not cover the claim.

Mr. CLARK. I think the bill should be amended, and I move to amend it by adding the words, "and for any and all damages for the omission of said Government to load said vessel with coal for New Orleans or Port Royal."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

#### ALEXANDER F. PRATT.

On motion of Mr. HOWE the bill (S. No. 435) for the relief of Alexander F. Pratt was read the second time and considered as in Committee of the Whole. It provides for the payment of \$530 to Alexander F. Pratt, in full for pursuing and capturing one Elijah K. Janner, convicted of counterfeiting United States coin.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### JOHN HASTINGS.

Mr. CLARK. I ask unanimous consent of the Senate to report back from the Committee on Claims, and put on its passage at this time, a bill for the relief of John Hastings, late surveyor and depository of the public moneys at Pittsburg. He was not collector of customs, but he was depository of the public money. The Department refused to pay him on that account. This bill simply amends that bill in that particular, and appropriates to him the same amount in lieu of that.

The bill (S. No. 324) for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburg was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### E. J. CURLEY.

On motion of Mr. CLARK, the bill (S. No. 433) for the relief of E. J. Curley was read the second time and considered as in Committee of the Whole. It proposes to require the Secretary of the Treasury to pay, or cause to be paid, E. J. Curley the sum of \$34,248 52 as compensation in full for corn purchased of him by Captain E. B. W. Reslieux, assistant quartermaster, on the part of the Government.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### JANES, FOWLER, KIRTLAND AND COMPANY.

On motion of Mr. CLARK, the bill (S. No. 429) for the relief of Janes, Fowler, Kirtland & Co. was read the second time and considered as in Committee of the Whole. It provides for the payment of \$62,524 66 for reimbursement of money expended in the construction of the dome of the Capitol.

Mr. TRUMBULL. That is a pretty large sum. I think we ought to know what the facts are.

Mr. CLARK. There is a report in the case. The Secretary read the following report, made by Mr. CLARK on the 16th instant:

The Committee on Claims, to whom were referred the petition and papers relative to the claim of Janes, Fowler, Kirtland, & Co., asking compensation for damages resulting from the suspension by the Government of the work on the dome of the Capitol, from May, 1861, to May, 1862, have had the same under consideration, and make the following report:

The petitioners set forth that on the 15th day of February, 1860, they entered into a contract with the United States, through William B. Franklin, captain of topographical engineers, in charge of Capitol extension, for the construction of all that part of the new dome above the first section, at seven cents per pound; payments to be made monthly, after the commencement of the work, as follows: four and one-half cents per pound on the delivery and acceptance of material on the ground, and the remaining two and a half cents on the erection and acceptance of such material. Fifteen per cent to be reserved until the whole work should be completed and accepted. The contract is contained in the correspondence published

in Senate Documents, Thirty-Sixth Congress, first session, Miscellaneous Document No. 29, pages 39 to 52 inclusive, to which they respectfully refer for further information.

The memorialists proceeded with all possible dispatch and diligence in the execution of their contract, and by the 17th of May, 1861, had placed in the structure 2,409,823 pounds of iron, and had on the ground 567,199 pounds ready for erection—leaving to be manufactured less than one third in weight of material.

At that date, to wit, 17th of May, 1861, the Secretary of War, against the earnest remonstrances of the memorialists, ordered that the work be suspended, "or, if carried on, it be done at the risk and expense of the contractor, to be paid for only when the condition of the Treasury shall justify the Government in applying its resources to works of art, not of absolute necessity."

In the settlement which followed this order there was withheld from the memorialists fifteen per cent. on the work already done, and other amounts, making a total of over \$40,000. By reason of this order of suspension and the withholding of so large an amount of money already earned, they were compelled to stop both the purchase and manufacture of material, dismiss large numbers of skilled laborers, and let their workshops and machinery (which had been greatly enlarged to enable them to execute this contract with dispatch) lie idle. The firm thereby became embarrassed and lost about thirty thousand dollars of their capital in the year 1861.

By the act of 19th of April, 1862, the construction of the dome was directed to be resumed under the supervision of the Secretary of the Interior; and in May, 1862, the memorialists were requested to resume work. The price of material and labor had been advanced considerably and was steadily rising, and it was evident that they could not complete the work at the contract price without considerable loss. They knew the contract was forfeited by the wrongful act of the Government, and that they were under no obligation, legal or moral, to proceed with it. But the Government still held \$30,000 of money due before the suspension, which they feared would never be paid if they refused to go on. They knew, too, that no other contractors could complete the unfinished dome as promptly, perfectly, and economically as they. And above all other motives influencing them was a pride in completing the splendid work they had begun. They therefore determined to resume work under this broken contract, or without a contract as the transaction might be viewed, trusting to Congress to make good whatever might be lost by reason of the year's suspension.

But they found the task greatly more difficult and expensive than before, by reason of the scarcity of skilled labor and rapid advance of materials; while they could readily, with the force on hand when the work was suspended in 1861, have completed all the castings and delivered them on the ground within that year. Their skilled workmen once dismissed and scattered, it was impossible with the most energetic effort to get a full force of such workmen to cast and manufacture material—so that in 1862 they were able to manufacture and ship to Washington only 653,195 pounds, which was less than half of the work which remained to be done at the date of the suspension. In 1863, the difficulties of procuring such skilled labor had greatly increased, so that they were only able to manufacture and ship 589,743 pounds; in 1864, 190,649 pounds—leaving 51,287 pounds necessary to complete the work, which were manufactured and shipped in 1865.

This protraction through three years of work which could have been completed in one had the contract been unsuspended, added greatly to its cost, partly because it occupied the time and attention of the firm withdrawn by it from a profitable custom business, but chiefly because of the rapid increase in cost of material, freight, and labor.

	Per ton.
In 1861, to April, 1862, coal averaged about.....	\$4 30
1862, after April.....	6 12
1863.....	8 17
1864.....	14 00
1865.....	11 25
In 1861, to April, 1862, pig iron averaged about 21 20	
1862, after April.....	24 00
1863.....	35 00
1864.....	50 00
1865.....	50 00
In 1861, to April, 1862, wrought iron averaged 50 00	
1862, after April.....	65 00
1863.....	90 00
1864.....	100 00
1865.....	130 00
In 1861, to 1862, freight from New York to Washington by schooner was.....	\$2 00
1862, after April.....	3 50
1863, 1864, and 1865.....	4 00
In 1861, to April, 1862, the wages of molders, smiths, pattern makers, fitters, &c., averaged, per day, about.....	\$1 65
1862, after April.....	2 00
1863.....	2 87
1864.....	3 50
1865.....	3 62

All other material, labor, and service increased each year in about the same average ratio with the increase of materials and labor as above given.

Though more than a third of the casting was done in 1862, when labor and material were greatly lower than in the years following, yet five sixths of the work of erection was done after that year. The most of the casting done in 1862 was comparatively plain work, while nearly all the costly ornamental casting was done in subsequent years, when labor was at or near its maximum rates, so that at least three fourths of the expenditures after the suspension were neces-

early made by affiants when prices, through the inflation of the currency and the scarcity of labor, were at or about the maximum rates above given.

Affiants are unable to state in detail and with precision the increased cost of the various kinds and amounts of material and labor beyond what such cost would have been had the work not been suspended. But they are confident the following is not an exaggerated statement of such increased cost:

1,393,704 lbs. pig iron, (2,240 lbs. pig iron produced but 2,000 lbs. castings), @ 4 cent $\frac{1}{2}$ lb.	\$6,968 52
200,000 lbs. wrought iron, @ 5 cents $\frac{1}{2}$ lb.	10,000 00
475 tons coal, including freight from Elizabethtown to foundry, for melting power, &c., @ \$4 50 $\frac{1}{2}$ ton.	2,137 50
Molding and shop expenses on 1,393,704 lbs. pig iron, @ 1 cent $\frac{1}{2}$ lb.	20,905 56
Fitting, drilling, &c.—16,000 days' work, @ 25 $\frac{1}{2}$ day.	20,000 00
Putting up—8,000 days' work, @ \$1 50 $\frac{1}{2}$ day.	12,000 00
Paint and painting.	1,000 00
Freight and cartage on 700 tons, @ \$3 $\frac{1}{2}$ ton.	2,100 00
Pattern makers' time, 4,500 days, @ \$1 25 $\frac{1}{2}$ day.	5,625 00
Carvers' wages, 300 days, @ \$2 $\frac{1}{2}$ day.	600 00
100,000 feet lumber, @ \$15 $\frac{1}{2}$ thousand.	1,500 00
100 kegs nails, @ \$3 $\frac{1}{2}$ keg.	300 00
Superintendence, tools, oil, machinery, belting.	8,000 00
Incidental expenses.	5,000 00

Total increased cost to contractors.....\$95,136 58

The memorialists further represent that, inasmuch as the suspension occurred through no fault of theirs and against their remonstrances, they are legally and equitably entitled to pay for all done after the suspension, at the fair value of the work. Messrs. George R. Jackson and J. B. Cornell, who are as competent and reliable experts on the question as any gentlemen in the country, have given their estimates in the affidavits above referred to. Mr. Jackson says fifteen cents a pound would be less than a fair price for the work done after the suspension, and Mr. Cornell says that twenty cents would be no more than a fair price. The memorialists therefore ask that Congress pay them, in addition to the seven cents per pound which they have already received, eight cents per pound on the 1,431,384 pounds manufactured and erected after the work was resumed—\$118,550 72.

The memorialists originally took the contract at a price which they were well aware left no room for profit. But for the suspension they could, however, have executed it without considerable loss. In now asking the amount named above, they seek not more than the law would probably give them as damages, nor more than will repair their losses actually incurred by the breach of the contract. They claim no profit from their labor, more than the honor of having their names associated with a work which in design and execution has no equal in the ornamental architecture of the world.

The committee find the foregoing statements of the memorialists substantially true.

That they did contract for the work on the dome of the Capitol, as they have stated. They also find that the work on the dome was arbitrarily interrupted by the Secretary of War, and that they were put to much damage and loss, and incurred great expense in afterward carrying forward the work, till they finally brought it to its present beauty and perfection, a structure scarcely, if anywhere, equaled in the world. In doing this the memorialists by the action of the Government were put at too much increased expense as before stated; materials and labor each cost more when the work was resumed than they did when it was interrupted.

This fact is made known to the committee not alone by proofs in this case, but by their general knowledge of prices.

The committee, however, have not adopted the basis of damages as stated by the memorialists, but have endeavored to make a more exact calculation of the work put up each year, and the price which should be paid for it.

The work was interrupted in May, 1861, and recommenced in May, 1862.

In the year 1862 the memorialists put in place 653,195 pounds of iron; on this they should be paid three cents per pound additional, making \$19,595 85.

In 1863 they put up 586,743 pounds, and for this they should have four cents per pound additional, making \$23,489 72.

In 1864 they put up 190,840 pounds of iron, and on this they should be paid seven cents per pound additional, making \$15,346 05.

In 1865 they put up 51,287 pounds of iron, and for this they should be paid eight cents per pound additional, making \$4,002 96; amounting in all to the sum of \$60,521 65.

In accordance with the above the committee report the accompanying bill and recommend its passage.

Mr. HOWE. I feel bound to say to the Senate that I am not satisfied with this report or with the bill. The Senate doubtless understand from the reading of the report that these gentlemen claim damages which they say they sustained by reason of the violation of a contract made by them with the Government of the United States for the completion of the dome of this building. I think the bill ought not to pass for two reasons: first, I think that the proof is very defective upon which the committee have alleged that there was a violation of the contract; and secondly, if there

was a violation of the contract, I think the report overestimates the damage sustained in consequence of it.

The existence of the contract is undisputed. The claimants allege that by direction of the Secretary of War they were ordered to suspend work on the Capitol dome in the spring of 1861. I believe there is no proof of that except the allegation in the petition itself.

Mr. CLARK. There is the order. There is no question about it.

Mr. HOWE. The order is simply this, as near as I remember it: they are directed not to prosecute the work unless they will do so, content to take their pay when the Government can pay them, or when the Government has money to expend upon works of art. It is very manifest that, let them do the work when they would, or let any contractor do the work when he would, he can only get his pay when the Government has the money to pay him. Every man does work for the Government on that condition; and every man does work for everybody else on that condition. He cannot get his pay until the debtor has the money to pay him. I do not think the Secretary of War had any authority to interfere with this contract. I do not think he ought to have interfered with the execution of it. I do not think he did interfere except in that way. I think, in spite of all the Secretary of War said, the contractors were still at liberty to go on and complete the work, and their obligation would have been just as good upon the Government as if the Secretary of War had said nothing.

But, supposing that to be a violation of the contract, the Senate ought to consider what was the state of the contract at that time. Something more than half the work had been done, and that the cheapest part of the work, because it was the lowest part of the dome. The contract, then, was violated when half of the work, and that the cheapest part, was done. What was the damage to the contractor? He got paid for doing the cheapest work at the same rate which the contract provided for paying for the whole. Clearly, then, there was no damage if he had stopped then, if he had not prosecuted the work any further. But it seems a year subsequent to that he was requested to go on and complete the contract, and he concluded to go on under the contract. I cannot help regarding that as a new bargain to complete the contract on the terms stipulated in the original bargain.

There is no doubt that prices had enhanced in the market. It was more expensive to get labor and get materials in 1862 than it was in 1861. And considering the fact that the Secretary did make this request to suspend work in 1861, I should not think it hard to ask the Government to pay what the work actually cost in 1862 more than it cost in 1861; but it was clearly in the power of the contractors to finish the work in 1862, and I think the most they can claim is the difference between the cost of labor and materials in 1862 and the cost of labor and materials in 1861. Instead of that the report gives them the additional price in 1862 for what work was done in 1862, the additional cost of work and labor in 1863 for what was done in that year, and a still higher price for what was done in 1864, leaving them to run the job through three years when prices were constantly going up; whereas the petition itself states that they could have completed it in one year, that they could have completed it in the year 1861. If they could have completed it in 1861, I think they could have completed it in 1862, and if we are to make them compensation for the advance in prices between those two years it is all we ought to do. I do not think the Senate is much interested in it, and therefore I will not spend any further time upon it.

Mr. JOHNSON. I ask the chairman whether there is evidence that the work could have been completed in one year.

Mr. CLARK. I think it was very satisfactorily shown that if they had not been inter-

rupted they could have gone on and completed it within a year.

Mr. JOHNSON. When they went to work again, why did they not go on and complete it within a year?

Mr. CLARK. Because it was impossible to get their men back to the foundry and do the same work they had been doing before.

Mr. TRUMBULL. Did it take three years to get them back?

Mr. CLARK. It took three years to get the work through, as they were going on.

Mr. HOWE. What is the evidence that they could not get the men back in 1862?

Mr. CLARK. I think it is to be found in a variety of documents the committee had before them. I have not got them here now, because I separated them out from the papers that I wanted to go on the files; but I have examined this case with great care. For a year or two the attention of the late Senator from Vermont (Mr. Foot) was called to it when he was upon the Committee on Public Buildings and Grounds, and he became very well satisfied that the Government owed these parties a large amount of money. The same claim was before the Committee on Claims in the last Congress, and was under the attention of the Senator from Maine, [Mr. MORRILL,] who came to the same conclusion, but did not arrive at the exact amount that ought to be paid.

At this session of Congress it came before the Committee on Claims again, and I have devoted to it a good deal of time, such time as I could command during the business of the Senate, and have made a very careful analysis of the claim. We have not awarded them anything by way of damage, simply upon the claim itself. There is no doubt in the world that they had this contract to do this work at a given rate, and that they were going on successfully, were engaged in doing the work when the war broke out. There was no provision that the Government should have any right to stop their contract; but when the war broke out the Secretary of War by an arbitrary order stopped the work unless these parties would go on and do it at their own risk and pay their own men. They having at that time a considerable quantity of cast iron laying under the derrick, which would become rusted and broken to a certain extent and spoiled, went on and put that work up at their own expense, and it was a year after that time before the Government would settle. Notwithstanding the Secretary of War arbitrarily broke the contract in that way, when the quartermaster came to settle, though the parties were entitled to their money, he would not pay them so much by a cent per pound, keeping back not only the fifteen per cent. which he had for security that they would go on with the contract, but he kept back a cent a pound for all the work done by these parties and allowed no interest. And it was not till about the time we were getting a bill through to put the work into the hands of the Secretary of the Interior and ordering it to go on that the quartermaster would settle with these parties for work that was done long before.

Mr. BUCKALEW. Who was the quartermaster?

Mr. CLARK. Meigs, the Quartermaster General.

Mr. TRUMBULL. He made the contract, did he not?

Mr. CLARK. No. Franklin made the contract, and the evidence, all the way through, shows how these parties were used by the quartermaster; I now mean Franklin. These parties contracted to put this iron in place. They cast their iron in New York according to the pattern, and when it was brought here it had to have some chipping and filing done in order to fix it to the places; and the quartermaster—I mean Franklin now—required them to sweep up the chippings and the filings, and he weighed them back to those men and charged them for them. Then when they came to interrupt the contract for a year they kept back all that was due these parties as security, that



some time or other they should undertake to go on again. In determining what these men should have, we can ascertain exactly what they paid in the year 1862 after they resumed the contract, and the committee have allowed them three cents a pound additional for putting that up. They could have got their iron in Baltimore at the time they were interrupted for seventeen dollars a ton for pig iron, and they had to pay afterward as high as fifty or sixty dollars a ton. They not only showed us the estimate but brought us the bill of the parties whom they paid for the iron, showing exactly what they did pay themselves. It was not an estimate of the price of iron, but was exactly what they had to pay. For iron which they could have had at from seventeen to twenty dollars a ton they had to pay from thirty-five to fifty dollars; and they had sometimes to pay for freight as high as seven dollars a ton. You know, Mr. President, that freights were very high. When they undertook the work they could bring castings by water, but afterward the Potomac was blockaded and they could not bring it in that way. They were obliged to bring it over the railroad and get it along as best they could. Coal became very high.

So much were they pressed by the stoppage of this work that they had to sell their real estate in New York at a loss in order to meet their payments and carry forward this work which they were undertaking for the Government; and at the very time that they had to sell their real estate to meet their payments Government was keeping back from thirty to forty thousand dollars of their money without any sort of propriety.

It is a case that appeals to the justice of the Government. They think they should have a larger sum; they think they should have ninety-odd thousand dollars. The committee did not think so, but they figured it down to the lowest sum, and by pounds and ounces have awarded them sixty-two thousand odd dollars. I think the bill should pass.

Mr. WILLIAMS. I concurred in this report, and I am satisfied of its correctness; and if there be any objection to it, it consists in not allowing these men as much as they are entitled to recover, and in my judgment could recover, in a court of law in case this contract existed between these petitioners and another person. They entered into a contract with the Government of the United States to do a certain quantity of work at a certain price. After they had entered upon that work and made their preparations, hired their skilled workmen, and procured their materials for the completion of the work, the Government interposed and arbitrarily discharged them, refused to allow the men to proceed and perform the contract.

Mr. JOHNSON. Permit me to ask whether there was any provision in the contract that the Government should be at liberty to terminate the contract at any time.

Mr. WILLIAMS. None whatever.

Mr. CLARK. Not the least. There was no allusion to any such thing.

Mr. WILLIAMS. The petitioners were compelled at that time to abandon their contract, at a time when labor was cheap and materials were comparatively cheap. Then a period of about a year intervened. After the expiration of that year they were requested to resume the work upon this contract and they proceeded pursuant to that request to complete the job of work. Now, I say that they would be entitled in a court of law to recover upon a *quantum meruit*, that the violation of the contract on the part of the Government discharged them from its obligations, and when the Government requested them to resume this work, and they did pursuant to that request resume the work, they would be entitled to recover what that work was reasonably worth.

Mr. JOHNSON. Unless they agreed to go on under the contract, they would certainly.

Mr. WILLIAMS. There is no evidence here that they did agree to go on under the contract.

Mr. TRUMBULL. Would not that be the legal effect of it?

Mr. WILLIAMS. Not necessarily.

Mr. TRUMBULL. I think it would.

Mr. WILLIAMS. The Government retained \$30,000 of money that belonged to these persons. There was no reason for them to expect that the Government would pay to them this \$30,000 unless they did go on and finish the contract.

Mr. HOWE. I want to know if the Government did not owe them the \$30,000.

Mr. WILLIAMS. I do not know what view the Government took; but the \$30,000 was reserved to compel these men to complete the contract, and they were not entitled, according to the view which the Government took of the contract, to receive the \$30,000 until the contract was completed, until the dome was erected and finished.

Mr. HOWE. Has the Government been heard? When the Senator talks about "the Government," I suppose he means the Quartermaster General.

Mr. JOHNSON. That is "the Government" for this purpose.

Mr. HOWE. Has that embodiment of the Government been heard from on this subject?

Mr. WILLIAMS. I judge according to the evidence that was submitted to the committee in this case; and I would inquire of the Senate for what purpose this \$30,000 was retained by the Government if it was not to compel these men to resume this contract and complete the job. It is manifest if the Government had any object in retaining this \$30,000, after that amount had been earned by these men, it was to enforce them to a performance of the contract. That could have been the only object in retaining this amount of money.

Mr. HOWE. I will simply say that if the Quartermaster General or Secretary of War refused to pay the \$30,000—what the evidence is on that point I do not recollect, Senators can tell—his refusal did not bind the Government. It was just as easy for the contractors to apply to Congress to pay them the \$30,000 as it is for them now to apply to Congress to pay them \$95,000.

Mr. WILLIAMS. I do not know that these men understood or had any reason to suppose that Congress would pay to them the \$30,000 which was retained by the Quartermaster General or in the hands of the Government.

Mr. HOWE. I think contractors in common with all other citizens of the United States do act upon the theory that Congress will pay what the Government owes.

Mr. WILLIAMS. I do not know what view would have been taken of that claim when presented to Congress. It might have been answered that these men had earned this money; that it was in the hands of the Quartermaster General, if he was the proper officer to hold it; and Congress might have referred them to that officer and required them to demand and obtain the money from him, if they could.

But, sir, I do not consider that that objection is at all material. The fact is that the Government violated this contract. The Government threw these men out of employment for one year. They were compelled to discharge their skilled workmen; they were compelled to abandon all the preparations and arrangements which they had made for the procurement of material; and then, after labor had risen to two or three times what it cost in 1861, and after materials had risen two or three times higher than they would cost in 1861, these men, at the request of the Government, and under this sort of compulsion which the Government imposed upon them by withholding \$30,000, resumed this labor and completed the job; and now they simply ask that the Government shall pay them what that labor was reasonably worth, because they say if the Government had not wantonly and arbitrarily interposed and prevented them from performing this contract they would have performed it according to the letter of the con-

tract in 1861, and would have been contented with the payment provided for in the contract.

Now, sir, it would be manifest injustice for the Government to compel these men to do this labor when labor cost two or three times as much and materials cost two or three times as much as they did when they had the contract and could have performed it. Manifest injustice, I say, will be done if the Government shall now say to these men, "You shall have no more for the work than the original contract price." The committee have not allowed these men as much as they would be entitled to estimating the prices as they ranged at that time; but they made an estimate giving them a part, and not a very large proportion, as I think, of the additional expense that was imposed upon them by the violation of this contract on the part of the Government; and if these parties were to go into a court of law, if that were practicable, and sue the Government, I can see no reason why they would not be entitled to recover what their labor and materials were reasonably worth when the work was done under this request on the part of the Government.

Mr. TRUMBULL. I do not propose this warm evening to argue this case with the members of the committee who have reported it, nor am I sufficiently familiar with the facts to do so; but I was not satisfied from the reading of the report that the measure of damages adopted by the committee was a proper one. This case is argued by the Senator from Oregon as if the parties engaged in the manufacture of iron for the dome of this building were engaged in no other business. He says they discharged their hands and could not get them back again. Now, I suppose if the fact was inquired into it would be found that they were large manufacturers and probably had just as many hands—

Mr. CLARK. Allow me to state to the Senator exactly how that was. The only other business they had was a separate business of making ranges for dwelling-houses, nothing at all compared with this, and when this was stopped they were obliged to shut up the shop that they had for this and discharge all the hands connected with this work.

Mr. TRUMBULL. I know that the iron manufacturers were very prosperous during the war.

Mr. CLARK. These men did make something on their ranges.

Mr. TRUMBULL. I should suppose they were no exception to the general rule. But I do not propose to argue the case here. I would ask Senators who are present, if I can get their attention for a moment, for what purpose we have established the Court of Claims. Can anybody tell me what we have established the Court of Claims for if it is not to try just such cases as this? I have always insisted that the worst possible body to adjudicate upon claims was a committee of Congress. Now, I have very great confidence in the Senator from New Hampshire and in the Senator from Oregon and in their opinions when they have investigated a case; but why they should have spent time in investigating this case and bringing it here, I cannot conceive. Here is a case growing out of a contract between Government and certain parties directly within the terms of the law, giving these parties the right to go into the Court of Claims to enforce their claim if they have one. Why did they not go there? The only reason why they do not go there must be because they think they will do better trusting Congress.

Mr. CLARK. Let me say to the Senator that the House and Senate have not always been able to agree in regard to the cases that should go to the Court of Claims. After the bill was passed amending the Court of Claims act and giving them certain jurisdiction, the Senate committee undertook to be pretty strict in regard to it, but the House would send their reports and their matters still to the Committee of Claims for examination. In the Congress before the last this bill was sent by the Senate

to the Committee on Public Buildings for examination, instead of to the Court of Claims. At the last Congress it was sent to the Committee on Claims for examination, but was not examined. At this session it was sent again by the Senate to the Committee on Claims to be examined. Three times it has been sent by the Senate to committees of this body for examination; and the committee did not feel, when it had been sent in that way, after the parties had made their preparation under the direction of the Senate in that way, that they should be turned over to the Court of Claims.

Mr. TRUMBULL. In reply to that I will appeal to Senators as to what the practice of this body is. When the petition comes here from some claimant it is presented in the morning hour, and nobody pays any attention to it, and it is sent without a vote or without a word either at the suggestion of the President to the appropriate committee or a motion is made that it go to the committee. It is no passing upon the matter by the Senate; and if the Court of Claims is for any purpose it is to hear just such a case as this. The Senator from Oregon tells us that the Government violated its contract; that it is under legal obligation to pay these parties. Let them go to the court. These parties understood very well that the Court of Claims had jurisdiction of this case. Why not go there, where attorneys are employed upon both sides, where the testimony is not *ex parte*, where every fact is submitted to a judicial test by cross-examination, and where adverse witnesses are called? They did not want to go there.

Now, sir, I move that this case be referred to the Court of Claims. I am not disposed to argue it, but I hope the Senate will send it to the Court of Claims at once. If these parties are entitled to more than \$60,000, let the Court of Claims give them more, and I shall be satisfied. While we have a Court of Claims for the investigation of just such cases, I insist upon it that the precedent is bad to undertake to act upon them in Congress. I presume every Senator, like myself, will admit that the vote he gives upon this claim is given entirely upon trust, not from any personal examination of his own. I have listened to this report, and I am not at all satisfied with the principle adopted as a rule of damages. I do not think it would do in a court of law to adopt such a rule. What is it? These parties are allowed by this report the difference between the price of iron in 1864 and its price in 1861. These contractors were only stopped one year; and are they, by running their contracts along for three years, to be allowed the enhanced price of iron the third year, when, according to their own showing, they could have furnished the whole of it, and ought to have furnished the whole of it in one year, and that under the pretense that they could not get hands? We know, as a general fact, that iron manufacturers made extravagant profits during the years 1862, 1863, 1864, and found hands. They could afford to pay high prices, because they made extravagant profits. I submit the motion that this claim be referred to the Court of Claims.

Mr. CLARK. I am not going to argue the question whether it should go to the Court of Claims or not. After the Senate have submitted it to the committee and the committee have bestowed their time upon it and investigated it to the best of their ability, if the Senate are not satisfied and desire to have it go to the Court of Claims I shall submit, though I think we have done the matter justice. But I want to state that after this work was interrupted in 1861, while the Government held over thirty thousand dollars of these parties' money, the Government—I speak now of Congress—by virtue of the act of April 19, 1862, directed the work to be resumed under the Secretary of the Interior. Before it was resumed they took it out from the hands of the War Department, put it into the hands of the Secretary of the Interior, and directed it to be resumed, and at the very time they directed it

to be resumed they held over thirty thousand dollars of these people's money. If that be justice and they are to have no damages, I cannot quite understand the rule of damages.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator from Illinois moves that this bill be referred to the Court of Claims.

Mr. HOWE. I think that direction had better be given to this claim. It will be seen at once that we propose to vote sixty-odd thousand dollars out of the Treasury. If rightfully due to these parties, it is the fault of certain high officers of the Government. I think they ought to be heard. If not heard here or in the Court of Claims they ought to be sworn somewhere. I do not know that the committee have received from them any explanation of the conduct which is alleged to have given these contractors a right to recover of us over sixty thousand dollars. Certainly, it seems to me, they ought to be heard upon that point. I believe, though I am not prepared to speak so confidently upon that point as the Senator from New Hampshire is, because I have not examined the case as closely as he has, this report is mainly but a recitation of what is said in the petition of the contractors. I do not know of any evidence going to show even that the contractors discharged a man in 1861. I can conceive it very probable that they did discharge a good many; but I do not know of a particle of testimony in the case going to show that they could not have completed this whole work in 1862 just as well as in 1861.

Mr. CLARK. I will inquire of the Senator if he has examined the testimony.

Mr. HOWE. Not very closely.

Mr. CLARK. I supposed so.

Mr. HOWE. I asked the Senator to refer me to the evidence, but he has not done it.

Mr. CLARK. Because I have not all the papers here.

Mr. HOWE. I asked for it in committee, and did not get it. The Senator said that at the last session these papers were in the hands of another member of the committee. My impression is that at the last session they were in my hands; I gave it some examination, not enough to be able even to report to the committee upon it; but I do not know of any evidence in the case which ought to satisfy us that this work could not have been done in 1862 just as well as in sixty years. On the contrary, I think there are strong reasons for concluding that these very contractors did a great deal more than the amount of work that would have been required of them to complete this contract. They were carrying on other branches of business which paid large profits. The profits of that kind of manufacturing were constantly going on, and I can conceive, if they were smart business men, as I believe they are, they were ambitious of extending that branch of their work instead of this branch, the price for which was limited, and limited by a contract made before high prices commenced. In this state of the proof I do submit that this case had better go to the Court of Claims, where parties can be heard by sworn witnesses as well as by the arguments of counsel.

Mr. CLARK. I find I have the proof here, and sworn witnesses as well.

Mr. TRUMBULL. Cross-examined or mere affidavits?

Mr. CLARK. Not cross-examined. Here is a great variety of statements proving all the facts set out very clearly.

Mr. POMEROY. I submit to the Senator, as the Senate is very thin, whether the bill had not better be laid aside and let us take a vote on it to-morrow. If we have a division, it is manifest to me that we shall have to adjourn.

Mr. CLARK. If anybody is disposed to make any objection because there is not a quorum here, I will move to adjourn, and that will carry the bill over and make it the order of the day for to-morrow.

Mr. POMEROY. Are there not some other bills to be acted upon?

Mr. CLARK. We have nothing else but the Ames case.

Mr. POMEROY. I want to reach that.

Mr. TRUMBULL. So far as I am concerned, I shall be satisfied with an expression of the Senators present. If it is manifest that they are not disposed to refer it, I am willing to let it be acted upon. I shall not call for a division.

Mr. CLARK. Let us take a vote, then.

Mr. TRUMBULL. If Senators will vote, the Chair can decide what the disposition of the Senators present is, whether to refer it or not.

The PRESIDING OFFICER. The question is on the motion to refer this bill to the Court of Claims.

Mr. HENDRICKS. I do not think the Court of Claims is any more competent to examine this case than the committee that has examined it. The labor has been gone through with, and I am not in favor of its reference. It is not entirely clear that it comes within the law.

Mr. TRUMBULL. Witnesses have not been cross-examined here. The case is on *ex parte* affidavits entirely.

Mr. HOWE. What is that testimony, I should like to know.

Mr. CLARK. The testimony of the three several partners individually as to those facts, and then a great variety of other witnesses who swear to it.

Mr. HOWE. Swear to what?

Mr. CLARK. To the great variety of facts that go to make up the case. I think there are as many as eight or nine affidavits here. I think the facts stated in the report are fully proved.

Mr. HOWE. The Senator says he finds on his table the affidavits of the three claimants and eight or nine other affidavits. I do not know but that ought to persuade the Senate that the Government owes \$62,000!

Mr. DOOLITTLE. In relation to these matters of claims, there is one rule that has always governed me in voting on motions to refer to the Court of Claims. The simple question with me always has been whether it is a case of which they have jurisdiction. If they have, I always vote to refer, because I think the court has better opportunities of examining claims than committees can well have, by the cross-examination of witnesses. It is only those cases of private claims of which the court have no jurisdiction that I am willing to act upon here.

Mr. POMEROY. The Senator must be aware that if we refer it to the Court of Claims that gives them jurisdiction whether they have it under the law now or not.

The PRESIDING OFFICER. The question is on the motion to refer the bill to the Court of Claims.

The motion was not agreed to.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSIAH O. ARMES.

Mr. CLARK. I now move to proceed to the consideration of the bill (S. No. 16) for the relief of Josiah O. Ames. I ask the Senator from Massachusetts, if he is here, to withdraw his motion for reconsideration, and let the bill go to the other House.

Mr. RAMSEY. Let us reconsider it.

Mr. CLARK. No, I do not want to reconsider it. The bill was passed and sent over to the House and then brought back for a motion to reconsider. I only want to get rid of the motion to reconsider.

The motion to take up the bill was agreed to.

The PRESIDING OFFICER. (Mr. ANTHONY.) The pending question is on the motion of the Senator from Massachusetts to reconsider the vote by which the bill was passed.

The motion was not agreed to.

Mr. CLARK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

Mr. SPALDING. I move that the reading of the Journal of yesterday be dispensed with. The motion was agreed to.

## RAILROAD TO PACIFIC OCEAN.

Mr. STEVENS. I move that, by unanimous consent, the Committee on the Pacific Railroad be discharged from the further consideration of the bill (S. No. 20) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific ocean." I desire that it may go to the Speaker's table.

Mr. SPALDING. I object.

## MINERAL LANDS.

Mr. JULIAN. I move that the bill (S. No. 257) entitled "An act to regulate the occupation of mineral lands, and to extend the right of preemption thereto," be printed.

The motion was agreed to.

Mr. JULIAN moved to reconsider the vote by which the bill was ordered to be printed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ELECTION CONTEST.

Mr. McCLURG. I desire to announce to the House that the contested-election case of Koontz vs. Coffroth will be called up as soon as the privileged question now pending shall be disposed of, or as soon thereafter as possible. I trust that members will endeavor to read the report before the case comes up.

## ASSAULT UPON A MEMBER.

Mr. SPALDING. I give notice that I shall demand a final vote on the question of privilege in relation to the assault on a member at three o'clock.

## RATIONS OF UNION PRISONERS.

Mr. WARD, by unanimous consent, introduced a joint resolution in regard to rations of Union soldiers held as prisoners of war.

The joint resolution was read, as follows:

Whereas by general order of the War Department of February 14, 1862, rations to Union soldiers held as prisoners of war in the rebel States were commuted at a cost price during the period of imprisonment; and whereas a large number of the said prisoners have been paid under said order, but many equally worthy with them and who have suffered in rebel prisons have not been so paid: Therefore,

*Be it resolved by the Senate and House of Representatives, &c.,* That all Union soldiers who were held as prisoners of war in the rebel States, and who have not received any commutation of rations at a cost price during the period of their imprisonment: *Provided,* That no person who has sold or transferred any interest in the claim for commutation shall be benefited by this resolution; and no purchaser or assignee of such claim or interest shall be benefited by this resolution, and that such commutation be paid out of any money in the Treasury not otherwise appropriated.

The joint resolution was read a first and second time, ordered to be engrossed, and being engrossed, it was accordingly read the third time and passed.

Mr. WARD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## HOUR OF MEETING.

Mr. MORRILL. I ask permission to move that on and after to-morrow the House meet at eleven o'clock. We have either got to have evening sessions or meet earlier in the day.

Mr. STEVENS objected.

## LAND TITLES IN CALIFORNIA.

Mr. BIDWELL, from the committee of conference on the disagreeing votes of the two Houses on the bill to quiet land titles in California, submitted the following report, and demanded the previous question thereon:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 343) "to quiet land titles in California," having met, after full conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the Senate agree to the amendment of

the House, including the first proviso of the tenth amendment, as follows: "Provided, however, That from decrees of the district court, as aforesaid, made after July 1, 1865, and prior to the passage of this act, an appeal may be taken to the United States circuit court of the State of California within one year from the approval of this act."

That the House recede from the second proviso of said tenth amendment; and the House agrees to the same.

S. C. POMEROY,  
JOHN CONNESS,  
W. SPRAGUE,

Managers on the part of the Senate.

J. BIDWELL,  
G. W. ANDERSON,  
Managers on the part of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. BIDWELL moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## MERCHANTS' NATIONAL BANK.

Mr. HOOPER, of Massachusetts, by unanimous consent, from the Committee on Banking and Currency, to which was referred a resolution of the House for the investigation of the affairs of the Merchants' National Bank, made a report, accompanied by the following resolution, and demanded the previous question thereon:

*Resolved,* That the Secretary of War be directed to institute such legal proceedings as may be deemed necessary for the punishment of the managers of the Merchants' National Bank, and others who may have aided and abetted them in committing a breach of trust by employing the public money intrusted to them for safe-keeping, and also such proceedings as may be necessary to recover any portion of said money.

Mr. HARDING, of Kentucky. I raise a question of order. I understand that to be only a part of the report.

Mr. HOOPER, of Massachusetts. I move the acceptance of the report as well as the passage of the resolution.

The SPEAKER. The resolution is before the House for action.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. HOOPER, of Massachusetts. I submit the following resolution:

*Resolved,* That authenticated copies of all the evidence be transmitted by the Clerk of the House to the Secretary of War, to be used and disposed of in such manner as he may deem the public interest requires, and after such copies, the evidence as made be recommended to the committee, with authority to publish such as they may deem necessary.

Mr. LYNCH. I desire, if the gentleman will yield to me, to move as an amendment, that all the evidence taken by the committee be printed.

Mr. HOOPER, of Massachusetts. No, sir, I cannot yield for any such purpose. There are seven or eight hundred pages of this testimony, which spread over a great deal of unnecessary matter. I think there are decided objections to its publication. It would make at least two hundred and fifty printed pages. I think it altogether unnecessary to print it.

Mr. RANDALL, of Pennsylvania. I desire to say that I was, and still am, in favor of the printing of this testimony, but there seemed to be insuperable objections on the part of the gentleman from Massachusetts. I am certainly in favor of printing all the testimony.

Mr. HOOPER, of Massachusetts. I think my motion covers all that is necessary. It is to recommit the evidence to the committee and authorize them to print any portion of it that they may deem proper. That, I think, will cover everything.

Mr. HARDING, of Kentucky. Allow me to say a word. It occurs to me that it will avail nothing to refer this matter back to the committee. The only question is whether the evidence taken by the committee should be published or not. Why should it be sent back to the committee? The only question is whether the evidence taken before the committee shall be published or not. The committee are just as well prepared to decide upon it at once as

they ever will be. I think myself that a very small number of copies of the whole should be published, and there is a very good reason for it. The committee was detained for a long time because all its members were not present. The committee themselves want all the evidence published in full. Every member of the House wants it in full. It is all sworn testimony, and I think it ought to be printed.

Mr. HOOPER, of Massachusetts. I must insist on the previous question.

Mr. LYNCH. I hope the previous question will be voted down.

The question was put upon seconding the demand for the previous question; and there were—ayes twenty-two, noes not counted.

So the House refused to second the demand for the previous question.

Mr. LYNCH. I now move to amend the resolution so as to read as follows:

*Resolved,* That the said report of the Committee on Banking and Currency, together with the testimony taken by the said committee, be printed, and that the said testimony be transmitted by the said Clerk to the Secretary of War, to be used and disposed of in such manner as he may deem the public interest to require.

I renew the demand for the previous question.

The previous question was seconded and the main question ordered, being upon Mr. LYNCH's motion.

Mr. HOOPER, of Massachusetts. I hope the House will not assent to that amendment.

The SPEAKER. The House is acting under the previous question, and no debate is in order unless by unanimous consent. Is there objection to the gentleman from Massachusetts being heard?

Mr. RANDALL, of Pennsylvania. I must object unless I can be heard in reply.

The question was put; and there were—ayes fifty-five, noes not counted.

So Mr. LYNCH's amendment was agreed to. The resolution, as amended, was agreed to.

## MINING AND MANUFACTURING COMPANY.

On motion of Mr. INGERSOLL, by unanimous consent, bill of the Senate No. 178, to incorporate the Metropolitan Mining and Manufacturing Company, was taken from the Speaker's table, and was read a first and second time and referred to the Committee for the District of Columbia.

## ASSAULT UPON A MEMBER.

Mr. SPALDING. I now call for the regular order of business.

The House accordingly resumed the consideration of the resolutions reported by Mr. SPALDING, from the select committee on breach of privilege, in the matter of Hon. LOVELL H. ROUSSEAU, of Kentucky, and Hon. JOSIAH B. GRINNELL, of Iowa; upon which the gentleman from New York [Mr. RAYMOND] was entitled to the floor.

Mr. RAYMOND. Mr. Speaker, the House has seen fit to order an inquiry into all the circumstances connected with the assault by the member from Kentucky [Mr. ROUSSEAU] upon the member from Iowa, [Mr. GRINNELL], and to instruct the select committee to make a report recommending such action thereon as the committee might see fit. The committee have examined the whole case; they have submitted the testimony taken, and have recommended certain action thereon. A majority of the committee recommend, first, the expulsion of the gentleman from Kentucky for the assault which he committed. They recommend, secondly, a censure of the member from Iowa for the language which he used. And third, they recommend the arraignment of certain parties, other parties—not members of the House—who are held to have been in some sense presumably privy to the assault.

Now, sir, I will first state, as clearly as I can, the facts of the case, not for the purpose of making a statement which shall carry with it the force of an argument on either side, but for the purpose of submitting to the House all the facts essential to a just judgment of the whole case. As it is evidently proper, I will begin with the debate. The debate commenced on the 3d day of February last. The member



from Kentucky, speaking on the subject of the Freedmen's Bureau, and while narrating to this House certain circumstances which had taken place under the jurisdiction of the Freedmen's Bureau in his own State, used this language:

"Now, sir, I told the agent of that bureau then just what I thought and felt in reference to this matter. I said to him, 'If you want to protect the freedmen of this community, I am with you heart and soul. I will stand by you in all just measures; but if you intend to arrest white people on the *ex parte* statements of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty.'"

Now, sir, we have nothing to do in this discussion with the sentiment embodied in that declaration; it may be just, or it may be unjust; it may be right, or it may be wrong. That is not the question now. The question is one of parliamentary propriety, and I do not see that there was anything in it in violation of parliamentary order, or of the privileges or rights of any member of this House.

On the 5th of February the member from Iowa replied to that language in the following words:

"The honorable gentleman from Kentucky [Mr. ROUSSEAU] declared on Saturday, as I caught his language, that if he were arrested on the complaint of a negro and brought before one of the agents of this bureau, when he became free he would shoot him."

It was not distinctly understood by the gentleman from Iowa [Mr. GRINNELL] whom the member from Kentucky said he would shoot, nor does it make the slightest difference so far as this discussion is concerned. The member from Iowa proceeded to comment upon that declaration, and said:

"Is that civilization? It is the spirit of barbarism, that has too long dwelt in our land—the spirit of the infernal regions that brought on the rebellion and this war."

The colleague [Mr. SMITH] of the member from Kentucky interposed to deny that the member from Kentucky had used any such language. He declared that the gentleman did not belong to the class of men comprehended in the denunciations of the member from Iowa, but that he had served in the Union Army for four years during the war. To which the member from Iowa rejoined:

"I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him."

To which the gentleman from Kentucky [Mr. SMITH] replied:

"I deny that my colleague made any such statement."

To which the member from Iowa replied:

"I occupied the Speaker's chair when the gentleman's colleague was speaking, and I heard the words."

But he afterward conceded that the report in the Globe was that upon which comment should be based. That was on the 5th of February. On the 7th of February the gentleman from Kentucky, [Mr. ROUSSEAU], who was not present during the debate of the 5th, recurred to the matter, rising for the purpose of a personal explanation. He then read from the Globe the sentence which I have just recited; that the member from Iowa did not care whether the gentleman from Kentucky had fought on the Union side or on the other side for four years. To that Mr. ROUSSEAU rejoined:

"Mr. Speaker, I did not use the language imputed to me by the member from Iowa, [Mr. GRINNELL]. And I pronounce the assertion that has just been read, that I have degraded my State and uttered a sentiment unworthy an American officer, to be false, a vile slander, and unworthy to be uttered by any gentleman upon this floor."

It is claimed in this discussion that in that sentence the gentleman from Kentucky offered a distinct and direct insult to the gentleman from Iowa, charging upon him in a personal sense falsehood and slander. Now, I beg to ask the attention of the House for one moment to this point: that the sentiment uttered by the

gentleman from Iowa was not the declaration of a fact, nor did it assume to be such a declaration; it was simply the expression of an opinion. It was the opinion of the member from Iowa that the gentleman from Kentucky had "degraded his State" and "uttered a sentiment unworthy an American officer." Now, sir, when you pronounce an opinion false, you do not necessarily charge the man who uttered it with having uttered a falsehood. This distinction is recognized everywhere in all parliamentary bodies. It is recognized here; and it is recognized in the British House of Commons. It was recognized in a case which occurred there a short time ago, when Sir Robert Peel charged a member of that body with having uttered upon the floor what he knew to be false. The Speaker arrested Sir Robert Peel at once, and told him that, although he might pronounce a statement false, without offending parliamentary propriety, he could not add that the member knew it to be false when he uttered it, without violating the privileges of the House; and the Speaker required him to apologize to the House and to the member, before he allowed him to proceed. Now, sir, on the other hand, it follows necessarily from this that when the gentleman from Kentucky pronounced this declaration of the member from Iowa to be false, he did not necessarily charge him with having uttered a falsehood. I am not here to defend the good taste of the language used by the gentleman from Kentucky. I concede that it does not quite correspond to my ideas of what is proper and courteous in debate. It savors a little of what the English are accustomed to call "bounce," and what in this country has hitherto been understood as "southern chivalry." But that, as I conceive, is a matter of taste; it is not necessarily a violation of parliamentary propriety; and I submit that the gentleman from Iowa [Mr. WILSON] did not establish that the gentleman from Kentucky had charged his colleague [Mr. GRINNELL] with falsehood in a personally offensive sense when he attempted yesterday to cite this passage in support of that assertion.

That, sir, was the third incident of the debate, and it happened on the 7th of February. On the 8th of February the gentleman from Iowa rose to a personal explanation, and after reciting the circumstances of the case, referred again to this very point. He said:

"I give the member the full benefit of an explanation of his declaration that he would kill a white officer acting under oath and in the discharge of his duty, if that is a less unworthy act than to shoot an American citizen of African descent. That may not have been degrading to his State, and whether it was, as I said, language unbecoming an American officer is a question which I shall refer to the gallant soldiers of the State of Iowa who never fought, thank God, but on one side."

The gentleman from Kentucky rejoined that he could not allow the gentleman from Iowa "to become the defender of the troops from the free States."

There the matter rested until the 11th of June. There seemed up to that time to have been no such gross violation of parliamentary propriety and of the usages and dignity of debate as has been claimed on this floor. On the 11th of June the gentleman from Kentucky, in closing a speech which he had made, used the following language:

"I said, sir, awhile ago, that slings had been constantly made at my native State, in my hearing, upon this floor; and last and least of all things and everybody, let us give a moment's attention to the member from Iowa, [Mr. GRINNELL], who first assailed her here. Shortly after Congress assembled he assailed my State and myself. He charged that I had degraded my native State by saying that I would defend my family against the agents of the Freedmen's Bureau. That member was pleased to say on the floor, in answer to suggestion of my colleague, [Mr. SMITH], that he did not know whether I had fought four years on the rebel side or on the Federal side in the late war. I had under my command and fighting under me from that member's State some of the bravest troops from any State in the Union. I was in the war from the beginning of it until the end. In the Northwest I was known to have been in the Federal Army; but that member said he did not know whether I was on the rebel or the Federal side. I do not suppose a member in the House believed one word of what he said."

Mr. GRINNELL here attempted to interrupt

him, but the gentleman from Kentucky objected, saying:

"I cannot be interrupted now. I wish to say that when a member can so far depart from what everybody believes he ought to know, and does know is the truth, it is a degradation, not to his State, for he cannot degrade her, but to himself."

There, sir, is language which I admit may fairly be regarded as a violation of the proprieties of debate. It is always a violation of the proprieties of debate to assert that a member states on this floor what he knows to be untrue. No member has a right to rise here and impugn the personal veracity of any other member; and that I think the gentleman from Kentucky did in this particular instance. It is only fair, however, to say that he did it on the assumption that the gentleman from Iowa had said he did not "know" on which side the gentleman from Kentucky had fought during the war. It is true, the Globe has reported it that he "did not care;" but the gentleman from Kentucky assured the committee investigating this case, as he assured the House yesterday, that he was not present (and the record will show the fact) when the gentleman from Iowa made the original declaration, and that he had been told by his colleague from Kentucky [Mr. SMITH] that the language of the gentleman from Iowa was that he "neither knew nor cared" on which side the gentleman from Kentucky had fought; and this is urged in extenuation for the language which the latter used in saying that, when the member said he did not "know" on which side he fought, he did not suppose any member of this House believed his statement. That, I think, is nevertheless, a violation of parliamentary propriety.

It is to be noted, sir, that when the gentleman from Iowa did get the floor he did not correct that alleged misunderstanding. He has not corrected it on the floor from that day to this. I do not say that this is a justification for the language used by the gentleman from Kentucky; but I do say that it is a fact which may be taken into account, for it is a fact which may very well have weighed with the gentleman from Kentucky in his views of this matter and in the action he took upon it. On the same day, after the debate had gone on some time, the gentleman from Iowa rose to reply to the gentleman from Kentucky, asking permission to make a personal explanation, which was granted. Now, I do not propose to read at length what the gentleman from Iowa said on that occasion. It was read in full yesterday at the Clerk's desk during the speech of my colleague, [Mr. HALE.] But I call attention to the leading points of it—to this mainly, that it was in no sense a reply to anything the gentleman from Kentucky had said. It was simply a personal attack upon him as a gentleman and as an officer of the Army. No one can read any part of it without seeing that this is its character.

In the first place he refers to his personal appearance, "standing six feet high, wearing buff, and carrying the air of a certain bird that has a more than usual extremity of tail, wanting in the other extremity." He then speaks about his being a defender of the President, and says:

"God save the President from such an incoherent, brainless defender, equal in valor in civil and in military life. His military record! Who has read it? In what volume of history is it found?" \* \* \* "Where was he in the great fights? Ask General Grant if you want his private opinion about him. Go to the general officers; and since he has alluded to Iowa, I will give the opinion of a leading officer from that State, for not two weeks ago he told me that when there was a noise in camp the men said it was either a rabbit or General ROUSSEAU."

He also refers to the gentleman from Kentucky "having a quarrel with his barber and being backed off," and concludes with the following language:

"I did speak something about the men from Kentucky fighting on both sides. Sir, I have been sent here by a majority of seven thousand; and I do not go to the State of Kentucky for indorsement, nor do the soldiers of Iowa. Their record is made, and it was not made under the leadership of any man from Kentucky. It was made under the leadership of their own colonels and generals, and under General Grant and General Sherman. When the gentleman gets

up here and claims the honor of having led the Iowa soldiers, I say that they were not so led; that they spurn such an intimation; and in this I mean nothing personal.

Mr. Speaker, this is a painful exposition. But I am not responsible for it. When I make an assault, I expect to receive an assault in return.

\* \* \* And then the gentleman whines off with a woman's plea, taking refuge under feminine skirts as a certain other gentleman went off in disguise."

Now, sir, that is the whole of the debate spread before the House for its judgment. I have already said that I regard the remarks made by the gentleman from Kentucky in charging the gentleman from Iowa with stating what he knew was not true to have been in violation of parliamentary propriety. I have no hesitation in saying that I regard the remarks made by the gentleman from Iowa as an outrage upon all parliamentary propriety and all the courtesies of life in Congress and out of it, and I am perfectly willing to submit that judgment to this House or to the country at large. Well, sir, the gentleman from Kentucky listened to all that debate. He appealed twice to the House for protection, and the House failed in each case to afford it. He said in both cases that unless he could be protected by the House he must protect himself. At the time he forbore any personal resentment of language well calculated to irritate and exasperate any man of sensibility, and four days after that he committed the assault which has brought the matter before the House.

Mr. SPALDING. The gentleman says the House failed to protect the gentleman from Kentucky when he appealed to the House. I do not think he will insist upon his statement when he reflects that the Speaker did immediately call the member to order when appealed to by members.

Mr. RAYMOND. I will give attention to that part of the subject more fully hereafter, provided the gentleman from Ohio will also remember that although called to order for a violation of the rules by the Speaker, the gentleman from Iowa was allowed to proceed and to continue in the same strain. The House certainly did fail to protect the gentleman from Kentucky.

But, sir, as to the facts of the assault, there is neither difficulty nor doubt of any kind. The gentleman from Kentucky came before the committee, and said he had no concealment in the matter at all; he wished the whole thing to be understood precisely as it occurred. He admitted that he made the assault; he admitted that he did it with premeditation; that he did it for words spoken in debate, and he declared that for his purpose was to disgrace the gentleman from Iowa by blows, as the gentleman from Iowa had attempted to disgrace him on the floor. The testimony was of course to the same point. These are the leading facts in the case, and they are fully admitted, as I understand, by the gentleman from Kentucky. It is proposed by the majority of the committee to expel the gentleman from Kentucky for that assault, and to censure the gentleman from Iowa, or rather to disapprove of the language used by him in debate.

Now, sir, great exception has been taken to this report, and an attempt has been made upon this floor to give a wholly one-sided aspect to the transaction. In the first place, the gentleman's colleague from Iowa, [Mr. WILSON,] whom I do not now see in his seat, entered a point of order claiming that under the rules of the House the House had no right to censure the member from Iowa for the language used by him. He attempted in the first place to screen his colleague from any censure or punishment under the technical rules of the House. And in the next place, the gentleman from Iowa, arguing for his colleague, attempted to show that his colleague had done nothing worthy of censure or disapprobation.

Mr. WILSON, of Iowa. Does the gentleman pretend to say that I took that position?

Mr. RAYMOND. I so understood the gentleman.

Mr. WILSON, of Iowa. I did not do any such thing. I was answering the position

assumed by other members of the House. I was merely answering the case presented by gentlemen who had spoken in behalf of Mr. ROUSSEAU.

Mr. RAYMOND. I said nothing about the reasons which actuated the gentleman. I said that his argument was calculated to produce the idea that his colleague had said nothing to warrant any expression of disapprobation on the part of the House. I certainly heard nothing indicating the slightest disapprobation on his own part, nor do I find anything of the kind in his speech as reported this morning in the Globe. In the next place, the gentleman from Pennsylvania [Mr. STEVENS] now presents a proposition intended to accomplish the same object by an adroit parliamentary maneuver, and that is to substitute for the first and second resolutions reported by the committee expelling the gentleman from Kentucky and censuring the member from Iowa, another resolution which merely reprimands the gentleman from Kentucky and omits all mention of the gentleman from Iowa. It says in effect that if nothing shall be said about the language used by the member from Iowa, they will be content with simply reprimanding Mr. ROUSSEAU. Now, I object to that as a partial and one-sided way of acting on the case. I hold that the House owes it to itself and to the freedom and propriety of debate to express an opinion on both points of this case, upon the language of the gentleman from Iowa as well as upon the act of the gentleman from Kentucky.

I have moved to substitute, for the first resolution reported by the committee, another providing for the reprimanding of Mr. ROUSSEAU at the bar of the House. I have done it because I think his offense, judged by the punishment awarded to the gentleman from Iowa, merits no higher punishment than this. If the gentleman from Iowa is to be subjected, not even to the disapprobation of the House, then I say that the gentleman from Kentucky does not merit even the reprimand proposed by myself and the gentleman from Pennsylvania. I consider that the Constitution protects freedom of debate. I concede that for any speech or debate upon this floor no member can be questioned elsewhere. But I think that gentlemen in this discussion have given to that phrase a much wider latitude than it will bear, and I think the majority of the committee claim a degree of inviolability for the persons of members upon this floor that was not intended to be attached to them. They say:

"The theory upon which parliamentary assemblies are founded is that of the inviolability of the person of the representative. The existence and authority of legislative assemblies depend upon the recognition of this fundamental law. This is due not less to the dignity of the assembly and the rights of its members than to the people they represent; an act of violence against a representative is an act of insurrection against the people he represents."

Members have discoursed here about the inviolability of the persons of Representatives, as though that were all that is inviolable in the Representative, and as though nothing else is to be cared for. Why is not the character of a Representative as inviolable as his person? I have said that the person of the Representative is not to be assailed and I insist also that his character is not to be assailed. Some of the ablest commentators on the Constitution insist that that is a proper interpretation of the clause, that while a man for words spoken in debate upon the floor in pursuance of parliamentary rules of order may not be questioned, he may be held responsible if he publishes those remarks to the world; and although a discrimination may be taken that he publishes them by order of the House, you will find the decisions in England to be that though such publications may be made under the order of the House, and for the use of the House, they cannot be published otherwise for the public at large without subjecting the person to the rules of law.

In Massachusetts a case was decided where a member of the House of Representatives was fined \$2,500 for slandering another member upon the floor of the House. But I do

not propose to go into a discussion of the matter in this way. I do not propose to justify the act of the gentleman from Kentucky. I concur with the majority of the committee in the opinion that it cannot be justified; that it is without justification; and I beg the gentleman from Iowa, [Mr. WILSON,] who spoke on this subject yesterday, to understand from this that I do not allow him to confound an attempt to show that an act has excuses with the position that an act is justifiable. He remarked upon the language of my colleague, [Mr. HALE,] who spoke upon this subject yesterday, that while he [Mr. HALE] pretended not to justify the act of the gentleman from Kentucky, all his remarks did actually tend to justify it. I say again that I cannot, and do not, and will not attempt to justify that act; but I do say there were many things connected with this matter, with the unjustifiable assault which he committed, which ought, in all fairness, to afford extenuation for it in the judgment of those who are to pronounce upon it.

Why, sir, you never hear a case in the criminal courts even, where certain things are not allowed to extenuate the offense, although not held to justify it. As I have said, I consider an assault upon character as serious a matter as an assault upon the person. This may be a matter of taste; it is certainly a matter of opinion to a certain extent; it is a matter of temperament, and a matter of natural sensibility. There is a difference in men in this respect. Some are quick to resent personal injuries; others will not resent any injuries at all. We all know that temperaments differ, and that some of the most eminent and noble qualities of the human character lie so close to its faults and vices that sometimes the two are confounded. We all know that firmness in adhering to principle is oftentimes mistaken for obstinacy. The quality which leads some men to look at all sides of a question before pronouncing judgment upon it is often mistaken for vacillation and a lack of decision. We often see that an excess of charity and kindness of heart is mistaken for pusillanimity. And we still more often see that that quick sensibility to insult, that high sense of honor which resents a wrong, whether done to the person or to the character, is closely allied to some of the noblest qualities which can dignify humanity, and especially to that enthusiastic, impulsive temper which makes heroes of men, and enables them to render transcendent service to their country and their age.

Now, I do not think it just to confound all distinctions of character and of temperament in this case, or in any other. I can well understand how the gentleman from Kentucky, with his peculiar temperament, with his education, with the tone of feeling of the community in which he had lived all his life, might feel a degree of sensibility to the remarks of the member from Iowa, that others on this floor cannot understand and still less sympathize with. I feel bound to make allowance for that, not as justifying the act which he has committed, but as extenuating the degree of his criminality, when it is before the House for judgment.

One of the celebrated characters in one of Mr. Bulwer's fictions, I think it was the renowned Mr. McGrowler, remarks that in his experience of life he had found that "there was a great deal of human nature in men"—a very profound remark, and one which I think is substantially true. I think there are very few of us on this floor who could listen with entire equanimity to the remarks made by the gentleman from Iowa. Very few, sir, are there here whom such remarks would not move to resentment. But why, it is asked, did not the gentleman from Kentucky resent them on the spot? Because he chose, of two offenses, to commit the least. If he had resented it on the spot, in presence of the House and in open contempt of its authority and dignity, I take it there would have been no hesitation here in visiting upon him immediate and condign punishment.

The gentleman from Iowa [Mr. WILSON] yesterday represented that we were entering upon a new era of parliamentary dignity. He opened his remarks by saying that there had been a time when the dignity of the House was regarded as worthy of protection; but that that time had now gone forever. Sir, he must have forgotten the past history of this House and of the country. He evidently has forgotten the time long years ago when Matthew Lyon, a member of the House from the State of Vermont, spit in the face of Mr. Griswold, a member of this House from the State of Connecticut, when Mr. Griswold resented the indignity and assailed Mr. Lyon upon the spot, and the Speaker of the House descended from the chair and, instead of arresting the disorder, remonstrated with the member who was trying to separate the combatants, saying that it was not the way to stop a fight to take a man by the legs. [Laughter.] He must have forgotten the time when Houston, of Texas, belabored a member of the House of Representatives on the avenue and left him, as it were, dying, unable to stir, or even to call aloud. The gentleman from Iowa must have forgotten the long list of "scrimmages" that have taken place in this House from that day almost to the present time. A former member of this House now in this city handed me to-day a little list of the contests he had witnessed on this floor during the short time he was a member of this House. Among them was the scrimmage between Mr. Clingman and Mr. Stanley, of North Carolina, which resulted in some scratches and blows. Another was one between Mr. Wilcox and Governor Brown, of Mississippi, which he states was a "much prettier fight than the North Carolina one, and looked more like business." Another was a Tennessee fight. Mr. Churchwell, of Tennessee, drew a pistol on his colleague, General Cullom. General Cullom "went for him," bounding over a desk, and denouncing him in a clear ringing voice, which could be heard in the remotest part of the galleries, as a coward and an assassin. Mr. Keitt, of South Carolina, and Mr. Grow, says the same authority, "opened their batteries on each other, and the engagement soon became pretty general along the whole line; Barksdale of Mississippi, Washburne of Illinois, Ruffin of North Carolina, Covode of Pennsylvania, Reuben Davis of Mississippi, Potter of Wisconsin, and others, charging and retiring alternately."

I will not enumerate any more of these contests. I will simply say that the last one alluded to must be fresh in the minds of all the members of this House although they may not have witnessed it. They certainly cannot forget the picture of it given to us a few days ago by the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] With his usual parliamentary adroitness, he brought it into his argument to aid in carrying a bill which was in some danger of being lost. He drew a picture of that contest which exceeded in graphic fidelity any description in the histories of our recent wars thus far within my knowledge. Certainly its effect upon the House was something startling. All the members gathered around him and listened in the most respectful silence—*conticere omnes*; and if gentlemen will pardon the false prosody, I will complete the quotation—as applicable now as it was in the olden time—*voces faucibus hesunt, steteruntque comæ*. I am sure, sir, our hair stood on end under the narration, and I think that of the gentleman from Pennsylvania [Mr. STEVENS] himself would have done so but for circumstances over which he probably had no control. [Laughter.] I never knew why that distinguished gentleman should have been so much more terrified with that particular contest than with any of the others that have taken place in his time on this floor until I saw the result of it recorded in the personal diary of the gentleman who handed me this record, in these brief and graphic words: "Poor Barksdale's wig being captured in the row." [Renewed laughter.] That is a sad result unquestionably,

but it was not attended with as much carnage as it might have been. I believe, indeed, the wig was captured without the least effusion of blood. But even in that great contest, attended with such results, the House passed no resolution of expulsion; no one was banished even for seizing Barksdale's wig; the House passed no reprimand upon anybody; no, it did not even censure any one, nor express its disapproval of the row in any way whatever.

Indeed, you may examine the history of this House from its beginning to the present time, and you will not find a single one of all the men engaged in these personal collisions, even when they occurred right on the floor in the presence of the Speaker, when pistols and bowie-knives were drawn and when blood was shed, who has been expelled. Matthew Lyon was not expelled. Preston S. Brooks, even, was not expelled for his murderous outrage on Senator SUMNER. This is to be the first instance of expulsion, if you expel the gentleman from Kentucky, for any collision of this kind. Now, sir, is there anything in the circumstances of this case which calls for expulsion by way of distinguishing it from all the others? As I said, I believe there is much to extenuate in. I know the gentleman from Iowa claims that the gentleman from Kentucky had insulted him. I have cited the only passage in the remarks of the gentleman from Kentucky which I think was fairly open to the charge of being in violation of parliamentary propriety. The gentleman from Iowa claimed before the committee that he had received other offenses in the closing speech of the gentleman from Kentucky. He claims that General ROUSSEAU called him "a thing" in the passage of his speech where he said that "last and least of all things he would refer to the gentleman from Iowa." Now, sir, I do not know precisely what was intended by that expression of the gentleman from Kentucky. The language is not perfectly clear, and it may give rise to commentaries in the future as voluminous as those in the past upon doubtful phrases in Homer and Herodotus. But it is not the first instance in which a person who was called "a thing" has resented it. The hostess of the "Boar's Head" in Eastcheap was called a thing by Sir John Falstaff, who complained bitterly that his pocket had been picked in her establishment. It could not be expected that this ornament of her sex could tamely submit to such an imputation upon her character. Like a woman of spirit as she was she demanded to know "what thing" Sir John meant to call her. Nor was she as much appeased as, perhaps, she should have been when the gallant Sir John responded, "a thing to thank God upon;" and though she exclaimed she was no such thing and called on all who knew her to bear her witness, still, if the gentleman from Iowa had made a similar demand on his accuser, he might have received the response in a more kindly spirit. But I do not think the offense in his case, any more than in that of the virtuous Dame Quickly, quite so serious as both seem to have deemed it.

Now, sir, I say further, it is to be regarded as an extenuation of his offense that the gentleman from Kentucky was forced to submit to a most serious and insulting impeachment of his military character and his personal courage upon this floor, in hearing of the House and to go upon the permanent record of our debates. In my judgement it makes no difference whether the gentleman from Iowa said he did not "know" or did not "care" on which side the gentleman from Kentucky had fought. I hold it as much an offense against propriety, against all just feeling, for him to say that he did not care, as that he did not know, whether he was on the rebel or on the Union side. I say that the attack upon the military character of Mr. ROUSSEAU was an unpardonable outrage perpetrated on the floor upon the character and history of one whom no gentleman in this House or elsewhere had any right to depreciate or any excuse in depreciating in any such connection.

The gentleman from Iowa [Mr. WILSON]

said yesterday that it seemed as though the character of no man was of any consequence here unless he had been in the Army. I beg to know of how much consequence would be the character of any man in the Army if it is to be assailed as the gentleman from Iowa assailed that of the gentleman from Kentucky, with entire and complete impunity. Sir, we owe it to ourselves, to our self-respect, to our country and to posterity, to cherish as the apple of our eye, or the very core of our hearts, the reputation of those who have led our armies in this great fight, and won for us as well as for themselves distinguished honor on the battlefield. And when I see so many of these gentlemen around me, now members of this House, who have, on the field of battle, as well as in this council chamber, stood firm and fast to the Union of the States, who have risked life and everything dear to them for the sake of the nation, and whose deeds are so certain to pass into the priceless treasures of our country's history, I feel like pardoning almost anything they may say or do, and like holding every man my foe who assails their fair fame and traduces their character or their reputation for political differences or for differences of any kind.

The military character and career of the gentleman from Kentucky are so well known that neither the gentleman from Iowa nor any other gentleman on this floor is excusable for overlooking or disparaging them. When violent hands were first raised against the Government and the Constitution and Kentucky attempted to stand neutral, he planted himself almost alone against the efforts of those who would hold her back from the full support of the Union and the Constitution. Almost alone in the Senate of that State he denounced all sympathy with secession as treason and rebellion. He denounced the attempt of the Governor to hold a special session in order to hear a secession commissioner from Alabama. He denounced the Senate for attempting to sit in secret session for the purpose of giving them audience, not only as a breach of parliamentary propriety, but as a crime against the people, and told the Senate, probably in violation of order and of the Senate's privileges, that if they did close the doors during that debate, he would break them open with his own arm, and he defied them to stop him if they dared. And when the war broke out, where was he found? From the first moment until the closing gun was fired in the forefront of the great encounter. The reports of his commanding officers, from the highest to the lowest, bear such testimony to his valor, his good disposition of his troops, his determination always and everywhere to fight the foes of his country and to save the nation or perish in her defense as should forever silence the thought that would do him insult or injury. I will not go over that history. I say that what he has done for the country entitles him to impunity from assault on his character or person in this place, or elsewhere; in the second place, it entitles him to protection at the hands of this House from assaults upon him here; and in the third place, all such protection failing him, it entitles him to the most charitable construction upon any act he may have performed in the vindication of his character against insult and aspersion. That was one of the reasons assigned by the minority of the committee for qualifying the motion to expel, and what I have said has been in support of that recommendation.

The committee report in connection with this transaction, and giving to it what I deem not quite a fair construction, that three persons were present who were friends of General ROUSSEAU and were armed. The report of the majority of the committee says:

"Three persons were present as friends of Mr. ROUSSEAU: the first on account of information received from Mr. ROUSSEAU that a personal assault was possible, if not probable; the second on account of a suggestion or a call from the first; and the third followed Mr. ROUSSEAU to the portico on account of his excited appearance and manner when passing through the rotunda."



The gentleman from Iowa [Mr. WILSON] yesterday dwelt still more strongly upon this point and impressed upon the House the idea that it was a most remarkable thing that these three men, the friends of General ROUSSEAU, all armed, should have been present on that occasion. Now, it is very hard to argue against innuendo, and this is nothing but innuendo. There may be circumstances which, in the absence of other facts, might give color to the insinuation that these men were present on invitation of General ROUSSEAU for the purpose of aiding him in the assault; but I submit to the gentleman from Iowa that in view of the circumstances of the case there is no possible excuse for his putting it in that light.

Colonel Pennybaker, it is admitted, had been told by General ROUSSEAU of the probable assault. The testimony shows precisely what he was told. Colonel Pennybaker, I may say here, was an old personal friend of General ROUSSEAU, and had known him from boyhood. He was in the Senate of Kentucky at the same time with General ROUSSEAU, and was almost the only member of that body who supported him in his opposition to secession. He testifies that on the morning of the day the assault was committed General ROUSSEAU told him that GRINNELL had used language toward him which he could not submit to, and that unless he had an apology he should probably chastise him. The evidence then goes on as follows:

"Question. Did he say he was going to chastise him, to flog him, or what?"

"Answer. I do not remember what particular expression he used. It is my recollection he said he was going to use a raitan."

"Question. At what time was this?"

"Answer. About half past eleven in the morning."

"Question. Where was it the general told you this?"

"Answer. It was in the yard below here, between here and the Capitol gate, coming toward the Capitol, between eleven and twelve o'clock."

"Question. Did he not tell you on the way when or where he desired to do it?"

"Answer. No, sir. I rather inferred from his talk that he contemplated it that evening."

"Question. In consequence of that information did you stay by during that afternoon?"

"Answer. I returned, and went up to the House in consequence of that information that evening."

"Question. Did you go at the request of General ROUSSEAU?"

"Answer. No; the general did not make any request at all. He asked me to come up in the evening, and I arrived there not more than ten minutes before the House adjourned."

Now, Pennybaker was informed by ROUSSEAU of the probable assault, but there is nothing whatever to show that he was invited there for the purpose of taking any part in the affair or in any other capacity than as a witness of the assault. Colonel Pennybaker has been in the Army and was in the habit of carrying arms, and he testifies that on hearing of this contemplated assault he went to his room and took a pistol and came with it up to the House. With the exception of that single incident there is not a shadow of suspicion that anybody was informed by General ROUSSEAU of his intended assault upon the member from Iowa.

Colonel Grigsby, who was the second party present who is named here, testifies in answer to General ROUSSEAU's questions as follows:

"Question. I ask you if anything had ever occurred between you and myself which led you to believe that this thing was to take place."

"Answer. Nothing whatever. I only arrived in the city a day or two before. I had not seen General ROUSSEAU until I saw him at the Capitol since 1862, when we were in the Army together, and I only was with him three minutes before we went out at the door."

"Question. Did I even know you were present on the portico until you came up to me?"

"Answer. I had no reason to suppose you did at all. I was following Colonel Pennybaker. I supposed you were running to get into a car. I never dreamed of anything of the sort occurring."

I read further from his testimony:

"By Mr. BANKS:

"Question. Do you ever carry arms upon your person?"

"Answer. Yes, sir."

"Question. Were you armed on this occasion?"

"Answer. I had a small Deringer pistol in my pocket."

"Question. How long had you had that?"

"Answer. I had carried it ever since I left the Army. I do not suppose it has been out of my pocket in twelve months."

"By Mr. ROUSSEAU:

"Question. You did not have it with you for this particular occasion?"

"Answer. No, sir; for I did not know of any such occasion. The condition of society has been such in our town that it would not be safe to be unarmed. It is rather the exception than the rule for gentlemen not to carry arms, especially one who has been in the Federal Army."

"Question. I understand you to say distinctly that you had no knowledge or intimation that anything of this sort was to occur?"

"Answer. Not the slightest. I was very much surprised when I saw you raise your hand, and I had no idea who you were striking."

But it is said that Colonel Pennybaker told Colonel Grigsby of this affair, and that in consequence the latter was there. That, sir, is negatively distinctly by the declaration of Colonel Grigsby himself, in reply to a question by Mr. WILSON.

"Question. You stated that Colonel Pennybaker came up with you?"

"Answer. Yes. Colonel Pennybaker went over to my room to take a drink with me. He was talking about matters, and said he must go to the House. I told him I would go with him if he had no objections."

And in a subsequent part of the testimony he states that what he came for was to see Mr. HARDING, of Illinois, a member of the House, and that he simply went out with Pennybaker because he supposed he was going.

Colonel McGrew, the other person who was there armed, testifies in equally strong language that he never heard anything of the affair from anybody at any time.

"Question. Did any one else ever intimate to you after that time that probably he would assault Mr. GRINNELL?"

"Answer. No, sir; I never heard anything of the case until the day it occurred."

"Question. When you followed Mr. ROUSSEAU from the Rotunda that day was it with the expectation of any such occurrence?"

"Answer. He seemed to pass me without answering, and I followed him out more to know what was the matter."

"Question. Then when you followed Mr. ROUSSEAU out you had no thought of a collision?"

"Answer. No, sir; none at all."

"By the CHAIRMAN:

"Question. Did you have an interview with Colonel Pennybaker that evening or that day with reference to this transaction?"

"Answer. Not until afterward."

Again:

"Question. Did it strike you at the moment there might be some personal difficulty, and was that the reason for your following?"

"Answer. No; it was not for that reason at all that I followed him. I followed him for the express purpose of knowing whether he was going to New York."

That is all there is about those three men. Colonel Pennybaker was told that there might be a collision, and came up. As to the other two parties, the testimony of every witness—uncontradicted, undoubted, not a shadow of suspicion thrown upon it—tends to show that they were there accidentally. Why, then, it may be asked, were they armed? Simply, as they have already explained, because it was their custom to be armed. But why, it may be asked, was nobody else armed? If any one will tell me what reason he has for supposing that nobody else was armed, then I may think it worth while to answer that question. It must be recollected that out of the fifteen or twenty persons who, according to the testimony, were present, these three and no others were singled out and examined on that point. But I think gentlemen understand pretty well that it has become quite fashionable—quite too fashionable—a fashion much "more honored in the breach than in the observance," to carry arms on the person. These three men did it, and were detected. How many more did it and were not detected it is not for me to say. But I submit that, whatever may be the disposition by the House of these gentlemen themselves, whatever view the House may take of their conduct, there is nothing whatever in this evidence to show that they were there by procurement of General ROUSSEAU—nothing whatever to show that they knew aught of his purposes; that he had lifted a finger or done a thing to have them there at that particular time; and the coincidence which the gentleman from Iowa referred to yesterday is simply a coincidence, and nothing more.

Now, sir, I do not care to say anything further on the general question. I should be glad to have the House decide by a distinct vote between the proposition for expulsion and the

proposition for a reprimand. I think that is a fair issue; but I desire to repeat again that I do not think it fair to punish General ROUSSEAU, one of the parties in this case, for his violation of the privileges of the House, without at the same time inflicting some censure or at least disapprobation upon the gentleman from Iowa, by whom that violation was provoked.

Freedom of debate, sir, must be protected. It ought to be protected. The dignity of debate must be protected. It is due to ourselves, it is due to the proprieties of our proceeding, it is due to the attainment of the end for which we are here that it should be thoroughly and effectively protected. But I submit to this House whether the way to protect it is to allow one member to assail another in the grossest and most insulting terms without doing anything to protect him, and then to inflict punishment upon him for attempting to protect himself. I submit, sir, that if we are to protect the freedom and dignity of debate we must check its abuses, and thus give no man either provocation or excuse for assailing it. As between members, entitled to equal privileges and equal protection, the protection must be equal and impartial.

Here let me refer to a point mentioned in the report of the minority as another reason in extenuation; and that is, that General ROUSSEAU failed to receive the protection of the House. He appealed for it twice distinctly, saying each time that unless the House would protect him he must protect himself. The gentleman from Iowa was, it is true, called to order by the Speaker; but, sir, he was not, as the rules require, compelled to take his seat and await the decision of the House whether he should proceed or not. In the first instance, when he was called to order, the Speaker said very properly that his remarks were out of order. But he went on. Again he was called to order, and then the Speaker said:

"The Chair sustains the point. The gentleman from Iowa is out of order in this course of remark, and as the gentleman has been twice called to order the Chair will check him if he again violates the rule."

That is not protection, sir. And when the gentleman from Iowa did again violate the rule, and the Speaker said, "The Chair thinks that the remarks of the gentleman are out of order," the gentleman replied, "I have nothing further to say." He was allowed from the beginning to the end to go through the whole of his tirade and to say all he wished to say without being once called to order by the House and silenced. That was not protection to the gentleman assailed. It was simply protection to his assailant. The gentleman from Iowa enjoyed complete impunity throughout the whole of his remarks for whatever he chose to say.

Now, sir, I wish to say in the first place that I think the Speaker acted upon his own conviction of the proprieties of his position in allowing members to call to order when any violation of order was committed in the course of a personal explanation. The reason which he gave for his opinion the other day, namely, that he alone of all the members of the House is not asked for his consent, I should say, as an abstract proposition, is not a sound reason, simply because the Speaker of this House is also a member of this House; and he loses none of his rights as a member of this House by the fact that additional rights and powers have been placed in his hands by virtue of his position as Speaker. I think it is just as competent for the Speaker to object in such a case as it is for any other member. A sense of propriety or a sense of courtesy may restrain him from the exercise of it. But, as to the right, I do not know of any positive rule which denies it to the Speaker; and in the absence of any such rule I should say that the right exists. In the limited experience I have had as a presiding officer in the State Legislature I have always acted on the assumption that I still possessed all the rights of a member, and never hesitated to exercise those rights in case of necessity.

But that is not here a material point. The House failed to silence the member from Iowa while he was insulting the member from Kentucky. Now, sir, that is a reason why the House should be lenient in dealing with the gentleman from Kentucky—in passing judgment upon him. I urge it as such a reason, and in no other way. I say that when the House of its own free motion failed to protect the gentleman, every member sitting still in his seat and forbearing to exercise the right belonging to him, notwithstanding a direct appeal twice repeated from the gentleman from Kentucky to exercise that right and screen him from insult, it is not just for the House thus acting to visit with undue severity the gentleman who seeks for himself the protection which the House refuses to give him.

As I have already remarked, freedom of debate must be protected; but I submit that this mode and manner of protection must be governed by the reason for the protection. Why should we protect freedom of debate? Why do we have debate at all? In order that in the discussion of all questions of public interest, both great and small, the utmost freedom of discussion may be allowed. This is the right of every one, and should not in the least be violated or infringed. But I say that no member should be allowed to take advantage of this freedom of debate thus secured to assail the personal character of another member. Possibly he may have the abstract right under the rules to do it. It may be his right, clear and undoubted, to say just what he pleases in regard to any one whom he may select for the object of his assault. That, sir, is not in question now. The question is, suppose he avails himself of that right, is he entitled to undue exceptional leniency at the hands of the House if he abuses the right which it thus allows him to exercise? It seems to me he is not. I think we owe it to ourselves to reform the evils and abuses that exist in this respect. We owe it to the dignity of this House and to the proprieties of our debates to restrain intemperate personal abuse, wanton assaults upon personal character—assaults which throw no light upon the subjects discussed and only arouse the passions and just resentments of those upon whom they are made; and if there be any defect in our rules in this regard; if there be any lack of power in the Speaker's hands to check these evils and prevent abuses of the freedom of debate which will, unless checked, inevitably lead to personal collisions and assaults, I shall take great pleasure in attempting, with the concurrence and aid of others, to devise a remedy.

[Here the hammer fell.]

Mr. BOYER obtained the floor.

Mr. HARDING, of Kentucky. Will the gentleman from Pennsylvania yield to me a moment?

Mr. BOYER. Yes, sir.

Mr. HARDING, of Kentucky. I desire to inquire whether the amendment which I offered yesterday is before the House.

The SPEAKER. It is not. The Chair stated distinctly that the gentleman had not power to move an amendment to the amendment at that time. The Chair will state the circumstances as they occurred when the gentleman from Kentucky endeavored to offer his amendment.

The gentleman from Pennsylvania [Mr. STEVENS] appealed to the gentleman from Ohio [Mr. SPALDING] to withdraw the demand for a separate vote and to have the previous question upon the pending amendment to the amendment, so that when that was disposed of the gentleman from Pennsylvania could offer an amendment to the amendment. The gentleman from Ohio consented to that. He demanded the previous question on the amendment to the amendment and withdrew his demand for a separate vote. When this had been done the gentleman from Kentucky insisted that he had the right to offer an amendment. The Chair ruled that, as the call for a separate vote had been withdrawn and the previous question demanded at the request of the

gentleman from Pennsylvania, he had, according to usage, the right to move an amendment to the amendment. He did offer such an amendment, and that is now the pending proposition. As it is an amendment to an amendment no additional amendment can be offered at present.

Mr. HARDING, of Kentucky. I understand afterwards, when the gentleman from New York [Mr. RAYMOND] had the floor, he yielded to me for the purpose of having my amendment read. The amendment offered by the gentleman from New York [Mr. HALE] has been disposed of.

The SPEAKER. Then the gentleman from Pennsylvania moved to amend, which is as far as the rules allow, except by unanimous consent.

Mr. HARDING, of Kentucky. The gentleman from Pennsylvania did not offer any amendment.

The SPEAKER. He did offer an amendment, to strike out the first and second resolutions and insert that reported by the minority, which is the pending proposition.

Mr. RAYMOND. I wish to inquire whether the motion of the gentleman from Pennsylvania overrides the privilege of a member to call for a separate vote.

The SPEAKER. It does if it is agreed to; but if it should fail then a separate vote can be taken on the separate resolutions.

Mr. HARDING, of Kentucky. Was it not the understanding that we should have a separate vote?

The SPEAKER. But the gentleman from Ohio withdrew his demand for a separate vote for the purpose of allowing the gentleman from Pennsylvania to move an amendment.

Mr. HALE. I raise a question of order, whether the motion of the gentleman from Pennsylvania, being in the nature of a substitute for the substitute proposed by my colleague, it is not now in order to move to amend the amendment of my colleague in the way of perfecting it.

The SPEAKER. Both are substitutes.

Mr. HALE. My point is, whether it is not in order to move to amend the proposition of my colleague by striking out certain words and inserting certain others, not making a substitute for it but modifying it.

The SPEAKER. It is not; but the gentleman from New York [Mr. RAYMOND] can modify it himself before the vote is taken.

Mr. HALE. I supposed that any motion to amend for the purpose of perfecting the original resolution was in order before adopting the substitute.

The SPEAKER. It is a substitute for an entire resolution. If either one was partial in its character then it could be perfected, but they are all of them submitted as a whole, and they cannot be amended by any rule known to the House.

Mr. RAYMOND. Suppose the resolution moved by the gentleman from Pennsylvania as a substitute for the first two should be carried, will it then be in order to take a separate vote on the second of the two?

The SPEAKER. After that substitute shall have been agreed to no part can be stricken out; but a majority can add to anything that has been inserted if it is germane to the subject.

Mr. RAYMOND. Then if the resolution moved by the gentleman from Pennsylvania is adopted and a reprimand is substituted for expulsion, after that it will be competent for the House to pass a resolution disapproving of the conduct of the gentleman from Iowa.

The SPEAKER. It will be competent for the House to add to the language of the resolution, but not to add a separate resolution. It must all be one resolution. No part of what is ordered to be inserted can be stricken out. The Chair will refer to the Digest, page 11.

Mr. BOYER. Mr. Speaker, if I had obtained the floor yesterday at the time I sought it, I perhaps should have discussed at some length one or two questions involved in this

case. At this stage of the debate I shall have very little to say. I do not find fault with the committee for having decided that both the gentleman from Kentucky and the member from Iowa were guilty of a breach of the privileges of the House. I do not find fault with them for having recommended that each should receive some punishment at the hands of the House. But I deny the justice of the discrimination in regard to the penalties which they have recommended, and I take issue with them upon the doctrine which they proclaim, that no words can be spoken on the floor of this House which would in any degree excuse the resentment of them in any other place. The degree of provocation which one member receives from another by the use of improper, intemperate, and abusive language must always be taken into consideration when you undertake to judge of the act which it has provoked. You may lay down rules, it is true, which provide for no excuse for an act no matter by what provocation it may be instigated; but you cannot repeal the laws of human nature; you cannot repeal the sense of honor which regulates the intercourse of gentlemen; you cannot repeal the public opinion which justifies a man for resenting certain gross affronts, whether the act by which he undertakes to enforce his resentment be according to the strict letter of the law or not. In this case I cannot bring my mind to see that the facts—

Mr. O'NEILL. Will my colleague yield for a question?

Mr. BOYER. Certainly.

Mr. O'NEILL. Do I understand him to advocate the code of dueling?

Mr. BOYER. No sir; I said nothing to justify the gentleman in drawing any such inference, and if he waits until I conclude it is very probable the necessity for the question will be avoided.

Mr. O'NEILL. I only judge from the tenor of the gentleman's remarks that he intended to make that argument.

Mr. BOYER. The gentleman has not yet heard much of my argument; if he will have a little patience we shall probably soon have a better understanding of each other.

I cannot, as I was about to say, bring my mind to see the vast distinction which has been made by the committee between a breach of privilege which has been committed against this House by the member from Iowa, and that committed by the gentleman from Kentucky. It is difficult to conceive of a personal attack made by words upon a member of this House more gross and contrary to the proper order and decorum of this body, than that which was made by the member from Iowa upon the gentleman from Kentucky. He called him an incoherent, brainless defender of the President. He said that as a general he had no record; that as a soldier he was without courage. He denounced him as a pretender, and insinuated that he was held in contempt by General Grant and other officers of the Army. The member from Iowa was called to order, it is true, but he was afterward permitted to go on to the end. He was twice mildly rebuked by the Speaker, when invoked by other members to interfere, but still he was permitted to proceed not only in order, but out of order, until he had exhausted the entire budget of his foul invective.

I maintain that this House by having allowed that attack upon the gentleman from Kentucky to be continued after the gentleman from Kentucky had twice given warning that unless he was protected by the House he would be obliged to protect himself, put itself in the wrong. By that omission on the part of the House to extend to the gentleman from Kentucky that protection to which as a member of this House he was entitled, it failed to vindicate its own dignity as well as the rights of the member so assailed; and it could not with any degree of propriety or justice visit upon the head of the gentleman from Kentucky the penalty which the committee has proposed. Before the House can justly punish with severity a member for a

breach of its privileges it should see that he has no cause of complaint for not having had that protection which the rules of the House and the rules of decorum afford him.

In the British Parliament they manage these matters in a different way, and I desire to call the attention of the House to the rules and usage in the House of Lords and the House of Commons in this particular. There they are swift to punish any breach of the privileges of Parliament; but they begin by extending to the member first assailed the most ample protection. They do not permit the occasion to pass without visiting upon the member who offends by the personal abuse of another the rebuke which he deserves for the violation of the dignity of the body to which he belongs. In the House of Lords the following rule prevails, having been enacted as long ago as 1626. I quote from May's Law and Usage of Parliament, page 319:

"To prevent misunderstanding and for avoiding of offensive speeches when matters are debating, either in the House or at committees, it is for honor sake thought fit and so ordered that all personal, sharp, or taxing speeches be forborne; and whosoever answereth another man's speech shall apply his answer to the matter without wrong to the person; and as nothing offensive is to be spoken, so nothing is to be ill taken if the party that speaks it shall presently make a fair exposition or clear denial of the words that might bear any ill construction; and if any offense be given in that kind, as the House itself will be very sensible thereof, so it will sharply censure the offender and give the party offended a fit reparation and a full satisfaction."

In the House of Commons substantially the same rule prevails. The author says:

"The House of Commons will insist upon the offensive words being withdrawn, and upon an ample apology being made, which shall satisfy both the House and the member to whom the offense has been given. If the apology be refused, or if the offended member decline to express his satisfaction, the House take immediate measures for preventing the quarrel from being pursued further by committing both the members to the custody of the sergeant."

In a notable instance when, in the heat of debate, personalities were resorted to by Mr. Fox in his debate with Mr. Wedderburne, and he was about to leave the House without having made an apology, the doors were locked, and he was kept in the hall until he had satisfied the House for his offense against its dignity, and had by an apology rendered a proper reparation to the injured member.

Sir, if the Congress of the United States were to adopt and enforce such rules as these there would be no excuse for a gentleman on account of abusive words made use of against him in debate to resort to a cane or to any other instrument for the infliction of personal chastisement in a case like this. Because when the House had judged of the case, and had exacted the amount of reparation which it deemed to be due that would put an end to controversy. But that is the very thing which the House neglected to do in this case.

It is scarcely worth while for the majority of the committee to tell us that there can be no such thing as an excuse for a gentleman under any circumstances resorting to redress outside of the House for slanders uttered in debate. Public sentiment in such cases, if it does not prescribe the law on the statute-book, will make the law which in effect repeals and supplies it. Bad as it is this is perhaps not the worst case of personal abuse that might be imagined. Is there a gentleman upon this floor who cannot imagine a slander repeated against him or his, not to resent which would make him a mark for the contempt of any community in which he happened to live? There are offenses of that kind which might be committed which any member's constituency would justify him in resenting by a castigation even still more severe than that administered to the member from Iowa. Not only is the provocation to be taken into consideration, but before this House can decide justly in this case it must consider the neglect of its own duty in not having provided against this contingency by the prompt enforcement of its own rules.

Now, sir, while the committee recommend that expulsion, the very highest penalty which the House can inflict, shall be visited upon the

member from Kentucky, they only recommend that the House express its disapprobation of the conduct of the member from Iowa. They simply say, to use their own words, that his act "merits the disapprobation of the House." And I say, therefore, that while the penalty which is thus recommended to be inflicted upon the gentleman from Kentucky is, beyond all reason, excessive, that which is proposed to be inflicted upon the gentleman from Iowa is unreasonably mild.

Gentlemen talk about the freedom of debate, and say that it must be preserved. So it must, but not to such an extent as that the moment a gentleman becomes a member of this House he therefore is clothed at once with an unlimited license to become a blackguard. When gentlemen, by their election to this House, win for themselves the designation of "honorable," that is surely no reason why they should less observe the amenities of decent society or that they should cease to have a proper regard for the feelings of others.

The offense committed in this case by the member from Iowa, the committee even say was as great an offense of that nature as could be conceived of. According to the report of the committee in their finding of the facts, the language used by the member from Iowa was malicious and vile in spirit, and utterly false in fact. It was used, too, against a man upon whom no better eulogy can be pronounced than that which was contained in the remarks of the gentleman from Ohio, [Mr. SPALDING,] the chairman of the select committee, who reported the resolutions of the majority. But he concludes that, therefore, because the character of General ROUSSEAU is exalted, the more fit subject is he for punishment on account of the offense with which he stands charged. In this, too, I differ with the gentleman from Ohio. I say rather that the higher the character of General ROUSSEAU, the greater is the offense which has been committed by the member from Iowa in thus falsely and maliciously assailing him on this floor. Let the House, therefore, before it judges the gentleman from Kentucky, judge itself. Let this House see whether it has done its own duty in this matter—whether it has interposed when it should have interposed and afforded to the gentleman from Kentucky such protection and reparation as deprived him of all reasonable excuse for afterward taking his character and his honor into his own keeping. This is the question which the House must first decide before it can justly decide against him upon either of the resolutions reported by the committee. Mr. Speaker, I yield the remainder of my time to my colleague, [Mr. JOHNSON.]

Mr. JOHNSON. Mr. Speaker, this House is sitting as a court of justice in the discharge of an unpleasant duty to itself and the country, growing out of a personal difficulty between two of its members, and however much we may regret the occurrences which have called forth this investigation and now demands our action, we owe it to ourselves, to the country, and to posterity as well as to the gentlemen arraigned, that we should free our minds of all possible bias, personal or partisan, and discuss and decide these questions with strict impartiality and according to our best judgment. And inasmuch as the questions involved are of a judicial nature, I propose to discuss them as if they were pending in a court of justice, and for this purpose I adopt the majority report of the committee so far as the statement of facts is concerned, and viewing them from the impartial position or stand-point which my personal and political relations toward the gentlemen more immediately involved warrant me in claiming, I proceed at once to state some of the reasons which have led me to conclusions different from those of the committee.

The admission of the honorable chairman of the committee that the paragraph in the report which refers to Colonel Pennybaker, Colonel Grigsby, and Dr. McGrew, as having been present at the assault and battery "as friends" of General ROUSSEAU should not be held to mean

that they were there by any previous arrangement of that gentleman, relieves the case of much difficulty; and he having also admitted that the testimony warrants a correction of that part of the report which affirms that Mr. GRINNELL was not actuated by malice or personal feeling toward Mr. ROUSSEAU, another ugly feature in the report falls to the ground, and with it must also fall the censure that is directed toward Colonel Grigsby and Dr. McGrew for being present with loaded pistols. For if they were not there as friends of General ROUSSEAU by previous arrangement, it will be difficult to hold them, and much more difficult and unreasonable to hold him responsible for their presence upon that occasion, and inasmuch as no use was attempted or previously intended to be made of those weapons, the fact of their existence there at the time can have nothing to do with the case except to embarrass it.

Stripped, therefore, of all cumulative matter, the case stands briefly as follows: Mr. GRINNELL feeling himself insulted at some allusion which General ROUSSEAU made to him at a mass meeting in New York, in which he was referred to as "one Grinnell," and also at some allusions which were made to him in this House, which all agree were parliamentary, took occasion to obtain unanimous consent to make a personal explanation and in the course of that explanation used language which was not only unparliamentary, but of a character the most offensive that it is possible to conceive; language which, if believed, must transmit the name of General ROUSSEAU to posterity with everlasting infamy. Called to order, he resumed his seat, and up to this hour, although his attention has been called to this matter by the raising of the committee, by the investigation before that committee, by the report of the committee, and by the debate on this floor, yet he has maintained a most sullen silence, and has not even suggested or allowed any suggestion to be made that he is willing to offer any apology to the House for this violation of its order, decorum, and dignity; much less has he shown any disposition to apologize to General ROUSSEAU for his assault upon him, nor has he signified his willingness to retract the imputation of cowardice which he has made toward a gallant and brave officer of the Army, although the united voice of the whole country, the sentiment of this House and all the matters relating to this investigation concur in denouncing his statement as having no foundation in truth, but made without any personal knowledge of his own, and upon information which, to say the least of it, is false.

Yet, sir, by the majority report we are called upon to expel the one and to say that we disapprove of the course of the other. This I cannot do. I had doubt of our authority to disapprove because of the technical objection that the words were not specifically objected to and by request taken down in writing at the time, but I now agree with the Speaker that they were objected to, and inasmuch as our corps of most efficient and faithful reporters did in this case, and always do, put in writing all words spoken in debate or otherwise upon the floor, they were taken down, not by any special request, but under the general regulation substantially according to the facts; so I have no longer any difficulty on that score.

The language having been used while occupying the floor of the House, and being clearly unparliamentary and highly offensive, I have no hesitation in entering my unqualified disapproval of it, nor have I any doubt of our authority to do so under the rules of this House. This disposed of, we come to the proposition to expel the gentleman from Kentucky, [Mr. ROUSSEAU,] and very naturally we ask the question, why expel the one and not the other? Before I can vote to expel one who holds his seat by the same right that I hold mine, and thus deprive an American constituency of its rightful and chosen Representative on this floor, I must be well satisfied of its forfeiture and of my right to pronounce it.

So far as General ROUSSEAU and his acts are



concerned, it matters not a single pin that there were any persons present at the castigation, excepting that the act, being committed in so public a manner, is more flagrant. His offense consists in having committed an assault and battery upon a member of Congress for words spoken upon the floor of the House. It is not and it cannot be maintained that this was done in violation of the good order and decorum of this House as an organized body, and therefore the facts that it was done upon the east portico of the main Capitol, about midway between the two Houses of Congress and about one hundred and fifty yards from this Hall, at a time when this House was not in session, do not in any material way change the character of the offense. It is not an offense against the order of this House; the committee do not so contend, and for such an offense the facts give this House no jurisdiction.

The committee, however, affirm that the offense is a personal indignity to a member of this House and was so intended, and that is certainly true; but they have not undertaken to show that we have any authority to punish a member of this House for inflicting an indignity upon the person of one who is also a member; much less do they in any way pretend that for such personal indignity we have a right to deprive a constituency of its chosen Representative. If we can take cognizance of mere personal indignities offered to members of this House it will matter not where they are committed, whether near the Capitol or far from it, nor when committed, whether before the member is sworn in or after. Such an authority can only be based upon the assumption that the person of a member of Congress becomes sacred by his election; and if another member is to be held responsible at the bar of this House for assaulting one away from the Halls of this House, then any citizen can be so held, while a member may strike a citizen with impunity, so far as this House is concerned; and thus the member becomes a privileged character and members a privileged class, to be recognized and deferred to by the people wherever they are.

Surely, this doctrine does not harmonize with that perfect equality of all men upon which our Government is founded, unless that equality is simply an equality before the law, and then we must turn all such cases over to the courts of law where member and constituent, Congressman and citizen may be tried, not by an undefined and mixed tribunal like this House, but by courts of law and according to the law of the place where the offense is committed. The facts that the party assaulted is a member of Congress, that the object of the assault was to degrade him, and thus lessen his usefulness as a Representative, are matters which a court of justice may well consider, and if committed by a member it is expressly provided that he may be imprisoned and even detained from the House while in actual session for any offense amounting to a breach of the peace. Then why not leave the courts of this District and city to hear and determine this case of assault and battery according to law? Their authority to do so is unquestioned and unquestionable.

But the committee say the offense is a breach of the privileges of this House, guaranteed by the clause of the Constitution which declares that—

"They [members of Congress] shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place."

These are the privileges of members of Congress. Not one word is here said about personal indignities. The arrest referred to is an arrest by process of law, and that process is not suspended except when the member is actually attending to his official duty, and that not because of any sacredness that is supposed to have attached to his person, but because of the right which his constituents have to his

services, and the cause of arrest is for debt, libel, slander, or other tort not amounting to a breach of the peace. For these he is not to be arrested while attending to his official duties, but may be arrested at any other time, and the arrest here referred to is very evidently an arrest by legal process. The latter clause declares that for any speech or debate he shall not be questioned, &c. What kind of questioning is here meant? Surely, it is not the right which his constituents have to call him to account for the manner in which he may discharge his duties. The first clause privileges the member from arrest going to, attending upon, and coming from the sessions, &c., and the second privileges him from accountability for what he shall say in speech or debate. Is it not evident that in both of these cases the arrest and questioning mean the same, and have reference only to arrests by legal process and to legal accountability sounding in damages in any court of law?

Could the framers of the Constitution have intended by this clause to protect members from assaults and batteries and personal violence? Are not all men equally protected from such interferences by the law of the land, and were they not so protected at the time of the adoption of the Constitution? Does the Constitution, as it stands, by its omission authorize a violent and unlawful arrest of a member when he is not going to, coming from, or attending upon the session of his House, or had not the second clause been inserted, could a member have been violently held responsible for what he said in speech or debate? If such clause was not necessary for such protection, why was it inserted? Such being the case, why hold General ROUSSEAU for a violation of the Constitution in doing what the Constitution was not intended to prevent? Violent arrests and assaults were then, as now, breaches of the peace and punishable by law throughout the whole country, and the clause in the Constitution was never intended to take this right of trial by jury and according to law from the proper tribunals recognized and authorized under the Constitution. The fact that the Constitution has provided no penalty for such arrests and such questionings proves that it was not intended that Congress should execute the Constitution as the courts do the law. Where do the committee find authority for indicating expulsion as the proper measure of punishment for a breach of privilege in this respect? There is no law fixing that punishment for any offense. They say it is necessary as a means of protection; and that would be a very good argument in favor of the passage of a law to that effect except that expulsions and banishments are not according to our code. Fines and imprisonments are the penalties for crimes in this country that are not capital. If we have authority to fix a certain punishment, because that kind of punishment seems most necessary to prevent the recurrence of the evil, then we may select such as commends itself to the particular case and the party offending, and a majority might favor banishment or the guillotine.

But, Mr. Speaker, we have authority to expel. It is in the Constitution, article one, section five. It is as follows:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

Here, then, is your authority to expel a member as a measure of punishment. When, therefore, we have made rules which prescribe expulsion as a punishment for disorderly behavior, and any member violates such rules we can expel him. Disorderly behavior is behavior in violation of good order, in the parliamentary sense, and may be found in what might be styled parliamentary common law, but ought to be found in the written order and previously adopted rules and regulations of the House. In the absence of such law we cannot now make a rule, a resolution, or an order to take effect after the offense is committed, for that

would be *ex post facto* and is specially prohibited. The Speaker is the organ of the House upon all questions of order. He looks to his rules for his authority to preserve order. His gavel we are all bound to respect, and hearing its sound we are supposed to be silent.

Suppose the honorable Speaker had been present at this castigation, what course would he have taken to prevent it or restore order? By disorderly behavior, in the sense of the Constitution, is meant behavior disorderly as to the rules which the House is authorized to determine, not that kind of behavior which is disorderly as to the public peace and general good order of society. Would he have called the gentleman from Kentucky to order? If he were expected to do that he would have to carry his gavel with him wherever he goes, and our Sergeant-at-Arms, with his mace, would have to accompany him to enforce his orders. Suppose he had been present, and some one had called the gentleman from Kentucky to order, and having stated his point of order that the gentleman was violating the Constitution, would not the Speaker have answered, as he always does, and very properly, that he can only enforce rules of order, and not the Constitution?

But, Mr. Speaker, I will pass to another clause of the section held to have been violated, and inquire, what is meant by speech or debate, as the words are used in the Constitution? I contend that these words mean legitimate debate, such speech or debate as is tolerated under the rules of the House. Can it be said that because a member obtains the floor and, not being called to order, proceeds to indulge in what may be called mere blackguardism, that the Constitution was intended to protect him because he calls it debate? I use the word blackguardism, not in its offensive sense, but as indicating that kind of offensive language that has no relation to any matter before the House and is personal in its character. I admit that he cannot be sued in a court of justice for what is said upon the floor of the House, although it be the purest blackguardism, for the reason that no court of justice can decide a question of order in this House. Courts are bound to presume that what is permitted to be said on the floor of Congress is said in order and legitimately, and hence it is that even in blackguardism the member is protected without holding that the Constitution intended to go further and authorize us to protect him from assault away from the Hall of the House. General ROUSSEAU is guilty of a crime; he has violated the law, and being a member of Congress he is guilty of a very bad example, and is liable to be punished according to law. The provocation was great, but does not justify the remedy he has chosen.

Were this crime a felony or of such infamous character as to render him unworthy to be associated with gentlemen upon this floor, then we could expel him, no matter where it was committed. And having expelled for such reason we might refuse him a seat for the same reason if reelected, and so an offense warranting expulsion should also warrant rejection as a disqualification to occupy a seat.

He is not only guilty of a crime, but, in my judgment, he is guilty of a great folly. Had he known how little regard was paid to these aspersions of his character, he would, perhaps, have taken no notice of them, but he did not know this. The iron went to his heart. The foul slander was written upon the records of this House and must go down to posterity. He could make no reply, for he could not descend to the same level on which he was assailed. Parliamentary language would take no effect upon his assailant. The charge of cowardice, which it is easy to make and easy to prove if true, yet cannot so easily be disproved though never so false. He could not ask an investigation and his assailant would not. The world read the charge and heard of no denial. The verdict of the country is with him now that the attention of the people is called to his character. The committee have said all that they

could to refute the libel so far as mere declarations go. But they ask us to expel him for violating the privileges of debate, and thus dignify the slander by calling it debate. To this I say no, I will not do it. I will not be a party to this slander in any way, and in going out of my way to find authority to expel him I betray my willingness to become a party to the slander. Had he violated the rules of the House I would say so. Were I a judge on the bench, and were the case before me, I would execute the law, but I will not be a volunteer to hunt up some sort of a punishment for a brave man who has done no more to vindicate his honor than he has done.

Under all the circumstances it is well that this investigation has taken place. The truth has been developed, history is set right, and the honor of a gallant soldier stands vindicated before his countrymen. Here I would prefer to stop and gladly vote to lay the whole subject upon the table. If anybody wants a further vindication of the law let him go into the courts and get it, for, thank God, they are again open, open to all, the highest and the lowest, the citizen sovereign and the servant Congressman. Before this tribunal the offender will be punished according to his offense and the established law relating to it. He will not be there arraigned as he seems to be here. There the counsel for the prosecution will not be permitted to wander back to transactions several months ago, as the gentleman from Iowa [Mr. Wilson] has done, to weigh and balance accounts between the parties to the end that it may be ascertained whose quarrel was then most just.

Surely this is far fetched, but not any further than much of the debate upon this question, especially that part of the argument of the gentleman from Iowa, that the gentleman from Kentucky had violated his oath to support the Constitution when he struck his colleague with a rattan. If that argument is true, then the gentleman from Kentucky is guilty of treason. Yes, sir, treason against the Constitution, proved by an overt act. Of the same character is the argument relating to the threat to shoot an officer of the Freedmen's Bureau.

All these have really nothing to do with the question before the House, and would be ruled out in a court of justice. Hence the wisdom of the framers of the Constitution in leaving all these matters to be determined in courts of justice according to the established and recognized law of the land. With their decision and determination, with power to appeal, all men ought to be satisfied.

Mr. GARFIELD obtained the floor.

Mr. HOOPER, of Massachusetts. I ask the gentleman to yield to me for a moment.

Mr. GARFIELD. I will do so.

#### MERCHANTS' NATIONAL BANK.

Mr. HOOPER, of Massachusetts. I move to reconsider the vote by which the House ordered the printing of the testimony accompanying the report of the Committee on Banking and Currency relative to the Merchants' National Bank of this city.

The SPEAKER. That motion will be entered.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 145) for a grant of land to aid in the construction of the Northern Pacific railroad and telegraph.

The message further announced that the Senate, proceeding, in pursuance of the Constitution, to reconsider the bill entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill, had repassed

the same, two thirds of the Senate agreeing thereto.

#### ASSAULT UPON A MEMBER—AGAIN.

Mr. RAYMOND. The gentleman from Ohio yields to me, and I modify the resolution which I have submitted as a substitute by striking out the words "summoned to the bar of the House and be there publicly reprimanded by the Speaker," and inserting instead the words "and is hereby reprimanded;" so that the resolution will read:

*Resolved*, That Hon. LOVELL H. ROUSSEAU be, and he is hereby, reprimanded for the violation of the rights and privileges of the House, of which he was guilty in the personal assault committed by him upon Hon. J. B. GRINNELL for words spoken in debate.

Mr. STEVENS. Inasmuch as the gentleman from New York [Mr. RAYMOND] has modified his resolution, I modify my motion so as to strike out the three resolutions reported by the committee and insert the resolution as originally reported by the minority.

Mr. GARFIELD. Mr. Speaker, at this late hour of the day, and at this late period of the discussion, I regret to occupy the time of the House at all. There have, however, been a few points made during the progress of this discussion, which, at the request of some of the gentlemen who have this subject in charge, I will notice. I wish to say at the outset that both the gentlemen concerned in this assault are personally known to me; both are my personal friends, and I am theirs. I trust, therefore, that nothing that I shall say will be construed as arising in any degree from personal feeling against either of them. The difficulty between these two members began in a war of words, waged at two distinct periods. The first was in February last, beginning with the 3d and ending with the 8th of that month, the history of which is substantially as follows:

1. Saturday, February 3, 1863, (Mr. GRINNELL in the chair.) In a speech on the Freedmen's Bureau bill, Mr. ROUSSEAU, after relating a case of arrest in his own town, reports himself as saying to the officer of the Freedmen's Bureau as follows:

"Now, sir, I told the agent of that bureau then just what I thought and felt in reference to this matter. I said to him, 'If you want to protect the freedmen of this community, I am with you heart and soul. I will stand by you in all just measures; but if you intend to arrest white people on the *ex parte* statements of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me I would kill you when you set me at liberty; and I think that you would do the same to a man who would treat you in that way, if you are the man I think you are, and the man you ought to be to fill your position here.'"

2. On Monday, February 5, in the course of a general speech on the same subject, Mr. GRINNELL said:

"The honorable gentleman from Kentucky [Mr. ROUSSEAU] declared on Saturday, as I caught his language, that if he were arrested on the complaint of a negro and brought before one of the agents of this bureau, when he became free he would shoot him. Is that civilization? It is the spirit of barbarism that has too long dwelt in our land, the spirit of infernal regions that brought on the rebellion and this war."

Mr. SMITH. I wish to say that my colleague [Mr. ROUSSEAU] does not belong to that class of men that the gentleman from Iowa speaks of. He served in the Union cause four years during the war.

Mr. GRINNELL. History repeats itself. I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him."

3. On Tuesday, February 6, Mr. ROUSSEAU denied having used the language, and said:

"Mr. Speaker, I did not use the language imputed to me by the member from Iowa, [Mr. GRINNELL.] And I pronounce the assertion that has just been read, that I have degraded my State and uttered a sentiment unworthy an American officer, to be false, a vile slander, and unworthy to be uttered by any gentleman upon this floor."

4. On Thursday, February 8, Mr. GRINNELL produced the Globe containing Mr. ROUSSEAU's speech of February 3, and claimed he had quoted him correctly. He then said:

"I give the member the full benefit of an explanation of his declaration that he would kill a white officer acting under oath and in the discharge of his duty, if that is a less unworthy act than to shoot an

American citizen of African descent. That may not have been degrading to his State, and whether it was, as I said, language unbecoming an American officer is a question which I shall refer to the gallant soldiers of the State of Iowa who never fought, thank God! but on one side, and it may properly be decided by the code of the first of American generals, and referred to the greatest of American captains, the Lieutenant General of the United States."

5. Same day, and immediately, Mr. ROUSSEAU responded as follows:

"Mr. Speaker, I cannot allow the gentleman to become defender of the troops from the free States. I simply wish to say that I have made no reflection upon the soldiers of the various States. I have fought with them, sir, and I only wish that the gentleman from Iowa had been willing to be present to see how bravely and gallantly the troops from his own State and all the free States deported themselves in time of battle."

This concluded the February personalities, in which many unpleasant and severe things were said offensive to good taste and the courtesy due from one member to another, but not so disorderly or unparliamentary as to have led any member to call either of the parties to order. It was such a collision as we have frequently witnessed in this Hall, which we all regret, but which, as the gentleman from New York [Mr. RAYMOND] has said, was not in clear and palpable violation of parliamentary privilege.

The conclusion of that whole debate of February seemed to be this, that each party was satisfied with his share in the discussion. The gentleman from Iowa intimated that he might have done the gentleman from Kentucky a wrong, and that if so he was willing to apologize; and the gentleman from Kentucky expressed himself as entirely satisfied with his share in the debate. I supposed that a balance-sheet had been struck, and that their friends would decide which of the two gentlemen "had come out best" in that February rencontre. I take it, therefore, that for all purposes of this investigation, the February matter is out of the case.

In the month of June, four months later, the subject was reopened by the gentleman from Kentucky, in a speech delivered by him in New York, in which, referring to an onslaught made on him in the House, he spoke contemptuously of the gentleman from Iowa as "a pitiable politician from Iowa—one GRINNELL." That is the first incident in the second act of this drama.

On the 11th day of June, during a speech in this House, the gentleman from Kentucky, of his own accord, reopened the case, and reviewed the old discussion between himself and the gentleman from Iowa, as follows:

"I said, sir, awhile ago, that things had been constantly made at my native State, in my hearing, upon this floor; and last and least of all things and everybody, let us give a moment's attention to the member from Iowa, Mr. GRINNELL, who first assailed her here. Shortly after Congress assembled he assailed my State and myself; he charged that I had degraded my native State by saying that I would defend my family against the agents of the Freedmen's Bureau. That member was pleased to say on the floor, in answer to a suggestion of my colleague, [Mr. SMITH] that he did not know whether I had fought four years on the rebel side or on the Federal side in the late war."

I had under my command and fighting under me from that member's State some of the bravest troops from any State in the Union. I was in the war from the beginning of it until the end. In the Northwest I was known to have been in the Federal Army; but that member said he did not know whether I was on the rebel or the Federal side. I do not suppose a member in the House believed one word of what he said."

Mr. GRINNELL. Mr. Speaker—  
Mr. ROUSSEAU. No, sir; I cannot be interrupted now. I wish to say that when a member can so far depart from what everybody believes he ought to know, and does know is the truth, it is a degradation, not to his State, for he cannot degrade her, but to himself."

In this paragraph he distinctly charges the gentleman from Iowa [Mr. GRINNELL] with saying two things which the record shows he did not say. In other words, the gentleman from Kentucky very plainly misrepresented the gentleman from Iowa in two particulars, which have been so fully discussed that I hardly need refer to them again. One of them, however, has not, as I think, been properly appreciated or represented by any gentleman who has spoken, and I will advert

to it. It is this: the gentleman from Kentucky charged that the gentleman from Iowa had said in his place in the House that he did not know whether the gentleman from Kentucky had fought on the Union side during the war or on the rebel side. Whereas the gentleman really said, "I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say he degraded his State and uttered a sentiment I thought unworthy an American officer." Now, I think that gentlemen have not been exactly correct in their comments on that passage. It is quite a different thing to say, "I do not care whether you fought on the Union side or not," from saying, "It makes no difference to my present argument whether you fought on the Union side or on the rebel side." Now, I hold that the remarks of the gentleman from Iowa had precisely the latter scope and meaning. He had stated as his opinion that a certain sentiment uttered by the gentleman from Kentucky was a disgrace to that gentleman's State, and a disgrace to himself, whereupon General SMITH, of Kentucky, said he did not think his colleague ever used the words imputed to him, and called attention to the fact that his colleague fought four years in the Union Army. It was in response to that remark that the gentleman from Iowa said what I have referred to, and I think I have accurately stated the scope and purport of his remark. I do not believe that it can be fairly inferred that he did not care whether General ROUSSEAU fought on the Union or rebel side. It was simply a declaration that the whole question of fighting on the one side or the other was not pertinent to the subject then in debate.

The gentleman from Kentucky, in reopening this conflict of personalities between himself and the gentleman from Iowa, on the 11th of June, also made another misrepresentation. He declared that the gentleman from Iowa had called him an unworthy member, and a disgrace to his State, because he had declared that he would defend his family against the agents of the Freedmen's Bureau. This is clearly misrepresentation, as the record in the Globe already quoted shows. After having made these two palpable misrepresentations he proceeds to say that what the gentleman from Iowa had uttered in the House in February was not only false, but that he did not suppose there was a member on the floor who believed a word that the gentleman said. And he went on to say that the gentleman himself knew that it was not true; and he concluded by saying that the gentleman, in what he had said, had not degraded his State—for he could not degrade her—but that he had degraded himself. Four months and three days after the first controversy had closed, with about equal credit to both parties, the gentleman from Kentucky not only repeats it by two palpable misrepresentations of what had been said by the gentleman from Iowa, but he goes on to declare that every member knew it was false; that the gentleman himself knew it was false, and that he degraded himself in saying so.

Suppose Mr. Speaker, that the gentleman from Iowa had answered not a word, but had applied to the House to pass a vote of censure on the gentleman from Kentucky for this personal, slanderous assault, is there a member of this House who would not have felt compelled to vote, if not for a censure, at least for a most marked disapprobation of the conduct of the gentleman from Kentucky? Gentlemen say it was a terrible thing for the gentleman from Iowa to impute cowardice to the gentleman from Kentucky and assail his military record. I beg them to remember that to be a man is far greater than to be a general; that to be a man is far greater than to be a legislator; that the man is greater than the office, and that one's manhood is of far more consequence than his professional reputation. I had a thousand times rather be charged with being a failure in the military profession, a failure as a legislator, a failure as a lawyer, a failure in all my official

relations, than to be charged with being a failure as a man.

Now, when a man is told on the floor of the House that he is a falsifier, and that every body, himself included, knows he is a falsifier, what, I ask, can be said more offensive? Stinging under this reproach, smarting under this charge, the gentleman from Iowa attempted to make an explanation at the moment, and the privilege of doing so was denied him by the gentleman from Kentucky, who proceeded with that portion of his speech which I have quoted. When he had concluded, the gentleman from Iowa obtained the floor and responded to the attack as follows:

"MR. GRINNELL. Mr. Speaker, it is with the greatest reluctance that I rise to say anything which might seem personal. I have been a member of this House for three sessions, and in all that time I have had no personal controversy save with the member from Kentucky, and no unkind feeling toward any person in the House. I claim to be a man of peace, and to demean myself as becomes a gentleman. But, sir, when any man, I care not whether he stands six feet high, whether he wears buff and assumes the air of a certain bird that has a more than usual extremity of tail, wanting in the other extremity, says that he would not believe what I utter, I will say that I was never called to stand under an imputation of that character in the company of gentlemen.

"The gentleman begins courting sympathy by sustaining the President of the United States preparatory to his assault upon me. Now, sir, if he is a defender of the President of the United States, all I have to say is, God save the President from such an incoherent, brainless defender, equal in valor in civil and in military life! His military record! Who has read it? In what volume of history is it found?

"Some time ago the gentleman asked some of us, 'What did you do in the rebellion but makes speeches?' And he told us that he was in the field and got some little reputation with half-way secession Kentucky. But where was he in any great fight? Ask General Grant or any of the leading officers. Where was he in the great fights? Ask General Grant if you want his private opinion about him. Go to the general officers; and since he has alluded to Iowa, I will give the opinion of a leading officer from that State, for not two weeks ago he told me that when there was a noise in camp the men said it was either a rabbit or General ROUSSEAU. He the defender of the soldiers of Iowa! Sir, they want no such defender; they want none of his defenses. He has not led them in the battle, and it is all pretense; it is the merest mockery; it is the merest trickery, the merest blowing of his own horn, for him to say that he led our soldiers. Where was the deadly hail when they were under his command? But he comes here to traduce a humble person like myself. In the first place, he charged me with saying what I never did say. When he went down to make a speech to the Fenians in New York he is reported to have said this: 'As I said on the floor of Congress on one occasion, as a firing was made at my native State by a pitiable politician from Iowa. [Hisses.] You will excuse me for giving his name, but I believe it was one Grinnell.'

"It was 'one Grinnell' that he alluded to. But I never made any firing at Kentucky. That is my name. I am so called and so known where I live. But that is not all. He was not content with using my name, but he refers to the honorable gentleman from Pennsylvania [MR. STEVENS] in these terms: 'I say that man is a miscreant, and I cannot find words to express my disgust and contempt for him.' To whom does that relate? To a member of this House! And here he stands up, six feet and over, calling himself a buttoned-up general officer.

"MR. HARDING, of Illinois. Is this sort of debate in order?

"THE SPEAKER. The gentleman from Iowa had permission to make a personal explanation. If the gentleman raises the question as to personalities, the Chair will decide it.

"MR. ROUSSEAU. Shall I be held responsible for newspaper reports?

"THE SPEAKER. The Chair cannot answer that question.

"MR. BANKS. I do not understand that in giving consent to the gentleman from Iowa, the House gave consent to him to make personal allusions, which are not justified by the rules of the House.

"THE SPEAKER. They do not; but it is the rule, as the gentleman well knows, having occupied the chair himself, that when leave is granted to a member to make a personal explanation, the Chair does not check personalities, but waits for some member to make the point of order.

"MR. BANKS. I understand the gentleman's privilege to be to state what he regards necessary to explain his own position.

"THE SPEAKER. If the gentleman from Massachusetts makes the point of order on the gentleman from Iowa, the Chair will decide it.

"MR. BANKS. I do make the point of order.

"THE SPEAKER. The Chair sustains the point of order, and decides that the remarks of the gentleman from Iowa are personal and out of order.

"MR. GRINNELL. Mr. Speaker, this is a painful exposition. But I am not responsible for it. When I make an assault I expect to receive an assault in return. I have never assaulted my equals and associates, and therefore I am not in the habit of receiving assaults in return. I have never risen here to question the integrity or doubt the veracity of any gentleman on this floor; and but for the fact that my personal integrity was assailed and that my words

were misquoted I would not have risen here to-day. I have alluded to what was said in regard to me. The gentleman remarked that he did not care a fig about what I said; but when he goes and proclaims the matter in a great city, in the presence of thousands of people, I conclude that he does not rest altogether well satisfied under the well-proven charge of having declared that he would shoot an officer of the United States, on duty, under certain circumstances. And then the member whines off with a woman's plea, taking refuge under feminine skirts, as a certain other gentleman in rebellion went off in disguise.

"THE SPEAKER. The Chair thinks the remarks of the gentleman are out of order.

"MR. GRINNELL. I have nothing further to say."

In trying thus to defend himself, and repel the assault made upon him, he committed a most grave mistake for himself as an individual, and a most grave and unpardonable violation of the privileges of the House. In short, the gentleman from Iowa put himself precisely on the same plane with his assailant; and by mutual criminations and recriminations they both violated the rules and privileges of the House. Now, I will say that I do not accept the statement made a dozen times on the floor of the House, that the gentleman from Iowa charged the gentleman from Kentucky with cowardice. I do not so read the record. I affirm that he did not charge him with cowardice. I admit that the whole tone and temper of his remarks were in contempt of the military record of General ROUSSEAU, and in the highest degree offensive to him as a man of honor and of military reputation; but I deny that he charged him with cowardice.

And now, Mr. Speaker, I come to a point to which I desire for a moment the attention of the House—a point which has been made by four or five gentlemen who have spoken on this question—namely, the suggestion that General ROUSSEAU's offense is palliated by the fact that the House did not protect him, and therefore he was left to do as he said he would do, protect himself. I meet that by denying the allegation; I meet it by the statement that the House did protect him, that it gave him all the protection he or his friends asked for, and more than they asked for. In introducing this question of protection I desire to say a word concerning the action of the Speaker on that occasion. His course has been criticised by several gentlemen here; and I was surprised to hear my colleague, the chairman of the select committee, [MR. SPALDING,] express his dissatisfaction with the course of the Speaker on that occasion. His remarks are reported in the Globe as follows:

"In reply to the gentleman I say, that if I could find myself in a mood which would enable me, after the history of the gentleman from Kentucky in connection with the Army, to charge him with cowardice or anything like cowardice, I would deem myself worthy to be expelled from this House. I trust the gentleman is satisfied with my answer.

"Sir, with all due respect, I go further, and I say that this House looks at all times to its Presiding Officer to exercise a vigilant control over its proceedings. It depends upon his knowledge of parliamentary law, his experience, his discretion, his judicious use of that potent hammer which he holds in his hand. At the first word uttered by any member in disparagement of a fellow-member, that gavel should sound its reproof, and the member should be called to order. Of this I have no manner of doubt; and I say it with all due respect. I state this, although I know the Speaker has stated it is not the practice of the Chair to call to order when gentlemen have the privilege of the House to make personal explanations. I conceive it will be found to be correct parliamentary law that members of the House at all times are under the authority of the Speaker, and that it is his bounden duty to see that the utmost courtesy prevails among members. If that be not the parliamentary law, then we should take some action to make it so."

Now, sir, I desire to say that the course of the Speaker in matters of personal explanation is, in my judgment, the correct one, and the only one which, under the spirit and genius of our Government, can be or ought to be tolerated. In other Governments, as in France, for instance, the Speaker is, in some degree, the organ of the administration. He is understood to be not only a conservator of order generally, but particularly a defender of the administration; and whenever any gentleman upon the floor of the *Corps Legislatif* says anything that reflects upon the sovereign or upon any of the heads of departments the Speaker calls him down, and thus limits debate by his



own notions of propriety. I ask the Clerk to read an extract I have cut from a paper, containing an account of what occurred in the French Legislature not many weeks ago, for the purpose of illustrating the difference between our practice and theirs.

The Clerk read as follows:

"**FRENCH LIBERTY OF DEBATE.**—In a debate in the French Legislature on the 16th ultimo, in regard to the system of conscription, a noteworthy passage occurred. The speaker, M. Glais-Bizoin, was urging an adoption of the policy of Prussia and Switzerland, of compelling only two or three years' military service. Said he:

"I am convinced that the illustrious author of the *Idées Napoléoniennes* has the same convictions now as when in exile.

"The PRESIDENT. M. Glais-Bizoin, be pleased to confine yourself to section one of the Ministry of War, without any digressions.

"M. GLAIS-BIZOIN. I am persuaded that the author of the *Idées Napoléoniennes* would not wish to expose himself to have such words applied to him as were addressed the other day by an eminent man to the Spanish minister in the Cortes: 'Your political disposition when in opposition is to speak only about progress and liberty, and when you are in power to treat as fools all those who believe in your words.'

"The PRESIDENT. M. Glais-Bizoin, I stop you and recall you to the question. It is your duty to respect the Emperor. [Great applause.] I beg you will return to the question, and not again depart from it. [Renewed applause.] If you go on I shall consult the Chamber to decide if it will allow you to continue speaking. [Exclamations.]

"M. JULES FAVRE. Then we may as well get our speeches prepared at the palace of the President.

"The PRESIDENT. I beg M. Jules Favre to explain his words, which I find very improper.

"M. JULES FAVRE. The explanation is simple enough. If every speaker were stopped in the expression of his thoughts it would be impossible to discuss anything.

"The PRESIDENT. The question is one of propriety, which should never be violated, and of which I am the guardian." [Applause.]

Mr. GARFIELD. And I also call attention to an article from a recent New York daily which contains many valuable suggestions on the subject under consideration:

"**PARLIAMENTARY DECORUM.**—Some of our contemporaries, who are not enamored of the legislation of this historic Congress, are quite profuse in their denunciations of it, and severely criticize its alleged lack of decorum. They point us, as the Herald, Atlas, and other presses have done, to the British Parliament and French Assembly as the models which Congress should imitate. Probably the following from the *Pall Mall Gazette* of June 2, which graphically describes a recent scene in the House of Commons, and which has not been rivaled of late years in the House of Representatives, illustrates the decorum they desire to have observed during our American discussions:

"The Asiatic gentlemen who last night visited the House of Commons witnessed a remarkable scene, which must have rather disturbed their previous conception of the 'collective wisdom' of a great country. For more than an hour, a large gathering of grave-looking gentlemen were engaged in hooting, howling, and groaning, while an excited little man was seen wagging a grey beard and gesticulating wildly, while every now and then—as the storm around him partially lulled—he was heard shouting disjointed fragments of sentences at the top of his voice. The oriental visitors probably learned, from their interpreter, that this was Mr. Whalley discoursing about Fenianism and the Pope, and must have been rather puzzled to know whether it was terror of the Irish or hatred of the Pope that caused such disorder.

"In the French *Corps Législatif* we often hear of equally boisterous scenes while a member is speaking. Hisses, exclamations, ejaculations, interruptions, the tinkling of the President's bell, which is used like a gavel for the preservation of order, and the President, finally despairing of quelling the chaos, declaring the session suspended till the tumult ceases. They are concerned, too—these criticizing presses—at the strictures uttered against those in authority, as if it were unprecedented. Have they forgotten Henry Clay's personal invectives against John Tyler? Are Douglas's bitter denunciations of Buchanan blotted from history? Were Jefferson, Madison, Jackson, and Franklin Pierce exempt from the severest personal censures? In a land like ours, where there is so much independence of thought, more freedom of discussion and severity of criticism are expected than in monarchical countries. And yet the legislators of Prussia have denounced their ministry quite as severely as our ministry have been denounced in Congress; and a personal allusion by one of the most gifted of England's orators to the Falstaffian form and falsifying characteristics of one of his parliamentary opponents, though biting in the extreme to its subject, passed unrebuked. In the French *Corps Législatif* the President watches the utterances of members, and, when a disparaging allusion is made to the Emperor, stops and scolds the offending member; and several of these stormy scenes have occurred there within the last year, and the description of them has been copied by the press of this city. In both branches of our Congress a different rule prevails. The presiding officer does not volunteer, with super-serviceable zeal, as in France, to check debaters in their utterances. They rule promptly when any member makes the point of order, but otherwise the freedom of debate is unchecked.

Perhaps this Congress compares unfavorably with those where pistols were drawn in the Senate Chamber, as in the days of Benton and Mississippi Foote, or when a Senator was brutally beaten in his seat for words spoken in debate, and for which he had not been even called to order; or when southern members crowded around Giddings' seat to silence his utterances, or when Lovejoy's speech provoked a *mêlée* and fight in the area in front of the Speaker's chair, or when Crawford, of Georgia, and others stood by the side of THADDEUS STEVENS and by personal threats sought to intimidate him. But, though there have been some personalities used which might better have been omitted, and though it has been harshly arraigned both by presidential and Cabinet speeches, we think this Congress will not suffer by comparison with any of its predecessors of the last quarter of a century."

Now, I wish to say that if the Speaker of this House were the organ of the Executive Government, set up over us to exercise his judgment about what was proper and what improper in all matters of debate, he would simply be the censor, critic, and judge of propriety in the House of Representatives, and might abridge freedom of debate as he should choose. On the contrary, he is the executive officer of the House, chosen by the House, bound by the rules of the House, and subject to its orders. I admit, as my colleague [Mr. SPALDING] suggests, that it is the duty of the Speaker to maintain general order and decorum in the House, yet every one knows that when a member rises to a personal explanation he must have unanimous consent, and the House, not the Speaker, gives the unanimous consent.

Mr. SPALDING. Will my colleague allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. SPALDING. I would ask my colleague, if I rise in my seat to a personal explanation, and go on to say that my colleague from the nineteenth district [Mr. GARFIELD] is a liar, would it not be the duty of the Speaker to call me to order?

Mr. GARFIELD. I take it for granted it would be.

Mr. SPALDING. Would it not be his duty to call to order in all cases of personalities of that sort?

Mr. GARFIELD. I think not in all cases, for this reason: if any member should thus assail me in the course of debate, I take it that the Speaker might call him to order. But suppose the member had arisen and had asked and received unanimous consent of the House to make some personal remarks, and it was understood that personalities were expected when he asked such unanimous consent, then I take it for granted that while every member here would have a perfect right to call him to order the moment he used such disorderly words, still the custom which has prevailed and which is now established as the rule of the House would be observed, and the Speaker would wait for the House itself to indicate its wish in the case, for the House, and not the Speaker, gives the unanimous consent. If the House determines that he may proceed, the Speaker is overruled in the matter, and the highest authority has given its unanimous consent for personalities.

Mr. SPALDING. I desire to ask my colleague whether the House is ever to be presumed to have given its consent, even by implication, that a member may proceed in a discourteous manner—in a personally offensive manner—to make his explanation.

Mr. GARFIELD. Certainly not; but I say that, according to the rules of proceeding in this House, any one of the one hundred and eighty-two members is authorized to call the disorderly member to order; and the failure of all the members to do it is an indication that the House is pleased to allow him to proceed.

My colleague [Mr. SPALDING] said yesterday that his blood chilled in his veins when he heard the language used by the gentleman from Iowa toward the gentleman from Kentucky. Why did he not then use his privilege as a member to stop it by simply raising the point of order and requiring the Speaker to decide it? After the gentleman from Iowa

had gone to a certain length in his personalities he was called to order. He was stopped first by the gentleman from Illinois, [Mr. HARDING,] and again by the gentleman from Massachusetts, [Mr. BANKS,] and the point of order was promptly sustained by the Speaker. After the gentleman from Iowa had thus been twice called to order, the Speaker announced his determination to call him to order himself, if he should again violate the rules by personalities; and subsequently, in pursuance of that notification, the Speaker did call him to order.

Now, I say that in the three instances named, the gentleman from Kentucky was protected by the House. But, it is said, the gentleman from Iowa was not required to take his seat, and the offensive words were not taken down. Whose fault was it? Why, the gentleman from Kentucky himself could have demanded it. He had his remedy. Any one of his friends could have demanded it. They all had their remedy. They saw fit to go no further than simply to call the gentleman from Iowa to order; and the call was promptly responded to by the Speaker. I say, then, that the gentleman from Kentucky had all the protection that the gentleman from Illinois asked for him, all that the gentleman from Massachusetts asked for him, all that the Speaker asked for him, and all that he asked for himself. If he desired any more protection, he ought to have asked for more. He certainly has no ground of complaint against the Speaker, who ruled in his favor on every appeal, notwithstanding the gentleman had, in violation of parliamentary law, alluded to the Speaker by name seventeen times in the first ten minutes of his speech of June 11, and had made two offensive and uncalled-for flings at the Speaker's visit to Utah and the Mormons.

Mr. DAWES. After the statements which the gentleman has made, I desire to ask him, by what authority have we then the right to arraign the gentleman from Iowa a second time? If he was arraigned by the House for a transgression of the rules and the House passed on the question, why should we pass upon it again?

Mr. GARFIELD. Mr. Speaker, that question has been so fully, clearly, and ably discussed in the decision of the Chair that I need not go into it. But I will make this statement: if the words of the gentleman from Iowa had not been objected to, then his language could not be called in question now. But his words were objected to by two members as well as by the Speaker. The words having been objected to before other business intervened, the case does not come within the rule which exempts the member from liability to be called to account for them.

I ask the gentleman from Massachusetts how it was that after half an hour of angry debate had passed the gentleman from New York [Mr. HULBURD] rose in his place and moved that certain charges which had been made and certain words which had been uttered by the gentleman from Maine [Mr. BLAINE] against the gentleman's colleague [Mr. CONKLING] should be investigated. Under that motion a committee was appointed; and that committee, after a tedious investigation, have reported to this House a resolution of censure.

Mr. DAWES. If the gentleman will allow me, I will explain the difference between the two cases. The gentleman from New York proposed to investigate charges which had been made against a member of the House, not to arraign the gentleman from Maine for having transgressed the rules of the House. My idea of this matter is that, as the words were excepted to, the gentleman uttering them is arraigned. In pursuance of that exception, and in no other way, can the gentleman from Iowa be tried. He was arraigned by the exception, and we tried him to the extent which we then thought the offense deserved—whether sufficiently or not I do not care to discuss. But then we passed judgment, and in my opinion we are not at liberty now, when upon reflection we are of opinion that we ought to have passed

a different judgment, to arraign him a second time.

Mr. FINCK. I rise to a question of order. I understand this question was made the other day and disposed of.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] has resumed the floor.

Mr. GARFIELD. The occasion for my colleague's point of order is past now. I hold that the gentleman from Kentucky had his remedy perfectly at his command, and that every time protection was asked for it was given to the full extent demanded. And not only so, but after the gentleman from Iowa had concluded his personality the gentleman from Kentucky then took the floor and proposed to repel the assault in kind, that is, to answer words by words, and did so. And I will here remark, though I did not hear the discussion myself, that it appears to be the general opinion of members who did hear it, that the gentleman from Kentucky bore himself with more dignity and propriety at the conclusion than his adversary did. I make that remark for the purpose of showing that he came out of that encounter better than he went in. He began as the assailant, but he concluded with a degree of dignity which partly covered the offensive matter and manner of his opening speech. Having come out of the encounter with some dignity and relative credit, he concluded his remarks on that occasion with these words:

"I hope now that I have heard the last of the member from Iowa. I hope I shall never have occasion to recur to the subject again. Whatever glory he has gained in this contest I am content he should wear."

Thus, Mr. President, the books were again balanced. As the war of words in February closed with about equal fortune and the books were then balanced, so, as the collision of June 11 was concluded, the books were again balanced; the gentleman from Kentucky declared himself satisfied with the part he had taken in the transaction and said the matter had ended.

Now, I hold that on every ground of honorable contest the matter was then ended. If cowardice had been charged upon one side, falsehood, which is worse, had been charged upon the other. If a slur had been cast upon the military fame of one, the deepest stain had been imputed to the manhood of the other, and after these mutual criminations and recriminations the books had been balanced and peace was declared. If anything happened after that it happened by virtue of a new assault, an assault that must stand alone by itself.

And now let us consider this assault. Gentlemen are familiar with all the details of it. I call attention for a moment to the spirit manifested by the gentleman from Kentucky on the trial before the committee. Instead of desiring to palliate his offense, instead of manifesting any purpose to explain or to apologize to the committee or the member that he had beaten, it is plainly evident on every page of the testimony that the member from Kentucky was proud of having committed the offense and wished to make it appear that it was done courageously and promptly, and that he did not even wait for an explanation. Let me read a few passages from the record of the cross-examination of Mr. GRINKELL by Mr. ROUSSEAU:

"Question. I want to ask you again to state whether I did not strike you over the shoulders with the rattan on the instant you uttered words declining an apology, whatever they were.

Answer. I said very soon. I would not say on the instant. I think you swore a good deal before you struck me.

"Question. Did not I strike you before swearing any?"

Answer. I think not.

"Question. Are you positive about that?"

Answer. I think I am.

"Question. Was not the swearing and the striking done simultaneously?"

Answer. I should say you swore first.

"Question. Did you put your hand on me until that rattan was about worn out?"

Answer. I think I caught you when you commenced.

"Question. I beg you to be sure about that matter. I ask you to bring it again to your recollection."

He wants the gentleman from Iowa to be cer-

tain that he thrashed him before any word was spoken, and to make it appear that he came to thrash him and for nothing else. He wants the committee to understand that thrashing was the business he came for, and not to ask for an apology, that he did not expect any apology, but came there to assault and disgrace a member of this House for words spoken in debate. Four times in the cross-examination of the gentleman from Iowa the gentleman from Kentucky seeks in that way to make it appear that he fought the member from Iowa as quickly as he could possibly get at him, without waiting for any kind of ceremony. That is the spirit displayed by the gentleman from Kentucky in this case. When he is called to the stand as a witness, in the same spirit he goes out of his way to put this question to the member from Iowa:

"Question. I wish to put the question to you distinctly, so as to introduce proof on that subject. I ask you again if, when I spoke to you about an apology, and you said something declining it, whether I did not instantly begin with the rattan and wear it out, and whether every blow I struck was not struck before you put your hands on me; and when you took hold of my arm did I not take you by the throat and thrust you up against a column; and did not you then remark to me, 'I do not want to hurt you,' and did not say, 'You are very kind,' or words to that effect?"

And when by-and-by the committee seemed to be in doubt whether they should decide that these things were done because of words spoken in debate, the gentleman says, "Certainly they were." He hastens to assure us that the whole thing was a matter of deliberate purpose and premeditation. He does not seek to palliate his offense. He makes no apology. It is only the amiable gentleman from New York [Mr. HALE] and his other kind-hearted friends who come before us and beg us to be lenient. The member from Kentucky gives us no ground whatever for leniency.

Now, what was this assault made for? He declares it was for the purpose of disgracing a member of the House. Was it also for the purpose of proving his courage? Mr. Speaker, if I did not happen to know of the former gallantry and courage of the gentleman from Kentucky, this assault would have proved to me that he was totally destitute of manly courage, especially when we consider the comparative physical proportions of the two gentlemen. There might have been some proof of courage if the gentleman from Iowa had assaulted the gentleman from Kentucky; but on the other side, none. There must be other proof of the courage of the gentleman from Kentucky than that. He should have assaulted a person more muscular and powerful than the gentleman from Iowa if he wished to prove his courage. His courage was already established, and I regret that he thought it necessary to reestablish it in such a way.

Mr. Speaker, I should have said nothing on this subject but for one reason. The military record of the gentleman has been referred to as a reason why the House should look leniently on his offense. Sir, let it once be decided that because a man has been in the Army he may therefore violate the personal privileges of members of the House, and there are quite a number of gentlemen on this floor who would be interested in that decision. If the military members of this House desire to have their military histories spread upon public records, and their military achievements rehearsed with all the decorations of oratory, it will only be necessary for them to get up a collision with some member that can safely be flogged, and their neglected military exploits will adorn the columns of the Globe and be scattered throughout the country. But, sir, as one of those who served in the field I utterly repudiate any such claim of impunity, and I ask gentlemen to judge me and my acts by the same rule that they judge any other member of the House. We are peers on this floor. It makes no difference whether I came here from the highest walks of military life, from the plow-tail, the work-bench, or the school-house, I am officially the peer of every member on this floor.

And I ask, Mr. Speaker, what will be the effect

of allowing this offense to pass lightly by? I was sorry that the gentleman from New York [Mr. RAYMOND] saw fit to refer to the long catalogue of barbarisms practiced in this House, and then to ask in apparent exultation, "Which one of those was expelled? Not one, not even Preston S. Brooks for his assault on Mr. SUMNER." Why was he not expelled? It was because there were enough bullies in the House to keep Mr. Brooks in his seat. But now, when a new era has dawned, when a new chapter is opened in our history, I beg members of this House to write down some bold, brave words that shall declare that here men stand upon their rights and not upon their muscle; that no longer the barbarism of bludgeons or the arguments of clubs are to be used, but the reason and judgment of men. Suppose you retain the member from Kentucky in his seat; he may have presents of canes and rattans; he may be fêted and toasted for his barbarous offense against the dignity of this House. I beg this House to set the seal of its condemnation upon his act.

Sir, look to the effect of his example. Even since I began this speech, a brutal assault has been committed in this building, in the corridors below where I stand, upon the person of the clerk of a committee of this House, and he is now weltering in his blood, his life despaired of. That clerk may die of the injuries a bully has inflicted upon him since I commenced these remarks, and if you decree that the act of the member from Kentucky shall go without rebuke, then you may as well notify all the smaller men here to arm themselves with pistols hereafter. Sir, if fighting is to be the rule, if that is what we are to expect, then let us know it that we may be prepared for it.

Sir, I shall vote for the resolution of expulsion as it has been reported from the committee without change or alteration, and I trust that this House will have the moral courage to pass it by a vote so nearly unanimous that no man shall ever hereafter hope to gain any glory by becoming a bully, and flogging members whenever he may not be satisfied with what has been said in debate.

#### ASSAULT ON A COMMITTEE CLERK.

Mr. ALLEY. I wish to say, in connection with the allusion just made by the gentleman from Ohio, [Mr. GARFIELD], that a most brutal and unprovoked outrage has just been committed upon an officer of this House, and I therefore desire to submit for the consideration and action of this House, at this time, the resolution which I send to the Clerk's desk.

The Clerk read the resolution, as follows:

Resolved, That whereas a violent personal assault has been committed upon the person of U. H. Painter, the clerk of the Committee on the Post Office and Post Roads, by two persons now in the custody of the police officers of the Capitol, the Sergeant-at-Arms is hereby directed to take into his custody the assailants, and to detain them until the further orders of the House upon the subject.

Mr. STEVENS. I beg leave to suggest to the gentleman from Massachusetts [Mr. ALLEY] that he better name the persons in his resolution, for we can hardly issue a general order of arrest.

Mr. ASHLEY, of Ohio. They are in custody now.

Mr. STEVENS. Well, they had better be named in the resolution.

Mr. KELLEY. One of them is named Benjamin B. Beveridge.

Mr. ALLEY. The other is named Edward Towers. I modify my resolution so as to insert the names of Benjamin B. Beveridge and Edward Towers.

Mr. TRIMBLE. I would ask if these parties are not already in the custody of the officers of the law, and is not the law amply sufficient to provide for their punishment. And if they are brought here can we inflict a punishment adequate to the offense which has been committed?

Mr. ASHLEY, of Ohio. We will see about that.

Mr. TRIMBLE. I do not know that we have any authority to punish these men, or to keep them in custody longer than this session

of Congress, which may terminate in a very few days. Why should we, by the adoption of this resolution, take these persons from the custody of the laws of the country passed by this Congress for the protection of the citizens of this District and bring them here to be tried at the bar of this House? I merely make this suggestion to the gentleman. At the same time I do not desire to screen these persons; I do not know anything of them.

Mr. WRIGHT. What evidence have we of the facts mentioned in this resolution?

Mr. TRIMBLE. I do not know.

Mr. ALLEY. I modify my resolution so that it will read as follows:

*Resolved*, That whereas a violent personal assault has been committed upon the person of U. H. Painter, the clerk of the Committee on the Post Office and Post Roads, by Benjamin B. Beveridge and Edward Towers, who are now in the custody of the police officers of the Capitol the Sergeant-at-Arms is hereby directed to take into his custody the assailants, and to detain them until the further orders of the House upon the subject; and that a select committee of five members be appointed by the Speaker, whose duty it shall be to examine into and report the facts in the case, with power to send for persons and papers.

Mr. TRIMBLE. Would it not be well for us to let the ordinary civil authorities first take cognizance of this transaction? We can interfere afterward, if it should be necessary.

The SPEAKER. As the Chair understands, the point is raised that this is not a question of privilege. The Chair rules that it is a question of privilege, which may properly receive the action of the House. This House has even gone so far as to bring citizens before the bar for disorder in the galleries. If this could be done, then unquestionably when an officer of the House has been beaten or assailed within the walls of the Capitol the House has power to take action in the matter. It is a question for the House to determine whether it will exercise this power in the present case or permit it to go before the courts, as suggested by the gentleman from Kentucky, [Mr. TRIMBLE.]

The resolution, as modified, was agreed to.

The SPEAKER subsequently announced the appointment of Messrs. ALLEY, FARNSWORTH, TRIMBLE, J. L. THOMAS, and LARLIN to constitute the select committee provided for in the resolution.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed House bill No. 3, to revive the grade of General in the United States Army, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 218, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 213) "making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 62, 113, 116, 117, 122, 123, 136, 137, 139, and 145, and agree to the same.

That the Senate recede from their one hundred and eighteenth, one hundred and thirty-first, one hundred and thirty-second, one hundred and thirty-third, and one hundred and thirty-fourth amendments.

That the House recede from their disagreement to the one hundred and fortieth amendment of the Senate and agree to the same with an amendment as follows:

Strike out all of said Senate amendment, being section six, and insert in lieu thereof the following: "Sec. 6. And be it further enacted, That the female clerks and counters employed in the several Departments and bureaus, whose appointments are made by the several heads of Departments, under the provisions of law, and whose legal compensation has heretofore amounted to \$720 each per annum, and the female clerks employed at the Post Office Department,

shall, from and after the 30th day of June, 1866, receive in lieu of all other compensation an annual salary of \$900 each per annum; and the amount necessary to pay the increased salaries herein provided for, for the fiscal year ending June 30, 1867, is hereby appropriated out of any money in the Treasury not otherwise appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-fourth amendment of the Senate and agree to the same with an amendment as follows:

In line nine of said amendment, strike out all after the words "authorized to," down to and including the word "due," in line ten, and insert in lieu thereof the following words: "make said adjustment;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the eighty-seventh amendment of the Senate, and agree to the same.

That the Senate agree to so much of the amendment of the House to the one hundred and twenty-fourth amendment of the Senate as is embraced in the first, second, third, fourth, fifth, and to and including the word "dollars," in the sixth line of said House amendment; and disagree to the balance of said amendment, and the House agree to the same as so modified.

That the House recede from their amendment to the thirtieth amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the sixty-first amendment of the Senate, and to their amendment of the same, and agree to the said Senate amendment with an amendment as follows:

Strike out all of said Senate amendment after the word "services," in line five, and insert in lieu thereof the following words: "Provided further, That so much of the appropriation of \$250,000 granted by act approved March 2, 1865, for compensation to temporary clerks in the Treasury Department and for additional compensation to clerks in the same Department as remains unexpended, shall be divided as follows, namely: \$100 each shall be paid to the clerks in said Department of the first and second classes who have not received any additional compensation out of said appropriation, and who shall have served in said capacity for one year previously to July 1, 1865; and \$100 shall be paid to each person employed in said Department appointed by the Secretary, at an annual salary amounting to less than \$1,200, and who shall have served under such appointment for one year previous to July 1, 1865; and if the balance of said appropriation remaining unexpended shall be insufficient to pay said clerks and appointees the sum of \$100 each as herein provided, the deficiency shall be supplied and paid out of any money in the Treasury not otherwise appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate, and agree to the same, with an amendment, as follows: in line five of said amendment insert the following words: "who shall be the draughtsman;" and the Senate agree to the same.

W. P. FESSENDEN,  
GEORGE H. WILLIAMS,  
T. A. HENDRICKS,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
JOHN A. KASSON,  
*Managers on the part of the House.*

Mr. MORRILL. This bill, as now reported by the committee of conference, embraces one provision which will be in conflict with a bill about to be reported from the Committee of Ways and Means in relation to the pay of the female clerks. I observe that it is proposed to increase the pay of all these clerks from \$720 to \$900 per annum. The bill which the committee propose to report provides for the classification of these clerks as other clerks are classified. It is found, on inquiry at the Department, that there is quite as much propriety and justice in having these clerkships divided into different grades with different rates of pay as there is in classifying the male clerks.

Mr. STEVENS. I suggest to the gentleman from Vermont that if the bill to which he refers should hereafter be passed it will repeal this provision. I understand that it proposes to reorganize the whole Department. The gentleman must be aware that if we allow the female clerks to be classified, the handsomest ones will receive the highest promotion. [Laughter.]

Mr. MORRILL. Some of these female clerks do thrice the amount of work performed by others; and there is no propriety in all receiving the same amount of pay. There are female clerks who do as much work as many of the males.

Mr. STEVENS. We can discuss this question when the bill to which the gentleman refers shall come before us. There is no reason why we should not adopt the report of the committee of conference.

The report of the committee of conference was agreed to.

Mr. STEVENS moved to reconsider the vote by which the report of the committee was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASSAULT ON A MEMBER—AGAIN.

Mr. HOGAN. Mr. Speaker, at this late hour in the discussion upon this question I do not think it desirable to indulge in many remarks. There are, however, one or two points which have not to my mind been satisfactorily presented to the House; and it is mainly to them that I wish to direct the few remarks that I have to make. Much has been said in reference to the assault made in debate here by the member from Iowa upon the member from Kentucky. In reference to that, I must believe that the member from Iowa really did not intend anything derogatory to the member from Kentucky. The latter gentleman, however, understood it differently, and, so understanding it, recognized his right to vindicate himself.

It must be borne in mind that the remarks of the member from Iowa were imprinted upon the public records of the country; they were placed in the Globe, to go down to all posterity; and his assault upon an honorable gentleman who has proved his courage and vindicated the honor of his country upon the battlefield thus passed down to posterity. There it stands forever as a record against him. Sir, this demanded something more than a mere retraction; yet the retraction itself did not go upon the record as the assault did. The gentleman assailed had made various efforts to induce the House to protect him against this assault, and the House had failed to do it. The words were then upon the record, to live forever and forever, and he sought what he conceived to be the only possible chance of vindicating himself. He had notified the House that he would do it. He had told the House while these offensive remarks were being made that if the House failed to protect him he would be compelled to protect himself; and he sought that protection. The House was well advised of the fact that he meant to vindicate himself, for after once so stating he went forward to where the gentleman from Iowa was delivering his speech, and standing near him reiterated the statement, "If the House will not protect me, I must protect myself, and I am able to do it." That was fair warning; and yet the gentleman from Iowa was permitted to proceed. I recognize the position assumed by the Speaker in regard to this matter as a correct one, namely, that permission having been given to the gentleman from Iowa to make a personal explanation, the Speaker had no right to interfere, unless his attention was called to the remarks of the member from Iowa by some member of the House; but, after the gentleman from Massachusetts [Mr. BANKS] had interfered, the gentleman from Iowa still went on, and it was not so much the words he used, as the manner of using them, that was disrespectful to the member from Kentucky.

Now, the gentleman from Kentucky, having notified the House of his intention to protect himself, and still not receiving due protection from the House, what else could he do? What other course was left open to him than the one he pursued? Following the bent of his own judgment, and not having received the apology that would vindicate him before the country on this record, he went out of doors to correct the wrong and maintain the position that he had occupied as a man of courage and determination. As this branch of the subject has been elaborately discussed, I am unwilling at this late hour of the day to elaborate it further. I will simply call the attention of the House to an extraneous matter connected with this transaction which has been brought in here by the report of the committee for the action of the House. Here are three gentlemen who are implicated in this assault by the committee, and who may be brought to the bar of the House for punishment or rebuke.

Now, as an individual member of the com-



mittee I maintained, throughout its session, that we had nothing to do with these gentlemen, and I wish to present my views on that point to the House. These three gentlemen were brought before the committee as witnesses. They were summoned and compelled to obey its mandate, and when there were examined in reference to the character of this assault. They had no notice that there was any charge against them, and had no opportunity to defend themselves; and yet now they find themselves suddenly charged with a breach of the privileges of the House, and ordered to be brought to the bar of the House to receive its censure. Why does the Constitution of our country provide that no man shall be required to criminate himself in giving testimony? Do not all our criminal proceedings proceed upon the idea that a man's word, when upon the witness stand, shall not implicate him? And yet these gentlemen are to be brought to the bar here to answer for a high crime without notice, and simply because their own words upon the witness stand have been used for their own condemnation and judgment? Sir, we have had the Constitution elaborately elucidated during the progress of the discussion in this case; and I would like now some constitutional lawyer to tell me what right there is in this House to bring these gentlemen to this bar for what they did in the premises.

Let us see what were the facts in reference to these three gentlemen. It is alleged that there were some fifteen or twenty persons on the portico of the Capitol at the time this assault was made, and of those only these three are called to account. It is alleged that one of these was there as the personal friend of General ROUSSEAU, and he admitted that he was there as a friend of long standing. What for? Because General ROUSSEAU had intimated to him that he was going to commit an assault on Mr. GRINNELL some time, and probably that day; and it was for the purpose of seeing that there was justice and right and fairness in the contest between these assailants that he was there.

Mr. JOHNSON. There is no testimony to that effect.

Mr. HOGAN. Yes, that is in the testimony. Colonel Pennybaker swears that he came up here at the request of General ROUSSEAU, who had informed him that he had intended to make this attack upon Mr. GRINNELL, but had not told him at what time, in what place, or under what circumstances. He followed General ROUSSEAU from this Hall into the rotunda, and thence out upon the portico, and was present during the assault as ROUSSEAU's friend. He says he did not intend to interfere in the matter at all unless outsiders had attempted to disturb either of the parties, in which case he would have interfered to protect them.

But it is said that he had a deadly weapon with him; that he had a pistol in his pocket. So he had, but he explained explicitly that he did not intend to use it under any circumstances unless he himself were personally assailed in protecting these parties from interference by outsiders. These other two gentlemen were there also, and it is said that each of them had a pistol.

In reference to Colonel Grigsby, the testimony is that he knew nothing at all about this matter—that he had no conception that anything of the kind was going to take place, and that he did not come here at the request of ROUSSEAU or Pennybaker. He came to the House to see his Representative, and then, not knowing that anything particular was about to happen, followed Pennybaker out on the portico. How, then, is he implicated as a *particeps criminis* in this matter? It is said he had a pistol; and that the fact of his having a pistol with him is *prima facie* evidence that he intended to commit a deadly assault upon somebody. He carried a little pistol in his pocket, a little Deringer pistol. He said that it was about "that long," taking his finger and measuring upon it. It was about a finger long, and

had probably not been out of his pocket for a year.

Mr. O'NEILL. It was long enough to have a ball in it, I suppose.

Mr. HOGAN. Of course it had a ball in it, and the probability is that it had powder in it, too, for the one generally follows the other. But so he was, with that deadly weapon. I heard a gentleman say in reference to such an instrument that if he was paid a certain amount for shot he would agree to stand fifty feet off and allow a person to shoot at him all day long with such a pistol. I would not like to do it myself, because I have a deadly antipathy to all such things, and have never carried one in my life.

Mr. KELLEY. Did the gentleman ever hear any one say he would be willing to stand off six feet and be fired at all day long with such a pistol?

Mr. HOGAN. That I did not hear said. But I think it was altogether dependent upon circumstances whether the pistol was to be fired at all. Colonel Grigsby said that he did not intend to use it on that occasion; he had it there, and if anybody had assailed him personally for trying to preserve the rights between the parties, then only would he probably have used it.

The other gentleman who was there, and who is implicated, did not know anything about the intended assault, did not come here, and did not go there because of any knowledge that he had upon the subject. But having some days before made some kind of arrangement with Mr. ROUSSEAU, to go with him to New York, he had passed out into the rotunda before him. Mr. ROUSSEAU passed by him suddenly; he spoke to him, but Mr. ROUSSEAU did not notice what he said. Not knowing whether he was sick, or what was the matter with him, he followed him out of the door. And that was all his connection with the matter.

Two of these gentlemen state explicitly that only in case there was interference with the contending parties by outsiders, only in case outsiders interfered with either of them, they did not care which, would they have taken part in the fray, and neither of them would have used their pistols under any circumstances, unless they themselves had been assailed for the prevention of anybody from interfering with either of the contending parties. Now, why should those three gentlemen be singled out and brought here to the bar of the House by a resolution of this committee, in order to answer for such a crime as this? Why should they be brought here upon their own sole testimony, constrained and forced testimony, being brought before that committee to testify in reference to the facts, and by thus testifying, being made to implicate themselves as having deadly weapons upon their persons, weapons which they were in the habit of carrying, which they usually carried? One of them said his pistol had not been out of his pocket that he knew of for a year. And the other said that he did not know when he had been without his, unless by mere accident when he was changing his clothes he failed to take his pistol out of his pocket and left it at home.

Now, I contend we have no right to implicate these gentlemen at all; we have no right at all to bring them up here. They ought not to have been included at all in the report of the committee, other than as having given testimony before the committee. Why did not the committee include in their report Senator SAULSBURY, who was there by accident? Why did not they include ten or twenty other persons, as the case may be, who were present? But they were not known. If they had known them and had brought them before the committee, they might have made them implicate themselves and then have brought them before the bar of the House; and thus have everybody who, by the merest accident in the world, happened to be in the rotunda that day gain an immortality in this country through the report of this committee, which is to be placed upon

the records of this House, to stand there as long as our Republic shall endure. Sir, I think it is not right to bring these gentlemen into a false and unfortunate position; to bring them here as though they were personally implicated in this matter; to bring them here against their will, without their knowledge, and condemn them without a hearing.

Mr. THAYER. I desire to ask the gentleman from Missouri whether he has entirely forgotten that he signed the minority report in this case, and that as a member of the minority he declared that he fully concurred in the very resolution which he now condemns, the resolution requiring that these persons who were accessories to the assault shall be brought to the bar of this House.

Mr. HOGAN. My colleague on the committee will recollect very distinctly that during the whole progress of the debate which arose upon this point I took a position analogous to that which I take now. I did not feel disposed to make a minority report for myself alone upon this, which I regarded as an incidental point. I was opposed to the action which the committee took and so stated, giving notice that I should take the same ground in the House. I agreed generally to the report of the committee. I generally prefer to agree to the report of a committee. When I cannot get all I want, I take all I can get. But, when this question was before the committee, I took decided grounds against this resolution; and I take the same position now. I ask members of the House to point me to any legal principle, or to any provision of the Constitution which will authorize us to bring these gentlemen before our bar for trial, much less for censure and condemnation. I do not find any such authority in the general law of the country, or in the rules and usages of this House, or in the Constitution, which is supreme over all.

Mr. SPALDING. I now demand the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Ohio, [Mr. SPALDING,] is now entitled to an hour in which to close the debate.

Mr. SPALDING. I yield fifteen minutes to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. Mr. Speaker, I do not intend to occupy any time in the general discussion of this question. I have nothing to say in regard to the character either of the gentleman from Iowa, with whom I am well acquainted, or the gentleman from Kentucky, of whom I know nothing; and even were it otherwise, it is best that I should say nothing of the latter gentleman lest what I might say should be considered as provoked by some unkind remarks which he is reported to have made with regard to me, which under such circumstances I never answer.

But, sir, I cannot help thinking that there is some irregularity in the trial of the gentleman from Iowa which is now going on; for I consider it nothing else than a trial of that gentleman—a trial upon charges never made and never referred to the committee. This proceeding has given occasion here and there for eulogy upon the distinguished and gallant gentleman from Kentucky. Any one listening to many parts of this debate might suppose that this whole matter had been gotten up for the purpose of glorifying the military career and genius of that gentleman, which I have no disposition to question. After the eloquent, high-flown eulogies of the chairman of the committee [Mr. SPALDING] and the amiable gentleman from New York, [Mr. HALE,] I would as soon think of doubting the military history of Marlborough or Bonaparte or Washington or Grant as to doubt the distinguished military position of the gentleman from Kentucky. Whatever may be the action of this House, history will award him a full compensation in the glory which he will have acquired with posterity. Future generations will overlook the fact that the issue now before the House grew out of a

ruffianly attack by that gentleman, with three ruffian associates, upon an unarmed man, engaged at the time in the discharge of his duty.

I shall not touch these things nor say one word about them. What I rose for was to sustain my resolution, my substitute, and I do it for the purpose of purifying the record of this House of what I deem to be a greater infringement of the privileges of this body than even the assault of the gentleman from Kentucky. I mean the report of the committee. Now, sir, what was referred to that committee? The preamble is in these words:

"Whereas it is alleged in the public press that Hon. LOVELL H. ROUSSEAU, a member of this House from the State of Kentucky, did, on the evening of Thursday, the 14th instant, commit an assault upon the person of Hon. J. B. GRINNELL, a member of this House from Iowa, because of words spoken in debate in this House by the latter; and whereas said assault, if committed, was a breach of the privileges of this House and of the member assaulted."

Undoubtedly, as the distinguished gentleman from Massachusetts [Mr. BOWWELL] has well said, there is no more power in this House to go beyond that preamble than to bring in a bill of indictment against any member of this House for words spoken last year, and every act beyond the investigation of that charge was extra-official, from which this House should purge itself if ever it means to take care of its own privileges and guard its members in future from the reports of majorities that may be passed upon them.

After that preamble comes the resolution:

"Resolved, That a select committee of five be appointed by the Speaker to investigate the subject and to report the facts."

What subject? The subject referred to and recited. There is no other subject and no other fact referred to the committee upon which they could, within the fair discharge of their duty, have reported to this House. Otherwise such a committee may travel over the conduct of every member of this body and every person outside of the House, select men at discretion and bring them to the bar of the House for punishment. Sir, I look at this as a most alarming state of things. I make these remarks knowing the high legal and moral character of the gentlemen that compose the committee, and the honesty with which I know they have made this report. My friend from Iowa, [Mr. WILSON,] very irregularly, as I think, brought this matter to the decision of the Chair. I think the Chair has nothing to do with it, although I know there are precedents of that kind. If there had been a resolution offered in this House to investigate the conduct of the gentleman from Iowa [Mr. GRINNELL] for words spoken two weeks ago, then the question of order would have been raised and properly submitted to the Chair and decided by him. But that time was past. The resolution contained no such order, so that there is nothing for the Speaker to decide.

I will now, therefore, proceed as though this had not been decided by the ingenious Speaker, and I will discuss for a few minutes the propositions which I have stated for the purpose of enforcing the necessity of adopting my amendment, to expunge everything but the single question with regard to the gentleman from Kentucky, in order that the record may not stand to future Houses as a precedent for their action.

The sixth section of the Constitution, as already cited, speaking of the privileges of the House of Representatives, says that for any speech or debate in either House members shall not be questioned in any other place. That seems to be very explicit. To be sure there have been very ingenious suggestions that knocking a man down or stabbing him is not questioning him, and that all this constitutional provision means is, that if you meet a man out of doors who has made a speech here you shall not ask him the question whether he made it, but you may cut his throat or do anything of that kind. I do not look upon this argument as worth answering. It is clear that whatever is spoken in this House must be answered in this House and nowhere else.

Otherwise the constitutional provision is not worth a straw.

The only question then is as to the time in which a member shall be questioned for words spoken in debate. Now, sir, the sixty-first rule of this House, passed long ago, is in these words:

"If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it, he shall be liable to the censure of the House."

As the rule then stood it was loose. It was decided that it required no taking down or verifying of the words in writing, and there was no limit as to the time when the member might be censured, and it was to correct that evil that the sixty-second rule was adopted in these words:

"If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken."

Now, sir, if there be anything in the English language which is explicit to remedy the evil to which I have referred it is that. Calling to order does not mean getting up and saying "I object." Calling to order legitimately involves the taking down of the words at the desk and recording them. And then it is followed by a most explicit declaration that unless that be done, and unless the words be then excepted to, nothing is plainer in the English language than that never afterward shall those words be called in question or the member censured therefor.

Now, the ingenious argument is, that that rule consists of two parts. Why, every lawyer knows that when there is a sentence *in pari materia*, all on one subject, it is all to be taken and construed together as one sentence. I do not care about your colons and semicolons. Statutes are all printed in solid line without marks of punctuation. These are mere questions of the printer.

It is clear, then, as the sun in heaven that unless an exception be taken at the time no censure shall ever be inflicted upon the member. And let it not be said by any well-trained man that what you mean there by "exception" can be words heard and gathered by the ear or in any loose manner. The law fixes it that they must be words taken down at the desk. Whoever attempts to censure a member for words spoken in debate, if they are not taken down at the desk at the time you proceed to judgment, if anything else is done, has mistaken the privileges of this House and the great rights which are guaranteed by the careful rules of this body.

[Here the hammer fell.]

Mr. SPALDING. I yield twenty minutes to the gentleman from Pennsylvania, [Mr. THAYER.]

Mr. STEVENS. One single word, with the permission of my colleague. So far as the third resolution with regard to the men who happened to be present instinctively armed, I hold that this committee has no power or jurisdiction over them, and that the resolution condemning them without being summoned before this House, is an outrage upon them as much as the resolution in regard to the gentleman from Iowa is an outrage upon him.

Mr. THAYER. It was not my intention to trouble the House with any remarks, but to have contented myself with the simple duty which I have already discharged as a member of the committee. But the general course of the debate, and particularly the remarks which have fallen from some gentlemen who have engaged in this discussion, seem to call for

some reply upon the part of gentlemen upon whom was imposed the unpleasant duty of being on this committee. Perhaps, sir, that committee, in view of the criticism of my learned colleague, [Mr. STEVENS,] ought to congratulate themselves if, when this question is finally decided, everybody does not escape except the committee. They should perhaps congratulate themselves if they escape censure; while everybody approximately and remotely concerned in this invasion of the privileges of Congress goes unwhipped of justice.

My colleague, with that moderation of language with which we know he is accustomed to characterize measures which do not seem to square precisely with his own prejudiced views, told the House, in so many words, that the proposition made by the committee would be an infraction of the privileges of the House greater than that which was inflicted by the gentleman from Kentucky upon the gentleman from Iowa. Sir, I have great respect for my colleague; I have great respect for many of his opinions; and certainly the very greatest respect for him personally, and I know I shall never be betrayed by anything which my colleague may say into saying anything which can be construed as disrespectful to him.

But, sir, as a member of this committee I am not quite content with the allegation of my colleague. I beg the House to look at "the monstrous proposition" which is held up here by my colleague for their condemnation. This committee had imposed upon them a most unpleasant duty. They were instructed by this House to inquire into the circumstances of an assault committed in consequence of words used in debate. Now, my colleague, in his cunning and artful plea of the statute of limitations, which he has put in here in behalf of the gentleman from Iowa, seems to think that there is nothing in the resolution of instructions to the committee but the part upon which he chose to comment in the hearing of this House. Sir, the committee were instructed to inquire into the circumstances of the assault and whether it was made in consequence of words uttered in debate in this House. And because this committee have inquired into that fact, and whether the assault was in consequence of words uttered in debate; and because in pursuance of the instructions of this House the committee have reported to this House what action ought to be taken under these circumstances, their report is characterized as a greater infraction of the privileges of this House than the assault of the gentleman from Kentucky on the member from Iowa.

Mr. STEVENS. Will my colleague allow me to interrupt him a moment?

Mr. THAYER. Certainly.

Mr. STEVENS. I wish merely to have my views properly understood. I hold that the committee had a right to inquire whether the assault was made in consequence of words spoken in debate. But when they had gone thus far they had no right to inquire what those words were, or anything else about it, for they were no palliation of the offense, and they could not react upon other parties.

Mr. THAYER. I do not object, I have no right to object to any opinions which my colleague may choose to hold upon that subject. It may be that the committee have transcended their jurisdiction. I do not profess to be as clear-sighted, and I certainly have had none of the vast experience of my colleague. I only undertake to justify the action of the committee according to my own views of the case, and to vindicate myself, as a member of that committee, from the language which is applied to their report by my colleague from the Lancaster district, [Mr. STEVENS.]

My colleague also finds great fault with the committee for having ventured to propose the third of this series of resolutions. On former occasions I have heard much from my colleague of the brutality which characterized a certain period of the parliamentary history of this country. I have heard him speak of "Barksdale's gleaming blade," and of many other things

described in similarly well-rounded and astounding periods by my colleague. And it is with some astonishment, allow me to say to my colleague, that I find him, on the very first occasion when it is within his power to put the strong hand of the law upon the violence which I have heard him so often denounce, now denying the very jurisdiction of the House over offenders who have aided and abetted in a personal assault upon a member of this House for words spoken in debate. Why, sir, this is dwindling—I say it with great respect to this House—this is dwindling into a most insignificant farce. Either the privileges of this House have been violated, or they have not. If they have been violated, you are bound out of respect for your own dignity, and for the preservation of the privileges of the body to which you temporarily belong, to punish that violation of its privileges. If those privileges have not been violated, then you have no right to impose any punishment upon anybody.

But to propose, as is now proposed, that in view of an attempted violation of the most aggravated character, in view of an assault upon the person of a member of this House, of blows given and blood drawn—I say to propose to the House of Representatives of the Congress of the United States, that they are to vindicate the privileges of this House by simply saying to the member who has committed that breach of privilege, "Sir, pray consider yourself reprimanded," is to say that which the people of the country will laugh at. So far from maintaining the self-respect of the House of Representatives, so far from vindicating its outraged privileges, I maintain that by such a vote as that you would but encourage disorder and brutality.

But before I say anything more upon that subject, let me make a single remark upon the action of the committee in regard to the member from Iowa. I am sorry that this question should have been discussed as if it were a case of cross-actions between individuals, in which both parties were claiming to recover damages from each other.

Sir, I supposed that this question was to be discussed and treated as a question of privilege; and I did suppose that members, in discussing and voting upon questions of privilege, would dismiss from view all personal considerations, all personal friendships, and do what justice and their own self-respect might demand. But, sir, this subject had hardly been mooted before an objection was raised in the nature of a plea of the statute of limitations, put in by the gentleman from Iowa [Mr. WILSON] in behalf of his colleague. It was said that the House had slipped its time, and that, although the House might consider it its duty to put upon the record its disapproval of the language used by the gentleman from Iowa, [Mr. GRINNELL,] and its disapproval of the personal reflections cast by him upon the gentleman from Kentucky, the House is estopped from doing it by efflux of time. That point was deliberately made; it was deliberately decided upon by the Speaker, in perfect accordance, I am quite satisfied, with the principles of law and with every consideration of propriety which belongs to this subject.

But, sir, this point, once overruled, has been revived and again discussed. Now, permit me to say that I think it would have been, perhaps, a little fairer to this House, as I know it would have been fairer to its Presiding Officer, if, instead of rearguing this small question of the statute of limitations, gentlemen had simply taken the trouble to appeal from the decision of the Speaker at the time it was made. We should then have had the judgment of the House upon that decision, and, I doubt not, it would have been sustained.

Why, sir, not to advert at all to the several and satisfactory reasons which were given by the Speaker for his judgment upon that question, let me say to the gentleman making the point that this committee was appointed and its instructions given by a unanimous vote of

this House. Now, even under the rules, two thirds of the House may at pleasure suspend any of the rules. But, according to this doctrine, a unanimous vote of this House, instructing this committee to inquire into all the circumstances and facts of the case and to report what action they demanded, is not to take effect because of the phraseology of the rule which has been cited. Thus gentlemen place themselves in the predicament of maintaining that, although two thirds of this House may suspend every rule embraced in the Digest, the whole House cannot suspend a single rule of order.

Before leaving this subject I wish simply to say that, with regard to the gentleman from Iowa, the committee found in the course of its investigations that the assault which was committed was committed for words spoken in debate. It was so admitted by the honorable gentleman from Kentucky himself. Nobody alleged or presumed that it was committed for any other cause. Then, sir, when the committee found that the assault was committed for words spoken in debate—when the committee found that the provoking cause of the assault was embraced in the personal reflections made by the gentleman from Iowa upon the gentleman from Kentucky, were the mouths of the committee to be closed and were they to be forbidden to report to this House that in their judgment the immediate cause of the assault, which was a violation of the privileges of this House, was the language of the gentleman from Iowa, and were they, while recommending a certain punishment for the higher breach of privilege by the gentleman from Kentucky, to pass by in utter silence and without any disapproval the unjustifiable reflections which occasioned the assault?

[Here the hammer fell.]

Mr. THAYER. I ask the gentleman from Ohio to give me a few minutes more.

Mr. SPALDING. I yield the gentleman five minutes more.

Mr. THAYER. I say it is under these circumstances that gentlemen may feel themselves at liberty to reflect on the report of the committee, because they have ventured to suppose that the language of the member from Iowa should meet with the disapproval of the House; and it is for this that my colleague has felt himself justified in characterizing the report as he has done.

I pass from that to the other question involved in the report, about which I have very little to say. The facts are all before the House. There is no dispute about those facts. They are simply these: that for words uttered in debate, a member of this House was violently assailed in his person, almost under the very eyes of the House of Representatives itself; that the gentleman who assailed him dealt him blow upon blow; that blood was drawn, and that the aggressor was backed by three friends with loaded pistols in their pockets. Those are the facts, and no rhetoric in which I could indulge could convey to the House a higher sense of the character of this assault than the simple facts.

Sir, much has been said about these gentlemen who accompanied the gentleman from Kentucky. Does any man believe that all these three persons were accidentally present? If he does let him read the evidence. The first, Colonel Pennybaker, was there undeniably, according to his own statement, because he expected the assault, and came to this House because he expected it to take place.

The second of these persons (Grigsby) had been told by Pennybaker to come to the House. It does not appear that he had been told to come for this purpose; but he was told to come to the House that afternoon, and he did come pursuant to that request. He says, "When he left my room, he (Pennybaker) asked me to call by his office, just this side of the Metropolitan hotel, and go up with him." And then he testifies that when he saw ROUSSEAU go out after GRINNELL, Colonel Pennybaker followed

him, and he followed Pennybaker. And then he says, speaking of the parties present—

"There was some one standing near Mr. GRINNELL, a large, heavy-set man. I do not know who he was. I did not know whether he was, in fact, with Mr. GRINNELL, or whether he went out of the House with him or not. I had my eye principally on him. I had no disposition to interfere between the parties."

"When Mr. ROUSSEAU first commenced raising his cane, I thought I saw him knit his brows, and I thought, perhaps, it might be his intention to interfere. I stopped over between him and ROUSSEAU, to be ready in case he should interfere."

He was ready, with a loaded pistol in his pocket, to interfere in an affray which I maintain the evidence will justify anybody in believing he knew was to take place.

Mr. RAYMOND. Will the gentleman allow me to ask him one question?

Mr. THAYER. I have but a few seconds left.

The SPEAKER. The gentleman has just a half minute.

Mr. RAYMOND. Does it not distinctly appear that Grigsby was not there with any knowledge of the fact that the affray was to take place?

Mr. THAYER. I am aware that he says so himself, but the evidence will satisfy anybody to the contrary.

Mr. SPALDING. Mr. Speaker, in bringing this protracted debate to a close I desire to place before the House and the country certain propositions which I believe to be abundantly supported by constitutional and parliamentary law:

1. Either House of Congress has the inherent power of protecting itself from injury or insult; and it has also the implied power of punishing what are termed contempts and infringements of its privileges by the exercise of a summary jurisdiction correctly deduced from the Constitution itself. (Rawle on the Constitution, 48; Anderson vs. Dunn, 6 Wheaton, 204.)

2. For any speech or debate in either House, a member cannot be questioned in any other place. (Article 1, section 6, of the Constitution.)

Not even for words reflecting upon the character or conduct of a fellow-member.

"Taking care not to say anything disrespectful to the House, a member may state whatever he thinks fit in debate, however offensive it may be to the feelings or injurious to the character of individuals, and he is protected by his privilege from any action for libel, as well as from any other question or molestation."—*May's Parliamentary Practice*, page 114.

3. Although a member may not be questioned in any other place for offensive words spoken in the House, yet he is liable to censure and punishment by the House itself.

In the English House of Commons members have been censured, imprisoned, and even expelled for intemperate speeches on the floor. (May's Parliamentary Practice, 113.)

The conclusion of the whole matter is this: no member of either House of Congress is permitted to assault the person of any other member for any language, however offensive, used in debate.

A different rule, or one that would measure out the punishment for such a breach of the privileges of the House, in accordance with the provocation given, would establish a despotism of the most revolting character.

Every speaker on the floor of Congress would have occasion to look over his shoulder and take note of the effect of his words upon every one of his hearers, lest, forsooth, on leaving this Hall for his lodgings, the "bludgeon of a bully" should arrest his footsteps.

If such is to be the practice hereafter, the responsibility shall not rest with me. I now ask a vote on the resolution.

Mr. BANKS. The time of the gentleman from Ohio is not entirely exhausted. I ask him to yield me a few moments.

Mr. SPALDING. Certainly. I yield to the gentleman.

Mr. ELDRIDGE. I make the point of order that the gentleman from Ohio having closed the debate, and having taken his seat, no further discussion can be allowed.



The SPEAKER. The Chair sustains the right of the gentleman from Ohio to keep the floor and to yield it till the end of his hour. The gentleman has fourteen minutes remaining which he yields to the gentleman from Massachusetts.

Mr. BANKS. Mr. Speaker, it does not belong to me to vindicate the privileges of the House, although I have held service here for several years, some time since; but my position as a member here would not justify me in speaking on questions of this character. I therefore did not intend to speak upon it. The Speaker put me upon the committee in this case, and I discharged the duties devolved upon me as I could; and but for the suggestion made by the gentleman from Pennsylvania [Mr. STEVENS] as to the manner in which the committee discharged its duty I should have nothing to say.

The decision of the Speaker of this House on the question raised by the gentleman from Iowa [Mr. WILSON] was as clearly stated, and in my judgment as perfectly just as any decision ever made in any parliamentary body. Any other conclusion than that which he stated would have assailed the records of the House and degraded the parliamentary law of the country. The rule of the Manual which has been sustained as a rule governing members of the House in the ordinary course of business is, that when a question is in debate, and a member offers remarks upon it, if any exceptions be taken to his remarks they must be taken at the time the remarks are made. If the House pass to other business no member has a right to call in question the statements that have been made. This is not peculiar to our laws of legislative debate. It is the parliamentary law regulating every proceeding of deliberative assemblies. When the Speaker of the House has made a decision, members who take exception to it must do so when the decision is made, and if dissatisfied may take an appeal. And yet we have heard the gentleman from Pennsylvania [Mr. STEVENS] declare that he set aside the decision of the Speaker on this question and treated it as if it had not been made, and he discussed deliberately the question of order from beginning to end precisely as if an appeal from the decision of the Chair had been pending.

Why did he do this wrong to the Speaker of the House, and trespass and trample upon the rules of this legislative assembly by violating this principle? I will tell you why it was. It was because the question involving the decision of the Speaker came before the House upon a different case, upon the merits of the resolution reported by the committee; and therefore he had a right to reconsider any question connected with it. So it is with the rights of the select committee. The House, by its deliberate order, sent to a committee of privilege a question of privilege. They ordered that committee to report upon all the circumstances connected with that question. Now, if any member of this House supposes that any committee of five honorable men would have pronounced a judgment against the gentleman from Kentucky on account of his part in this transaction without referring to, rehearsing, and expressing their opinions on the circumstances which led to that transaction, they certainly mistook the character of the gentlemen who were selected to compose that committee; and I do not hesitate to say that if the members of this House be asked to pass judgment upon the action of the gentleman from Kentucky in this assault, and exclude all consideration of the part of the gentleman from Iowa in producing that assault, it will be as flagrant an act of injustice as was ever committed in the history of the world. No man can properly consider the part which the gentleman from Kentucky had in this matter, and exclude the part which the gentleman from Iowa took in its initiation.

Therefore the committee passed upon that question. They were called upon to review the whole case and express their opinion. And

let me say to the members of this House that the precedent sought to be established here this day is the most vital precedent ever established in a legislative assembly, and will hereafter justify a resort to the law of violence whenever any man or any party shall choose to enforce it. I have listened to this debate for three days, and I have heard but little other than careful considerations relating to the personal positions of these two gentlemen; one consideration offset against another consideration, and the whole intellect and ingenuity of the members of this legislative assembly exclusively directed to that view of the subject.

I have not heard discussed that which is the real and only question before this House. I have not heard an allusion to the dignity of this assembly, an assembly which is, or which ought to be, the first parliamentary assembly on the face of the earth, as it is the only deliberative assembly where the people of the nation are represented. I have heard hardly any reference made to that dignity and those privileges with which this assembly is clothed by the terms of the Constitution, the most sacred of all the privileges with which the people of our country are invested; they have been hardly recurred to in all these three days' debate.

Let me, then, speak a word upon that subject. The highest of all privileges is the immunity and inviolability of person. If I am to be insulted, bullied, brow-beaten, attacked, disabled, as a member of this House from the State of Massachusetts, then the people I represent have no rights. Therefore, at the foundation of this Government lies the inviolability of the Representative. And what have we seen here? The Ajax of this House, he who should be the leader, comes in here with a proposition to justify—for I can only interpret it in that way—to justify the assault which has been made upon the member from Iowa. And what was the character of that assault? A member of this House has been beaten; he has been beaten with stripes; he has been beaten with stripes in the presence of this House, as it were; he has been beaten with stripes in the presence of this House, for words spoken in debate. What should be the conclusion of this assembly? That any member so abusing his privileges and the dignity of this House ought not to sit longer in it as a member. It is no injustice to the member from Kentucky that we should adopt this conclusion. If he undertook to vindicate his own rights, as a soldier and as a man he should be willing to pay the penalty of his act. In this case there is no philosophy but the maxim of the McGregors, for a man like him or for any man who occupies his position.

Let him play his game boldly, but let him also pay the forfeit manfully. What is that forfeit? That he should cease, for a time at least, to sit as a member of this House. So the committee have reported. When he returns to his constituents they will review the circumstances, and they may reflect him. If so he will be received here or not, as the case may justify. In any event he is purged; and the House is purged of the indignity and the wrong which have been inflicted upon its members and upon itself.

If there be any other conclusion than this, then, sir, the dignity of this assembly must be defended by other persons than those who now represent its power. What do gentlemen propose instead of this? I have heard much philosophical discussion upon this subject. Gentlemen say that a disapproval is a censure; and if a disapproval is a censure, then a censure or a reprimand is a mere disapproval; and the judgment of this House is to be expressed upon a case of the most ineffable wrong that can be committed upon its members by a disapproval of the act! A member is beaten with stripes in the Capitol for words spoken in debate; and the highest act of justice and of dignity that this assembly can perform is to say that it disapproves the act! Sir, as one of the committee and as member of this House, I can give

no vote of that character. I will not set the seal of my name to a record and a judgment which must degrade the dignity of the House and destroy its parliamentary privileges forever hereafter.

Let me say a word, sir, in regard to the three wronged and innocent men who a little while since were by a happy accident on the eastern portico of the Capitol, a part by invitation a part by chance, with arms in their hands, taking their places, one here, another there, another there, with a view to the movements of somebody else, keeping clear space and field of action while a member of this House was being assaulted. We are told now that it will be an infringement upon the rights of those men if the House of Representatives, the first parliamentary assembly of the world, should even question them for their conduct so much as to invite them here to answer for their action. They are not arraigned; they are not charged with anything. It is not alleged that they are responsible as parties to this assault. But the facts are stated in plain Saxon language; and it is recommended that these men should be called to the bar of the House to answer to any charge which this House may have to make against them.

Mr. STEVENS. If the gentleman from Massachusetts will read the resolution, he will find that it amounts to an absolute conviction of these men.

Mr. BANKS. No, sir; I say that the committee were instructed to investigate this whole transaction, and whoever was concerned in it, whether by premeditation or by presence as a party, we are bound to report the facts to the House with our recommendations, leaving the question for the action of the House. I do not care what may have been the language of the resolution instructing the committee. That resolution was certainly not intended by the House to mark out for the committee every step that they should take, every word that they should speak, and every judgment that they should give. The House put its dignity, its rights, its privileges, into the hands of this committee—a committee of privilege—and instructed it, in its integrity and fidelity, to report to the House its views of this case; and it did so.

The SPEAKER. The hour of the gentleman from Ohio has expired, and as the previous question has been seconded and the main question ordered no further debate is in order.

Mr. STEVENS. I simply desire to say to the gentleman from Massachusetts that he misunderstood my remark. What I meant to suggest to him was that in the resolution of the committee they convict these three men and order them to be brought to the bar of the House without their ever having had a hearing.

Mr. THAYER. They are to be brought here that their conduct may be investigated.

Mr. BANKS. If the House will allow me a remark out of order in reply to a remark out of order, I will say that the committee in its resolution states the facts and pronounces no judgment, but asks the judgment of the House upon the facts.

Here the debate was closed.

The resolutions reported by the majority of the committee are as follows:

*Resolved*, That Hon. LOVELL H. ROUSSEAU, a Representative from Kentucky, by committing an assault upon the person of Hon. J. B. GRINNELL, a Representative from the State of Iowa, for words spoken in debate, has justly forfeited his privileges as a member of this House, and is hereby expelled.

*Resolved*, That the personal reflections made by Mr. GRINNELL, a Representative from the State of Iowa, in presence of the House, upon the character of Mr. ROUSSEAU, a Representative from the State of Kentucky, were in violation of rules regulating debate and the privileges of its members founded thereon, and merit the disapproval of the House.

*Resolved*, That Charles D. Pennybaker of Kentucky, L. B. Grigsby of Kentucky, and John S. McGrew of Ohio, by their presence and participation in a premeditated personal assault between Hon. Mr. ROUSSEAU of Kentucky, and Hon. Mr. GRINNELL of Iowa, on account of words spoken in debate, in which the persons if not the lives of members of this House were imperiled, were guilty of a violation of its privileges, and they are hereby ordered to be brought to

the bar of this House to answer for their contempt of its privileges.

The motion of Mr. RAYMOND was to strike out the first resolution and insert in lieu thereof the following:

*Resolved*, That LOVELL H. ROUSSEAU be, and he is hereby, reprimanded for the violation of the rights and privileges of the House of which he was guilty in the personal assault committed by him upon Hon. J. B. GRINNELL for words spoken in debate.

The motion of Mr. STEVENS as modified was to strike out all of the resolutions reported by the majority and insert in lieu thereof the following:

*Resolved*, That Hon. LOVELL H. ROUSSEAU be summoned to the bar of the House, and be there publicly reprimanded by the Speaker for the violation of the rights and privileges of the House, of which he was guilty in the personal assault committed by him upon Hon. J. B. GRINNELL for words spoken in debate.

The pending question was on the motion of Mr. STEVENS.

Mr. WRIGHT. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the negative—yeas 35, nays 94, not voting 53; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baker, Baxter, Bingham, Reader W. Clarke, Davis, DeFrees, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Griswold, Abner C. Harding, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Kasson, George V. Lawrence, Marvin, McRuer, Miller, Moorhead, Myers, Newell, Orth, Price, Scofield, Stevens, Welker, James F. Wilson, Windom, and Woodbridge—35.

NAYS—Messrs. Ames, Ancona, Anderson, Delos R. Ashley, Banks, Barker, Benjamin, Bidwell, Boutwell, Boyer, Bromwell, Buckland, Dawes, Dawson, Delano, Deming, Donnelly, Eldridge, Eliot, Ferry, Finck, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Hart, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Humphrey, Ingersoll, Jencks, Johnson, Julian, Kelley, Kerr, Ketcham, Latham, Lathin, William Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, McClurg, McCullough, McKee, Mercer, Morrill, Morris, Moulton, Niblack, Nicholson, Noell, O'Neill, Perham, Phelps, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Shanklin, Shellabarger, Sitgreaves, Spalding, Taber, Taylor, Thayer, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Wentworth, Whaley, Stephen F. Wilson, and Wright—94.

NOT VOTING—Messrs. Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Broomall, Bundy, Chanler, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Goodyear, Grinnell, Harris, Hayes, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Kuykendall, Marshall, McIndoe, Paine, Patterson, Pike, Plants, Pomeroy, Radford, William H. Randall, Rousseau, Schenck, Sloan, Smith, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Upson, Elihu B. Washburne, Williams, and Winfield—53.

So the amendment of Mr. STEVENS was not agreed to.

During the roll-call,

Mr. WILLIAMS said: I am paired with the gentleman from Kentucky, Mr. SMITH, who, I suppose, would have voted ay. I would have voted no.

Mr. DAWES. My colleague, Mr. BALDWIN, is detained from the House by sickness, and has paired with Mr. DENISON. I think my colleague would have voted no.

Mr. ANCONA. My colleague, Mr. COFFROTH, is detained from the House by sickness.

The result having been announced as above recorded,

The question recurred on the amendment offered by Mr. RAYMOND.

Mr. BROMWELL. Is an amendment now in order?

The SPEAKER. Not under the operation of the previous question.

Mr. BROMWELL. How will it be if this is voted down?

The SPEAKER. The question will then recur on the resolution reported by the committee.

Mr. GRIDER. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on agreeing to the amendment offered by Mr. RAYMOND, it was decided in the negative—yeas 59, nays 69, not voting 64; as follows:

YEAS—Messrs. Ancona, Anderson, Delos R. Ash-

ley, Baker, Bingham, Boyer, Buckland, Reader W. Clarke, Davis, Dawson, Delano, Deming, Driggs, Eckley, Eggleston, Eldridge, Farquhar, Finck, Glossbrenner, Grider, Griswold, Hale, Aaron Harding, Hart, Hogan, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Humphrey, Johnson, Kerr, Ketcham, Latham, Le Blond, Marston, Marvin, McCullough, McKee, McRuer, Newell, Niblack, Nicholson, Noell, Orth, Phelps, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Henry D. Washburn, Whaley, and Wright—59.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Banks, Barker, Baxter, Benjamin, Bidwell, Boutwell, Bromwell, Dawes, DeFrees, Donnelly, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kasson, Kelley, Lathin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Perham, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Thayer, Trowbridge, Van Aernam, Burt Van Horn, Ward, Warner, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—69.

NOT VOTING—Messrs. Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Broomall, Bundy, Chanler, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Goodyear, Grinnell, Harris, Hayes, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Kuykendall, Marshall, McIndoe, Morris, Paine, Patterson, Pike, Plants, Pomeroy, Radford, William H. Randall, Rousseau, Schenck, Sloan, Smith, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Upson, Elihu B. Washburne, Williams, and Winfield—64.

So the amendment was not agreed to.

The question recurred upon agreeing to the first resolution reported by the committee, which is as follows:

*Resolved*, That Hon. LOVELL H. ROUSSEAU, a Representative from Kentucky, by committing an assault upon the person of Hon. J. B. GRINNELL, a Representative from the State of Iowa, for words spoken in debate, has justly forfeited his privileges as a member of this House, and is hereby expelled.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 72, nays 51, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Reader W. Clarke, Dawes, DeFrees, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jencks, Julian, Kelley, Lathin, George V. Lawrence, William Lawrence, Loan, Lynch, McClurg, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Perham, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Thayer, Trowbridge, Van Aernam, Burt Van Horn, Ward, Warner, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—72.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Baker, Banks, Boyer, Bromwell, Buckland, Davis, Dawson, Delano, Deming, Eggleston, Eldridge, Finck, Glossbrenner, Grider, Griswold, Hale, Aaron Harding, Hogan, Chester D. Hubbard, John H. Hubbard, Humphrey, Johnson, Kerr, Latham, Le Blond, Marvin, McCullough, McKee, Myers, Newell, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Raymond, Ritter, Rogers, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Henry D. Washburn, Whaley, and Wright—51.

NOT VOTING—Messrs. Alley, Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Broomall, Bundy, Chanler, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Goodyear, Grinnell, Harris, Hayes, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Ketcham, Kuykendall, Longyear, Marshall, Marston, McIndoe, Paine, Patterson, Pike, Plants, Pomeroy, Radford, William H. Randall, Ross, Rousseau, Schenck, Sloan, Smith, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Upson, Elihu B. Washburne, Williams, and Winfield—59.

So (two thirds not voting in favor thereof) the resolution was not agreed to.

During the roll-call,

Mr. LONGYEAR said: I was paired off upon this question with Mr. SMITH, of Kentucky, but I have learned since making the pair that he has been confirmed as Governor of Montana Territory. If so he has ceased to be a member of the House and the pair is not binding. If any member of the Kentucky delegation will state that he has not resigned his seat, I will still stand by the pair; but otherwise I shall ask to have my vote recorded.

Mr. WRIGHT. Can the roll-call be interrupted in this manner?

The SPEAKER. No debate is in order.

Mr. HARDING, of Kentucky. Let me answer the question of the gentleman from Michigan.

The SPEAKER. The House is acting under the previous question, and no debate is in order unless by unanimous consent. The gentleman from New Jersey objects.

Mr. WRIGHT. I simply made the inquiry whether the roll-call could be interrupted in this manner.

The SPEAKER. That is an objection.

Mr. THORNTON. I desire to announce that Mr. MARSHALL is absent on account of sickness, and has paired upon this question with Mr. ROSS.

The result of the vote having been announced as above recorded,

Mr. BANKS moved to reconsider the vote by which the resolution was rejected.

Mr. ELDRIDGE. I rise to a question of order. Did not the gentleman from Massachusetts change his vote?

The SPEAKER. He did.

Mr. ELDRIDGE. Then he did not vote with the majority.

The SPEAKER. He voted with the prevailing side.

Mr. RANDALL, of Pennsylvania. Will it not require a two-third vote to reconsider?

The SPEAKER. The rule in regard to reconsideration will be found upon page 164 of the Digest. It is that any member who votes with the prevailing side may move a reconsideration. In answer to the gentleman from Pennsylvania, the Chair will state that it requires a majority to reconsider.

As the House is now acting under the operation of the previous question, the motion to reconsider will be entered at the Clerk's desk.

The question recurred on agreeing to the second resolution reported by the committee, which is as follows:

*Resolved*, That the personal reflections made by Mr. GRINNELL, a Representative from the State of Iowa, in presence of the House, upon the character of Mr. ROUSSEAU, a Representative from the State of Kentucky, were in violation of the rules regulating debate and the privileges of its members founded thereon, and merit the disapproval of the House.

Mr. BENJAMIN. I move to lay that resolution on the table.

Mr. BANKS. Would that not carry all the papers with it?

The SPEAKER. It would not, as the House is acting separately on the resolutions.

Mr. FINCK. I call for the yeas and nays on the motion to lay upon the table.

The yeas and nays were not ordered.

The question was then taken upon the motion to lay the second resolution upon the table, and it was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the resolution was laid on the table; and I also move to lay the motion to reconsider upon the table.

Mr. LATHAM. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

The motion to reconsider was then laid upon the table.

The question then was upon agreeing to the third resolution reported by the committee, as follows:

*Resolved*, That Charles D. Pennybaker, of Kentucky, L. B. Grigsby, of Kentucky, and John S. McGrow, of Ohio, by their presence and participation in a premeditated personal assault between Hon. Mr. ROUSSEAU of Kentucky, and Hon. Mr. GRINNELL of Iowa, on account of words spoken in debate, in which the persons, if not the lives, of members of this House were imperiled, were guilty of a violation of its privileges, and they are hereby ordered to be brought to the bar of this House to answer for their contempt of its privileges.

Mr. ELDRIDGE. I move to lay that resolution on the table.

Mr. RANDALL, of Pennsylvania. I would suggest to the gentleman from Wisconsin [Mr. ELDRIDGE] to withdraw his motion to lay on the table and allow me to move to postpone this resolution.

The SPEAKER. That motion would not be in order without unanimous consent, as the House is acting under the previous question.

Mr. RANDALL, of Pennsylvania. Up to this time neither of the actors in this affair have been reprimanded or punished in any way, and I think those who were the mere witnesses of the affair ought to be let off.

Mr. WENTWORTH. I would like to have the yeas and nays upon this motion to lay the resolution upon the table.

The yeas and nays were not ordered. The question was taken upon the motion to lay the resolution on the table; and upon a division there were—ayes 54, noes 70.

So the resolution was not laid on the table.

The question recurred upon agreeing to the resolution.

Mr. HALE. Is it in order to call for a division of the question upon this resolution, as it affects three different persons by a process which in its nature is *quasi* criminal?

The SPEAKER. The resolution is so framed that it cannot be divided, so as to have each part a substantive proposition by itself.

Mr. WENTWORTH. I call for the yeas and nays upon agreeing to the resolution.

The yeas and nays were not ordered.

Mr. PHELPS, (at fifteen minutes to six o'clock p. m.) I move that the House now adjourn.

The question was taken; and upon a division there were—ayes twenty-three, noes not counted.

So the motion to adjourn was not agreed to.

The question was then taken upon agreeing to the resolution; and upon a division there were—ayes 73, noes 43.

So the resolution was agreed to.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BANKS. I now call up the motion to reconsider the vote by which the first resolution reported by the committee failed to be agreed to.

Mr. FINCK. I rise to a point of order, that the gentleman from Massachusetts [Mr. BANKS] not having voted with the majority, has no right to make the motion to reconsider.

The SPEAKER. The Chair has already once decided that question of order.

Mr. FINCK. I desire to say in support of my point of order, that the rule requires that in order to entitle a member to move a reconsideration of any vote, he must have voted with the majority. It is stated that a fair construction of the rule would require that in the case of a tie vote, a member voting on the prevailing side should have the right to move a reconsideration. But this is not such a case; this was not a tie vote, and the member from Massachusetts voted with the minority.

The SPEAKER. The Chair overrules the point of order. Some member must have the right to move a reconsideration. In this case he certainly could not move a reconsideration, if he voted on the side which did not prevail, for he evidently is not in the constitutional majority on that question. And if the gentleman from Ohio [Mr. FINCK] is right in his point of order, no one can move a reconsideration, for the side which prevailed was in the minority. The usage upon this subject has been uniform, and the Chair is surprised that there are no cases cited in the Digest. But it is plain that any member voting on the prevailing side has the right to move a reconsideration. Such has always been the practice in Congress, as well as in all State legislative bodies, so far as the Chair is informed.

Mr. BANKS. I desire to give notice that if the House shall reconsider the vote by which the first resolution failed to be adopted, I shall move as a substitute therefor substantially the resolution reported by the minority of the committee. I now call the previous question on the motion to reconsider.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurred upon agreeing to the resolution, which was as follows:

*Resolved*, That Hon. LOVELL H. ROUSSEAU, a Representative from Kentucky, by committing an assault upon the person of Hon. J. B. GRINNELL, a Representative from the State of Iowa, for words spoken in debate has justly forfeited his privileges as a member of this House, and is hereby expelled.

Mr. BANKS. I move to amend the resolution by striking out all after the word "resolved" and inserting the following, on which I ask the previous question:

That Hon. LOVELL H. ROUSSEAU, a member of this House from the State of Kentucky, be summoned to the bar of the House, and be there publicly reprimanded by the Speaker for the violation of its rights and privileges of which he was guilty in the personal assault committed by him upon the person of Hon. J. B. GRINNELL, a member of this House from the State of Iowa, for words spoken in debate.

Mr. ELDRIDGE. I rise to a question of order. I submit that the House has already acted on that precise proposition, and that it cannot now be acted on again.

The SPEAKER. The House has acted on a similar resolution as a substitute for the entire series of three resolutions. It is now offered as a substitute for one resolution. It is therefore a different proposition, and is in order.

The previous question was seconded and the main question ordered.

Mr. BOYER. I move that the resolution and pending amendment be laid on the table.

Mr. JOHNSON. On that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion of Mr. BOYER was not agreed to.

The amendment of Mr. BANKS was agreed to.

The question recurred on the resolution as amended.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 89, nays 30, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Buckland, Reader W. Clarke, Conkling, Davis, Dawes, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Griswold, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James B. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kasson, Kelley, Ketcham, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McRuer, Morcu, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Perham, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Thayer, Francis Thomas, Trowbridge, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—89.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Boyer, Eldridge, Finck, Grider, Hale, Aaron Harding, Hogan, Humphrey, Johnson, Kerr, Le Blond, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, and Wright—30.

NOT VOTING—Messrs. Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Bromwell, Broomall, Bundy, Chanter, Sidney Clarke, Cobb, Coffroth, Cook, Cullom, Culver, Darling, Dawson, Denison, Dixon, Dodge, Dumont, Glossbrenner, Goodyear, Grinnell, Harris, Hayes, Hill, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Jones, Kelso, Kuykendall, Latham, Marshall, Marston, Marvin, McCullough, McIndoe, McKee, Paine, Patterson, Pike, Plants, Pomerooy, Radford, William H. Randall, Ross, Rousseau, Schenck, Sloan, Smith, Starr, Stillwell, Strouse, John L. Thomas, Upson, Ward, Elihu B. Washburne, Henry D. Washburn, Williams, and Winfield—63.

So the resolution, as amended, was agreed to.

During the call of the roll,

Mr. ROSS said: On this question I am paired with my colleague, Mr. MARSHALL. If he were here he would vote no, while I should vote ay.

The result was announced as above stated.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HALE. I ask unanimous consent to submit the following:

*Resolved*, That this House declares the personal reflections made by Mr. GRINNELL, a Representative

from the State of Iowa, in presence of this House, on the day of June last, on the character of Mr. ROUSSEAU, a Representative from the State of Kentucky, to have been in violation of the rules of the House and the privileges of its members, and that this House does hereby censure the said JOSIAH B. GRINNELL therefor.

Mr. PRICE. I object.

#### PROTECTIVE TARIFF.

Mr. MOORHEAD, from the Committee on Manufactures, presented a report on the subject of a protective tariff, and moved that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. TRIMBLE asked and obtained leave to present a minority report on the same subject.

Mr. HALE moved that five thousand copies extra of the minority report be printed.

The motion was referred, under the law, to the Committee on Printing.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled an act (S. No. 343) to quiet land titles in California; when the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed the following resolution:

*Resolved*, That the Senate insists upon its amendments to the bill (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1887, disagreed to by the House of Representatives, disagrees to the amendments of the House to other amendments of the Senate to the said bill, and agree to the committee of conference asked for by the House on the disagreeing votes of the two Houses thereon.

#### LEAVE OF ABSENCE.

Mr. ANCONA asked and obtained leave of absence.

Mr. ROGERS asked and obtained leave of absence for one day.

Mr. INGERSOLL asked and obtained leave of absence for Mr. Cook for ten days.

And then, on motion of Mr. RANDALL, of Pennsylvania, the House (at six o'clock and five minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By the SPEAKER: The petition of T. P. Devereux, of Halifax, North Carolina, for relief.

By Mr. EGGLESTON: The petition of the Cincinnati and Memphis Steam Packet Boat Company, praying authority to change the name of the steamboat Alice Dean to Glendale.

By Mr. MERCUR: The petition of 22 citizens of Sheshequin, Bradford county, Pennsylvania, asking that the tariff laws may be so amended as to protect their labor.

By Mr. O'NEILL: A petition of citizens of Philadelphia interested in mineral lands and mining in California, Nevada, Colorado, Utah, Montana, Idaho, and Arizona, urging upon the House of Representatives to pass Senate bill entitled "An act to legalize the occupation of mineral lands, and to extend the right of preemption thereto."

#### IN SENATE.

WEDNESDAY, July 18, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. STEWART, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of S. G. Burbridge, late major general of volunteers, praying for compensation for Daniel Mills, a freedman, who contributed to the defeat of John Morgan by furnishing valuable information to the Union Army; which was referred to the Committee on Claims.

#### SUBSTITUTE FOR COTTON.

Mr. ANTHONY. I desire to send to the Chair a communication from the Acting Commissioner of Agriculture. It will be recol-



lested that three years ago an appropriation of \$20,000 was made to test the practicability of cultivating and preparing hemp or flax as a substitute for cotton, under the direction of the Commissioner of Agriculture. This fund has been administered by the Commissioner of Agriculture with very great economy and with very good results. Although the process of cottonizing flax, or reducing flax to such a condition that it may be spun upon cotton machinery, has not been attained, and perhaps from the nature of the fiber may never be attained—that is a question yet to be settled—very great improvements have been made in the use of flax. It has been applied to many different articles in which before it was unknown. In some it is equal to cotton; in some it is superior to cotton; in some it is inferior to cotton; but from its greater cheapness it produces a very valuable fabric. The Commissioner of Agriculture states that of the fund of \$20,000 he has transferred back \$10,500 to the surplus fund of the Treasury; and in these days when there is a deficiency bill for everything, I thought that so economical an administration was deserving of honorable mention. I move that the communication lie upon the table.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 436) to reorganize the clerical force of the War Department, and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 187) recommending the reorganization and instruction of the militia of the several States, and providing for the distribution of ordnance and ordnance stores, reported adversely thereon.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 77) respecting brevet rank to officers of the Army, reported adversely thereon, and moved that it be indefinitely postponed; which motion was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 191) to provide clerical force for military divisions and departments, reported adversely thereon, and moved the indefinite postponement of the bill; which motion was agreed to.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 188) for the appointment of a commission on transportation between the western States and the Atlantic sea-board, reported adversely thereon, and moved its indefinite postponement; which motion was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 156) to amend the ninth section of the act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 20) requesting the President to suspend any order mustering out the officers of the Veteran Reserve corps until Congress shall take some legislative action in regard to the corps, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 701) granting a pension to Mrs. Imogene Buckingham, of Edgar county, Illinois, reported adversely thereon, and moved its indefinite postponement; which motion was agreed to.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 46) for the relief of Martha McCook, reported ad-

versely thereon, and moved its indefinite postponement; which motion was agreed to.

He also, from the same committee, to whom was referred the memorial of Elisha Baxter, late colonel of the fourth regiment Arkansas mounted infantry in the United States service, praying for such legislation as will enable the officers and men of that command to obtain compensation for services rendered and property lost as if they had been regularly mustered on the day of their respective enlistments, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the petition of Walter F. Halleck, late a second lieutenant in the Veteran Reserve corps, praying that he may be reinstated in his former position in that corps, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON. I am also directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 87) for the relief of certain volunteer officers appointed by the President, to report it back adversely; and as this subject has been acted upon by the Senate, I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. WILSON. I am also directed by the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 77) to provide for the examination of certain officers of the Army, to report it back to the Senate; and as that provision is incorporated in the Army bill, I move the indefinite postponement of this bill.

The motion was agreed to.

He also, from the same committee, to whom were referred the following petitions, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims, which was agreed to; namely:

A petition of J. W. Turner, of the Veteran Reserve corps, praying that he may be allowed pay for traveling and subsistence from Young's Point, Louisiana, to his home in Iowa;

A petition of Annie E. Dixon, praying for a pension;

A petition of D. A. Daniels, praying for compensation for services rendered while second lieutenant of the third Minnesota battery;

A petition of Mrs. Mary Good, praying for a pension;

A petition of William H. Johnson, praying for compensation for services rendered as a private in company I, fourteenth regiment New York heavy artillery, while in the service of the United States, which, on account of his color, cannot be paid by the Paymaster General; and

A petition of Myles Doran, of the fourteenth regiment Michigan volunteers, praying that he may be allowed the pay and allowances of a second lieutenant from the 3d of February, 1865, to the 18th of July, 1865.

He also, from the same committee, to whom were referred the following petitions and memorials, asked to be discharged from their further consideration; which was agreed to:

A petition of Enos Kellsey, of Napoli, New York, praying for a pension;

A petition of hospital stewards of the Army, praying that they may be placed on an equal footing with those who perform similar services in European armies, namely, second lieutenants of infantry;

A petition of Andrew Branstetter, praying for a pension;

A petition of James A. Paige and others, late chaplains in the Army, praying that they may not be required to refund the amounts drawn by them for commutation for fuel and quarters from June, 1862, to April, 1863;

A memorial of the Legislature of New York in favor of retaining the Veteran Reserve corps in the military service of the United States;

A memorial of members of the Signal corps stationed in Texas, praying for the discharge of that corps of the Army;

A petition of enlisted men of company G, eighth regiment United States Veteran volunteers, praying that they may be paid the bounty due them, which was lost through the carelessness or fraud of a disbursing officer;

A petition of discharged officers of the volunteer army, praying that the Veteran Reserve corps may be made part of the standing Army of the United States; and

A petition of citizens of the United States, praying that one hundred and sixty acres of land may be granted to the soldiers of the late war.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 424) to incorporate the Washington Temperance Society, of the city of Washington, District of Columbia, reported it without amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 383) to incorporate the American Cotton Company, of the District of Columbia, moved that it be indefinitely postponed; which motion was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Washington, praying that the judges of the supreme court of the District of Columbia may be authorized to appoint an additional number of notaries, reported adversely thereon, and moved the indefinite postponement of the subject; which motion was agreed to.

Mr. BUCKALEW, from the select committee on ventilation, submitted a report, with accompanying documents, constituting an examination of the plan of ventilation; which was ordered to be printed.

#### CIVIL APPROPRIATION BILL.

Mr. FESSENDEN. The Committee on Finance, to whom was referred a bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, have directed me to report it back with sundry amendments, which I wish to have printed so that the bill may be ready to-morrow morning, when I propose to take it up.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the amendments of the Senate to the bill (H. R. No. 3) to revive the grade of General in the United States Army, with an amendment, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 343) to quiet land titles in California; and it was thereupon signed by the President *pro tempore*.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 439) to amend an act approved June 21, 1866, entitled "An act for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida;" which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### POTOMAC WATER.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 135) relating to the supply of Potomac water to the Capitol, which was read twice by its title.

Mr. JOHNSON. I ask for the immediate consideration of the resolution. I understand that the supply for the last two or three days has been altogether inadequate, and it is said to be owing

to the extravagant use of the water in the city below. They are using it in the streets constantly. There is now not water enough in the Capitol to supply the wants of the day. It can be corrected, as it is imagined, by prohibiting, by some regulation which the Secretary of the Interior may authorize, the unnecessary use of the water that is now being made in the city.

Mr. GRIMES. Let the resolution be read for information.

The Secretary read the joint resolution, which proposes to authorize the Commissioner of Public Buildings, under the direction of the Secretary of the Interior, to take such immediate measures as he may think best to cause a constant supply of Potomac water to the Capitol.

Mr. GRIMES. I should be hardly willing to pass that resolution, in its present form at any rate. The Commissioner of Public Buildings may choose to go and build a new aqueduct under this resolution. It gives him unlimited power. I desire to say, in answer to the statement of the Senator from Maryland, that to my certain knowledge the policemen are going around this morning notifying the people that they must not waste the water as they have been doing the last four or five days. I know it has been wasted, and the result has been that there has been a deficient supply. Almost every man has had a water-works in front of his house, going, some of them, nearly the whole day, and the night besides. But the notification of which I speak has been given this morning, and I apprehend that from this time forward there will be no difficulty on the subject. But this resolution would authorize the Commissioner of Public Buildings to expend an unlimited amount of money.

Mr. JOHNSON. The Secretary of the Interior was applied to, and I understand said the fault was only to be corrected by enlarging the dam. That cannot be done, for the necessity is an immediate one. Certainly it was not my purpose to authorize the Commissioner or to authorize the Secretary of the Interior to increase the supply of water in the way suggested by the honorable member from Iowa. I move, however, the reference of the joint resolution to the Committee on the District of Columbia.

The motion was agreed to.

#### PARK AND PRESIDENTIAL MANSION.

Mr. HENDRICKS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds (to whom were referred two resolutions of the Senate directing them to inquire what tracts of land containing not less than one hundred acres adjoining or near this city can be obtained, and for what prices, for a park and site for a presidential mansion, and which shall combine convenience of access and healthfulness, good water, and capability of adornment,) be, and they are hereby, authorized to employ a practical landscape gardener or topographical engineer to examine the different tracts of land offered to the committee for such purpose, who shall report to the committee in December next the adaptability of each tract for the object contemplated by said resolutions.

#### NAVAL PENSION FUND.

On motion of Mr. GRIMES, the Senate resumed the consideration of the joint resolution (S. R. No. 95) amendatory of a resolution regulating the investment of the naval pension fund, approved July 1, 1864, the pending question being on the passage of the resolution.

Mr. SHERMAN. I should like to have the resolution read before the vote is taken on its passage.

The Secretary read the resolution, as follows:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That a resolution approved July 1, 1864, entitled "A resolution regulating the investment of the naval pension fund," be, and the same is hereby, amended so as to require such portion of the said fund as is thereby ordered to be invested in registered securities of the United States to be made a permanent loan to the United States at six per cent. interest per annum in coin, payable on the 1st day of January and the 1st day of July of each year: *Provided*, That nothing herein contained shall be construed to amend or alter the aforesaid resolution except so far as relates to the mode of investment.

Mr. SHERMAN. I think the Senator from Maine [Mr. FESSENDEN] made some objection

to this measure when it was up before. It seems to me the manifest objection is that this is a permanent investment at six per cent., payable in gold, when everybody, I think, contemplates a reduction of the rate of interest. I do not see any substantial use in making a permanent investment of this character. The Senator from Maine, who made some objection, is not now in his seat.

Mr. GRIMES. When the Senator from Maine objected to this resolution the other day, I suffered it to lie until the Secretary of the Treasury came down and urged that it should be passed, and I went with the Assistant Secretary to see the Senator from Maine, and he thought there was no objection to it. The Secretary of the Treasury wants it passed, because he is now carrying nine or ten million dollars of this fund as a part of his temporary loan, and he does not like to have it appear there. Under the resolution to which this is an amendment, it is provided that the naval pension fund shall be invested in six per cent. registered bonds. The Secretary of the Navy now has the authority to require those bonds from the Secretary of the Treasury, or he can take this money and go into the market in New York and buy bonds and hold them as registered bonds. There is no particular advantage in his doing that, and, besides, it imposes on him the necessity of providing safes and vaults to keep the bonds. This resolution provides that the fund shall stand on the books of the Treasury as a permanent fund, without the formality between these two Departments of issuing registered bonds. That is all there is of it. The resolution is drawn by the Secretary of the Treasury, and sent to me through the hands of the Assistant Secretary.

Mr. JOHNSON. What is the whole amount standing to the credit of the Navy pension fund?

Mr. GRIMES. About ten millions, I believe. I do not know that there is that amount uninvested, but that is the whole amount.

Mr. JOHNSON. I meant to ask, what is the amount to be invested under this resolution?

Mr. GRIMES. It is several million dollars; eight or nine millions, I think.

Mr. JOHNSON. I rose for the purpose of asking whether under the resolution the fund in the hands of the Treasury received in currency is to be invested in securities of the United States, dollar for dollar, to be paid in coin afterwards. If so, that would seem to be making the United States pay more than they ought to pay.

Mr. GRIMES. I am not prepared to say how it was received; but I have only this to say, that if the Senator is disposed to drive a hard bargain with the naval pension fund which we have dedicated to a specific purpose for the last sixty years, all that is necessary for the Secretary of the Navy to do is to draw this money from the Treasury and go into the market and buy these six per cent. gold-bearing bonds.

Mr. JOHNSON. At 110?

Mr. GRIMES. At whatever they may be worth. This is simply a fund that is set apart in the Treasury out of which to pay one class of pensioners. It belongs to the Government as a trust fund. It is not proposed to change the rate of interest, either to increase or to diminish it, but to pay this fund standing in the light of a public creditor toward the Treasury, just as we pay everybody else.

Mr. JOHNSON. We do not pay everybody else in the same way. The pensioners are not paid in gold; they are paid in currency.

Mr. GRIMES. We do not pay the pensioners in gold, but you pay everybody to whom you issue one of your six per cent. bonds in gold.

Mr. JOHNSON. Of course you do.

Mr. GRIMES. And you have provided by law that six per cent. bonds shall be issued for this fund. The Secretary of the Navy can tomorrow demand six per cent. bonds; but for the convenience of the Treasury, we provide in this resolution that the Treasury shall not be under the necessity of issuing a thousand

different \$1,000 bonds, but that a mere declaration upon the statute-book shall stand in place of them. That is all.

Mr. JOHNSON. Are they authorized now to invest in six per cent. bonds payable in coin?

Mr. GRIMES. Yes, sir.

Mr. JOHNSON. Under the laws as they stand?

Mr. GRIMES. Yes.

Mr. SHERMAN. But they must pay the market price.

Mr. GRIMES. They can demand of the Secretary of the Treasury to issue the bonds. If the Secretary refuses to obey, then, if they choose, they can go into the market and buy them; but it is the duty of the Secretary of the Treasury, as the law now stands, to issue these bonds upon the request of the Secretary of the Navy.

Mr. FESSENDEN. I will state what the facts are as I understand them. The law requires that this fund shall be invested in registered bonds of the United States, but it says nothing about the rate of interest. It is the duty of the Secretary of the Navy so to invest it. The difficulty, as I understand, is, that the Secretary of the Treasury offered him five per cent. bonds, but he declined to receive them, and demanded six per cent. interest; and the Secretary of the Treasury finally acquiesced in that being done, as I was informed by the Assistant Secretary yesterday, supposing that it did not make any very great difference, as the interest would be probably sufficient to pay these pensions, and the pensions must be paid. These bonds are not in the market, but the money is substantially in the Treasury, as the Senator from Iowa says. The money could, at any time we direct, undoubtedly be made to bear only five per cent. interest, I presume. That would not affect the contract with the parties who are our pensioners. I myself was inclined to think that five per cent. bonds ought to be issued, and for that reason I had this matter laid on the table until I could look further into it. I was informed that the Secretary of the Treasury and the Secretary of the Navy had been in consultation about it, and that this very resolution was drawn at the Treasury Department, and sent here; and so understanding, I came to the conclusion that I would not interfere with it any further, because I really cannot see that it makes any great difference in the end so far as the payment of interest is concerned.

Mr. JOHNSON. My friend from Iowa suggested that I was disposed to drive a hard bargain with this fund.

Mr. GRIMES. Oh, no.

Mr. JOHNSON. Such an idea was farthest from my thoughts. I desire, however, to inquire if this is not making an investment that will increase the fund. If you invest at par and give bonds that can be sold at 110 it has that effect.

Mr. SHERMAN. They may be 125 before long.

Mr. GRIMES. We do not propose to have the bonds issued; that is the very purpose of this resolution. As the law now stands, the Secretary of the Navy can demand the bonds and then sell them for 110 or 125 if they should be worth that.

Mr. FESSENDEN. The Secretary of the Treasury can refuse to issue the registered bonds.

Mr. JOHNSON. The fund is not entitled to six per cent. bonds.

Mr. FESSENDEN. If the Senator from Iowa will consent to the postponement of the bill, I will go to the Treasury and consult further in regard to this matter.

Mr. SHERMAN. To enable the Senator from Maine to look into the matter, I move to postpone the further consideration of this bill; and I desire to take up a bill that will consume very little time and lead to no debate, which must be passed to-day—Senate bill No. 300, commonly called the funding bill. I desire to propose certain amendments to it, which, I think, will remove the objections to it.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone the further consideration of the joint resolution until to-morrow.

The motion was agreed to.

#### FUNDING OF THE NATIONAL DEBT.

Mr. SHERMAN. I now move to take up Senate bill No. 300.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to reduce the rate of interest on the national debt and for funding the same, the pending question being on the amendment offered by Mr. VAN WINKLE, to strike out all of the third section after the word "least," in the seventh line, and to insert the following:

Ninety million dollars, including the saving of interest aforesaid, out of any money in the Treasury not otherwise appropriated, shall be semi-annually applied to the payment of the interest as it accrues, and the reduction of the principal of the said debt, by the purchase or redemption of the said bonds at not exceeding their par value, unless a greater rate is hereafter authorized by law.

Mr. VAN WINKLE. I withdraw that amendment to enable the Senator from Ohio to offer some amendments which he has prepared.

Mr. SHERMAN. I desire to propose certain amendments which have the unanimous sanction, I believe, of the Committee on Finance, so as to make this bill express their unanimous sentiments. I move to strike out the third section of the bill and to insert in lieu thereof:

That in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes and for the repayment or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, there shall be annually applied to the payment of the principal and interest of the public debt the sum of \$180,000,000, which sum is hereby appropriated for that purpose out of any money not otherwise appropriated; and so much of said sum as is not required to pay the accruing interest on said debt shall be applied to the purchase or payment of such of the public debt as the Secretary of the Treasury shall from time to time direct.

Mr. STEWART. I should like to hear that amendment reported again.

Mr. SHERMAN. Probably I can explain the matter more briefly to the Senator than by having it read. The law of 1862 provides for a sinking fund of one per cent. on the amount of the principal of the debt, the interest on which is computed in round numbers at \$150,000,000. In order to simplify the whole system, this proposition proposes to appropriate \$180,000,000 for the payment of the interest and principal of the public debt. It is a different form of sinking fund. That is the only material difference. It is an appropriation of a specific sum to be applied annually to the payment of the interest and principal of the public debt. A sufficient amount of it, as a matter of course, is to be applied to the payment of the interest, and the balance to the payment of the principal.

The amendment was agreed to.

Mr. SHERMAN. I propose the following amendment to come in as an additional section:

And be it further enacted, That all money received into the Treasury of the United States for duties on imported goods shall be specially set apart and applied to the purposes following, to wit: first, to the payment of so much of the interest of the public debt as is payable in coin; second, to the payment as it matures of the principal of the public debt; third, to the payment of such appropriation by Congress as are required to be paid in coin; when the amount of coin in the Treasury exceeds \$50,000,000 the excess shall be sold in open market in the city of New York for United States notes, under rules to be prescribed by the Secretary of the Treasury, and the notes received therefor shall be canceled.

The amendment was agreed to.

Mr. SHERMAN. In section four, line seven, I move to strike out the word "six" and insert "four," so that the notice required for the conversion of the outstanding seventy-three notes shall be four months instead of six months.

The amendment was agreed to.

Mr. SHERMAN. I now move to strike out the first and second sections of the bill, which provide for a new loan.

The amendment was agreed to.

Mr. SHERMAN. I offer another amendment, to insert this as an additional section:

And be it further enacted, That from and after the 1st day of January, 1867, the lawful money required to be held on hand by the national banking associations under the thirty-first section of the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, shall not consist in whole or in part of interest-bearing notes or bonds.

I will now state, so that the Senate may understand it distinctly, the effect of these amendments, for this is the last of them. The first and second sections of the bill, as originally reported, contained an authority to issue a new five per cent. loan, to be sold at not less than par, upon certain conditions and stipulations. As this gave rise to controversy and debate, not only in the committee, but in the Senate, and as it was believed that the Secretary of the Treasury had power sufficient at least to get along under the act that we passed in March last, the first and second sections are stricken out. Probably at the next session I may seek to confine the Secretary of the Treasury to a simple loan at five per cent.; but at present we leave him to the law as it was passed in the spring.

The third section provided for the funding. That has been somewhat changed by an amendment already adopted.

The fourth section provided for the outstanding seven-thirty Treasury notes due next year and the year following, and required the notice to be given of the exercise of the option contained in those Treasury notes. The term of the notice is now four months instead of six months.

The amendment now pending is an important one, and the Senate should be aware of its nature before it is acted upon. Under the present law, I think erroneously, they have got in the habit of regarding the compound-interest notes as a part of the reserve fund which the banks are required to hold on hand to redeem the national bank notes; and these compound-interest notes have been held as a reserve, instead of the United States notes. The law—and I think upon that we agree—contemplated that nothing but United States notes and coin should be held as the reserve. That was the opinion of the Finance Committee; and I think it is the opinion of the Secretary of the Treasury. At any rate, a different construction has been acted upon by the Comptroller of the Currency from time to time; and the Secretary, although desirous of making the change, does not feel that he would be justified in making a change now by mere construction, and therefore submits it to Congress. The effect of this amendment will be, that after the 1st of January next compound-interest notes cannot be held by the national banks as a part of their reserve, but they will be compelled to dispose of those now held by them between this and the 1st of January, and keep in place of them United States notes. The tendency will be to reduce or retire from circulation so many United States notes as will be required to be held by the banks for their reserve.

Another amendment authorizes the Secretary of the Treasury to sell in open market gold in excess of fifty millions, with a view to be applied to a reduction of United States notes. That amendment has already been adopted, and it is not necessary for me to state anything further than that the effect will be to avoid all the controversy about the sale of gold in the market, about which there has been a good deal of controversy.

Mr. JOHNSON. Has that been submitted to the Secretary?

Mr. SHERMAN. That amendment has been submitted to the Secretary and meets his approval. By it he is bound to keep gold in the Treasury until it amounts to fifty millions. He is bound to apply the gold in the Treasury, first, to the payment of the interest of the debt as it matures, payable in coin; then to the payment of such appropriations as shall be made in coin; and then to the payment of the principal of the national debt as it matures; and

when the amount of gold exceeds \$50,000,000, he is bound to sell it in open market in the city of New York, and apply the excess to the redemption of outstanding United States notes and to cancel those notes. The effect will be that if the amount of gold is very largely increased in the Treasury he will apply the excess to the reduction of the currency, and consequently to the contraction of the currency. I think this is the only explanation necessary in regard to this bill.

The amendment was agreed to.

Mr. WILSON. The bill has been so much changed that I should like to hear it read as it now stands.

Mr. GRIMES. Let us have it printed.

Mr. WILSON. I move that the further consideration of the bill be postponed until to-morrow, and that the bill, as amended, be printed.

Mr. SHERMAN. There is no objection to that if anybody wants it done. It will be necessary to pass this bill to-morrow, if it is to be passed at all, and I give notice that I shall call it up to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

#### COMPENSATION OF OFFICERS OF SENATE.

Mr. WADE. I move to take up Senate bill No. 411.

The motion was agreed to; and the bill (S. No. 411) fixing the compensation of officers, clerks, messengers, and others in the service of the Senate, was read the second time, and considered as in Committee of the Whole.

Mr. WADE. I move to amend the bill, in section one, line twelve, by striking out the word "eight" and inserting the word "nine;" so that it will read, "nine clerks in the office of the Secretary of the Senate, \$2,500 each."

The amendment was agreed to.

Mr. WADE. I move further to amend the bill in section one, line eighteen, by striking out "five hundred" and inserting "one thousand;" so that the clause will read, "page in stationery room, \$1,000."

The amendment was agreed to.

Mr. WADE. In section one; lines eighteen and nineteen, I move to strike out the words "\$2 50 per day" and to insert "\$1,000;" so that it will read, "page in Secretary's office, \$1,000."

Mr. JOHNSON. I do not like to object, but \$1,000 for a page is pretty high wages, it seems to me.

Mr. WADE. These are permanent pages, who receive about that sum now per day.

The amendment was agreed to.

Mr. WADE. Mr. President, the committee were instructed by the resolution under which they acted not to fix, nor to endeavor to fix, properly what should be the pay of these employes, but to equalize the sums received by the officers of the House and of the Senate for corresponding labor as nearly as we could come at it; and we have proceeded to do so. I do not know whether they receive too much or too little, for we did not take that into consideration. We did not suppose that we were authorized to do that under the resolution, which instructed us to make the salaries of the Senate employes as nearly equal as we could with the salaries of the employes of the House of Representatives. The House, by a resolution, some time ago, increased the salaries of all their officers receiving less than \$1,200 by twenty-five per cent. We did not undertake to equalize the salaries here with that increased amount; but if the Senate should think that ought to be done, then, of course, it will be easy to fix it, because we have the certificate of the Clerk of the House showing what their employes received before and what this increase will make them. This bill, however, is drawn upon the higher rate, upon the increased compensation that the House has already bestowed upon their employes by a resolution.



The Senate employes, as a general thing, were not receiving as much compensation before this increase as the House employes were, and consequently the addition of twenty-five per cent. to the existing salaries would not make them equal in every case, and where that was the case we made them equal, at all events. They ought to have been equal, I suppose, for like services all the time, and we have endeavored to make them so. There are some offices of the different departments here that seem to be anomalous; there is nothing in the House to compare them to; but as the universal principle seemed to be to increase by twenty-five per cent. the salaries of the officers, I have prepared an amendment here that covers that kind of employes where there is no common standard of comparison, and I have done it by adding the same amount that seemed the general amount aimed at in the other cases. I move, therefore, that this bill be amended by adding as an additional section the following:

*And be it further enacted,* That the chief engineer of the heating and ventilating apparatus shall be paid \$1,740; two assistant engineers, \$1,500 each; the captain of the Capitol police, \$2,175; the lieutenant of the Capitol police, \$1,875; twenty-nine Capitol policemen, \$1,650 each; page to the Vice President, the same compensation as is paid to the other permanent pages of the Senate; one special policeman in the office of the Secretary of the Senate, \$1,000; three laborers in the office of the Secretary of the Senate, \$2.50 per day each; clerk of printing records of the Senate, \$2,500; the Public Gardener, with the force employed under him, an additional increase of twenty-five per cent. to the compensation now received by them.

The amendment was agreed to.

Mr. POLAND. I desire to move an amendment in the eleventh and twelfth lines of the first section. The clause as it now stands reads, "principal executive clerk, \$2,100." I move to amend that by striking out the words "twenty-one hundred and sixty" and inserting "three thousand," so as to make the salary \$3,000. I believe that the salaries of the principal executive clerk and the principal legislative clerk are the same amount now; but the committee have raised the salary of the principal legislative clerk to \$3,000, and have left the salary of the principal executive clerk standing as before upon the ground that there was no corresponding officer in the House. The attempt of the committee was to equalize the salaries of the officers in this branch with the salaries of corresponding officers in the other branch of Congress, but there was no officer in the other branch of Congress corresponding to the executive clerk of the Senate, and therefore they made no alteration. The duties of this officer have very largely increased of late years, probably more than that of any other officer or employe about the Senate. I have been furnished with some data showing this increased labor. In the Thirty-Fifth Congress, the whole number of nominations sent into the Senate was 1,554; in the Thirty-Sixth Congress it was 1,233; in the Thirty-Seventh Congress it was 8,938.

Mr. WILSON. Will the Senator read that over again?

Mr. POLAND. In the Thirty-Fifth Congress the whole number of nominations was 1,554; in the Thirty-Sixth Congress it was 1,233; in the Thirty-Seventh Congress, 8,938; in the Thirty-Eighth Congress, 7,748; and since the commencement of this session the number of nominations that have been sent in is 7,919, for a part only of one session.

Mr. WADE. This was, so far as we could learn, an anomalous office. There was nothing in the House to compare it to, and of course as we could not equalize it, we left it as it was. The rest of the employes, however, have been raised, by this bill, twenty-five per cent. to make them correspond with the employes of the House generally; and if it is right that the others should be equalized in that way, I have no objection to applying the same principle to this officer.

Mr. FESSENDEN. This amendment would make an increase of more than twenty-five per cent.

Mr. WADE. The amendment may carry it too far. It is not in my mind now what that salary was.

Mr. BROWN. Twenty-one hundred and sixty dollars.

Mr. WADE. Then it ought to be raised by the addition of twenty-five per cent. to make it like the others. That would be the same principle that the rest have gone on. I should say it ought to be about twenty-five hundred dollars. That would be applying to it the same principle as has been applied in the case of the other clerks. Three thousand dollars would be above the gauge which we have gone on with reference to the others.

Mr. POLAND. I inquire of the honorable Senator from Ohio if the salary of the principal legislative clerk is not now \$2,160, the same as the principal executive clerk.

Mr. WADE. The principal legislative clerk gets \$2,160 now.

Mr. POLAND. And that is raised to \$3,000 by this bill?

Mr. WADE. Yes, sir.

Mr. POLAND. Why should not the salary of the principal executive clerk be raised to the same extent?

Mr. WADE. We supposed that the chief clerk ought to have a rather higher salary than the others.

Mr. FESSENDEN. He is here at the desk always.

Mr. WADE. He is always at the desk, never leaves it a moment; and frequently has the duties of other officers to perform. We thought we fixed his salary at a sum small enough; but we leave it to the judgment of the Senate. The amount we have named is our judgment.

Mr. SHERMAN. I was a little surprised at the statement of my colleague, and I have been looking at the law which fixes the compensation of clerks and other officers of the House of Representatives. I do not find in the law any such compensation as is now proposed to be given to the officers of the Senate. I have the annual estimates here before me, and I see that the appropriation for Clerk of the House of Representatives is \$3,600, the same we allow to our Secretary; and for "chief clerk and one assistant clerk \$2,160 each." Their legal compensation is \$2,160 each.

Mr. WADE. My colleague has probably got the statement prior to the act of the House lately.

Mr. SHERMAN. Now, I will make a statement in regard to that. Some years ago, in order to cut off the practice of the two Houses, at the close of the session voting by resolution an extra allowance of twenty per cent. to their clerks and other employes, a law was passed declaring that neither House should in this way increase the compensation of its officers. That is the law. The House of Representatives, three years ago, undertook in violation of the law to increase the pay of the officers of the House. The Senate by an almost unanimous vote contested it, and finally, as a kind of compromise, as the House had committed itself to the payment, after a long discussion, we allowed that appropriation to pass, to be paid out of the contingent fund of the House, on the express condition inserted in the law, that after that time the thing should not be repeated. Now, they have undertaken at this session, as I understand, to increase the compensation of their employes twenty-five per cent. in violation of two laws, one of which was the result of a compromise; but that resolution of the House will not be regarded by the accounting officers of the Treasury. They have always declared that neither House could raise the compensation of its own employes. It must be done by law. The provision for that twenty-five per cent. increase of compensation of the employes of the House is not a law, nor will any accounting officer allow the money to be paid upon it. It must be sanctioned by a subsequent act of Congress making an appropriation to carry it into effect. That has not been done nor has it been proposed so far as I know. I ask the Senator from Maine if there is any such provision in any of the bills.

Mr. FESSENDEN. Not at all.

Mr. SHERMAN. So I thought. The compensation of these officers is fixed by the law as in the statement before me in the estimates.

Mr. FESSENDEN. And that is all the appropriation that is made for them.

Mr. SHERMAN. Yes, sir. In the estimates it will be seen that the clerks are put at \$1,800. Under the circumstances, when the proposition was made by my colleague to organize a committee to make the salaries of the officers of the Senate equal to those of the House, I was in favor of it, because in regard to some officers of the Senate there is a deficiency of compensation. For instance, the Sergeant-at-Arms and Doorkeeper of the Senate gets but \$2,000, while the same officer of the House gets something more—\$2,160, I think. But there is a reason for that. In the House the Sergeant-at-Arms is the disbursing officer of the House. He pays the members their compensation and mileage, while here the Secretary of the Senate does it, or rather we pay a clerk to do it and allow him \$480 extra compensation for that service. It seems to me that if we now raise the salaries of the officers of the Senate by a permanent law the House, as a matter of course, will raise the salaries of the officers of the House to equalize them with the Senate, and then we shall have the salaries fixed by this bill permanent perhaps.

Mr. WILLIAMS. I ask the Senator if the Sergeant-at-Arms of the Senate does not discharge the duties of Doorkeeper.

Mr. SHERMAN. But he has a very efficient assistant doorkeeper who is called assistant doorkeeper, but who is really Doorkeeper.

Mr. WILLIAMS. There is a distinct salary paid to the Doorkeeper, in the House, and another distinct salary to the Sergeant-at-Arms, while here one salary pays the Sergeant-at-Arms for discharging both duties.

Mr. SHERMAN. I am not indisposed to give the chief clerk and the principal legislative clerk and the Sergeant-at-Arms fair and liberal compensation—I would say about \$3,000. I do not think it is wise now for us to give \$2,500 a year to the clerks employed in performing duties about the Senate, when most of their duties are discharged simply during the session of the Senate. If this bill is passed we can no longer refuse the application that is made to raise our own salaries. We cannot refuse to raise any salaries if we raise these to the amount proposed by my colleague.

Nothing in the world is so unpleasant as to attempt to resist or restrain an increase of salaries to those who are around us and associated with us, who are always kind and polite to us, and to whom we are naturally attached; but it seems to me we ought to be prepared for the consequences which must result from this legislation, and we ought to look it fairly in the face. I do not want to say anything more about it. I am willing to give a fair compensation to officers of a permanent character, like the Sergeant-at-Arms, the Secretary of the Senate, and others; but I think this bill is drawn on an erroneous principle. It is drawn on the supposition that the resolution of the House, passed for this session only, is a part of the law of the land, when it is not.

Mr. WADE. I know that heretofore there was a controversy between the House of Representatives and the Senate whether the other branch of Congress could increase the compensation of its own employes. I do not know how that was finally settled. I had a strong opinion about it that perhaps an appropriation for that purpose, like every other appropriation of money, should be fixed by Congress, and not by one branch alone. Notwithstanding, that was done at that time; and the House of Representatives supposed they had power to do what they have done recently, or they would not have done it. I have taken the certificate of the Clerk of the House as to the compensation of their employes. The committee applied to him to furnish us with a state-

ment of the salaries now paid by the House, and we have it here. Senators will find a comparative table at the end of the report in this case. The first row of figures in the table is the pay that the Clerk of the House certifies to us is received by the officers of the House now. I take that as a gauge. I know, however, that that was founded upon the increased compensation that the House, by resolution, had voted, whether valid or not. If it is not valid, and the Senate is determined to treat it as invalid, this whole bill falls to the ground, because it was attempted to equalize the compensation upon that principle. Without that increase it can still be equalized, but the inequality between the two is not very great without that increase. The second row of figures is a statement of the amounts paid by the Senate to its employes. The third column is the difference; and in the fourth column is a statement of the increase proposed to be made by this bill. It equalizes the salaries upon the enhanced payments that the House has agreed to make.

As to our Sergeant-at-Arms, he has a very onerous duty to perform that the Sergeant-at-Arms of the House does not have to perform. I think there are three, if not four, officers of the House of Representatives receiving altogether something like seven thousand dollars for the performance of the duty which the Sergeant-at-Arms of the Senate in his own person performs very much. He makes all the purchases, which keeps him here during the vacation. He will not have any respite at all. In the other House, I believe, that matter is attended to by some one officer, who is charged with that special duty. The Sergeant-at-Arms does it himself, here, and it is a very onerous duty to perform, and he ought to receive compensation for it, in my judgment. At all events we have fixed his compensation at the same sum that is allowed to the Sergeant-at-Arms of the House of Representatives; and so of the rest.

It was not the purpose of the committee to fix what the compensation ought to be, but rather to equalize it with the compensation of corresponding officers in the other House. I am inclined to think that under all the circumstances at present the compensation proposed is too high. I have voted almost always against the enhancement of salaries, but I cannot conceal from myself the fact that the value of money is so much inferior to what it was before the war that gentlemen who live here on these salaries find it pretty hard to get along in the way they are now. I think, perhaps, the increase ought to be made temporary, so that if monetary affairs get to be more satisfactory we may go back to the old compensation. That would be nearer to what it ought to be; but as things are now this increased compensation, in my judgment, will not pay these employes as well as they were paid before the war. I have no idea that the compensation will be as valuable to them, or to anybody else who receives it, under the prices at present prevailing, by reason, perhaps, of the derangement of our currency. In that view I do not think that what this bill proposes to pay is any too much. I think the other House is right. I do not know that the House proceeded legally—my colleague thinks they did not—to enhance the salaries of their employes in this way. But it is the judgment of the House in regard to what they ought to receive, and I agree with the House that it is right. I think the compensation they have fixed for their officers is about right. If what they have done was not authorized by law they will undoubtedly amend this bill, if we pass it, by fixing the like compensation for their employes, and that will remove all the difficulty alleged as to their want of power, and will make it all right.

I do not wish to discuss the question at length whether the compensation now paid is sufficient, or whether the action of the House was legal or not, because, if it was not so it is very easy to make it so, and it is much easier to make it so than to have a controversy on that subject, which would be very disagreeable.

Mr. FESSENDEN. I confess that I do not understand this. There is too much confusion as to the facts, in my judgment, to enable the Senate to act upon it understandingly. The special committee have gone on a basis that they thought was a proper one, and undoubtedly was in the way the matter was referred to them, but they evidently proceeded under a misapprehension of the facts as stated by the honorable Senator from Ohio, [Mr. SHERMAN.] We have made an appropriation this year to pay, according to the estimates, the clerks and employes of the House of Representatives. The estimates were not at all according to the ratio now stated; and it is true, as the honorable Senator from Ohio has said, that if the House of Representatives has passed a resolution to add twenty-five per cent. to the compensation of their employes, it cannot be paid and allowed on settlement by the accounting officers. The compensation is regulated by a law of Congress, and one House cannot change it without the other.

Now, sir, with regard to this matter generally, if there are any officers whose compensation ought to be increased decidedly because it is permanently insufficient, I am perfectly willing to provide for such cases. For instance, I am willing to allow our chief clerk \$3,000, but not \$3,200 simply because the twenty-five per cent. added to the compensation of the corresponding officer in the House of Representatives is supposed to bring it up to that amount. I think, also, that the principal legislative clerk, who now has \$2,160, ought to have \$2,500; and I think that the Sergeant-at-Arms, who now gets \$2,160, ought to have \$2,500; and the committee propose to allow him a clerk in addition. That is a new office. A clerk is allowed in the House of Representatives simply because the Sergeant-at-Arms of the House is the disbursing officer and keeps accounts, and must necessarily do it. Our Sergeant-at-Arms makes some purchases and performs extra duties, but he does not perform the duties of a disbursing officer because those are performed by another, whom we pay.

There is one thing in this bill that in my judgment is decidedly wrong. It allows to the "keeper of the stationery" \$2,500, and then a new office is created by it of messenger in the stationery-room at \$1,500. Just look and see how that is managed. Here is a clerk, or a messenger, or whatever you please to call him, who has charge of the stationery, whom you never see in the stationery-room. I never saw him there in my life, and I guess no other Senator ever saw him there. He, under this bill, having charge of that room nominally, is to have \$2,500. He makes the purchases of stationery; he provides it; he is called "the keeper of the stationery;" and instead of keeping it, we appoint a messenger in the stationery-room at \$1,500 to do all the work of dealing out the stationery to Senators and keeping the accounts. Then in fact we are to allow a keeper of the stationery \$2,500 a year for nothing in the world except making the purchases of the stationery necessary, and I suppose he may be considered as supervising it, but we employ a messenger in addition at \$1,500 in order to take care of the stationery. There is \$4,000 for that.

Mr. WADE. It is the same in the House. Mr. FESSENDEN. But the amount of stationery in the House must be vastly greater, and there are so many more persons to be waited upon that undoubtedly it may be necessary to have a messenger there, but it is not necessary here. One man can do the whole, and one man did the whole for a long period of years until this proposed increase. Mr. Clubb, who was in that room for many years, never had a clerk or messenger, and never called for one. He did the whole work and did it well for a series of years. Now we are to add \$1,500 for a messenger to stay there and do the work and wait upon us while the "keeper" himself is to be allowed \$2,500. There is no reason for it in the world. If the keeper of the stationery chooses to employ

himself about other business and puts somebody else in there to be paid, one of the messengers to the Senate in reality, I think he should pay that person out of his own pocket. We allow enough to the keeper of the stationery to perform all the duties for the small number of Senators there are here. While I am on that subject, I will say that I really wish that the Committee on the Contingent Expenses of the Senate would turn their attention to the stationery-room and put it under some regulation. Nothing in my judgment is more necessary; nothing calls for reform here in the Senate more than that stationery-room. It has got to be an abuse in my judgment, and a very serious one, and this is adding to it.

I notice in the table appended to the report the last item is "messengers," and the table shows that our messengers are now paid \$1,200, and it proposes to pay them \$1,500, and that is put down as an addition of \$300. I suppose there are twenty or twenty-five of them, and each one is raised \$300. The number of messengers is not put down, and instead of this item being an additional expense of \$300 only, as the report would seem to show, we are at \$300 additional expense for every messenger we have got connected with the Senate. We have increased the number very much since we came to the new Hall, with a larger gallery; and the Sergeant-at-Arms has been obliged to add to them now and again.

I think this bill needs careful revision. It is leaping in the dark in the first place, on the supposition, taking it for granted, which, I take it, is not the fact as the law stands, and cannot be, that the officers of the House receive all that is fixed by a vote of the House, and that therefore we must come up to that by law. If we do, the result will be that the House will add the increased salary for their employes as an amendment to the bill, and then this very large increase of compensation all around will take place.

Whatever officers there may be here in the Senate connected with us ought to be well and properly paid. I think there are some whose salaries ought to be raised; but I think those whose salaries ought to be raised are those who do the great work of the Senate, and have great responsibilities, and whose salaries have been kept too low. With regard to the others generally, I have not heard any complaint until this effort on the part of the House, which resulted one year in compelling the Senate to yield to it in order to pass a bill, if I recollect aright, and is now attempted again. I think it would be better to refer this bill to the Committee on Contingent Expenses on the part of the Senate. I do not know whether the Senator who has charge of the bill will object to that or not.

Mr. WADE. I have no objection.

Mr. FESSENDEN. I think it should be properly revised and looked into, that we may see what the facts and the law are on the subject. I therefore move that this bill be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. TRUMBULL. I have taken no part in this matter, and am not particularly advised as to the amount the salaries are proposed to be raised; but I submit to the Senator from Maine that when the Senate has appointed a special committee for the particular object of looking into this matter and they have made a report upon it—the only object for which the committee were raised—now to take it from that committee and submit it to one of the standing committees of the Senate is not treating the special committee respectfully.

Mr. FESSENDEN. I did not mean that. I turned around to the Senator from Ohio before I made the motion and asked him if he had any objection to it, and he said he had no objection.

Mr. TRUMBULL. I suppose his delicacy would not allow him to object. If the bill is to be recommitted, I think it had better be to the same committee that reported it.

Mr. FESSENDEN. The Senator from Penn-

sylvania [Mr. BUCKALEW] was a member of the committee that reported this bill, and he says he is in favor of referring it to the Committee on Contingent Expenses. I am perfectly willing to recommit it to the same committee; but it ought to go to some committee. I think it has gone on a misapprehension of facts.

Mr. TRUMBULL. I only suggest to the Senator from Maine that, where a special committee is raised for a particular object and they make a report upon it, to take their report and submit it to a standing committee, looks to me to be a singular proceeding.

Mr. WADE. I have no feeling of delicacy about it. I do not care where the bill goes. I know, however, that under the resolution under which we acted, any committee will have to come to the same conclusion at which we arrived. It was not in our power to say whether these salaries were too high or too low. The bill is based upon the enhanced compensation that the House of Representatives propose to pay their employés. Gentlemen say that that body was not authorized to make that increase and that it will never be paid, and therefore the bill should be amended in that particular, and an equalization made without reference to that proposed increase. If, however, the resolution under which this committee acted is to stand as an instruction, any other committee that considers the subject must come to the same conclusion that we did. If you wish some other basis of compensation adopted, you should give the committee a discretion to fix the compensation as they think it ought to be, or you ought to instruct them to equalize it on the same basis that the respective employés stood before the House resolution.

Mr. FESSENDEN. The difference is, that I propose to equalize with what they are entitled to by law, and not to equalize with what the House tries to give.

Mr. WILSON. I think that the bill should go to the Committee on Contingent Expenses.

Mr. WADE. I have no objection to its going to that committee, but I am entirely satisfied that we ought to enhance the compensation of these officers. That I have no doubt about. The committee, in making this report, had no discretion. The rule for them to follow was prescribed in the resolution under which they were appointed. Take the Sergeant-at-Arms; his office is an exceedingly laborious one; he stays here through the whole vacation, and he has very responsible duties to perform during all that time, for he makes all the purchases for the department of the business to which he attends. His duties keep him here in the vacation; he cannot spend it away from here, as can be done by the corresponding officer of the House. But I shall not resist the motion to refer the bill to a standing committee, and let them fix the compensation as they think it ought to be.

Mr. SHERMAN. I will simply suggest that in referring this bill to either committee they should be relieved from the instructions referred to by my colleague, and it should be committed with instructions to report back a bill prescribing a fair and just compensation to the officers of the Senate.

Mr. FESSENDEN. That is what I intended in making the motion.

Mr. SHERMAN. I would relieve the committee from the instructions of the original resolutions because they may bind them to the scale in this bill, perhaps.

Mr. GRIMES. I desire to say, as I happen to be one of the members of the Committee on Contingent Expenses, that this subject has been under consideration, and the chairman was about to report a bill creating a new officer which they recommend to the adoption of the Senate, who shall be the purchasing agent for the Senate, to supply such things as may be necessary for the transaction of our business. As things now are, there are not less than four or five different persons who buy the same description of articles of different parties and at different prices, at the same time. The Senator from Ohio [Mr. WADE] was kind

enough to postpone this bill one day in order to enable the suggestions of the Committee on Contingent Expenses to be prepared to be incorporated into his bill, but they have not been able yet to prepare their report. If, however, the bill goes over, or is recommitted to the same committee, or is sent to another committee, or lies on the table for a day, I think they will be prepared to make some suggestions in that direction.

Mr. WILSON. I hope the bill will be sent to the Committee on Contingent Expenses without instructions. I understand that committee have considered the subject pretty carefully.

Mr. SPRAGUE. Before the measure is re-committed, I desire to propose an amendment to come in at the end of the last line on page 2 of the bill.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The Chair will suggest to the Senator from Rhode Island that there is an amendment already pending, but a motion to commit takes precedence of the amendment. An amendment, however, can be received by unanimous consent if the Senator desires it to go to the committee with the bill.

Mr. HOWE. I ask leave to present an amendment to have it printed and referred to the committee.

Mr. FESSENDEN. That can be done after the vote is taken on the commitment.

The PRESIDING OFFICER. The amendment can be received by unanimous consent. The Chair hears no objection.

Mr. HOWE. I desire that my amendment may be printed and go to the committee.

Mr. SPRAGUE. I desire the same order to be made in regard to my amendment.

The PRESIDING OFFICER. The Chair hears no objection, and those orders are made. The question is on the motion of the Senator from Maine to refer the bill to the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to.

#### BRIDGES ON THE MISSISSIPPI RIVER.

Mr. TRUMBULL. I move that the Senate now proceed to consider the amendments of the House of Representatives to the bill (S. No. 186) to authorize the construction of certain bridges and to establish them as post roads.

The motion was agreed to.

The PRESIDING OFFICER. The Committee on Post Offices and Post Roads, to whom the House amendments were referred, report in favor of concurring in the House amendments with an amendment. The amendment of the committee will be read.

The Secretary read the amendment, which was to add to the House amendments the following additional sections:

*And be it further enacted*, That the St. Louis and Illinois Bridge Company, a corporation organized under an act of the General Assembly of the State of Missouri, approved February 5, 1864, and an act amendatory of the same, approved February 20, 1865, and also confined in its corporate powers under an act of the Legislature of the State of Illinois, approved —, 1864, or any other bridge company organized under the laws of Missouri and Illinois, be, and the same is hereby, empowered to erect, maintain, and operate a bridge across the Mississippi river between the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, subject to all the conditions contained in said act of incorporation and amendment thereto and not inconsistent with the following terms and provisions contained in this act: and in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said waters the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

*And be it further enacted*, That the bridge hereby authorized in the preceding section to be built shall not be a suspension bridge or draw-bridge with a pivot or other form of draw, but shall be constructed of continuous or unbroken spans, and subject to these conditions, namely, first, that the lowest part of the bridge at the bottom chord shall not be less than fifty feet above the city directrix at its greatest span; second, that it shall have at least one span five hundred feet in the clear or two spans three hundred and fifty feet in the clear of abutments; if the two latter spans are used, the one over the main steamboat channel shall be fifty feet above the city directrix measured to the lowest part of the bridge at the center of the span; third, no span over the water at low-water mark shall

be less than two hundred feet in the clear of abutments.

Mr. TRUMBULL. I do not know exactly at what stage to offer it, but I desire to offer an amendment to the House amendments. The bill is in this condition: it is a Senate bill which was amended in the House of Representatives, came back, was referred to the Committee on Post Offices and Post Roads, and we are now considering an amendment which they report to the House amendments.

Mr. CONNESS. Let that be acted on first.

Mr. TRUMBULL. I wish to offer another amendment to one of the House amendments.

The PRESIDING OFFICER. That can be done after the amendment reported by the committee shall have been disposed of. The question now is on that amendment.

The amendment was agreed to.

Mr. TRUMBULL. Section eight of the House amendments provides for a bridge at Keokuk, to be built by a corporation which has been chartered in Iowa. All the other bridges, it will be seen, are to be built under the authority of the two States on the opposite sides of the Mississippi river. I wish to amend that amendment so as to have the authority of Illinois as well as of Iowa for the construction of that bridge. There will be no objection to it, I presume. I move to amend the eighth section of the House amendments by inserting after the word "company," in line three of section eight, the words "a corporation existing under the law of the State of Iowa, and the Hancock County, Illinois, Bridge Company, a corporation existing under the laws of the State of Illinois;" and then to strike out the word "is" and insert "are," so that this section of the House amendments, if thus amended, will read:

That the Keokuk and Hamilton, Mississippi, Bridge Company, a corporation existing under the laws of the State of Iowa, and the Hancock County, Illinois, Bridge Company, a corporation existing under the laws of the State of Illinois, be, and are hereby, empowered to construct and maintain a bridge over the Mississippi river between Keokuk, Iowa, and Hamilton, Illinois, of the same character, description, and construction as provided in this act for the bridges at Quincy and Burlington.

The only effect of my amendment is this: the bill as it came from the other House authorized a company chartered in the State of Iowa to erect the bridge; I think it ought to say, "and the company chartered by the State of Illinois." It is so in regard to all the others.

Mr. HOWE. It seems to me the effect of the amendment of the Senator from Illinois is to authorize two distinct companies to do precisely the same thing.

Mr. TRUMBULL. It is.

Mr. RAMSEY. It is to do one thing, but subject to the laws of both States.

Mr. TRUMBULL. These two companies have to do it together. That is so in reference to all the bridges which are authorized by this act.

Mr. HOWE. I understand the other provisions of the bill to empower single companies, when authorized so to do by the adjacent States, to build bridges; but this authorizes two distinct companies to do the same thing.

Mr. RAMSEY. To build one bridge.

Mr. HOWE. It seems to me there must be a conflict of jurisdiction.

Mr. TRUMBULL. If the Senator from Wisconsin will look at the fifth section of the bill he will see that the same provision is there made. That section, in regard to the bridge to be built at Hannibal, provides "that a bridge may be constructed at the town of Hannibal, in the State of Missouri, across the Mississippi river, so as to connect the Hannibal and St. Joseph railroad with the Pike County and Great Western railroads of Illinois, on the same terms, and subject to the same restrictions," &c. Who is to build that bridge? Of course those railroad companies are to build it; the Great Western road on the Illinois side, and the Hannibal and St. Joseph road on the Missouri side.

Mr. HOWE. It does not say so.

Mr. TRUMBULL. It does not say that they



shall build it, but it says a bridge may be built so as to connect those roads, and of course no third parties will come in there to build the bridge.

The amendment was agreed to.

Mr. BROWN. I send to the Chair a further amendment to the House amendments.

The Secretary read the proposed amendment, as follows:

*And be it further enacted,* That any bridge company, being organized under the laws of the States of Missouri and Illinois, be, and the same is hereby, empowered to construct, maintain, and operate a submerged iron tubular bridge across the Mississippi river, between the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, subject to all the conditions contained in said act of incorporation, and not inconsistent with the provisions of this act. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said waters, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

*And be it further enacted,* That any bridge built under the provisions of the preceding section shall be tubular in construction, and sunk below the bed of said river, so that the top of said structure shall be below the lowest water line of the Mississippi river, and so that the same shall in no wise interfere with or obstruct navigation when completed, or prevent a safe and expeditious transit for all classes of vessels upon said river during construction.

*And be it further enacted,* That any bridge erected under the provisions of this act shall be a lawful structure, and shall be recognized and known as a post route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, than the rate per mile which the railroad companies terminating at either end receive for such service.

Mr. BROWN. Gentlemen around me seem to desire more time to investigate that subject than will probably be permissible at the present time; and as there is a bill covering the same subject-matter before the Committee on Post Offices and Post Roads, I will, at their instance, withdraw the amendment in question.

The PRESIDING OFFICER. The amendment is withdrawn. The question is on concurring in the amendments of the House of Representatives, as amended.

The amendments were concurred in.

Mr. POMEROY. I move that we proceed to the consideration of Senate bill No. 408.

Mr. HENDERSON. I move to reconsider the vote just taken. I intended to offer an amendment to the House amendments before they were disposed of, rather an important amendment, I think. The Chair decided that the House amendments were concurred in before I could rise. I desire that that vote shall be reconsidered.

The PRESIDING OFFICER. The question is on the reconsideration.

Mr. TRUMBULL. I hope we shall not reconsider until we see what the amendment is. The Senator can enter his motion to reconsider, and then let us hear what his proposition is.

Mr. HENDERSON. I suppose I could call for a division any way, but the Senator from Kansas sprang to his feet the very moment the Chair decided, giving me no opportunity to call for a division before he rose to his feet and addressed the Chair.

Mr. TRUMBULL. Certainly the Senator from Missouri had a right to call for a division at any time when the matter was pending; but I presume he was not observing that the bill passed. The concurring in the House amendments was the end of it. Some little time intervened before another subject was called up. If the Senator will submit his amendment and let us see what it is, perhaps there will be no objection to the reconsideration.

Mr. HENDERSON. I will say to the Senator from Illinois that I rose as soon as I could, but the Senator from Kansas was already on his feet.

Mr. BROWN. I think a reconsideration is a courtesy which ought to be extended to my colleague under the circumstances.

Mr. HENDERSON. I hope the vote will be reconsidered, and then I can offer my amendment.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question recurs on concurring in the House amendments as amended.

Mr. HENDERSON. I desire to offer this amendment to come in at the end of the seventh section of the House amendments, as a proviso:

*Provided,* That if the board of engineers authorized under the laws of the United States, approved at the present session of Congress, to examine the Mississippi river and make report on the subject of bridge construction thereon, shall find, and so report, that elevated bridges of continuous spans can be constructed and operated without greater expense to the company building them than draw-bridges, and with less obstruction to navigation, then no draw-bridge shall be commenced or constructed under this act.

Mr. GRIMES. I raise a question of order as to the admissibility of that amendment at this stage of the bill.

The PRESIDING OFFICER. The Chair has no question on the point of order. The amendment is admissible.

Mr. HENDERSON. It is a proviso to a House amendment. It is not to touch the original bill. This bill for bridging the Mississippi river was introduced here about the middle of the session, and was called up one morning and forced through this body without giving me much of an opportunity, as I thought, of discussing the question. The same question afterward came up upon a bill of the Senator from Minnesota, [Mr. NORTON,] and I then took occasion to discuss it much more fully. It has ever been my impression that if the Senate had considered it as they ought to have considered it, no bridge bill would have been passed at this session of Congress.

At a subsequent period the Committee on Post Offices and Post Roads reported an amendment to the river and harbor appropriation bill, requiring the Secretary of War to appoint a commission of engineers to go out and examine the Mississippi river, and to report to Congress at the next session the character of the structures that ought to be built upon that river. If there was any meaning in that, it was this, and nothing else, that no bridge ought to be constructed upon that river that shall be planned by Congress without some scientific investigation of the subject.

Now, what do we know about bridges? I suppose I know as much about bridges as most of the Senators around me, and yet what do I know about them? We assume, we have assumed by the passage of this bill, to permit individuals after nearly a hundred years of this Government had elapsed without such a proposition having been made before, to go and construct upon the Mississippi river not less than seven bridges, low structures, not over twelve feet above the surface of the water. It has never been done before, and we have had, I say, nearly a century of the Government; but never until this session of Congress was a proposition made here to bridge the Mississippi river with a bridge of this character. I know that a bridge is constructed across the Mississippi river at Rock Island, but not by authority of Congress; and what has been the consequence? Ever since its construction it has been a source of annoyance; a source of destruction to property, a source of contention; and it is a bridge which in my honest judgment will in the course of a few years be declared a nuisance and taken down.

We now assume by this bill to put seven structures, not over twelve feet high above the water, across the Mississippi river. I desire to say, once for all, because I do not wish to take up the time of this body, that I have offered an amendment which if the Senate do not intend to obstruct unnecessarily the navigation of that great river they will adopt. Before I consider the amendment, let me ask how would the Senators from New York take a proposition to bridge the Hudson river with pontoon bridges. How would they receive a proposition in this body to put these low structures across the Hudson river? How would the city of New York receive a proposition to bridge the East river between that city and Brooklyn? Such a bridge could be con-

structed with a draw in it that would enable the constructor of the bridge to make millions, and millions of dollars in the course of a few years. Let me ask the Senator from Illinois, who is urging on us the construction of these bridges across the Mississippi river, how he would take a proposition to bridge the great stream passing by Chicago with a low pontoon bridge.

The Senator from Illinois the other day urged upon this body the passage of a bill for the construction of a ship-canal around the falls of Niagara. Why? In order to have an unobstructed passage to the Atlantic ocean; and yet he, living at Chicago, while he wants the great St. Lawrence river to be entirely open to the ocean, proposes to put seven structures upon the Mississippi river in the way of the navigation of that great stream. How would the Senator from Michigan [Mr. HOWARD] receive a proposition to throw a bridge across from Detroit to Windsor, a low bridge through which the commerce of the St. Lawrence and the great lakes should pass? How would a proposition to bridge the St. Clair river be received? How would a proposition to bridge any of the streams connecting the great lakes of the West be received? You could not pass such a proposition through this body; but it would be just as reasonable and just as sensible as to pass this proposition.

Mr. President, the great farming interests of this country are not represented here; I mean to say they are not represented by lobby influence outside; of course they are represented here by Senators. We know that gentlemen, representatives of railroad influence, representatives of private interests, have been here urging the passage of these bills during this whole session of Congress. I have said to them, "Gentlemen, put up elevated bridges with a span of three hundred feet, and I am perfectly willing that you may bridge this great stream; I will not object if you will give us three hundred feet spans and elevated bridges, under which the steamboats can pass with ease, and do not require these bridges to be built immediately upon the surface of the water." I have been answered that it must be put through for the accommodation of the railroads, and nothing else, because everybody knows that such bridges as I have described can be built on the Mississippi very well. A proposition is now made by a scientific gentleman, indorsed by seven or eight of the best engineers in this country, to put iron tubular bridges across the Mississippi, which it is said can be put there undoubtedly, without obstruction to the navigation of the stream; and yet Congress seems disposed to press forward this thing and to give us nothing but these low bridges.

Mr. President, I think that inasmuch as we have provided for the appointment of a commission of competent and able engineers to go there and examine this subject, we ought at least to be willing to receive their report before we undertake to decide this great question for ourselves. Why is it that these elevated bridges cannot do? Why can they not be built? They have been built elsewhere. Why can they not be constructed here? Simply because it will cost the railroads a little money in order to throw up ground upon one side. That is all. Then let them build bridges where there are elevated banks on each side of the stream, and not let us undertake to decide this great question for ourselves, we not being scientific men, but let us take the report of these engineers.

Now, Mr. President, if the Senate will listen to me while I explain this amendment, I think they will certainly adopt it. If you do not adopt this amendment it is a declaration that you intend unnecessarily to obstruct the navigation of the river. I only provide in this amendment that if the board of engineers authorized under the laws which you yourselves have passed at this session to examine the Mississippi river and make report on the subject of bridge construction thereon, shall find, and so report, that elevated bridges with continuous spans can be constructed and operated

without greater expense—I do not say equal expense, but without greater expense—to the companies building them than draw-bridges, and with less obstruction to navigation, then no draw-bridge shall be commenced or constructed under this act.

Is not that as fair as could be asked by the companies? What else can the railroad companies of this country ask? If they can put elevated bridges there without greater cost than these low bridges, and they are no greater obstruction to navigation, why, I ask, shall they not put up elevated bridges? If the Senate vote down that proposition, I understand the Senate to say that they are not consulting even the interests of the railroad companies, but that they intend to block up that river and to obstruct its navigation, whether it costs the railroad companies any more money or not; that, irrespective and regardless of the best interests of navigation, or even the interests of the railroad companies themselves, they will put structures there that will in all time clog and hinder navigation upon that stream.

If they can build these elevated bridges—and all the navigation interest say so—with no more than equal expense to themselves, and they are no greater obstruction to navigation, then in the name of sense why not do it? Who is ready to go on with a low bridge this summer? We shall meet again in the course of a few months. Our navigation interests are clamoring against it. None of you would vote to clog up the navigable streams between the great lakes. None of you would put such a bridge across them. Then why do you do it on the Mississippi river?

Mr. President, I say that this act ought not to be done, and I appeal to the Senate, at least if they are determined to pass the bill, to say that if the railroad companies can build elevated bridges without greater expense to themselves and without greater obstruction to the navigation of the river, they shall be required to do it. Is there anything unjust in that? Surely not. If this amendment is voted down I shall forever hereafter understand that the Senate have intentionally obstructed the navigation of this stream, that they so design, for the benefit of the railroad companies of the country, or for the purpose of changing the course of trade and business.

Mr. YATES. I have but a very few words to say on this subject. I am somewhat surprised at the course taken by the Senator from Missouri; indeed his position is a very strange one. I live in a State bordering upon the Mississippi; the Mississippi runs some four hundred miles, if I mistake not, along its border. I represent an agricultural State, perhaps one of the greatest agricultural States. We are very much interested in the navigation of the Mississippi. There are thirteen States upon the banks of the Mississippi which are interested in the navigation of the river, containing ten million people with all their commerce. We propose not to obstruct the navigation of the Mississippi by any means whatever. We believe that the people of this country can enjoy not only the navigation of the Mississippi but also can have railroad transportation and railroad facilities. Why, sir, the transportation, the travel, the freight by railroad is incalculably more than that down the Mississippi river. The travel and trade of this country are not North and South; they are East and West. Railroads from all over the eastern States cross the Mississippi at various points, doing an immense trade, carrying on an immense travel. Railroads are the highways of the people nowadays; we travel by them almost altogether. It is no use at this late day to try and make water transportation rival transportation by railroad.

We are not proposing to obstruct the navigation of the Mississippi, but this trade and travel must have an outlet West. The people of northern Missouri must have an outlet to the East and they must have an outlet from the West. The people of the State of Illinois must have the same facilities. The people of

the whole land are interested in the construction of these bridges. The amendment of the gentleman from Missouri is simply to postpone and retard progress in the right direction. I would not object to his amendment, but would let his amendment be adopted, if it were not applicable to the construction of the present bridges authorized by the bill. Let him have his investigation in regard to his submarine bridges; but the commerce and trade of this country now demand some means of crossing the Mississippi river. Why, sir, look at the obstructions there are now in getting across the Mississippi river from the various points where railroads terminate on the East and on the West, the obstructions which are occasioned by having to ferry that river. At some seasons of the year it cannot be ferried; the water is either too low or the river is frozen over. Must all this trade, must all this commerce, must all these highways of the people be stopped simply to gratify interests which are immediately situated upon the line of the river? The people of Quincy, the people of Burlington, the people living in the cities along the Mississippi river, Hannibal, Palmyra, and all those points, are just as much interested in the construction of these bridges as they are in the navigation of the Mississippi river. They are equally interested in each.

We propose not to obstruct the Mississippi river in any particular whatever. I admit, with the Senator from Missouri, that we should not obstruct the Mississippi river, but I do not admit that because these railroads are prosecuted by private capital therefore the railroad companies will necessarily build defective bridges. Bridges have been constructed all over the United States by private enterprise and private capital. If men are here from various parts of the West or the East, from St. Louis, or elsewhere, to try to lobby measures through Congress, how can we help it? Men must come here to present their applications before Congress, to explain their propositions, and have them understood.

It is necessary now that these bridges should be constructed to meet the demands of commerce; to meet the requirements of business, of trade, and of travel now. We cannot wait for the investigations that are proposed by the Senator from Missouri. I hope his amendment will not be adopted.

Mr. HENDERSON. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 19; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Doolittle, Foster, Guthrie, Harris, Henderson, Johnson, Lane of Indiana, Sherman, Sprague, Van Winkle, and Willey—14.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Grimes, Howard, Kirkwood, McDougall, Morgan, Nesmith, Norton, Nye, Poland, Pomeroy, Riddle, Sumner, Trumbull, Wilson, and Yates—19.

ABSENT—Messrs. Cowan, Cragin, Creswell, Dixon, Edmunds, Fessenden, Hendricks, Howe, Lane of Kansas, Morrill, Ramsey, Saulsbury, Stewart, Wade, Williams, and Wright—16.

So the amendment was rejected.

The PRESIDING OFFICER. The question is on concurring in the amendments of the House of Representatives as amended.

Mr. HENDERSON. I now move to amend by adding at the end of the seventh section of the House amendments these words:

And it is hereby further provided that no draw-bridges shall be constructed or commenced under the provisions of this act before the 1st day of March, 1867.

The effect of this amendment will be to delay the construction of these draw-bridges until we can get a report from this commission. I appeal to the Senate once more not to force upon us on the Mississippi river the construction of these bridges. I do think, and I make this as a last appeal, that it is an infliction which ought not to be made by Congress. There is no necessity for the immediate construction of these draw-bridges. Nobody is ready to go on with the work, and even if the companies were ready the river is too high for them to progress with it. We have provided for the appointment of a commission to go there and examine the river. Suppose that commis-

sion should report that these draw-bridges ought not to be constructed, but that elevated bridges, in the language of the Senator from Kentucky [Mr. GUTHRIE] the other day, are the best for the railroads and the best for the river. Why not adjourn the matter until we can hear from that board? Immediately after we convene at the next session Congress can take the subject up and go on; or in fact if this amendment be adopted, and no further legislation is had, of course, after the 1st of March next, the companies can proceed with the construction of these draw-bridges. But I do not desire parties to come in here at the beginning of the next session of Congress, when we propose to repeal this bill, after the board shall have said that these bridges ought not to be constructed, and tell us that they have expended large sums of money, and that if we repeal the law it will ruin them, and they must be compensated for the damages to which we subject them by the repeal of the law. I want to avoid that difficulty.

I appeal to Senators, and ask them if it is possible, were all the States in the Union represented here to-day, that any such bill as this could be passed. Do they believe this low-bridge bill could be passed provided the southern States were represented on this floor? Senators know that if Tennessee and Arkansas and two or three other States lying below them on the Mississippi river were represented here no such bridge bill as this could be passed; and why? Because they would understand the necessities of the commerce of the river. Senators must not misunderstand my argument on this point. It is a legitimate and proper argument. This is a great thoroughfare. It is one that passes, as the Senator from Illinois said, through many States. We ought not now, for the first time in the history of this Government, to go on to build bridges upon our own judgment of what is right and proper. We know nothing about the construction of bridges. If we do, there was no necessity for our directing the Secretary of War to send a commission there to examine the subject. What did you send them for? If we are to be the judges, what the necessity of sending a board to examine? If we know better than we will know after they have reported, why send them? Why provide for a report by them and yet go on and construct the bridges?

There is no intent on my part to stop the construction of bridges, as was intimated by the Senator from Illinois. If iron submerged bridges can be built, they are infinitely better, and it answers the objection made by the railroad companies that if we require them to go over elevated bridges their depots must be on high ground and they cannot get down to the surface of the water in order to put part of their freight on board of steamboats. Of course iron submerged bridges can be built so as to enable them to come to the surface of the water. But I undertake to say, and the Senator from Kentucky demonstrated the other day beyond any doubt, that the elevated bridge is preferable to a draw-bridge both for the railroad interest and for the navigation interest. That Senator is a practical railroad man with large experience on this subject; and referring to the bridge at Nashville on his road he said that if he had to build it over again he would make it an elevated bridge as preferable for the railroad company and preferable for the navigation interest.

This amendment will not prevent the construction of any other sort of bridges across the Mississippi river except these low bridges twelve feet above the surface of the water. You are proposing by this bill to construct seven of those bridges across this river. I appeal to the Senate once more, by all means to postpone at least the construction of this character of bridge until we can hear from this commission.

I alluded to the representation of the southern States. If the southern States are represented again in the Congress of the United States, if these bridges are put across the river,

they will have to come down. Mark what I tell you. I predict to-day that these bridges will not be permitted to stand if Congress hereafter can vote them down, because they will prove an obstruction to the Mississippi river. I am satisfied of it. I am just as thoroughly satisfied that they will obstruct the navigation of that river, and do it with great detriment to commerce, as I am that I am standing here now. I proposed that if the railroad companies can build any other sort than these with no more cost to themselves, then they shall not construct these bridges. The Senate said "no." Now I ask that we postpone the matter until we can hear from the commission. The elevated bridge will answer for railroad purposes just as well as any other; but I will tell you what cannot be built. A bridge across the Mississippi river cannot be built for private interests so well. The companies authorized in this bill are to go on and build bridges for private travel across the river, to make them toll bridges and receive toll for wagons, carts, horses, and mules that cross it; and that is the reason why it is proposed to put them immediately down upon the surface of the water, regardless of the great interests of navigation. If you consult the railroad interest only, I believe with the Senator from Kentucky, who said that an elevated bridge can be built best for the railroad and best for the river; but I know that you do not consult private interests so much by causing them to do it because then they have to build embankments upon one side of the river perhaps, unless they happen to get a place on the river where the banks are high on each side.

Now, Mr. President, I leave this matter and appeal to gentlemen once more to let us have the report of the board before inflicting upon us these low bridges.

Mr. GRIMES. Mr. President, the Senator from Missouri has told us that the agricultural interests of the country are not represented here on this question. I think he is correct in that. So far as I know, there has been no representation from that body of our population except as their sentiments are reflected by the members of the Senate.

Mr. HENDERSON. I said in the lobby.

Mr. GRIMES. I understand what the Senator said: that there has been no representation of the agricultural interest in the "lobby," if he prefers that I should use that word. I think he is correct. I think there has been no representation on the part of the body of that population here except by the members of the Senate. They have not been so fortunate as the commercial interest. The commercial interest have been represented. If I have not been misinformed, the Chamber of Commerce of the city of St. Louis, representing that very large emporium of commerce in the State which the Senator has the honor in part to represent on this floor, has been represented by a very distinguished and numerous committee, opposing to the utmost of their power the passage of any bills which would allow the Mississippi river to be bridged except upon some plan which, in the estimation of every practical engineer who is familiar with the topography of the country, is totally impracticable.

Mr. President, I think I represent the agricultural interests of my State when I vote—not for the benefit of a particular railroad corporation, but for the benefit of the universal commerce of the Northwest—that there shall be bridges across the Mississippi river, not constructed in such a way that they can by any possibility obstruct the navigation, but so as to promote the interests of commerce crossing the river, as well as that passing up and down that stream. I live on the bank of the Mississippi river. There is a railroad approaching the river at that point from Chicago, and another one going out from that point one hundred miles into the interior. I live in a wheat country. That is one of the staple productions of that region. However valuable and rich, in a commercial point of view, St. Louis may be, yet Chicago, which is to-day and I think ever will

be the great wheat market of the continent, is the point to which we desire to send our wheat. Let me say to the Senator that it is the estimate of everybody in the town where I live—and they have had considerable experience on the subject—that there is a loss of seven bushels upon every car-load that is transferred across the Mississippi river according to the present plan, which, at the present price of wheat, in the neighborhood of two dollars a bushel, is fourteen dollars of a loss on a car-load that is sustained by the agricultural interest. It is that interest that demands the construction of a bridge across the Mississippi river in order that such a loss may be obviated. It is the interest not only of the producer of the wheat that such a loss should not be sustained, but it is also the interest of the consumer in the East.

But, Mr. President, I rose principally to correct the statement of fact made by the Senator, in which he said that none of the companies authorized by this bill to construct these bridges were prepared to go on. I undertake to say that two of them are ready to go on.

Mr. HENDERSON. Why cannot they go on just as well under my amendment?

Mr. GRIMES. Because bridges fifty feet high are utterly impracticable. Every man who is familiar with the low alluvial bottoms of the Mississippi river, where, in some cases, as in the case where I live, it is eight miles from the bank of the Mississippi river to the bluff, and on the adjacent side, in the town where I live, the surrounding level is not more than ten or twelve feet above the water—every man knows it is utterly impossible to get the elevation required without utterly destroying the town at the foot of the bank. The Senator's amendment that he proposed a little while ago provided that they should investigate the question as to what might be the extra expenditures in the construction of such a bridge; but there was no provision in it requiring them to determine how much might be the loss sustained by the people owning property adjacent to it by having an embankment thrown up fifty or sixty feet to cover the level of the ground where their buildings stand.

Mr. COWAN. Why put the bridge at the town?

Mr. GRIMES. That inquiry shows that the Senator from Pennsylvania knows nothing about the topography of the country. The towns are where the roads are required to connect. You have in some instances either got to put the bridge at the town, or else you have got to attain with the rise of the road an elevation of two hundred feet to get on the top of the bluff. Let me state to the Senator something of the topography of that country. At the towns on the one side, in all instances in the State of Iowa save one, there is on one side or the other of the river a low alluvial bottom from one to eight miles wide. Occasionally a bluff is pushed out to the stream, sometimes almost perpendicular. Through this bluff a small creek has forced its way. Adjoining, and on the sides of that small stream and spreading out where it empties into the Mississippi will be a piece of what is known as bottom land, what in some other portions of the country would be denominated interval lands. On this low bottom land is situated the town, with precipitous bluffs above and below on the river, and quite steep bluffs on the crest. That is the case with several of the towns. The railroads are built following up the stream from the river. To get the required elevation of fifty feet you have to bury up, in some instances, the whole village or city where you propose to cross. In the city of Quincy, where they propose to build one of these bridges, there is a bluff that approaches the river, and I am not prepared to say that they could not, on one side there, secure a proper elevation.

Mr. COWAN. Where are the towns situated?

Mr. GRIMES. Generally on the bank of the streams that empty into the Mississippi, and on the low alluvial land on the bank of

the Mississippi. Therefore I say that in nearly each one of these instances, certainly in the one with which I am more familiar than any other, in the town where I live, the whole town would be nearly if not quite ruined by an attempt to build a railroad through it with an embankment fifty feet high. And such an embankment would be necessary if the bridge was required to be fifty feet above high-water mark.

Take the case at Keokuk. There is a provision authorizing the construction of a bridge at Keokuk. You have got to build it according to this provision or else you have got to elevate it I should suppose two hundred and fifty feet in order to strike near the top of the bluff.

Mr. HENDERSON. At both sides?

Mr. GRIMES. They have a bluff two miles or so on the opposite side, at Hamilton. The Senator would not suppose that they were going to build a bridge the whole distance from Hamilton on the opposite side to Keokuk.

Mr. HENDERSON. Let me ask the Senator if he is not aware that the Great Pedee and the Santee rivers and various others in the southern States have trestle-work and embankments thrown up for ten or fifteen miles across bottom lands.

Mr. GRIMES. I never was on the Santee or the Pedee.

Mr. HENDERSON. I have crossed them, and I know such to be the fact. The Senator knows very well that these streams have on each side very wide bottoms, and when the streams rise, the water flows over them to the depth of some ten or fifteen feet, and trestles and embankments are thrown up over them, and causeways left for the water to pass through. This idea of submerging a town is a new idea to me.

Mr. GRIMES. Mr. President, the illustration drawn from the Santee and the Pedee strikes me as rather far-fetched. I never traveled in that country, but a friend of mine who did travel there told me that he passed over one of those trestle-works, and he said that he noticed that it was rickety and jarring very much as they passed. He looked down and found on each side negroes standing below with handspikes against the trestles trying to hold the roadway up and keep it steady. [Laughter.] I do hope we shall not have our railroads, under the direction and influence of the Senator from Missouri, built upon any such system as that.

Mr. President, the proposition is simply one to postpone and prevent the construction of these bridges.

The Senator appeals to us to refuse to make these bridges, because the South is not represented. I apprehend that if the southern States were represented we should find some of their representatives a little more liberal on this subject than some of the members here now—men who would be willing that commerce should seek its legitimate channel, no matter in what direction it might go. If there is anybody here who is interested in the navigation of the Mississippi river, then I am. I believe I ought to be as much interested as any man. I have lived on its banks for thirty years. The prosperity of the town I live in and my own has been intimately connected with it. I would do nothing to impair it. But we must have bridges; commerce must be permitted to seek its most profitable direction. We want to maintain both lines of commerce, by the river and by rail without breaking bulk. We are entirely satisfied, as the Committee on Post Offices and Post Roads was, that the construction of a bridge with a draw one hundred and sixty feet wide, forty feet wider than the two bridges now built across the Mississippi river, will be ample. If found to be otherwise we will cause them to be removed, as can be done under the provisions of this bill.

Mr. COWAN. I have no very great disposition to interfere in this matter, but I must confess that the honorable Senator from Iowa, with all his exact knowledge of the country,



did not make the engineering difficulties very clear to me after all, about elevating this bridge sufficiently above the water to save the river. That is the question. The only question is, whether you had not better now at this time put in more money and make your bridge higher so as to save the river. Can that be done? If there are eight miles of the bottom, and the town should be built upon that bottom, there is certainly room enough for a railroad company to get around the town with its embankment in order to cross the river. If, on the other hand, the town is built on the bluff, as I understand it is at times on either side, then there is no necessity for the embankment there, because the bluff itself is high enough to give them the start from there. What I mean to say is that I have a very clear and distinct opinion that the river there is more valuable as a highway than any other improvement, not even excepting railroads, that could be devised, and I think it would be the interest of all the people living along it that it should be saved from any obstructions of bridges or anything else.

Mr. BROWN. Mr. President, I do not think that any one can accuse me of being hostile to railroad interests, for I believe that I introduced the first bill that was introduced into this body for the construction of a bridge across the Mississippi river; and I did it with the full understanding that the time had come when it was necessary to have continuous lines of transit across that river. In that bill there was a provision taken from the law of Congress which was on our statute-books providing, in the alternate, for the construction of bridges with continuous spans or else draw-bridges. When that bill was sent out to the West and was published in the newspapers there, it elicited a great deal of discussion; and I think I am safe in saying that in all the navigating interest of the Mississippi river there was one universal protest raised against the construction of draw-bridges. They had had some experience of those things. They knew what the dangers and the interruptions were, and they said, "If you will bridge this river, at least throw around it the precaution that shall give us a bridge which will not interfere with the navigation; make it a bridge similar to the bridge that has been built across the St. Lawrence, a bridge similar to other bridges that are now in existence, and that simply require a little more money to make them permanent structures, and then we will forego our objections; we will take down our chimneys; we will change the construction of our steamers; we will dispense to a great extent with the height of our pilot-houses, and will adapt our system of navigation as far as practicable to facilitating the transit across the river." It was in pursuance of such suggestions that I felt called upon, in maturing the bill, to strike out the provision for draw-bridges. I will say further that so much had it impressed members of the Senate, and especially those resident upon the other branches of that stream, that they felt called upon to confer together and procure the passage of a bill for the appointment of a commission which should go to work and examine the topography of that stream, which should report upon the practicability of putting bridges across at these points, and which should lay before us at the next session of Congress that exact information upon which we could act with the assurance that we were not destroying or in any degree obstructing one of the great highways of this continent.

Now, sir, in view of the fact that that commission has been provided by law; in view of the fact that the Senator from Iowa, in his remarks in laboring through the attempt to give us some topographical knowledge of that country, failed to satisfy any one in regard to the exact features of the ground on either side where these bridges are proposed; in view of the dearth of all knowledge on our part in regard to what effect these draw-bridges are going to have—I say that the request of my

colleague that the construction of these bridges be deferred until we can receive this report is not unreasonable. I do not think that my colleague has any desire to prevent the construction of bridges across that stream; I do not think that he has any hostility to the railroad interests of the country, but I do think that he has a very deep interest, matured by long study, of the navigation interests of the Mississippi river. I therefore ask that the Senate, in passing upon this measure, will put that guard around it so that we may have the benefit of this knowledge before these bridges are constructed. It will only be a delay of two or three months. It will be a delay that need not stop them at all, for they can go ahead, under the provisions of the amendment, and build the other kind of bridges. I do not see, really, what there is to be lost by it. I do not see why those gentlemen themselves who advocate these bridges should object to it.

Mr. JOHNSON. Having had some professional connection with this subject, I beg leave to say a word or two upon the proposition immediately before us. I voted for the amendment suggested by the member from Missouri sitting next to me, [Mr. HENDERSON,] and for the same reason that I gave that vote, I shall vote for the amendment which he now suggests.

In the Wheeling bridge case, the bridge was erected by the authority of Virginia alone. It was a suspension bridge, and it was above the level of the water some fifty or sixty feet; but the court found, in fact, that some six or seven boats were impeded by the bridge as it then stood. I was counsel for the bridge, and insisted upon the right to trade across the river as well as the right to trade down the river. The two, therefore, if it was possible, should be made so to agree with each other that neither should injure the other. The court in the opinion, which Senators perhaps are not as familiar with as I am, and for that reason I refer to it, recognized the right of the bridge, provided a draw, which would not materially affect the navigation of the river, was furnished, and they, therefore, in their decree in that case said that the bridge was to be abated, unless they should elevate it some ninety feet for a space of some three hundred feet, or unless they were able by removing the bridge entirely from the western side of the river to furnish a channel on that side which would enable the vessels going up and down the river, when they could not go under the bridge, to avail themselves of that channel. Congress, however, afterward passed an act by which they declared that the bridge itself as it stood was a legal structure; and a majority of the Supreme Court held that that was within the power of Congress, and the bridge has, of course, ever since stood. They put it in so many words upon the ground that Congress, under the power to regulate commerce, has a right to prescribe the manner in which bridges across the navigable streams of the United States are to be built; what draws they are to have, or whether they are to be erected without draws; and they have a right to prescribe what height of chimney steamers should use.

The effect of that decision and of a subsequent decision in the Albany bridge case, which was a bridge proposed to be run across, and is now actually constructed across, the Hudson, at Albany, is this: that under the authority to regulate commerce Congress has no power to construct a bridge itself unless it owns the land on either side; that the authority to construct is vested in the States alone where the States have jurisdiction on both sides of the river over which the bridge is to be thrown; but that Congress have the authority, under the commercial power, to prescribe what draws are necessary in order to avoid any impediment to navigation, or whether bridges are to be built without draws and with an elevation which will remove all danger of impediment to the river.

Now, my friend from Missouri will not get clear of one difficulty in which he and those who are interested in the navigation of the river may be in consequence of the building of

these bridges. The territory on each side of the river now belongs to some one of the States; the States not only have the authority but they have the exclusive authority to bridge; but that authority is to be exercised in subordination to what Congress may do under its exclusive authority to regulate commerce. If these bridges are built, and they may be built at once, one of two things will happen: either a multitude of lawsuits will be instituted in order to ascertain the fact whether the bridges create an improper impediment to the river, or Congress will be called upon to legislate hereafter. It seems to me, therefore, to be much better that we should in advance, by law, under our power to regulate commerce, provide what is to be the character of the bridge to be thrown over these streams, and that can only be safely done, I think, upon the judgment of a board of engineers.

Mr. BROWN. When I was up before, I was cut off in the remarks I was making by a fit of coughing. There is one other thing I desire to call the attention of the Senate to, and that is, that the objection which obtains to bridges there in the West is one that affects as much the width between the piers as it does the height of the structure. Now, the draw-bridges, as we all know, can only be made one half of the passage way for vessels that a bridge of a continuous span has; and that is becoming of daily greater importance to us from the fact that the whole course of trade is changing on the Mississippi river, and taking the shape of a tug with six or eight barges following after, instead of the ordinary single steamer which formerly plied. That requires greater passage way than even before, and therefore the reason is still greater and still more urgent that we should know exactly what we are doing in regard to these questions of topography before we pass this general bill. I trust that the Senate will concur in the amendment of my colleague, and I should like to have the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. I should like to have the question stated.

Mr. BROWN. It is simply to suspend the construction until we can have a report from our own commissioners on the subject.

The PRESIDING OFFICER. The amendment to the amendment will be again read.

The Secretary read it. It was to insert at the end of the seventh section of the amendment of the House of Representatives the following:

And it is hereby further provided that no draw-bridge shall be constructed or commenced under the provisions of this act before the 1st day of March, 1887.

Mr. CONNESS. If this amendment had been offered while the bill was originally under consideration, or if it was under consideration here at another stage, I think I would vote with the Senator from Missouri for it; but this bill was referred to the Committee on Post Offices and Post Roads to consider the amendments that had been made by the House; and I do not think that this is the time to add such an amendment as the honorable Senator proposes.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Foster, Guthrie, Harris, Henderson, Johnson, Sprague, Van Winkle, and Willey—11.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Fessenden, Grimes, Hendricks, Howard, Kirkwood, McDougall, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Riddle, Stewart, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Cowan, Creswell, Dixon, Doolittle, Edmunds, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Ramsey, Saulsbury, Sherman, and Wright—13.

So the amendment was rejected.

Mr. HENDERSON. I ask the pardon of the Senate for proposing one other amendment. I said that I would not do so. The Senator from Iowa objected that the bottom lands of the river could not be crossed without trestle-work, and that where that will be very high it will endanger the railroad interest. I now propose to enable them to build iron submerged

tubular bridges so as to enable them to go entirely beneath the river. I understand from competent engineers that such bridges can be constructed without any impediment to navigation; and I have the indorsement of them in my hands, of Mr. Linville, also of Mr. Thomas A. Scott, the vice president of the Pennsylvania Central; J. Edgar Thompson, who is known to most Senators; the certificate of Mr. Miller and of Mr. Herman J. Lombaert, and also of Mr. W. W. Wright, who it will be remembered was the engineer in charge of the bridge-building under General Sherman. They all say that a submerged iron tubular bridge can be constructed so as not in the least to impede the navigation of this stream, and so constructed as to enable the railroads to carry on their business without any serious obstruction. If this can be done, why not let this commission certify the fact to us? If we can get rid of this trestle-work, which the Senator from Iowa thinks to be so very dangerous, and can go entirely beneath the surface of the water, let us do it.

Sir, I am serious and in earnest about this thing. I do not wish to take up the time of the Senate, and I am not making frivolous motions. I am making motions which I believe would subserve the very best interests of the country, provided this Senate would adopt them. I am satisfied that the future will demonstrate it. I know that these bridges will not stand there. I know that they are going to prove an obstruction of the river. When I say that, I simply mean to say that Congress will repeal the law and will leave these gentlemen without any substantial foundation, and they will be beaten in the courts of the country; I mean to say that it will turn out that these bridges are an obstruction to the navigation of the river, and I mean to say that Congress, in the just exercise of a proper discretion in regard to the very best commercial and navigation interests of this country, will not permit them to stand.

Senators may say they know as much as I do upon this subject. Perhaps they do. I feel satisfied that no such bridge could be built upon any other great river in this country except the Mississippi river to-day by this Congress. I am satisfied that no other river navigable as this is could be so bridged. No proposition to bridge any of the waters from Lake Superior to Niagara falls would receive the consent or support of this Senate to-day; and yet there is no river between those lakes possessing the importance that this does; it is not a river having on it the commerce that this has. The Senator from Iowa is vastly mistaken when he supposes the railroad interests of this country are superior, so far as the business done is concerned.

Mr. GRIMES. I did not say so.

Mr. HENDERSON. I understood you to say so.

Mr. GRIMES. It was the Senator from Illinois, [Mr. YATES.]

Mr. HENDERSON. The Senator tells me it was the Senator from Illinois. Then I will say that he is very much mistaken. I am aware that the merchants of St. Louis sent on a commission here a short time ago to protest against this measure. The committee came and delivered their papers in writing, and went home. It is not so with regard to the outside lobby interest. The Hannibal and St. Joseph railroad has had its president here during the whole winter urging forward the passage of a bill of this sort. A very distinguished citizen of Illinois, a resident of Quincy, has been here urging, with his vast political influence, the passage of a bill of this character. When I say that outside influences have urged on this thing, I am not mistaken; I cannot be mistaken. I did not mean to say that the farming interests of the country were unrepresented here, because Senators represent the interest of farmers as well as I do; but I undertake to say that those individuals who have been unjustly urging forward the passage of this bill, the outside men, are interested in attempting to show that

no other bridge but a draw-bridge can be built with safety across this river. Distinguished engineers say that it can be done. Why is it that the railroad interests will not submit to the building of a submerged tabular bridge? It is, in my honest opinion, to clog the navigation of the river. They have that object; they have that before them. Why not let both interests prosper? I am not inimical to the railroad interest. I would bridge the Mississippi river every hundred yards, if desired, provided I could do it without obstructing the navigation of the stream. Why not subserve both interests?

The Senator from Iowa and the Senator from Illinois say that no such bridge can be built as one of these elevated bridges. Sir, they have the certificates of the most distinguished engineers against them, and they have the fact against them as demonstrated by the bridge at Steubenville, a successful structure, one that is not doubted to be a success. And yet upon the mere *ipse dixit* of these gentlemen, knowing no more about civil engineering than I do, we are to pass this bill and to insist that this character of bridges shall be built, whether all the engineers of this country shall report against it or not, whether the dearest interests of the country may condemn it or not. Sir, both interests can be subserved. I would not take one penny from any railroad company. I desire to see freights carried over them as cheaply as they can be carried. I desire that travel over them shall be as cheap as possible. I would interfere with neither of these interests. I would not permit the Mississippi river to stand in the way of bridge building by any means; but if a bridge can be built so as to save the navigation interests and also prosper the railroad interest, why not build such a bridge? I honestly believe it can be done; and that is all I have asked the Senate to do.

I have said nothing heretofore about submerged iron bridges, but we have a report before us showing that it can be done; and now I propose that if that character of bridge can be built under the report of the commission which we have provided on this subject, we shall wait until that report comes in. I move to amend the amendments of the House of Representatives by inserting at the end of the seventh section the following:

*Provided*, That no bridge usually known as a draw-bridge shall be constructed or commenced under the provisions of this act, unless it be found, and so reported by a board of engineers, to be appointed under the laws of the United States adopted at the present session of Congress, that such bridges can be constructed and operated at less cost than elevated bridges of continuous spans, or submerged iron tubular bridges, and without material obstruction to the navigation of the river.

The amendment was rejected.

Mr. TRUMBULL. The seventh section of the House amendment ought to be transposed so as to make it the last section. It provides that "the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of said river by the construction of bridges, is hereby expressly reserved."

The PRESIDING OFFICER. That will be done, unless there be objection. The Chair hears no objection. The question now is on concurring in the amendments of the House of Representatives, as amended.

Mr. BROWN. I should like to have the yeas and nays on that question. I desire to record my vote upon it.

Mr. GRIMES. The question is on concurring in the Senator's own amendment.

Mr. BROWN. No; that is not the question.

Mr. RAMSEY. That is all there is of it. Mr. BROWN. I do not desire to do that. The PRESIDING OFFICER. The call for the yeas and nays is withdrawn.

The amendments of the House, as amended, were concurred in.

#### EQUALIZATION OF BOUNTIES.

Mr. WILSON. I move to take up House bill No. 602, to equalize the bounties of sol-

diers, sailors, and marines who served in the late war for the Union. When the bill shall be taken up, so as to be the unfinished business for to-morrow, I will yield the floor to the Senator from Kansas, [Mr. POMEROY.]

The motion to take up the bill was agreed to.

#### DEATH OF HON. JAMES H. LANE.

Mr. POMEROY. Mr. President, I feel it my duty to arrest the business of the Senate for a brief period, while I announce the death of my late colleague, Hon. JAMES H. LANE, of Kansas, who departed this life on the 11th instant.

Death has been of frequent occurrence during the period of which I have been a member of this body. I believe no session has passed in which we have not been called to mourn the loss of some one of our number. And this session has been peculiarly marked in that respect. For we commenced it in mourning for the death of one of the distinguished Senators from Vermont, and the voice of that touching and most appropriate eulogy had scarcely died away in the murmur of our grief before we were called to bury his colleague who had mourned with us so sincerely.

Mr. President, the duty devolving upon me at this moment is both melancholy and painful. It is peculiarly so, because we contemplate the death of one who struck the life fountain with his own hand! In the midst of opportunities of usefulness; surrounded by a most interesting family; reëlected to a position congenial to his tastes and gratifying to his hopes, in a moment "of temporary aberration of mind," he "loosed the silver cord, and the golden bowl was broken."

I shall refer but briefly to incidents in the life and character of my late colleague, and confine myself chiefly to those which have fallen under my own observation. The history of his life in his native State, and during the Mexican war, I shall leave to the Senators from Indiana, who are more familiar with the record. My first acquaintance with the deceased Senator was in the spring of 1855. He had just removed to Kansas, and taken up his residence with the New England colony which had settled the town of Lawrence the year before. He had voted for the Kansas-Nebraska bill as member of the House of Representatives from Indiana in the Congress of 1854. He considered that act transferred the struggle which had agitated Congress and the country from the halls of legislation to the Territories of the United States. And as Kansas was foremost to enter the field of contest, General LANE came out, as he said, "to see fair play" upon the principles of the organic act, and did not, at first, identify himself with any party. An attempt was made to organize the Democratic party, but without success. There was, indeed, little contest, until the convention at Big Springs in September, 1855. The political struggle of parties which were not only to decide the fate of this young Territory but of all the rest, whether for freedom or for slavery, then commenced. General LANE was chairman of the committee on resolutions at that convention, and reported a platform which became the basis of the Free-State party. He then, and ever after, was fully identified with the Free-State cause, and was determined to share its fortunes in all its vicissitudes. And as difficulties increased and the contest deepened, he grew in strength and earnestness until he was deemed equal to the emergency.

No man knows until he is tried what he is capable of doing or of suffering; and certainly General LANE surpassed the expectations of his friends by his energy and foresight during the trying events which marked that period. He grappled successfully with every obstacle and became master of every situation. When clouds darkened his pathway, and for the moment he seemed prostrated, he would rise with renewed strength and vigor. Adversity could not conquer him; he only yielded to the insidious delusions of prosperity. He was a man of wonderful adaptabilities, and seized

every occasion to turn events to a good account. While, technically, he was neither a scholar nor an orator, yet he was learned and eloquent; for he had closely studied men and knew every avenue to the human heart, and could arouse its deepest emotions. With his impassioned eloquence before the people he swayed multitudes who would hang upon his lips with breathless emotion, while they regarded his voice as little less than the breath of omnipotence.

I could not be true to history or to my own convictions if I did not here, and now, say that from the beginning to the end of our struggle in Kansas General LANE was true to the cause of freedom, and true to the pioneers who struggled with him to save our Territory from the crime and treason of human slavery. I forgive many faults in one who has such virtues.

Lawrence became the bulwark of freedom in Kansas, and LANE was the chosen leader. He was elected to the first Free-State convention to form a constitution at Topeka, and was chosen the presiding officer of that body. Under that constitution he was first elected, with Governor Reeder, to the Senate of the United States. While General LANE was at Washington urging our admission into the Union under that constitution, as a settlement of our difficulties, a conflict at home between opposing forces seemed inevitable. By the greatest prudence and foresight alone was a collision between the United States military forces avoided, while as a result, Lawrence was sacked and burned.

General LANE then left Washington, and with wonderful activity and energy went through the northern and western States raising men and arms for the settlers in Kansas. By the 1st of August, 1856, he had collected his little army and marched the first party of armed settlers through the State of Iowa into Nebraska and Kansas. The invaders fled from our soil before the presence of organized and armed emigration. At this opportune period Governor Geary became the executive officer of Kansas; a man who faces the music and never turned his back upon the foes of his country; who then, as now, was a noble leader in a noble cause, soon, I hope, to be honored by Pennsylvania as he has always honored her. Under his administration Kansas had a brief respite from the angry strife, and men of both political parties united in joint efforts to promote the prosperity of the Territory. But the interval was comparatively brief, and the resignation of Governor Geary was soon followed by the Leecompton convention, the history and character of which are familiar to all.

Senator LANE entered warmly into the canvass of 1860, and found in Mr. Lincoln a personal friend. In April, 1861, he was elected a member of the Senate of the United States, and took his seat here at the called session of the Thirty-Seventh Congress, meeting for the first time July 4, 1861. That was at the beginning of the late rebellion, a foreshadowing of which he had seen in Kansas. During that short session he urged and voted for the most vigorous prosecution of the war, and in some measure comprehended its results. He closed one of his speeches on the 18th of July by this most distinctive announcement, "that slavery should perish rather than that one inch of this Union should be parted with."

I believe he was among the first, if not the very first, to enlist colored soldiers in the Union Army, for on the 4th day of August, 1862, he commenced the organization of the first colored regiment of Kansas; and although they were not received and mustered into the military service until 13th January, 1863, still in the mean time, when some were discouraged, he would not consent to the disbandment of the regiment, but authorized Colonel Williams, then in command of this regiment, to draw upon him for their support until the Government accepted them—thus pledging his private property for the support of this regiment. Finally they were accepted and mustered, which precedent was followed by the enlisting and

mustering of the Massachusetts fifty-fourth, and then to swelling the ranks of the Union Army to the number of over two hundred and fifty thousand colored troops, thus, and for the first time, allowed to strike the redeeming blow of their own freedom!

Senator LANE rejoiced in every triumph of our brave Army, whether on the sea or on the land, and seemed to feel a profound personal mortification and defeat at every national reverse. My late colleague was a member of the Baltimore convention in 1864, and, with the late Senator King, of New York, took a prominent part in the deliberations of that body, and did much toward securing the result arrived at. Now, alas! both by similar rash acts have closed their eyes to the light of day, and are dead to the issues they helped to inaugurate.

Just previous to the late presidential election I witnessed the devotion of Senator LANE to the cause of our country, and his complete identification with the soldiers of Kansas, who were suddenly called to march to the border of the State to repel the invasion of the rebel General Sterling Price, who was then marching through Missouri with conquests and victory. In that contest, to save our State from fire and pillage, General LANE counted nothing too dear to offer for her defense. But with musket in hand he shared the labors, exposure, and conflict with the private soldier; thus endearing him to our people, he was a second time elected to the Senate. And the present Congress was the commencement of his second term.

But I shall not dwell upon the recent events of this session. They are too familiar to all. It seems but yesterday since he was going in and out among us. Nor shall I allude to the course that he took during this session, so painful to his friends. I prefer to turn my face to the brighter side of this extraordinary picture of human life, and let the shady side pass from view. I would step backward and throw the mantle of charity over all that I cannot approve. For the grave is silent. Death stereotypes all human actions and efforts, and allows no second edition to issue. The work of life is sealed and the record goes up on high, as well, also, as down to posterity through coming years. What is mysterious now may be revealed hereafter. At present we hardly know what to commend or what to condemn until the day of final disclosure.

My late colleague leaves an interesting family in the deepest sorrow, to say nothing of friends, to mourn his loss. But I trust that He who is the God of the fatherless and protects the widow will shield and protect them, and in coming years, when the shadows of life are lengthened, they may find paths of usefulness and honor, remembering that—

"That life is long  
Which answers life's great ends."

Mr. President, I offer the following resolutions:

*Resolved*, That the members of the Senate have learned with regret and sorrow of the sudden death of Hon. JAMES H. LANE, late a Senator from the State of Kansas.

*Resolved*, That as an evidence of respect to the memory of the deceased, and of sincere sorrow and sympathy for his bereaved and afflicted family, the Senate do now adjourn.

*Ordered*, That the Secretary communicate these proceedings to the House of Representatives.

Mr. HENDRICKS. Mr. President, Amos Lane, the father of JAMES H. LANE, was a distinguished citizen of the State of Indiana. His professional learning and force as a public speaker placed him among the able lawyers of the State. He was prominently connected with the early legislation of the State, and contributed to the establishment of our system of laws. For four years he was a Representative in Congress, and took rank as an able debater in that body.

JAMES H. LANE was born in the county of Dearborn, in the State of Indiana, on the 22d day of June, 1814, and that continued to be his home until 1853, when he identified his for-

tunes with the people of Kansas. He was educated for the bar, but did not long devote himself to the labors or pursue the honors of the profession. When the country became involved in the war with Mexico, he was among the first to respond to the call for troops. His rare energy of character was displayed in the restless zeal with which he prosecuted the work of raising and organizing the third regiment of Indiana volunteers. By the choice of the companies he was made the colonel and placed in command of the regiment.

That regiment was made up of the young men of southeastern Indiana, and was composed largely of the sons of the farmers; and in it were many of my youthful associates and friends, many whose friendship and esteem I yet cherish; and I think I am justified in saying that in every soldierly quality it was entitled to rank with the first and the proudest. Its fortunes became to me a subject of great interest, and from the day of the enrollment to the day of discharge I listened for every report of its gallant achievements, and was very proud of the great name with which it came out of the service. The art and science of war had been neglected in the State of Indiana, and the officers and men looked to the colonel for the care necessary to their comfort and safety and the discipline which made them formidable to the enemy. Under his command the regiment soon attained a high rank for its skill and discipline.

I need not speak of the battle of Buena Vista; of the great disparity in the numbers engaged; of the importance of its results, not only in holding the line of the Rio Grande, but perhaps in saving the army; of its decisive influence upon the fortunes of the war, and of the glory it shed upon our arms, for these are all known; but I cannot omit saying that, upon that rough field, the third Indiana occupied positions of greatest difficulty and responsibility, that it was borne upon by heavy forces of infantry, and dashed against by long lines of cavalry, and that in all the changing fortunes of the day it was neither broken or bent. Colonel LANE and the regiment were honorably mentioned in the report of the commanding general.

After the discharge of the third, Colonel LANE organized and commanded the fifth Indiana regiment, which was composed largely of his discharged veterans. That regiment rendered valuable service, and was discharged with a character highly honorable and gratifying to its commander. Colonel LANE was kind toward his men, careful of their wants, generous toward his subordinate officers, yet strict in his discipline, and enjoyed both the affection and confidence of his command. In the enemy's country he was vigilant and active, and upon the field of battle cool, sagacious, and brave.

Upon his return home, Colonel LANE was chosen, by a large vote, Lieutenant Governor of the State, and in 1852 was elected to Congress from the same district which his father had represented nearly twenty years before. He did not participate largely in the debates, and his service in the House was not specially marked. He supported the Administration of President Pierce, and upon its passage voted for the Kansas-Nebraska bill. I will not add to what the Senator, lately his colleague, has said of his eventful life after he left the State of Indiana. The estimate that may be put upon much of his conduct while he was connected with the border strife must depend upon the stand-point from which it is viewed. His character was not obscure, nor his conduct concealed. His virtues and his faults were alike conspicuous, and will now remain as models for imitation or beacons of dangers to be avoided.

His ambition and passions were imperious, and his will dominant, so that, defiant of opposition and popular opinion, he pursued his objects with an energy and force that wrung success from adverse circumstances and reluctant fortune. He was not endowed with high powers of argument, nor with a cultivated im-



agination or elevated sentiment, nor did he possess in a high degree the command of our language, yet the force and impulse of his nature, sometimes carrying him to the verge of frenzy, made him a public speaker of great power and a formidable revolutionary leader. Implacable toward his foes, he was generous toward his friends and untiring in his efforts to serve them.

I think it proper on this occasion to say that on the evening before leaving this city for his home he sent for me to examine some documents which he had obtained for his defense against a recent charge that he had received money for his services in connection with some Indian business. Upon examination of the papers, and as I understood the case, I thought his vindication complete. I have understood that upon a like examination my colleague arrived at the same opinion.

It was a sad communication to each one of us when we were told that one of our number was in the hands of death. In whatever form that messenger from another world may come, he strikes us with awe and terror; but his presence is never so appalling as when he lays his destroying hand upon the human intellect, enthrones distraction, sets the faculties at war, and proclaims—

"Mischief, thou art afoot,  
Take thou what course thou wilt!"

An active, perturbed spirit has gone from our midst, and from this saddest permission of Providence we are admonished of the frailty of the human intellect, of its inability to preserve itself, and of its strange and most unnatural action when broken loose from the lines prescribed for its government.

Mr. President, I second the resolutions.

Mr. DOOLITTLE. Mr. President, Senator LANE was a member of the Committee on Indian Affairs of the Senate, and for several years our intercourse was constant. I had come to know him well. While he had great faults, he had many great and good qualities of character. He was certainly a man of no ordinary intellect, not of the highest order perhaps, and was gifted with as fine a temperament for activity and endurance as I have ever known. He was undoubtedly a man of courage; a man, if not gifted with a high order of eloquence, yet possessed of great power, especially in his addresses to popular assemblies. He certainly possessed great power among the people of his own State, and was ever faithful and most devoted to what he deemed to be the interest of Kansas. I say he was a man of great power in addressing a popular assembly. I have seen and heard many address assemblies, but I think never in my life have I seen a popular assembly moved as they were moved by an address of JAMES H. LANE, in 1856, in the State of Wisconsin.

He was a man strong in his friendships and not less implacable in his hatreds. He was a soldier in the Mexican war and attained distinction in it. He was from the first engaged in the great troubles in Kansas. Passing through scenes of violence, it is not to be wondered at that a man of his temperament and character should become a man of violence himself. As is known to some of his friends, some acts which transpired there, and especially one in relation to the taking of the life of a fellow-being at Lawrence, put upon his soul a burden which was never lifted, although he could justify to himself the act which had been done. As I have said, sir, there were many great and good qualities in his character. He was a true and devoted and constant friend. I cannot call to mind the circumstances under which his death has occurred without being weighed with sadness. I have no doubt that his mind was in a state of aberration; that he was insane. Indeed he had given evidence of it to some extent before he left the city of Washington; and I have been informed, upon the authority of his physician who attended him at St. Louis, that he gave evidence of it there also.

Mr. President, allusion has been made by one who preceded me to another friend as dear

to me as any who has ever sat in this Chamber, whose life was taken by his own hands. I refer to the late Preston King. These two events, happening within so brief a period to two who have been so well known and so distinguished in this body, are to me a source of deep grief.

The resolutions were unanimously adopted; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 18, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

Mr. ORTH. I move that the reading of the Journal of yesterday be dispensed with. The motion was agreed to.

### LEAVE OF ABSENCE.

Mr. WASHBURN, of Illinois. On account of the state of my health I am constrained to ask leave of absence for the remainder of the session.

No objection being made, the leave of absence was granted.

### GRADE OF GENERAL.

Mr. WASHBURN, of Illinois. I ask the indulgence of the House to take from the Speaker's table House bill No. 3, to revive the grade of General, returned from the Senate with an amendment.

No objection being made, the bill was taken up, and the amendment of the Senate was read, as follows:

That the pay proper of the General shall be \$400 per month, and his allowance for fuel and quarters, when his headquarters are in Washington, shall be at the rate of \$300 per month, and his other allowances in all respects the same as are allowed to the Lieutenant General by the second section of the act approved February 29, 1864, entitled "An act reviving the grade of Lieutenant General in the United States Army," and the chief of staff to the Lieutenant General shall be transferred and be the chief of staff to the General, with the rank, pay, and emoluments of a brigadier general in the Army of the United States; and the act approved March 3, 1865, entitled "An act to provide for a chief of staff to the Lieutenant General commanding the armies of the United States," is hereby repealed; and the said General may select from the line of the Army for service upon his staff such number of aids, not exceeding six, as he may judge proper, who during the term of such service shall each have the rank, pay, and emoluments of a colonel of cavalry. And it is hereby provided, that in lieu of the staff now allowed by law to the Lieutenant General, he shall be entitled to two aids and one military secretary, each to have the rank, pay, and emoluments of a lieutenant colonel of cavalry during the term of such staff service.

Mr. WASHBURN, of Illinois. I move to strike out the words "the line of" and insert in lieu thereof the words "the regular Army;" so that it will read, "select from the regular Army." That was the meaning intended by the mover of the amendment.

The amendment to the Senate's amendment was agreed to; and the amendment as amended was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment as amended was agreed to; and also moved to lay the motion to reconsider on the table.

### MEMPHIS RIOT.

Mr. WASHBURN, of Illinois. I ask leave to file with the Clerk the report of the committee on the Memphis riot, and that the minority be permitted to present a report.

Leave was granted.

### COMMITTEE ON COMMERCE.

Mr. WASHBURN, of Illinois. The House was kind enough to grant leave to the Committee on Commerce when I was unwell to report two or three bills. I now ask the House to grant that indulgence to the acting chairman of the committee instead of myself.

No objection was made.

### FREEDMEN'S BUREAU.

Mr. ELIOT offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House of Representatives be directed to present to the Secretary of State the act entitled "An act to continue in force and to

amend an act for the relief of freedmen and refugees, and for other purposes," together with the certificates of the Clerk of the House of Representatives and Secretary of the Senate, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the objections of the President thereto had been received, and after the reconsideration of said act by both Houses in accordance with the Constitution.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ELECTION CONTEST.

Mr. McCLURG. I presume that the House will be gratified when I say that five minutes need not be consumed in the consideration of the election case of Koontz vs. Coffroth. It was the intention of Mr. Coffroth to have addressed the House on the occasion, but yesterday he informed me that he had been indisposed for some days and had therefore made no preparation, and he was compelled to leave the city. He did leave last evening, and he authorized me to state that he was willing to have the vote taken in the case at any time provided leave was granted to him to print a speech of one hour in length. I ask, therefore, that that leave be given; and also that leave be given to the contestant, Mr. Koontz, to print a speech one half hour in length. And as I have no disposition to unnecessarily detain the House, I ask that my remarks, not exceeding thirty minutes in length, may be printed. If that be granted I will move the previous question.

No objection was made.

[The remarks of the gentlemen will be published in the Appendix.]

The Clerk read the resolutions reported by the committee, as follows:

Resolved, That Alexander H. Coffroth is not entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

Resolved, That William H. Koontz is entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were agreed to.

Mr. McCLURG moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Hon. WILLIAM H. KOONTZ thereupon appeared, was duly qualified by taking the oath prescribed by the act of July 2, 1862, and took his seat.

Mr. RANDALL, of Pennsylvania. I demand the regular order of business.

Mr. STEVENS. What is the regular order? The SPEAKER. The regular order of business is the call of committees for reports, commencing with the Committee for the District of Columbia.

Mr. RANDALL, of Pennsylvania. I object to everything else.

### WITHDRAWAL OF PAPERS.

Mr. DAVIS. I ask the gentleman to yield to me for a moment to withdraw some papers. Mr. RANDALL, of Pennsylvania. I will yield for that purpose.

On motion of Mr. DAVIS, by unanimous consent, leave was granted for the withdrawal from the files of the House of the petition and articles of association of the Evangelical Lutheran St. John's congregation of Washington, District of Columbia.

On motion of Mr. McKEE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Chenault & Co.

### LEAVE OF ABSENCE.

Mr. McKEE. I ask leave of absence for the remainder of the session.

No objection was made, and the leave of absence was granted.

The SPEAKER proceeded, as the regular

order of business, to call the committees for reports, commencing with the Committee for the District of Columbia.

#### PUBLIC SCHOOLS IN THE DISTRICT.

Mr. WELKER, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the Senate No. 246, relating to the public schools in the District of Columbia; upon which he demanded the previous question.

So the previous question was seconded and the main question ordered.

The bill was ordered to a third reading, and it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### JAIL IN THE DISTRICT OF COLUMBIA.

Mr. WELKER also, from the same committee, reported back, with an amendment in the nature of a substitute, bill of the House No. 124, authorizing the construction of a jail, penitentiary, and house of correction in and for the District of Columbia.

The substitute was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### RAILROAD COMPANY.

Mr. WELKER, from the Committee for the District of Columbia, reported back, with a substitute, House bill No. 230, to amend an act to extend the charter of the Alexandria and Georgetown Railroad Company, passed March 3, 1863.

The substitute was read. The first section provides that the Washington, Alexandria, and Georgetown Railroad Company, a corporation lawfully succeeding to the charter, rights, and privileges of the Alexandria and Georgetown Railroad Company, shall be authorized to extend said railroad from the track as now laid, or as the same may hereafter be laid, through Maryland avenue, at the intersection of Sixth street west, through and along Sixth to a point at the intersection of Pennsylvania avenue, which may be suitable for a depot for passengers and freight.

The second section provides that the company shall be authorized to extend their railroad from the track as the same is now or may hereafter be laid through Maryland avenue at the intersection with Virginia avenue, through and along said Virginia avenue in an easterly direction, to the intersection of D street south, and thence along D street and along Washington canal to New Jersey avenue; thence by a curve of not less than a thousand feet radius to a point in square No. 732; thence by a tunnel to a point in square No. 893; thence by a curve into Eighth street east, and thence by the most direct and eligible route to the intersection of the Washington branch of the Baltimore and Ohio railroad.

The third section provides that the provisions of section three of the act to which this is an amendment shall be applicable to the extension of said road or track hereby authorized, and it shall be lawful for said company to construct a bridge and draw across the Washington canal, of such plans and dimensions as may be approved by the corporation of Washington, and so as not to interfere with the navigation of said canal, and also to use steam power for the transportation of passengers and freight over said branches, subject to such restrictions as may be imposed by the corporation of Washington, in respect to the portions within the city limits.

The fourth section provides that the railroad company shall be required to pay all damage resulting to private property, and in the event of the company and the owner or owners

of such private property failing to agree upon the amount of damages and the value of the private property appropriated, such proceedings shall thereupon be had for the assessment of damages as are authorized and required by the laws now in force in the District of Columbia regulating the assessment of damages for opening streets, roads, and alleys in the District; and upon the payment or tender to the owners of the amount of damages so assessed, the company shall acquire the right to use and occupy all such lands so appropriated as may be necessary for the proper working and running of said road.

The fifth section provides that if at any time any other railroad company shall desire to use and occupy the tunnel authorized by this act, either on the same track or another alongside thereof, they shall have the right to do so, upon such fair and reasonable terms as may be agreed upon by said parties to such joint occupancy; and in case the parties cannot agree, the supreme court of the District of Columbia shall fix the terms.

The sixth section provides that this act shall go into effect from the time of its passage.

The substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DISTRICT METROPOLITAN POLICE.

Mr. WELKER, from the Committee for the District of Columbia, reported back without amendment, and with a recommendation that the same do pass, Senate bill No. 137, to amend the acts approved August 6, 1861, and July 16, 1862, establishing a Metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes.

The bill, which was read, provides, in the first section, that the chief executive officer of the police shall hereafter be styled major; the present sergeants shall be called lieutenants; and roundsmen called sergeants, and the patrolmen called privates; and that, in addition to the officers and employés the commissioners of the Metropolitan police, in the District of Columbia are now authorized by law to appoint, the commissioners be authorized to appoint one captain, who shall be the inspector of the force, command it in sickness or absence of the major, and perform such other duties as the commissioners may direct; one clerk in the office of the major, who shall have charge of the records of the sanitary company, and perform such duties as the major, by direction or with the approval of the commissioners, may prescribe; twenty sergeants and fifty patrolmen or privates.

The second section provides that the provisions of the sixth section of the act of July 16, 1862, authorizing the selection of justices of the peace by the board of police to officiate at the respective station-houses, be construed to provide for the hearing of all cases of offense against statutory, corporation, or common law, of which the board is charged by law with the execution; and all fines imposed by any justice within either of the jurisdictions of the Metropolitan police district shall be, by the justices imposing the same, paid into the hands of the treasurer of the board of police, on the first Thursday after the same shall have been collected, who shall duly receipt therefor, in duplicate, to the credit of the city or county within which the offense was committed; and such justice shall, in each case, return the original receipt to the treasurer of the same jurisdiction; and the treasurer of the police board shall pay over such sums monthly to the proper officers of said city or county, upon proper receipts, except as afterward provided.

It is provided in the third section that from and after the expiration of licenses already granted it shall be unlawful for any person or

persons keeping an ordinary, restaurant, saloon, or other place where spirituous liquors are sold within the District of Columbia, to give, sell, or dispose of any intoxicating drinks without a license approved by the board of police; and hereafter no such license shall be considered legal by any of the authorities having jurisdiction within the District, until the same shall have been approved by the board of police and so certified by the secretary thereof under the office seal.

The third section proposes to enact that the board of police shall provide specific rules for uniform clothing of the police force, which shall be procured by each of the members thereof respectively, strictly in conformity with such rules, at his own expense and risk, and he shall be removed from such force for not complying with such rules.

The fourth section provides that from and after the passage of this act the property clerk of the Metropolitan police district shall be vested with all the powers now conferred by law upon notaries public and justices of the peace in the District of Columbia. He may administer oaths and certify depositions which may be necessary to establish the ownership of any property or money lost, abandoned, or returned to him under the directions of the board of police, other than such as may be so returned as the proceeds of crime; and upon satisfactory evidence of such ownership he shall deliver the same to said owner, his heirs and legal representatives, and to him or them only, except it be proven impracticable for such owner, heirs, or representatives to appear, when the same may be delivered and receipted for upon such proof of ownership and the filing in the office of said property clerk of a duly executed power of attorney from the owner or his heirs or legal representatives. And any property or money returned to the property clerk as the proceeds of crime, and which shall not be called for as evidence by any proceeding in the courts of the District within one year from the date of such return, may, unless specially claimed by the owner within that time, be thereafter treated as other unclaimed, abandoned, or lost property or money, as provided in the act of July 16, 1862.

The fifth section proposes to enact that where animals or articles of property, other than money, are returned to the property clerk as the proceeds of crime, when shown by sufficient evidence to be necessary for the current use of the owners and not for sale, (except perishable property that may be delivered to the owner on ample security being taken by the committing magistrate for his appearance at the criminal court to prosecute the case,) the board of police shall have power, in its discretion, to authorize the property clerk to place the same in the custody of such owners upon sufficient bonds being given by the owner or owners in the sum of twice the value thereof, conditioned for the production of the same at any time within one year, when required for use in court as evidence in any proceeding thereon, in accordance with the provisions required by the act of July 16, 1862. Large quantities of goods held for sale by the owners, that may come into the possession of the property clerk as the proceeds of crime, may be delivered to the owner, his heirs, or representatives, as provided in section eight of this act, upon ample security to prosecute, except those of an estimated value of fifty dollars, which shall be retained by the property clerk until the discharge or conviction of the accused, as required by the act.

It is provided in the sixth section that hereafter no person shall assume or practice the occupation of detective within the limits of the District of Columbia who shall not first receive a specific appointment for that purpose; or if pursuing the detection of criminals as a private business outside of such authority, and not otherwise specifically authorized by law, any person so practicing shall enter into bonds to the board of police with surety in the sum

of not less than \$10,000, to be approved by the board of police, for a faithful and correct return to the board, in such manner and at such times as the board of police shall direct, of all business transacted by such private detective; and in each and every case of a forfeiture of such bond or bonds for failure to make such returns to the board as required, or for failure of persons accused by such bonded private detectives to appear to answer charges in court, it shall be the duty of the attorney of the United States for the said District to immediately prosecute the sureties thereon to the full extent of a recovery of the forfeitures. And it is declared the duty of any person prosecuting the business of private detective who may arrest a person for crime to bring the person arrested with all evidence of the alleged crime, including property or money which may become evidence, immediately to the office of the superintendent of police, or the nearest Metropolitan police station, where the case shall undergo an examination before the magistrate assigned thereto, and all laws or parts of laws that govern the Metropolitan police in the matters of persons, property, or money, shall hereafter be applicable to detectives, (or to persons practicing as detectives, whatever other name they may assume,) who shall make like returns and dispositions thereof, as required by law and the rules of the board of police governing the Metropolitan police force.

The sixth section proposes to enact that upon the execution of a private detective's bond, it shall be the duty of such private detectives to report to the secretary of the board of police, who shall file such bond and record the name, age, description, nationality, and residence of such private detective; and it shall be unlawful for such detectives, or any member of the Metropolitan police force, or for any and all other persons, to compromise a felony or any other unlawful act, or to participate in, assent to, aid, or assist any person suspected of crime to escape a full judicial examination by failing to give known facts or reasonable causes of suspicion, or withholding any information relative to the charge or suspicion from the police magistrate or justice, or in any manner to receive any money, property, favor, or other compensation from, or on account of, any person arrested or subject to arrest for any crime or supposed crime, or to permit any such person to go at large without due effort to secure an investigation of such supposed crime. For any violation of the provisions of this section, the policeman or private detective, or other person guilty, is to be deemed as having compromised a felony, and to be thereafter prohibited from acting as an officer of the Metropolitan police force or as a private detective, and is to be prosecuted to the extent of the law for aiding criminals to escape the ends of justice.

The bill was ordered to a third reading, read the third time, and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 410) for the relief of Solomon P. Smith;

An act (S. No. 46) for the relief of Henry M. Whittlesey;

An act (S. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence;

An act (S. No. 383) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers;

Joint resolution (S. R. No. 111) for the relief of Milton McKinnon;

An act (S. No. 413) for the relief of Miss Sue Murphey;

An act (S. No. 434) for the relief of Mrs. Amelia Feaster;

An act (S. No. 431) for the relief of Washington Crosland;

An act (S. No. 435) for the relief of Alexander F. Pratt;

An act (S. No. 324) for the relief of John Hastings;

An act (S. No. 433) for the relief of E. J. Curley;

An act (S. No. 429) for the relief of Janes, Fowler, Kirtland & Co.;

An act (S. No. 16) for the relief of Josiah O. Armes; and

Joint resolution (S. R. No. 98) to amend an act entitled "An act to authorize the establishment of ocean mail steamship service between the United States and China," approved February 17, 1865.

The message further announced that the Senate had passed without amendment bills and joint resolutions of the following titles:

An act (H. R. No. 521) for the benefit of Henry Horne;

An act (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy;

An act (H. R. No. 517) for the relief of Liston H. Pearce;

Joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore;

Joint resolution (H. R. No. 170) for the relief of Caroline A. Randall, administratrix and widow of Charles B. Randall, deceased;

An act (H. R. No. 526) for the relief of the heirs of Horace I. Hodges; and

An act (H. R. No. 629) for the benefit of William G. Lee.

The message also announced that the Senate had passed House bills and joint resolution of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 695) for the relief of William H. Wheeler, of Bangor, Maine;

Joint resolution (H. R. No. 119) for the relief of Isaac Ranney, internal revenue collector for the eighth district of Ohio; and

An act (H. R. No. 518) for the relief of the owners of the bark Maria Henry.

#### CANAL AND SEWERAGE COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with amendments, Senate bill No. 190, to incorporate the District of Columbia Canal and Sewerage Company.

The bill was read.

The amendments reported by the committee were to change the names of some of the corporations and to insert at the end of section seventeen the words "except in the mode and manner as hereinbefore provided for."

Mr. INGERSOLL. I now demand the previous question on the amendments.

Mr. F. THOMAS. I hope the gentleman will not call the previous question without some explanation about the amendments.

Mr. INGERSOLL. I presume there will be very little explanation required. We have stricken out some of the names of the incorporators and inserted others.

Mr. F. THOMAS. How in regard to the last amendment?

Mr. INGERSOLL. The last amendment provides for the condemnation of private or public property in the manner provided by the preceding sections of the bill and in no other way.

Mr. F. THOMAS. Will the gentleman allow me to make an explanation about this amendment?

Mr. INGERSOLL. How long will it require?

Mr. F. THOMAS. I declare I cannot tell; about twenty minutes.

Mr. INGERSOLL. This bill has been very thoroughly discussed in the House on a previous occasion, and the gentleman himself has discussed it at great length.

Mr. F. THOMAS. I shall object to anything being said on the part of the gentleman from Illinois unless he will allow me to respond.

He calls the previous question and it stops debate.

Mr. ALLEY. Is it in order to move to lay the whole subject on the table?

The SPEAKER. Not now, while the gentleman from Illinois has the floor.

Mr. ROSS. I rise to a question of order. By what authority does the gentleman from Illinois use the name of the assessor of my district, Mr. Babcock, in this bill?

Mr. INGERSOLL. By the authority of the committee.

Mr. HALE. I trust the gentleman will correct the grammar of his last amendment before it goes into the bill by striking out the word "as." It reads "except in the mode and manner as herein provided for."

Mr. INGERSOLL. That is immaterial one way or the other.

On seconding the demand for the previous question no quorum voted.

Tellers were ordered; and the Speaker appointed Messrs. INGERSOLL and ALLEY.

The House divided; and the tellers reported—ayes 50, noes 40.

So the previous question was seconded.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 69, nays 51, not voting 62; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Banks, Baxter, Benjamin, Bingham, Broomall, Bundy, Reader W. Clarke, Cobb, Conkling, Delano, Deming, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferry, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jencks, Julian, Ketcham, Koontz, Kuykendall, Laffin, William Lawrence, Longyear, Lynch, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Paine, Perham, Pike, Plants, Raymond, Rollins, Sawyer, Schenck, Shellabarger, Stevens, Thayer, Trowbridge, Burt Van Horn, Robert T. Van Horn, Welker, Wentworth, Williams, Stephen F. Wilson, Windom, and Woodbridge—69.

NAYS—Messrs. Alley, Ames, Baker, Bidwell, Boutwell, Boyer, Bromwell, Davis, Dawson, DeFrees, Eckley, Eldridge, Glossbrenner, Grider, Hale, Aaron Harding, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Johnson, Kasson, Kelley, Kerr, Latham, Loan, McCullough, McKee, Morris, Niblack, Nicholson, Noell, Orth, Price, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Ross, Seofield, Sitgreaves, Spalding, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Warner, Whaley, James F. Wilson, and Wright—51.

NOT VOTING—Messrs. Ancona, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Elaine, Blow, Brandegee, Buckland, Chanler, Sidney Clarke, Cook, Cullom, Culver, Darling, Daves, Denison, Dixon, Dodge, Dumont, Farquhar, Finck, Garfield, Goodyear, Grinnell, Griswold, Harris, Hayes, Hill, Hogan, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, Melndoe, Patterson, Phelps, Ponero, Radford, Alexander H. Rice, Rogers, Rousseau, Shanklin, Sloan, Smith, Starr, Stilwell, Strouse, Upson, Van Aernam, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Winfield—62.

So the main question was ordered.

The question being upon the amendments reported by the Committee for the District of Columbia, it was put; and there were—ayes 46, noes 38; no quorum voting.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 47, not voting 70; as follows:

YEAS—Messrs. Allison, Anderson, Barker, Baxter, Bidwell, Bingham, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Delano, Deming, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Henderson, Higby, Holmes, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jencks, Julian, Ketcham, Koontz, Longyear, Lynch, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Paine, Perham, Pike, Plants, Price, Raymond, Rollins, Sawyer, Schenck, Shellabarger, Stevens, Thayer, Trowbridge, Burt Van Horn, Robert T. Van Horn, Williams B. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, Windom, and Woodbridge—65.

NAYS—Messrs. Alley, Ames, Delos R. Ashley, Banks, Boutwell, Boyer, Bromwell, Davis, Dawson, Eckley, Eldridge, Glossbrenner, Grider, Hale, Aaron Harding, Chester D. Hubbard, Humphrey, Kasson, Kelley, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, McCullough, Morris, Niblack, Nicholson, Orth, Samuel J. Randall,



John H. Rice, Ritter, Ross, Scofield, Sitgreaves, Spaulding, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Warner, Henry D. Washburn, James F. Wilson, and Wright—47.

NOT VOTING: Messrs. Arcona, James M. Ashley, Baker, Baldwin, Bosman, Benjamin, Bergen, Blaine, Blow, Brandegee, Buckland, Chandler, Conkling, Cook, Culloin, Culver, Darling, Dawes, DeLoes, Denison, Dixon, Dodge, Donnelly, Briggs, Dumont, Faganhar, Finck, Goodear, Grinnell, Griswold, Harris, Hayes, Hill, Hogan, Hooper, Hotchkies, Asa H. W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Johnson, Jones, Kelso, Ladlin, Luc, Lind, Marshall, Marston, Marvin, McIndoe, McKee, Neell, Patterson, Phelps, Pomerooy, Radford, William H. Randall, Alexander H. Rice, Rogers, Rousseau, Shanklin, Sloan, Smith, Starr, Stilwell, Strouse, Unson, Van Aernam, Ward, Elihu B. Washburne, Whaley, and Winfield—70.

So the amendments were agreed to.

Mr. INGERSOLL moved to reconsider the vote by which the amendments were agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. INGERSOLL. I demand the previous question on the passage of the bill.

The SPEAKER. The morning hour has expired and the bill goes over.

#### ASSAULT UPON A COMMITTEE CLERK.

Mr. ALLEY. I rise to a question of privilege. The select committee to whom was referred the investigation of the assault made yesterday upon U. H. Painter, have instructed me to report in part that no evidence sufficient to warrant the detention of Edward Towers appears, in the judgment of the committee, and they recommend that he be discharged from the custody of the Sergeant-at-Arms.

Mr. FARNSWORTH. I merely desire to say that I do not concur in this report, so that when the evidence is published it may not be supposed that I assented to any report of this kind. I think the evidence does sufficiently implicate Mr. Towers to justify us in holding him until a final report shall be made.

The SPEAKER. The committee recommend the discharge of Edward Towers arrested for participation in an assault on the clerk of the Committee on the Post Office and Post Roads of the House. The question is upon discharging Mr. Towers.

The question was put, and it was decided in the affirmative.

So it was ordered that Edward Towers be discharged from the custody of the Sergeant-at-Arms.

#### LEAVE OF ABSENCE.

Mr. FARNSWORTH. I ask leave of absence for the rest of the session for Mr. HENDERSON, of Oregon, and for Mr. DENNY, the Delegate from Washington Territory.

No objection was made, and the leave of absence was granted.

The SPEAKER. The Chair asks leave of absence after to-day for Mr. HALE.

No objection was made, and the leave of absence was granted.

Mr. DAVIS. My colleague, Mr. MARVIN, is absent on account of sickness. I ask leave of absence for him.

No objection was made, and the leave of absence was granted.

Mr. WILSON, of Iowa. I move to proceed to the business on the Speaker's table for the purpose of disposing of the House bills returned with Senate amendments.

Mr. RANDALL, of Pennsylvania. I call for the regular order.

The SPEAKER. The motion of the gentleman from Iowa is in order. It would take a gentleman off the floor after the expiration of the morning hour, even when he was making a speech. The rule will be found on page 84 of the Digest.

The question was taken on the motion of Mr. WILSON, of Iowa; and it was agreed to.

#### COMMITTEE ON RETRENCHMENT.

The House accordingly proceeded to the business upon the Speaker's table; the first business being the consideration of the amendments of the Senate to the concurrent resolution of the House providing for a joint committee on retrenchment.

The amendments of the Senate were read, as follows:

In lines eight and nine strike out the word "civil" before the word "service."

In lines sixteen strike out "two" and insert "three."

In line seventeen strike out "three" and insert "five."

In line twenty-one strike out "civil."

In line twenty-five, after the word "reduced," insert the following: "what are the methods of procuring accountability in public officers or agents in the care and disbursement of public moneys, whether moneys have been paid out illegally, and whether any officers, or agents, or other persons, have been or are employed in the service without authority of law or unnecessarily."

In line twenty-seven, strike out the word "civil." In line twenty-eight, after the word "curtailed," insert the following: "and also to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for the selection of subordinate officers after due examination by proper boards, their continuance in office during specified terms, unless dismissed upon charges preferred and sustained before tribunals designated for that purpose, and for withdrawing the public service from being used as an instrument of political or party patronage."

The concurrent resolution, as amended, read as follows:

Whereas the financial condition of the United States demands the exercise of a rigid economy in all departments of the Government in order to sustain the credit of the United States, and to relieve the people at the earliest possible day from the burden of existing taxation; and whereas there is reason to believe that in many departments of the service abuses have for a long time existed, and still exist, in the perpetration of useless offices and sinecures, in extravagant salaries and allowances, and in other unnecessary and wasteful expenditures:

Resolved by the House of Representatives, (the Senate concurring,) That a joint select committee be appointed, to consist of three members of the Senate and five members of the House, to be styled the joint select committee on retrenchment; that said committee be instructed to inquire into the expenditures in all the branches of the service of the United States, and report whether any and what offices ought to be abolished, whether any and what salaries or allowances ought to be reduced; what are the methods of procuring accountability in public officers or agents in the care and disbursement of public moneys; whether moneys have been paid out illegally; and whether any officers or agents or other persons have been or are employed in the service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed; and also to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for the selection of subordinate officers after due examination by proper boards, their continuance in office during specified terms, unless dismissed upon charges preferred and sustained before tribunals designated for that purpose, and for withdrawing the public service from being used as an instrument of political or party patronage; that said committee be authorized to sit during the recess of Congress, to send for persons and papers, and to report by bill or otherwise; and that said committee may appoint a clerk for the term of six months, and no more.

Mr. WILSON, of Iowa. I move to amend the last amendment of the Senate by adding thereto the following:

And to inquire into all accounts and statements in reference to the Government debt and the management thereof; and the mode of depositing and keeping the public money, and all accounts relating thereto.

Mr. HALE. I now call the previous question on the amendment of the gentleman from Iowa, [Mr. WILSON,] and the amendments of the Senate.

The previous question was seconded and the main question ordered.

The amendment of Mr. WILSON, of Iowa, was agreed to.

The amendments of the Senate, as amended, were concurred in.

Mr. HALE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BENICIA AND SANTA CRUZ LAND TITLES.

The next business upon the Speaker's table was the amendments of the Senate to House bill No. 557, to quiet the title to certain lands within the corporate limits of the city of Benicia.

The amendments of the Senate were as follows:

Add to the bill the following section:  
And be it further enacted, That all the right and title of the United States to the lands within the corporate limits of the town of Santa Cruz, in the State of California, as defined in the act of the Legis-

lature of that State incorporating said town, be, and the same are hereby, relinquished and granted to the corporate authorities of said town and their successors, in trust, for and with authority to convey so much of said lands as are in the bona fide occupancy of parties upon the passage of this act, by themselves or tenant, to such parties: *Provided*, That this grant shall not extend to any reservation of the United States nor prejudice any valid adverse right or claim, if such exist, to said land, or any part thereof, nor preclude any judicial examination and adjustment thereof; and.

Amend the title by adding thereto the words "and the town of Santa Cruz, in the State of California."

Mr. JULIAN. I would inquire now much land is surrendered by the amendment of the Senate to the town of Santa Cruz.

Mr. McRUER. The memorial of the trustees of the town states that it is sixteen hundred acres.

Mr. JULIAN. It is public land, is it?

Mr. McRUER. The point is this: this land has not been considered public land for the last hundred years. It was settled in 1770 as a mission, and about forty years since it was secularized by an act of the Government of Mexico. This is an old town, one of the oldest in the State, and this land has been held as public property for the last forty years. At the time the United States land commissioners sat in California to determine the question between private and public lands, the authorities of the town failed to present this claim to the commissioners, and therefore it never has been acted upon. Now they come to Congress and ask that the title of the United States to so much of the land as is within the corporate limits of the town, which was incorporated by an act of the last Legislature, may be relinquished. This provision is just the same as that we have already passed in relation to the city of Benicia, granting to the trustees of the town the Government title to the lands within the corporate limits, for the benefit of the actual possessors thereof.

Mr. JULIAN. I knew nothing about the facts, and I simply wished a public statement, so that the House may understand it.

Mr. McRUER. This matter has been before the Committee on Public Lands, and I am authorized to report a bill to this effect. I now call the previous question on the amendments of the Senate.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. McRUER moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RAILROAD IN KANSAS.

The next business on the Speaker's table was Senate amendment to the bill (H. R. No. 448) entitled "An act to authorize the construction of a railroad through certain land of the United States in Kansas."

The amendment was read, as follows:

Add at the end of the bill the following:  
That this privilege shall be allowed as long as the Secretary of War shall in his discretion determine, and no longer.

The amendment was concurred in.

#### CHARLES BREWER AND COMPANY.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 555) entitled "An act for the relief of Charles Brewer & Co."

The amendments were read, as follows:

After the word "Boston" insert the words "agents for the bark Kamehameha V. in coin."  
Amend the title, so as to read, "An act for the relief of the owners of the bark Kamehameha V."

The amendments were concurred in.

#### PENSIONS OF WIDOWS AND ORPHANS.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 692) entitled "An act increasing the pension of widows and orphans, and for other purposes."

Mr. SAWYER. I move that the House

non-concur in the amendments of the Senate, and ask for a committee of conference.

The motion was agreed to.

#### RELIEF OF ARMY OFFICERS.

The next business on the Speaker's table was Senate amendments to joint resolution (H. R. No. 191) for the relief of certain officers of the Army.

The amendments were read, as follows:

In line three strike out the words "and was entitled by law to be mustered in as such."

In lines six and seven strike out the words "according to the regulations."

Insert after the word "days," in line seven, the following words: "from acceptance of appointment or actual entry upon duty, and who, if not killed in battle, was afterward regularly mustered into the service of the United States."

After the word "emoluments," in line nine, insert the words "of his rank."

At the end of the resolution add a new section, as follows:

*And be it further resolved,* That the heirs or legal representatives of any officer whose muster into service has been or shall be amended hereby shall be entitled to receive the arrears of pay due such officer or the pension provided by law for the grade into which such officer is mustered under the provisions of the first section of this resolution.

Mr. SCHENCK. I move that the House non-concur in the amendments of the Senate, and ask the appointment of a committee of conference.

The motion was agreed to.

#### UNITED STATES SUPREME COURT.

The next business on the Speaker's table was Senate amendment to a bill (H. R. No. 334) entitled "An act to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits."

The amendment of the Senate was read. It proposes to strike out all after the enacting clause and insert a new bill.

The substitute proposed by the Senate provides in the first section that no vacancy in the office of associate justice of the Supreme Court shall be filled by appointment until the number of associate justices shall be reduced to six; and thereafter the Supreme Court shall consist of a Chief Justice and six associate justices, any four of whom shall be a quorum. It is further provided that the court shall hold one term annually at the seat of Government, and such adjourned or special terms as it may find necessary for the dispatch of business.

The second section of the substitute provides that the first and second circuits shall remain as now constituted; that the districts of Pennsylvania, New Jersey, and Delaware shall constitute the third district; that the districts of Maryland, West Virginia, Virginia, North Carolina, and South Carolina shall constitute the fourth circuit; that the districts of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas shall constitute the fifth circuit; that the districts of Ohio, Michigan, Kentucky, and Tennessee shall constitute the sixth circuit; that the districts of Indiana, Illinois, and Wisconsin shall constitute the seventh circuit; that the districts of Minnesota, Iowa, Missouri, Kansas, and Arkansas shall constitute the eighth circuit; and the districts of California, Oregon, and Nevada, shall constitute the ninth circuit.

Mr. WILSON, of Iowa. I demand the previous question on concurring in the amendment of the Senate.

Mr. RANDALL, of Pennsylvania. I desire to know whether the bill has ever been to the Judiciary Committee of the House.

Mr. WILSON, of Iowa. It originated with the House committee, and we are satisfied with the amendment of the Senate.

Mr. RANDALL, of Pennsylvania. So far as the records of Congress show, the gentleman's statement is not borne out.

Mr. WILSON, of Iowa. I call for the previous question.

Mr. RANDALL, of Pennsylvania. I ask whether this is the House bill.

The SPEAKER. It is the House bill with an amendment by the Senate.

Mr. RANDALL, of Pennsylvania. I hope the previous question will not be seconded, and

that this question will be fully discussed in the House.

Mr. HALE. I wish to inquire of the gentleman from Iowa whether the Judiciary Committee have considered this amendment.

Mr. WILSON, of Iowa. This amendment has not been formally before the committee, but the members of the committee have consulted about it and a majority of them recommend concurrence.

Mr. RANDALL, of Pennsylvania. Consulted where? It is not a report of the committee.

The SPEAKER. The gentleman from Iowa does not claim that it is a report of the committee.

Mr. RANDALL, of Pennsylvania. Then it certainly ought to be reported from the committee.

Mr. SPALDING. Is this the bill which forms the new districts?

Mr. WILSON, of Iowa. Yes, sir.

Mr. SPALDING. And puts Michigan, Ohio, Kentucky, and Tennessee into one district?

Mr. WILSON, of Iowa. The Clerk will please read in regard to that.

The Clerk read the clause declaring that the States of Ohio, Michigan, Kentucky, and Tennessee shall constitute the sixth circuit.

Mr. SPALDING. I hope that will not be agreed to without allowing some discussion.

Mr. WOODBRIDGE. Will the gentleman from Iowa allow me a word?

Mr. WILSON, of Iowa. Yes, sir.

Mr. WOODBRIDGE. I simply wish to say that I am opposed to the bill at present. If the bill to reorganize the judiciary should pass the House, then I might possibly be in favor of this bill, but unless that does pass it seems to me it would be very unwise for us to adopt the provisions inserted by the Senate.

Mr. ELDRIDGE. I ask that the States composing the seventh circuit be read.

The Clerk read the clause declaring that the States of Illinois, Indiana, and Wisconsin shall constitute the seventh circuit.

Mr. WENTWORTH. I ask the gentleman from Iowa if this bill abolishes the judge whose appointment the President sent to the Senate the other day.

Mr. WILSON, of Iowa. This is a bill which passed the House before any nomination was made.

Mr. WENTWORTH. Does it abolish the new judgeship?

Mr. WILSON, of Iowa. It abolishes the new judgeship, and provides for the reduction of the number of judges, as vacancies may occur, to six. I know that a number of the members of the Supreme Court think it will be a vast improvement.

Mr. WRIGHT. Where does the gentleman get his authority for the reduction of the number of judges?

Mr. WILSON, of Iowa. I demand the previous question.

On seconding the demand for the previous question there were—ayes 53, noes 40.

Mr. SPALDING. I demand tellers.

Tellers were ordered; and the Speaker appointed Messrs. SPALDING, and WILSON of Iowa. The House divided; and the tellers reported—ayes 66, noes 29.

So the previous question was seconded and the main question ordered.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays on agreeing to the amendment of the Senate.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 78, nays 41, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Defrees, Deming, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Henderson, Higby, Holmes, Asahel W. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Kelley, Koontz, Ladin, William Lawrence, Loan, Longyear, Lynch, Marston, McRuer, Meaurio, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer,

Schenck, Scofield, Shellabarger, Stevens, John L. Thomas, Trowbridge, Van Aernam, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—78.

NAYS—Messrs. Boutwell, Boyer, Davis, Dawes, Dawson, Eldridge, Glossbrenner, Griswold, Hale, Aaron Harding, Hogan, Chester D. Hubbard, Humphrey, Jencks, Johnson, Kasson, Kerr, Kuykendall, Latham, George V. Lawrence, McCullough, Miller, Moorhead, Newell, Niblack, Nicholson, Noell, Samuel J. Randall, Raymond, Ritter, Sitgreaves, Spalding, Taber, Thayer, Thornton, Trimble, Warner, Henry D. Washburn, Whaley, Woodbridge, and Wright—41.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Chanler, Cook, Culom, Culver, Darling, Delano, Denison, Dixon, Dodge, Driggs, Dumont, Eckley, Farnsworth, Fink, Goodyear, Grider, Grinnell, Harris, Hayes, Hill, Hooper, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, Jones, Julian, Kelso, Ketcham, Le Blond, Marshall, Marvin, McClurg, McIndoe, McKee, Patterson, Phelps, Pomeroy, Radford, Alexander H. Rice, Rogers, Ross, Rousseau, Shanklin, Slater, Smith, Starr, Stilwell, Strouse, Taylor, Francis Thomas, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, and Winfield—63.

So the amendment was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CORRECTION OF THE JOURNAL.

Mr. ALLEY. I rise to a question of privilege. I find my name recorded in the Globe as not voting on the question of the expulsion of Hon. Mr. ROUSSEAU. I was present and voted in the affirmative, that is, in favor of his expulsion.

The SPEAKER. The Journal also has the same record. It will be corrected accordingly.

#### AGRICULTURAL COLLEGES.

The next business on the Speaker's table was House bill No. 50, to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, returned from the Senate with amendments.

The amendments, which were of a verbal character, were agreed to.

#### REGISTERS OF VESSELS.

The next business on the Speaker's table was House bill No. 727, declaratory of an act entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," approved February 10, 1866, returned from the Senate with amendments.

The amendments, which were of a verbal character, were agreed to.

#### TERRITORY OF MONTANA.

The next business on the Speaker's table was House bill No. 466, erecting the Territory of Montana into a surveying district, and for other purposes, returned from the Senate with amendments.

The amendments were reported.

Mr. ASHLEY, of Ohio. I move to concur in the amendments of the Senate.

The motion was agreed to—ayes sixty-five, noes not counted.

#### ISAAC RANNEY.

The next business on the Speaker's table was House joint resolution No. 119, for the relief of Isaac Ramsey, internal revenue collector for the eighth district of Ohio, returned from the Senate with an amendment.

The amendment of the Senate was to strike out "Ramsey," wherever it occurs, and insert "Ranney."

The amendment was agreed to.

#### BARK MARIA HENRY.

The next business on the Speaker's table was House bill No. 518, for the relief of the owners of the bark Maria Henry, returned from the Senate with an amendment.

Mr. WASHBURN, of Massachusetts. I move that the House concur in the amendment.

The motion was agreed to.

WILLIAM H. WHEELER.

The SPEAKER. The last business on the Speaker's table, of the kind covered by the order of the House, is the Senate amendment to the House bill No. 695, for the relief of William H. Wheeler, of Bangor, Maine.

The amendment of the Senate was to add to the bill the following:

With a good and sufficient bond, with security to be approved by the Secretary of the Treasury, to indemnify the United States against all loss, cost, or damages incurred by reason of issuing said duplicate bonds.

Mr. WASHBURN, of Massachusetts. I move that the amendment of the Senate be concurred in, and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of the Senate was concurred in.

Mr. LAWRENCE, of Ohio. I move to reconsider the various votes by which the amendments of the Senate were concurred in; and also move to lay that motion upon the table.

The latter motion was agreed to.

#### ELECTION OF UNITED STATES SENATORS.

Mr. WILSON, of Iowa. I ask unanimous consent to take from the Speaker's table for consideration at this time, Senate bill No. 414, to regulate the time and manner of holding elections for Senators in Congress.

Mr. RANDALL, of Pennsylvania. I object.

#### PROVOST MARSHAL GENERAL'S BUREAU.

Mr. SHELLABARGER. I wish to announce to the House that on to-morrow, after the expiration of the morning hour, I will ask the House to proceed to the consideration of the question of privilege arising between Hon. ROSCOE CONKLING and Provost Marshal General Fry. The evidence in the case will be laid upon the desks of members to-morrow, and I would like to ask their attention to it so that we may consume as little of the time of the House by discussion as possible.

#### RICHARD W. MEADE, DECEASED.

Mr. WOODBRIDGE. I ask unanimous consent to take up for consideration by the House at this time Senate joint resolution No. 39, to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims. It passed the Senate unanimously, and I presume it will pass the House without objection.

Mr. SPALDING. I object.

#### PROTECTION OF THE REVENUE.

Mr. MORRILL. I call for the special order.

The House accordingly proceeded to the consideration of House bill No. 780, to protect the revenue, and for other purposes.

The first section provides that from and after the 1st day of August, 1866, in lieu of the duties now imposed by law on the articles mentioned and embraced in this section, there shall be levied, collected, and paid on cigars, cigarettes, and cheroots of all kinds, \$2 50 per pound, and, in addition thereto, fifty per cent. *ad valorem*; and no tare for the box in which any cigars, cheroots, or cigarettes are packed shall be allowed in ascertaining the weight; provided that paper cigars and cigarettes, including wrappers, shall be subject to the same duties as are imposed upon cigars; and provided further, that on and after the 1st day of August, 1866, no cigars shall be imported unless the same are packed in boxes of not more than five hundred cigars in each box; and no entry of any imported cigars shall be allowed of less quantity than three thousand in a single package; and all cigars on importation shall be placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected and a stamp affixed to each box indicating such inspection, with the date thereof; the Secretary of the Treasury being authorized to provide the requisite stamps, and to make all necessary regulations for carrying these provisions of law into effect. On cotton, three cents per pound.

On all compounds or preparations of which distilled spirits is a component part of chief value, there shall be levied a duty not less than that imposed upon distilled spirits.

The second section provides that the proviso in section four of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March 3, 1865, shall be construed to include any ship, vessel, or steamer to or from any port in the Sandwich Islands or Society Islands.

The third section provides that so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, as prohibits the export thereof, is hereby suspended in relation to all persons who have complied with the provisions of section two of said act, for five years from and after the 14th of July, 1867.

The fourth section repeals all laws and parts of laws allowing fishing bounties to vessels hereafter licensed to engage in the fisheries; provided, that, from and after the date of the passage of this act, vessels licensed to engage in the fisheries may take on board imported salt in bond to be used in curing fish, under such regulations as the Secretary of the Treasury shall prescribe, and upon proof that said salt has been used in curing fish the duties on the same shall be remitted.

The fifth section provides that from and after the passage of this act all goods, wares, or merchandise arriving at the ports of New York, Boston and Portland, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the adjacent British Provinces, may be entered at the custom-house, and conveyed in transit through the territory of the United States without the payment of duties, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may prescribe.

The sixth section provides that imported goods, wares, or merchandise in bond, or duty paid, and products or manufactures of the United States, may, with the consent of the proper authorities of the Provinces aforesaid, be transported from one port or place in the United States to another port or place therein, over the territory of said Provinces, by such routes, and under such rules, regulations, and conditions, as the Secretary of the Treasury may prescribe; and the goods, wares, and merchandise so transported, shall, upon arrival in the United States from the Provinces aforesaid, be treated in regard to the liability to or exemption from duty or tax as if the transportation had taken place entirely within the limits of the United States.

The seventh section provides that whenever it shall be shown to the satisfaction of the Secretary of the Treasury that more moneys have been paid to the collector of customs, or others acting as such, than the law requires, and the parties have failed to comply with the requirements of the fourteenth and fifteenth sections of the act entitled "An act to increase the duties on imports, and for other purposes," approved June 30, 1864, and the Secretary of the Treasury shall be satisfied that said non-compliance with the requirements as above stated was owing to circumstances beyond the control of the importer, consignee, or agent making such payments, he may draw his warrant upon the Treasurer in favor of the person or persons entitled to the overpayment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated.

The eighth section provides that the provisions of the second, third, and fourth sections of the act approved March 2, 1833, entitled "An act further to provide for the collection of duties on imports," and of the twelfth section of the act approved March 3, 1863, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes,"

shall be taken and deemed as extending to and embracing all cases arising or which may have heretofore arisen, and all suits and prosecutions heretofore brought and now pending, or which may hereafter be brought against any officer of the United States or other person by reason of any acts done or proceedings had by such officer or other person, under authority or color of the act approved March 12, 1863, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States," or the act approved July 2, 1864, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection;" provided that such acts done or proceedings had under the two acts last aforesaid, or under color thereof, shall have been done and had under the authority or by the direction of the Executive Government of the United States; and provided further that when a recovery shall have been, or shall hereafter be, had in any such suit or prosecution brought, or which may hereafter be brought, as aforesaid, the payment of the amount recovered, as provided for in the said twelfth section of the act approved March 3, 1863, aforesaid, shall be made out of the moneys arising and obtained from the proceeds of sales and leases and fees collected and paid over to the Government under the two acts approved March 12, 1863, and July 2, 1864, aforesaid, in relation to captured and abandoned property.

The ninth section provides that in determining the dutiable value of imported merchandise, except in cases herein otherwise provided for, there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal markets of the country from whence the same shall have been imported into the United States, the cost of transportation, shipment, and transshipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States; the value of the sack, box, or covering of any kind in which such goods are contained; commission at the usual rates, but in no case less than two and a half per cent.; brokerage, export duty, and all other actual or usual charges for putting up, preparing, and packing for transportation or shipment. And all charges of a general character incurred in the purchase of a general invoice shall be distributed *pro rata* among all parts of such invoice; and every part thereof charged with duties based on value shall be advanced according to its proportion, and all wines or other articles paying specific duty by grades shall be graded and pay duty according to the actual value so determined; provided, that all additions made to the entered value of merchandise for charges shall be regarded as part of the actual value of such merchandise, and if such addition shall exceed by ten per cent. the value so declared in the entry, in addition to the duties imposed by law, there shall be levied, collected, and paid a duty of twenty per cent. on such value; provided, that the duty shall in no case be assessed upon an amount less than the invoice or entered value.

The tenth section provides that the second proviso in section twenty-one of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, which provides that any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury, be, and the same is hereby, amended so as to authorize the Secretary of the Treasury, in case of any sale under the said provision, to pay to the owner, consignee, or agent of such goods, the proceeds thereof, after



deducting duties, charges, and expenses, in conformity with the provision of the first section of the warehouse act of August 6, 1846.

The eleventh section provides that during the period of one year from the passage of this act, there may be imported into the United States, free of duty, any machinery designed solely for and adapted to the manufacture of sugar from beets, including all the preliminary processes requisite therefor, but not including any machinery which may be used for any other manufactures.

The twelfth section provides that upon the reimportation of articles once exported of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal revenue laws upon such articles.

The thirteenth section provides that there shall be established in and attached to the Department of the Treasury a bureau to be styled the Bureau of Statistics, and the Secretary of the Treasury is hereby authorized to appoint a Director to superintend and conduct the business of said bureau, who shall be paid an annual salary of \$3,500; that it shall be the duty of the Director of the Bureau of Statistics to prepare the report on the statistics of commerce and navigation, exports and imports, now required by law to be submitted annually to Congress by the Secretary of the Treasury; and said report, embracing the returns of the commerce and navigation, the exports and imports of the United States to the close of the fiscal year, shall be submitted to Congress in a printed form on or before the 1st day of December next succeeding; and the said Director, as soon as practicable after the organization of this office, shall, under the direction of the Secretary of the Treasury, prepare and publish monthly reports of the exports and imports of the United States, including the quantities and values of goods warehoused or withdrawn from warehouse, and such other statistics relative to the trade and industry of the country as the Secretary of the Treasury may consider expedient; that the Director of the Bureau of Statistics shall also prepare an annual statement of vessels registered, enrolled, and licensed under the laws of the United States, together with the class, name, tonnage, and place of registry of each vessel, and such other information as the Secretary of the Treasury may deem proper to embody therein; and to enable the said Director to furnish the information required, the Secretary of the Treasury shall have power, under such regulations as he shall prescribe, to establish and provide a system of numbering all vessels so registered, enrolled, and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be no longer recognized as a vessel of the United States; that the said Director shall also prepare an annual statement of all merchandise passing in transit through the United States to foreign countries, each description of merchandise, so far as practicable, warehoused, withdrawn from warehouse for consumption, for exportation, for transportation to other districts, and remaining in the warehouse at the end of each fiscal year; that it shall be the further duty of said Director to collect, digest, and arrange, for the use of Congress, the statistics of the manufactures of the United States, their localities, sources of raw material, markets, exchanges with the producing regions of the country, transportation of products, wages, and such other conditions as are found to affect their prosperity; and to aid him in the discharge of these duties, the several clerks now employed in the preparation of statistics in the Treasury Department, or any bureau thereof, may be placed under his supervision and direction; and, in addition, the Secretary of the Treasury

shall detail such other clerks as may be necessary to fully carry out the provisions of this act; and that the expenses of the Bureau of Statistics for clerical service, publication of reports, stationery, books, and statistical periodicals and papers required by the bureau, shall be defrayed on the order and approval of the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated; and that all letters and documents to and from the Director of the Bureau of Statistics, relating to the duties and business of his office, shall be transmitted by mail free of postage.

Mr. MORRILL. The present bill embraces those sections in the last part of the tariff bill recently passed by the House, and which was postponed by the Senate. They are provisions which in the main have met the approval of a large majority of this House.

This bill proposes a tariff on but three articles, one of which is cigars. Our internal revenue tax upon cigars is higher in some particulars than is the duty upon imported cigars, and it is manifest that some additional legislation should be had in relation to that article.

The next article is cotton. The duty of five cents per pound, now fixed upon cotton, was so fixed when it was supposed the internal tax would be five cents per pound. No duty is needed for the protection of American cotton, but it is manifestly proper, when we levy an internal tax upon any article that at least an equal amount of duty for revenue purposes should be levied upon any foreign importation of the article, and the only description of cotton which is likely to be imported is the Surat cotton, worth not more than about two thirds as much as American cotton.

Three cents per pound is also the sum allowed as a drawback on manufactured cottons exported, and if now adopted will harmonize and make symmetrical all our laws on this subject.

Another article is distilled spirits, which are now imported, merely colored, and styled "essences," whereby a great amount of fraud is committed on the Canadian frontier. It is in order to reach this class or description of spirits which may be thus fraudulently introduced that the provision of this bill was introduced into the original tariff bill and has been inserted in the present bill. In connection with this subject, and in order to prohibit the introduction of distilled spirits in very small parcels, I am directed by the Committee of Ways and Means to move an amendment by way of a proviso, which also is similar in its terms to a provision embraced in the tariff bill as passed by this House.

I move to amend by inserting at the end of the first section the following:

*Provided*, That brandy and other spirituous liquors may be imported in casks or other packages of any capacity not less than thirty gallons; and that wine in bottles may be imported in boxes containing not less than one dozen bottles of not more than one quart each; and wine, brandy, or other spirituous liquors, imported into the United States and shipped after the 1st day of October, 1866, in any less quantity than herein provided for, shall be forfeited to the United States.

The amendment was agreed to.

Mr. HARDING, of Kentucky. I rise to a point of order, and inquire whether this bill should not, under the rules, be considered in Committee of the Whole.

The SPEAKER. The House dispensed with the consideration of the bill in Committee of the Whole. The gentleman will find by referring to the Globe that the bill was by unanimous consent made a special order in the House.

Mr. MORRILL. Mr. Speaker, the second section of this bill is simply the provision which was incorporated in the tariff bill at the suggestion of the gentleman from California, [Mr. McRuer.] The effect of it is that vessels engaged in the trade with the Sandwich Islands shall not be subjected to taxation for each voyage, but shall pay an annual tax in the same manner as our lake and coasting vessels now do. I think there will be no objection to this.

The third section is in relation to allowing the importation and exportation of guano.

The fourth section has reference to the abolition of the bounties allowed to our fishermen, and also proposes to allow a drawback on the salt actually used in curing fish. The present duty on dry cod-fish is only half a cent per pound; and the cost of the salt used in curing the fish is nearly as much as the duty on fish, and if duties shall be required to be paid on the salt used our fishermen would have an unequal contest. Whether this provision be incorporated in the law or not the fishermen can easily evade paying the duty by procuring salt in the Provinces. There can be no doubt of the propriety of the provision, and I think there will be no objection to it, especially when we consider that the tendency will be to keep down the price of one article of cheap food.

Sections five and six have relation to our railroad traffic of merchandise and produce through the Canadas without payment of duties. It is proposed to allow to the Canadians the same privilege of transporting merchandise across our territory which they accord to us.

The object of the seventh section is that parties who have made accidental overpayments of money for customs may have the excess refunded.

The eighth section is intended for the benefit of our internal revenue officers who have been collecting duties for some years past upon cotton, and in some cases recently they have been sued in the southern State courts for the recovery of the money thus collected. This section simply provides for the transfer of such suits into the courts of the United States.

The next section relates to the ascertainment of the value of imported merchandise. A similar provision has already been passed by the House. I desire only to offer an amendment to strike out in the second and third lines the words, "except in cases herein otherwise provided for."

Mr. WILSON, of Iowa. I desire to know from the chairman of the committee what necessity exists for the enactment of the seventh section.

Mr. MORRILL. I have already explained that the section is designed to provide for the repayment of money erroneously paid for customs.

Mr. WILSON, of Iowa. I would like to know whether there are now any cases of that kind.

Mr. MORRILL. There are.

Mr. WILSON, of Iowa. It seems to me that under that statement this is only a convenient way of paying claims against the Government of the United States. Here are parties who, it is alleged, have paid money in excess of what was due to the Government; and this section enables the Secretary of the Treasury to pay to those persons the money which they are claiming without having their claims investigated by Congress. It does seem to me that that is a provision that ought not to be put into a tariff bill.

Mr. PIKE. I ask the gentleman from Vermont to allow me to offer a proviso to the fourth section providing for a duty of one cent per pound on cod fish.

Mr. MORRILL. I cannot yield for that purpose. I am fully aware that the bill now contains all that we can hope to have passed in the Senate.

Mr. PIKE. This subject was under the consideration of the House.

Mr. MORRILL. There are very many subjects which sadly need our action at this session, and which I would have been glad to have included if we could have had our own way in this bill, wool for instance; but I am informed by members of the Senate, who are authorities on the subject, that it is entirely useless to include anything on such subjects, and that if we do include them the bill will be coldly laid aside until next December.

Mr. MOORHEAD. I would like to include iron too.

Mr. PIKE. I desire, with the permission of the gentleman from Vermont, to call the attention of the House to section four of the bill, repealing the fishing bounties. I know that a great many members of the House will rest easier when they learn that the fishing bounties are already really repealed.

Mr. MORRILL. The only other section of importance, or to which I deem it necessary to call the attention of the House, is the last section, providing for a Bureau of Statistics. This is for the use and benefit of this House, and will, I trust, have no opposition. And now, Mr. Speaker, as these sections have all or very nearly all already been acted upon by the House, I move the previous question on the bill and amendments.

Mr. BINGHAM. I hope the gentleman will allow me to offer an amendment.

Mr. MORRILL. I must decline to yield. Mr. BINGHAM. Then I hope the House will not second the demand for the previous question, and I call for tellers on the second. Tellers were ordered; and Messrs. MORRILL and BINGHAM were appointed.

The House divided; and the tellers reported—ayes 68, noes 25.

So the previous question was seconded.

Mr. SPALDING. Is it in order to move to postpone this bill until the first Monday in December?

The SPEAKER. It is not in order, the previous question having been seconded.

Mr. SPALDING. That is what the Senate will do with it.

The main question was then ordered to be put.

Mr. LE BLOND. I would like to hear from the chairman of the Committee of Ways and Means some explanation of the eighth section of the bill.

The SPEAKER. The gentleman from Vermont is entitled to an hour to close the debate, and can explain it if he pleases.

Mr. MORRILL. Mr. Speaker, I do not wish to discuss the general subject. In relation to the eighth section of the bill, I repeat, as I have already stated, that collectors of internal revenue who have collected money as the tax upon cotton, are in some instances prosecuted in the State courts for the recovery of that money, and the courts are receiving such suits. This section merely transfers those suits to the United States courts. I do not desire to discuss the bill any further.

Mr. SCHENCK. I rise to a privileged question. I move to reconsider the vote by which the main question was ordered, as the gentleman from Vermont will not permit us even to have our amendments read.

Mr. BINGHAM. I want my amendment read.

Mr. MORRILL. I move to lay the motion to reconsider upon the table.

The question was put; and there were—ayes 50, noes 45.

So the motion to reconsider was laid upon the table.

The amendments reported by the Committee of Ways and Means were then agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRILL. I now demand the previous question on the passage of the bill.

Mr. STEVENS. I move to lay the bill upon the table. There has been no opportunity to offer amendments at all, and I do not wish such a bill passed.

Mr. LE BLOND. I demand the yeas and nays on the motion of the gentleman from Pennsylvania.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 82, not voting 67; as follows:

YEAS—Messrs. Anderson, Baker, Bingham, Boyer, Dawson, Donnelly, Eldridge, Glossbrenner, Aaron Harding, Asahel W. Hubbard, Humphrey, Johnson, Kerr, Kuykendall, William Lawrence, Le Blond, McCullough, Nicholson, Noell, Pike, Samuel J. Randall,

Ritter, Ross, Schenck, Sitgreaves, Spalding, Taber, Taylor, Thornton, Trimble, Henry D. Washburn, James F. Wilson, and Wright—33.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Banks, Barker, Baxter, Bidwell, Boutwell, Broomall, Bundy, Reader W. Clarke, Cobb, Conkling, Davis, Dawes, Defrees, Deming, Driggs, Eggleston, Eliot, Farnsworth, Farquhar, Garfield, Griswold, Hale, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Ketcham, Laffin, George V. Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Thayer, Trowbridge, Van Aernam, Ward, Warner, William D. Washburn, Welker, Whaley, Williams, Windom, and Woodbridge—82.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Benjamin, Bergen, Blaine, Blow, Brandegee, Bromwell, Buckland, Chanler, Sidney Clarke, Cook, Cullom, Culver, Darling, Delano, Denison, Dixon, Dodge, Dumont, Eckley, Ferry, Finck, Goodyear, Grider, Grinnell, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbell, Jones, Kasson, Kelso, Koontz, Latham, Marshall, Marvin, McIndoe, Niblack, Patterson, Phelps, Pomeroy, Radford, William H. Randall, John H. Rice, Rogers, Rousseau, Shanklin, Sloan, Smith, Starr, Stevens, Stillwell, Strouse, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Wentworth, Stephen F. Wilson, and Winfield—67.

So the House refused to lay the bill upon the table.

Mr. LE BLOND. Is it in order to move to postpone the bill to a day certain?

The SPEAKER. It is not, because the House is acting under the previous question.

Mr. LE BLOND. This bill proposes to upset a great many laws, and ought not to be passed in a hurry.

The SPEAKER. Debate is not in order.

The previous question was seconded and the main question ordered, being upon the passage of the bill.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 36, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Banks, Barker, Baxter, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Davis, Dawes, Deming, Donnelly, Driggs, Eliot, Farnsworth, Garfield, Hale, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Paine, Perham, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Thayer, Francis Thomas, Trowbridge, Van Aernam, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, Windom, and Woodbridge—87.

NAYS—Messrs. Anderson, Baker, Benjamin, Boyer, Buckland, Dawson, Defrees, Eldridge, Farquhar, Glossbrenner, Aaron Harding, Humphrey, Johnson, Julian, Kerr, Kuykendall, Le Blond, McCullough, Niblack, Nicholson, Noell, Orth, Pike, Samuel J. Randall, Ritter, Ross, Rousseau, Sitgreaves, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Henry D. Washburn, James F. Wilson, and Wright—36.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Chanler, Cook, Cullom, Culver, Darling, Delano, Denison, Dixon, Dodge, Dumont, Eckley, Eggleston, Ferry, Finck, Goodyear, Grider, Grinnell, Griswold, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbell, Jones, Kasson, Kelso, Latham, Marshall, Marvin, McIndoe, Patterson, Phelps, Pomeroy, Radford, William H. Randall, Rogers, Schenck, Shanklin, Sloan, Smith, Starr, Stillwell, Strouse, John L. Thomas, Upson, Burt Van Horn, Ward, Elihu B. Washburne, Stephen F. Wilson, and Winfield—59.

So the bill was passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

Mr. DELANO. I rise to a question of privilege. I submit the following resolution, upon which I call the previous question:

*Resolved by the Senate and House of Representatives, That the President of the Senate and Speaker of the House of Representatives be authorized to close the*

present session by adjourning their respective Houses on the 25th day of July, at twelve o'clock m.

Mr. ASHLEY, of Ohio. I move to lay the resolution on the table.

Mr. INGERSOLL. I hope the motion to lay on the table will be agreed to.

Mr. FARNSWORTH. I rise to a question of order, that this resolution is not a privileged question.

The SPEAKER. A resolution for the adjournment of Congress is always regarded as a privileged question when the House is not engaged in the consideration of other business.

Mr. DELANO. I call the yeas and nays on the motion to lay the resolution on the table.

Mr. MORRILL. Will the gentleman from Ohio [Mr. DELANO] allow me to move to amend his resolution by adding that the House hereafter meet at eleven o'clock a. m.?

Mr. ASHLEY of Ohio. Make that a separate resolution.

Mr. DELANO. At the suggestion of some friends, I modify my resolution so as to read "23d" instead of "25th;" and that hereafter the House will meet at eleven o'clock a. m.

Mr. DAWES. We do not want a concurrent resolution for that.

Mr. JOHNSON. I rise to a point of order, and that is that the last clause of the resolution, as modified by the gentleman from Ohio, [Mr. DELANO,] relating to the hour of daily meeting of the House, is not a question of privilege.

The SPEAKER. The Chair sustains the point of order; that portion is not a privileged question.

Mr. DELANO. I will withdraw all my modifications, and submit the resolution in its original form.

The question recurred upon the motion of Mr. ASHLEY, of Ohio, to lay the resolution on the table.

Mr. DELANO called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 78, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Bidwell, Bromwell, Sidney Clarke, Cobb, Conkling, Donnelly, Driggs, Farnsworth, Farquhar, Ferry, Abner C. Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Koontz, William Lawrence, Loan, Lynch, Marston, McClurg, Morrill, Moulton, O'Neill, Orth, Paine, Rollins, Schenck, Scofield, Shellabarger, Stevens, Francis Thomas, John L. Thomas, Burt Van Horn, Robert T. Van Horn, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—52.

NAYS—Messrs. Alley, Barker, Benjamin, Bingham, Boyer, Broomall, Buckland, Bundy, Reader W. Clarke, Davis, Dawes, Dawson, Defrees, Delano, Deming, Eckley, Eggleston, Eldridge, Eliot, Garfield, Glossbrenner, Griswold, Hale, Aaron Harding, Hart, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Humphrey, Johnson, Julian, Kasson, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, Le Blond, Longyear, McCullough, McKee, McKuer, Mercer, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Noell, Perham, Pike, Plants, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sitgreaves, Spalding, Taber, Taylor, Thayer, Thornton, Trimble, Trowbridge, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, and Wright—78.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Boutwell, Brandegee, Chanler, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Finck, Goodyear, Grider, Grinnell, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Laffin, Marshall, Marvin, McIndoe, Patterson, Phelps, Pomeroy, Price, Radford, Alexander H. Rice, Rogers, Shanklin, Sloan, Smith, Starr, Stillwell, Strouse, Upson, Elihu B. Washburne, Whaley, Stephen F. Wilson, and Winfield—52.

So the resolution was not laid on the table.

Mr. DAWES. Will the gentleman from Ohio [Mr. DELANO] yield to me that I may move an amendment to strike out "the 25th" and insert "the 23d"?

Mr. DELANO. I am willing that the sense of the House shall be taken on the proposition; and I yield for that amendment.

Mr. DAWES. I move to amend the resolution by striking out the word "fifth" and inserting in lieu thereof the word "third," so as to provide for an adjournment on the 23d of this month.

Mr. DELANO. I now renew the call for the previous question.

Mr. ASHLEY, of Ohio. Would it be in order Mr. Speaker, to move that the resolution be referred to the Committee of Ways and Means?

The SPEAKER. It will be, if the previous question should not be seconded.

The previous question was seconded and the main question ordered.

Mr. SCHENCK. I move that the resolution and the pending amendment be laid on the table; and on the motion I demand the yeas and nays. I want it to be seen by the record who are ready to stand by their posts and who are not.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 75, not voting 51; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Bidwell, Bingham, Bromwell, Sidney Clarke, Cobb, Conkling, Driggs, Eggleston, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, Koontz, William Lawrence, Lynch, Marston, McClurg, Morrill, Morris, Newell, O'Neill, Orth, Paine, Alexander H. Rice, Rollins, Schenck, Scofield, Shellabarger, Spalding, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Burt Van Horn, Robert T. Van Horn, Wentworth, Williams, James F. Wilson, and Windom—56.

NAYS—Messrs. Alley, Benjamin, Boyer, Broomall, Buckland, Reader W. Clarke, Davis, Dawes, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eldridge, Eliot, Garfield, Glossbrenner, Griswold, Hale, Aaron Harding, Hart, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Johnson, Julian, Kasson, Kerr, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, Le Blond, Longyear, McCullough, McKee, McKuer, Mercer, Miller, Moorhead, Myers, Niblack, Nicholson, Noell, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sitgreaves, Taber, Taylor, Thayer, Thornton, Trimble, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, and Wright—75.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Boutwell, Brandegee, Bundy, Chanler, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Finck, Goodyear, Grider, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Jones, Kelso, Loan, Marshall, Marvin, McIndoe, Moulton, Patterson, Phelps, Pike, Pomeroy, Radford, Rogers, Shanklin, Sloan, Smith, Starr, Stilwell, Strouse, Upson, Elihu B. Washburne, Stephen F. Wilson, Winfield, and Woodbridge—51.

So the House refused to lay on the table the resolution and pending amendment.

The previous question then recurred on agreeing to the amendment of Mr. DAWES, to strike out "the 25th" and insert "the 23d."

Mr. BROMWELL. I call for the yeas and nays.

The yeas and nays were not ordered.

On agreeing to the amendment there were—yeas 50, noes 50.

The SPEAKER voted in the negative; and the amendment was not agreed to.

The question recurred on agreeing to the resolution.

Messrs. FARNSWORTH and INGERSOLL called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 57, not voting 48; as follows:

YEAS—Messrs. Alley, Barker, Boyer, Broomall, Buckland, Bundy, Reader W. Clarke, Davis, Dawes, Dawson, Defrees, Delano, Deming, Eckley, Eggleston, Eldridge, Eliot, Garfield, Glossbrenner, Grinnell, Griswold, Hale, Aaron Harding, Hart, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Johnson, Julian, Kasson, Kerr, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, Le Blond, Longyear, McCullough, McKee, McKuer, Mercer, Miller, Moorhead, Morris, Newell, Niblack, Nicholson, Noell, Perham, Pike, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sitgreaves, Taber, Taylor, Thayer, Thornton, Trimble, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, Woodbridge, and Wright—77.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Sidney Clarke, Cobb, Donnelly, Driggs, Farnsworth, Farquhar, Ferry, Abner C. Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, William Lawrence, Loan, Lynch, Marston, McClurg, McKuer, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Alexander H. Rice, Rollins, Schenck, Scofield, Shellabarger, Spalding, Stevens, Francis

Thomas, John L. Thomas, Trowbridge, Burt Van Horn, Robert T. Van Horn, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—57.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Chanler, Conkling, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Finck, Goodyear, Grider, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Jones, Kelso, Marshall, Marvin, McIndoe, Patterson, Phelps, Pomeroy, Radford, Rogers, Shanklin, Sloan, Smith, Starr, Stilwell, Strouse, Upson, Elihu B. Washburne, and Winfield—48.

So the resolution was adopted.

During the roll-call,

Mr. ROSS said: Is it in order now to have the resolution of the caucus read? [Laughter.]

The SPEAKER. It is not in order to interrupt the roll-call after a response has been made.

Mr. LE BLOND. My colleague [Mr. FINCK] is detained at his house by illness.

Mr. INGERSOLL. I desire to change my vote for the purpose of reconsideration.

The SPEAKER. The gentleman from Ohio [Mr. DELANO] will be entitled to the floor for that purpose.

Mr. INGERSOLL. I would like to ask a question. If the gentleman from Ohio moves to reconsider, will it be in order to move to postpone the question on his motion to reconsider until some day in the future?

The SPEAKER. The gentleman from Ohio will probably move to lay the motion to reconsider on the table. Does the gentleman change his vote?

Mr. INGERSOLL. Not unless I can make the motion I desire.

The result having been announced as above recorded,

Mr. DELANO moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

Mr. INGERSOLL. I demand the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 75, nays 59, not voting 48; as follows:

YEAS—Messrs. Alley, Barker, Boyer, Broomall, Buckland, Reader W. Clarke, Davis, Dawes, Dawson, Defrees, Delano, Deming, Eckley, Eggleston, Eldridge, Eliot, Garfield, Glossbrenner, Griswold, Hale, Aaron Harding, Hart, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Johnson, Julian, Kasson, Kerr, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, Le Blond, Longyear, McCullough, McKee, McKuer, Mercer, Miller, Moorhead, Morris, Newell, Niblack, Nicholson, Noell, Pike, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sitgreaves, Taber, Taylor, Thayer, Thornton, Trimble, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, Woodbridge, and Wright—75.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Bundy, Sidney Clarke, Cobb, Conkling, Donnelly, Driggs, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, William Lawrence, Loan, Lynch, Marston, McClurg, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sitgreaves, Taber, Taylor, Thayer, Thornton, Trimble, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, Woodbridge, and Wright—59.

NOT VOTING—Messrs. Ancona, Baldwin, Beaman, Bergen, Blaine, Blow, Brandegee, Chanler, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Finck, Garfield, Goodyear, Grider, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Jones, Kelso, Marshall, Marvin, McIndoe, Patterson, Phelps, Pomeroy, Radford, Alexander H. Rice, Rogers, Shanklin, Sloan, Smith, Starr, Stilwell, Strouse, John L. Thomas, Upson, Elihu B. Washburne, and Winfield—61.

So the motion to reconsider was laid on the table.

#### FREEDMEN'S BUREAU.

The SPEAKER laid before the House the following letter of the Clerk of the House in regard to the execution of an order of the House; which was laid on the table:

CLERK'S OFFICE,  
HOUSE OF REPRESENTATIVES UNITED STATES,  
WASHINGTON, D. C., July 18, 1866.

SIR: In accordance with the resolution of the House of Representatives, I have this day presented

to the Secretary of State the act entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes."

Very respectfully, your obedient servant,

EDWARD McPHERSON,

Clerk of House of Representatives United States.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had indefinitely postponed bills and joint resolutions of the following titles:

An act (H. R. No. 156) to amend the ninth section of the act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes;"

An act (H. R. No. 701) granting a pension to Mrs. Imogene Buckingham, of Edgar county, Illinois;

Joint resolution (H. R. No. 46) for the relief of Martha McCook;

Joint resolution (H. R. No. 188) for the appointment of a commission upon transportation between the western States and the Atlantic sea-board; and

Joint resolution (H. R. No. 20) requesting the President to suspend any order mustering out the officers of the Veteran Reserve corps until Congress shall take some legislative action in regard to the corps.

The message also communicated the proceedings of the Senate upon the announcement of the death of Hon. JAMES H. LANE, late a Senator from the State of Kansas.

#### DEATH OF SENATOR LANE.

The SPEAKER laid before the House the following communication from the Senate:

IN THE SENATE OF THE UNITED STATES,  
July 18, 1866.

Resolved, That the members of the Senate have learned with regret and sorrow of the sudden death of Hon. JAMES H. LANE, late a Senator from the State of Kansas.

Resolved, That as an evidence of respect to the memory of the deceased, and of sincere sorrow and sympathy for his bereaved and afflicted family, the Senate do now adjourn.

Ordered, that the Secretary communicate these proceedings to the House of Representatives.

Mr. CLARKE, of Kansas. Mr. Speaker, with unusual frequency we have been called upon during the session now drawing to a close, to pause at the portals of the tomb, and to pay the last tribute of respect to those who have mingled with us in the business of legislation. The inexorable summons to the eternal world, which sooner or later must come to us all, has been recently heard in both Houses of Congress, and vacant seats remain to remind us of the uncertainty of all earthly hopes, and the final termination of all human ambition and human conflict.

The sad duty now devolves upon me of formally announcing to the House an event already known—the death of Hon. JAMES H. LANE, one of the Senators of the United States from the State of Kansas. The manner of his death was such that it seems to be peculiarly proper that I should briefly refer to some of the circumstances attending the sad event. On the 11th of June he left Washington for the last time. For several weeks previous to his departure his mental condition excited the serious apprehensions of his friends. Those who knew him best, and were conversant with his wonderful mental and physical characteristics, saw in him a change which excited their most serious apprehensions.

His friends were hopeful that a change of scenery and relaxation from his senatorial duties might restore his health and give quiet to his mind. On his arrival at St. Louis his symptoms grew worse instead of better; but he proceeded to his home at Lawrence, and for the time being it seemed that his vigorous form was stronger than his disease, and he in a measure threw off both his physical and mental prostration. Transacting business with great rapidity, he determined to return to his



place in the Senate. He reached St. Louis on the 19th of June, only to find himself prostrated with increasing illness. Skillful physicians were at once called to his relief. They found him suffering severely, both in body and mind. He refused to see company, seemed to be impressed with the idea that his mind was failing him, and expressed the wish to go to an insane asylum. Restless and dispirited, and against the advice of his attending physician, who accompanied him, he started on the 27th of June for his home, his family having already been apprised of his alarming condition. During the progress of the journey his conversation frequently indicated insanity. On his arrival at Kansas City he took the boat for Leavenworth, instead of going to his home at Lawrence. Proceeding to the house of a relative in the suburbs of the city, he remained in a condition of mental aberration till the occurrence of the fatal act on the evening of July 1, which terminated his existence.

JAMES H. LANE was born at Lawrenceburg, Indiana, on the 22d of June, 1814. His father, Amos Lane, was a lawyer of distinction; was at one time Speaker of the Indiana House of Representatives, and was a member of this House under the Administrations of Andrew Jackson and Martin Van Buren. The mother of Senator LANE was a native of New England, and was possessed of a poetic mind and of fine attainments. I have often heard him speak of her, even in the wild excitements of political conflicts in Kansas, and always in terms of the highest filial reverence and affection. At the age of twenty-six young LANE was admitted to the bar. Long before that he had taken an active part in party politics on the Democratic side.

At the time of his admission to the bar he was postmaster at Lawrenceburg, Mr. Van Buren being then President of the United States. In the contest between that statesman and General Harrison, LANE took the stump for the former, and established his reputation as one of the most effective and popular speakers in the West. He was an ardent advocate of the election of Mr. Polk, and when the Mexican war came on, in 1846, it found him ready to enter the field and fight in the service of his country. At this time he was thirty-two years of age. He was elected colonel of the third Indiana regiment of volunteers by the general vote of the men. His regiment formed a part of General Taylor's army of invasion, and participated in the hard-fought battle of Buena Vista, for which both the regiment and its gallant commander received the highest encomiums of superior officers. After two years of service, with depleted ranks, Colonel LANE returned with his regiment to Indiana. He at once organized the fifth regiment, with which he returned to the field and marched with the army of General Scott to the city of Mexico. In after years he spoke with great pride of the bravery of the Indiana volunteers; and during the late contest he always took great delight in their brilliant achievements. He had a pride of commandship which always belongs to the true soldier. I never knew a man who fought under him in Mexico ask of him a favor but what he granted it in his power.

In 1848 he was elected Lieutenant Governor of Indiana. In 1852 he was elected a member of this House in the Thirty-Third Congress. At the same time he was also elected a presidential elector at large on the Democratic ticket. Coming to Congress in 1852, he was necessarily active in the Kansas-Nebraska struggle. Following the lead of Stephen A. Douglas, he accepted the repeal of the Missouri compromise, and voted for the Kansas-Nebraska bill. But though he acted with his party, by which means he wrecked his political fortunes in Indiana, he nevertheless said, on the floor of this House, on the 13th of March, 1854, "I am no advocate of slavery; I am no slavery propagandist."

From his seat in the House of Representa-

tives, and following the suggestions of Mr. Douglas and other party leaders, Colonel LANE went to the newly organized Territory of Kansas. He went as the advocate of the doctrine of squatter sovereignty and for the purpose of organizing a national Democratic party on this basis in the new Territory. He was disappointed in all his efforts in this direction, and with a keen perception of the nature of the struggle he abandoned the leadership of Democracy when it pointed to a forcible establishment of slavery in Kansas. From the hour he first arrived on the soil of Kansas, in April, 1855, he commenced a life of wonderful activity. He sought at once for leadership, and obtained it, even among those who seemed to be his opposites. The commanding position he early obtained in the ranks of the Free-State party is in itself one of the best proofs of his great power as a popular leader. The ability of Senator LANE was in no part of his diversified career so marked as in the ease with which he won and in the firmness with which he maintained his position as a leader among a people so active, enthusiastic, and intelligent, as gathered together in Kansas, impelled by a conscientious conviction that they were fighting a battle which could only end in the triumph of universal freedom.

At the organization of the Free-State party the late Senator was chosen chairman of the executive committee. In the canvass which followed he bore the most prominent part, speaking daily, sleeping often in the open air, and resorting to every possible expedient to avoid the ruffians who followed his footsteps and sought his life. The Free-State movement soon took form in what was known as the Topeka constitution. State officers and a Legislature were chosen, and JAMES H. LANE and Andrew H. Reeder were elected United States Senators. In the exciting events which followed Senator LANE acted as military commander of the Free-State forces, and joined with that grand old crusader of Freedom, John Brown, in counseling active resistance to the murderous propagandists of the slave power. But the crisis passed by the retreat of the ruffians to Missouri.

Senator LANE came to Washington with the Topeka constitution. Our country was passing through a historic period. The nation was profoundly stirred by political agitation. While here the startling news came of the wanton sack of Lawrence by an armed mob aided and encouraged by United States officials. Senator LANE hastened from this city. Events moved rapidly forward in Kansas. The troops were used to disperse the State or Topeka Legislature. The Free-State leaders had all been arrested or had fled the Territory. The printing offices were destroyed and the newspapers were silenced. The Missouri river was blockaded and all the direct avenues of immigration were held by the armed minions of the slave power. In this hour of gloom Senator LANE was marching across Iowa at the head of several hundred armed emigrants, and when all seemed lost to freedom, he entered Kansas from the northern border and once more confronted the enemies of free institutions on their chosen battleground. The events of this period are full of transcendent interest, in all of which Senator LANE acted a prominent part. When success was assured he left the Territory to avoid a collision, and unwilling to embarrass Governor Geary in his movements to deal justly with all parties.

Senator LANE returned to Kansas in March, 1857. In the canvass then progressing, he confronted Governor Walker, speaking from the same stand, and everywhere upholding and defending the integrity and policy of the Free-State party. During the Leecompton struggle, preliminary and otherwise, he was foremost in counseling, speaking, organizing. It was in the summer of 1857, at a convention at Topeka, that he used an expression which aptly expresses both the power he had and the reason for it. He had been denouncing the Demo-

cratic party for its subserviency to slavery, when, rising to his full height, he declared with fiery manner and thrilling tones, "that as for himself his efforts would never cease till this party was shattered; and until from the Yellowstone in the North to the Gulf in the South, one line of free States should be reared, an impenetrable barrier against which the cursed waves of slavery should dash themselves in vain. Until that time comes," he said, in tones that swayed his audience like a rushing wind, "I am a crusader for Freedom!"

In 1857 he served as president of the Leavenworth constitutional convention, and in March, 1861, was chosen United States Senator under the accepted constitution. His thorough devotion to his country and to his State in the Senate and in the field during the late struggle, is well known to all, and I will not repeat the history here.

There was one political act of his life which I believe Senator LANE sincerely regretted—I mean his final vote against the civil rights bill. One who knew him well, and who was with him at the time, thus writes:

"We know that he saw and felt keenly the mistake he had made. Nor was this consciousness the result of the general disapproval of his action on the part of his constituents. On the very day the vote was given, handing the writer a telegram from the editors of the Chicago Tribune, which advised him to vote for the bill, and warning him that he would make the mistake of his life should he vote against it, he exclaimed, 'Ah! the mistake has been made; I would give all I possess if it were undone.'"

Mr. Speaker, I have thus spoken of the main incidents in the life of the dead Senator. His restless and fiery spirit has passed beyond the bounds of time. Let it be mine to draw the mantle of charity over all his faults, and let the voice of public criticism be hushed in the solemn silence of the tomb. Mr. LANE was made a Senator of the United States from the new State of Kansas, because from the hour he first espoused the Free-State cause, he served it with unquestioned fidelity, with ceaseless energy, and with that unflinching hope and confidence which belonged to an ardent nature. From the inception of the contest till the final victory was won, in sunshine and in storm, hunted by the pro-slavery assassins from Missouri, and by the attempted assassins of Freedom in the employ of a corrupt Administration, Mr. LANE labored right on to the end with unshaken confidence.

It is for this part of his career, as the leader of an oppressed but earnest people, struggling against the injustice of power, that he deserves to be and will be remembered with earnest gratitude. All over the broad prairies of the young Commonwealth I have the honor to represent, watered with the blood of the martyrs of freedom, there are those who struggled and suffered and hoped and sacrificed with him, in stern resistance to the monstrous attempt to fasten the crime of slavery upon her virgin soil. Each and all of those feel sad to-day, in remembrance of him who shared in all their sufferings, and who pledged with them all of life and health and fortune that Kansas might be free.

The time has not yet come for the impartial historian to write the history of that great struggle for freedom which, commencing on the western bank of the Missouri, and seeming to involve at first but the liberty of a State, only ended in that mighty conflict of arms from which we have but just emerged. Amid the historic splendor of great achievements, and the bloody fury of embattled conflicts, let us remember the sublime heroism, the dauntless energy, and the unwavering faith of the Free-State settlers of Kansas, who crossed the prairies, as of old

"The pilgrims crossed the sea,  
To make the West, as they the East,  
The homestead of the free."

Sir, I have spoken too long already. But I would not fail to do that full justice due from the living to the dead. On Saturday, the 13th

instant, the mortal remains of Senator LANE were borne to their last resting-place on a beautiful eminence overlooking the city of Lawrence, followed by a stricken family, and by a vast concourse of his friends and fellow-citizens. Forgetting the political asperities and errors of the past, a whole people united in honoring the memory of one who served his adopted State with restless energy, and who for ten long years was her faithful servant and defender. It is fitting that he should sleep beneath the soil of the State he loved so well, and that the good he did on earth should thus be remembered by a grateful people.

I submit the following resolutions:

*Resolved*, That the House of Representatives of the United States has received with deepest sensibility intelligence of the death of Hon. JAMES H. LANE, late Senator from Kansas.

*Resolved*, That the proceedings of this House in relation to the death of Hon. JAMES H. LANE be communicated to the family of the deceased by the Clerk.

*Resolved*, That, as a further mark of respect for the memory of the deceased, the House do now adjourn.

Mr. FARQUHAR. Mr. Speaker, as the Representative of the fourth congressional district of Indiana, I arise to respond to the announcement of the death of Senator LANE of Kansas, under circumstances both painful and embarrassing. It was in the district from which I come that he was born and spent the years of childhood and early manhood. It was there that the pioneers knew him as the prattling child, and their offspring as associate at the festive board and comrade in arms, as they bore triumphantly our "starry banner" to the capital of a sister republic. It was there his happiest days were spent, under the influence and benign care of a pious Christian mother, and unrestrained society of his highly educated and accomplished sisters that the gentler qualities of his iron nature were cultivated and developed. It was there that he first gave evidence of those remarkable powers of endurance that enabled him to successfully compete with all opposition in whatever field of enterprise he embarked. It was there that he first drew his maiden sword and led to the field the stalwart comrades in arms, who won with him at Buena Vista their full share of the imperishable glory of that hard-fought field. It was there that he developed in repeated contests his acknowledged preëminence as one of the most successful political debaters of the age, who never made a canvass but in triumph.

Senator LANE was born at Lawrenceburg, Indiana, in June, 1814, and was the son of Hon. Amos Lane who represented that district in the Congress of the Republic. His father was widely known as a prominent Democratic politician of Indiana, and a successful lawyer of more than ordinary abilities. It was in the bitter contests of the old Whigs and Democrats, in which his father took a conspicuous part, that the Senator, then a youth, became inspired with the love of politics which in after years fashioned and molded his character, habits, and actions, culminating in eminent success and calamitous death.

Senator LANE was emphatically a man of the people. With the politicians he never was popular, but while in Indiana sustained successfully a war for preëminence with those of his own party. With the people he was a great favorite and successfully enlisted them in his behalf in every contest in which he participated, and served as Lieutenant Governor, senatorial elector, and as Representative in the Thirty-Third Congress from my State.

It was not his forte to inaugurate and mature the policy of his party, so much as to study and follow the lead of the people, and thereby seemingly, at least, become the champion of their favorite measures. He was a bold, fearless, and successful advocate of whatever cause he championed, and the friends of human freedom on the western border have lost an able leader in the great cause to which they and he showed so much devotion and made so much sacrifice. He was a self-made and self-reliant

man who scorned dependence on others, appreciating, if not boasting, with confidence, the sentiment—

"Thy spirit, Independence, let me share;  
Lord of the lion heart and eagle eye,  
Thy steps I follow with my bosom bare,  
Nor heed the storm that howls along the sky."

As a military leader he was beloved by those who served under him. In Mexico, and especially at Buena Vista, in command of the third Indiana infantry, he won with those under him imperishable glory, as in the last charge of our enemy on that to them fatal day his regiment did invaluable service on their flank, while the grape of Captain Bragg arrested their desperate charge in front.

That he had military genius of high order and was born to command is attested by the fact that when Kansas was overrun by border ruffians, and the gallant men that saved her were in arms, on the morn of that memorable day when Lawrence was threatened, his extreme lines were sixty miles apart and well in hand at the hour of attack. "None but a military genius could have concentrated them as he did," said a gallant officer of the regular Army, who has since given his life for the Republic. The result was the overthrow of the border ruffians and permanent triumph of the party of Freedom in that beautiful garden spot of liberty. The devotion of the men who served with him in Kansas attests his services to that noble young State. He fought its battles, shared its fortunes, served its people, and received its honors. His restless spirit is still forever, and that iron form so familiar to his associates in the camp, the Senate Chamber, at the bar, and the social board, reposes beneath the soil of his adoption that he defended so well. Would that it had gone out differently, in the forefront of battle, with armor on and victory perching on our banners.

Mr. NIBLACK. Mr. Speaker, I feel that I ought not to allow this occasion to pass without saying a few words.

General LANE's ancestors, like mine, were among those who first penetrated the wilderness of that region of country which has since become the great State of Indiana; and although my personal acquaintance with him did not commence in early life, yet I have had with him for many years an agreeable acquaintance and pleasant personal relations.

I have also been associated with him in legislative positions which have brought me more or less in contact with him. My first personal acquaintance with him commenced in the year 1849, at the time when he was inaugurated as Lieutenant Governor of the State of Indiana. I was then a member of the House of Representatives of that State for the first time. The year following I was elected to the Senate of the State, of which he was the presiding officer by virtue of his position as Lieutenant Governor of the State. I served as a member of the Senate during the remainder of his official term. Before that I had only heard of him as the gallant colonel of two of our favorite Indiana regiments, and I only knew him by reputation. My acquaintance thus formed with him continued until the time of his death. Although I was never personally intimate with him our personal relations were always kind, and differing, though we often did, the exciting questions which have occupied the public mind since that time never disturbed our kindly relations.

I can say, and say with truth, that General LANE was, in all the relations of life in which I knew him, a marked man. He was not a learned man; he was not so cultivated as others; but he was a man of strong will, of great force of character, of indomitable energy, and of high ambition. He always became a central figure in any movement in which he was engaged, and he always bore a prominent part in any enterprise with which he connected himself. As a political leader, although apparently bold and reckless, he was in truth a

discreet and prudent man. I always conceived him cautious in devising his plans and mapping out his future life, but bold and resolute in the execution of those plans, never deterred by any dangers which seemed to threaten him personally or by any consequences which might result to him. From what I knew of him, I could not regard him in any other light than as a man of both physical and moral courage.

As a military leader, his courage, I presume, is unquestioned, and the other conflicts in which he engaged and which have been spoken of here to-day, I think sufficiently established his reputation as a man of moral courage. It is not my purpose to refer to those scenes which have been portrayed by the gentlemen who have preceded me. They take one view of those questions, and I, perhaps unfortunately to myself, take the other view. But while thus advocating these other views, and differing from General LANE as I have done, I am not the less willing to bear testimony to those traits of character which have made him so prominent in the political history of the country for the last fifteen or twenty years. As I have remarked, he was a man of ambition. He struggled hard to obtain that political prominence and power and influence which in the later years of his life he possessed. After years of unremitting struggle, after passing through one of the most remarkable contests in the history of this country, he succeeded in obtaining a position which gave him influence and power in the councils of the nation. He became a member of the Senate of the United States, and was continued for many years preceding his death in a position which many of the best minds of the country have been willing to devote a large portion of the best years of their lives to attain—a position that would gratify the ambition of most men.

Possessing so much, therefore, as would seem to have endeared life to an ambitious man, the struggle must have been a fearful one, the despair must have been terrible, which induced him to lay violent hands upon himself and become the destroyer of his own life. Of all the forms in which death can come, none is so mysterious and terrible as the one by which his life was closed. It is hard for us to conceive that one so gifted and occupying so exalted a position should grow so weary of life. But by his own act he has passed away from among us. As has been well remarked by the gentleman from Kansas, [Mr. CLARKE,] it is our duty, a duty which ought to be strictly observed, to draw the veil of charity over all his faults and failings, and the misfortunes, whatever they may have been, which darkened the close of his career.

As a citizen of the State of Indiana, before he emigrated to the far distant Territory, he was already a marked and distinguished man. And in the great struggle of life through which he has passed, he has given evidence of some of the highest traits of manhood. Indiana cannot be insensible to the great loss which Kansas has sustained in his death. I therefore bear my willing testimony to much that has been said in his behalf by those who have preceded me on this occasion. As a citizen of Indiana, I have to express my profound regret at the sad termination of so active and eventful a life as his has been. I very heartily second the resolutions which have been offered.

The resolutions were then adopted.

And thereupon (at five o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. EGGLESTON: The memorial of the Louisville and Portland Canal Company and the Cincinnati Chamber of Commerce, asking a loan from the Government of \$1,000,000 in bonds, to aid the canal company to complete said canal.

By Mr. WILLIAMS: The petition of 41 citizens of Armstrong County, Pennsylvania, praying for such an amendment of the tariff as will protect American labor to the extent of the difference between the cost of capital and labor abroad and at home.

## IN SENATE.

THURSDAY, July 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.  
On motion of Mr. EDMUNDS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## BRIDGES ON THE MISSISSIPPI.

Mr. TRUMBULL. Yesterday, in the amendment of the bill relating to bridges over the Mississippi river, in giving the name of a corporation in the State of Illinois I gave it—it was so furnished to me—as the Hancock County, Illinois, Bridge Company. I understand that the name of the bridge company is the Hancock County Bridge Company, and the word "Illinois" ought not to be in it. I ask the unanimous consent of the Senate to have that correction made, so as to leave out the word "Illinois." I suppose there will be no objection to it, and by unanimous consent the correction may be made. It is a mere verbal one.

Mr. HENDERSON. Is it to amend the bill?

Mr. TRUMBULL. I gave the name of the corporation opposite Keokuk wrongly yesterday by inserting the word "Illinois." The name of the corporation is the "Hancock County Bridge Company," and I gave it as the "Hancock County, Illinois, Bridge Company." The word "Illinois" is not in the charter. The title as furnished to me was wrong, and I ask that that word be taken out of the name of the company.

The PRESIDENT *pro tempore*. No objection being made, that verbal correction will be made.

## PETITIONS AND MEMORIALS.

Mr. BUCKALEW. I present a petition of non-commissioned officers and privates in the volunteer army of the United States, enlisted in 1861 and 1862, and who have been honorably discharged, praying for the passage of an act giving them additional bounty, so as to make the amount received by them equal to that received by those who enlisted in 1863 and 1864. That subject having been reported upon, I move that the petition lie on the table.

The motion was agreed to.

Mr. BUCKALEW presented a petition of citizens of Berwick borough, in the county of Columbia, State of Pennsylvania, praying for the passage of an act refunding to that borough certain bounty moneys paid by it; which was ordered to lie on the table.

He also presented a petition of mechanics and laborers in American manufacturing establishments in Philadelphia, praying for an increase of the duties upon imported foreign goods; which was ordered to lie on the table.

## PAPERS WITHDRAWN.

Mr. HARRIS. I ask leave to withdraw the petition of Salmon B. Colby that I presented a short time ago. It has not been acted upon, and the petitioner now desires to withdraw it.

The PRESIDENT *pro tempore*. Leave will be granted, if there be no objection.

## REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Commerce, to whom was referred the joint resolution (S. R. No. 103) in relation to the pay and accounts of collectors of revenue who have failed to take the required oath of office, reported it with an amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 399) relative to collection districts in North Carolina, reported it with amendments.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 400) to fix the compensation of certain collectors of customs, and for other purposes, reported it with amendments.

Mr. STEWART, from the Committee on Public Lands, to whom was recommitted the bill (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands

in the States of California, Oregon, and Nevada, reported it with an amendment.

## POST ROUTE BILL.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 775) to establish certain post roads, have instructed me to report it back with certain amendments; and I should like to have the bill considered and the amendments disposed of, as it is late in the session.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. With the permission of the Senate, the amendments reported by the Committee on Post Offices and Post Roads will be taken up in their order, as the bill is being read through at the desk, and acted upon as they shall be reached in their order.

The Secretary proceeded to read the bill. The first amendment of the Committee on Post Offices and Post Roads was to strike out lines twelve, thirteen, and fourteen, in the following words:

Massachusetts:  
From North Palmouth, via Hatchville and East Palmouth, to Waquoit.

The amendment was agreed to.

The Secretary continued the reading of the bill to the end of line one hundred and eighteen.

Mr. RAMSEY. I have had a request made to me, since the reading of the bill was commenced, to defer its consideration until to-morrow with a view of allowing an examination of some of its provisions, and I have agreed to do so. I move, therefore, to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

## BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 440) to reorganize the Navy Department and fix the pay of its officers; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

## DISTRICT BUSINESS.

Mr. MORRILL. I offer the following resolution, and ask for its present consideration:

*Resolved*, That Friday, the 20th instant, be assigned for the consideration of matters of legislation relating to the District of Columbia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FESSENDEN. What is the time fixed?

Mr. MORRILL. To-morrow, after the morning hour.

Mr. FESSENDEN. I hope that will not be done. It is impossible to tell at this period of the session what the necessities of the session may be. The House has passed a resolution to adjourn on Wednesday next, and it will be very unsafe, in my judgment, to set aside any particular day for any particular business. If the Senator can pass his bills at any time without such an assignment, I shall be very glad of it; but I think we have legislated in its due proportion for the District of Columbia during this session.

Mr. MORRILL. My colleague is very much mistaken. There never was so little District business done, I think, at any session.

Mr. FESSENDEN. It is impossible to assign a day for the consideration of such business now, with the public bills pending and undisposed of; several of them of great importance. To-morrow, if I am not able to do it to-day, I hope to be able to pass the new tariff bill which will come here from the House, and which it is absolutely essential should be passed, and to which there will probably be some amendments. If at any time my colleague can get in the District business without fixing a day for it, I shall not object; but at this period of the session, with probably only a few days left, I do not think it safe to set aside any day for its consideration. If the

Senator would ask for an evening session I would not object.

Mr. MORRILL. I have not the slightest objection to that. I will amend the resolution so as to make the District business the special order for to-morrow evening at seven o'clock.

Mr. FESSENDEN. I should have no objection to the resolution as it stands if my colleague would only say that he would give way to the public business.

Mr. MORRILL. I would not think of antagonizing the District business with the public business.

Mr. FESSENDEN. Then I have no sort of objection to the resolution.

Several SENATORS. Say to-morrow evening; that will be a good time.

Mr. MORRILL. Very well; I will say to-morrow evening at seven o'clock.

The PRESIDENT *pro tempore*. The resolution is in the power of the mover to amend or modify it.

Mr. MORRILL. Then I will modify it so as to make it read, "that Friday evening, the 20th instant, at seven o'clock, be assigned," &c.

Mr. STEWART. Will that cut off any other business from being transacted?

Mr. MORRILL. No.

The resolution, as modified, was adopted.

## SUFFERERS BY THE PORTLAND FIRE.

Mr. JOHNSON. I move that the Senate proceed to the consideration of the bill introduced by me for the relief of the sufferers by the late fire in Portland, Maine.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 428) for the relief of the sufferers by the late fire in Portland, Maine.

It proposes to authorize the President of the United States to cause to be purchased such provisions and clothing and such other articles as he shall deem advisable, and to tender the same in the name of the Government of the United States to the State of Maine, for the relief of the citizens who have suffered by the late fire in the city of Portland in that State, and appropriates a sum not exceeding \$50,000 for that purpose.

Mr. JOHNSON. I move to amend the bill by striking out all after the enacting clause and inserting the following as a substitute:

That the President of the United States be, and he is hereby, authorized to tender to the Governor of the State of Maine, in the name of the United States, for the relief of the sufferers by the late fire in the city of Portland, \$50,000, to be used in such manner as he may think best.

SEC. 2. And be it further enacted, That said sum of \$50,000 be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

Mr. President, if a measure like this is to pass, the sooner it is done the better. The fire at Portland was unexampled in its destruction, covering miles of streets, and has thrown upon the world, houseless and impoverished, thousands of citizens. The individual contributions that have been made throughout the United States, I see, are not adequate to meet the immediate wants of the people.

I find that in 1827, after the occurrence of a destructive fire at Alexandria, Congress passed a bill in this language:

"That the sum of \$20,000 be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, for the relief of the indigent sufferers by the fire in the city of Alexandria."

Prior to that time, in 1812, when a town in Venezuela was almost entirely destroyed by an earthquake, and the citizens were left without any immediate provision, this law was passed:

An act for the relief of the citizens of Venezuela.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to cause to be purchased such provisions as he shall deem advisable, and to tender the same in the name of the Government of the United States to that of Venezuela, for the relief of the citizens who have suffered by the late earthquake.

SEC. 2. And be it further enacted, That a sum not exceeding \$50,000 be, and the same is hereby, appropriated, to be paid out of any moneys in the Treas-



any not otherwise appropriated, to carry into operation this act.

Approved May 8, 1812.

And subsequently, when Ireland was so much afflicted and brought to a state of starvation, although we appropriated no money for the purpose of relieving those who were suffering at that time, we directed two ships of the United States to be used for the purpose of transmitting to Ireland the contributions which the citizens throughout the country made for that end, and it answered a very excellent purpose. I do not know any mode by which the moral strength of the country can be so much increased as by these acts of charity to our citizens who by a visitation of Providence have been subjected to so sad and afflictive a suffering. I hope, therefore, the bill will be passed at once.

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendment was concurred in.

Mr. TRUMBULL. It is a very unpleasant duty to interpose any objection to a bill of this character intended to relieve the sufferings of any portion of the people of this country occasioned by a great calamity; but the Congress of the United States is not a charitable institution, and the Treasury of the United States is not to be used simply as a dispenser of charity. Now, sir, where is this to stop? What is to be the line? We have already, at the present session of Congress, and since this dreadful fire in Portland, passed one or two resolutions for the benefit of the sufferers. We have passed one resolution authorizing the furnishing of tents and other accommodations from the quartermaster's department. We have passed another resolution or bill relieving the parties from the payment of taxes.

Mr. FESSENDEN. Only suspending the collection of taxes.

Mr. TRUMBULL. It is relieving them for a time by delaying the collection of taxes. Now the Senator from Maryland comes in with a proposition to pay out of the Treasury of the United States \$50,000 in money to these sufferers. Sir, you can hardly take up a newspaper in the United States that you will not see an account of a fire somewhere. Where is the line? Where is the distinction? If you commence appropriating money to distressed people who have been burned out, you cannot stop at Portland. There was a very large fire at Chicago the other day. I have seen a statement that several hundred thousand dollars' worth of property was destroyed at a single fire that has occurred there within a week or ten days. Fires are occurring all over the country. Now, does the Senator from Maryland mean to relieve all those sufferers?

I know it has been complained of in some quarters that the Congress of the United States is disposed to arrogate to itself all power, to take charge of all charities; and in advocating some measures which I have thought it my duty to go for I have been charged with getting up a great charitable institution. This charge was made in reference to the Freedmen's Bureau bill, a necessity growing out of the war; but here is a thing of ordinary occurrence, and it seems to me that there is such a thing as carrying a matter of this kind to the extreme; and as ungracious as it may seem, and as unpleasant as it is to take such a position, I cannot consent to appropriate money out of the Treasury of the United States in a case like this, upon the information which we have; and I should like to know if this bill comes from any committee.

Mr. JOHNSON. It does not.

Mr. TRUMBULL. I move that it be referred to the Committee on Finance.

Mr. JOHNSON. Mr. President, I suppose we are as competent to decide upon the question now as we shall be after it has been referred to the Committee on Finance. The two cases to which I have called the attention of the Senate my friend from Illinois has not noticed. One was an act passed in 1827, giving

\$20,000 for the relief of sufferers from a fire in Alexandria, and the other was an act passed in 1812 appropriating \$50,000 for the relief of sufferers by an earthquake in Venezuela, at Caracas, I think, and both bills passed, as far as I can see, without any objection. The principle is precisely the same. My friend from Illinois I have no doubt opposes this bill upon what he considers to be grounds of duty; but he could not help thinking, when making the objection, that perhaps he had himself recommended legislation which was as obnoxious to objection as this could be. He recommended the Freedmen's Bureau bill, and we have passed it. That provides for the education and the maintenance of colored people and refugees, and, instead of taking \$50,000, perhaps it will take some twenty millions. My friend has no doubt as to the constitutionality of that measure or as to the expediency of that measure, and the other day he voted, and a majority of the Senate voted for a continuance of that bureau for two years after the period when it would have expired by the original limitation.

I am not finding fault with the motive of that; but I say that if there ever was a case of charity, one resting alone upon the motives that influence us in doing acts of charity, that was one. Now, I want to know if that law was right, if that law was expedient, why it is not equally right and expedient that we should relieve these people? I know that we cannot provide for all the people who suffer loss by fire. There must be some mode of distinguishing between the cases. This is a loss by fire such as never occurred anywhere else. It is a loss, the sufferings caused by which cannot be provided for, and hardly mitigated, by individual contributions of citizens of the State in which it occurred. Millions upon millions of property have been destroyed; everything belonging to the people themselves has been destroyed and they left penniless and houseless upon the world, and looking to charity alone to relieve them from the calamity which Providence has seen proper to involve them in.

It seems to me, Mr. President, to be right in itself, to be what the Government should delight to do if it has the power to do it, that we should contribute in this way. We see now that the individual contributions that are being made throughout the country are very inadequate to the wants of the people. Most of the insurance, I understand, was in the local offices, and the loss was so extensive that many of the offices may fail to respond. At any rate, the insurance will be paid to the owners of the houses who are, perhaps, able to bear the loss; but there are thousands and thousands of people there without a dollar, as I understand. I see no necessity for referring the bill to the Committee on Finance in any event, however, and I hope the Senate will act on it at once without a reference.

Mr. TRUMBULL. It seems to me there is no sort of analogy between the appropriation made for the support of the Freedmen's Bureau establishment and this bill. This is a pure charity.

Mr. JOHNSON. What is the other?

Mr. TRUMBULL. I only spoke of the other because the Senator from Maryland and those acting with him opposed the Freedmen's Bureau bill. Are those appropriations, made for the safety of the nation, to be compared to a fire in one of our cities? Here are four million beings whose condition affects the safety of the Republic; four million people made free by the results of the war, an element which affects the whole nation and the safety of us all. Is the safety of the nation at stake, or is a whole race at stake in consequence of a fire that has occurred in one of our cities? Sir, there is no analogy between the two cases. I did support the Freedmen's Bureau bill. I thought there was authority, and ample authority, in the Constitution of the country for that measure. The southern States are to-day under military control; it is necessary to support the Army in the

southern States; and we are taking care of the refugees, both white and black. This bureau is not simply for the black; it is for both white and black who have been reduced to poverty in consequence of the war. What is this case? It is a pure charity, and nothing else.

But the Senator tells us that an earthquake occurred once and Congress appropriated money to the sufferers. That would be very unlike a fire. A fire is a thing of ordinary occurrence; fires occur every day in some of the cities of this Union; earthquakes but very seldom. The danger of such a precedent is very different in appropriating money to sufferers from a fire to what it would be in the case of a calamity of nature of that kind. Earthquakes are not of frequent occurrence. The one is an act of God; the other an act occurring through human instrumentalities. I do not suppose that human beings have very much to do with the occurrence of an earthquake.

Mr. JOHNSON. We have political earthquakes.

Mr. TRUMBULL. It is true we have some political earthquakes, and I presume the Senator from Maryland has been shaken perhaps by some of those tornadoes, and that is the reason that he referred to this earthquake of nature.

Now, sir, I think the precedent is a bad one. Congress has already shown the sympathy of the nation with the sufferers at Portland. I think we have gone far enough. I have not looked at the precedent to which the Senator refers, nor at the debate which occurred on the occasion of the passage of that resolution; but I trust that this bill will not pass without being examined by some committee of this body to see upon what grounds we can make such an appropriation.

Mr. DAVIS. I shall feel constrained to vote against this bill. I shall do it with exceeding reluctance. There is no object for the appropriation of money that commends itself more deeply to my heart than an appropriation for the relief of the sufferers by the Portland fire. But, sir, I do not concede that Congress has any power whatever to make such an appropriation. It seems to me that we have, or ought to have, a Government of a constitutional character, in which the whole power of Congress is definitely laid down, and I know of no authority in the Constitution that would sanction Congress in making any such appropriation.

I recollect the precedent that was made in connection with the earthquake at Caracas, and also that for the relief of the sufferers by fire at Alexandria; but this is not a Government of precedents; it was never intended so to be; and there cannot be any more dangerous principle established in our Government than that precedents shall make constitutional law. I utterly protest against any such position. I concede, as the Senator from Maryland has assumed, that there was no authority whatever, according to my reading and comprehension of the Constitution, to authorize the charities voted in the Freedmen's Bureau bill; and the fact that Congress chose, according to my judgment, so far to disregard constitutional restrictions and to grasp power not conceded to it by that instrument as to make those appropriations, instead of being an argument with me to do the same thing now, is an argument that would have a restraining influence upon my mind and judgment. It shows the proneness of Congress, from various considerations, to transcend the powers that it possesses by the fundamental law of the Government. I think it is time for Congress to retrace its steps in relation to the licentious interpretation which it has been giving to its powers under the Constitution. If I thought there was a power, (even if I entertained some doubt about the existence of the power,) on the part of Congress to make this appropriation, I would vote for it with the greatest degree of alacrity and pleasure; but notwithstanding that this is an object that commends itself so strongly to my sympathies, a sense of duty and of obligation to

act within the powers conferred upon Congress by the Constitution will constrain me most reluctantly to vote against it.

Mr. FESSENDEN. If this bill is to be referred at all, I would rather have it referred to some other committee than the Committee on Finance. From the fact that I am on that committee, and might be considered as interested in a question of this kind, I think it would be improper to refer it to that committee. I would prefer that it should be sent to some other committee, although I do not know how it will be any better understood by being referred to a committee.

Mr. JOHNSON. I certainly would not object to the reference to any committee of a subject about which we needed the advice of a committee; but each Senator is perfectly able to decide for himself the two questions which this proposition involves: first, whether we have the power to pass it; and secondly, if we have the power, whether it would be expedient to pass it. Beside the two cases to which I referred, I forgot to refer to the case of the earthquake that occurred and destroyed the lands in the New Madrid grant, as it was termed. Congress passed a law giving the sufferers lands of an equal amount and of equal value. Several instances of similar appropriations have occurred. When by a calamity—not an earthquake in the sense in which my friend from Illinois refers to the case at Caracas, but when there was an explosion at the arsenal here, and some twenty or thirty persons were killed or maimed, we passed an act making a contribution for the benefit of those who survived and were suffering, and for the benefit of the children and representatives of those who were killed.

Now, as to the question of power, there may be something in it, but for the soul of me I do not exactly see it. I cannot imagine how the question of power can in any measure depend upon the fact whether the occasion which calls for a charitable appropriation of this description has been caused by an earthquake or by a fire. We grant it, if we grant it at all, because of the result, not because of the cause of the result; because of the ruin in which the people have been involved, the distress in which they have been placed, and their inability to provide for their actual wants; and whether that calamity or distress arises from some elementary strife or arises from a fire, which may or may not be owing to the carelessness of man as to the purpose of man, is perfectly immaterial. We have the money, and if we have the right to appropriate money for any purpose of this description, it is because of the purpose, because it is an occasion invoking the charitable aid of the Government; and no matter how the occasion has been brought about, whether by the aid of man in any way, directly or indirectly, or whether by the direct interposition of Heaven, is immaterial. We come to their relief, provided it be true that the parties are in a situation which calls upon us to relieve them if we can.

Mr. TRUMBULL. Things unlike each other are often quoted as precedents. Now, the Senator from Maryland, astute as he is, and seeing a distinction at a glance, quotes as a precedent for this bill an appropriation made by Congress for the relief of those who were injured by the blowing up of the arsenal. Is there any analogy between them? Those parties at the arsenal were in the Government employ. He might as well say that the granting of a pension to a soldier furnished a precedent for an appropriation to be given to persons who had suffered from fire in no way connected with the Government. There is no analogy between them.

The Senator says he does not know why the bill should be referred. It should be referred to know, if an appropriation is to be made at all, something about the circumstances. Can the Senator from Maryland inform me what the loss at Portland is? I understand that in the city of New York alone there is more than a million of insurance. How

much of this property was insured in other cities I do not know. It seems to me that before we vote money out of the Treasury of the nation we should know something about the extent to which this suffering goes.

Again, sir, I understand that private contributions have been made all over the country in aid of these sufferers. I am glad to see it. It exhibits a proper disposition on the part of the people. I am as much for it as the Senator from Maryland, and will contribute as liberally, according to my means, as others to relieve the suffering of these people. I would much prefer doing it in that way rather than voting money out of the Treasury.

Mr. GRIMES. Did not the Government relieve the New Madrid sufferers?

Mr. TRUMBULL. I think it did.

Mr. GRIMES. Where is the difference between that case and this?

Mr. TRUMBULL. I tried to state the difference. That was an act of God, and we relieved them by granting them lands.

Mr. GRIMES. Is not this?

Mr. TRUMBULL. No; a fire is not regarded as an act of Omnipotence exactly. I take it that human instrumentality has something to do with these fires; but I do not suppose that human instrumentality had anything to do with the earthquake which destroyed New Madrid; and in that case, I understand, Congress relieved the parties by granting to them land. I do not recollect that they gave them money out of the Treasury; and the Senator from Iowa will remember that the Constitution expressly authorizes Congress to dispose of the public lands, and we have always been in the habit of giving them away.

Mr. GRIMES. Have we not the same right to dispose of money?

Mr. TRUMBULL. We can appropriate money, but it must be for objects contemplated by the Constitution, I take it.

I was, however, commenting upon the propriety of sending this bill to some committee. Does the Senator from Maryland know the extent of the contributions throughout the country? They amount to hundreds of thousands of dollars; I think more than a hundred thousand dollars in the city of New York alone, and a large sum in Boston, and in all the cities. I think we ought to know that there is a pressing necessity for it before we vote money in this way. We ought to have the information which a committee could gather in reference to that matter; and it was for that reason that I moved to refer the proposition to a committee. If it is to pass at all, let us know what sum we ought to appropriate to relieve this suffering, if we have the authority to appropriate anything, which I do not think we have. I quite agree with the Senator from Kentucky that the fact that Congress has once made an appropriation, even if it were precisely like this, does not make this one constitutional; that we are not a Government of precedents, and the fact that a bill has once passed Congress improperly does not authorize all future Congresses to pass similar bills.

Now, sir, as I said when I interposed the objection to the passage of this bill, it is a very thankless task to oppose a bill designed as a charity for suffering people; but, according to my sense of duty, it is improper for Congress to appropriate money in this way. I do not see where it is to stop. If fifty thousand dollars is to go to the great fire of Portland, ten thousand dollars may go to-morrow to a similar fire in Bangor, and five thousand dollars the next day to a fire in my city, and a million the next day to a fire in Baltimore or in New York.

Mr. CONNESS. Leave out California.

Mr. TRUMBULL. I presume they have so much money there in the earth that they would never come to the Treasury of the United States for money to take care of their sufferers from fire.

Mr. CRESWELL. Has the bill been reported by a committee?

Mr. TRUMBULL. It has been before no committee but was introduced by the Senator's colleague on his own responsibility. As the Senator from Maine objects to the bill going to the Committee on Finance, as he is from the city of Portland, and is at the head of that committee, I will move its reference to the Committee on the Contingent Expenses of the Senate.

The PRESIDENT *pro tempore*. The motion is varied, and it is now moved that this bill be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. FESSENDEN. I do not propose to take any part in this discussion, and I do not feel called upon to object to any course that gentleman may see fit to take. I wish to say, however, in reply to the Senator from Illinois, that it will be impossible to get any exact estimate at the present time of the loss by this fire. The nearest we can come at it is the account that is kept in our papers. The most recent intelligence, as stated in the papers—and they have made the best estimate they could—is, that the loss was about ten million dollars in the city of Portland, that the insurance amounted, so far as had been ascertained, to between three and four millions; and that the contributions up to date were something short of one hundred and fifty thousand dollars.

Mr. WILSON. I hope this bill will not be referred to any committee. I think every member of the Senate can comprehend it without getting the opinion of any committee of the body upon it. It is a very simple proposition. A dreadful calamity has fallen upon the city of Portland. A large amount of the wealth of that city has been destroyed. It is true, as stated by the Senator from Maine, that a large amount of this property has been insured; but hundreds of poor families have lost their all, and are thrown out into the world dependent wholly upon the charity of the people of the country. These calamities will sometimes come upon the country. I do not believe this nation will be any the poorer for giving a little charity to those upon whom these great misfortunes fall. They come once in a while. It can certainly do no great harm, when they do come, for this nation to bestow a little of its means to relieve the destitute and the suffering; and if we do it, I have no fear that we shall be any the poorer for it. It will be an expression of the action of the nation and may have its influence upon the charitable among the people to induce them to relieve the wants of those who have been borne down by this great calamity. Whether it has come by the providence of God, or the folly of man, or from any other influence, it is upon them, and I certainly hope we shall pass the bill introduced by the Senator from Maryland.

Mr. HENDERSON. I apprehend that the Senator from Illinois is hardly in earnest in his motion to refer this bill to the Committee on Contingent Expenses. I cannot imagine what that committee has to do with a proposition of this character. I suppose it is not intended that the money shall go out of the contingent fund of the Senate.

Mr. TRUMBULL. I thought this was a contingency. [Laughter.]

Mr. HENDERSON. I hope the Senator will select some other committee, if he insists upon referring the bill to any committee. I apprehend that the Senator from Maryland intended by the introduction of this bill to make a small appropriation for the immediate necessities of these people. It is objected that we cannot say but that all the sufferers by the fire are fully insured, and that therefore this appropriation may be wholly unnecessary. Now, we all know perfectly well that many months will elapse before the claims can be adjudicated in the insurance offices; and we know, furthermore, that not over one half the property was insured at all, as was very justly remarked by the Senator from Iowa; and in addition to that we know that the property which was insured was not

insured for its full value. Hence it is clear that even if the parties find themselves dealing with solvent insurance companies, able to pay them the amount of the insurance, they will not be remunerated more than one half the extent of their loss.

I do not know the number of families that are turned into tents, their houses having been entirely destroyed.

Mr. FESSENDEN. I think from twelve thousand to fifteen thousand people.

Mr. HENDERSON. I am aware that we have fires all over the country; there have been a great many this summer; but no such extensive fire as this has occurred in our country recently, perhaps not since the great fire in New York in 1835. This is a dreadful visitation, one that perhaps will not occur again in half a century. From twelve to fifteen thousand people have been turned out of doors. Not only have their houses been burned, but I presume that they found it utterly impossible to remove their household and kitchen furniture; and it was all entirely destroyed; and these people are now placed in tents where they are without the necessities of life. The men are kept employed from day to day in endeavoring to provide their families with the necessities of life, instead of running around after broken insurance companies to get the little that they will get from those companies. This is a proposition to appropriate the small sum of \$50,000. If there is a case that upon the face of it appeals to the charity of the members of the Senate, I think this is the case.

I am not very particular in hunting up a provision of the Constitution to authorize me to vote for an appropriation of this character. If I can find that past Congresses have exercised the power and that the present Congress has exercised a similar power, I shall not hesitate, when these poor people are calling upon the charities of the whole country, to go to the extent that I am permitted to go under the Constitution. I think that there are numbers of precedents for this bill. I believe that in addition to the precedents cited by the Senator from Maryland, a few years ago, at the time of the Irish famine, we appropriated money for the relief of the Irish people; at least we furnished vessels at the Government's expense to transport from this country provisions necessary to save those people from starvation. I have not turned to the legislation on that subject, and perhaps there was no actual appropriation of money made by Congress, but relief was afforded in the way I have described; and it is certainly strange, if we can at Government expense relieve the sufferings of the people of another nation, that we cannot relieve the sufferings of our own people.

I hope this bill will not be referred to any committee, and that a test be not made of it, but that it be passed at once. I can see no objection to it. There are numerous precedents for it. Although, as was very properly said by the Senator from Kentucky, this is not a Government of precedents, yet precedents are much in legislation. They at least show that gentlemen whom we must take to be as wise, as capable, and as patriotic as ourselves have done these things heretofore. Of course we necessarily rely much upon precedents. It will not do to say to any lawyer that he must not rely upon precedents. I apprehend that we all rely upon them to a very great extent; and the interpretations of the Constitution given by past Congresses add much force to the arguments that may be made in favor of the proposition before us.

Mr. President, I, for one, would be willing, in consideration of the fact that private charity has done so little for these people, to extend the amount proposed to be appropriated. We desire to put these people as soon as we can in a position to pay their taxes to the Government, and if it becomes necessary to make this appropriation in order to accomplish that object, I apprehend we have the power to do it, and it is good policy to do it. Under these consider-

ations, I hope the Senate will proceed at once to pass the bill.

Mr. WILSON. The unfinished business of yesterday, which is of course the special order for one o'clock, I hope is not to be displaced by this debate, but I will consent to let it go over informally for a few minutes to allow this bill to be disposed of.

Mr. JOHNSON. Let us take the vote.

Mr. DAVIS. If my friend from Missouri will refer me to any provision of the Constitution which, according to my judgment, gives a seeming power to Congress to pass this bill I will vote for it.

Mr. HENDERSON. I do not desire to take up the constitutional question. There is an older work upon this subject perhaps than the Constitution. We find twelve thousand suffering people, poor, unable to provide the means of daily subsistence to themselves; and we are told by an older constitution than this that he that giveth to the poor lendeth to the Lord; and my friend from Kentucky had better be laying up some treasure of that sort. [Laughter.]

Mr. BUCKALEW. I suppose that the proper motion to be supported by those who are unwilling or unable to vote for this measure would be one to postpone it. I see no propriety in referring it to the committee which has charge of the expenditures of the Senate alone.

Mr. President, a few years ago the large and flourishing town of Chambersburg in my State was burned to the ground. The greater part of it was destroyed, not by the act of God, by mere accident or casualty, but by the act of the public enemies. It was done at a time, too, when the Government of the United States had stripped our Commonwealth of her whole armed force; our soldiers were under the control of the military authorities of the United States and remote from our borders. In that defenseless situation, caused by our responding to the appeal of the General Government, our State was invaded, and one of our large, flourishing, wealthy, and interesting towns was swept from the face of the earth by fire. Great destitution and suffering fell upon our people.

If there ever was a case when an appeal could be made to the General Government for relief and for aid because of the destruction of property by fire, that was the case. All the circumstances surrounding that calamitous event would have appealed powerfully to this Government for aid and for relief to our people, because that act was caused by the default of this Government in defending our territory; it was caused by the act of this Government in withdrawing those forces which would have defended us on our borders, and indiscreetly and unwisely disposing of them in such situations that we were not protected.

Not one dollar has this Government contributed to those sufferers or to reimburse our people for the property destroyed on that occasion. If our people of Pennsylvania possessed twelve votes in this body instead of two, it is possible that some appeals would have been made here and strongly pressed—appeals to the charity of the Senate for relief or for reimbursement to us for the injuries which we suffered. Instead of that, sir, what has been done? Private liberality was appealed to to alleviate the suffering which fell upon our people, and subsequently our State Legislature appropriated half a million dollars to pay for the property thus destroyed, and destroyed under circumstances that if there was any fault at all, it was a fault that rested upon this Government, and not upon the government or people of Pennsylvania.

Now, sir, the difficulty, the pressing and sharp difficulty, which is in the mind of every reflecting member against voting for a measure of this kind is, that there is no boundary, no limit to the exercise of a charitable power of this description. You cannot distinguish between cases of casualty or of accident in different parts of the country, and administer a

system of charity from this point upon any intelligent and upon any fair principle of justice. It will always be a system of favoritism if you enter upon it. In responding to some appeal in case of famine in Ireland, or some total destruction of a great city in Venezuela, there are limits to the charity of the nation. This is one of the Powers of the earth, and in its capacity as a member of the family of nations you may, perhaps, infer some color of power for charity of that description. But in exercising this power among the States of our Union, in distributing our charity and our bounty where suffering appeals to us in the various States, we are entering upon a field of expenditure, we are entering on the exercise of a power which has no limit, no boundary, no rule, no equality, and finally, to sum it up in a word, no principle of justice by which you can be certain that your bounty will be administered in a proper manner and that it will reach the proper persons.

Now, sir, we are unacquainted with the special facts of this great disaster. We know that it is one enormous in its magnitude and most afflicting in its character, but I think that the State of Maine herself should stand forward upon this occasion. Being possessed of all the facts pertaining to this great calamity, and being specially interested in it as the governing authority, having jurisdiction in the place where the disaster happened, she should step forward and administer such relief and extend such public bounty to the sufferers in this case as is appropriate; and when she has done that she will have done no more than other States of this Union have done under similar circumstances.

At all events, sir, as at present advised, I am obliged to say that so long as such cases as the destruction of Chambersburg are existing facts in our recent history I am unable to bring my mind to that frame which will enable me to vote for this measure.

Mr. JOHNSON. Mr. President, I regret exceedingly that the honorable member from Pennsylvania should have intimated that in offering this bill there was any political purpose on my part or on the part of any member of the Senate. It seems to me extraordinary that, no matter what the subject is, some of us are very apt to suppose that our associates are influenced by party motives. I rise to disclaim it in this instance, not only in my own behalf, but in behalf of the members from New England. There was not one member of the Senate, as far as I am advised, who had any knowledge of my purpose to introduce the bill—certainly, not one who ever approached me with a request that I would introduce it—until I mentioned it on the very day that the bill was introduced. It was prompted by my own sense of what was due from the nation to the sufferers. Whether New England had twelve votes in this body, or had only, as Pennsylvania, two votes, had no influence whatever on me.

The honorable member from Pennsylvania tells us, not so much questioning the power as questioning the exercise of the power under the circumstances, that he is unable to vote for this appropriation as long as Chambersburg is unprovided for. Whose fault was it that the Congress of the United States did not provide for Chambersburg? Did the honorable member ask for an appropriation of that description?

Mr. BUCKALEW. It would have been laughed at.

Mr. JOHNSON. Laughed at! It would not have been laughed at as far as I was concerned. But, Mr. President, Chambersburg stands in very different situation from that in which the sufferers by this fire stand. That was the result of war, and it is impossible for any Government to indemnify against the consequences of war. The nation would be bankrupt if it undertook to provide an indemnity against injuries resulting from the progress of war; and the honorable member is, I hope, mistaken in supposing that the forces were



withdrawn from the State of Pennsylvania for the purpose of leaving her helpless.

Mr. BUCKALEW. I made no such assertion. I said they were injudiciously placed, so that our defense was not, as it ought to have been, made perfectly secure.

Mr. JOHNSON. That is a military question. I am not so certain that my friend from Pennsylvania, skilled as he is in everything else, is quite equal to the management of armies. Whether they were unskillfully placed or skillfully placed, is a matter in regard to which I should rely more upon the judgment of the men in whose hands the management of the armies was placed than upon the judgment of any civilian. Pennsylvania ought to have been able to protect herself, and she would have been able to protect herself, in the main, although unable to guard against a sudden invasion of her territory by an organized force, such as was the force led on that occasion by the confederates.

But what has that to do with this question? The honorable member does not seem to deny that we should have a right now to provide for the case of Chambersburg, if we thought proper; but he concludes by saying that as long as Chambersburg remains unprotected for, so long, as far as he is concerned, are the people of Portland to remain in a helpless, impoverished, and starving condition.

I rose, however, simply for the purpose of saying that the Senators from New England are no more responsible for the introduction of this bill than is the honorable member from Pennsylvania; in other words, they are not responsible at all.

Mr. DAVIS. I think with the honorable Senator from Pennsylvania, notwithstanding the protest of the honorable Senator from Maryland, that every man's property that has been destroyed by the rebels furnishes a stronger case for the interposition of Congress to indemnify the loss than this case or any other case of casual fire can.

Sir, I respond to the position of the Senator from Pennsylvania that it was the duty of the Government of the United States to protect its citizens in their persons and their property against the aggressions and the destruction of the rebels, and an omission to furnish that protection, by reason of a careless or improvident disposition of the troops or for the want of the necessary force, does not release the Government, in the case of the destruction of private property by the rebels, from the deep and strong obligation, as I conceive, to make full indemnity for the property.

I understand that the honorable Senator from Pennsylvania only adduced the case of the town of Chambersburg, in his State, as an example. It is only one of a million. Every city, every town, every habitation that was left in flames and destroyed, and every instance of the destruction of private property by the rebels, because of the absence on the part of the Government of giving the necessary defense to that property, in my judgment is a much stronger case for the interposition of the Government to indemnify the loss than this or any other case of casual fire can be. I think that the honorable Senator's position in that respect, and his adducing the example from the State of Pennsylvania, furnishes a powerful and, to my mind, a conclusive consideration against the passage of this measure.

Mr. BUCKALEW. If the Senator from Illinois does not choose to insist on his motion to refer this measure, I will submit one to postpone it.

Mr. TRUMBULL. I withdraw the motion to refer.

Mr. BUCKALEW. Then I move to postpone this bill for the present.

Mr. JOHNSON. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. If this appropriation be made at all, I suppose it ought to be made at once. From the very nature of the case the

relief ought to be granted now, if ever; but I am not prepared to vote for it. I wish I could. I cannot see how we can appropriate the public money to local charities. I suggest, therefore, to the Senator from Illinois to move the reference of this bill to the Committee on the Judiciary. The author of the measure is a member of that committee; the Senator from Illinois is the chairman of that committee. He opposes the measure, and its author advocates it. The bill will then go before that committee for its examination, and I presume the committee would be willing to meet at any hour to decide upon it, and if it be within the power of Congress, in the opinion of the committee, the bill can be returned here at once, receive immediate action, and perhaps become a law at this session. If Congress decides that the appropriation ought to be made, I should wish to make it at this session. Therefore, if the Senator from Pennsylvania will withdraw his motion, I will substitute for it a proposition that this measure be referred to the Committee on the Judiciary.

Mr. BUCKALEW. I have no objection to withdraw my motion, but will renew it in case the other is not successful.

Mr. HENDRICKS. Very well. I am not able exactly to see, however, why the Senator from Illinois objects to this bill, because he voted the other day for a bill distributing charities over eleven States of this Union to persons who had been declared to be citizens, to occupy toward the Government the same relation exactly that the people of Portland do; and the appropriation was made because of their necessities. If I had voted for that bill, it seems to me I could not well oppose this; but as I was not able to see the constitutional authority for that appropriation of the public moneys, I am not able to see how we can alleviate the citizens of Portland, however earnestly the case may appeal to our feelings.

As has been well said by the Senator from Pennsylvania, there is no limit to this sort of appropriation. Congress decides that it may relieve in cases of hardship. An appeal will be made to you at every session, and I presume the applications will increase in number and in amount at every session. When we once yield the point that because people in particular localities need money Congress can give it to them, there is then no limit to govern the action of Congress, and that is precisely the case. It is stated that the people in Portland need money, need money because of a terrible affliction. That is all there is of it. Because they need money we are to give it to them, not in the exercise of any power conferred upon Congress by the Constitution, but simply because our charitable feelings are appealed to by their distresses we are to give them money. That is all there is of it. I cannot respond to that appeal; I wish I could; but I cannot see the power to appropriate the money.

Mr. WADE. Mr. President, I was in hopes that we should have determined this question without debate and without any great deliberation, because in my judgment the more you undertake to deliberate on a question of this kind, the more you detract from the merits of your action. If there is any gentleman here whose heart does not prompt him at once to vote for such a bill as this, of course let him vote against it; but let us not put it over, let us not talk over it, let us not drag in the Constitution. Such things have been frequently done. When a great, overwhelming calamity has fallen upon the people in any particular place in the United States, on several occasions, to my certain knowledge, since I have been here, Congress, being in session and having the means, has stepped in and alleviated in some measure the effects of the calamity where it could be done, and the nation never felt that it had performed such most graceful acts. In this case when I know the extent of the great calamity that has fallen on these people, such as scarcely ever fell on a community before, perhaps the greatest by fire

that has ever fallen upon any portion of this country, I feel prompted at once to vote for some measure of relief. All their means of support have been swept without notice from under them in a moment, and they are now at the charity of the world, many of them who were before in independent circumstances. In this District of Columbia when there was extraordinary weather, and great distress fell upon poor people on account of it, Congress has on several occasions to my knowledge stepped in and alleviated their distress, and I never heard that the Government was any worse off for having done it. I never yet heard of a man being injured by an act of generosity like this. These acts are such as commend a Government to the people and show that the Government sympathizes with the welfare of the people and also with their calamities. While they cost you nothing they elevate the Government in the estimation of the people.

I am for doing this act and doing it at once. I did not intend to say a word about it, and I did not suppose when the bill was called up that it would be deliberated upon for a single moment. I supposed that the act would be done promptly. I am ready to do it. I do not fear that it will set an example or precedent that will be dangerous to the well-being of this Government. I wish such precedents could be set oftener than they are; they would endear the Government of the United States to the hearts of the people. Let relief be extended when these great, overwhelming calamities occur. Where they are not so great but that the benevolence of the surrounding communities can relieve the sufferers, there the Government does not step in; but upon a great occasion like this there is no civilized Government that would withhold its aid, and I hope of all others ours will not. I trust the bill will pass.

Mr. SAULSBURY. Mr. President, it is unpleasant to object to a bill such as this which is now before the Senate, because measures of this kind always commend themselves to the heart, even when the judgment generally condemns them. I presume there is not a Senator upon this floor who would not be glad to believe that he had authority to make this appropriation. There can be nobody who does not sympathize, and sympathize deeply, with the people of Portland in their affliction. I speak candidly when I say that if I believed I had the right as a member of the Senate to vote for this bill I would do it, and do it cordially, cheerfully; but, sir, I do not believe that I have the right to cast that vote. I do not believe that the Congress of the United States have the right to appropriate money out of the public Treasury for any such purpose; and entertaining this opinion I could not vote for the proposition, though all my kindred had been inhabitants of Portland and lost their all.

Mr. President, if you have the authority under the Constitution to appropriate money to the inhabitants of Portland who suffered from the recent disastrous fire, you have the same authority to appropriate money out of the public Treasury for the benefit of every private individual in the United States whose house is burned down, whose furniture is destroyed by fire or through accident. The number of people congregated in Portland does not distinguish it in principle from the case of any private sufferer in the United States. If, simply because there are hundreds and it may be thousands of persons in the city of Portland who have suffered from this conflagration, you must vote \$50,000 to relieve them, how can you deny relief upon the application of a single private person who has lost his all by a like affliction? Because a number of individuals assembled at Portland *en masse*, living in a populous town, lost their all, you are to extend bounty to them. If they had lived in different neighborhoods and a fire had occurred and they each separately had lost their all in different States of the Union, you would never have thought of making an appropriation of this kind. The fact that they all happened to be living on the

same spot, near each other, does not distinguish their case from the case of a private individual.

I should not have said a word if the yeas and nays were not to be called upon this question. If the Senate had chosen to pass this bill *sub silentio*, I should have said nothing; but as I have to record my vote I wished to state the reasons why I must vote against the bill, though I feel as sympathetic and as kindly toward these people as any of those Senators who will vote for the appropriation.

Mr. HOWE. I should not have said a word upon this subject if the yeas and nays had not been called for; but as I have got to vote against the bill, and as I hate to give that vote worse than almost any vote I ever gave, I feel bound to say in a few words why I do it.

It seems to me we have made a mistake of some kind. If it is for us to administer the charities of the nation, I do not see why we do not go at it systematically, and ascertain how large the claim of the city of Portland is upon the charity of the nation, and pay it right up. That it has a claim for more than \$50,000 I have no manner of doubt. I suppose there is not a member upon this floor who has not felt called upon to consider the question of his own ability, and to determine for himself how much he could afford to do to relieve that distressed city. Why should individual members have contributed a dollar? Why not vote at once out of the Treasury of the nation whatever is required to make that loss good or to meet the necessities of the people impoverished through that great calamity? But I have always believed that it did not belong to us, to the Legislature, to administer mere charity. I am not troubled by any constitutional scruples. I have no doubt of our constitutional authority to appropriate money for this purpose as well as for any other purpose for which we do appropriate it; but I do not think our constituents intend that we should administer their charities; that we shall determine how charitable they ought to be; that we shall determine how much money they ought to contribute for one charity or another. I do not think they delegated to us any such authority, or that they expect from us any such exercise of power.

The magnitude of this calamity not only appeals to the sympathies of us all, but it is very likely to overwhelm our judgments. An immense amount of property was destroyed. It impresses us as an awful dispensation, and we all feel the necessity of doing whatever is proper to be done to relieve against its effects. It seems to me that we had better, each one of us, however, administer our own generosity, our own charity, and speak for ourselves individually. For myself, distant as that point is, knowing it as well as I once did, familiar with it as I once was, I have felt called upon to consult with my landlady and see how much of my salary I could devote to the matter of furnishing relief. But while I feel at liberty to do that, I do not feel at liberty to vote a dollar of anybody else's money, and I do not think the statute referred to by the Senator from Missouri furnishes us that authority. I do understand, as he said, that those who give to the poor do lend to the Lord and become His creditors; but I understand that that only applies to those who give their own means, their own money. I do not think it applies to those who give other folks' money; and if the Senator really wishes to establish a credit of that kind, I think he had better confine his appropriations to his own pocket and relieve the national Treasury. It is the cheapest mode in the world to get up a character for philanthropy, to give away other people's money. It is very easy to say "yea" on the passage of this bill. I would rather do it as a mere matter of convenience than to give fifty cents out of my own pocket; but as a matter of propriety I think I had a little rather give fifty dollars—though that, to be sure, is a very large sum for me to contemplate—than to say "yea" on the passage of this bill.

Mr. HENDERSON. I am perfectly willing

to make that arrangement with the Senator from Wisconsin. I will vote for the bill and he can give the fifty dollars. [Laughter.]

Mr. HOWE. I guess those are about the best terms I can make with the Senator from Missouri, [laughter,] and I believe I shall accept the proposition. I will give the fifty dollars and let him vote for the bill and I will vote against it.

Mr. EDMUNDS. Mr. President, it is a little singular that the opposition to this measure should present itself in the way that it has done. Our brothers on the other side of the Chamber who have opposed it have desired very much to favor it, except that they are troubled with constitutional objections; and our friends upon this side who are opposed to it are not troubled with constitutional objections, but are opposed to it because it is charity. Now, I agree for one, and as others have said, I should not have said a word only for the yeas and nays, which call upon everybody to explain, that we ought not to devote ourselves to charity; but every nation that professes to be civilized has always in cases of great public calamity, although local like this, exercised what gentlemen now style charity, exercised the political right of disbursing public money and public aid to relieve the suffering which those great public calamities have occasioned; and this Senate within two weeks last past has appropriated public property (which is just as sacred and just as much protected by the Constitution and just as much within the scope of the Constitution as public money) by a unanimous vote and with the hearty good will of everybody to this very object.

Now, it seems to me that these scruples of ours come in strange opposition to the sentiments with which we first set out. We know in despotic Governments—to be sure they have not any constitution—the head of the nation, as in the case of great inundations in France, which are familiar to most Senators, within ten years past has made large appropriations to relieve the people of particular districts that have been drowned out; and in Great Britain large appropriations have been made to relieve the people of the particular districts, in one case where a flood overwhelmed a section, in another where an explosion occurred. It remains for us Americans, then, to be tied up by some sentiment, either of constitutional objection or of charity, to find that it is not in the power of this great people to appropriate any part of its money for the great purpose of relieving a great calamity because it happens to be local.

It is true that all things of this description must be watched with extreme care. We cannot go into a general system of insurance, it is true; but when an overwhelming calamity is visited upon any portion of the people of this country, brought upon them by no fault of theirs, I should be sorry indeed to have the American Congress say that it is not within the scope of its powers or within the scope of its wishes to deal out a small portion of public favor as we have already, and as I hope we shall now, to relieve the immediate pressure of such distresses.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania to postpone the further consideration of this bill.

Mr. HENDRICKS. I thought the Senator from Pennsylvania withdrew that motion.

The PRESIDENT *pro tempore*. The Chair did not so understand the Senator. After the order for the yeas and nays the motion could not be withdrawn except by the unanimous consent of the Senate. The yeas and nays had been ordered on the motion. By unanimous consent the practice is to allow the mover at that stage to withdraw his motion, but not otherwise.

Mr. TRUMBULL. The withdrawal, I think, was before the ordering of the yeas and nays. The Senator from Indiana [Mr. HENDRICKS] was speaking, and he appealed to the Senator

by his side [Mr. BUCKALEW] to withdraw the motion to postpone, and then made a motion himself.

Mr. HENDRICKS. The Senator from Pennsylvania said he would withdraw that I might make a motion to refer to the Committee on the Judiciary, which motion I then made as a substitute for his motion.

Mr. BUCKALEW. I expressed a willingness to withdraw the motion to postpone.

The PRESIDENT *pro tempore*. The Chair so understood the Senator from Pennsylvania, but did not understand him as withdrawing the motion.

Mr. BUCKALEW. I expressed an entire willingness to withdraw the motion to postpone, in order that the other motion contemplated might be made. I have no right to withdraw the motion, I am aware, without the unanimous consent of the Senate. The yeas and nays were ordered prior to the conversation. If there is no objection, I will withdraw the motion in order to enable the Senator from Indiana to submit his.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks leave to withdraw the motion to postpone. Is there any objection? No objection being made, the motion is withdrawn.

Mr. HENDRICKS. Then, sir, I move the reference of the bill to the Committee on the Judiciary.

Mr. TRUMBULL. I ask for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 23; as follows:

YEAS—Messrs. Brown, Buckalew, Creswell, Davis, Doolittle, Guthrie, Hendricks, Howe, Kirkwood, Nesmith, Poland, Riddle, Saulsbury, Sherman, Sprague, and Trumbull—16.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Edmunds, Foster, Grimes, Harris, Henderson, Johnson, Morgan, Morrill, Norton, Nye, Pomeroy, Ramsey, Stewart, Sumner, Van Winkle, Wade, Willey, Wilson, and Yates—23.

ABSENT—Messrs. Cowan, Cragin, Dixon, Fessenden, Howard, Lane, McDougall, Williams, and Wright—9.

So the motion was not agreed to.

Mr. BUCKALEW. I shall not renew the motion which I made before, because I presume the result would be the same as that on the motion made by the Senator from Indiana. I will not occupy the Senate, therefore, on that question. I will content myself with voting against the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. CONNESS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. CONNESS. I just want to say, in explanation of my vote, that I do not see what is the force of the point made by the honorable Senator from Indiana as between this proposed appropriation and that made for the support of indigent persons in the South. The one was the result of war; the other is the result of accident, liable to occur every hour, while the former can, in all probability, never repeat itself, at least we all trust not. I find that difference. But while I think my heart is as warm and as ready to appropriate or give to the extent of my means as that of others, I cannot see how this appropriation can be made for this purpose and any denied that shall be asked hereafter in behalf of either a single citizen who has lost his all, or a number of citizens who shall be equally calamitous with those of Portland.

The question being taken by yeas and nays resulted—yeas 22, nays 18; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Edmunds, Foster, Grimes, Guthrie, Henderson, Johnson, Morgan, Morrill, Norton, Nye, Pomeroy, Ramsey, Stewart, Sumner, Van Winkle, Wade, Willey, Wilson, and Yates—22.

NAYS—Messrs. Brown, Buckalew, Conness, Creswell, Davis, Doolittle, Harris, Hendricks, Howe, Kirkwood, Nesmith, Poland, Riddle, Saulsbury, Sherman, Sprague, Trumbull, and Williams—18.

ABSENT—Messrs. Cowan, Cragin, Dixon, Fessenden, Howard, Lane, McDougall, and Wright—8.

So the bill was passed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had non-concurred in the amendments of the Senate to the joint resolution (H. R. No. 191) for the relief of certain officers of the Army, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN A. BINGHAM of Ohio, Mr. GILMAN MARSTON of New Hampshire, and Mr. NELSON TAYLOR of New York, managers at the conference on its part.

The message also announced that the House of Representatives had non-concurred in the amendments of the Senate to the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. SYDNEY PERHAM of Maine, Mr. PHILETUS SAWYER of Wisconsin, and Mr. MICHAEL C. KERR of Indiana, managers at the conference on its part.

The message further announced that the House of Representatives has passed, without amendment, the following Senate bills:

A bill (S. No. 137) to amend the acts approved August 6, 1861, and July 16, 1862, establishing a Metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes; and

A bill (S. No. 346) relating to public schools in the District of Columbia.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 125) authorizing the construction of a jail in and for the District of Columbia;

A bill (H. R. No. 230) to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863; and

A bill (H. R. No. 780) to protect the revenue, and for other purposes.

The message further announced that the House of Representatives had passed a resolution to close the present session of Congress by an adjournment of the two Houses on the 25th day of July, at twelve o'clock meridian.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the following bills and joint resolution:

A bill (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established;

A bill (H. R. No. 334) to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits;

A bill (H. R. No. 448) to authorize the construction of a railroad through certain land of the United States in Kansas;

A bill (H. R. No. 466) erecting the Territory of Montana into a surveying district, and for other purposes;

A bill (H. R. No. 518) for the relief of the owners of the bark Maria Henry;

A bill (H. R. No. 555) for the relief of the owners of the Hawaiian bark Kamahamaha V;

A bill (H. R. No. 557) to quiet the title to certain lands within the corporate limits of the city of Benicia and the town of Santa Cruz, in the State of California;

A bill (H. R. No. 695) for the relief of William H. Wheeler, of Bangor, Maine;

A bill (H. R. No. 727) to regulate the registering of vessels; and

A joint resolution (H. R. No. 119) for the relief of Isaac Ranney, internal revenue collector for the eighth district of Ohio.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the resolution of

the House for the appointment of a joint committee on retrenchment, with an amendment, in which it requested the concurrence of the Senate.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; and that they thereupon signed by the President *pro tempore*:

A bill (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established;

A bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867;

A bill (H. R. No. 334) to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits;

A bill (H. R. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence;

A bill (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy;

A bill (H. R. No. 448) to authorize the construction of a railroad through certain land of the United States in Kansas;

A bill (H. R. No. 466) erecting the Territory of Montana into a surveying district, and for other purposes;

A bill (H. R. No. 517) for the relief of Liston H. Pearce;

A bill (H. R. No. 518) for the relief of the owners of the bark Maria Henry;

A bill (H. R. No. 521) for the benefit of Henry Horne;

A bill (H. R. No. 526) for the relief of the heirs of Horace I. Hodges;

A bill (H. R. No. 555) for the relief of the owners of the Hawaiian bark Kamahamaha V;

A bill (H. R. No. 557) to quiet the title to certain lands within the corporate limits of the city of Benicia and the town of Santa Cruz, in the State of California;

A bill (H. R. No. 629) for the benefit of William G. Lee;

A bill (H. R. No. 695) for the relief of William H. Wheeler, of Bangor, Maine;

A bill (H. R. No. 727) to regulate the registering of vessels;

A joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore;

A joint resolution (H. R. No. 119) for the relief of Isaac Ranney, internal revenue collector for the eighth district of Ohio; and

A joint resolution (H. R. No. 170) for the relief of Caroline A. Randall, administratrix and widow of Charles B. Randall, deceased.

## CIVIL APPROPRIATION BILL.

Mr. FESSENDEN. I move to postpone all prior orders and take up the bill making appropriations for sundry civil expenses of the Government, according to the notice I gave yesterday.

The PRESIDENT *pro tempore*. Before putting the question on that motion, the Chair desires to present a large quantity of business from the other House for disposition.

Mr. FESSENDEN. Certainly.

## HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 124) authorizing the construction of a jail in and for the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 230) to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863—to the Committee on the District of Columbia.

A bill (H. R. No. 780) to protect the revenue, and for other purposes—to the Committee on Finance.

## PAY OF ARMY OFFICERS.

The Senate proceeded to consider its amendments to the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, which were disagreed to by the House of Representatives and on which the House requested a committee of conference.

Mr. RAMSEY. I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to.

Mr. RAMSEY. I move that the committee on the part of the Senate be appointed by the President *pro tempore*.

The motion was agreed to by unanimous consent.

## WIDOWS' AND ORPHANS' PENSIONS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, which were disagreed to by the House of Representatives, and on which the House requested a conference.

Mr. EDMUNDS. In the absence of the Senator from Indiana, [Mr. LANE.] I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to.

Mr. EDMUNDS. I move that the conference on the part of the Senate be appointed by the Chair.

The motion was agreed to by unanimous consent.

## THE GRADE OF GENERAL.

The Senate proceeded to consider the amendment of the House of Representatives to its amendment to the bill (H. R. No. 3) to revive the grade of General in the United States Army. The amendment of the House was in line twenty of the Senate amendment to strike out before "Army" the words "line of the" and to insert the word "regular."

Mr. WILSON. I move that the Senate concur in that amendment.

The motion was agreed to.

## JOINT COMMITTEE ON RETRENCHMENT.

The Senate proceeded to consider the amendment of the House of Representatives to the amendments of the Senate to the House concurrent resolution for the appointment of a joint committee on retrenchment.

The amendment of the House was to insert after the last word of the Senate amendments the following words:

And inquire into the accounts and statements in reference to the Government debt and the management thereof, and the mode of depositing and keeping of the public money and all accounts relating thereto.

Mr. EDMUNDS. I have no doubt that the Senate amendments cover that ground already, but to save time I move that the Senate concur in the amendment of the House.

The motion was agreed to.

## FINAL ADJOURNMENT.

The PRESIDENT *pro tempore* laid before the Senate the following resolution from the House of Representatives:

*Resolved*, (the Senate concurring,) That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 25th day of July, at twelve o'clock meridian.

Mr. FESSENDEN. I move that that be laid on the table.

Mr. HENDRICKS rose.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. HENDRICKS. I do not propose to debate it, but I wish to ask whether it can be taken up at any time.

Several SENATORS. It can be.

Mr. FESSENDEN. I design to call it up shortly, as soon as I am satisfied as to when we can adjourn. I am not quite satisfied yet that that day can be safely fixed upon.



The *PRESIDENT pro tempore*. It is moved that the resolution lie on the table.

The motion was agreed to.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed, on the 18th instant the following acts:

An act (S. No. 114) for the relief of A. T. Spencer and Gurdon S. Hubbard;

An act (S. No. 222) further to prevent smuggling, and for other purposes; and

An act (S. No. 369) to establish certain post roads.

#### EXECUTIVE COMMUNICATION.

The *PRESIDENT pro tempore* laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856; which was ordered to lie on the table and be printed.

#### EQUALIZATION OF BOUNTIES.

The *PRESIDENT pro tempore*. The Senator from Maine [Mr. FESSENDEN] moves that the Senate postpone the present and all prior orders, and proceed to the consideration of House bill No. 787.

Mr. WILSON. The unfinished business in order is the bill to equalize bounties. Now, the Senator from Maine proposes to lay that aside and take up an important appropriation bill. I do not wish to have a controversy about the priority of business, and especially a controversy with the Committee on Finance and the appropriation bills. In order that this bill, which has been twice in order and crowded out, may have a fair chance, I move that its consideration be postponed until to-morrow at one o'clock, and made the special order for that time; and if that be done, I will agree to give way.

The *PRESIDENT pro tempore*. The motion of the Senator from Maine being now pending, another motion cannot be received until that is disposed of.

Mr. WILSON. I hope the Senator from Maine will withdraw his motion.

Mr. FESSENDEN. The Senator can make his motion afterward just as well. After this bill is taken up I will give him a chance informally to make his motion, if he desires. I will not interpose or attempt to interpose in the way of that bill anything except a bill that we must pass, and which it is important ought to pass immediately, because it must go back to the House. There are two or three of these bills.

Mr. WILSON. I understand that and felt that; and if the Senator will just allow this motion to be made and then take his bill up, I shall be content.

Mr. FESSENDEN. I withdraw my motion for a moment, then, in order to accommodate the Senator from Massachusetts.

The *PRESIDENT pro tempore*. The Senator from Massachusetts moves to postpone the bill named by him, being House bill No. 602, until to-morrow, and make it the special order for one o'clock.

The motion was agreed to by a two-thirds vote.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes.

The message further announced that the House of Representatives had passed, without amendment, the following Senate bills:

A bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company;

A bill (S. No. 277) for the relief of William Cook; and

A bill (S. No. 325) to give certain powers to the levy court of the county of Washington, in the District of Columbia.

#### LEAVE OF ABSENCE.

Mr. RIDDLE. I ask leave of absence for my colleague [Mr. SAULSBURY] during the remainder of the session.

Leave was granted.

#### FUNDING OF THE NATIONAL DEBT.

Mr. FESSENDEN. I now renew my motion to take up the civil appropriation bill.

The motion was agreed to.

Mr. SHERMAN. With the consent of the Senator from Maine, I will informally submit a motion to take up Senate bill No. 300, the funding bill, with a view to have a vote upon it. It was considered yesterday, and will not excite any debate.

Mr. FESSENDEN. If it does not excite debate I will not object. That is an important bill, and it ought to be acted upon.

Mr. SHERMAN. It ought to be passed now if it is to pass this session. It can be taken up informally by general consent.

Mr. FESSENDEN. Let the appropriation bill be laid aside informally if it is to be laid aside at all.

The *PRESIDENT pro tempore*. The bill before the Senate will be laid aside informally in order to entertain the motion of the Senator from Ohio.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to reduce the rate of interest on the national debt, and for funding the same.

Mr. GRIMES. I move to amend the bill by adding the following as an additional section:

And be it further enacted, That all acts and parts of acts authorizing the Comptroller of the Currency or the Treasurer of the United States, with the approval of the Secretary of the Treasury, to designate any national banking association organized under the laws of the United States to become a depository of public money, be so limited and construed as to hereafter prohibit the designation of any such bank as such depository in the District of Columbia, or in any city in which there is established by law an office of the Treasury of the United States known as a sub-Treasury thereof.

Mr. SHERMAN. I trust the Senator from Iowa will not press that amendment. The bill now contains nothing upon which there is any controversy, so far as I know, in either House. It contains important provisions in regard to our public debt which it is admitted must pass, or ought to pass. This amendment introduces a very difficult and controverted question. This question is pending now, and is probably under debate in the House of Representatives, as to whether the national banks may be used as Government depositories where we have places of deposit. The officers of the Treasury are opposed entirely to this provision, and a little reflection will convince Senators that it would be utterly impossible, with our system of internal revenue, to get along if we require all deposits of public money in these large cities to be made in one place. In the city of New York, for instance, this proposition would require all the deposits made by collectors of internal revenue to be placed in the sub-Treasury there. Under the banking law as it has been amended, no disbursing officer can deposit in a national bank. That is well enough; and that is the law, I believe, without the recent act that has been passed. But under the present law collectors of internal revenue can make deposits in certain designated depositories, which are selected by the Secretary of the Treasury, and which have to give security to an amount equal to the deposits. It has also been found to be very useful in negotiating loans to use national banks temporarily as temporary places of deposit.

Let me illustrate this proposition to the Senator from Iowa. Suppose that every collector had to deposit all the money he received

daily in the sub-Treasury. The sub-Treasurer cannot take anything but United States notes. The collectors take checks, certificates of deposit, and all forms of business securities. Nine-tenths of the payments made in the city of New York are made by certified checks. The collector of internal revenue takes them and deposits them in the national depository his immediate neighborhood. If this amendment be adopted, no collector can take a certified check; he cannot take anything but United States notes, and he must carry those notes daily to the sub-Treasury and deposit them there. It is practically impossible to do that. The effect of this amendment, if adopted, will be simply to embarrass and perhaps defeat this bill, because it will meet with opposition. It is contrary to the policy adopted by the Secretary of the Treasury. The United States Treasurers do not desire to keep these accounts for collectors of internal revenue. I trust, therefore, that the Senator will abandon the amendment, or else that the Senate will vote it down. The bill as it now stands contains nothing about which there is any controversy, and it contains provisions which it is very important to pass.

Mr. GRIMES. I have not the slightest disposition to throw any obstacle in the way of the passage of the Senator's bill. So far as I understand it, if I do understand it, I am in favor of it; but I have offered this amendment because it is the only method that I could adopt by which I could get a vote upon such a proposition as this. I do not know how many months ago it was, but several months ago I offered a resolution instructing the Committee on Finance to inquire into the expediency of providing by law that in cities where there was a sub-Treasury the public money should be deposited with the sub-Treasurer, but I have not seen, thus far, that there has been any action taken upon it.

Mr. SHERMAN. There can be no deposit now made by any disbursing officer except in the sub-Treasury. The only deposit that can be made in one of these depositories is by the Treasurer of the United States or the collectors of internal revenue.

Mr. GRIMES. That is so, not by the action of Congress, but by the action of the chief of a bureau or the chief of a Department.

Mr. SHERMAN. No; we passed a law on the subject.

Mr. GRIMES. When?

Mr. SHERMAN. The Senator probably was not present; but about a month ago we passed a law forbidding any disbursing officer to deposit money with a national bank—a law which contains substantially the idea that the Senator advocates. Collectors of internal revenue and the Treasurer of the United States are now the only persons who can deposit public money in these banks in cities where there are Government depositories. It is found to be very convenient to have this privilege continued so far as those officers are concerned. The bill to which I refer was passed and approved long since—at least a month ago.

Mr. GRIMES. Then why not proceed one step further and provide that money belonging to the United States, in New York city, instead of being deposited on the corner of Wall street and Broadway, in the First National Bank, as, I think I have learned, several millions not long ago were deposited, shall be deposited in the sub-Treasury, about one block further down Wall street? Is it any very great inconvenience to the collector to deposit there? Is it any inconvenience to the public? Will not the public regard themselves as a little safer in having the money deposited there in the sub-Treasury than in the bank? Does not the Senator know that the result of depositing in the banks is to cause that very inflation which the Secretary of the Treasury says he is attempting to curb and check in every way? These deposits when they are put in the banks are used for the purpose of making discounts upon, and expanding the volume of the currency; and yet the Secretary

of the Treasury is constantly crying out that he is attempting to curtail the currency and to curtail this expansion, and he instructs the Senator from Ohio to come down here and say that he is opposed to enforcing the provisions of the old sub-Treasury law, which required all the public money to be deposited in the sub-Treasury. I do not know how many more explosions we shall have similar to that which occurred right under our eyes here in Washington; but I predict that they will be numerous if we do not put some restraint upon these deposits. I do not know, for I have not taken the trouble to investigate it—I did not know this bill was coming up, until yesterday, or I should have done so—but I am told that millions at a time have been deposited just across from the sub-Treasury in one of the national banks, the deposits of which were worth to the men who owned the bank four per cent., and who were willing to pay it, or other parties were willing to pay it for them. I think this thing out to be checked. I do not suppose that my amendment will be adopted, but I want to have a vote upon it.

Mr. SHERMAN. Under the existing law nobody can deposit public money in a national depository except a collector of the internal revenue and the Treasurer of the United States since the law has been changed; and that is really the provision of the banking law. Now, the question is whether we shall repeal entirely the power of collectors of internal revenue and the Treasurer of the United States to deposit.

Mr. GRIMES. This amendment only applies to the cities.

Mr. SHERMAN. I know, in the cities where they are deposited. Now, it is convenient to make these depositories in those cities for collectors of the internal revenue, and the Secretary of the Treasury finds it convenient in making loans; and I have no doubt that the deposit of which the Senator from Iowa spoke in this city was made in the course of negotiating a loan. That is the only way in which deposits come there; and it was convenient and necessary to make those transactions by depositing in national banks, or otherwise the Government would lose largely, these deposits coming in the form of checks, certificates, and drafts from various parts of the United States, which cannot be received by the Treasurer.

Now, in regard to the collectors, take the city of New York. There are five collection districts in that city, scattered all over the city. These collectors receive from the people certified checks, certificates of deposit, and various kinds of commercial instruments. I do not suppose that one dollar in a hundred is paid in actual currency. It is done by certified checks. To require the collectors daily to go down into Wall street, and deposit this money day by day with the sub-Treasurer of the United States would be a very inconvenient arrangement for the sub-Treasurer; they are all opposed to it; it would be a very inconvenient arrangement for the people, because the people would then be compelled to gather up United States notes, for nothing else would be received at the sub-Treasury, and it would be very inconvenient for the collectors. It would throw upon them additional responsibility and trouble. All these deposits now are secured by United States bonds, so that under the existing law there can be no trouble. In the case that occurred here of the Merchants' Bank, that occurred by a clear and palpable violation of the law, where a disbursing officer undertook in violation, not only of the law but of instructions, to deposit money in the Merchants' Bank. That is all repealed and modified.

This amendment, if it shall be adopted, will introduce into this bill, which contains but a few simple provisions, a controverted subject upon which there is a difference of opinion. A bill is now pending in the House of Representatives intended to further secure the United States in these deposits, and to limit and qualify the deposits, requiring the Secretary of

the Treasury to draw them down to a certain amount, so that they can never exceed the amount of security. It would be a great deal better to leave this difficult question to be settled in that way. We may not pass that measure at this session, but I suppose we shall do so at the next in some form. I trust, therefore, that this important bill will not be embarrassed by a question entirely foreign to it, relating to the national bank system, for it will very seriously embarrass the bill if it is placed upon it. I hope that the Senator and the Senate will allow the bill, which is admitted to contain good features, to pass without encumbering it.

Mr. GRIMES. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. Before I vote on the amendment I wish to inquire of the Senator from Iowa in what respect it conflicts with the bill which was passed some time ago.

Mr. GRIMES. I understand from the Senator from Ohio that the bill that was passed some time ago prohibited disbursing officers from depositing money in the national banks. This would apply to the collectors of internal revenue as well.

Mr. HENDRICKS. This will leave any officer of the Government to make a deposit in a bank where there is no office of the Treasury?

Mr. GRIMES. Where there is no sub-Treasury they will still go on under the regulations now established; but in cities where there are sub-Treasuries and in the District of Columbia they will be required to deposit the money in the sub-Treasury or the Treasury. It leaves the law precisely as it now stands outside of cities where there are sub-Treasuries.

Mr. HENDRICKS. It does not disturb the present law where there is no sub-Treasury?

Mr. GRIMES. No, sir; not at all.

The question being taken by yeas and nays, resulted—yeas 21, nays 12; as follows:

YEAS—Messrs. Brown, Clark, Creswell, Davis, Edmunds, Grimes, Harris, Henderson, Hendricks, Howe, Johnson, Kirkwood, Lane, McDougall, Morrill, Norton, Poland, Trumbull, Wade, Wilson, and Yates—21.

NAYS—Messrs. Buckalew, Conness, Fessenden, Foster, Guthrie, Morgan, Pomeroy, Riddle, Sherman, Van Winkle, Willey, and Williams—12.

ABSENT—Messrs. Anthony, Chandler, Cowan, Cragin, Dixon, Doolittle, Howard, Nesmith, Nye, Ramsey, Saulsbury, Sprague, Stewart, Sumner, and Wright—15.

So the amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole; and the question will be taken on the amendments collectively unless a division be asked.

Mr. SHERMAN. I should like to have a separate vote on the amendment offered by the Senator from Iowa.

Mr. FESSENDEN. What is the use of that? It has just been adopted by a vote of two to one.

Mr. SHERMAN. Still I shall call for a separate vote upon it. I wish to do my duty at any rate.

The PRESIDENT *pro tempore*. That amendment will be excepted. The question is on concurring in the residue of the amendments made as in Committee of the Whole.

The other amendments were concurred in.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment offered by the Senator from Iowa.

Mr. SHERMAN. I wish to submit to the Senate whether, as a business proposition, it is wise to adopt a provision of this kind, changing the existing law, without the examination of any committee; a proposition that has never received the sanction of any committee; a proposition that is opposed, so far as I know, by every officer connected with the Government of the United States; a proposition that will tie up the hands of the Government of the United States in negotiating loans, which will compel every collector to deposit every night in United States notes every dollar of money he re-

ceives into the sub-Treasury, which will require every collector in the city of New York to go into the neighborhood of the Park every night to deposit money with the sub-Treasurer, and then he must convert certified checks into United States notes, because money cannot be received in other form at the sub-Treasury. I ask whether it is wise at this stage of the session to encumber a bill of an important practical character with a provision not yet fully discussed and matured. If it is possible to apply the sub-Treasury system to the United States when we are collecting internal revenue, I do not believe any officer of the Government is ever so safe; but it has never been done, and it cannot be done as a practical measure. The sub-Treasury system is a wise and judicious one. If we were collecting only at the ports, and gold and silver were the money used, it would naturally go into the sub-Treasury; but when money is collected as it is now by the collectors of internal revenue, partly in national currency, partly in United States notes, partly in certified checks, partly in drafts, flowing in almost every form, I ask is it wise, without reflection, without any examination by a committee, to require the collectors of internal revenue under the sub-Treasury act to deposit every night in the sub-Treasury of the United States in the large cities, where the deposit can only be made in United States notes?

There is another consideration. We are negotiating loans every day. Those loans are mainly negotiated in the city of New York and in other large cities. Now, if this amendment passes the sub-Treasurer, under the law, cannot receive a draft from the city of St. Louis or the city of New York in payment of a loan because the law forbids it. He cannot receive the various kinds of commercial instruments that are used among the people to transmit money, because the law forbids it. The law says that nothing shall be paid into the United States sub-Treasury except United States notes or gold and silver coin. My friend, the Senator from Maine, who was Secretary of the Treasury, knows that when he attempted to negotiate loans under a different system he was constantly embarrassed. He found trouble and delay until eventually he was compelled, in the first instance, to use the national banks even in the cities where there were existing depositories, because the national banks could receive drafts; they could receive bank notes; they could receive certified checks and all the various forms of commercial instruments; and the same stringency was not required in depositing there that was required by the sub-Treasury act.

Now, I ask whether it is wise for the Senate to vote to encumber this bill with a proposition so important as this, making so vital a change in the laws and in the customs of the Government against the wishes of those who are charged with the execution of the law at this stage of the session? As a matter of course I have no feeling about it. If the Senate think it is wise to do so they can pass the amendment. I have done my duty in presenting these objections to it.

Mr. GUTHRIE. I understand the internal revenue is payable in national bank notes. If this amendment be adopted, it will devolve on the collectors to refuse to take them, or they will be under the burden of changing them to legal-tender notes before they can make their deposits. They are not bound to do that now; and I think we ought not to encumber this bill with anything that is to invite discussion or procrastinate it. I hope that the amendment will not be concurred in.

Mr. GRIMES. I understand that the objection of the Senator from Kentucky to this proposition is not on account of any of its demerits, but because he does not want any discussion on the subject; he does not want anything of that kind added to the bill. I do not propose to discuss it, but I wish to say a single word in reply to the Senator from Ohio. I do not profess to be a financier; it may be that all knowledge on questions of this kind is confined to a few men in this body or a few men

out of it, but this is a question that has been before this body for the last six months. I introduced a resolution months ago calling on the Committee on Finance to investigate this whole subject and report to us, not alone in regard to the disbursing officers, but in regard to everybody else. If they thought it was improper for such a law as that to pass, why did they not make a report to us on the subject?

Mr. SHERMAN. I can answer that. I can state that in connection with this banking difficulty there was the difficulty of withdrawing or rather of redistributing the national banking currency. That was the principal question upon which there was great difficulty and great difference of opinion. I introduced a proposition here and sent it to the Committee on Finance; the Senator from Maine [Mr. FESSENDEN] also introduced a proposition, and they were all considered. Finally, my friend from West Virginia [Mr. VAN WINKLE] introduced a proposition covering these points; but we were not able to agree. In the mean time a bill had been maturing in the House, and it was deemed best to let the matter stand until that bill came to us, to see if some system could be adopted with a view to diversify the national banking currency, and also to limit, restrain, and regulate deposits.

Mr. GRIMES. According to the last report that I read, there were between forty-seven and forty-eight millions of the public money deposited in the different banks. Most of this money was in the great commercial centers, principally in New York, Boston, and Philadelphia. There is not much public money deposited in the country banks. This provision, if it be adopted, will not apply to them. It will only apply to those cities where there is a public United States sub-Treasury established by law; and I should like to know what the Senator from Ohio means when he speaks about one of these collectors being compelled to travel fifteen or twenty miles in order to make a deposit?

Mr. SHERMAN. I did not say that. I said to the neighborhood of the Park; and the Senator will see that the collector cannot deposit anything in the sub-Treasury except United States notes, legal-tender notes. He cannot deposit national bank notes.

Mr. GRIMES. Then let the Senator amend his law. Let him authorize the sub-Treasury to receive national bank notes.

Mr. SHERMAN. That would be a very dangerous and very embarrassing thing.

Mr. GRIMES. I believe the Senator was the Senator who carried the banking law through this body, and I trust he did not induce us to adopt any banking system here by which the Government would be injured if it should receive the notes of those banks.

Mr. SHERMAN. The United States must pay its debts always with United States notes, legal-tender notes, when demanded, and has no right to deal with others.

Mr. GRIMES. As I was saying, the amounts deposited in the country banks are small. The Treasurer makes it a rule not to allow a balance of more than \$60,000 to remain in their hands. The bulk of this large amount of money, \$47,000,000, is in the large cities. It is used there as the basis upon which the banks make discounts; and the purpose with which the banks seek to hold these deposits is to inflate the currency, to do the very thing which I understand it is the purpose of this Government to avoid so far as it may be practicable. I may be mistaken, but I should think we had had a warning by the occurrences of the last few months here in this city in this regard. I should think that when a bank, right under the eyes of the Treasury Department, explodes in the manner in which the National Merchants' Bank of Washington did, holding some half a million of the public money in its hands, from which I understand the Government will not realize one farthing, that should be a sufficient warning to us in regard to the proper methods in which we should dispose of the public deposits.

Some inquiry was made of me just before I rose to speak, as to what was the scope of this provision. It does not affect any banks except those within the corporate limits of the cities where there are sub-Treasuries. It is said that it will be some inconvenience to men to procure greenbacks with which to pay their taxes. I do not believe it. If it be, then I am in favor of withdrawing more of your national currency and issuing more of your greenbacks, if they are better than your national currency. That is the way to obviate that. I voted against your national banking system. I voted against every amendment to it. I believed that the true system was to issue your greenbacks. I did not believe there could be any better security than they. But now after you have gone on and created your national banks, when we propose to render the Treasury perfectly secure and safe by providing that the public money shall not be deposited with the national banks but shall be deposited with the sub-Treasuries, the argument is presented to us that we ought not to allow this national currency to be received in the discharge of public dues, and nothing except the national Treasury notes. Well, sir, I had not anything to do with bringing about that condition of affairs. It having been brought about, it seems to me that the safest and wisest way now is to begin to remedy the evils in which we find ourselves involved by restoring the old sub-Treasury system just so far as we can possibly do so.

Mr. POMEROY. The Senator from Iowa I think must be aware that it is the law (and whether he voted for it or not does not make any difference) that persons paying their taxes may pay, and collectors receiving them are obliged under the law to take, the issues of the national banks. In the law creating the national banks we provided that the notes should be received for taxes and public dues. Having provided in the law that they shall be received, and the man who has a tax to pay having a right to pay it in national bank notes, where is the propriety in requiring the man who is obliged to receive them to deposit them where they will not take them? The amendment of the Senator from Iowa obliges the collector to deposit in a place where they will not receive and cannot under the law receive the issues of national banks; and yet the collectors are obliged to take them. It is certainly not only a manifest inconsistency, but a great hardship to oblige a collector to take the currency of the national banks and then oblige him to deposit it where it cannot be received. I think the amendment of the Senator is not only a great hardship but a great wrong.

Mr. GUTHRIE. I am not willing that, through the mistake of the Senator from Iowa, the Senate should misunderstand my position. I did not say that my only objection to this amendment was that it would lead to discussion. I said that one of the objections that I had to it was that it would necessarily lead to discussion and might defeat this bill, which I thought ought to pass. My principal objection was that it throws the burden upon the collectors to change the national bank notes into legal-tender notes by forcing them to be deposited, because the collectors are bound to take them by law for the internal revenue; and that is a burden which we have no right to throw upon the collectors, to make the change and go to these banks to redeem, when the law provides that they should be depositaries and intended that they should be in aid of the collectors of internal revenue. I believe I was the first man who required a strict enforcement of the sub-Treasury law, and in the short period of four years, I think, we manifested that it was the best system, and I still think so. It is likely, if I had been here at the time, I should have voted against these national banks. I think they are the weakest system in our paper currency now; but the object and intention of them no doubt was good.

Now, the gentleman objects that there was \$47,000,000 in the different banks at the last report. Does not he and every financial man

know that having to meet the great amount of the public debt and the interest and the appropriations, the Secretary of the Treasury must necessarily provide himself beforehand with the necessary money to meet them and maintain the credit of the Government? Does he not know that we must have a large amount of money to meet and control any combination of moneyed men against it? We know that when fifty or a hundred millions are to be paid, that fifty or a hundred millions must be provided for beforehand, and it must necessarily be in public depositaries of some kind or other.

Mr. JOHNSON. I voted for the amendment of the honorable member from Iowa, but it was under a misapprehension, as I find, of what the law is, which seems to me to affect the question. I understand now the law to be that a collector is obliged to receive, if tendered to him in payment of taxes, the national bank currency. The law of the sub-Treasury is that they are not to receive anything but legal-tender notes. In a city like New York, or any of the larger cities, the habit is universal of receiving indorsed checks as equivalent to the notes of the bank upon which the checks are drawn. It facilitates the transactions between man and man, and, of course, the transactions as between the tax-payer and the tax-collector. If you compel the tax-collector, as he is compelled by law, to receive the national bank currency, you throw upon him the duty, if you do not permit him to deposit it in the national banks, of converting that currency into legal-tender notes, and if he receives, as he is obliged to receive—I mean by “being obliged to receive” because he cannot well get on without it, without creating very great dissatisfaction and accomplishing no good—if he receives indorsed checks, you compel him not only to go to the bank upon which the checks are drawn, which the bank has the right to pay in national currency, but after he has received that currency for the amount of the checks, he is obliged to go into the market again and convert it into legal-tender notes.

Now, with my friend from Iowa, I see the danger—and that has been practically illustrated recently—of leaving these large amounts on deposit in the national banks; but then there are other things to be considered. As long as the national banks are in existence, and the sub-Treasury system is in existence, we must so legislate and so provide that each shall get on without unnecessarily embarrassing the public; and I do not see, as the whole subject is placed under the control of the Secretary of the Treasury, who may limit the amount in the national banks, and in whom we ought to have confidence, in whom we must have confidence in relation to all matters of the currency, that there would be any very great danger in suffering those collectors to deposit in the national banks, instead of compelling them to deposit in the sub-Treasury, which would throw upon them the burden of converting what you compel them to receive into legal-tender notes. I shall, for these reasons, change the vote which I gave upon the proposition when it was in committee.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. GRIMES. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I have only one word more to say in reply to what has been said by the Senator from Maryland. The great argument that he makes, and I believe that is substantially the argument made by the Senator from Kentucky, is that a great burden will be thrown upon the collector, inasmuch as the collector is now authorized to receive national bank notes.

Mr. FESSENDEN. Compelled.

Mr. GRIMES. Compelled to receive national bank notes, and he cannot deposit them in the sub-Treasury. The whole argument, I believe, of the Senator was predicated upon the provision of the law which compelled the



collector to receive national bank notes in discharge of the national taxes, but did not allow him to pay that kind of currency over to the sub-Treasurer. The law requires, as he tells us, the sub-Treasurer to receive, or justifies him in receiving, nothing but gold and silver and the greenbacks. Whose fault is that? If it is anybody's, it is our own. If the Committee on Finance desire to change that, they can very easily submit us an amendment to that effect. If they see what is the sentiment of the Senate on this subject, they can have this bill recommitted to them, and bring it back to us with a provision of that description. But if the sub-Treasury and the Treasury of the United States are to be administered in the interests of banks, of course such a provision as that will be permitted to remain upon the statute-book, and that will always furnish an admirable argument for never authorizing deposits of any other description and anywhere else except in the vaults of these pet banks.

Mr. President, I have confidence in the banking capacity of the Secretary of the Treasury; but he cannot foresee, in my opinion, the evils that are likely to result, and that will most inevitably result, in my opinion, whenever he succeeds in what he says he is attempting to do, to curtail the currency of the country and bring us back to specie payments. Then will come the time when these deposit banks will not be able to respond to the demands that will be made upon them; and I am disposed to have the record appear in such a shape that I shall not be put in the category of those who voted in favor of allowing the public treasure to remain in their hands.

Mr. FESSENDEN. Mr. President, the banking system is one that we have deliberately adopted. If we propose to repeal it, now that it is in full operation, that is one thing. If we propose to let it stand awhile longer, that is another thing. A part of the contract that we have made with all these institutions is that their notes shall be receivable for all public dues except customs. It is so printed on the back of the notes; and it was a part of the argument in favor of that banking system that it would furnish a currency which might be so receivable and relieve the community with regard to the collection of taxes. The two systems are connected together; and authority was given at the same time, and must necessarily be given, unless you change your sub-Treasury law, if that system went into operation, that those banks might become deposit banks. Now, sir, there are deposit banks all over the country. The honorable Senator from Iowa does not propose to change the law, because he cannot do it, with regard to the banks in his own State or my State or in most of the places over the country; but with regard to a few cities where there are sub-Treasuries, he says you must change the law because there is a sub-Treasury there. I am inclined to think it has some reference rather to the concentration of capital than anything else.

Now, sir, the question is perfectly simple; it is one that everybody can understand. The banking law stands at present. We have neither the time nor ability at this session to abolish the system or to change it substantially. These bills that are paid out must be receivable for all public dues except customs, and they so receivable; what is the result? Take the city of New York, for instance, the great point to which the Senator alludes; and what must a collector do? The people come to him and pay their taxes in these bank notes. He must take them. The law requires him to take them. He cannot deposit them in the sub-Treasury, because the sub-Treasury is not authorized to receive them. It can receive nothing but lawful money, and that is coin and United States notes. What is the result? Every collector becomes a broker, or must employ a broker to change his money for him; and one result, I fear, in the scarcity of these United States notes, comparatively, scattered as they are all over the country, is that it will make them at a premium and these officers will have to buy

them in order to deposit them. That will be the result. You see it is attended with great inconvenience. You compel the collector every day to receive money which he cannot deposit, and to become an exchanger of money in order to get something he can deposit.

Mr. GRIMES. Will the Senator be kind enough to answer me one question?

Mr. FESSENDEN. Certainly, if I can.

Mr. GRIMES. Why is it that we authorize and direct the collector to receive national bank notes, and yet refuse to receive them from him at the sub-Treasury?

Mr. FESSENDEN. Because the original sub-Treasury law has not been changed.

Mr. GRIMES. Why has it never been changed?

Mr. FESSENDEN. Because the genius and industry of the Senator never led him to propose it.

Mr. GRIMES. Or let me ask the Senator if it is not because we are administering the Government in the interest of banks, on the other hand, so as to prevent that kind of currency being paid over into the Treasury.

Mr. FESSENDEN. The Senator is a sensible man, and a fair man ordinarily, but he is very apt to appeal to little prejudices sometimes to carry a point; and this is one of them. Talk about administering the Government in the interest of banks! Who wants to do it? Do you suppose I want to do it? Nobody wants to do it. We administer the Government in the interests of the people of the United States, and desire to do it; but we have established a system, and that system has gone along here until we are in the very last days of the session. That is the amount of it. Now, if the Senator does not like it let him introduce a bill and see if it will pass, that the sub-Treasury shall receive anything and everything, and then this will be consistent; but as it is it cannot be done, unless you change the law entirely. If it is wise to repeal the law organizing these banks, that is one thing. If it is wise to say that we will break our contract and that the notes they put out, which declare on their backs that they are receivable for all public dues except customs, shall not be so received, that is another thing. If it is wise to say that the sub-Treasury, which is an entirely different system, shall receive everything that is offered in the shape of currency, that is another thing. But we are not in a condition to do that at this period of the session. Then the simple proposition is to compel a collector to take a certain kind of money, which he must take, and which makes the largest amount of the circulation now, and say he shall not deposit that money, but at his own risk and hazard he shall every night get something that he can deposit. I hold that that is not reasonable. It will make very great inconvenience and trouble in the large cities. If we are going to change the matter at all it should be radical, and not a mere step in advance which will increase the difficulty.

I will add that although there is always danger, you cannot devise a system that is not dangerous with regard to banks. There will be these failures and these difficulties probably in any system that may be devised. Up to this period there has been much less of difficulty in this system than I anticipated, because it never was a favorite system of mine. I hate to say "when I was in Amsterdam" or anywhere else; but when I was Secretary of the Treasury I saw to it that these large balances were drawn down just as fast as they accumulated, and gave positive orders to that effect, which were carried into execution with very considerable rapidity, much more so than could be used now, because there was more occasion for the use of money. I have no doubt the present Secretary of the Treasury follows the same rule, and the present Treasurer of the United States, who operates that, is a very careful, prudent man, and I have no doubt that he does it in the same way.

Mr. HENDERSON. I voted in favor of the amendment of the Senator from Iowa before; but I shall be compelled now, upon the

discussion of the matter to vote against it; and in doing so, I vote against my very best convictions, and simply in consequence of the previous legislation, which cannot now be altered.

Mr. GRIMES. Why not?

Mr. HENDERSON. Because we have not the time to do it. The amendment of the Senator is correct, provided it were supported by legislation. There can be no question of that. The difficulty is in having two qualities of United States paper to be thrown into the sub-Treasury. I do not say that I would make this paper receivable into the sub-Treasuries, but it certainly is a just and correct proposition in itself, that no public money shall be deposited in banks when you are within range of a sub-Treasury; because long experience, in fact the entire experience of the Government, has demonstrated that whenever we resort to banks to make our deposits, we lose money. The deposits of this Government are now again becoming very large. They are becoming as they were in 1836.

Mr. SHERMAN. This bill will reduce them.

Mr. HENDERSON. I am told by the Senator from Ohio that this bill will reduce them. I am gratified to hear it. I have not been able to give the attention to this bill that I desired to do; but, sir, anything ought to be resorted to that is honest and just and fair to reduce these immense deposits now in the banks of the country. If they be continued I am very well satisfied as to what will be the result. You had an illustration of it in Washington city a short time ago; and you will find that the bank that exploded in this city is not the only one that will explode. You will find that the Government will lose money, as it did in 1836, and then, as in 1837, when the Government has lost immense sums of money, we shall go back by a revulsion, as it were, and adopt the sub-Treasury system and require that Government money shall be collected either in coin or in Treasury notes and deposited only in the sub-Treasuries. I believe that the day is fast coming when we shall have to adopt that system again. I have ever been in favor of the sub-Treasury system, and I am opposed to making deposits of the public money in the banks of the country. I do not know why it is that these very large deposits have been made. I have not given sufficient attention to the subject to know why the Secretary of the Treasury has been unable to use these large deposits in the payment or reduction of the public debt. I cannot tell why we have from fifty to one hundred millions in the banks of the country when we owe some three thousand millions, and a part of it is constantly maturing on our hands. I merely throw out these things to show why I shall be constrained, as it were, to cast the vote that I shall give.

Mr. DAVIS. I voted for the amendment of the honorable Senator from Iowa in the first instance, and I shall vote for it again, because I believe it to be right. I think one of the greatest evils of the day is a redundant, spurious currency; and I think one of the greatest desiderata of the people is to have a reduction of this currency, that it may appreciate by the reduction and under the influence and operation of the reduction. The Senator from Iowa has told us, as we remember from the report of the deposits, that there are some forty or fifty millions of the public money deposited in these national banks, and they form the basis of an expansion of the currency of those national banks proportionably. Any measure that will cut off the deposits of the Government in the banks from being the basis of an increased circulation I will vote for; and I believe the effect, or one of the effects, of the amendment of the Senator from Iowa would be to prevent these deposits from being the basis of circulation issued by those banks.

But it is objected that the collectors are to receive a currency, to wit, the notes of the national banks, which they cannot deposit with the sub-Treasury. That might be remedied in two lines. If gentlemen desire that the sub-Treasuries shall be compelled to receive

the notes of the banks in payment of Government dues, let them provide, by a little amendment, that that shall be the fact; that the notes of any of the national banks shall be received by the collectors in payment of taxes, and when he goes to make his deposits to the sub-Treasury, that the sub-Treasury shall receive those same notes on deposit. It would be the simplest thing in the world for such an amendment or addition to the law to be made, and I think it ought to be made.

My knowledge of banking is so inconsiderable that my opinion is of no value on the subject; but I never had any faith or confidence in this national system of banking, and I have not yet. The events that have taken place have not been of a character to increase my confidence. My distrust in this system of banking has rather increased than diminished. But without regard to the merits of the system, I think that every step and every act of legislation which Congress can adopt that would restrict the amount of the issues of paper currency ought to be adopted. I believe that if these deposits of forty or fifty millions that have gone into the banks, were required by law to be deposited in the sub-Treasuries where they could not be the basis of an expansion of the paper currency, the effect would be to some considerable degree to restrict the issue of paper by the banks; and with that belief of the operation of the amendment, I am in favor of it, and shall vote for it.

Mr. HENDRICKS. I offer this amendment to the proposition of the Senator from Iowa:

And all officers of the Treasury are authorized and required to receive on deposit from all revenue officers any currency that is receivable according to law upon taxes and public dues.

If it had been possible to stand by the sub-Treasury system of the United States as established a number of years ago, I would be the last man perhaps in this body to consent to a proposition of this kind. But laws have been enacted authorizing the receipt of the national bank currency in payment of the taxes and dues to the General Government. Now, while this shall be received upon the taxes of the country, I cannot conceive why it shall not be received in the Treasury upon deposit; and therefore I offer the amendment.

Mr. GUTHRIE. I hope that the amendment to the amendment will not be adopted. The national bank notes are receivable in payment of the internal taxes and all public dues except on imported goods, and they are bound to redeem those notes in coin or legal currency. It was the intention, as I understand, of those who made the national banks, through them, to prepare the country for a return to specie payments. It is in the power of the Secretary of the Treasury, as this money is deposited in the local depositories, to return it to the banks for legal-tender notes or specie. After returning all that is received, he will get the legal-tender notes. Under the scheme of the gentleman from Iowa, he throws the burden of returning or exchanging upon the collectors. It is within the power of the Secretary of the Treasury to have them returned.

I have great confidence in the Secretary of the Treasury; I believe that he intends to do right. I believe that he is honest in his purposes. I know that he must have a considerable amount of money at his command in advance in order to meet the public dues. I know that sometimes it is convenient, when payments are to be made in the West, to have money in the West to draw upon; and when payments are to be made in the North to have money in the North to draw upon. We used to keep money in New York; we used to keep it at St. Louis; and we kept it at Boston, and in all places where there were national sub-Treasuries, and we kept it in the custom-houses and in the land offices; and thus, where it was convenient to a party to receive his money, we were able to draw for it at that place.

It was the intention, through the national bank system, which is no favorite of mine, to reduce the currency and to bring their notes

to the standard of legal tenders or specie as quickly as possible, and through their aid and assistance. It is capable of being so used now, and in six or eight months we should have, under the proper organization of that Department, a currency nearly equal to gold. It would not be my policy to redeem any portion of the greenbacks or legal-tender notes, as they are termed, except the compound-interest notes, while they could be obtained by exchanging the national bank notes for them. I think it is proper to consider the agency that was intended and that these banks are capable of affording in bringing us back to a sound currency with a reduced paper circulation.

I am as much opposed to lending the public money to public depositories as anybody else. I think it ought not to be lent or put out and allowed to stay where it can be banked upon. These bankers seek their own interest, and they induce men who have large sums of money to disburse for the Government to deposit with them by offering interest for the sake of making the difference. That is another great evil which we have remedied by legislation, for we have prohibited disbursing officers from so depositing the public money. I think that hastily, upon an amendment of this kind, we ought not to agree to the radical change that is proposed.

Mr. HENDRICKS. I am exceedingly reluctant to differ with the Senator from Kentucky, for whose opinion I have so much respect; but I do not understand, if it be proper to adopt the amendment of the Senator from Iowa, why it is not proper to adopt the amendment which I propose to his amendment. I understand the difficulty to be just this: the amendment of the Senator from Iowa will require the deposit in the offices of the Treasury of the bills of the national banks, and existing laws do not authorize that. I understand that to be the practical trouble with this proposition. Now, if it be right to receive the bills of the national banks upon Government dues and taxes, why is it not right to pay those bills into the Treasury? That is what I cannot understand. Why are those bills to be left in the hands of a collector or in the hands of a bank? If it is right to collect them at all they ought to be paid into the Treasury. I never dreamed until this morning but what they were payable into the Treasury. I supposed they were deposited in the Treasury like any other currency receivable upon the Government taxes. I understand that it is claimed by the advocates of the banking system that the currency is well secured, but depositors are not secured. Now, the proposition of the Senator from Iowa is to put an end to the system of making deposits by Government officers as far as we can in banks. I think that is desirable. At the same time it is necessary to adopt this proposition, if we adopt his.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment offered by the Senator from Iowa; and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Brown, Creswell, Davis, Edmunds, Grimes, Hendricks, Lane, McDougall, Norton, Ramsey, Trumbull, Wilson, and Yates—13.

NAYS—Messrs. Anthony, Buckalew, Chandler, Conness, Cowan, Fessenden, Foster, Guthrie, Harris, Henderson, Johnson, Kirkwood, Morgan, Morrill, Pomeroy, Sherman, Sprague, Stewart, Sumner, Van Winkle, Willey, and Williams—22.

ABSENT—Messrs. Clark, Cragin, Dixon, Doolittle, Howard, Howe, Nesmith, Nye, Poland, Eiddle, Saulsbury, Wade, and Wright—13.

So the amendment was non-concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

Mr. SHERMAN. I move to amend the title of the bill so as to make it read, "A bill for the payment of the public debt." It all relates to the public debt.

The motion was agreed to.

# CIVIL APPROPRIATION BILL.

Mr. GUTHRIE. I move to take up the joint resolution (S. No. 123) in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine, reported from the Committee on Finance.

The PRESIDENT *pro tempore*. The civil appropriation bill, which was laid aside informally by common consent to take up the bill of the Senator from Ohio, is now before the Senate.

Mr. FESSENDEN. I think I must go on with that now.

Mr. GUTHRIE. Well, sir, I give way to you.

The PRESIDENT *pro tempore*. The bill laid aside informally will now be proceeded with.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes.

Mr. FESSENDEN. In order to save time, I suggest that the amendments reported by the Committee on Finance be acted upon as they are reached in the reading of the bill, so as to avoid the necessity of two readings.

The PRESIDENT *pro tempore*. That course will be taken if there be no objection.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Finance was in section one, after line ten, to strike out the following clause:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. FESSENDEN. Perhaps I ought to explain why the committee struck that out. Under a law which we passed in regard to a telegraph company to the Pacific, we by a sort of contract declared that we would appropriate \$40,000 for ten years for this service, and this is one of the annual appropriations to meet it; but it was said on very good authority that that company had in fact broken its contract, and broken it habitually. The provision in that bill was that they should not charge over three dollars for a communication of ten words, I think, to California, and I am told that since its consolidation with the other telegraph companies of the country they charge enormously. On a communication to California over the line they charge some five dollars in addition, I believe, so as to make it eight dollars in fact for a communication across the continent. We thought that was an entire evasion of the law upon the subject, and that it was best to strike out this appropriation until the matter was either corrected or explained.

Mr. McDOUGALL. I should like to be informed by the chairman of the committee what his information is as to these charges.

Mr. FESSENDEN. I refer the Senator to the Senator from Ohio.

Mr. SHERMAN. I can refer my friend to his own colleague and the Senator from Oregon, [Mr. WILLIAMS.] Perhaps they can tell the Senator as much or more about it than I can. I am informed, however, that the tax on a message to San Francisco is something like eight dollars. The Senator himself will probably know.

Mr. McDOUGALL. Is there any limitation on them?

Mr. SHERMAN. In the charter, in the law which gives them this \$40,000 annually, there is a limit of three dollars on a message from St. Jo. to San Francisco.

Mr. McDOUGALL. Sacramento.

Mr. SHERMAN. Perhaps to Sacramento. We thought that charging this enormous amount on this end of the line was an evasion of the law.

Mr. McDOUGALL. I think from here to San Francisco makes the difference.

Mr. WILLIAMS. As reference has been made to me, I will say that I know that the charge for telegraphing ten words from Washington to Portland, Oregon, is \$10 50; and from Portland, Oregon, to Washington, it is \$11 50 in gold, and the company decline to

receive anything in payment for telegraphing from Oregon to Washington except gold. I know that this is an exorbitant charge. It has been represented that the company did not charge more than they were allowed to charge by the charter from the western boundary of Kansas to the Pacific ocean, but that the additional charges were made for the telegraph line between Washington and the western boundary of Kansas; but I have since heard on that point, upon which I do not profess to have any knowledge, that this company is consolidated with these other companies, and that in point of fact all these exorbitant charges go to this identical company.

The amendment was agreed to.

The next amendment was in section one, line seventeen, after the word "hundred" to insert the words "and fifty;" so that the clause will read:

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, \$150,000.

The amendment was agreed to.

The next amendment was in section one, line sixteen, after the word "extension," to insert "grading and fencing the grounds, &c.;" so that the clause will read:

For completion of north wing of Treasury extension, grading and fencing grounds, &c., \$300,000.

Mr. FESSENDEN. I move to amend that amendment by striking out "&c.," and by inserting the word "and" before "grading."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in section one, after line fifty-seven, to insert the following clause:

For the preparation, printing, and publishing, at the Government Printing Office, of the report of the medical statistics in the Bureau of the Provost Marshal General, to be expended under the direction of Surgeon J. H. Baxter, \$60,000.

Mr. ANTHONY. I move to amend the amendment by striking out after the word "general" the words "to be expended" and inserting "to be prepared." The amendment of the committee takes the whole superintendence of the business of the office, so far as this work is concerned, away from the Superintendent of Public Printing, to whom it belongs, and gives it to this surgeon.

Mr. FESSENDEN. We have the precise language of the preceding clause.

Mr. ANTHONY. No; the preceding clause does not use the words, "to be expended under the direction," but "under the direction of the Surgeon General;" but I shall move, when the proper time comes, to alter that clause.

Mr. FESSENDEN. I do not know that I have any objection to the Senator's amendment.

Mr. ANTHONY. There has been a great deal of difficulty from various officers who are intrusted with making reports interfering in the way in which they shall be published, as uninstructed men naturally make them of much more expense to the Government.

Mr. FESSENDEN. Who will settle the question as to the style of it?

Mr. ANTHONY. The Superintendent of Public Printing is the man to settle that question.

Mr. FESSENDEN. As to the style of the report?

Mr. ANTHONY. Of course he would do it on consultation with the proper officer, but he is the only one who knows the way in which it should be done.

Mr. FESSENDEN. I will not object to the amendment.

Mr. ANTHONY. There is one other amendment that I will suggest to the Senator from Maine. The expenditure in the preceding clause of \$60,000, and I suppose it is the same with regard to this amendment, is for the whole cost of the work.

Mr. FESSENDEN. This last is.

Mr. ANTHONY. And so is the first. As

the clause was originally reported to the House of Representatives, the words "at the Government Printing Office" were not in, and the idea was to have this work printed in Philadelphia or outside somewhere; but the House very properly directed it to be done at the Government Printing Office, but did not alter the amount. I do not know that there will be any harm in voting that amount, but it will not require anything like that. The appropriation for the Printing Office comes under the general appropriation, and it requires no special appropriation except for the work which the Surgeon General will have to do, which, I suppose, a few thousand dollars will cover.

Mr. FESSENDEN. Then that same reason would apply to the second clause appropriating \$60,000.

Mr. ANTHONY. I should suppose that \$10,000 would be enough there.

Mr. FESSENDEN. We supposed this would cover the two.

Mr. ANTHONY. This covers the entire printing, in fact, of the Surgeon General's report. There is a typographical error in the clause. It speaks of the "first volumes of the Medical and Surgical History;" it should be the "first volume." The cost of the first volume we estimated at \$50,000 when the resolution was before the Committee on Printing; but it is now made \$60,000.

Mr. FESSENDEN. If the Senator will make the amendment he proposed to the second clause, we can look at the other afterward.

Mr. ANTHONY. Then I move to strike out, in lines sixty and sixty-one of the amendment, the words "to be expended" and to insert "the report to be prepared;" so that it will read:

For the preparation, printing, and publishing, at the Government Printing Office, of the report of the medical statistics in the Bureau of the Provost Marshal General, the report to be prepared under the direction of Surgeon J. H. Baxter, \$60,000.

The amendment to the amendment was agreed to.

Mr. HARRIS. I should like to have some explanation of this provision. It seems to me rather extraordinary. We have here, in the first place, a provision for expending \$60,000 for the publication of a medical and surgical history of the rebellion by the Surgeon General. That I can understand very well. The propriety of it I can understand very well. Now, we have got a sort of counter-provision for expending an equal amount of money for publishing medical statistics, which I should think come under the same head, by a Surgeon Baxter, of whom I never heard—an entirely different affair, it seems. Now, is it important that we should have these two medical works? I merely ask for information. The proposition seems to me to be a novel one.

Mr. FESSENDEN. The second will undoubtedly be a very valuable work, as valuable as the first. They are not of the same character. The one consists of surgical operations and discoveries which have been made, which are considered of very great interest in the profession; the other is a collection of statistics of the health, age, height of the men, and everything kept in the Provost Marshal General's office from the beginning of the war, and is said by competent authority to be of very great value and interest. This surgeon, Mr. Baxter, has been the person who has been engaged in preparing it, and who has had the care and charge of it, and I suppose that he looks upon it as a matter of honor that he should be allowed to finish the work. He is a young man of ability, and a young man of great zeal, and has done this work himself in the office of the Provost Marshal General, where alone it ought to be done. He has been employed there for years in the preparation of this work, and has brought it almost to a state of completion.

Mr. HARRIS. Who has recommended it?

Mr. FESSENDEN. It was recommended by several gentlemen who were acquainted with

him and knew the facts about the work. The result is, as I understand, that if this is not done, the same amount will be expended for doing it in another direction, and it was deemed to be but just to Surgeon Baxter that he should continue to have the supervision of the work until it was completed. That is the only question about it. The only question is, whether after having given the labor of three years, constant, unremitted, and able, to this work, it shall be taken from him and put into the hands of somebody else just at the time when it is brought to a conclusion.

Mr. HARRIS. I will inquire whether this has the approbation of the Surgeon General.

Mr. FESSENDEN. No, sir, I think not; because the Surgeon General would like to take it into his own hands, and it was not deemed just or right that he should take it.

Mr. HARRIS. Has it the approbation of the Provost Marshal General?

Mr. FESSENDEN. I understand that it has, and also of a number of gentlemen who understand the whole question well. It was brought to the attention of the committee, and they were unanimous in thinking it ought to be done.

Mr. EDMUNDS. I happen to have some personal knowledge respecting this matter, and as the Senator from New York is desirous to know who Surgeon J. H. Baxter is, I will inform him that he is a Vermonter, if that is any objection to him. This young man is a surgeon of the highest reputation and ability in his profession. He came to this war as a surgeon, and from the beginning was attached to the Provost Marshal General's office, where he has labored, as the Senator from Maine has said, with the most distinguished ability and faithfulness, performing the duties relating to it, from the beginning to the end, as well as attending the hospitals here; and under the direction of the Provost Marshal General he has accumulated these statistics, by work night and day, in season and out of season, until he has systematized and put in the form of tables and statistics the physical history, for it amounts to that, of the whole recruiting service of the United States. Every man that was rejected or admitted in all the recruiting stations of the whole Union appears in his statements and tables; that is, the results of his physical examination, making, when it is finished, as it is almost finished, by far the most complete and elaborate and perfect work of the description, showing the physical strength and power of this nation, that ever was published or ever was got together in any nation of the world. Now, having almost accomplished this most valuable labor, it is proposed by some party or other to deprive him of the honor of it by closing his office and turning it over to the Surgeon General, under whose broad phylacteries it goes into the general account of the great deeds of the Surgeon General. I do not wish to detract from the Surgeon General. I do not know that he is personally aware of this performance.

As the Senator from Maine has said, this does not increase the expenditures. No money is to be expended for the benefit of Surgeon Baxter. He does not ask it; but he does ask, and his friends have a right to ask, and it is only just, that the honor which attaches to his labors shall belong to him, and not to the Surgeon General. The money must be expended, as it ought to be, for the public good; and the simple question is, as the Senator from Maine has said, whether Surgeon Baxter shall have the superintendence of completing these statistics, rather than be deprived of it after he has performed the labor? That is all there is in the question.

Mr. ANTHONY. It is very plain, I think, that these two publications are in some degree rival publications.

Mr. FESSENDEN. No; they are of a different character entirely.

Mr. ANTHONY. I know that the idea of the Surgeon General was to print five volumes. This bill provides for the first volume, and one



of the volumes was to contain tabular statements of the same nature as those that I suppose are provided for in the amendment of the committee. I have no doubt from what has been said that this Surgeon J. H. Baxter should have the charge of that portion of the work; but I think it is unnecessary and unadvisable to make two works.

Mr. EDMUNDS. If the Senator will allow me, I desire to suggest that the Surgeon General has in his department no records or statistics whatever touching the subject of the physical examination of men for admission into the Army, which shows the strength of this nation. All that he has is records touching the diseases of the Army, men who have been admitted and who have become the victims of disease or of wounds. Therefore, the two species of statistics, so to speak, have no opposition to each other and no duplication of each other. The one relates to the physical condition of this whole nation, as shown by these examinations of men, both admitted and rejected; while the Surgeon General's office, from the very nature of the case, only has the records of the wounds and diseases of the soldiers actually in service; so that there is no incompatibility or hostility in the two matters whatever.

Mr. CONNESS. That is entirely true, as stated by the honorable Senator from Vermont; but I presume that the records belong to the Government, and that when the Government is about providing for a medical history of the rebellion, under the direction of the Surgeon General, we can if we see fit (and it appears to me it might be done with great propriety) transfer the data described by the Senator, which I know exist and come from another source, to the Surgeon General's office, so that the whole publication may be made together. There is no necessary inconsistency in doing that, because of the different sources from which the information comes. It occurred to me before the Senator from Rhode Island called attention to it that it looked very much like the character of a separate job to provide for this second publication. I happened to be one of a number invited to confer in 1864 in the War Department on the subject of the disabilities of men entering the military service or called upon to enter the military service, and understand very well the difference in the sources of the information as well as the difference in the class of information; but they are, nevertheless, statistics of the same kind and character; one simply going to the fitness or unfitness of men for the Army, and the other to wounds and disabilities received in the service.

Mr. ANTHONY. The proposition to publish a medical and surgical history of the rebellion was first brought before the Senate by a resolution which was referred to the Committee on Military Affairs. It was then reported back from them with a recommendation that it be referred to the Committee on Printing, and it was so referred. The proposition was to print the medical and surgical history of the war in five volumes; and it was to include—I certainly so understood—what is provided for in this amendment, for which \$60,000 is to be appropriated. The Committee on Printing were at first all opposed to the publication on account of its great expense, involving an estimate of \$250,000, and it would probably cost considerably more than that; but upon further examination, and upon looking at the museum of the Surgeon General, and looking at the records of his department, I believe we all came to the conclusion that it would be advisable to publish it.

This war has been remarkable in everything, and in nothing more than the development of surgical and medical science. There have been operations performed in the war that have been uniformly unsuccessful heretofore. There have been six successful operations of amputations at the hip joint, and I believe medical history shows but two previous successful operations. Out of thirty-one attempts in the Army, six were successful. I suppose this information that the Government has be-

longs to the world, and that in the interests of humanity and civilization we have no right to suppress it; but I want the Senate to understand what is going to be the cost of printing it. It will not cost less than \$300,000. I am in favor of going on with the work. I think it is due to science; I think it is due to the world; and I think it reflects the highest credit upon our medical service; but I think it ought to be put into one work. I think that this portion for which an appropriation is made in the amendment, should be under the direction of Surgeon H. Baxter after the statement which has been made; but I think it ought all to be put together in one publication.

Mr. FESSENDEN. There will be no difficulty about that; they can arrange that between them.

Mr. ANTHONY. I am afraid that they cannot arrange it between them. It looks to me as if there was hostility between the Surgeon General and this surgeon.

Mr. FESSENDEN. This will give each man the credit that is due to him.

Mr. ANTHONY. But if each man is to print his portion under his own direction—

Mr. FESSENDEN. They are only to prepare it. We put it all under the direction of the Superintendent of Public Printing, and that matter will be arranged by him.

Mr. ANTHONY. If they have their own way, they will have two volumes just as different as they can make them with type and paper, no doubt.

Mr. SHERMAN. I think it would be well enough to adopt the idea of the Senator from Rhode Island and require that this should be printed in connection with the report of the Surgeon General—printed in the same style and bound in the same manner as the report of the Surgeon General.

Mr. FESSENDEN. My impression is that it is not necessary to do that. I think we cannot settle that here. One is necessarily a very expensive work; it consists in a very great degree of plates, photographs, and things of that sort. A part of the Surgeon General's report cannot be done at the Printing Office; that will have to be done under the direction of the Surgeon General himself. That which will have to be done elsewhere involves a very large portion of the expenses. Like all anatomical and medical works, showing bones, diseases, &c., it must be full of illustrations from plates; and at the Surgeon General's office they have been finding artists among the soldiers themselves and preparing that matter, and it must necessarily involve great expense. I do not believe that \$300,000 will meet the whole expense of it. This, on the contrary, is a collection of facts and tables. It is not more expensive than other printing. I do not believe it will require the style of printing that the other report, that of the Surgeon General, does. It is, as the honorable Senator from Vermont has stated, a collection of facts showing the physical power of the country from the description of the men. I have seen some of these tables; they are very interesting and got up with a great deal of skill.

It must be some time before these publications will begin to any considerable extent, and at the next session of Congress, if it is thought proper to connect the two works together, it can be done; but I apprehend that we should make a mistake now in declaring that this work of Dr. Baxter shall be done in the same style with that of the Surgeon General. They are works of an entirely different and distinct character. The Committee on Finance thought that under the circumstances it was a mere matter of justice to this young man, who is a very able young man, and a very excellent young man, and has devoted his days and his nights to this work, that just on the eve of completing his labors it should not be taken out of his hands and go to swell the already high and exalted reputation of others, to whom, perhaps, reputation is not of so much consequence as it is to him. Under these circumstances the Finance Committee unanimously

came to the conclusion that this appropriation ought to be made in this way. I think it is a just conclusion, and I hope the Senate will adopt it.

Mr. ANTHONY. If the work is all completed, why do you want an appropriation of \$60,000?

Mr. FESSENDEN. I do not know whether it will all be needed or not. That we shall inquire about before it gets through. Let the amendment stand as it is now, and of course nothing will be expended that is not necessary; it is under the direction of the Superintendent of Public Printing.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Finance was to insert after line sixty-eight of section one the following clause:

For repairs of the custom-house and post office and the walks and fences adjoining the same, at Middletown, Connecticut, \$5,000, the same to be expended under the direction of the Secretary of the Treasury.

Mr. FESSENDEN. That is a transfer from the end of the bill where the item is improperly placed. The committee were satisfied that it was advisable to make the expenditure.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was to strike out the following item, from line two hundred and forty-four to line two hundred and fifty, of section one:

For compensation to the Commissioner and chief clerk of the General Land Office (to be apportioned by the Secretary of the Interior) in consideration of the increased duties devolving on them from June 7, 1865, to December 31, 1865, in connection with the census of 1860, \$1,750.

The amendment was agreed to.

The next amendment was to strike out the following item, from line two hundred and seventy-two to line two hundred and seventy-five, of section one:

To enable the Commissioner of Public Buildings to employ a suitable electrician to take care of and operate the lighting apparatus of the dome of the Capitol, at a salary of \$1,500 per annum, \$1,500.

The amendment was agreed to.

The next amendment was to insert after line two hundred and seventy-five of section one, "for pavement in part in front of the War and Navy Departments to be replaced with stone flagging, \$13,000."

The amendment was agreed to.

The next amendment was to insert after line three hundred and seventy-four of section one, "for watchman for Franklin square, \$600."

The amendment was agreed to.

The next amendment was to insert the following clause after the item just adopted:

For the compensation of eight extra clerks in the office of Indian Affairs, under the acts of August 5, 1854, March 3, 1855, and March 3, 1855, for the fiscal year ending June 30, 1857, \$11,200.

The amendment was agreed to.

The next amendment was to insert after the previous item "for the continuation of the work upon the north portico of the Patent Office building, \$50,000."

The amendment was agreed to.

The next amendment was to insert the following clause after the one just adopted:

For additional contingent expenses of the Northeast Executive Building, or the building occupied by the Secretary of State, including extra watchmen and laborers, \$6,000.

The amendment was agreed to.

The next amendment was to insert after the item just adopted the following:

For salaries of commissioners under an act to provide for the revision and consolidation of the statute laws of the United States, approved June 27, 1866, and for clerical services, and other incidental expenses, the printing to be done by the Government Printing Office, \$25,000.

The amendment was agreed to.

The next amendment was to insert the following item after the clause just adopted:

To enable the superintendent of Indian affairs for California to collect information and testimony in regard to the claim of George McDougal for beef furnished Indians in the lower part of California in the year 1852, \$500, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was to insert after the item just adopted the following:

For the purchase of a site, and the erection of a building at St. Paul, Minnesota, for a custom-house, post office, the accommodation of the Federal courts, and other necessary Government purposes, the same to be expended under the direction of the Secretary of the Treasury, \$100,000.

The amendment was agreed to.

The next amendment was to insert after the previous item the following:

For the payment of temporary clerks of the first class in the office of the Commissioner of Pensions, under the direction of the Secretary of the Interior, for the fiscal year ending June 30, 1867, \$25,000.

The amendment was agreed to.

The next amendment was to insert after the previous item the following:

To enable the Secretary of the Interior, at his discretion, to rent such rooms in the vicinity of the Department for the use of the Pension Office as may be deemed necessary for the transaction of the business of that office, \$3,000.

The amendment was agreed to.

The next amendment was to strike out from line four hundred and eighty-three to line four hundred and ninety-six of section one, in these words:

Providence hospital, District of Columbia:  
For the purpose of aiding in the erection of an additional building to the Providence hospital, in the city of Washington, \$30,000: *Provided*, That if the said property should ever be sold or diverted from the uses expressed in the act of Congress entitled "An act to incorporate Providence hospital, of the city of Washington, District of Columbia," approved April 8, 1864, then the sum of \$30,000 shall be first paid out of the proceeds thereof into the United States Treasury to reimburse the sum hereby appropriated.

Mr. FESSENDEN. The Committee on Finance recommended the striking out of that clause, for the reason that there was no plan before them and they did not know that one had been drawn, and they had no estimates and no proper information to guide them in regard to it. The provision seemed to be very loosely drawn. Since then the members of the committee have looked into it, and they have come to the conclusion that it may be as well to retain the clause, on the information they get, with this proviso inserted after the word "dollars," in line four hundred and eighty-six:

*Provided*, That no portion of said sum shall be so expended until the plan of said building is submitted to the architect of the Capitol extension, and he shall certify that it is well adapted to the purpose contemplated, and that its cost will exceed \$60,000; and the said sum of \$30,000 shall only be paid in installments as an equal amount derived from other sources shall be expended in said building. And the said building is hereby dedicated to the relief of sick and indigent persons without distinction as to creed or color, and shall remain under the care of the Sisters of Charity as incorporated under the act entitled "An act to incorporate Providence hospital in the city of Washington, District of Columbia," approved April 8, 1864.

Mr. MORRILL. Not this precise provision, but an application was brought before the Committee on the District of Columbia for a similar provision in favor of another institution of this kind chartered at the present session. The act was approved on the 1st of June, incorporating a hospital of a similar character; I do not remember its name. The question which was presented to the committee is this: these private corporations come here and ask simply for a charter; they call it a private corporation; it is a private charity; they desire to be associated for the purpose of holding real estate and transmitting the same; they do not ask to be endowed; and there was no expectation on the part of the Committee of the District of Columbia when either of these acts of incorporation was granted that they would expect to be endowed by the Government. It seemed to be an indifferent affair that the Sisters of Charity should be granted corporate powers to enable them more successfully, as was supposed, with greater facilities to accomplish the object proposed, which was in part a public object of course, but so far as they were concerned it was a private affair.

Now, I do not rise so much to oppose this amendment or to advocate it as to state the general facts. The Committee on the District

of Columbia having this application from another institution and finding that the Committee on Finance or the Committee of Ways and Means of the House had seen fit to make an appropriation to this institution, and thereby to that extent establishing the principle that we would endow these private corporations here, instructed me to offer an amendment to this bill endowing the institution which we incorporated this year, and which I propose to do according to the instructions, provided it is the sense of the Senate that these institutions are proper subjects for endowment on the part of the Government of the United States.

I ought to say, perhaps, that on examination the Committee on the District of Columbia came to the conclusion that this was not the duty of the Government in any sense, that these corporations were not in a situation to ask to be endowed. This Providence hospital was incorporated in 1864. The incorporators were highly respectable persons, females resident here in the city of Washington, and the object is highly commendable undoubtedly, and it has commended itself to the private charity of the city. The other corporation to which I allude, incorporated at this session, so recently as last month, is conducted by gentlemen of the highest respectability; it is in the hands of gentlemen of very great skill, and I have no doubt it will be of very great public interest.

But the question after all is, whether the Congress of the United States hold that this class of institutions are the proper subjects for endowment out of the Treasury of the United States. That is the question to be settled by the Senate. If that is to be so, then of course we ought to be a little more careful how we grant these charters. We have been in the habit, when application has been made by respectable persons who desire to be associated for the better facility of dispensing charities, to say that there is no harm in their having a charter; and we have not been in the habit of supposing that we incurred any responsibility or any liability by giving such a charter; but we are advised now that they are our adopted children, and that by the act of incorporation we do incur a responsibility and that an implication arises that they are to be endowed.

Now, sir, I do not rise to oppose the amendment of the committee, nor do I rise to advocate it. I only desire to call the attention of the Senate to the general subject; and if the Committee on Finance and the Senate feel that this is a proper subject of endowment out of the United States Treasury, then I shall not object, but shall only endeavor to follow it by such other legislation as will put all these institutions upon an equality.

I ought to observe, I think, in this place, that I am afraid there has not been quite as much care in referring this question to the appropriate committees for examination as there ought to have been. I think it is quite impossible that a Committee on Appropriations could have the specific information to enable them to act intelligently in all the cases of the institutions that are somewhat kindred and entitled to the bounty of the Government situated in the District of Columbia; and I think all the appropriations asked for ought to be referred to the appropriate committees for special examination. I believe they have been to some extent hitherto, but at the present session I think not. It will be found that the appropriations for charitable institutions in the District of Columbia are very large. The Congress of the United States supports to a very great extent all the public charities in this city; in addition to that, it pays the expenses of the entire administration of justice of the two cities and of the whole District, jails, penitentiaries, &c. It is for the Senate to say how far they will go in this direction.

Mr. FESSENDEN. The difficulty, if there is any, about these matters, arises from the fact that these bills come to us at the very last moments of the session, necessarily precluding us from the possibility of making the examination of them which we should be very glad to make,

and we therefore have to rely on the previous examination made by the Committee of Ways and Means. Where the items are according to the estimates, we can look at them and see if they are the amounts estimated for by the several Departments. If they are estimated by the several Departments, and we find everything correct apparently, and the Committee on Ways and Means, who have had the getting up of the bill, recommend them, it is not in our power to go over and make a reexamination. They send us the papers which they examined; but there is no time to go through them all. The difficulty arises from the fact that this bill is put off to the end of the session. It is a sort of omnibus bill; it gathers up all the ends and odds, and necessarily passes, and I am afraid sometimes with material defects in it.

In regard to this hospital, we find the appropriation for it here in the bill. It comes from the Committee of Ways and Means of the House. This proviso is a very peculiar one: "that if the said property should ever be sold or diverted from the uses expressed in the act of Congress entitled 'An act to incorporate Providence hospital, of the city of Washington, District of Columbia,' approved April 8, 1864, then the sum of \$30,000 shall be first paid out of the proceeds thereof into the United States Treasury, to reimburse the sum hereby appropriated." We examined the act of incorporation to see what those "uses" were, and there were no "uses" at all; it was simply an act incorporating certain persons as trustees of Providence hospital. That was all there was of it. We had no plans; we had no estimates; there seemed to be no conditions; we did not know what Providence hospital was to cost, or anything about it, and could not tell. Our conclusion, therefore, was—and perhaps it is the wisest conclusion, and one the Senate will adopt now; it is for them to say—that we should strike out the clause, and at any rate wait until the next session and see what ought to be done. After that conclusion of ours, the principals of the Sisters of Charity came, and when the objection was stated to them they said they had already marked out the ground, they had their plans, they had begun to build, and the building would cost \$60,000. There was a little peculiarity in the statement that I am afraid I cannot exactly state; but the idea was that the building proper was to cost \$45,000, and the additional \$15,000 was for something else, I do not know what exactly, connected with it, so that in reality we were to pay two thirds, as I understood, of the actual cost of the building. These ladies applied to a majority of the committee, out of the committee-room, and they concluded to let it go, by putting in the proviso which I have offered, which guards against certain things.

If it is to be followed up, as my colleague states, by propositions to endow other hospitals at the same time, I think we may as well stop somewhere with regard to these things, and cannot be properly called upon to endow all the charitable institutions of the city. I understood it was the only hospital there was in the city; it was so stated to me. What has been done in regard to incorporating others at this session I have not noticed.

Mr. MORRILL. The one alluded to by me is not only incorporated but actually in existence and in operation, and has some twenty patients.

Mr. FESSENDEN. I do not see any reason why this should have preference. I certainly should object to the amendment my colleague says he shall propose if this passes. I do not think we should go to so very great extent as to do everything that is to be done for the city. This is a very good institution; but it may not be known to Senators that ever since it has been in operation we have appropriated \$6,000 a year for the support of certain patients in it, and \$12,000 last year, and again in this very bill there is an appropriation of \$12,000 to pay for the actual support of patients there, sixty

transient persons who are dependent on the Government.

Whether this should be done or not is a matter for the Senate to decide. The committee decided to strike out the appropriation, and afterwards a majority of the committee decided to let it go with this proviso which has been drawn by the Senator from Ohio. It is a matter in which I have of course not the slightest feeling of any kind or description. It is a matter rather for the Senate to decide upon the general principle whether they will go into these expenditures and pay large sums of money for the erection of provident institutions in this District. Each Senator is competent to decide the matter for himself as is any member of the Committee on Finance. We found it there, we decided to strike it out, and then afterwards in the way I spoke of concluded to let it remain in on getting more information. The question is on concurrence with the committee in striking out this appropriation.

Mr. GUTHRIE. This Providence hospital is under the management of the Catholics, this being a Catholic community. It is the cheapest managed of any institution of this kind I know of, and indeed the Catholic institutions generally are very cheaply and providently managed. I suppose that with the exception of the Government patients, who are paid for out of appropriations we make, they take care mostly of the poor of their own persuasion who fall into their hands, and they are remarkable for their kindness to their own people; and mostly, I believe, those who have fallen into their hands are Irish. Now, as the government of Washington city is in Congress, and such institutions as the Providence hospital are necessary in all cities of this size, I see no real objection to the Government aiding in extending this institution, particularly after it has been found useful and beneficial to the community. I feel disposed to vote for this appropriation. It received the sanction of a very keen committee in the other House, and they sent it here without the guards we now propose to put around it. I am sorry the Senator from Ohio [Mr. SHERMAN] is not present. He has taken more interest in this question and is better acquainted with these good Sisters and the facts of the case than any other member of the Finance Committee.

Mr. FESSENDEN. Perhaps we had better pass this amendment over till to-morrow, and not act on it now in the absence of the Senator from Ohio.

Mr. DOOLITTLE. I desire to move for an executive session.

Mr. FESSENDEN. I hope the Senator from Wisconsin will defer that motion until the reading of the bill is concluded. There are only nine or ten pages more to be read and most of the amendments are through with.

Mr. DOOLITTLE. Very well.

Mr. FESSENDEN. I propose that the amendment be passed over for the present.

The PRESIDING OFFICER. No objection being made the amendment will be passed over.

The Secretary read the next amendment of the Committee on Finance, which was to insert after line four hundred and ninety-four of section one the following:

To enable the Commissioner of Public Buildings to reimburse the corporation of Washington for expenses incurred in improving streets and avenues passing through and by property of the General Government, \$47,255 81.

Mr. FESSENDEN. Let that amendment also be passed over. It is a matter in which the Senator from Ohio has an interest.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was to strike out lines five hundred and seven and five hundred and eight of section one, in these words:

For contingent fund for Joint Committee on Library, \$5,000.

The amendment was agreed to.

The next amendment was to insert after line

five hundred and eight of section one the following:

For an additional appropriation, to be expended under the direction of the Joint Committee on the Library, to decorate the Capitol with such works of art as may be ordered and approved by said committee, as provided by act approved August 18, 1856, \$5,000.

The amendment was agreed to.

The next amendment was to insert after the previous item:

For additional compensation of three laborers employed in the Congressional Library, commencing January 1, 1866, \$540; and the compensation of said laborers is hereby fixed at \$720 per annum.

The amendment was agreed to.

The Secretary continued the reading of the bill to the close of the appropriations for "surveying the public lands."

Mr. HENDRICKS. I wish to inquire of the chairman of the Committee on Finance to what extent the estimates for public land surveys in the Territories are reduced. My impression is that these appropriations are so small as really to be of no service.

Mr. FESSENDEN. These items are according to the estimates, I think.

Mr. HENDRICKS. The full amount of the estimates?

Mr. FESSENDEN. That is my impression.

Mr. HENDRICKS. I think that must be a mistake.

Mr. STEWART. There have been several bills passed creating land districts and surveyor generals' offices in the Territories since the estimates were made, so that really there is a demand for more surveying than there was at that time. I have written to the Commissioner calling attention to the fact, and to-morrow morning I expect to have some information on the subject.

Mr. HENDRICKS. If the appropriations are according to the estimates I have no suggestion to make.

The Secretary continued the reading of the bill to the last item of section one, which is in these words:

For the Government building at Portland, Maine, used as post office, custom-house, and for the United States courts lately destroyed or rendered worthless by fire, to repair or rebuild the same as may prove most advisable, \$100,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Treasury.

Mr. FESSENDEN. I move to increase that appropriation to \$150,000. One hundred thousand dollars was the amount put in by the House of Representatives before we had any report from the person sent down by the Department to examine the building and see what would be necessary. Since then we have received his report, and he says it will cost \$150,000; the building is entirely ruined.

Mr. JOHNSON. Are the courts, post office, and custom-house all in one building?

Mr. FESSENDEN. Yes, sir.

The amendment was agreed to.

The next amendment of the Committee on Finance was in line six of section two to change the appropriation for the salary of the cashier at the office of the United States depository at Louisville from \$1,800 to \$2,500.

The amendment was agreed to.

The next amendment was in line twenty-three of section two to make the appropriation for salary of watchman at the office of the United States depository at Pittsburg \$1,095, instead of \$900.

The amendment was agreed to.

The next amendment was in line thirty-one of section two to increase the appropriation for the salary of a clerk in the office of the United States depository at Baltimore from \$900 to \$1,200.

The amendment was agreed to.

The next amendment was in line thirty-two of section two to make the appropriation for the salary of messenger in the office of the United States depository at Baltimore \$912 50 instead of \$900.

Mr. JOHNSON. How do you come at the cents?

Mr. FESSENDEN. I do not know. I know

we received a letter from the Treasury saying that that was the salary he got now.

The amendment was agreed to.

The next amendment was in line thirty-six of section two to make the appropriation for the salary of the cashier in the office of the United States Assistant Treasurer at San Francisco \$3,000 instead of \$2,500.

Mr. JOHNSON. Why is \$3,000 allowed in San Francisco and only \$2,000 in Cincinnati?

Mr. FESSENDEN. On account of the fact that that is the salary the Department has found it necessary to pay in order to keep the man in. The fact is that greenbacks are not worth so much in San Francisco as elsewhere. Under the authority given by an act of Congress the Secretary of the Treasury allows this officer \$3,000, and he recommends that that be the salary fixed by law; otherwise he cannot retain his services.

Mr. JOHNSON. I am satisfied.

The amendment was agreed to.

The next amendment was to increase the appropriation for salary of the book-keeper in the office of the Assistant Treasurer at San Francisco from \$2,000 to \$2,500.

The amendment was agreed to.

The next amendment was to make the appropriation for salary of the assistant cashier in the office of the United States depository, Cincinnati, \$2,000 instead of \$1,500.

The amendment was agreed to.

The next amendment was to increase the appropriations for salaries at the office of the depository at Cincinnati, as follows: assistant cashier from \$1,000 to \$1,050; teller from \$1,300 to \$1,400; book-keeper from \$1,500 to \$1,800; and two clerks from \$2,500 to \$2,600.

The amendment was agreed to.

The Secretary read the third section of the bill, as follows:

SEC. 3. And be it further enacted, That so much of an act making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending June 30, 1866, and for other purposes, approved April 7, 1866, as provides "for compensation of the revenue agent stationed at New York, in addition to the sum authorized by act of June 30, 1865, including \$1,000 for the current fiscal year, \$2,000, and the twenty-fourth section of act entitled 'An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863,' approved July 24, 1864, be, and the same are hereby, repealed.

The Committee on Finance proposed to amend the section by striking out the words "and the twenty-fourth section of an act entitled 'An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863,' approved July 24, 1864.'"

Mr. FESSENDEN. It is proper that I should explain what that is, otherwise Senators might not observe it. The words which we propose to strike out were inserted in this section by the House as an amendment, and their effect is to repeal the provision made by law to pay to certain owners of slaves the bounty due on their being enlisted or drafted. The committee thought, on looking at the law, that that was a contract which had been made by the laws of the land, and concluded at any rate to move to strike out this clause repealing it and bring it to the attention of the Senate, so that the Senate could decide for itself. The committee propose to strike out the repeal of the law relative to the bounty for enlisted negroes going to their owners.

The amendment was agreed to.

The Secretary continued and concluded the reading of the bill, the last item being the following clause at the end of section six, which the Committee on Finance moved to strike out, namely:

For the repair of the custom-house and post office, and the walks and fences adjoining the same, at Middletown, Connecticut, \$5,000, the same to be expended by direction of the collector of the port of Middletown.

Mr. JOHNSON. Why strike that out?

Mr. FESSENDEN. Because it is transferred to another part of the bill.

The amendment was agreed to.



Mr. DOOLITTLE. I now move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I ask the Senator from Wisconsin to withdraw that motion for a moment, that I may ask leave to offer a joint resolution.

Mr. DOOLITTLE. I withdraw it for that purpose.

#### RECOGNITION OF TENNESSEE.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 136) recognizing the government of the State of Tennessee; which was read twice by its title.

Mr. TRUMBULL. I will state that we have received information during the day that the State of Tennessee has ratified the constitutional amendment, and this is a resolution proposing to recognize the government of that State. I move that it be printed and placed on the Calendar.

The motion was agreed to.

#### PROPOSED EVENING SESSIONS.

Mr. DOOLITTLE. I renew my motion.

Mr. CONNESS. Before that motion is acted on I desire to make a suggestion. Most Senators have business of great consequence pending. We are approaching the end of the session. We are not getting along very rapidly with business. We should either make longer daily sessions, or have evening sessions, one at least, for the transaction of general business. I should like very much to submit a motion for an evening session, if it be acceptable to the Senate; perhaps the change in the weather may make it so.

Mr. DOOLITTLE. I have no objection to withdrawing my motion to allow a vote to be taken on that proposition.

Mr. STEWART. This evening will be as pleasant a one as we are likely to have.

Mr. CONNESS. With the leave of the Senator from Wisconsin, I submit a motion that the Senate meet this evening for business at half past seven o'clock. I propose, of course, and the whole Senate will agree, that it shall not displace the appropriation bill. There will be no question on that subject. We will give appropriation bills the preference.

Mr. HENDRICKS. We had better go on with the appropriation bill we have commenced.

Mr. RAMSEY. I suggest to the Senator from California—he is probably not aware of it—that I understand the other House has reconsidered its resolution to adjourn on the 25th. That being so, we may have a long session before us yet, and no occasion for evening sittings.

Mr. FESSENDEN. I think we had better not conclude to have an evening session to-night. Many gentlemen have left the Senate, and they will not be aware of a meeting this evening if one is ordered.

Mr. CONNESS. We have a very full Senate here now; as full as it usually is.

Mr. FESSENDEN. Many Senators have gone out, and they may not return. I confess that the labor I have had to do is very oppressive, and I have been unable to attend any evening session yet. I will come when it is absolutely necessary, but I do not feel able to go on with this bill to-night.

Mr. CONNESS. The Senator ought to permit those of us who are willing to do business to come here. I submit the motion.

Mr. SUMNER. I suggest to my friend from California that he had better make his motion applicable to to-morrow night.

Mr. CONNESS. I will make it for to-morrow.

Several SENATORS. An evening session has already been ordered for to-morrow.

Mr. HENDERSON. Not only have a great many Senators left the Hall, but if this is to be a meeting for the consideration of general business this evening, I must protest against it. Several Senators, to my certain knowledge, are engaged upon a committee to-night which will hold a very important meeting to report

business to go upon the very appropriation bill that we are now considering, and they have no other time to attend to it except to-night. If general business is to be considered I desire to be in the Senate, and I cannot be if I attend the committee meeting.

Mr. TRUMBULL. It is manifest that if we meet to-morrow night, it will be about as soon as we can now conveniently assemble in the evening. Several Senators have left the Chamber, not expecting a night session. I make the motion that the Senate now proceed to the consideration of executive business. That will get rid of the question, and it is understood that to-morrow night we are to have a night session at any rate.

Mr. CONNESS. I do not think this proceeding on the part of the Senator from Illinois is very civil, to say the least of it. The honorable Senator from Wisconsin had made a motion to go into executive session, and I asked him to withdraw it and he did withdraw it.

Mr. TRUMBULL. Well, I renewed it to get rid of your motion. That was my object. If the Senate votes down my motion yours will come up. It is another way of getting the question; that is all.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. CONNESS. That is a debatable question, I believe. Now, if I shall show half the pertinacity that the honorable Senator does on occasions—always, however, in very correct directions—I should perhaps discuss this question to the annoyance of the Senator, if not of the Senate, and I have no doubt of both. The session to-morrow evening, as I learn, is for the special purpose of considering District of Columbia business. So one evening is taken for claims by the Senator from New Hampshire, [Mr. CLARK,] and another evening by the Senator from Maine [Mr. MORRILL] for District of Columbia business; but we cannot get an evening session for general business.

I do not wish, of course, to stand in the way of the opinion of the Senate; but I beg Senators to know and understand that many of us feel charged with business that is of consequence to our constituents, and I think we ought to have an opportunity to get it considered by the Senate.

Mr. GUTHRIE. I think if we make any change we had better take two hours in the morning, when it is cool and pleasant, and when we shall not be so disposed to talk.

Mr. CONNESS. I will agree to that.

Mr. FESSENDEN. We cannot do that to-morrow morning, because the Committee on Finance has a meeting then.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, July 19, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

Mr. BIDWELL moved that the reading of the Journal of yesterday be dispensed with.

Mr. INGERSOLL and Mr. ALLEY objected.

The Journal of yesterday was then read and approved.

#### CALIFORNIA AND OREGON RAILROAD.

Mr. BIDWELL. I now call up the motion submitted by me on the 3d instant, to reconsider the vote recommitting to the Committee on Public Lands Senate bill No. 123, granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon.

The motion to reconsider was agreed to.

The question recurred on agreeing to the sub-

stitute reported from the Committee on Public Lands.

Mr. SPALDING. I call for the reading of the substitute.

The substitute was read, as follows:

Strike out all after the enacting clause of the bill and insert:

That the California and Oregon Railroad Company, organized under an act of the State of California, to protect certain parties in and to a railroad survey, to connect Portland, in Oregon, with Marysville, in California, approved April 6, 1863, and such company organized under the laws of Oregon as the Legislature of said State shall hereafter designate, be, and they are hereby, authorized and empowered to, lay out, locate, construct, finish, and maintain a railroad and telegraph line between the city of Portland, in Oregon, and the Central Pacific railroad, in California, in the manner following, to wit: the said California and Oregon Railroad Company to construct that part of the said railroad and telegraph within the State of California, beginning at some point (to be selected by said company) on the Central Pacific railroad in the Sacramento valley, in the State of California, and running thence northerly, through the Sacramento and Shasta valleys, to the northern boundary of the State of California; and the said Oregon company to construct that part of said railroad and telegraph line within the State of Oregon, beginning at the city of Portland, in Oregon, and running thence southerly through the Willamette, Umpqua, and Rogue river valleys to the southern boundary of Oregon, where the same shall connect with the part aforesaid to be made by the first-named company: *Provided*, That the company completing its respective part of said railroad and telegraph from either of the termini herein named to the line between California and Oregon before the other company shall have likewise arrived at the same line, shall have the right, and the said company is hereby authorized, to continue in constructing the same beyond the line aforesaid, with the consent of the State in which the unfinished part may lie, upon the terms mentioned in this act, until the said parts shall meet and connect, and the whole line of said railroad and telegraph shall be completed.

SEC. 2. *And be it further enacted*, That there be, and hereby is, granted to the said companies, their successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the line of said railroad, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line; and when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, preempted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said companies in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections; and as soon as the said companies, or either of them, shall file in the office of the Secretary of the Interior a map of the survey of said railroad, or any portion thereof, not less than sixty continuous miles from either terminus, the Secretary of the Interior shall withdraw from sale public lands herein granted on each side of said railroad, so far as located and within the limits before specified. The lands herein granted shall be applied to the building of said road within the States, respectively, wherein they are situated. And the sections and parts of sections of land which shall remain in the United States within the limits of the aforesaid grant shall not be sold for less than double the minimum price of public lands when sold: *Provided*, That *bona fide* and actual settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *And provided also*, That settlers under the provisions of the homestead act, who comply with the terms and requirements of said act, shall be entitled, within the limits of said grant, to patents for an amount not exceeding eighty acres of the land so reserved by the United States, anything in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said companies for the construction of said railroad and telegraph line; and the right, power, and authority are hereby given to said companies to take from the public lands adjacent to the line of said road earth, stone, timber, water, and other materials for the construction thereof. Said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, water stations, or any other structures required in the construction and operating of said road.

SEC. 4. *And be it further enacted*, That whenever the said companies, or either of them, shall have twenty or more consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated by this act, the President of the United States shall appoint three commissioners, whose compensation shall be paid by said company, to examine the same, and if it shall appear that twenty consecutive miles of railroad and telegraph shall have been completed and equipped in all respects as required by this act, the said commissioners shall so report under

oath to the President of the United States, and thereupon patents shall issue to said companies, or either of them, as the case may be, for the lands hereinbefore granted, to the extent of and continuous with the completed section of said railroad and telegraph line as aforesaid; and from time to time, whenever twenty or more consecutive miles of the said road and telegraph shall be completed and equipped as aforesaid, patents shall in like manner issue upon the report of the said commissioners, and so on until the entire railroad and telegraph authorized by this act shall have been constructed, and the patents of the lands herein granted shall have been issued.

SEC. 5. *And be it further enacted*, That the grants aforesaid are made upon the condition that the said companies shall keep said railroad and telegraph in repair and use, and shall at all times transport the mails upon said railroad, and transmit dispatches by said telegraph line for the Government of the United States, when required so to do by any Department thereof, and that the Government shall at all times have the preference in the use of said railroad and telegraph therefor at fair and reasonable rates of compensation, not to exceed the rates paid by private parties for the same kind of service. And said railroad shall be and remain a public highway for the use of the Government of the United States, free of all toll or other charges upon the transportation of the property or troops of the United States; and the same shall be transported over said road at the cost, charge, and expense of the corporations or companies owning or operating the same, when so required by the Government of the United States.

SEC. 6. *And be it further enacted*, That the said companies shall file their assent to this act in the Department of the Interior within one year after the passage hereof, and shall complete the first section of twenty miles of said railroad and telegraph within two years, and at least twenty miles in each year thereafter, and the whole on or before the 1st day of July, 1875; and the said railroad shall be of the same gauge as the Central Pacific railroad of California, and be connected therewith.

SEC. 7. *And be it further enacted*, That the said companies named in this act are hereby required to operate and use the portions or parts of said railroad and telegraph mentioned in section one of this act for all purposes of transportation, travel, and communication, so far as the Government and public are concerned, as one connected and continuous line; and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination whatever, on pain of forfeiting the full amount of damage sustained on account of such discrimination, to be sued for and recovered in any court of the United States, or of any State of competent jurisdiction.

SEC. 8. *And be it further enacted*, That in case the said companies shall fail to comply with the terms and conditions required, namely, by not filing their assent thereto as provided in section six of this act, or by not completing the same as provided in said section, this act shall be null and void, and all the lands not conveyed by patent to said company or companies, as the case may be, at the date of any such failure, shall revert to the United States. And in case the said road and telegraph line shall not be kept in repair and fit for use, after the same shall have been completed, Congress may pass an act to put the same in repair and use, and may direct the income of said road and telegraph line to be thereafter devoted to the United States, to repay all expenditures caused by the default and neglect of said companies, or either of them, as the case may be, or may fix pecuniary responsibility, not exceeding the value of the lands granted by this act.

SEC. 9. *And be it further enacted*, That the said California and Oregon Railroad Company and the said Oregon Company shall be governed by the provisions of the general railroad and telegraph laws of their respective States, as to the construction and management of the said railroad and telegraph line hereinbefore authorized in all matters not provided for in this act. Wherever the word "company" or "companies" is used in this act it shall be construed to embrace the words "their associates, successors, and assigns," the same as if the words had been inserted or thereto annexed.

SEC. 10. *And be it further enacted*, That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, so much of the timber thereon as shall be required to construct said road over such mineral land is hereby granted to said companies: *Provided*, That the term mineral lands shall not include lands containing coal and iron.

SEC. 11. *And be it further enacted*, That the said companies named in this act shall obtain the consent of the Legislatures of their respective States, and be governed by the statutory regulations thereof in all matters pertaining to the right of way, wherever the said road and telegraph line shall not pass over or through the public lands of the United States.

SEC. 12. *And be it further enacted*, That Congress may at any time, having due regard for the rights of said California and Oregon railroad companies, add to, alter, amend, or repeal this act.

Mr. BIDWELL. This is the bill which has been before the House two or three times, and after being sent to the Committee on Public Lands was reported upon favorably. I now call the previous question.

The previous question was seconded and the main question ordered.

Mr. KASSON. I wish to inquire of the gentleman from California whether the provision of the second section of the substitute is in-

tended to prohibit the United States from allowing preemption on its own lands. I will read the clause to which I refer:

And the sections and parts of sections of land which shall remain in the United States within the limits of the aforesaid grant shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price aforesaid.

Mr. BIDWELL. The objection of the gentleman from Iowa is obviated by an amendment of the Committee on Public Lands.

Mr. HOLMES. The Committee on Public Lands have stricken out the latter portion of the clause which the gentleman from Iowa has read. The language which they have stricken out is the following:

Nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price aforesaid.

This amendment obviates, I think, the objection of the gentleman from Iowa.

Mr. KASSON. The gentleman's explanation is satisfactory.

The substitute was agreed to.

The bill, as amended, was ordered to a third reading and read the third time.

The question being on the passage of the bill, Mr. BIDWELL called the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. BIDWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established;

An act (H. R. No. 521) for the benefit of Henry Horne;

Joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore;

Joint resolution (H. R. No. 119) for the relief of Isaac Ranney, internal revenue collector for the eighth district of Ohio;

Joint resolution (H. R. No. 170) for the relief of Caroline A. Randall, administratrix and widow of Charles B. Randall, deceased;

An act (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, and for other purposes;

An act (H. R. No. 334) to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits;

An act (H. R. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence;

An act (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy;

An act (H. R. No. 448) to authorize the construction of a railroad through certain lands of the United States in Kansas;

An act (H. R. No. 466) erecting the Territory of Montana into a surveying district, and for other purposes;

An act (H. R. No. 517) for the relief of Liston H. Pearce;

An act (H. R. No. 518) for the relief of the owners of the bark Maria Henry;

An act (H. R. No. 526) for the relief of the heirs of Horace I. Hodges;

An act (H. R. No. 555) for the relief of the owners of the Hawaiian bark Kamehameha V;

An act (H. R. No. 557) to quiet the title to certain lands within the corporate limits of the city of Benicia and the town of Santa Cruz, in the State of California;

An act (H. R. No. 629) for the relief of William G. Lee;

An act (H. R. No. 695) for the relief of William H. Wheeler, of Bangor, Maine; and

An act (H. R. No. 727) to regulate the registering of vessels.

#### RETRENCHMENT.

The SPEAKER announced the following joint select committee on retrenchment on the part of the House: ROBERT S. HALE of New York, ROBERT C. SCHENCK of Ohio, THOMAS A. JENCKES of Rhode Island, SAMUEL J. RANDALL of Pennsylvania, and JOHN L. THOMAS of Maryland.

#### ADJOURNMENT OF CONGRESS.

Mr. STEVENS. I rise to a privileged question, and submit the following resolution:

*Resolved*, (the Senate concurring,) That when Congress adjourns it will adjourn to meet again on Saturday, the 1st day of December next, unless sooner summoned by the Presiding Officers of both Houses, which power, in case of emergency, is hereby granted to them.

Mr. FINCK. I rise to a question of order, and submit that this resolution cannot be entertained as a privileged question, because it goes beyond the matter of adjournment and proposes by this legislation to confer upon the Presiding Officers of the two Houses new powers not now authorized by any law.

Mr. RANDALL, of Pennsylvania. Under the Constitution Congress cannot meet at any other than the regular period named in the Constitution, except on the call of the President of the United States, or in pursuance of a law duly approved by him.

The SPEAKER. The Chair will state, in reply to that point, that the President of the United States has power to convene Congress at such time between the regular sessions as he may deem fit. But the Chair is of opinion (although this is a new question) that if the two Houses take a recess they can authorize their Presiding Officers to call them together at an earlier day than that which they have named for their reassembling. It is equivalent to an indefinite recess. The Constitution allows Congress to adjourn for any period exceeding three days, both Houses concurring therein, and declares that resolutions of adjournment shall not be sent to the President.

Mr. STEVENS. As several gentlemen desire that the morning hour shall commence, and as a number of members desire information in regard to this question, I move to postpone this subject until to-morrow immediately after the morning hour, and that the resolution be printed.

Mr. HARDING, of Kentucky. Can this resolution be introduced without unanimous consent?

The SPEAKER. The Chair has decided that it can, as it relates to adjournment.

Mr. HARDING, of Kentucky. Is it a privileged question?

The SPEAKER. It is.

Mr. FINCK. My point is that it confers additional power upon the Presiding Officers of the two Houses.

The SPEAKER. The Chair has overruled that point of order, on the ground that, as the two Houses can take a recess, it would seem that they may authorize their Presiding Officers to call them together before the expiration of the time fixed for the recess. For instance, the House might, on taking a recess from Thursday till Monday, authorize its Presiding Officer to call them together on Saturday, if any exigency should require it. If one House could do this, may not both Houses, when taking a longer recess, if they concur? Both Houses could, under the Constitution, resolve to adjourn till the first Monday of next month, both Houses concurring, and if a quorum was then present could adjourn similarly throughout the recess, from month to month.

Mr. FINCK. I do not know that the Chair

fully understands the point I make. I submit that, so far as this resolution proposes to confer additional power on the Speaker of the House and the Presiding Officer of the Senate, it is not a privileged question.

The SPEAKER. It does confer additional power, but the Chair thinks it is, notwithstanding, a privileged question. All questions in regard to adjournment, whether for one day's adjournment, for three days' adjournment, for a recess, or for an adjournment *sine die*, and all questions growing out of the matter of adjournment are held as privileged questions. But they of course require a majority to adopt them. They have always been entertained by Speakers when there was no other business before the House.

Mr. DAVIS. I ask to have the resolution again read.

The resolution was again read.

Mr. TRIMBLE. If we have authority to pass this resolution I think it would be as well to provide in it that in the event the Speaker of this House and the President of the Senate should disagree as to when Congress should be reconvened, some one should be named who should decide between them.

The SPEAKER. The resolution requires the assent of both Presiding Officers.

Mr. FINCK. I move that the resolution be laid upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. I withdraw the resolution, giving notice that I will submit it again to-morrow.

#### AGRICULTURAL REPORT.

Mr. LATHAM, from the Committee on Printing, reported the following resolution; on the adoption of which he demanded the previous question:

*Resolved*, That there be printed of the Report of the Commissioner of Agriculture for the year 1865, one hundred and sixty-five thousand copies; one hundred and forty-five thousand copies for the members of this House, and twenty thousand copies for the Commissioner of Agriculture.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LATHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CANAL AND SEWERAGE COMPANY.

Mr. CONKLING demanded the regular order of business.

The SPEAKER stated that the regular order of business was the unfinished business of the morning hour yesterday, being Senate bill No. 190, to incorporate the District of Columbia Canal and Sewerage Company, the pending question being on seconding the demand for the previous question on the passage of the bill.

Mr. ALLEY. I ask the gentleman from Illinois to yield to me.

Mr. INGERSOLL. I cannot yield to anybody.

Mr. ALLEY. I move that the bill be laid upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. LE BLOND. This provides for the transfer of this canal.

Mr. F. THOMAS. It is the same old bill.

Mr. RANDALL, of Pennsylvania. Is it in order to provide that this canal shall be disposed of to the highest bidder?

The SPEAKER. Not now.

Mr. ALLEY. That is the amendment I wished to offer, but which the gentleman from Illinois would not let me get in.

The question was taken; and it was decided in the affirmative—yeas 58, nays 53, not voting 71; as follows:

YEAS—Messrs. Alley, Ames, Delos R. Ashley, Baker, Banks, Boutwell, Boyer, Broomall, Conkling, Davis, Dawes, Dawson, Deming, Eckley, Eldridge, Farquhar, Finck, Glossbrenner, Aaron Harding, Hochkiss, Chester D. Hubbard, Humphrey, Johnson, Kasson, Kelley, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, McCullough, McKee,

Moorhead, Newell, Niblack, Nicholson, Orth, Phelps, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Ross, Scofield, Shanklin, Sitgreaves, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Warner, Henry D. Washburn, William B. Washburn, Wentworth, and Whaley—58.

NAYS—Messrs. Anderson, Baxter, Benjamin, Bidwell, Bingham, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Delano, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Higby, Holmes, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Ketcham, Koontz, Ladin, Longyear, Lynch, Marston, McClurg, McKuer, Meurer, Moulton, Myers, O'Neill, Paine, Perham, Pike, Plants, Raymond, Alexander H. Rice, Sawyer, Shellabarger, Stevens, Strouse, Trowbridge, Van Aernam, Robert T. Van Horn, Welker, Stephen F. Wilson, Windom, and Woodbridge—53.

NOT VOTING—Messrs. Allison, Ancona, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Blaine, Blow, Brandegee, Bromwell, Bundy, Chanler, Cook, Cullem, Culver, Darling, Defrees, Denison, Dixon, Dodge, Dumont, Eggleston, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Jones, Julian, Kelso, George V. Lawrence, Loan, Marshall, Marvin, McIndoe, Miller, Morrill, Morris, Noell, Patterson, Pomeroy, Price, Rogers, Rollins, Rousseau, Schenck, Sloan, Smith, Spalding, Starr, Stillwell, Thayer, Upson, Burt Van Horn, Ward, Elihu B. Washburne, Williams, James F. Wilson, Winfield, and Wright—71.

So the bill was laid upon the table.

Mr. WENTWORTH. I move to reconsider the vote by which the bill was laid upon the table. I am willing it shall be postponed to any day gentlemen may agree on.

Mr. FARQUHAR. I move that the motion to reconsider be laid upon the table.

Mr. WENTWORTH demanded the yeas and nays.

Mr. INGERSOLL demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion to reconsider was then laid upon the table.

#### LEVY COURT IN THE DISTRICT OF COLUMBIA.

Mr. WELKER, from the Committee for the District of Columbia, reported back without amendment Senate bill No. 325, to give certain powers to the levy court of the county of Washington, in the District of Columbia, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MINING AND MANUFACTURING COMPANY.

Mr. WELKER, from the Committee for the District of Columbia, reported back without amendment Senate bill No. 178, to incorporate the Metropolitan Mining and Manufacturing Company.

The bill was read.

Mr. DAVIS. I wish to offer an amendment, to strike out from the sixth section the words, "and State of Virginia," so as to confine the operations of the company to the District of Columbia, where Congress has unquestionable power to create corporations.

Mr. WELKER. I decline to yield for that purpose.

Mr. DAVIS. I hope, then, that the previous question will not be seconded, so that my amendment may be offered.

On seconding the demand for the previous question no quorum voted.

Tellers were ordered; and the Speaker appointed Messrs. DAVIS and WELKER.

The House divided; and the tellers reported—ayes sixty-seven, noes not counted.

So the previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time. It was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RECESS OF CONGRESS—AGAIN.

The SPEAKER. The Chair will state in regard to the resolution offered this morning by the gentleman from Pennsylvania [Mr. STEVENS] that while he entertains the opinion which he then stated to the House in reference to its privileged character, relating as it does to the adjournment of Congress, yet inasmuch as the subject is a delicate one as enlarging the powers of the two Presiding Officers, and might be important in its consequences, he will, if the question is presented to-morrow, submit it, as the rules authorize him to do, to the House for its own decision, as that doubtless will be more satisfactory to all the members than to have it settled by a decision of the Chair.

Mr. STEVENS. That will be satisfactory to me.

Mr. RANDALL, of Pennsylvania. I desire to call attention—

The SPEAKER. Debate is not in order.

#### NATIONAL CAPITAL INSURANCE COMPANY.

Mr. MERCUR, from the Committee for the District of Columbia, reported back House bill No. 234, to incorporate the National Capital Insurance Company, with a substitute.

The substitute was read.

Mr. HALE. I ask if it has been printed.

The SPEAKER. The Chair thinks not.

Mr. HALE. Is it in order to move a re-committal?

The SPEAKER. The gentleman from Pennsylvania [Mr. MERCUR] has the floor.

Mr. KASSON. Will the gentleman explain it in a few words?

Mr. MERCUR. It is an ordinary bill for the incorporation of fire and marine insurance companies.

Mr. HALE. I thought it was an Insurance Bureau.

Mr. KASSON. I would like to understand one feature in regard to the lien on property to secure premium notes.

Mr. MERCUR. That has passed out of my mind. The Clerk may read it. The committee had so many of these bills before them that I cannot remember the distinctive features of each. They were all acted on with care and deliberation.

Mr. SCHENCK. I desire to ask whether the attention of the committee has been specially directed to the corporators to know who they are. I know there is a set of shysters about the capital, and as I do not know these corporators, I would like to be satisfied that they are applying in good faith for an insurance company that is to be put in operation by themselves, and that they are not getting privileges from Congress with the expectation of selling out.

Mr. INGERSOLL. As the gentleman seems to be acquainted with the shysters of the city, perhaps the Clerk had better read the names.

Mr. SCHENCK. Just as I have had occasion to be engaged in the prosecution of them with other criminals.

The Clerk read the names of the corporators as follows: "Green Adams, Erastus Poulson, Joseph J. Coombs, Robert Leech, John B. Clark, jr., G. P. Reznor, Fergus M. Blair, Robert L. Owen, Joseph M. Parish, and others."

Mr. JOHNSON. I would inquire whether they are citizens of Washington or not.

Mr. MERCUR. I understand that a part of them are, and a part are not.

Mr. JOHNSON. Some, I know, are not.

Mr. MERCUR. It appeared before the committee that they are men of character and good standing. One of them, Mr. Poulson of Philadelphia, is personally known to me.

Mr. HARDING, of Illinois. I desire to ask whether the powers and privileges granted by this act can be exercised or enjoyed without the bounds of the District of Columbia without the consent of the States.

Mr. MERCUR. No, sir; not without the consent of the States. You will find in all these charters language like this, that they may exercise their power here or elsewhere, subject to the regulations of the places; and



most of the States prescribe the conditions under which foreign corporations may exercise jurisdiction within their limits. We have provided the usual guards; and I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The substitute was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

WILLIAM COOK.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the Senate No. 277, for the relief of William Cook.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CHESAPEAKE AND POTOMAC CANAL.

Mr. McCULLOUGH, also from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the Senate No. 281, to authorize the Chesapeake and Potomac River Tidewater Canal Company to enter the District of Columbia and extend their canal to the Anacostia river at any point above Benning's bridge.

The Clerk proceeded to read the bill, pending which the morning hour expired, and the bill went over until Saturday next.

SAFETY OF STEAMBOAT TRAVEL.

Mr. O'NEILL made the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives agree to the first, second, third, fifth, sixth, seventh, eighth, ninth, tenth, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and twenty-first amendments, as made by the Senate.

That the Senate recede from the fourth amendment, with a modification of the clause, as follows: strike out all after the word "under," in line ten, section two, and insert in place thereof the words "any circumstances;" and that the House agree to the same.

That the Senate recede from the eighteenth and nineteenth amendments.

That the House agree to the twentieth amendment, with an amendment as follows: after the words "for the district of Portland, Oregon, \$700" insert as follows: "to the supervising inspector of the Pacific coast, \$2,500; to other supervising inspectors, \$2,000 each;" and the Senate agree to the same.

Z. CHANDLER.

GEORGE EDMUNDS,

J. W. NESMITH,

Managers on the part of the Senate.

CHARLES O'NEILL,

D. C. McRUER,

Managers on the part of the House.

The report was agreed to.

Mr. O'NEILL moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGES FROM THE PRESIDENT.

Several messages in writing from the President of the United States were delivered to the House by Mr. EDWARD COOPER, his Secretary; who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 702) granting a pension to Mrs. Charlotte E. Reed;

An act (H. R. No. 739) for the relief of Samantha Rader;

An act (H. R. No. 741) granting a pension to Jonathan W. Beach; and

An act (H. R. No. 742) for the relief of the minor children of Salvador Accardi, deceased.

PROVOST MARSHAL GENERAL'S BUREAU.

Mr. SHELLABARGER. I now call up the report of the select committee appointed April 30, 1866, to investigate the statements and charges made by Hon. ROSCOE CONKLING, in his place, against Provost Marshal General Fry and his bureau—whether any frauds have been perpetrated in his office in connection with the recruiting service; also to examine into the statements made by General Fry in his communication to Hon. Mr. BLAINE, read in the House.

The resolutions reported by the committee were read, as follows:

*Resolved*, That all the statements contained in the letter of General James B. Fry to Hon. JAMES G. BLAINE, a member of this House, bearing date the 27th of April, A. D. 1866, and which was read in this House on the 30th of April, A. D. 1866, in so far as such statements impute to Hon. ROSCOE CONKLING, a member of this House, any criminal, illegal, unpatriotic, or otherwise improper conduct or motives, either as to the matter of his procuring himself to be employed by the Government of the United States in the prosecution of military offenses in the State of New York, in the management of such prosecutions, in taking compensation therefor, or in any other charge, are wholly without foundation in truth, and for their publication there were, in the judgment of this House, no facts connected with said prosecutions furnishing either a palliation or an excuse.

*Resolved*, That General Fry, an officer of the Government of the United States, and head of one of its military bureaus, in writing and publishing these accusations named in the preceding resolution, and which, owing to the crimes and wrongs which they impute to a member of this body, are of a nature deeply injurious to the official and personal character, influence, and privileges of such member, and their publication originating, as in the judgment of the House they did, in no misapprehension of facts, but in the resentment and passion of their author, was guilty of a gross violation of the privileges of such member and of this House, and his conduct in that regard merits and receives its unqualified disapprobation.

Mr. HOTCHKISS. I ask for the reading of the report.

Mr. JOHNSON. I desire to inquire whether there is any minority report in this case, or an objecting report of any kind.

Mr. SHELLABARGER. There is no minority report. This is the unanimous report of the committee.

Mr. JOHNSON. Unless some one controverts the report, I do not think the time of the House should be taken up with reading an elaborate report.

Mr. HOTCHKISS. I asked for the reading, as I supposed it was a matter of right.

The SPEAKER. Any member has the right to have the report read.

The Clerk read the report, as follows:

The select committee, appointed April 30, 1866, to investigate the statements and charges made by Hon. ROSCOE CONKLING, in his place, against Provost Marshal General Fry and his bureau—whether any frauds have been perpetrated in his office in connection with the recruiting service; also to examine into the statements made by General Fry in his communication to Hon. Mr. BLAINE, read in the House, having completed their labors as to one branch of their investigation, submit the following report:

When your committee was about to enter upon the performance of the duties enjoined upon it by the orders of the House it became apparent that a full investigation of all matters embraced within the scope of its authority could not be completed during the present session of Congress. In view of the time, labor, and public expense necessarily involved in the performance of the work, your committee had under consideration the propriety of making a preliminary report to the House, setting forth the magnitude of the task assigned to it, and asking for further instructions in the premises. But in consideration of the fact that the character of a member of the House of Representatives had been publicly assailed with serious charges in a letter emanating from the head of an important bureau of the Government, addressed to another member of the House of Representatives and by him caused to be read to the House, and thus made a part of the published and permanent record of its proceedings, we deemed that it was the privilege of the member thus gravely charged, and due also to the House itself, that your committee should proceed without delay to the investigation of at least that branch of the case which relates to the charges preferred by Provost Marshal General Fry against Hon. ROSCOE CONKLING. Your committee did this the more readily, as the member thus charged pleaded and insisted upon his privilege to have an early investigation of that branch of the case, and no objection was interposed by any party to its separate consideration and prompt

decision, leaving the remaining branch of the investigation relating to the conduct of the Bureau of the Provost Marshal General to the future action of the committee.

Your committee, therefore, as will appear in the journal of its proceedings, have thus far confined their investigation to the charges against Mr. CONKLING contained in the letter of General Fry to Mr. BLAINE, and excluded all testimony bearing upon the conduct of General Fry as Provost Marshal General, except so far as that was deemed necessary to a full investigation of the charges against Mr. CONKLING. The testimony touching the Hoboken credits and the disposal of the \$54,000 bounty money arising therefrom was admitted to show, as was alleged, a settled purpose on the part of General Fry to injure Mr. CONKLING, dating back long anterior to the BLAINE letter, and evinced by his alleged attempt to procure by a corrupt bargain testimony to be used against Mr. CONKLING in relation to certain alleged frauds in the Utica district of the State of New York. Your committee deemed it a legitimate subject of inquiry to investigate to that extent the motive of General Fry, and its connection, if any, with the animus which prompted the letter to Mr. BLAINE. Both parties were therefore allowed full opportunity to introduce testimony relating to that point.

The first statement of the letter of General Fry to be investigated under the rule adopted by the committee is as follows:

"In the summer of 1863 Mr. CONKLING made a case for himself by telegraphing to the War Department that the provost marshal of his district required legal advice, which he was hereupon empowered to give."

The committee understand this charge to be that Mr. CONKLING secured his own employment professionally by the Department, by telegraphing that the provost marshal of his district required legal advice, and that his motive and object in transmitting the dispatch was to secure such employment. Unless this is the meaning of the words of the letter, there is no significance at all to be attached to them, in the connection in which they are used. The evidence shows that, in the latter part of July, 1863, a man named Hobson was arrested in the twenty-first district of New York as a deserter. A writ of *habeas corpus* was issued by Judge Bacon, justice of the supreme court, and placed in the hands of the sheriff of Oneida county. A return was made by the officer having the deserter in custody, which return showed that the man was held by the military authorities as a deserter from the military service of the United States. This return was adjudged insufficient by the judge who issued the writ, and a writ of attachment was ordered and issued against the officer for declining to bring the deserter before the judge, in obedience to the writ of *habeas corpus*. A direct conflict had arisen between the military authorities of the United States and the authorities of the State of New York, in reference to which very great excitement had arisen among the people of the district. The district attorney was absent. Mr. Kernan, the Representative from that district, had been engaged as counsel against the Government, and the danger of a collision between the national and State authorities was immediate and palpable. In the emergency, and acting at the request and upon advice of eminent citizens of the district, Mr. CONKLING sent to the Secretary of War the following dispatch:

"In the absence of all of us who could aid him professionally, the provost marshal here was served with a *habeas corpus* to produce a deserter; he obeyed the order not to produce, and so returned. The judge held this insufficient, and issued attachment. He telegraphed the district attorney and his assistant. They are absent and engaged. What shall we do?"

"R. CONKLING."

It will be observed that the dispatch does not inform the Secretary of War that the provost marshal required legal advice, but was a succinct statement of the actual state of facts, and a request that the Secretary should direct what should be done in an emergency which excited the apprehensions of the friends of the Government. In the opinion of the committee, Mr. CONKLING did only what he was fully justified in doing in this matter, and there is no evidence tending, however remotely, to show that in sending the dispatch he was influenced by any merely personal motive.

The second statement of General Fry's letter which has claimed the attention of the committee is as follows:

"In April, 1865, Mr. Charles A. Dana, then Assistant Secretary of War, without notifying me, had Mr. CONKLING appointed to investigate all frauds in enlistments in western New York, with the stipulation that he should be commissioned judge and advocate for the prosecution of any cases brought to trial, and he was appointed to prosecute before a general court-martial Major J. A. Haddock."

Mr. Dana vested him, by several orders issued in the name of the Secretary of War, without the sanction of Mr. Stanton, with the most extraordinary powers. Among these was the right to examine the dispatches in all the telegraph offices in the western division of New York, which enabled a violation of the sanctity of personal and business correspondence."

In another part of the letter Mr. Dana is spoken of as the friend of Mr. CONKLING; and the committee understand the imputation of this portion of the letter to be, that Mr. Dana, of his own motion, without notice to General Fry, and without the sanction of the Secretary of War, and by some management or understanding between Mr. Dana and Mr. CONKLING, appointed Mr. CONKLING to investigate frauds in enlistments in western New York, and vested him with extraordinary powers.

It has been proved before the committee by the testimony of the Secretary of War that about the 30th of March, 1865, the Secretary of War directed Mr.

Dana to telegraph to Mr. CONKLING to come to Washington to consult with the Secretary in relation to certain frauds in western New York, in regard to which a report had been made by Major Luddington, an inspecting officer, who had been sent to New York for the purpose of investigation. The Secretary of War testifies that he had himself determined that Mr. CONKLING should take charge of the investigation of those frauds, if he would do so, and for that purpose directed the dispatch to be sent to Mr. CONKLING requesting him to come to Washington. On the 2d of April Mr. CONKLING came to Washington and had an interview with the Secretary of War, who then urged him to take charge of the investigation referred to, stating, at the same time, that "he considered a diligent and rigorous investigation as absolutely necessary to the safety of the country; that we were at that time engaged in the midst of a draft; General Grant had commenced his movements, and that everything depended upon keeping the Army up, and the means of keeping the Army up was the diligent and vigorous recruiting which was then going on." That Mr. CONKLING expressed himself very reluctant to engage in it. The Secretary of War expressed to Mr. CONKLING an unqualified opinion that there was nothing in the service which he asked of him incompatible with his position as a member of Congress elect, and gave him reasons at length for that opinion, and insisted that it was as much the duty of Mr. CONKLING to use his legal knowledge in aid of the Government in carrying on the war as to shoulder a musket to drive the enemy out of this department, and that Mr. CONKLING was not at liberty to deny the Secretary of War the benefit of his services.

The Secretary of War also testified that, if there was anything wrong in Mr. CONKLING's taking that duty at the time, the wrong rests on the shoulders of the Secretary of War, and not on Mr. CONKLING's.

That the Secretary is the person that ought to be responsible, in the public judgment, for forcing upon Mr. CONKLING what the Secretary regarded as a public duty; and that he had no other reason for forcing it upon Mr. CONKLING than the facts that he thought it a vital duty, and knew Mr. CONKLING to be competent to perform it.

The Secretary of War directed Mr. Dana to prepare the papers for Mr. CONKLING in case he should conclude to render the services required, and the papers prepared and given to Mr. CONKLING are in conformity with the instructions of the Secretary of War. Mr. CONKLING, after consultation with the Judge Advocate General, whose views corresponded with those of the Secretary, undertook to render the services required.

It is clear from the evidence that, so far as Mr. CONKLING's appointment having been made by Mr. Dana, and the powers with which he was clothed having been vested in him by Mr. Dana, the appointment and the powers accompanying it were conferred upon Mr. CONKLING by the Secretary of War himself; that Mr. Dana had nothing to do with the matter except to prepare the papers under the specific direction of the Secretary. These powers were specified in the following papers:

WAR DEPARTMENT,  
WASHINGTON CITY, April 3, 1865.

SIR: I am instructed by the Secretary of War to authorize you to investigate all cases of fraud in the provost marshal's office of the western division of New York, and all misdemeanors connected with recruiting. You will, from time to time, make report to the Department of the progress of your labors, and will apply for any special authority for which you may have occasion. The Judge Advocate General will be instructed to issue to you an appointment as special judge advocate for the prosecution of any cases that may be brought to trial before a military tribunal. You will also appear in behalf of this Department in any cases that it may be deemed more expedient to bring before the civil tribunals.

Very respectfully, your obedient servant,  
C. A. DANA,  
Assistant Secretary of War.

Hon. ROSCOE CONKLING.

WAR DEPARTMENT,  
WASHINGTON CITY, April 3, 1865.

Hon. ROSCOE CONKLING having been appointed by the Secretary of War to investigate transactions connected with recruiting in the western division of New York, all telegraph companies and operators are respectfully requested to afford him access to any dispatches which he may require for the purpose of detecting frauds and bringing criminals to trial.

By order of the Secretary of War:  
C. A. DANA,  
Assistant Secretary of War.

WAR DEPARTMENT,  
WASHINGTON CITY, April 3, 1865.

Hon. ROSCOE CONKLING having been appointed by the Secretary of War to investigate transactions connected with recruiting in the western division of New York, all provost marshals and other military officers are hereby directed to give him free access to all their official records and correspondence, and to furnish him certified copies of any papers that he may require.

By order of the Secretary of War:  
C. A. DANA,  
Assistant Secretary of War.

The committee have failed to discover that any extraordinary powers were conferred upon Mr. CONKLING without the sanction of the Secretary of War, which enabled him to violate the sanctity of personal business correspondence. It is certain that no complaint that the sanctity of any personal business correspondence has been violated by Mr. CONKLING

under that authority has been brought to the notice of the committee. Both the Secretary of War and Mr. Dana testify that the powers given to Mr. CONKLING were those usually given in such cases, and in regard to this paper the Secretary of War testifies: "I do not understand the paper as giving him any right to make use of private despatches, any way, but to be a request only to telegraph officers to afford him facilities for detecting frauds and bringing criminals to trial. The other, as to the provost marshals giving him free access to their records and correspondence, is a general authority which is given in all such cases, and is necessary for any person engaged in these investigations to exercise."

It appears from the testimony of Mr. Dana that the appointment of Mr. CONKLING was not made without notifying General Fry, but that on the 3d of April, the day of the date of the papers which were given to Mr. CONKLING, and the day on which he signified his willingness to undertake the duty, General Fry was informed by Mr. Dana that the Secretary of War had employed Mr. CONKLING for this purpose, and had directed that he (Mr. Fry) should put into Mr. CONKLING's hands at once all the papers relating to Major Haddock.

The statement of General Fry's letter in relation to the sums received, or reported to have been received, by Mr. CONKLING, being adverted to in another place, the next allegation of the letter is as follows:

"But, as hereafter shown, he was zealous in preventing prosecutions at Utica as he was in making them at Elmira, and the main ground of difficulty between Mr. CONKLING and myself has been that I wanted exposure at both places, while he wanted concealment at one."

In investigating the charge contained in this paragraph, the committee directed their inquiries first to the question whether Mr. CONKLING had been zealous to prevent prosecution of persons charged with fraud at Utica in the manner particularly specified in the letter, or in any other manner; and, second, whether Mr. CONKLING had manifested any desire that any frauds upon the Government at Utica should be concealed or any inquiry in relation to them suppressed.

In considering these questions it became proper for the committee to determine the extent of the duty which had been imposed upon Mr. CONKLING by the Secretary of War, and upon this question the understanding of the Secretary of War, by whom the appointment was made, is thus given in his testimony: "I do not think that Mr. CONKLING was authorized or directed to institute prosecutions against any one disconnected with Major Haddock. Major Haddock was the chief of the department; it was alleged that he had accomplices; that these frauds were the result of combinations and conspiracies, official and non-official, for the purpose of plundering the public Treasury; to confine the power simply to Major Haddock's case would have been ineffectually narrow. The power was therefore given him to investigate everything in connection with that transaction, and it would have been unwise for the Government to limit it or confine the investigation within a narrower compass than is expressed in the papers. But the assignment of Mr. CONKLING on the court-martial determines the question, the order detailing the court and assigning him to act as judge advocate in the trial of Major Haddock and no other person. All that Mr. CONKLING could do in respect to other persons than Major Haddock would be to prefer charges or proofs against others besides Major Haddock, and then it would require the order of the Department detailing this or some other court of which he might or might not be a member as judge advocate, for the purpose of bringing those cases to trial. Mr. CONKLING could put nobody on trial, except by the special order of the Department."

No evidence was given before the committee tending to show any direct effort on the part of Mr. CONKLING to prevent the prosecution of any one in Utica or elsewhere, and the inquiry was therefore narrowed to the question whether he had in any manner neglected to communicate to the Department information which he ought to have given in relation to frauds upon the Government, and especially whether he had neglected to do so because such information would have been used against particular individuals or persons living in Utica district. In the inquiry upon this point the testimony was confined, by the ruling of the committee, to the single fact whether frauds existed which had come to the knowledge of Mr. CONKLING, and which he had not made known to the Department. Evidence offered in relation to alleged frauds in the Utica district, of which Mr. CONKLING was not shown to have had any knowledge, was not received by the committee; nor was evidence received in relation to matters concerning which full information had been given to the Government; the committee believing that it was the duty of the War Department to determine what prosecutions should be instituted when the facts were within the knowledge of the Department, and that Mr. CONKLING discharged his whole duty in that behalf when the information which he had himself received had been communicated to the War Department.

It is true that considerable evidence has been incorporated in the record which would have been excluded by a strict adherence to the rule adopted by the committee. This has arisen from the fact that much of the testimony was taken while the House was in session, and by different members of the committee, not having leave to sit during the sessions of the House, and it was consequently impossible for the members of the committee taking the testimony to understand the precise connection of the testimony offered with that which had been taken by some other member of the committee, and it was deemed best to be more careful not to exclude any evidence from the record that might possibly be pertinent to the subject-matter of inquiry, than not to admit any that might be wholly irrelevant.

The specifications given in General Fry's letter, under the charge that "as hereafter shown, Mr. CONKLING was as zealous in preventing prosecutions at Utica as he was in making them at Elmira," are as follows:

"That Mr. CONKLING complained both to the President and to the War Department of the action of General Fry in the removal of Captain Richardson (the first provost marshal of Mr. CONKLING's district) upon a report of Judge Advocate Turner that the proofs in his case disclosed a reckless persistence in fraudulent practices."

"The second issue was as to the testimony of Captain Crandall, after I had secured his removal from duty on the recommendation of Major Luddington, who thoroughly inspected the district, and reported that though not legally guilty he had morally perpetrated most glaring, inexcusable fraud on the Government, and that he had quieted his conscience by casuistry and regulated his actions by the counsel of unscrupulous legal advisers. Mr. CONKLING failed to get Captain Crandall restored."

"The third issue was as to the Government's employing counsel to defend Captain Crandall after he had been relieved, and had carried with him, in violation of the orders of the Department, some \$20,000 local bounty deposited with him in behalf of recruits, and in regard to which he got into litigation. In this Mr. CONKLING failed."

The words "as hereafter shown," as they appear in connection in General Fry's letter, that Mr. CONKLING was as zealous "in preventing prosecutions at Utica as in making them at Elmira," must refer to the three specifications above given, because, unless shown in one or the other of those specifications, it is not shown at all in General Fry's letter that Mr. CONKLING was zealous "in preventing prosecutions at Utica," or that "he wanted concealment there." It was contended before the committee that these words, "as hereafter shown," limited the charges against Mr. CONKLING to the three specifications above given. If this be so, the specifications signify fail to bear out the charge made. In the case of Captain Richardson, it was not the duty of Mr. CONKLING to have reported his case to the Government, for the reason that the Government already had a full report of the case from Judge Advocate Turner, and it was for the Department, and not Mr. CONKLING, to determine what action should be taken thereon, and because several months before the appointment of Mr. CONKLING to investigate frauds in the western division of New York, this matter had been placed in the hands of William A. Dart, the United States district attorney, who had charge of the case when Mr. CONKLING received his appointment. Mr. CONKLING manifestly did not attempt to prevent the prosecution of Captain Richardson by neglecting to furnish information which was within his knowledge and not within the knowledge of the Government, nor by neglecting to institute proceedings against Richardson, because that was a matter with which he had nothing to do. Did he attempt to prevent prosecutions at Utica by complaining of the action of General Fry in the removal of Captain Richardson? The facts are as follows:

December 30, 1864, Mr. CONKLING addressed a letter to the President of the United States, in which the fact of the removal of Captain Richardson is stated, and the belief of the writer that it had been accomplished by the efforts of Major Haddock, in whom the loyal people had no confidence, and who was suspected of fraudulent practices, (which suspicion was afterward sworn to have been well founded.) The letter refers to a rumor that charges had been made against Captain Richardson, based, as the letter states, upon affidavits prepared by those whose character does not raise a presumption in favor of their motives. And then the writer says: "Of course I have nothing to say as to the truth of the charges, if there are charges, as I do not know what they are. I ought, however, to say that in common with others I have kept a pretty close watch upon Captain Richardson, and that I have never discovered any corrupt practices in him. But the point I wish to submit is his being thus summarily disgraced without knowledge of the ground and without his being heard." The letter states that the supervisors through whom the matter have been raised had signed and lodged with the writer an earnest protest against the proceedings. No complaint is made in the letter against General Fry by name, or by special reference. The letter referred to was written by Mr. CONKLING, and the concurrence of the following eminent citizens of that district was indorsed thereon: Hon. W. J. Bacon, Ellis H. Roberts, Hon. Ward Hunt, Erastus Clark, T. R. Walker, and C. H. Hopkins. The committee have failed to discover any evidence of any unworthy or improper motive on the part of Mr. CONKLING, or the other gentlemen concurring in that letter, nor can the committee perceive how it is possible to imagine that the letter affords any indication, however remote, that Mr. CONKLING was zealous to prevent the prosecution of Mr. Richardson, or desirous of concealing his acts from scrutiny. Indeed, the main object of the letter seems to have been to ask an investigation.

In relation to Captain Crandall no concealment was possible, for the reason that a full report had been made by Major Luddington before Mr. CONKLING is shown to have had anything to say or do in reference to him; and surely Mr. CONKLING could not be in fault for not prosecuting him, when, as stated in Major Luddington's report, he had incurred no legal guilt; consequently it is not shown by any evidence in relation to Captain Crandall that Mr. CONKLING was zealous in preventing prosecutions at Utica, or desired concealment of any frauds there. And here the committee might leave this matter of Captain Crandall, but it is considered but just to Mr. CONKLING that a true statement of his connection with matters relating to Captain Crandall should be given. It appears from the evidence of Hon. Ward



Hunt that Mr. Crandall was selected and recommended as a proper person to succeed Captain Richardson by said Hunt, Judge Bacon, and other citizens of the district; that Mr. CONKLING refused to have anything to do with the selection or designation of any individual for that position. Judge Hunt testifies that "Mr. Crandall was selected as being an eminently honest and upright man, and a man of the best reputation and character. It was believed by every one that if there was to be found in the county one honest man he was the one, and that the judgment of the citizens of Oneida county is unanimous as to the integrity of Captain Crandall." This statement is corroborated by several other witnesses. No evidence was offered before the committee showing, or tending to show, that Mr. Crandall had been guilty of any fraud or dishonest practice which ever came to the knowledge of Mr. CONKLING; and the inquiry in this particular was confined to that limit. The committee are of opinion that the evidence does not show that Mr. CONKLING was guilty of any impropriety in recommending the restoration of Captain Crandall after Major Luddington's report, but, on the contrary it does appear that his action was limited to a simple expression of opinion, which opinion was concurred in very generally by the citizens of that district, and supported by the report of the detective selected by General Fry to investigate the acts of Captain Crandall. It has not been shown to the committee that General Fry or any other person believed that Captain Crandall should have been prosecuted. Mr. Dana testifies to the statement of General Fry that he knew nothing which Captain Crandall had done or omitted which he should not have done or omitted. General Fry, in his letter of November 6, published in the *Globe*, says that Captain Crandall was suspended from duty for refusing to turn over the \$20,000 bonds to a disbursing officer, an act for which he deserved no censure, in the opinion of the committee, for the reasons herein stated. The letter of General Fry to Mr. BLAINE states that Captain Crandall was discharged on the recommendation of Major Luddington, who reported that though not legally guilty he had morally perpetrated a most glaring and inexcusable fraud on the Government he was sworn to serve. The committee have not found in the evidence before them any evidence of such moral fraud on the part of Captain Crandall, and certainly no facts had been shown to be within the knowledge of Mr. CONKLING, in relation to Captain Crandall, which would have rendered it improper for Mr. CONKLING to have recommended his restoration to office.

An attempt was made to show, by the testimony of Patrick J. Kinney, that when Aaron Richardson was arrested at Utica he was set at liberty by the officers having him in custody, after an interview which he had at his own request with Mr. CONKLING. In relation to this matter it is only necessary to say that Mr. Richardson had made important disclosures to the Government; was a witness in the prosecution of Haddock; that the acts of Mr. CONKLING in relation to the witness were fully known to and approved by the Secretary of War.

In relation to the third specification above stated, the facts are as follows:

Captain Crandall required Aaron Richardson, a bounty broker, to deposit security with him that certain men furnished by said Richardson, and enlisted, should go forward to the front and be there received, and the sum of \$20,000 in bonds of Oneida county was deposited as such security. Some men that were furnished by Richardson refused to receive any local bounty whatever, insisting that all they claimed or desired was the bounty that Government paid others; they took fifty dollars and would take no more. In all of those cases the right of the recruit to receive the local bounty was fully explained to him by Captain Crandall. But as a precaution against desertion, Captain Crandall required Richardson to deposit \$500 for each man, as security for receipt of the recruit at the general rendezvous.

After depositing the bonds, Richardson claimed that Provost Marshal Crandall had no legal authority to require security for the appearance of the recruit, and demanded that the bonds should be refunded to him. Of the men furnished by Richardson, thirty-one deserted before reaching the front, seven of whom were retaken.

These bonds were not "local bounty," nor were they "deposited in behalf of recruits," as stated in General Fry's letter. They either belonged to Richardson, who deposited them, or to the Government, for whose security they were deposited. Hon. Ward Hunt testifies that "about \$13,000 would have been forfeited under the contract, about that amount of men having deserted. About \$7,000 no one would have any claim to as against Aaron Richardson."

On the 4th of March, 1865, Major Haddock directed Captain Crandall to turn over those bonds to S. Floyd Hoard, special agent. Captain Crandall sought the advice of distinguished and able counsel, and was told he could not safely turn over these bonds to Major Haddock without risk of being held personally responsible for the amount; and it also appears that Captain Crandall and his advisers had grave apprehensions, since shown to have been well founded, that it would be unsafe to have placed the bonds in the possession of Major Haddock. After taking counsel on the 11th of March, Captain Crandall stated the whole matter in relation to those bonds fully in a letter to General Fry, and asks General Fry to advise him what to do, as follows: "Major Haddock calls upon me to forward the money and securities to him; counsel of high standing advise me that I cannot safely do so, but that I am responsible to the parties entitled to it. The money and securities are now on hand, and I wish nothing so much as to pay them over. Can I safely pay this money to Major Haddock, and will the Government protect me against the persons who claim it? Be pleased to instruct me on this point."

No answer was made by General Fry, so far as the committee can discover. On the 30th of March, 1865, General Fry ordered Captain Crandall to turn over to Major Lee all moneys, bonds, and other evidences of indebtedness in his possession "belonging to enlisted men" who had deserted either before or after arriving at the general rendezvous, and all moneys, bonds, and other evidences of indebtedness in his possession belonging to enlisted men other than deserters to the United States paymaster stationed at Elmira. It will be seen that this order did not include the \$20,000 of bonds which were not claimed to belong to enlisted men, whether deserters or others. It does appear clearly that Captain Crandall never claimed any right to hold these bonds on his own account; that he was anxious to be rid of them, and only sought to protect himself from liability; that he deposited the bonds in a bank in Utica, and that when suit was brought against him for the bonds, he advised General Fry of the fact, stating that he had no interest in defending the suit, and asking that the Government should defend its right to the bonds. The Government never having done this, the county of Oneida has given to Captain Crandall proper security to indemnify him, and assumed the defense of the suit. These bonds belonged unquestionably either to Aaron Richardson or to the Government. If they belonged to Richardson, it is not easy to see why the complaint should be made that Captain Crandall had violated the orders of the Department in not turning over the bonds to Major Haddock or Major Lee, leaving himself liable to Richardson for this amount. If they belonged to the Government, it is still more difficult to see why the Government should not have employed counsel and protected its right to them. The defense of that suit was in no sense a defense of Captain Crandall, but simply the maintenance by the Government of its right to the bonds. Captain Crandall having been removed from office, and having no interest in the question, it seems absurd to require or expect him to defend, at his own expense, a suit which could not benefit or harm him, however it might be decided.

The committee regard the action of Mr. CONKLING, in directing the attention of the Department to the condition of this fund and the manifest danger of its loss to the Government as highly commendable. Nor have the committee been able to discover anything improper in the conduct of Captain Crandall in relation to these bonds. There is one other statement in the letter of General Fry that comes within the limit of the present investigation, (to wit, the charges against Mr. CONKLING;) that statement is as follows: "If while acting as judge advocate upon him by his friend Mr. Dana, he came into possession of any fact impugning my integrity as a public officer, he was guilty of gross public wrong and unfaithfulness if he did not instantly file formal charges against me with the Secretary of War. He can therefore only escape the charges of deliberate and malignant falsehood as a member of Congress by confessing an unpardonable breach of duty as judge advocate." No powers whatever, "extraordinary and inquisitorial" or otherwise, were bestowed upon Mr. CONKLING by Mr. Dana: whatever powers he had were given him by the Secretary of War, and not at the suggestion of Mr. Dana. Mr. CONKLING was discharging the duties of judge advocate only in the prosecution of Major Haddock. He had nothing whatever to do with filing charges against General Fry. To this point the committee cite the testimony of the Secretary of War as follows: "In the prosecution of Major Haddock to final judgment, Mr. CONKLING performed all the duty I expected him to perform;" and also the testimony of Mr. Dana, as follows: "I never knew of any authority given to Mr. CONKLING in any form, directly or indirectly, at any time, to investigate the acts of General Fry, or to file charges against him. It would have been evidently improper for him to file charges against General Fry, according to the usages of the Department."

#### ACCUSATIONS AS TO DOUBLE OFFICES AND IMPROPER FEES.

Another of the statements of General Fry's letter which the committee are directed to inquire into is in these words:

"For his services in this connection, Mr. CONKLING received, on the 9th of November last, from the United States the modest fee of \$3,000. Whether he received, as it has been reported, from his district \$5,000 more for the same service, and whether he received additional fees from guilty parties for opposing proceedings at Utica, I am unable now to say."

This is asserted in connection with and after the statement that "in the summer of 1863, Mr. CONKLING made a case for himself by telegraphing to the War Department that the provost marshal of his district required legal advice, which he was thereupon empowered to give."

The effect of this statement is an insinuation that the employment of Mr. CONKLING in this prosecution was by him improperly secured; that the amount of his compensation by the Government was excessive, and that there was some reason to believe that his district had paid him, besides the fee from the Government, for the same service, \$5,000; and, besides this, that he had been compensated by guilty men for corrupt services which he had rendered them in opposing the prosecutions which he had been employed to make.

The charge is not mitigated in its severity by the fact that it only insinuates, and seeks for its author the cover of alleged report. These features only give to it the enhanced capacity for mischief which grows out of the increased difficulty of disproving what is only vaguely charged, instead of being stated with definiteness as to time, place, and circumstances. The committee can find, in all that has come to their knowledge, absolutely nothing which can furnish a pretext for that part of this charge which relates to

the \$5,000 and the fee from guilty parties—not even the existence of any such report as the charge alludes to. The accusation insinuated is not only utterly false in fact, false in each particular, both as to the \$5,000 from the district, and that from guilty parties, but, so far as proof could be found, it was false in the most insufficient apology for its utterance, to wit, the existence of an alleged report giving it credence. No accusation can well be conceived more intensely hurtful than the last part of this one is. To say of anyone that he is sordid or voracious in his methods of getting gain, is to deny to him most of the qualities of a gentleman. To add to this that he gets money by ordinary frauds, is to exclude him from all just title to the common rights of civil and social life. To add, again, that his frauds were associated with compounding of felonies, and his gains the price of their concealment, is to stamp the accused with an ineffable infamy. But if to all this you add that he who is charged with taking the price of the suppressed crime is one of the members-elect of his Government, and as such charged with its safety; that, in addition, he had assumed special duties as to the prosecution of the very crimes for the alleged suppression of which he has taken pay; and that the crime suppressed was at least a moral treason against the Government of which he was an officer-elect, and a treason, too, committed at a time when his Government's existence was in deepest peril; when, we say, all these elements combine in the accusation, the guilt charged assumes a depth of turpitude which can hardly find a parallel. That such a charge should, without any shadow of cause, be made in any way seems almost incredible. But that it should be carefully couched in the forms of insinuation, showing timidity and solicitude in the author to avoid responsibility, and should then be written out and sent into Congress, to be read in the presence of the nation, and preserved against the accused and his children in the history of Congress, presents, as a libel, a case almost new—certainly singular—for its bad eminence as a wanton and inexcusable violation of the rights of a citizen and member of the Government.

The use that was made in the House of that part of this charge relating to the fee of \$3,000 makes it due to Mr. CONKLING that it should be determined whether his being a member-elect of this House rendered it improper or illegal for him to take the employment or its compensation; and the insinuation contained in this statement that the fee was excessive renders it proper to inquire whether it was such. As to the latter point, the committee had no hesitation in coming to the conclusion that Mr. CONKLING's compensation for services rendered to the Government was a reasonable one. He had nothing to do with fixing its amount. That was left wholly to the Government. He accepted the service with reluctance, and upon the most pressing and repeated solicitations of the Secretary of War. He took it at the sacrifice of other professional business of equal value, or of perhaps greater value to him than he realized for this. He took it at a time when it was almost vital to the interests of the military service in New York that they should be rendered. The committee are of opinion that the Secretary of War rightly judged that no one could be found more eminently qualified on all accounts for the efficient discharge of that peculiar service, under the peculiar circumstances in which it was undertaken and rendered. The duties he assumed were discharged with consummate ability, and with integrity, diligence, and complete success. They went through about five months. They involved the examination of a large field of complicated facts; a labyrinth of frauds and villainies. The record of the trial makes some fifteen hundred pages of matter, and resulted not only in discovering and punishing these crimes against the Government, but also in the conviction and punishment of the acting provost marshal general of west New York, Major Haddock, and in the recovery from him of a fine of \$10,000, paid into the United States Treasury, besides the further sum of over \$200,000, which he was constrained to pay over after the commencement of the prosecution.

The committee have come unanimously to the conclusion that the conduct of Mr. CONKLING, in entering upon that service, and in its management throughout, was not only free from any improper, selfish, or unpatriotic motives, and from all just grounds of reproach, but his services were singularly able, faithful, and in results valuable to the Government.

#### THE LAW.

The only other question touching this part of the matter referred to the committee to be considered is, whether there was any legal impediment in the way of Mr. CONKLING, he being a member-elect of the Thirty-Ninth Congress, assuming the relation he did assume to the prosecution of Haddock. The committee have sought carefully to inquire whether there was any such legal impediment.

#### RIGHT OF DEPARTMENTS TO EMPLOY AND PAY AGENTS.

In determining upon this question, it seems perfectly safe to assume that what is said by the Supreme Court of the United States, in *Gratiot vs. United States*, 15 Peters, 371, is the settled law applicable to this class of cases, to wit, that "a Department charged with the execution of particular authority, business, or duty, has always been deemed incidentally to possess the right to employ the proper persons to perform the same."

"And also the right, when the service or duty is an extra service or duty, to allow the person so employed a suitable compensation." "But is fully not new," says the Supreme Court, *vs. Riley*, expounded in the cases of the *United States vs. Billebrew*, 7 Peters, 18, and the *United States vs. Peters*, 28. And the court adds: "That in order to be justly a refusal to allow such compensation it is indispensable to show that there is some law which



positively prohibits, or by just implication denies, any allowance of such compensation." This was said by the court in a case where it was an officer of the United States who was claiming the compensation for services outside of his salary.

#### THE PROHIBITIONS.

We assume, then, that there is nothing in the general relations of a member-elect of Congress to the Government, nor in the general principles of the law growing out of that relation, which would forbid Mr. CONKLING becoming the agent or attorney of the Government, and receiving compensation therefor; and that if his relations to the Haddock trial were illegal it must be owing to some express provision of the Constitution or of the law. Is there any such legal prohibition? The legal provisions which have been brought to the attention of the committee, and which are supposed to have some bearing upon the question of the legality of Mr. CONKLING's relations to the Haddock trial and his compensation therefor, are the following:

1. The Constitution (article one, section six) declares that "no person holding an office under the United States shall be a member of either House during his continuance in office."

2. The eighteenth section of the act of 31st August, 1852, (1 Brightly, 821) provides that "no person hereafter who holds or shall hold any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of \$2,500, shall receive compensation for discharging the duty of any other office."

3. The third section of the act of 3d March, 1839, (5 United States Statutes, 349, and 1 Brightly, 820,) which reads as follows: "No officer in any branch of the public service, or any other person, whose salaries, or whose pay and emoluments is or are fixed by law or regulations, shall receive any extra allowance or compensation in any form whatever for the disbursements of public money or the performance of any other service, unless the said extra allowance or compensation be authorized by law."

4. The second section of the act of 23d August, 1842, (5 United States Statutes, 510, and 1 Brightly, 820,) which reads as follows: "No officer in any branch of the public service, or any other person, whose salary, pay, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance or compensation in any form whatever for the disbursements of public money or other service or duty whatever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation."

5. The twelfth section of the act of 26th August, 1842, (1 Brightly, 821, 5 United States Statutes, 525,) which reads as follows: "No allowance or compensation shall be made to any clerk or other officer by reason of the discharge of the duties which belong to any other clerk or officer in the same or any other Department; and no allowance or compensation shall be made for any extra service whatever which any clerk or other officer may be required to perform."

6. The first section of the act of 30th September, 1850, (1 Brightly, 821, 9 United States Statutes, 542,) which reads as follows: "The proper accounting officer of the Treasury, or other pay officers of the United States, shall in no case allow or pay to one individual the salaries of two different offices on account of having performed the duties thereof at the same time. But this prohibition shall not extend to the superintendents of the public buildings."

7. The first section of the act of April 21, 1808, (1 Brightly, 190, and 2 United States Statutes, 484,) which reads as follows: "No member of Congress shall, directly or indirectly, himself, or by any other person whatsoever in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract or agreement hereafter to be made or entered into with any officer of the United States in their behalf, or with any person authorized to make contracts on the part of the United States; and if any member of Congress shall, directly or indirectly, himself, or by any other person whatsoever in trust for him, or for his use or benefit, or on his account, enter into, accept, or agree for or undertake or execute any such contract or agreement, in whole or in part, every member so offending shall, for every such offense, upon conviction thereof before any court of the United States or the Territories thereof having cognizance of such offense, be adjudged guilty of a high misdemeanor, and shall be fined \$3,000; and every such contract or agreement as aforesaid shall moreover be absolutely void and of no effect."

8. The first section of the act of June 11, 1864, (2 Brightly, 105, and 13 United States Statutes, 123,) which reads as follows: "No member of the Senate or House of Representatives shall, after his election and during his continuance in office, nor shall any head of a Department, head of a bureau, clerk, or other officer of the Government, receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered or to be rendered, after the passage of this act, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested, before any Department, court-martial, bureau, officer, or any civil, military, or naval commission whatever; and any person offending against the provisions of this act shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding ten thousand dollars, and by imprisonment for a term not exceeding two years at the discretion of the court trying the same, and shall be forever thereafter incapable of holding any office of honor or trust or profit under the Government of the United States."

#### THE CONSTITUTIONAL PROHIBITION.

These are all of the existing laws which have come to the attention of the committee, and which are supposed to contain anything bearing, either nearly or remotely, upon the matter of this service of Mr. CONKLING being prohibited by law. There are other laws which bear upon other points in this inquiry, which will be alluded to.

With these provisions of the Constitution and law before us, and assuming as law that which we have above stated from the case of *Gratiet vs. The United States*, (15, Peters, 371,) we inquire whether any of these provisions of express law do away with that general principle as applicable to the matter before the committee; or whether either of these provisions prohibit or render illegal what was done by Mr. CONKLING in the Haddock trial, he being a member-elect of the Thirty-Ninth Congress.

To avoid, if we can, confusion, we first consider this without reference to the question whether Mr. CONKLING should be paid, as a member of the Thirty-Ninth Congress, for the same time covered by his service in the Haddock trial, and for which time it is suggested he was paid by the fee of \$3,000, and let the inquiry be first disposed of whether it was illegal for Mr. CONKLING to assume that service and to take compensation therefor.

And, in disposing of this inquiry, let it first be granted that Mr. CONKLING, in what occurred in that service, became and was a "judge advocate," in the strictest sense, and that he was thereby made an officer of the United States, and was not a mere agent and counsel of the Government.

In entering upon this inquiry the committee do not forget the truth nor the supreme importance of that principle of our Government which was pressed upon the attention of the committee in the argument of this case, and which received, during the Thirty-Eighth Congress, the sanction of this House, in its approval of the report in the cases of ROBERT C. SCHENCK and of Francis P. Blair. The principle to which we allude is thus stated in that report:

"Nothing is plainer in the theory and plan of this Government than the distinct and separate organization of the executive, judicial, and legislative departments, and the sedulous care with which each has been clothed and guarded in the exercise of duties entirely independent of the others. Yet the attempt to invest the same person with two offices, one legislative and the other executive, and require of him at the same time the discharge of the duties of both, is, whether they be conflicting or not, a commingling of the duties of the executive and legislative departments. It is bringing the Executive himself into the very Halls of Congress, and if persisted in, might ultimately prove as pernicious as he had a seat therein, and as many votes as he had commissions. If one Representative in Congress may at the same time hold under the Executive the office of major general, so may another, and another may as well be a brigadier general, or hold any other official position in the military service under the Executive and Commander-in-Chief, and bound to obey him. By such process the House may at any time be put under the control and become the pliant instrument of the Executive to any end. Its members would cease to be the Representatives of the people, and become only the agents of the Executive."

The framers of the Constitution saw this so clearly, and felt the independence of the legislative over the executive department was so essential and vital that they deemed the inhibition worthy of an express constitutional enactment, that "no person holding any office under the United States shall be a member of either House during his continuance in office." (Art. 1, sec. vi.)

Still, in view of this important principle, the committee have not been able to see how the acceptance and discharge of the duties of the office of judge advocate by Mr. CONKLING, the duties, tenure, and existence of which office (if such it was in him) were in their nature such as would most likely be, and were in fact, wholly ended and gone before he was, by law or the Constitution, required to qualify as a member of Congress, or to enter upon, assume, or discharge any duty as such, conflicted with these principles. Upon this subject-matter the committee deem the following two propositions to be entirely settled in our Government: 1. "The acceptance by a member of any office under the United States, after he has been elected to, and has taken his seat in Congress, operates as a forfeiture of his seat." (See *Van Ness case*, Cl. and Hall, 122; *Schenck and Blair case*, Thirty-Eighth Congress, &c.) 2. "Continuing to execute the duties of an office under the United States after one is elected to Congress, but before he takes his seat, is not a disqualification, such office being resigned or extinct prior to the taking of the seat." (See *Hammond vs. Herriek*, Cl. and Hall, 287; *Earl's case*, *ibid.*, 314; *Munford's case*, *ibid.*, 316; *Schenck and Blair's case*, Thirty-Eighth Congress, &c.)

The committee agree with the reasoning and conclusions of the report, from which we have already quoted, that the continuance to hold another office after the time when the law and the Constitution requires the member-elect to qualify and enter upon the discharge of his duties as a member, is, in legal contemplation, an act of election by him to vacate his office as a member; and such continuance to hold the other office is equivalent in its legal significance to the act of accepting and entering upon an office tendered after the member was qualified. Both alike vacate the legislative office. The act, therefore, of Mr. CONKLING in accepting an office not previously held, which from its nature would terminate before he would be required to assume any duty as a member, had no more nor less effect in depriving him of his right to enter upon his office as a member of Congress than the act of continuing after he was elected to exercise the duties of an office which he had previously entered upon would have. Neither operates

to vacate his seat in this House, the first office being such as must be and was wholly ended or abandoned before the time comes when he is required to enter upon his duties as a legislator. The act of acceptance of such a temporary office at such a time did not in its nature indicate any election or purpose to abandon or resign the membership in Congress. "The object of the constitutional prohibition upon an officer becoming a member of Congress is attained, so far as it can be by this provision, if the inhibition attaches the moment the member enters upon the discharge of his duties as such, and nothing is gained by an earlier application of it." There was, therefore, no constitutional objection to Mr. CONKLING's accepting this office of judge advocate, if he did become such officer.

#### PROHIBITORY STATUTES.

The acts of Congress above referred to, of the dates respectively of March 3, 1839, and of the 23d and 26th of August, 1842, are, as is said by the Attorney General of the United States, (5 Opins., 768,) "the same in their sense and meaning;" and as to all of these acts, including that of September 30, 1850, above cited, he says, "they do not forbid a person from holding two compatible offices at the same time. They were intended to prevent arbitrary extra allowances in each particular case, but do not apply to distinct employments with salaries affixed to each by law or regulations." (See also 6 Opins., 80 and 325.)

If the committee were left to their own construction of these statutes of 1839, 1842, and 1850, we would have attained the same conclusion to which the Attorney General arrived in these opinions. But when there is added to the force of these and several other equivalent opinions by the Attorney Generals of this Government, the weight of the fact that all these statutes were in force when most of the very numerous decisions by this House were made, determining that there was nothing either illegal or unconstitutional in a member of Congress elect (but not qualified) holding an office under the United States Government, provided he did not hold it after the time came when the Constitution required him to assume his duties as a legislator, the committee could not hesitate in coming to the conclusion that neither the Constitution nor either of these statutes alluded to in the opinion of the Attorney General were violated when Mr. CONKLING became (if he did) special judge advocate, and took compensation therefor. We say "took compensation therefor," because in all the cases we have cited the member-elect, as the committee understand the history of the cases, received his compensation for his first office during the time he held it, but not his compensation as a member for the same time.

#### THE STATUTE AGAINST JOBBING.

Although not quite in proper order, it may perhaps as well be said here as anywhere else, that the committee do not see what the statute of April 21, 1808, has to do with this inquiry. That act renders it a crime for any member of Congress to "undertake, execute, hold, or enjoy, in whole or in part, any contract or agreement, hereafter to be made or entered into, with any officer of the United States, in their behalf, or with any person authorized to make contracts on the part of the United States." No "contract" or "agreement" has been proved in this case between Mr. CONKLING and any other person, coming within what is the obvious meaning of these words in the act of 1808. The design of that statute is what is expressed by the Attorney General of the United States (4 Opinions, 48) when he says, "The object of the statute is only to prevent jobbing between members of the Legislature and the Executive for the primary advantage of the former." Surely the practice which has been general and uninterrupted, as must be within the personal knowledge of every intelligent citizen, of members of Congress acting as the attorneys of their Government, has not subjected all such attorneys to indictment and fine of \$5,000. No one has suggested that such is the law, and the committee would have made no allusion to it but for the fact that it is presented to our consideration in the brief of Mr. CONKLING.

#### THE ACT PROHIBITING MEMBERS BECOMING CLAIM AGENTS, ETC.

The act of June 11, 1864, cited above, renders it a high crime for any member of Congress, at any time after his election, "to receive or agree to receive any compensation for any services rendered to any person in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or interested directly or indirectly, before any Department, court-martial, bureau, officer, or any civil, military, or naval commissioner whatever."

This statute would have been directly in point had Mr. CONKLING received compensation for being the counsel for Haddock in this court-martial. The fact that this recent statute, passed in full and thoroughly intelligent view of all the important questions of law, which your committee is required to consider, carefully confines its prohibitions to preventing members-elect from taking compensation for services rendered before courts-martial, &c., "to any person" and against the Government, and does not prohibit such compensation being paid by the Government, nor prohibit such service being rendered in its favor; and this, too, in the identical case before the committee, is one of the strongest possible legislative determinations of the very question we consider. Here is a law which comes up squarely, face to face, in front of that exact question we consider, to wit, whether a member-elect to Congress ought to be permitted to receive compensation for services rendered to either of the parties to a trial before a court-martial. And the Congress said it should not be lawful for him to take compensation for services rendered to one side—"any person"—and now shall we be told that Congress meant to declare that it was equally illegal to

take compensation for services rendered to the other side, to wit, for services in favor of the United States. On the other hand, is this not a conclusive legislative determination that a member-elect might be compensated for services rendered to that other non-prohibited side of the case? It so seems to the committee.

#### ACT OF 1852.

This disposes of the alleged legal prohibitions upon Mr. CONKLING's entering upon the service, unless it be, (and we think including,) that supposed to be, contained in the eighteenth section of the act of 21st July, 1852, already cited, (1 Brightly, 821,) and which is as follows: "No person hereafter who holds or shall hold any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of \$2,500, shall receive compensation for discharging the duties of any other office."

It was suggested in the debates in the House, and earnestly urged elsewhere, that this section, even if it did not render Mr. CONKLING's services upon the Haddock trial illegal, does render it illegal for him to receive compensation for his services upon that trial. The committee is not quite certain that the order of the House directing it to inquire into the charges against Mr. CONKLING contained in the letter of General Fry to Mr. BLAINE admits of the committee's examining the question whether Mr. CONKLING was entitled to take that compensation of \$3,000. That letter does not charge that the taking of any fee was illegal, but only insinuates that it was excessive. Still, after what occurred touching this double compensation in the debates of the House, the committee deem it proper to examine this question also. If it be outside of the duties of the committee, an easy way of preventing mischief from this part of the report will be to disregard it.

The determination of the question whether this act of 1852 renders it illegal for Mr. CONKLING to receive, in addition to his salary as a member of Congress, this \$3,000, requires the committee to determine one or more of the following questions:

1. Is one who has been elected to Congress, but who has not yet taken the oath of office, nor in any way entered upon the discharge of the duties of his office, and prior to the time when, by law, he is required to enter upon these duties, "a person who holds any office?"

2. Granting that he is, in the case stated in the preceding question, a person holding an office, then does he hold an office "under the Government of the United States," within this just sense of this section?

3. If he, as a member-elect, is an officer "under the Government of the United States," then did Mr. CONKLING, in what he did in the Haddock service, become an officer of the United States?

4. If he did not become an officer of the United States, did he, in that Haddock trial, discharge "the duties of any other office," and receive compensation therefor?

#### IS A MEMBER-ELECT ONE HOLDING OFFICE?

The first of these inquiries is, in the judgment of the committee, answered so far as is necessary in deciding upon the effect of the act of 1852, by the cases of Hammond, of Earl, of Munford, of Schenck, and others, which we have already cited. These cases, as we have seen, all determine that, prior to the time when the Constitution requires the member-elect to commence the duties of his legislative office, and before he has assumed these duties and taken the oath of office, he may receive compensation for discharging the duties of another office. As we have already said, those cases do not determine that he may also be compensated as a member of Congress for the same time for which he was compensated in the other office. But they do determine that being a member-elect of Congress does not make him an "officer" in such sense as to bring him within the prohibition of the act of 1852. This question, in substance, received the careful attention of the House in the Thirty-Eighth Congress, upon an able report of one of its committees. The committee and House came to what your committee deem a just conclusion, when it determined that one merely elected to Congress, but who had not entered upon his duties nor been qualified, was not a member of this House, that is, did not hold an office so as to prevent him from continuing to hold another office and receive compensation therefor. The committee, in concluding their argument showing that one merely elected to Congress was not a member of the House, and not, as such, amenable to its jurisdiction, says: "The committee are not aware of any attempt to punish a Representative-elect, and of but one instance of an attempt to expel one. A resolution was adopted by the last House, under the previous question, to expel a person who was a Representative-elect, but had never signified his acceptance of the office, nor qualified, nor even appeared in Washington for the purpose of taking his seat."

In that case the House determined, in effect, that the act of 1852 did not prohibit General SCHENCK, while a member-elect of Congress from receiving the pay of another office, to wit, that of major general of volunteers.

This is the last case in which the question came before the House. But the same question received in the Fifteenth Congress, in the case of Hammond vs. Herriek, (Clark and Hall, Contested Elections, 233, 291,) a still more elaborate and exhaustive consideration. In the report in that case (which also received the sanction of the House) this doctrine was explicitly stated, and was affirmed after a thorough review of the English and American cases touching it. The case held the rule which was stated by the committee in these words: "Neither do election and return constitute membership."

"Our rule in this particular is different from that of the House of Commons. It is also better, for it makes

our theory conform to what is fact in both countries—that the act of becoming in reality a member of the House depends wholly upon the person elected and returned. Election does not of itself constitute membership, although the period may arrive at which the congressional term commences."

This House has again and again determined that men elected to it who do not appear in the body and assume the constitutional oath of office, are not to be reckoned as members of the House in determining the number required to make a majority or quorum of the body.

#### FRANKING PRIVILEGE, ETC.

The committee, in coming to this conclusion, have not overlooked the fact that members-elect, but not qualified, are by the laws accorded certain privileges and salary. The effect of this right to enjoy these privileges before becoming qualified as a member of the legislative body has received the fullest attention both in this House and in the English Parliament. The result attained is, that these special privileges are not necessarily *indicia* of actual official authority or station, and may by law as well be attached to one's person before and after he is an officer as during his official tenure. The Representatives after the expiration of their terms, the Presidents of the United States after such expiration, and the widows of certain ex-Presidents, all have the franking privilege, and these are not then officers of the Government in any sense. The assumption of office in this country, as well as its relinquishment, is voluntary, and one elected to Congress is at perfect liberty to refuse to assume the office. His exercise of the franking privilege, with the knowledge that he never would enter upon the duties of the office, would be an act of bad faith towards his Government; but that would not render him a member of Congress, nor would the exercise prevent him, should failure of health or other cause render it improper to enter upon his office, from rightly refusing ever to take the office.

Other and perhaps more conclusive considerations bearing upon this important inquiry might be given, but it is not deemed best to pursue it further. The committee are entirely satisfied that the law of this House is fully and rightly settled as to this point, and that he is not a member of Congress, nor one who "holds any office under the Government of the United States," who has only been elected to this House, but who has never taken any oath of office nor entered upon the duties of that position.

Mr. CONKLING was not prohibited by the act of 1852 from receiving compensation as he did for his services in the Haddock trial, even if his duties on that trial were official. We have not yet reached the question of his right to be also paid his salary as a member of this House for the same time covered by the Haddock service.

#### IS AN ACTING MEMBER OF CONGRESS AN OFFICER OF OR UNDER THE GOVERNMENT?

The next proposition the committee were called to consider and decide is thus stated by Mr. CONKLING: "A Representative in Congress is not at all within the words 'person who holds an office under the Government of the United States.' Senators and Representatives do not hold offices under the Government of the United States. They are part of the Government, and therefore not affected one way or the other by these provisions."

If the committee were sustained in the views they have taken of other propositions in this inquiry, then the consideration of this one would not be necessary to the determination of what is before the committee. But as the committee may not be sustained in the other propositions which dispose of the case, they have felt impelled carefully to consider this one.

The proposition that a member of Congress who has been sworn into office is not an officer under the Government of the United States, within the sense of the act of 1852, is supported by an appeal to authorities expounding the sense of these words as used in the Constitution.

These or similar words are found in the Constitution in the following clauses:

1. That prohibiting Senators and Representatives during the term for which they are elected from being appointed to "any civil office under the authority of the United States, which was created or its emoluments increased during such time."

2. That prohibiting a person "holding any office under the United States from being a member of either House of Congress."

3. That giving Congress the power to make all laws necessary to carry into effect the powers vested by the Constitution in "any officer of the Government of the United States."

4. That prohibiting every "person holding any office of profit or trust under the United States from accepting any present, office, &c., from any king, prince, or foreign State, without the consent of Congress."

5. That prohibiting every Senator, Representative, and person "holding an office of trust or profit under the United States" from being appointed an elector for President, &c.

6. That providing that the President shall commission "all officers of the United States."

7. That providing that "all civil officers of the United States shall be removed from office on impeachment."

8. That prohibiting any one who has suffered a judgment of impeachment from holding or enjoying "any office of honor, trust, or profit under the United States."

The proposition stated, and which the committee are asked to affirm, is, that a member of Congress and his office are not included in the scope or meaning of the words of the Constitution "officer under the United States," or "civil office under the authority of the

United States." It is said that he is part of the Government, and is not under it. It seems to be indicated that he may, in the sense of the Constitution, be an officer of the Government, but not under the Government. In the impeachment of Blount (Wharton's State Trials, 268, &c.) this argument is presented by Mr. Bayard, but he (p. 269) makes the very proper remark as to such an argument that he was "unwilling to place any confidence upon an argument derived from mere verbal criticism. In construing the charter of a Government our views should comprehend all its parts, and our aim should be to execute it according to its general and true design." No method of attaining the sense of the Constitution is more unsafe than this one of "sticking" in sharp verbal criticism. But a little consideration of this matter will show that "officers of" and "officers under" the United States are (as said by Mr. Dallas in this Blount case, p. 277) "indiscriminately used in the Constitution." Take that clause as to who may be impeached. The Constitution says that "the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." Now, then, if officers of the United States do not include officers under the United States, (that is, officers appointed by the President, such as judges, &c.,) then you cannot impeach anybody except the President, Vice President, and, perhaps, the members of Congress, if the latter are to be deemed officers of the Government. Again: the judgment of impeachment disqualifies the convict from holding "any office of trust or profit under the United States," and not from holding the offices of the United States. You can only impeach them who are officers of the United States, and then, when impeached, they are only prohibited from holding offices under the United States—that is, they can hold the same offices from which they were excluded by impeachment, but cannot hold the inferior executive offices under those from which the impeachment does not perpetually exclude them.

Again: the Constitution provides that "the President shall appoint all officers of the United States." Are not the judges, ministers, heads of Departments, postmasters, &c., officers under the United States? If so, they are also officers of the United States, because the Constitution only authorizes him to appoint officers of the United States.

It is irresistibly evident that no argument can be based on the different sense of the words "of" and "under," as used in these clauses of the Constitution, and we must approach this question as to whether a member of Congress is an officer "under" the United States, with the knowledge that if we find him to be either an officer "of" the United States, or one "under" the Government of the United States, in either case he has been brought within the constitutional meaning of these words, as used in the act of 1852, because they are made by the Constitution equivalent and interchangeable.

All we have to do, therefore, is to find out whether the Constitution anywhere (not everywhere) uses these expressions "officers of" or "officers under the United States" in such sense as must include members of Congress. If the Constitution once so uses either of these equivalent expressions, then all argument as to the sense of these words in the act of 1852, so far as that argument is derived from their meaning in the Constitution, is destroyed, because if the Constitution once uses these words in a sense which includes members of Congress, then so may the act of 1852 so use them.

Now, let us see whether there is any clause where one or other of these phrases "officers of" or "officers under the Government of the United States" must include members of Congress.

Take the clause above cited as to receiving presents, &c., from any king, &c. There the prohibition is that "no person holding any office of profit or trust under the United States shall," &c. Now, will it do to hold that a clerk in the post office shall not be permitted to receive offices, &c., from a king, &c., without the assent of Congress, and yet every member of the Senate or of the House be permitted to be "plied," in the interests of a foreign Government, with bribes, in the shape of presents, offices, emoluments, and titles? May the King of England make the American Senate a British House of Lords? He may, unless the position of a Senator and Representative is an "officer under the United States," because there is no other clause prohibiting such bestowals! Again, take the clause containing the requirement that no religious test shall ever be required as a qualification to any office or public trust under the United States. Now, shall it be held that a member of Congress may be required to have some religion, or a particular religion, by the establishment of a religious test as to his office, and yet all the other offices of the Government be kept open to the infidel? And yet this is the law of the Government, unless a member of Congress be one holding an office or public trust under the United States; for there is no other prohibition than this one upon requiring such religious tests.

Or take the clause, already cited, as to the effect of judgments of impeachment. If a member of Congress does not hold any office of trust or profit under the United States, then he is in an office into which one may immediately and freely enter who has, by impeachment, just been convicted of treason, bribery, or other high crime. This is because that the only places into which an impeached felon cannot enter are "offices of honor, trust, or profit under the United States." The convicted traitor cannot enter into the office of "deputy United States assessor of internal revenue," but he may become United States Senator!

We might increase these examples, but surely it is not necessary. Surely it cannot be that the Consti-



tution contains elements so repugnant to all just or safe principles of government.

But we are referred to authorities to establish this proposition that a member of Congress is not an officer "of" or "under" the United States; and the leading case relied on is the impeachment of William Blount, a United States Senator from Tennessee. The case is found fully reported in Wharton's State Trials, 250. Justice Story (1 Constitution, section 793) says this case decides that a United States Senator is not a civil officer of the United States. This remark of the learned author is obviously an incautious one, and not fully authorized by what occurred in that case. The same author in the same section expressly declares that the "reasoning by which the decision was sustained does not appear, the deliberations having been private." He adds that "it was probably held that civil officers of the United States" meant such as derived their appointment from and under the national Government," &c. The defenses of Mr. Blount (see page 260) were various. His main ones were: first, that the offenses charged were cognizable in the civil courts and not on impeachment, they not relating to his official duties; second, that he had been expelled from the Senate before the trial of the impeachment, and that he was therefore not an officer of the United States and not amenable to the Senate.

As to what this case does decide, Wharton (page 317) justly says: "In a legal point of view, all that this case decides is that a Senator of the United States who has been expelled from his seat is not, after such expulsion, subject to impeachment; and perhaps from this the broader proposition may be drawn that none are liable to impeachment except officers of the Government in the technical sense, excluding thereby members of the national Legislature."

Judge Story further says of this decision that it was one on "which the Senate was greatly divided," (14 to 11), and which "seems not to have been quite satisfactory to the minds of some learned commentators." (4 Tuck. Black. Com. App., 57, 58; Rawle on Const., ch. 22, pp. 213, 214, 218, 219.)

Without, therefore, designing to determine that the case of Blount did not decide that a member of Congress was not a civil officer of the United States "in some technical sense," the committee are wholly unable to come to the conclusion that the members of the national Congress are not, in the enlarged and general sense of the Constitution, officers of their Government. The committee do not believe that any authority is to be found holding that they are not. It by no means follows, because a member of Congress may not be tried by impeachment, that he is not a "civil officer of the United States" in the sense we now consider. There are other clauses and principles of the Constitution which affect the question or the right to impeach a Senator besides that single one as to who are included in the just sense of the words "civil officers of the United States." Such is that one providing a method for the expulsion of members; also those as to the separate and independent action of the two Houses touching their own members, &c. These and like considerations may well be held to control and qualify the words of the Constitution as to who may be impeached. No one can read the singularly able and exhaustive argument in the case of Blount and not realize that the other principles and terms of the Constitution ought to and did control the sense of the words "all civil officers of the United States" as used in this clause. The committee decline to find that an acting member of Congress is not an officer of this Government within the sense of at least some of the clauses of the Constitution. The committee here leave this important question made in this case. The effort of the committee, so far as this single point is concerned, has been to bring to the attention of the House the leading considerations which must form the basis of its determination by the House, should its determination be found necessary. In the opinion of the committee, the determination of this point is not necessary to the right determination of all that is before the committee, and this is not, perhaps, a proper case in which to make a precedent upon so vital a constitutional question.

#### ACT OF 1852 INCLUDES ACTING MEMBERS IN THE WORD "OFFICE."

But suppose it be granted that the constitutional sense of the words "officer of the United States" or "office under the United States" be what is insisted by Mr. CONKLING, does it follow that they are used in so limited a sense in the act of 1852? Having regard to the mischief meant to be prevented by it, the committee have been wholly unable to find adequate reasons why a member of Congress who has taken his seat should not be deemed an officer "of" or "under" the Government in such sense as that he should not be permitted to draw the salaries of two offices at the same time, though holding but one. To hold that a member of Congress is as free as other men from human infirmities, and as little liable to fall into temptation, is, probably, according to him as high a grade of virtue as would be accorded to him either by the truth or by the judgment of his fellow-men. But if you look to the nature and powers of his office, and the absolutely vital importance of having him removed as far as possible from the bad influences of corruption and avarice, such as he would be liable to encounter, could he become entitled to the pay of many offices at the same time, the propriety of holding that this act of 1852 meant to preclude members of Congress from receiving double salaries becomes quite irresistible. We therefore conclude that whatever may be the meaning of the words "office under the United States," as used in the Constitution, they, in the act of 1852, ought to be held to, and do, preclude an acting member of Con-

gress from receiving compensation for the duties of any other office.

#### WAS MR. CONKLING, AS ACTING JUDGE ADVOCATE, AN OFFICER?

We are now brought to the question whether Mr. CONKLING, in what occurred in this prosecution of Haddock, became an officer of the United States. That he did not we think is most readily ascertained. An office is a particular duty, charge, or trust, conferred by public authority, and for a public purpose, with a right usually attached to receive a fixed compensation for such service. Nothing can be plainer than that no office of this Government can be created or conferred except by some public authority authorized by law to confer it. Upon this very question Chief Justice Marshall, in the case of Maurice (2 Brock., 101.) says: "It is too clear, I think, for controversy, that appointments to office can be made by heads of Departments in those cases only which Congress has authorized by law; and I know of no law which authorizes the Secretary of War to make his appointment." And in that case it was decided that Maurice did not become an officer, and that his contract with the Government, on which the suit was brought, was good only by reason of the fact that the United States is a Government, and as such can, at common law, make a valid contract with its agents as to matters of Government.

The Constitution (article two, section two, clause two) provides that "the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint" \* \* \* "all officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." This clause covers every possible office under or in the Government. Aside from the President, Vice President, and members of Congress (these being the officers included under the above words, "appointment herein provided for") there are but three repositories in which can be placed the power to bestow any office, to wit, the President, (the Senate assenting,) the courts of law, and the heads of Departments. There was in April, 1865, no law giving to any court or any head of any Department any power whatever to confer upon any person any office of general or special judge advocate as an officer of the Government.

The sixth section of the act of July 17, 1862, (2 Brightly, 25,) authorizing the President, with the assent of the Senate, to appoint a judge advocate, with rank and pay of a major of cavalry for each army; and the sixth section of the act of June 20, 1864, (2 Brightly, 26,) authorizing the President, with assent of Senate, to appoint a Judge Advocate General, with rank of brigadier general, and an assistant, with rank of colonel of cavalry, are the only laws then in force, so far as the committee find, permitting the appointment of any judge advocate as such. Counsel in their briefs have treated the forty-ninth section of the Articles of War of April 10, 1806, (1 Brightly, 79,) as being also in force, which the committee assume, on their authority, it was. This last permitted the judge advocate or the general or officer commanding the army, detachment, or garrison, to "depute some person to prosecute in the name of the United States" military offenses. If there are any other laws bearing upon these appointments they have escaped the attention of the committee. The same section last named provides that "the judge advocate, or person officiating as such," shall take a certain oath to keep secret the doings of the court. (1 Brightly, 86.) The twenty-fifth section of the act of 3d March, 1863, (2 Brightly, 26,) authorizes the judge advocate to issue process for witnesses. This oath and these duties Mr. CONKLING took and performed in the Haddock trial. He had no other appointment or commission than that shown by the letters of April 3 by Mr. Dana, set forth in the letter of General Fry to Mr. BLAINE. He was not required to, nor did he, take the usual oath of all officers of the United States, nor did he take the oath required by the act of July 2, 1862. (2 Brightly, 348.) Without taking that oath he could not enter upon or take compensation for the duties of any office whatever, except the office of President. There is no law anywhere authorizing Mr. Stanton to appoint any one to the office of judge advocate. In the letter of Mr. Dana above quoted, it was said that "the Judge Advocate General will be instructed to issue to you an appointment as special judge advocate for the prosecution of any cases that may be brought to trial before a military tribunal." But even this was not done. Under this state of law and fact the committee do not think that Mr. CONKLING either did or could become an "officer" of the United States. Under these laws a judge advocate or a general or officer might, under the Constitution, "depute" Mr. CONKLING agent, but could not give him an office, because the Constitution does not permit these men to be authorized to appoint to office.

#### "DUTIES OF ANY OTHER OFFICE."

The only remaining question is, whether his being paid \$3,000 for five months' service, from April 3, 1865, was such a compensation for "discharging the duties of any other office" as to require Mr. CONKLING, in justice or legal propriety, to either pay back what he has received for those services or else not to draw his salary as a member of Congress for that time.

The committee submit to the House the following propositions as conclusions at which they have arrived as to this point:

1. When a member-elect has drawn the salary or pay for any other office, for any time after the 4th of March preceding his entering upon his duties as a member of Congress, he should not receive any compensation as a member of Congress for that same time.

2. The act of 31st August, 1852, (1 Brightly, 821,) which is relied on as prohibiting Mr. CONKLING from receiving the \$3,000, does not apply to "duties" or services for which there was no officer provided by law whose duty it was to discharge them, and which duties were, in their nature and in law, such that "some other person" than an officer might legally discharge them.

3. The duties discharged by Mr. CONKLING were duties for the doing of which the law had not provided, nor paid any other officer, and charged such officer, as part of his official duty at that time and place, to enter upon and do. But, on the other hand, they are services which, in their nature and under existing law, (1 Brightly, 79 and 80,) some other person than a judge advocate could do. The law expressly permitted some person not a judge advocate, and "deputed by him," and "officiating as such," to discharge them.

4. The law, or military regulations in pursuance of law, may confer upon private individuals, not officers, powers similar to those usually exercised by officers, such as that of issuing subpoenas, swearing witnesses, &c. Such is common in regulations touching elections, special commissions, the duties in some of the States of attorneys, of grand jurors, and the like. These conferments of such temporary or limited powers do not, in the sense of the Constitution and laws of the United States, necessarily constitute the recipients of them "officers," nor make their duties those of "any office."

5. Mr. CONKLING's services in the Haddock trial were not "the duties of any other office," within the meaning of the act of 1852; and he was entitled to compensation therefor the same as for any private service rendered by him in his profession. His having, therefore, received this money as the ordinary earnings of his profession, its receipt no more requires him to decline to draw his salary for that time than the collection of any of his other earnings during that time requires it.

#### THE ANIMUS OF THE BLAINE LETTER.

In the month of February, A. D. 1865, General Fry entered into an arrangement with Colonel L. C. Baker, chief of the United States detective force, and the firm of Allen, Riley & Hughes, then notorious bounty brokers in the city of New York, having for its object the arrest of bounty-jumpers and deserters who then, as was supposed, infested the vicinity of that city. The arrangement was first made between Colonel Baker and Allen, Riley & Hughes, in the city of New York, but subsequently the plan was communicated to General Fry, and by him approved.

The plan was as follows: Lieutenant Colonel Ilges, of the fourteenth United States infantry, was to be detailed, with orders to open an enrolling and enlisting office at Hoboken, New Jersey. Facilities were to be given all the known bounty-jumpers and deserters in the vicinity to enlist and desert with impunity until the facility for such desertion should become known to all other bounty-jumpers in the neighborhood, which was supposed to be a sufficient inducement to secure, upon a day fixed, the enrollment and enlistment of a large number, who were to be arrested by a detachment of United States soldiers to be detailed for that purpose.

By a general order of the War Department at that time the head of each board of enrollment was required to detain and hold in his hands the local bounty allowed to each recruit, which, at this point, was \$300. The object of this was to secure the arrival of the recruit at the point of rendezvous, at which time the money was to be paid to the recruit. Messrs. Allen, Riley & Hughes were to provide all the cash necessary for this purpose. In consideration of such advancements, and the effect the enterprise might have upon the subsequent business of Allen, Riley & Hughes, all bounty-jumpers and deserters enlisted were credited regularly upon the books of the office, certificates of regular enlistments were made and signed by the proper officer of the board, and the same delivered to said Allen, Riley & Hughes, who were allowed to sell them to persons desiring substitutes, or to the authorities of towns, cities, or counties in the vicinity; and when such certificates were thus sold, such person or corporation was accredited therewith as though such enlistment had been made in good faith.

On the last day of March, 1865, in pursuance of the foregoing arrangements, Colonel Ilges opened an office at Hoboken and commenced taking recruits. On the 4th of the same month he received, through Captain H. J. Mills, the following instructions:

WASHINGTON, D. C., March 4, 1865.

Captain H. J. MILLS,

Provost Marshal Fifth District New Jersey:

Until otherwise ordered, you are directed to allow credits for such men as Lieutenant Colonel Ilges, captain fourteenth United States infantry, certifies to you as enlisted by him. He is recruiting at Hoboken. Inform Colonel Ilges of this order. This command is special and confidential.

JAMES M. FRY,  
Provost Marshal General.

Between the 1st and 9th days of March Colonel Ilges received and mustered in fifty-four recruits. Of these, only three were enlisted with the understanding that they were ever to enter the service. The remaining fifty-one were enlisted with the knowledge that they were notorious "bounty-jumpers," and as soon as enlisted suffered to escape by passing out of a back room in the office. Certificates, regular in form were, from time to time, issued by Colonel Ilges, on account of such enlistments and muster, and delivered to Allen, Riley & Hughes, and by them sold to the authorities of Jersey City, which city received credit for the same.



On the 10th of March arrangements were made, in pursuance of the original plan, to arrest as bounty-jumpers all who might apply for enlistment or who might enlist at that office on that day. It was expected that a large number—at least one thousand—might be thus secured. But the plot was discovered by the bounty-jumpers in time to prevent its consummation to the extent anticipated, and only one hundred and eighty-three persons were thus arrested and secured. Upon these enlistments being made, Colonel Ilges, in pursuance of said orders from General Fry, issued certificates of their regular enlistments, delivered the same to Allen, Riley & Hughes, which they sold to the authorities of Jersey City, to be credited upon its quota. For these certificates of credit or enlistment the authorities of Jersey City paid Allen, Riley & Hughes \$126,000. Of this sum, however, Colonel Ilges required, in conformity to the aforesaid "general order," the sum of \$300 of the bounty money of each recruit to be deposited with him. In the cases of three out of the one hundred and eighty-three so-called bounty-jumpers this was neglected. As respects all the others it was complied with, so as to leave from this in the hands of Colonel Ilges the sum of \$54,000. This money was at once deposited by Colonel Ilges in the Broadway National Bank, to await, as he says, the further order of the Provost Marshal General.

The money was immediately claimed by Messrs. Allen, Riley & Hughes, under an alleged contract with General Fry. Colonel Ilges, however, did not assent to their claim. But in view of the fact that the men enlisted were then known to have been incarcerated at Fort La Fayette, and that no steps were likely to be taken to prove them deserters, Colonel Ilges claimed that if the men were held for service without being convicted of any desertion it should then go to them; but if the men were proved to be deserters the United States Treasury should receive the money, or, in case the credits should be disallowed, that the money ought to be refunded to the local authorities, who had paid it in good faith, and who would otherwise be defrauded by the act of the Government itself.

Colonel Ilges states that on his application to Messrs. Allen, Riley & Hughes to pay the balance of the \$900 which they had failed to deposit, they told him it was unnecessary to do so, as the whole amount in his hands (\$54,000) would be paid back to them within a few days by order of the Provost Marshal General.

On the 18th of March, 1865, while the payment of the \$54,000 was suspended, and the question as to who was entitled to receive it was pending, Theodore Allen, of the firm of Allen, Riley & Hughes, had an interview with General Fry, at the office of the latter in the city of Washington.

The account which Allen gives of the conversation which transpired at that interview, which your committee prefer to incorporate in the words of the witness, is as follows:

"I sent in my card into the War Department. I first saw the messenger, who told me that General Fry could not be seen, as it was past the hour for receiving anybody. I told him it was very important that I should see General Fry, and if General Fry knew I was there he would see me. He took my card. I then saw General Fry, and told him I had come in response to a letter or telegram from him to Colonel Baker, requesting me to come to Washington and call upon him."

"Question. What did General Fry answer to that?"  
 "Answer. He said 'yes,' that he had telegraphed to Colonel Baker that he wished to see me; that he understood we had not been quite as successful in the Hoboken raid as we had expected. He then asked what had become of the money that had been received. I told him that I had it all, or the firm had it, with the exception of \$54,000 that Colonel Ilges had retained. He asked if Colonel Baker had ever asked me for any part of that money. I told him no, he had not, and that Colonel Ilges held \$54,000 of that money, and that I considered I was entitled to it through the agreement between General Fry, myself, and Colonel Baker, and that Colonel Ilges held it and would not pay it over till he was ordered to do so by General Fry, on the ground that the general order would not allow him to do so unless General Fry ordered him to do so. He then said, 'That is all well; we shall see about it.' Said he, 'The matter I wanted to see you most about was with reference to recruiting affairs at Utica.' I told him I was acquainted with a party named Burke and another named Richardson, who were doing recruiting business at Utica, and thought I could get all the information possible. He said he thought so too, and that he thought I was just the person to get all the information, and for that reason he had sent for me, because he would not trust any of Colonel Baker's officers. He said there appeared to be in Utica enormous frauds in the provost marshal's department as it was conducted by Captain Crandall, and that he wanted to get at these frauds; that he had tried and had not been successful, and that he wished me to go to Utica. I told him I thought, from what I had known of recruiting in Utica, and from what I had heard, that if he had found out any frauds in Utica I did not think they would implicate Captain Crandall, but would point more directly to Major Haddock. He said he did not want any evidence against Major Haddock, but against Captain Crandall, and he also wanted evidence that would implicate Mr. CONKLING in the frauds, because he had set himself in opposition to him (General Fry) as the champion of Captain Crandall, and that he wished me to proceed immediately to Utica and get that evidence. He said he wished me to go to Utica and get evidence that would implicate Mr. CONKLING in the frauds with Captain Crandall at all hazards; and while I was gone that he would order this money that Colonel Ilges held to be paid over to me. I told him it was better that it be paid to Riley, as he was the

treasurer. He said the order should be made. That closed the conversation. I then left and went back to New York."

On the 18th of March, the following telegram was sent by General Fry to Colonel Baker:

WAR DEPARTMENT,  
 PROVOST MARSHAL GENERAL'S BUREAU,  
 WASHINGTON, D. C., March 18, 1865.

Colonel L. C. BAKER,  
 No. 12 Vesey street, New York:

Allen is here, and tells me he can provide information about the Utica district. I have told him to do so. He starts back to New York to-night, and will see you. Produce all the facts in that case.

JAMES B. FRY,  
 Provost Marshal General.

Colonel Ilges states that, having deposited the \$54,000 in the bank on the 15th of March, he proceeded on the 17th of March to Washington city, and, in person, related to Provost Marshal General Fry all the details connected with the office at Hoboken, the capture of the one hundred and eighty-three so-called bounty-jumpers, and the amount of money in his hands, asking, at the same time, for instructions in regard to the disposal of the money. To which General Fry replied that further orders would be sent by mail; that he (Colonel Ilges) then expressed to General Fry his fear that, at some future day he might be called upon for explanations why he had, at his office at Hoboken, acted contrary to existing orders and regulations governing the mustering service, and that he intended to ask for a court of inquiry, when Provost Marshal General Fry assured him that he had done his duty well, and only obeyed orders.

On the 19th of March he received the following dispatch:

WAR DEPARTMENT,  
 PROVOST MARSHAL GENERAL'S OFFICE,  
 WASHINGTON, D. C., March 19, 1865.

COLONEL: I am directed by the Provost Marshal General to inform you that the credits of the men mustered by you March 11, 1865, at Hoboken, New Jersey, and credited to Jersey City at large, are disallowed, and that you will refund the money to the parties who advanced it.

I am, colonel, very respectfully, your obedient servant,  
 W. OWENS.

Captain 6th United States Cavalry, A. A. A. G.  
 Brevet Lieutenant Colonel GUIDO ILGES, U. S. A.,  
 Mustering Officer, Hoboken, New Jersey.

On the 21st of March the following communication was sent by Colonel Ilges to the Provost Marshal General:

RECRUITING SERVICE FOURTEENTH INFANTRY,  
 163 HESTER STREET, NEW YORK CITY,  
 March 21, 1865.

CAPTAIN: I have the honor to acknowledge the receipt of your communication of March 19, 1865, informing me that the credits of men mustered by me March 11, 1865, at Hoboken, New Jersey, and credited to Jersey City at large, are disallowed, and instructing me to refund this money to the parties who advanced it.

I beg leave to state that no men were mustered by me on the aforesaid date, but I infer that this communication meant to say the 10th instead of the 11th of March, 1865.

I would respectfully state that on the said day four regulars were mustered by me, and that if their credits are not to be affected they should be excluded in the order. I mustered on the 10th day of March one hundred and eighty-three volunteers for three years' so-called bounty-jumpers, and they were credited to Jersey City at large, with the exception of fifteen recruits that were credited to Clinton township, Essex county, fourth congressional district, New Jersey.

I would further state that I have at my disposal \$300 local bounty for each of these one hundred and eighty-three recruits, and that I received this amount from Allen, Riley & Co., who had contracted with the counties for these credits; and I would therefore respectfully request that you inform me whether or not I am to refund this money to these parties, or to the proper representatives of the classes who received the credits.

These one hundred and eighty-three recruits were properly mustered into the service by me, and I credited them according to instructions and orders regulating the mustering service. None of these recruits have as yet been proven to have been credited before; and when I gave these credits I did so as a United States officer, believing that I was doing my duty, and advancing the interests of the plan of Colonel Baker, sanctioned by the Provost Marshal General. I am informed that the county representatives who received these credits paid a large amount of premiums to Messrs. Allen, Riley & Co., besides the \$300 local bounty; and as they have done so after having been informed by me of the correctness of these credits, I would respectfully call your attention to the fact that when these credits are disallowed the said localities will lose a large amount of money paid out by them in good faith. I am not aware what amount of money was paid to Messrs. Allen, Riley & Co. for each recruit, and cannot even give a probable guess, as I only collected the usual amount from them—\$300 for each recruit, this being the amount of bounty paid to a recruit enlisted at Hoboken, New Jersey.

I would here add that Messrs. Allen, Riley & Co. are the parties who carried out the plan above referred to, and I only allowed them to be present in my office, and to contract for these credits contrary to existing orders, after I had been assured by Colonel L. C. Baker, special agent of the War Department, that the whole proceeding was sanctioned by the Provost Marshal General United States Army.

I therefore respectfully request that you inform me,

at your earliest convenience, what disposition I am to make of the money referred to.

I remain, captain, very respectfully, your obedient servant,  
 GUIDO ILGES, Captain 14th Infantry,  
 Brevet Lieutenant Colonel Vols., Recruiting Officer.  
 Captain W. OWENS,  
 5th U. S. Cavalry, A. A. A. G., Washington, D. C.

In reply to this letter of the 21st, Colonel Ilges received on the 24th of the same month the following reply:

WAR DEPARTMENT,  
 PROVOST MARSHAL GENERAL'S BUREAU,  
 WASHINGTON, D. C., March 23, 1865.

COLONEL: I have the honor to acknowledge the receipt of your communication of the 21st instant, and, in reply, would state that the communication of the 19th instant, referred to, was intended to cover the cases of the one hundred and eighty-three so-called bounty-jumpers, and that the amount which you received for the purpose of paying bounties to these one hundred and eighty-three so-called bounty-jumpers the provost marshal directs to be refunded to the parties who advanced it.

I am, colonel, very respectfully, your obedient servant,  
 W. OWENS.

Captain 5th U. S. Cavalry, A. A. A. G.  
 Brevet Lieutenant Colonel GUIDO ILGES,  
 United States Army, Hester Street, New York.

The suspicions of Allen, as he alleges, had been somewhat excited by the course of General Fry in the transaction between them, and he resolved if possible, as he says, to circumvent him, and accordingly he communicated the result of his interview with General Fry to various parties at New York, and resolved not to go to Utica, but to wait at New York a sufficient time to induce in General Fry's mind a belief that he had in fact complied with his agreement, and then sent to him the following dispatch:

[No. 51.]  
 AMERICAN TELEGRAPH COMPANY,  
 March 24, 1865.

Brigadier General Fry,  
 Provost Marshal General, Washington, D. C.:

I have just returned from Utica, and Colonel Ilges refuses to deliver the money received from me because your order is dated the 11th instead of 10th of March. Please answer through Colonel Baker.

THEO. ALLEN.  
 Please write your address under your signature.

On the same day the following telegram was sent by General Fry to Colonel Baker:

[Original by telegraph.]  
 WAR DEPARTMENT,  
 PROVOST MARSHAL GENERAL'S BUREAU,  
 WASHINGTON, D. C., March 24, 1865.

Colonel L. C. BAKER,  
 No. 12 Vesey Street, New York City:

I have been informed by Theodore Allen, of New York, that Colonel Ilges declines to turn over the money received from the bounty-jumpers on the 11th instant. I wish you to see Colonel Ilges and have him turn over this money as directed.

JAMES B. FRY,  
 Provost Marshal General.

On the 24th of March, Messrs. Allen, Riley & Hughes, in company with a Mr. Stanley, called upon Colonel Ilges, demanded of him the \$54,000, and upon his refusing to give up the money to them until he could see Colonel L. C. Baker and ask his advice in the matter, they threatened immediate legal proceedings to compel the delivery of the money. Colonel Ilges then called upon Colonel Baker at his office, but being unable to see him at that time, he proceeded to the office of the United States district attorney, D. L. Smith, Esq., No. 12 Chambers street, and laid the case before one of the attorneys in his office, who advised him not to give up the money until he had further orders from Washington. He also consulted with several officers of the regular Army then in the city, and was by them advised to the same effect.

On the 25th of March, 1861, Colonel Ilges was again sent for by Colonel L. C. Baker, and upon his arrival at Colonel Baker's office a telegraphic dispatch was shown him by Colonel Baker from the Provost Marshal General, directing him to order Colonel Ilges to turn over the amount of money (\$54,000) held by him as bounty for the one hundred and eighty-three so-called bounty-jumpers to Messrs. Allen, Riley & Co. After some hesitation Colonel Ilges then proceeded to the National Broadway Bank, accompanied by Messrs. Allen, Riley, Hughes, and Stanley, and there drew the following check:

No. 24. NEW YORK, March 25, 1865.  
 National Broadway Bank, pay to Messrs. Peter Riley & Co., or bearer, fifty-four thousand dollars, (\$54,000.)  
 GUIDO ILGES, Capt. 14th U. S. Inf.,  
 Brevet Lt. Col. U. S. A., Recruiting Officer.

This check was then handed to Peter Riley in the presence of the others, and he presented it to the paying teller of the said bank and received the \$54,000 in payment of the same.

On the 25th of March General Fry sent the following dispatch to Colonel Baker:

PROVOST MARSHAL GENERAL'S BUREAU,  
 WASHINGTON, D. C., March 25, 1865.

Colonel L. C. BAKER, New York:  
 You must prepare all the facts in the case of the Utica district without reference to Major Luddington's report. It is absolutely necessary for me to have them, whether Major Luddington has been able to obtain them or not. See Allen and let him make it his business to straighten this matter out.

JAMES B. FRY,  
 Provost Marshal General.

It was charged against General Fry, by Mr. CONKLING, that the motives of the former in his action in regard to the Utica district were to be found in his relations with Major John A. Haddock, who was engaged in fraudulent practices at Elmira, from which it suited the policy of General Fry to divert public attention by the prosecution of the alleged frauds at Utica. It appeared from the evidence before your committee that, some time prior to the transactions at Hoboken referred to, Major John A. Haddock, acting assistant provost marshal for the western district of New York, had been suspected of the most flagrant and corrupt violations of official duty. Detailed reports of specific acts of official dishonesty committed by him had been made to General Fry in writing on several occasions. One by Edward Meloy, dated February 3, 1865, and another by Peter A. La France, dated February 28, 1865. Two of the alleged accomplices of Haddock in the fraudulent practices reported, named Webell and Dalton, were arrested and afterward sent to the penitentiary. Haddock himself, however, was not then arrested nor relieved from duty. But on the 15th day of March, 1865, Colonel L. C. Baker telegraphed to Provost Marshal General Fry to the effect that he had discovered most astounding enlistment frauds at Elmira, with which Major Haddock was connected. Soon afterward Major Haddock was arrested by order of the Secretary of War, a court-martial was convened in his case, and Hon. ROSCOE CONKLING authorized by the War Department to represent the Government at his trial.

If there be any circumstances in the testimony which are susceptible of further explanation, either by General Fry or Colonel Baker, (to both of whom many of the statements relate,) your committee have not had the benefit of their knowledge, as neither appeared as a witness in the case. As your committee have already explained, their investigation of the matters with which they have been charged by the order of the House has thus far been confined to that branch of the case relating to the charges made by General Fry against Hon. ROSCOE CONKLING, leaving the other branch of the case relating to the charges made by Hon. ROSCOE CONKLING against the Provost Marshal General untouched. Whatever evidence there may be contained in the report of your committee which may raise a question touching the management of the Provost Marshal General's Bureau has been admitted solely on account of its supposed relation to the motives of General Fry in the publication of his charges against Mr. CONKLING, as has already been explained. So far, therefore, as the committee have deemed it pertinent for that purpose, they have heard and considered it, and for no other. It would be premature, and might work injustice if your committee, at this stage of their investigation, were to pronounce affirmatively in advance upon a branch of the case only collaterally introduced, and still further to be heard and considered. Your committee therefore refrain altogether from expressing their judgment upon the guilt or innocence of General Fry on the charge of the alleged corrupt bargain with Allen and his connection with the Hoboken enlistments.

They refrain also from any expression of their opinions as to the credit to be attached to the testimony of Theodore Allen, (a witness sought to be impeached by the party against whom he was called;) nor does your committee undertake to say at this time how far the testimony of the said Allen is corroborated and sustained by the other testimony in the case. So far, however, as any of the evidence before your committee bears upon the point for the illustration of which it was admitted they have not failed fully to consider it. Whatever relative weight has been attached by your committee to the various testimony in the case which brought them to their conclusion in reference to the motives of General Fry in writing the BLAINE letter, it cannot be important at this time to announce, since their conclusion on that point is not equivocal, and is the unanimous judgment of the committee.

The following copies of what purport to be two letters—one by Colonel L. C. Baker, and the other by General Fry—appear in a printed argument by Hon. A. G. Riddle, which has been laid upon the tables of the members of this House:

OFFICE SPECIAL AGENCY WAR DEPARTMENT,  
NEW YORK, March 16, 1865.

SIR: Since the capture of bounty-jumpers at Hoboken repeated applications have been made to me to have said jumpers credited to the State of New Jersey. Colonel Ilges, the mustering officer, applied to me, before going to Washington last week, to make application to you to have said jumpers so credited. I informed him that I did not think these men could or would be credited, advising him (Colonel Ilges) to apply to you for the required instructions or permission.

On Tuesday last, while in Washington, and after my conversation with you on the subject referred to above, I received a telegram from Colonel Ilges, requesting me to obtain permission to make these credits. This telegram I made no reply to. On my return to New York yesterday morning I heard that Colonel Ilges had made the credits. I sent for him and asked him by whose order or direction he had done so. He referred me to your telegram of March 5, addressed to Captain H. J. Mills, provost marshal at Newark, New Jersey, for his authority. I informed him (Colonel Ilges) that I did not think that you intended, by the telegram referred to, to convey any order or authority to Captain Mills to credit bounty-jumpers and deserters; that your telegram was intended to only authorize the crediting of such men as were regularly and legitimately enlisted previous to the Friday on which it was understood that none but jumpers and deserters were to be enlisted. I have advised Colonel Ilges to go to Washington to-night, and to make such explanations in reference to this

matter as you may require. These explanations, I trust, will be satisfactory.

I am, general, very respectfully, yours,  
L. C. BAKER,  
Colonel and Special Agent War Department.  
Brigadier General JAMES B. FRY, Provost Marshal  
General United States, Washington, D. C.  
A true copy: GEORGE E. SCOTT,  
Brevet Lieutenant Colonel U. S. V.

WAR DEPARTMENT,  
PROVOST MARSHAL GENERAL'S BUREAU,  
WASHINGTON, D. C., March 23, 1865.

COLONEL: By the course of things in reference to bounty-jumpers taken at Hoboken, Mayor Cleveland, of Newark, is placed in a very unfortunate position. If possible, he should be relieved from it. Under date of March 23 I directed Colonel Ilges to return the money in his possession to the parties who advanced it as bounties for these men, the credits for them being disallowed, and the money still in his possession. It seems that under this order, reported by telegraph to you on the 24th of March, Colonel Ilges has delivered the money in whole or part to Theodore Allen, broker, and perhaps to some other brokers, and that Mayor Cleveland is unable to regain possession of it.

The proper method of disposing of this business has all the time seemed to me plain enough: it is this: to allow no credits for the bounty-jumpers, men who have already been enlisted and credited several times over, but to credit any, if there be any, who are bona fide recruits, and not jumpers. To return to the town authorities all the money they advanced on account of men whom we do not credit.

I intended my order to carry out the above view, but it seems that the money advanced by Newark has been returned to Allen, the broker; perhaps it was turned over to Colonel Ilges, through Allen, and on this account he returns it in the same way. However that may be, Allen should return the money to Newark, and I desire you to see Allen and tell him so. Neither he nor any one else has any right to profit in the matter. All necessary expenses connected with the arrest of these jumpers, and the enlistment of such as are proper recruits, must be paid by the United States, so that there is no loss for individuals in the case.

Please report to me as soon as practicable on the adjustment of this affair.

You had better send for Mayor Cleveland also.  
Very respectfully, your obedient servant,

JAMES B. FRY,  
Provost Marshal General.  
Colonel L. C. BAKER, No. 12 Vesey street, New York City.

A true copy: GEORGE E. SCOTT,  
Brevet Lieutenant Colonel U. S. V.

The opening argument in the summing up before the committee was made orally on behalf of General Fry by Mr. Riddle, and was reported by one of the reporters of the House. To this Mr. CONKLING replied. Mr. Riddle rejoined in an oral argument, but which was not reported, and he had leave of the committee to reduce to writing this rejoinder, confining it to the argument actually delivered, this to be reported to the House along with the other arguments in the case.

No member of the committee has any recollection of either of these two letters being either given in evidence in the case or alluded to in any part of the argument; and no member of the committee has any recollection of ever seeing the original of either of these letters, and neither of them has yet been furnished to the committee. The first knowledge which any member of the committee had, so far as can be recollected, of either letter, was after writing the foregoing part of this report, and upon seeing the printed argument of Mr. Riddle. The committee understand it to be now claimed by the counsel for Mr. CONKLING that these letters were not offered in evidence, nor alluded to in the argument, and doubts are expressed to the committee as to the authenticity of one or both. General Fry's counsel insist that these letters were given in evidence and commented upon. Since the committee's attention has thus been called to them, their effect in the case (treating them as authentic) has been, by your committee, carefully considered, and they do not change any conclusions submitted in this report to which your committee had come before they were seen. These letters never having been in the possession of any member of the committee, the committee cannot, of course, make any decision whatever as to whether these alleged copies are copies of genuine letters of the dates they bear; but the committee submit these alleged copies with this explanation, that the House and all parties may have the benefit of them.

Your committee report to the House the argument of Mr. Riddle, as printed by him, with the above statement, as to its correspondence with the argument made to the committee. They do this because the committee are not willing to deprive General Fry of any fact or argument in his defense which he may desire to bring to the attention of the House to influence its action, although it may not have been submitted to the committee during its deliberations. No injustice, so far as the results of the committee's action is concerned, can be done to Mr. CONKLING by this course, as the committee came to no conclusion as to the subject-matter of these letters which is adverse to him.

Your committee have refrained from making any recommendation as to proceedings by the House against General Fry for this breach of its privileges. The reasons for this are in part to be found in the circumstances connected with the introduction of General Fry's letter into this House by one of its members. The committee doubted whether the

House would be inclined, or ought to adopt, any further proceedings against General Fry touching this violation of its privileges, except in connection with the examination of Mr. BLAINE's relations to this matter. The latter is wholly outside of the powers of your committee.

Besides, all of the facts, and also the conclusions of law and fact derived therefrom which bear upon the question of the propriety of any further proceedings touching this breach of its privileges, are by your committee here submitted to the House; and hence the House will have no difficulty in deciding what its action should be in this regard, and would not be assisted by any mere opinion or recommendation of the committee upon a question lying so peculiarly within the limits of the discretion of the House, and to be determined by its sense of fitness.

The execution of that part of the order of the House in relation to the charges against General Fry and his bureau will involve an enormous amount of labor and of expense, and can be properly performed only by a committee having a competent clerk and photographic reporter, and having leave to sit at the places where the witnesses reside, and during the sessions of the House, and also during the recess of Congress. Whether, now that the war is over, the public good to be attained by these investigations will compensate for the large expense they will involve is a consideration which should receive the attention of the House.

Your committee, having fully and carefully considered the charges against Hon. ROSCOE CONKLING contained in the letter of General Fry, are unanimously of opinion that none of the charges in the letter, whether made directly and openly, or indirectly and covertly, have any foundation in truth, and that the conduct of Mr. CONKLING in relation to each of the matters investigated by the committee has been above reproach, and that no circumstances sufficient to excite reasonable suspicion have arisen which could justify or excuse the attack made upon him in the letter of General Fry.

The several charges against Hon. ROSCOE CONKLING, contained in the letter of General Fry, being unsupported by the testimony in any one material particular, although ample opportunity was afforded, at the cost of much time and expense, to enable the writer of that letter to furnish his proofs, the committee ought not to refrain from the expression of their condemnation of the deliberate act of a public functionary in traducing the official as well as the personal character of a member of the House of Representatives of the United States by the publication of a libel which he was so illy prepared to sustain. Indignities offered to the character or proceedings of the national Legislature by libelous assaults have been resented and punished both in England and the United States as breaches of privilege; and such assaults upon the official character of members have been held punishable as indignities committed against the House itself. The reason for this rests upon the same ground as that which justifies the exercise of similar authority to punish for attempts by personal violence, menaces, or bribes to influence the conduct of members in their official capacity.

Your committee deem it proper most earnestly to protest against the practice which has obtained, to some extent, of causing letters from persons not members of the House to be read as a part of a personal explanation, in which the motives of members are criticised, their conduct censured, and they are called to answer for words spoken in debate. Such attacks upon members, made in the House itself, and published in its proceedings, and scattered broadcast to the world at the expense of the Government, are, in the opinion of your committee, an improper check upon the freedom of debate, a violation of the privileges, and an infraction of the dignity of the House.

Your committee submit, for the consideration of the House, the following resolutions, and recommend their adoption:

*Resolved*, That all the statements contained in the letter of General James B. Fry to Hon. JAMES G. BLAINE, a member of this House, bearing date the 27th of April, A. D. 1865, and which was read in this House on the 30th of April, A. D. 1865, in so far as such statements impute to Hon. ROSCOE CONKLING, a member of this House, any criminal, illegal, unpatriotic, or otherwise improper conduct or motives, either as to the matter of his procuring himself to be employed by the Government of the United States in the prosecution of military offenses in the State of New York, in the management of such prosecutions, in taking compensation therefor, or in any other charge, are wholly without foundation in truth; and for their publication there were, in the judgment of this House, no facts connected with said prosecutions furnishing either a palliation or an excuse.

*Resolved*, That General Fry, an officer of the Government of the United States, and head of one of its military bureaus, in writing and publishing these accusations named in the preceding resolution, and which, owing to the crimes and wrongs which they impute to a member of this body, are of a nature deeply injurious to the official and personal character, influence, and privileges of such member, and their publication originating, as in the judgment of the House they did, in no misapprehension of facts, but in the resentment and passion of their author, was guilty of a gross violation of the privileges of such member and of this House, and his conduct in that regard merits and receives its unqualified disapprobation.

S. SHELLABARGER, Chairman,  
W. WINDOM,  
B. M. BOYER,  
B. C. COOK,  
SAMUEL L. WARNER.

## DIPLOMATIC APPROPRIATION BILL.

Mr. SPALDING, from the committee of conference on the disagreeing votes of the two Houses upon House bill No. 261, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes, made the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, as follows to their respective Houses:

That the Senate recede from their amendment numbered one, and agree to the same with an amendment substituting the word "fifty" in lieu of "forty" in line seven, page 2, of the bill; and the House agree to the same.

That the Senate recede from their amendment numbered two, and agree to the same with an amendment substituting the words "sixty-five" in lieu of "fifty" in line eight, page 2; and the House agree to the same.

That the House recede from their disagreement to the amendment of the Senate numbered fourteen, and agree to the same, with an amendment as follows: strike out of said amendment all after the words "Department of State," and insert in lieu thereof, "and also an examiner of claims for the same Department whose salary shall be \$8,000 per annum; and the salary of the second Assistant Secretary of State shall be \$3,500 per annum, and such sums are hereby appropriated."

That the House recede from their disagreement to the amendment of the Senate numbered fifteen, and agree to the same amended as follows: strike out the words "than \$8,000 in any one year," and substitute as follows: "than \$2,500 in any one year over and above the expenses of office rent and clerk hire, to be approved by the Secretary of State, of which returns shall be made to the Secretary of the Treasury;" and the Senate agree to the same, so amended.

That the House recede from their amendment to the amendment of the Senate numbered nine, and strike out the whole of it and substitute in lieu thereof as follows: "and no money shall be paid to the present minister resident at Portugal, out of any fund whatever, on account of further services in his office;" and also strike out the word "Portugal" on page 1, line ten, of the bill; and the Senate agree to the same so amended.

That the Senate recede from their disagreement to the amendment of the House of their amendment numbered six, and agree to the same.

CHARLES SUMNER,  
JAMES W. GRIMES,  
LYMAN TRUMBULL,  
*Managers on the part of the Senate.*  
R. P. SPALDING,  
N. P. BANKS,  
JOHN WENTWORTH,  
*Managers on the part of the House.*

Mr. SPALDING. I call the previous question upon agreeing to the report.

Mr. RAYMOND. I desire to ask a question of the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. Very well; I will hear it.

Mr. RAYMOND. I should like to hear from the gentleman, if he is disposed to make any explanation whatever, what reason influenced the committee to recommend the abolition of the salary hitherto attached to the mission at Portugal, so far as the present incumbent is concerned.

Mr. SPALDING. I have no objection to make a statement as an individual; I am not instructed as a member of the committee of conference to make any statement. I can only say to the gentleman that the committee were unanimous in coming to the conclusion that no appropriation should be made for the continuance of the salary of the present minister at Portugal. They have provided in the amendment, which was concurred in unanimously by the managers on the part of the Senate and on the part of the House, that the present incumbent of the mission to Portugal should not be paid anything for further services, out of any fund whatever; and I may say that the reason for this conclusion was that they consider him as entirely unworthy of the confidence of the Government.

Mr. RAYMOND. Will the gentleman allow me to make another remark on this subject?

Mr. SPALDING. No, sir; I insist on the demand for the previous question.

Mr. RAYMOND. I ask the gentleman to allow me, out of mere courtesy, a remark on this point.

Mr. SPALDING. I think I have stretched the courtesy now. I object to any further debate.

Mr. RAYMOND. I am sorry that I cannot concur in the gentleman's opinion as to the extent of his courtesy.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. SPALDING moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## FEES OF CONSULAR OFFICERS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which was referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Senate and House of Representatives:*

I herewith transmit to Congress a report, dated 12th instant, with the accompanying papers received from the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856.

ANDREW JOHNSON.

WASHINGTON, July 17, 1866.

## COINAGE, WEIGHTS, AND MEASURES.

The SPEAKER, by unanimous consent, also laid before the House the following message from the President of the United States; which was referred to the Committee on a Uniform System of Coinage, Weights, and Measures, and ordered to be printed:

*To the House of Representatives:*

In answer to the resolution of yesterday, requesting information relative to proposed international movements, in connection with the Paris Universal Exposition, for the reform of systems of coinage, weights, and measures, I transmit a report from the Secretary of State, and the documents by which it was accompanied.

ANDREW JOHNSON.

WASHINGTON, D. C., July 17, 1866.

## INDIAN AFFAIRS IN DAKOTA.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, in reply to a resolution of the House of May 23, 1866, in regard to the conduct of Indian affairs in Dakota Territory; which was referred to the Committee on Indian Affairs and ordered to be printed.

## PROVOST MARSHAL'S BUREAU—AGAIN.

Mr. SPALDING. By the indulgence of the chairman of the committee, I beg leave to present to the House the memorial of Mr. Riddle, counsel for General Fry, together with a portion of the evidence which he claims was offered to the committee by General Fry, which he asks may be made a part of the record in the case.

The SPEAKER. Unanimous consent is necessary.

Mr. HALE. I object.

Mr. STEVENS. I certainly object. It would be outside of all precedent.

Mr. SPALDING. Very well; I have discharged my duty.

Mr. SHELLABARGER. I will make a statement to the House in regard to those papers. Since the committee made its report to the House its attention has been invited to the papers which have been referred to by my colleague, and they have received the attention of the committee. Although the papers are not before the House, I desire, in justice to the committee, to make a statement in reference to the matter. These papers relate in the main to the Hoboken matter, a matter upon which the committee has not passed in its findings except so far as it might throw light upon the *animus* of the letter to Mr.

BLAINE. The introduction and consideration of those papers, therefore, could not affect any conclusion to which the committee came, except in regard to the motives for writing that letter. There is, outside of these papers, what the committee deemed abundant evidence to settle the question of the *animus* of the letter and to bring the committee unanimously to the conclusion which it attained as to the motives which prompted the writing of that letter; so that, while the committee's attention was not drawn to these papers, they thus considered the matter of their contents, and determined nothing contained in them in any possible view of this case affecting any conclusion to which the committee came.

Another statement I have to make is, that those letters, if they are of value to General Fry, will be available for his defense in the further prosecution of this matter, should the House deem any further prosecution proper under the resolution already adopted. So that it seems to me in no view can any prejudice be worked to General Fry by the exclusion for the present of these letters.

Another statement I desire here to make is, that the two letters deemed most material by the counsel for General Fry, the only two, if I remember correctly, which he deemed of value enough to insert in his printed argument, are now introduced into the report of the committee, perhaps irregularly, but introduced in extreme solicitude that nothing should be excluded that could be of service to General Fry. That matter is fully explained in the report of the committee. As I have said, the two principal letters contained in this memorial now appear in the report of the committee.

Now, Mr. Speaker, the House has heard or had an opportunity of hearing a large portion of this report. The committee felt forced to make it voluminous, as it is, on account of the impossibility of making it less voluminous and yet present fairly and justly the facts bearing on this important question of the privileges of the House, and of a member of it.

I trust, Mr. Speaker, I will not be deemed in doing what I am about to do as neglecting the execution of the duties which I owe to this important question of privilege in omitting to detain the House in again presenting what has been fully presented in the report of the committee. I say I will refrain from the discussion of this question at this time. Unless something shall be said by other members of the House requiring notice I shall content myself by yielding the floor and permitting any other gentleman who may wish to do so to speak to this question. I shall ask the House to second the previous question so that we shall fix the time for closing debate, disposing of the case to-day. If there be no member who desires to be heard I ask the House at once to order the main question.

Mr. DAVIS. I ask the gentleman to yield to me.

Mr. SHELLABARGER. For whatever time the gentleman wants.

Mr. DAVIS. Mr. Speaker, I shall occupy but a few moments in submitting to the House one or two considerations connected with the subject before us. I shall not enlarge upon the evidence, or upon the clear, able, and conclusive report founded upon it, exonerating completely and entirely the reputation of my colleague [Mr. CONKLING] from the gross aspersions cast upon it in the communication which the committee have with entire unanimity pronounced a false and malicious libel.

The question, Mr. Speaker, is one of grave importance, affecting the right of a member of this House to utter his sentiments and opinions in respect to the action of any public officer or the administration of any Department of the Government, legitimately before the House, without being confronted by a libel upon his private or public character, read at the Clerk's desk at the suggestion of a member upon the floor. I am happy this investigation has been ordered by the House, and I trust the report of the committee has had a



due effect on the House, and that the action of the committee in reference to the assault against the character of my honorable colleague [Mr. CONKLING] will meet with its unanimous approval. I know not why this House should listen with any other feelings than those of perfect indignation at the attempt made by an officer of the Government to assail the character of a member of this House for commenting on the manner in which that officer discharged his public duties.

What is the history of the matter? In legitimate debate on the section of the Army bill relating to the Provost Marshal's Bureau, the honorable member from New York [Mr. CONKLING] made some remarks to which the Provost Marshal General took exceptions. In answer, not by way of legitimate argument on the subject before the House, the gentleman from Maine had a letter from General Fry read at the desk containing the grossest charges against the honorable member from New York, [Mr. CONKLING,] involving personal turpitude and corruption, as well as malfeasance in office. These charges were such as, if true, would subject my colleague [Mr. CONKLING] to deserved reproach, and to the loss of public or private confidence. They have been carefully and patiently investigated by the committee; abundant time was offered to establish their truth, and yet the author of these grave charges failed signally either to prove or even attempt to prove that he was sustained by one single fact in justification.

The important inquiry arises, Mr. Speaker, whether members are thus to be assailed by persons outside of the House for words uttered in legitimate debate in the House affecting the action of any public officer or the administration of any Department or bureau of the Government. If such a precedent shall be established, I see no end to these libelous attacks springing from what any member may deem it his duty to utter in regard to the action of any public officer.

But I wish to call attention to another consideration connected with this subject. The letter of General Fry was addressed to a member of this House, and at the instance of that member it was read at the Clerk's desk in vindication of remarks before made by him upon the relations existing between Mr. CONKLING and General Fry. I do not believe that any member of the House has the right for any such purpose to send up to the Clerk's desk a letter from a third party containing libelous matter affecting another member, and to ask that it be read to the House and circulated, through the Globe, over the country. If this be not a breach of privilege, I am unable to say what is. If it be not, any party designing it may publish the most offensive and improper matter in respect to a member and yet screen himself from liability on the ground that he was using information imparted by another and incorporating into his speech, and thus spreading a libel upon the permanent records of the country. If we admit that principle, then, as I said before, there is no end to the libels which may be read here against members for the expression of their opinions in this Hall.

Mr. WOODBRIDGE. I desire to ask my friend whether he thinks it quite proper or dignified for any member of this House, in discussing a public question, to bring into discredit the name of a public officer, when that officer has no chance upon the floor of the House to defend himself.

Mr. DAVIS. I will answer my friend. For the very reason that the parties are public officers, that they are charged with the duties of official administration, that they are servants of the Government, and that Congress has not only the right, but is bound to examine into their action, I aver that a member may rightfully criticise it. I say it involves no breach of privilege, and no discourtesy, for any member of this House to speak in regard to the conduct of a public officer of this Government legitimately before it for consideration in such terms as he may think proper.

If charges were made by my colleague against the administration of General Fry of the affairs of the Provost Marshal's Bureau, he as an officer of the Army, charged with malfeasance in a military duty, had a right to demand from the War Department a court of inquiry to investigate his conduct. He had here a perfect redress; or he might have appealed to this House, demanding that a committee be charged with the examination of the alleged malfeasance, and that the author of the charges be required to substantiate them or retract them. Sir, the very necessities of the public service require that the Representatives of the people shall be untrammelled upon this floor in their criticisms upon the action of the public servants; and if the lips of members are to be sealed in respect to official administration, I know not in what way the public are to be informed on subjects of the deepest general interest, in connection with which individual agents and officers may merit either censure or praise.

But, sir, my object is not to enter into detail upon the facts of this case so abundantly reported, but rather to ascertain by some appropriate mode of inquiry what are the rights and what are the restrictions which should be allowed or imposed upon this practice of presenting letters containing libelous matter to be read as part of debate in this House. Therefore, at a proper time, now or hereafter, I will offer a resolution simply asking an investigation by the same committee as to the fact whether any breach of privilege has been committed by any act of this kind in the introduction of any such letter by any person. And I am induced to do that more from the consideration that I believe we must put our foot upon this practice or we must be involved in these interminable difficulties and personal explanations. I wish to say that I do this without any sort of disrespect to any member upon this floor, without any personal feeling whatever, but from a sole desire to preserve that order and decorum in this House which should belong to its deliberations.

Mr. HALE. Mr. Speaker, I do not propose to discuss the report of this committee or the resolutions submitted by them, but I simply seek the floor in consequence of my colleague [Mr. DAVIS] having intimated that he would move a resolution of reference as to the rights of the House, and the rights of members of the House in regard to the publication of libels like that reported upon by the committee; and I rise for the purpose of suggesting to my colleague that when he offers that resolution he make it a little more comprehensive, so as to cover another branch of this case, which has come to my knowledge within the last two days. The report of the committee has been exhaustive of the subject committed to it so far as affects the charges brought against my colleague in the libelous letter which was read at the Clerk's desk.

Since the hearing before the committee was terminated and since their report was made to the House, I have received through the mail, and I understand other members have received the same document, a pamphlet bearing the printed signature of James B. Fry, whom I understand to be this same Provost Marshal General Fry, purporting to be instructions by Mr. Fry to his counsel for his defense before this committee. It strikes me as a little singular that the private instructions of the person on trial to his counsel for the defense should be printed and circulated among the body which was to pass upon the subject after the counsel has been heard in full before the committee, and his argument printed for the benefit of the House. In that pamphlet I find this very remarkable language, which I think involves, if possible, a higher breach of privilege even than the original one. For bear in mind that this is printed, or at least circulated, after the report of the committee, falsifying the original charge.

This pamphlet says:

"Of the principal charges (contained in my letter) I maintain and reassert not only the substantial but the literal correctness."

In other words, after a fair trial and exam-

ination before a committee, with every opportunity afforded him to maintain his original charges, and utterly failing to produce any evidence whatever to maintain them, a pamphlet is here circulated in which the original libel is reasserted in its full length and breadth, and in all its details. I submit that there is a question of privilege for the examination, consideration, and action of this House.

Another word in regard to this document. It states by way of preface that this was a letter of instructions which was addressed by General Fry to his counsel, Hon. A. G. Riddle, on the eve of the oral plea which Mr. Riddle made in compliance with the requirement of the committee. If that were so truthfully, of course these instructions would be privileged, as long as confined to their proper and legitimate use, but not when published for the reading of anybody besides the counsel. But most singularly Mr. Riddle, in his argument as the counsel for General Fry, states to the committee that he has had no opportunity of consulting with his client and has received no instructions from him, oral or written, except upon a single point, while these instructions cover the whole case. If the counsel told the truth in his statement to the committee, it would appear that this officer of the Army of the United States was not only guilty of publishing a libel and a pronounced libel on a member of the House, but was guilty of doing it on the false pretence that it was originally prepared and sent forth as instructions to counsel when it was not the fact, and when no such instructions had been issued.

I therefore ask my colleague, [Mr. DAVIS,] when he introduces his resolution to inquire into the rights of members, to include the question whether the House shall submit to such publications as that contained in the pamphlet which I hold in my hand.

Mr. SHELLABARGER. The gentleman from New York has brought to the attention of the House this letter of General Fry, and it seems to be proper that I should allude to his statements contained in that letter. The first is the statement that a request was made by General Fry to the investigating committee for the privilege of preparing and submitting by himself or by his counsel a written plea, which request was not granted.

Now, I really cannot conceive what it is that that statement refers to unless it be this: that at the time we began to examine this case, on the first morning of our meeting, General Fry applied to be permitted to make a written statement to the committee, introducing his case and his evidence, the written statement to be unsworn. He was met by a statement that any evidence that was to be considered by the committee must come in the usual way as clearly and properly authenticated papers, or the sworn testimony of witnesses, and that he would be required to present any showing against a member of the House in that way. Nothing else occurred excluding General Fry from the very largest latitude in presenting all the views of his counsel and of himself upon every possible question. Excluding myself from the compliment, I may say that the committee was a miracle of patience in the way of admitting and hearing arguments and testimony on both sides.

And there is another statement here that is equally singular, considering all the circumstances of the case. It is on the first page of this pamphlet. He says:

"I formally applied to the committee for a copy of the record, the testimony having been phonographically reported, and offered to pay the expenses of transcribing it, but was refused."

Now it will occur to every member of the House that it would be a very singular request to make of a committee of this House, whose proceedings are confidential and not to be disclosed except by the leave of the House, that it should be required to permit its evidence to go out into the town, into the offices of lawyers, and to be hawked about the streets. Of course the committee would not permit the

evidence to be taken from the custody of the committee or of its clerk. The request was made to be permitted to take copies of the evidence. The request was met by a statement that the evidence could not be taken from the control of the committee or the custody of its clerk; but that the very fullest opportunity should be had at all times to use the evidence in the committee-room, and under the supervision and care of the clerk, he seeing to it that the proper orders and directions of the House were observed in that regard. And I am surprised that a statement of the character I have read should be made, under all the circumstances, by General Fry.

Mr. STEVENS. As the evidence has not been read, I desire to know whether I understand the purport of it. I desire to inquire whether, when General Fry was offered to be examined, he or his counsel insisted that he should be called by the committee so that he could not be prosecuted.

Mr. SHELLABARGER. In reply to the inquiry of the gentleman from Pennsylvania [Mr. STEVENS] I will state this: the committee, as has already been noticed, have confined their investigations for the present to the question of privilege affecting the rights of the gentleman from New York, [Mr. CONKLING.] The committee so confining its investigations deemed it fair and proper that the gentleman from New York should be permitted to control the matter of the introduction of testimony affecting his personal privileges, subject of course, to the right of the committee to take care of the rights and the privileges of the House. Taking that view of the matter, the committee did not feel at liberty to call, as they might have done, General Fry upon the motion of the committee itself. They declined to do that for the reason that they deemed it just and proper to the gentleman from New York, this being a question so personal to himself, to allow him to control the introduction or the non-introduction of the testimony of General Fry. That was the position of the committee. Of course the committee might have called, upon its own motion, General Fry as a witness. It did not do so for the reason I have stated.

Then the committee had this question before them: the request was formally made and put upon the record that the gentleman from New York should be permitted to cross-examine General Fry. An appeal was made to the committee that it should put General Fry in the position of a witness for cross-examination, and not have him made the witness of the gentleman from New York, the gentleman from New York stating distinctly that he declined to put himself in the position of calling General Fry, so as that thereby he should be precluded from contradicting or impeaching any evidence he might give. After that appeal was thus formally made to the committee, and the committee had refused to permit General Fry to be cross-examined, requiring Mr. CONKLING, if he desired to use the testimony of General Fry, to call him and put him in the position of a witness called by himself, then an appeal was made to the other side to know whether General Fry was to be examined; and an invitation that he should be examined as a witness for the other side was repeatedly made. But that invitation was all the time declined; and Mr. CONKLING was deprived of the benefit of the examination of General Fry unless he would call him as his own witness.

Mr. STEVENS. Did the counsel of Mr. Fry join in declining?

Mr. SHELLABARGER. That is my understanding of the matter.

Mr. STEVENS. The explanations made by the committee are ample; they require no further vindication, if any was necessary, of their course. It was, perhaps, unfortunate that this letter was not addressed at once to the House instead of coming through a member of the House, for then I suppose it would have become a part of the records of the House. I understand that the letter is not now on the Journals of the House. If that be so, it will

preclude the motion which I would otherwise be disposed to make.

The SPEAKER. It is in the Globe, but not on the Journal.

Mr. STEVENS. The inquiry instituted, the appointment of this committee, did not bring the letter upon the Journal?

The SPEAKER. It did not.

Mr. STEVENS. Then I cannot make the motion I would have made. All I have to say is that I do not know that a more causeless, gross attack has ever been made upon a member of this House, either here or elsewhere, than that contained in that letter. I must do the gentleman from Maine, [Mr. BLAINE,] now absent, the justice to suppose that he was entirely uninformed of the contents of the letter or he would never have presented it to the House.

I had hope, however, that the committee would go a little further. In reference to one of the transactions mentioned in the report—the Hoboken matter, I believe—in which some hundreds of thousands of dollars were absorbed by somebody, there were, if the evidence is to be believed, three parties implicated. Two of them, I believe, are now in the penitentiary. The third is General Fry. Why is it that some steps have not been taken by the committee to send him there? It is possible that the committee had not the power. But after the exposure which has been made it seems to me that it is the duty of the law officers of the Government to prosecute him; and unless the evidence contained in this book can be disproved he should be convicted and confined in the penitentiary. I cannot conceive any reason why there should not be at once instituted a proceeding for the prosecution of General Fry. This would give him an opportunity to vindicate himself in some other way than by posthumous letters. I suppose, however, the committee did not feel themselves authorized to take action with a view to the prosecution of General Fry.

Mr. RAYMOND. I would like to make a suggestion to the gentleman from Pennsylvania. In referring to the case in which two of the parties implicated are now in the penitentiary, the gentleman spoke of it as the Hoboken matter. I believe it was the Elmira case.

Mr. STEVENS. I believe the gentleman is correct. I happened to see the name of the other case here and was misled by it. The case I meant to refer to was, I believe, the Elmira fraud.

Mr. SHELLABARGER. Mr. Speaker, I will state to the House—I would not have stated it but for the inquiry just presented by the gentleman from Pennsylvania—why the committee, after having found a flagrant violation of the privileges of a member of the House and of the House itself, stopped without recommending any proceeding by the House against the culprit. The inquiry is very pertinent, one which would naturally occur to every mind, and one which received the careful attention of the committee.

The committee did not deem it outside of the powers conferred upon it by the resolution to recommend such proceedings against General Fry as the House might deem to be due in the premises. The committee report to the House its reasons for omitting to present any formal resolution upon that subject. I will state those reasons. The first, which is not stated in the report, is this: General Fry being connected with the Government and a member of the executive department, thereof, any proceeding by this House would be communicated to the President of the United States, laying the facts before him. At any rate this is the judgment of a majority of the committee. Now, sir, a communication to the President of the United States laying before him the facts in regard to this matter might now be made by the House. The committee has said in the report that this is a matter resting so peculiarly within the discretion of the House, a matter so peculiarly proper to be decided by its sense of fitness,

that a mere recommendation or opinion of the committee would not be useful to the House. The committee has done everything else than simply express its opinion; I mean that it has done everything in its power toward aiding the House in coming to a just conclusion as to what it should do. The committee has reported all the facts; it has reported all the law bearing upon the facts; but it has refrained from making any recommendation as to the institution of further proceedings against General Fry.

Then there was another reason—the most potent of all—that operated upon the mind of the committee in omitting to present any further resolution. It is that the breach of the privileges of the House was committed so entirely in conjunction with the action of a member of this House that the two acts cannot be separated. The letter is written containing upon its face the evidence that it was meant to be used somewhere, and was not designed simply for the information of the gentleman from Maine, [Mr. BLAINE,] to whom it was addressed.

There were other facts which came to the knowledge of the committee. It was stated to the committee, for instance, that no complaint was made by General Fry that Mr. BLAINE had violated his confidence or wishes in presenting it to the House. These considerations induced the committee to believe his letter was written to be used in the House in the manner in which it was used by a member of the House. Therefore, sir, the committee was brought clearly up to the question, whether further proceedings could be taken against General Fry except as connected with those against a member of the House, one of them having violated the privileges of the House, and we deemed it fair and just the proceedings should be a unit against both. That, I believe, answers the inquiry of the gentleman from Pennsylvania.

I do not wish to detain the House longer. I repeat what has been said in the report, that a more careful and more malicious and wanton violation of the privileges of the House and of its members has not been brought to the notice of any member of the committee. There is not to be found any more hurtful libel upon any member of this body in the history of its proceedings. It is due to ourselves, it is due to this body, if we are to preserve the dignity of the character of a Representative of the American people that such indignities should cease. My unwillingness to detain the House at this late period in the session does not grow out of any belief on my part that this is not an important matter. Gentlemen of the House of Representatives, it is time steps were taken to stop this parade of plantation manners and ruffianism here at the center and heart of the nation where the laws are made, and where law is esteemed to be sublime and sacred in its sway. I have not spoken, because the matter has been brought so eloquently and fully to the attention of the House, on the question of privilege just disposed of. It has fully been brought to the attention of the House by the report of the committee. I am unwilling to consume the time of the House, but I am unwilling to sit down without saying the House should do this justice to my friend from New York, [Mr. CONKLING,] a justice he is entitled to, having been in all of this matter in reference to which he was assailed, not only innocent, but eminently patriotic and valuable step by step to his Government at a time of imminent peril. It is due to him and the House we should call the yeas and nays expressing the judgment of the House in condemnation of this act of indignity which one of its members suffered. Unless some gentleman desires to address the House, I shall now demand the previous question.

Mr. WENTWORTH. I ask the gentleman to yield to me for five minutes.

Mr. SHELLABARGER. Certainly.

Mr. WENTWORTH. Mr. Speaker, it appears to me that we are trying the wrong man.

If I remember the origin of this case a member of this body rose in violation of the rules of this House and of parliamentary courtesy and assailed the motives of the gentleman from New York, [Mr. CONKLING;] and in justification of that assault, a few days afterward, he introduced, under the pretense of a personal explanation, a letter which he sent to the Clerk to be read.

Mr. PIKE. I do not wish to mix in this general exculpation of the gentleman from New York. But I want to say to the gentleman from Illinois, in behalf of my colleague, now absent on account of sickness, that he did not bring this letter before the House in any surreptitious way.

Mr. WENTWORTH. I did not so charge. If I remember correctly he asked to make a personal explanation.

Mr. PIKE. He did not. I presume the gentleman does not mean to do my colleague injustice.

Mr. WENTWORTH. I would not do any one injustice.

Mr. PIKE. My colleague told the House that he had such a letter, and asked to have it read. He did not rise to a personal explanation and then have this letter read.

Mr. WENTWORTH. He rose to a personal explanation.

Mr. PIKE. The record of the Globe will show that I am right. The House was fully advised by my colleague of the character of the letter when he offered it, and no objection was made to its being read. The committee seem to have fallen into the same error as the gentleman from Illinois, and thereupon censure the practice of introducing letters under the permission for personal explanation. The fact was that my colleague rose stating that he held in his hand a letter from General Fry whom he considered to have been unjustly assailed in a previous debate in the House. He asked that the letter should be read as a matter of fair play. No objection was made. The gentleman from New York consented if he could have an opportunity to reply.

Mr. CONKLING. The gentleman from Maine so far as he refers to me is mistaken. I said, simply inferring that the letter had some reference to me, although ignorant of its contents, that I would make no objection for myself, if I could have leave to reply if anything needing reply should appear. I gave no consent. I had no knowledge of what the letter was, nor was I in any respect in privy with the outrage and indecency of its being read. I simply refrained from objecting as I was as I supposed in some way referred to, and did not therefore choose to interpose objection if others did not.

Mr. PIKE. When the Speaker asked if any one objected to the introduction of the letter—and he put it twice clearly to the House—the gentleman from New York rose in his place and said he should not object.

Mr. CONKLING. I simply refrained from objecting; I did not assent.

Mr. PIKE. If the gentleman makes a distinction between assenting and not objecting, he is entitled to the benefit of the distinction. I desire merely simply to state the position of my colleague in introducing the letter.

Mr. WENTWORTH. Mr. Speaker, what I want to say is this: the chairman of the committee alluded to plantation manners. Now, plantation manners are not generally located in the North. At least it is not so generally understood. General Fry is a native of my State, and the gentleman who brought his letter before the House knew what it contained; he knew it contained an attack upon one of his fellow-members, and one of his coequals in the House; and in sending it to the Clerk's desk to be read he did it for the express purpose of responding to the gentleman from New York. And now my friend calls this plantation manners. Why, sir, these manners are up in the boreal regions—the northern part of Maine and the northern part of Illinois. General Fry was one of the first graduates of West

Point from my congressional district. I take an interest in his character, and my whole State has an interest in it, not only personally, but on account of the services of his family. His father, when the war broke out, differing politically from the Administration, raised a regiment, and though he was between sixty and seventy years of age he went into the field and fought in some of the severest battles that took place during the war. His friends are numerous in our State, and as one of the Representatives of the State I would not feel justified in allowing this thing to be done, which it seems to be the intention of the House to do, without saying this much. And yet I feel that I am under no obligation to defend General Fry, although he was my own cadet, because he should have shown me that letter. I understand that he exhibited the letter to no member of the Illinois delegation. There is not a member from Illinois who would not have advised him to have kept it to himself.

But, Mr. Speaker, to revert to the original point, it does not screen a man when he wants to attack some fellow-member of the House to go to the Department, get a letter and send it to the Clerk's desk to be read. And here this report is brought in censuring him. As for the gentleman from New York [Mr. CONKLING] I am free to say, as I presume every member of the House is, that there is nothing in his conduct that is not entirely to his credit, and he has won laurels by the investigation.

The SPEAKER. The gentleman's five minutes have expired.

Mr. SHELLABARGER. I am willing to give the gentleman five minutes more.

Mr. WENTWORTH. Now, Mr. Speaker, we are passing by this subject, we are passing by the gentleman who introduced this letter to censure him. Does any one suppose that the gentleman from Maine when he introduced it did not know for what purpose it was written? What testimony is before the committee that General Fry himself knew it was to come here? But so far as he is concerned that does not affect the odium attached to him for sending it here, or to others who gave it to the gentleman from Maine. But the point I object to is, that the gentleman from New York should bring down upon the head of this officer whose character has stood up to this time without reproach, one of the most gallant men we ever had in the Army, whose integrity and honor have always been sustained until this committee made this report; and now the whole of the odium of sending a letter here is to be attributed to him, when I think it belongs somewhere else.

I have several times during this session felt it to be my duty to call gentlemen to order for impugning the motives of other members. I always differed in this respect with the Chair. It would make an easy berth for the Speaker, according to his decision, that a member who had consent to make a personal explanation could go on and say what he pleased, and we would have to sit here and watch him. I am satisfied, since the Speaker delivered his recent opinion, that he is right in a parliamentary point of view. Hereafter, if anybody on this floor undertakes to make a personal attack on another, I shall feel bound to call him to order at once. Had we done this when the gentleman from Maine imputed bad motives to the gentleman from New York, we would have saved ourselves in the House all this trouble and mortification. When such a contest has once begun, it is the bounden duty of some one member to rise upon the floor and demand that it shall be stopped.

I hope, Mr. Speaker, that some one will feel it to be his duty, if he knows anything against General Fry, to prefer the charges and let him be tried by the proper tribunal. If he sent that letter here, if he designed it to be sent here against a member of this House, I am willing to go as far as any other member of the House to fix the proper censure upon him. Should it appear, however, that he did not

intend to have that letter presented to the House, then, so far as the prerogatives of the House are concerned, it alters the case very materially. I agree with the gentleman from Pennsylvania, [Mr. STEVENS,] if there be anything against General Fry, let charges be filed against him, and let him be tried by a military tribunal. He is out of the House; there is no one here to advocate his cause. No one knows what he has to say. We have no explanation why he sent that letter here. As he did send the letter here, I am willing, to that extent, to agree to the report of the committee. But then there is the member who had the letter read from the Clerk's desk. When he sent it up to be read he virtually indorsed it. What are we to do with him?

Mr. SHELLABARGER. I demand the previous question.

Mr. PIKE. I want to say a word in behalf of my colleague.

Mr. SHELLABARGER. I will yield out of my time after the previous question has been seconded.

The previous question was seconded and the main question ordered.

The SPEAKER stated that the gentleman from Ohio [Mr. SHELLABARGER] was entitled to an hour in which to close the debate.

Mr. SHELLABARGER. I yield five minutes to the gentleman from Maine.

Mr. PIKE. Mr. Speaker, the gentleman from Illinois makes a valiant defense—I suppose he means it to be such—of his protégé, General Fry, by attempting to shift the whole responsibility upon my colleague.

Mr. WENTWORTH. I do not make any defense of General Fry.

Mr. PIKE. The gentleman insinuates that my colleague by some wily arts induced General Fry to send that letter to be read in this House.

Mr. WENTWORTH. I beg the gentleman's pardon. I did not say so.

Mr. PIKE. Is the gentleman authorized by General Fry or any one else to say that my colleague induced him to send that letter to this House?

Mr. WENTWORTH. I do not charge the gentleman's colleague with having done so.

Mr. PIKE. I am glad that the gentleman withdraws the charge.

Mr. WENTWORTH. I do not charge any colleague of mine in this House with anything.

Mr. PIKE. I understood the gentleman to say that my colleague induced General Fry to send this letter here.

Mr. WENTWORTH. I said I did not know what inducements were brought to bear upon General Fry to have him send this letter here.

Mr. PIKE. I can say to the gentleman, if he does not know, and I speak from a general knowledge of my colleague's character and not from having had any communication with him on the subject—I can tell him that if he investigates the subject and learns the truth he will find that his insinuations against my colleague have no foundation. He generously defends General Fry as he would any friend he deemed unjustly assailed, and General Fry furnished him this letter expressly to be read in this House as corroborating his statements in his behalf.

Mr. WENTWORTH. Have you seen General Fry?

Mr. PIKE. I have not. I have had no communication with him. I do not propose to defend him. I only speak of the part my colleague had in this transaction. As to the breach of privilege which is spoken of by some gentlemen, the House knows of the debate that occurred. My colleague had his say; the gentleman from New York had his say; which got the better of it the record will show.

The gentleman from Illinois said my colleague rose for a personal explanation and then introduced the letter, acting under pretense of his privileges. I corrected him; and now I have the Globe, which will show who was right, and it will show, too, that my colleague is not subject to the implied censure of



the committee, if they mean it as a censure, when in their report they condemn the practice of members coming in here, under the color of personal explanations, and bringing in letters from other persons.

Now let me read from the Globe containing the report of the proceedings and debates of the House of the 30th of April:

"Mr. BLAINE. Will the gentleman from Massachusetts [Mr. ELIOT] yield to me a moment?"

"Mr. ELIOT. Yes, sir."

"Mr. BLAINE. I hold in my hand a letter from Provost Marshal General Fry, which I ask to have read at the Clerk's desk for the double purpose of vindicating myself from the charge of having stated in debate last week that was false, and also for the purpose, which I am sure will commend itself to the House, of allowing fair play to an honorable man in the same forum in which he has been assailed."

"The SPEAKER. It requires unanimous consent to have it read. Is there objection?"

"Mr. CONKLING. I infer that this has some reference to me. I shall make no objection provided I may have an opportunity to reply to whatever the letter may call for hereafter."

"Mr. STEVENS. I hope this will be postponed until we get through this bill. I object to interrupting it in this way."

It was not read then. About an hour later in the proceedings I find this:

"Mr. BLAINE. I ask to send to the Clerk's table to have read the letter the reading of which was objected to this morning."

"Mr. CONKLING. I do not object, but only ask, if the matter relates to me, to have opportunity to reply."

"Mr. BLAINE. I wish to repeat what I said before."

"Mr. ROSS. I object to the gentleman from New York making a speech."

"Mr. CONKLING. The gentleman does not want a letter to be read relating to a member and then not permit that member to reply."

"Mr. ROSS. I withdraw my objection."

"Mr. BLAINE. I want this letter read for the double purpose of vindicating myself from the charge of having made an untruthful statement on this floor, and to give, in the broad American sense, fair play and opportunity to a worthy officer to be heard in a forum where he has been assailed."

"I wish further to say that if, on investigation, I had found I was in error in the statement I had made touching the member from the Utica district of New York [Mr. CONKLING] and Provost Marshal General Fry, I would, mortifying as it would have been, apologized to the House. Whether I was in error or not I leave to those who hear the letter of the Provost Marshal General."

And thereupon the letter was read. The House can judge whether there was any invasion of its dignity, when all the members consented to have the letter read to them. Certainly my colleague did nothing but what was fair and manly. The House cannot now complain if they failed to object to the reading of what they desired to hear.

Mr. HOTCHKISS. Mr. Speaker, should the resolution which my colleague from the Onondaga district gave notice of a few minutes ago be adopted we should ascertain who is the right man to be prosecuted in this case. It has been suggested by the gentleman from Illinois [Mr. WESTWORTH] that we are pursuing the wrong man; that General Fry, when that letter was sent to Mr. BLAINE, might not have known that it was to be used in this House. Now, I do not wish to spend a moment's time over that; I desire to call the attention of the House to another subject.

Mr. PIKE. Does the gentleman from New York [Mr. HOTCHKISS] believe that was the fact?

Mr. HOTCHKISS. That was the fact?

Mr. PIKE. That when General Fry sent that letter to my colleague [Mr. BLAINE] he, General Fry, did not expect it to be read in this House.

Mr. HOTCHKISS. I have expressed no opinion upon the subject, and therefore I am not to be cross-examined upon the subject. But I would call the attention of the House to libel No. 2, which has been sent stealthily into this House and scattered around here upon the desks of members. It has been kept away from my desk. It has been stolen in here, with this notice served upon the House:

"A request made by General Fry to the investigating committee for the privilege of preparing and submitting, by himself or counsel, a written plea was not granted."

Here is an appeal to the House against the conduct of one of its committees:

"The following letter of instructions was, how-

ever, addressed by General Fry to his counsel, Hon. A. G. Riddle, on the eve of the oral plea, which Mr. Riddle made in compliance with the requirements of the committee. It gives a general but brief résumé of the grounds on which General Fry rests his charges against Mr. CONKLING, and of his defense against the charge which Mr. CONKLING incidentally brings against him."

There the attention of this House is called to this question, on an appeal from the action of their committee. He says they did not treat him fairly, and he now appeals to the House and calls their attention to this letter, and asks them to review the matter. Now, who has done that? I would like to know who is the right man for that, and whether this body has any dignity to protect. We have been lectured here this session from all quarters, until finally clerks in the Departments come here and read lectures to us, or use members of this House for that purpose. Next come in bullies and attack us, and attack the officers of this House. When will the dogs be set upon us? Such a libel as this is scattered about this House, and the attention of the House is called to it; and then General Fry says:

"I have thus briefly reviewed the charges contained in my letter. Of the principal charges, I maintain and reassert not only the substantial but the literal correctness."

A more impudent, a more insolent, a more detestable libel never was presented to the House. It is in defiance of the committee and in defiance of the judgment of the House. It says in substance, "I will insult you, no matter what you say, no matter what you do, no matter what the report of your committee may be."

The SPEAKER. The five minutes of the gentlemen have expired.

Mr. SHELLABARGER. I yield the gentleman five minutes more.

Mr. HOTCHKISS. I desire to say only a few words more.

Mr. Speaker, if this matter should be referred to the Judiciary Committee as a matter of law, the special committee having found all the facts, and this last libel being before us, that committee will be enabled to ascertain who the "right man" is; and by and by we shall be able to find some one whom we may be able to bring into this House, that the Speaker may talk to him and persuade him, perhaps, that he really has been in the wrong in trampling upon the dignity of the American Congress, by insulting us, by treating us as no man would dare to treat a common pettifogger in a decent justice's court. By and by we shall rise, perhaps, to sufficient dignity to resent an insult.

Mr. Speaker, it has been suggested here by an honorable member that if a bureau of this Government—a bureau reeking with corruption, a stench in the nostrils of the people—comes in here and asks for a continuance of public confidence and public favor, that it be incorporated in a new law, perhaps ingrafted upon the Constitution by way of amendment, no member here has a right to rise and say anything about the man who administers that bureau. No matter how corrupt his conduct may have been, our mouths must be closed, or else when we approach the door of this Hall ruffians may pounce upon us; or we may be libeled by newspaper correspondents; it may be heralded all over the country that this or that member has violated the Constitution and the law, and has disgraced himself.

The hirelings of the press throughout the country have been busy libeling my colleague ever since this infamous slander was read here, the attacks emanating from this city, the press being shamelessly prostituted for the purpose of traducing him. I have told him to wait in silence till the day of reckoning should come. Now I want to have the verdict of this House proclaimed throughout the Union.

There is one more point to which I wish to call attention. This investigation has been conducted by a committee who have become acquainted with the question. I hope the subject may not be taken out of their hands and referred to the Executive for his action.

The Executive should hear the whole story when it is told. We have scarcely begun in this matter. General Fry has not been tried.

We tried Mr. CONKLING. We have, so far as we have been permitted, shown General Fry's motive in writing this libel, but have gone no further. This committee should be continued to investigate the whole case. They should go on "in this line if it takes all summer."

Mr. Speaker, I had no idea of saying a word on this subject; but when it is suggested that a Representative on this floor has no right to speak his mind independently on questions of public interest, matters of legislation, I desire to know whether that is the rule or not. If he is to be tongue-tied here I would rather not hold a position in this House.

Mr. SHELLABARGER. Mr. Speaker, I now ask that the vote be taken.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Ohio allow me to ask him a question?

Mr. SHELLABARGER. Yes, sir.

Mr. RANDALL, of Pennsylvania. Preliminary to the question, I desire to say a word or two. I have not had time to read this report, nor do I wish in any manner to enter into the personal matters to which it relates; but I want to know of the chairman whether this committee in their report justify the taking of employment by a member of Congress who is in receipt of his salary as a member of Congress and taking payment for such employment in addition to his emoluments as a member of Congress. I want to know whether the committee, irrespective of the parties involved in this case, justify that or not.

Mr. SHELLABARGER. The committee find in their report that a member of Congress who is qualified as such shall not hold any other office or receive any compensation therefor. They find that a member of Congress, after the 4th of March, the day on which his pay commences under the law, cannot receive the salary of any other office during that time. A member of Congress may be employed by the Government as counsel, and such employment may be competently performed; and that is what occurred in this case.

Mr. RANDALL, of Pennsylvania. Then I understand the gentleman to say he believes a member of Congress, subsequent to the 4th of March and prior to the expiration of his term, can be employed by the Government in another capacity and receive compensation therefor.

Mr. SHELLABARGER. That is what the committee find on the subject, if the employment is not an office.

Mr. RANDALL, of Pennsylvania. Can he be employed against the Government?

Mr. SHELLABARGER. In favor of the Government he may be employed; against the Government he cannot be employed, because there is a statute of 1864 which expressly provides in this identical case of Mr. CONKLING, that is to say, it provides no member of Congress shall be permitted to be employed by any person in any proceeding before a court-martial, furnishing a complete legislative determination that he may be employed in that identical case on the other side, because the provision of 1864, in saying that a member of Congress may not be employed by any other person, would imply that he may be employed in that identical case by the Government itself.

Mr. RANDALL, of Pennsylvania. That is a fine distinction—a distinction without a difference. If it be not a violation of the letter of the law, it is to my mind a violation of its spirit.

Mr. STEVENS. Suppose a man had an action of ejectment against the Government in Philadelphia and came to my colleague to employ him, would he think himself barred?

Mr. RANDALL, of Pennsylvania. I am not a member of the bar and therefore I should be barred. [Laughter.] I will answer my colleague that I do not think it would be proper for me while receiving pay as a member of Congress to be employed against the Government I was sent here to represent.

Mr. STEVENS. Last September parties

came to me to represent them in a suit in reference to the internal revenue. They made it worth my while; that is, I suppose, paying my expenses. [Laughter.] I did so and defeated the Government, by which it is compelled to refund some six or seven thousand dollars. I owe an apology to the country for having done justice to these parties.

Mr. RANDALL, of Pennsylvania. That is a matter about which I have no concern.

Mr. SHELLABARGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 4, not voting 82; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Banks, Baxter, Bidwell, Bingham, Boutwell, Boyer, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Davis, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eliot, Ferry, Garfield, Hale, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Jencks, Julian, Kasson, Kelley, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Shellabarger, Stevens, Strouse, Taber, Taylor, John L. Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—96.

NAYS—Messrs. Bromwell, Ross, Thornton, and Wentworth—4.

NOT VOTING—Messrs. Ancona, James M. Ashley, Baker, Baldwin, Barker, Beaman, Benjamin, Bergen, Blaine, Blow, Brandegee, Chanler, Conkling, Cook, Cullom, Culver, Darling, Dawes, Denison, Dixon, Dodge, Driggs, Dumont, Eldridge, Farnsworth, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Aaron Harding, Harris, Hayes, Henderson, Hill, Hogan, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Johnson, Jones, Kelso, Kerr, Kuykendall, Latham, Le Blond, Lynch, Marshall, Marvin, McCullough, McIndoe, Moulton, Niblack, Nicholson, Noel, Patterson, Phelps, Pomeroy, Samuel J. Randall, Ritter, Rogers, Rousseau, Schenck, Scofield, Shaukin, Sitgreaves, Sloan, Smith, Spalding, Starr, Stillwell, Thayer, Francis Thomas, Trimble, Upson, Elihu B. Washburne, Whaley, Winfield, and Wright—82.

So the resolutions were adopted.

During the roll-call,

Mr. WENTWORTH said: While I concur in so much of the report as relates to the gentleman from New York, in other respects I cannot concur in it for the reasons I have stated, and I therefore vote "no."

The vote having been announced as above recorded,

Mr. SHELLABARGER moved to reconsider the vote by which the resolutions were passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. DAVIS. I rise to a question of privilege. I offer the following resolution and demand the previous question upon it:

Whereas on the 30th of April a letter purporting to be written by General Fry was read in this House, together with sundry documents accompanying it, which letter was grossly libelous and reflected upon the public and private character of a member; and whereas the House having ordered an inquiry as to said letter and its truth or falsity; and whereas for that purpose a select committee was raised, which committee has ascertained and reported said letter to have been false and malicious: Therefore,

Resolved, That the Judiciary Committee be instructed to inquire and report whether any breach of the privileges of the House not sufficiently reported upon by said select committee has been committed in connection with writing or sending said letter, the documents accompanying the same, or the introduction thereof into the House, or causing the same to be read in the House, or entered upon the record of the House, or making the same public, and if so, by whom, and what action, if any, should be taken; and that said committee also inquire and report whether said libel has been republished or renewed by the said General Fry or any other person since the termination of the session of said committee, and if so, by whom, and whether any and what action ought to be had thereon; and that said committee have power to send for persons and papers.

The SPEAKER. The gentleman claims this to be a question of privilege. The Chair will submit to the House whether it is a question of privilege.

Mr. WILSON, of Iowa. I suggest that the

gentleman modify it so as to refer the subject to the same committee that has had this matter under consideration heretofore. I see no necessity for taking it out of the jurisdiction of that committee and referring it to another. I am satisfied that the House has entire confidence in the ability and integrity of that committee.

Mr. ELDRIDGE. Is this debatable?

The SPEAKER. The Chair thinks it is scarcely debatable. It is a question which must be decided by the House exactly as the Chair decides a question of privilege, upon the presentation of the resolution itself.

Mr. DAVIS. I desire to say that I have no objection to this going to the special committee, though I preferred it should go to the Judiciary Committee. I am entirely willing to modify it.

Mr. ELDRIDGE. I withdraw any objection.

Mr. PIKE. My colleague, I know, would not object to the fullest investigation.

Mr. SHELLABARGER. I did not hear the resolution read, but I understand it to relate to the question whether in the conduct of the gentleman from Maine there was anything that constituted a breach of the rules or privileges of the House. Now, that is a question for the Committee on Rules, and I beg that the resolution may take that direction, for no member of the select committee, that I am aware of, professes to be familiar with the rules of this body.

Mr. DAVIS. I desire not to reflect upon the character of any member whatever. I have not introduced the resolution from any personal feeling toward any member of the House. But I desire to know what constitutes and what does not constitute a breach of the privileges of the House.

Mr. RADFORD. I object to further debate.

Mr. DAVIS. Will the gentleman allow a statement to be made?

Mr. RADFORD. No, sir.

The SPEAKER. The only subject to be referred to the Committee on Rules is a proposition to amend the rules.

Mr. DAVIS. Then I will insist upon the previous motion to refer it to the Committee on the Judiciary.

The SPEAKER. The Chair will submit to the House whether this is a question of privilege.

The question being taken, it was decided in the negative—ayes 24, noes 71.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendment of the House of Representatives to the amendment of the Senate to the resolution of the House providing for the appointment of a joint committee on retrenchment.

Also, that the Senate had passed a bill (S. No. 428) for the relief of the sufferers by the late fire in Portland, Maine, in which the concurrence of the House was requested.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. WASHBURN, of Massachusetts, after to-morrow.

Mr. SPALDING. I demand the regular order of business.

#### ADMISSION OF TENNESSEE.

Mr. BINGHAM. I call up the motion to reconsider the vote by which House joint resolution No. 83, concerning the State of Tennessee, was recommitted to the committee on reconstruction.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States may be fully established, and did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form and not inconsistent with the Constitution and laws of

the United States, and a State government has been organized under the provisions thereof, which said provisions, and the laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union, and can only exercise the same by the consent of the law-making power of the United States: Therefore, the State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States, upon the express condition that the people of Tennessee will maintain and enforce, in good faith, their existing constitutions and laws, excluding those who have been engaged in rebellion against the United States from the exercise of the elective franchise, for the respective periods of time therein provided for, and shall exclude the same persons for the like respective periods of time from eligibility to office; and the State of Tennessee shall never assume or pay any debt or obligation contracted or incurred in aid of the late rebellion; nor shall said State ever, in any manner, claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever; which conditions shall be ratified by the Legislature of Tennessee, or the people thereof, as the Legislature may direct, before this act shall take effect.

Mr. STEVENS. I move that the motion to reconsider be laid upon the table.

Mr. BINGHAM. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. LYNCH moved that the House do now adjourn.

Mr. ECKLEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 69, not voting 54; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baker, Banks, Baxter, Benjamin, Bidwell, Boutwell, Bromwell, Broomall, Sidney Clarke, Cobb, Eliot, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Humphrey, Ingersoll, Jencks, Julian, Kelley, Koontz, Loan, McClurg, McRuer, Mercer, Morrill, Moulton, O'Neill, Paine, Perham, Plants, Price, John H. Rice, Ritter, Sawyer, Schenck, Scofield, Shaukin, Shellabarger, Stevens, Strouse, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—59.

NAYS—Messrs. Anderson, Delos R. Ashley, Bingham, Boyer, Buckland, Reader W. Clarke, Conkling, Davis, Dawes, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Hale, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Johnson, Kerr, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Marston, McKee, Miller, Moorhead, Morris, Myers, Newell, Nicholson, Noel, Orth, Phelps, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rollins, Ross, Rousseau, Sitgreaves, Spalding, Taber, Thayer, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Whaley, and Woodbridge—69.

NOT VOTING—Messrs. Ancona, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Blaine, Blow, Brandegee, Bundy, Chanler, Cook, Cullom, Culver, Darling, Denison, Dixon, Dodge, Driggs, Dumont, Farnsworth, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbell, Jones, Kasson, Kelso, Lynch, Marshall, Marvin, McCullough, McIndoe, Niblack, Patterson, Pomeroy, Rogers, Sloan, Smith, Starr, Stillwell, Francis Thomas, Upson, Elihu B. Washburne, Winfield, and Wright—44.

So the House refused to adjourn.

The question then recurred on laying the motion to reconsider on the table; and it was decided in the negative—yeas 31, nays 92, not voting 59; as follows:

YEAS—Messrs. Allison, Benjamin, Boutwell, Broomall, Sidney Clarke, Cobb, Eliot, Abner C. Harding, Hart, Higby, Hotchkiss, Ingersoll, Jencks, Kelley, Loan, Lynch, McClurg, Mercer, Morrill, Moulton, Paine, Perham, Price, Sawyer, Schenck, Stevens, Trowbridge, Ward, Wentworth, Williams, and James F. Wilson—31.

NAYS—Messrs. Alley, Ames, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Bingham, Boyer, Buckland, Reader W. Clarke, Conkling, Davis, Dawes, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Garfield, Hale, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Johnson, Julian, Kerr, Ketcham, Koontz, Laffin, Latham, George V. Lawrence, William Lawrence, Longyear, Marston, McKee, McRuer, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Noel, O'Neill, Orth, Phelps, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Rousseau, Scofield, Shaukin, Shellabarger, Sitgreaves, Spalding, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, Stephen F. Wilson, Windom, and Woodbridge—92.

NOT VOTING—Messrs. Ancona, James M. Ashley,

Baldwin, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Brantledge, Bromwell, Bundy, Chanler, Cook, Culloom, Culver, Darling, Denison, Dixon, Dodge, Driggs, Dumont, Farnsworth, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Aaron Harding, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Jones, Kasson, Kelso, Kuykendall, Le Blond, Marshall, Marvin, McCullough, McIndoe, Patterson, Plants, Pomeroy, Rogers, Sloan, Smith, Starr, Stilwell, Francis Thomas, Upson, Burt Van Horn, Elihu B. Washburne, Winfield, and Wright—59.

So the House refused to lay the motion to reconsider upon the table.

During the roll-call,  
Mr. ALLISON said: I would inquire of the Chair if the joint committee on reconstruction is not authorized to report at any time.

The SPEAKER. It is.

Mr. ALLISON. Then I vote "ay."

The result of the vote was announced as above.

The question recurred upon seconding the demand for the previous question on the motion to reconsider.

Mr. STEVENS. I move that the House now adjourn.

Mr. RITTER. Will the gentleman from Pennsylvania [Mr. STEVENS] withdraw that motion for a moment?

Mr. STEVENS. Certainly.

#### LEAVE OF ABSENCE.

Mr. RITTER. I ask leave of absence for my colleague, Mr. GRIDER, for the remainder of the session.

Leave was granted.

#### PROVOST MARSHAL GENERAL'S BUREAU.

Mr. HOTCHKISS. I ask consent to submit the following resolution:

*Resolved*, That there be printed for the use of the House twenty thousand extra copies of the report relative to General Fry, without the testimony.

Mr. ROSS. I object.

#### PENSION BILLS.

Mr. VAN AERNAM. I ask unanimous consent to report from the Committee on Invalid Pensions two pension bills.

Mr. ROSS. I object.

Mr. BAKER. I ask my colleague [Mr. ROSS] to withdraw his objection. One of these cases is that of a soldier who is stone-blind and dependent.

Mr. ELDRIDGE. I object to anything until the Representatives from Tennessee are admitted to their seats.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. R. No. 300) for the payment of the public debt, in which the concurrence of the House was requested.

#### ADJOURNMENT.

Mr. STEVENS. I now renew the motion to adjourn.

The question was taken; and upon a division there were—ayes 53, noes 63.

Before the result of the vote was announced, Mr. STEVENS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 71, not voting 62; as follows:

YEAS—Messrs. Alley, Allison, Baxter, Benjamin, Boutwell, Boyer, Bromwell, Broomall, Sidney Clarke, Cobb, Conkling, Eliot, Aaron Harding, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Kelley, Loan, Lynch, McClurg, McKuer, Mercier, Morrill, Moulton, Price, John H. Rice, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Trowbridge, Van Aernam, Ward, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—49.

NAYS—Messrs. Anderson, Delos R. Ashley, Barker, Banks, Bingham, Buckland, Reader W. Clarke, Davis, Dawson, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Johnson, Kerr, Ketchum, Koontz, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Marston, McKee, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Ritter, Rollins, Ross, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trimble,

Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Whaley, and Woodbridge—71.  
NOT VOTING—Messrs. Ames, Ancona, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Brantledge, Bromwell, Bundy, Chanler, Cook, Culloom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Farnsworth, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Jones, Julian, Kasson, Kelso, Kuykendall, Marshall, Marvin, McCullough, McIndoe, Paine, Patterson, Perham, Phelps, Plants, Pomeroy, Rogers, Sloan, Smith, Starr, Stilwell, Francis Thomas, Upson, Burt Van Horn, Elihu B. Washburne, Winfield, and Wright—62.

So the motion to adjourn was not agreed to.

During the roll-call,

Mr. PAINE, said: I am paired with Mr. HALE on this and similar questions. If he were here he would vote "no," and I would vote "ay."

The result of the vote was stated as above recorded.

#### TENNESSEE—AGAIN.

The question recurred upon seconding the call for the previous question on the motion to reconsider the vote by which the joint resolution in relation to Tennessee was recommitted to the joint committee on reconstruction.

The question was taken; and upon a division there were—ayes 71, noes 41.

So the previous question was seconded.

The question was upon ordering the main question to be now put.

Mr. ALLISON. I call for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. BENJAMIN. I move that the House now adjourn.

The question was taken; and upon a division there were—ayes 54, noes 56.

Before the result of the vote was announced, Mr. BENJAMIN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 68, not voting 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baker, Baxter, Benjamin, Boutwell, Broomall, Sidney Clarke, Cobb, Conkling, Davis, Driggs, Eliot, Aaron Harding, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, Loan, Lynch, McClurg, McKuer, Mercier, Morrill, Moulton, Perham, Price, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Taylor, Trowbridge, Van Aernam, Ward, Welker, Wentworth, and James F. Wilson—46.

NAYS—Messrs. Anderson, Delos R. Ashley, Banks, Bingham, Boyer, Buckland, Reader W. Clarke, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Johnson, Kerr, Ketchum, Koontz, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Marston, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Phelps, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Ritter, Rollins, Ross, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, Thayer, Thornton, Trimble, Burt Van Horn, Robert T. Van Horn, Warner, Henry D. Washburn, Whaley, and Woodbridge—68.

NOT VOTING—Messrs. Ancona, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Brantledge, Bromwell, Bundy, Chanler, Cook, Culloom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Farnsworth, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Jones, Julian, Kasson, Kelso, Kuykendall, Marshall, Marvin, McCullough, McIndoe, McKee, Paine, Patterson, Pike, Plants, Pomeroy, William H. Randall, Rogers, Rousseau, Sloan, Smith, Starr, Stilwell, Francis Thomas, John L. Thomas, Upson, Elihu B. Washburne, William B. Washburn, Williams, Stephen F. Wilson, Windom, Winfield, and Wright—68.

So the motion to adjourn was not agreed to.

The question recurred on ordering the main question to be put, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 34, not voting 77; as follows:

YEAS—Messrs. Alley, Ames, Anderson, Delos R. Ashley, Banks, Bingham, Boyer, Buckland, Conkling, Davis, Dawson, Delano, Deming, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Johnson, Kerr, Ketchum, Koontz, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Marston, McKuer, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Phelps,

Pike, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Shellabarger, Sitgreaves, Spaulding, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, Warner, Henry D. Washburn, and Whaley—71.

NAYS—Messrs. Allison, Baker, Baxter, Boutwell, Bromwell, Broomall, Sidney Clarke, Cobb, Driggs, Eliot, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Ingersoll, Jenckes, Kelley, Loan, Lynch, McClurg, Mercier, Morrill, Moulton, Perham, Sawyer, Stevens, Trowbridge, Van Aernam, Ward, Wentworth, Williams, James F. Wilson, and Woodbridge—34.

NOT VOTING—Messrs. Ancona, James M. Ashley, Baldwin, Barker, Beaman, Benjamin, Bergen, Bidwell, Blaine, Blow, Brantledge, Bundy, Chanler, Reader W. Clarke, Cook, Culloom, Culver, Darling, Dawes, Denison, Dixon, Dodge, Dumont, Farnsworth, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Hill, Hogan, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Humphrey, Jones, Julian, Kasson, Kelso, Kuykendall, Longyear, Marvin, McCullough, McIndoe, McKee, Paine, Patterson, Plants, Pomeroy, Price, William H. Randall, Rogers, Rousseau, Schenck, Scofield, Shanklin, Sloan, Smith, Starr, Stilwell, Francis Thomas, Trimble, Upson, Elihu B. Washburne, William B. Washburn, Welker, Stephen F. Wilson, Windom, Winfield, and Wright—77.

So the main question was ordered, which was on reconsidering the vote by which the joint resolution had been recommitted to the committee on reconstruction.

Mr. SPALDING, (at five o'clock and thirty-five minutes p. m.) I move that the House adjourn.

Mr. BINGHAM. I hope that the motion to reconsider will be agreed to, so that I may offer a substitute for the original bill, have the substitute ordered to be printed, and call the previous question. Then the House can adjourn, and this question will come up in the morning as unfinished business.

Mr. WARD. I desire to ask the gentleman from Ohio whether he intends to press this bill to a vote to-night.

Mr. BINGHAM. If the arrangement I have suggested be agreed to, I do not; otherwise I do.

Mr. BOUTWELL. I would like to ask the gentleman from Ohio whether he intends to allow any debate upon this proposition, or to permit any amendment to be offered.

Mr. BINGHAM. I have no objection to hearing the gentleman's argument in the morning; but I prefer that the previous question shall be called this evening.

Mr. JOHNSON. I desire to know whether the preamble has been sufficiently sugar-coated for the majority of the House. [Laughter.]

Mr. BINGHAM. I leave that to be decided by the House when the vote shall be taken.

Mr. ELDRIDGE. I wish to make a suggestion to the gentleman from Ohio. We on this side have stood by him upon principle in bringing up this matter; and I hope that when we reach a point where the vote can be taken, the gentleman will not consent that the House shall adjourn. We will stand by him clear through. Let us have Tennessee in.

The SPEAKER. Debate is not in order. The previous question has been seconded and the main question ordered. The gentleman from Ohio [Mr. SPALDING] moves that the House adjourn.

Mr. SPALDING. I withdraw the motion to adjourn.

Mr. ALLISON. I renew it.

The House divided; and there were—ayes 45, noes 61.

Mr. PRICE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 63, not voting 76; as follows:

YEAS—Messrs. Alley, Allison, Baker, Baxter, Boutwell, Broomall, Sidney Clarke, Cobb, Driggs, Eliot, Farnsworth, Aaron Harding, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Jenckes, Kelley, Loan, Lynch, McClurg, Mercier, Morrill, Moulton, Perham, Price, John H. Rice, Ritter, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Trowbridge, Van Aernam, Burt Van Horn, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—43.

NAYS—Messrs. Anderson, Delos R. Ashley, Bingham, Boyer, Buckland, Davis, Dawson, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard,



Hulburd, Kerr, Ketcham, Koontz, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Marston, McRuer, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, Neill, O'Neill, Orth, Phelps, Pike, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rollins, Ross, Sitgreaves, Spalding, Strouse, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Robert T. Van Horn, Warner, Henry D. Washburn, and Whaley—63.

NOT VOTING—Messrs. Ames, Ancona, James M. Ashley, Baldwin, Banks, Barker, Beaman, Benjamin, Bergen, Bidwell, Blaine, Blow, Brandegee, Broomwell, Bundy, Chanler, Reader W. Clarke, Conkling, Cook, Cullom, Culver, Darling, Dawes, Denison, Dixon, Dodge, Dumont, Garfield, Gloss-brenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Demas Hubbard, Edwin H. Hubbell, Humphrey, Ingersoll, Johnson, Jones, Julian, Kasson, Kelso, Kuykendall, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Paine, Patterson, Plants, Pomeroy, William H. Randall, Rogers, Rousseau, Shanklin, Sloan, Smith, Starr, Stilwell, John L. Thomas, Upson, Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, Windom, Winfield, and Wright—76.

So the House refused to adjourn.

The question then recurred on the motion to reconsider.

The House divided; and there were—ayes 70, noes 27.

So the House reconsidered the vote by which the joint resolution was recommitted to the committee on reconstruction.

The question then recurred on the motion to recommit.

Mr. BINGHAM withdrew the motion to recommit, and moved the following substitute for the joint resolution, on which he demanded the previous question:

Joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress.

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has shown otherwise, to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Tennessee is hereby declared to be restored to her former, proper, practical relation to the Union, and again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

And then, on motion of Mr. JENCKES, (at fifty-five minutes past five o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the table and referred to the appropriate committees:

By Mr. PERHAM: The petition of soldiers of the war of 1812, asking for pension without regard to time of service.

By Mr. HOTCHKISS: The petition of Jonathan Smoke, to be placed on the pension-roll.

#### IN SENATE.

FRIDAY, July 20, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. ANTHONY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the memorial of Jacob T. Smith, who served in the corps of sappers and miners, under the command of Lieutenant G. W. Smith, in the war with Mexico, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a memorial of the Citizens' Association of New York, remonstrating against the provisions of the internal revenue law which permit city railroad companies to add one cent to their rate, or to issue tickets covering the exact amount of the tax; which was referred to the Committee on Finance.

Mr. COWAN presented the memorial of Ward B. Burnett, late surveyor general of Kansas and Nebraska, praying to be reimbursed for expenses incurred by him in a journey to Washington city to repel certain charges made against him in his official capacity; which was referred to the Committee on Finance.

Mr. MORRILL presented a memorial of the butchers, provision dealers, and other stall-holders of the Center market, in the city of Washington, praying for a charter to empower them in the form of a joint stock company to erect new and suitable buildings in the place of those now occupied as a market-house; which was referred to the Committee on the District of Columbia.

#### MILITARY PEACE ESTABLISHMENT.

Mr. WILSON submitted an amendment intended to be proposed by him to the amendment of the House of Representatives to the bill (S. No. 138) to increase and fix the military peace establishment of the United States; which was received informally and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Claims, to whom was referred a bill (H. R. No. 520) for the relief of Elisha J. House, assessor of internal revenue for the second district of Michigan, reported adversely thereon.

Mr. NESMITH, from the Committee on Commerce, to whom was referred a joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company, reported it without amendment.

Mr. POLAND, from the Committee on Patents and the Patent Office, to whom was referred a bill (H. R. No. 589) for the relief of Delia A. Jacobs, late Delia A. Fitzgerald, reported it without amendment.

Mr. FESSENDEN. The Committee on Finance, to whom was referred a bill (H. R. No. 780) to protect the revenue, and for other purposes, have directed me to report it with two amendments. As there are only two amendments reported, it is quite unnecessary to have the bill reprinted with the amendments. I shall call it up presently. The amendments are very simple and it is unnecessary to print them.

The PRESIDENT *pro tempore*. The customary order to print will be withheld.

#### PERSONAL EXPLANATION.

Mr. FESSENDEN. While I am up I wish to make an explanation which, perhaps, may be due to one of the officers of the Senate. I have received a letter from the Secretary of the Senate indorsing in very decided terms the integrity and capacity of Mr. Jones, the messenger who is the superintendent of the stationery room. I wish to say that in the remarks I made the other day I did not mean to be understood in the slightest degree as impugning the integrity or the faithfulness of Mr. Jones, the superintendent of that room. I remembered that when Mr. Clubb was there he was always to be found at his post as superintendent of the room, and was always there himself, personally supervising everything that was done in the room. Whether he had any assistant I do not now recollect. But I have observed recently that the gentleman who receives the pay of superintendent of that room and makes purchases, &c., does not, so far as my observation is concerned, personally supervise it, so far as the delivery of the articles is concerned. I do not know that it is necessary. I stated the fact. Whether the present system is the proper one or not is for the Committee on Contingent Expenses to decide; but in the remarks that I made with regard to the stationery I did not have reference to Mr. Jones, the superintendent of the room. Under our rule, every Senator can take what he pleases; it is left to his own sense of propriety and personal honor; and the superintendent can exercise no discretion about it. He can only deliver it when called for by Senators and others entitled to call according to their own statement of the necessities of their office, whatever that may be; and, therefore, what I said with reference to the abuses which I supposed to exist had no reference whatever to the conduct of the superintendent, as I know nothing against it, and presume it to be perfectly correct and honest in all particulars, but applied to the system itself, which is liable to great abuses, and which I am satisfied has been

subject to great abuses, not on the part of the superintendent, who has no will in the matter, but on the part of others, who ought to exercise a different discretion from what they do with relation to the power given under the rule itself.

I make this explanation in justice to Mr. Jones, he being an officer of the Senate against whom I know nothing, and who I believe to be devoted to his duties under the Secretary, and such as the Secretary assigns him, as much as any other man. I have nothing against him whatever, and therefore regret to have been understood as imputing anything wrongly to him. I had no occasion to make any such imputation.

#### MARGARETTE ANN LAURIE.

Mr. ANTHONY. The Committee on Claims, to whom was referred the petition of Mrs. Margarette Ann Laurie, for property destroyed in the District of Columbia, have instructed me to report a bill granting her pay for rent contracted to be paid for her premises, but without any compensation for property destroyed. This is a bill that should have been reported the other evening when we had a special meeting to consider reports from the Committee on Claims, and was not reported by accident. I therefore ask the indulgence of the Senate to consider it at this time. There can be no objection to this bill.

By unanimous consent, the bill (S. No. 441) for the relief of Margarette Ann Laurie was read twice and considered as in Committee of the Whole. It provides for the payment to her of \$2,700, in full, for rent of her house and lot, situated in Washington, and used by the military authorities from June 30, 1862, to July 1, 1865.

Mr. FESSENDEN. Is there a report in that case?

Mr. ANTHONY. There is a report accompanying it, but perhaps I can explain the case in less time than the reading of the report would occupy. This bill proposes to pay for the rent of premises taken by order of the military authorities and occupied by the first Rhode Island regiment at the commencement of the war. They took possession of this lady's house and farm, and made a contract to pay seventy-five dollars a month rent. The soldiers there, as might naturally be supposed, destroyed a great amount of property, and she brings in a petition claiming pay for the destruction of property and for the rent. The committee have made no allowance for the destruction of property, not because they did not think it ought to be made, for the estimate was made to us by a master builder who was sent out by order of the committee to report, but because we feared it would not go through the House, and the woman is in such distress that she would rather have half what she is entitled to now than the whole by and by. We thought, therefore, we would only report what there can be no question about.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### COMMITTEES OF CONFERENCE.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate directing the Chair to appoint a committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, the Chair announces the appointment of Mr. LASE, Mr. VAN WINKLE, and Mr. DAVIS.

Under a like order, on the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, the Chair announces the appointment of Mr. RAMSEY, Mr. COWAN, and Mr. SPRAGUE, as the committee of conference.

#### STEAMBOAT INSPECTION LAWS.

Mr. EDMUNDS. In behalf of the committee of conference on House bill No. 477, I submit a report.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives agree to the first, second, third, fifth, sixth, seventh, eighth, ninth, tenth, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and twenty-first amendments, as made by the Senate.

That the Senate recede from the fourth amendment, with a modification of the clause, as follows: strike out all after the word "under," in line ten, section two, and insert in place thereof the words "any circumstances;" and that the House agree to the same.

That the Senate recede from the eighteenth and nineteenth amendments.

That the House agree to the twentieth amendment, with an amendment as follows: after the words "for the district of Portland, Oregon, \$700" insert as follows: "to the supervising inspector of the Pacific coast, \$2,500; to other supervising inspectors, \$2,000 each;" and the Senate agree to the same.

Z. CHANDLER,  
GEORGE F. EDMUNDS,  
J. W. NESMITH,

Managers on the part of the Senate.

CHARLES O'NEILL,  
D. C. McRUER,

Managers on the part of the House.

The report was concurred in.

MRS. ELEANOR C. RANSOM.

Mr. WILLIAMS. The Committee on Claims, to whom was referred the bill (H. R. No. 709) for the relief of Mrs. Eleanor C. Ransom, have directed me to report it back with an amendment; and I ask the indulgence of the Senate for the present consideration of the bill. It is a very small bill in favor of a needy woman; it is a House bill, and the amount appropriated by the House has been reduced by the Committee on Claims of the Senate. I presume there can be no opposition to the bill, and I should like to have it considered at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Mrs. Eleanor C. Ransom the sum of \$500, to indemnify her for losses sustained by the sinking of the steamship North America, on the 22d of December, 1864, and during her voyage from New Orleans to New York, she having been ordered on board the vessel to nurse and care for sick and wounded soldiers of the United States during the voyage.

The Committee on Claims reported the bill with an amendment to strike out all of the bill after the word "appropriated," in line four, and to insert:

The sum of \$400 to compensate her for services performed by her in taking care of the sick and wounded soldiers of the United States on the steamship North America on her voyage from New Orleans to New York, in December, 1864.

The amendment was agreed to.

The bill was reported to the Senate and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time and passed.

SMITHSONIAN GROUNDS WATCHMEN.

Mr. BROWN. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred a joint resolution (H. R. No. 159) authorizing the Commissioner of Public Buildings to employ three additional watchmen in the Smithsonian grounds, to report it back without amendment; and as it is a resolution to which I presume no objection will be offered, and as it is desirable that it should be acted on, I ask for its present consideration.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 442) to prevent courts being used as instruments of persecution against loyal persons;

which was read twice by its title and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 137) authorizing special juries in the District of Columbia; which was read twice by its title and referred to the Committee on the Judiciary.

DITCHES, ETC., IN PACIFIC STATES.

Mr. STEWART. I move to take up for consideration House bill No. 365.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada.

Mr. STEWART. This bill, after being considered by the Senate, was recommended to the Committee on Public Lands, who have reported an amendment as a substitute for the original bill. I suppose that the original bill need not be read.

The PRESIDENT *pro tempore*. The reading of the original bill will be omitted unless some Senator asks for its reading.

Mr. CONNESS. I believe the substitute is every word a bill which was passed by the Senate a few weeks ago.

Mr. STEWART. And fully discussed.

Mr. CONNESS. There is no amendment to it, I believe.

Mr. STEWART. None.

Mr. CONNESS. That being the case, perhaps it will not be necessary to read it.

Mr. GRIMES. We do not know what it is.

Mr. STEWART. If there is no objection, I move that the reading of the substitute be dispensed with.

Mr. FESSENDEN. Oh, no; let it be read.

The Secretary read the words proposed to be inserted by the Committee on Public Lands in lieu of the original bill, after the enacting clause, as follows:

That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local custom or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

Sec. 2. *And be it further enacted*, That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than \$1,000, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

Sec. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

Sec. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to

the limits of the premises according to the location and possession and plat aforesaid, and the surveyor general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country and the local rules, laws, and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

Sec. 5. *And be it further enacted*, That as a further condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

Sec. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the right of possession to such claim, when a patent may issue as in other cases.

Sec. 7. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to establish additional land districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

Sec. 8. *And be it further enacted*, That the right of way for the construction of highways over public land, not reserved for public uses, is hereby granted.

Sec. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however*, That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Sec. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of preemption thereto, and shall be entitled to purchase the same at the price of \$1 25 per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

Sec. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall hereafter be subject to preemption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Mr. FESSENDEN. Is the question on the whole of that subject?

The PRESIDENT *pro tempore*. The question is on what has been read as a substitute in lieu of the original bill after the enacting clause.

Mr. FESSENDEN. As I understand it, if a man has a claim and opens a vein, it is provided that he may follow it on to any adjoining land which he does not own or claim. Suppose somebody else owns the adjoining land, how is it to be worked then?

Mr. CONNESS. The adjoining land is bought subject to that easement. That is the law now.

Mr. FESSENDEN. Then if we sell a man a piece of land he may go under any adjoining land of the United States that he pleases.

Mr. CONNESS. The ordinary lands of the United States, not mineral, are sold according to what is called the rectangular system of survey, and always sold by perpendicular lines to the center of the earth. The necessity of varying that law in the sale of vein mines arises because all veins dip at a certain angle, varying frequently, but they always dip at an angle, never entering the earth vertically, and so they

run in layers one after the other. This bill in that respect simply conforms to what is both the custom and the law now—the old custom of the Mexican miners, adopted by our own people, and sustained by the decisions of our courts. Every man now has the right to follow his vein.

Mr. FESSENDEN. But the lands belong to the United States.

Mr. CONNESS. You cannot sell the lands for mining purposes in any other way. The provision is simply that the lands in the mining regions shall be purchased subject to that condition; so that where one man has the right to follow into the land of another to the depth say of a thousand feet from the surface of the earth that other man has the same right to follow his vein on his neighbor's land. The land is bought running in slanting or oblique lines into the surface of the earth in place of perpendicular lines. That is all.

Mr. FESSENDEN. I do not understand how you are to work it. One man says he wants to work on his own land—

Mr. CONNESS. This is what is done now.

Mr. FESSENDEN. I can conceive a reason why it is done now—because the lands belong to the United States, and if a man opens a vein he may follow it wherever he pleases; he has the same authority to go to the next adjoining piece of land that he has to occupy the place where he is; it is not surveyed yet. But suppose another man buys the adjoining piece of land, will you give his neighbor the right to go right under him?

Mr. CONNESS. As to agricultural land, the purchaser would buy and own by perpendicular lines; but that rule cannot apply to a piece of mining land. One man has a claim and another man alongside of him has a corresponding claim. They each follow their lodes. Notwithstanding they have a complete title by possession to the surface, they also, by possession, by common consent, by the common law, sustained by the courts, if a vein dips at a certain depth into the adjoining land, have the right to follow it, and they do follow it. The perfection of this bill in that respect is, that it conforms to existing rights of property.

Mr. FESSENDEN. There cannot be any existing rights of property, because none of them have any property in the land.

Mr. STEWART. If the Senator will allow me, I think I can illustrate the matter so that it will be understood.

Mr. FESSENDEN. I think I understand it; but the difficulty is that I do not see the propriety of it.

Mr. STEWART. Here are parallel veins, pitching, say, at an angle of forty-five degrees, one after another. If you sell in square sections with perpendicular lines extending into the earth, any quantity you please, one man may have a piece of half a dozen veins and yet have no vein to work. To open a silver vein costs all the way from fifty thousand to several million dollars, and to work it requires long tunneling, and it requires a system of timbering from the top. If a man has only a short piece, and is required to go into the earth by perpendicular lines, he might cut through several veins, but no system of working could be adopted. The veins are separated by rock walls, so that there is no possibility of confusion. You give a man a vein, or so many feet running with the vein and following it down. Suppose, for instance, you give a man three thousand feet. It dips forty-five degrees. If you were to undertake to give him that by your present system of selling the land by perpendicular lines, what would be the result? In order to work that vein he must have a large quantity of ground. It is supposed that the veins ordinarily have been worked down three thousand feet. Then you would have to give him an extent of three thousand feet laterally. In these three thousand feet there might be twenty or thirty other veins; so that under that system, in order to give him one vein you would have to give him a complete monopoly of a whole district, or you would give it to him

in a shape that he could not do anything. The practical necessity of the case requires that the dips of the veins shall be followed. A vein is an expensive thing to work, and any other system of sale would destroy the whole country; and that is the principal reason why the miners have been objecting to sales, because the perpendicular lines would cut up their claims and no man would purchase. If you undertake to divide the lands in the mining country by having the lines extend perpendicularly, mining will be effectually at an end. That is the reason why the people there have been excited and alarmed by projects for the sale of the mining lands. This bill, however, has been out there, has been submitted to the people, and meets with universal approbation. We so understand from letters and by every newspaper we receive, and there are many mining journals in California and Nevada, and every one of them has indorsed it, because it allows the miners to work the mines. There has been a misunderstanding between them and persons here in regard to the whole matter, they supposing that we here intended to divide the country in such a manner that they could not work the mines. The bills introduced had been of that character, and that is what created the excitement.

I will say further, that the introduction of those bills has depreciated the whole mining country, and has undoubtedly prevented the production of fifty millions of money, because no man would invest his money in opening a silver mine with a prospect of having it cut at right angles after he had spent several hundred thousand dollars in opening it.

Mr. CONNESS. The matter may be explained further and perhaps made a little plainer by continuing the idea expressed by the Senator from Nevada, that these veins are always encased in walls of rock resembling the width of a ribbon, we will say, or any given width; and those walls that incase the vein continue right down, so that when one man goes under another man's ground he has not a right by this bill to go all through it and around it and under it. He does not interfere with his neighbor's property in any respect. He simply follows the regular dip or slant of his vein, not affecting his neighbor in any manner whatever.

Mr. FESSENDEN. I think I understand it. I would inquire whether there is any limitation as to the amount that any one man can purchase.

Mr. CONNESS. Yes, sir.

Mr. FESSENDEN. What is it limited to?

Mr. CONNESS. Any one man cannot claim more than three hundred feet on a lode.

Mr. FESSENDEN. Three hundred feet on the surface?

Mr. CONNESS. Three hundred feet in the length of the lode, not three hundred feet in the width; but as much land on either side of that lode as is necessary to carry on his operations, which is determined by the local law.

Mr. STEWART. By the situation of the vein.

Mr. CONNESS. That part of it is very strictly guarded. This is the same bill which we passed a short time since, without the alteration of a line.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed for a third reading and the bill to be read a third time. It was read the third time and passed.

On motion of Mr. STEWART, the title of the bill was amended so as to read: "A bill granting the right of way to ditch and canal owners over the public lands, and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 261) making appropri-

tions for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes.

The message further announced that the House of Representatives had passed the bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a bill (H. R. No. 234) to incorporate the National Capital Insurance Company, in which it requested the concurrence of the Senate.

The message further announced that the Speaker of the House of Representatives had appointed the following as the joint select committee on retrenchment on the part of the House: Messrs. ROBERT S. HALE of New York, ROBERT C. SCHENCK of Ohio, THOMAS A. JENCKES of Rhode Island, SAMUEL J. RANDALL of Pennsylvania, and JOHN L. THOMAS of Maryland.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 3) to revive the grade of General in the United States Army; and it was thereupon signed by the President *pro tempore*.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. SUMNER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, as follows to their respective Houses:

That the Senate recede from their amendment numbered one, and agree to the same with an amendment substituting the word "fifty" in lieu of "forty" in line seven, page 2, of the bill; and the House agree to the same.

That the Senate recede from their amendment numbered two, and agree to the same with an amendment substituting the words "sixty-five" in lieu of "fifty" in line eight, page 2; and the House agree to the same.

That the House recede from their disagreement to the amendment of the Senate numbered fourteen, and agree to the same, with an amendment as follows: strike out of said amendment all after the words "Department of State" and insert in lieu thereof, "and also an examiner of claims for the same Department whose salary shall be \$3,000 per annum; and the salary of the second Assistant Secretary of State shall be \$3,500 per annum, and such sums are hereby appropriated."

That the House recede from their disagreement to the amendment of the Senate numbered fifteen, and agree to the same amended as follows: strike out the words "than \$3,000 in any one year," and substitute as follows: "than \$2,500 in any one year over and above the expenses of office rent and clerk hire, to be approved by the Secretary of State, of which returns shall be made to the Secretary of the Treasury;" and the Senate agree to the same, so amended.

That the House recede from their amendment to the amendment of the Senate numbered nine, and strike out the whole of it and substitute in lieu thereof as follows: "and no money shall be paid to the present minister resident at Portugal, out of any fund whatever, on account of further services in his office;" and also strike out the word "Portugal," on page 1, line ten, of the bill; and the Senate agree to the same, so amended.

That the Senate recede from their disagreement to the amendment of the House to their amendment numbered six, and agree to the same.

CHARLES SUMNER,  
JAMES W. GRIMES,  
LYMAN TRUMBULL,  
Managers on the part of the Senate.  
R. P. SPALDING,  
N. P. BANKS,  
JOHN WENTWORTH,  
Managers on the part of the House.

Mr. JOHNSON. I will ask the member from Massachusetts whether by this report the mission to Portugal is abolished, or whether the pay has been taken away from the present incumbent as proposed by the House.

Mr. SUMNER. The pay has been taken away from the present incumbent, and there is no appropriation for the coming year.

Mr. JOHNSON. That seems to me to be rather singular. An appropriation has been made for that officer from the first. If there is any objection to the particular officer, I suppose the Executive ought to remove him:



out to have a minister there and not to pay him seems to me to be singular.

Mr. SUMNER. Does the Senator ask for any explanation?

Mr. JOHNSON. Yes, sir; I should like to know what it is.

Mr. SUMNER. The original proposition came from the House, and in its first form it was that the mission should be abolished. When the committee of conference came together it was evident from what was said that in that proposition the House were firm; they were determined not to yield, and it was impossible for us to proceed in our conference until we had entertained that proposition. The result of further discussion was that the proposition was modified in the form in which it is now reported. Instead of undertaking to abolish the mission, the appropriation for the coming year for the mission was taken out, and there was an express provision to the effect that the present incumbent should not be paid for any further services out of any fund whatever. If the Senator wishes to know why that was done, I shall not go into any statement, but shall content myself, if the Senator requires it, by sending to the Chair a letter from Mr. Seward, covering a letter, which has been printed, from the present minister to Portugal. That correspondence discloses the origin of the determination on the part of the House, and to which the committee on the part of the Senate finally yielded.

Mr. JOHNSON. I have no desire to have the letter read. I have seen nearly the whole letter, or portions of the letter, printed; but I supposed that that letter was intended to be a private letter.

Mr. FESSENDEN. The Secretary of State explains that. Let us hear his explanation.

Mr. GRIMES. Let the letter of the Secretary of State be read.

Mr. SUMNER. The letter of the Secretary of State perhaps had better be read. It will appear from that that the letter of Mr. Harvey was printed at the request of the President of the United States.

The PRESIDENT *pro tempore*. The letter will be read if there be no objection.

The Secretary read as follows:

DEPARTMENT OF STATE,  
WASHINGTON, June 19, 1866.

SIR: I have had the honor to receive the letter which, as secretary of the Committee on Appropriations of the House of Representatives, you addressed to me on the 15th instant, and in which you communicate a resolution of the committee, "that the Secretary of State be requested to furnish this committee with a copy of a letter from Mr. Harvey, minister at Portugal, said to have been addressed to the Department of State, and published in one of the New York papers some five or six weeks since, which had special reference to the action of Congress."

In reply, I have the honor to say that some time in April last I received, among unofficial letters upon political questions from citizens at home and abroad, one of this character which was addressed to myself personally, and which bears date the 24th of March last, from James E. Harvey, Esq., who is the minister resident of the United States at Lisbon. On reading the letter and finding it to contain a discussion of the policy of the Administration in regard to the closing of the civil war, I submitted it, with others of the same character, to the President of the United States for his information. He remitted it to me with a suggestion that it might be expedient to publish it. I thereupon handed the original or a copy of it to the publisher or agent of the New York Times. It did not then seem to me nor did it occur to me that it might seem to others that the letter had either any official character or any special reference to Congress. The letter was published without any thought that it reflected upon Congress or even that it alluded to them, and simply for its bearing upon the question of reconciliation and the tribute which I thought it justly paid to the President of the United States in connection with that question.

By the President's direction I inclose the letter to you for the information of the committee.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. J. STEVENS, Esq., Secretary to the Committee on Appropriations, House of Representatives.

Several SENATORS. Let the other letter be read.

Mr. SUMNER. I have here the letter of Mr. Harvey, and I will ask that that be read also.

Mr. CONNESS. Let it be read, so that it may go on the record.

39TH CONG. 1ST SESS.—No. 348.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read the letter, as follows:

LISBON, March 24, 1866.

DEAR GOVERNOR: I thank you for myself and for many others for your recent speech in New York, which has the ring of the true metal, and is a direct and logical consequence of the policy consistently shaped through the last four years. If the Administration cannot be sustained in fighting on "that line" it had better surrender absolutely, for no other plan of campaign can possibly succeed, and if it fails, woe be to those who cause the defeat.

The folly and madness of some of our so-called friends astound and mortify those who are removed from the hot atmosphere of passion and interest. They make willful war upon the man who, of all others, challenges, from exceptional causes, respect, admiration, and sympathy, for his noble conduct, and who has made more sacrifices for the great principles which have triumphed than these self-constituted leaders, backed by their admiring followers, have done all their lives, or probably would do, in presence of such dangers as he incurred for their defense. Tried by the sternest tests to which human endurance could be subjected, he has exhibited a grand and imposing fidelity, which stands out in striking relief to the cheap professions of revilers, who shouted loudly enough for the "cause" whose advocacy involved no personal peril, and whose zeal was not without the promise of reward.

Certainly I have never been of the number of those who admired the President's former "Democracy" in its party sense, but I should feel myself wanting in the heart of a true American could I withhold, or see withheld, from him the justice due to such rare devotion as he has shown, or fail to recognize his pre-eminent services to the Union and his modest but unflinching loyalty, or hold back the grasp of gratitude and affection. When we do not honor such qualities we dishonor ourselves. Since attaining his high responsibilities he has exhibited capacities of statesmanship and traits of personal character which have extorted the admiration of the nations in Europe least disposed to look with favor upon our institutions or the men who shape and illustrate them. Duty, patriotism, and even selfishness, all combined, as it were, to urge the support of the wise and practical policy which the Administration was obliged to accept and pursue in the absence of any devised or proposed by Congress for a state of peace. Differences of detail might be expected in the new order of things, but surely they did not warrant such accusations as were made and such menaces as were more than intimated against the President, or the slightest withdrawal of confidence from him, much less a rupture, which in some quarters seemed to have been designedly provoked. While any collision between the majority in Congress and the President is to be regretted, the recent explosion will operate like electricity in clearing the atmosphere. The common strong sense of the country will vindicate itself again, as it has often done before, by an instruction likely to be remembered by those who would "rule or ruin." The people are weary of agitation, merely for the sake of agitation, and they demand that peace, order, and law shall be reestablished throughout the length and breadth of the Union. Faction can no more arrest the march of those events than the march of the waves, which will not go so far and no further at their bidding, though they may command with the tongue of a thousand Canutes.

Let the Administration go straight forward and without shrinking and all will be well, how! as partisanship may at its heels. Look at the record of your own individual experience since 1861, if instruction and encouragement be needed. Who so persecuted, outraged, and traduced and by many who should hang their heads down in very shame, and who so triumphantly honored and sustained, even to the dangerous point of being praised by the compelled homage of revilers?

If it were possible to destroy the Union and with it all hopes of the future, the men engaged in and exciting the crusade would be exactly the appropriate instruments. All their endeavors, their enthusiasm, and their desires have been directed to that end, if not with intention, at least with a mischievous policy, that if successful could produce no other result. They seem to have taken their lessons of wisdom from the Duke of Alva, whose advice, unreason, and obstinate conduct cost Philip II, one of the fairest parts of his dominions. Minus the form of the Inquisition—of which the modern Alva would preserve all the punishment—there is a striking parallel between the champions of harsh and headstrong zeal three hundred years ago and that which lashes itself into fury now, and merely because it cannot have "its own way."

We are fighting a new battle for the Union, and against foes the more dangerous for being insidious and within the lines of our camp. But I have not a particle of doubt about the result, any more than I had about the issue of the other war, when our proper strength could be collected and judiciously applied.

The crisis demands positive remedies and direct treatment. Quackery will kill in this extremity. Therefore the sooner it is understood that the line must be drawn broadly and clearly the sooner will the Administration be relieved from some of the dangers which incidentally menace it.

Whoever has studied the events of the war must be convinced that the black man cared very little for his own status or was willing to make much effort to change it. No such opportunity was ever offered to an enslaved race to strike for itself, and certainly encouragement enough was given to it to do so in some directions. Every proper and humane man feels that, emancipated as that race now is, it should have every just aid and protection until able to help itself.

But let me tell you, from some little observation on the subject and some knowledge of the people, that human ingenuity could not devise a more effective method for fastening another form of bondage upon them than this ballot, which is proposed as their sovereign panacea. Give them that right and I would pledge my life on the result, if the test could be fairly made, that almost ninety per cent. of the whole black population would vote on the side of their old masters; or, in other words, become the instruments of fastening new chains upon themselves. And if ever the day comes (which I hope never to see for fear of the consequences) when these people may vote without condition, you may expect to see the South compacted by negro suffrage and uniting with the northern so-called "Democracy" to regain possession of the Government and overthrow everything thus far accomplished. And such a result would be quite in keeping with the sagacity and the moderation of those who are ready to sacrifice everything sacred to the one idea of their foolish fanaticism.

I have not been able to see the imminency of a war of races on account of the ballot, as supposed by the President, but I do see in it the much more serious danger now suggested. The old hatred and jealousy between the negro and the ignorant white class (that the negro in his loftiness calls the "poor buckra") would lead to collision, probably, if they were approached by an equalizing process like suffrage, but I cannot think anything serious would come of it. The political aspect of the question, is much graver, and ought not to be ignored. Of course Frederick Douglass and his followers would argue differently, but experience is worth a little more than their delusive theories.

Mr. TRUMBULL. It seems to me we have heard enough of that. ["Oh, no."] There is no need to take up the time here in reading this dissertation.

Mr. POMEROY. I thought of objecting to the reading of this letter, but I understood the Secretary, in the first letter which was read, to say that this had "the ring of the true metal," and I wanted to hear it and see it published.

Mr. TRUMBULL. The letter has been published, if anybody wants to see it.

The PRESIDENT *pro tempore*. Objection being made to the reading of the letter, it will be determined by a vote of the Senate.

Mr. WADE. I wish to inquire whether that is a private letter, and how it came to be published.

Mr. JOHNSON. It is a private letter, I understand.

Mr. WADE. How came it before us? Can anybody tell?

Mr. GRIMES. Mr. Seward tells us in his letter that it was published at the instance of the President of the United States.

Mr. WADE. I understand it to be a private letter, published without the authority of the writer, and whatever its statements may be, I think we do ourselves no honor in reading it over in public or basing any action whatever upon it. It looks to me as though it had no business here before us, no matter what it may contain, and that we ought to base no action upon a private letter drawn out in that way.

Mr. HOWARD. I suppose the reading is very nearly finished. I have listened with great attention and considerable interest to the statements contained in the letter, especially with a view to find that part of it which contained "the ring of the true metal." Thus far I have not been able to hear that peculiar "ring," and I wish that the letter may, in justice to the author, be read entirely through in order that we may get at the nub of it, if it has any.

Mr. JOHNSON. When the existence of this letter was brought to the attention—

Mr. SUMNER. I hope, before the Senator proceeds, that the reading of the letter will be finished.

Mr. JOHNSON. I thought it was finished. I think we have heard enough of it. I move to dispense with the further reading of the letter.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The reading of the letter will be proceeded with.

The Secretary continued the reading, as follows:

Wishing you well through all these vexations, I am, as ever, faithfully,

JAMES E. HARVEY.

[Laughter.]

Mr. JOHNSON. I was satisfied that the letter had nearly all been read, and could not imagine what more the writer could have said.

When the fact of the existence of a letter of this description was brought to the attention of the Senate some time ago I expressed great surprise, and stated, as well as I recollect, that I could hardly believe that it was an official letter, and I thought that the Secretary, in directing it to be published, as would seem to be the case, had acted with great imprudence, to say the least of it. Now, the Secretary tells us:

"Some time in April last I received, among unofficial letters upon political questions from citizens at home and abroad, one of this character, which was addressed to myself personally, and which bears date the 24th of March last, from James E. Harvey, Esq."

The letter was intended to be a private communication to the Secretary of State. The writer never contemplated that it should be published. It was written evidently with no such design: but, as the Secretary says, it was precisely like various other letters of the same kind that he had received from persons abroad, persons either in or out of official connection with the Government. The Secretary tells us that he showed this letter to the President, and the President suggested that it might be as well to publish it, and that he published it in consequence of that suggestion.

The Secretary goes on further to say that if anybody is to be blamed it is not the writer. Clearly, the blame is to fall, if at all, on the Secretary and President for sanctioning it; but in publishing the letter the Secretary says he had not the slightest idea that it contained any reflection upon Congress or any member of Congress. He looked upon it as containing a mere expression of opinion upon the political condition of the country, without dreaming that it could be tortured—I do not use his language, but the substance—into an attack upon Congress.

Now, with due deference to the Secretary and to the President, I think they made a great blunder in publishing the letter. It is a letter that never should have been published, looking to the relations in which the Executive stands to Congress, and it is a letter that never should have been published looking to the character of the letter, it being a private one from the writer to the Secretary of State. It was published without consulting the writer, and I have every reason to believe, from my knowledge of the man, that if he had been consulted he would have refused positively to allow it to be given to the public. I agree, therefore, with the honorable member from Ohio [Mr. WADE] that it is not right to base any action as against the writer of this letter on the fact that without his authority, and contrary to what I think propriety demanded, the letter has been given to the public. He has, as far as I know, very faithfully discharged his duties. The honorable chairman of the Committee on Foreign Relations perhaps knows that better than I do; but I have never heard any complaint urged against him in relation to the manner in which his duties have been discharged. The House of Representatives proposed to abolish the mission. That it was found, I suppose, could not be done, and the committee of conference have adopted another measure, and that is to prevent the incumbent of the mission from being paid at all for his services.

Mr. SUMNER. Any further services.

Mr. JOHNSON. That is he is to remain there without pay, or, if he cannot remain there without pay, he is to resign upon compulsion. It seems to me to be unjust. I do not speak it in reference to myself, for I am not in the habit of writing private letters; but I can very well imagine that gentlemen of warm political temper, in and out of public life, write letters which are intended to be confidential letters that should be held as confidential, without dreaming that they are violating any duty which they owe to the Government or to any member of the Government. It seems to me that what has been done by the committee of conference is not called for by the actual condition in which the incumbent is placed.

Mr. WADE. I hope we shall not pursue

this subject any further. I certainly do not sympathize with the sentiments of that letter any more than any gentleman upon this floor does; but when I consider the way in which it came before the public, when it was evidently designed as a confidential letter, it seems to me we ought to take no action upon it. Besides, how much worse is the man who wrote that letter than they who approved of its sentiments and sent it to us, and who are now in the pay of the United States, and will be probably for a long time? Sir, the sentiments in that letter certainly deserve no more reprehension from the Senate than the conduct of those who have approved of those sentiments and sent them before the world. If we are to take the pay from one, why not apply the principle to all who concur in these sentiments and who are hostile to the principles we hold, and who have sent the letter here? Are they not as much to blame as he who wrote it? There is no difference between them in that particular; and if the conduct of the minister is so reprehensible that his pay should be stopped because he wrote the letter, then those who received the letter and approved and published it, when it was written as a confidential one, are just as reprehensible as the man who wrote it. I think Congress had better drop the subject.

Mr. FESSENDEN. I regret that this provision is inserted in the report of the committee of conference; and I have no idea that if it could have been avoided the committee on the part of the Senate would have consented to it. The reason of my regret is that I think it is rather undignified for us to notice anything of that sort coming from a minister. But I understand from the chairman of the committee of conference on the part of the Senate that the question was simply to abandon the bill or have some provision of that sort.

Mr. SUMNER. That was so.

Mr. FESSENDEN. That being the case, I do not see that there is anything left to us but to do one of two things, either abandon the bill or let this provision remain; and I shall vote to pass the bill, although I should prefer not to have this clause in it. That is the simple question before the Senate, and therefore I shall vote for the acceptance of the report of the committee of conference.

As I said on a former occasion, I think that if we paid any attention to this letter, we could not have avoided coming to the conclusion that it was intended to be a severe reflection upon Congress, or upon a certain portion of Congress. That is as manifest as anything can be.

Mr. JOHNSON. There is no doubt of it.

Mr. FESSENDEN. There is no doubt of it, as the Senator from Maryland says. How the Secretary of State could have read the letter and not have known that it is a mystery to me. Probably he did not think it worthy of much attention or much notice, and therefore did not give his mind to it. He says he published it at the suggestion of the President.

Although I agree that it is hardly worth while for us as a Congress to notice the letter in this way, I think there is no mistaking its character. It was written evidently because the writer thought that by puffing the President and the Secretary of State and praising their course and abusing those in Congress who did not agree with them, that he would please the Secretary of State, ingratiate himself with that officer and secure his position. I presume that is all there is of it; and he wrote the letter not for publication unquestionably, but simply for the attainment of that purpose. He was willing to do it with that view. Now, whatever I might think of the minister who would do such a thing, I certainly should agree with those Senators who say that it was hardly worth while for Congress to take any notice of it. If the sense of propriety which was due to a coordinate department of the Government did not of itself induce his removal and the appointment of somebody else by the proper authorities, it would have been better for Congress to pass it over in silence, especially as it is evident

that the letter was not intended for publication. But it got out; it was seen fit to publish it; the name of the writer was given, and perhaps some notice could hardly be avoided. Though I entertain my own private opinion, which I now make public, [laughter,] in reference to the character of the letter itself, I do not think it worth while to lose an important bill on a provision which the House insist upon inserting here.

Mr. SUMNER. The Senator from Maine has not stated the case too strongly. I do not know that I shall not be justified in speaking freely of what passed in the committee of conference considering the point that has been made. When we came together, the chairman on the part of the House made haste to let us know that unless we accepted the proposition from the House on this subject the committee might as well be dissolved without proceeding any further. We were therefore driven to consider that question at the outset. It occurred to the committee of the Senate that even if they could come into the views of the House at all, the form adopted by the House was not proper. After some conversation that form was amended to read according to the words at the desk, and as thus amended it was agreed to by the committee on the part of the Senate. It was agreed to on their part to save the bill, and in economy of time, feeling that they would not be justified in coming back to the Senate and reporting a disagreement, compelling both Houses to constitute new committees with the same question to be presented by another committee on the part of the House.

You will bear in mind, sir, therefore, that this question was not originally presented by the Senate; it came from the House; and what you have now before you was the compromise reached by your committee after considerable discussion, and, all things considered, it was the best form in which, in the view of your committee, the question could be put.

I do not know that I need say anything further; but I will make one remark in reply to the Senator from Maryland. He dwells particularly on the character of this letter as not intended for publication. He will bear in mind, however, that it was addressed to the Secretary of State; that it was by him communicated to the President; and that at the suggestion of the President it was communicated to the public. It may not have been originally intended by the writer for publication; probably it was, as is commonly called, a private letter; but through the instrumentality of the President and of the Secretary of State it found its way before the public. Congress was thus arraigned by this public servant in a foreign country, and the Representatives of the people in the other House felt themselves justified in taking steps, so far as they could, to remove that functionary from the public service. They felt that the writer of such a letter as that ought not to be in the public service at this time, especially when that letter had found its way into print through the agency of the President and of the Secretary of State. I think, to a certain extent, they were justified in that conclusion. I do not say that if I had had the honor of being a member of the other House I should have taken any steps to originate the proceedings which they adopted; but I must say that I do sympathize with them in thinking that the writer of such a letter, setting forth such sentiments, and thus hostile to those principles which we, the majority of the Congress of the United States, regard as essential to the public welfare, ought not to hold office abroad. I do not wish any such man to speak for our country in a foreign land.

But, sir, this whole discussion seems to me a good deal out of place. The question is on the report of the committee of conference, which involves a great many matters, of which this is only one, and involves the fate of the bill.

Mr. HOWARD. Mr. President, it has been remarked that the letter under consideration was published at the request or suggestion of

the President of the United States. I should like to inquire of the Senator from Massachusetts whether that be so; whether there was any evidence of that before the committee.

Mr. SUMNER. Certainly. It appears in the letter of the Secretary of State which has been read at the desk.

Mr. HOWARD. I am inclined to think the House has done exactly right in cutting off for the future all compensation from the present American minister resident at Portugal. The letter, as has been very justly remarked, contains many very severe strictures upon the conduct and policy of Congress, which I think had commenced its session at the date of the letter, and had been in session for some months before the publication of the letter.

I do not understand what right an American minister abroad has to pass such reflections upon the legislative authority of his country, whether they be found in a private letter or in a public dispatch. I can draw no distinction of the kind. An American minister abroad who assumes to censure the conduct of his country at home, or its policy, or to set himself up as a judge and a censor of the public conduct of his country at home, is not, in my opinion, fit to be the representative of that country. It does not belong to him either in his public or private letters to dabble in the politics of his country and to show himself a partisan.

I listened, sir, with a great deal of pain to the sentiments contained in that letter. It is written in the spirit of partisanship, and of hired and paid partisanship, written for the purpose of being used as a partisan document, and the person to whom it was addressed saw fit to use it for that purpose. It has been used, and manifestly for the purpose and for the promotion of the interest in which it was written. I prefer, sir, to teach this gentleman who thus assumes to represent the American Government abroad, that for the future he cannot be paid for spending his time in Portugal in such vile and unworthy employments.

Mr. HENDRICKS. Mr. President, I should regret very much to see this report adopted. I think that Congress, in the adoption of this report, cannot stand before the country upon any sound principle. I have heard these statements made over and over again, that the fate of a bill depends upon concurring in a report of a committee. We have yet four days of this session, and I have seen very many appropriation bills passed within the last two days of a session and become laws. There is no danger such as is suggested. But suppose the Senate does not in sentiment agree with the report, are we therefore to concur in it because there is danger to the bill? Is this objectionable system of legislating through the means of a committee of conference to force upon the country propositions that are not agreeable to the Senate, upon the assurance that the fate of the bill depends upon it?

What have we here as a justification for cutting off from a foreign minister his salary? Simply a proposition that he has written a private letter which has become public without his knowledge or request. Suppose this were a public letter addressed to one of the journals of the country by himself, would it be a justification to us in refusing to pay him his salary? The Senator from Michigan says that it is written in the spirit of partisanship. I am surprised to hear that objection come from him. Is he not a party man? Does he not make it a test of confirmation to office that men shall be party men? Has he agreed that the offices of this country shall be filled by none except those who are not party men? No, sir; the objection of the Senator is not that the writer of the letter is a party man, or that the letter is written in a spirit of partisanship, but his objection is that it is not written in the spirit of his partisanship. He expects the officeholders of the country to agree with him in his political views; it is all right when a man writes in the spirit of his own partisanship,

but if he writes in the spirit of the policy of the President, then he is to be condemned and not to be paid in an office!

I was very much surprised that the Senator from Maine should concur in this report. He has set his face, so far, as far as I have observed, against anything that is revolutionary in its tendency, and this certainly is of that character. If we can say that because a man does not agree with us, we cannot turn him out, the Constitution does not allow that, but we will go as far in that direction as we can, and we will compel him to leave his office—

Mr. FESSENDEN. The Senator probably did not attend to what I said. I said distinctly that this proposition was not according to my judgment.

Mr. HENDRICKS. I know that, and therefore I expressed myself with great care, for I said I was surprised that the Senator had given his consent to it.

Mr. FESSENDEN. I do not give my consent to it. I only say that it is better to have this provision in than to lose the bill.

Mr. HENDRICKS. I know that is what the Senator said, and therefore upon that consideration I understand the Senator to agree to vote for this report. Now, I do not think, in the first place, the bill is in danger. It has never been held that we must agree to the report of the first committee of conference. If the report is not agreeable to us we appoint another committee. It is not, as I understand it, for Senators to meet a committee of the House, and for the chairman of the House committee to say, "If you do not come to the terms of the House there is no use in holding a conference." That is not the spirit in which the two Houses meet, and I do not understand that the Senate is expected to yield to such a spirit.

But, sir, the proposition is that we cannot turn a man out because his political views differ from those of a majority of the Senate; but we will go just as far as we can; we will compel him to abandon the office; we will pay everybody else that holds office according to law; and an appropriation bill, according to the rules of the Senate, is simply to carry out the law. The law is that there shall be a minister at Portugal; the law is that he shall receive a fixed salary; the appropriation bill is simply to carry that out. Now, we say that we will not execute the law; that we will compel a man to resign by refusing to pay him his salary; and upon what reason? Because he has written a private letter, and because that letter has been published.

What is there wrong in that letter? Taking the letter itself, what is there wrong in it? In the first place he compliments, I think in very appropriate language, the President of the United States. It may be that a man holding office at the pleasure of the President ought never to compliment him. It may be that Senators are right in that criticism; but the compliment is right. No Senator here will dare say, I think, that anything that is said in the letter in regard to the course of the President during the rebellion is not strictly sustained by the history of the rebellion. Is it not true that Mr. Johnson did stand out in favor of the cause of the nation? Is it not true that he did stand out under circumstances of great embarrassment and danger and inconvenience and discomfort to himself? Is it not true that he risked more in his devotion to the Union than any Senator upon this floor? That is the argument of the letter.

The next point made by the letter is that the policy of Congress is not right. The question is simply, has he a right to say that? The Senator from Michigan thinks not. Because he holds an office he is not allowed to speak! When did the Senator from Michigan first announce that doctrine? I think for the first time to-day. I never heard that he complained that gentlemen of his own political faith availed themselves of their position and their commanding influence before the country to influ-

ence public opinion. Is it true that because a man holds an office, either at home or abroad, he ceases to be a citizen, ceases to be interested in the prosperity of the country, and ceases to have a right to express his views upon important questions.

For awhile it was attempted to be disguised that there was a difference between the President and Congress. I recollect to have heard an able argument from the Senator from Ohio [Mr. SHERMAN] to prove that there was but very little difference. I did not believe in the argument then; I do not now. There was then, there is now, a marked difference between the views of the majority of Congress and those of the President of the United States. We all know that; we know it as well as we know anything. The President believes, in regard to the southern States, that a certain policy ought to be adopted, and the majority of Congress believes that another policy ought to be adopted. Now, I ask Senators if that difference between the executive department of the Government and the legislative department of the Government is not a proper subject of criticism and remark by any citizen, whether in or out of office. Has a man a right to discuss what Congress does or not? You say, a man shall not have his salary because he criticises what Congress is doing. Is that upon the principle that you are afraid to have it discussed? No; Senators will not admit that. Why is it, then, that a man has not a right to discuss the position of Congress upon a great question of the country? Congress says these States shall not now come back; the President says that they ought to come back in all their relations to the Federal Government at once—the gravest question, perhaps, that ever was presented. Now, is this minister abroad to be blamed because he participates in the discussion of a grave question, and because he differs with Congress on that question, and because he illustrates his views by historical references, by force of argument, by earnest appeal? That is what this writer has done; and if we agree to this report of the committee of conference, it is saying in other words that no man shall receive his salary in an office if he differs with Congress and he chooses to criticise Congress. In other words, Congress takes one step to close the mouth of every man who differs with the majority of Congress, and will not allow its course and policy to be criticised. I think we cannot quite afford to take that step. I think the majority cannot very well afford it. On that, however, they will judge for themselves. I should regret to see this report agreed to. The bill need not be lost. I think a majority of this body cannot agree to this report. It is not right, it is not politic, it is not just. Let us see what will become the fate of this bill by another committee. We have plenty of time for that yet.

Mr. HOWARD. Mr. President, of course no just man would object to any fair and honest and impartial criticism that might be either uttered or written by any American citizen at home or abroad respecting the policy or the legislation of Congress. As to that description of criticism I have nothing to say, I have no fault to find. But the letter which is now upon your table, sir, contains very much that is not worthy of the name of criticism. It contains a series of unfair reflections upon Congress, expressions which are disrespectful to Congress, and some of them are almost insulting to Congress. It speaks of a majority in Congress in terms which would hardly be tolerated between gentlemen. Does the Senator from Indiana regard such expressions as being just and manly criticisms upon the action of Congress? Certainly he is too good a judge of the force and effect of language to suppose for a moment that they are worthy of the name of just criticism. The letter contains a series of mere diatribes against Congress, mixed up with a profusion of panegyrics upon the President of the United States and what is called his "policy," speaking in terms of disparage-



ment and contempt of the majority of Congress, and going so far—if I understood the letter properly—as almost to advise revolutionary measures on the part of the Executive.

Sir, it is in vain to pretend that this letter contains nothing but just and fair criticism upon Congress. I would by no means restrain the freedom of speech or the freedom of discussion in a foreign minister in regard to the policy of his country; but every gentleman must see that the very position held by an American minister abroad is one which ought to elevate him high above the storms and clouds of partisan contest at home. It is not for him to intermingle in those contests; and, as I said before, I can entertain no doubt that the purpose of this minister was, in writing the letter, that it should be laid before the American people and then taken in the newspapers home to Europe, where it originated, in order to show the world how important a position was held by the writer and how much weight ought to be given to his opinions. It is written in the very spirit of partisanship and nothing else; and I think that when an American minister so far forgets the dignity which belongs to his station and the impartiality which he ought to observe in all his correspondence in regard to party contests in his country, at home he is not deserving of further patronage from the Government which he thus maligns and abuses. It is upon that ground of unfairness in these strictures, of partiality, and of partisanship, that I shall refuse to vote him any further salary from this time forth, and that I shall concur in the report of the committee of conference.

Mr. HENDRICKS. Before the Senator takes his seat I wish to ask him one question. I wish to ask the Senator from Michigan if it be right to withhold from this subordinate office-holder his salary because in a private letter he has expressed his views upon the question of difference between Congress and the President, because he wrote that private letter; is the Senator prepared to say that the President shall not have his salary because he holds these views in opposition to Congress and because he contributed to the publication of this letter? And if the Senator is willing to go that far, is he willing to go still further in the course of revolution and to deny to every office-holder his salary where he differs from the majority in Congress?

Mr. HOWARD. Mr. President, as I remarked before, there is a great distinction between the official position held by an American minister abroad and any officer at home. An American minister is not expected to take part in the political partisan squabbles of his country at home. If there be difficulty in the family, if there be disputes between members of the same household, it is the duty of each and every one of them to conceal, so far as practicable, the fact that such dissensions exist. It is not necessary for a foreign minister, nor is it proper in a foreign minister, to be flirting into the faces of foreign Governments the fact that his country is divided by partisan dissensions; he ought to throw the veil of charity and concealment over such facts so far as is practicable to him. Decency and a proper sense of decorum, it seems to me, would require this at the hands of a foreign minister.

Mr. HENDRICKS. I ask the Senator if there is any evidence that Mr. Harvey has published any views that are distasteful to him abroad. This letter was written to the Secretary of State at home; it is a private letter; and now I ask whether the Senator is willing to withhold from the President and from the Secretary of State their salaries because they have consented to the publication of these views and because they concur in them, because they differ from the majority in Congress, and if so whether that is not revolution.

Mr. HOWARD. Mr. President, that question implies a very different state of facts from that which exists with regard to Mr. Harvey. Mr. Harvey is a foreign minister, residing

abroad, and representing his country as a nation abroad. It is because he is in that high position, one in which he ought to observe impartiality in his communications as to the state of parties in his own country, that I now find fault with him. I would not refuse to the President of the United States his salary simply because he does not concur with me in political opinion, nor would I refuse salary to any other officer at home for the same reason; but that is not the question. The question is whether a foreign minister who has so far forgotten the dignity and impartiality which pertain to his station as to be disrespectful to the Government of his country shall be for the future paid and supported by that Government. Are we willing to submit to disrespect and almost insult and to pay the offender out of the public Treasury? That is the question.

Mr. HENDRICKS. I wish to ask the Senator one further question. Last Congress the Administration was spoken of as "the Government." When has it come to be the fact that Congress is now the Government? The Senator now speaks of a criticism upon Congress as an attack upon "the Government." Last Congress and the Congress before if any man spoke of the President, it was said to be an attack upon "the Government." When has he adopted this change of views in regard to where "the Government" is?

Mr. HOWARD. I recollect very well that in the attacks of the honorable Senator from Indiana upon the Republican party, or rather the majority of Congress, he was in the habit of treating the executive government as being the Government of the United States.

Mr. HENDRICKS. No, sir.

Mr. HOWARD. But so far as I am concerned, I beg to say that I never spoke of the Government of the United States or the Government as being anything else but the Congress of the United States, the executive and all its branches, associated with the judicial department of the Government of the United States. It is these several departments which I regard as the Government of the United States, and to impute to me the fault, if it be a fault, of speaking of the executive branch of the Government of the United States as the Government is an imputation which the Senator must know very well is entirely unfounded. I never spoke of it in that way, nor have I been in the habit of listening to my political friends here and hearing them speak of it in the same way. I know that it has been imputed to us that we then regarded the Executive as being the Government, but that was a mere artifice of political adversaries, used for the purpose of stigmatizing the majority in Congress as having yielded up all power to the President. That was all it was—a mere party fling and nothing else. No sensible man, certainly on this side of the Chamber, has ever spoken and treated of the executive department of the Government of the United States as the Government. In short, the Senator will allow me to say that this charge which he thus brings against us, and which he has so often reiterated here, is entirely unfounded, utterly unfounded. I will not say it is a creature of his own brain, for I know very well that the same imputation has been frequently hurled against us by the adversary all over the country. It is useless for him and me to discuss such a question as this, as we both know quite well what the Government of the United States means and implies.

Mr. COWAN. Mr. President, I am exceedingly sorry that such a question as this should ever be debated in the Senate of the United States. Suppose we admit everything said by the honorable Senator from Michigan, and charged against this public servant, does that justify us in breaking our contract with him?

Mr. HOWARD. It is no contract.

Mr. COWAN. It is no contract! When we employ a servant to go abroad and represent us abroad, and we stipulate by the law that we will pay him a fixed annual sum for his ser-

vices, there is no contract in that, and that can be violated with impunity, and himself and his wife and his children left to starve in a foreign land!

Mr. HOWARD. Does the Senator from Pennsylvania regard an office, from which the incumbent is removable at pleasure, as a contract?

Mr. COWAN. Unquestionably; and a higher form of contract on the part of the Government than that which binds individual men.

Mr. HOWE. If, then, the President removes a man from office, does he violate a contract?

Mr. COWAN. No, sir, he does not violate a contract. The removal from office is one of the contingencies provided for by law; but is it provided for by law that if an American minister abroad chooses to give his opinion upon public affairs here he shall not be paid his salary? If that is the law, then I admit we have a perfect right to treat Mr. Harvey's letter in the way some gentlemen here would like to have it treated; but that is not the law.

Mr. HOWE. Then, if I understand the Senator, if Congress takes away the pay of the minister to Portugal for the next year, that is a violation of contract, but if the President takes Mr. Harvey away from the pay, that does not violate the contract.

Mr. COWAN. Exactly; and I give the honorable Senator from Wisconsin credit for putting it in the most adroit, bamboozling, sophistical way that anybody could put it; and yet it does not amount to a bubble. The stupidest man in the galleries would detect it upon the instant. It is simply a play upon words. Why, sir, there is not the slightest resemblance between depriving a man of his pay and depriving him of his office; and certainly if Senators had given free play to their brains they would have seen the reason, and I should not be obliged to tell it a second time. This man holds his office by the law. He is entitled to his salary by the law. One of the contingencies upon which he holds his office is that he may be removed by the President, and he takes it subject to that contingency. He is notified of that at the time that he takes it; and to exercise that power upon him is no violation whatever of the contract. But to take away his pay, to strike at the sustenance of his wife and children, to leave him in a foreign land, perhaps to starve—who ever heard of such a thing? Is that your remedy if your minister misbehaves? Is there no other way by which you can get rid of him? Gentlemen say, what are we to do about it? This dominant party in Congress has got so thin-skinned that a boy can hardly point at it in the street but that he must be carried into the public councils here and a great parade made about it. What is the country coming to? Is the majority in Congress to be sacred? I always thought that a majority in Congress was great and magnanimous, high-toned, looking aloft rather than seeking about among the gutters to see who threw insults. They leave all the magnanimity to be exercised by the minority. But now if you are to remedy this by taking away a man's pay and a man's salary, you might just as well take away the pay and salary of the minority here. Where is the difference? If we do not speak to please you, if we do not criticise you in the most gentle phrase, and after the most approved method, forsooth, you will take away our pay! You had a great deal better do that than this. We might get home; but if you were to leave us in Portugal or in a foreign land we might not be able to get back.

Where is the law that an American minister abroad is restrained in his free thought and free speech as a free citizen of this country? Where is the rule? Where is the custom and the usage? Nobody ever heard of such a thing. An American minister abroad has as much right to criticise the action of his Government as anybody else has, and he ought never to yield that right. Certainly gentlemen here who proclaim themselves the advocates of the largest

liberty and the largest free speech, and enjoying the largest amount of abuse that I have ever known any set of men to indulge in, ought of course to allow an American minister abroad to write a private letter to a friend, even if that friend is indiscreet enough to publish it.

If this man is an improper minister, if he fails to represent the dignity of the nation abroad, if he is incompetent, there is a remedy. The remedy is in the hands of the chosen officer of the Republic, your choice and my choice, and made so by the law and the Constitution. If we are not patriots, if we are not lovers of our country, we ought to be gentlemen enough at least to stand upon our contract. You clothed the President at the other end of the avenue with the right to appoint and remove these ministers abroad. You have agreed to it. You differ with a large number of your fellow-citizens as to the way in which he exercises this power. Who is to decide? The law decides; the law provides for this difference of opinion; and when you happen to differ from the President in such a case you must submit, just as he must submit when you differ in exercising your proper functions here as against his opinion.

But if the President will not remove this officer you have another thing that you can do. You can abolish the mission. You can fight the man fairly. If you do not like him you can at least treat him within your sphere and within the limits of your jurisdiction over his case, and do it fairly. If Mr. Harvey has offended apply the legal remedy; but do not let us violate our own national honor; do not let us be false to the national faith, and do not let us repudiate our contracts. Let us pay him what we owe him, just as a common man is bound to pay his laborer; and because we are a great Government, and because we represent the sovereignty of the nation, we should be proud that no such blot or stain has ever been cast upon it, as I say this debate, even mooted the question here in this body, will inevitably cast upon it.

Where is there a precedent for this in the history of the civilized world? I ask, when was it mooted before that a Government could violate its pledged faith to one of its public servants and refuse to pay him his salary just because he did not happen to agree with one of the parties of the country? I say nothing about the character of this letter. Whether it is of an intemperate or temperate character does not make any difference. In the first place, I agree with the honorable Senator from Ohio, who said that this was a private letter, not intended for publication by the writer, or not known that it was so intended, put into circulation by an imprudent friend, if you please. Is he to suffer for that? Are you to make your ministers abroad slaves? Are they to sit down at their desks, even in their private correspondence, with a seal, not upon their lips exactly, but upon the very action of their brains, to think as you think? I hope, sir, that the Senate will not come to any such conclusion. I do trust they will not, for their own sake, apart from all else. Nothing, I think, could be so mischievous; nothing could give our Government such a character abroad as the news that our minister at Portugal was refused his salary because he criticised the action, not of Congress, not of the Government, but of a party in Congress. What would Europe say? What would be the jeers and scoffs and scorn of the monarchists for our Government if you give it to them to say all over Europe. "What has republicanism come to? Where has it come to? Is not the tyranny," they would say, "of a faction a thousand times worse than the tyranny of a despot?" Is there a despot in Europe who would dare to refuse pay to one of his public servants because that servant had written a letter of this kind? Nobody would think of it.

Gentlemen who are so exceedingly tender and thin-skinned about what is said in regard to them will listen patiently, I trust, while I read a telegram that is paraded this morning

publicly in our newspapers, indited I am told by a high public functionary of this land; one in great favor with the dominant party; one who stands extremely high in the esteem of gentlemen who complain of this letter; one who fixes his aim not upon a party, but upon an individual, and that the individual whom above all others the American people have delighted to honor—not that the American people are bound to believe everything that he believes; not that they are bound to follow his opinions; but he represents, and especially does he represent to people abroad, the majesty of this great Republic. May I ask, what joy, what chuckling, and bubbling up of profound pleasure took place among these same gentlemen who are so thin-skinned when they read this morning this telegram:

NASHVILLE, July 19, 1866.

Hon. J. W. FORNEY,

Secretary United States Senate, Washington.

We have fought the battle and won it. We have ratified the constitutional amendment in the House—43 votes for it, 11 against it, two of Andrew Johnson's tools not voting. Give my respects to the dead dog of the White House.

W. G. BROWNLOW.

And the writer of this elegant epistle is, or I believe professes to be, a man of God; a man whose mission it was here on earth to preach peace and good-will to all men; a man who was to employ himself in stilling and calming the waves of passion as they aroused the people; a man, in other words, who professes himself a follower of a divine Master who proclaimed that love was the great clement which entered and should enter into the composition of true religion upon earth—this man writes this telegram to the Secretary of the Senate, the highest legislative and judicial tribunal of the land! He insults the majesty of the nation here in her very chosen forum. He insults us; he insults everybody by supposing that we would delight in that low, vile, filthy stuff which even a fishwoman would discard. I venture to say there is not one on the wharves at Alexandria that would, unless provoked, be foul her mouth with such language as that.

Now, compare that with the temperate—I say temperate here in this connection—the temperate criticism of Mr. Harvey upon the course of the majority in Congress. I agree, if that was pointed at a single man, there would be more in it; but that criticism, when applied to a party, is as common as the daylight. But this is unique; this is rare. This is the first time in the history of the Senate, unquestionably, that such a dropping as this has fallen from so foul a bird into this Chamber; and it is the first time, I think, in the history of this Chamber when members of this body would sit patiently by and not vindicate themselves from the charge of being accessories to such vituperation. And this is published with joyful acclaim by an officer of this body, published in the very sanctuary of American decency, because if it is not to be found here, where shall we find it? If we are not to be the exemplars of the nation, at least so far as the use of calumny, vituperation, and Billingsgate is concerned, what are we here for, and what must we expect from the nation that is to take its cue from us?

Gentlemen are afraid that our character will suffer abroad from Mr. Harvey's criticism. What will they think when I tell them that a branch of Congress passed an appropriation to circulate this paper, and to circulate it expressly abroad, as a specimen of American journalism, as a specimen of the respect entertained by the coordinate branches of this Government for one another. I ask, what will monarchical Europe say to that dispatch? What will the aristocracy say to it? I hope they will not read it. I trust, for the sake of our character for common decency, that they will not read it. But, sir, I say to the Democrat of Europe, the man in favor of free institutions, the man in favor of a republican form of government, this will be the bitterest thing possible for him to read.

Mr. HOWARD. Will the Senator from Pennsylvania allow me to say one word?

Mr. COWAN. Certainly.

Mr. HOWARD. Is not that last clause of Brownlow's telegram intended as a sort of echo to the 22d of February speech, in which the author of that speech spoke of Colonel Forney, to whom that telegram was addressed, as being a dead duck? Does he not understand it to be an echo of that?

Mr. COWAN. I suspect it is.

Mr. HOWARD. I suppose so.

Mr. COWAN. And I should like to know, of all the things in the world, what it was that the opponents of the President picked up, and with such gusto discussed and distributed all over the country, as the fact that he indulged in that allusion in the heat of a stump speech at a serenade, with regard to the Secretary of the Senate. I want to know if there was any one thing in the whole course of the President's life—I say in the whole course of it—that was so carried about in the mouths of his opponents and chewed like a sweet morsel under their tongue everywhere in order to make capital against him. Is not that true? Did not thousands and thousands of his opponents say that if he had not said that his speech was a very good one? But this is not a speech; this is not in the heat of extemporaneous harangue; this is made coolly and deliberately, and sent off a thousand miles here. If the other was wrong, this is atrocious. If the other was the sound and this is the echo, the echo has improved in all that was awful and horrible a thousand times over.

Mr. President, I am no apologist for vituperation of any sort. I never indulge in it. I know no kind of provocation which would induce me so far to forget myself as to write, print, or publish, or allow to be written, printed, or published, anything of mine which descended so low into the depths of human baseness as this. Why is it done? For what purpose? At a time when revolution is predicted and convulsions anticipated by both parties, at a time when the very foundations of society are breaking up, at a time when the worst is expected by men from their political antagonists, is not this the fuel upon which that flame is to be fed? Are not these firebrands which we send out into the standing corn, to create a conflagration which may sweep over the whole country? Is not this another, this striking out of this appropriation, this violation of our pledge to a public servant, emanating from the same source and from the same temper of heart which would seek to do to an antagonist, right or wrong, fair or foul, anything you could do?

Mr. President, I hope that the Senate at least, whatever it may do, will stand upon its faith and preserve the national honor. If you do not pay your minister to Portugal, you cannot satisfy a public creditor that you will pay your debt or your bonds.

Mr. WILSON. I do not see any prospect of getting a vote on this report; and we had a special assignment for one o'clock to-day, the bill for the equalization of bounties, which I desire to take up.

Mr. FESSENDEN. The unfinished business of yesterday takes precedence of that.

Mr. WILSON. It was understood that that was to be disposed of yesterday.

Mr. SUMNER. I hope we shall have a vote upon the report.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on concurring in the report of the committee of conference.

Mr. FESSENDEN. I wish to enter my dissent to one doctrine of my honorable friend from Pennsylvania; and that is, that this is a contract that we cannot violate. The Senate has no power over the appointments to office except to confirm or reject them; the appointing power is with the President. But it is very right and very proper that, in a case that justifies it, Congress should exercise the power that it has, and that is, when a public officer is obnoxious, and Congress is satisfied that retaining him in his place is injurious to the public interest or the public honor, it should exercise the power it has and refuse to appro-

prate for the payment of his salary, whatever it may be. That is a power that Congress possesses, and in a proper case it is perfectly right for it to exercise it. It is a check that it has, that the Constitution intended it should have, and it is no violation of contract, because the office terminates when any branch that has power over it sees fit to determine it.

In saying this, I do not wish to be understood as saying that this is a proper case for the exercise of that power. It may or it may not be. I have expressed my opinion already that I would not have taken this notice of this gentleman. I think it is undignified and not creditable in point of fact that it should be so; and I regret that it should have been introduced into the appropriation bill. I think it would have been better to have passed it by with the notice that was taken of it before. That is my opinion about it; but still I remain of the opinion that I expressed, that it is not worth while to lose the appropriation bill upon it, if such is the temper of the House.

I wish also to make one remark, that I do not suppose will do any good, upon this idea that has grown up that either House has a right to lose a bill in the great number of appropriation bills that are passed. By the constitution of these bodies, it takes the two branches to pass any appropriation or to pass any law, or any clause of a law; and I do not think that either House has a right to demand of the other that it shall accede to one particular proposition out of a hundred or that all shall be lost. No one branch has a right to say to the other, "We insist that we will pass this particular clause, whatever it is, and if it is not passed, all shall go by the board." That is just committing the legislation of Congress to one branch. That becomes a law which both Houses agree to and the President approves. But if it so happens that a particular clause cannot be agreed to in both branches, my judgment always has been that it ought to be abandoned by the branch which proposes it, because it takes both branches to make a law. But, nevertheless, a different practice has grown up, and one branch or the other—I do not say one any more than the other—is sometimes, for the sake of saving a bill, compelled to yield its opinions. I do not think that is correct in point of fact; but still, it so happens that it is so. I hope it will be corrected at some time or other.

Mr. DAVIS. Mr. President, I understand that this difficulty has originated upon an item of ordinary appropriation for the salary of one of our foreign ministers. I agree with the Senator from Maine that, where a proper occasion arises, it is not only right, but it may be the duty of Congress to make no appropriations to pay salaries. I agree with the Senator from Michigan in one of his positions, that if this minister had entered into a partisan communication, in the presence of the court or authorities of the country to which he was accredited, by which he took the side of the President or the side of Congress in our domestic political troubles, he would be an unfit representative of our country at that court; but I do not understand that this minister has been guilty of any such offense. If the honorable Senator from Michigan, or any other gentleman, can show that these sentiments, which, according to my judgment, are just in truth and in principle in relation to domestic parties here at home, were expressed publicly and openly by our minister at Portugal to the Government or the authorities or the public there. I would say that he was unfit to represent the United States of America at that country.

But I understand the case to be entirely different. I understand that this was a private communication from the minister at Portugal to the Secretary of State; and I have no doubt that if the secret annals of such correspondence, from the beginning of the Government to the present time, could be revealed to the public, there would be ten thousand instances of similar communications.

Now, sir, suppose this letter, instead of tak-

ing the side of the President and adopting the line of reasoning and remark that it did, had taken the side of Congress, is anybody so simple-minded and credulous as to think that it would, if it had been revealed to the House, been made the occasion and the cause of withholding his salary from that minister, if he had advocated the side of Congress in precisely similar terms to those in which he has advocated the side of the President?

A partisan minister abroad writes to a friend of the President, of whom he is a partisan, a private letter, which is distasteful to the opposite party. That is the whole of it; and from every inference that we can make in relation to this letter, judging of its contents, it was never intended to be made public. It has been made public without any agency on the part of the writer; and both Houses of Congress seriously make it the subject of so far impeaching the minister abroad as to withhold from him the payment of all salary. If the secrets of different Administrations and their friends and partisans abroad, in relation to their correspondence, could have been obtained, there would be found innumerable instances, I have no doubt, for withholding appropriations upon precisely the same grounds that are now set up as the cause for withholding the salary from this minister.

Now, sir, I will advert to another fact. I am myself a friend to the freedom of speech, and I am willing to tolerate a considerable degree of licentiousness to maintain the freedom of speech. I have witnessed no effort upon the part of the majority in the Senate to control or to correct the licentiousness of speech or debate where it has been directed against the President. We have an officer of the Senate denominated its Secretary. He receives a large salary, and he performs no duties, so far as I have the means of observing his avocations. He publishes a paper in this city and one in the city of Philadelphia, dailies, and in those papers within the last few weeks the most ferocious and indecent diatribes have been published against the President. Where, then, was the zeal of the honorable Senator from Michigan and his friends? If they wanted the employes of the Government, those who are paid by it large salaries, to observe a decent decorum toward the departments of the Government and especially toward the President, was not that a fit occasion and opportunity to rebuke and to correct the licentiousness of the Secretary of the Senate? I have not observed that any such attempt was made.

It seems to me, sir, that the two Houses of Congress are giving too much importance to this matter. As to the last suggestion made by the honorable Senator from Maine, that an important bill should not be jeopardized by an improper position or an improper hostility of one of the Houses of Congress to that bill, I will make simply this remark: the colloquy between the committees of conference when they met upon the subject of this bill has been in part detailed to the Senate, and it reveals to my mind what was not merely a menace, but a very improper and gross menace on the part of the committee of the House to the committee of the Senate: "We have withdrawn from this appropriation bill one of the ordinary and usual items, the salary for the support of a minister abroad to the court of Portugal: you are to accept the eradication of that appropriation from this bill, and unless you do so it is idle and useless to hold any conference on the subject." Why, sir, could anything be more dictatorial, more improper? I do not think that the Senate ought to yield to any such threat. I do not think that the committee on the part of the House should ever have made it, or that they should have ever assumed that position, even if they expressed it in the most proper and qualified terms. I think that that position was altogether unauthorized, and the occasion for erasing that item of appropriation from the bill was altogether insufficient.

I was struck by the few, honorable, manly words of the Senator from Ohio [Mr. WADE] on this subject at the opening of the debate. He said truly that this was a private letter; that it was not intended for publication; and not being intended for publication, without regard to the sentiments expressed in the letter, he was opposed to the writer of it, under such a state of fact, from being held to any responsibility; and I think such is the justice and the propriety of the matter.

Mr. HOWE. Mr. President, this debate is getting a little interesting. For the first half day I did not care much about it; but if it lasts a day or two longer I think I shall be profoundly interested in it. The Senator from Pennsylvania has contrived to lend a charm to it that I did not suppose it was capable of. I supposed the question presented to the Senate on the report of this conference committee was simply whether we should concur in that report or not; but I understand from the Senator from Pennsylvania that it involves us in a breach of faith to begin with, and secondly, that it involves us in revolution. These are two pretty strong objections; and for fear that neither of them would hold good, the Senator, I believe, sets up a counter-claim, and wants to set off against the indignity contained in the letter of our minister at Portugal what he considers the indignity offered to the President of the United States in a dispatch sent from a Governor of Tennessee.

Mr. President, there is no violation of the public faith, there is no breach of a contract involved in our withholding the salary of the minister to Portugal or of any other officer holding office under the Government of the United States. Every such man holding office, holds it, not upon the contract that he shall have it for any given time, nor upon the contract that he shall have any given amount of pay; but he holds it and all men know he holds it simply until he is removed from it, and for such pay as the law may from time to time provide and appropriate. The President has the power to terminate his right to a dollar's salary any day by removing him. The Congress has the power to terminate his right to any given amount of salary by decreasing it or increasing it any day, and has the power to terminate his right to get any salary by withholding the appropriation. These are the conditions under which every man holds office. There is no violation of contract when the President removes him. There is no violation of contract when Congress increases or diminishes the pay; and none when they withhold the appropriation. This power was reserved to Congress for the express purpose of securing to the public service, to the service of the people, such conduct as should be appreciated and approved by them. It is for that reason that while your President can appoint officers, he cannot pay any of them a dollar. It is for that reason that every dollar that goes to any one of your officers must be appropriated by Congress; and that these appropriations may come most directly from the representatives of the people, you cannot originate a bill to appropriate a dollar to anybody, either in the White House or in the Senate, but only in that branch of the Legislature which stands nearest to the people.

Sir, there is no violation of contract here. Is there anything revolutionary? The Senator from Pennsylvania stands here in his seat and cautions us against an act of this kind because the public mind is feverish and all men are predicting revolution and violence and disturbance, and that it is our business to avoid everything that will lead to these results. Has the Senator from Pennsylvania taken the course best calculated to avoid these results? Who predicts revolution and insurrection? Who threatens it? Neither those predictions nor these threats have ever come from me or from those with whom I act.

But, sir, is it true that revolution hangs upon the question whether we pass an appropriation to pay Mr. Harvey or not? Has it come to



this, that the Congress of the United States cannot withhold a year's salary to Mr. Harvey without subjecting the country to the dangers of rebellion and insurrection again? Six years ago, I know, we were industriously taught that we could do scarcely anything without endangering rebellion; we could not vote for one law or another, or for one man or another scarcely without subjecting ourselves to the danger of a rebellion. I thought we had got over that. I thought the time had come when the people could vote for such representatives as they pleased, and that their representatives could vote for such laws as they pleased, subject only to the power of the judicial tribunals to set aside their laws when they violated the Constitution, and subject to the right of the sovereign people to set aside their representatives when they disapproved them. If that time has not come, let us pray for it a little longer. It will come by and by.

Mr. President, I am going to vote for this report. I am going to take the responsibility of approving it. I do not vote for it because the House of Representatives has forced us to take it. I do not vote for it in order to save the appropriation bill. I vote for it because I think it is a proper thing to do. One of the public servants, holding a public mission, wrote a letter in which he deliberately argues that the majority in the Congress of the United States are engaged in the work of revolution. I repudiate the idea. I do not think it is just. But, says the Senator from Pennsylvania, where is the law that prevents him from saying this? There is no such law. Mr. Harvey has an undoubted right to say it. So have you; so has any man a perfect right to say it, if he thinks it; and if he does not think it, he has a right to say it if he is willing to lie. That is all the consequence that attaches to it. But Mr. Harvey's right to say these things of the Congress of the United States is no more clearly sanctioned by the laws of the land than is our right to pay or not to pay Mr. Harvey. If Mr. Harvey would rather say these things than have his salary, let Mr. Harvey say them, in God's name; who objects? But then I ask that the Congress shall have the right which the Constitution gives it to vote this appropriation or not. I think our right is just as clear as that of Mr. Harvey. Let Mr. Harvey talk, if it does him good; let us pay if we approve his talk, and not without. I do not like that kind of talk. If I had the power of removal in my hands, I think I should remove him. It is not in my hands; and therefore I will simply withhold his pay. "But he may starve." Starve! Why? "He cannot support himself in Portugal; he is away from home." Let him come home. Nobody guaranteed that he should stay there for all time. All we do is to stop his salary. That would have been done if he was removed from office.

But it is said that he only uttered these sentiments in a private letter. I am not finding any special fault with him for uttering the sentiments. It is because he has them that I object to him. Believing such things, holding such opinions of the Congress of his country, I do not think he is a fit man to represent us abroad, or at home, or anywhere. But as to the fact of its being a private letter, where is the evidence of it? It is nowhere stamped with the character of a private letter. He enjoins upon him to whom it was written no secrecy, no privacy. It is a letter addressed to the Secretary of State, sent to him unconditionally, without any sort of restriction as to how the Secretary should use it. Then it became the Secretary's letter and not Mr. Harvey's. He had parted with those sentiments and placed them in the possession of the Secretary of State, and they were just as much the property of the Secretary of State as anything that he rides or drives or owns or eats with. The Secretary of State saw fit to make it public, to publish it. I think the Secretary of State knew better whether that was a private letter or not than we do; and I do not think these censures are just upon the Secretary and upon the Pres-

ident, wherein they are accused of violating the secret character of a confidential correspondence. There is nothing of that about this letter. The letter was put in the possession of the Secretary of State, containing the sentiments of our minister at Portugal, and he, by the direction of the President, published it. That is all there is of it. That is all the evidence of a confidential character there is to this letter. But, as I said before, I do not condemn him for having the letter published; I do not object to him for publishing the letter; all the objection I have in the world to Mr. Harvey is, that he holds the sentiments which are contained in the letter. True, if the letter had not been written, or, if written, had not been published, I might never have known that he held those sentiments; but it is the holding of them that makes him to me objectionable. It is because he holds them that I think he is not fit to represent us. It is because I think he is not representing us that I shall vote for this provision which withholds from him his pay.

The PRESIDING OFFICER. Is the Senate ready for the question on concurring in the report of the committee of conference?

The question being put, the Presiding Officer decided that the report was concurred in.

Mr. FESSENDEN. I hope we shall now proceed with the unfinished business.

Mr. BUCKALEW. I rise to call for the yeas and nays on concurring in that report.

Several SENATORS. It is too late.

The PRESIDING OFFICER. The Chair is of opinion that it is too late.

Mr. BUCKALEW. Of course, if the Chair declines to withdraw his decision, I cannot make the call.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000;

A bill (H. R. No. 776) in relation to the unlawful tapping of Government water-pipes;

A joint resolution (H. R. No. 88) declaring Tennessee again entitled to Senators and Representatives in Congress; and

A joint resolution (H. R. No. 191) relating to the building occupied for a national fair in aid of the orphans of the soldiers and sailors of the United States.

#### ORDER OF BUSINESS.

The PRESIDING OFFICER. The unfinished business of yesterday, being the civil appropriation bill, is now before the Senate.

Mr. WILSON. We had a special assignment for to-day at one o'clock, which was the bill to equalize the bounties of our soldiers. It has been assigned for three or four different days and been pushed aside by the appropriation bills. I supposed that this miscellaneous appropriation bill would be acted upon yesterday, but a great deal of the day was consumed by the bill which was under the care of the Senator from Ohio, [Mr. SHERMAN.] I now move to postpone the pending and all prior orders, and that the Senate take up House bill No. 602, the bill for the equalization of bounties.

Mr. FESSENDEN. Of course I cannot consent to that. This is an appropriation bill; we are probably on the eve of the adjournment; and we must dispose of this bill. After we have acted on it, it has to go back to the House again. It is not customary at this period of the session for the appropriation bills, especially when under debate and the unfinished business, to give place to other bills that are not of such pressing importance. I hope the motion will not be agreed to.

Mr. LANE. The bill named by the Senator from Massachusetts to equalize the bounties of our soldiers has been fixed as the special

order some three times within the last ten days, and on three several days it has been displaced. I think it is important to act upon that bill and to equalize the bounties, or else let the country know that we do not intend to act upon it. These appropriation bills will go through as a matter of course. They are never, or but very rarely, defeated, and there is no doubt that they will go through; but I desire, for one, to take up the bounty bill and let the country know and the soldiers know whether we are inclined to equalize their bounties or whether we shall do nothing on the subject at this session. It has been displaced three times by the courtesy of the chairman of the Military Committee to give place to other matters not, in my opinion, so urgent and so important as this. Without any disposition to delay or defeat the passage of the appropriation bill, I shall now vote to take up the bounty bill.

The PRESIDING OFFICER. The motion is that the unfinished business, which is the civil appropriation bill, and all prior orders, be postponed, and that House bill No. 602, for the equalization of bounties be taken up.

Mr. LANE. I ask for the yeas and nays on that motion.

The yeas and nays were not ordered.

Mr. WILSON. I am willing to agree to one thing: if we shall be allowed to take up this bill to-morrow, and nothing else shall be allowed to interfere with it, I will not press the motion now.

Mr. FESSENDEN. You can take it up then unless there should be some appropriation bill in the way. I do not know that there will be any.

Mr. LANE. I renew the call for the yeas and nays on the motion. I want to put myself right on the record, at least.

The yeas and nays were ordered.

Mr. CONNESS. I think no matter how important this bill may be, it is an unusual proceeding to undertake to force an appropriation bill from the Finance Committee, which is partly considered and which is the unfinished business, out of that order that another bill may be taken up. It is, in my opinion, a question that ought not to be raised in the Senate. The priority of business, since I have been in the Senate, has been conceded to the Finance Committee, and I think that rule and order by consent ought to remain. It is disagreeable to vote as between the chairman of the respective committees who raise this question of priority, and as between the bills presented; and I should like to appeal to the honorable Senators who are pressing this matter to withdraw the call for a vote upon this question. Let us go on with the appropriation bill and dispose of that, and then we will vote with them to take up their bill and get a vote upon it. I will, for one.

Mr. FESSENDEN. I cannot agree to that, because there is the tariff bill that must be passed. I presume it will not give rise to any debate; it will not take half an hour; but I must insist on passing it and sending it back to the other House before other business is proceeded with.

Mr. CONNESS. I was not making an agreement, of course, for the honorable chairman of the Finance Committee. I was only adding a word of mine to the end that we should have no contest of this character as to the order of business.

Mr. YATES. Mr. President, this bill for the equalization of bounties was assigned for to-day. I understand that according to the order of business in Congress the appropriation bills are usually the last bills that are passed. We know very well that when the appropriation bills are passed the effect usually is to kill other bills not acted upon, however important they may be. The appropriation bills are usually the last things in the order of legislation. Now, sir, this is too important a measure; there is too much expectation in the country; there is too much justice due to our soldiers to pass it over at the present time. Although I have so much def-

erence for the opinion of the Senator from Maine and know the importance of his bills, yet, as it is usual, I believe, that this particular appropriation bill is the last in the order of bills that are passed, I sincerely hope that the bill to which the country is looking, which is of so much interest, the bill to equalize the bounties of our soldiers, will not be passed over, but that we shall proceed to act upon it at this time.

Mr. FESSENDEN. Let us have the question. If the Senate say that the appropriation bills shall give way for this bounty bill, very well.

Mr. WILSON. I will agree to withdraw the motion on this understanding: the appropriation bill now before us was taken up yesterday and is the unfinished business. When that shall be disposed of I shall renew my motion to take up this bill, and I shall then insist upon taking it up as the next business in order. If the Senator disposes of his appropriation bill to-day, we can take this up afterward as the next bill; but I give notice that I will antagonize it to the tariff bill or any other bill.

Mr. FESSENDEN. I give notice to gentlemen that I must call up that little tariff bill, which will take no time, I presume.

The PRESIDING OFFICER. The motion cannot be withdrawn unless by unanimous consent, the yeas and nays having been ordered.

Mr. LANE. If I am permitted to withdraw the call for the yeas and nays, I will do so, on the suggestion of the chairman of the Committee on Military Affairs and at the request of others, but it is with the fear that this bounty bill will not pass or we shall not get a vote upon it at this session. This is the end of it unless its friends urge its immediate consideration.

The PRESIDING OFFICER. The Chair hears no objection, and the motion is withdrawn.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes.

Mr. FESSENDEN. I send an amendment to the Chair to be inserted at the bottom of page 2, after line thirty-six:

For expenses of detecting and bringing to trial and punishment persons engaged in perpetrating frauds upon the United States, to be disbursed under the direction of the Secretary of the Treasury, \$10,000.

The amendment was agreed to.

Mr. GRIMES. I offer the following amendment as an additional section:

*And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to dispose of the property received from the rebel steamer Florida, and distribute the proceeds thereof as other prize money is required by law to be distributed.

Mr. FESSENDEN. I should like to have some explanation of that amendment.

Mr. GRIMES. It will be remembered that in the harbor of Bahia, in Brazil, the rebel steamer Florida was captured by the captain of the United States ship Wachusett, and she was brought to American waters, and was lying in Hampton Roads, and by one of those mysterious dispensations of Providence, which two military or naval courts-martial have been unable satisfactorily to account for, she was sunk by an Army transport. Before she was sunk, about fourteen thousand dollars' worth of property—that is the whole amount that is involved—had been taken from her. I have a list of the property on my desk; and it is proposed that half that property which is now in the hands of the Secretary of the Navy shall be distributed between Captain Collins and the officers and crew of the Wachusett as other prize property is distributed, the other half going into the naval pension fund.

The amendment was agreed to.

Mr. ANTHONY. I move to reconsider the vote by which the amendment on page 3, from line fifty-eight to line sixty-two was adopted. I have another proposition which, if this mo-

tion prevails, I shall offer to cover both those clauses.

Mr. FESSENDEN. There is no objection to that.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment reported by the Committee on Finance.

Mr. ANTHONY. I now move to amend the bill by striking out all from line fifty-four to line sixty-two, which will include the amendment of the committee, in the following words:

For the purpose of printing and publishing at the Government Printing Office the first volumes of the Medical and Surgical History of the Rebellion, under the direction of the Surgeon General, \$60,000.

For the preparation, printing, and publishing at the Government Printing Office of the report of the medical statistics in the Bureau of the Provost Marshal General, to be prepared under the direction of Surgeon J. H. Baxter, \$60,000.

And inserting in lieu thereof the following:

For the purpose of preparing for publication, under the direction of the Secretary of War, and of printing at the Government Printing Office, five thousand copies of the first volume of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General, and for the purpose of preparing for publication, under the direction of the Secretary of War, and of printing at the Government Printing Office, five thousand copies of the medical statistics of the Provost Marshal General's Bureau, compiled and to be completed by Surgeon J. H. Baxter, \$60,000: *Provided*, That the editions of both publications, thus ordered, shall be disposed of as Congress may hereafter direct: *And provided further*, That the necessary engraving and lithographing for these publications may be executed under the direction of the Secretary of War, without advertisement.

Mr. JOHNSON. Is \$60,000 appropriated for both works?

Mr. ANTHONY. Yes, sir.

Mr. GRIMES. Do you say that \$60,000 is necessary?

Mr. ANTHONY. I do not think \$60,000 is necessary. Sixty thousand dollars was sufficient to print the first volume of the Medical History and to pay for the printing of it. We have now provided that the printing shall be done at the Government Printing Office. At the same time, the work is to be done under the direction of the Secretary of War, and it is not likely that any more will be expended than is necessary. There is a general law which requires that all engraving, when the estimated amount exceeds \$250, shall be advertised for, and given out to the lowest and best bidder. This engraving is of a peculiar character. But very few persons are capable of doing it, and those are persons who have been specially instructed in the Surgeon General's office; and it seemed proper, therefore, that this provision of law should be waived in this instance.

The amendment was agreed to.

Mr. FESSENDEN. I should like now to finish the committee's amendments, and so I will ask the Senate to turn back to the amendment for the Providence hospital and have that disposed of. But before doing that, as this bill is under consideration, I have received and desire to present a petition from a large number of property holders and citizens of Georgetown, praying Congress to continue the appropriations for this year for lighting Bridge and High streets, in that town. I wish to present it now, and have it laid upon the table, as the consideration of it must come up on this bill, if at all. The House has struck out of this appropriation bill everything for lighting Bridge and High streets, in Georgetown, and it must be put on this bill, if at all.

The PRESIDING OFFICER. The petition will be received, by unanimous consent, and laid on the table. The question now is on the amendment of the Committee on Finance, to strike out, after line four hundred and eighty-two, the following clause:

Providence hospital, District of Columbia:

For the purpose of aiding in the erection of an additional building to the Providence hospital, in the city of Washington, \$30,000: *Provided*, That if the said property should ever be sold or diverted from the uses expressed in the act of Congress entitled "An act to incorporate Providence hospital, of the city of Washington, District of Columbia," approved April 8, 1864, then the sum of \$30,000 shall be first paid out of the proceeds thereof into the United

States Treasury to reimburse the sum hereby appropriated.

The SECRETARY. It is proposed to amend the clause proposed to be stricken out by inserting after the word "dollars" in line four hundred and eighty-six the following proviso—

Mr. FESSENDEN. The question now is simply on concurring in the amendment of the committee striking out that clause. If it is stricken out, that additional proviso will not be necessary, but if it remains in the bill, that proviso should be added to it.

Mr. SHERMAN. I do not know the precise stage of the bill, but the Committee on Finance reported an amendment striking out the appropriation for the Providence hospital. The appropriation as it stood was objectionable in some particulars, and to obviate those objections I have drawn an amendment. I will therefore move, before the amendment of the Committee on Finance is acted upon, to strike out the proviso and insert in lieu thereof what I will send to the Chair.

Mr. FESSENDEN. Would it not be better to put it in as the first proviso, leaving the one now in to stand?

Mr. SHERMAN. It will do in lieu of the proviso. I think it covers the whole ground. It is to strike out all of the proviso commencing in line eight hundred and forty-six and to insert:

*Provided*, That no portion of said sum shall be expended until the plan of such building shall be submitted to the architect of the Capitol extension, and he shall certify that it is well adapted to the purpose contemplated, and that its cost will exceed \$60,000; and said sum of \$30,000 shall be paid in installments as equal amounts derived from other sources shall be expended on said building; and the said building is hereby dedicated to the relief of sick and indigent persons without distinction as to creed or color, and shall remain under the care of the Sisters of Charity as incorporated under an act entitled "An act to incorporate the Providence hospital of the city of Washington, District of Columbia," approved April 8, 1864.

The history of this charity, as near as I can learn from the ladies who have charge of it, is this: the Sisters of Charity undertook to relieve the transient sick and disabled persons in the District of Columbia. Some few years ago Congress appropriated a small sum for the relief of sixty patients under their care, a sum barely sufficient to pay at that time the expenses of sixty patients. That sum has been continued from that time to this. The sum then appropriated was insufficient to pay the expenses of sixty patients. Those patients are sent to the charity by the Commissioner of Public Buildings and Grounds, and by other public officers, and mostly persons connected with the Government.

Mr. FESSENDEN. We doubled the appropriation last year and this.

Mr. SHERMAN. And we doubled the number of patients, also.

Mr. FESSENDEN. No.

Mr. SHERMAN. That appropriation has been passed for several years. Last year, during last summer, on account of the vast increase of persons of this character, they formed a plan to build a building costing \$90,000, \$60,000 of which they expect to get from other sources and \$30,000 they ask from the Government of the United States. Two years ago, under the act of April 8, 1864, this charity was incorporated by a special act, entitled "An act to incorporate the Providence hospital of the city of Washington, District of Columbia." That act incorporated four or five of these Sisters of Charity by name as an incorporation.

When this proposition came before the Committee on Finance the objection was made, first, that there was no guarantee that any money would be paid by anybody else except by the United States, and that probably the ladies would only have the \$30,000 and expend that, and then would call upon the Government for more. I have obviated that objection by requiring the money to be paid only in installments, and as they expend an equal amount derived from other sources. It was objected, too, that the fund might be diverted from the purpose which was designed by Congress, and

that this being a corporation solely under the control of the Sisters of Charity, it might be diverted to a different purpose. I have endeavored to guard against that by declaring that this building shall be dedicated to the uses named, for the use of indigent persons, and that it shall be under the control and management of the Sisters of Charity. I have guarded it as far as I can.

Now, in regard to the general charity, from all the representations that have been made to me, I think it is one of the most deserving objects to which Congress could grant aid. If we grant charity in any case, we ought to do so in a case of this kind. The number of transient sick here has, since the war, very largely increased; and it seems to me we ought to do something for them. These ladies represent to me that very often drunken people are brought there, black and white, and they are relieved promptly without regard to their creed and without regard to their condition. Very many persons are brought there in a very destitute state, and taken care of until employment is found for them. From all the representations that have been made to me by the ladies themselves, and by other persons who have no interest in this charity, I have no doubt it is one of the most deserving and useful that can commend itself to the attention of Congress. My impression is, that with the limitations contained in this proviso, the charity would be a wise one, and that we ought to contribute at least one third toward this charity. Without this they cannot construct the buildings that are necessary for the increased number of patients that will naturally come to them.

Mr. MORRILL. Perhaps, in addition to what I said yesterday, I ought to call the attention of the Senate to the charter of this institution. I am only desirous that the Senate should understand precisely what they are doing. It will lay the foundation for other appropriations which I intend to urge. If the Senate adopt this principle, I shall not complain of it, and I do not intend to argue against it. The Senate must judge for itself whether this is the kind of charity which addresses itself to the Treasury of the United States. This is a private corporation in the strictest sense. It is not a public corporation in any sense whatever. The Government of the United States has no control over it in any way. It is not responsible for it; and so far as these rights of these parties are concerned, they are entirely independent of it, and it was so designed to be. I will refer to the charter. It will be seen by the first section of the charter that certain females, five in number, I think, are associated with the ordinary powers granted to similar private corporations, and with the power—

"To have, purchase, receive, possess, and enjoy any estate in lands, tenements, annuities, goods, chattels, moneys, or effects, and to grant, devise, or dispose of the same in such manner as they may deem most for the interest of the hospital: *Provided*, That the real estate held by said corporation shall not exceed in value the sum of \$150,000."

The next section declares the object:

"SEC. 2. *And be it further enacted*, That the said corporation and body-politic shall have full power to appoint from their own body a president and such other officers as they may deem necessary for the purpose of their creation; and in case of the death, resignation, or refusal to serve, of any of their number, the remaining members shall elect and appoint other persons in lieu of those whose places may have been vacated; and the corporation shall have full power and all the rights of opening and keeping a hospital in the city of Washington for the care of such sick and invalid persons as may place themselves under the treatment and care of the said corporation."

The third and last section is in these words:

"That the said corporation shall also have and enjoy full power and authority to make such by-laws, rules, and regulations as may be necessary for the general accomplishment of the object of said hospital: *Provided*, That they be not inconsistent with the laws in force in the District of Columbia: *And provided further*, That this act shall be liable to be amended, altered, or repealed, at the pleasure of Congress."

When this bill was passed, it was proposed by the Committee on the District of Columbia, who desired to make the institution amenable

to the public, to provide that it should be liable to visitations on the part of the public authorities, and the bill was reported accordingly. But that was said to be objectionable. It was said that this was simply an object of private charity, and these persons wished to associate themselves together in this way for the better facility of transacting the business, but did not make it a public institution, and they did not desire the intervention of the public in its affairs; and that an attempt to do so would destroy the objects which the parties had in view. Regarding it in that light the committee consented to have the amendment stricken out. I say this to advertise the Senate of the fact that it is, in the strictest sense, a private corporation, in no way under the control of the Government of the United States; nor does this amendment subject them to our visitation nor to our control in any way whatever. That the object is worthy, I do not doubt; that these Sisters of Charity are ladies of the highest respectability and worth there is no doubt; but the question still is, whether the Committee on Finance intend to recommend the endowment of simply private charities or private corporations associated in this way, over which we have no control. I believe this is all I have occasion to say.

Mr. FESSENDEN. I do not know that I have any particular objection to this proposition taken by itself; but as my colleague gives me notice that if it passes he is to offer two or three more just like it from the Committee on the District of Columbia to endow two or three other institutions, which probably have just as much claim as this one, I suppose it becomes the Senate to pause a little before granting this amount of money.

The objection that he stated strikes me with a great deal of force. I think that it might be right enough for Congress to endow an institution of this description fairly and liberally; but I think with him that if Congress is to appropriate so much money to erect buildings for the purpose of establishing the hospital, it should have some power of supervision of its concerns, some right of visitation. It is a mere private corporation. After we have appropriated this money and assisted in the erection of the building, and done it out of the public purse, the result is that we have no control whatever over it in any possible way, and all control and interference as to its management or a part of its management is denied to the Government or to any officer of the Government, although we are called upon to make the appropriation.

I think myself that the great objection is the hasty manner in which it is brought up. It should have been laid before Congress with a proper bill and with proper provisions guarding the rights of the public in it, if the public is to make the appropriation. So far as the appropriation of \$12,000 a year, which we make to pay for the support of certain paupers in this institution, is concerned, that is all well enough. It has been done without objection. I aided in doubling the amount which was appropriated for that purpose in some bill that we passed very recently; I do not remember exactly when. But here is an appropriation of \$30,000 to erect a new building. I did not understand from the statement that was made to me by these ladies that the building would cost \$90,000. From the somewhat careful inquiries I made, I arrived at a different conclusion about that, and that this appropriation would be about one half, and more than one half in fact, of what it would cost to erect the building.

Now, it is for the Senate to decide. For myself, although under proper circumstances and with proper guards and with the rights of the public secured, if the public money is to be appropriated for the purpose, I should not be averse to doing fairly what the Government ought to do with reference to institutions of this kind in the District, yet I think that this matter is rather hasty and is not sufficiently taken care of. So far as I am concerned I am not disposed to vary from the report of the committee.

Mr. WILLIAMS. I wish to make one suggestion as to the argument offered by the Senator from Maine to show that this appropriation ought not to be made. No one, I suppose, doubts that it is necessary that there should be hospital accommodations in the city of Washington. Nobody doubts that it is the duty of Congress to make some provision to establish and maintain such an hospital. Now, it does not seem to me to be altogether logical to say that because Congress does provide what is necessary for the wants of the people of the District, therefore Congress must make every other appropriation that is asked for, whether such appropriation be or not necessary for such purposes. If the argument offered by the Senator from Maine is to have its effect, then there is to be no hospital in the District of Columbia at all, unless it can be managed by private persons out of private funds, and I understand the argument to be that if any appropriation be made for any hospital, then an appropriation will be asked for two or three hospitals or more; and the inference is that no appropriation ought to be made at all and there ought not to be any hospital here at all for the accommodation of the people.

Now, sir, I think that Congress may, with perfect propriety, make an appropriation for this hospital, and refuse to make any other appropriation for a similar purpose unless Congress is satisfied that other appropriations are necessary and that this appropriation is not sufficient to meet the wants of the people in this District. If that is apparent, then, so far as I am concerned, I am willing to make all appropriations of this nature that are necessary, that are required by the indigence and misfortunes of those that may be found in this District.

I was inclined, for the want of information, to vote in the committee to strike this provision from the bill, not knowing anything about it; but since that time I have received information which satisfies me that this provision ought to be made, that Congress cannot expend this amount of money for any other purpose that will do as much good as it will to provide for the construction of this building. The ladies that have charge of this charity have commenced the construction of a building, as I understand; they have appropriated some four thousand dollars; the building is partly finished; it is necessary that they should have funds to go on and complete the building; they ask Congress simply to appropriate a part of the necessary funds, and they say that the present accommodations are not sufficient. They have rented a house, comparatively a small house; they find that it is not sufficiently large and commodious for the purpose of a hospital, and they desire to put up a building for that purpose, one that will be sufficiently large and suitable for such a purpose. I have understood—I do not know but that I may be mistaken—that this is the only hospital in this city that is now receiving persons and is in actual operation. But the Senator from Maine said that there was another hospital, and perhaps in that respect I am misinformed. It seems to me that we might with propriety make this appropriation, and then decide on the propriety of others when application for them is made.

Mr. MORRILL. The Senator from Oregon misapprehends me entirely. I have not argued that it was not the duty of Congress to endow a hospital here. I have said simply that this was a private corporation to administer charity on its own account, and that the question is, whether the Congress of the United States will endow such institutions. Now, to illustrate, here are five maiden ladies, I believe, corporators. Suppose they were not associated by the act, but were doing precisely what they are doing under the act of incorporation, and applied here, setting forth the fact that they had a private hospital, would Congress grant them \$30,000 in this bill? Would Congress grant them \$30,000 if they were not incorporated? Congress would not consider it for one mo-



ment. Does it change the case at all that you have associated them by act of incorporation, by the terms of which you have no control over them? They stand precisely, so far as the Government of the United States is concerned, as they would if they were associated by articles of association. You have no power of visitation, no power of supervision.

Now, sir, that we ought not to endow an institution here of this sort I have not argued; but I maintain that if Congress is to endow an institution it should be one over which it has control, over which it has supervision, and into which it has a right to enter. That is my doctrine. I say that if you are going to vote these miscellaneous charities to institutions over which you have no control, I do not object, but it is a gratuity; it is a charity; the object is worthy. If you can afford to lavish it, very well; but I had supposed that the appropriations you would feel authorized to make were to your own institutions, to an institution which was a public institution by an act of your own, over which you had some control and supervision. That is the distinction I undertake to make.

Mr. FESSENDEN. Such as the Insane Asylum.

Mr. MORRILL. Yes. For instance, you appropriate about one hundred thousand dollars for the insane. That is a charitable object, but you have the supervision and control of that asylum. So of the appropriation of seventy-odd thousand dollars in this bill for the deaf and dumb. There you have control. We have a bill before the Senate for which I shall ask the consideration of the Senate, to-night, for another public charity; that is, a House of Refuge for juvenile offenders. I might go on and enumerate the charitable institutions which you have under your control. I am not sure that you ought not to endow a hospital here; but there is another side to that question which I hoped I should not be called upon to argue, and that is this: while you are in this very bill granting to the public charities of this District over two hundred thousand dollars, the query is whether you have not gone far enough to justify you in putting upon the local corporations of these cities the duty of doing something toward these charities. It is here proposed to grant to a private corporation over which you have no control, to an institution organized under an act of incorporation granted to five maiden ladies, \$30,000 to be used for erecting a building just as they please, to be governed and directed by such rules and regulations as they shall make, you having no right to interfere, no right to ask a report, no right of visitation, no right of supervision. In addition to this \$30,000, you give, in the same bill, \$12,000 for the support of sixty transient persons, whom you may put there, or anywhere else you see fit, which, I submit to my honorable friend from Ohio, is a pretty large compensation for the support of transient persons in a hospital. It is \$200 apiece, which is amply abundant for their support.

If I am understood, this is all I desire to say. I wished to impress on the Senate that the charity which we are bestowing is not to one of our institutions. It is a case where some half a dozen public-spirited and charitable ladies come here and ask you to give them \$30,000 to carry out their worthy object. That is all there is about it. All I meant to say was that there was not another institution here of a similar character which I think I can satisfy the Senate is quite as worthy of their favor as this which is before us, and which has done something and would be glad to do more in this direction; but it is not a public institution, and for that reason the Committee on the District of Columbia hesitated to make a recommendation, and only authorized me to make it upon the ground that it should be the sense of the Senate that they would endow institutions over which they had no control.

Mr. SHERMAN. There is really no difficult question involved in this appropriation. There is no doubt about our power to appro-

priate money for the support of hospitals in the District of Columbia. The only question is, whether this is a proper application. I will state to the Senator from Maine that it is no objection to me that this is a private corporation, a private charity. On the other hand my observation of these charities has always been in favor of those managed by private charitable persons. Public hospitals, poor-houses, asylums of various kinds, are very apt to be mismanaged. I would much rather give money to these Sisters of Charity who have devoted their lives by a religious vow to disbursing money for such a purpose honestly and fairly, than I would trust paid officers at from \$600 to \$2,000 a year to dole out charity upon a salary.

We have several securities for the proper management of this fund that we have not in ordinary charities. The character of the ladies concerned, the fact that they are persons who by their religious vows have been set apart in a measure, and devote their whole lives to charitable and religious purposes, is sufficient always to give some kind of assurance that the money will be honestly bestowed. Sometimes it is objected that persons of a particular religious creed will misapply the money merely for their own church and their own people. We have guarded against anything like that in the act of appropriation and in the grant of money by providing that there shall be no distinction made in the application of the money either on account of creed or color. Then the fact that private contributions of equal amount have to be contributed is also another security. That to which charitable persons are willing to give their money we ought to contribute something to. These ladies inform me that they have arrangements made by which they get \$60,000, part of it on credit, but most of it in gratuities, outside of this appropriation, and that their plans and estimates contemplated the expenditure of \$30,000. I therefore, in pursuance of an intimation in the Committee on Finance, provided in this amendment that the money shall only be paid by the Government as an equal amount shall be paid from private sources. It may be that these ladies may be deceived in regard to the amount that they will get from private sources; but they assure me that they have made a contract with a well-known contractor of this city, and other persons, providing for an expenditure of \$60,000, to be derived from other sources, and that this \$30,000 will enable them to complete their building.

It was also objected that there was no plan made, that this money might be wasted on some idle or illusory plan; but it is sufficient to say that a plan has been prepared by the architect of the Capitol extension, a man entirely competent for the business, that it is certainly a very beautiful one, and contemplates an expenditure of \$90,000. Before the money which we appropriate is paid, the plan is to be submitted to the present architect of the Capitol, Mr. Clark. This amendment provides that the plan shall be submitted to the architect and approved by him; and that he shall certify that it is adapted to the purpose, and that the building will cost more than \$60,000.

Under these circumstances, it seems to me we cannot do better than to vote this money to this charity. These ladies have been in the successful management of this charity for now seven years. My impression is that it originated in Providence, Rhode Island, by a small gratuity given to these ladies to establish a charity in the city of Washington, and it has been added to, little by little, as these ladies could get money from private sources; and up to this time the Government of the United States has never paid one dollar except for actual pay for persons sent there by the Government to be supported and cared for. The best way in which the officer charged with the expenditure of the money appropriated for the support of transient paupers could expend it was by sending those transient paupers to the care of these ladies. There is no law re-

quiring the Commissioner of Public Buildings and Grounds to send transient paupers to the Providence hospital; but that institution has been selected by the officer merely because it is deemed best to send them there. The appropriation for that object does not require that the sixty transient paupers for whom the Government pays shall be sent to any particular hospital. They may be sent to any other hospital; but the Commissioner of Public Buildings has found that he can make better arrangements with these ladies than with any other institution. Up to this time the United States have never paid one dollar to this charity except to pay the simple allowance for actual services rendered to persons sent there and taken up by those in charge of your grounds, such as drunken persons, &c., in the most filthy and detestable condition. They are taken there, cleansed, taken care of, fed, clothed, and relieved at an expense that to the extent of sixty patients is paid by the United States Government; all the rest is paid for by these ladies with such contributions as they can gather from their church and charitable persons.

It seems to me if there ever was a case appealing to the mercy and to the charitable sentiment of Congress, this is the one. Indeed, I would much prefer that the Sisters would come here and plead their cause themselves rather than have me to do it for them. I am sure that if the Senate could see these Sisters and hear their story and see their anxiety for this little appropriation to enable them to complete a cherished object of their life, they would not hesitate about making the appropriation. It is not money for them. My friend from Maine seems to think that because they are incorporated here, it is some way or other for their benefit. Not at all. They are persons belonging to a well-known religious order; they devote their lives to purposes of this kind; they expend their whole time in what one would suppose to be most distasteful employment; and they have it at heart to build up this charity and make it a permanent and conspicuous charity in the District of Columbia. Because they are incorporated as a mere private institution, because this is a mere private charity, that is no reason why we should not vote them the money. I would rather vote them the \$30,000 than to give \$10,000 every year to build and extend the wall around any asylum here.

I am disposed, therefore, to give them this appropriation, and if the Senator from Maine finds another case under similar circumstances where private individuals are willing to contribute an equal amount for an equally charitable purpose, I am willing to vote money to them, although I do not think that because one appropriation is asked for others ought to be.

Mr. ANTHONY. The main objection to this charity seems to be that the managers of it are doing something for themselves instead of calling upon Congress to do the whole, as in the case of the other charities that we are contributing to. It does not seem to me that the Senator from Maine at the head of the Finance Committee manifests his usual persistence when he is willing to give up a deserving charity because his colleague at the head of the Committee on the District of Columbia says that if this passes, he means to propose a great many others which will not meet his approbation.

In the course of his speech he said that at this evening session, which is to be devoted to District of Columbia business, he means to bring forward these other charities, whether this passes or not.

Mr. MORRILL. Oh, no!

Mr. ANTHONY. I understood that the Senator was to bring forward a number of other institutions as the recipients of public bounty.

Mr. MORRILL. What I undertook to say—and if the Senator had paid a little attention to me perhaps I should not have occasion now to repeat it—was, that I did not rise to oppose

this appropriation, but to say that it was a private charity, or contribution to a private corporation, and that there was another private corporation of a similar character asking the same thing, and that the District of Columbia Committee had not granted it, and had not concluded to grant it, except on the condition that the precedent was established of granting these bounties to private charities. That is all I said. I did not say it by way of menace, and I did not say it by way of argument to induce the Senate not to enter upon this system.

Mr. ANTHONY. It seemed to have that effect upon the Senator who had charge of the bill.

Mr. MORRILL. I think in the fact there is legitimate argument, and I think there is legitimate force in the fact. It presents the question whether the Senate of the United States will endow institutions in which they have no interest and over which they have no control.

Mr. ANTHONY. The question is whether we shall endow charitable institutions which can help themselves, whether we shall give \$30,000 to the managers of an institution that raise \$60,000 themselves, or whether we shall give all our bounty to those institutions that do nothing for themselves.

Mr. GRIMES. What are those institutions?

Mr. ANTHONY. The Deaf and Dumb Asylum and the Insane Asylum. Seventy-five thousand dollars is appropriated in this bill, and very properly, I think, for the deaf and dumb.

Mr. FESSENDEN. Private individuals have done nothing for those. They are Government institutions.

Mr. ANTHONY. Here is an institution which renders a most valuable charity. I believe it was at one time the only institution in which colored people here could have hospital accommodations.

Mr. SHERMAN. I think this is the only institution in the District of Columbia where transient persons can be taken for immediate care. There are many cases of drunkenness, for instance, where transient persons are taken in.

Mr. ANTHONY. And the funds to support it are derived, I understand, mainly from private contributions.

Mr. GRIMES. I suggest to the Senator from Rhode Island that the Insane Hospital is designed to accommodate the officers and soldiers and sailors of the Army and Navy of the United States, and they are brought there from all over this continent.

Mr. ANTHONY. That is true.

Mr. GRIMES. So that there is no analogy between that case and this.

Mr. ANTHONY. But the Deaf and Dumb Institution presents an analogous case, certainly.

Mr. GRIMES. The Deaf and Dumb Institution presents rather an interesting subject for contemplation. When I was a member of the Committee on the District of Columbia we thought about nine thousand dollars a year was a large appropriation for the Deaf and Dumb Asylum. We enlarged it twice, I think, while I was a member of that committee, and built a very valuable building; but I see it is now proposed to make an appropriation of \$72,000. It may be all right; I do not pretend to know anything about it; I only see that we are increasing, with most extraordinary rapidity, the appropriations for that institution.

Mr. MORRILL. I do not wish to weary the patience of the Senate. I simply desire to be understood. Every time the Committee on the District of Columbia meet we have an application for these private acts of incorporation. Some enterprising gentlemen or some half a dozen enterprising, charitable ladies desirous to do good, wish to be associated for that end; we think it harmless and we do it; but at the very next session of Congress they come in and ask to be endowed. Now, you will find that at this very session there are several such applications; I only allude to

them now to illustrate the argument; there are one or two I shall bring up to-night. They do not ask any endowment; but pass this appropriation and all of them will come in here for endowment. I will mention one that I am not sure ought not to be endowed. There are very highly respectable ladies, not only in this District, but resident in many other sections of the country, asking to be incorporated for the purpose of erecting an asylum for the orphans of soldiers and sailors. We have reported a bill to incorporate them. They do not ask any appropriation; they ask to be associated simply for the better facility of transacting business; but is anybody so blind as not to see that enter upon this policy and you will be asked for \$200,000 to erect a building and endow it, and you cannot resist it?

I do not wish to be put in the attitude of opposing these appropriations as gratuities to worthy objects and to worthy individuals. I only want the Senate to understand the question and to vote upon it understandingly, so that hereafter when these institutions come before the committee which I have the honor to be upon, we shall know what the policy of the Senate is.

Mr. JOHNSON. The amendment proposed by my friend from Ohio, perhaps, will not accomplish, in one respect, the object which he has; I refer to that part of the amendment which provides that the building is to be considered as dedicated hereafter to the particular charity. I suggest to him that it would be as well to make the acceptance of the appropriation an agreement upon the part of the corporation that that shall be a dedication of it. I ask for the reading of the amendment.

The Secretary read it, as follows:

*Provided, That no portion of said sum shall be expended until the plan of said building is submitted to the architect of the Capitol extension and he shall certify that it is well adapted to the purpose contemplated and that its cost will exceed \$60,000; and said sum of \$30,000 shall only be paid in installments as an equal amount derived from other sources shall be expended on said building; and the said building is hereby dedicated to the relief of sick and indigent persons, without distinction as to creed or color, and shall remain under the care of the Sisters of Charity as incorporated under the act entitled "An act to incorporate Providence hospital in the city of Washington, District of Columbia," approved April 8, 1864.*

Mr. JOHNSON. I move to strike out the words, "and the said building is hereby" and to insert "and if the said hospital company accept this appropriation it shall be held as an agreement on their part that the building is forever to be considered and held;" so as to read:

And said sum of \$30,000 shall be paid in installments as an equal amount derived from other sources shall be expended on said building, and if the said hospital company accept this appropriation it shall be held as an agreement on their part that the building is forever to be considered and held dedicated to the relief of sick and indigent persons, without distinction as to creed or color, &c.

Mr. SHERMAN. I have no objection to that.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The amendment is accepted by the mover.

Mr. VAN WINKLE. I ask the Senator from Ohio whether it ought not to be expressed that the relief given by this hospital is to transient persons. I understand this hospital is not for the benefit of persons living in the city of Washington, but for persons coming from various quarters.

Mr. SHERMAN. I would not limit them. They may wish to extend the charity.

Mr. WILLIAMS. It is intended for both classes.

Mr. VAN WINKLE. My object is precisely the reverse of what the Senator from Ohio supposes. I thought it was calling on them for more than they had undertaken or were willing to undertake.

Mr. SHERMAN. I showed the amendment to the ladies and they were perfectly satisfied with the condition of it. This does not change the meaning; it simply makes it a condition.

The PRESIDING OFFICER. The ques-

tion is on the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. ANTHONY. Do I understand that the amendment is adopted and the appropriation rejected? Is that the result of the vote?

Mr. FESSENDEN. The question was on concurring with the report of the committee, which was to strike out the clause. The first question, therefore, should be taken on that. If the Senate refuse to concur, then the amendment is in order.

Mr. ANTHONY. The question was not understood.

Mr. SHERMAN. I had a right to perfect the clause before it was stricken out. I offered in that view to amend the part proposed to be stricken out. That has been adopted; and now the question recurs on striking out the whole clause as amended.

Mr. FESSENDEN. Very well.

The PRESIDING OFFICER. The question is whether the whole clause, as amended, shall be stricken out.

The motion to strike out was rejected.

Mr. DAVIS. I offer this amendment to come in at the end of the second section of the bill:

To pay bounties to the loyal owners of slaves mustered into the military service of the United States according to the act of Congress approved February 24, 1864, \$5,000,000.

Mr. SUMNER. Inquire whether that comes from any committee.

Mr. DAVIS. It does not.

Mr. SUMNER. I presume then it is not in order.

Mr. DAVIS. I think it is in order.

Mr. FESSENDEN. I raise the question.

Mr. DAVIS. I will discuss that question.

Mr. SUMNER. I call for the reading of the rule.

Mr. DAVIS. Well, sir, I will read the law.

Mr. SUMNER. The rule first, if the Senator pleases.

Mr. DAVIS. The law first, the rule afterward. I suppose the Senator from Massachusetts will not deny that the rule allows any appropriation to be moved as an amendment that is in pursuance of law.

Mr. SUMNER. I ask for the reading of the rule.

The PRESIDING OFFICER. The rule will be read.

The Secretary read the thirtieth rule, as follows:

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill unless it be made to carry out the provisions of some existing law or some act or resolution previously passed by the Senate during that session or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendments shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or treaty stipulation."

Mr. DAVIS. Now, I will read the law. The twenty-fourth section of the act of February 24, 1864, provides:

"SEC. 24. And be it further enacted, That all able-bodied male colored persons between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounties of \$100 now payable by law for each drafted man shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300, for each such colored volunteer, payable out of the fund derived from commutations; and every such colored volunteer on being mustered into the service shall be free."

It is provided by this law that these bounties shall be paid out of a particular fund; but by the operation of the laws regulating the Treasury that fund has fallen into the Treasury and is now a general fund belonging to the United States. A special appropriation, then,

is necessary to direct the officers of the Treasury to pay this money. I therefore offer the amendment and will suspend my remarks to enable the Chair to decide whether it is in order or not.

Mr. WILSON. I move to amend the amendment proposed by the Senator from Kentucky by substituting for it the following:

That so much of any moneys in the Treasury known as the commutation fund as may be necessary, be, and the same is hereby, appropriated for the payment to loyal persons claiming service or labor from colored volunteers or drafted men the amounts heretofore or hereafter to be awarded them under the provisions of section twenty-four of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, for each person so claimed to be held to service or labor who has enlisted or been drafted into the military service of the United States. But such payment shall in no case be made to any person except upon satisfactory proof that the claimant has firmly and faithfully maintained his or her adherence and allegiance to the Government of the United States by defending its cause against the Government and forces of the so-called confederate States of America in all suitable and practicable ways and according to his or her ability or opportunity.

Mr. DAVIS. But for the tail of that amendment I should have no objection to it. If the honorable Senator will just strike out two or three lines I shall have no objection; but it seems to me it is, as it stands, imposing conditions that did not exist by the law and were not imposed by the law as it passed. That law simply provided that every loyal owner of slaves enlisted into the Army should receive the bounty. I think the honorable Senator might adopt the language of the original law. If he does so I have no objection to accepting his amendments as a substitute for my own proposition.

Mr. WILSON. This case is a very singular one, and yet one that I suppose must be met and honestly dealt with. We passed an act in 1864 which provided that slaves enlisting into the service of the United States should be, when mustered into that service, free by the act of the Federal Government, and that the owners or claimants to the services of such persons should receive a sum not exceeding \$300. That sum was to be fixed in each State by commissioners appointed for that purpose. The provision was originally put in the bill in the House of Representatives as an amendment to the Senate bill. The provision as originally prepared was that colored persons, free or slave, should be enrolled and might be drafted, being liable to military duty; that when they were drafted the owner of each slave should receive the bounty of \$100 on making this person free. It also provided that if a colored man who was held as a slave should enlist into the service of the United States his master should receive the sum of \$300 when he made him free. That was the action of the House of Representatives. The bill went to a committee of conference. I was upon that committee on the part of the Senate, and it struck me that it would be a dishonor to our country to have a slave in the service of the United States. We all wanted colored men to fight for the country, but we did not want them to be slaves with the uniform upon them and fighting under the flag of the United States; and in that committee of conference I moved that the slave, on being mustered into the service of the United States, should be free, be free by the fiat of the Federal Government, and that left the law in this form: that instead of the slave who was drafted or the slave who enlisted becoming free at the will of the master, he became free by the law, by the will of the nation, and the master was allowed \$100 if the slave was drafted and a sum not exceeding \$300 if he enlisted into the service, and the amount in the latter case was to be fixed by a commission appointed by the Secretary of War. That is the history of this law of the 24th of February, 1864. We wanted these colored men, free and slave, to enlist into our armies, to augment our military forces to put down the rebellion, and we wanted also to demoralize and break up and destroy slavery in the border States. That was the motive of the action of Congress. It was the motive

that governed me in the matter. I wanted to strengthen the Army; I wanted to weaken and destroy slavery; and under the provisions of that act, in the State of Kentucky alone, about twenty-four or twenty-five thousand men entered the service of the United States as volunteers, perhaps twenty thousand of them were slaves, and the moment they were mustered into the service they became forever free; and this was followed by a bill that freed nearly one hundred thousand of their wives and their children. We abolished slavery since that day.

When we passed this act we thought it was an act to strengthen the Army and an act to weaken slavery that was the enemy of the country. We provided that a sum not exceeding \$300, to be fixed by a commission, should be paid to the persons claiming the services of these slaves. We have abolished slavery since, and I do not believe any commission could award or ought to award to any of the persons who claimed to hold the service and labor of these enlisted men the sum of \$300, for less than two years from the time they entered the service of the United States the constitutional amendment was adopted, and they would have been freed by the adoption of that amendment.

Now, sir, I do not think that this provision, that the claimants of these persons should be loyal persons, should have been actively loyal, should have been against the confederate government, is an unreasonable one. We all know that many slave-owners were disloyal; and the greater portion of the claimants to these slaves in the States of Maryland, Kentucky, Delaware, West Virginia, and Missouri, were disloyal. We in this District had a sample of this matter. We provided in this District for the payment of \$300 for the emancipated slaves, and I do not know a single owner of a slave in the District who was not loyal when the Government would pay \$300 for his slave; and they made their claims; and on examining that record we shall come to the conclusion that many of the slaveholders in the District of Columbia, who never drew a loyal breath in their lives, did not before the war nor since the war, and do not now, took the money of the United States, and professed to be loyal persons.

I think the provision in this amendment is reasonable, and if the amendment is adopted, I think it should go with it. Nothing can be paid under this amendment until the Secretary of War has appointed the commissioners who are to examine these cases and report on them, and I do not think any commission would report an average of \$300 for these persons, considering that slavery has been abolished by the Constitution of the United States.

But, sir, we intended to pay when we passed the act; I am sure I did. I wanted the men, and I equally wanted to destroy the institution of slavery, especially in the State of Kentucky, where slavery was strong and defiant. I wanted to demoralize it, to break it down, to destroy it; and no act of this Government ever did so much to demoralize and to destroy slavery, except the constitutional amendment, as the passage of this section of this bill on the 24th day of February, 1864, and that other act making the wives and children of these persons free. I say that when the act was passed I expected to vote for proper compensation, such compensation as should be reported by honest and fair-minded commissioners who should examine the subject and report upon it, and the fact that we have abolished slavery since by constitutional amendment, I do not think releases me from paying (not so much as I expected then) the really loyal claimants some consideration for declaring that their slaves when they entered the service of the United States should forever more be freemen.

Mr. CRESWELL. I prefer the amendment offered by the Senator from Massachusetts to the original proposition as presented by the Senator from Kentucky. The amendment as suggested to the amendment does nothing in my judgment but define the meaning of the word "loyalty," which I think it is competent

for Congress to do. A wide latitude of interpretation has prevailed of late, and it is well enough, I think, for us to give that word a more specific operation and bearing than has generally been conceded to it. If the Senator from Kentucky will examine the amendment suggested by the Senator from Massachusetts he will find it more comprehensive than his own amendment. The twenty-fourth section of the act of 1864, approved February 24, provides specifically that the commutation fund shall be dedicated to the compensation of loyal slave-owners whose slaves shall be mustered or drafted into the service of the United States. Now, while the proposition of the Senator from Kentucky takes \$5,000,000 from the Treasury for that purpose, the proposition of the Senator from Massachusetts goes against the specific fund that is by this law expressly appropriated for the payment of these claims. In my judgment nothing would be necessary to accomplish the purpose which is sought by this proposition if it were not that a technical difficulty has presented itself. It has been asserted by some that the commutation fund is now in the Treasury of the United States, and that some specific act of appropriation is necessary to withdraw that fund from the Treasury so that these parties can reach it. There can be no objection urged against the payment of this money, more than was urged against the payment of money in the shape of compensation when emancipation was effected in the District of Columbia. If the payment of that money had been delayed until after the adoption of the amendment of the Constitution declaring universal emancipation, it would seem to me that we could not stand here as honest men and claim that we had faithfully performed our contract, if we refused to pay, the people here having complied with the necessary conditions. In Maryland this proposition was presented to the people as one which came from the loyal men in Congress with a view, as the Senator from Massachusetts has already suggested, as well to induce the enlistment of the colored people, and to bring to the assistance of the Army then in the field the entire array of the colored men in the State of Maryland, as also to strike a blow at the institution of slavery; and I frankly avow that my course in the House of Representatives at that time was directed so as to accomplish both these objects. I believe that this twenty-fourth section—and my practical experience leads me to the belief—was in fact the forerunner of the constitutional amendment abolishing slavery everywhere; that above all other measures, it prepared the minds of the people of the State of Maryland for the coming change; and reconciled them to and in some measure compensated them for the losses incident to the transition from slave labor to free labor.

Mr. President, if this were a new proposition, I am frank to say I should much hesitate about voting for it, yet believing that the faith of this Government has been pledged and deliberately pledged for the payment of this money as much as for any other, I cannot feel it consistent with my sense of duty and my obligations as a Senator of the United States, to refuse to pay these people their money, when they have complied with every condition that was made precedent to their right to receive it.

Mr. WILLIAMS. Do I understand the gentleman to insist that that law makes a contract between Congress and the slaveholders? If I understand the terms of the law these negroes were drafted.

Mr. CRESWELL. No, sir.

Mr. WILLIAMS. They were taken by the power of the United States.

Mr. CRESWELL. The gentleman is mistaken. The negroes volunteered, and many of them were placed in the Army by their masters themselves, expecting to receive compensation under this clause. Some gentlemen seem to entertain the idea that every slaveholder is a barbarian, but that is altogether a mistaken notion. Although I was never a slave-



holder myself, my father and grandfather were both slaveholders, and I am sure in many respects they were better men than I am. They were honest slaveholders, just as there were other honest people; and there are men in Maryland to-day who, notwithstanding their ownership of slaves, have stood by this Government in every emergency, and who have aided to the full extent of their influence in bringing about the grand result of emancipation. There are men in Maryland to-day, loyal men, as loyal as any in the land, who if they do not receive from the Government the pittance which is pledged to them by this twenty-fourth section will be penniless, although at the beginning of the war they perhaps could have counted their possessions by thousands.

I have a report in my hand made by the Secretary of War to the Senate some time ago in reply to a resolution of inquiry which I had the honor to offer, in which he makes these statements:

"1. That commissioners were appointed in the States of Maryland and Delaware, and that in the other slave States, by the President's direction, no appointments have been made.

"2. That the sums awarded by the commissioners in Maryland and Delaware, and the amount paid thereon, are set forth in the report of Assistant Adjutant General Foster, hereto annexed. The order of the President suspending further appointments, in the absence of any limitation of time in the act of Congress requiring them to be made, was the reason of the Secretary of War for not appointing commissioners in other slave States. The necessity of providing for the payment of troops, and the pressing exigencies of the war required all the funds furnished by the Treasury to be applied to those purposes, and for that reason payments on awards have been suspended."

After saying that the amount of the commutation fund in the Treasury on the date of the approval of this act by the President, to wit, the 24th of February, 1864, was \$7,439,035 20, he proceeds as follows:

"The amount was subsequently increased by additional payments \$10,438,529 25. Portions thereof were applied to the purposes set forth in the accompanying report of the Provost Marshal General, amounting to \$3,302,641. The Provost Marshal General reports on hand, subject to the provisions of said act, the sum of \$9,514,923 45, being now over two millions more than was on hand at the date of the appropriation, February 24, 1864."

So that, according to the showing of the Secretary, there are now in the Treasury liable to claims under this twenty-fourth section more than \$9,500,000. But this amendment of the Senator from Massachusetts does not ask for an appropriation of any more money than may be absolutely necessary for the payment of these claims. To the Maryland board, composed of gentlemen who examined into these claims with perhaps as keen a scrutiny and as much rigor as was possible under the circumstances, there were submitted claims to the number of three thousand eight hundred and sixty-seven.

Mr. FESSENDEN. I should like to ask the Senator from Maryland whether there has been any report made by any commission.

Mr. CRESWELL. Yes, sir, there is a report made by the commissioners; the substance of it is given by the Secretary of War. I am now reading from the statement given to me by the commissioner-in-chief for the State of Maryland.

Mr. FESSENDEN. Has he made any report to the Secretary of War?

Mr. CRESWELL. He has made a report on the subject to the Secretary of War, and a synopsis of it was furnished to the Senate last February.

Mr. FESSENDEN. What does he say is the amount?

Mr. CRESWELL. I will read:

The commission for the State of Maryland was convened October 26, 1863, and dissolved October 18, 1865. There were filed with this commission three thousand eight hundred and sixty-seven claims for compensation under the act of Congress referred to. Awards were made by the commission upon seven hundred and eighty-six claims, the amount awarded being..... \$230,750  
Twenty-five of these claims have been paid, amounting in the aggregate to..... 6,900  
Leaving an unpaid balance of..... \$223,850

I was going on to show the estimate which is made by Mr. Timmons, who is the chief commissioner of that board. Mr. Timmons says that for the whole State of Maryland and the eastern shore of Virginia, which, owing to their geographical relations, were placed in the same division, there were filed up to October 18, 1865, 3,863 claims. "Of that number the board passed upon 1,065, leaving the number not finally acted upon 2,798. From investigations made by the board there would be rejected for disloyalty and other causes at least 1,000, leaving the number of loyal claims to be decided 1,798. Upon the 1,065 claims passed, the board awarded the sum of \$222,450, or a fraction over \$200 per slave."

The Senator from Maine will observe that there is a slight discrepancy between the statement made by Mr. Timmons and that from the War Department—

Mr. FESSENDEN. I ask the Senator what there is to prevent the claims of those parties that have been adjudicated upon from being paid. There is abundance of funds to pay them after the adjudication.

Mr. CRESWELL. I do not know except that there has been some mysterious delay for nearly the two and a half years this act has been in force. It has been asserted, incorrectly, as I think, that this money was now in the Treasury and that some legislation was required to get it out in addition to that contained in the twenty-fourth section of the act of 1864. I think it is a mere technicality.

Mr. Timmons makes an estimate that the amount necessary to pay, say eighteen hundred additional claims at \$300 each, (he puts it at the maximum amount,) would make an addition of \$540,000, so that the total amount required to satisfy all these claims in the State of Maryland and the eastern shore of Virginia would be \$762,000. Certainly less than \$1,000,000 would pay for every enlisted slave of loyal owners.

I have only to say in conclusion that so far as my ideas of right and wrong go, it is our duty to satisfy these claims just as much as it was to satisfy the slave-owners in the District of Columbia for their slaves, and especially when we consider the circumstances under which this provision was inserted in the act of 1864. It is known to every gentleman who had anything to do with the passage of the conscription act, as that act was called at that time, that we were then in a strait to raise troops. It was known that the act of 1863 had virtually failed. It was evaded to such an extent that the Government was not being with sufficient rapidity supplied with troops, either white or black; more stringent means were necessary; and when, on the 10th of February, 1864, the proposition came from Mr. STEVENS in the other House, which is embodied in the first section of this law for the enrollment of every colored man in the country, slave or free, and for the counting of every man of that description in the national forces, it was received with a murmur of dissent from the Opposition as being revolutionary in its character, and by many gentlemen on our side of the House it was conceived to be greatly in advance of any position that we had ever before that time taken upon that subject. It was subsequently amended upon the suggestion of my then colleague, Mr. Henry Winter Davis, by the insertion of this clause:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress charged to award a just compensation to each loyal owner of any slave who may voluntarily enter the service of the United States, payable out of the commutation money."

And then, as the Senator from Massachusetts has already stated, the section was reviewed and perfected in the committee of conference until it assumed its present shape. The proposition then came from our side of the House. It was an effort, as I have already said, not only to raise soldiers when soldiers were needed for the service of the United States, but as we then frankly stated, to break down the institution of slavery. In both these objects it succeeded.

From my State alone eight thousand colored men marched out to fight for the Union; and the result showed that when you gave the musket to the slave and taught him how to use it, you gave him his freedom also.

Now, sir, in my judgment, if we fail in rendering to these claimants what was tendered them by our own proposition, it will be an act of bad faith to which I for one will not be a party.

Mr. MORRILL. I move that the Senate take a recess until seven o'clock this evening.

Mr. SHERMAN. I should like to have a short executive session for a few minutes. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. A recess has been ordered, I believe.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business for a few moments.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate took a recess until seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### NEGRO MARRIAGES IN THE DISTRICT.

Mr. MORRILL. I move that the Senate proceed to the consideration of House bill No. 615.

The motion was agreed to; and the bill (H. R. No. 615) legalizing marriages and for other purposes in the District of Columbia, was considered as in Committee of the Whole. It provides that all colored persons in the District of Columbia, who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife, and are cohabitating together as such or in any way recognizing the relation as still existing at the time of the passage of the act, whether the rites of marriage have been celebrated between them or not, shall be deemed husband and wife, and be entitled to all the rights and privileges, and subject to the duties and obligations of that relation in like manner as if they had been duly married according to law, and all their children shall be deemed legitimate, whether born before or after the passage of the act. When the parties have ceased to cohabit before the passage of the act in consequence of the death of the woman, or from any other cause, all the children of the woman recognized by the man to be his shall be deemed legitimate.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### HOUSE OF CORRECTION.

Mr. MORRILL. I move to take up House bill No. 379.

The motion was agreed to; and the bill (H. R. No. 379) to establish in the District of Columbia a Reform School for boys, was considered as in Committee of the Whole.

The Committee on the District of Columbia proposed several amendments to the bill. The first was in section one, lines four, five, and six, to strike out the words "an institution for the instruction, employment, and reformation of juvenile offenders to be called the Reform School for Boys," and in lieu thereof to insert "a fit and convenient house of correction, suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations adjoining or appurtenant thereto, for the safe-keeping, correction, governing, and employing of offenders legally committed thereto by authority of the courts and magistrates of the District of Columbia;" so as to make the section read:

That there shall be established in the District of Columbia, on the tract of land known as the Government farm, a fit and convenient house of correction suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations adjoining or appurtenant thereto, for the safe-keeping, correction, governing, and employing of

offenders legally committed thereto by authority of the courts and magistrates of the District of Columbia: *Provided*, That the building already erected on that land for the purpose of establishing a similar institution, together with all the other property there collected for the same purpose, shall be transferred to the trustees appointed according to the provisions of this act, at a cost not exceeding \$1,500.

The amendment was agreed to.

The next amendment was in section four to strike out the word "to," in lines three, six, and eight, respectively, and in lieu thereof to insert "they may;" so as to make the section read:

SEC. 4. *And be it further enacted*, That it shall be the duty of the said board of trustees to take charge of the general interests of the institution; they may appoint a superintendent, a steward, a teacher, or teachers, and such other officers as may be found necessary, and may be approved by the Secretary of the Interior; they may fix the salaries of said officers, subject to the approval of the Secretary of the Interior; they may prepare such by-laws as may be necessary to regulate and direct the management of the institution, which, however, shall not be valid until approved by the Secretary of the Interior; and exercise a vigilant supervision over the institution, its officers, and its inmates.

The amendment was agreed to.

The next amendment was to strike out "Reform School" wherever these words occur in the bill, and insert "House of Correction."

The amendment was agreed to.

The next amendment was in section eight, lines six and seven, to strike out "a term of time not less than one year and not to exceed the period of his minority," and to insert "his sentence;" so as to read:

That when any boy under the age of fourteen years is found guilty in a court in the District of Columbia of any crime punishable by imprisonment other than imprisonment for life, he shall be committed to the said House of Correction, and there held in custody of the superintendent for the term of his sentence, &c.

The amendment was agreed to.

The next amendment was to strike out the following proviso at the close of the eighth section of the bill:

*Provided, however*, That nothing in this act shall be so construed as to prevent the discharge from the Reform School, by the trustees, of any boy, as reformed, whenever in their judgment he ought to be so discharged.

The amendment was agreed to.

The next amendment was to strike out the ninth section of the bill, in these words:

SEC. 9. *And be it further enacted*, That any boy under the age of fifteen years, residing in the District of Columbia, who may be brought by his parents or guardian before the judge of the orphan's court, or either of the judges of the supreme court of the District of Columbia, and there shown to be habitually disorderly, and defiant of the control of his parents or guardians, or for any sufficient reasons greatly in need of a stronger and more wholesome restraint and discipline, shall by said judge be committed to the Reform School, there to remain for such a term of time as the trustees may deem best, not to exceed the period of his minority.

The amendment was agreed to.

The next amendment was to strike out the fourteenth section, in these words:

SEC. 14. *And be it further enacted*, That every boy committed to the Reform School shall be retained, governed, instructed, and employed, under the direction of the trustees, until the expiration of the term for which he was committed to the school, unless sooner discharged by the trustees as reformed; and the discharge of a boy as reformed, or on his arriving at the age of twenty-one years, shall be a complete release from all penalties and disabilities created by the sentence.

The amendment was agreed to.

The next amendment was in section sixteen, lines twenty-three to twenty-eight, to strike out the words, "the Secretary of the Interior shall secure an assessment of taxes in such delinquent city or county sufficient to cover the amount required and the expenses of collecting the same, and appoint a collector, who shall collect the taxes assessed in such manner as shall be prescribed by the Secretary of the Interior," and in lieu thereof to insert, "the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said District, to enforce the same, with interest thereon after the date of default;" so as to make the section read:

SEC. 16. *And be it further enacted*, That for the pur-

pose of securing a transfer of the building and other property to the trustees, preparing the premises and building for occupancy, and for the payment of other necessary expenses, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$12,000, to be paid only on the order of the Secretary of the Interior: *Provided*, That \$6,000 of said appropriation is hereby declared to be the sum that shall be assessed and paid by the cities of Washington and Georgetown, and the county of Washington; and it shall be the duty of the proper authorities of the city of Washington to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time when the premises shall be ready for occupancy by the House of Correction, the sum of \$4,500; and it shall be the duty of the proper authorities of the city of Georgetown to raise and pay in like manner the sum of \$1,000; and it shall be the duty of the proper authorities of the county of Washington to raise and pay in like manner the sum of \$650; and in case of default of such payment into the Treasury of the United States by either of said cities or by the said county of Washington, the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said District, to enforce the same, with interest thereon after the date of default.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill read a third time. The bill was read the third time and passed.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 325) to give certain powers to the levy court of the country of Washington, in the District of Columbia;

A bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company;

A bill (S. No. 277) for the relief of William Cook;

A bill (S. No. 246) relating to public schools in the District of Columbia; and

A bill (S. No. 137) to amend the acts approved August 6, 1861, and July 16, 1862, establishing a Metropolitan police in the District of Columbia and to increase the efficiency thereof, and for other purposes.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000 was read twice by its title and referred to the Committee on Finance.

The bill (H. R. No. 776) in relation to the unlawful tapping of Government water-pipes was read twice by its title and referred to the Committee on Public Buildings and Grounds.

The joint resolution (H. R. No. 83) declaring Tennessee again entitled to Senators and Representatives in Congress was read twice by its title and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 191) relating to the building lately occupied for a national fair in aid of the orphans of the soldiers and sailors of the United States was read twice by its title and referred to the Committee on the District of Columbia.

#### CALIFORNIA AND OREGON RAILROAD.

The President *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon.

Mr. WILLIAMS. I hope the amendment will be concurred in at once.

Mr. STEWART. I will say to the other members of the Committee on Public Lands that I have examined the amendment made by the House of Representatives, and although it comes in the shape of a substitute, it is substantially the same bill which we passed with some additional limitations, a more carefully guarded bill than the one we passed.

Mr. POMEROY. On the statement made I have no objection to the bill passing. I have not read it.

Mr. STEWART. I have; it is all right.

Mr. WILLIAMS. The amendment is substantially the same bill as was passed by the Senate, with little or no difference except verbal changes.

The President *pro tempore*. No objection being made the Chair will regard the amendment of the House of Representatives to Senate bill No. 123 as before the Senate.

The Secretary proceeded to read the amendment of the House of Representatives, which was to strike out all after the enacting clause of the bill and insert a substitute; and having read the first two sections of the substitute—

Mr. WILLIAMS. I move to dispense with the further reading of that amendment. The substantial parts have been read, and I know that the remainder of the bill is the same as was passed by the Senate. I have examined the amendment.

The President *pro tempore*. The reading can be dispensed with by unanimous consent.

Mr. HENDRICKS. I think that is quite as well, for it is very clear that no person can understand the force of the House amendment by this mode of legislating. It is all right, I have no doubt; but of course no Senator knows anything about it.

Mr. STEWART. The House have taken our bill, put in a number of little amendments, and then offered the bill, as amended, as a substitute for our bill.

The President *pro tempore*. Is there any objection to suspending the reading of the House amendment?

Mr. HENDRICKS. I do not object, for the reading is entirely useless.

Mr. WILLIAMS. I know that from this point forward it is exactly the same bill which was passed by the Senate. I have examined it. We have already passed it once.

Mr. DOOLITTLE. How many sections per mile are given to the road?

Mr. WILLIAMS. Ten.

Mr. POMEROY. Ten alternate sections on each side, making twenty sections per mile.

Mr. DOOLITTLE. And no money?

Mr. WILLIAMS. No money. There is really no land to be granted, and that grant is a mere formal matter, the land being pretty much all taken up.

The amendment was concurred in.

#### SOLDIERS' AND SAILORS' UNION.

Mr. MORRILL. I move that the Senate proceed to the consideration of House bill No. 587.

The motion was agreed to; and the bill (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union of Washington, District of Columbia, was considered as in Committee of the Whole. It proposes to incorporate H. A. Hall, W. C. Porter, Will A. Short, James Cross, J. H. Nightingale, D. S. Curtiss, L. Edwin Dudley, G. M. Van Buren, William S. Morse, Lawrence Wilson, William L. Bramhall, F. E. Drake, B. P. Cutter, W. H. H. Bates, H. N. Rothery, S. G. Merrill, Charles A. Appel, O. A. Lukenbaugh, J. S. Firman, John H. Simpson, George W. De Costa, L. J. Bryant, J. H. Gray, Lyman S. Emery, and A. I. Bennett, as a body politic and corporate, by the name of the "Soldiers' and Sailors' Union of the city of Washington, District of Columbia."

The corporation may acquire, receive, hold, and convey real and personal estate; which estate shall never be divided among the members, but shall descend to their successors for the promotion of the interests and general welfare of the soldiers and sailors of this corporation who have served in the Union Army or Navy during the late war for the suppression of the rebellion, and the relief and protection of their widows and orphans.

Mr. DAVIS. I rise to inquire whether this bill has been before one of the committees.

Mr. MORRILL. Yes, sir. It is reported from the Committee on the District of Columbia.

Mr. DAVIS. It seems to me this bill authorizes this association to acquire an indefi-

nite quantity of real estate and to hold it to them and their successors. It seems to me rather an extraordinary provision. I should like to have the bill referred to the Committee on the Judiciary. If it is all right, I do not want to oppose any obstruction to its passage; but I think it ought to be examined by that committee, and I make the motion that the bill be referred to the Committee on the Judiciary.

Mr. MORRILL. I should hardly think that the Senate would consider the reasons assigned by the honorable Senator from Kentucky sufficient to authorize the reference of such a bill to the Committee on the Judiciary. I understand the Senator to say that it authorizes the holding of an unlimited amount of estate. That is no legal or constitutional objection which should lead to its reference to the Judiciary Committee. If the honorable Senator thinks there is any danger, it is very easy to move an amendment to guard against that.

Mr. DAVIS. I ask the honorable Senator if my exception to the purport of the bill is true.

Mr. MORRILL. I think they have a right to acquire and hold as much real and personal estate as is necessary for the object of the association.

Mr. DAVIS. What is the object of the corporation?

Mr. MORRILL. The bill is to incorporate the Soldiers' and Sailors' Union of the District of Columbia. The bill comes from the House of Representatives, and if it is sent back, I do not know that it will get through, but I have no objection to limiting the amount of property to be held to \$200,000, and I therefore move to amend the bill by inserting after the word "estate," in line three of section two, the words "not exceeding \$200,000."

The PRESIDENT *pro tempore*. Is the motion to refer the bill to the Committee on the Judiciary withdrawn?

Mr. DAVIS. I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. VAN WINKLE. I move to add to the amendment just adopted the words "in value" after the word "dollars." I do not know what "property not exceeding \$200,000" would mean. I move, therefore, to add the words "in value."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

#### SOLDIERS' AND SAILORS' ORPHAN HOME.

On motion by Mr. MORRILL the bill (H. R. No. 779) to incorporate "The National Soldiers' and Sailors' Orphan Home," was considered as in Committee of the Whole. The corporators are Mrs. Julia B. Grant, Mrs. Ellen E. Sherman, Mrs. H. D. Cooke, Mrs. Margaret Fahnestock, Mrs. Kathleen Carlisle, Miss Charlotte Taylor, Mrs. Jane Speed, Mrs. Mary J. Wells, Mrs. A. C. Harlan, Mrs. Jane L. Smith, Mrs. Mary K. Lewis, Mrs. Jane Farnham, Mrs. Eliza M. Morris, Mrs. Cecilia S. Sherman, Mrs. Ellen Boyer, Mrs. Elizabeth A. Howard, Mrs. Kate C. Sprague, Mrs. Eliza B. Nye, Mrs. Annie Rouse, Mrs. Kate L. Plants, Mrs. Elizabeth G. Todd, Mrs. Abby E. Hale, Mrs. J. M. Trumbull, Miss Sarah Wood, Mrs. Jane Annie Pirtle, Miss Elizabeth Howard, and their successors.

The Committee on the District of Columbia proposed to amend the bill by striking out of section six the following words:

All Senators and members of the House of Representatives shall be *ex officio* members of any advisory committee to be provided for by the constitution or by laws of said corporation; and that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred

in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

#### NEW DISTRICT JAIL.

Mr. MORRILL. I am instructed by the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 124) authorizing the construction of a jail in and for the District of Columbia, to report it without amendment and recommend its passage, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the Secretary of the Interior to select a suitable place on some of the public grounds belonging to the Government in the city of Washington, and to construct thereon, upon such plan as he may select, a jail of sufficient capacity to provide for not less than three hundred prisoners, with suitable yards, hospitals, &c., the entire cost of which shall not exceed the sum of \$200,000. The Secretary of the Interior is to employ an architect and have prepared a design for the building, and plans descriptive thereof, with complete specifications of the work required and the materials to be used, and to publish notice of a public letting of the contract for the building of the jail, at least thirty days before the letting, in the principal newspapers in New York, Boston, Philadelphia, Cincinnati, Baltimore, and Washington, which notice shall direct a place where such specifications can be seen, and a time at which the contract is to be let; and the Secretary is to let the contract to the lowest responsible bidder, and the contractor is to enter into sufficient bond for the faithful completion of the contract to the approval of the Secretary.

The Secretary of the Interior is to sell at public sale, on proper notice, the materials of the old jail, now located in Judiciary square, and the proceeds are to be paid into the Treasury of the United States.

For the purpose of reimbursing the United States for a part of the cost the proper authorities of the city of Washington are required to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of the jail, the sum of \$70,000; the proper authorities of the city of Georgetown, \$20,000, and the proper authorities of the county of Washington, \$10,000, which sums shall be deemed the fair proportion of the cost of the jail of each of the cities and to the county of Washington; these authorities, respectively, are required to assess and levy upon the taxable property of the cities and of the county of Washington a tax sufficient to raise the amount so by each city and said county required to be paid.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WASHINGTON LAND AND BUILDING COMPANY.

Mr. WADE. I move to take up for consideration Senate bill No. 384, to incorporate the Washington Land and Building Company of the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was in section two, line three, after the word "dollars," to insert "nor be less than \$100,000;" so that the clause will read:

That the capital stock of this corporation shall not exceed \$500,000, nor be less than \$100,000, and that a share in the same shall be fifty dollars, and books of subscription to the capital stock.

The amendment was agreed to.

The next amendment was in section two, line five, after the word "stock," to strike out "or to such portions thereof as from time to time may be by the directors, for the time being, be deemed proper and necessary."

The amendment was agreed to.

The next amendment was in section two, line eight, to strike out "directors," and insert "corporators;" and in line twelve, after "valuation," to insert "to be determined by said directors."

The amendment was agreed to.

The next amendment was in section eight, line five, after "act," to strike out "and that it shall be lawful for Congress, at any time hereafter, to alter, amend, or repeal this act."

The amendment was agreed to.

Mr. DOOLITTLE. Why are those words stricken out?

Mr. WADE. They were in twice over.

Mr. HENDRICKS. I think that a corporation ought not to be created for the purpose mentioned in this bill. I do not think we need corporations in this country to become the owners of real estate with a view to leasing it out and selling it. That is the entire purpose of this bill. I know many of the proposed corporators, and they are excellent gentlemen, some of them my personal friends, but I shall not vote for such a bill as this. I ask, before I proceed, that the Secretary read that section which defines the powers of the corporation; I think it is the seventh section.

The Secretary read as follows:

SEC. 7. And be it further enacted, That the president and directors shall have full power and authority, on behalf of the company, to purchase or lease land within the city of Washington, and sub-lease or sell and convey the same, to erect dwelling-houses and all other buildings on the land so leased or purchased, and rent, lease, or sell the same, with the land appurtenances thereunto belonging, and generally to do and perform all acts, matters, and things to encourage mechanics and citizens of Washington in procuring houses and homes upon the most advantageous and economical terms.

Mr. HENDRICKS. That stump-speech part I understand very well. The power that is conferred is the power of a corporation to become the owner of the real estate of Washington, for the simple purpose of speculating in real estate or building houses upon it, or leasing and selling. I say that this is a power which a corporation ought not to be able to exercise. When we create ordinary corporations we say that they shall own real estate to the extent required for the business of the corporation. We consider it so great an evil to allow property to be held in dead hands that we prohibit it to other corporations except to the extent required. But here is a corporation out and out to speculate in land. I know it is said to encourage mechanics. God save the mechanics when they have to depend upon corporations for their prosperity! Their interest is to have the real estate of the country free, everybody to buy and everybody to improve according to his means. These are clever gentlemen; but when they commence building houses to give away to mechanics, I shall be surprised.

Mr. WADE. It seems to me there is great caution about these corporations. So far from there being anything objectionable in this seventh section defining the powers of this incorporation, in my judgment it is the great merit. I am glad that mechanics will band together for the purpose of purchasing lands and putting buildings upon it and leasing or selling those buildings. If there is an overgrown landlord here, a man of great wealth, he may go on and he may employ all the mechanics in the world, and gentlemen have no kind of difficulty with him. He may go on and he may buy all the land around him, he may erect buildings upon it, and he may sell them or rent them to his heart's content, and may speculate in them; but if a few mechanics of any means get together for the purpose of doing that same thing, then arises this terrible objection. Do you want to grind them down under foot? Because they have not the means, each individual on his own behalf, to do this same thing, you intend that it never shall be done! What more objectionable is there because a few mechanics in moderate circumstances club together and are incorporated for the purpose of doing this same lawful thing than that one man should do it, he having wealth enough to do it all him-



self? Do you want to compel the poor mechanics to work under this great landlord? That is the idea, that they shall not do anything on their own hook, and you will give them no advantages for doing anything! You are exceedingly frightened at the idea that these poor men who are skilled to labor may speculate! You think it is dangerous to give them a chance to work for themselves and purchase land for the purpose of erecting buildings upon it and to lease those buildings or sell them afterward! I say so far, in my judgment, from this being any objection to this bill, it is highly meritorious, and there is no possible objection to it; no evil can arise from it; it will be for the benefit of the incorporators, and it will be equally beneficial to those who wish to rent or occupy buildings in this town. I do not think there is any objection whatever to that section or any other part of the bill.

Mr. JOHNSON. Permit me to ask if the capital of the company is limited.

Mr. WADE. The capital is limited; it is not to be above \$500,000 nor under \$100,000.

Mr. HARRIS. Will the Senator from Ohio allow me to inquire whether there is personal liability of the stockholders?

Mr. WADE. I do not think there is anything said about their liability.

Mr. HENDRICKS. I consider all that the Senator from Ohio has said about the benefit of the mechanics and of the grinding of them down as humbug, with great respect to the Senator. There never was a corporation yet created for the benefit of the mechanics, nor for the benefit of the laboring classes. That is not the thing that is done. He says we allow individuals of wealth to buy lands and build houses. We cannot help that a man accumulates property; and does the Senator consider it an evil that the land of the country shall fall into the hands of the few? Does the Senator consider it an evil that a few should become the owners of real estate because they are wealthy? Then, shall we increase that evil by increasing corporations with a capital of half a million dollars, that they, too, may become the owners of real estate, that it may fall into the hands of a corporation for the profit of the stockholders?

The Senator talks about these mechanics that are in this bill, these corporators. Does the Senator know these corporators? Is not the Senator acquainted with John M. Brodhead? Is he a mechanic, the Second Comptroller of the Treasury? Is Moses Kelly a mechanic—a man that used to be in the Interior Department, I believe the Assistant Secretary of the Interior, now cashier of one of the banks of this city, the National Metropolitan bank—is he the mechanic that the gentleman speaks about? Is Mr. Joseph F. Brown, the richest man in this city, perhaps, the owner of nearly all the gas company stock, or very much of it, a man of very large wealth—is he the mechanic that the Senator talks about? Is Mr. B. B. French, the Commissioner of Public Buildings and Public Grounds, the mechanic that the Senator is talking about?

I will ask him now, who is the practical mechanic in this list of corporators that he talks about anybody wanting to grind down? I do not want these men of wealth to become a corporation for the purpose of buying up on speculation the lands of the country anywhere. My judgment is that land ought to be free to any man that can buy it and wants to go on it. It is an unheard-of proposition in this country. It took the legislation of one hundred years in England to relieve the real estate of that country to a little extent from being held in dead hands, in mortmain. Now, we are going to commence it here by incorporating a company to own and speculate in, lease and sell real estate; and these are the mechanics that the Senator talks about.

If it is the pleasure of Congress to start out on this course, I have no special objection, but I felt it to be my duty to call the attention of Senators to the character of the bill. If this was an incorporated company for the purpose

of building a large manufacturing establishment, we would in express terms say that that corporation should not become the owner of any more real estate than was necessary for the purpose of the incorporation; that is, for the purpose of putting up and carrying on their manufacturing business, because we are not content that the lands shall fall into the hands of the speculators of incorporated companies. It is against the whole policy of the country. I believe it is against the policy of every State, and therefore I object to it in this District.

Mr. WADE. It seems that some of these corporators are wealthy men, bankers, and the like. Now, I should be very glad to divert some capital from banking purposes to building improvements. This corporation is limited to a capital not exceeding half a million dollars and not less than one hundred thousand dollars. Overgrown wealthy men of course can go into this business on their own hook to any extent. This is not like a manufacturing company, where the corporation is confined to the real estate necessary to do that particular business upon. It is a corporation for the purpose of building houses in this town, to acquire land for that purpose, and to own it. Very unnecessarily, to be sure, the bill goes on to say that they may lease and let or sell their own land and buildings. Of course they could do that, whether the bill said anything about it or not.

I cannot see any kind of objection to the bill. It is to promote a very laudable business, and the individual corporators are made liable to the extent of the amount of their stock—the usual liability. Then it is provided that the act of incorporation is subject to be modified, repealed, or amended by Congress at any time. There is nothing in the bill that is objectionable, in my judgment. However, I leave it to the Senate. I do not wish to take up time with it.

Mr. POMEROY. I do not think there is anything in this bill that we need be alarmed about. It is intended to correct an evil that has existed in Washington perhaps always, certainly a long time before I came here. There seems to be nobody in this town engaged particularly in the business of building houses to rent. The object of these corporators, as I understand, is to build houses that are comfortable for persons of moderate means, and they propose then to sell them, and the rents which the occupants pay monthly are to go toward the purchase. The amount of money paid from month to month as rent is to go to the purchase of the building, so that the clerks and mechanics in this town may ultimately get title to the building, when, without an association of this kind, they might pay rent eternally and never get a title. The object is to take the amount of rent paid, and apply it to the purchase money. This is the project these persons have in view. I think it is a very good one. I only fear that it will not succeed, but if it succeeds it will be a great benefit to those of moderate means. I have been paying rent here for three or four years past of a most extraordinary and exorbitant character. I do not see how persons who are living on a salary of two or three thousand dollars a year are able to rent comfortable houses in this city.

Mr. HENDRICKS. I want to ask the Senator from Kansas where he gets his information. It is not in the bill, and I understand there is no report accompanying the bill showing that these are the benevolent purposes of this corporation. If it becomes a purely benevolent institution, it will be the first corporation I ever heard of which was of that character.

Mr. POMEROY. I did not put it on the ground of a purely benevolent institution. I said they proposed to take the rents collected from month to month and apply them toward the discharge of the purchase money of the house rented, and whenever the clerk or mechanic, or whoever occupies the house, has paid enough rent to purchase it he owns it. There is no such system as that now in exist-

ence here, and I think it is a great improvement.

Mr. HENDRICKS. Put in the bill that they shall do that.

Mr. POMEROY. It is not in the bill, but I learn this from those who have called on me to explain the object, and they are gentlemen of integrity and character, as the Senator himself knows.

Mr. HENDRICKS. I admit that.

Mr. POMEROY. They do not propose to swindle anybody. I suppose, of course, they intend to make something, but only a reasonable profit, such as men are entitled to who engage in any kind of business. If by this system they will be able to furnish homes to men who can only pay installments month by month it will be a great thing. I have lived in communities where men pay rent month after month for a life-time and never own anything, whereas if that rent paid from month to month could have been applied to the purchase of the building they would have finally found themselves owners of real estate, and had that comfort in their declining years. That is the object of this corporation.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HENDRICKS. As this is the commencement of a system, the first bill of the kind proposing to create a corporation to speculate in lands, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. JOHNSON. I shall vote for this bill, first, because the object is a laudable one, and will be very beneficial if carried out according to the spirit of the bill. I do not think there is any danger to be apprehended, first, because the charter may at any time be altered, amended, or repealed.

Mr. HENDRICKS. That is taken out.

Mr. JOHNSON. Oh, no; it is in.

Mr. HENDRICKS. I heard an amendment read striking out that provision.

Mr. JOHNSON. One provision of that sort was stricken out because it was in the bill twice. In the second place, by the second section the stockholders are made responsible for the debts contracted by the company to the extent of the value of the stock held by it at the time.

The question being taken by yeas and nays, resulted—yeas 23, nays 8; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Creswell, Fessenden, Foster, Harris, Henderson, Howe, Johnson, McDougall, Morgan, Morrill, Nye, Pomero, Ramsey, Riddle, Trumbull, Van Winkle, Wade, Wiley, Williams, and Wilson—23.

NAYS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hendricks, Lane, Norton, and Stewart—8.

ABSENT—Messrs. Anthony, Brown, Cragin, Dixon, Edmunds, Grimes, Guthrie, Howard, Kirkwood, Nesmith, Poland, Saulsbury, Sherman, Sprague, Sumner, Wright, and Yates—17.

So the bill was passed.

#### METROPOLITAN CLUB.

Mr. WADE. I move to take up for consideration Senate bill No. 393.

The motion was agreed to; and the bill (S. No. 393) to incorporate the Metropolitan Club of the District of Columbia was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### GENERAL HOSPITAL OF DISTRICT OF COLUMBIA.

Mr. WADE. I move to proceed to the consideration of the bill (S. No. 214) to incorporate the General Hospital of the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to make, declare, and constitute Joseph Henry, James C. Hall, Amos Kendall, Thomas Miller, Richard Wallach, George W. Riggs, Grafton Tyler, Henry D. Cooke, D. W. Middleton, Charles Knap, Benjamin B. French, James C. McGuire, Charles H. Nichols, William B. Todd, William

Gunton, Edward Simms, and Thomas Young, and their successors in office, a corporation and body-politic, in law and in fact, under the name and style of the directors of the General Hospital of the District of Columbia. The annual income of property held by the corporation is not to exceed in value the sum of \$25,000. The corporation is to have power to open and keep a hospital in the city of Washington for the care of such sick, wounded, and invalid persons as may place themselves under its care.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

#### PROBATE AND RECORDING OF WILLS.

Mr. WADE. I move that the Senate proceed to the consideration of Senate bill No. 289.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 289) to provide for the probate of, and for the recording of wills of real estate situated in the District of Columbia, and for other purposes.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment of the committee was in section two, line six, after the word "receive" to insert "in addition to;" after "compensation" to insert "now;" and in line seven after "law" to insert "a fee of one dollar for drawing up and recording the order of court admitting to probate and record each will, testament, or codicil;" so that the section will read:

SEC. 2. *And be it further enacted*, That all wills, testaments, and codicils, admitting to probate in the District of Columbia shall be forthwith recorded by the register of wills in said District in a suitable bound book, regularly indexed, to be kept for that purpose in his office, and for which the said register shall receive in addition to the compensation now provided by law, a fee of one dollar for drawing up and recording the order of court admitting to probate and record each will, testament, or codicil.

The amendment was agreed to.

The next amendment was to insert at the end of section three, "and for each authentication under seal of the court he shall receive a fee of fifty cents."

The amendment was agreed to.

The next amendment was in section eight, line five, after the word "provide," to strike out "and suitably furnish."

The amendment was agreed to.

The next amendment was in the same section, line nine, after the word "county," to insert "and also to fit up and furnish said rooms, under the direction of the register of wills, with everything that may at any time be required for the safe, convenient, and comfortable transaction of the business appertaining thereto."

The amendment was agreed to.

Mr. JOHNSON. I had supposed that the orphan's court now could take the probate of a will of real as well as personal estate. The act of Maryland has been so construed as to give to our orphan's courts the authority to take probate, whether the will related to real or personal estate. But I have not so much objection to that, because there may be some doubt about it, and I suppose there is or the bill would not have been proposed; but I suggest to my friend from Ohio that perhaps he will find it necessary to amend the fourth section of this bill. A copy of the will or codicil admitted to probate is to be received in evidence; but in a variety of cases in relation to wills the authenticity of the paper itself is disputed, whether the alleged testator actually signed it, and the most material evidence in relation to a question of that sort is the paper itself. Now, the fourth section says that "every will, testament, or codicil which shall have been admitted to probate shall be held, retained, and preserved in the office of the register of wills of said District, and shall not be delivered out of said office to any person or persons what-

soever." I am rather apprehensive that that would place it out of the power of the court to compel the production of the original paper.

Mr. WADE. I move to amend the section by adding "except by order of the court."

Mr. JOHNSON. "Before whom the question of the authenticity of the will may be depending."

Mr. WADE. Very well. They may want it to authenticate the original will.

The PRESIDENT *pro tempore*. Will the Senator from Ohio repeat his amendment?

Mr. WADE. I move to add to the fourth section the words "except by order of the court." I think that will be sufficient.

Mr. JOHNSON. Very well.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

#### COUNTY HORSE RAILROAD.

Mr. WADE. I move to proceed to the consideration of Senate bill No. 390.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 390) to incorporate the Washington County Horse Railroad Company, in the District of Columbia. Samuel P. Brown, Francis Mattingly, Noble D. Larner, Marshall Brown, Joseph L. Pearson, and their associates and assigns, are by the title of the bill created a body-corporate under the name of the "Washington County Horse Railroad Company," with authority to construct and lay down a double or single track railway, with the necessary switches and turnouts, in the county of Washington, commencing at Boundary street, at its intersection with Fourteenth street, and along the Fourteenth street road in a northerly direction to a point where that road intersects a new road recently opened by the levy court, and along the new road in an easterly direction, to the Seventh street turnpike, and along the turnpike in a southerly direction to Boundary street, (but that the consent of the board of directors of the Seventh Street Turnpike Company is to be first obtained for the use of their road,) with the right to run public carriages thereon, and receiving therefor a rate of fare not exceeding ten cents a passenger for any distance on said road.

The Committee on the District of Columbia reported an amendment, which was to strike out section eighteen, as follows:

SEC. 18. *And be it further enacted*, That the said company shall have authority to extend the railway herein provided for, and to construct and operate such other passenger railways in the county of Washington, outside the corporate limits of the cities of Washington and Georgetown, as the levy court may consent to, and the rights and privileges herein granted are extended to such other passenger railways as may be constructed under this section.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BALTIMORE AND OHIO RAILROAD.

Mr. WILLEY. I move to take up for consideration House bill No. 559.

The motion was agreed to; and the bill (H. R. No. 559) to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia was considered as in Committee of the Whole. It is recited that the Baltimore and Ohio Railroad Company, incorporated by the State of Maryland, are desirous of extending the road authorized to be built by them by an act of the General Assembly of that State entitled "An act to authorize the Baltimore and Ohio Railroad Company to build a railroad from a point on the line of its road between Knoxville and the Monocacy Junction, through Frederick and Montgomery counties, to the boundary of the District of Columbia, so as to make a direct

communication with the city of Washington," into and within the District of Columbia; and it is proposed to authorize the company to extend that road into and within the District of Columbia, to such point or points, terminus or termini, as may be agreed upon between the company and the corporation of Washington, in respect of a road within the limits of Washington, and between the company and the corporation of Georgetown, as respects a road within the limits of Georgetown. The Baltimore and Ohio Railroad Company are authorized to have and exercise the same powers, rights, and privileges, and to be subject to the same restrictions, in the extension and construction of the road, into and within the District as they have, may exercise, or possess, or are subject to within the State of Maryland, under and by virtue of their charter or act of incorporation from the State of Maryland; and all the provisions of the several acts of Congress relating to the lateral road authorized to be built into and within the District of Columbia by an act passed March 2, 1831, and entitled "An act to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio road into and within the District of Columbia," and the supplements thereto, be, and they are, declared to apply to the Baltimore and Ohio Railroad Company so far as they are severally applicable to the location, construction, and use by the company of the road now authorized to be constructed into and within the District.

The railroad company are to commence the construction of this extension of the road within one year, and complete it within three years after the passage of the act; and on failure to do so the privileges granted are to be forfeited.

The bill was reported to the Senate without amendment.

Mr. JOHNSON. I rise for the purpose of asking my friend from West Virginia the meaning of the latter part of the second section in one particular. The section says that the several provisions in the act of Congress relating to the lateral road authorized to be built by the Baltimore and Ohio railroad by an act approved March 2, 1831, giving the title of the act, shall be declared to apply to the Baltimore and Ohio railroad so far as they are severally applicable to the location and construction "by said company of the road now authorized." My question is, whether that is intended to mean the road to be made by the Baltimore and Ohio Railroad Company under this act? I suppose it is, but I am not so sure about it.

Mr. WILLEY. I so understand it. The bill comes from the House.

Mr. JOHNSON. I have no objection, then, but I think it is not very clearly drawn in that respect.

The bill was ordered to a third reading, was read the third time, and passed.

#### CHURCH PROPERTY.

Mr. WILLEY. I move to take up for consideration House bill No. 564.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia.

Mr. DAVIS. What is that article of the declaration of rights which is to be annulled?

Mr. WILLEY. I have it here.

Mr. DAVIS. I hope the Senator will read it.

Mr. WILLEY. It is in these words:

"34. That every gift, sale, or devise of lands to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of, or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels, to go in succession, or to take place after the death of the seller or owner, or to or for such support, use, or benefit; and also every devise of goods or chattels to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel,

as such, or any religious sect, order, or denomination, without the leave of the Legislature, shall be void; except always any sale, gift, lease, or devise of any quantity of land not exceeding two acres, for a church, meeting, or other house of worship, and for a burying-ground, which shall be improved, enjoyed, or used only for such purpose, or such sale, gift, lease, or devise shall be void."

The act of 1801, "concerning the District of Columbia," contains this clause: "That the laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said District which was ceded by that State to the United States." When this bill was originally introduced, in a conference with the Senator from Maryland, [Mr. JOHNSON,] he suggested that perhaps there ought to be some limitation upon gifts and devises for religious uses. It was concluded between us that it would be better for him to introduce an independent bill defining exactly what the extent of these gifts and devises should be. The special object of this bill is to allow an old gentleman in his declining years to make a donation of some ten or twelve thousand dollars for the purpose of building a Presbyterian church, and under the law as it now stands he cannot do it. In the meantime the Senator from Maryland proposes to introduce a bill which shall provide all necessary guarantees better than can be done by any amendment of this bill.

Mr. DAVIS. I rise to inquire when the contemplated bill restricting the amount of such devises will be introduced. I suppose it ought to be contemporaneous with the repeal of this clause in the bill of rights of the constitution of Maryland in its application here. I think that it is the policy of our country in all the States to restrict the amount of this class of devises that are interdicted by this clause of the bill of rights of the State of Maryland. I think there ought to be no interregnum in the law or regulation which restricts the amount; no unreasonable interregnum at any rate. I should think it might be attended to at this session.

Mr. WILLEY. The honorable gentleman from Kentucky can at any time—and he is most competent to do so—introduce a bill on the subject. I understood from the Senator from Maryland that he would avail himself of his leisure and convenience to introduce a bill to that effect. The passage of this bill at this time can have no evil effect, because no danger can accrue before a bill of the character suggested by the Senator from Kentucky can be introduced and passed. For myself I see no necessity for such a bill in this country under our existing laws.

Mr. DAVIS. It is not my duty to introduce any such bill as that. It appertains to the honorable Senator himself as a member of the committee that reported the bill to abrogate this section of the bill of rights of the constitution of Maryland. I do not agree with the honorable Senator in the opinion he has expressed that there is no need of such an interdiction upon the amount of devises to religious associations in this country. We know the extent to which such devises reached in past centuries in England, and there is a very considerable tendency in this country to the aggregation of large amounts of real estate in incorporated religious bodies and churches. It certainly is a feature in the policy of the United States in all the States to interdict, or at least to impose, restrictions upon the value and extent of such devises. I hold myself that there is no policy more obviously right, and I have no doubt that a perfect license to make such devises would, in the course of a generation or two, produce evils of the greatest magnitude and mischief within our country.

Now, what does this bill propose? Here is an interdiction by the fundamental law of the State of Maryland upon such devises, wholly, I believe. I would not myself be in favor of the entire interdiction of such devises, but would want them restricted to a reasonable amount in value and quantity. It certainly is fit and proper, and not only that, but the duty of the committee, that it introduces a bill for the purpose of

abrogating the total restriction, to continue it at least to a reasonable and politic extent.

Mr. BUCKALEW. I should think it, sir, very extraordinary if such a prohibition has continued in the constitution of the State of Maryland. I think it would be rather remarkable that it had not undergone some modification since 1776.

Mr. WILLEY. I will explain to the Senator that I do not know whether this provision is in the constitution of Maryland now, but it was in the constitution of Maryland in 1801, at the time the cession was made, and being by the terms of the act of Congress of that year made a part of the laws of this District, it has never been repealed by Congress since that time.

Mr. BUCKALEW. I think it is very clear that that prohibition existing in this District is too extensive in its operation. I do not understand that there is any limit to the prohibition except the dispensing power given to the Legislature, which I understand is to be exercised in particular cases brought before it upon petition or other application. Now, that is so inconvenient, sometimes quite impossible, that the restriction may be accepted as universal for all practical purposes. I dare say that there never has been an application, or if there has been an application it has not been often repeated, in the history of Maryland for a dispensation from the operation of this clause of the constitution.

While, therefore, it appears to me that it would be unreasonable to change the law of this District, if it be as stated, I am convinced that it is equally clear that there should be some prohibition, and that no portion of time should be permitted to elapse without some limitation upon this power of death-bed bequests. I know that in our State we have a general statute, and one that is warmly approved by public opinion. It underwent consideration in the Legislature within the last ten or twelve years. It is a carefully drawn statute prepared by a distinguished lawyer of Philadelphia, supplying the place of former statutes in our State on that subject. It prohibits donations or devises made within one calendar month of the death of the person making the devise or bequest. It may be that that is not the most appropriate form in which such a limitation should be placed. I mention it only as an illustration of the universality of legislation of this kind throughout the American Union. I dare say that there is such a provision in the laws of almost every State of the Union; and we obtain it from England, where the experience of centuries has proved its necessity.

Now, sir, if the Senator from West Virginia desires to pass a bill removing the inhibition of the existing law in the case of citizens of this District, he can easily change his bill and make it conform to that intention or design, and it will pass without a word of objection.

Mr. JOHNSON. That would necessitate sending it back to the House.

Mr. BUCKALEW. If it be amended in the Senate it can readily be acted on in the House. Amendments of one House to the bills of the other are always in order. I am quite unwilling to remove all restriction upon the power of making bequests of this description. I think that the wisdom of centuries and the judgment and action of legislative bodies in the Old World and the New ought to be considered as having settled this question, and settled it conclusively. Persons in the last hours of an expiring existence are subjected to influences of a very unusual character, and are subjected to them at a time when they are little able to exercise the full and mature powers of their minds. I am unwilling to vote for the bill as it stands.

The bill was reported to the Senate.

The PRESIDENT *pro tempore*. If no amendment be proposed, the question is on ordering the bill to a third reading.

Mr. DAVIS. Upon that question, or on the passage of the bill I call for the yeas and nays.

Mr. WILLEY. I move that the bill be laid on the table for the present.

The motion was agreed to.

#### EAST CAPITOL STREET.

Mr. WILLEY. I move to take up for consideration House bill No. 601.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 601) to grade East Capitol street and establish Lincoln square.

It proposes to direct the Commissioner of Public Buildings, in such manner as he may deem most proper, to cause East Capitol street to be graded from Third street east to Eleventh street east, and to cause the square at its intersection with Massachusetts, North Carolina, Tennessee, and Kentucky avenues, between Eleventh and Thirteenth streets east, to be inclosed with a wooden fence, and it is to be known as Lincoln square. Fifteen thousand dollars is appropriated to enable the improvement to be made.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WASHINGTON TEMPERANCE SOCIETY.

Mr. WILLEY. I move to take up Senate bill No. 424.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 424) to incorporate the Washington Temperance Society of the city of Washington, District of Columbia.

Mr. WILLEY. I move to amend in section five, line one, by striking out after the word "act" the words "shall inure for thirty years, unless sooner repealed by Congress," and inserting "may be altered or repealed at the pleasure of Congress."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. McDOUGALL. I should like to hear the first section of the bill read.

The Secretary read as follows:

That John S. Hollingshead, William G. Flood, Christopher Cammack, sr., Asbury Lloyd, John B. Wheeler, Z. B. Brooke, R. A. Fish, George W. Maher, W. P. Drew, William H. Nally, Thomas B. Marche, Oscar Alexander, William Dixon, and others who now are or may hereafter become members of said society, and their successors, are hereby declared to be one community and body-corporate by the name, style, and title of the Washington Temperance Society of Washington city and District of Columbia; and by that name they shall be, and are hereby, made able and capable in law to have, receive, and retain to them and their successors property, real and personal, also devises and bequests of any person or persons, bodies corporate or politic, capable of making the same, and the same to dispose of or transfer at their pleasure in such manner as they may think proper: *Provided always*, That the said corporation shall not at any time hold or possess property, real, personal, or mixed, exceeding in value the sum of \$25,000 other than that which may be invested in a hall to be erected for the purposes of the society.

Mr. McDOUGALL. Mr. President, I am altogether satisfied with the propriety of the passage of this bill. There are two or three persons named there who if they can be incorporated into a sound temperance society it will do them infinite good, [laughter,] and that that may happen I will support the proposition. It has been said, "The greater the sinner the greater the saint."

The bill was passed.

#### CHURCH PROPERTY.

Mr. WILLEY. I move to take from the table the bill just laid upon it—House bill No. 564.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia.

Mr. JOHNSON. I very readily recognize the force of the observations made by my friend from Pennsylvania, [Mr. BUCKALEW.] It is very desirable that devises and gifts to



objects of that description should be executed some reasonable time antecedent to the death of the donor or testator. I believe the same provision of which he spoke as existing in Pennsylvania will be found in the laws of other States. I move, therefore, as an amendment to come in at the close of the bill this proviso:

*Provided*, That in case of gifts and devises, the same shall be made within one calendar month before the death of the donor or testator.

Mr. DAVIS. I do not think that limitation will correct the evil. In my State there is a limit upon the amount and value of bequests and devises to religious societies, especially of real estate. This proviso will effect very little toward the correction of the evil, if evil it be. In the neighboring country of Mexico it is said that half the lands of the country are held by the church. When Henry VIII ascended the throne of England there was a large proportion of the lands of the kingdom held in perpetuity by religious associations. I do not know how it is in the other States, but in my State there is a jealousy of that principle, and we have legal if not constitutional provisions regulating and restricting the amount that any religious association or organization of any kind shall hold. I take it there ought to be a restriction of the same character in relation to this District if the section of the bill of rights of the constitution of Maryland upon that point is to be repealed. I move that the bill lie upon the table.

Mr. JOHNSON. The immediate occasion as I understand for the introduction of the bill is that there is a gentleman here, a very excellent man in all particulars, who desires to give a church some ten or twenty thousand dollars, but he is unable to do it because the original constitutional restriction which existed in Maryland forms a part of the law of the District, and that, as the Senate have seen, prohibits a church from receiving more than two acres of land except with the consent of the Legislature. I do not know that in any case where the Legislature of Maryland has been applied to by any religious congregation she has refused to let it go beyond the limit.

The constitution of Maryland which contains that provision was adopted in 1786. The constitution in this respect was modeled very much after the Government of England. It has been almost entirely done away with, so far as the original provisions are concerned, and I am by no means sure that this particular provision is now in force. I do not think, in the present condition of the country, that there is any danger from permitting parties to give to religious corporations what they may think proper. It is impossible with our institutions we can be in any danger from religious establishments: first, because there is no State religion; secondly, because there are so many different sects, each one of whom watches the others just as vigilantly as England would watch the dispositions of France. I do not see, therefore, that there is any great danger to result from leaving parties here to leave as much property to charities as they please.

Mr. DAVIS. The honorable Senator has not conceived the point of my objection. It is not from any apprehension of the establishment of a State religion, but it is to prevent too large an aggregation of property in religious societies. That is the reason, as I understand it, of the restriction in my own State. But sooner than be pertinacious about this matter, I am disposed to yield and let this fragment of a Senate do what it pleases in connection with this matter. However, I will make this remark: I believe that the rules of the Senate ought imperatively to require the Presiding Officer of the Senate to verify the presence of a quorum of the Senate whenever any bill of any character is passed. This thing of carelessly passing important bills when there are but a few members present, a number decidedly less than a constitutional quorum to do business, in my judgment ought to be reformed by a change in the rule of the Senate. That is the rule formally now, but it is not enforced. It is an ungracious business for a member of

the Senate to object to the passage of a bill because there is not a quorum present. I think it ought to be *ex officio* the duty of the Presiding Officer to see that the principle of the Constitution, which is certainly an important one, is executed in every case in respect to having a quorum of the Senate present whenever a bill is passed.

With these remarks I will say nothing more in relation to this subject, but leave it to the Senate, or to the gentlemen who are present, who are not a Senate, to take what course they please in relation to this bill.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from Kentucky withdraw his motion to lay the bill upon the table?

Mr. DAVIS. Yes, sir.

The PRESIDING OFFICER. The question, then, is on the amendment moved by the Senator from Maryland.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

#### ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. HENDERSON. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 230) to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 8, 1863, to report it back with amendments, and I ask the Senate to proceed to the consideration of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment of the Committee on the District of Columbia was to strike out all of section one after the word "authorized," in line six, and also all of section two down to and including the word "authorized," in line two, in the following words:

To extend said railroad from the track as now laid, or as the same may hereafter be laid, through Maryland avenue at the intersection of Sixth street west, through and along said Sixth street west in a northerly direction to a point at or near its intersection with Pennsylvania avenue which may be suitable for the location and construction of a depot for the receipt and discharge of passengers and freight.

Sec. 2. And be it further enacted, That said railroad company be, and the same is hereby, authorized.

So that the first section will read:

*Be it enacted, &c.*, That the Washington, Alexandria, and Georgetown Railroad Company, a corporation lawfully succeeding to the charter, rights, and privileges of the Alexandria and Washington Railroad Company, be, and the same is hereby, authorized to extend said railroad from the track, as the same is now or may hereafter be laid, through Maryland avenue at its intersection with Virginia avenue, through and along said Virginia avenue in an easterly direction to its intersection with D street south; thence along D street and across the Washington canal to New Jersey avenue; thence by a curve to the left of not less than one thousand feet radius, to a point in square number seven hundred and thirty-two; thence by an underground excavation or tunnel, passing under squares number seven hundred and thirty-two, seven hundred and sixty-two, seven hundred and sixty-one, seven hundred and sixty, seven hundred and eighty-seven, seven hundred and eighty-six, eight hundred and sixteen, eight hundred and fifteen, eight hundred and thirty-nine, eight hundred and thirty-eight, eight hundred and sixty-six, eight hundred and sixty-five, eight hundred and sixty-four, and the different streets and avenues intervening, to a point in square number eight hundred and ninety-three; thence, by a curve of not less than one thousand feet radius, into Eighth street east; thence by the most direct and eligible route to an intersection with the Washington branch of the Baltimore and Ohio railroad.

Mr. JOHNSON. What is the effect of the amendment?

Mr. HENDERSON. I will state what the effects of it is. The House bill authorizes the Alexandria and Washington Railroad Company to cross the canal on Sixth street and build a depot, provided they can purchase the property north of the canal and immediately south of Pennsylvania avenue. The Committee on the District of Columbia in the Senate are unwilling to grant this privilege; and the effect of this amendment is to strike out all that portion of the bill which enables them to build a railroad track from their present depot upon Maryland avenue over to Pennsylvania

avenue. It prohibits the extension of the track through the public grounds and the building of a depot over there. That is the only difference.

The amendment was agreed to.

The next amendment was to insert at the end of section [two] one the following proviso:

*Provided*, That unless the railroad company herein named shall in good faith have commenced the work of underground excavation referred to in this section, and shall have expended at least \$100,000 in the progress thereof within twelve months after the passage of this act, then the Baltimore and Ohio Railroad Company is hereby authorized to extend the Washington branch of their road along the route and in the manner herein indicated, so as to connect with the road of the company first named at or near Sixth street on Maryland avenue, in Washington city; but unless said Baltimore and Ohio Railroad Company shall immediately, on the failure of the Washington, Alexandria, and Georgetown Company, as aforesaid, commence and prosecute said work in good faith and shall expend not less than \$300,000 in the underground excavation aforesaid within two years from the passage of this act, the companies herein named shall forfeit all the rights and privileges conferred by this act.

Mr. HENDERSON. I will state the effect of this amendment. The House bill authorizes the Alexandria and Washington Railroad Company to build a tunnel east of the Capitol, and the committee are desirous that it shall be built. I understand, since this bill was introduced into the House, and in fact since the discussion of the question on another bill here in the Senate on a former occasion, (for Senators will remember that we had this question up and discussed it once before,) this Washington and Alexandria company has got into some difficulties, and therefore the probability is that it will not undertake the construction of this work, which will cost more than \$1,000,000. It is to tunnel the public grounds east of the Capitol, and it will cost at least \$1,000,000, perhaps more; and the Senate committee are not of the opinion that this company will be able to construct it. It is very desirable, if this company is not able to undertake the work, that some company should do it and get the cars from off the public grounds in front of the Capitol.

Mr. JOHNSON. Does this bill authorize the Baltimore and Ohio Railroad Company to do it?

Mr. HENDERSON. Unless the Washington and Alexandria company shall undertake the work of making this tunnel, and in good faith expend \$100,000 within twelve months upon it, then the Baltimore and Ohio Railroad Company are authorized to go on with the work, and this company will have nothing further to do with it. That is the meaning of the amendment.

Mr. NYE. I am opposed to the amendment. I do not know, and I should like to inquire, whether the Baltimore and Ohio railroad have asked this committee for the right to construct a road over a portion of the road that belongs to another company.

Mr. HENDERSON. It does not belong to any company.

Mr. NYE. Does it not belong to this Alexandria company?

Mr. HENDERSON. Not an inch of it.

Mr. NYE. I am opposed to this amendment for this reason: the Senator who reports this bill says there is no probability that this Alexandria company can do this work.

Mr. HENDERSON. That is stronger than I said. We are afraid they will not be able to do it.

Mr. NYE. He is afraid that they will not be able to do it. Now, sir, there have been persistent efforts to get another railroad to this District, or another company running parallel to this Baltimore and Ohio railroad, which seems to hold almost supreme control over this District, as it does over every other community upon which it has got its strong hand. If there is to be a bill of this sort passed I would prefer that it should be a bill giving the Baltimore and Ohio railroad authority to do what they please in this District, and that no other company should have authority to come in here. I know there has been another company trying to get in here all winter, and the

committee reported against it. For that reason I am opposed to granting to this company a work which there is no probability that this other road can do—a tunnel which is to cost \$1,000,000, nearly as much as their whole road will cost. The effect of it is nothing more than to give to the Baltimore and Ohio railroad the opportunity of doing it and controlling this tunnel and the other road. I am afraid that the Alexandria company will not do it, and I am opposed to giving it to the Baltimore and Ohio railroad.

Mr. JOHNSON. I think my friend from Nevada does not exactly understand what the object of this improvement is. It is not for the benefit of the Baltimore and Ohio road.

Mr. NYE. I suppose it is to make a connection between the Baltimore and Ohio road and the Alexandria road.

Mr. JOHNSON. It is to make the connection between the North and the South. The difficulty in which this Alexandria company is placed, from what I have seen and heard from some of those interested in it, is not that the company was not originally sound and would not have been able to complete this work, but that they may not be able to do it now. There has been a fraudulent over-issue of stock to the amount of several hundred thousand dollars. Whether that was done under circumstances binding upon the company, I am not prepared to say; but I am inclined to think, notwithstanding their embarrassed condition, that they will be able to make this improvement. But if they should not do it, it is now proposed to authorize the Baltimore and Ohio company to make the improvement. It seems to me that ought to be done. It will not interfere with the bill which is now before Congress, and which will be acted upon, I suppose, at the next session, to authorize a company chartered by Maryland to run a line from the peninsula, on Maryland soil, beginning opposite Aquia creek, through certain counties in that State, to come here, if Congress think proper to authorize them to come here; nor if that company should come here would it answer the purpose which this will answer, provided the improvement is made—a continuous uninterrupted line of travel from New Orleans to New York and Boston.

Mr. NYE. I think it entirely unnecessary to put any company to this enormous expense for the purpose of making the connection between these two railroads in this city. The avenue of this city through which they propose to run is a very wide avenue, and there has been a railroad running through it since 1861.

Mr. HENDERSON. The Senate have already decided that they shall not have a continuance of that right. The Senator from Maine [Mr. FESSENDEN] objected to allowing them to run their cars there any longer, and said they should not, if he could prevent it, until we provided for this work.

Mr. NYE. I do not know that that necessarily determines it.

Mr. HENDERSON. The bill was postponed by a vote of the Senate.

Mr. NYE. I do not know, even though the bill has been postponed, that that necessarily determines the question, and I do know that any one objection to it necessarily postpones it. But, sir, I assert that there is no necessity whatever, consulting the safety and the interests of this city, for the company to spend one or two million dollars in tunneling under the public grounds for the purpose of forming a connection with this Baltimore and Ohio railroad. There are many of our cities, such as Buffalo, Rochester, Syracuse, and Utica, cities as populous as this and with much narrower streets, through which railroad trains run with entire safety to the public and entire safety to person. I insist upon it that it is wrong for Congress to impose such a condition upon any company as the making of this enormous outlay for the purpose of forming this connection between the North and the South.

I have another objection to it. The Baltimore and Ohio railroad is the controlling monopoly

of this section of our country, and they will not allow—if their power is sufficient to resist it—any other railroad to come into this District. If we propose to build from here to New York an air-line railroad, over which passengers can go with more speed and more safety, we are met here by the Baltimore and Ohio railroad, who oppose it. When the line, of which the Senator from Maryland speaks, comes here, as it has been here all the winter to my knowledge, asking permission to run into this District with that railroad, the Baltimore and Ohio railroad oppose it; but the Baltimore and Ohio road can get permission to go anywhere they please, under ground or above ground, almost, and to connect their road with the West anywhere. The Baltimore and Ohio road are omnipotent. Now, this poor concern that my friend from Maryland says has been defrauded out of several hundred thousand dollars—

Mr. JOHNSON. I understand so; I do not know that it is so.

Mr. NYE. I have no doubt it is true; and assuming it to be true, the committee impose upon that poor, defrauded skeleton of a company the necessity of spending one or two million dollars to make a tunnel, which they know they will not make. What is it for? It is to give the Baltimore and Ohio railroad the supreme command of all the railroads that come into this District. That is what it means in plain English. I desire to enter my protest against it. I insist upon it that there shall be a vote by yeas and nays on this amendment, and the views of the Senate expressed upon it.

Mr. HENDERSON. I must confess the greatest astonishment I have ever felt in my life at the remarks of the Senator from Nevada. I am profoundly astonished. I feel anxious to have this connection between the Baltimore and Ohio road and some road leading to the South. The whole committee have felt the greatest anxiety upon that subject during the winter, and we have put our heads together to devise some plan by which it can be done. The Senator from Illinois [Mr. TRUMBULL] a short time ago introduced a bill for the purpose of extending the public grounds; and it is perfectly apparent, if the capital is to remain here, and the legislation of this session shows it, that in the course of a few years all these public grounds will be improved, and then the idea of the Senator that railroad trains can be run across the public grounds is perfectly monstrous. He must know that the Senate will not permit it; that the House of Representatives will not permit it; and if we are to have any connection at all between the Washington branch of the Baltimore and Ohio road and the roads south of the Potomac river we must make it by a tunnel or permit them to run through the city. The Senator knows, just as well as he knows anything, that the city of Baltimore will not permit cars drawn by steam to pass through the city. No other city permits it. He knows that the city of Philadelphia does not permit it. He knows perfectly well that the trains have to be backed around the city of Philadelphia and across a bridge in order to get from here to New York. The city of Baltimore compels the Baltimore and Ohio and the Philadelphia and Wilmington Railroad Companies to run their cars by horse power through the streets of Baltimore. The city of Washington for the last two years has granted permission to this company to run through the city. We passed an act, saying that if the city of Washington granted them the privilege we would do so, and by permission of Congress and the city of Washington they have been allowed to run their cars by steam in front of the Capitol, but it has given rise to a good deal of complaint, and will not be permitted long, especially after the improvement of the Capitol grounds, and the Senator ought to know it.

Now, Mr. President, I never had any idea of permitting or asking the Baltimore and Ohio Railroad Company to do this work; but Mr. Garrett came down here a few days ago and I saw him, and I begged of him if he would

undertake to do this work to do it; but Mr. Garrett is just as much opposed to it as the Senator from Nevada.

Mr. NYE. Why were you astonished, then?

Mr. HENDERSON. I am not at all astonished at that. Mr. Garrett does not want to build this road if he can avoid it. The Senator talks about the Baltimore and Ohio railroad. I have nothing in the world to do with that road; I am no attorney for it; but I want to get this work done; and if I can persuade Mr. Garrett to undertake a work which will cost \$1,000,000, and which will perhaps never be worth a cent to his company—I do not know that it will—I will do it in order to get rid of the steam cars on the streets of Washington city, and in order to get a continuous line by steam, from North to South, which I consider a matter of great importance. But Mr. Garrett is opposed to doing it at the expense of his company, and one reason that he suggested was that our committee this winter has compelled him to go to work and build a railroad from here to the Point of Rocks, at a cost of six or seven million dollars, when they have now ample rolling stock in the double-track road from here to the Point of Rocks, by way of the Relay House. It is true that it will save fifty or sixty miles by going over a direct road, and the West clamored for it. My friend from Ohio [Mr. SHERMAN] has mentioned this subject repeatedly, and other Senators have spoken of it. They have clamored for a direct communication with the West; and by legislation this winter we have compelled the Baltimore and Ohio road to build that road; and it will not be worth five cents to them, because they have the rolling stock now to do all the business between here and the Point of Rocks. It takes perhaps two or three hours longer to go that way; but they have the capacity to do ten times the business that will be done from here to the West by a double-track road between here and the Point of Rocks now. The fact is that to gratify the people of the West we have imposed on the Baltimore and Ohio road the expenditure of seven or eight million dollars.

I do not appear here as the advocate of the Baltimore and Ohio railroad; but I hear a great deal said against the road that is unjust and unfounded. I have traveled on almost every railroad line in this country, and I take this opportunity to say that I have traveled as cheaply, as comfortably, and as safely on the Baltimore and Ohio road as upon any road that I ever traveled upon in this country. I am sure there is no line of road in this country upon which a passenger can travel cheaper than he does from here to the city of Wheeling. I undertake to say there is none over which he can travel to the city of New York cheaper, and I say further that there is no line of railroad, considering its length, upon which freight can be carried cheaper than on this road. I know that fact. I do object to one thing that the Baltimore road is guilty of, and that is that they will not check baggage from here to any point in the West. They take the same advantage that other roads do, and compel you to recheck your baggage in order to compel you, when going to the West, to travel over their own road.

Mr. SHERMAN. There is no railroad in the United States that does that now, except the Baltimore and Ohio.

Mr. HENDERSON. The Senator says that no other road does it. He may be correct so far as this matter is concerned; but I happened to be, a few days ago—

Mr. STEWART. Let me call the yeas and nays on this proposition.

Mr. HENDERSON. I suppose you will hardly call them while I am speaking. I do not very often occupy the attention of the Senate, and this is a matter of importance. I do not believe the Senator from Nevada ever interrupted a gentleman before. I have scarcely known of his making an interruption, or asking any question, or calling the yeas and nays, heretofore, when a Senator was speaking. The Senator from Ohio says that the Baltimore and

Ohio road is guilty of a wrong that is inflicted by no other company. That may be true.

Mr. SHERMAN. I ought to say that that was merely a casual remark, and the president of the road says he is going to correct it.

Mr. HENDERSON. That remark was legitimate, but calling for the yeas and nays when a Senator is speaking is not legitimate. I am not complaining of the remark of the Senator from Ohio. I desire to say that the railroad companies all over the country are guilty of things just as bad as those complained of in the Baltimore and Ohio company. I was at Niagara some time ago. There is a road from Niagara up to the city of Buffalo. There you strike the Erie road. Now, at Niagara you can take a direct road over the New York Central to New York city; but if you want to take the New York Central up to Buffalo, and there take the Erie, the New York Central has it so arranged that you get into Buffalo five or ten minutes after the train starts out on the Erie road. It does not matter how the Erie road arrange their trains, the New York Central having the line from Niagara falls, only twenty miles up to Buffalo, so arrange the coming in of their trains that you are bound to go on from Buffalo over the New York Central anyhow, or else lay over for ten or twelve hours there. That is as bad as anything complained of in the Baltimore and Ohio road. I know that the railroad companies are guilty of this thing all over the country. They undertake to force passengers and freight over their roads, and any advantage they can take of that sort they do. How far legislation ought to be indulged in in Congress in order to correct this evil I am not able to say. I will go with the Senator from Nevada very far to correct it. I will go to the full extent of the legislative powers of Congress under the Constitution, and I am prepared any day to listen to an argument from him demonstrating that we have the power to do it, and I shall listen to it very favorably, because these evils ought to be corrected. I think, too, that we should correct the evil which is complained of in regard to the Baltimore and Ohio company. If they refuse to give this facility that is asked, it ought to be corrected; it is wrong; but in all other respects I tell the Senator from Nevada and every other Senator that the Baltimore and Ohio road is complained of very unjustly. I have seen no disposition on their part to oppress the people or inflict any great wrong or injury upon them. I know nothing about their management further than the facts to which I have now alluded.

Of course the Senator can defeat this measure, if he desires to do so, by calling the yeas and nays. I tell him now that perhaps this Washington and Alexandria Railroad Company can build this tunnel. I do not want to take away from them the power to do it. I desire them to do it, because they moved first in this matter. The Baltimore and Ohio company do not want to do it. They do not want to make this expenditure, because they are called upon to make an expenditure immediately of seven or eight million dollars for building a road from here to the Point of Rocks, and they have not the money to expend on this tunnel, and do not want to do it. I fear very much that, even if we give this power to the Baltimore and Ohio company, they will not do it.

Now, here is a difficulty to which I desire to call the attention of the Senator. In one of the amendments reported by the committee we give permission to this Washington and Alexandria Railroad Company to run their cars by steam across the streets of this city for twelve months longer. The time within which they were allowed to do it has now expired; they have no further authority to do it; and we propose to extend the time. The Senate, in the former investigation of this matter, said that they would not extend the time unless the work was immediately commenced on this tunnel so as to avoid running over the public grounds, and that if they did not see a dispo-

sition to build it immediately they would withdraw this privilege of running cars over the public grounds. Now, the Senate committee have given them this privilege for twelve months longer in another amendment which has been reported to this bill, and I hope that the Senator, if he desires to call the yeas and nays, will call them upon the bill after we shall have the whole bill before us. We give this privilege for twelve months longer, and then say that unless within twelve months they shall show a disposition to build this tunnel, so that Congress within a year from now may know whether they will build a tunnel or not, we must close up the public grounds and prevent their passing over them. That seems to be the disposition of the Senate. I feel no anxiety about this matter; I feel no interest in it except to see a continuous line between the North and the South; and I do hope my friend, under the circumstances, will withdraw his objections to the bill.

Mr. BUCKALEW. The Senator will remember that a year from this time we shall not be in session, and how can Congress know whether the work of tunneling is going on or not?

Mr. HENDERSON. That may be; but within a very short time after that we shall be in session.

Mr. NYE. I do not like to occupy the time of the Senate upon this question; but still I think I see there is to be a great wrong inflicted upon this little company.

Mr. HENDERSON. If it is in my power to do it I will withdraw the amendment. Mr. Garrett does not want to build this tunnel. I am trying to force it upon him.

Mr. NYE. I should like to ask the Senator how Congress can compel the Baltimore and Ohio Railroad Company to build this tunnel.

Mr. HENDERSON. We cannot do it except in this way.

Mr. NYE. I want to know when and how.

Mr. HENDERSON. We can say to them that they shall no longer have the privilege of running locomotives through the city unless they go to work and begin tunneling over some other line, and that will hold out an inducement to them.

Mr. NYE. The question I want to ask the Senator from Missouri is this: by what legislation, and when was it, that you compelled the Baltimore and Ohio Railroad Company to expend seven or eight million dollars to build this cross-road to the Point of Rocks?

Mr. HENDERSON. The effect of our legislation was to compel them to do so.

Mr. NYE. What authority has Congress to compel any company to expend seven or eight million dollars?

Mr. HENDERSON. I have not got time to state it now.

Mr. NYE. I guess not. Does the Senator mean to say that that road to the Point of Rocks was not commenced before this?

Mr. HENDERSON. It has never been commenced at all.

Mr. NYE. It has been talked of for a number of years by this company.

Mr. HENDERSON. It is not commenced now.

Mr. NYE. All I wish to say is this: every effort that we make to open a channel of communication between here and the city of New York or any other point where this road has its fangs, meets with its stern and stubborn opposition, and they claim, and it has been claimed for them on this floor, that by their vested rights they have a right to control this thing; and I know that they stand like a wall against letting any railroad into this city except what they control. I do not propose by my vote to put the capital of this nation under the control of the capital of the Baltimore and Ohio Railroad Company or any other corporation.

I should like to ask the Senator one more question. Where on the public grounds does this road run now?

Mr. HENDERSON. Right in front of the Capitol.

Mr. NYE. Precisely so; but that is a public street.

Mr. HENDERSON. We have passed a bill to extend the Capitol grounds.

Mr. NYE. But the Capitol grounds are not to be extended this year, and what is the hurry?

Mr. HENDERSON. There is nothing to prevent their being extended this year.

Mr. NYE. The grounds are not to be extended in that direction.

Mr. HENDERSON. That is not a street there. It belongs to the public grounds, and the botanical garden beyond it belongs to the public grounds.

Mr. STEWART. I should like to inquire if this bill provides for an extension of the time within which the road is to run in front of the Capitol.

Mr. HENDERSON. Yes, sir; for twelve months.

Mr. STEWART. Certainly there ought to be a full session of the Senate before we vote on that. It has been discussed in the Senate heretofore and voted down on a fair vote.

Mr. HENDERSON. That bill was postponed simply because we had no provision in it for forcing them to commence the tunneling. The Senate said they would not give them the privilege to run on the public grounds unless they manifested a disposition to go on and make a tunnel and get off the public grounds. That is just what this bill does.

Mr. STEWART. I do not think it safe for cars to run there by steam.

Mr. HENDERSON. Then why not give them this privilege of tunneling?

Mr. STEWART. I do not feel very much inclined to give that company any extra privileges. They do not extend any to anybody else.

Mr. HENDERSON. What company?

Mr. STEWART. The Baltimore and Ohio Railroad Company.

Mr. HENDERSON. I have withdrawn the amendment in regard to the Baltimore and Ohio Railroad Company. What is the Senator talking about?

The PRESIDING OFFICER. Did the Senator report the amendment from the Committee on the District of Columbia?

Mr. HENDERSON. Yes, sir; but I ask the privilege of withdrawing the amendment.

The PRESIDING OFFICER. It can be withdrawn by unanimous consent. The Chair hears no objection, and the amendment is withdrawn.

Mr. STEWART. Is it proposed to extend the time to the Baltimore and Ohio road to run in front of the Capitol until this other bankrupt company can construct the tunnel?

Mr. HENDERSON. Certainly not.

Mr. STEWART. We might as well give them the right perpetually as to do that.

Mr. HENDERSON. It is only the bankrupt company that is now authorized to run there—this poor, bankrupt company that the Senator's colleague has been talking about. The Baltimore and Ohio company now have nothing to do with it.

Mr. MORRILL. My friend, the Senator from Nevada, seems to be laboring under a misapprehension as to what this bill really is. It is applicable to the Alexandria company. The Alexandria company are running their cars now on the streets in front of the Capitol by sufferance. They were obliged, before they were authorized to run their road by steam there, to get the consent of the corporation of Washington, and also the consent of Congress. They got consent from the city of Washington, and early this session the Committee on the District of Columbia reported a bill giving the consent of Congress. That bill was rejected. It was said that it was not safe to grant that privilege, but that if this company would diverge their line and run east of the Capitol, through a tunnel, as they proposed to do, then we might temporarily allow them to run their cars in front of the Capitol until they could accomplish that purpose. This bill is to do that thing, and that is all there is of it.

Mr. STEWART. To run with steam?

Mr. MORRILL. Yes, sir; while they are building the tunnel.



Mr. STEWART. At what rate of speed? Do you regulate that?

Mr. HENDERSON. Yes, sir; that is all regulated.

Mr. STEWART. How?

Mr. HENDERSON. If you will only listen to the amendments, you will find that that is all provided for.

Mr. MORRILL. That is all there is in this bill. The Senator who has charge of the bill, it seems, anticipating that they might not accomplish this work, and that thus it would fail utterly, and there would be no connection across the city if they did not do it, authorized this other company, the Baltimore and Ohio company, to do it. That amendment is withdrawn. The only question, therefore, is whether we will authorize this company to diverge their line east of the Capitol, through a tunnel, and make a connection off here with the Baltimore and Ohio railroad, and in the mean time grant them the authority to run their cars by steam in front of the Capitol, which they have no authority to do now. I understood it to be the sense of the Senate, on a former occasion, that we would authorize them to do that temporarily, until they could make this connection; and we have made this bill, as we understood, in conformity with the former judgment of the Senate. That is all there is of it.

The PRESIDING OFFICER. The next amendment reported by the committee will be read.

The Secretary read the next amendment, which was in section [three] two, lines six and seven, to strike out the words "Sixth street, and also at its intersection with;" so that the section will read:

Sec. 2. *And be it further enacted*, That the provisions of sections three and four of the act to which this is an amendment shall be applicable to the extension of said road or tracks as hereby authorized, and that it shall be lawful for said company to construct a draw or other bridge across the Washington canal at its intersection with D street south, of such plans and dimensions as may be approved by the corporation of Washington, and so as not to interfere with the navigation of said canal. And also to use steam power in the transportation of passengers and freight over said railroad and branches, subject, however, to such restrictions and regulations as may be imposed by the corporate authorities of the city of Washington in respect to such portion thereof as may be located in said city.

The amendment was agreed to.

The next amendment was to insert as section three the following:

Sec. 3. *And be it further enacted*, That the consent of Congress be, and the same is hereby, granted for a period of twelve months from the passage of this act to the Alexandria, Washington, and Georgetown Railroad Company to use steam power in drawing the cars of said company on the structure across the Potomac river erected by said company under the provisions of the act entitled "An act to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes," approved March 3, 1863, and along the railway now laid by said company, or which may be hereafter laid, under the provisions of the said act, along Maryland avenue and First street west, in the city of Washington, to the present depot of the Washington branch of the Baltimore and Ohio railroad, subject always, and in all particulars, to such restrictions and regulations concerning the use of such steam power as the corporation of the city of Washington may, by its ordinances, at any time impose on the railroad company: *Provided*, That the said company shall not propel their engines at a greater rate of speed than five miles per hour within the corporate limits of Washington city.

Mr. NYE. I suggest to the gentlemen having this bill in charge that that time had better be made eighteen months instead of twelve. As suggested by the Senator from Pennsylvania, at the end of twelve months Congress will not be in session. Nobody expects that this tunnel will be completed in twelve months; and it will be but fair to have this privilege expire during the session of Congress, so that they can renew it if they desire to do so.

Mr. HENDERSON. I have no objection to that.

Mr. NYE. I move then to amend the amendment by striking out "twelve" and inserting "eighteen."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to strike out the fourth and fifth sections of the bill, as follows:

Sec. 4. *And be it further enacted*, That the said railroad company shall be required to pay any and all damages that may result to private property from the extension of said road, and the tunneling under the several lots and squares of ground as heretofore provided; and that in the event the owner or owners of such property and the said company cannot agree as to the amount of such damages, or the value of any private property so appropriated for the purposes of such extension of said road, such proceedings shall thereupon be had for the appropriation and assessment of the damages thereof as are authorized and required under the laws now in force in the District of Columbia regulating appropriations and assessment of damages for opening roads, streets, and alleys in said District. That upon the payment to the owner or owners of the amount of such award of damages, or the lawful tender thereof, together with the payment of all costs of such proceedings, the said company shall acquire the right to use and occupy for the purposes of said railroad all such lands so appropriated, in such a manner as may be necessary for the proper working and running said road.

Sec. 5. *And be it further enacted*, That if at any time any other railroad company shall or may desire to use and occupy the said tunnel so authorized by this act, either on the same track or another one alongside thereof, any such company shall have the right to do so upon such fair and reasonable terms as may be agreed upon by said parties to such joint occupancy. In case parties cannot agree on terms, the supreme court of the District of Columbia shall fix the terms.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in, and ordered to be engrossed and the bill to be read a third time. It was read the third time and passed.

#### AQUEDUCT BRIDGE AT GEORGETOWN.

Mr. HENDERSON. I move that the Senate proceed to the consideration of Senate bill No. 395, the only remaining bill that we have.

Mr. DAVIS. I move that the Senate adjourn.

Mr. HENDERSON. I hope not. This is the only bill remaining. Let us take it up at any rate and dispose of it in some way.

The PRESIDING OFFICER. Does the Senator from Kentucky withdraw his motion?

Mr. DAVIS. Yes, sir, for the present.

The PRESIDING OFFICER. Then the question is on the motion of the Senator from Missouri.

The motion was agreed to; and the bill (S. No. 395) relating to the aqueduct bridge of the Alexandria Canal Company over the Potomac river at Georgetown, in the District of Columbia, was read a second time.

The Secretary commenced the reading of the bill.

Mr. DAVIS. The bill has been taken up; it is a bill of some length; and I will now move that the Senate adjourn.

Several SENATORS. Let the bill be read through.

Mr. DAVIS. It might as well not be read; the majority of the members will know no more about it than if it was not read. I insist on my motion.

The motion was agreed to; and thereupon (at fifteen minutes past ten o'clock) the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, July 20, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. BANKS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### NATIONAL CEMETERIES.

Mr. DEMING, by unanimous consent, from the Committee on Military Affairs, reported a bill to establish and to protect national cemeteries; which was read a first and second time, ordered to be printed, and recommitted.

#### SOLDIERS' AND SAILORS' NATIONAL FAIR.

Mr. BANKS, by unanimous consent, introduced a joint resolution relating to the building lately occupied for a national fair in aid of the orphans of the soldiers and sailors of the United States; which was read a first and second time.

It provides that the building recently occupied for the national fair, with the materials of which it is composed, and the tools used in its construction and necessary to keep it in repair, shall be appropriated to the use of the directors of the National Soldiers' and Sailors' Orphan Home for an additional fair in aid of said orphans, and for other purposes deemed by the directors to be expedient in furtherance of this national charity.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

#### PACIFIC RAILROAD BONDS.

Mr. PRICE, from the Committee on the Pacific Railroad, by unanimous consent, reported back House bill No. 772, to authorize the issue of certain bonds in denominations greater than \$1,000, with a recommendation that it do pass.

The bill was read. It provides that hereafter bonds of the United States, authorized by the act of July 1, 1862, to aid in the construction of railroad and telegraph lines from the Missouri river to the Pacific ocean, and by the acts amendatory thereof, may be issued in denominations greater than \$1,000 at the discretion of the Secretary of the Treasury; provided, however, that it shall at all times be optional with any railroad company whether they will receive bonds of a larger denomination than \$1,000.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TAPPING GOVERNMENT WATER-PIPES.

Mr. F. THOMAS, from the Committee on the Judiciary, by unanimous consent, reported back House bill No. 775, in relation to the unlawful tapping of Government water-pipes.

The bill was read. It declares the unlawful tapping of any water-pipes laid down in the District of Columbia by authority of the United States to be a misdemeanor and an indictable offense, and upon conviction of such an offense in the criminal court of the District of Columbia imposes a penalty not exceeding \$500 or imprisonment not exceeding one year. And it is made the special duty of the Commissioner of Public Buildings to bring to the notice of the attorney of the United States for the District of Columbia or to the grand jury any infraction of that law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. F. THOMAS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### EQUALIZATION OF PAY OF HOUSE EMPLOYÉS.

Mr. ROLLINS, from the Committee of Accounts, by unanimous consent, introduced a bill to equalize the pay of the officers and employés of the House of Representatives, to prohibit an allowance of extra compensation, and for other purposes; which was read a first and second time, ordered to be printed, together with the accompanying tables, and recommitted.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 3) to revive the grade of General in the United States Army; when the Speaker signed the same.

#### ADMISSION OF TENNESSEE.

Mr. BINGHAM. I demand the regular order.

The House accordingly resumed the consideration of the regular order, being the unfinished business of yesterday, which was House

joint resolution No. 83, concerning the State of Tennessee, on which Mr. BINGHAM was entitled to the floor.

The pending question was on the substitute offered by Mr. BINGHAM, on which he had demanded the previous question.

Mr. BINGHAM. I withdraw the demand for the previous question in order to modify verbally the substitute.

The substitute, as modified, was read as follows:

Joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress.

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown, to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Tennessee is hereby restored to her former proper, practical relation to the Union, and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

Mr. BINGHAM. I renew the demand for the previous question.

Mr. BOUTWELL. Will the gentleman yield to allow an amendment to be offered?

Mr. BINGHAM. I will allow it to be read, reserving my right to the floor.

The Clerk read the amendment of Mr. BOUTWELL, as follows:

That whenever Tennessee shall have ratified the amendment to the Constitution proposed to the Legislatures of the several States by the Thirty-Ninth Congress, and shall have established an equal and just system of suffrage for all male citizens within its jurisdiction who are not less than twenty-one years of age, the Senators and Representatives of such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such: *Provided*, That nothing in this section contained shall be construed as to require the disfranchisement of any loyal person who is now entitled to vote.

Mr. BINGHAM. I cannot yield to allow that to be offered.

Mr. GARFIELD. Let us have a vote upon it, and express our sentiments upon it.

Mr. BINGHAM. No, sir.

Mr. WARD. I ask the gentleman to allow me to offer a substitute.

Mr. BINGHAM. I will allow it to be read, but not to be offered at present.

The Clerk read Mr. WARD's amendment, as follows:

Whereas the State of Tennessee has in good faith ratified the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has shown otherwise to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to due allegiance to the Government, laws, and authority of the United States: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States do hereby recognize the government of the State of Tennessee, inaugurated under and by the convention which assembled on the 9th day of January, 1865, at the city of Nashville, as the legitimate government of said State, entitled to the guarantee and all other rights of a State government under the Constitution of the United States.

*Be it resolved, &c.* That the State of Tennessee is hereby declared to be restored to her former proper, practical relations to the Union, and again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

Mr. BINGHAM. I cannot yield for that.

Mr. LE BLOND. I ask my colleague to yield to me to allow me to offer an amendment.

Mr. BINGHAM. I will allow it to be read, retaining the floor.

The Clerk read Mr. LE BLOND's amendment, as follows:

Strike out all after the enacting words and insert as follows:

That the State of Tennessee is entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon taking the oath of office.

Mr. BINGHAM. I cannot yield for that purpose. I insist on the demand for the previous question.

The question was put upon seconding the demand for the previous question, and there were—ayes 69, noes 7; no quorum voting.

Tellers were ordered; and Messrs. BINGHAM and LE BLOND were appointed.

The House divided; and the tellers reported—ayes ninety-four, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. ELDRIDGE. I now demand a separate vote on the preamble and resolution.

The SPEAKER. That will be in order after the vote on the substitute. The question will be first on the preamble and then on the joint resolution.

The substitute was agreed to.

The question recurred upon ordering the joint resolution, as amended, to be engrossed and read a third time.

Mr. SHELLABARGER. I desire to make a suggestion to my colleague [Mr. BINGHAM] in regard to a verbal amendment of his resolution. My recollection of the Constitution is that it provides for the ratification by the Legislatures of three fourths of the States. I suggest to my colleague that he substitute for the words "State of Tennessee" the words "Legislature of the State of Tennessee."

Mr. BINGHAM. Oh, that is not necessary at all.

Mr. RANDALL, of Pennsylvania. I object to any modification.

The joint resolution was ordered to be engrossed and read a third time.

The question recurred upon ordering the preamble to be engrossed and read a third time.

Mr. BROMWELL. I desire to make a suggestion to the gentleman from Ohio.

The SPEAKER. No debate is in order.

Mr. RAYMOND. I rise to make an inquiry of the Chair: I understand the Chair to decide that the resolution offered by the gentleman from Ohio [Mr. BINGHAM] as a substitute for the original resolution has been ordered to be engrossed and read a third time.

The SPEAKER. It has.

Mr. RAYMOND. But it has not yet been read the third time?

The SPEAKER. It has not.

Mr. RAYMOND. And the question is now upon ordering the preamble to be engrossed and read a third time?

The SPEAKER. It is.

Mr. RAYMOND. After the preamble shall have been ordered to be engrossed and read a third time, can we then have separate votes on the resolution and preamble?

The SPEAKER. The Chair will read from page 137 of the Digest:

"In the case of a resolution with a preamble there is no difficulty as to the time at which the preamble is to be considered, nor in any case in Committee of the Whole; but in the House, in the case of a bill with a preamble, there is some uncertainty as to the particular stage in which the bill must be when it is proper to consider the preamble. It would seem that it might appropriately be done after the bill has been ordered to be engrossed and read a third time, and before the third reading takes place. By this course the bill can be engrossed either with or without the preamble, as the House shall have determined. But where a separate vote on the preamble is not asked for before the bill is read a third time, the preamble is considered as adopted."

The resolution has been ordered to be engrossed, and the question now recurs whether the preamble shall be engrossed. If the House vote against engrossing the preamble, then the resolution itself only will be read the third time. The only way in which a separate vote can be had upon the preamble is by calling for it now.

Mr. RAYMOND. If the preamble shall be ordered to be engrossed, will there be any way afterwards of obtaining separate votes upon the preamble and resolution?

The SPEAKER. There will not.

Mr. RAYMOND. Then, for the purpose of obtaining those separate votes, I move to reconsider the vote by which the resolution was ordered to be engrossed.

Mr. BINGHAM. I object to that.

The SPEAKER. The gentleman from New York [Mr. RAYMOND] can arrive at what he desires by calling for a separate vote on ordering the preamble to be engrossed.

Mr. RAYMOND. But we do not have the yeas and nays on the resolution.

Mr. BINGHAM. We can have them on the passage.

Mr. RAYMOND. I understand the Chair to decide that the resolution and the preamble must be voted on together.

The SPEAKER. If the preamble shall be ordered to be engrossed, it will be read and voted upon with the resolution.

Mr. RAYMOND. Then, for the purpose of having separate votes upon the preamble and the resolution, I ask the House to reconsider the vote by which the resolution was ordered to be engrossed and read a third time.

Mr. ELDRIDGE. I rise to a point of order, I called for separate votes upon the preamble and resolution, and understood the Chair to state that that right was reserved to me.

The SPEAKER. That is true.

Mr. ELDRIDGE. I understand the Chair now to decide that if the preamble is ordered to be engrossed and read a third time then we cannot have separate votes upon them.

The SPEAKER. Separate votes cannot be had after the order for engrossment, but they can be had now. After the resolution has been ordered to be engrossed, if any member desires a separate vote upon the preamble it can be had before the third reading of the resolution upon ordering the preamble to be engrossed.

The question recurred upon the motion of Mr. RAYMOND to reconsider the vote by which the joint resolution was ordered to be engrossed and read a third time.

Mr. GARFIELD. I move to lay the motion to reconsider upon the table.

Mr. HOTCHKISS. I would inquire, if we vote against ordering the preamble to be engrossed, will not that secure what my colleague [Mr. RAYMOND] wants, a separate vote?

Mr. BINGHAM. Certainly it will.

Mr. HOTCHKISS. Why is not that all he wants?

Mr. BINGHAM. That is all we need.

Mr. RAYMOND. I withdraw the motion to reconsider the vote upon ordering the resolution to be engrossed, and ask for a separate vote upon ordering the preamble to be engrossed.

Mr. BINGHAM. I call for the previous question upon ordering the preamble to be engrossed.

Mr. DAWSON. I rise to a question of order. When the Chair stated that the question was upon ordering the resolution to be engrossed and read a third time, I demanded the yeas and nays, and the Chair recognized my demand.

The SPEAKER. The gentleman called for the yeas and nays upon ordering the preamble to be engrossed, but afterward withdrew that call.

Mr. DAWSON. The Chair, I beg to state, is in error. My call for the yeas and nays was upon ordering the resolution to be engrossed.

The SPEAKER. The gentleman withdrew his call for the yeas and nays, and it was too late to renew it after several members had put inquiries to the Chair, as will be seen by reference to the Globe to-morrow.

Mr. JENCKES. I renew the motion to reconsider the vote by which the House ordered the resolution to be engrossed and read a third time.

Mr. SPALDING. I move to lay that motion on the table.

Mr. ELDRIDGE. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 29, not voting 49; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Bidwell, Bingham, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Davis, Dawes, Eggleston, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Gloss, Groener, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James E. Hubbell, Hulburd, Humphrey, Ingersoll, Julian, Kasson, Kerr, Ketchum,

Koontz, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Lynch, McClurg, McKuer, Meurer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Nicholson, Neill, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Sitgreaves, Spalding, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

**YAYS**—Messrs. Alley, Allison, Ancona, Benjamin, Boutwell, Boyer, Conkling, Dawson, Eldridge, Eliot, Finck, Aaron Harding, Hogan, Jencks, Johnson, Kelley, Le Blond, McCullough, Niblack, Phelps, Ritter, Rogers, Ross, Rousseau, Shanklin, Stevens, Thornton, Trimble, and Williams—29.

**NOT VOTING**—Messrs. Baldwin, Barker, Beaman, Bergen, Blaine, Blow, Brandegee, Bundy, Chanler, Cook, Culom, Culver, Darling, Denison, Dixon, Dodge, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Hale, Harris, Hayes, Henderson, Higby, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Loan, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Patterson, Pomeroy, Raymond, Sawyer, Sloan, Smith, Starr, Stilwell, Upson, Elihu B. Washburne, Winfield, and Wright—49.

So the motion to reconsider was laid on the table.

The question then recurred on ordering the preamble to be engrossed and read a third time, on which Mr. BINGHAM had called for the previous question.

Mr. LE BLOND. Mr. Speaker, I rise to a question of order. A portion of us here desire to vote for the resolution, while we—

Several MEMBERS. That is no question of order.

Mr. LE BLOND. We do not fully concur with the implication contained in the preamble; yet, by the ruling of the Speaker—

Mr. THAYER, Mr. PRICE, and others. We object to debate.

The SPEAKER. The remarks of the gentleman from Ohio do not, in the opinion of the Chair, present any point of order.

Mr. LE BLOND. I was about to present my point of order. According to the ruling of the Chair, as we understand it, if the preamble is ordered to be engrossed, we cannot have a separate vote upon the preamble and the resolution. This being the fact, some of us will be compelled to vote against the whole thing, in consequence of our objection to the preamble.

The SPEAKER. There is no precedent known to any gentleman here which sanctions the idea that, after a bill has been engrossed and the question recurs upon its passage, a part of the bill can be passed and a part rejected. According to uniform parliamentary usage that is impossible.

The previous question was seconded and the main question ordered, which was upon ordering the preamble to be engrossed and read a third time.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided it the affirmative—yeas 87, nays 48, not voting 47; as follows:

**YEAS**—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Bidwell, Bingham, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Dawes, DeForest, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Ketcham, Koontz, Ladin, George V. Lawrence, William Lawrence, Lynch, McKuer, Meurer, Miller, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Thayer, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—87.

**NAYS**—Messrs. Alley, Ancona, Benjamin, Boutwell, Boyer, Conkling, Dawson, Eldridge, Eliot, Finck, Glossbrenner, Aaron Harding, Hogan, Humphrey, Jencks, Johnson, Julian, Kasson, Kelley, Kerr, Kuykendall, Latham, Le Blond, McClurg, McCullough, Moorhead, Niblack, Nicholson, Neill, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stevens, Strouse, Taber, Taylor, Francis Thomas, Thornton, Trimble, Williams, and Wright—48.

**NOT VOTING**—Messrs. Baldwin, Barker, Beaman, Bergen, Blaine, Blow, Brandegee, Chanler, Cook, Culom, Culver, Darling, Davis, Denison, Dixon, Dodge, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Higby, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Loan, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Patterson, Pomeroy, Sloan, Smith, Starr, Stilwell, Upson, Elihu B. Washburne, and Winfield—47.

So the preamble was ordered to be engrossed and read a third time.

During the vote,

Mr. RADFORD stated that his colleague, Mr. WINFIELD, was detained at home by illness.

Mr. JOHNSON stated that his colleague, Mr. DENISON, was detained at home by serious illness.

The vote was then announced as above recorded.

Mr. MOULTON moved to reconsider the vote by which the preamble and joint resolution were ordered to be engrossed and read a third time; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HARDING, of Kentucky, demanded the reading of the preamble and joint resolution as engrossed.

The Clerk read the preamble and resolution as engrossed.

Mr. BINGHAM demanded the previous question on the passage of the preamble and joint resolution.

The previous question was seconded and the main question ordered.

Mr. J. L. THOMAS demanded the yeas and nays on the passage of the preamble and resolution.

The yeas and nays were ordered.

Mr. ELDRIDGE. I demand a separate vote on the preamble and joint resolution in conformity to the uniform usage in this House.

The SPEAKER. If the gentleman will show a single ruling during this or any previous Congress the Chair will entertain his demand for a separate vote. There has not been a single one during the eleven years of service of the Chair in this House.

Mr. BINGHAM. I rise under the rule to close the debate on the resolution; but first I will yield thirty minutes of my hour to my colleague on the committee on reconstruction, the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. I am not ignorant, Mr. Speaker, of the fact that the votes of the House already taken foreshadow conclusively its purpose to pass the pending joint resolution for the admission of Tennessee. I can see many reasons which operate on the minds of others as they do upon my own mind tending to such a course; but after the most careful reflection during months and years I am still as deeply convinced as ever of the dangerous nature of this proceeding. While I am conscious that my voice falls upon unwilling ears; that it is the fixed purpose of the House in the presence of a great political struggle to adopt this measure, and though I am the humblest of the members of this body, with less right than any other man to address the country, and with no hope whatever that my words will reach posterity, I yet avail myself of the kindness of the gentleman who has charge of this resolution and raise my voice here and now and for the last time against the consummation of this scheme.

This morning I offered an amendment, on which, however, the gentleman from Ohio [Mr. BINGHAM] declined to allow the House to vote, which embodies my opinions concerning the admission of Tennessee. If gentlemen observed the language of that amendment they are aware that I have in some degree departed from my own settled convictions as to the right of all men to the enjoyment of the elective franchise in deference to what I understand to be the judgment of the majority of this House, and possibly at this time to what is the judgment of the loyal people of the country. The resolution that I proposed provided for impartial suffrage in that State by the act of its own people as a condition precedent to its admission

to the exercise of power in the government. It secured justice to the colored people of Tennessee first, and then to the colored people of the revolted and still rebellious section of this country.

I am not troubled by the informalities apparent in the proceedings of the Tennessee Legislature upon the question of ratifying the constitutional amendment. It received the votes of a majority of the members of a full House, and when the proper officers shall have made the customary certificate and filed it in the Department of State, it is not easy to see how any legal objection can be raised, even if two thirds of the members were not present, although that proportion is a quorum according to the constitution of the State.

My objections are not technical, but vital and fundamental. First, the government which they submit here, and which by your preamble and by your vote you declare under the Constitution to be a republican form of government, is not, as it appears to me, such in fact. I have not time now in these thirty minutes to trace the history of the opinions entertained by the founders of the Republic as to what constitutes a republican form of government. But if they identified themselves with any opinion or idea upon this subject, it was this: that whenever powers were conferred by hereditary rules upon a class of men, or whenever by hereditary rules a class of men were excluded from all participation in the government, that government was necessarily anti-republican in form as well as in fact. I do not assert that it is necessary that every man should vote, and that a government in which terms and conditions are imposed is necessarily anti-republican; but the terms and conditions must be reasonable; they must be such as to render it not only possible but probable that the great majority will be able to meet the requirements of the law.

What is this House to-day, in the name of the people of this country and under the Constitution, declaring? That a State constitution by which more than eighty thousand male citizens are forever, for themselves and for their posterity, deprived of all part in the government of that State is republican in form. Sir, that government is an aristocracy; it is an oligarchy; it is not republican; it is not democratic. Wherever a man and his posterity are forever disfranchised from all participation in the government, that government is not republican in form.

Next, are we to question the existence of the power on our part to accomplish that which I now suggest ought to be accomplished—the enfranchisement of the freedmen of Tennessee, as the beginning of the great work of reconstruction upon a republican basis? We have positive power with reference to the States that have been in rebellion, which we have exercised by the passage of the act establishing and continuing the Freedmen's Bureau and by the passage of the civil rights bill.

I do not now discuss the question whether we have the power directly to enfranchise the negroes of Tennessee and of the other States recently in rebellion. I have an opinion upon the question, but I offer no argument in its support at the present time. I believe that that power exists in Congress; but now I appeal to the negative power of the Government that we may reject Tennessee, North Carolina, Arkansas, until they perform this act of justice, for the country, for the negroes, for themselves. In thus requiring an additional act of justice on their part as a condition precedent to their return to the enjoyment of their former power in the country, we have the authority of President Lincoln, of President Johnson, and of numerous acts of this Congress and of the last Congress. We have exacted conditions precedent to the admission of those States to representative power in the Government of the country. Through Presidents Lincoln and Johnson the country insisted upon the ratification of the amendment abolishing slavery, the repudiation of the rebel debt, and now we demand,



even in the case of Tennessee, the ratification of the pending amendment to the Constitution equalizing representation and all as conditions precedent to the exercise of power in the Government. With equal, if not with more justice, we may demand an impartial system of suffrage.

Nor can it be maintained with propriety that this exaction shall not be made because there are States, exercising their full functions as such, in which the negroes are excluded from the ballot-box? The injustice in those States is not of such magnitude as to endanger the peace and safety of the country; while in the case of the rebellious States there seems only the alternative of equal suffrage through the demands of the Government on the one hand and civil or social war on the other. Hence, while we may condemn the exclusion of negroes from the ballot-box in States now represented in Congress, there may be no public necessity for an attempt to remedy the wrong by the action of the General Government. Moreover, in the case of the loyal States the General Government cannot apply a remedy except by affirmative, positive action, for which the country is not prepared, and for which there is no controlling public necessity. In the case of the States lately in rebellion we are not under the necessity of taking affirmative legislative action. The proceeding on our part is simply and wholly within the domain of the precedents cited and the authority of the Constitution. The abolition of slavery by the Constitution has given a new meaning to the phrase "republican government;" for it is now settled that a State in which slavery exists is not republican in form according to our Constitution, though previous to the ratification of the amendment the fact may have been otherwise. While slavery existed it was generally true, however, that all free citizens were voters. To this rule there were some exceptions, but they were few and relatively unimportant.

I proceed now to consider the expediency of this measure. There are in Tennessee not less than two hundred thousand able-bodied adult male citizens, and you are consenting that the political power of that State shall be put into the hands of less than sixty thousand. By the constitution of Tennessee more than half the white male citizens of that State are disfranchised. Of this I do not complain; but in addition thereto eighty thousand male colored citizens of the State are also disfranchised, making an aggregate of one hundred and forty thousand men who are excluded from participation in the government. The sixty thousand loyal white men come here and ask to be accepted as a State, and you are solemnly resolving, in the presence of the country and with the light of history and the traditions of the Republic, that the government is republican in form.

What do you invite and invoke in the future? Do you suppose that these sixty thousand rebels are to rest quiet under their exclusion from political power in the government of that State for any considerable number of years? Such an expectation, if entertained, will not be realized. On the other hand, this action invites and renders necessary a combination between the eighty thousand colored men and the sixty thousand rebels. The rebels, forgetting their past prejudices, and the loyal blacks, forgetting the disloyalty of the sixty thousand rebels, will join hands and overturn the government of the State. And what you are doing to-day for Tennessee you are to be invited hereafter to do for the other ten States of the South. There is only an alternative. It is in this: that the four million colored people shall escape from the tyranny which you authorize the southern oligarchs to exercise over them. And I bid the people, the working people of the North, the men who are struggling for subsistence, to beware of the day when the southern freedmen shall swarm over the borders in quest of those rights which should be secured to them in their native States. A just policy on our part leaves the black man in the South where he will soon become prosperous and happy. An unjust policy forces

him from home and into those States where his rights will be protected, to the injury of the black man and the white man both of the North and the South. Justice and expediency are united in indissoluble bonds, and the men of the North cannot be unjust to the former slaves without themselves suffering the bitter penalty of transgression.

I ask of this House what the answer is to be when the other ten States demand recognition and the admission of members. Do you say they shall not be admitted on the terms you now offer to Tennessee? What other terms will you exact of Arkansas, North Carolina, and South Carolina? You can exact none in addition to what you are now exacting, unless you demand for them what I now demand for the people of Tennessee—impartial suffrage for all loyal adult male citizens. And if you then hesitate to meet the question from which you now shrink—the right of the negro to vote—you will have no excuse for denying full political rights to the other ten States. Arkansas has complied with the conditions named in the preamble to the resolution, and you have no excuse for refusing to admit Arkansas except the excuse I now offer for refusing to admit Tennessee. You will have again upon you that question which you so much dread, but which cannot be postponed and which must be met, whether the colored men of the South, once in slavery but now free, are to be endowed with the rights of citizens of this country. But if you say, as you will say, unless the people rise in their majesty and demand justice for their suffering fellow-men, that these States may be admitted, as Tennessee is to-day to be admitted, then to what extremity of woe have you reduced the country! You have four million discontented loyal persons made discontented by your action. You have in the States of the South more than five million discontented rebellious white people. You compel these classes, naturally enemies, to unite under the force of circumstances which now you may control for the good of the country; and if, as we believe, the white race is the dominant race, at least for the time being, in intellect and intelligence, you thus give to the rebel class of the South the moral, physical, and political power which can be derived from the influence they will exercise over the four million blacks. Does any one believe that the blacks are to be exterminated? The old fable of Antæus is founded in the nature of man. They who labor on the soil never yet have been and probably they never can be exterminated. And consider further that the blacks are organized into churches; they are establishing everywhere schools; they are becoming the possessors of land; they have military knowledge. Do you expect that such a people, though yet in their infancy, are to be exterminated? They will continue to exist; they will thrive even under oppression; but the day may come, and I fear it may come soon if this policy be pursued, when they will assert by force and by dangerous combinations the natural rights with which they have been by God endowed.

And what do you offer to the loyal whites of the South? You offer them only submission, degradation, or expatriation. Do you suppose that when you have established in the other southern States governments like that of Tennessee, in which the disloyal whites are excluded and the loyal blacks are also excluded, the loyal whites can withstand for a moment the surging waves of public sentiment which will rise, and foam, and rage, however unjust and foul their origin? If, on the other hand, the negroes are permitted to vote, even in small numbers only in the beginning, they naturally become the allies and friends of the loyal whites of the South; and especially will they be our friends in any future controversy involving the integrity of the Union. No country can afford to disregard the rights or the power of an eighth of its population; and above all, it is dangerous for this Government to authorize or tolerate an unjust policy toward so large a proportion of its citizens.

There are in this country two great political public wrongs, one of which you have taken the proper means to remedy by an amendment to the Constitution, securing to a white man in the North equal political power with a white man in the South. We are agreed upon that. When a white man's rights are concerned, there is no difference of opinion upon this side of the House as to the necessity of protecting him. But there is another great wrong, for which you make no provision, offer no remedy, present no excuse, and that is the denial of the elective franchise to the black men of the South.

I must say for the gentlemen upon the other side of the House that they are consistent in this matter. They have never asserted the citizenship of the black man; they have denied it; they have never invited him into the Army nor called upon him to fight the battles of the Republic. They have, as far as they had the power, refused his services; and however wrong they may have been, they have been consistent in their course. But upon this side of the House it is otherwise. We have recently passed an amendment to the Constitution, to be submitted to the States, declaring that negroes are, under the Constitution, hereafter to be citizens, and now, when we have the power to secure for them the rights of citizens, we are silent. We have invited them into the armies of the Republic and now we abandon them to those who have been for years their enemies and oppressors. How are we to reconcile to ourselves, to our country, and to posterity this great inconsistency on our part?

I am as much attached to party as any man can be, but the jewel of the Republican party is its consistency based upon justice, and now we abandon justice and accept inconsistency as our policy. Is not the history of this country full of warning? I will not mention names, but from 1850 to the close of the rebellion the pathway of ambition for parties and for men has been strewn right and left with the fragments of parties and the remains of politicians that have proved false to justice, to humanity, and to republican principles. Do you inquire whether these States are to be forever excluded? By no means. We have assurances from North Carolina, Tennessee, Arkansas, and Texas that if this Congress will but demand impartial suffrage the people of those States who are loyal to the Union will enter the contest, second the demand for impartial suffrage, contend for it, and ultimately, as they believe, they will secure it. I speak under the impression, the firm conviction, that we to-day here surrender up the cause of justice, the cause of the country, in the vain hope that the admission of Tennessee may work somewhat for the advantage of the party which has controlled the country during these last six years. We surrender the rights of four million people; we surrender the cause of justice; we imperil the peace and endanger the prosperity of the country; we degrade ourselves as a great party which has controlled the Government in the most trying times in the history of the world. Fortunately will it be for us, for those whom we represent, and for the future of the country if these apprehensions shall not be realized; and, humble though I be, but in the full conviction that they are not groundless, I enter my earnest protest against this proceeding. Believing it to be wrong, I declare my convictions in the presence of those who have power to prevent the wrong; and I make the declaration with a sense of responsibility such as has never before rested upon me in any experience of my life.

Mr. Speaker, if my time is not consumed, I will, with the consent of the gentleman from Ohio, [Mr. BINGHAM,] yield the remainder of it to the gentleman from California, [Mr. HIGBY.]

Mr. BINGHAM. I have no objection to that. Mr. HIGBY. Mr. Speaker, I would have preferred to have had the gentleman from Massachusetts [Mr. BOWEN] occupy the remainder of his time, for I have been highly interested in what he has said, for I think he has spoken words which will be treasured in the future.

I will state briefly the reasons why I shall vote against this proposition. I have two prominent reasons against it. I would have yielded somewhat of one of them, provided I had seen a single shadow of hope coming from the State of Tennessee itself. I find on the examination of the constitution of Tennessee that the voting power is confined exclusively to the white population. If Tennessee would have even yielded to allow the colored men who had been soldiers to vote; or if they had even initiated a policy which might have grown to fullness hereafter, I might have consented to the proposition. Since the proposition that is now before the House assumes to dictate terms to the State of Tennessee, and of right assumes it, we also have the power to insist that that State shall recognize the great principle of which I have spoken.

My second objection to this proposition is that the amendment of the Constitution submitted by Congress to the Legislatures of the several States, although ratified by the Legislature of the State of Tennessee, has not become a portion of the Constitution of the United States. And since it has not become a part of the Constitution, then the restrictions that are contained within it have no application upon that State whatever. And Tennessee, if admitted at this session of Congress, will be admitted with the same number of Representatives that the State had when the rebellion commenced. We will thus find the representation of the several States very unequal, and it seems to me that the people of the free North will express not only dissatisfaction but indignation at such a proposition. I think there certainly should have been a restriction here to the effect that before the proposed amendment becomes a part of the Constitution of the United States Tennessee shall not be entitled to any more representation than she would be were the amendment in full operation and effect. I have briefly stated the two principal objections with me to the adoption of this resolution, and will not occupy more time of the House.

Mr. BINGHAM. Mr. Speaker, it is a matter of regret to me that any gentleman hitherto supposed to intend well for his country, hitherto supposed to stand with those who have maintained intact the Constitution, the Union, and the laws against the rebellion, the like of which the children of men had never before seen, should on the morning of this day, which is the dawn of that better day that will restore in all its unity and strength the Republic, shattered but not destroyed by the rebellion, should stand here in his place and repudiate the right of the law-abiding majority of the people to govern, the very principle out of which the Constitution itself and the Union originally sprang, and by the enforcement of which the Constitution and the Union have been maintained through these five years of war, and ask us in this hour of our triumph to surrender this sacred and essential right of the loyal majority, and say that the destiny of the Republic at last is to be in the hands of the minority or of a disloyal and treasonable majority. I repeat it, the gentleman asks us to deny the right of the loyal majority, either in the Republic or in the State, to rule. It ought to be a sufficient answer to such a demand to say traitors and rebels by their crime forfeited all political rights, and those who saved the Republic have the right to perpetuate it.

The gentleman from Massachusetts has urged that Tennessee is without a republican government. Why? First, because the people, the loyal people of Tennessee, the men who stood by the Constitution and the Union in the darkest hours of this revolt, have, by the amendment of their fundamental and statute law, declared that rebels should not exercise voice or power in the State. They have so declared, and further, they have declared by their amended constitution that the ordinance of secession, passed May 6, 1861, "was an act of treason and usurpation, unconstitutional, null, and void;" that

the league of the rebel confederation with Tennessee was also "an act of treason and usurpation; that slavery is forever abolished and prohibited throughout the State;" and what is still more significant, that "the Legislature shall make no law recognizing the right of property in man," and may determine the qualification of voters, without regard to race or color. Because of all this the gentleman declares that the government of Tennessee is not a republican government!

Mr. Speaker, I thought it was understood, I thought it was agreed upon by the defenders of the Republic, from the day that treason first fired on Sumter till this hour, that traitors forfeited their political rights, privileges, and powers under the governments, both State and national. I remember well, and I remember with pride, the hour when, in the midst of this great conflict, your legions were being mustered upon a hundred fields for the trial by battle, on which hung the nation's life, there was not a man of any party upon this floor who, upon being challenged, was willing to admit that the people in any State engaged in that mad revolt, and holding for the time by force of arms the power of the State, had the right to a single Representative here or to a single Senator in the other branch of the national Legislature. But now that rebellion has been conquered, and conquered by the aid of loyal men in Tennessee as well as elsewhere, the gentleman from Massachusetts stands here to-day to denounce loyal Tennessee—for what? For having disfranchised men who struck at the nation's life, for having disfranchised men who by their great crime disfranchised themselves. He might as well denounce the loyal men of Tennessee for not having given aid by arms to the traitors and their treason.

Mr. BOUTWELL. I do not wish to be misunderstood. The ground of my objection was the disfranchisement of the colored people. I made no complaint in regard to the disfranchisement of the rebels.

Mr. BINGHAM. The gentleman spoke of the government of that State representing a minority. He spoke of the disfranchised white male citizens as being more than half of the white male citizens of the State, and denominated them the sixty thousand disfranchised rebels. Now, the gentleman declares the ground of his objection to be the disfranchised colored people, and that he does not complain of the disfranchisement of rebels. If he does not complain of the disfranchisement of rebels, if that is not the ground of his objection, then I submit there is no ground for the gentleman's denial that the government of Tennessee is republican in form, or for his assertion that it is an oligarchy. It is the government, sir, of a majority, and a large majority, of all its loyal people. It represents certainly one half, if not more than one half, the original white population of the State. Sixty-three thousand men, under the restrictions of the new constitution and laws, supported by their votes at the polls this organization in the State of Tennessee. When we consider the ravages that war has made, these sixty-three thousand loyal voters in Tennessee must represent four hundred and forty thousand of its white population.

What, then, is the gentleman's argument, now that he abandons the right of the rebels to vote? It is this, and only this, that the loyal white people of the State of Tennessee have not yet extended the elective franchise to the black population. Sir, there is no man on this floor who would have rejoiced more sincerely than myself if these loyal men in Tennessee had done that act of justice. The man who had the honor to report first in this House, when it was in the hands of the southern conspirators, a bill to repeal an existing slave code and the honor to see his bill passed through the House despite the reproaches and the curses of men who but a few years afterward took up arms against the Republic, might well be supposed to rejoice at such an act of justice. But, sir, remember that these sixty-three thousand white loyal voters in Tennessee

see represent four hundred and forty thousand of the white population of the State. They are, therefore, almost as two to one of the black population. Yet the gentleman says because this white population, largely in the majority, have not extended the elective franchise to the black minority they have not organized a republican State. The gentleman asserts that it is our duty to reject this State for this cause alone! Why, then, does not the gentleman move the expulsion of Missouri from representation in this House? That State has a like black population disfranchised; a like white rebel population disfranchised; therefore that State is to-day in the hands of a white minority, and a very small minority if you count the disfranchised rebel population together with the disfranchised colored population. I cannot speak with certainty, but it is my impression that the disfranchised white population of Missouri is equal in numbers to its loyal white population. Why not cry out against this injustice in Missouri? Why not declare that the government of that State is not republican, but an odious oligarchy, and that her loyal freemen are not entitled to representation in Congress?

But, sir, this is not all. The gentleman from California [Mr. HIGBY] has made a mistake, and I ask him to correct it. He says that he looks into the constitution of the State of Tennessee, and finds that the word "white" is retained. Sir, to the dishonor of my own State, to the dishonor of his State, to the dishonor of a majority of the States north of Mason and Dixon's line, in the midst of this struggle and trial for the nation's life, these loyal men of Tennessee swept away that limitation in the text of her constitution, and by an amendment, sustained in the very storm of battle by the votes of more than forty thousand of her loyal men, declared that the Legislature of Tennessee may any day enfranchise with the ballot every loyal black man in her midst. The word "white" is not, therefore, retained in the constitution of Tennessee as a limitation upon the rights of colored citizens. It cannot therefore be said of loyal Tennessee, as it may be of many States represented here, that a citizen who has battled for the Republic through four years of war, who is covered with wounds received in its defense, is declared by the constitution forever disqualified to vote. When he shall vote rests with the people of that State. There I leave it.

Mr. HIGBY rose.

Mr. BINGHAM. The gentleman will please not take up my time. I only say that I hope the gentleman will correct that in his speech.

Mr. FINCK. I ask my colleague to yield to me for one minute.

Mr. BINGHAM. Well.

Mr. FINCK. Mr. Speaker, I give no consideration to the alleged ratification by Tennessee of the amendment referred to in the preamble. I do not believe it to be the act or expression of the people of that State. But, sir, the great overshadowing question is the right of Tennessee to be represented here. I believe she is so entitled. I want that State and all the States to enjoy their constitutional right of representation, and will vote for this resolution, but not consenting to, but protesting against, the preamble annexed to the resolution.

Mr. BINGHAM. We think that Tennessee ought to be represented.

Mr. FINCK. I believe it. I believe that all the States should be represented.

Mr. BINGHAM. I hope my colleague will excuse me from further loss of time, and permit me to state the reasons why Tennessee should be admitted.

Mr. ELDRIDGE. Does the gentleman intend to give no time to this side of the House?

Mr. BINGHAM. I will not object if it be not taken out of my time. Mr. Speaker, Tennessee to-day is as republican as Massachusetts on the principle that the majority of the law-abiding citizens of a State who have not forfeited their privileges by treason have the right to control its political power. That is the pri-

mal principle of American institutions, and that is the principle which the gentleman from Massachusetts comes here to-day to repudiate.

The restoration of the State of Tennessee in the mode proposed to her proper relations in the Union is no surrender of that principle unless you set up here the right of the rebels lately in arms to govern the loyal people, the rebels whom you undertake to disfranchise by the constitutional amendment, and which amendment I trust in God the American people will ratify and thereby disfranchise those who compassed the nation's life and filled the land with the graves of the nation's defenders. If the rebels are to be excluded from political power then, sir, the men who speak this day from Tennessee are the majority, overwhelmingly the majority of its free population, black and white included.

But, says the gentleman, they exclude from the elective franchise loyal black men who bore arms for the defense of the Republic. I admit it. So does Ohio, so does Pennsylvania, and so, also, do a majority of the States of the Union. Is that any reason, sir, that Tennessee should be denied representation in this House? It would be better if justice, equal and exact justice, were established in every State.

We are all for equal and exact justice, but justice for all is not to be secured in a day, and he is the wisest statesman and the most faithful to duty who will seize the opportunity this day presented to restore a State to its proper place in the Union; and thereby add one additional vote of a free people in aid of the final ratification of that amendment to the Constitution which provides for the protection of each citizen by the combined power of all; which disfranchises traitors and repudiates all obligations contracted in aid of treason and maintains the nation's pledged faith inviolate, and secures to every human being in every State the equal protection of the laws. I read this amendment for the consideration of gentlemen who declare a State not republican which ratifies it:

#### "ARTICLE XIV.

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"SEC. 5. That Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

There stands the amendment ratified by Tennessee, who comes with this new evangel,

"no State shall deny to any person within its jurisdiction the equal protection of the laws." Let this provision become the supreme law of every State of the Republic by the omnipotence of the ballot and justice will thereby have achieved a triumph long waited for and prayed for by the oppressed of all lands.

Oh, sir, I am ashamed that a man should stand here and tell me that nothing is done to establish justice when a State lately in rebellion ratifies such a provision as an amendment of the Constitution and conforms its own laws to its requirements. No one who believes that amendment essential to the safety of the Republic, and that it is the highest possible duty he owes to himself and the country to carry that amendment into the Constitution, can stand here and taunt me as having surrendered by its advocacy and the restoration to power of a State which in good faith ratifies it, the rights of loyal colored men or of any men. Without this amendment incorporated in the Constitution of the United States where will you find the power given to the American people to throw the shield of the law of the land over these unfortunate human beings, lately slaves, now emancipated citizens, who with their ancestors have through many generations and many centuries been the victims of cruelty, outrage, oppression, and wrong?

Would gentlemen esteem it nothing if a majority of the loyal people of the other ten States lately in insurrection should imitate the example of Tennessee, declare secession treason, declare slavery abolished and forever prohibited, and solemnly ratify the amendment declaring that no State shall deny to any person within its jurisdiction the equal protection of the laws, and Congress shall have power, by the nation's will and the nation's law, to enforce this righteous decree? I pity the man who would not hail such a result with joy and restore at once to their place in the Union States which should give such evidence of respect for the laws and such security for the safety of the Republic. I repeat, sir, that amendment has been indorsed and ratified by that people, a majority of the loyal people of the State, and yet we are told to deny their right to representation until they grant colored suffrage.

I tell gentlemen that the American people will no more tolerate vassal States hereafter in this Republic than vassal men. If the majority of the people of Ohio have the right to control the political power of the State the majority of the loyal people of Tennessee have the same right; and I ask gentlemen to weigh well the question when they come to vote, whether Tennessee shall be rejected only because the majority exercise the same power as to colored suffrage claimed for and exercised by all the other States. Whenever Congress attempts to restrict this right of the majority to rule in the State it will attempt usurpation, and whenever the majority of loyal citizens surrenders that right into the hands of the minority it surrenders the cardinal principle of representative government. One great issue has been finally, and I trust forever, settled in the Republic: the equality of all men before the law. Another issue of equal moment is now pending, and it is this: the equality of the States and the right of the majority of loyal freemen to rule.

That is the issue between the gentleman and myself; it is the whole issue, and I am glad he sees fit to make it. I want to know upon what principle, if you deny the equality of the State, and the right of the loyal majority to rule, we can maintain intact our institutions, secure the just fruits of the triumph of our arms, or escape the reproach of securing to the rebellion itself the fruits of the great victory. I respectfully demand to know upon what principle you can deny the people of Tennessee representation on this floor, without denying the vital spirit of our free institutions, the right of the people to self-government. "Oh," says the gentleman, "we have not reapportioned representation."

Sir, the American people are not going to palter in this supreme moment of trial about small things. They have not seen fit to require reapportionment since the disintegration of the States. Gentlemen know that when the Representatives from Missouri appeared on this floor to be sworn in there had been no new apportionment. And yet, who challenged any of her Representatives on the ground that one half of her people had forfeited their right to representation by treason? Missouri, like Tennessee, had disfranchised rebels and denied suffrage to colored citizens. Yet, who challenged her right to representation here?

Mr. STEVENS. At the time that Missouri elected her Representatives, we had not changed the basis.

Mr. BINGHAM. That does not alter the case; we have not changed the basis yet.

Mr. STEVENS. Missouri was never a rebel State.

Mr. BINGHAM. That does not alter the case, unless it follows that rebels in a State which did not secede are entitled to more consideration than rebels in a State that did secede.

Mr. STEVENS. Nothing alters it, I suppose. [Laughter.]

Mr. BINGHAM. The question of being a rebel or a non-rebel State is not involved, because the forfeiture was the forfeiture of personal political rights and not the forfeiture of the equal rights of the State upon restoration. I would like to know upon what principle the gentleman would apply one rule of apportionment to Tennessee and another to Pennsylvania. I suppose the gentleman means by the suggestion, that although Pennsylvania may have had about one hundred and seventy-five thousand as arrant rebels in it as ever followed the standard of Jeff. Davis, they ought to be allowed to have seats in this Congress. I do not say she had that many, but if she had. I am told and believe we had a large number in our western States calling themselves Knights of the Golden Circle, who organized for the purpose of overthrowing the fabric of our Government. I understand that there were some ninety thousand in Ohio, a hundred thousand in the State of Indiana, and a like number in Illinois. If this be so it becomes pertinent to inquire by what logic gentlemen arrive at the conclusion that treason in Tennessee changes the basis of representation, while in Pennsylvania, Ohio, Indiana, and Illinois it does not. There is neither reason nor logic in such a position, with all respect to the gentleman.

I say, again, these States must be equal before the law. They must each have equal representation in the Senate, and they must each be represented according to their whole representative population in this House. It cannot be otherwise until your Constitution be changed. It matters not whether the State may have been hitherto in rebellion or may have been struggling to maintain the Constitution, the rule is the same, and I trust ever will remain, that the States, like the people, are to be equal before the law. That is the position occupied by the friends of this bill. When, sir, did the American Congress ever occupy a prouder or nobler position than in asserting this day in its length and breadth that grand principle out of which your Constitution and Government sprang, namely, the right of the people, faithful to their own great cause, to take the Government into their own keeping and dictate the terms on which it should hereafter go on?

When the clouds hung heavy above us in the first great struggle for American independence, after the foot of the British invader had profaned our soil, and Lexington was red with the blood of our people, and Bunker Hill had shook beneath the shock of the conflict, means were taken, and a confederation was entered into to maintain, by perpetual union and by laws, what was fought for and about to be won by the virtue and valor of the people in arms. By the Articles of Confederation



thus entered into it was expressly declared as follows:

"And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the Legislatures of every State."—Article 13.

Ten years passed; these articles were found, after the peace, insufficient; the fruits achieved by the Revolution were likely to be lost, when Washington, the peerless, and Hamilton, and Jay, publicly declared for a change, an alteration, whether the same should be confirmed by all the States or not. What was the result? Those giant men, the framers of our matchless Constitution, swept away, as though it were a cobweb, the written covenant of the Articles of Confederation, which declared that every one of the thirteen States should be and abide a State of the United States within the Confederation, and that those articles should not be changed without the consent of each State. When asked, "Whence your authority?" the answer of Mr. Madison was, "It is derived from the transcendent law of nature and nature's God, the right of the people to preserve their own nationality and their own liberties." The right of the majority of the whole people to prescribe the new Government essential to their safety they embodied in the Constitution. That provision stands in your Constitution this day "to witness if I lie." This is the provision:

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."—Article 7.

By such ratification the nine States made the Constitution their supreme law, to the utter exclusion of the Articles of Confederation, and notwithstanding the protest of the four remaining States.

The Articles of Confederation went by the board. The Union was organized. Our American nationality was established. Washington took the oath of office in 1789, in New York. The Congress also took the oath and proceeded to legislate. But where were North Carolina and Rhode Island? Out of the Union by their own act, because they refused to assent to the declared will of the majority. It was not for several months after that that Rhode Island and North Carolina were admitted into the Union.

What, then, are we doing now? We have passed through a like struggle. We but follow the example of the fathers of the Republic. It has become apparent that the nation must perish unless the people who saved it put into the fundamental law of the Union a perpetual guarantee for future safety and security. Through their representatives in Congress they have proclaimed these guarantees and sent them forth to the people for ratification by the State Legislatures. These recusant States must ratify them in good faith and conform their constitutions and laws thereto before being recognized by Congress. As in 1789 the Constitution authorized nine States to exclude from the Union any or all of the remaining four States which should refuse to ratify the Constitution, so to-day, in 1866, the Constitution authorizes that great body of freemen who cover the continent, organized into twenty-five loyal States, now represented in this Congress, and represented during the past five years, and who during that long night of peril were under God the saviors of the Republic as they are now the sovereignty of the Republic, to declare that the ratification of this amendment, so essential to the peace and safety of every citizen, shall be first made by a State lately in insurrection before such State shall be admitted to representation and shall have a voice and a power in the councils of the Republic. It only remains, if the insurrectionary States ratify this just amendment, for the loyal States to ratify it.

If the loyal States vote down this amendment it is at an end, and the future of the Re-

public is enveloped in clouds and darkness, beyond which no human eye can penetrate. If they pass it it will become the supreme law of the land, and in that event no State ought to be represented upon this floor that does not assent to it.

That is the principle upon which this joint resolution stands. Inasmuch as Tennessee has conformed to all our requirements; inasmuch as she has, by a majority of her whole Legislature in each House, ratified the amendment in good faith; inasmuch as she has of her own voluntary will conformed her constitution and laws to the Constitution and laws of the United States; inasmuch as she has by her fundamental law forever prohibited the assumption or payment of the rebel debt, or the enslavement of men; inasmuch as she has by her own constitution declared that rebels shall not exercise any of the political power of the State or vote at elections; and thereby given the American people assurance of her determination to stand by this great measure of security for the future of the Republic, Tennessee is as much entitled to be represented here as any State in the Union. But, sir, what I have said is not all; Tennessee has further entitled herself to be represented by the adherence of her people through good report and evil report to the varying fortunes of the Republic. There is no man upon this floor that has any right to assume for himself a higher or greater measure of patriotism than ought to be accorded to every loyal man in Tennessee. Why not, then, trust Tennessee on the final issue of justice to all, as you must inevitably abide upon that issue the judgment of the people under our Constitution? Let us trust the people of all the States lately in insurrection subject to the condition that in good faith they ratify the constitutional amendment and conform their laws thereto, knowing that if that amendment be made part of the Constitution of the United States the abuse by any State of its reserved powers by a denial of the inherent rights of any portion of the people or of the privileges of any citizen, may be corrected at once by the law of the whole people of the United States.

Mr. Speaker, I think I have now said enough to satisfy the House that if Tennessee is not entitled to representation in the House neither is New York or Ohio; if Tennessee is not entitled to representation neither is Massachusetts or Indiana. What then remains to be done but to declare what is recited in this resolution, in the simplest terms, that, whereas the State of Tennessee has ratified in good faith the constitutional amendment and given evidence to the satisfaction of Congress of the return of her people to their allegiance to the Constitution and Government of the United States, therefore said State is hereby declared entitled to representation in Congress by Senators and Representatives, duly elected and qualified, upon their taking the oath required by existing law? By passing this joint resolution you abrogate no principle; no rebel is permitted under this resolution to take a seat in this House; the test oath stands intact. No man is permitted to enter upon the duties of his office here as a Representative from Tennessee who cannot, before God and his country, with a clear conscience, swear that he has not voluntarily aided this unnatural rebellion; this unmatched crime against the life of the Republic.

Is it not clear that it is simply a question whether the loyal men of Tennessee shall be now represented by loyal men, or whether they shall be compelled to wait until the Constitution of the United States is in other respects so changed and modified that Tennessee may be subjected to certain rules of administration which are not imposed upon Massachusetts or Ohio? For myself, while I demand justice for all men, I demand equal rights for all the States. I ask, in behalf of the State of Tennessee, and every other State, that this rule shall be applied: that a majority of the loyal

freemen, citizens of the United States, within her limits, shall be permitted to control the destiny and political power of that State, provided they control it in justice and equity. I know not what more gentlemen may ask. My task is done; it is for the members of the House to perform their duty. In much weakness, but in words as earnest as ever issued from human lips, I have called upon the Representatives of the United States of America, here in Congress assembled, to restore to the people of Tennessee those rights which are incapable of annihilation until they are forfeited by crime, or the power of the Republic itself is destroyed by arms.

Mr. BOYER. I would like to ask the gentleman from Ohio [Mr. BINGHAM] by what warrant he said there were one hundred and seventy-five thousand rebels in the State of Pennsylvania.

Mr. BINGHAM. I did not say any such thing.

Mr. BOYER. Then I misunderstood you. Mr. BINGHAM. You certainly did.

The question recurred upon the passage of the resolution and preamble, upon which Mr. J. L. THOMAS had asked for the yeas and nays. The yeas and nays were ordered.

Mr. LE BLOND. I perceive that the gentleman from Ohio [Mr. BINGHAM] has some time left. Will he yield to us on this side five minutes of it?

Mr. BINGHAM. I cannot yield.

Mr. MILLER asked and obtained leave to have printed with the debates some remarks he had prepared on this subject. [His remarks will be published in the Appendix.]

The question was taken; and it was decided in the affirmative—yeas 125, nays 12, not voting 46; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Bidwell, Bingham, Boyer, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Davis, Dawes, Dawson, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hart, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Humphrey, Ingersoll, Johnson, Kasson, Kerr, Ketcham, Koontz, Knykenadell, Laffin, Latham, George V. Lawrence, William Lawrence, Lynch, Marston, McCullough, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Perham, Phelps, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Spaulding, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen E. Wilson, Windom, Woodbridge, Wright, and the Speaker—125.

NAYS—Messrs. Alley, Benjamin, Boutwell, Eliot, Higby, Jenckes, Julian, Kelley, Loan, McClurg, Paine, and Williams—12.

NOT VOTING—Messrs. Baldwin, Barker, Benham, Bergen, Blaine, Blow, Brandegee, Broomall, Chandler, Cook, Cullum, Culver, Darling, Denison, Dixon, Dodge, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Demas Hubbard, Edwin N. Hubbell, Jones, Kelso, Le Blond, Longyear, Marshall, Marvin, McIndoe, McKee, Patterson, Pomeroy, Shanklin, Sloan, Smith, Starr, Stillwell, Upson, Elihu B. Washburne, and Winfield—46.

So the joint resolution and preamble were passed.

During the roll-call the following announcements were made:

Mr. FINCK. Protesting against the preamble, I vote for the resolution.

Mr. ELDRIDGE. I spit on the preamble, and vote "ay" on the resolution.

Mr. JOHNSON. I vote "ay" for representation.

Mr. LE BLOND. I find myself paired on this question. I am in favor of the resolution, but opposed to the preamble, and therefore I cannot vote at all.

Mr. ROSS. I vote "ay," under protest.

Mr. TRIMBLE. While I utterly repudiate the preamble, I will not hazard the passage of the resolution by voting against it; and therefore I will vote "ay."

Mr. KASSON. I desire to state that Mr. DARLING has been called away by sickness; if he were present he would vote "ay."

Mr. HULBURD. My colleague, Mr. GRISWOLD, is absent. If he were present he would have voted "ay," as he would have done at any time this session.

Mr. COBB. My colleague, Mr. SLOAN, is paired with Mr. HARRIS, but would vote "ay" if he were here.

Mr. NEWELL. I desire to state that Mr. MARVIN is absent by leave of the House. If he were present he would vote "ay."

Mr. DAWES. I desire to state that my colleague, Mr. BALDWIN, has been compelled to leave the city on account of sickness.

Mr. MOULTON. I desire to say that two of my colleagues, Messrs. COOK and CULLOM, are absent by leave of the House. If present they would vote "ay."

Mr. MARSHALL. I am in favor of the admission as members of this House of all persons duly qualified, and who can take the oath prescribed by law. But I am opposed to the preamble of this resolution, and therefore I do not vote.

Mr. DEMING. My colleague, Mr. BRANDEGEE, is detained at home by indisposition. If present he would vote "ay."

Mr. RADFORD. My colleague, Mr. WINFIELD, is detained at home by sickness. If he were present he would vote "ay."

Mr. EGGLESTON. I desire to state that my colleague, Mr. HAYES, is absent on account of sickness. If he were here he would vote for this resolution.

Mr. BROOMALL. On this question I am paired with the gentleman from Michigan, Mr. LONGYEAR, who left the city yesterday. If he were here he would vote for the resolution. I, if I believed what is stated in the preamble, would vote in the affirmative; but as I do not, I would vote "no."

Mr. DAVIS. I desire to announce that my colleagues, Mr. HALE and Mr. DODGE, are absent. If they were present they would vote "ay."

Mr. ELIOT. The gentleman from New York, Mr. POMEROY, who is absent, would, if he were here, vote in the affirmative.

Mr. WASHBURN, of Indiana. My colleague, Mr. STILWELL, is paired generally with a member who on this question has voted in the affirmative. I desire to state that if Mr. STILWELL were here he would also vote "ay."

Mr. HOTCHKISS. I desire to state that my colleague, Mr. HUBBARD, is absent on account of sickness. If present, he would vote in the affirmative.

Mr. HUBBARD, of Iowa. My colleague, Mr. GRINNELL, is absent on important business. If he were here, he would vote "ay."

Mr. ORTH. I desire to state that my colleague, Mr. DEMONT, is detained from the House by sickness.

When the call of the roll had been concluded, The SPEAKER, directing the Clerk to call his name, voted "ay."

The result of the vote was announced as above stated, and was received with demonstrations of applause on the floor and in the galleries.

Mr. BINGHAM. I move to reconsider the vote by which the joint resolution was passed; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARRIET W. POND.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, submitted, by unanimous consent, an adverse report on the claim of Mrs. Harriet W. Pond; which was laid on the table.

#### RESTORATION OF INSURRECTIONARY STATES.

Mr. STEVENS. I report, from the joint committee on reconstruction, for consideration at the present time, a bill to provide for restoring to the States lately in insurrection their full political rights.

The bill was read a first and second time; and the question was on ordering it to be engrossed and read a third time.

The bill was read at length, as follows:

Whereas it is expedient that the States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights; and whereas the Congress did, by joint resolution, propose for ratification to the Legislatures of the several States, as an amendment to the Constitution of the United States, an article in the following words, to wit:

#### "ARTICLE XIV.

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"SEC. 5. That Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the above-recited amendment shall have become a part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such.

SEC. 2. And be it further enacted, That when any State lately in insurrection shall have ratified the foregoing amendment to the Constitution, any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid in such State, may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State to begin to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act.

Mr. STEVENS. I demand the previous question.

Mr. BINGHAM. I desire to offer an amendment.

Mr. STEVENS. I think the gentleman has had his day. [Laughter.]

Mr. LE BLOND. I hope the gentleman does not intend to put this on its passage when it has not been printed and we have not had any opportunity to examine it.

Mr. STEVENS. I insist on the demand for the previous question.

The House divided; and there were—ayes 42, noes 51.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Mr. STEVENS and Mr. STROUSE were appointed.

The House again divided; and the tellers reported—ayes 41, noes 60.

So the House refused to second the demand for the previous question.

Mr. BINGHAM submitted the following substitute for the first section:

That whenever any State lately in insurrection shall have ratified in good faith the above-recited amendment, and shall have modified its constitution and laws in conformity therewith and with the other provisions of the Constitution of the United States, the Senators and Representatives from such State, if found duly elected and qualified, shall, after having taken the oaths of office required by law, be admitted into Congress as such.

Mr. WILSON, of Iowa. I ask the gentleman to let me move the following amendment:

Strike out all after the enacting clause in the first section of the bill and insert the following:

That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such: *Provided*, That if any State, after ratifying said amendment and conforming its constitution and laws therewith, shall establish an equal and just system of suffrage for all male citizens within its jurisdiction who are not less than twenty-one years of age, the Senators and Representatives from such State shall be admitted as aforesaid without being required to await the action of other States on said amendment: *And provided further*, That nothing in this section contained shall be so construed as to require the disfranchisement of any loyal person who is now entitled to vote.

Mr. BINGHAM. I decline to yield for that purpose. I demand the previous question.

Mr. KELLEY. I move that the resolution and the amendment be laid upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 85, not voting 46; as follows:

YEAS—Messrs. ALLEY, AMES, ANCONA, ANDERSON, JAMES M. ASHLEY, BAKER, BANKS, BIDWELL, BOUTWELL, BOYER, BROOMALL, BUNDY, READER W. CLARKE, COBB, CONKLING, DAVIS, DAWES, DAWSON, DEFREES, DELANO, DEMING, ELDRIDGE, ELIOT, FARNSWORTH, FARQUHAR, FINCK, GARFIELD, GLOSSBRENNER, AARON HARDING, HIGBY, HOGAN, HOLMES, HOOPER, HOTCHKISS, CHESTER D. HUBBARD, JAMES R. HUBBELL, HUMPHREY, JENCKES, JOHNSON, JULIAN, KASSON, KELLEY, KETCHAM, KUYKENDALL, LATHAM, GEORGE V. LAWRENCE, LE BLOND, LYNCH, MARSHALL, MARSTON, MCCULLOUGH, MCKUER, MERCUR, MILLER, MOORHEAD, MORRILL, MORRIS, NEWELL, NIBLEACK, NICHOLSON, NOELL, ORTH, PHELPS, PIKE, PLANTS, RADFORD, SAMUEL J. RANDALL, WILLIAM H. RANDALL, RAYMOND, ALEXANDER H. RICE, JOHN H. RICE, RITTER, ROGERS, ROLLINS, ROSS, ROUSSEAU, SAWYER, SCHENCK, SCOFFIELD, SHANKLIN, SITGREAVES, STEVENS, STROUSE, TABER, TAYLOR, FRANCIS THOMAS, JOHN L. THOMAS, THORNTON, TRIMBLE, TROWBRIDGE, VAN AERNAM, BURT VAN HORN, ROBERT T. VAN HORN, WARD, WARNER, HENRY D. WASHBURN, WILLIAM B. WASHBURN, WELKER, WHALEY, WOODBRIDGE, and WRIGHT—101.

NAYS—Messrs. ALLISON, DELOS R. ASHLEY, BAXTER, BENJAMIN, BINGHAM, BROMWELL, BUCKLAND, SIDNEY CLARKE, DONNELLY, DRIGGS, ECKLEY, EGGLESTON, FERRY, ABNER C. HARDING, ASAHEL W. HUBBARD, JOHN H. HUBBARD, HULBURD, INGERSOLL, KOONTZ, LAFIN, WILLIAM LAWRENCE, LOAN, MOULTON, MYERS, O'NEILL, PAINE, PERHAM, PRICE, SHOLLABARGER, SPALDING, WENTWORTH, WILLIAMS, JAMES F. WILSON, STEPHEN F. WILSON, and WINDOM—35.

NOT VOTING—Messrs. BALDWIN, BARKER, BEAMAN, BERGEN, BLAINE, BLOW, BRANDEGEE, CHANLER, COOK, CULLOM, CULVER, DARLING, DENISON, DIXON, DODGE, DUMONT, GOODYEAR, GRIDER, GRINNELL, GRISWOLD, HALE, HARRIS, HART, HAYES, HENDERSON, HILL, DEMAS HUBBARD, EDWIN N. HUBBELL, JONES, KESLO, KERR, LONGYEAR, MARVIN, McCLURG, McINDOE, McKEE, PATTERSON, POMEROY, SLOAN, SMITH, STARR, STILWELL, THAYER, UPSON, ELIHU B. WASHBURN, and WINFIELD—46.

So the resolution and amendment were laid upon the table.

Mr. KELLEY moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

Mr. STEVENS. I submit the following resolution:

*Resolved*, (the Senate concurring,) That when Congress adjourns on the day of —, instant, it will adjourn to meet again on Saturday the 1st day of December next, unless sooner convened by the President or by the joint call of the Presiding Officers of both Houses, who are hereby authorized to exercise that power in case of emergency.

Mr. FINCK. I rise to a question of order.

The SPEAKER. The Chair stated yesterday that he would submit to the House the question whether this was a question of privilege, under the rule authorizing him to do so.

The Chair is confirmed in the correctness of his conclusion yesterday that the resolution is in order as a question of privilege. But it is a very delicate question for him to settle on his own decision, in view of the increased duties and grave responsibilities that may devolve on the Presiding Officers of the two Houses. He therefore submits the question to the House.

Mr. JENCKES. Is it in order to lay the resolution on the table?

The SPEAKER. It is not yet before the House.

Mr. ELDRIDGE. Is it debatable?

The SPEAKER. The Chair thinks it is.

Mr. STEVENS. I understand the first question is the question of order. I do not care to debate it, and unless some one else does I will call the previous question.

The SPEAKER. The previous question applies to questions of privilege as well as to all others.

Mr. FINCK. Will the gentleman from Pennsylvania yield?

Mr. STEVENS. I intend to allow debate after the previous question is seconded.

The SPEAKER. The previous question would cut off all debate and bring the House to a direct vote upon the question precisely as the Speaker is required to decide it.

Mr. STEVENS. Then I withdraw the previous question, and will hear what the gentleman has to say.

Mr. FINCK. Mr. Speaker, I desire to submit one or two considerations on this question of privilege. This resolution contemplates granting power to the Presiding Officers of the House and of the Senate, which is not provided for in the Constitution; a power which we have no authority under the Constitution to grant to those Presiding Officers. The first article of the Constitution, section four, provides that—

"The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

Now, I do not deny the power of Congress, by joint resolution, to take a recess; but I deny the right of Congress under the Constitution, either by a resolution or by law, to vest in the Presiding Officers of the two Houses the right to convene Congress at any time. That is a power which is vested in the Executive exclusively. In reference to the powers of the President, in article two, section three, of the Constitution, it is provided that—

"He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper."

Now, Mr. Speaker, this is exclusively an executive power. If you can, by a resolution or by a law, vest the authority in Congress or in the Presiding Officers of Congress to call an extra session, then you can strip from the Executive the authority which is vested in him by the Constitution to convene Congress on extraordinary occasions. There is no doubt of the right in Congress to fix the time when it shall assemble. It may by law adjourn till a certain day or take a recess to a certain day; but in the intermediate time there is no power to convene it again except that which is vested in the Executive by the Constitution, and you cannot by law or joint resolution take that power from the Executive.

Mr. DELANO. I rise to a question of order.

The SPEAKER. A question of order is now pending, and it is very difficult to make another one.

Mr. ELDRIDGE. When the Chair submits a question of privilege to the House, are not the questions arising out of it proper subjects for the House to determine? The Speaker now undertakes to determine this as a question of order, and yet he has submitted a question of privilege to the House.

The SPEAKER. To what decision does the gentleman allude?

Mr. ELDRIDGE. The question raised by the gentleman from Ohio, [Mr. DELANO,] or which may be raised.

The SPEAKER. As there is a question already pending before the House, submitted by the Chair to the House, it will be very difficult for him to take another point of order.

Mr. DELANO. After the pending question is disposed of, will it then be in order to make another question?

The SPEAKER. If the previous question is seconded the House will then vote upon the question of privilege, and if it is decided in the affirmative it will be before the House.

Mr. DELANO. That will not prevent another point of order.

The SPEAKER. The Chair does not know what that point is.

Mr. DELANO. I should be glad to state it. It is this: by a resolution already passed the House has declared its purpose to adjourn on the 25th of July, and a motion to reconsider that resolution was laid on the table. So the House has exhausted its power on that resolution. It is now proposed, I believe, to override that resolution entirely and to provide for a recess, while the former resolution providing for an adjournment is pending in the other branch of Congress. It is proposed that this House shall virtually repeal it by passing a resolution that it will not adjourn at all, but will take a recess. I submit whether this proposition is in order. This is a proposition to take a recess when the House does adjourn. It repeals and overrides the resolution to adjourn.

Mr. STEVENS. I answer that by simply saying that nothing is more common than for this House after voting upon a resolution to adjourn and sending it to the Senate to alter even its own action upon it.

Mr. DELANO. I do not doubt that the gentleman can offer a resolution to rescind, but that is not it.

Mr. STEVENS. This does not propose to rescind, but that on whatever day we do adjourn, even according to the former resolution, we shall adjourn from that day to another.

Mr. DELANO. The resolution which the House has passed was to adjourn, but this which the gentleman offers is not to adjourn, but that when we separate we separate under an agreement to take a recess.

Mr. STEVENS. My resolution is to adjourn from a given day to a given day.

The SPEAKER. If the pending question should be decided to be a question of privilege the Chair would decide the point. But he will overrule it in advance. The House some time since adopted a resolution to adjourn till some blank Thursday in May, and sent it to the Senate. That is a subject for the action of the Senate to be amended and sent back with a different day fixed. If, therefore, in consequence of having adopted a resolution to adjourn on Wednesday, the 25th of July, the House should be precluded from sending another resolution fixing another day for adjournment, then the resolution introduced the other day to adjourn was out of order, because there was a previous resolution pending before the Senate for consideration and amendment.

And the Chair will state that the ruling has always been that these motions in regard to adjournment may be renewed without rescinding previous resolutions. The House can send a resolution to the Senate, and if it is not acted upon they can send another. It is exactly like a motion to adjourn over from Thursday or Friday till Monday, which can be received after other business intervenes. A motion to reconsider and lay on the table does not prevent it.

Mr. ELDRIDGE. Does not this go to the Committee of Ways and Means?

Mr. DELANO. I would inquire whether there is not a material difference in the cases. There the Senate have not the House resolu-

tion under consideration, here they have. It has been transmitted to that body and they have acted upon it.

The SPEAKER. The resolution of May was sent to them and the resolution of July, so that they have now two resolutions before them.

Mr. GARFIELD. I would inquire whether the question of adjournment is any part of the point of order.

The SPEAKER. It is not.

Mr. GARFIELD. But really the question is as to giving the Presiding Officers the power to call Congress together. That will narrow down the debate, if the House understands it.

Mr. ORTH. I am decidedly in favor of this resolution. It is apparent to every member upon this floor, as well as to those whom we have the honor to represent, that the duties and responsibilities devolving upon the Thirty-Ninth Congress are of a character and a magnitude equal, ay, superior, to any that ever before devolved upon any other Congress in American history. We are just emerging from a rebellion that has left the social and political fabric of the Government in a most chaotic state. This Congress has been in session for eight long months, and my own individual conviction is that it ought not to adjourn until the next 4th of March, the time fixed by the Constitution for its close. In this I may differ from some of the members upon this floor. I hold this, however, that under the circumstances which now surround us, so portentous that every reflecting mind can see and feel and appreciate them, we ought not to think of an adjournment without holding in our own hands the power of reassembling ourselves whenever any sudden emergency or any great public occasion may require.

Now, as to the power of this Congress to take a recess and provide for the termination of that recess by a call of the Presiding Officers of the two Houses, I have not a particle of doubt. The gentleman from Ohio [Mr. FINCK] says that by this proposed action we would deprive the President of the United States of his constitutional right to convene Congress upon extraordinary occasions. Not at all. No such thing is contemplated by the resolution; no such thing could be done by this Congress. The power of the President, as fixed by the Constitution, we cannot, if we desired, change by our action. And furthermore the resolution offered by the gentleman from Pennsylvania [Mr. STEVENS] expressly provides—in which respect I regard it as supererogatory—that the President of the United States, as well as the Presiding Officers of the two Houses of Congress, may in his discretion, whenever the emergency shall arise, convene this Congress at some time preceding the first Saturday of December next. The whole question of adjournment belongs to Congress, subject to the limitations prescribed by the Constitution of the United States. This question is presented in three different aspects:

First, Congress has the power to adjourn *sine die* at any time during its session by a concurrent vote of the two Houses; and that adjournment is to the time fixed by law for the commencement of the next session, subject only to the constitutional provision which authorizes the President to convene Congress on extraordinary occasions; and also the further provision of the Constitution, that Congress shall meet at least once in each year. Subject to those two provisions of the Constitution, the absolute power of adjournment *sine die* rests in Congress, and in Congress alone, and is to be exercised without the approval or sanction of the President. And in that connection I will refer members of this House to the third section of the second article of the Constitution.

Mr. ROSS. I would like to ask the gentleman if he has any objection to leaving the question of the meeting of Congress to the President, in whose hands it was placed by the Constitution.

Mr. ORTH. I prefer to keep it in our own



hands. The Constitution has already lodged it in the hands of the President in a certain contingency; and if he sees fit to convene us he can undoubtedly do so. If we see fit to reconvene ourselves we are able to do so without interfering with the prerogative of the President at all. The Constitution provides that Congress shall assemble at least once in each year. Hence a *sine die* adjournment cannot extend beyond the year; the Congress must be again in session during the year.

In the second place, Congress has the power to adjourn, by the action of both Houses, for more than three days; or thirdly, each House by itself can adjourn for a period less than three days.

Those are the three provisions of adjournment which we find in the Constitution; adjournment *sine die* by the concurrent action of the two Houses; adjournment for more than three days by the same concurrent action; and adjournment for a period less than three days by the action of either House separately.

Again, no resolution of adjournment needs the sanction of the President to give it efficiency and validity. It is the mere act of the two Houses themselves. I hold, then, that this whole question of adjournment is one that is in the hands of Congress, (wisely so left,) subject only to the two qualifications to which I have already alluded.

I come now to answer the objection made by the gentleman from Ohio, [Mr. FINCK,] which is that this matter is left by the Constitution in the hands of the President, and that the grant is absolute and exclusive. Let us see whether it be so. The Constitution provides that the President

"Shall from time to time give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment."

Here is another contingency in which the President may act—

"he may adjourn them to such time as he shall think proper."

Mr. ROSS. I desire to ask the gentleman one question: if the Presiding Officers of the two Houses should call Congress together, naming one time, and the President of the United States should convene them, naming another time, which call should Congress obey?

Mr. ORTH. Whichever call named the earlier day. Is the gentleman satisfied?

Mr. ROSS. I am not satisfied. Members from Baltimore and other localities near the Capitol would be the first to get intelligence of the call of the President, while members residing near to the Presiding Officers would learn first of their call. Thus some members might get here much earlier than others.

Mr. ORTH. Mr. Speaker, this grant of power to the President was given for wise purposes; but although it is an absolute grant it is not an exclusive grant.

Mr. FINCK. Will the gentleman allow me to interrupt him a moment?

Mr. ORTH. Yes, sir.

Mr. FINCK. I desire to say that in addition to the constitutional difficulty, one other point which I endeavored to present as showing that this is not a question of privilege is, that this resolution proposes to confer by legislation additional power upon the Speaker of the House and the President of the Senate.

Mr. ORTH. I will answer that point when I finish the position I am now considering. I hold, sir, that this resolution does not come in conflict with the constitutional provision which gives to the President the power to convene Congress, if he sees fit, "on extraordinary occasions." Where the grant is given to the President, as in this case, to do a particular thing, it does not exclude the exercise of a similar power on the part of any other department of this Government, especially in view of the fact that this whole question of adjournment is confided by the Constitution to both Houses of Congress.

Mr. SHELLABARGER. Will the gentleman yield to me for a few moments?

Mr. ORTH. Yes, sir.

Mr. SHELLABARGER. Without being precisely certain on a question so novel as this, I have a very distinct impression about it; and I desire to make a suggestion to my friend that I may hear his reply to it. I do not know that there is anything new in the suggestion which I am about to make. I think that probably it has already been made. It must be conceded as perfectly obvious that the Constitution means to provide for the precise case which is contemplated by the resolution of the gentleman from Pennsylvania, to wit, the convening of Congress at a time when there is no session of Congress, on account of an extraordinary emergency having arisen. That precise case is provided for by the Constitution; and it is provided that the President of the United States may convene the two Houses, or either of them on account of that emergency. We cannot differ, then, about the proposition that the President has the power; and I do not understand that we do. This proposition is met, however, by the suggestion that the power is not exclusively in the President; that Congress may by an act of its own, either a concurrent or a joint resolution, delegate to some person or persons, other than the President, this power to determine the question of the existence of the exigency calling for the convening of Congress.

Now, then, Mr. Speaker, my mind is troubled in taking that view by reason of the general construction arising out of the legal rule and principle that when a power is given in the Constitution to a distinct officer, branch, or part of the Government, unless there are other terms in the instrument which control the matter, the power is exclusive. Take the clause in the Constitution coming below that in regard to the President commissioning the officers of the Government. Does anybody doubt but that is his exclusive power, and that Congress could not by joint resolution or otherwise confer the power on any other person to commission officers of the United States?

Take this case: could we provide by law for a permanent repository of our power for the term of our own lives, or, I should say, for the term of this Congress—could we, I say, give any one person the power to determine whether this Congress should come together and when it should come together before December next? There is no question about the power of Congress to determine its own adjournment; but it seems to me that Congress must take it upon itself to determine whether it will again meet here before next December. If it adjourns, leaving no Congress in session, not having determined the question for itself, then I think that state of case has come where the Constitution provides a repository of the discretion, the exigency having intervened.

I come back to the general proposition that as a general rule, wherever a power is given by the Constitution to any department or officer of the Government, that power is exclusive unless you find something in other portions of the Constitution to control that rule making it exclusive.

Mr. DAWES. Let me put a question to the gentleman from Ohio in aid of the suggestion which he only anticipated me in making.

Mr. ORTH. I will first answer the gentleman from Ohio, and then yield to the gentleman from Massachusetts.

Mr. Speaker, the resolution now offered for adoption is not a resolution of adjournment; it is a resolution that this Congress shall, when it adjourns at some day to be fixed during this month, adjourn until the first Saturday of next December. I submit whether, under the language of the Constitution, the President can call an extra session of Congress when we have taken a recess.

Mr. BINGHAM. Is there not a further provision in the resolution that the President of the Senate and the Speaker of the House may convene Congress at some other time? I think

the words "session of Congress," employed by the gentleman from Indiana, furnish a hint as to the power of Congress over this question. The Constitution fixes the first Monday in December as the day upon which Congress shall convene. Then it provides they may by law provide for the commencement of the session of Congress. There is another provision in the Constitution that neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days at any one time. The word "session" throws some light on the question. This *ex vi termini* implies that the two Houses, by concurrent resolution, may during the session of Congress, if it continue to be the same session, adjourn for a longer period than three days, and may, therefore, adjourn from next Thursday to the day fixed in the resolution of the gentleman from Pennsylvania. It will continue to be the first session of the Thirty-Ninth Congress. The only question remaining, in reference to which I agree with my colleague, is that we cannot depute the power to any other.

Mr. DAWES. I suppose no one will doubt that the two Houses can take a recess to any time we may fix. The only difficulty is that suggested by the gentleman from Ohio in reference to delegating this power to any one else. Admit for the purpose of this argument that they can delegate this power, how can it be done? These two officers have no authority of law to do it.

Now, another objection comes up; they cannot acquire this authority except by law. The question comes up whether by a simple resolution of this House, and of the other branch of Congress, you can clothe these Presiding Officers with new powers. Can you, by a resolution merely, clothe them with any other powers than those which they now have? I do not believe it is within our power to delegate to them any authority over the question of an adjournment. The two bodies of Congress can take a recess for any time that they may fix. The President has the power of convening Congress in extra session; but the two Houses cannot surrender their judgment of the public exigencies to any two members. I have no idea that we can clothe the Presiding Officers of these two bodies with any such power.

Mr. ORTH. I have no difficulty in answering the position taken by the gentleman from Massachusetts; and I need but remind that gentleman of the common transaction in every Congress since the Government was organized of clothing the Speaker of the House with certain authority by simple resolution; and clothing the Speaker of the House and the President of the Senate with certain authority by concurrent resolution; and in neither case by law. For instance, we authorize the Speaker of the House to adjourn us when we have agreed upon a day.

Mr. DAWES. Ah, the Constitution says we can do that.

Mr. ORTH. We authorize the Speaker and the President of the Senate to take charge of the public buildings and grounds, the Capitol police, as well as other matters, as the agents of Congress, carrying out their wishes, without any act of Congress on the subject whatever. We do it by resolution simply; and the resolution now under consideration merely empowers the Presiding Officers of the two bodies to carry out the wishes of Congress, and clothes them with authority to shorten the recess from the first Saturday in December to the first Saturday in September for instance; in other words, we take a recess until these gentlemen whom we have appointed notify us that the recess shall terminate. They are to act, not for themselves, but as the agents of the two Houses, carrying out their will and acting under their authority.

Mr. GARFIELD. The gentleman from Indiana says that this resolution does not contemplate an adjournment but a recess, and therefore the same rules that might apply to a question of adjournment do not apply to this question. I call the attention of the gentle-

man to the fact, if I am not incorrect in my memory, that the word "recess" is not used in the Constitution.

Mr. ORTH. Oh, yes it is.

Mr. GARFIELD. I do not mean that it is not used at all, but it is not used in reference to this thing called adjournment. The word "adjournment" is used. It speaks of Congress not adjourning for more than three days. For instance, if we should take what the gentleman calls a recess from now until Wednesday next that is what the Constitution would call, not a recess, but an adjournment. It occurs to me that the gentleman has based his argument on a misapprehension of the facts.

Mr. ORTH. The trouble is that the gentleman from Ohio confounds the terms "adjournment" and "recess." If the House agrees to separate and come together on the first Monday in November, that is not an adjournment.

Mr. GARFIELD. The Constitution calls it so.

Mr. KASSON. The Constitution says that neither House during a session of Congress shall, without the consent of the other, adjourn for more than three days. I will say that this clause of the Constitution gives me more trouble in regard to the resolution of the gentleman from Pennsylvania, [Mr. STEVENS,] in the point of view suggested by the gentleman from Massachusetts, [Mr. DAVES,] than any other. His resolution concludes with the words, "who are hereby authorized" to do so and so. That is the language of law. And the two Houses cannot certainly get an enlargement of their powers in this regard except by a change in the Constitution or in the law. There is a distinction between an adjournment by the two Houses and an adjournment to be regulated and determined by two individuals. Can we any more confer this power upon the Presiding Officers of the two Houses than we could upon any two members of the House? Could we move to adjourn until such time as the gentleman from Indiana and the gentleman from Massachusetts should call us together?

Again, can you do this thing by a concurrent resolution? Can you do it except by a law requiring the signature of the President?

Mr. ORTH. With regard to the word "adjournment," the gentleman from Iowa will recollect that the Constitution uses the word "recess" in speaking of the power of the President to fill vacancies occurring during the recess of Congress. What does that mean? When we adjourn for three days, has the President the power to fill vacancies? Does not the provision apply to the entire absence of Congress from these Halls?

Mr. KASSON. I answer that the recess is the time between the adjournment of Congress at one session and its regular meeting at the next.

Mr. ORTH. Then I do not understand that the gentleman from Iowa [Mr. KASSON] takes the position of the gentleman from Ohio, [Mr. GARFIELD,] that when the House adjourns for three days, it is a recess, but that beyond that time it is an adjournment.

Mr. GARFIELD. According to the Constitution a recess is the time between the two regular sessions of a Congress. From when the first session of a Congress ends to until the time when, under the Constitution, Congress meets again, is known as the recess. But all other intermissions, whether from now until to-morrow, or from now until the day after to-morrow, are adjournments. If I should move that the House adjourn from to-day until Wednesday next, it would be an adjournment, and so, if I should move to adjourn to meet on the first Saturday in December next it would be an adjournment. But if we should authorize the Speaker—

Mr. STEVENS. I think this question has been very thoroughly examined, and I trust we shall not waste further time upon it.

Mr. ORTH. As I hold the floor by the courtesy of the gentleman from Pennsylvania [Mr. STEVENS] I must decline to yield to further interruption.

I will remark in conclusion that I believe I have said about all I intended to say in answering the various questions that have been suggested by members. I believe we have the power to adjourn or to take a recess, (and those terms are used indifferently in the Constitution) from now until any time in the future, short of the first Monday in December next, when by the law as it now stands we must again assemble, and it is simply proposed to authorize the Presiding Officers of the two Houses to terminate that recess by giving notice to members to reassemble on a given day; to authorize them to do precisely what we can do ourselves; to leave to their discretion, instead of naming it in the resolution, to reassemble Congress when in their opinion an extraordinary occasion or emergency requires it. It is like the power given every session of Congress to the Presiding Officers of the two Houses to adjourn Congress, to take charge of public property, and to do a hundred other things that are done.

Mr. STEVENS. I have but few words to say, and then I hope we will take a vote upon this preliminary question.

Mr. JOHNSON. Will my colleague [Mr. STEVENS] yield to me for a few moments?

Mr. STEVENS. For how long?

Mr. JOHNSON. For two or three minutes only.

Mr. STEVENS. Very well; I will yield.

Mr. JOHNSON. I desire to call the attention of the House to one or two points in connection with this question. I first ask the attention of the House to a clause of the Constitution which has already been read; that "Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." It is to be observed that "unless they shall by law appoint"—what? Some one else to fix the day of meeting? Not at all. There is no authority anywhere in this Constitution for members of Congress who hold delegated powers under a delegated Government to delegate those powers to any other person or persons whatsoever. But there is a clause which says they shall have power to adjourn until the first Monday in the next ensuing December, "unless they shall by law appoint a different day." And that is the only appointment that we have authority to make. It is not the party to fix the day, but the day itself that we are required to appoint.

It is very true that this resolution suggests a day, the first Saturday in December next; and then it makes an exception—unless certain persons shall call Congress together at a different day. Now, I take it that if we have authority to say that the Speaker of the House of Representatives, and the Presiding Officer of the Senate, whoever those Presiding Officers may be, shall have the power to call us together, then we have the right to say that some man in the city of New York, or in the city of St. Louis, may call us together whenever he may see proper. By authority of the offices which the Speaker of the House and the President *pro tempore* of the Senate hold, they have no authority under the Constitution to fix the day when Congress shall reassemble. And if they have no such power, then you may as well name John Smith or John Brown to fix that day of meeting as to name any other person. "John Brown still lives," we are told; John Smith is alive, I know. [Laughter.]

The question of a recess or of an adjournment are different propositions; but I will not stop to argue them now. We are wandering from the question. This debate so far has been upon the proposition whether we have the right to pass a law fixing the time when these Presiding Officers shall call us together. We are not proposing to pass a law, because a concurrent resolution is not a law. The question, therefore, comes back to the one before the House, which is, is this resolution a privileged question? If it is, as I argue, a question upon which we have no authority to act at all, then it is not a privileged question. It seems to me

clear, sir, that if we have not the authority to adopt this resolution when we get it before the House, then, surely, it is not a question of privilege under the rules, and has no right to take precedence of all other business.

Mr. STEVENS. I rise to say but a few words, and then I shall ask a vote on this preliminary question.

In the first place no one doubts that we have the right to fix a future day to which we shall adjourn. In the second place, it cannot, I think, be denied that during this period between the adjournment of Congress and the time which it fixes for reassembling—no matter whether you call it an adjournment or a recess—the power of the President is restricted as it is while Congress is in session. And this is the object which I have in presenting this resolution. I do not pretend to deny it. I do not wish to leave honest men to be the victims of the President's unchecked power during a vacation of Congress.

Now, sir, there being no question as to the power of Congress to name as the period for its reassembling any time which it may think the emergency calls for, have we the right to delegate this power and authorize any one else to judge of the emergency which may require that Congress shall be convened? Sir, the authority of Congress, as of all legislative bodies, is very different from the authority vested in executive officers. When an executive officer has particular powers delegated to him, he is restricted to the exercise of those powers. But a legislative body—this body as well as every other legislative body—has, under the well-known principles of the common law, all the powers necessary for the Legislature of a free Government, whether those powers be enumerated or not, except so far as any power may be expressly denied by some restriction of the organic law. Whatever power, then, is necessary for a legislative body this Congress has it, unless it is expressly prohibited by the organic law. No delegation of power is required. There are certain powers inherent in every legislative body, as much as the right of eminent domain or anything of that kind. This is a principle old and well understood.

In view of this principle, I hold that there is nothing to restrain Congress from authorizing even the Doorkeeper, if they choose, to convene Congress upon an emergency. Mr. Speaker, how unwise and how fatal it would be if we were not vested with this power! There may be times, there are times, when we are in the midst of a revolution, and when the duty devolving upon a particular officer to call Congress together may not be by him exercised—when it may not be for his interests or for the interests of his schemes to have Congress in session. And yet the whole safety of our country may depend upon our assembling here, if a particular emergency should arise. And it is to be said that Congress, adjourning to a given time, cannot provide for this emergency, so imminent—nay, palpable as the sun in the heaven; that we are to prostrate ourselves as helpless victims at the feet of conspirators by saying that no one but the President has power to convene us? We ourselves must fix the organ by which we are to be convened, or, however grave the exigency, we shall never be called together.

Suppose there were a *coup d'état*. I am supposing what may well happen—what has happened in other countries and made it necessary for legislative bodies to declare themselves in session *en permanence*. Suppose anything of that kind should happen—I hope it may not, but I dread it—are we to have our hands tied, with nobody able to sound the alarm and call us together? Why, sir, Congress would be a very impotent body if we were in that helpless condition.

Now, sir, I am in favor of conferring this power upon some one in whom we can have confidence. If any better depository can be found for it than that named in my resolution, very well. If gentlemen prefer that this authority should be intrusted to the Chief Justice

of the United States I have no objection. That we have the right to fix upon the power to call us together in a time of great emergency and danger to the Commonwealth, I can no more doubt than I can the great law of self-defense which authorizes us to protect ourselves when assailed.

Mr. Speaker, I beg pardon for having spoken so long, and I ask that a vote may now be taken on the preliminary question.

The SPEAKER. The question is, Will the House entertain this resolution as a question of privilege?

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. CONKLING. The resolution, if received, will of course be open to amendment unless the previous question shall be demanded.

The SPEAKER. It will.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 62, nays 51, not voting 69; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baxter, Benjamin, Broomall, Broomall, Sidney Clarke, Cobb, Deming, Driggs, Eckley, Eliot, Farnsworth, Ferry, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbard, Hubbard, Julian, Kelley, Koontz, Leflin, William Lawrence, Loan, Lynch, McClurg, McRuer, Morour, Miller, Moulton, Myers, O'Neill, Orth, Paine, Perham, Price, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Ward, Warner, William B. Washburn, Wentworth, James F. Wilson, and Windom—62.

NAYS—Messrs. Ancona, Baker, Banks, Boutwell, Boyer, Davis, Dawes, Dawson, Defrees, Eldridge, Finck, Garfield, Glossbrenner, Aaron Harding, Hogan, John H. Hubbard, Humphrey, Jenckes, Johnson, Kasson, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, Le Blond, Marshall, Moorhead, Morrill, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Ritter, Rogers, Rollins, Ross, Shanklin, Sitgreaves, Strouse, Taber, Thornton, Trimble, Robert T. Van Horn, Henry D. Washburn, and Whaley—51.

NOT VOTING—Messrs. Baldwin, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culom, Culver, Darling, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Eggleston, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hooper, Demas Hubbard, Edwin N. Hubbard, Ingersoll, Jones, Kelso, Longyear, Marvin, McCullough, McIndoe, McKee, Morris, Newell, Patterson, Pike, Plants, Pomeroy, William H. Randall, Rousseau, Sloan, Smith, Starr, Stilwell, Taylor, Thayer, Upson, Burt Van Horn, Elihu B. Washburne, Welker, Williams, Stephen F. Wilson, Winfield, Woodbridge, and Wright—69.

So the resolution was ordered to be received.

Mr. STEVENS. I demand the previous question on the adoption of the resolution.

Mr. BINGHAM. I appeal to the gentleman from Pennsylvania whether his purpose will not be accomplished by striking out all that relates to the power of the President of the Senate and the Speaker of this House to summon Congress together. It will then read that when Congress adjourns at this session—I ask gentlemen to remember the words, for they are the words of the Constitution—it shall adjourn to meet at the time fixed by the gentleman in his resolution.

Mr. STEVENS. We do not propose to adjourn this session at all.

Mr. ELDRIDGE. I move that the resolution be laid upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 63, not voting 61; as follows:

YEAS—Messrs. Alley, Ancona, Baker, Banks, Bingham, Boyer, Buckland, Davis, Dawes, Dawson, Defrees, Eldridge, Finck, Garfield, Glossbrenner, Aaron Harding, Hogan, Chester D. Hubbard, John H. Hubbard, Humphrey, Jenckes, Johnson, Kasson, Kerr, Ketcham, Kuykendall, Leflin, Latham, George V. Lawrence, Le Blond, Marshall, Niblack, Nicholson, Noell, Phelps, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, and Whaley—53.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baxter, Benjamin, Boutwell, Broomall, Broomall, Sidney Clarke, Cobb, Conkling, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Abner C. Harding, Hart, Higby, Holmes, Hooper, Asahel W. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Julian, Kelley, Koontz, William Lawrence, Loan, Lynch, Marston, McClurg, McRuer, Mercur,

Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Price, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Wentworth, Stephen F. Wilson, and Windom—63.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Brandegee, Chanler, Reader W. Clarke, Cook, Culom, Culver, Darling, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hotchkiss, Demas Hubbard, Edwin N. Hubbard, Jones, Kelso, Longyear, Marvin, McCullough, McIndoe, McKee, Morris, Newell, Patterson, Plants, Pomeroy, John H. Rice, Rousseau, Sloan, Smith, Starr, Stilwell, Thayer, Upson, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Winfield, Woodbridge, and Wright—51.

So the House refused to lay the resolution upon the table.

The question recurred on seconding the demand for the previous question on the adoption of the resolution.

Mr. ASHLEY, of Ohio. Will the gentleman from Pennsylvania allow me to offer an amendment?

Mr. STEVENS. I will hear it read.

Mr. ASHLEY, of Ohio. I propose to substitute the following:

*Resolved, (the Senate concurring.) That when this House adjourns on Wednesday next, July 25, it will take a recess until Saturday, December 1.*

Mr. BINGHAM. I ask my colleague to strike out the words "take a recess" and insert instead the word "adjourn."

Mr. ASHLEY, of Ohio. I have no objection.

Mr. BINGHAM. The reason is that the Constitution itself, by express terms, declares that a session of Congress may adjourn for a longer period than three days, with the concurrent consent of the two Houses, and the word recess, by very intendment of the Constitution, applies only to that space of time which passes between the close of one session of Congress and the commencement of another session, or between the termination of one Congress and the commencement of another.

Mr. SCHENCK. I would inquire what authority any one has to say that this House will adjourn. I hope no such resolution will pass.

Mr. ASHLEY, of Ohio. I will modify it by leaving the day blank, so as to read as follows:

*That when this House adjourn on the — day of July, it will adjourn to meet on Saturday, December 1.*

Mr. TRIMBLE. I would like to ask the gentleman a question. If the resolution should pass, as modified, would we or not be entitled to mileage?

Mr. ASHLEY, of Ohio. Each member is entitled to two mileages in one Congress under the law, and that is all.

Mr. ELDRIDGE. I object to further debate.

The SPEAKER. Does the gentleman from Pennsylvania yield to allow the amendment to be offered?

Mr. STEVENS. I decline to yield for that purpose.

On seconding the demand for the previous question there were—ayes 37, noes 45; no quorum voting.

Tellers were ordered; and the Speaker appointed Messrs. STEVENS, and ASHLEY of Ohio.

The House divided; and the tellers reported—ayes 65, noes 38.

So the previous question was seconded and the main question ordered.

Mr. LE BLOND. I demand the yeas and nays on agreeing to the resolution.

The yeas and nays were ordered.

Mr. BENJAMIN. I move that the House adjourn.

The motion was disagreed to.

The question being taken on agreeing to the resolution, it was decided in the negative—yeas 48, nays 75, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Boutwell, Broomall, Broomall, Sidney Clarke, Cobb, Donnelly, Driggs, Eckley, Eggleston, Eliot, Hart, Higby, Hotchkiss, Asahel W. Hubbard, James R. Hubbard, Ingersoll, Julian, Kelley, Koontz, William Lawrence, Loan, Lynch, McClurg, Mercur,

Miller, Moulton, O'Neill, Orth, Perham, Price, Sawyer, Schenck, Scofield, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Wentworth, Stephen F. Wilson, and Windom—48.

NAYS—Messrs. Alley, Ancona, James M. Ashley, Baker, Banks, Baxter, Bingham, Boyer, Buckland, Bundy, Conkling, Davis, Dawes, Dawson, Defrees, Delano, Eldridge, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Hogan, Holmes, Chester D. Hubbard, John H. Hubbard, Hubbard, Humphrey, Jenckes, Johnson, Kasson, Kerr, Ketcham, Kuykendall, Leflin, Latham, Le Blond, Marshall, Marston, McIndoe, McRuer, Moorhead, Morrill, Morris, Myers, Newell, Niblack, Nicholson, Noell, Paine, Phelps, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Shanklin, Shellbarger, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Whaley, Williams, James F. Wilson, Woodbridge, and Wright—75.

NOT VOTING—Messrs. Baldwin, Barker, Beaman, Benjamin, Bergen, Bidwell, Blaine, Blow, Brandegee, Chanler, Reader W. Clarke, Cook, Culom, Culver, Darling, Deming, Denison, Dixon, Dodge, Dumont, Farnsworth, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Abner C. Harding, Harris, Hayes, Henderson, Hill, Hooper, Demas Hubbard, Edwin N. Hubbard, Jones, Kelso, George V. Lawrence, Longyear, Marvin, McCullough, McKee, Patterson, Plants, Pomeroy, Rogers, Rousseau, Sloan, Smith, Spalding, Starr, Stilwell, Thayer, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Winfield—59.

So the resolution was disagreed to.

Mr. FINCK moved to reconsider the vote last taken; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 246) relating to public schools in the District of Columbia;

An act (S. No. 325) to give certain powers to the levy court of the county of Washington, in the District of Columbia;

An act (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company;

An act (S. No. 277) for the relief of William Cook; and

An act (S. No. 137) to amend the acts approved August 6, 1861, and July 10, 1862, establishing a Metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. HUMPHREY and Mr. WARNER.

Mr. BENJAMIN asked and obtained leave of absence for his colleague, Mr. Blow, for the remainder of the session.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes.

The message further announced that the Senate had insisted upon its amendments disagreed to by the House to the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, had agreed to the conference asked by the House, and had appointed Messrs. LANE, VAN WINKLE, and DAVIS as conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments disagreed to by the House to the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, had agreed to the conference asked by the House, and had appointed Messrs. RAMSEY, COWAN, and SPRAGUE as conferees on the part of the Senate.

The message further announced that the Senate had passed, without amendment, a joint resolution (H. R. No. 159) authorizing the Commissioner of Public Buildings to employ three additional watchmen in the Smithsonian grounds.



The message also announced that the Senate had passed a bill (H. R. No. 709) entitled "An act for the relief of Mrs. Eleanor C. Ransom," with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a bill (S. No. 441) entitled "An act for the relief of Margarette Ann Laurie;" in which the concurrence of the House was requested.

JAMES C. COOK.

Mr. HUBBARD, of Connecticut. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill reported on Friday last from the Committee on Patents (H. R. No. 760) for the relief of James C. Cook, upon which the gentleman from Connecticut demands the previous question.

Mr. RADFORD. I move that the House do now adjourn.

Mr. GARFIELD. I move to amend that motion so as to provide that when the House adjourns it adjourn to meet at eleven o'clock to-morrow.

The SPEAKER. That motion would require unanimous consent.

Mr. SCHENCK. I object.

The question was taken on Mr. RADFORD's motion, and it was agreed to.

And thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. HOLMES: The petition of Henry C. Bolland, for an American register for the Canadian-built schooner Royal Albert.

By Mr. PERHAM: The memorial of clerks in the Patent Office Bureau, asking to be placed on an equal footing in regard to pay with other clerks in the Interior Department.

By Mr. PLANTS: The petition of A. W. McCormick, and others, praying Congress to enact just and equal laws upon the subject of inter-State insurances, &c.

By Mr. SCHENCK: The memorial of L. F. Fix, late lieutenant colonel and aid-de-camp Missouri State militia, praying for relief.

#### IN SENATE.

SATURDAY, July 21, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. WILLIAMS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. ANTHONY. I present the petition of Sylvester Mowry, praying for remuneration for losses sustained by him in negotiating drafts on the Assistant Treasurer of the United States at New York in 1861, while he was United States California boundary commissioner, to protect the honor of the Government; and as there is little prospect that this memorial will be acted upon at the present session, I think it but justice to state, especially as some misrepresentations have obtained currency with regard to the acts of the memorialist, that on an examination by the proper accounting officers he is found to be a creditor instead of a debtor to the Government, and the balance has been paid to him. I move that the petition lie on the table.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a petition of certain members of the first Michigan cavalry, praying that soldiers of that regiment discharged in Utah Territory and not furnished transportation, may be paid their actual traveling expenses home, and a communication from the Governor of Michigan on the same subject, submitted a report accompanied by a joint resolution (S. R. No. 138) for the relief of the first regiment Michigan cavalry. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. HENDERSON, from the Committee to

Audit and Control the Contingent Expenses of the Senate, to whom was referred a bill (S. No. 411) fixing the compensation of officers, clerks, messengers, and others in the service of the Senate, reported a bill (S. No. 443) fixing the compensation of officers, clerks, messengers, and others in the service of the Senate and House of Representatives, and for other purposes; which was read and passed to a second reading.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five thousand extra copies of the report of the Secretary of the Navy on interoceanic railroads and canals, report it with an amendment reducing the number to two thousand five hundred. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution.

The amendment was agreed to; and the resolution, as amended, was adopted, as follows:

*Resolved*, That two thousand five hundred additional copies of the report of the Secretary of the Navy on interoceanic railroads and canals, with the accompanying maps, be printed and bound for the use of the Senate.

#### ALABAMA AND FLORIDA RAILROAD.

Mr. WILLIAMS. I move to proceed to the consideration of Senate joint resolution No. 134.

The motion was agreed to; and the joint resolution (S. R. No. 134) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron was read the second time and considered as in Committee of the Whole. The object is to authorize the Secretary of the Treasury to extend a credit of five years to the Alabama and Florida Railroad Company for the duties upon a sufficient quantity of railroad iron and fastenings to relay the track of that railroad from Pensacola, Florida, to the Alabama State line, a distance of thirty-seven miles, the company giving satisfactory security for the payment of the duties within the term of five years, with semi-annual interest thereon at the rate of six per cent. in gold, and the iron and fastenings are to be used for no other purpose until the duties are paid in full.

Mr. WILLIAMS. I move to amend the joint resolution in line five, after the words "Alabama and Florida Railroad Company," by inserting "of Florida."

The PRESIDENT *pro tempore*. That addition will be made, no objection being interposed.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### WILLIAM P. WINGATE.

Mr. GUTHRIE. I move to take up a little joint resolution in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine.

The motion was agreed to; and the joint resolution (S. R. No. 123) in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine, was read the second time and considered as in Committee of the Whole. It recites that certain goods (molasses and salt) were imported by Fisk & Dale, Josiah Towle, and Morse & Co., and held in bond at the custom-house in Bangor, Maine, on the 2d day of May, 1864, and were on that day released and withdrawn upon payment of the duties imposed thereon prior to the enactment of the joint resolution of April 29, 1864, the collector not then having received official notice of such enactment; that the collector is now charged with fifty per cent. additional to the amount already paid upon those goods, and claims to hold the importers to pay it to him. It is therefore proposed to direct the Secretary of the Treasury in the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine, not to exact from him the payment of the additional duty of fifty per cent. imposed by the joint resolution of April

29, 1864, on the merchandise withdrawn for consumption by the parties named on the 2d day of May, 1864, and to order the cancellation of the several bonds given by the importers in those cases.

Mr. GUTHRIE. Upon investigation it is found that the duties were paid after the passage of the resolution of April 29, 1864, increasing them fifty per cent. without exacting the fifty per cent. The Secretary of the Treasury, having authority to release, did not release because the collector had a telegraphic notice that such a resolution had passed; and the collector not being released himself, he held the parties who had paid the duties liable. The Government subsequently restored the old duties upon these articles, and these parties who had obtained the articles had them on hand when the duties were made the same as they were before, and they got no advantage by the advanced duties and were compelled to sell the goods as they would have been if there had been no fifty per cent. advance upon duties. In all other cases of this description the Government has released the parties, and the Finance Committee thought it was equitable that the accounts of the collector at Bangor should be settled by the Secretary of the Treasury, with authority to release the persons whom he held responsible for the additional duties. I think it is equitable and just that it should be done.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### POST ROUTE BILL.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the amendments to the post route bill that are now pending on the table.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 775) to establish certain post roads.

The PRESIDENT *pro tempore*. The reading of the bill will be resumed at the point where it was interrupted on the last day when it was before the Senate.

The Secretary proceeded with the reading of the bill.

The Committee on Post Offices and Post Roads proposed to strike out from line two hundred and thirty-eight to line two hundred and fifty-one, under the head of "Minnesota," as follows:

From Milton via Swan Lake, to Blue Earth City.  
From Sauk Centre, via Westport, Lake Amolia, Reno City, Lake Tokua, to Fort Wadsworth.  
From Little Falls, via Long Prairie, to Alexandria.  
From Saint Peter, via Lake Prairie, Kelso, and Dryden, to New Auburn.

From Shakopee, via Maple Glen, New Dublin, New Market, and Cedar Lake, to Oral.  
From Shakopee, via Marystown, Lydia, and Helena, to Oral.

From Winona, via Home, Arcadia, Gilmantown, Mondovia, Landon's, and Eau Claire, to Chippewa Falls.

And to insert the following:

From Shakopee to Excelsior.  
From Montville, via Vernon, Waltham, and Mower City, to Austin.  
From Buffalo, by Maple Lake, to Fair Haven.

The amendment was agreed to.

The next amendment was to strike out lines two hundred and fifty-six, two hundred and fifty-seven, and two hundred and fifty-eight, as follows:

From Milton, via Swan Lake, to Blue Earth.  
From Blue Earth City, via Fairmount, Jackson, and Sioux Falls, to Yankton, in Dakota Territory.

The amendment was agreed to.

The next amendment was to strike out lines two hundred and sixty to two hundred and sixty-seven, as follows:

From Watertown, via Winstead and Bergen, to Hecoe.

From Hastings, via New Frier and Cannon Falls, to Kenyon.

From Hutchinson, via Cedar, Greenleaf, Kandigohi, and Irving, to Torah.

From Henderson, via Arlington, New Auburn, Witadew Lake, and Fort Wadsworth, in Dakota Territory, to Fort Rice, on Missouri river.

The amendment was agreed to.

The next amendment was after line three hundred and eighty-six, under the head "California," to strike out "from Los Angeles, via Elizabeth Lake and Oak Creek, to Havilan."

The amendment was agreed to.

The next amendment proposed by the committee was after line four hundred and twenty-seven, under the head of "Kansas," to strike out:

From Medina, via Oskaloosa, Winchester, and Easton, to Leavenworth.

From Lawrence, via Oskaloosa, to Grasshopper Falls.

The amendment was agreed to.

The next amendment was after line four hundred and thirty-five to insert "from Wathena, via Columbus, to Iowa City Point."

The amendment was agreed to.

The next amendment was to strike out from lines four hundred and thirty-seven to four hundred and forty-two, under the head "Nevada:"

From Carson City, via Ophir, Washoe City, and Steamboat Springs, to Huffaker's Rancho.

From Virginia City, via Unionville, Star City, Dungen, and Paradise Valley, to Boise City.

From Austin to Cortez.

From Austin to Ione.

Mr. STEWART. I should like to know why they are stricken out.

Mr. RAMSEY. The reason why they are stricken out is that they have been heretofore enacted, some of these routes, two or three times. That is the reason we strike them out of this bill.

The amendment was agreed to.

The next amendment of the committee was to strike out from line four hundred and forty-four to four hundred and forty-nine:

From Aurora, via Columbus, to Silver Peak.

From Austin, via Kingston, Ophir Canon, Twin River, and San Antonio, to Silver Peak.

From Wellington Station, via Esmeralda, Mammoth, and Ione, to Austin.

Mr. STEWART. Have all those routes been enacted before?

Mr. RAMSEY. All stricken out by the committee have heretofore been made mail routes by previous legislation.

The amendment was agreed to.

The next amendment of the committee was to strike out lines four hundred and fifty-four and four hundred and fifty-five, under the head "Nebraska Territory:"

From Plattsmouth to Beatrice.

From Dakota to Columbus.

The amendment was agreed to.

The next amendment was under the heading of "Nebraska," after line four hundred and fifty-seven, to insert the following:

From St. John, Iowa, via De Soto and Fontanelle Nebraska, to Buchanan, Nebraska.

From Brownsville to Table Rock, Nebraska.

From Brownsville to Grant, Nebraska.

From Fremont, via Jalapa, St. Charles, Greenwood, West Point, and Rock Creek, to South Fork of Elkhorn.

The amendment was agreed to.

The committee also reported to insert after line three hundred and seventy-three, under the heading of Iowa, the words "from Denison to Ida."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the bill (S. No. 269) to define the number and regulate the appointment of officers in the Navy, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 230) to amend an act

to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863; A bill (H. R. No. 379) to establish in the District of Columbia a Reform School for boys;

A bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia; and

A bill (H. R. No. 709) for the relief of Mrs. Eleanor C. Ransom.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the amendments of the House to the bill (S. No. 236) to authorize and establish certain post roads.

The message further announced that the House of Representatives had passed a bill (H. R. No. 760) for the relief of James C. Cook, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following resolution, in which it requested the concurrence of the Senate:

*Resolved by the House of Representatives, (the Senate concurring.)* That the President of the Senate and the Speaker of the House of Representatives, on the day of —, at twelve o'clock meridian, adjourn their respective Houses until Tuesday, the 24 day of October, 1866, and that on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until Saturday, the 1st day of December, 1866.

#### RECOGNITION OF TENNESSEE.

Mr. HENDERSON. I move to proceed to the consideration of Senate bill No. 395. It is the unfinished business. It is a bill relating to the aqueduct bridge of the Alexandria Canal Company over the Potomac river at Georgetown, in the District of Columbia.

Mr. TRUMBULL. I desire to make a report. The morning business is not through, I believe.

Mr. HENDERSON. Let the bill be taken up and then you can make your report.

Mr. TRUMBULL. I object to taking up the bill. If it is the order of business it will come up at one o'clock.

The PRESIDENT *pro tempore*. The motion is before the Senate.

Mr. TRUMBULL. I will state that I desire to make a report from the Committee on the Judiciary in reference to Tennessee, and if we cannot get the floor to make reports on important matters of this kind, we certainly can do no business.

The PRESIDENT *pro tempore*. Reports were called through, and petitions.

Mr. TRUMBULL. I could not get the floor to present the report after I came into the Senate. If the Senator persists in his motion, I can only leave it to the Senate.

Mr. HENDERSON. The Senator from Illinois so seldom gets the floor that I will withdraw the motion. [Laughter.]

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred House joint resolution No. 83, declaring Tennessee again entitled to Senators and Representatives in Congress, have instructed me to report it back with an amendment; and if it meets the views of the Senate, as this is a matter that ought to be acted upon, I move that the Senate proceed to its consideration at the present time.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution at this time. Is it objected to?

Mr. McDougall. I ask that the resolution be read for information.

The PRESIDENT *pro tempore*. The resolution will be read.

Mr. TRUMBULL. It is printed and on Senators' tables. I have reported it back with an amendment.

Mr. McDougall. I should like to hear the amendment read.

The PRESIDENT *pro tempore*. Is there objection to the consideration of the resolution? No objection being made the resolution is before the Senate, as in Committee of the Whole, and will be read.

The Secretary read the joint resolution (H. R. No. 83) as follows:

A joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress.

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

The amendment of the Judiciary Committee was read. It was to strike out the preamble and resolution, and in lieu thereof to insert:

Whereas in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form, and not inconsistent with the Constitution and laws of the United States, whereby slavery was abolished and ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution, which has ratified the amendment to the Constitution of the United States abolishing slavery; also the amendment proposed by the Thirty-Ninth Congress; and whereas the body of the people of Tennessee have, by a proper spirit of obedience, shown to the satisfaction of Congress the return of said State to due allegiance to the Government, laws, and authority of the United States: Therefore,

*Resolved, &c.* That the United States do hereby recognize the government of the State of Tennessee, organized as aforesaid, as the legitimate government of said State, entitled to all the rights of a State government under the Constitution of the United States.

Mr. SHERMAN. I trust the Senate will not adopt that amendment, but that we shall pass the resolution as it came from the House of Representatives. Indeed, I had hoped that the Committee on the Judiciary would report back the resolution without amendment, and that we should have the matter disposed of to-day. I presume there is nothing in the recitals of the preamble reported by the Committee on the Judiciary than what I have already twice voted for. The most material recital in it that is not contained in the House preamble is that the question of the admission of the rebel States is a question for Congress to determine and must be prescribed by law. The House of Representatives, after quite a contest, have adopted a resolution which does not assert that proposition—a proposition which we have already twice asserted, once in the form of a concurrent resolution, and there is no need of reasserting it again. If we take the resolution as it came from the House the same effect is produced—the admission of Senators and Representatives from Tennessee, on their taking the oath of office.

The assertion of these political dogmas in the resolution can be of no use whatever. We have already asserted them in every form in which it is possible to assert them by concurrent resolution. We know that they cannot receive the sanction of the President; and to insert them will only create delay and postpone the admission of Tennessee. This is a joint resolution, and I presume it is contemplated to send it to the President. Now, it seems to me the committee have so framed their preamble that the President cannot approve it, and the result will be another veto and further delay. On the other hand, the House resolution will accomplish precisely the same result; and the body of the resolution being substantially the same, I trust we shall take a sensible view of the question and accomplish the result we desire by the shortest road, and not reassert in the preamble propositions that will only give rise to a new discussion and new controversy.

This is the view I take. We know what was the action of the House, yesterday. Their proceedings have been published, and I hope we shall take the same view which was taken by the great body of the House. If we take the resolution as sent to us by the House, we assert substantially the same thing in the preamble, without going into unnecessary details and reasserting our right to act upon this question. For these reasons I shall vote against the amendment proposed, and for the resolution as it came from the House, and I hope we shall act on it to-day and thus settle the question.

Mr. TRUMBULL. I regret, sir, that the Senator from Ohio cannot agree to the substitute which the Committee on the Judiciary instructed me to report, and that he places his objection to it upon the ground that the Executive will veto it. He says that Congress has twice asserted all that is asserted in the resolution as the committee propose to make it read; and having asserted it before, he is now for giving up his own opinion and that of Congress, and yielding to that of the Executive.

Mr. SHERMAN. I did not say that, and the Senator ought at least to be fair in stating my propositions.

Mr. TRUMBULL. The Senator did state distinctly as an objection to the amendment that we had asserted it twice, and that the President would veto it.

Mr. SHERMAN. Yes.

Mr. TRUMBULL. I want to know if that does not amount to an objection to our maintaining the position we have taken, and a surrender of our position because the Executive is opposed to it.

Mr. SHERMAN. Not at all.

Mr. TRUMBULL. I so understand it, and I see not how any other legitimate inference could be drawn from the remarks of the Senator. But, sir, it is known that the Executive has asserted authority over this question of reconstruction, and concedes to Congress nothing but the right of passing upon the admission of members, and indeed does not concede that to Congress but to each House separately.

Now, sir, this is a joint resolution which comes from the House of Representatives, and of course must go to the President for his approval; and what is it? It is a "joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress." Now I say very frankly to the Senator from Ohio, that I am opposed, decidedly opposed, to adopting a resolution simply confining Congress to the admission of Representatives and Senators. We have jurisdiction over this whole subject, and I am not for adopting a proposition merely declaring that Senators and Representatives may come here—a matter that Congress has nothing to do with so far as the qualification, election, and return of a member is concerned. I agree with what is contended for upon this floor by the friends of the President, that each House must pass separately upon the elections, qualifications, and returns of its members; Congress has nothing to do with that question; but what is it that we are legislating about? It is whether the condition of things in Tennessee, brought about by the rebellion, so dissevered the political relations between the State government of Tennessee and the Government of the United States that it lost representation here, and whether it can have any right to representation or any other right as a State, until we recognize it. Our resolution as we report it is not simply that Tennessee is entitled to Senators and Representatives, but we report that the government organized in Tennessee, under a constitution which was submitted to the popular vote, and ratified, as proclaimed by Andrew Johnson himself, "by a large popular vote," is the legitimate government of the State of Tennessee, entitled, not to representation—we say nothing about representation—but entitled to all the rights belonging to one of the States of this Union. Sir, it is much broader than

the House proposition. "Entitled to representation" of course; entitled to the guarantee of a republican form of government; entitled to every right which the State of Ohio or the State of Illinois has; and, of course, among those rights is the right of representation.

Now, sir, at this stage of the proceeding I do not propose to be drawn into any extended remarks; but the preamble of the House resolution simply places the admission of the State of Tennessee upon the fact of its having adopted the constitutional amendment; that is all. Tennessee has done much more than this; she is in a very different position from most of the other southern States. Her constitution, I believe, is the only one of all the constitutions which have been adopted in the rebellious States since the rebellion that was submitted to a popular vote and ratified by the people. Perhaps the same thing may have been done in Arkansas. I am not sure but that there may be one or two other instances.

Mr. BROWN. I desire to ask the Senator at this point whether the preamble which he has introduced here from the Committee on the Judiciary does not in so many words assert that the constitution of the State of Tennessee as it now stands is not only republican in form but conforms to the laws and the Constitution of the United States, notwithstanding the fact that it disfranchises the whole colored population. Is not that the allegation of the preamble?

Mr. TRUMBULL. There is nothing in the preamble about disfranchising the whole colored population.

Mr. BROWN. But there is an allegation that the constitution of the State, as it now stands, is "republican in form."

Mr. TRUMBULL. Yes, sir.

Mr. BROWN. I do not believe in that doctrine, and I cannot vote for that preamble.

Mr. TRUMBULL. I am sorry that the Senator from Missouri has placed himself in a position by which he declares that his own State constitution is not a republican one.

Mr. BROWN. I do.

Mr. TRUMBULL. Then he is not here from a republican State at all!

Mr. BROWN. Yes, sir; that I may be.

Mr. TRUMBULL. I do not know what business he has here if he is not representing one of the States of this Union having a republican form of government!

Mr. BROWN. We will see about that.

Mr. TRUMBULL. Most of us are here under republican forms of government just like this in Tennessee. Nearly every one of us holds his seat under a similar State constitution. This constitution, as appears by a proclamation of Andrew Johnson, military governor of Tennessee, was ratified on the 22d of February, 1865, by a very large popular vote. He states in that proclamation that the amendments which were proposed to the old constitution and to the schedule have been adopted by the people. That fact is recited in this preamble, which is not in the House preamble. It is also recited in the preamble that the State of Tennessee has repudiated the rebel debt, has abolished slavery within the State, has declared the ordinance of secession and laws under it null and void, all of which facts are omitted from the recital in the House preamble; and the resolution itself differs materially from that adopted in the House. The House resolution makes it a point that the State of Tennessee is entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, on their taking the oath of office required by existing laws. The Committee on the Judiciary preferred to leave that matter with the general declaration that this State government which had been organized in Tennessee was a legitimate State government, entitled to all the rights which belong to a State government in the Union, and then it will be left for each House to determine for itself, when the credentials are presented, upon the right of persons who claim seats to occupy

them; and we think it is preferable to the shape which has been adopted by the House of Representatives, and for that reason present it in this form.

I do not propose to enter into any extended remarks at this time, as I said; but I will make one further remark in reply to the suggestion of the Senator from Ohio, that the President of the United States will necessarily veto this resolution. I do not see how he can. Will the President of the United States object to Congress declaring that this very government, which he has been insisting upon was a legitimate government all the time, is legitimate? That is what we declare in our resolution, that this State government, organized in Tennessee is a legitimate State government, a government which he himself organized a year and a half ago, and entitled to all the rights appertaining to any State government in the Union. Can it be that the Executive can have any objection to our declaring that which he has alleged to be a fact all the time? But the Senator objects that we assert that it is for the law-making power to declare this. I think so; we have declared so; and I am for adhering to the position that Congress has taken upon this subject. I forbear to go into that, because it is an extensive subject which would lead to extended remarks. But it seems to me a proposition as clear of demonstration as any political question can be, that it belongs to the law-making power of this Government to determine whether a government exists in a State that is entitled to be regarded as the legitimate government of that State.

Mr. SHERMAN. The last few remarks made by the Senator from Illinois convince me that he ought to take the same view of this matter that I do. He says that the President will not veto this resolution—

Mr. TRUMBULL. I do not say he will not veto it; I say I see no reason why he should.

Mr. SHERMAN. I ask him, turning the same argument upon him, why reassert for the third time a proposition which the President dissents from, merely to form the pretext of a veto?

Sir, we have happily so far progressed with our business on this difficult question of the admission of the southern States, that we can agree that the State of Tennessee is now restored to her old relations to the Union, that she has now placed her institutions in harmony with the General Government. The President and Congress, I hope, can agree on that simple proposition. The House of Representatives by an almost unanimous vote have agreed upon this formula declaring the fact that Tennessee is entitled to representation here, that Tennessee again is placed in harmony with the General Government. The steps by which this state of affairs has been brought about it is not necessary to recite in the resolution. It is only necessary for us to declare the fact, without going into the controverted propositions through which we have traveled during this whole long session. The fact occurs that the State of Tennessee now stands in a position where by the common consent of all parties she is entitled to representation upon this floor. Her people have voted in favor of the constitutional amendment abolishing slavery; they have adopted a State constitution in harmony with our General Government. They are entitled to representation here. We know that some of her representatives are thoroughly loyal men by any test to which we can subject them; that they are waiting to take the oath prescribed by law; that the State has adopted the constitutional amendment; that she has complied with all the conditions you have imposed on her. The fact exists, the simple and palpable fact, that the State of Tennessee is entitled to be represented here by Senators and Representatives. The House of Representatives by an almost unanimous vote has declared that in this formula. There is not a word in this formula to which every Senator cannot agree. I will read it:

Whereas the State of Tennessee has in good faith



ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States—

Mr. McDOUGALL. Allow me to ask a question.

Mr. SHERMAN. Oh, no; I cannot yield.

Mr. McDOUGALL. It is about that very thing.

Mr. SHERMAN. I would rather not yield. The preamble goes on—

and has shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States—

Mr. SUMNER. I think that is contrary to the fact, contrary to the evidence.

Mr. BROWN. So do I.

Mr. SHERMAN. I know my friend from Massachusetts and my friend from Missouri do not think that Tennessee will be in harmony with her relations to the General Government until she allows negroes to vote. We come, then, to that bare and simple proposition, that we must require these States to allow colored persons to vote. Are we prepared to make that issue?

Mr. BROWN. I am prepared.

Mr. SHERMAN. If so, why not put it right in here and say so? That is the manly way. If we want to make the issue that no State shall come back here and have Senators and Representatives until she allows all to vote, without distinction of color, why not make the issue frankly and manfully? But that is not done. We have refused to do it; we now refuse to do it; we do not do it by the proposition of the Judiciary Committee.

The House resolution then goes on to declare "that the State of Tennessee is hereby restored to her former proper practical relations to the Union."

There is the simple proposition, that Tennessee, by the adoption of the constitutional amendment, by her action for the last two or three years, by her adhesion to the Government, by organizing a government (at the head of which is Governor Brownlow) and a Union Legislature, by acquiescing and submitting to every proposition made by us, by sending here Senators and Representatives who it is admitted can take the oath of office and are entitled to hold their seats, shall be so declared entitled. We here declare in a few words that Tennessee has complied with all these terms, and then we say in conclusion that she is entitled to representation. Now, is it worth while for us to encumber this proposition, which everybody can vote for except those who are not willing to give up universal suffrage, by propositions upon which we disagree?

I do not think the Senator from Illinois fairly stated my argument. I have voted with him throughout this session that the question of the condition of these States is a question to be determined by Congress. We have asserted that twice by a concurrent resolution. We asserted it in the organization of the reconstruction committee in so many words. We asserted it still more definitely in the proposition that was passed in March last, and which we all voted for. Now, is it worth while again to insert that assertion into the body of this resolution, as if we still had some doubts about it and were determined to force the President to agree to it? Suppose the President differs from us, as we know he does, is it worth while for us again to reassert that proposition? Will his forced acquiescence in it give it any vitality? We have asserted the power; we have exercised the power; we have this day the power; and I will never surrender it; but I will not force it into his teeth and compel him to acquiesce in the assertion of the power, when he has told us over and over again that he does not think we have it as we assert it. I will exercise it, but I would not thrust it into his teeth by a joint resolution, especially when no practical good can come out of it.

The result at which we seem all to aim is the admission of Tennessee. When the other States come in we can apply the test to them.

All we say in this resolution is that Tennessee is entitled to admission. I can say to Senators that from my correspondence with the people, the people of Ohio particularly—and I think in this my colleague will agree with me—while upon other things there may be differences of opinion, there is a warm, hearty, earnest, unanimous sentiment that we should admit the State of Tennessee to representation before we adjourn. That is their earnest desire, and we can close the controversy to-day by the admission of Tennessee upon the basis proposed by the House of Representatives. If you adopt the amendment reported by the Judiciary Committee the resolution must go back to the House; you have perhaps a controversy between the two Houses; you may have a controversy with the President. I do not see any use in the delay, and therefore I am in favor of the adoption of the House proposition.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. TRUMBULL. I hope we shall be permitted to go on with this matter; it is an important question and it ought to be settled at an early day. I move, therefore, to postpone all other business and to proceed with the joint resolution under consideration.

Mr. BUCKALEW. Mr. President—

Mr. FESSENDEN. Allow me a word. The Senate will undoubtedly do as they please, but I feel bound to object to that motion. I have got the honorable Senator from Massachusetts [Mr. WILSON] directly on my back, and therefore I cannot consent to anything that will displace the business which has precedence. If the Senate chooses to change it I cannot help it; but I must insist that we proceed with the appropriation bill.

Mr. BUCKALEW. I was going to observe that before this subject was passed by—I supposed, of course, the miscellaneous appropriation bill would be taken up, as it was in order—I propose, with the consent of the Senate, to submit a motion that the amendment be printed. It involves not only a very material change in the preamble, it is a long preamble that is now proposed, but it also proposes a change in the resolution itself; and certainly this is a subject of sufficient gravity to authorize and require that the proposition upon which the Senate is to be divided shall be printed. If the Senator's motion is disposed of I ask the consent of the Senate to submit a motion for the printing of the amendment of the Judiciary Committee.

Mr. TRUMBULL. I would say to the Senator from Pennsylvania that if the matter goes over the amendment will be printed as a matter of course; it will not require any motion; being the report of a committee it will be printed at any rate. But I trust it will not go over; it is a matter well understood; there are but three or four lines in the resolution and they are printed; they are taken from a printed resolution that was laid upon the table some time ago. Every one can have the printed resolution before him in a moment by sending for that; and striking out a few of the words would correct it to the present resolution.

Mr. BUCKALEW. I desire to make a suggestion to the Senator, and it is this: the Senator is desirous of declaring by act of Congress that the State of Tennessee is entitled to representation in the Senate and the House of Representatives.

Mr. TRUMBULL. No, sir; I do not wish to declare any such thing by act of Congress.

Mr. BUCKALEW. The Senator wishes to declare a proposition which covers that.

Mr. TRUMBULL. Yes; I wish to declare that she is entitled to the rights of a State.

Mr. BUCKALEW. Then I submit to the Senator that the sensible and the better mode of accomplishing this object is to say precisely that and let all disputed matter go by the board. If he will propose an amendment simply declaring what he says is the intention of his

measure, without carrying us over the field of debatable matter, historical questions, I presume we can dispose of the whole subject within ten minutes.

Mr. TRUMBULL. The appropriation bill, of which the Senator from Maine has charge, is a bill that is always postponed until the last days of the session; it will certainly pass; it is one of those things that always receive attention. Now, this is a matter which has engaged the attention of Congress a great deal of its time since we met in December last; it is a matter that ought to receive early disposition, and I think we had better now that the matter is up, proceed with it and finish it.

I am quite aware, I will say in reply to the Senator from Pennsylvania, that all the time he has been quite willing for each House to take up and act on the credentials of persons claiming to be representatives here from Tennessee and other States; but Congress has not been of that opinion, and I think it necessary, before we take action in reference to representation, to find out whether there is a body in Tennessee entitled to representation at all, or entitled to exercise the rights of a State; and I wish to declare in the resolution the whole ground, that there is a government organized there entitled to all the rights pertaining to any of the State governments in the Union. Of course that would embrace representation; but I prefer saying nothing about representation as one of them. I hope that my motion will prevail, and that we may be permitted to proceed with and finish the matter.

Mr. FESSENDEN. If that motion is agreed to, it will displace the appropriation bill.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is not the appropriation bill, but the bill of the Senator from Missouri [Mr. HENDERSON] in relation to the Georgetown aqueduct.

Mr. FESSENDEN. I do not know how that came to be so.

Mr. GRIMES. It was done last night.

Mr. FESSENDEN. Then a very improper advantage was taken of the evening session.

Mr. HENDERSON. No; it was District of Columbia business; it was legitimately up.

Mr. FESSENDEN. But that was only for the evening session.

Mr. HENDERSON. It was all right.

Mr. JOHNSON. It was all wrong.

Mr. MORRILL. My colleague will see that there was no disposition to take any unfair advantage, for the District Committee were entirely unconscious that the effect of the rule would be to bring up the aqueduct bill this morning.

Mr. FESSENDEN. Then I presume they will not object to the appropriation bill being restored to its former position.

Mr. MORRILL. If we have got any legitimate advantage of the rule I shall be very glad to hold it if I can.

Mr. FESSENDEN. It is so much more important to organize some temperance society or something of that kind in the District of Columbia than to pass a necessary appropriation bill that I suppose I shall have to give way.

Mr. MORRILL. I do not propose to argue it.

Mr. CONNESS. I hope the Senator from Maine will consent to go on with the present business and let us finish it.

Mr. FESSENDEN. I am at the disposition of the Senate.

Mr. CONNESS. And I trust we shall come to a vote upon it without much delay. I do not see the importance of printing, as called for by the Senator from Pennsylvania, because there is nothing in the proposition that cannot be easily understood, that is not fully understood. I do not wish to get into a discussion, but to leave this resolution in the charge of the committee that have reported it here, and I hope the Senate will come to a vote on the question. We have all got business, and there is much public business to be done, and if we vote I have no doubt we shall adopt this resolution.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois to postpone the present and all prior orders in order to continue the consideration of House joint resolution No. 83.

Mr. TRUMBULL. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. SUMNER. It seems to me that the suggestion of the Senator from Pennsylvania is not unreasonable, when we consider the gravity of this question. He proposes that the resolution on which we are to vote shall be printed that we may have an opportunity to see it with our eyes as well as to hear it with our ears, as it has been read at the desk. I say I think that is not an unreasonable request. I should like also to be able to read it; and it is for that purpose, to give an opportunity of printing it, and also because I think that the business which is in hand and is half finished, an appropriation bill, had better be proceeded with, that I shall vote against the motion to go on with the resolution.

Mr. McDUGALL. Mr. President, I do not think it is the right of the Senator having in charge this measure, or his committee, to force action upon the Senate without their having an opportunity to see what the exact measure is. It is true it has been read at the desk; but it has not been printed and laid upon our tables. I have not had an opportunity to examine into what exactly it is. No other Senator has except such of the committee as have been consulted about it. It seems to me to be the right of any Senator, his particular personal right, to have every measure of legislation if he requires it put in form that he can examine it at his desk and understand what it is. Here is a matter of vast importance, involving great principles, involving fundamental questions; and it is insisted upon that we shall vote upon it blind without the opportunity of seeing what it is. If this be legislation in accordance with the republican system, the republics of this period have got very near like the despotisms of the days of Caligula.

Mr. POMEROY. This question we were proceeding with by unanimous consent. I should suppose if any one had any great objection to proceeding, he would have made the objection when the resolution came up. The Chair put the question very plainly whether any one objected; there was no objection, and we proceeded to the consideration of the subject. I conclude that persons who desire to postpone and have the resolution printed would have made the objection at an earlier stage of the proceedings.

The question being taken by yeas and nays, resulted—yeas 36, nays 8; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cowan, Creswell, Davis, Doolittle, Edmunds, Foster, Grimes, Harris, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—36.

NAYS—Messrs. Brown, Buckalew, Fessenden, Guthrie, Henderson, McDougall, Morgan, and Sumner—8.

ABSENT—Messrs. Cragin, Dixon, Saulsbury, and Wright—4.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The resolution is before the Senate as in Committee of the Whole, and the question is on the amendment reported by the Committee on the Judiciary to the body of the resolution.

Mr. JOHNSON. I could not agree in committee with the substitute proposed by the honorable chairman of the committee and adopted by a majority of the committee, for several reasons which it is unnecessary now to assign; it is too late in the day to argue the question which that substitute presents. Nor shall I be able to agree to vote for the preamble to the resolution passed by the House yesterday, and if no one else moves to strike out the preamble, I shall make that motion and vote accordingly; but as I am very anxious to have the State of Tennessee admitted to representa-

tion, I shall vote for the resolution whether the preamble is retained or not.

The objection that I have to the particular preamble is one of fact as well as of law. The fact which it alleges is by no means clearly established, in my judgment. It states that "the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress." I have seen no evidence of the ratification of that amendment at all, upon which I could judicially rely or morally rely. I have seen nothing or heard of nothing except a telegraphic dispatch purporting to have been sent by Governor Brownlow. Now, whether he sent it we cannot know judicially.

But another thing operates upon my judgment. I am by no means satisfied, relying upon the facts stated in that dispatch, that the amendment has been properly ratified. What is the Legislature of Tennessee? How many it takes to constitute a quorum of that Legislature, whether there was that number present in the hall, how they were brought within the hall, we know nothing about. I have understood—whether it is true or not of course I can have no knowledge—that the two or three members who were brought in by force were kept in the room of the sergeant-at-arms of that body, and that was supposed to be a presence in the room in which the House of Representatives of that State was assembled.

But, notwithstanding that, as I think the State is entitled to be represented, and never have doubted upon that question, and that it was the duty of the Senate to have admitted those who were chosen to represent her in this body, I shall vote for the resolution whether the fact stated in the preamble was true or not. Its truth gives no force, as I think, to the obligation of the Senate to admit the members; its falsehood cannot take from the State the right to be represented by Senators.

Mr. GRIMES. I am sorry to say that I am compelled to differ from the chairman of the Committee on the Judiciary and shall be constrained to vote against his amendment, and shall vote with great pleasure for the original proposition as it came from the House of Representatives.

I understand that the great point made by the Senator from Illinois is that he desires that there should be a recognition of the authority of Congress over the question as to whether the late rebel States shall be entitled to representation or not. Now, if I understand the language of the House resolution, and I believe that is what is now under consideration, no language could be used that would more satisfactorily convey the implication that this matter does rest with Congress, and is dependent upon our action, than that which has been used by the House of Representatives when they passed this resolution.

"That the State of Tennessee is hereby restored." Restored by what? Restored by this resolution, this resolution of Congress, the joint act of the Senate and of the House of Representatives, and of the executive department of Congress.

"That the State of Tennessee is hereby restored to her former proper, practical relations to the Union." I understand that that covers everything. I understand that that expresses the opinion of Congress that Tennessee has a right to exercise all of her functions in every department as an independent sovereign State of the United States, as much so as any other State in the Union.

"And is again entitled to be represented." I suppose these words are unnecessary, as this result would naturally follow from the preceding declaration; but it goes on, "and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws." Satisfied, Mr. President, as I am that there is a full recognition of the authority of the legislative power of this Government to control this matter by

the adoption of this resolution in the phraseology in which it is framed, I shall have no hesitation in voting for the resolution as it came from the House.

I do not know that the preamble is now under consideration, but I am entirely satisfied with that. It declares that "the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States." That article, I believe, includes everything in the original bill that was reported back to the Senate and House of Representatives by the joint committee of the two bodies on reconstruction, the committee of fifteen.

"And has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States." I am not going into the question which the Senator from Maryland has alluded to, as to whether the constitutional amendment was properly ratified by the Legislature of the State of Tennessee or not. I am myself satisfied from the information that is before me that she has properly ratified it; and having done so and having shown, according to my judgment, in the language of this resolution, a proper spirit of obedience to the laws by her people and her return to due allegiance to the Government, the laws, and authority of the United States, I am prepared to vote for the resolution as it came from the House of Representatives.

Mr. WADE. I am in favor of the more specific designation of the reasons given in the preamble reported by the committee that induce us to admit Tennessee. The great question between us and other departments of the Government on this subject has been a matter of debate during the entire session, and it seems to me that when we discriminate between one State and another and admit one State into the Union, it is well to have the reasons for doing so upon the very face of the proceeding, so that every man in this Union who reads it may know precisely the grounds upon which we act in admitting this State while we reject other States. I think that it ought to carry upon the very face of the proceeding to every person the reasons which induce us to do this thing. They are not very lengthy, very prolix, or very cumbersome as a preamble to a bill, and such preambles have always in the history of legislation been thought to be necessary when they were explanatory of the acts of the legislative body. There never was a case more opportune for such a preamble than the present, in my judgment.

Now, sir, I am for admitting this State into the Union, and I am for admitting it for the reasons that are set out in this preamble, specifically and precisely showing what the State has done that entitles her here to be represented, for I utterly dissent from the doctrine of the President, that whenever a Union man may appear from any State, however disloyal the State, he is entitled to be a member of this body. That cannot be so upon any republican principle. The principle of that doctrine is totally opposed to all representative government. What, sir, a loyal man represent a disloyal constituency! He cannot represent them; it is not in the nature of things. You may admit a loyal man upon this floor who happens to be sent here by a disloyal constituency; but it is impossible upon the great principles of representative government that he can represent them. It cannot be done, and the attempt to do it would be anomalous, repugnant to the whole spirit of our institutions and cannot be entertained for a moment.

The people of this State, differing, as the Senator from Illinois has already explained particularly, from every other of the seceded States except one, perhaps, have framed a constitution, not moved thereto from any extraneous source, but the people themselves came together to reinvest their Legislature with powers to legislate. That constitution has been

submitted to the people; they have ratified and confirmed it; they have abolished slavery; they have renounced the infernal heresy of secession; they have repudiated the rebel debt; they have conformed their legislation to that of Congress; they have adopted our recent constitutional amendment; and, what is more than all the rest, and what is not recited in this preamble, if I understand it, but is a thing that moves me stronger to the admission of the State than anything else, they have disfranchised their rebels and denied them the privilege of participating in the State government. That is the ark of safety. No State can safely be permitted to come into this Congress with representation until she has disfranchised her rebel community. If they are permitted to participate in her legislation and are the majority in all those States, it is impossible that they can be represented upon this floor either by Union or disunion men. It is not in the nature of things.

This State has done that, and I wish that specification had been in this preamble. I think that nothing she has done commends her to our approbation more clearly than the fact that she has done precisely by her legislation what we are endeavoring to do by one article in our constitutional amendment—provided that no person shall hold any office under this Government who has participated in any way in the rebellion. Tennessee has not only done this, but she has disfranchised them; they cannot participate in the State Legislature; they cannot vote there. I wish that fact had been stated in the preamble, so that when my constituents come to inquire why I voted to admit the State of Tennessee into the Union they may in reading the very law be enabled to see why I did it, and not have to guess at it.

I pay no regard to all that has been said here in relation to the President probably vetoing your bill, for anything he may do, in my judgment, is entirely out of order on this floor. Sir, in olden times it was totally inadmissible in the British Parliament for any member to allude to any opinion that the King might entertain on anything before the body; and much more, sir, ought an American Congress never to permit any member to allude to the opinion that the Executive may have upon any subject under consideration. He has his duty to perform, and we ours; and we have no right whatever under the Constitution to be biased by any opinion that he may entertain on any subject. Therefore, sir, I believe that it is or ought to be out of order to allude to any such thing here. Let the President do what he conceives to be his duty, and let us do ours, without being biased in any way whatever by what it may be supposed he will do.

I hope, sir, that we shall shrink from none of the principles that we have avowed. This preamble is but a very vigorous summary of the principles about which we have been contending all winter; and who is to shrink from them now? Let them all there stand out like the sun at noonday as the doctrines of the party, the doctrines of Congress, the doctrines of the Constitution, and that we hold these doctrines to be sacred, and put them forth as the reason of our action to be seen of all men. I hope we shall adopt it just as it came from the Judiciary Committee.

Mr. HENDERSON. I regret very much that this preamble has been suggested, not that it takes away anything from the resolution or adds anything to it, but simply because it will be regarded as committing those gentlemen who vote for the resolution to everything that may be said in the preamble. We cannot vote for this preamble without crossing the opinions of a good many of our friends here. That is a very certain fact; and I think that it is totally and wholly unnecessary to force those of us who may disagree to the facts stated in the preamble to vote for it in order to accomplish the end to be desired. I mean the preamble that has been presented by the Committee on the Judiciary. It is a bad system anyhow to undertake to set out any facts in the pream-

ble that you can dispense with. It is better to take the resolution, as was very properly stated by the Senator from Iowa, because it carries within itself everything that we desire to assert. I do not like the preamble that comes from the House. I would prefer that that preamble should be entirely dropped with the exception of that part of it which declares that the people of Tennessee have adopted the amendment of the Constitution which was proposed at the present session of Congress. That is enough, because that will indicate to the people that upon that fact, that Tennessee has adopted that constitutional amendment, we are satisfied to receive her; that is, if we are satisfied upon any facts at all. The resolution itself says:

That the State of Tennessee is hereby restored to her former proper, practical relations to the Union.

If she could be restored without the action of Congress, as has been very properly said, what would be the use of making this declaration?

And is again entitled to be represented by Senators and Representatives in Congress.

If we declare by law that she is entitled now to be represented, the inference of course is that without this act of Congress she would not be so entitled. What is the use of thus expressing it unless that be the fact?

As to the preamble that has been reported by the Judiciary Committee, I do not know the facts stated in it, and therefore I shall not vote that I do know them. It is a mere assertion of facts, and unless I know those facts I shall not vote for them. The first is—

And whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form and not inconsistent with the Constitution and laws of the United States.

The honorable chairman of the Judiciary Committee has seen fit to propose this new preamble without giving us a copy of the constitution of Tennessee. I am certain I have not read it; I do not know what that constitution is; and I am called upon, without ever having this preamble printed, to cast an important vote declaring that proposition. I do not know any such thing. My colleague [Mr. Brown] says that he is not prepared to vote that Tennessee has a constitution republican in form. One thing I do know, that the able Senator from Massachusetts, [Mr. SUMNER,] my colleague, and various others that I can point out in this body, will not vote that the constitution of Tennessee is republican in form, at least since the adoption of the constitutional amendment abolishing slavery. We understand—I have it from parties interested, from the members of Congress elect from Tennessee who are most urgent in having her admitted—that she excludes the entire negro population everlastingly from the ballot. How can the able Senator from Michigan and the able Senator from Massachusetts, my own colleague, and various others, vote for that proposition? I am astonished that it should be assented to by the Senator from Ohio, [Mr. WADE,] who, in a discussion here a short time ago said that he regarded no constitution as republican in form which excluded from the ballot the negro population. There are perhaps four or five hundred thousand negroes in the State of Tennessee entirely excluded by this constitution; and Congress is called upon to declare that that constitution is republican in form. I am making no objection to it; but why force our friends here who do object to it to vote it?

The Senator from Ohio says that it is very improper to refer to the President. But suppose that the President vetoes this proposition and it is sent back to us; will my colleague vote for it? Will the Senator from Massachusetts vote for it, or will he sustain the President's veto? He will be forced to sustain the veto. Why? Simply in consequence of a statement in the preamble that this constitution is republican in form. Why put our friends in this situation? Is there any necessity for it? I think not; and I sincerely hope

that the able Senator who has this resolution in charge will see fit to withdraw so much at least of this preamble as asserts that proposition, because although he and myself may believe that this constitution is republican in form, yet we ought at least concede something to the views and opinions of able and distinguished Senators who think otherwise. Besides, even if I thought this constitution republican in form, I am not prepared to say that it does not in any manner conflict with the laws of the United States. I do not know whether that is so or not.

Again, the preamble declares that by the constitution of Tennessee all "ordinances and laws of secession and debts contracted under the same were declared void." I do not know that fact. I ask the distinguished Senator who is chairman of the Judiciary Committee, is he prepared to say that the constitution of Tennessee abolishes all "ordinances and laws of secession and debts contracted under the same?" There was a volume of legislation published by the Tennessee Legislature every year. I do not know whether all of those laws are made void or not. I am not prepared to say whether the people of Tennessee have seen fit to wipe out every vestige of secession, and to draw from their government the virus of opposition to the United States that they indulged in during the late war.

Mr. TRUMBULL. Perhaps I can best answer the Senator from Missouri, if he wishes an answer on this point, by reading a clause of the constitution.

Mr. HENDERSON. I will give way for that purpose, for really I have not seen the constitution.

Mr. TRUMBULL. Section five of the new constitution of Tennessee, as adopted, is in these words:

"All laws, ordinances, and resolutions, as well as all acts done in pursuance thereof, under the authority of the usurped State government, under the declared independence of the State of Tennessee, on and after the 6th day of May, 1861, were unconstitutional, null, and void from the beginning: *Provided*, That this section shall not be construed as to affect any judicial decisions made by the State courts held at times differing from those provided by law prior to May 6, 1861; said judicial decisions being made pursuant to the laws of the State of Tennessee enacted previous to said date, and between parties present in court and litigating their rights."

Mr. HENDERSON. I suppose that that even would leave any right growing up under secession laws and ordinances still attaching to the individual.

Mr. TRUMBULL. This does not change it; it is a mere recital.

Mr. HENDERSON. I do not ask that it should; but this is a very important declaration for us to be making.

Then there is another declaration here, which is also in the House resolution, that Tennessee "has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States." The Senator from Ohio, [Mr. WADE,] a little more than a year ago, in discussion on this floor, and the able Senator from Michigan [Mr. HOWARD] also stated, as I distinctly remember, that they would not vote for the return of any State into the Union until it was clearly manifest that a majority of the people of that State showed themselves willing to return and obedient to the laws and Constitution of the United States; in other words, loyal. Now, I am very well satisfied that a majority of the people of Tennessee to-day—that is, the original white voters—are not loyal, and have not been since 1861. A large majority of them were disloyal then and are disloyal to-day. And yet the Senator from Ohio desires to assert all these propositions to-day, and insists upon having a vote immediately. He must have them all asserted. I am not prepared to assert them. He says that the people of Tennessee have shown a right spirit by disfranchising the rebels. Have they disfranchised a majority of their people in so doing? Yes; and they have disfranchised all



the black people. If they have disfranchised the rebels, they have disfranchised the majority of their white voters, and they have also disfranchised four hundred thousand negroes; and a small minority present themselves here, and we must declare that the body of the people have shown themselves loyal!

Mr. President, I am not resisting this government of Tennessee. I am in favor of admitting Tennessee, and I shall vote for it most willingly; but I will not assert the views stated in this preamble. I have taken the ground, in discussion here, that a minority of the people have a right to representation when they show that they are able to control the politics of the State; and I now insist that such is the fact, that when a majority of the people rebel, the minority have a right to govern according to the laws of the United States. That is my position, I have always entertained it, and I do not see any reason to change it now. But when you ask me to assert that the body of the people of Tennessee are loyal and have shown obedience to the Constitution and laws of the United States, when in order to govern according to their rules they have excluded four hundred thousand negroes and a majority of their whites, I will do no such thing. I hope, sir, that we shall not insist upon this preamble, but that we shall go back to the preamble adopted by the House, and take only this part of it:

Whereas the State of Tennessee has ratified—

Leaving out the words "in good faith," for I do not know whether they have ratified it in good faith or not. I leave that to themselves—

Whereas the State of Tennessee has ratified the article of amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States: Therefore, *Be it resolved, &c.*

I am willing to stop right there. I am unwilling to say that Tennessee has "shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States."

Mr. WILSON. Why not strike out the whole preamble?

Mr. HENDERSON. I am more than anxious to do that. I do not want any preamble, because it adds nothing to the strength of the law. It is a mere assertion of fact, and gives the President of the United States another chance to veto a proposition and have a large body of our most radical friends voting with him. That will unquestionably be the case, and we cannot pass the resolution. We shall have to wait here another ten days in order to hear from him and get Tennessee in. It is proper to allude to that consideration, because he will assert no such fact, and we practically assert it by the resolution without any preamble. Then why have any preamble about it? I regret very much that the House of Representatives insisted upon a preamble; and I regret still more that the Committee on the Judiciary of the Senate have thought proper to insist upon a preamble more obnoxious, in my judgment, than the House preamble. If we have to take any, I am willing to accept that of the House, because the people of Tennessee have adopted the constitutional amendment recently sent to them, and I am willing to say, and to leave that inference before the people, that we will admit no State unless it does adopt this amendment; that we will regard that as evidence of their sincerity, and take them in, provided we are willing just at that time to take them in. I am not prepared to say, even if they adopt that constitutional amendment, in all cases, that I would receive them. I will look at the surrounding circumstances and the character of the men they send here. They went out of the Union, and I am in no very great hurry to take them back. They insisted upon killing everybody who opposed their going out, and now many of them are insisting upon taking the life of everybody who opposes their instantaneous return. We can take things certainly as gently as they can. They kept out willingly four or five years, and

I am not forced, even within four or five years, to be in great haste to receive them back. I am unwilling, if I do receive one of them, to declare in the preamble a thing that I do not honestly believe. I do not believe some of the facts here stated; I am unwilling to make this declaration; and I hope it will not be insisted upon.

Mr. HOWE. I like several of the suggestions of the Senator from Missouri. I like that one especially in which he repudiates the idea of having a preamble at all, and I propose to move an amendment to the amendment to strike out the preamble. I prefer the resolution reported by the Judiciary Committee to the resolution which came to us from the House. I have not compared the two preambles closely enough to know which I do prefer, but I know to a dead certainty that I would prefer no preamble at all to any preamble that we stand a ghost of a chance of getting drafted and prefixed to the resolution. Your preamble, sir, is a statement of the reasons why you agree to the resolution. We have debated the questions connected with this matter of reconstruction, as it is called, not quite ever since I have been born, but it commenced when I was very young, and I think it ought to be known by this time that we are not likely to agree in our reasons for adopting this or any particular resolution upon that subject.

The practical question is, whether you will recognize the government that exists in Tennessee and reclothe it with the prerogatives of a State or not. That is the practical question; all the rest is theoretical. Now, when we vote for the practical thing; when we vote for the resolution which says that representatives shall be received from Tennessee, it is necessary to stop and haggle and debate until we all agree as to the reasons why we vote for that resolution? I would be willing to do it if it were not very hot and I thought there was any reasonable probability of your all coming to my reasons, but, from my past experience, I do not think you are very likely to come to an agreement with my reasons until the hot weather has passed and the cold weather has come and passed again.

The only reason I have for voting for either of these resolutions, the only inducement I have, springs from the consideration that that local government in Tennessee is in the hands of loyal men, that is, men who are of allegiance to the Constitution of the United States and are disposed to obey the national authorities; not only that that government is in the hands of such men now, but that there is a probability that it will continue in such hands. That is all I want of any government. These are the inducements I have to vote to admit representatives from Tennessee.

I could agree to most of these propositions in the preamble sent to us from the House of Representatives, and in most of those or all of those in the preamble reported to us by the Judiciary Committee. This is what I say: that if they are all true, they not only do not constitute the reason, but they constitute no part of the reason why I vote for the resolution; and I do not want to affirm that they do constitute any part of the reason. It does not seem to me that practical and sensible legislators will stop here now to dispute about the reasons upon which they will pass one or the other of these resolutions.

I said that I preferred the resolution reported here from the Judiciary Committee to the resolution which comes to us from the House. The resolution which comes to us from the House says, "That the State of Tennessee is hereby restored to her former proper, practical relations to the Union," &c. It bears a sort of implication that the State of Tennessee had been floating about in a disorganized, and not only that, but in a wild state, away off somewhere in another sphere. The State of Tennessee has been just where she always was since there was a State of Tennessee. The resolution of the Judiciary Committee proposes to recognize the local government which

is organized in Tennessee. That is precisely what we want to do, as it strikes me. The State of Tennessee is just where she has always been. The trouble with Tennessee has been that she has had no government that you could trust. The government which existed there in 1791, and long after 1861, you know was so false, so treacherous, and so traitorous that nobody that pretended to any loyalty would trust that. Your armies scattered that. Then there was another government set up. It was more loyal than that, but a hundred times more feeble. That government which was so false and treacherous was strong, so far as the location was concerned, because it was sustained by the body of the people. The government which was set up subsequent to that was true and entitled to respect, but was feeble because the people of Tennessee did not sustain it. But now I believe that government has got into a position, is so fortified that it can sustain itself. Now recognize it. It has not been recognized before. Nobody could recognize it but Congress. We have affirmed that over and over again. That is the one thing necessary. We not only have affirmed it, but our Presidents, I believe both of them, have affirmed that it was necessary for us to recognize these governments; our courts have asserted that only here rested the authority which could recognize this government. That is the one thing, then, to do; and so I prefer the resolution reported by the Judiciary Committee. But I am so utterly and irreconcilably opposed to either of these preambles, and I am so irreconcilably opposed to the idea of having a preamble at all, that I do hope, first, that the preamble reported by the Judiciary Committee will be stricken out, and then that the resolution reported by them will be adopted as a substitute to that sent to us from the House, and I move that amendment.

The PRESIDENT *pro tempore*. The question first is on an amendment to the resolution. The amendment of the preamble is a subsequent question.

Mr. FESSENDEN. Mr. President, we have so many independent minds in the Senate that it seems nobody can give a reason for voting one way or the other that is satisfactory to anybody else. I avail myself, therefore, of that state of things to give my own reasons.

This proposition to admit the State of Tennessee was originally reported to the House of Representatives from the committee on reconstruction. At that time nothing had been done with regard to passing any constitutional amendment, and it was deemed necessary that certain reasons should be given why we admitted the State of Tennessee, as she stood in an entirely different position from all the other confederate States, in order that it might not be drawn into a precedent for the admission of others, in order that it might not be said, "You admitted Tennessee, and why not admit the others?" There was something very distinct in the condition of Tennessee, because before the downfall of the rebellion she had organized a State government, which was adopted by a large vote of the people, perhaps not by a majority, but by a large popular vote, and had manifested a disposition which denoted loyalty to the Union. It was deemed best to state those facts in order, as I said before, that the admission of Tennessee should not be construed into a precedent for the admission of other States which did not stand in the same relations to the Union that the State of Tennessee did.

I think the amendment proposed by the Judiciary Committee does not very much vary from the preamble of that resolution. They naturally prefer their own phraseology and their own collocation of words; but I think there is no addition of substance except that it states the fact that Tennessee has adopted the constitutional amendment. It does vary somewhat in phraseology. As I drew the original preamble myself, I naturally prefer that, and think it could not be very much improved and has not been very much improved.

But the House has chosen to throw that aside,

and to give substantially but one reason; and that is, that the State of Tennessee has adopted the constitutional amendment which was proposed to the several States by this Congress; and it has also added some other words, which I think do not have, in the way they are expressed, any very great meaning, namely:

And has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her allegiance to the Government, laws, and authority of the United States."

At the time the committee on reconstruction reported a resolution for the admission of Tennessee we also introduced a bill, which there seems to be little chance of getting at this session, providing that whenever the amendment to the Constitution which we have proposed should be adopted and become a part of the Constitution, we would then admit any of these States which were found to be in a condition to be admitted. It was not proposed to admit any one particularly simply because the amendment which was proposed was adopted by it; it was deemed safer to wait until it became a part of the Constitution. Now, sir, this resolution ignores that. It stands substantially on the fact that the State of Tennessee has adopted the amendment to the Constitution proposed by this Congress. I am willing to take it, so far as I am individually concerned, with regard to the State of Tennessee, because there are other reasons, as stated in the former preamble, which operate very decidedly in my mind for the admission of the State of Tennessee. I have been in favor of it from the beginning.

But what I wish to come at is this: I do not wish to pass a preamble which will substantially admit that any State that adopts the constitutional amendment shall be entitled to be represented here before that amendment has been adopted by a sufficient number of States to make it a part of the Constitution. I think this preamble from the House is so weak on those points that it will not stand substantially as a reason for the admission of Tennessee. The State of South Carolina, if it should happen to adopt the constitutional amendment, might claim to be admitted immediately, and I might be unwilling to admit the State of South Carolina until the constitutional amendment had been adopted by a sufficient number of States to make it a part of the Constitution.

Now, therefore, this logic brings me to one of two conclusions. Either amend this preamble and state the reasons which are applicable peculiarly to the State of Tennessee, in order that we may not form a precedent with regard to others; or else strike it out altogether, and let Tennessee stand upon the simple vote of admission, giving no reasons at all, and then everybody will be at liberty to give his own.

Mr. CONNESS. I will say to the Senator that if that should be done it would be made a precedent on the next occasion, and it would be said, "In regard to Tennessee no statement of reasons was required or made." Therefore, I think, it had better be done now.

Mr. FESSENDEN. I say we had better do one or the other. Either state the things which are sufficient to distinguish the State of Tennessee from the other States as the ground of your action, or give no reasons at all. That was the idea I meant to convey. I am not satisfied that either of them would be bad. I do not think it necessary to state or give any reasons which should necessarily create embarrassment. There are good reasons enough that can be given which distinguish the State of Tennessee from all others, and about which there can be no sort of dispute, and that do not involve us in any dispute, either at this end of the Capitol or the other, if Senators are disposed to adopt that course.

Nor do I see, with the Senator, that there is any very great difficulty in passing it without, if Senators prefer to pass it without any preamble, because when referred to himself and myself, if it is proposed to admit another State, and

it is said to him or to me, "You admitted the State of Tennessee," we can point to the facts and say, "I voted to admit the State of Tennessee, and I did it on account of certain facts existing with regard to the State of Tennessee that do not exist with regard to you," and every man then stands upon his own reasons in relation to the matter. I take it that about everybody now is in favor of admitting Tennessee, and I do not think it worth while to quarrel so much about the details in relation to the matter, if there is such a difference of opinion among gentlemen as to defeat the objects which everybody except my honorable friend from Missouri [Mr. Brown] and, perhaps, my honorable friend from Massachusetts—

Mr. SUMNER. Certainly, I am against it.

Mr. FESSENDEN. Who are opposed to it, unless something more can be accomplished. I do not myself agree with them in the position that they take about it, especially as the committee on reconstruction agreed to recommend, and I assented to it, the admission of Tennessee at a previous period of the session. It was not called up and acted upon in the House for reasons I suppose satisfactory to them.

All I desire to say is, that I think it may be done properly without any serious evil in either way; either to state the reasons, leaving out so much as would necessarily be supposed to create embarrassment and difficulty, because the other reasons are sufficient, or to strike out the whole preamble, because I think the preamble of the House is very weak indeed, and only tends to do harm, and simply admit the State without any preamble at all. The language of the resolution is very distinct and clear, and I agree with the Senator from Iowa that it asserts sufficiently the power of Congress over the subject.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the proposed amendment to the resolution?

Mr. HOWE. What is the amendment?

The PRESIDENT *pro tempore*. The amendment is to strike out all of the resolution of the House after the enacting clause and in lieu thereof to insert the following:

That the United States do hereby recognize the government of the State of Tennessee, organized as aforesaid, as the legitimate government of said State, entitled to all the rights of a State government under the Constitution of the United States.

Mr. HOWE. I understand the question is on the adoption of the language just read, and without regard to the preamble which precedes it.

The PRESIDENT *pro tempore*. Entirely. The preamble will be adjusted afterward, or stricken out, at the will of the Senate.

Mr. HOWE. I want to ask if there may not possibly arise this difficulty: the resolution speaks of the "government organized as aforesaid." The word "aforesaid" refers to what is said in the preamble, does it not?

Mr. TRUMBULL. Yes.

Mr. HOWE. If, then, the resolution should be adopted and the preamble should be rejected, the resolution would be a little uncertain.

Mr. JOHNSON. We shall have to strike out the word "aforesaid" in that contingency.

Mr. HOWE. If I remember aright, that would not make it explicit. The difficulty is that the resolution is framed upon the idea that it and the preamble are one and the same thing. I do not know how we shall get out of the difficulty, but the difficulty strikes me as just there.

Mr. GUTHRIE. Strike out "aforesaid" and say "as it is," and it will be all right.

Mr. HENDRICKS. Will not that all be obviated if a majority be in favor of striking out the preamble, by taking the vote upon that first?

Mr. GRIMES. We cannot do that.

Mr. JOHNSON. We can take the question on the resolution first and change that afterward.

Mr. HENDRICKS. Will the resolution itself be subject to amendment after we substitute the proposition of the Senator from Illinois for that of the House resolution?

The PRESIDENT *pro tempore*. Certainly it will be subject to amendment.

Mr. HENDRICKS. Then the present question is simply on substituting the resolution reported by the Committee on the Judiciary for the resolution of the House?

Mr. TRUMBULL. That is all.

Mr. HENDRICKS. And it does not touch the preamble at all?

Mr. TRUMBULL. Not at all.

Mr. GRIMES. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JOHNSON. I only want to say a word on this question. I prefer the language of the resolution recommended by the Judiciary Committee, and if it was an original proposition I should vote for it in preference to the resolution as it came from the House; but it appears to me that the resolution from the House, if adopted, leads to precisely the same result. The resolution recommended by the Judiciary Committee merely states that the State of Tennessee is entitled to all the rights secured by the Constitution to the States of the Union. The resolution of the House says that she is entitled to be represented by Senators and Representatives in Congress, and that cannot be unless she is also entitled to all the other rights which the Constitution gives; and as I feel very anxious to have the State admitted, I shall vote against the proposed amendment and in favor of the resolution as it came from the House.

Mr. BUCKALEW. Mr. President, I understand this amendment to be a congressional declaration, that the present State government organized in Tennessee, is a legal and valid State government under the Constitution of the United States, and that it declares nothing else; that no conclusion will flow from it with reference to the right of persons elected within the congressional districts of that State or possibly by its Legislature, to seats in the two Houses of Congress. It is, in short, in its present form, an indorsement of the Brownlow State government of Tennessee, which is organized under the most eminent blackguard of the age.

Now, sir, in the form in which it stands, this proposition is, in my judgment, offensive. It may be the more acceptable to some minds. I supposed that the general question that we were to pass upon was, the *status* or position of Tennessee in the Union of the American States for purposes of representation. The issue is now changed to a decision by Congress upon the validity of an existing State government in Tennessee, but does not deal with the question of representation of the people or government of that State directly. I am very unwilling by any act of mine to declare the validity of that State government as a single and independent proposition, separated, from all others, without a more careful inquiry into the proceedings which have taken place in that State, and into the question of the extent to which the disfranchisement of the citizens of that State has been carried by the existing constitution as adopted and enforced. But this resolution obliges us to pass upon those inquiries and narrows the whole question to them. I understand that it is very doubtful whether a majority of the people of that State have been concerned, actively and really, in the establishment of the existing government. I know how it was formed originally during the war, and I am very clear in my mind as to the view to be taken of it in all its earlier stages.

In February last I had occasion to discuss in this Senate the question of the powers and character of the governments which were established in the insurrectionary States during the war under authority of Mr. Lincoln. I held then and I hold now that those State governments were in their nature local, peculiar, and provisional. I thought that the State governments set up in Arkansas, in Tennessee, in Louisiana, and in Virginia, although legitimate and proper as emanations of the war power of the United States, to be used in connection with military operations and in aid of the mil-

itary power, were not valid and constitutional State governments of the ordinary kind, and the States in which they were established active members of our confederation of States. That opinion was indorsed in the most solemn manner by this Senate and by the House of Representatives. It was indorsed by the refusal of representation on several occasions to persons claiming to be Senators and Representatives in Congress, and notably in the case of Arkansas, which was fully discussed in this Senate. Why, sir, there were but six votes for the admission of the persons claiming to be Senators from Arkansas, and the persons claiming to be Senators from all the other States in question were either rejected or their cases left undetermined. Then, again, we determined that the elections for President and Vice President of the United States, held under the authority of those military governments, were invalid, and that the electoral votes cast should not be counted in the joint convention of the two Houses assembled under the Constitution to ascertain and declare who were elected President and Vice President of the United States.

I say, then, with reference to all those State governments established during the war, that they were military governments in their very nature. They were essentially such. They were not civil, constitutional governments, such as are known in our own fundamental law, but established and dominated by the war power of this Government. But I thought they were legitimate and proper. Why, sir, when we sent our armies into Mexico, General Scott organized or permitted the organization or continuance of local authorities in the country occupied, to carry on the business of local government and to act in aid of his military authority, or, at all events, in subordination to it. He might have preserved order and carried on local government through the commanders and forces under him; but he chose to allow this to be done by the inhabitants of that country themselves. And so while the rebellion existed and war was waged by us against it, we were at perfect liberty, in conducting war operations in any seceded State, to permit the affairs of civil life to be managed by local authorities chosen by the people who adhered to us, or were submissive to our authority, instead of managing them exclusively by military power directly applied. We called the governments set up State governments; but they were in fact provisional establishments destitute of the elements of permanency and independence. I think, therefore, that I was correct in asserting upon a former occasion that it was absurd to hold that "they were State governments in the ordinary sense of the term, and that the minorities who submitted to them were to be considered the whole people for purposes of representation in Congress and for participation in presidential elections."

But how stands the question since peace has returned? War ended in fact more than a year ago, and the entire suppression of the rebellion was officially announced by the President in his proclamation of 2d of April of the present year. In some of the States the so-called "loyal governments" set up during the war continue; but remarkable changes have taken place in their character and action. Constitutional conventions, in which the whole people or a majority of the people participated, have given them a full popular sanction and imparted to them additional validity, or there has been such popular acquiescence in their exercise of authority that they may be accepted as truly representing the people of the States in which they are established.

Now, these governments "ask recognition from Congress as real and complete State governments for all purposes whatsoever. It clearly follows, from what I have said, that the argument in their favor must be placed upon grounds which did not exist during the war. Actual independence of military control, and the acquiescence of the people of the States interested, must clearly appear to justify the full admission of their claims. However im-

perfect they may have been as State governments originally, however local and provisional in character and subservient to military domination formerly, they may become complete and acceptable State governments by the act or acquiescence of the people concerned, the military power formerly exercised over them being withdrawn. In this view, neither irregularity of origin nor an imperfect constitution in their earlier stages need prevent their present recognition."

Now, sir, what would be interesting, if we went into the inquiry—and we must go into it if we vote upon this amendment now pending—would be to ascertain the extent to which the people of Tennessee have acquiesced since the close of the war in this government which was set up during the war and controlled until the conclusion of the war by military power. Why, sir, the other day, I understand, the Governor of Tennessee called upon General Thomas for military aid in civil affairs in that State—a common thing during the war and then responded to promptly by our military commanders; but by an order from the War Department that aid was refused. It is now understood that that government there is no longer subject to military control or domination. Our public authorities say so. They refuse to interfere in civil affairs in that State, at least to the extent demanded in the requisition to which I have alluded. But, sir, to what extent have the people of Tennessee acquiesced in this government set up over them? I am, I confess, without adequate information upon that very interesting and very vital point. I should like to obtain from the chairman of the Committee upon the Judiciary or from some other source, information as to the number of votes that have been given by the people of Tennessee upon organizing and conducting this State government which we are asked to indorse, and as to the proportion of the population of that State which now not only acknowledges the jurisdiction of this State government, but is authorized by it to participate in its authority and to enjoy fully the elective franchise and other privileges under it.

Mr. LANE. Mr. President, I shall detain the Senate but a very few moments on this subject. If I understand the distinguished Senator from Pennsylvania, his first objection is that the resolution as it now stands and that we are voting upon is simply a recognition of the present government, which he says was organized under "the most eminent blackguard of the age." The government of Tennessee was organized in what way? Under the proclamation of President Lincoln.

Mr. BUCKALEW. I beg leave to correct the Senator. I expressly spoke of it as it stands organized at this date. I had no reference to its origin or first establishment during the war.

Mr. LANE. Then it was in the past tense. This Government was organized under the proclamation of President Lincoln. Andrew Johnson, the present President of the United States, was appointed provisional governor. He issued his call for a convention in the State of Tennessee. A convention was called, a constitution adopted, and an election ordered, and, under that election, William G. Brownlow appears first upon the stage of action in Tennessee. The whole organization of the government was perfect up to the time of his election. He was elected, so far as I know, upon a fair vote of the loyal people of Tennessee. The government then was organized by President Lincoln and by the provisional governor, now the President of the United States.

Whether Governor Brownlow may be "the most eminent blackguard of the age" or not, I am not now here to say. I admit that the telegram that he sent the other day to the Secretary of the Senate was rather more forcible than classical; but compared with other emanations from East Tennessee, I think it is wonderfully respectable, for there is a species of coarseness that seems to run through all the communications from that part of Tennessee.

It is quite as genteel, I think, as the 22d of February speech. The only objectionable part of it seems to be a reflex or echo from that 22d of February speech.

But, Mr. President, a word as to the resolution itself. I shall vote for this preamble and resolution precisely as they came from the House. I think the purpose is as well expressed as we can express it by any change. I am prepared to vote for the resolution without any preamble, or with either preamble, or with both preambles. We are asked to do a certain thing. The doing of that thing is the important matter, and not the reason which we shall assign to ourselves or others for the act. The preamble from the House is in these words:

Whereas the State of Tennessee has, in good faith, ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore, *Be it resolved*, That her relations are resumed, and she is entitled to representation.

That is the whole substance of it. Now, if by the people of Tennessee, in this preamble, you mean the loyal people, then I doubt not it is true. If you mean by a "proper spirit of obedience in the body of her people" to allude to the loyal people, then, I doubt not, that is true.

But, sir, what is the difference between these two preambles? The preamble prepared by the Judiciary Committee and presented here is simply fuller in its recitation of the historical facts and connections of this subject than the preamble of the House; but the preamble of the House asserts to all intents and purposes that they have substantially complied with our plan of reconstruction, and are now entitled to representation and to resume their relations with the United States, and as substantially declares that as does the preamble of the Judiciary Committee. Now, sir, when we are all prepared, with two exceptions, I think, in the whole Senate, to admit Tennessee to representation, and to admit that she is in such relations to the Government as to be entitled to resume representation in this body, how childish is it to stand here to debate as to the reasons we shall assign for that act!

Neither of these preambles contain the reasons why I shall give this vote. I shall vote to admit Tennessee because she had, under the proclamation of the President, by the voluntary act of the people, long before the suppression of the rebellion, a full and complete loyal State government. I shall vote to admit her, also, for the causes recited in the preamble. If I understand the plan of reconstruction, it was this: that the constitutional amendment should be adopted by all the States before they should be entitled to representation, with the exception of Tennessee, and in her case she should be admitted to representation when she ratified and confirmed the amendment. Having complied, then, with our own condition, and that fact being sufficiently recited in the House resolution, I shall vote against all amendments and shall vote for the preamble and resolution precisely as they came from the House. If that shall fail, I shall vote for the amendment of the Judiciary Committee. If that shall fail, and both preambles are stricken out, I shall still do the thing I intend to do substantially, by voting for the resolution.

Mr. HENDRICKS. I have with some hesitation decided to vote for the amendment proposed by the Committee on the Judiciary, because I think it nearer right. The resolution of the House assumes that the State of Tennessee is out of the Union, because it proposes to restore her to her "former proper, practical relations to the Union." The resolution proposed by the Senator from Illinois, from the Committee on the Judiciary, simply recognizes the State of Tennessee as in the Union. I think that the State of Tennessee, in the eye of the law, has never been out of the Union; and I prefer to vote for the resolution that recognizes her as in the Union, rather than for a resolu-



tion that proposes to restore her to the Union; and it is upon that ground that I vote for the amendment.

Mr. EDMUNDS. I move to amend the amendment by inserting in line three, after the word "the" and before the word "government," the word "present," and in line four, by striking out the words "organized as aforesaid;" so that the resolution will read:

That the United States do hereby recognize the present government of the State of Tennessee as the legitimate government of said State, entitled to all the rights of a State government under the Constitution of the United States.

Mr. TRUMBULL. I do not know that there is any objection to that.

Mr. WILLIAMS. I hope the amendment proposed by the Committee on the Judiciary will not be adopted; and my reason is very much unlike the one given by the Senator from Indiana. I think that the resolution, as it was passed by the House, is more in conformity with the heretofore expressed judgment of Congress than the resolution reported by the Committee on the Judiciary. The House resolution proposes to restore Tennessee to her "proper practical relations to the Union," while the resolution reported by the Committee on the Judiciary simply "recognizes" the present State government. I understand that it has been assumed by Congress that the proper practical relations of Tennessee with the Union have either been suspended or destroyed by the rebellion, and that it is necessary by an act of Congress to restore those relations; and I think that any act providing for the admission or the recognition of Tennessee should proceed distinctly upon that ground, and that it should not abandon the position which we have heretofore assumed.

Then, again, the House resolution provides that now by this act Tennessee has become entitled to representation in Congress; assuming, of course, that heretofore the State of Tennessee has not been entitled to her representation in Congress. I understand that has been the position of Congress; that whatever might be the legal status of the State of Tennessee, which has been a controverted question, she has not, in consequence of the rebellion which has occurred, been entitled to representation in Congress, and could not be entitled and would not be entitled until Congress had so declared. The House, in this resolution, declare that she is now, by virtue of this act, entitled to representation. I think that this resolution which comes from the House is altogether more in accordance with the views and opinions that have obtained in Congress than the resolution reported by the Judiciary Committee; for that resolution, if I understand it—it is not before me—amounts to nothing more than a recognition of the existing State government in Tennessee, and does not refer particularly to the position of that State. For these reasons I prefer the resolution as it comes from the House.

As to the preamble, I am quite indifferent on that subject. So long as the act is accomplished I think the preamble is quite immaterial; but as the House have adopted a preamble and a resolution, and as there can be nothing gained, as it seems to me, by a mere change of phraseology by the Senate, I shall of course support the resolution as it comes from the House. I think it accomplishes everything that we seek to accomplish; and without some good reason I do not see why a controversy should arise between the Senate and House on this subject.

Mr. DOOLITTLE. The amendment of the Senator from Vermont, as I understand it, is simply by way of perfecting the form of the resolution as proposed by the Committee on the Judiciary, and I hope that the sense of the Senate will be taken on that before the question comes up on substituting the one resolution for the other.

Mr. BROWN. That has been accepted.

Mr. DOOLITTLE. Has it been accepted?

Mr. TRUMBULL. I cannot accept it; but I have no objection to it. It does not alter the amendment of the committee.

Mr. DOOLITTLE. It does not alter the fact. It simply provides that the resolution shall stand by itself if we fail to adopt the preamble. The resolution will then be a perfect resolution.

Mr. EDMUNDS. That is the object of offering the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment as amended, and on that question the yeas and nays have been ordered.

Mr. DOOLITTLE. I will ask that the two propositions be read, first the one and then the other of the resolutions, just as they stand.

The PRESIDENT *pro tempore*. The amendment, as amended, will first be read, and then the resolution of the House.

The Secretary read the amendment, as amended, as follows:

Strike out after the resolving clause, and insert: That the United States do hereby recognize the present government of the State of Tennessee as the legitimate government of said State, and entitled to all the rights of a State government under the Constitution of the United States.

Several SENATORS. Now, let the resolution of the House be read.

The Secretary read it, as follows:

That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

The Secretary proceeded to call the roll.

Mr. CLARK (when Mr. CRAGIN's name was called) said: I desire to say that my colleague is sick and confined to his room; otherwise he would vote on this occasion.

The result was announced—yeas 24, nays 19; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cresswell, Davis, Doolittle, Edmunds, Guthrie, Harris, Hendricks, Howard, Howe, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Sprague, Stewart, Trumbull, Van Winkle, and Yates—24.

NAYS—Messrs. Brown, Buckalew, Clark, Cowan, Fessenden, Foster, Grimes, Henderson, Johnson, Kirkwood, Lane, Morgan, Morrill, Sherman, Sumner, Wade, Wiley, Williams, and Wilson—19.

ABSENT—Messrs. Cragin, Dixon, McDougall, Saulsbury, and Wright—5.

So the amendment was agreed to.

Mr. HENDERSON. I now move to strike out the preamble from the resolution, if it is in order.

Mr. BROWN. The preamble has not yet been adopted.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on the Judiciary to amend the preamble, which is first in order.

Mr. HENDRICKS. What is the amendment proposed?

The PRESIDENT *pro tempore*. It will be read at the desk.

The SECRETARY. It is proposed to strike out the preamble of the House resolution, in these words:

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore.

And to insert in lieu thereof the following:

Whereas in the year 1861 the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a State of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government republican in form and not inconsistent with the Constitution and laws of the United States, whereby slavery was abolished and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States

abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress; and whereas the body of the people have by a proper spirit of obedience shown to the satisfaction of Congress the return of said State to due allegiance to the Government, laws, and authority of the United States: Therefore.

Mr. GUTHRIE. Is that question capable of division?

The PRESIDENT *pro tempore*. No, sir.

Mr. HOWE. I wish to put this question: suppose a majority of the Senate vote "no," they will thereby refuse to adopt this preamble, but what will become of the preamble sent to us from the House?

Mr. CLARK. You can strike that out afterward.

Mr. HOWE. Will that be adopted, or will the question then recur on adopting that preamble?

The PRESIDENT *pro tempore*. The question will be on adopting that preamble.

Mr. HENDRICKS. I do not believe in either of the preambles. I do not vote that the State of Tennessee is entitled to representation in this body for any one of the reasons assigned in either preamble. I believe that the State of Tennessee is entitled to representation because she is a State of the Union, and because the Constitution of the United States very plainly declares that each State in the Union is entitled to two Senators and at least one Representative. I do not believe that she is entitled to a representation in Congress because she has agreed to an amendment of the Constitution of the United States; I do not believe that she is entitled to a representation in Congress for the extraordinary reason given by the Senator from Ohio, [Mr. WADE,] that she has disfranchised more than one half of her people; but simply because she is a State of the Union, and peace being restored, and a condition of obedience to the laws having returned, she, under the plain letter of the Constitution, is entitled to representation. If she is not a State, she is not entitled to representation because she has amended the Constitution of the United States. If she is not a State she is not entitled to representation because she has attempted to disfranchise more than one half of her people. But if she is a State she is entitled because she is a State, and the Constitution declares her right in the legislative department of the Government.

Mr. President, let us consider for one moment the reasons assigned in the preamble presented by the Senator from Illinois. In the first place, it is recited that the State government of Tennessee was usurped by parties hostile to this Government, and that before the close of the war there was the adoption of a constitution in the State of Tennessee. It is then recited that a year ago or more the State of Tennessee ratified an amendment of the Constitution of the United States abolishing slavery. That is given as a reason why we recognize her position in the Union. Why, sir, the very reason that is given here why we recognize her position in the Union is a reason why she was in the Union at that time. I ask Senators if the State of Tennessee could ratify an amendment to the Constitution of the United States unless she was a State in the Union, unless she was a State with practical relations to the Union? Can a State out of the Union, can a State in a condition in which she could exercise none of her political powers, amend the Constitution of the United States? And here is given as a reason a fact which could not exist unless Tennessee was a State in the Union, with all the powers possessed by any State.

Then, again, it is averred that very recently she agreed to amend the Constitution of the United States in another respect. If she did that, it was because she was a State, because she was a State of the Union, because she was a State of the Union under the Constitution, and could exercise power under the Constitution. I ask Senators the question, can a State exercise the power to amend the Constitution of the United States—a power conferred upon the State by the Constitution—and at the same time not select Senators and Representatives

of right? It is not a question of favor that States are represented in Congress; it is a question of constitutional right. It is because she is a State that she can consent to an amendment of the Constitution. It is because she is a State that she is entitled to representation. And if, of her own free will, and at her own pleasure, she ratifies an amendment to the Constitution, she can at the same time select Senators to represent her in this body, and when they come with proper credentials, qualified to take their seats, of right she is entitled to be represented here.

But, Mr. President, I object to this last reason that is given on another ground. We do not know whether the State of Tennessee has ratified the recent amendment or not. Independently of this resolution, would Senators to-day pass a joint resolution declaring that the constitutional amendment has been ratified by Tennessee? Would any Senator, upon an independent, naked proposition of that sort, cast his vote declaring that that constitutional amendment has been ratified by Tennessee, simply upon a telegraphic message from the Governor of the State? I care nothing about the form of the communication; it is wholly immaterial except as it may illustrate the character of the man. He communicates by telegraph not to the Senate, not to the House, not to the President, but to some person in the city of Washington; Governor Brownlow communicates the fact by telegraph that the constitutional amendment is ratified. Are Senators willing to pass a resolution declaring that fact upon such information, when it is known to all of us that it is disputed, when it is known to all of us that there was not a quorum present, and that to make up a quorum it was necessary that there should be present in the legislative body two men who were in confinement in another part of the Capitol? When that is claimed, and when we have no information communicated to any branch of the Government, can we undertake to declare that the constitutional amendment has been ratified? Is it the business of Congress to declare the ratification of a constitutional amendment? I do not understand that it has ever been done. It is a question of fact whether a State in proper form has ratified a constitutional amendment. Usually, I believe, the information is communicated to the Secretary of State, and he makes it known to the country by a proclamation; but that is simply for information. The courts, I presume, would, *ex officio*, take notice of a ratification. But it is a question of fact whether the Legislature of Tennessee has ratified that amendment.

Now, I ask Senators if we have sufficient information on this subject to justify the declaration that it is ratified. We are all ready to vote Tennessee in. I desired to do it months since, and I am ready to admit all the States that have sent here Senators qualified and duly elected. I am ready to vote for that resolution, although I think it objectionable, because it accomplishes that end. I desire Senators from Tennessee to participate in our deliberations when we are legislating in regard to the interests of the people of Tennessee. For that reason I am ready to vote for the resolution, however objectionable in form it may be.

Then, I ask Senators if they ought to ask us to vote for a preamble which we do not believe, in fact; to vote for reasons that we believe neither logical nor true. You want Tennessee to come in. Is it right, then, to compel us who differ from you to vote for a political stump speech in advance of the resolution? A few years ago you found great fault in regard to a bill that was passed establishing territorial governments in Nebraska and Kansas, and you said a political stump speech was injected into the bill; or at least it was said by Mr. Benton, and repeated everywhere, and it was considered wrong. But here you introduce a resolution by a political stump speech, which is neither true in fact nor logic, in my judgment.

We do not admit, and I do not think any Senator here will say that he admits, Senators

to this floor on the ground that the legislation of the State has been agreeable to him. The legislation in Indiana is not agreeable to the majority in this body. We have excluded a portion of the people from immigration into our State; and that was in the constitution of Indiana when I took my seat here. Did any Senator ask the question whether the legislation of Indiana was agreeable to him? By no means. Then is any Senator here prepared to say that he admits a Senator to his seat simply because the action of the Legislature is agreeable to him? The reason that you admit a Senator here is because the Constitution says that his State is entitled to two Senators; and there is no other reason that can be given. It is simply a question of fact whether a State is in the Union, and if in the Union, whether she has, in proper form and by the proper authorities, selected Senators; and if so, they are entitled to their seats.

Then, I appeal to Senators not to force upon us a preamble which we cannot believe. If you believe this preamble, make it in your stump speeches before the country. It is not just to the minority to force upon us a preamble which we do not believe. We are ready to support the resolution and let Tennessee come in. If she is entitled to representation, declare so. I think that each House ought to declare this for itself; but I shall not stand upon a question of form. I am ready to vote for the resolution, and let the Senators and Representatives from Tennessee take their seats.

Mr. DOOLITTLE. Mr. President, I am very glad to agree with my colleague in the opinion that it is unnecessary that we should have any preamble at all to this resolution. There are reasons sufficient to vote for the resolution. The members of the Senate may not agree altogether in those reasons, if we attempt to state them in a preamble. I remember very well a remark once made by the honorable Senator from Ohio [Mr. WADE] not long after I became a member of this body. He had had already considerable experience here as well as elsewhere. It was a remark which struck me with great force then and which I have always remembered, and upon which I have sought sometimes to profit. It was this, that sometimes persons in entering the Senate, who were new here, were too anxious to explain every vote they happened to give; and said he to me, "Let them give their vote; they can explain it afterward." Now, sir, there are some who are ready to recognize the government of Tennessee because they believe it is republican in form. There are other Senators here who state, and who conscientiously believe, that its government is not republican in form, and therefore they cannot vote for the preamble. There are other Senators who believe that Tennessee ought to be admitted because it has adopted a certain constitutional amendment. There are other Senators who would not make the adoption of a constitutional amendment a condition precedent to any State being entitled to representation in Congress. There are other Senators who, like the honorable Senator from Indiana, [Mr. LANE,] believe that the State of Tennessee, by its people, during the rebellion, organized itself into a loyal State government; that that State government was born of the people by their own act and not born of Congress at all; that it is not in the power of Congress to give birth to a State government; Congress can recognize a State government, it does not create it.

Mr. President, I shall not detain the Senate, for I am anxious to get on with business, but there are different reasons operating upon different minds in the Senate, and yet all concur in one thing. What is that? That Tennessee is a State and has an organized State government, and is entitled to representation. That is all we want to say. I want to say it. I will say it to-day; I would say it to-morrow; I will say it at any time. I would have said it any time for the last six months, but there were

others who could not conscientiously do it. I do not stand here to find fault with them, but I say, inasmuch as Senators differ in the reasons which bring their judgments to the common result in which we all agree, to wit, that Tennessee is now to be recognized and is now entitled to representation; for whichever of these reasons, let us declare the result and let each Senator have his own reasons—it is because she has adopted the amendment to the Constitution, or because she was organized, as my friend from Indiana believes, by her loyal people and has been properly in operation for years in spite of the rebellion. Whatever may be the reason, we all agree in the one thing: that we recognize that she is a State organized in the Union, entitled to her rights as a State in the Union. Let us say precisely what we intend to say: that she is so entitled, and then there is no difficulty, no controversy among ourselves; no controversy between Congress and the President, or anybody else. When we all agree in the thing, but may not agree as to the reasons for doing it, why not do it, and not quarrel about the reasons? I hope, sir, that this preamble business may be laid aside. I agree with my colleague that we should leave out the preamble.

Mr. TRUMBULL. The Senator from Missouri [Mr. HENDERSON] objected very strenuously to that portion of the preamble reported by the Committee on the Judiciary which reads as follows:

And whereas the body of the people have, by a proper spirit of obedience, shown to the satisfaction of Congress, the return of said State to due allegiance to the Government, laws, and authority of the United States.

That recital is copied *in hæc verba* from the House preamble. Of course it is just as objectionable in the House preamble as in the one reported by the Committee on the Judiciary. Our report is an amendment of the House report, and those words are the same in both. They would not have been inserted, probably, as an original proposition. I thought there was force in the suggestion made by the Senator from Missouri, and I have no objection myself to those words going out. I think it would be as well, perhaps, to let them go out, and instead of saying that "the body of the people have, by a proper spirit of obedience, shown to the satisfaction of Congress, the return of said State to due allegiance," to say simply that the State of Tennessee has done other acts proclaiming and denoting loyalty. That there could be no objection to.

While I am up I desire to say that I am not tenacious about a preamble at all. I introduced a proposition, when we first heard that Tennessee had ratified the constitutional amendment, without any preamble. I would have been satisfied to act without having any preamble; but the House thought proper to adopt a preamble, which was sent to the Senate. The matter was then referred to the Committee on the Judiciary. I felt very sure of one thing: that if we had a preamble at all it ought to be full; we should either have no preamble, and let every person, as was said by the Senator from Wisconsin, vote for reasons satisfactory to himself, one way or the other, or, if you had a preamble, it should be full.

Now, what is the difference between these preambles? The Senator from Oregon [Mr. WILLIAMS] preferred the House preamble. The reason I object to the House preamble, if we are to have one at all, is that it is not full; it contains but one declaration; and what is that? That Tennessee has in good faith ratified the constitutional amendment proposed at the present session. That is all there is in it.

Mr. KIRKWOOD. No.

Mr. TRUMBULL. That is all there is in it.

Mr. KIRKWOOD. "And has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States."

Mr. TRUMBULL. That is nothing specific. That is a sort of "general welfare" clause that

does not amount to anything. The only specific statement is the one in regard to the adoption of the constitutional amendment. If we adhere to that preamble and pass a resolution declaring the existing government in Tennessee to be the legitimate government of the State, and entitled to all the rights belonging to a State in the Union, as a matter of course we commit ourselves to admit South Carolina to-morrow if she does the same thing—what? If she ratifies the constitutional amendment. I am not prepared to do that. I think if we have a preamble at all, we should have one showing the distinction between Tennessee and the other States. As the Senator from Maine has stated, the committee on reconstruction reported a preamble stating that difference, and when this subject was before the Committee on the Judiciary this morning, we had that preamble before us. The condition of things has changed somewhat since that report was made, and we altered it, preserving all that is in it, I think, and adding something that has since transpired. The Senator from Maine thinks we have not improved the language at all. I doubt if we have. Very probably his was better. In draughting a thing of this kind where you have to change it, different persons will adopt different language; but it is substantially what the committee of fifteen reported, with the addition that Tennessee has ratified the constitutional amendment, which is contained in the House proposition.

Now, if we are to have a preamble at all, it seems to me it had best be full; and the resolution reported by the Committee on the Judiciary which has now been substituted for the House resolution, makes it necessary to adopt a preamble in order to express the views entertained by Congress. I was not particular about any preamble, as I say, but I really think we had best not adopt the House preamble. I shall not object to striking out those words which the Senator from Missouri thought very objectionable. They are in both preambles, and I would be quite willing that they should go out, although I have no authority to modify the amendment which I have submitted, the preamble coming from a committee. I am willing to strike out those words which state what the body of the people of Tennessee have done. I do not think them essential. I think they were not in the report of the reconstruction committee, but they were in the House preamble, and as there was no disposition to depart from the phraseology of the House preamble unless something was to be gained by it, I saw no special objection to them, and they were adopted. However, I do not wish, certainly, to retain them if a single Senator objects to their being there, and no one thinks it important to have them there. So much upon that point.

The difference between the preambles is this: the one reported by the Judiciary Committee is fuller than the other. It not only recites the fact that the constitutional amendment has been adopted, but it also recites the fact that the State of Tennessee adopted a constitution which was submitted to the people and received a large popular vote. It recites the fact that the constitution of Tennessee abolished slavery, repudiated the rebel debt, repudiated the rebel laws and the rebel ordinance of secession and whatever was done under it, which, I think, are important recitals; and the condition of Tennessee is different from most of the other States in the fact that her constitution was submitted to a vote of the people. If we are to have a preamble at all, I really think that the preamble reported by the Committee on the Judiciary is fuller and had better be adopted; and now, it seems to me, there is a necessity for a preamble if we take the Senate resolution as it has been adopted by the committee.

I wish to say further to the Senator from Oregon that the House resolution goes entirely on the question of representation. For one, I wish to repudiate that. That is the very point that has been insisted upon in this Chamber by those who advocate what is known as the Pres-

ident's policy. It is insisted that Congress has nothing in the world to do with these rebel States except to pass, in each House, upon the qualifications and elections of members. The House resolution goes upon that idea. Its title is, "A joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress." I do not want to make any such declaration as that. I want to declare that there is a constituency entitled to all the rights of a State. Of course, that embraces representation in Congress, but I deny that the Executive has any more power to determine what is the government of a State in reference to other matters than he has in reference to the right to seats in this body. I do not wish to limit it; I would not say anything about representation in this resolution that we are about to pass; but after this resolution passes, and it is declared that there is a government entitled to all the rights of a State government, then, of course, whenever any person comes here claiming to be a Senator, or to the other House claiming to be a Representative from that government, the only question is, has he been elected, is he qualified, and is he qualified to take his seat? And that each House passes upon. I would leave that to each House. I do not think that the Congress of the United States, as a Congress, that the law-making power, ought to be saying anything about representation. I do not think that as a Congress we have any right to determine who is entitled to sit in one House or the other; and it is in reference to that, in reference to representation, that this joint resolution is framed.

What we want to determine is, whether there is any government there entitled to exercise the rights of a government, and embraced among them would be the right of representation, and that is decided upon; that is, the admission of members by each House. It is for that reason that I like the form of the Senate resolution best; and if we are to have a preamble at all we had better have a full one; and if we are to adopt the Senate resolution, a preamble is absolutely necessary to go along with it, and to show the precise position of Congress. I think the declaration with which this preamble sets out is very important:

Whereas in the year 1861 the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States.

I think that is a very important recital. It is a point which was always insisted upon most strenuously by the Senator from Vermont, whose loss we have all so much deplored this session, the late Mr. Collamer. He always insisted that the inhabitants of these States having been declared to be in a state of insurrection by virtue of an act of Congress, they could only be restored to their practical relations to the Government by virtue of an act of Congress; that as they had gone out in that way, they must come back into their political relations by the permission of the law-making power. As they had chosen by violence to dissolve their relations and set up a hostile government, and Congress had passed a law under which they were declared in rebellion, therefore, whenever the time had come that they could resume their rights, it must be by the permission of the Government.

Mr. HOWE. Will the Senator allow me to make a suggestion?

Mr. TRUMBULL. Certainly.

Mr. HOWE. I would agree with him, and I would agree with the late Senator from Vermont, that the facts recited there were very good reasons why we should not have passed such a resolution as this in 1861, 1862, or 1863; but I do not see how they constitute a good reason why we should pass the resolution now. There are entirely different facts which induce me to vote for it now.

Mr. TRUMBULL. Well, sir, I think if the

position is a good one, that they can only be restored to their practical relations by the law-making power, if that was a tenable position assumed by the Senator from Vermont, it is just as good to-day as it was in 1861. I cannot see why a principle which in 1861 forbade any representation from any State except by virtue of an act of Congress is not a good principle in 1866. That is the principle laid down by the Senator from Vermont. I trust, therefore, that this preamble will be substituted for the House preamble for the reasons which I have stated.

Mr. SUMNER. Mr. President, the question, as I understand it, is between two preambles, which of the two to choose. I agree with my friend from Illinois that the preamble reported by him in many respects has the advantage of the preamble which is sent to us from the House. It is fuller, and in its structure it is better. I am glad that it has undertaken to set forth how Tennessee lost her representation here, and also to set forth how she may again, or has been again if so it may be, rehabilitated. I am glad to see all that in the preamble. But while I accord merit to the Senator's preamble in that respect, there are other particulars in which I think it fails. He himself has already recognized that in one particular his preamble is no better than that of the House. It is in this particular: that it sets forth that the State of Tennessee—

Has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States.

In those words the two preambles are alike; there is no advantage in one over the other; but I understand the Senator from Illinois is willing to alter those words in his preamble. If he does consent to that alteration, and the alteration is made, then, in that respect I shall recognize his preamble as superior to that of the House. Clearly, sir, that assumption is false; Tennessee has not "shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States." Perhaps I go too far when I say that it is false, that she has not shown it to the satisfaction of Congress, because if Congress votes that, it will not be for me or for any one else to say that Congress has voted a falsehood; but I do say that Tennessee has not shown "a proper spirit of obedience in the body of her people." I say all the evidence that thickens in the air from that State, and has been darkening our sky during all this winter, shows that Tennessee has not that spirit of obedience in the body of her people. Why, sir, only this winter the other House has been constrained to send a commission to Tennessee in order to investigate an outrage of unparalleled atrocity growing out of this very rebel spirit. How can the Senate of the United States undertake to aver that the body of that people, thus saturated with the spirit of disloyalty, thus set on fire and inflamed by this sort of hatred to the Union, have shown to the satisfaction of Congress a proper spirit of obedience? Sir, you make a mistake if you put in your statute-book any such assertion which is historically untrue. You cannot make it true by your averment. History hereafter, when it takes up its avenging pen, will record the falsehood to your shame.

Sir, I have here on my table, sent to my desk since this discussion came on, some of the evidence laid before the reconstruction committee. In this evidence there is a good deal relating to Tennessee. Among the papers is a statement or memorial from German citizens there. I think, from reading this memorial, it is entitled to peculiar credit. I shall not read it, but I shall call your attention to a few sentences. I read as follows:

"In short your memorialists anticipate that at the first general election the entire civil and judicial power of the State must pass into the hands of those who have so long oppressed them and made actual war upon them. The judicial election, which is the most important of all, must soon occur."



Then it goes on in another place:

"The predominant feeling of those lately in rebellion is that of deep-seated hatred, amounting in many cases to a spirit of revenge toward the white Unionists of the State, and a haughty contempt for the negro whom they cannot treat as a freeman. The hatred for the white loyalist is intensified by the accusation that he deserted the South in her extremity, and is, therefore, a traitor, and by the setting up a government of the minority."

Then, in another place, these petitioners say as follows:

"A party exists in the State, which is every day becoming more and more compact and powerful, which sympathizes with the men and principles of the rebellion. It commands every agency to operate upon public opinion. It has five well-sustained and ably-edited daily papers in Memphis, four in Nashville, one in Knoxville, and a weekly in each of the important villages. Their pardoned but talented and still popular leaders are with them. Hundreds of rebel ministers who glory in having led off in the rebellion, and who have been, throughout the war, the bloodiest-minded men in the South, are still in the confidence of their people. All these appliances acting in harmony mold public sentiment as they please, and command a party of over two thirds of the white men of the State. Free from restrictions upon suffrage, they will probably cast ninety thousand votes in the State."

Sir, there is testimony that has been presented to your committee, and published by the order of the Senate as a part of their report.

Mr. GRIMES. Will the Senator permit me to say a word?

Mr. SUMNER. Certainly.

Mr. GRIMES. I happened to be chairman of the sub-committee that took the testimony in the case of Tennessee; and it is due to that committee and due to the people of Tennessee to say that while that memorial from which the Senator has read was sent to the committee without the sanction of an oath, and at my instance was caused to be published in that report, yet the current of the whole testimony which is in the book before the Senator goes to show that there was a growing spirit of loyalty: that there was a large proportion, some sixty thousand voters of the State of Tennessee, who were loyal; and that the military and civil officers with one accord expressed the opinion that it would advance the interest of the loyal men of Tennessee to allow that State to be represented. The statement which the Senator reads comes from gentlemen who were unknown to the committee—a mere memorial without the sanction of an oath.

Mr. SUMNER. Let me show to the Senator that he entirely misapprehends what I was about to say. I adduce this memorial in order to show that there is not a proper spirit of obedience in the body of her people. I do not now enter into the argument whether that spirit would be increased by the admission of her members on this floor or not. I know very well the testimony of the generals on that subject. While they recognize the bad condition of things in Tennessee to such an extent that they all testify that it was unsafe to release it from military power, they did undertake to say "but by the admission of her representatives on this floor a spirit of order and peace would be promoted there. I make no question as to their testimony. I am simply speaking of the actual condition of things in Tennessee as appears by the testimony offered to this committee."

Mr. GRIMES. That was the testimony not only of the generals, but it was the testimony of every civilian, I believe, who was examined before the committee.

Mr. SUMNER. Very well; admit that it was the testimony of generals and civilians. That does not go to the question whether we in the preamble to our resolution should aver that there is proper spirit of obedience in the body of her people. There is no general that says there is a proper spirit of obedience in the body of her people. I challenge the Senator from Iowa to point to the testimony here that shows there is a proper spirit of obedience in the body of her people. Generals testify that in their opinion it would be better to admit representatives from Tennessee on this floor and the floor of the other House. That is another question. I have not come to that question yet. The Senator springs from his

seat and interposes that question. Logically, it is not before me at this moment. I am merely speaking of the erroneous character of this preamble which avers a proper spirit of obedience in the body of the people of Tennessee; and I was going to say in support of that I adduce this testimony. Now, I understand that the Senator from Illinois is willing to alter his preamble in that particular. I believe I am right, am I not?

Mr. TRUMBULL. Yes, sir; I am willing those words should go out.

Mr. SUMNER. I think, sir, they ought to go out, and if they do go out, it will make his preamble in that respect superior to the preamble of the House.

That carries me now to another part of the preamble of the Senator. He has another allegation there which I must say is as erroneous as the one on which I have now remarked. He there declares, and calls upon us to declare, that the constitution adopted by Tennessee is republican in form. A constitution which disfranchises more than one quarter of its population, republican in form! What, sir, is a republican form of government? It is a government founded on the people and the consent of the governed. Sir, that constitution of Tennessee is not founded on the consent of the governed. It cannot invoke for it that principle of the Declaration of Independence; it is not a government republican in form; and when you undertake to allege that it is republican in form, permit me to say you make an allegation which is false in fact. I do not intend to raise any question of theory, but I submit to the Senate that a constitution which on its face disfranchises more than one fourth of the citizens cannot be republican in form. You, sir, will make a great mistake if at this moment of your history you undertake to recognize it as such. You will inflict a blow upon republican institutions. I hope that the Senator from Illinois as he has consented to one amendment of the preamble will now consent to another, that he will strike out those words declaring that this constitution is republican in form and in harmony with the Constitution of the United States. Do not compel us to aver what hereafter history will look at with scorn. Who can doubt when the history of all this war comes to be written gravely and calmly in the tranquility of the future that the historian must bring all these events to the rigid test of principle? Bringing them to this test, it will be impossible to recognize any government, like that of Tennessee now, either as republican in form or in harmony with the Constitution of the United States.

Mr. TRUMBULL. As I indicated, I will move to strike out of the preamble the words "and whereas the body of the people of Tennessee have by a proper spirit of obedience shown to the satisfaction of Congress the return of said State to due allegiance to the Government, laws, and authority of the United States," and in lieu thereof to insert "and has done other acts proclaiming and denoting loyalty." This will make it more satisfactory to some Senators.

The amendment to the amendment was agreed to.

Mr. SUMNER. I now move that the words to which I referred a moment ago, coming after the word "constitution," namely, "republican in form and not inconsistent with the Constitution and laws of the United States," be struck out. I want to vote for the proposition of the Senator from Illinois if I can.

Mr. WILSON. I hope those words will be stricken out.

Mr. WADE. I want to hear how it will read with those words stricken out.

The SECRETARY. That clause of the preamble if amended will read:

And whereas the people of said State on the 22d day of February, 1865, by a large popular vote adopted and ratified a constitution of government whereby slavery was abolished and all ordinances of secession and debts contracted under the same were declared void.

Mr. SUMNER. That is right.

Mr. COWAN. I have a single remark to make. I am opposed to preambles, particularly those which cannot be agreed upon by all parties who are in favor of the substance of the bill. I think the purpose of a preamble is entirely mistaken. The function of a preamble is not to state the reasons which influence men to vote, but it was anciently used in statutes (very much disused now) to describe the mischief which was intended to be remedied by the statute, and therefore usually could be agreed upon if the statute could be agreed upon. But I do not think that any legislative body ever split upon the preamble after they had passed the resolution or the enactment which followed it, because to suppose that they could was to suppose that there was an irreconcilable difference between the two; and that is why the rule in legislative bodies has been to pass the enactment first and then to adopt the preamble afterward, merely for the purpose of helping the judiciary afterward in their construction of the law. It sometimes happened that a law, from the general nature of its terms, would have been very much enlarged if it had not been for the preamble which described the exact mischief intended to be corrected by it.

I have another objection to preambles, preambles particularly which cite dubious facts and which attempt to compel people to vote for that which is asserted as a fact when they do not believe it. It is a very stale trick of the politician, and I think ought to be discouraged. I remember very well in old times, when I had the honor, and not only the honor, but the great pleasure, to be a member of the Whig party, during the time of the Mexican war, we thought our Democratic brethren were oftentimes very unkind when they prefaced their bills and resolutions with "whereas war exists by the act of Mexico," or "whereas we are waging a just war with Mexico," and all that kind of thing; and if you did not swallow the preamble you could not vote for the bill.

Now, as I do not conceive that any advantage can be gotten from these things, I hope that these preambles will be dispensed with and let us get at the subject in hand, which I understand to be the admission of representatives from Tennessee. If we are agreed upon that point I cannot see any reason in the world why we should differ about the ornamental parts of the bill, or about the phrase in which it is couched. The great matter is to get at the thing you desire to achieve.

Mr. SHERMAN. I would ask my friend from Pennsylvania if the Democrats ever yielded to his demands and gave up the preambles.

Mr. COWAN. I do not know that they did; but if they did not, I would advise my friend from Ohio not to imitate a bad example, but rather to yield now, and I trust he and his friends will do so.

Mr. YATES. I hope the amendment of the Senator from Massachusetts will be adopted, if for no other reason, for the sake of principle. Some gentlemen on this floor believe that no constitution is republican in form which excludes from suffrage all of a particular class of individuals.

Mr. COWAN. Say who they are.

Mr. YATES. Negroes. Others believe that it is republican in form. As these words are not necessary to the preamble at all, and give it no more force whatever, I think they should be stricken out without affecting the proposition, and I sincerely hope that the amendment will prevail.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the amendment proposed by the Senator from Massachusetts [Mr. SUMNER] to the amendment of the Judiciary Committee.

The amendment to the amendment was agreed to.

PENSIONS OF WIDOWS AND ORPHANS.

Mr. VAN WINKLE. I ask leave at this time to present a report from a committee of conference.

The PRESIDING OFFICER. The report

can be received if there be no objection; the Chair hears none.

Mr. VAN WINKLE submitted the following report:

The committee of conference upon the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first amendment of the Senate.

That the House recede from their disagreement to the second amendment of the Senate and agree to the same with the following amendments, namely, insert the following new sections:

SEC. 4. *And be it further enacted*, That if any person, during the pendency of his application for an invalid pension, but after the completion of the proof showing his right thereto, has died or shall hereafter die, but not in either case by reason of wounds received or disease contracted in the service of the United States and in the line of duty, his widow, or if he left no widow, or in the event of her death or marriage, his relatives in the same order in which they would have received a pension if they had been thereunto entitled under existing laws on account of the service and death in the line of duty of such person, shall have the right to demand and receive the accrued pension to which he would have been entitled had the certificate issued before his death; and in all cases where such person so entitled to an invalid pension has died, or shall hereafter die, under the circumstances hereinbefore mentioned, either by reason of a wound received, or disease contracted in the service of the United States and in the line of duty, or otherwise, without leaving a widow or such relatives, then such accrued pension shall be paid to the executor or administrator of such person in like manner and effect as if such pension were so much assets belonging to the estate of the deceased at the time of his death.

SEC. 5. *And be it further enacted*, That the repeal by the act entitled "An act supplemental to the several acts relating to pensions," approved June 6, 1866, of parts of certain acts mentioned in the first section of said act shall not work a forfeiture of any rights accrued under or granted by such parts of such acts so repealed, but such rights shall be recognized and allowed in the same manner and to all intents and purposes as if said act had never passed, except that the invalid pensioner shall be entitled to draw from and after the taking effect of said act, the increased pension thereby granted in lieu of that granted by such parts of such acts so repealed.

SEC. 6. *And be it further enacted*, That nothing in the fourth section of the act entitled "An act supplemental to the several acts relating to pensions," approved March 3, 1865, or in any other supplementary or amendatory acts relating to pensions, shall be so construed as to impair the right of a widow whose claim for a pension was pending at the date of her remarriage, to the pension to which she would otherwise be entitled had her deceased husband left no minor child or children under the age of sixteen years.

HENRY S. LANE,  
P. G. VAN WINKLE,  
GARRETT DAVIS,

*Managers on the part of the Senate.*

S. PERHAM,

M. C. KERR,

P. SAWYER,

*Managers on the part of the House.*

The report was concurred in.

#### RECOGNITION OF TENNESSEE.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 83) declaring Tennessee again entitled to Senators and Representatives in Congress, the question being on the amendment reported by the Committee on the Judiciary to the preamble.

Mr. BUCKALEW. I desire to make one inquiry with regard to this preamble. The preamble carefully sets forth that under the authority of an act of Congress the State of Tennessee was declared to be in a state of insurrection. I suppose allusion is made to the proclamation of the late President issued in pursuance of an act passed early in the war. Now, sir, I should like to know why the preamble omits a very important circumstance connected with that which occurred on the 2d of April last, to wit, that the President of the United States, in obedience to an act of Congress, or by virtue of authority conferred upon him by an act of Congress, declared that the insurrection against the authority of the United States had ended and that a state of peace was restored throughout the United States with the exception, I think, of Texas. That would be a statement preliminary to the resolution. It would follow in natural and logical order after the statement which the Senator from Illinois has inserted regarding the former proclamation of the President declaring the insur-

rection in existence. I inquire of him, then, why he omits the second proclamation, issued by virtue of the same authority, declaring that insurrection to be ended. It is by reason of this omission of the Senator from Illinois or of his committee to take notice of that second proclamation and of the important consequences in the argument to be derived from the fact of its existence that they get the conclusion which they appear to draw in the preamble; that an act of Congress is necessary to restore this State to its constitutional relations with the Federal Government.

In the preamble it is stated that the State of Tennessee was declared to be in a state of insurrection in pursuance of an act of Congress. Then the committee proceed to state the logical conclusion which they draw from that fact, which is that an act of Congress is necessary to reinstate the State of Tennessee in her former position in the Union. The committee are enabled only to draw that conclusion, which is the point of objection with many members to this preamble, because the proclamation announcing the termination of the insurrection was omitted in the statement. If that were placed in the preamble following the statement of the original proclamation, the logical absurdity would be so patent upon the face of this preamble that I presume neither the Senator from Illinois, who reports it, nor any member of the Senate who is disposed to vote for it, would entertain it for one moment.

Mr. HOWARD. I wish to call the attention of the honorable Senator from Pennsylvania, if he will allow me to do so, to the fact that there is no statute authorizing the President to issue a proclamation announcing that the insurrection has ceased in any of the States. Congress might have inserted such a clause undoubtedly if it had seen fit; but there is an absence of any such statutory provision as would give to the President authority to declare the insurrection at an end, or in other words to declare that peace was restored. Congress undoubtedly proceeded upon this principle, that it is the war-making and war-conducting power, and that alone, which can recognize or reestablish the state of peace after a state of war has intervened. So that in this case it was not necessary in any point of view to recite the fact that the President had issued his so-called peace proclamation; and I have ever regarded that proclamation so far as it assumes to declare that peace with all its concomitants has been restored, as utterly destitute of any statutory provision to stand upon or any rule of the laws of war.

Mr. BUCKALEW. Mr. President, I take it for granted, for the very brief purpose in view, it is competent for me to assume that the proclamation of the President issued upon the 2d of April is a valid document, issued by virtue of due authority conferred upon him by the laws of the United States. I do not propose now to go into the argument of that question, as I appear to be invited to do by the observations of the Senator from Michigan. I am very confident that upon examining the statutes passed upon this subject this authority will be found to be contained in them. The original authority to the President itself I believe was subject to this condition, that they should be declared to be in insurrection so long as the insurrection should continue. The implication upon that language would be clear and manifest, and would point in the direction which I mentioned before.

I say I rose to call attention to this very important omission in the statements of the preamble, by which alone, as I understand, the conclusion of the committee is logically reached or can be inferred that an act of Congress is necessary to restore this State to its constitutional relations to this Government.

Mr. MORRILL. Mr. President, as this is a question between the two preambles, I have no hesitation in saying that the amplest and fullest is the one which commends itself to my judgment, and the one which upon ordinary principles of legislation can alone, it seems to me,

be adopted. If it were a question between no preamble and a preamble, there is good reason to doubt which would be proper.

Mr. HENDERSON. There is that question.

Mr. MORRILL. I understand the question now is between one and the other; an amendment is proposed to the preamble reported by the House. Now, sir, what is the principle of legislation? When we legislate simply in a legislative act, we do not ordinarily accompany the act with the reasons for it. The reasons are supposed to lie in the mind of the legislator; they are the current events of the times; they are the history out of which the law grows; they are all the surrounding circumstances, if you please, which accompany the act and which induce the act. Now, is that this case? Is this a legislative act having the force of law? I understand it is. It is not a mere declaration; it is not a mere resolution of this body; but it is a legislative act of the highest legislative tribunal in the land; it is designed to have the force of law; and the ground that we put it on is that it is necessary to put this State in its practical relations with the Government of the United States. That is our ground. That is the ground on which the committee report it.

Sir, as a legislative act ordinarily you do not accompany it with your reasons. It is not necessary, I need not say, to give it legislative force; and that is not the legislative propriety of the thing, either. The legislative propriety of the thing is, that you make your law to meet the exigency, and your justification rests in the history of the times, not in the reasons you proclaim. If that is our condition, the question arises whether it is wise for us to assign the reasons. There are many reasons why I think it would not be; and the chief one is that it is not an ordinary act of legislation to declare your reasons. Others might be assigned why it is not necessary. But there are reasons in this case why it may become necessary for us to assign our reasons; and if we do not assign them we are liable to be misunderstood by those who oppose us. I hear it said in this discussion already—the Senator from Pennsylvania [Mr. BUCKALEW] announces it and some others on this side of the Chamber—that they will vote for the declaration that Tennessee is entitled to recognition as a State and to representation, on the ground that she has always been, on the ground that she has never been otherwise than entitled to representation, rebellion, insurrection, war to the contrary notwithstanding; there never was a day or an hour when she was not entitled to recognition as a State. Well, sir, if that is the law—

Mr. BUCKALEW. I beg leave to say that the Senator is imputing to me remarks which were made by other gentlemen.

Mr. MORRILL. Very well, so far as my friend is concerned I withdraw it; but that is the other side of this case. Certain gentlemen are disposed to vote Tennessee in on the ground that she was never out; that she is entitled to have her relations declared to be so because they have never been disrupted; that she is entitled to be represented now because she always was. That is the ground. If that is insisted upon, and there is any danger in the country of our being misrepresented or being misunderstood on that question, then I am in favor of a preamble and the amplest preamble possible, one which shall state the ground and the whole ground precisely on which we admit her.

But if I come to that conclusion, I am not for the preamble which comes from the House at all, because that is inadequate, that is incomplete, that does not assign any particular reason. Why? That simply says she has ratified the constitutional amendment and therefore shall be admitted. I do not go on that ground. I do not admit her simply for that reason, because I am not insensible that if we do that we have established a precedent by which South Carolina if she should ratify this constitutional amendment would come here and demand admission: and when South Carolina comes

here I may or may not desire to propound to her certain other questions, to know whether she has a constituency that we can recognize, which is a question lying back of all this that we are considering, and vastly more important than any of the facts indicated in the resolution which comes from the House.

Without arguing this proposition, I think it clear on principle that if you are to have a preamble, you must go for that which is most ample, most complete, most entire, and which embodies the reasons for the legislative act. For that reason I am in favor and shall vote for the amendment proposed by the Judiciary Committee because it embraces the great historical facts on which we legislate. It recites that this State once by the act of Congress was declared to have no relations whatever with the Government; and having established that great fact, it then declares that her people by permission of the Government established a constitution, and the further fact that having established a constitution the people of Tennessee organized a government and elected a Governor, and the further fact that they have ratified the amendments to the Constitution of the United States, and therefore put themselves in harmony with Congress.

Now, not to repeat myself, I say I rose simply to remark that upon the question of a preamble I am in favor of the question or none; and as that from the Judiciary Committee is most full and ample I vote for that and will reserve myself upon the question of the adoption of a preamble at all. If that amendment should be adopted, then whether I prefer that preamble or none is a point upon which I do not desire to be committed at this moment.

The PRESIDING OFFICER. The question is upon agreeing to the amendment as amended.

Mr. GRIMES called for the yeas and nays; and they were ordered.

Mr. HENDRICKS. I understand that this question is on substituting the amendment of the Senator from Illinois for the House preamble.

Mr. TRUMBULL. Yes, sir; that is the question.

The question being taken by yeas and nays, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Anthony, Chandler, Creswell, Fessenden, Harris, Howard, Morrill, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Wade, and Wilson—16.

NAYS—Messrs. Brown, Buckalew, Clark, Cowan, Davis, Doolittle, Edmunds, Foster, Grimes, Henderson, Hendricks, Howe, Johnson, Lane, Morgan, Nesmith, Norton, Riddle, Sherman, Van Winkle, Wiley, and Williams—22.

ABSENT—Messrs. Conness, Cragin, Dixon, Guthrie, Kirkwood, McDougall, Saulsbury, Stewart, Wright, and Yates—10.

So the amendment, as amended, was rejected.

Mr. GRIMES. I hope that the joint resolution will be reported to the Senate, and that we shall take the vote on concurring in the amendment made to the resolution itself, and upon that question I shall ask for a separate vote.

The PRESIDING OFFICER. The resolution is still before the Senate, as in Committee of the Whole, and open to amendment.

Mr. SUMNER. I offer this amendment to come in at the end of the resolution:

*Provided*, That this shall not take effect except upon the fundamental condition that within the State there shall be no denial of the electoral franchise, or of any other rights, on account of color or race, but all persons shall be equal before the law; and the Legislature of the State, by a solemn public act, shall declare the assent of the State to this fundamental condition, and shall transmit to the President of the United States an authentic copy of such assent whenever the same shall be adopted, upon the prompt receipt whereof he shall, by proclamation, announce the fact, whereupon, without any further proceedings on the part of Congress, this joint resolution shall take effect.

Mr. DOOLITTLE. Is that amendment in order now?

The PRESIDING OFFICER. It is.

Mr. DOOLITTLE. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 4, nays 34; as follows:

YEAS—Messrs. Brown, Pomeroy, Sumner, and Wade—4.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Cowan, Creswell, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Nesmith, Norton, Poland, Ramsey, Riddle, Sherman, Sprague, Trumbull, Van Winkle, Wiley, Williams, and Wilson—34.

ABSENT—Messrs. Conness, Cragin, Dixon, Guthrie, McDougall, Nye, Saulsbury, Stewart, Wright, and Yates—10.

So the amendment was rejected.

Mr. DOOLITTLE. The question now arises, as I understand, upon the preamble to the House resolution.

The PRESIDING OFFICER. There is no question of that kind before the Senate now.

Mr. DOOLITTLE. A motion to strike out the preamble is not required, as I understand, but the preamble must be positively adopted.

Mr. JOHNSON. You can amend it or move to strike it out.

Mr. DOOLITTLE. But is it necessary to move to strike it out? Must not the vote of the Senate be taken on the preamble itself?

The PRESIDING OFFICER. There is no question arising on the preamble now. If the Senator desires to strike it out he can make a motion to that effect. The preamble is to be treated as a part of the resolution. The resolution proper comes up first, and afterward the preamble. We have considered the resolution, and are now considering the preamble.

Mr. DOOLITTLE. What I wish to inquire is, whether it is necessary to take a vote of the Senate upon the preamble.

Several SENATORS. Move to strike it out.

Mr. DOOLITTLE. I do not desire to move to strike it out if the question necessarily comes before the Senate on the adoption of the preamble. Is not that the case? ["Oh, no."] Then I move to strike out the preamble of the House resolution.

Mr. COWAN. I call for the yeas and nays on that.

The yeas and nays were ordered.

The Secretary read the preamble proposed to be stricken out, as follows:

Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore.

Mr. TRUMBULL. I shall vote to strike out this preamble. I think we had better have no preamble unless we have one that is full. The Senate has decided not to have one that is full or fuller, and this is imperfect. I think we had better strike it out, and then I shall be willing to adopt the House resolution pretty much as it stands without any preamble. The preamble as it is contains a committal, in my judgment, on the part of Congress to recognize any State government which shall adopt the constitutional amendment, and I think there is no necessity for committing ourselves in that way. I have great doubt about the propriety of a preamble at any rate; and I think it would be better to strike it out.

The question being taken by yeas and nays, resulted—yeas 29, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Henderson, Hendricks, Howe, Johnson, Morgan, Morrill, Nesmith, Norton, Poland, Pomeroy, Ramsey, Riddle, Sumner, Trumbull, Van Winkle, Wiley, Wilson, and Yates—29.

NAYS—Messrs. Chandler, Creswell, Grimes, Harris, Howard, Kirkwood, Lane, Sherman, Sprague, Wade, and Williams—11.

ABSENT—Messrs. Conness, Cragin, Dixon, McDougall, Nye, Saulsbury, Stewart, and Wright—8.

So the motion to strike out the preamble was agreed to.

Mr. SHERMAN. Now I should like to have the resolution read just as it stands.

The Secretary read as follows:

*Be it resolved, &c.*, That the United States do hereby recognize the present government of the State of Tennessee as the legitimate government of said State, entitled to all the rights of a State government under the Constitution of the United States.

The joint resolution was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. The first question is on concurring in the amendment reported by the Judiciary Committee instead of the House resolution.

Mr. WILSON. On that question I desire the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. I hope on reflection that the Senate will not concur with the committee in adopting this amendment. On comparing it with the original resolution as it came from the House I am satisfied that the House resolution is much to be preferred; it contains ideas and implications plainly which exist in point of fact, and goes directly to the distinct proposition, for that reason, of admitting its representatives; and therefore, on reflection, it appears to me, although I voted for the amendment in committee, that it is better to adopt the House resolution as it stands. I shall vote, therefore, against concurring in the action of the Committee of the Whole.

Mr. TRUMBULL. The expression of the Senate being against any preamble, I like the House resolution, or a portion of the House resolution, better than I do that reported by the committee, and which has been adopted in Committee of the Whole. The report of the Committee on the Judiciary was both a preamble and a resolution, and if nothing is to be adopted but a simple resolution without any preamble, I incline to think that the better course will be to adopt a part of the House resolution. I am not for adopting the whole of it, and shall move at the proper time to strike out a portion of it. The latter part of the House resolution I hope the Senate will strike out when the proper time comes.

Mr. SHERMAN. The only question is upon concurring in the amendment adopted in committee as a substitute for the House resolution.

The question being taken by yeas and nays, resulted—yeas 11, nays 31; as follows:

YEAS—Messrs. Cowan, Davis, Doolittle, Guthrie, Hendricks, Howe, Johnson, Nesmith, Norton, Poland, and Riddle—11.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Kirkwood, Lane, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Conness, Cragin, Dixon, McDougall, Saulsbury, and Wright—6.

So the amendment was not concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment made as in Committee of the Whole, striking out the preamble to the House resolution.

The amendment was concurred in.

The resolution, as thus amended, was read, as follows:

*Be it resolved, &c.*, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws.

Mr. TRUMBULL. I move to strike out of the joint resolution all after the word "Union" in the fourth line, being the words "and is again entitled to be represented by Senators and Representatives in Congress duly elected and qualified, upon their taking the oaths of office required by existing laws."

Mr. POMEROY. I move to amend the part proposed to be stricken out, by striking out simply all after the fifth line, namely, the words, "duly elected and qualified, upon their taking the oaths of office required by existing laws."

I think these words are superfluous.

Mr. TRUMBULL. I have two objections to this part of the resolution which I propose to strike out. The first is that it is wholly unnecessary. If the State of Tennessee is "restored to her former proper, practical relations to the Union," the right of representation is one of the rights belonging to her, and it is unnecessary to reiterate it, and therefore this language is objectionable in that respect.

But there is another objection, and I wish Senators would turn their attention to it for a



moment. The language is, "and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws." I will not admit a man who takes the oaths required by existing laws if I know he has been a traitor. It is not for Congress to decide that; it is for the Senate to decide who is entitled to be admitted here on taking the oaths of office. When the State has been restored to its proper relations to the Union, then it is for each House to decide whether the persons claiming seats are entitled to them or not. I ask my friend from Michigan, [Mr. HOWARD,] if Jeff. Davis were to come here to-morrow and agree to take the oaths of office, would he admit him to a seat? And yet that is the way this resolution reads: "is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws." There is no necessity for these words; they give no force to the law; and I would not tie up my hands in reference to this question. I am told there are men elected to these Houses of Congress who their friends avow are ready to take the oaths of office, that have been connected with the rebellion.

Mr. CRESWELL. They perjure themselves.

Mr. TRUMBULL. I would not allow them to be here if the testimony satisfied me that they had been connected with the rebellion, although they took the oath of office; and I do not wish to be committed by voting for any such proposition when there is no necessity for it. I hope, therefore, that the Senate will sustain my motion. There can be no object in having these words in.

Mr. GRIMES. Why not strike out all after the word "Congress," at the end of the fifth line?

Mr. POMEROY. That is my motion.

Mr. TRUMBULL. I do not want to specify one particular thing; it looks as if we denied the others. Let me ask the Senator from Iowa what object there is in saying that a State is entitled to representation. Is she not entitled to other rights?

Mr. GRIMES. Yes. As has been well observed, what is the object of the whole proposition?

Mr. TRUMBULL. The object of the whole proposition is to show that there is a State government there restored to her proper relations in the Union; and representation follows.

Mr. GRIMES. The question we have been investigating all winter is whether there is a State government there entitled to representation.

Mr. TRUMBULL. Whether it is entitled to representation is not the question I have been looking at. I have been inquiring whether there is a State government there at all. It is not simply as to representation; it is in reference to the rights pertaining to a State government. When you restore the State of Tennessee to her former proper, practical relations to the Union, representation follows as a matter of course. I do not myself like the title of the resolution and I shall move to amend it at the proper time. It is now "A joint resolution declaring Tennessee again entitled to Senators and Representatives in Congress." I want to declare that there is a State government in Tennessee which Congress recognizes as legitimate.

Mr. HOWE. We have struck out that declaration.

Mr. TRUMBULL. But we struck that out because the Senator from Wisconsin and others voted against the preamble. He and others, uniting together different sides of the Senate, voted down the preamble; and that having been done, it is better, as I think, to take a part of the House resolution than it is to take the other naked resolution as we reported it.

Mr. POMEROY. If my amendment shall prevail, the language remaining in the resolution will not be subject to the criticism made by the Senator from Illinois. There is something in the point suggested by the Senator

from Iowa, that we have been seeking representation from Tennessee all the session. It is not entirely satisfactory to say there is a State government there and stop at that. While we recognize Tennessee as having a State government, I think we ought at least to go so far as to say that she is entitled to be represented in Congress by Senators and Representatives.

Mr. TRUMBULL. I do not want to say anything about representation in the resolution.

Mr. FESSENDEN. I do.

Mr. TRUMBULL. There we differ.

Mr. EDMUNDS. It appears to me that there is no necessity for either of these amendments. The resolution only declares a rule of action, and that rule of action is that Tennessee, being entitled again to representation, her Representatives and Senators are to be admitted when they come here duly elected and duly qualified and take the proper oaths. It leaves the constitutional tribunals of this Government the ultimate power of deciding who are elected, who are qualified, and who do take the necessary oaths; and therefore when a Senator from that State appears here, it is for us, as in every other case, to decide whether he personally is qualified to represent that State; and into that question of qualification there enters necessarily the personal element of hostility or friendship to the Government which makes it fit that he should associate with Senators from other States and have a voice with Senators from other States in the deliberations of this body. The resolution does not declare that any particular Senator or Representative is to be received; it only declares that that State is again practically entitled to be represented by Senators and by Representatives. What Senators and what Representatives, and how qualified, the resolution leaves to each House of Congress to decide, under the Constitution, for itself. Therefore it appears to me to be perfectly plain that there is no danger whatever in the resolution as it stands. It is true, I think, as the Senator from Illinois says, that the legal effect of this resolution would be the same if we simply said that she was restored to her former practical relations; but the people of this country, after this great length of time, want to see something a little more practical themselves. They want to see in black and white that the Senators and Representatives from this State are to be received, and they want to know practically and in words that we mean that. Then do not let us stop on the mere legal effect of the thing, but state in good round English, as the House has done, that her Senators and Representatives, when it appears on proper investigation that they are loyal and fit to be received, shall be.

Mr. HOWARD. Mr. President, I concur entirely with the Senator from Vermont in the view which he takes of the clause that is now proposed to be stricken out. The Senator from Illinois tells us that he does not wish to say anything about representation in Congress, but thinks it quite sufficient when the resolution goes so far as to declare that Tennessee is restored to her former practical and proper relations with the Union. Undoubtedly if the resolution stopped there it would imply, of course, the right of Tennessee to send Senators and Representatives to Congress. But I choose to go a little further; and I think the House of Representatives have acted wisely in declaring in this resolution, by a strong implication, that the State of Tennessee, in consequence of having gone into the insurrection, had forfeited her right to send Senators and Representatives to Congress, and that is fairly the implication from the language, which is that the State is "again entitled to be represented." I like that language. It corresponds exactly with my idea of the *status* of Tennessee during the rebellion and up to this time. It implies that there was a period in which the State of Tennessee has not been entitled to send Senators and Representatives to Congress. That has been the doctrine upon which Congress has

proceeded all along; it is the doctrine of the act of 1861 giving to the President authority to declare certain States and parts of States in insurrection against the Government. It is a recognition of the clear principle of law; in other words, that by waging war against the United States in the form of a State organization, and in a State the majority of whose citizens have joined in that insurrection, upholding the insurrectionary government, the State has forfeited, for the time being at least, all its political rights as a State of the Union. If it has so forfeited them, then whose duty is it to restore those rights, to remove that forfeiture? The duty of Congress very plainly, the law-making power which declared the insurrection to exist. It is the duty of Congress to restore those rights. I therefore shall vote against the amendment which is offered by the Senator from Illinois. I wish to see this principle clearly recognized in our legislation that a war by a State of the Union against the United States operates as a forfeiture of its political rights as a member of the Union, and constitutes it an enemy of the United States.

During this period of forfeiture, therefore, Mr. President, the State has no right to send Representatives or Senators to Congress; and it is the right and the duty of Congress in the shape of a general statute to declare when this forfeiture shall be removed, and by what means it shall be removed.

Mr. TRUMBULL. Had she any rights as a State?

Mr. HOWARD. No rights as a State of the Union whatever; she was not a State in the Union.

Mr. TRUMBULL. The Senator from Michigan will then allow me to inquire, why specify one right that she lost when she lost all?

Mr. HOWARD. I have said already that in strict, legal construction these words are perhaps not necessary; but they are cumulative in their effect, and they serve to carry out plainly to the mind of the people the idea which has governed Congress all along, that there has been a forfeiture of the right of representation in the two Houses of Congress.

Mr. TRUMBULL. Does it not carry an implication that they have forfeited no other right?

Mr. HOWARD. I think it does not. I think that would be rather a strict and, perhaps, illiberal construction to place upon the language. There is no exclusion of one. The language is very plain; the words are "is again entitled to be represented by Senators and Representatives in Congress."

Mr. TRUMBULL. That includes one thing; does it not exclude the others?

Mr. HOWARD. No, sir. That is a principle which, let me say to the Senator, it is not safe to carry out in all cases, and a principle which does not apply except in particular cases: *inclusio unius est exclusio alterius*. It is rather a dangerous principle of construction. Here the language is used plainly as explanatory and in elucidation of the more general terms which precede it. That is the only light in which I can view it. I prefer, therefore, to retain that language.

As to the other objection that the remaining clause in these words, "duly elected and qualified, upon their taking the oaths of office required by existing laws," might be construed as a pledge on the part of Congress that even Jefferson Davis, if he should be sent here as a Senator or Representative and should offer to take the oaths, would be entitled to take his seat, I see no force whatever in that objection. The persons who are to come here under this statute must be in the first place duly elected; that is, elected by a Legislature recognized to be a State Legislature by act of Congress; secondly, he must be duly qualified; that is, he must possess those qualifications required by the Constitution, and without which his election is void.

Mr. TRUMBULL. Age and citizenship?

Mr. HOWARD. He must have the age and citizenship required—

Mr. POMEROY. I submit to the Senator from Michigan whether those are not questions devolving upon each House and not questions for Congress to decide. That is the reason why I move to strike out the last two lines.

Mr. HOWARD. I will come to that directly.

Mr. POMEROY. The last two lines pertain exclusively to the question of election and of qualification, and should be taken out of the language of the act of Congress.

Mr. HOWARD. "And upon their taking the oaths of office required by existing laws." Very well, can any member of this body or of the House of Representatives take a seat in either of the bodies without taking the oath prescribed by the existing laws? Certainly the Senator from Illinois will not contend that he can do so. They must necessarily take the oaths; and if we still insist upon the test oath, as I trust we shall for all future time, a Senator here or a Representative in the other body cannot obtain his seat there without taking the test oath. It is objected again that this is an assumption on the part of Congress to pass upon the qualifications of the members of the House of Representatives; and that it is not competent for us to assume the authority which, under the Constitution, pertains exclusively to each House. No one pretends that Congress, as a legislative body, can usurp or exercise authority which the Constitution gives to the respective Houses. We may say what we please in a statute in regard to the election and returns of members to the two Houses, still we know that the Constitution, which is the highest law of the land, gives absolutely to each House the right to judge for itself of the elections and qualifications of the members who are returned to it; and it would be the last thing that would occur to my mind, I must confess, that this clause of the joint resolution could be tortured into a pledge or undertaking on the part of Congress or an assumption on the part of Congress to pass upon the questions of the elections and qualifications of the members of the several Houses. Certainly it cannot possibly have any such effect, and it is not contemplated by the resolution itself. All that the resolution requires is that the State of Tennessee shall have the right to send Senators and Representatives to Congress, and that they shall be entitled to take their seats here upon undergoing the tests which exist by the Constitution and laws in regard to their fitness to take those seats; and with this I am content, I confess.

Mr. FESSENDEN. If the Senator from Illinois will strike out the last two lines simply, all after the word "Congress," I should vote for his proposed amendment.

Mr. POMEROY. That is the pending motion.

Mr. FESSENDEN. Then I will vote for that, because I think those words are unnecessary and might lead to an implication to which I should not agree; and we get all we want by striking out all after the word "Congress" in the fifth line. I am not for retaining the previous words on the ground assumed by my friend from Michigan that amplification is useful. I think that amplification is the curse of this body. We have been amplifying all day on matters that are familiar to us as our fingers; and I think it about time that we take a vote. I do not want to amplify any more.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas to the amendment of the Senator from Illinois.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. TRUMBULL. What has become of my motion?

The PRESIDING OFFICER. The Senate has voted to amend it.

Mr. TRUMBULL. Well?

The PRESIDING OFFICER. The question now is on the amendment proposing to strike out the sixth and seventh lines of the resolution.

Mr. FESSENDEN. Is not the question on striking out all after the word "Congress?"

The PRESIDING OFFICER. The effect of the amendment, as amended, if agreed to, will be to strike out all after the word "Congress," at the end of the fifth line.

The question being put, a division was called for; and the "ayes" having risen to be counted,

Mr. SHERMAN. There is a misunderstanding here in regard to the question. The Senator from Illinois moved to strike out all after the word "Union." Then the Senate, on the motion of the Senator from Kansas, struck out all after the word "Congress."

The PRESIDING OFFICER. The Chair will state the question. The Senator from Illinois proposed to strike out all after the word "Union." The Senator from Kansas proposed to amend the amendment by striking out, instead of what the Senator from Illinois proposed, the sixth and seventh lines, and the Senate agreed to that amendment to the amendment; so that the amendment as now amended, if agreed to, will strike out the sixth and seventh lines only.

Mr. BROWN. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. GRIMES. This amendment, if it prevails, as I understand, will strike out a portion of the fourth line after the word "Union" and all of the fifth line.

Mr. SPRAGUE. That is it.

The PRESIDING OFFICER. This motion, if it prevails, will strike out, as the Chair has repeatedly stated, the sixth and seventh lines, and nothing else.

Mr. GRIMES. Then what did we do when we adopted the amendment of the Senator from Kansas?

The PRESIDING OFFICER. You excluded the fifth line and a part of the fourth line from the motion to strike out.

The question being taken by yeas and nays; resulted—yeas 25, nays 18; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Connors, Davis, Fessenden, Guthrie, Harris, Henderson, Howe, Johnson, McDougall, Nesmith, Norton, Poland, Pomeroy, Riddle, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, and Wilson—25.

NAYS—Messrs. Brown, Chandler, Cowan, Creswell, Doolittle, Edmunds, Foster, Grimes, Howard, Kirkwood, Lane, Morgan, Morrill, Nye, Ramsey, Sprague, Williams, and Yates—18.

ABSENT—Messrs. Cragin, Dixon, Hendricks, Saulsbury, and Wright—4.

So the motion to strike out prevailed.

Mr. SHERMAN. I preferred the resolution as it came from the House; but as the preamble is stricken out and there is now no preamble, I move that this be inserted as a preamble:

Whereas the State of Tennessee has in good faith, by the action of her people, now placed herself in obedience to and in harmony with the Constitution, laws, and authority of the United States: Therefore.

On this I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS. I move to amend that proposed preamble by striking out the word "now."

The amendment was rejected.

The question recurring on the preamble proposed by Mr. SHERMAN, the yeas and nays were taken with the following result:

YEAS—Messrs. Anthony, Cowan, Fessenden, Grimes, Harris, Kirkwood, Lane, Morrill, Pomeroy, Ramsey, Sherman, Sprague, and Stewart—13.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Connors, Creswell, Davis, Doolittle, Edmunds, Foster, Guthrie, Henderson, Hendricks, Howard, Howe, Johnson, McDougall, Morgan, Nesmith, Norton, Nye, Poland, Riddle, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Cragin, Dixon, Saulsbury, and Wright—4.

So the proposed preamble was rejected.

Mr. TRUMBULL. I will now again offer in the Senate the preamble which was offered in the committee, in order to have a distinct vote upon it. Since it was voted upon in committee the preamble of the House has been voted down. I now offer the preamble which came from the Judiciary Committee in the

form in which it was altered in Committee of the Whole.

Mr. CONNESS. I call for the reading of it. The Secretary read the amendment, as follows:

Whereas in the year 1861 the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore.

Mr. TRUMBULL. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPRAGUE. I move to amend the amendment proposed by the Senator from Illinois by inserting the preamble which has come from the House of Representatives in lieu of his.

Mr. TRUMBULL. We have just voted that down in the Senate, the very same thing that the Senator offers. I apprehend that it is not in order to move that again unless it is altered.

The PRESIDING OFFICER. The Chair thinks the amendment is in order. It presents the question to the Senate, which of the two preambles they will take. The question is on the amendment offered by the Senator from Rhode Island, as an amendment to the amendment of the Senator from Illinois.

Mr. TRUMBULL. I hope that will not be agreed to.

Mr. SPRAGUE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I understand now the proposition of the Senator from Rhode Island is to offer the House preamble as a substitute for the preamble reported by the Committee on the Judiciary. We have then the choice between the two. I shall vote for the House preamble, and then, if that is voted down, I shall vote for the other.

Mr. TRUMBULL. I am sorry that the Senator from Rhode Island should have offered this amendment. I had been desirous to get a distinct vote on the preamble as it was amended in the Senate, coming from the Judiciary Committee. We have been unable to get a distinct vote upon it, because, when it was offered before, it was antagonized with this. Now the Senator from Rhode Island, when it is offered in the Senate, proposes what the Senate voted down in the Senate. My proposition has never been voted upon in the Senate; and why will not the Senator from Rhode Island let us take a distinct vote to see whether the Senate will not adopt it? If we do not, then try the other. Let us have a distinct vote whether we will have this as the preamble or not, without antagonizing it with the House preamble.

Mr. SHERMAN. There has been no vote on the House preamble.

Mr. TRUMBULL. Directly on the House preamble.

Mr. SHERMAN. Not by yeas and nays.

Mr. TRUMBULL. Yes; by yeas and nays.

Mr. SHERMAN. I think the only vote that was taken was on the proposition of the Senator from Illinois to strike out the House preamble and insert that of the committee.

Mr. TRUMBULL. Will the Senator from Ohio listen to me for a moment? When we came into the Senate a distinct vote was taken on agreeing to the preamble of the House by yeas and nays, and it was voted down.

Mr. SHERMAN. I beg the Senator's pardon.

Mr. TRUMBULL. The amendment which I offer now as a preamble has never been offered in the Senate.

Mr. SHERMAN. The yeas and nays were not called on the House preamble.

Mr. TRUMBULL. I undertake to say it was voted on by yeas and nays, and I ask the President of the Senate to report the vote on the distinct House preamble by itself. The Senator from Wisconsin [Mr. DOOLITTLE] made the motion to strike out the House preamble, and we took a distinct vote.

Mr. WILLIAMS. No vote has been taken upon this preamble since we adopted the House resolution. Since that vote was taken, to which the gentleman refers, we have adopted the House resolution; and now the simple question is presented as to whether we shall take the preamble of the House with the House resolution; that is the question now.

Mr. SHERMAN. The Senator from Wisconsin offered his amendment in Committee of the Whole, and not in the Senate.

The PRESIDING OFFICER. The Chair will state, for the information of the Senate, that in Committee of the Whole it was moved to strike out the House preamble and insert the preamble of the Judiciary Committee; that failed to carry. Afterward it was moved in the Committee of the Whole by the Senator from Wisconsin to strike out the House preamble, which carried.

Mr. TRUMBULL. By yeas and nays.

The PRESIDING OFFICER. By yeas and nays; and after we came into the Senate it was concurred in.

Mr. TRUMBULL. It has been concurred in by the Senate.

The PRESIDING OFFICER. The question now is on the amendment offered by the Senator from Rhode Island to the amendment of the Senator from Illinois; and upon that the yeas and nays have been ordered.

Mr. TRUMBULL. I would prefer, if we can do it, to have separate votes; and if it is in my power to do so I will withdraw my amendment, so that we may take a direct vote on agreeing to the House preamble, as the Senator from Rhode Island proposes.

The PRESIDING OFFICER. That can only be done by unanimous consent.

Mr. HENDERSON. I object.

Mr. TRUMBULL. Very well; let us have the vote, then, on the House proposition. I trust the Senate will vote down the House preamble, in order that we may take a direct vote on the other.

The yeas and nays being taken, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Creswell, Edmunds, Foster, Grimes, Harris, Henderson, Hendricks, Johnson, Kirkwood, Norton, Riddle, Sherman, Sprague, Van Winkle, Willey, and Williams—20.

NAYS—Messrs. Chandler, Conness, Cowan, Davis, Doolittle, Fessenden, Guthrie, Howard, Howe, Lane, McDougall, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Ramsey, Stewart, Sumner, Trumbull, Wade, Wilson, and Yates—24.

ABSENT—Messrs. Cragin, Dixon, Saulsbury, and Wright—4.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Illinois.

Mr. TRUMBULL. The question is on the preamble I offer.

Mr. GRIMES. I ask that it be read.

Several SENATORS. It has been read over and over again.

The PRESIDING OFFICER. The amendment will be read, if desired.

Mr. GRIMES. I desire it.

The Secretary read the proposed preamble, as follows:

Whereas in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did on the 22d of February, 1865, by a large popular vote adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and

debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

Mr. BROWN. I desire simply to say, in this connection, that I find nothing in that preamble that will elucidate my vote on the resolution when it comes up, and as I am opposed to any preamble at all events, I shall vote against the amendment.

The vote being taken by yeas and nays, resulted—yeas 23, nays 20; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Creswell, Fessenden, Harris, Howard, Kirkwood, Lane, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—23.

NAYS—Messrs. Brown, Buckalew, Clark, Cowan, Davis, Doolittle, Edmunds, Foster, Guthrie, Henderson, Hendricks, Howe, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Van Winkle, and Willey—20.

ABSENT—Messrs. Cragin, Dixon, Grimes, Saulsbury, and Wright—5.

So the amendment was agreed to.

Mr. BUCKALEW. I propose to amend in the third and fourth lines as follows: in the third line strike out the words "is hereby" and insert "shall be held;" and in the fourth line strike out the words "is again;" so as to read, "the State of Tennessee shall be held restored to her former proper, practical relations to the Union, and entitled to be represented."

The amendment was rejected.

Mr. YATES. I offer this as an amendment to the resolution as it has been amended, to come in at the end of the fifth line:

Who possess the qualifications required by the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States, and have been duly elected and qualified, upon taking the oaths of office required by existing laws.

I simply desire to say that this amendment provides that those who are excluded from holding office by the proposed amendment to the Constitution shall not be Senators or Representatives, and that Senators and Representatives shall take the oath prescribed by existing laws. This, as I understand it, meets the objection of my colleague upon this point. By the proposed amendment to the Constitution certain men are excluded from holding office, those who, having taken an oath to support the Constitution heretofore, have violated that oath. This amendment of mine, that if the Senators and Representatives from Tennessee possess the qualifications required by that constitutional amendment, and then also take the oath of office, they may be admitted as Senators and Representatives. Very unwillingly did I consent to strike out of the resolution, whether it is material or immaterial, the provision that these Senators and Representatives should be required to take the oath of office prescribed by existing laws, because I wish it to be understood that they must take the test oath, however disagreeable it may be to them. My amendment simply provides that they shall take this oath, and that they shall be men who are entitled to hold office according to the amendment to the Constitution which we have proposed to be adopted by the different States. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. I think that this amendment ought not to be adopted or rejected without consideration. It proposes, as I understand, to make a rule in a proposed amendment to the Constitution of the United States which has not yet been adopted and has no force whatever, a rule by which the representation of the State of Tennessee is to be governed. In the second place, that part of the proposed amendment, it seems to me, is entirely useless, because no person under existing laws can be a Senator or Representative in Congress without taking the oath which the law prescribes; and he must commit perjury if he takes that oath if he has been one of the persons designated in this proposed amendment, that is, one who has held

office under the confederate government. It seems to me that to adopt this amendment at this time without any consideration as to its effect would be rather a rash step, and I shall vote against it.

Mr. HARRIS. I regard these questions that we are passing upon now as of greater importance than anything we have had before the Senate for a long while; and I am satisfied that we are not likely to arrive at any wise conclusion this evening. I think we had better think over this thing and deliberate upon it. I therefore move that the Senate adjourn.

The motion was not agreed to; there being, on a division—yeas 20, nays 23.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Illinois, [Mr. YATES.]

Mr. MORRILL. I desire to state that I have paired with the Senator from Maryland, [Mr. JOHNSON,] who has been called out of the Chamber.

The question being taken by yeas and nays, resulted—yeas 9, nays 33, as follows:

YEAS—Messrs. Chandler, Edmunds, Howard, Lane, Nye, Pomeroy, Sprague, Wade, and Yates—9.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Creswell, Davis, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howe, Kirkwood, McDougall, Morgan, Nesmith, Norton, Poland, Ramsey, Riddle, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Willey, Williams, and Wilson—33.

ABSENT—Messrs. Cragin, Dixon, Johnson, Morrill, Saulsbury, and Wright—6.

So the amendment was rejected.

Mr. COWAN. I propose to amend as follows: strike out the preamble and in the first line all after the word "Senate," and in the second line all after the words "United States of America," and substitute for the third, fourth, fifth, sixth, and seventh lines these words: "that the Senators-elect from the State of Tennessee, the honorable Messrs. Fowler and Patterson, be admitted to qualify and take their seats in the Senate as Senators from that State." If thus amended, the resolution would read in this wise:

*Be it resolved by the Senate of the United States of America, That the Senators-elect from the State of Tennessee, the honorable Messrs. Fowler and Patterson, be admitted to qualify and take their seats in the Senate as Senators from that State.*

Mr. TRUMBULL. Is that in order to a joint resolution?

Mr. COWAN. Certainly.

The PRESIDING OFFICER. The Chair is of opinion that the amendment cannot be in order.

Mr. COWAN. I wish to be heard upon that. The House resolution, although it is called a joint resolution, is not a joint resolution. If it is anything at all it is a concurrent resolution. A resolution cannot be a joint resolution or a concurrent resolution merely because you write at the head of it the word "joint" or "concurrent." The resolution takes its character from the subject-matter of it and the breadth of its operation. Now, it is perfectly evident that what we want to get at here is the admission of Senators and Representatives from Tennessee. The operation of this joint resolution, as it is called, can possibly go no further; it can have no operation outside of that. The only conceivable result which will follow from it will be that Representatives will be admitted into the other House and Senators will be admitted here. That is the whole of it.

Another and more complete test of its concurrent nature, and not its joint character, is the fact that if it were proposed to the President for his veto or approval, it would not make a particle of difference whether he approved or whether he vetoed it, because if he vetoed it we could proceed immediately to do all that is contemplated under the resolution the same as though he approved it. His veto amounts to nothing one way or the other. The fashion of calling things joint resolutions when you want to present them to the President and when you want to make a point by asking him to sign something he does not want to sign and when you expect to make a little capital by putting him into a dilemma, and calling them



concurrent resolutions when you do not want the President to sign them or have anything to do with them—I say that practice and that species of trickery ought now to be abandoned, I think.

Mr. LANE. I rise to a point of order. What is the question before the Senate? The amendment which the Senator moved has been ruled out of order. No appeal from the decision of the Chair has been taken; and yet a lengthy argument going on.

Mr. COWAN. I do not understand the Chair to have decided peremptorily that it was out of order. I asked to be heard upon the question of order.

The PRESIDING OFFICER. The Senator will pause. The Senator from Indiana raises the point of order that after the question of order has been decided, it is not in order for the Senator from Pennsylvania to debate the question. That point of order is well taken. The Senator from Pennsylvania can only proceed by the indulgence of the Senate, and if the Senator from Indiana objects it cannot be.

Mr. LANE. I object to any further debate.

Mr. COWAN. I appeal from the decision of the Chair.

The PRESIDING OFFICER. The last decision or the one before that?

Mr. COWAN. The one before that. [Laughter.]

The PRESIDING OFFICER. The Senator takes an appeal from the decision of the Chair.

Mr. COWAN. And upon that I can be heard I presume.

The PRESIDING OFFICER. Undoubtedly.

Mr. COWAN. Then, Mr. President, I have to say that this resolution of the Senate, offered by me as an amendment, being a substitute not for a joint resolution of both Houses, but a substitute for what is a concurrent resolution, and upon a subject-matter which is peculiarly and exclusively within the control of the Senate according to the Constitution and laws, ought to be sustained. I agree that if this were a joint resolution, if it were in its nature a law to provide for some previous deficiency in the law, not exactly a statute, but something amendable and curable by a joint resolution, then my amendment would not be in order; but as this is an attempt on the part of the two Houses to do that which is peculiarly within their own province separately to be done, and to do that by means of concurrent action, I have a right to amend by appealing to the Senate to resume its separate functions, and declare in short what it intends to do by its own separate resolution.

Where is the objection to this? What do Senators desire, what do they want? Certainly it cannot be presumed that they desire any political advantages in this matter? It cannot be presumed that there is any trick or political advantage to be derived from this. They are not aiming at that. The real actual matter in hand, the subject in issue here is, whether the representatives from Tennessee shall be admitted upon this floor and upon the floor of the other House. That is the whole of it, admitted to be. If we are to admit those Senators, let us say so. If the other House wants to admit Representatives, let them say so. Where is the necessity of raising the question as to whether Congress is supreme over this matter, or whether the President is supreme, or whether the judiciary is supreme?

In truth and in fact the three branches of this Government are coördinate, equal, neither of them is supreme. The relations between the State of Tennessee and the General Government, so far as the Executive is concerned, have been restored long ago, perfectly restored. Your joint resolution has not a thing to operate upon in that behalf. You have gone on and you have treated Tennessee precisely as you have treated all the other States in the Union, so far as the executive department of this Government is concerned. Have you not been appointing assessors and collectors of internal revenue, and all other officers for

that State, and confirming them here in the Senate as well as rejecting?

Then the next question is, whether relations are restored with the judiciary of the country. Is it not well known that the Supreme Court opened their docket and took up cases from the rebellious States? I believe one from Tennessee; I am not so certain of that, but it is very certain if a case had come there from Tennessee or if a citizen of Tennessee had sued in a United States court a citizen of another State he would have been entitled to be heard, and that court would have opened its doors to administer justice to him.

The only branch of the Government which has not recognized these States and their relations to the General Government is Congress. The Constitution declares that each House shall be the judge of the elections, returns, and qualifications of its own members. Therefore it is with the Senate to restore those relations with Tennessee which ought to exist between the Senate and that State; and it may well happen that Tennessee is entitled to Senators upon this floor when she may not be entitled to Representatives upon the floor of the House, and it might well happen that she would be entitled to representation upon the floor of the House when she would not be entitled to representation here. The Representatives to the lower House might be well elected, whereas the Legislature which elected the Senators might not be the true Legislature of the State.

But as the sense of the Senate to-day has been repeatedly declared, and by repeated votes, that Tennessee now has a government and that she now has a Legislature, and that she is entitled to representation upon this floor, why not treat the matter as it has always been treated; why not meet it squarely and fairly and say that Messrs. Fowler and Patterson are entitled to qualify and take their seats upon this floor as the representatives of Tennessee, and avoid all this contriving and all this artifice, which, after all, amounts to nothing? It will not make a point for anybody in the end, because the people are not to be deceived by this kind of maneuvering and it will not make the position of one or the other parties stronger in the least by adopting anything like these amendments, these preambles, and allegations which have been put already into the resolution.

By this course you will avoid another difficulty. You propose to have the Executive concur in this. He may make a very good point on you there if it happens that your resolution is a resolution with which he has nothing to do and upon which his approval or disapproval would have no effect. How are you going to answer to the country when he says "I have nothing to do with this; you can do all this as well without me as with me. My approval one way will make no difference." He tells you further, "I wanted you to do this six, seven, or eight months ago." I say that Senators had better hesitate and take the direct course instead of this roundabout way.

I am delighted with the proceedings to-day. Although tardy, I am willing to take it as an abandonment of the ground taken by the majority from the beginning of the session—a total and entire abandonment. When we went into session on the first of December, what was the allegation? The allegation was that a committee of reconstruction must be appointed to inquire into what? To inquire into the condition of the people of the rebellious States and to ascertain whether they were entitled to representation upon the floor of either House. That committee sat and took testimony and reported distinctly against the affirmative side of the proposition, or in other words, that committee reported—

Mr. HENDRICKS. If the Senator will yield, I will make a motion to adjourn.

Mr. TRUMBULL and others. I trust not. Let us finish this matter.

Mr. CONNESS. I hope this question of order will be allowed to be discussed. The idea of adjourning pending the discussion of a question of order I never heard of.

The PRESIDING OFFICER. The Senator from Pennsylvania is entitled to the floor.

Mr. COWAN. That committee decided—

"It is the opinion of your committee—

"1. That the States lately in rebellion were, at the close of the war, disorganized communities, without civil government, and without constitutions or other forms by virtue of which political relations could legally exist between them and the Federal Government."

"2. That Congress cannot be expected to recognize as valid the election of representatives from disorganized communities, which, from the very nature of the case, were unable to present their claim to representation under those established and recognized rules, the observance of which has been hitherto required."

That report was presented to the Senate of the United States on the 8th day of June, 1866, about forty days ago. Now, I should like to know what has occurred in the meanwhile to change the right of Tennessee to be represented in these Houses. Is it pretended that anything has occurred since to change what appears to have been the deliberate decision and opinion of the reconstruction committee? If so, what has it been? If nothing material has occurred, then the action of Congress yesterday and to-day is an abandonment, an utter and total abandonment of the whole ground that has been maintained by the dominant majority here during the session, and there is no escaping from it. It was said that we must have guarantees, that we must have securities, and that we must have a thousand things. Where are they, I should like to know?

It is said that Tennessee has ratified the amendment to the Constitution. That is the secret of it. That is seized upon as the pretext to do that which Senators feel they should have done long ago. It is a mere pretext, pretending that because a Legislature, scrambled up by the military, and brought in by a sergeant-at-arms and forced to sit, have ratified an amendment to the Constitution, therefore Tennessee is purged, her garments are clean, all stains are washed from her robes, and she is immediately entitled to be represented on these floors! Are you better off now than you were before? What have you got by the ratification of the amendment to the Constitution by Tennessee? Does that give it any validity? Nobody pretends that it does. There is no more amendment to the Constitution than there was yesterday, or ten days ago, or two weeks ago. Hence I say that this is an abandonment on the part of the majority of both Houses here, a distinct, clear, clean running away from their ground on this subject of the admission of members from Tennessee, and I want the country to know that, and to know it now upon this proposition.

If the Senate believe that Tennessee is entitled to representation upon this floor for any cause whatever, and if they believe that the gentlemen elected here, whose credentials are upon our table, were elected by the Legislature of Tennessee, the legitimate government, (as we have voted half a dozen times to-day that it was the legitimate government and that the legitimate Legislature,) then why hesitate for one moment to admit that State to her rights upon this floor? We have been taxing her; we have been making laws for her; and she has had no voice in the councils of the country; she has not been heard. Then, I say, to make your repentance complete, to make it effectual for salvation, to save you, it must be accompanied by works meet for repentance; and the proper work is to admit upon the instant, I think, according to the terms of the resolution, I propose to substitute for the one now before the Senate, her Senators; and I trust the House will follow your example, and that then this vexed question will be settled as the Constitution intended it to be settled, for the Constitution intended that each House should for itself, not in conjunction with the other House, determine the elections, returns, and qualifications of its members.

Here I may remark that there never was any necessity for a reconstruction committee to get at questions which gentlemen alleged lay down below the election of Senators. If we have a

right to determine upon the election of Senators, if we have any right to determine upon the qualifications of Senators, are we not obliged in settling that question to determine what is a valid Legislature and what is not a valid Legislature? Could we not have done all that for ourselves?

Mr. WILSON. You wanted to do it your own way.

Mr. COWAN. You did not want to do it, I know; and you did not want to do it according to the Constitution, because you expected you could get a political advantage by getting up a kind of star-chamber committee and shutting the doors against representation from the States for some extraordinary purpose or other. The doors have been shut for seven months; and now the clamor at the doors has induced you, without any reason and upon a mere pretext, to abandon your ground that you held so long, and now you are afraid to come up to it like men and do directly what you would like to do indirectly. That is about the truth of it.

Mr. CONNESS. The Senator does not, if he will permit me, call the adoption by Tennessee of the constitutional amendment we have passed a "pretext?" Is that not a cause for admission now?

Mr. COWAN. I say it is not a cause for admission, because it amounts to nothing.

Mr. CONNESS. It is for us.

Mr. COWAN. The ratification of that amendment by the State of Tennessee gives you not a single advantage; it does not give you an additional guarantee; it furnishes you no further security; and yet your House resolution here cites it as the cause, as the reason. I say it is not a valid cause, it is not a good reason, it is a mere pretext. If the amendment to the Constitution had been ratified by three fourths of the States, then I admit it would have been a good reason upon which you might have based your action; but it is only ratified by the State of Tennessee, and even that ratification is denied and assailed, and the fact of that ratification not known here except upon a telegram, and upon a telegram which may have been sent by any wag in Nashville. Who knows whether that amendment has been ratified in the Legislature of Tennessee or not, or anything about it? Who knows how it was done? Who knows what were the means used? It is perfectly certain that the military were called upon to compel the attendance of members to ratify an amendment to the Constitution. I ask in all seriousness in the American Senate whether there is a sane man in the body who believes that an amendment to the Constitution ratified in that way, ratified against the will of members who were compelled to go to the Legislature in order to do it, and ratified by a Legislature which was not elected with a view to the consideration of this question and without a fair opportunity of canvassing its merits before the people, would be worth the paper on which it is written? Suppose it was ratified everywhere. The ultimate power is with the people, and all these barriers that you attempt to build up between the people and power and their servants are as mere straw and chaff. Some day they must give way, and certainly no wise man wants the Constitution amended by any trickery or any contrivance or any unfair means of that kind. It is asserted that of the members of the quorum, the fifty-six required to constitute a quorum of the eighty-four members of the Legislature, two were actually not in the chamber, but were in the custody of the sergeant-at-arms in his room, not present in the hall when the vote was taken. How this is, I do not know; but all these doubts hang over this thing, so that I say you do not know and no man can aver to-day whether the Legislature of Tennessee ever did ratify that amendment to the Constitution or not; and if they did, it is no justification for any action on the part of Congress or the majority of Congress, and amounts, as I said before, simply to a pretext, a pretext which will be understood when it goes to the country.

Mr. HENDRICKS. I will ask the Senator again if he will yield for a motion to adjourn?

Mr. COWAN. Certainly.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. NYE. If you withdraw that for a moment I simply want to put in an amendment.

Mr. WILSON. I hope this point of order will be decided.

The PRESIDING OFFICER. The question is on the motion to adjourn.

Mr. HENDRICKS. I withdraw it for the Senator from Nevada.

Mr. NYE. I wish to propose an amendment.

The PRESIDING OFFICER. The amendment can be received by unanimous consent. Is there objection? The Chair hears no objection.

Mr. HENDRICKS. Now, I renew the motion to adjourn.

The question being put, a division was called for.

Mr. NYE. I should like to have the amendment read.

Mr. HENDRICKS. Some Senators ask that the amendment be read which has been offered by the Senator from Nevada. I therefore withdraw the motion to adjourn.

The PRESIDING OFFICER. The question is on the point of order and the appeal taken by the Senator from Pennsylvania.

Mr. HENDRICKS. The Senator from Missouri [Mr. HENDERSON] has asked a division on the motion to adjourn, and I withdraw the motion to adjourn until we can hear the amendment read.

The PRESIDING OFFICER. The Chair is of opinion that it is not in the power of a Senator to withdraw a motion when a division is being had upon it. It can be done by unanimous consent. Is there any objection to the motion being withdrawn?

Mr. EDMUNDS. I object.

The PRESIDING OFFICER. A division is called for on the motion to adjourn.

A division being had, the result was—ayes 18, noes 19; a refusal to adjourn.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair, ruling out of order the amendment of the Senator from Pennsylvania, [Mr. COWAN,] stand as the judgment of the Senate.

The question being put, the decision of the Chair was sustained.

Mr. NYE. Now, I offer my amendment, and I ask to have it read.

The Secretary read the proposed amendment, which was to strike out all after the word "that," in the third line of the resolution, and insert:

The people of Tennessee have organized a government for that State which is in allegiance to the Constitution and laws of the United States, and have given satisfactory evidence of their purpose and ability to maintain the same, and the same requiring the sanction of Congress to its validity, it is hereby ratified and shall be guaranteed by the United States.

The amendment was rejected.

Mr. HENDERSON. Mr. President—

Mr. WILSON. Let us have the vote.

Mr. HENDERSON. That is just what I want, if we can get it; but before we take the final vote on this proposition I prefer to reconsider the vote by which we adopted the preamble moved by the Senator from Illinois, [Mr. TRUMBULL.] My impression is that if you pass the resolution with that preamble, and send it to the President of the United States, the President will keep it for ten days; he will keep us here ten days from next Tuesday, and then he will send to us a veto message. He will say, "Gentlemen, you have sent to me a resolution with a preamble declaring that nothing but the law-making power of this country can settle this question; now, I dispute that proposition; all else there is in your measure is to admit Senators and Representatives from Tennessee; you have the power to do that; I have always contended that you had the power to do it as separate bodies; if you are in earnest about it, just admit them." Is not that the answer we shall get from the Executive?

Mr. WADE. I rise to a question of order. I want to know whether it is in order here to speculate upon the opinions of the President of the United States in reference to our legislation. In the British Parliament it is a breach of privilege, and always out of order. Is it in order here?

The PRESIDING OFFICER. Does the Senator from Ohio raise a point of order?

Mr. WADE. Inquire of the Chair whether such remarks are in order.

Mr. HENDERSON. I do not desire to be out of order.

Mr. COWAN. There can be nothing in the point of order. What is all this but a mere discussion of the powers of the Executive? The honorable Senator from Missouri assumes that the Executive has certain opinions as to his rights and powers under this Government. It is fair argument.

Mr. HENDERSON. If I am out of order the Chair will so decide.

The PRESIDING OFFICER. The Chair does not consider the Senator out of order.

Mr. HENDERSON. I was stating only a reason for our not adopting this preamble. I have fought against it all day. The Senate voted it down deliberately two or three times. We voted down the proposition to have any preamble at all. The Senator from Illinois insists that we shall have a preamble and finally gets a small majority in favor of it; and having obtained a small majority in favor of it, without any further reconsideration Senators insist that we must stay here and get through with the whole question to-night. Now, I am just as anxious to see Tennessee admitted as any member of this body; but I think we had better reconsider the preamble; or at least we had better wait until Monday morning and consider it. If Senators have made up their minds to stay ten days, it may be all well enough. I would rather not do so; and hence I rise for the purpose of moving an adjournment, and I hope the Senate will consider that this is the proper plan. A great many Senators have left the Hall; a great many more will leave; it is now six o'clock on Saturday evening, and we have had two night sessions during the week; and it does seem strange to me that just after the Senate has reversed its well-considered views, late in the evening, after many Senators have left the body, it is insisted that a vote must be had now. If the Senate acted right in voting down all preambles this morning at an earlier hour, it may possibly be that upon a reconsideration of this matter between now and Monday morning we shall vote down any preamble again. It is but recently that we have come to the conclusion that it was necessary to have a preamble. I do not think we ought to have one. I would stand up and demonstrate to Senators that there should be none, and give the very best reasons in the world for that view, because any preamble that you may adopt will leave a false implication before the people that I do not want to be committed to. When you make a preamble, of course you declare, as the Senator from Illinois said in objecting to the House preamble this morning, that other States shall be admitted upon the same terms. What did he say? He said the House amendment only declares that Tennessee has adopted the constitutional amendment, and therefore we will admit her; and if we do that, he said, we go all over the country declaring that we would admit South Carolina upon the same terms. Now I appeal to the Senator and ask him if there is anything else in his own preamble. Do you say that you will not admit South Carolina upon her adopting the constitutional amendment, whether it becomes the law of the land or not? Does not the same implication go out that would from the House amendment?

Mr. WADE. What is the question?

Mr. HENDERSON. The bill is before the Senator, the whole subject, all of it.

Mr. SUMNER. Will the Senator allow me to suggest to him a consideration in favor of his view? It is very evident that even if we

shall pass this joint resolution to-night, as the House has already adjourned we shall not hasten it any.

Mr. HENDERSON. We shall not gain anything by pushing matters now.

Mr. SUMNER. We shall gain nothing. That seems to me a consideration in favor of letting it go over until Monday morning.

Mr. TRUMBULL and others. We gain a day.

Mr. SUMNER. The House is not in session to-night. The resolution cannot go to the House. I think, therefore, the Senator from Missouri is right.

Mr. WILSON. We can have next Monday to devote to other business.

Mr. CONNESS. I submit to the honorable Senator from Missouri whether he will not take the sense of the Senate at once on the motion to adjourn, and then let the Senate do as it chooses.

Mr. HENDERSON. Is the Senator tired of hearing me? I really supposed he always listened to me with pleasure—

Mr. CONNESS. I do usually.

Mr. HENDERSON. If he is at all fatigued—

Mr. CHANDLER. I call the Senator to order. He made a motion to adjourn and is now debating it.

Mr. HENDERSON. I have not made any motion to adjourn.

The PRESIDING OFFICER. The Chair has not heard a motion to adjourn.

Mr. CONNESS. I will say that I do always hear the Senator from Missouri with great pleasure. I appeal to him, however, not to keep the Senate in this manner at this time.

Mr. HENDERSON. Other Senators have kept me here until six o'clock; I have had no dinner; and now when I undertake to inflict a short speech upon the Senate, other Senators feel that they are hungry, and the Senator from California feels very hungry and desires to leave immediately. If he had only thought of this a little while sooner, of course we could all have had our dinners by this time. We are not going to finish this joint resolution to-night. The Senator from Nevada has just offered an amendment.

Several SENATORS. It was voted down.

Mr. HENDERSON. There will be other amendments; we shall never get through in this way; and therefore I now move that the Senate adjourn, and I hope that we shall do so. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Edmunds, Henderson, Hendricks, Kirkwood, McDougall, Morgan, Nesmith, Sprague, Sumner, Van Winkle, and Willey—15.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Foster, Howard, Howe, Lane, Morrill, Nye, Poland, Pomeroy, Stewart, Trumbull, Wade, Williams, Wilson, and Yates—20.

ABSENT—Messrs. Cragin, Dixon, Fessenden, Grimes, Guthrie, Harris, Johnson, Norton, Ramsey, Riddle, Saulsbury, Sherman, and Wright—13.

So the Senate refused to adjourn.

Mr. McDOUGALL. I move to amend the resolution by striking out in the third line all after the word "is" to the word "entitled" in the fourth line. The words I propose to strike out are: "hereby restored to her former proper, practical relations to the Union, and is again;" so that the joint resolution will read:

That the State of Tennessee is entitled to be represented by Senators and Representatives in Congress.

Mr. LANE. That amendment was proposed by the Senator from Pennsylvania [Mr. BUCKALEW] word for word, and voted down by the Senate.

The PRESIDING OFFICER. The Chair understands it to be a different proposition. The Senator from Pennsylvania moved to strike out the word "hereby" and the two words "is again."

Mr. BUCKALEW. That was my proposition.

The PRESIDING OFFICER. This is a different proposition, in the opinion of the Chair, and is in order.

Mr. McDOUGALL. The whole of this entire proposition is, I think, irregular; and although it may not be a violation of the Constitution, it is a proceeding ignoring the provisions of the Constitution. I agree substantially and indeed particularly with the Senator from Pennsylvania, [Mr. COWAN.] There is a State of Tennessee, an organized State within this Union where we exercise jurisdiction, where we have judges and courts established, and our own administrative department of the Government in full action. It has at the present time all the qualities of a State, and by all the conduct of the Government in this body as well as on the part of the Executive recognized as such.

Then what follows? The right of representation in the two branches of Congress; and in judging about that right, it is simply a question of qualification; and the question of qualification is fixed by the Constitution, and charged severally upon the two Houses of Congress. This is not, cannot be made legislation. It has no business to be a concurrent resolution, for the reason that it is the office of this body to act in each given case for itself, and it is the office of the other branch of Congress to act in each given case; and this rule cannot be departed from in practice without a departure from the policy established by the terms of the Constitution. I am as anxious to see the State of Tennessee admitted with her complete rights on the floor of Congress as any member upon this floor, and have been for a long time past. I wish as soon as possible to see all the States of this Union represented in the two branches of Congress, but I desire at the same time to have it done in a legitimate way, in the manner provided for by the fundamental law; and what is that manner? When Senators come here and present themselves with their credentials from the State of Tennessee, we are to determine then the question whether they are entitled to their seats or not, whether they have the qualifications. Then the question arises properly. We might ourselves, as a Senate, declare that Tennessee was entitled to representation on this floor; but that is not the legitimate way to raise the question. It is for the Senator to present himself here, and then for the Senate to determine whether he is qualified or not; and so of the House of Representatives.

I should like to vote for the proposition presented by the Senator from Pennsylvania; but as this entire proposition assumes a policy adverse to the policy inaugurated and established by the Constitution, I do not think it can have my support or should have the support of the Senate.

Again, there is a radical objection to the proposition. The preamble as it stands recites what I think the body of the Senate believe to be an untruth. As we are advised here, our best advice is that the Legislature of Tennessee has not approved of the amendment to the Constitution of this session. That is the information which we obtain, and a gentleman elected a Senator from Tennessee, who would under this resolution come in and claim his seat, informed me this morning that he did not understand the amendment to have been adopted. It assumes what is not the fact, as a cause for the conclusion arrived at; but besides, this is not, in my judgment, the true constitutional mode of arriving at a conclusion.

However, as I do not care about occupying time—I rose more particularly for the purpose of expressing my views—I will withdraw the amendment so that a vote may be had. I wished my exact views on this subject to be understood.

The amendments were ordered to be engrossed and the joint resolution to be read the third time.

Mr. HENDRICKS. I wish to appeal to Senators once more to drop this preamble.

Mr. DOOLITTLE. Mr. President—

The PRESIDING OFFICER. The Senator from Indiana is entitled to the floor.

Mr. DOOLITTLE. If the Senator will allow me, I desire that there should be a vote

on the proposition made by the Senator from California. I desire to record my vote upon it.

The PRESIDING OFFICER. The Senator from California withdrew his proposition.

Mr. DOOLITTLE. I desire to renew it, not to discuss it, but simply to take the vote of the Senate upon it.

The PRESIDING OFFICER. The Senator must first move to reconsider the vote by which the amendments were ordered to be engrossed and the joint resolution to be read a third time.

Mr. DOOLITTLE. I should like to have unanimous consent to take the vote of the Senate on that amendment.

The PRESIDING OFFICER. The question is on the reconsideration.

Mr. ANTHONY. I will agree to the reconsideration if the Senator will go under bonds not to make a speech. [Laughter.]

Mr. DOOLITTLE. I have already said that I do not desire to say anything upon it, but merely to have a vote on the proposition.

The motion to reconsider was agreed to.

Mr. DOOLITTLE. Now, if my friend from Indiana will allow me, I will renew the amendment of the Senator from California.

Mr. HENDRICKS. I want to make an appeal about another thing.

Mr. President, I am going to vote for this resolution, not for the reasons stated in the preamble. I do not intend that your preamble, which I believe to be false in fact in some respects and false in logic throughout, shall prevent me from voting for a proposition which, although somewhat objectionable in form, arrives at a result that I very much desire; that is, the admission to representation in Congress of a State which I think ought to be admitted; but I wish to appeal to Senators again that some Senator who voted for this preamble will move to reconsider it. We shall then have no trouble. We are all willing to vote for the resolution; we are all willing to come to the result; but we do not believe in the logic of the preamble, and some of us believe that it may embarrass action on the question hereafter and possibly delay the adjournment. I feel very anxious for the adjournment, as I suppose all Senators do. The preamble does no good. It was rejected once by the Senate, but some influence or other induced the Senate to adopt it afterward. Whether it was the earnest appeal of the Senator from Illinois to save his measure or not, or what it was, I do not know; but very strangely, it was adopted after it had been once rejected.

Now, I appeal to Senators to drop that. Let us take the measure and we shall have no delays. I am going to vote for the resolution whatever is done about it. I do not consider that I am voting for the preamble. It is a thing that ought not to be forced upon us. It is not right to do it. It is not true, in my judgment; at least we have no evidence to support it; and it is a very unsafe thing, with the little information that we have, to declare that Tennessee has ratified the constitutional amendment. It is a thing that I think Senators do not approve of in their own judgments. But, although I do not like the preamble, I am going to vote for the resolution, and will appeal to Senators to strike that off. If not, I want to get through with this business.

Mr. TRUMBULL. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The Senator from Wisconsin moves to amend the resolution by striking out the words "hereby restored to her former practical relations to the Union and is again," the same amendment moved by the Senator from California, as the Chair understands.

Mr. DOOLITTLE. Upon that question I will ask a vote of the Senate by yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. I ask the Secretary to read the resolution as it will read with those words out.

The Secretary read as follows:

*Be it resolved, &c., That the State of Tennessee is*



entitled to be represented by Senators and Representatives in Congress.

The Secretary proceeded to call the roll on the amendment.

Mr. NESMITH (when his name was called) said: The Senator from Maine [Mr. FESSENDEN] had to retire from the Chamber on account of indisposition, and I agreed to pair off with him; otherwise, I should vote "yea."

The result was announced—yeas 5, nays 25; as follows:

YEAS—Messrs. Buckalew, Cowan, Doolittle, Hendricks, and McDougall—5.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Edmunds, Foster, Howard, Howe, Lane, Morgan, Morrill, Nye, Poland, Pomeroy, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Cragin, Davis, Dixon, Fessenden, Grimes, Guthrie, Henderson, Johnson, Kirkwood, Nesmith, Norton, Ramsey, Riddle, Saulsbury, Sherman, Van Winkle, and Wright—18.

So the amendment was rejected.

The amendments were ordered to be engrossed and the joint resolution to be read a third time. It was read the third time.

Mr. BUCKALEW. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. DOOLITTLE. I desire to say a single word only, as I do not wish to discuss the resolution. The amendment which was offered by the Senator from California, and which I renewed, had it been adopted by the Senate, would have relieved the resolution from what to my mind is objectionable; but the result arrived at in the resolution, to wit, the declaration that the State of Tennessee is entitled to representation, is, in my judgment, so important that I shall vote for the resolution, notwithstanding the objectionable part of it which I moved to strike out. If the preamble were a part of the resolution, there are things asserted in it that I could not vote for; but it is no part of the resolution, and I can vote for the resolution.

Mr. COWAN. I have only to say pretty much the same thing. I desire to attain the result; that is, the admission of the representatives of Tennessee on the floor of the two Houses; and I will not be deprived of casting my vote to attain that result by any kind of wrapping-paper that may be put about it. I wish to attain the substance without regard to forms. I think the preamble objectionable, and I think the language of the resolution objectionable. I think the mode by which it is attempted to be achieved altogether and totally objectionable; but I will vote for the whole to attain the desired end.

Mr. NESMITH. I did not vote for the preamble or to insert it in the resolution; but simply because I desire to see the Senators from Tennessee admitted, I shall vote for the resolution as it stands. On the previous vote I stated that I had paired off with the Senator from Maine, [Mr. FESSENDEN,] who had left the Chamber on account of indisposition. The pair was only to extend to preliminary questions. He gave me to understand that he would vote for the joint resolution, and therefore I shall vote in favor of its passage.

Mr. BROWN. Mr. President, it is perhaps scarcely necessary for me to restate my position on this question after having on a previous occasion discussed so very elaborately the conditions upon which, in my judgment, it would be proper to restore the rebel States to a normal relation with the General Government. But I feel as if I could not let this crisis pass without entering one word of final protest against the decision which seems about to be arrived at. You are going to recognize the civil government of the State of Tennessee and to admit her Senators and Representatives to seats in this Congress, and yet the grounds on which you are going to do so are not such as exact justice at the hands of rebellion toward those late in slavery, not such as guaranty safety to the loyal people against the numerical superiority of treasonable elements, not such as affirm the honor of this great nation in protecting the rights of its citizens and the liberties

radiant from its Constitution impartially to all alike. Can I believe otherwise than that this settlement which you propose will be no settlement; that the safeguards you hypothecate will only be self-delusions; and that on the morrow you will awaken to find out that in the eager haste to cater to an imagined political prejudice, you have surrendered, most ignobly surrendered, the whole question of equal freedom that has been the inspiration of the entire conflict from first to last?

I have often announced in this Senate Chamber that, imbued with the conviction that impartial suffrage, making no discrimination of race or color, was the only solid groundwork on which reconstruction in the rebel States could proceed, and that I would never, by any vote of mine, consent to restore those States to their former Federal relations until they should first make impartial suffrage one of the muniments of their constitutions. I propose to-day to redeem in part that pledge by refusing to vote now, in advance of any such action, for the restoration of Tennessee.

Of the causes which carried Tennessee into rebellion, that kept Tennessee in rebellion through long years, and that may make it possible for Tennessee again to assume attitudes of rebellion, the most potent still remains—the disfranchisement of the largest section of her loyal population on the score of color alone. It was this disfranchising feature of the slave code that not only acted directly to degrade the laboring blacks, but also acted indirectly to paralyze the laboring whites, to destroy their political influence, to subject them to slaveholding opinion, and thus make any treason possible that was heralded as being in the interest of the dominant class. Scrutinize it rigidly, strip off deceit of names, reduce slavery to its elements, and you will find this to have been its fatal disturbing political influence. I say political influence, for it is against that you are now ostensibly erecting constitutional barriers, and yet before anything in that behalf is accomplished, nay abandoning the very idea of accomplishing anything, you are ready to readmit Tennessee to your communion and fellowship with the fatal virus of future disease lurking in her constitution, and the great instrument of class despotism there ready again to be shaped into class treason. Sir, there is no national safety in this procedure.

Mr. President, I speak these words now not in the interest of any party, but in behalf of humanity, of justice, of right; and yet were I the oracle to-day of your Republican Union organization, I would plead with you, my friends, not to make this humiliating surrender of the very life principle of your party. Republicanism means nothing if it means not impartial, universal suffrage. Republicanism is a mockery and a lie if it can assume to administer this Government in the name of freedom, and yet sanction, as this act will, the disfranchising of a large, if not the largest, part of the loyal population of the rebel States, on the pretext of color and race.

But, sir, I rose only to enter my disclaimer, to affirm that your materially modified preamble takes nothing from the bad significance of the resolution itself, to declare from my place in the American Senate that I will have no part or parcel in any such deed, and to say that while I arraign neither the conscience nor motive of any member who may differ from me, yet I take appeal to the future to vindicate the correctness of that judgment on which I act, and which finds so little of concurrence here in the present. So reliant, I shall vote against restoring any rebel State that does not guaranty impartial suffrage in its organic law. Above all I shall vote against Tennessee, where impartial suffrage was once of right the rule till abolished by the slave code.

The question being taken by yeas and nays, resulted—yeas 28, nays 4; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cowan, Creswell, Doolittle, Edmunds, Foster, Hendricks, Howard, Howe, Lane, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Sprague, Stewart,

Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—28.

NAYS—Messrs. Brown, Buckalew, McDougall, and Sumner—4.

ABSENT—Messrs. Cragin, Davis, Dixon, Fessenden, Grimes, Guthrie, Harris, Henderson, Johnson, Kirkwood, Norton, Ramsey, Riddle, Saulsbury, Sherman, and Wright—16.

So the joint resolution was passed.

Mr. TRUMBULL. I move to amend the title so as to read, "A joint resolution concerning Tennessee."

The PRESIDING OFFICER. That amendment will be considered as adopted, unless there be objection.

Several SENATORS objected.

The PRESIDING OFFICER. The question, then, will be on the motion of the Senator from Illinois to amend the title.

Mr. TRUMBULL. There was an amendment to the title reported by the Committee on the Judiciary. Let it be read.

The SECRETARY. "A joint resolution concerning the State of Tennessee."

Mr. CONNESS. I hope that amendment will not be adopted.

Mr. ANTHONY. Why?

Mr. CONNESS. I will try to state briefly the "why." It is true the resolution concerns the State of Tennessee; but the object generally is to state in the titles of bills and resolutions as succinctly as possible their purpose. To say that this resolution concerns Tennessee is very general indeed. I propose to amend the existing title, if I can, before the question is taken on the motion of the Senator from Illinois, by inserting after the word "declaring" the words "the State of," so that it will read, "A joint resolution declaring the State of Tennessee again entitled to Senators and Representatives in Congress."

The PRESIDING OFFICER. The first question will be on the amendment of the Senator from Illinois.

Mr. CONNESS. I hope that will not be adopted.

Mr. TRUMBULL. I do hope that the Senator from California is not going to fall into the lead set by his colleague, who says that this is nothing but simply a proposition to admit Senators and Representatives. The Senator from Pennsylvania and the Senator from Wisconsin have been telling us that that is all there is to it, and all we have got to do. Now I insist there is something else in the resolution. There is a declaration that the State of Tennessee is restored to her former proper, practical relations to the Union. There is something more than simply admitting Senators and Representatives. I deny the position of the Executive, that he has taken all the time, that Congress has no authority over this question of reconstruction except to admit Senators and Representatives. This is a resolution in reference to the State of Tennessee, restoring her to her practical relations, and these words about admitting Senators and Representatives are of no meaning at all. They need not be in it. The legal effect of it would be precisely the same if they were out. The great point is to restore Tennessee to her constitutional relations to the Union and declare that she is restored. That is all the necessity there is for it.

Mr. CONNESS. The title of the Senator does not declare any such thing. The title that he proposes is that it concerns Tennessee.

Mr. TRUMBULL. Well, alter it then to declare it.

Mr. CONNESS. It is for the Senator to alter it. The Senator has proposed a motion. If he will declare it to be a resolution to restore Tennessee to her practical relations to the Government, that will satisfy me; it will mean something.

Mr. TRUMBULL. I would be satisfied with that. It is only longer.

Mr. HOWARD. I hope that will be adopted.

Mr. WILSON. I will suggest that the title be, "A joint resolution restoring Tennessee to her proper, practical relations to the Union."

Mr. CONNESS. That will be satisfactory to me.

Mr. TRUMBULL. I accept that.  
The PRESIDING OFFICER. The Senator from Illinois moves to amend the title so as to make it read, "A joint resolution restoring Tennessee to her proper, practical relations to the Union."

Mr. BUCKALEW. I do not consider this question of title of any importance. No matter what you name this resolution, it speaks its own character on its face. I desired at the end of our proceedings to state an idea which is raised by this question of title, however. Whatever you may say, or whatever may be said upon this subject, the object and purpose of this measure is precisely that which was announced by the House of Representatives in the title of the joint resolution as it was sent to us. It was intended, and only intended, to produce the admission of Senators and Representatives from that State into Congress. There were no other practical relations wanting to be affected by a measure of this kind. I rose for the purpose of stating that I voted against this resolution, first, because I consider it entirely nugatory and ineffective, and invalid; that it has no legal effect and can have no legal effect whatever upon the purpose which was had in view, the admission of members; that that power being explicitly with each House, after this resolution is passed, the power must be exercised by each House and will be exercised precisely as if no such resolution had ever been passed. Viewing it in that light, I felt justified in voting against it, whatever might be my opinions upon the question of the representation of Tennessee in this Senate and in the House. I voted also against this measure because, upon the face of it, it is expressly and solemnly declared that it is passed because of the reasons given in the preamble. You cannot sever the resolution itself from the preamble which is attached to it.

The PRESIDING OFFICER. Shall the title be amended as proposed by the Senator from Illinois?

The question being put, the motion was decided to be agreed to.

Mr. POMEROY. I was going to suggest that if the words "proper" and "practical" were taken out of that title it would be perfect to my mind. It would then read, "A joint resolution restoring Tennessee to her relations to the Union."

The PRESIDING OFFICER. Does the Senator desire to amend it?

Mr. POMEROY. I desire to amend it in that regard.

Mr. WILSON. Very well; strike out those words.

Mr. TRUMBULL. I have no objection to that amendment if I have control of the matter.

The PRESIDING OFFICER. Does the Senator accept the amendment?

Mr. TRUMBULL. Yes, sir.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. HENDRICKS. There is a practical question which I desire to present to the Senate. I do not think that the historian will turn to this resolution with any degree of interest when he comes to write the political history of these times, and the title, I think, is of no more consequence than the feather that adorns the child's bonnet. The practical question which I propose is that we adjourn.

Mr. TRUMBULL. Has the title been adopted?

The PRESIDING OFFICER. It has not been adopted.

Mr. HENDRICKS. I thought it was.

The PRESIDING OFFICER. The Chair declared it adopted, but withdrew his decision for the purpose of allowing it to be amended, because he did not understand that the Senator from Kansas, who was on the floor at the time, desired to move an amendment. The Chair declared it adopted hastily.

Mr. TRUMBULL. I hope the Senator from Indiana will withdraw his motion until this matter is disposed of.

Mr. HENDRICKS. I withdraw it.  
The PRESIDING OFFICER. Shall the title be amended as proposed—"A joint resolution restoring Tennessee to her relations to the Union?"

The motion to amend the title was agreed to.

#### GENERAL BANKRUPT LAW.

Mr. POLAND. I desire—

Mr. HENDRICKS. I thought I had made a motion to adjourn.

The PRESIDING OFFICER. The Senator withdrew it, the Chair understood.

Mr. POLAND. Before we vote to adjourn, I desire to take up the bankrupt bill, and make it the special order for one o'clock on Monday. ["No, no."] I will say to the Senate—"No, no." Let me be heard.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. POLAND. I ask to have it taken up at that time because the bill has fallen in my charge somewhat, and I desire to ascertain whether the Senate are willing to proceed with it. I shall not insist upon going on with it in lieu of the appropriation bill, which is partially completed; but I desire to have it taken up at that time, and have the Senate determine whether they will undertake to go through with it and pass the bill at this session. It is merely for that purpose that I make the motion.

Mr. WILSON. I hope it will not be taken up.

The PRESIDING OFFICER. The Senator from Vermont moves to postpone all prior orders and proceed to the consideration of House bill No. 598, being the bankrupt bill.

Mr. LANE. I hope it will not be made a special order. I want to get a vote on the bounty bill, which I regard as ten times as important as the bankrupt bill. I move that the Senate do now adjourn.

Mr. CHANDLER. I desire to make a motion to which I am sure there will be no objection.

Mr. POLAND. I believe my motion is pending.

The PRESIDING OFFICER. It is pending, but it is in order to adjourn while a motion is pending.

Mr. POLAND. I hope the Senator will withdraw the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 21, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. Borynson.

Mr. RICE, of Massachusetts. I move to dispense with the reading of the Journal.

Mr. WENTWORTH. There is no quorum here, and therefore I object.

The Journal was read.

Mr. JULIAN. I rise for the purpose of moving to correct the Journal. I am recorded as having voted in the affirmative on the preamble to the resolution admitting Representatives from Tennessee. I voted in the negative. I move that the Journal be corrected.

The motion was agreed to.

The Journal, as amended, was then approved.

#### OFFICERS OF THE NAVY.

Mr. RICE, of Massachusetts. I ask the unanimous consent of the House to report back from the Committee on Naval Affairs Senate bill No. 269, to define the number and regulate the appointment of officers in the Navy, with some amendments.

No objection was made, and the bill was received and read. It is as follows:

*Be it enacted, &c.,* That the number allowed in each grade of line officers of the active list of the Navy shall be one admiral, one vice admiral, ten rear admirals, twenty-five commodores, fifty captains, ninety commanders, one hundred and eighty lieutenant commanders, one hundred and eighty lieutenants, one hundred and sixty masters, one hundred and sixty ensigns, and in other grades the number now allowed by law: *Provided,* That the increase in the grades authorized by this act, shall be made by selection from the grade next below of officers who have

rendered the most efficient and faithful service during the recent war.

SEC. 2. *And be it further enacted,* That of the number of line officers of the Navy on the active list, five lieutenant commanders, twenty lieutenants, fifty masters, and seventy-five ensigns may be appointed from those officers who have served in the volunteer naval service for a period of not less than two years, and who are either now in that service or have been honorably discharged therefrom: *Provided,* That if by reason of these appointments the number of officers in any grade shall exceed the number fixed by law, no more promotions or appointments to that grade shall be made until the number is reduced below the number fixed by law for that grade: *And provided further,* That the authority given by this section shall be exhausted when the number of volunteer officers above-named shall have been once appointed.

SEC. 3. *And be it further enacted,* That the Secretary of the Navy shall appoint a board consisting of not less than three naval officers superior in rank to the officers to be thus appointed in the regular Navy from the volunteer service, which board, after examination of the claims of all candidates, shall select and report to the Secretary of the Navy the most meritorious in character, ability, professional competency, and honorable service the number to be appointed and transferred to the several grades mentioned in the third section of this act: provided they shall find that number who are suitably qualified therefor. And any officer who has served in the volunteer naval service for the term of two years or more shall have the right to appear before the examining board and present his claims and be examined for an appointment in the regular Navy.

SEC. 4. *And be it further enacted,* That the Secretary of the Navy be, and he hereby is, authorized to retain, or to appoint under existing laws and regulations, such volunteer officers in the Navy as the exigencies of the service may require.

SEC. 5. *And be it further enacted,* That lieutenant commanders may be assigned to duty as navigation and watch officers on board of vessels-of-war as well as first lieutenants of naval stations and of ships-of-war.

SEC. 6. *And be it further enacted,* That the annual compensation of the admiral of the Navy shall be \$10,000 a year, and he shall be entitled to the services of a secretary, who shall receive the annual sea pay of a lieutenant in the Navy.

SEC. 7. *And be it further enacted,* That naval constructors and first and second assistant engineers in the Navy shall be appointed by the President and confirmed by the Senate, and shall have naval rank and pay as officers of the Navy.

SEC. 8. *And be it further enacted,* That all acts and parts of acts inconsistent herewith are hereby repealed.

The first amendment reported by the committee was as follows:

Page 1, strike out all after "war" in line eleven as follows: *And provided further,* That the number of rear admirals, including all on the active and retired lists, shall not exceed twenty-one, exclusive of rear admirals retired after the passage of this act, and of officers now on the retired list of commodores, who have commanded squadrons by order of the Secretary of the Navy, and who may be promoted to the grade of rear admiral on the retired list; and insert in lieu thereof the following:

And who possess the highest professional qualifications and attainments. And nothing in this act shall preclude the advancement in rank now authorized by law for distinguished conduct in battle or for extraordinary heroism: *And provided further,* That nothing in this act, nor in the fourteenth section of the act approved July 19, 1862, entitled "An act to establish and equalize the grade of line officers of the Navy," shall be so construed as to prevent the Secretary of the Navy from promoting to the grade of rear admiral from the retired list those commodores who have commanded squadrons by order of the Secretary of the Navy, or who have performed other highly meritorious service.

The amendment was agreed to.

Mr. RICE, of Massachusetts. I am also instructed by the committee to move to amend section two by striking out in line three the word "ten" and inserting "twenty;" in the same line to strike out "twenty" and insert "fifty;" and in line four to strike out "forty" and insert "seventy-five;" so that the section will read:

SEC. 2. *And be it further enacted,* That of the number of line officers of the Navy on the active list, five lieutenant commanders, twenty lieutenants, fifty masters, and seventy-five ensigns may be appointed from those officers who have served in the volunteer naval service for a period of not less than two years, and who are either now in that service or have been honorably discharged therefrom, &c.

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to further amend the bill by inserting in the third section, tenth line, after the word "act" the words "provided they shall find that number who are suitably qualified."

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to further amend by adding to the third section the words "and any volunteer officers attached

to vessels at sea, or on foreign stations, may be appointed to the regular service, subject to the conditions contained in this section, after their return to the United States."

The amendment was agreed to.

Mr. RICE, of Massachusetts. The last amendment which I have to offer is to strike out from section four the words "until their places can be supplied by graduates from the Naval Academy."

The amendment was agreed to.

The bill, as amended, was then read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

Mr. CONKLING. I rise to a question of privilege, and offer the following resolution:

*Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives, on the day of —, at twelve o'clock meridian, adjourn their respective Houses until Tuesday, the 21 day of October, 1866, and that on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the 4th day of December, 1866.*

Mr. Speaker, I desire to explain the resolution in a few words.

Mr. ELDRIDGE. Is this resolution debatable?

The SPEAKER. It is not, without unanimous consent.

Mr. BANKS. I object to the introduction of this resolution as a question of privilege.

The SPEAKER. The House yesterday decided that it was a question of privilege, and the Chair is bound by that decision.

Mr. BANKS. This involves more than a question of adjournment. It provides that on a certain day hereafter the Presiding Officers of the two Houses may adjourn their respective Houses for two months more, even in the absence of a quorum.

The SPEAKER. The resolution says nothing about the absence of a quorum.

Mr. BANKS. That is the result of the resolution.

The SPEAKER. The House yesterday after debate upon both sides determined, by a vote by yeas and nays, that the resolution offered by the gentleman from Pennsylvania, [Mr. STEVENS,] going beyond this resolution in its powers, was a question of privilege; and the Chair is bound by that decision. The Chair, therefore, overrules the point of order.

Mr. CONKLING. I would like to state the object of the resolution.

Mr. SPALDING. I object.

Mr. JOHNSON. I move to lay this resolution on the table.

Mr. CONKLING. I do not yield the floor for that purpose. I believe I have the power to accommodate the gentleman from Ohio, [Mr. SPALDING,] who, I understand, desires to call up another question of privilege. I will withdraw my resolution for the present, giving notice that I will offer it immediately after the question of privilege which the gentleman desires to call up shall be disposed of.

#### DEFICIENCY BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes; which was read a first and second time, ordered to be printed, and referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next, after the morning hour, and from day to day until disposed of.

#### ASSAULT UPON A MEMBER.

Mr. SPALDING. I now ask that the order of the House be now enforced upon the member from Kentucky, [Mr. ROUSSEAU.]

Mr. ROUSSEAU. I ask leave of the House to say a word or two by way of personal explanation.

Mr. CONKLING. Before I give my consent, I desire to know whether this personal explanation is to be subject to the rules of the House, or whether consent is to be given to go beyond that. If so, then I shall object. I shall object to any personal explanation except it be made within the rules of the House and of decorum.

The SPEAKER. As the Chair has already stated, all personal explanations are subject to the rules of the House. The Chair will expect any gentleman who may object to the language which may be used to make a point of order, upon which the Chair will promptly rule.

Mr. CONKLING. Then I will make no objection.

No objection was made, and leave was accordingly granted.

Mr. ROUSSEAU. Mr. Speaker, I hope I shall not forget where I am, and I will endeavor to keep myself not only within the rules of the House, but within the rule of the strictest propriety and friendly regard for every member of this House.

Now, sir, that the trial of this matter in which I have been involved is over, and the decision of the House has been rendered, I not only feel myself at liberty, but I deem it my duty to the House and myself to say a word or so in reference to it. And here, sir, I must express my regret that I should be called upon to remark upon a matter which has given me so much pain and mortification since its occurrence; and I think nothing would prompt me to speak at this time but a desire that members may understand the feelings and motives which prompted me, and as far as possible my whole conduct in the premises.

I have been compelled to sit and hear myself denounced on this floor in a way in which I regret that any member should denounce a brother-member. I do not rise to complain of this; but I wish to say that such a course does not tend to good feeling, and I think I may add in all courtesy that the conduct complained of was unfair and unjust. When the discussion on this subject was closing the other day, the gentleman from Ohio, [Mr. GARFIELD,] who rose with a proclamation of personal friendship for me, seemed in the course of his remarks as if he were prosecuting a criminal. Such appeared to be the whole tenor of his argument, as well as that of the gentleman from Iowa, [Mr. WILSON.] Now, sir, I conceive that this was unfair and unjust toward a member of this House. The members were my judges, and they ought to have come to the decision of my case uninfluenced by passion and unclouded by prejudice.

Mr. STEVENS. I must object to this. I submit that criticisms on the judgment of the House and the action of members by a man under sentence are not in order.

The SPEAKER. The Chair thinks that the remarks of the gentleman from Kentucky intimating that members were influenced by passion are certainly out of order.

Mr. ROUSSEAU. If I have said anything improper I take it back. I have said that members should have considered and argued my case without prejudice and without passion. If I was in error in this position I am ready to withdraw it. If members should not deliberate and determine on a matter of this importance and delicacy uninfluenced by passion or prejudice then I am in error.

Now, Mr. Speaker, I hope, as I remarked at the outset, that I shall say nothing improper. I appeal to this House to decide whether those gentlemen did not show far more passion in words and actions than I have shown in anything I have said, or, judging from the course of these remarks, what I am likely to say. Why, sir, in the midst of the argument of the member from Ohio—

Mr. STEVENS. I must again object to this course of remark. It is simply a criticism upon what was done by this House in passing judgment upon the case of the gentleman; and the gentleman has no right to criticize it.

Mr. ROUSSEAU. Mr. Speaker, I do not

criticise the judgment of the House. I am saying nothing about the judgment of the House. I am speaking of the manner of the argument of the gentleman who prosecuted this case.

The SPEAKER. The Chair thinks that for the gentleman from Kentucky to impute passion to other members in the argument in his case is not within the rule.

Mr. ROUSSEAU. Under the ruling of the Speaker, I will withdraw the obnoxious remark. I was going on to say that the gentleman from Ohio [Mr. GARFIELD] in the midst of his argument, when certainly greatly excited—

Mr. MERCUR. I call the gentleman to order, and raise the point whether it is in order for him to criticize the speeches or conduct of members in passing upon his case.

The SPEAKER. The Chair has already indicated to the gentleman from Kentucky that such language is not within the proper line of remark.

Mr. ROUSSEAU. Well, Mr. Speaker, may I be allowed to say, while my case was being tried, and a good deal of excitement was aroused in the House, that an account of a fist fight in some part of the basement of this Capitol between outsiders, alleged to have occurred on the instant, was introduced in the midst of the debate by the member from Ohio, [Mr. GARFIELD,] with intense emotion and a labored and not unsuccessful effort at dramatic effect to influence the minds of members, and that said assault was by him characterized as "brutal and bloody?" May I say that, sir?

The SPEAKER. The gentleman has said it. [Laughter.]

Mr. ROUSSEAU. Then I will adhere to it. The SPEAKER. The Chair thinks that is not out of order.

Mr. ROUSSEAU. I am very glad of that, sir, and I will proceed with my remarks. I was sorry to see, sir, that when the House of Representatives of the United States was engaged in the trial of one of its members an effort was made to influence its decision by bringing into the debate such extraneous influences as this. Now, sir, was that either a proper or a timely proceeding?

Sir, the member from Massachusetts, [Mr. BANKS,] when everybody else was cut off by the previous question from saying a word, seemed to me, and I hope I may be allowed to say it in all courtesy, to be lying in wait in the argument; and when my mouth was doubly sealed by the proprieties of the case and by the previous question, he made a concluding appeal, such as one rarely hears in any court of justice where the case is one of murder or of the highest crime known to the law. That he had a right to do, but though I am ruled out of order if I should characterize that speech of the gentleman as animated by undue "passion," yet I trust I may be allowed, without interruption, to remark that I should have been better satisfied, and that the House could have determined the matter with equal justice and with better temper without such an excited appeal.

The prosecution in this case I must say I think has been entirely unjust to me. I will not allege more for I may be called to order. In the outset the gentleman from Massachusetts—

Mr. STEVENS. I insist this is out of order. He is criticising the mode by which the House arrived at its judgment, what was done by members, what took place here before judgment which a man called for sentence has no right to refer to.

The SPEAKER. The Chair sustains the point of order; and will read from page 74 of the Journal:

"No prior determination of the House is to be reflected on by any member unless he means to conclude with a motion to rescind it."

Mr. ROUSSEAU. That is the furthest from my intention.

Mr. STEVENS. There is no mistaking the course of his argument, and I object. Instead of the House I ask the Speaker whether the respondent is not to be reprimanded according to the order of the House.



The SPEAKER. The Chair will read another sentence from the Manual:

"The consequences of a measure may be repudiated in strong terms; but to arraign the motives of those who propose to advocate it, is a personality, and against order."

Mr. ROUSSEAU. I have found no fault, and did not intend to find fault, with the decision of the House. It had the right to make it, and I will submit to it. I am speaking of other facts. Am I allowed to do that? Am I not allowed to say that members of this House who were to be my judges went before the committee and prosecuted the case against me? Am I allowed to say that?

The SPEAKER. The Chair does not think the gentleman has the right to denounce the motives of members who voted on this proposition.

Mr. ROUSSEAU. Why, sir, how often must I repeat that I am trying to conform to the ruling of the Speaker? I am speaking of the manner by which the judgment of the House was sought to be influenced. If I am not allowed to discuss that, then I have nothing to say. My argument will not require me to impugn motives.

Mr. BANKS. I do not doubt the gentleman from Kentucky means to do exactly as he says, to speak in vindication of himself, and not to impugn the motives of the House or the members of the House; but he certainly does do that when he says the member from Massachusetts lay in wait.

Mr. ROUSSEAU. I said "lying in wait in the argument." I did not mean the words as personally offensive, and so stated.

Mr. BANKS. The member from Massachusetts spoke on that question because he was violently assailed, and because the committee was violently assailed, in the report made, and because by accident the gentleman from Ohio, who was entitled to an hour to close the debate, stopped before that time had expired and yielded to him. There was no arrangement; it was pure accident.

Mr. GARFIELD. Will the gentleman give way for one moment?

Mr. ROUSSEAU. Yes, sir.

Mr. GARFIELD. I have never doubted that the remarks made by me on the subject before the House a few days ago, to which the gentleman refers, were in order. I am not aware that any sentence I then uttered was out of order. I do not know that my motive for pursuing any given line of argument on that occasion is a proper matter for comment by the gentleman from Kentucky, [Mr. ROUSSEAU.] I certainly was not conscious of using any unfair argument, nor of being influenced by passion or any unworthy motive. I shall not enter into that question, but I desire to say that if the action of the House in this matter can be reviewed, and the motives and suggestions of every gentleman who has spoken on the subject can now be animadverted upon by the party under censure, it is simply reversing the order, and subjecting the House to the reprimand of the offender, instead of his being reprimanded by the House. I hope, sir, that the House will command that obedience to its authority which is due from every member.

Mr. ROUSSEAU. I will relieve the gentleman from any further trouble on the subject. I should be very sorry to abuse the evidently liberal courtesy of the House.

I wish to say a single word to the gentleman from Massachusetts, [Mr. BANKS.] I remarked, with all courtesy, that he seemed to have lain in wait in the argument. The gentleman says I do him injustice, and perhaps, if he understood me as he states he did, I do. I must, however, be allowed to express, in view of his remarkable disclaimer, my amazement that his whole argument, or almost the whole of it, seemed to be devoted to me, and not, as he alleges, to members who assailed him.

Mr. Speaker, I wish to call the attention of the House to the beginning of this matter. The gentleman the other day—and I merely allude to it as a preface to what I wish to say—remarked

that I had waited four days to redress the grievance complained of. It will be seen that he was mistaken by a day—though that perhaps is a small matter. The discussion took place on Monday and on Thursday evening the collision took place. It is assumed that in that interval my feelings had time to cool. I think gentlemen will agree with me in this, that no time is long enough for "cooling" when one is defamed and maligned upon the record of the nation. When a man has been outrageously attacked in his reputation, especially in the enduring form of a record to be handed down to posterity, he is not likely to learn temperance by a frequent recurrence to that unredressed wrong. The passage of three days had no such effect; it could have had none. I waited, as I thought I ought, to permit this House to take the matter into its own hands. Did the House expect me to supplicatingly call attention to what members now seem so sensitively alive to, in regard to the dignity and privileges of this House? The indignity had occurred on this floor and members had stood by and allowed it to remain to stain their proceedings. In my judgment injustice was done me in that no gentleman brought the matter before the House in such form as to punish both the member and myself—if I deserved such censure.

Mr. BOUTWELL. I rise to a point of order. The House has already passed judgment upon the remarks made on that occasion as well as upon the conduct of the gentleman.

The SPEAKER. The gentleman has the consent of the House to make a personal explanation, but the Chair does not think it goes to the extent of reprobating the action of the House of Representatives. If that could be allowed, then the gentleman who is now before the bar of the House would have the right to inflict a reprimand and censure upon the House for dereliction of duty in some particular.

Mr. ROUSSEAU. I am not reprobating the action but the non-action of the House. Nor can I understand that reference to the mode in which my case has been prosecuted by particular members of this House is a reprimand upon the collective House or a reflection on its judgment; yet I will pass the matter by.

Mr. JENCKES. Is it in order to withhold the consent of the House to allow the personal explanation?

The SPEAKER. It is not. The House has consented to allow a personal explanation. The gentleman can require that a majority of the House shall consent to his proceeding further in order. When the Chair sustains the point of order that ends his power. Any member can then require a vote of the House whether the member shall proceed in order.

Mr. ROUSSEAU. I was going on to say, Mr. Speaker, that I felt aggrieved by the abuse that I thought I had received upon this floor; but I waited for the House to take action in the matter. I was also informed on the day after the occurrence took place, that the member from Iowa would tender me a written apology. That, together with the reasons assigned, caused the delay, and I waited until Thursday. No member of the House having called the matter up or taken any steps to assert the dignity of the House, assailed as it had been, perhaps by myself as well as the other member, I thought the matter had assumed an entirely personal aspect, and, as such, my only remedy was in my own hands. But I wish the members of the House to believe that it was the last thing in my mind, to offer an indignity to this body. I think I evinced my respect to the House. I think I could not have given a higher evidence of my regard for the peace and dignity of this House than I then manifested; and I assert my belief that scarcely a member on the floor would have submitted to what I did. I went beyond the walls of this Chamber to adjust the matter. I did not think it was a privilege secured by the Constitution of the United States to members of this House to denounce, defame, and slander any person upon this floor. I did not believe that it was the privilege of one member of Con-

gress to slander the character of another member.

Mr. PRICE. I make the point of order that my colleague [Mr. GRINNELL] not being present, and the remarks of the gentleman being calculated to reflect upon him very severely, they are not in order.

The SPEAKER. The Chair sustains the point of order. The House has passed judgment on the entire transaction, and it is not now open to review.

Mr. ROUSSEAU. Very well; I did not intend to be out of order. I wish to read from Judge Story on this subject.

Mr. STEVENS. As it seems impossible to confine the gentleman within the ruling of the Chair, I ask that he be required to take his seat.

Mr. WARD. I move that the gentleman from Kentucky [Mr. ROUSSEAU] be allowed to proceed in order.

The SPEAKER. The Chair has stated what he regards as in order.

The question was taken on Mr. WARD's motion; and there were—ayes 78, noes 31.

So the motion was agreed to; and Mr. ROUSSEAU was allowed to proceed.

Mr. ROUSSEAU. I am much obliged to the House for giving me this permission, and I shall occupy its time but a few minutes further.

I wish to know, now, if it is in order to have read those extracts from Mr. GRINNELL's speech, which are included in the report of the committee?

The SPEAKER. The Chair thinks not. It is opening up the question anew, and the Chair would have to give the floor to the gentleman from Iowa to reply.

Mr. ROUSSEAU. Very well; I yield, then, the whole matter, since the ruling of the Chair manifestly excludes about all that I wish to state by way of explanation.

I wish to say now to the House that I am here to-day to submit to the punishment the House has chosen to inflict upon me, but I am unwilling that my constituents in my person shall be subjected to reproach in this way, and I look upon a seat in Congress as worthless when coupled with an imputation which rests alike upon constituents and Representative. I have sent my resignation to the post office in this building, and I send a copy of it to the Clerk's desk and ask that it may be read. In thus resigning my seat I wish to add with emphasis that I am not seeking to avoid, much less to evade, the judgment of the House, for I am here to receive it. I shall submit cheerfully to your final action in the matter.

The Clerk read as follows:

WASHINGTON, D. C., July 21, 1866.

GOVERNOR: The majority in the House of Representatives of the United States have directed the Speaker to have me brought to the bar of the House and there reprimand me for an assault on the member from Iowa for unbearable insults offered me by that member. I feel that this sentence is unjust to the people I represent, as well as to myself, and I am unwilling they should be thus humiliated in my person as their Representative. I therefore respectfully resign my office as member of Congress from the fifth congressional district of Kentucky, and beg leave to forward the same to you.

I have the honor to be, &c.

LOVELL H. ROUSSEAU.

HIS EXCELLENCY THOMAS F. BRAMLETTE,  
Governor of Kentucky.

Mr. SPALDING. The resignation of the member from Kentucky [Mr. ROUSSEAU] having been tendered by him, I move that he be discharged from the custody of the Sergeant-at-Arms.

Mr. STEVENS. The resignation has not yet been accepted, and therefore he is still a member of this House. Even if his resignation had been accepted, and he was no longer a member of this House, it would make no difference. The motion of the gentleman from Ohio [Mr. SPALDING] is a most extraordinary one, and I hope the House will not think of adopting it.

Mr. SPALDING. I wish to say one or two words upon my motion. I think the resolution of this House was intended to operate upon a member of this House, a Representative from the State of Kentucky, from the fifth congress-

sional district of that State. We have no longer a Representative here from the fifth congressional district of Kentucky to deal with, and the resolution, therefore, becomes inoperative. And I do not know how this House can come to any other conclusion than to dismiss the gentleman from the custody of the Sergeant-at-Arms. I made the motion in good faith; if I am wrong I am open to conviction.

Mr. STEVENS. The gentleman from Ohio, [Mr. SPALDING,] who has made this motion, offered a resolution, as chairman of the select committee, which was adopted by this House, which directed that persons not members of this House be brought to the bar of this House to be dealt with as the House has directed. The mentioning a person as a member of this House from Kentucky was a mere description of the man.

Mr. ELDRIDGE. Is this motion debatable? The SPEAKER. It is.

Mr. STEVENS. It makes no difference whether it was LOVELL H. ROUSSEAU or any other man who attacked a member of this House for words spoken in debate, the House has the same power over the matter. And while I cannot account for many things that took place during the trial, this motion made by the chairman of the committee is still more unaccountable to me.

Mr. HARDING, of Kentucky. At this stage of the case, I suppose every member of the House will require temperate remarks. It has been suggested by some gentleman on the other side that perhaps the Governor of Kentucky has not yet accepted the resignation of my late colleague. Now, it seems to me that there is nothing whatever in that suggestion. My late colleague did not receive his office as Representative here from the Governor of Kentucky. The Governor has no power over him at all. My late colleague has resigned his office to the constituency that conferred it upon him; and it is not in the power of the Governor to prevent the resignation. I can to-day resign my office as a Representative from the State of Kentucky, make that resignation public, and whether the Governor accepts the resignation or not, my constituents have returned to them the office which they conferred upon me. The sending the resignation to the Governor is only one method of making it public. That is all there is of it.

Now, in support of the sound view of this matter taken by the gentleman from Ohio, [Mr. SPALDING,] I beg leave to suggest that the judgment of this House is that LOVELL H. ROUSSEAU, a member from the State of Kentucky, be brought to the bar of the House and there be reprimanded. Now, I ask whether that is not a punishment peculiar to the character of a man as a Representative in this body? If an outsider, a stranger, commits a violation of the rules of the House, you would punish him appropriately by fine or by imprisonment. But a simple reprimand is a punishment peculiarly adapted to the character of a member of this House. My colleague is no longer a member of this body; therefore he cannot be reprimanded as such.

But gentlemen may say that in accordance with the practice in judicial proceedings, when any tribunal acquires jurisdiction it can go on and complete its action. With some exceptions, this may be true. But when a court has ordered a fine to be inflicted, if the man dies the sentence cannot be executed. This House took jurisdiction of my colleague as a Representative, and in that character it has attempted to punish him by inflicting upon him the censure of the House. But now the representative character of the gentleman is dead. He is now an individual, and you cannot punish him as a Representative, as a member of this House.

Mr. HIGBY. I have listened to all that the gentleman has said, and I would like to ask him a question. I desire to know in what capacity the gentleman from Kentucky [Mr. ROUSSEAU] has come here and addressed the House this morning for half an hour—whether

simply as a private citizen or as a member of this House. If the gentleman from Kentucky has ceased to be a member of the House, and become a private citizen, I would like to know at what precise time he ceased to be a member.

Mr. HARDING, of Kentucky. In response to the gentleman, I will say that my colleague did not come here at all. He has been in custody, and he has been kept here. He has been in the custody of this House; and no matter what his character may be, he was allowed by the courtesy of this House to make a personal explanation. But, sir, that does not change the law of the case at all. It is sufficient to know that, before this House proceeds to execute judgment, my colleague ceases to be a Representative; and you cannot, therefore, execute the judgment of the House on him in that character at all, no more than you can execute the judgment of a court after the culprit has departed this life. When the culprit dies, the judgment of the court also of necessity dies. So the representative character with which my colleague was clothed, and in which this House tried him and sought to punish him, has departed before the execution of the judgment, and he is now, to all intents and purposes, a private citizen.

Mr. HIGBY. I understood the gentleman to say that his colleague had been in custody. I suppose he means of an officer. If such is the fact, it is news to me.

Mr. HARDING, of Kentucky. I mean constructively in custody.

Mr. BANKS. I would like to occupy a very few minutes upon this question.

Mr. HARDING, of Kentucky. I will yield to the gentleman from Massachusetts.

Mr. BANKS. Mr. Speaker, I cannot sustain the motion of the gentleman from Ohio, [Mr. SPALDING,] the chairman of the select committee, on the question of privilege. That motion, as I understand, is based on the theory that the gentleman from Kentucky is not a member of the House. Sir, he is a member of the House. He cannot dissolve his connection with this House as a member by any act of his own. The resignation of a member must be accepted by the House in order to release the member from his obligations to the House. This is well-established parliamentary law. This House is created by the Constitution and according to the forms of the Constitution; and it cannot be dissolved by any other act than its own during the time for which it is appointed. It cannot be dissolved by the voluntary act of any number of its members who may choose upon their own judgment to resign their positions. I understand it to be a well-established principle, and I believe it to have been acted upon by this House, that a member cannot of his own will, without the consent of the House, resign his office and be absolved from his obligations as a member.

Mr. HARDING, of Kentucky. Well, Mr. Speaker, the gentleman from Massachusetts [Mr. BANKS] is an experienced parliamentarian—perhaps a much better parliamentarian than lawyer; I do not know how that is. But is not the doctrine which he has advanced most strange? What does it amount to? That a member of this House cannot resign his position to his constituents without the consent of this House. Sir, from whom did the gentleman receive his power, whom does he represent? His constituents at home most certainly. They clothed him with the office. I do not suppose that side of the House will oppose that position, that the power of representation belongs to the people, and it is not within the power of the nation or any State to trammel it.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. HARDING, of Kentucky. For a question.

Mr. KELLEY. I ask the indulgence of the gentleman for a moment for the purpose of inviting attention to what was the informal action of that side of the House at a former

stage of the present case. It so happened Mr. GREEN CLAY SMITH paired himself on this question with two gentlemen.

Mr. HARDING, of Kentucky. I decline to yield further. Mr. SMITH has gone to Montana.

Mr. KELLEY. He had gone to Montana and resigned. Those gentlemen submitted it to this side of the House whether his having forwarded his resignation, to which fact I certified, released them from the pair, and Kentucky then held that a member did not cease to be such until his resignation had been accepted. So the two members were kept silent by a pair with what is now called a dead or non-member.

Mr. HARDING, of Kentucky. I ask the gentleman from Pennsylvania to say whether he has any knowledge that Mr. GREEN CLAY SMITH has resigned. I am told he has not.

Mr. KELLEY. I then stated on the floor that Mr. GREEN CLAY SMITH had forwarded his resignation to Kentucky, and was about entering on the discharge of his duties as Governor of Montana.

Mr. HARDING, of Kentucky. I was informed of the reverse at that time when his pair came up; I was informed that he had not resigned. The gentleman did not state it then, and I do not believe now that he has resigned. I believe he ought to have resigned. [Laughter.] My belief is now that he has not resigned.

Mr. BENJAMIN rose.

Mr. HARDING, of Kentucky. Let me answer one gentleman at a time. If the gentleman had said he had knowledge of the fact that Mr. GREEN CLAY SMITH had resigned, I myself would have opposed his voting here. It is well known that I never sought to have his vote or action here. [Laughter.] He may go to Montana, or anywhere else, for me. I was told he had not resigned. As a matter of fact, when it comes to be looked into, I think it will be found he is drawing his salary to-day as a member of Congress. I hope I may be mistaken in regard to that.

Mr. KELLEY. The gentleman fails to note that I had announced Mr. GREEN CLAY SMITH had informed me he had forwarded his resignation.

Mr. ROGERS. Has the gentleman from Pennsylvania a right to address the House?

The SPEAKER. He has, if the gentleman from Kentucky does not object.

Mr. HARDING, of Kentucky. The gentleman did not state within my hearing that Mr. SMITH had resigned.

Mr. KELLEY rose.

Mr. HARDING, of Kentucky. I do not yield. If the gentleman stated the fact, it did not come to my hearing. I think Mr. SMITH ought to have resigned. I believe he has not resigned. I am told he has not. I have made these remarks to explain my own position. I hope he has resigned, but I do not believe he has. But so far as that case is concerned, it makes no figure here.

I return, then, for a moment to the gentleman's most extraordinary position that a member of this House cannot resign at all or vacate his seat in the House. I would suggest whether it will not be most fortunate or convenient at this time never to grant leave to any man on that side of the House to resign, for just as certain as he goes home and a new election is ordered, the copperheads will beat him and you will never get him back again. So you had better practice on that doctrine and let no member of this pure body vacate his seat lest you should fail to get as good a man back again.

Mr. PRICE. Will the gentleman yield?

Mr. HARDING, of Kentucky. For what purpose?

Mr. PRICE. I merely want to verify a statement.

Mr. HARDING, of Kentucky. What statement? I do not want any indorsers.

Mr. PRICE. I wish to say to the gentleman from Kentucky that this is a verification of the

prophecy which says that "in those days false prophets shall arise." [Laughter.]

Mr. FARNSWORTH. Will the gentleman from Kentucky yield?

Mr. HARDING, of Kentucky. For a moment.

Mr. FARNSWORTH. I suppose it is well settled that this House has power to punish for contempt, and in the exercise of that power it may order a member to be committed to jail and held in custody for a time. There is no doubt about that. Suppose the House in its judgment in this case had ordered him to be kept in jail or in confinement for one month. Does the gentleman from Kentucky hold that he could the next day after being committed offer his resignation, and make it the duty of the marshal to turn him out of jail?

Mr. HARDING, of Kentucky. What I hold is very plain and the gentleman need not misunderstand it. I hold that no act of Mr. ROUSSEAU after judgment is executed, can have any effect upon that judgment. But prior to it, suppose a man dies; sentence has gone against him, and the sheriff on a day certain is to execute it. Now, sir, I appeal to every fair-minded man if this is not a case against my colleague to affect him, if judgment is to be pronounced and executed against him in his representative character or in any other character. It was never contemplated for a moment by any man concerned in this transaction that he was to be punished as a private individual. I grant, when you take a man as a private individual you may punish him as such, but who does not know that the judgment of this House is peculiarly appropriate for the punishment of its own members?

Mr. NIBLACK. Will the gentleman from Kentucky yield to me for a moment?

Mr. HARDING, of Kentucky. I will in a moment, but not now. When I was interrupted, I was proceeding to say that every man must admit that the judgment of this House was intended to operate on my former colleague in his representative character, and he having resigned that character is gone, and therefore, that character having departed, it seems to me that no punishment can be executed now under the judgment on him in his representative character.

But I have this to say in addition, that certainly all the purposes of public justice are answered when the judgment of this House has been executed to the extent that General ROUSSEAU is no longer a member, but has abandoned his place here by resignation. That is equivalent to the first and strongest resolution reported by the committee. The committee sought to expel him. By his own act he is now expelled. Is there any man who feels a disposition to pursue him further? Does not charity require that we stop there? We sought to expel the man. Failing in that, we passed a resolution less severe than that, and now, by his own act, he is expelled; he has forfeited his seat. Ought not that to satisfy all proper feeling? Can there be any purpose to go further and torture this man as an individual when he is no longer a Representative? Why, surely not.

But, sir, I do not want to detain the House, as I know there are several other gentlemen who desire to make some remarks. I want, however, to say this: that since I have been on the floor, it has been suggested to me in regard to GREEN CLAY SMITH having resigned, that he left here before his nomination was confirmed. One of my colleagues informs me that Mr. Dillon, the clerk of the Sergeant-at-Arms, informed him that he intended to hold his seat and draw his pay until the 1st of August—or not to draw his pay, but to hold his place.

I will yield now for five minutes to the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. The gentleman from Kentucky [Mr. HARDING] has already so fully gone over the ground which I proposed to go over that I shall have a very few words to say to the House. I submit to the House that inasmuch as the first effort of the House to inflict punishment in this case has failed, and

inasmuch as a substitute was adopted, that the gentleman from Kentucky be reprimanded, and the gentleman from Kentucky has resigned his seat, the effect of the resolution originally adopted has been attained. The departure from the House of the member from Kentucky practically operates as an expulsion from his seat. Now, I submit to gentleman upon all sides, that if we should attempt to go beyond that, and to inflict this penalty upon the late Representative from Kentucky, he no longer being practically a member of this House, it would savor too much of persecution, of a personal infliction of penalty; and the moral effect that has been accomplished by the adoption of the resolution in the first place will be destroyed. I therefore, as the member from Kentucky [Mr. HARDING] has remarked, submit that in fairness and charity, and as a matter of good taste, we ought now to discharge the late Representative from Kentucky from the custody of the Sergeant-at-Arms, and allow him to go free without further mortification. In all conscience we have humiliated him enough when we have adopted such action as has driven him from his seat.

I do therefore think that waiving all question of right or power, waiving the question as to whether his resignation has taken effect or not, whether technically he is to-day a member of the House or not, we ought in fairness and in justice and in courtesy to discharge him, and not insist upon this reprimand which certainly was only intended to operate upon him as a member of this body.

Mr. JOHNSON. Will the gentleman from Kentucky [Mr. HARDING] yield to me for a few minutes?

Mr. HARDING, of Kentucky. I will yield for five minutes.

Mr. JOHNSON. The proposition before the House is to discharge the gentleman from Kentucky [Mr. ROUSSEAU] from the custody of the Sergeant-at-Arms. That proposition may be based upon two ideas: it may be based upon the idea that he has resigned his office as a member here. Upon that proposition I think we can have no trouble at all; for if it be true legally that he has resigned his office, parted with it, surely we ought not to exercise jurisdiction over him, even if we had the power so to do. Gentlemen say that he cannot be considered as having resigned until his resignation has been accepted. Now, I differ upon the legal proposition. The matter of resignation is similar in many respects to the question of losing one's residence. It is a question of intention entirely. A person may part with his residence, and have a residence nowhere until it attaches to some other place. He may lose his residence in one place by his own act for a considerable time, during which it may not attach to any other place. The question is, has the office of Representative, a member of this body, parted from the gentleman from Kentucky, [Mr. ROUSSEAU?]. He has resigned his office; he has written his letter of resignation; he has laid down the office by his own act. It is no answer that that resignation may not have yet been received and accepted by the proper party. The office has gone from him.

Mr. SPALDING. Will the gentleman from Pennsylvania [Mr. JOHNSON] yield to me for a moment?

Mr. JOHNSON. I hold the floor by the courtesy of the gentleman from Kentucky, [Mr. HARDING.] If he will consent I will yield.

Mr. HARDING, of Kentucky. I have no objection.

Mr. SPALDING. I will modify my motion so as to have it read that the resignation of LOVELL H. ROUSSEAU, a member from the fifth congressional district of the State of Kentucky, be accepted by this House.

The SPEAKER. The Chair will state that if the resolution, as now modified by the gentleman from Ohio, [Mr. SPALDING,] should be adopted, the Chair will be compelled, upon the demand of any member, to proceed to execute

the order of the House. In the Thirty-Fourth Congress, with only seventeen votes in the negative, the House of Representatives expelled a member after he had resigned, and after his letter of resignation had been read in the House; and if the gentleman from Ohio modifies his motion as he has indicated the Chair will feel required, upon the demand of any member, to execute the order of the House.

Mr. HARDING, of Kentucky. Mr. Speaker, I now desire—

Mr. GARFIELD. I rise to a point of order, and that is that this House has no right to accept a resignation of one of its members, and therefore it is not in order to submit such a motion.

Mr. BANKS. Yes, we have the right to accept a resignation. As there is a question about the right of a member to resign his seat in this body, I think it should be settled deliberately. I ask that a paragraph be read from Cushing's Manual upon the subject of resignations.

The Clerk read as follows:

"After the meeting of the Assembly"—

Mr. HARDING, of Kentucky. I rise to a point of order.

The SPEAKER. There is one point of order already pending.

Mr. HARDING, of Kentucky. The Chair ruled the other day, when I wanted to have a statute read which this House was about repealing, that it was not in order, as being in the nature of debate.

The SPEAKER. The House was then acting under the operation of the previous question; it is not now so acting.

Mr. HARDING, of Kentucky. I understand that a question of order is not debatable.

The SPEAKER. It is not debatable.

Mr. HARDING, of Kentucky. I object to the reading of this extract as being in the nature of debate.

The SPEAKER. A member who has raised a point of order has a right to give his reasons for making the point.

Mr. HARDING, of Kentucky. I object to the reading of this extract as being in the nature of debate.

The SPEAKER. The Chair overrules the point of order.

The Clerk then read as follows:

"After the meeting of the Assembly, and the acceptance and qualification of the members, any one may at pleasure resign his office, which will, at all events, be effectual if accepted, unless there is some express provision of law or otherwise to the contrary. If a member desires to resign while the Assembly is in session, his resignation should be made to the Assembly itself; if afterward, to the officer, if there is one, specially provided or appointed by law to receive it; and if there is no such provision, it would seem that the right of resignation in such a case cannot be exercised. A resignation takes effect from the time when it is accepted, or presumed to be so; or, it may be, when it is received, or when there is a presumption that it has been received."

Mr. ROGERS. I desire to ask whether the extract which has just been read has not relation exclusively to the Legislatures of the States.

Mr. BANKS. No, sir; it is universal parliamentary law.

Mr. Speaker, if there be a vacancy by the resignation of a member of the House, it cannot be filled until the Governor of the State is notified by the Speaker that there is such a vacancy; that is, it cannot be legally filled. For this there is a precedent in the English books.

Mr. RADFORD. I desire to call the attention of the gentleman from Massachusetts to the case of Mr. Stebbins, who was a few years ago a member of this House from the State of New York. He resigned during a recess of Congress, and this House had no notice of his resignation, and no action was taken by it on the subject.

Mr. BANKS. That is very probably true, because generally no question is made. When a resignation is sent in it is generally accepted as a matter of course.

Mr. RADFORD. In the case I speak of no resignation was sent to this House at all, and



no action was taken by the House on the question.

Mr. BANKS. The resignation, I presume, was accepted as a matter of course.

Mr. ROGERS. I desire to make a single suggestion to the gentleman. In the case of the Senators and Representatives who resigned just before the breaking out of the rebellion it was not questioned, I believe, by either House that they had the right to resign and vacate their seats in Congress, and that neither House, nor both Houses together, had any power or control over the matter.

Mr. BANKS. The resignation of those members was accepted because no objection was made.

Mr. ROGERS. If my recollection is correct, the question was raised, and it was decided almost unanimously that there was no power in either House or in both Houses to prevent those members from withdrawing.

Mr. CONKLING. Yes, "withdrawing;" but they did not resign.

Mr. BANKS. The case suggested by the gentleman from New Jersey is one of revolution. It is not a case applicable to the view I am now presenting.

Mr. TRIMBLE. I desire to ask the gentleman whether there is any law in this country to compel a man to hold an office against his will.

Mr. BANKS. No, sir, there is not.

Mr. TRIMBLE. Has not any member of this House, then, the right to resign to the people who elected him?

Mr. BANKS. A member of this House cannot resign without the consent of the House.

Mr. Speaker, I desire to read a passage from May's Parliamentary Practice, which states the practice of the English House of Commons as late as 1852:

"In December, 1852, several members accepted office under the Crown against whose return election petitions were pending. After much consideration it was agreed that where a void election only was alleged a new writ should be issued, but where the seat was claimed the writ should be withheld until after the determination of an election committee on that claim."

Mr. RAYMOND. I desire to call attention to a case which occurred in the House some years ago—the case of Preston S. Brooks. In that instance a resolution of expulsion was brought before the House, but failed to receive the requisite two-thirds vote. After that Mr. Brooks asked permission to make a personal explanation, which was granted; and at the close of his speech he made this announcement:

"And now, Mr. Speaker, I announce to you and to this House that I am no longer a member of the Thirty-fourth Congress."

No objection was made by any member; all proceedings were suspended; no further resolution was adopted. How far that case may be a precedent I leave the House to determine.

Mr. BANKS. Permit me to say, Mr. Speaker, that the case constitutes no precedent whatever. The proposition was to expel Mr. Brooks. The two-thirds vote necessary for expulsion was not obtained. Mr. Brooks expressly desired to withdraw from the House as a member, and no objection was made. His resignation was tacitly accepted.

Mr. RAYMOND. That appears to me a precisely parallel case.

Mr. BANKS. Not at all. In this case the House has resolved that the member shall be reprimanded, and the order of the House is yet unexecuted.

Mr. GARFIELD. I will only say a word, and then surrender the floor to any gentleman who wants it. A member of this House—

Mr. HARDING, of Kentucky. Is the gentleman from Ohio entitled to the floor?

The SPEAKER. The gentleman from Ohio has the floor to state his point of order, but he cannot go into any elaborate argument.

Mr. HARDING, of Kentucky. Is there not one point of order pending?

The SPEAKER. The gentleman from Massachusetts had extracts read for the purpose of supporting the point of order.

Mr. GARFIELD. I rise to support the

point of order on this ground: that the resolution submitted by my colleague [Mr. SPALDING] accepting by this House the resignation of the gentleman from Kentucky [Mr. ROUSSEAU] is not in order, because this House has no power to accept his resignation. He holds his commission or right to membership here, not from the House, but from the people of his district. When he came here he brought credentials from the Governor of his State; and when he resigns he must resign to the power that put him here. He must resign through the Governor who gave him the credentials by which he was recognized here. The officer who introduced him to the House, namely, the Governor of his State, who sent him here with credentials, is the person to whom and through whom his resignation goes back to the people. The Constitution declares that when vacancies happen in the representation of any State the executive authority shall issue writs of election to fill such vacancies. The Governor of the State is the officer to announce the vacancy and call an election for filling that vacancy. It seems to me, therefore, that the matter is within the power of the House, according to the precedent cited, where a member of another Congress was expelled after he had resigned.

Mr. JOHNSON. I rise to a question of order. I submit to the House the impropriety of our discussing the acceptance of a resignation which is not here. It is not on the Speaker's table. There is no resignation tendered to this House at all. The gentleman from Kentucky has informed the House that he has resigned to the proper party, the Governor of Kentucky, for notice to the people who sent him here. He presented a copy to this House, but he has not tendered his resignation to the House. He has only informed the House that he had forwarded his resignation to the Governor of Kentucky. Yet we are talking about the gentleman's resignation when he has not sent it to us. He has no right to send it here. It is not necessary that he should resign to the House. We have no custody of the matter at all.

The SPEAKER. The gentleman from Ohio makes the point of order that the House has no right to accept the resignation of the member from Kentucky, and the Chair submits the question to the House.

Mr. HARDING, of Kentucky. Is it in order to make remarks on the point of order?

The SPEAKER. It is if confined strictly to the point.

Mr. SCHENCK. I make the point of order that the gentleman from Kentucky has already occupied the floor.

Mr. HARDING, of Kentucky. This point of order was sprung upon me and I had to surrender the floor.

The SPEAKER. The gentleman is entitled to twenty-one minutes on the original proposition. The Chair understands that he wants to submit a few words on the pending point of order.

Mr. HARDING, of Kentucky. I do not see why there should be any anxiety about my saying a few words. I am not asking the gentleman's courtesy for that privilege.

In regard to the point of order, I understand the resolution of the gentleman from Ohio, [Mr. SPALDING,] the chairman of the committee, to be that, having resigned, (of which he was glad,) the House should accept the resignation without proceeding to execute the judgment against the gentleman from Kentucky. That is the whole of it, and I hope it will be adopted. The idea that a man is tied up and cannot resign his seat without the House accepting the resignation is merely ridiculous, and does not deserve argument. A man receives his power and authority from his constituents, and to them and them alone he resigns. The Governor cannot prevent it. The only question is whether he has done it. It is a right that he can avail himself of any moment, and this Congress has no sort of power over that right.

Mr. STEVENS. Will the gentleman allow me to ask a question?

Mr. HARDING, of Kentucky. Well, sir, I have not "any generosity" at this moment, and cannot yield. [Laughter.] I believe, however, I will be generous and yield. [Laughter.]

Mr. STEVENS. I believe with the gentleman, that this House has no power over a resignation. It is always made to the Governor, and to him alone, and he accepts it. But I ask the gentleman whether he has not heard of a dozen cases where after resignation has been tendered it was withdrawn. I have known several in this House.

Mr. HARDING, of Kentucky. The gentleman concurs with me, as I was sure he must, that it is little less than absurd to contend that this Congress has any power or control over a member's right to resign. Then, the only remaining question is, whether he has resigned or not. The Governor has no power to control his resignation, and the authority read by the gentleman from Massachusetts [Mr. BANKS] related to the legislative body of some State.

Mr. BANKS. No, sir.

Mr. HARDING, of Kentucky. It is very certain that if a precedent can be found where Congress has assumed to control the right of a member to resign to his constituents, it is an absurdity, and does not deserve to be argued, because no such thing can properly exist, and I would hold it as an authority long since overruled and exploded.

But I do not understand it that way. The gentleman having a right to resign, the only question is, whether he has resigned or not. Whenever notice is given to his constituents by any sort of publication that he has resigned, the seat is vacant. I know you may, by State legislation, provide that when a member of Congress resigns he must tender his resignation to the Governor, the secretary of state, or some other officer; but in the absence of any such legislation nothing of that sort can be required of him. According to the law of Kentucky, there is no power in the Governor any more than in the constable to control that right, and the only reason why a letter of resignation is addressed to the Governor is that that method of making it public is resorted to in order that the gentleman's constituents may know it, and thereupon, the resignation having been published, the Governor can order a special election. Now, then, this is as clearly and fully brought before the House as it is possible. The letter of resignation has been mailed to the Governor of Kentucky, and a copy of it retained and has been read to the House. Now, in the face of all that, has any one a right to say or insinuate that my colleague has not resigned? If he should return next week to this House and say he had not resigned, you would have power to act upon it. He cannot take advantage of his own wrong action. His letter has been read to the House, and he has declared that it has been transmitted to the Governor; and it is a humiliating and dark insinuation to throw out against any man under those circumstances that he may, notwithstanding all that, return and seek a seat here. But even if he should seek to do so no injury can result, because having resigned he has lost the character of Representative, and the judgment of the House cannot be executed upon him as a Representative.

But what I wanted to say more particularly, after having said this much, is this—

The SPEAKER. The gentleman has concluded his remarks on the point of order. The Chair has already decided that if this resolution should be agreed to, as the House of Representatives claims jurisdiction even where a member has resigned, and has, in the Thirty-fourth Congress, expelled a member after resigning, the Chair would be compelled, on the demand of any member, to execute an order of the House.

Mr. HARDING, of Kentucky. Unless the House has discharged him from custody.

The SPEAKER. That is not the question before the House. The gentleman from Ohio

has modified his resolution, so as to propose that the House accept the resignation. His colleague has raised the question that the House has no right to do it.

Mr. HARDING, of Kentucky. The time has not come for the execution of the reprimand. The SPEAKER. When the time comes that will be subject to appeal.

Mr. GARFIELD. I demand the previous question.

Mr. ALLISON. What is the position of the original resolution?

The SPEAKER. It is modified, so that instead of discharging the member from the custody of the Sergeant-at-Arms, it now proposes that the House accept the resignation. Upon that the gentleman from Kentucky raises the point that the House has no power to accept it.

Mr. SPALDING. I withdraw the resolution altogether.

Mr. GARFIELD. I insist upon the previous question.

The SPEAKER. There is nothing before the House.

Mr. ROGERS. I renew the resolution.

Mr. ALLISON. I ask that the order of the House be enforced.

Mr. SCHENCK. I ask the gentleman from Iowa to yield to me for a few minutes.

Mr. HARDING, of Kentucky. I rise to a question of order. I was cut off in the middle of an argument on this point of order.

The SPEAKER. That is very true, but the gentleman from Ohio had a right before the vote or decision to withdraw his resolution or to modify it.

Mr. HARDING, of Kentucky. I ask the privilege of renewing it.

Mr. ELDRIDGE. How did the gentleman from Ohio get the floor?

The SPEAKER. He had the right to withdraw it.

Mr. ELDRIDGE. But not to take a gentleman off the floor?

The SPEAKER. Certainly; he would, perhaps, have no other opportunity. That is too clear even for a point of order to be made upon it. If a member has the right to modify his proposition the recognizing of another gentleman on the floor cannot cut off that right. The gentleman from Kentucky proposes to renew the proposition. The gentleman from Iowa has demanded the execution of the order, and unless that order is rescinded the Chair will proceed to execute it.

Mr. HARDING, of Kentucky. I appeal to the gentleman from Iowa [Mr. ALLISON] to withdraw the previous question, and then I will renew the resolution.

The SPEAKER. It is not the previous question; it is the execution of the order of the House.

Mr. HARDING, of Kentucky. I ask the gentleman to allow me to renew the resolution.

Mr. ALLISON. I cannot yield.

Mr. ROSS. I raise the question of order that sentence cannot be executed until the members from Tennessee are admitted and the oath of office is administered to them. [Laughter.]

The SPEAKER. The Chair overrules the point of order. No Representatives can be admitted from the late confederate States except by joint resolution under the action of both Houses.

Mr. RANDALL, of Pennsylvania. I submit a question of order. The gentleman from Iowa insists that the order of the House be now executed. I inquire whether it would not be in order for any member of the House to move that the further proceedings in that connection be dispensed with.

Mr. ROGERS. Is it not in order to move to lay the proposition on the table?

The SPEAKER. It certainly is not in order. The Chair is of opinion that a motion to rescind must be made by some member before the execution of the order of the House shall have been required by any member. Therefore it is too late, unless with the consent of the

gentleman who demanded the execution of the order.

Mr. RANDALL, of Pennsylvania. I hope the gentleman from Iowa will allow that to be offered in good faith, without any disrespect.

Mr. ALLISON. I regret that I cannot yield for that purpose.

Mr. TRIMBLE. Would it be in order, inasmuch as the relation of Mr. ROUSSEAU has changed since this report, to move to recommit this whole matter to the committee?

The SPEAKER. It would not. There is nothing before the House except the execution of the order. The only method would be to raise the point of order as to whether the Chair could execute the order, and upon that the Chair would rule.

Mr. TRIMBLE. The Chair decides that the motion to recommit is not in order.

The SPEAKER. Certainly. This resolution was adopted several days since, and in regard to the execution of the order it has been subject at any time, from the hour of the adoption of the resolution, to be called up and its execution demanded by any member. The Chair has waited the action of the committee. During all that interval any gentleman could have moved to rescind the resolution, and any member could have demanded the execution of the order. But the motion to rescind not having been made before the gentleman from Iowa demanded the execution of the order, the Chair will proceed to execute the order. That is subject, however, to appeal.

Mr. HARDING, of Kentucky. I raise another question of order, and I will state it as briefly as I can. It will be remembered very distinctly by the Speaker that the gentleman from Ohio [Mr. SPALDING] had moved his resolution; that was pending, and on that I had the floor. While I had the floor, and was yielding it to some members a few minutes at a time, the gentleman from Ohio [Mr. SPALDING] arose in his seat and said he would withdraw his motion. Assuming that he had the right to do so, I immediately stated that I wanted to renew his first motion, but in the noise and confusion here I suppose I was not heard. Now, am I to be cut off from my right to renew that motion, when I had the floor at the very moment the gentleman from Ohio withdrew his last motion?

The SPEAKER. The Chair will decide the point of order, and in doing so will make a statement of the facts of the case, which he will call upon the gentleman from Kentucky [Mr. HARDING] to verify. The gentleman from Ohio [Mr. SPALDING] originally moved that the gentleman from Kentucky [Mr. ROUSSEAU] be discharged from the custody of the Sergeant-at-Arms, and relieved from the further operation of the order of the House. The gentleman from Kentucky [Mr. HARDING] took the floor to speak upon that motion. After a time the gentleman from Ohio appealed to him to yield for the purpose of allowing him to modify his motion. The gentleman from Kentucky yielded to him, and the gentleman from Ohio modified his motion so as to make it a motion to accept the resignation of the gentleman from Kentucky, [Mr. ROUSSEAU.] Thereupon the gentleman from Ohio [Mr. GARFIELD] arose to a point of order upon the motion as modified. That point of order was argued at some length, and then the gentleman from Ohio [Mr. SPALDING] arose and withdrew his motion as modified, which he had a right to do. The Chair then stated that there was no motion before the House. The gentleman from Iowa [Mr. ALLISON] then arose and demanded the execution of the order of the House. The Chair would ask the gentleman from Kentucky [Mr. HARDING] if that statement is incorrect in any particular.

Mr. HARDING, of Kentucky. A little, I think.

The SPEAKER. In what respect?

Mr. HARDING, of Kentucky. Just in this respect: the gentleman from Ohio [Mr. SPALDING] modified his motion with my consent; that is all correct. Then I retained the floor

and debated the question some ten or fifteen minutes before any point of order was made. Yielding momentarily to a few gentlemen around me, I was then interrupted and stopped by this point of order. Now, when that point of order had been disposed of I had a right to be placed back just where I was before it was raised. But the Speaker would not decide that point of order, but was about to submit it to the House. Pending that the gentleman from Ohio [Mr. SPALDING] arose without consulting me, and said he withdrew his motion. I immediately said I desired to renew his original motion, still being on the floor, still having a right to it. Now, can the gentleman from Iowa [Mr. ALLISON] run over my right and demand the execution of the order of the House while I am upon the floor?

The SPEAKER. Did the gentleman from Kentucky yield the floor to the gentleman from Ohio to modify his motion?

Mr. HARDING, of Kentucky. Not to withdraw it.

The SPEAKER. But the gentleman yielded to have the motion modified?

Mr. HARDING, of Kentucky. I did yield for a modification, and then argued in favor of it for some ten minutes.

The SPEAKER. Was not the point of order made on the motion as modified?

Mr. HARDING, of Kentucky. After I had argued the motion for some minutes.

The SPEAKER. That point of order was debated, and the question was about to be submitted to the House when the gentlemen from Ohio [Mr. SPALDING] withdrew his proposition, which took the gentleman from Kentucky [Mr. HARDING] from the floor, there being nothing before the House for its action. Thereupon the gentleman from Iowa [Mr. ALLISON] obtained the floor and demanded the execution of the order of the House.

Mr. HARDING, of Kentucky. Was I not entitled to the floor to renew the original motion of the gentleman from Ohio, [Mr. SPALDING]?

The SPEAKER. The gentleman from Iowa [Mr. ALLISON] had preference, from the fact that he had not spoken at all upon this subject, while the gentlemen from Kentucky [Mr. HARDING] had spoken both upon the motion of the gentleman from Ohio [Mr. SPALDING] and upon the point of order. The Chair therefore recognized the gentleman from Iowa, as he would have done any day since the order of the House was made had he arisen and announced that it was for that purpose. The Chair did not put himself forward to execute the order, because the duty devolved by it upon the Chair was such that he did not, as the Presiding Officer of this House, desire to exhibit any special zeal in the matter.

Mr. RANDALL, of Pennsylvania. I want to inquire whether it would be in order for me to move that the execution of the order of the House as demanded by the gentleman from Iowa be postponed for the purpose of allowing me to then move that further proceedings under that order be dispensed with.

The SPEAKER. The gentleman has the right to move a postponement of the execution of the order. That is the only manner in which its execution can be arrested when called for by any member. A special order, even though made such by unanimous consent, can be postponed by a majority vote of the House.

Mr. RANDALL, of Pennsylvania. To show that I have no disposition to trifle with the House, I move that the execution of its order upon the gentleman from Kentucky be postponed for fifteen minutes.

Mr. SCHENCK. I move to amend that motion by striking out "fifteen" and inserting "ten"; and I will endeavor to assign my reasons for wishing a postponement of only ten minutes, instead of fifteen.

Mr. Speaker, I have desired to say to this House that I think we have been engaged this morning in a very unprofitable discussion, not touching the merits of the question before us. I hold, sir, that no resignation, whether it be

made to the Governor of a State or to this House, can in the slightest degree affect the question of the execution of the order of this House. I do believe that the resignation ought to be made to the Governor. I do believe that a resignation is capable of being stopped *in transitu*. I do believe that a member, having deposited his resignation in the post office, may afterward take it out if he thinks proper, though I acquit the gentleman from Kentucky of any such design; I do not suspect him of any such purpose. But, if he were to do so, in what position should we find ourselves placed? If we considered that his resignation as a member had relieved him from the execution of our order, and if he should, after being thus relieved from the execution of the order, recall his resignation and reappear here, it would be a beautiful flanking of the House.

Now, sir, supposing the resignation to have been made to the Governor of Kentucky; supposing the Governor to have accepted it; supposing the proof of that acceptance to have come here; supposing a writ of election to have been issued and another member sent here: I hold that, in spite of all these circumstances, LOVELL H. ROUSSEAU would still be amenable to the execution of the order of this House.

What is it that the House has done? It appointed, in the first place, a select committee of five to investigate an assault upon a member of this House—

"And to report the facts, with such resolutions in reference thereto as, in their judgment, may be proper and necessary for the vindication of the privileges of the House and the protection of its members; and that said committee have power to send for persons and papers, and to examine witnesses on oath."

The question is not whether a particular man is or is not a member of this House. The question is whether anybody—member or private citizen, official, high or low, or no official at all—has interfered with the freedom of discussion in attacking a member of this House for words spoken in debate. After a report by the committee and due consideration of the question in this House, we have adopted a resolution—

"That Hon. LOVELL H. ROUSSEAU"—

"With no description as to what or who he is—  
"be summoned to the bar of the House, and be there publicly reprimanded by the Speaker for the violation of the rights and privileges of the House, of which he was guilty in the personal assault committed by him upon Hon. J. B. GRINNELL for words spoken in debate."

Now, sir, if the resolution had described General ROUSSEAU as "a member of this House from the State of Kentucky," that language would simply have been, as the lawyers say, *descriptio personee*. I hold that even if he be now stripped of his official functions, that fact can have no effect whatever upon the execution of the order which this House has made in his case. If this were not so, it would be, as I have already remarked, within the power of a member to evade the execution of the order of the House by a resignation, which he might subsequently recall, and then he might reappear here.

Let me illustrate the principle in another way. Here are three persons—private citizens, persons holding no official character, whom we have directed to be called before this House. Suppose that one of these persons on being brought up here should plead as a bar to your authority that after the order of the House directing him to be brought before it he had been elected a member of Congress. "Your proceeding," says he "was against me as a citizen. Now I am a member of Congress, and I defy you to apply your order to me, a member of Congress, because I was a citizen when you made your order." The argument is as good one way as another.

Take another illustration. Suppose a man to be indicted for embezzlement of public funds as an officer of the Government, and when convicted and called up for judgment, produces evidence he has resigned his commission as an officer of the Government, will you say he is not to be punished? Not at all. He has

been convicted as an officer of the Government; it is true; he has been convicted on the evidence provided for in the statute, and he can no more rid himself in this case than in that of the consequences after the rendering of the verdict against him. He cannot escape the execution of the judgment after it has been passed in the case of an officer who has thus been convicted any more than in the case of a member of this House. Well, sir, what will this House do? Suppose you decide your proceeding has been against LOVELL H. ROUSSEAU, member from Kentucky, although it is not recited in your resolution, does anybody doubt some one has committed a breach of the privileges of the House by an attack upon one of its members for words spoken in debate? It stands upon your record. Is the House bound, in the assertion of its dignity, to turn round and order the rearrest of LOVELL H. ROUSSEAU, citizen of Kentucky? If so, the House puts itself in the position of enabling a person convicted to get rid of the execution of the judgment of the House, and strips itself of all power to proceed.

Gentlemen talk as if we ought to be satisfied because enough mortification has been brought home to the gentleman from Kentucky, enough of punishment in being made to go from this House—that we ought to consider our feelings as sufficiently satisfied. Sir, I have no feeling in this matter. I say it is purely a question of right, of law, of the prerogatives of this House, whether we will permit him to go to the country or not; that its orders may be affected by the action of any one against whom an order has been made, and which remains to be executed. The Speaker cites a case in point. Mr. Matteson, of New York, finding the decision likely to be against him—actually against him—resigned his office, yet the House said it was not to be thus foiled, and proceeded to expel him.

The SPEAKER. The gentleman will allow the Chair to make a correction. In that case the House did not expel the member, but censured him.

Mr. SCHENCK. I thought they expelled him. No matter; they censured him. The House considered no action of the defendant, as he may be termed, affected the question of sustaining its dignity, which it is bound to sustain against officials, against citizens, against all persons, by whatever description they may be known, who shall assault members of the House and thus interfere with its privileges. I should like to call the previous question, but I do not know that I should after presenting this view of the question.

I repeat, whether LOVELL H. ROUSSEAU is or is not a member of this House to me is not a particle of matter if he be the person in reference to whom this House has made this order, the execution of which is now called for. And it becomes the duty of the House to execute its order, either to postpone it or to make some disposition of it regardless of the question what may be the official character or the non-official character of the man against whom the order has been made.

Mr. HARDING, of Kentucky. Is not the gentleman mistaken in stating that this proceeding was against LOVELL H. ROUSSEAU?

Mr. SCHENCK. No, sir; the resolution passed was in these words:

"Resolved, That Hon. LOVELL H. ROUSSEAU be summoned to the bar of the House and be there publicly reprimanded," &c.

He is not described there at all as a member of the House.

Mr. HARDING, of Kentucky. I beg the gentleman's pardon; the preceding resolution, the one originally reported by the committee, did specify his official character.

Mr. SCHENCK. Suppose an officer of the Government be indicted for and convicted of embezzlement, and before judgment is rendered in his case, can he then resign? Can he by resigning escape the judgment of the court?

Mr. HARDING, of Kentucky. Will the gentleman allow the whole proceedings in this

case to be heard? They will show that the whole proceeding against my colleague was in his character as a Representative.

Mr. SCHENCK. I certainly have no objection to anything being read.

Mr. MOULTON. I object.

The SPEAKER. The gentleman has a right to have it read as a part of his speech.

Mr. RANDALL, of Pennsylvania. I want merely to say a few words to the House as to the reasons which induced me to make this motion. I agree with the gentleman from Ohio [Mr. SCHENCK] that the mere fact of General ROUSSEAU's resigning does not give him immunity from the punishment which the House has determined to inflict. It is to be inflicted upon him as the member from the fifth district of Kentucky, it is true, but the power still is vested in the House to punish him as a citizen for the acts which he committed. This is my position, and the motion which I propose to make is that further proceedings be dispensed with in this case. It is a mere question now of propriety; a question whether sufficient has not already been inflicted upon General ROUSSEAU for the act which he committed.

Mr. DAWES. I would like to inquire of the gentleman from Pennsylvania what has transpired since that judgment was rendered by the House that should lead the House to modify its judgment.

Mr. RANDALL, of Pennsylvania. I do not clearly comprehend the question of the gentleman.

Mr. DAWES. The gentleman proposes by his amendment that the House dispense with the execution of its own judgment. I inquire of him, what has since transpired that would lead the House to dispense with that judgment?

Mr. RANDALL, of Pennsylvania. I merely gave notice that I intended to offer such a proposition when in order. When offered, if I have the opportunity, I will explain the reason for it to the gentleman.

Mr. HARDING, of Kentucky. I yield for a moment or two to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. ROGERS. I move that the House do now adjourn.

The SPEAKER. The gentleman cannot make that motion now. The floor is held by the gentleman from Kentucky, and he yields it to the gentleman from Ohio.

Mr. SHELLABARGER. Mr. Speaker, since I sought the floor, by requesting the gentleman from Pennsylvania to yield to me, I do not know but that my entire motive for seeking the floor has been taken away by the fact that the remarks just made by my colleague [Mr. SCHENCK] present in effect precisely the same legal propositions I intended to suggest to the House; and, besides, the proposition I designed to maintain seems now to be conceded on both sides of the House. What I designed to maintain was that the right and the duty of this House to execute its order of reprimand did not, in any degree, depend upon the question which has been so long debated to-day, whether the gentleman from Kentucky is now any longer a member of this body. Mr. Speaker, that question really has nothing to do with the question of the power or the right of this House to execute its order of reprimand. A very little reflection upon the source and nature of this power and jurisdiction of the House will show this clearly. Whence does this House derive its power to punish this or any other breach of its privileges? "It is remarkable," says Justice Story, "that no power is conferred to punish for any contempts committed against either House." (1 Story on Constitution, section 845.) Neither, sir, is there any act of Congress giving us power to inflict any punishment in this case. The jurisdiction in this case and in all others like it, is wholly a common-law jurisdiction. The same learned author (Story) says:

"By the common law the power to punish contempts of this nature belongs incidentally to the courts of justice and to each House of Parliament.



No man ever doubted or denied its existence as to our colonial Assemblies in general, whatever may have been thought as to particular exercises of it. Nor is the power to be viewed in an unfavorable light. It is a privilege not of the members of either House, but, like all other privileges of Congress, mainly intended as a privilege of the people and for their benefit."

He adds:

"A power in the supreme courts of justice to suppress such contempt, &c., results from the first principles of judicial establishments, and must be an inseparable attendant upon every superior tribunal."

And the same reasoning has been applied with equal force by another learned commentator to legislative bodies. "It would," he says, "be inconsistent with the nature of such a body to deny it the power of protecting itself from injury or insult. If its deliberations are not perfectly free its constituents are eventually injured. The legislative body is the proper and exclusive forum to decide when the contempt existed and when there was a breach of its privileges; and that the power to punish followed as a necessary incident of the power to take cognizance of the offense."

I have alluded thus fully to the nature and source of this jurisdiction and power of Congress to punish for breaches of its privileges as a preparatory statement to the proposition I now state, to wit, that the right of this House to inflict upon any delinquent any punishment whatever does not at all depend upon nor grow out of his being a member or an officer of this House; nor out of his being therefore or thereby made amenable to its jurisdiction; but the jurisdiction in every case of punishment, whether by reprimand or otherwise, comes from this incidental power of the House to punish every man, whether member, officer, or citizen, who has violated its privileges. When the gentleman from Kentucky [Mr. ROUSSEAU] called the member from Iowa [Mr. GRINNELL] to account for words spoken in debate, this act made him amenable to the jurisdiction and punishment of this House; and it was not at all the fact that he was a member of Congress that so subjected him to our jurisdiction and reprimand. Being a member, doubtless, is a circumstance to be considered in affixing the punishment; but it has nothing whatever to do with our right originally to pronounce the order of censure which the House has pronounced, nor with our right now to execute it.

That order and its execution are both alike directed against a man, a delinquent, one who has called a member to account for words spoken in debate, and is not directed against anybody because he is a member of Congress. What gives the jurisdiction is that the delinquent has come near enough to this body to violate its privileges. He who does that, wherever he may be and whatever may be the act of violation, is near enough to this House to be subject to its arrest and punishment, and this, too, whether he be officer, member, or citizen; and the punishment which he is subject to, whether member or citizen, is that one which the House may affix in its discretion. Mr. Speaker, the reprimand is not a punishment confined either by its nature or by the practice of this House to those who are members. Anybody who is a delinquent, subject to the punishment of the House, may be reprimanded. So you have it laid down in the Manual of the Rules of this House, page 155. This House has again and again reprimanded men who were not members. This was done in the Fifteenth Congress in the case of one not a member of Congress.

Mr. DAWES. It was also done in the case of Sam. Houston when he was not a member of the House.

Mr. SHELLABARGER. My friend from Massachusetts says it was done in the case of Houston. I had it in my mind that Houston was a member when he was reprimanded, but I assume that the gentleman is right. There is, therefore, not a shadow of a doubt of the power of this House to reprimand any one, whether member or not, who has violated its privileges. But it is said the proceedings have

been hitherto against him as a member, and that now that he is not by reason of his resignation a member (as is alleged) it is insisted that the power to execute the order is gone. That is, one whom you may punish as a delinquent for violating the rights of this House, without regard to the question whether he is a member or not, and whom you have convicted of the offense which gives the jurisdiction to this body, may escape punishment because you described him as a member (a thing you need not to have done at all, and which is mere *descriptio personæ*) by throwing off the office by which you have described him. It would be just as reasonable to say that he could escape punishment by removing from Kentucky to Ohio so as to render the description of him in the resolution as from Kentucky a false one after he had removed from Kentucky.

I have said what I have, Mr. Speaker, not for the purpose of securing any punishment of the gentleman from Kentucky. I have never cast a vote so reluctantly since I have been in Congress as that to punish this gallant soldier. I have only spoken in order to assist in coming to what I deem a right conclusion upon an important question of law as to the privileges of this House.

Mr. SCHENCK. I rise to a point of order. The gentleman from Pennsylvania [Mr. RANDALL] moved to postpone the execution of the order for fifteen minutes. That motion was made more than fifteen minutes ago.

Mr. RANDALL, of Pennsylvania. The fifteen minutes date from the moment that the House orders the execution of the order to be postponed.

The SPEAKER. That is the parliamentary rule. The Chair will state, however, to members of the House that under the rule the question of postponement admits of but a very limited range of debate.

Mr. RANDALL, of Pennsylvania. I have tried to strictly follow the directions of the Speaker.

Mr. ALLISON. I shall ask that the rule of the House just referred to by the Speaker shall be enforced.

Mr. RANDALL, of Pennsylvania. I now yield to the gentleman from Ohio, [Mr. DELANO.]

The SPEAKER. The Clerk will now read from the Journal of the House the resolution which was adopted by the House, and which was called for a few moments since.

The Clerk read as follows:

"Resolved, That Hon. LOVELL H. ROUSSEAU, a member of this House from the State of Kentucky, be summoned to the bar of this House, and be there publicly reprimanded by the Speaker for the violation of its rights and privileges of which he was guilty in the personal assault committed by him upon the person of Hon. J. B. GRINNELL, a member of this House from the State of Iowa, for words spoken in debate."

Mr. SCHENCK. Allow me a moment for an explanation. I perceive that I was mistaken in regard to the description of the person contained in the resolution which was at last adopted by the House. I was not present when the resolution was adopted, but supposed it was the resolution reported by the minority of the committee. I wish to say, however, that it makes no difference in the point I made.

Mr. DELANO. I now ask that the Clerk read a resolution which I have sent to his desk.

Mr. ALLISON. Is that in order?

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] yielded the floor to the gentleman from Ohio, [Mr. DELANO,] who can have the resolution read as a part of his argument.

The Clerk read as follows:

Whereas Hon. LOVELL H. ROUSSEAU has forwarded to the Governor of Kentucky his resignation as a Representative for the fifth district of the State of Kentucky, a copy of which has been read: Therefore, *Be it resolved*, That the said LOVELL H. ROUSSEAU be discharged from the custody of this House, and all further proceedings in the case be suspended.

Mr. DELANO. Whether the House has now or not legally the right to inflict the punishment that has been ordered upon the gentleman from Kentucky [Mr. ROUSSEAU] I do not propose to consider. I know that accord-

ing to the parliamentary precedents that have been referred to by the gentleman from Massachusetts, [Mr. BANKS,] a member cannot resign while the legislative body of which he is a member is in session without the consent of the body. But I am not quite clear that those precedents are applicable to us.

I remember that a few years ago, on a certain occasion which must be fresh in the recollection of my honorable colleague from the Dayton district, [Mr. SCHENCK,] a number of the members of the Ohio Legislature resigned and broke up the quorum for the purpose of preventing a very unjust system of districting the State for representation in Congress. I know that the result of that was to cause the insertion of a provision in the present constitution of Ohio requiring all members of the Legislature, when the Legislature is in session, to resign to the presiding officers of their respective bodies, and requiring that such resignations shall be accepted before taking effect.

Now, sir, I will not undertake to say positively what is the law of Congress on this subject; but I think that it is a question of great doubt whether a member of Congress may not resign to the Governor of his State and cease to be a member of this body without any action of the body upon the question. My impression is that a member has this right. If so, sir, this resolution, in the form in which we now have it, would, in my opinion, be improper to be passed, because it avers that LOVELL H. ROUSSEAU is a member of this House, and we are bound to punish him as such. If he has resigned the resolution would be false in its terms.

But, sir, passing by this question, I beg to call the attention of the House to a question of policy and propriety. The House has now before it the noteworthy fact that LOVELL H. ROUSSEAU has resigned and ceases to be a member of this body. He stands before the House condemned for a breach of its privileges. I am no apologist for anybody who violates the privileges of this House. But there exist in many cases certain extenuating circumstances which no just man can fail to consider. Now, sir, I do not desire to reflect upon the gentleman from Iowa, [Mr. GRINNELL,] but I do say that the circumstances which caused the assault made by the gentleman from Kentucky—

Mr. PRICE. I rise to a question of order. My point is that the question now under discussion before the House is the question of postponement, and the gentleman from Ohio [Mr. DELANO] is not arguing that at all, but is seeking to reflect upon my colleague [Mr. GRINNELL] who is not present.

Mr. DELANO. Very far from it, sir.

The SPEAKER. The Chair must remark that under his ruling this morning, which is now to be regarded as the ruling of the House, since it has not been appealed from, no gentleman has the right to reopen the question which was decided by a vote of the House.

Mr. DELANO. I do not propose, sir, to reopen it. I am seeking now to show that the execution of this order ought to be postponed with a view to the passage of the resolution which at my request has been read, and with the view of declaring to the world our belief that under the circumstances we have gone far enough in punishing this man; that a soldier, an officer, a gentleman, who has done so much for his country, having received the condemnation of this House for an assault made upon a member, improperly, I admit, but under circumstances of provocation known to the House, ought not to receive any further punishment.

Sir, we are all of us but men, and in dealing with men we are bound to look at the motives which actuate men; and I submit whether, when we take into consideration the history of this man as an officer of our Army, the circumstances in extenuation of his offense, and the manner in which it was done; whether in view of all this the punishment which has already been inflicted is not amply sufficient to satisfy the House, the country, and the world; whether this body will not stand better before

the nation by declaring: "We will proceed no further in this matter." Understand me, sir; I do not justify the assault; very far from it. But all punishment should be meted out according to the circumstances under which the offense was committed. In accordance with this principle, what would otherwise be murder, is, by extenuating circumstances, reduced in the law to the grade of manslaughter. I ask the House whether, in consideration of all the circumstances—I will not review them; they are fresh in the recollection of the House—whether we have not done enough toward this man already, and whether, now that he has resigned, we shall not stand badly before the world if we show a disposition to go further and inflict what may by some be regarded as needless penalties. I appeal to the magnanimity, I appeal to the honor, I appeal to the glory of the American people whether it be necessary to pursue this matter further.

Mr. RANDALL, of Pennsylvania. I call the previous question.

The previous question was seconded and the main question ordered.

The question recurred on Mr. SCHENCK's amendment to strike out "fifteen" and insert "ten," and being taken it was disagreed to.

Mr. ALLISON demanded the yeas and nays on the motion to postpone the execution of the order of the House for fifteen minutes.

Mr. RANDALL, of Pennsylvania. I give notice if the execution of the order be postponed I shall yield the floor to the gentleman from Ohio [Mr. DELANO] to submit his proposition.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 48, nays 62, not voting 57; as follows:

YEAS—Messrs. Ancona, Anderson, Boyer, Bromwell, Dawson, Delano, Eckley, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, John H. Hubbard, James R. Hubbell, Johnson, Kerr, Kuykendall, Latham, Le Blond, Marshall, Marston, McRuer, Miller, Newell, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, and Wright—43.

NAYS—Messrs. Alley, Allison, Ames, Baker, Baxter, Benjamin, Bidwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Davis, Deffoes, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Higby, Holmes, Hooper, Hotchkiss, Hulburd, Ingersoll, Julian, Kelley, Ketcham, Koontz, Lathin, William Lawrence, Loan, Lynch, McClurg, Mercur, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Francis Thomas, Trowbridge, Van Aernam, Burt Van Horn, Welker, Wentworth, Williams, James F. Wilson, and Windom—62.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Beaman, Bergen, Bidwell, Bingham, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Cook, Cullom, Culver, Darling, DeLoane, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farguhar, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Hayes, Henderson, Hill, Asahel W. Hubbard, Chester D. Hubbard, John B. Hubbard, Hulburd, Johnson, Kerr, Kuykendall, Latham, Le Blond, Marshall, Marston, McRuer, Miller, Newell, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, and Wright—57.

So the motion was agreed to.

The SPEAKER. The gentleman from Iowa having demanded the execution of the order of the House, the gentleman from Kentucky, Mr. ROUSSEAU, will present himself at the bar of the House.

Mr. ROUSSEAU appeared at the bar of the House.

The SPEAKER. General ROUSSEAU: The House of Representatives have declared you guilty of a violation of its rights and privileges in a premeditated personal assault upon a member for words spoken in debate. This condemnation they have placed on their Journal and have ordered that you shall be publicly reprimanded by the Speaker at the bar of the House. No words of mine can add to the force of this order, in obedience to which I now pronounce upon you its reprimand.

Mr. ROUSSEAU then retired.

39TH CONG. 1ST SESS.—No. 252.

# RECESS OF CONGRESS.

Mr. CONKLING. I submit the following resolution:

*Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives on the day of —, at twelve o'clock meridian, adjourn their respective Houses until Tuesday, the 2d day of October, 1866, and that on that day, unless it be then otherwise ordered by the two Houses, they shall further adjourn their respective Houses until Saturday the 1st day of December, 1866.*

Is the resolution debatable?

The SPEAKER. It is not.

Mr. CONKLING. I ask to make an explanation.

Mr. ELDRIDGE. I object.

Mr. ANCONA. I move the resolution be laid upon the table.

Mr. FINCK. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 64, not voting 65; as follows:

YEAS—Messrs. Alley, Ancona, Baxter, Boyer, Davis, Daves, Dawson, Eldridge, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hogan, Chester D. Hubbard, Johnson, Kerr, Latham, George V. Lawrence, Le Blond, Marston, Morrill, Niblack, Nicholson, Noell, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Rollins, Ross, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Woodbridge, and Wright—43.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Benjamin, Bidwell, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Deffoes, Donnelly, Eckley, Eliot, Farnsworth, Ferry, Hart, Higby, Holmes, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Koontz, William Lawrence, Loan, Lynch, McClurg, Mercur, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Plants, Price, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Stevens, Francis Thomas, Trowbridge, Van Aernam, Burt Van Horn, Welker, Wentworth, Williams, James F. Wilson, and Windom—64.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barker, Beaman, Bergen, Bingham, Blaine, Blow, Boutwell, Brandegee, Buckland, Bundy, Chanler, Cook, Cullom, Culver, Darling, DeLoane, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farguhar, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Hayes, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Jenckes, Jones, Kasson, Kelso, Ketcham, Kuykendall, Lathin, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Newell, Patterson, Phelps, Pomeroy, Alexander H. Rice, Sloan, Smith, Starr, Stilwell, Thayer, John L. Thomas, Upson, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Wentworth, Stephen F. Wilson, and Winfield—65.

So the House refused to lay the resolution on the table.

The previous question was seconded and the main question ordered on agreeing to the resolution.

Messrs. ELDRIDGE and ANCONA demanded the yeas and nays.

Mr. ROSS. I would inquire—

Mr. CONKLING. I object.

Mr. ROSS. To an inquiry?

Mr. CONKLING. I object to anything from that quarter.

Mr. ROSS. I suppose I have a right to inquire in relation to the effect of the resolution.

The SPEAKER. The gentleman will state his question to the Chair.

Mr. ROSS. I want to know if it gives mileage to members. [Laughter.]

The SPEAKER. The Chair does not consider that a legitimate inquiry.

The yeas and nays were ordered.

Mr. DAVIS. I raise the question of order, whether we have power now to direct that when the House meets on the day designated it shall adjourn to a future day.

The SPEAKER. That depends entirely upon whether a majority of the House shall vote for the resolution; if they do they will have ordered it, and the Chair will have power to execute the order.

The question being taken on agreeing to the resolution, it was decided in the affirmative—yeas 59, nays 52, not voting 70; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Benjamin, Bidwell, Boutwell, Broomall, Sidney Clarke, Cobb, Conkling, Deffoes, Donnelly, Eckley, Eliot, Farnsworth, Garfield, Abner C. Harding, Higby, Holmes, Hooper, Hotchkiss,

Jones, Kasson, Koontz, William Lawrence, Loan, Lynch, McClurg, Mercur, Miller, Morris, Moulton, O'Neill, Orth, Perham, Plants, Price, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Stevens, Francis Thomas, Trowbridge, Van Aernam, Burt Van Horn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—59.

NAYS—Messrs. Ancona, Banks, Baxter, Boyer, Bromwell, Buckland, Davis, Daves, Dawson, Eldridge, Ferry, Finck, Glossbrenner, Aaron Harding, Hogan, Chester D. Hubbard, John B. Hubbard, Hulburd, Johnson, Kerr, Ketcham, Kuykendall, Lathin, Latham, George V. Lawrence, Le Blond, Marston, Moorhead, Morrill, Myers, Newell, Niblack, Nicholson, Noell, Paine, Pike, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Ross, Shanklin, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, Woodbridge, and Wright—52.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barker, Beaman, Bergen, Bingham, Blaine, Blow, Brandegee, Bundy, Chanler, Reader W. Clarke, Cook, Cullom, Culver, Darling, DeLoane, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farguhar, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Hayes, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Patterson, Phelps, Pomeroy, Ritter, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, John L. Thomas, Upson, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Winfield—70.

So the resolution was agreed to.

Mr. CONKLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed, without amendment, the following bills of the House:

An act (H. R. No. 615) legalizing marriages, and for other purposes, in the District of Columbia;

An act (H. R. No. 124) authorizing the construction of a jail in and for the District of Columbia;

An act (H. R. No. 601) to grade East Capitol street and establish Lincoln square; and

An act (H. R. No. 559) to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia.

The message further informed the House that the Senate had passed the following bills, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 230) to amend an act to amend the charter of the Alexandria and Washington railroad, passed March 3, 1863;

An act (H. R. No. 564) to amend the thirty-fourth section of the declaration of rights of the State of Maryland, so far as it applies to the District of Columbia;

An act (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada;

An act (H. R. No. 379) to establish in the District of Columbia a Reform School for boys;

An act (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home;

An act (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union, of Washington, District of Columbia; and

An act (H. R. No. 775) to incorporate certain post roads.

The message further informed the House that the Senate had passed the following bills and joint resolutions, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 134) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron;

Joint resolution (S. R. No. 123) in relation to the settlement of accounts of William P. Wingate, collector at the port of Bangor, Maine;

An act (S. No. 289) to provide for probate and for the recording of wills of real estate

situated in the District of Columbia, and for other purposes;

An act (S. No. 384) to incorporate the Washington Land and Building Company of the District of Columbia;

An act (S. No. 214) to incorporate the General Hospital of the District of Columbia;

An act (S. No. 380) to incorporate the Washington County Horse Railroad Company, in the District of Columbia;

An act (S. No. 393) to incorporate the Metropolitan Club of the District of Columbia; and

An act (S. No. 424) to incorporate the Washington Temperance Society, of the city of Washington, District of Columbia.

#### QUESTION OF PRIVILEGE.

Mr. ROGERS. I rise to a question of privilege with regard to the rights of a member of this House upon a committee. There has a misunderstanding grown up between myself as one of the members of the Judiciary Committee and at least one other member of that committee with regard to my rights in that committee in the examination of the testimony taken by order of the House in relation to the connection of Jefferson Davis and others with the assassination of President Lincoln. I have endeavored for ten days at least faithfully at different times to have an opportunity to investigate that evidence in order that I might know as a member of the committee how to arrive at a deliberate and just judgment. The first information I had was from seeing in the New York Herald a statement that the matter had been referred to one honorable member of the committee to make a report. I at once felt it my duty, as it was an important matter and as considerable testimony had been taken in my absence, to see at least that part of the testimony which had not been taken in my presence, in order that I might conclude whether I would join in the majority report of the committee or whether I would ask the privilege of presenting my views, together with the views perhaps of some other members of the committee as a minority.

When I first made application to see the testimony the gentleman who was appointed to make the report would not even give his consent to my going to his room for that purpose. So at last I told him unless his consent was given I would bring the matter before the House. He then said he would not object to my coming to his room and seeing the testimony. And, by the way, there is a great mass of evidence, hundreds of folios, and in order to arrive at a correct judgment it is important and necessary that members of the committee should have full opportunity to investigate it. Yesterday I went to the committee-room and found the papers there in the possession of a reporter who had been employed by the gentleman who is to make the majority report.

Mr. BOUTWELL. I suppose the gentleman wishes to state the fact.

Mr. ROGERS. I do, sir; and I do not intend to state anything else. If I misstate anything—

The SPEAKER. The Chair will suggest to the gentleman from Massachusetts, if he is alluded to, that he had better reserve any remarks until the gentleman from New Jersey has concluded.

Mr. ROGERS. I have no desire to throw any reflection upon the committee at all, or in any way disparage their action, but simply to ascertain my rights as a member of the committee.

The SPEAKER. The gentleman will state his point.

Mr. ROGERS. I am coming to the point. Yesterday, as I stated, I went to the committee-room and there found the papers in the possession of the reporter, who informed me that he had been spoken to or employed by the gentleman who was to make the majority report to make some notes from the evidence for him. I asked him to allow me to sit down and look at the testimony. He said his orders

were peremptorily that I nor anybody else should see the evidence. I then went to the clerk of the committee and told him I would like to look at the evidence. He refused to allow me to look at it. I then said I would go to the gentleman who was to make the majority report. I went to him. He sat down and gave me an order to look at the papers, but not to take them out. In the mean time, for the purpose of obtaining some minutes from which I could, if I saw fit, present to the House a minority report, I employed a stenographer to come and take down some points of the evidence that I wanted to refer to, as the honorable gentleman had also a stenographer. While I was taking them down the clerk of the committee left the room and returned with the gentleman who immediately snatched up the papers from me and refused to allow me to read or look at them, or to allow the stenographer to take down a single word. He took the papers and put them up in the tin box where they had been previously locked up.

The ground the gentleman took was that he did not know who this stenographer was, and he was not willing to allow him to look at the papers. That may have been very proper. I am not prepared to say whether it was or not. At any rate the stenographer went away. I proposed before he went away that he should be sworn that nothing should be divulged, but all should be kept secret; but the gentleman would listen to no proposals. I confess I thought he was a little excited, and I left the room. I hope, however, there is no feeling on his part, as there certainly is none on mine.

Now, I presume the House will adjourn or take a recess soon. There is an immense mass of testimony, and I feel it my duty, where the lives of individuals are concerned, Jefferson Davis and others, that the truth should be known to the public in regard to that whole testimony. There are facts in the case that may not appear in the majority report, and I may deem it my duty when I investigate the whole evidence to present my views. I want to arrive at a correct judgment so as to conscientiously discharge my duty. I am willing to go to the expense of paying a stenographer to take such parts of the testimony and evidence as I want. I want to have the stenographer sworn by any kind of oath that may be prescribed by the committee or the House. My object is, not to divulge anything. I have never been charged with divulging anything except some cross-examinations which were decided by the committee to be irregular, and which I supposed to be of no sort of importance. I made the proper explanation, and I believe the committee were satisfied with it.

I presume the Speaker will say I have a right to investigate the testimony. How can I? I have not time, if I wait till the majority report is made at the close of the session, to arrive at a correct judgment on that great mass of testimony. I am willing to furnish a stenographer at my own expense, who shall be sworn and under the control of the House, or the House may furnish a stenographer to take down such parts of the testimony as I may want.

Mr. BOUTWELL. Mr. Speaker, the House is aware that the Judiciary Committee has been for a long time engaged in the investigation of facts concerning the assassination of the late President of the United States. It must be apparent that in the prosecution of that investigation the secrets of the War Department especially have been laid open to the committee. Now it has happened that on two occasions, without so far as I know any fault upon the part of any member of the committee, the substance of papers, copies of which have come into the hands of the committee, have found their way to the public. It must be apparent that it is of prime importance that the knowledge of the contents of those papers should not be disclosed to the public until they have been thoroughly examined by the committee. They are voluminous; they relate to important interests of the Government, and

the committee felt bound to exercise all the care that was practicable.

Some four or five weeks since the committee, against my own wishes, charged me with the duty of preparing a report upon this case. I may say that the committee has never yet reached a conclusion as to what should be advised, if, indeed, anything should be advised, for the action of this House. The work in which, during that period, I have been engaged has been the examination of these papers for the purpose of ascertaining, as far as I might be able, the value, if any, which they possessed with reference to the elucidation of the matter referred to. To that duty I have devoted myself with such assiduity as I possess, and with such leisure as I could command. The examination into the archives of the War Department, which contain the documents and papers found at Richmond and elsewhere in the eleven rebellious States, has, from day to day, developed new testimony concerning the assassination of the President and matters which are supposed to have some relation thereto. I felt, after these papers were put in my charge, that I became in a certain degree responsible for them. They were very voluminous, and I had arranged them with reference to an examination for the purpose of preparing a report. It was not, in the first place, convenient, even if there had been no other consideration involved, that those papers should be submitted to the examination of anybody else.

I may say here that I should have felt myself bound to treat any other member of the committee precisely as I treated the gentleman from New Jersey, [Mr. ROGERS.] I did not understand that we were engaged in the preparation of a majority report. But I understood that I was charged with the examination of those papers, which, as the House can well understand, are of a peculiar character. Many of them were published in some of the northern papers, and in some of the southern papers. There are letters written over assumed names, involving an examination of the handwriting for the purpose of ascertaining the authors of them; others are couched in ambiguous and uncertain language, the nature and purport of which would not be fully understood from a mere cursory reading. Others are written in cipher, which were, of course, examined and translated, so far as they could be translated at all, at the War Department. Under these circumstances, I think the House will see that when I was charged with this work, for which I was responsible to the committee and to the country, I had the right for the time being, without infringing the rights of this House, or of any member, to keep the control of these papers. Hence I have, during all this period of time, whenever approached by the gentleman from New Jersey, [Mr. ROGERS,] declined to put these papers in his possession.

Mr. ROGERS. Did I not simply ask to have the privilege of examining this evidence, and informing myself, as I ought to be informed, before passing judgment on this case?

Mr. BOUTWELL. That is very true. But as I have already said, it seemed to me that when the number and character of these papers were considered, when the nature of the work confided to me was taken into consideration, it was not the proper thing for the gentleman from New Jersey to ask that he, simultaneously with me, should be permitted to examine and arrange and extract from those papers. And therefore I always declined to allow him to do so. Yesterday the gentleman from New Jersey came to me and renewed the request. It so happened that I had yesterday a confidential clerk from the War Department, who has heretofore had the control of these papers, who understands them better than anybody else, and who was examining them with me.

Mr. ROGERS. I desire, with the gentleman's permission, to ask him one question: whether the clerk to whom the gentleman refers had control of the evidence taken before the committee, or only of papers which had



come from the War Office. The latter constitute only a part, and a minor part, of the voluminous evidence in the case.

Mr. BOUTWELL. Mr. Speaker, that is not strictly true. The testimony taken before the committee was more or less connected with the documentary evidence which was received by the committee from the War Department. This gentleman, understanding perfectly well—better, indeed, than anybody else—the nature, the value, and the relations of the evidence in the War Department, was engaged in examining these papers, in connection with the testimony which had been taken before the committee, for the purpose of aiding me in solving difficulties, that I might present a clear report. At the time the gentleman from New Jersey came in I had given directions to this gentleman to allow no person to examine or take possession of these papers. In this, I think, I did no more than I ought to have done. Still, under the circumstances, I gave to the gentleman from New Jersey a written order—if you choose so to call it—to the gentleman who had charge of these papers, saying that the gentleman from New Jersey might examine the papers in the room of the Judiciary Committee, but that he was not to take any of them away.

Very soon after that the clerk of the Judiciary Committee came to me at my seat and informed me that the gentleman from New Jersey had with him a phonographic reporter, a person who was unknown to the clerk of the committee, but who, so far as he could judge, was engaged in taking in phonographic characters copies of some of the papers relating to the case under consideration. I went immediately to the committee-room, and found there a man whom I did not know, who said that he had no connection whatever with this House; yet he was engaged then in copying or taking extracts from the papers connected with this case. I at once interposed. I told him, I told the gentleman from New Jersey, that while the papers were in my charge nothing of the kind should be done; and I took up the papers, I dare say with some feeling, but not with any animosity toward the gentleman from New Jersey. I thought that the interests of the Government were unnecessarily and improperly exposed: and I took possession of the papers, placing them in a trunk where they had been kept and closing the trunk. I have since made some inquiries concerning the person who was yesterday in the employment of the gentleman from New Jersey, and I ask the gentleman from New Jersey whether that person is not an Italian or a Frenchman named Cazauran.

Mr. ROGERS. His name is Cazauran, and he is a stenographer. That is all I know.

Mr. BOUTWELL. I ask whether it is not known to the gentleman from New Jersey that Cazauran was for a long time in the rebel service; that he edited a rebel newspaper at Memphis, Tennessee—

Mr. ROGERS. This is the first time I ever heard of it.

Mr. BOUTWELL. That he was sent out of Tennessee by the United States authorities—

Mr. ROGERS. Not to my knowledge.

Mr. BOUTWELL. That he was afterward found within the United States lines at Norfolk, Virginia; that he was taken by the military authorities of this Government and sentenced to something like sixty days at hard labor in that vicinity.

Mr. ROGERS. I never heard any such thing before. I never heard a word against him.

Mr. BOUTWELL. I do not know anything of the man. If my information should prove to be false, I would willingly retract, in the presence of this House and the country, all that I have said in reference to the phonographic reporter whom I found yesterday in the room of the Judiciary Committee; but such is the information which on inquiry I have received from sources in which I place confidence.

Mr. ROGERS. I will state to the gentleman my acquaintance with the reporter I employed. I do not know whether he is a Dem-

ocrat, a Republican, a Know-Nothing, or anything else. The first I knew of him he was connected with the Boston Post. I will add that I proposed to have him swear to an oath of secrecy.

Several MEMBERS. Swear a rebel!

Mr. ROGERS. Oh, I guess he was no rebel; I guess that is not so.

Mr. BOUTWELL. I make this statement from information I have received, and from no knowledge of my own. If it turns out to be erroneous I shall feel it to be my duty, as well as my pleasure, to retract it before the House. I only introduce it as a fact.

Mr. ROGERS. I have only one question to propose.

The SPEAKER. The Chair will rule on the question, as time is very precious at this late period of the session. He thinks he has now a correct conception of the matter. Committees, in order to facilitate their business, often appoint sub-committees to examine into bills or other subject-matters which may be referred to them, and to make report to the committee in full session before they report to the House. When they do, the papers pertinent to the subject are put in the hands of the sub-committee, and no member has a right to demand to see those papers until the sub-committee reports to the committee. When the sub-committee reports to the committee the gentleman, in common with the other members, has a right to demand to see the papers for examination.

Mr. ROGERS. I have a motion to make. I ask the House to grant me a stenographer, to be paid by myself or by the House, so that I may be enabled to make a minority report if necessary. I think it is only just to me that it should be done.

Mr. GARFIELD. I suggest to the gentleman that he move, in addition, that a stenographer be allowed to each member to help him prepare his speeches. [Laughter.]

Mr. ROGERS. I am willing to pay for the stenographer.

Mr. HUBBARD, of Connecticut. I object.

JAMES C. COOK.

Mr. MYERS. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill reported on Friday last from the Committee on Patents, (H. R. No. 760,) for the relief of James C. Cook, upon which the gentleman from Connecticut [Mr. HUBBARD] has the floor.

PRIVILEGED QUESTION—AGAIN.

Mr. ROGERS. I wish to say that I was one of the sub-committee of three appointed to collect this evidence.

The SPEAKER. The Chair has made his decision, and, if the gentleman wants to, he can take an appeal.

Mr. WILSON, of Iowa. I wish to state to the House that the gentleman from New Jersey is not a member of the sub-committee to which these papers have been referred.

Mr. FINCK. I rise to a point of order. Do I understand the Speaker to rule that a member of the committee, before they do important business, has no right to examine the papers connected therewith?

The SPEAKER. The Chair repeats exactly what he has stated. Where a committee appoint a sub-committee to investigate a certain matter the papers referred to the sub-committee are within their power, and no member of the committee has the right, as a matter of right, to take them from the sub-committee for examination.

Mr. ROGERS. I do not want to take them—I only want to see them.

Mr. FINCK. I do not think the decision goes far enough.

The SPEAKER. The point has been decided, but the gentleman can take an appeal.

Mr. FINCK. I rise to a point of order. The Speaker has not decided the precise point presented.

The SPEAKER. The Chair has decided the precise point presented.

Mr. FINCK. I think not.

Mr. ROGERS. I have a right to ask for the papers.

The SPEAKER. The House has passed away from the case.

Mr. FINCK. I advise my friend to resign from the committee if he can have no rights there.

Mr. ROGERS. I only want the country to know how the matter stands.

The SPEAKER. The Chair has allowed the gentleman to present his case at great length.

Mr. ROGERS. I do not find fault with the Speaker.

JAMES C. COOK—AGAIN.

Mr. HUBBARD, of Connecticut. If the House will give me their attention for about five minutes by my watch, which is a fast one, [laughter,] I think I can satisfy them of the justice of the present claim.

The SPEAKER. The Clerk will first read the bill.

The Clerk read as follows:

That James C. Cook have leave to make application to the Commissioner of Patents for an extension of his letters-patent, which were issued for the term of fourteen years, from the 27th day of July, 1852, for an improvement in machines for forming button backs and connecting the eyes thereto, in the same manner as if he had filed his petition for an extension at least ninety days prior to the expiration of said patent, and that the Commissioner of Patents be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of the patent.

Mr. HUBBARD, of Connecticut. I can yield now to neither of my friends, for I desire, in the first place, to finish the report which I had commenced when this report was up some two weeks ago. I do not design to take up much time. The petitioner has really had under his patent the benefit of about three years.

Mr. STEVENS. When does his patent expire?

Mr. HUBBARD, of Connecticut. This year. He lost a good deal in consequence of the difficulty of introducing this patent, and also from an error in the original specification. It is a patent for button backs and connecting them with the eyes. I know nothing myself about the manufacture of buttons, but I know this: that when this patent was issued the law was that the patentee might apply for an extension to the Commissioner at any time before the expiration of his patent. The patentee supposed, therefore, that it was safe for him at any time within fifty days of the expiration of his patent, to apply for a renewal of his privilege. He did apply to the Commissioner of Patents some eighty-three days before the expiration of his patent, and then he learned, for the first time, that the law had been changed, and that, by the act of 1851, ninety days were required.

I want to say, Mr. Speaker, that under the law of 1848, under which this patent was issued, the patentee had a right to apply to the Commissioner for an extension of his patent at any time not less than sixty days before the expiration of his patent. In the year 1861 the law was changed, making it necessary for him to apply ninety days before the expiration of his patent. He did not know of that; he is a laboring man living out in the country; he knew the law of 1848, under which he obtained his patent; he did not know that that law had ever been changed; and in consequence of that want of knowledge he applied to the Commissioner for an extension of his patent at a time outside of that prescribed by law. It was by mere accident and mistake that he failed to apply in time; he supposed that he had a right to apply for it at a later date than he had under the law, and now he calls upon the great American Congress to exercise its remedial power in permitting him to make application to the Commissioner of Patents to permit him to make this extension. [Cries of "All right—we'll pass it."] Then, sir, I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HUBBARD, of Connecticut, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. HUBBARD, of Connecticut, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I move that the House proceed to the business on the Speaker's table.

Mr. STEVENS. I suggest to the gentleman from Iowa that he allow us to have an evening session.

Mr. MORRILL. I hope the gentleman will not object, for if we are to adjourn at the time which has been fixed on by the House, it is indispensably necessary that we have evening sessions.

The SPEAKER. The Chair will state that the resolution of the House providing for evening sessions makes no provision for evening sessions on Saturday. It would require, therefore, unanimous consent.

Mr. FINCK. I object.

The motion of Mr. WILSON, of Iowa, was then agreed to.

#### GOVERNMENT EXPENDITURES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury in reply to a resolution of the House of the 9th instant, transmitting a statement of receipts and expenditures from July 1, 1865, to March 1, 1866, and an estimated statement from March 1, 1866, to June 30, 1866; which was laid upon the table and ordered to be printed.

#### BRIDGING OF THE MISSISSIPPI.

The House then proceeded in execution of its order to the consideration of the business upon the Speaker's table, the first business being bill of the Senate No. 236, to authorize the construction of certain bridges, and to establish them as post roads, returned from the Senate with amendments to the amendments of the House.

Mr. ALLEY. I believe there is no objection to the amendments proposed by the Senate. I believe both the friends and opponents of this measure concur in them. I therefore move the previous question on the amendments.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate to the amendments of the House were agreed to.

Mr. MOULTON moved to reconsider the vote by which the amendments of the Senate to the amendments of the House were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TRANSPORTATION OF DISCHARGED SOLDIERS.

Mr. SCHENCK. I ask the unanimous consent of the House to introduce and put upon its passage a bill which I am sure no gentleman here will object to. It is a bill to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government. Let me state that the Secretary has no power under the law as it now exists to furnish this transportation to discharged soldiers. The bill I offer embraces not more than five or six lines, giving him this power. It certainly will occupy no time, and I ask the unanimous consent of the House for its consideration now.

No objection being made, the bill was received and read a first and second time. It authorizes and directs the Secretary of War to furnish to discharged soldiers of the United States, disabled in the service, transportation to and from their homes and the places where

they are required to go to obtain the artificial limbs provided for them under the authority of law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CAPTURED REBEL FLAGS.

Mr. KETCHAM. I ask unanimous consent of the House to introduce a joint resolution in relation to certain flags captured during the late war. I make this request at the request of the Secretary of War.

The SPEAKER. The joint resolution will be read for information, after which it will be considered if there is no objection.

The joint resolution was read. It authorizes the Secretary of War to transfer from the War Department to the Executives of the several States, for safe-keeping, the rebel flags captured during the late war, sending to each State such flags as were captured by the volunteer regiments from those States.

No objection was made.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. HOTCHKISS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MRS. ELEANOR C. RANSOM.

The House then resumed the execution of the order to proceed to business on the Speaker's table; the next business being Senate amendment to the bill of the House No. 709, for the relief of Mrs. Eleanor C. Ransom. The amendment of the Senate was to decrease the sum appropriated from \$500 to \$400, as a compensation for care and attendance upon sick and wounded soldiers while on a vessel of the United States.

The amendment of the Senate was concurred in.

#### RAILROAD COMPANY, DISTRICT OF COLUMBIA.

The next business upon the Speaker's table were the amendments of the Senate to House bill No. 230, to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863.

The amendments of the Senate were read, as follows:

Strike out all of section one, after the word "authorized" in line six, and also all of section two down to and including the word "authorized" in line two, in the following words:

To extend said railroad from the track as now laid, or as the same may hereafter be laid, through Maryland avenue at the intersection of Sixth street west, through and along said Sixth street west in a northerly direction to a point at or near its intersection with Pennsylvania avenue which may be suitable for the location and construction of a depot for the receipt and discharge of passengers and freight.

Sec. 2. And be it further enacted, That said railroad company be, and the same is hereby, authorized.

So that the first section will read:

Be it enacted *etc.*, That the Washington, Alexandria, and Georgetown Railroad Company, a corporation lawfully succeeding to the charter, rights, and privileges of the Alexandria and Washington Railroad Company, be, and the same is hereby authorized to extend said railroad from the track, as the same is now or may hereafter be laid, through Maryland avenue at its intersection with Virginia avenue, through and along said Virginia avenue in an easterly direction to its intersection with D street south; thence along D street and across the Washington canal, to New Jersey avenue; thence by a curve to the left, of not less than one thousand feet radius, to a point in square number seven hundred and thirty-two; thence by an underground excavation or tunnel, passing under squares number seven hundred and thirty-two, seven hundred and sixty-two, seven hundred and sixty-one, seven hundred and sixty, seven hundred and eighty-seven, seven hundred and eighty-six, eight hundred and sixteen, eight hundred and fifteen, eight hundred and thirty-nine, eight hundred and thirty-eight, eight hundred and sixty-six, eight hundred and sixty-five, eight hundred and sixty-four, and the different streets and avenues intervening, to a point in square number eight hundred and ninety three; thence, by a curve of not less

than one thousand feet radius, into Eighth street east; thence by the most direct and eligible route to an intersection with the Washington branch of the Baltimore and Ohio railroad.

In section [three] two, lines six and seven, strike out the words "Sixth street, and also at its intersection with," so that the section will read:

Sec. 3. And be it further enacted, That the provisions of sections three and four of the act to which this is an amendment shall be applicable to the extension of said road or tracks as hereby authorized, and that it shall be lawful for said company to construct a draw or other bridge across the Washington canal at its intersection with D street south, of such plans and dimensions as may be approved by the corporation of Washington, and also not to interfere with the navigation of said canal. And also to use steam power in the transportation of passengers and freight over said railroad and branches, subject, however, to such restrictions and regulations as may be imposed by the corporate authorities of the city of Washington in respect to such portion thereof as may be located in said city.

Insert as section three the following:

Sec. 3. And be it further enacted, That the consent of Congress be, and the same is hereby, granted for a period of eighteen months from the passage of this act to the Alexandria, Washington, and Georgetown Railroad Company, to use steam power in drawing the cars of said company on the structure across the Potomac river erected by said company under the provisions of the act entitled "An act to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes," approved March 3, 1863, and along the railway now laid by said company, or which may be hereafter laid, under the provisions of the said act, along Maryland avenue and First street west, in the city of Washington, to the present depot of the Washington branch of the Baltimore and Ohio railroad, subject always, and in all particulars, to such restrictions and regulations concerning the use of such steam power as the corporation of the city of Washington may, by its ordinances, at any time impose on the railroad company: *Provided*, That, the said company shall not propel their engines at a greater rate of speed than five miles per hour within the corporate limits of Washington city.

Strike out the fourth and fifth sections of the bill, as follows:

Sec. 4. And be it further enacted, That the said railroad company shall be required to pay any and all damages that may result to private property from the extension of said road, and the tunneling under the several lots and squares of ground as heretofore provided, and that in the event the owner or owners of such property and the said company cannot agree as to the amount of such damages, or the value of any private property so appropriated for the purposes of such extension of said road, such proceedings shall thereupon be had for the appropriation and assessment of the damages thereof as are authorized and required under the laws now in force in the District of Columbia regulating appropriations and assessment of damages for opening roads, streets, and alleys in said District. That upon the payment to the owner or owners of the amount of such award of damages, or the lawful tender thereof, together with the payment of all costs of such proceedings, the said company shall acquire the right to use and occupy for the purposes of said railroad all such lands so appropriated, in such a manner as may be necessary for the proper working and running of said road.

Sec. 5. And be it further enacted, That if, at any time, any other railroad company shall or may desire to use and occupy the said tunnel so authorized by this act, either on the same track or another one alongside thereof, any such company shall have the right to do so upon such fair and reasonable terms as may be agreed upon by said parties to such joint occupancy. In case parties cannot agree on terms, the supreme court of the District of Columbia shall fix the terms.

Mr. INGERSOLL. I move the amendments of the Senate be concurred in; and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. INGERSOLL moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HOUSE OF CORRECTION.

The next business upon the Speaker's table were Senate amendments to House bill No. 379, to establish in the District of Columbia a Reform School for boys.

The amendments of the Senate were read, as follows:

In section one, lines four, five, and six, strike out the words "an institution for the instruction, improvement, and reformation of juvenile offenders, to be called the Reform School for boys," and in lieu thereof insert the words "a fit and convenient house of correction, suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations adjoining or appurtenant thereto, for the safe-keeping, correction, governing, and employing of offenders legally committed thereto by authority of the courts and magistrates of the District of Columbia;" so that the section will read:

That there shall be established in the District of Columbia, on the tract of land known as the Government farm, a fit and convenient house of correction, suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations adjoining or appurtenant thereto, for the safe-keeping, correction, governing, and employing of offenders legally committed thereto by authority of the courts and magistrates of the District of Columbia: *Provided*, That the building already erected on that land for the purpose of establishing a similar institution, together with all the other property there collected for the same purpose, shall be transferred to the trustees appointed according to the provisions of this act, at a cost not exceeding \$1,500.

In section four strike out the word "to," in lines three, six, and eight respectively, and in lieu thereof insert "they may;" so that the section will read:

That it shall be the duty of the said board of trustees to take charge of the general interests of the institution; they may appoint a superintendent, steward, a teacher, or teachers, and such other officers as may be found necessary, and may be approved by the Secretary of the Interior; they may fix the salaries of said officers, subject to the approval of the Secretary of the Interior; they may prepare such by-laws as may be necessary to regulate and direct the management of the institution, which, however, shall not be valid until approved by the Secretary of the Interior; and exercise a vigilant supervision over the institution, its officers, and its inmates.

Strike out "Reform School" wherever these words occur in the bill, and insert "House of Correction."

In section eight, lines six and seven, strike out "a term of time not less than one year and not to exceed the period of his minority," and insert "his sentence," so as to read:

That when any boy under the age of fourteen years is found guilty in a court in the District of Columbia of any crime punishable by imprisonment other than imprisonment for life, he shall be committed to the said House of Correction, and there held in custody of the superintendent for the term of his sentence, &c.

Strike out the following proviso at the close of the eighth section of the bill:

*Provided, however*, That nothing in this act shall be so construed as to prevent the discharge from the Reform School, by the trustees, of any boy, as reformed, whenever in their judgment he ought to be so discharged.

Strike out the ninth section of the bill, in these words:

SEC. 9. *And be it further enacted*, That any boy under the age of fifteen years, residing in the District of Columbia, who may be brought by his parents or guardian before the judge of the orphan's court, or either of the judges of the supreme court of the District of Columbia, and there shown to be habitually disorderly, and defiant of the control of his parents or guardians, or for any sufficient reasons greatly in need of a stronger and more wholesome restraint and discipline, shall by said judge be committed to the Reform School, there to remain for such a term of time as the trustees may deem best, not to exceed the period of his minority.

Strike out the fourteenth section, in these words:

SEC. 14. *And be it further enacted*, That every boy committed to the Reform School shall be there retained, governed, instructed, and employed, under the direction of the trustees, until the expiration of the term for which he was committed to the school, unless sooner discharged by the trustees as reformed; and the discharge of a boy as reformed, or on his arriving at the age of twenty-one years, shall be a complete release from all penalties and disabilities created by the sentence.

In section sixteen, lines twenty-three to twenty-eight, strike out the words, "the Secretary of the Interior shall secure an assessment of taxes in such delinquent city or county sufficient to cover the amount required and the expenses of collecting the same, and appoint a collector, who shall collect the taxes assessed in such manner as shall be prescribed by the Secretary of the Interior," and in lieu thereof insert the words, "the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said District, to enforce the same, with interest thereon after the date of default;" so as to make the section read:

That for the purpose of securing a transfer of the building and other property to the trustees, preparing the premises and building for occupancy, and for the payment of other necessary expenses, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$12,000, to be paid only on the order of the Secretary of the Interior: *Provided*, That \$6,000 of said appropriation is hereby declared to be the sum that shall be assessed and paid by the cities of Washington and Georgetown, and the county of Washington; and it shall be the duty of the proper authorities of the city of Washington to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time when the premises shall be ready for occupancy by the House of Correction, the sum of \$4,500; and it shall be the duty of the proper authorities of the city of Georgetown to raise and pay in like manner the sum of \$1,000; and it shall be the duty of the proper authorities of the county of Washington to raise and pay in like manner the sum of \$600; and in case of default of such payment into the Treasury of the United States by either of said cities or by the said county of Washington, the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said District, to enforce the same, with interest thereon after the date of default.

Amend the title of the bill by striking out the words "Reform School" and inserting the words "House of Correction."

Mr. INGERSOLL. I move the amendments of the Senate be concurred in; and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. INGERSOLL moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RELIGIOUS GIFTS AND DEVISES.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 564, to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia.

The amendment of the Senate was to add to the bill the following:

*Provided*, That in the case of gifts the same shall be made at least one calendar month before the death of the donor or testator.

The amendment was concurred in.

#### DITCHES AND CANALS IN PACIFIC STATES.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 365, granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada.

Mr. ASHLEY, of Nevada. Mr. Speaker, this bill as originally introduced, had relation to mining ditches in the mining districts of the States of California, Oregon, and Nevada. The amendment of the Senate proposes to extend the provisions of the bill to some other matters relating to mining. The bill, as amended by the Senate, is substantially Senate bill No. 257, which has already been passed by that body and is now pending before the Committee on Public Lands of this House. A bill precisely similar in form was introduced in this House by the gentleman from California, [Mr. HICKEY,] and having been referred to the Committee on Mines and Mining has been unanimously agreed to by that committee. The Committee on Territories of this House have the same question before them, and concur in the propriety of such a measure.

The bill as now before the House has relation simply to the manner in which the men now working mineral lands in our section of country shall secure their titles thereto. It is a measure which receives the approval of all the Representatives of the States interested. It is a measure of the utmost importance to the people on the Pacific coast. We have been without a regular system of law there for seventeen or eighteen years. There has grown up a sort of common law, which has been recognized by our courts. It has answered our purposes. Under it our country has grown up, producing for the nation sixty or seventy million dollars annually. We now simply ask that the rights which have grown up under that system shall be secured to us.

Sir, as this question cannot be very fully discussed at this late stage of the session, I ask the gentlemen to have some confidence in the united delegation from the Pacific coast. We have no interest as against the United States. On the contrary, our interest is all with the United States. As to the peculiar mode of disposing of the public lands to miners in our section of the country, the members from that region are better entitled to speak than men who have never dug the soil, as have most of the Representatives from the Pacific coast. I trust that the amendment of the Senate will be concurred in, and I move the previous question.

Mr. KASSON. Will the gentleman yield to me for a question?

Mr. ASHLEY, of Nevada. Yes, sir.

Mr. KASSON. I desire to ask whether by this bill the sovereignty of the United States, in regulation of the production of the gold of its mines, is taken away as completely as its

sovereignty over other lands which are sold is taken away?

Mr. ASHLEY, of Nevada. It is not taken away. The bill simply legalizes the rights of the men who occupy that land, subject to the ultimate disposition of the United States.

Mr. KASSON. Then, if I understand the gentleman, we can, notwithstanding the passage of this bill, at any time regulate the use that shall be made of the mineral; that is to say, we can oblige the miners to develop the mineral at so much per year for so many years.

Mr. JULIAN. No, sir; there is nothing of the kind in the bill.

Mr. KASSON. I wish to know whether the fee is transferred.

Mr. ASHLEY, of Nevada. In answer to the gentleman from Iowa, I ask for the reading of the last section of the bill as amended.

The SPEAKER. The whole amendment must be read, unless the reading be waived by unanimous consent.

Mr. JULIAN. I desire to move the reference of the bill to the Committee on Public Lands, which now has the subject before it.

The SPEAKER. The gentleman from Nevada is entitled to the floor, and gives way for the reading of the amendment.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause and insert the following:

That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local custom or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. *And be it further enacted*, That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than \$1,000, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, or rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country and the local rules, laws, and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface by local rules: *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. *And be it further enacted*, That as a further



condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the right of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public land, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however*, That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper, discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of preemption thereto, and shall be entitled to purchase the same at the price of \$1 25 per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall hereafter be subject to preemption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Amend the title by striking out the words "in the States of California, Oregon, and Nevada" and inserting in lieu thereof the words "and for other purposes."

Mr. KASSON. Does the gentleman insist on the previous question?

Mr. ASHLEY, of Nevada. I do.

Mr. JULIAN. I hope the previous question will be voted down. This bill is an outrage, a wholesale abandoning by the nation of its authority and duty respecting its vast mineral domain.

The House divided; and there were—ayes 35, noes 25; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. ASHLEY of Nevada, and Mr. JULIAN.

The House again divided; and the tellers reported—ayes 57, noes 12; no quorum voting.

The previous question, by unanimous consent, was considered as having been seconded.

Mr. JULIAN demanded the yeas and nays on ordering the main question.

The yeas and nays were not ordered.

Mr. JULIAN moved that there be a call of the House.

Mr. WILSON, of Iowa, demanded tellers. Tellers were not ordered.

Mr. GLOSSBRENNER moved that the House do now adjourn.

The House divided; and there were—ayes 39, noes 43.

So the House refused to adjourn.

The question then recurred on the motion that there be a call of the House.

The House divided; and there were—ayes 23, noes 50; no quorum voting.

Mr. JULIAN moved that the House do now adjourn.

Mr. ALLISON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 40, nays 57, not voting 85; as follows:

YEAS—Messrs. Ancona, Boyer, Davis, Dawes, Dawson, Deftrees, Donnelly, Eggleston, Farnsworth, Farquhar, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Asahel W. Hubbard, Chester D. Hubbard, Julian, Kasson, Kerr, Latham, William Lawrence, Loan, Niblack, Nicholson, Noell, Orth, William H. Randall, Ritter, Rogers, Ross, Schenck, Shanklin, Shellabarger, Sitgreaves, Spalding, Thornton, Trimble, Ward, Henry D. Washburn, Stephen F. Wilson, and Windom—40.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Benjamin, Bidwell, Boutwell, Broomall, Bundy, Sidney Clarke, Cobb, Conkling, Dawes, Eliot, Ferry, Garfield, Hart, Higby, Holmes, Hulburt, Ingersoll, Jenckes, Ketcham, Kelley, Koontz, Lynch, McClurg, McRuer, Mercier, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Paine, Perham, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Stevens, Strouse, Taber, Taylor, Trowbridge, Van Aernum, Burt Van Horn, Robert T. Van Horn, Wentworth, James F. Wilson, Woodbridge, and Wright—57.

NOT VOTING—Messrs. Alley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bergen, Bingham, Blaine, Blow, Brandegee, Bromwell, Buckland, Chanler, Reader W. Clarke, Cook, Cullom, Culver, Darling, Delano, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eckley, Eldridge, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James B. Hubbell, Humphrey, Johnson, Jones, Kelso, Kuykendall, Ladin, George V. Lawrence, Le Blond, Longyear, Marshall, Marston, Marvin, McCullough, McIndoe, McKee, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, John H. Rice, Scofield, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Upson, Warner, Elihu B. Washburne, William B. Washburn, Welker, Whaley, Williams, and Winfield—85.

So the House refused to adjourn.

The SPEAKER. The question recurs, Shall the main question be now put? on which no quorum has voted.

Mr. JULIAN. I appeal to the House to allow me thirty minutes to explain the bill. I ask it as a matter of justice, on a great measure which proposes to revolutionize our whole land policy.

Mr. ASHLEY, of Nevada, and Mr. McRUER objected.

Mr. HIGBY. I hope the House will, by unanimous consent, allow another half hour on the other side. I hope no one from the mineral district will object.

Mr. WILSON, of Iowa. I do not desire to object, but I submit a proposition. I think this bill can be explained in less than half an hour. If the objections are stated, I think the House can understand the provisions of the bill. If half an hour is required, I think we ought to have a session this evening in order to clear the Speaker's table. Business on the Speaker's table has been accumulating for about a week, and we ought to get rid of it. Much of it will require but little time to dispose of, and it seems to me we ought not to be asked to allow an hour's discussion.

Mr. JULIAN. Say twenty minutes.

Mr. WILSON, of Iowa. I suggest ten minutes, or at most fifteen.

Mr. INGERSOLL. I object to more than twenty minutes being occupied; ten minutes on each side.

The SPEAKER. Is there objection to allowing ten minutes on each side?

Mr. JENCKES. I object.

Mr. WILSON, of Iowa. I suggest that a recess be taken till half past seven o'clock. If we do that I think we can adjourn early next week, by getting this business off the Speaker's table.

Mr. FARNSWORTH. I object.

On ordering the main question there were—ayes 58, noes 36.

Mr. McRUER. I demand the yeas and nays.

The SPEAKER. A quorum has voted.

Mr. McRUER. I withdraw the demand.

Mr. JENCKES. I renew it.

Mr. JULIAN. I move the House adjourn.

On the motion to adjourn there were—ayes 45, noes 48.

Mr. JULIAN. I demand the yeas and nays. The yeas and nays were refused.

Mr. JULIAN. Tellers.

Tellers were refused.

The SPEAKER. The question recurs on agreeing to the Senate's amendment.

Mr. JULIAN. I ask the House to allow me ten minutes.

Mr. HIGBY. I will not object, provided the same time is allowed to the other side.

Mr. JENCKES. I object.

Mr. JULIAN. I demand the yeas and nays on concurring in the amendment.

The yeas and nays were ordered.

Mr. SCHENCK. I move to lay the bill and amendment on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. I move that the House adjourn.

Mr. ORTH. Will the gentleman withdraw the motion a moment to allow me to ask leave of absence?

Mr. FARNSWORTH. Yes, sir.

LEAVE OF ABSENCE.

Mr. ORTH asked and obtained leave of absence for his colleague, Mr. WASHBURN.

The SPEAKER asked and obtained leave of absence for Mr. DEMING.

Mr. FARNSWORTH. I renew the motion to adjourn.

The motion was agreed to—ayes 49, noes 39; and thereupon (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITION.

The following petition was presented under the rule and referred to the appropriate committee:

By Mr. MORRILL: The petition of M. W. Davis, and 50 others, citizens of Westminster, county of Windham, Vermont, praying for increased duties on wool.

IN SENATE.

MONDAY, July 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

OFFICERS OF THE NAVY.

Mr. GRIMES. Senate bill No. 269 has been returned from the House of Representatives with two or three amendments; and with a view to act upon them I move that the bill be now taken up.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 269) to define the number and regulate the appointment of officers in the Navy, and for other purposes.

The amendments of the House of Representatives were read, as follows:

Strike out all of section one after the word "war," in line eleven, and insert in lieu thereof the following: And who possess the highest professional qualifications and attainments. And nothing in this act shall preclude the advancement in rank now authorized by law for distinguished conduct in battle or for extraordinary heroism: *And provided further*, That nothing in this act nor in the fourteenth section of the act approved July 18, 1862, entitled "An act to establish and equalize the grade of line officers of the Navy," shall be so construed as to prevent the Secretary of the Navy from promoting to the grade of rear admiral, on the retired list, those commodores who have commanded squadrons by order of the Secretary of the Navy, or who have performed other highly meritorious services.

In section two, strike out in line three the words "ten" and "twenty" and insert "twenty" and "fifty," and in line three of section two strike out "forty" and insert "seventy-five."

In section three, line ten, insert, after the word "act," the words "provided they shall find that number who are suitably qualified therefor."

At the end of section three, add:

And any volunteer officers attached to vessels at sea or on foreign stations may be appointed to the regular Navy, subject to the conditions contained in this section, after their return to the United States.

In section four strike out lines five and six, as follows: "until their places can be supplied by graduates from the Naval Academy."

Mr. GRIMES. The only material amendment that is made to the bill by the House of Representatives is to double the number of volunteer officers authorized to be introduced into the regular Navy from those who served during the war. The first long section is only to put in more appropriate language, as it was believed by the House of Representatives, the same provisions that were contained in the original bill as sent to them.

Mr. EDMUNDS. I should like to inquire of the Senator from Iowa whether this bill has any provision increasing the pay or emoluments of the officers of the Navy.

Mr. GRIMES. No, sir.

Mr. EDMUNDS. I make the inquiry because by some bill that we passed without consideration, it appears, without our knowing it, their pay was increased; and I am desirous to know whether this bill in any way provides for any further increase.

Mr. GRIMES. It does not.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made to the bill by the House of Representatives.

The amendments were concurred in.

#### PETITIONS AND MEMORIALS.

Mr. HENDERSON presented the petition of O. N. Cutler, of Hannibal, Missouri, praying for compensation for property taken from him for the use of the Army of the United States; which was referred to the Committee on Claims.

Mr. ANTHONY. I presented on Saturday the memorial of Sylvester Mowry, praying for remuneration for losses sustained by him in negotiating drafts on the Assistant Treasurer at New York, in 1861, while United States and California boundary commissioner, which I see in the Globe was laid on the table. The Journal was not read this morning so that I do not know how it stands there. I move that the memorial be referred to the Committee on Claims.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. RIDDLE, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 272) to authorize the corporation of Washington to reduce the width and improve the avenues and streets of that city, reported it with an amendment.

Mr. BROWN, from the Committee on Public Buildings and Grounds, to whom was referred the petition of John McNally and others, employés around the President's House and grounds, praying for compensation for extra services rendered during the administration of President Lincoln, asked to be discharged from its further consideration; which was agreed to.

Mr. NESMITH, from the Committee on Revolutionary Claims, to whom was referred the petition of the descendants of Joseph Sherman, an officer of the Rhode Island troops during the revolutionary war, praying for compensation for supplies furnished to the American Army in the year 1778, submitted an adverse report thereon; which was ordered to be printed.

#### SOLDIERS' ORPHANS' FAIR BUILDING.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 191) relating to the building lately occupied for a national fair, in aid of the orphans of the soldiers and sailors of the United States, have directed me to report it back without amendment, and recommend its passage, and I ask for its present consideration.

There being no objection, the Senate, as in Committee on the Whole, proceeded to consider the joint resolution.

It proposes to appropriate the building recently occupied for the national fair in aid of the orphans of the soldiers and sailors of the United States, with the materials of which it is composed and the tools used in its construction and necessary to keep it in repair, to the use of the directors of the National Soldiers' and Sailors' Orphans' Home, for an additional fair in aid of the orphans, and for such other purposes as may be deemed expedient and proper by the directors in furtherance of the national charity in aid of which the Orphans' Home has been organized; and provides that the building be allowed to stand upon its present site, at the corner of Pennsylvania avenue and Seventh street, in the city of Washington, for the uses stated, until May, 1867.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### EVENING SESSION.

Mr. CHANDLER. I move that the Senate have an evening session, beginning at half past seven o'clock, for the purpose of considering business from the Committee on Commerce.

Mr. TRUMBULL. Name the hour when the recess shall commence.

Mr. CHANDLER. I will say that the Senate, at half past four o'clock, take a recess until half past seven.

Mr. SUMNER. I suggest to my friend from Michigan whether on the whole that is expedient. We do not know now when we shall adjourn. The motion of the Senator goes upon the idea that we are to adjourn immediately. If we are not to adjourn immediately, why should we sit in the evening?

Mr. CHANDLER. If the Senate will give me the day to-morrow for the purpose of considering business from the Committee on Commerce I shall be satisfied.

The PRESIDENT *pro tempore*. It is moved that at half past four o'clock to-day the Senate take a recess until half past seven for the purpose of considering business reported from the Committee on Commerce.

Mr. CHANDLER. I will add to my motion that no other business shall then be in order.

Mr. SHERMAN. I suggest to the Senator whether he had not better leave blank the time for taking the recess, so as simply to provide that we shall meet this evening at half past seven. We may not wish to close our session at half past four; we may wish to go on with the business then before us, and therefore I suggest that we had better not fix the hour at which the recess shall commence.

Mr. CHANDLER. Very well; I move that we meet, then, at half past seven.

Mr. TRUMBULL. I hope not. I hope the hour for the recess will be fixed for half past four o'clock, so that we can go and get our dinners and know when to come back.

Mr. SHERMAN. Some bill may be pending at that time.

Mr. TRUMBULL. If it is, let us take a recess, and not have a squabble about it at that time.

Mr. CHANDLER. Very well; I insist on my original motion.

The PRESIDENT *pro tempore*. The motion is, that the Senate take a recess at half past four o'clock to-day until half past seven o'clock in the evening, then to consider business from the Committee on Commerce exclusively.

The motion was agreed to.

#### UNION PRISONERS OF WAR.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war, to report it back with an amendment, and I should like to have it put on its passage now.

By unanimous consent, the resolution was considered as in Committee of the Whole. It is in these words:

Whereas, by general order of the War Department of February 14, 1862, rations to Union soldiers held as prisoners of war in the rebel States were commuted at a cost price during the period of their imprisonment; and whereas a large number of the said prisoners have been paid under said order, but many equally worthy with them, and who have suffered in rebel prisons, have not been so paid: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all Union soldiers who were held as prisoners of war in the rebel States, and who have not received any commutation of rations at a cost price during the period of their imprisonment: *Provided*, That no person who has sold or transferred any interest in the claim for commutation shall be benefited by this resolution, and no purchaser or assignee of such claim or interest shall be benefited by this resolution; and that such commutation be paid out of any money in the Treasury not otherwise appropriated.

The amendment reported by the Committee on Military Affairs was to strike out all of the

resolution after the resolving clause, and in lieu of the words stricken out to insert the following:

That all United States soldiers, sailors, and marines who were held as prisoners of war in the rebel States shall be paid commutation of rations at cost prices during the period of their imprisonment: *Provided*, That no person who has sold or transferred any interest in the claim for said commutation, nor any purchaser or assignee of such claim or interest shall be benefited by this resolution; and the amount of such commutation shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. WILSON. I will simply say that the resolution, as it came from the House, starts with the idea of doing something and does not. There is an error in it which we have corrected by this amendment.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the resolution read a third time. The resolution was read the third time and passed.

#### GOVERNMENT WATER-PIPES.

Mr. BROWN. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 776) in relation to unlawful tapping of Government water-pipes, to report it back without amendment, and ask for its present consideration. I will simply state that it is a simple measure which is necessary to be passed in order to protect the water-pipes that supply the Capitol. They are in danger of being cut, and there is some police regulation necessary.

By unanimous consent, the bill was considered as in Committee of the Whole. It declares the unlawful tapping of any water-pipe laid down in the District of Columbia by authority of the United States a misdemeanor and an indictable offense; and any person who may be indicted for and convicted of that offense in the criminal court of the District of Columbia is to be subject to such fine as the court may think proper to impose, not exceeding \$500, or to imprisonment for a term not exceeding one year; and it is made the special duty of the Commissioner of Public Buildings to bring to the notice of the attorney of the United States for the District of Columbia or to the grand jury any infraction of this law.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CIRCUIT COURT IN WEST VIRGINIA.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 133) to change the place of holding the terms of the circuit court for the district of West Virginia, have directed me to report it back with an amendment; and as it will take but a moment to dispose of it, I ask for its present consideration. It merely changes the place of holding a court.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. The amendment of the Committee on the Judiciary was to insert in line four, after the words "West Virginia," the words "heretofore held at Lewisburg, in the county of Greenbrier;" so that the joint resolution will read:

*Resolved, &c.* That the terms of the circuit court for the district of West Virginia, heretofore held at Lewisburg, in the county of Greenbrier, shall be hereafter held at the city of Parkersburg, at the time now fixed by law.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 444) to reorganize and fix the pay of certain officers of the Post Office Department; which was read twice by its title, and referred

to the Committee on Post Offices and Post Roads.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 140) directing the Secretary of War to deliver to Norman Wiard certain damaged cannon for the purposes of experiment; which was read twice by its title and referred to the Committee on Military Affairs and the Militia.

#### ILLINOIS SOLDIERS' COLLEGE.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy; which was read twice by its title.

Mr. TRUMBULL. I ask the unanimous consent of the Senate, which I have no doubt I shall have when it is read—it is very short—to put that resolution on its passage.

Mr. GRIMES. Let us hear it read.

Mr. TRUMBULL. I will state in a moment what it is. The Illinois Soldiers' College and Military Academy has been organized under the authority of the State of Illinois by a charter. They have purchased at Fulton, in the northern part of the State of Illinois, in Whiteside county, a large hotel and other property there, which has cost between one and two hundred thousand dollars. I have a letter in my hand, from the general agent of the society, stating that they have five hundred applications from soldiers, many of whom are disabled, and many of whom they propose to educate without cost, and stating that there are at Springfield quite a number of cots and bedding that are being sold, and bring the Government but a trifle, and they ask that the cots and bedding necessary to accommodate five hundred free students, if there be that surplus on hand which the Government has no use for, be transferred for the benefit of the free students, formerly soldiers, at the institution. That is all there is in the resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the resolution; which authorizes the Secretary of War to transfer to the Illinois Soldiers' College and Military Academy, from the surplus fund on hand and not needed for the public service, cots and bedding necessary to accommodate five hundred persons, for the use of free students, disabled by the war, in that institution.

Mr. MORRILL. I think this is all right; but I ask the Senator from Illinois whether the same difficulty does not arise here as arose the other day on another resolution as to the question of authority.

Mr. TRUMBULL. The authority we have to do this?

Mr. MORRILL. Yes, sir.

Mr. TRUMBULL. I do not propose to discuss it. If the Senator from Maine doubts the authority of appropriating money or bedding, or anything else, to the disabled soldiers of the last war, I shall not try to enlighten him upon it. I think we can pension them and do anything for them, and we have not done half enough for them.

Mr. MORRILL. I do not propose to debate the question; but as this was a State institution it occurred to me that the objection which the honorable Senator raised to the resolution for the sufferers by the fire at Portland might arise here.

Mr. TRUMBULL. This is stated to be for the use of these persons.

Mr. MORRILL. I do not think that makes any difference. I think the same objection arises that was made the other day. The only difference is between Maine and Illinois, a question of latitude.

Mr. HOWE. The resolution ought to be amended so as to require a receipt from the proper officer of the college—I do not know who he is—to be taken for what is turned over to him; otherwise there will be no possible mode of settling the account.

Mr. TRUMBULL. There will never be any account to settle. These cots and bedding are

to be given to the institution. I do not suppose they are to be returned. The Secretary of War is authorized to do this.

Mr. HOWE. But the trouble is that for every one of those cots and beds some officer of the Government is charged to-day, and has got to account to the Government for them.

Mr. TRUMBULL. It is to be all under the charge of the Secretary of War, and he can do it by a rule.

Mr. HOWE. Not at all; he cannot do it by a rule. The accounting officers require something more than a rule.

Mr. TRUMBULL. As they are to be disposed of under an act of Congress, will that not be sufficient for the accounting officer.

Mr. HOWE. What will be the evidence whether a million or five hundred or fifty cots be disposed of unless you make somebody's receipt the evidence.

Mr. TRUMBULL. Suppose they are sold, how then? These are all now being sold.

Mr. HOWE. The returns of the quartermaster show that he sold so many.

Mr. TRUMBULL. Very well; you will have the return of the quartermaster in this case that he transferred so many to this institution; what is the difference? They are now being sold.

Mr. HOWE. They are now being sold; but the quartermaster who is charged with the sale of them is charged with every one of them, and he has got to give an account of the sale of every one of them and the price it brings. Now, if he deducts from the whole number in his hands fifty or one hundred or five hundred and turns them over to this college, it seems to me he wants some evidence to present that he has turned over so many in order to get his accounts settled. If the Senator really objects to a receipt being taken—

Mr. TRUMBULL. Not at all. I have not the slightest objection to it if the Senator thinks it necessary.

Mr. HOWE. Let it go.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ABANDONED PROPERTY IN REBEL STATES.

Mr. HOWARD. I offer the following resolution and ask for its present consideration; it is merely a resolution directing an inquiry which I think it is very necessary to make:

*Resolved*, That the joint committee on retrenchment be instructed to inquire into the mode of collecting and the disposition made of captured and abandoned property in the States lately in rebellion, by officers, agents, and employees of the Treasury Department; and that said committee is hereby invested with full power to send for persons and papers for that purpose.

The resolution was considered by unanimous consent and agreed to.

#### NEUTRALITY LAWS.

Mr. CHANDLER. On some day in December last I gave notice that I should introduce a bill enacting the present British neutrality laws. I spent several weeks in examining and comparing the British neutrality laws with our own, and ascertained at last that they were identical. It is the same law precisely which sent the Alabama and her colleagues to prey upon our commerce, that seized the Meteor the other day for fear she might aid the Peruvian Government in opposition to Spain! It is the same law *verbatim* which enlisted men for the Alabama and all the rebel pirates of England, and arrested the Fenians on our frontier! The British neutrality laws and ours, as they stand to-day, are the same. Now, sir, it will be seen at a glance that it is a mere farce as these laws are construed in Great Britain and as they are construed here. I desire, therefore, to offer the following resolution:

*Resolved*, That the Committee on Foreign Relations be directed to inquire into the expediency of repealing our present neutrality laws.

They are a farce as they stand, and I hope the committee will decide that it is expedient to repeal the whole of them.

The PRESIDENT *pro tempore*. It requires

unanimous consent to consider the resolution at this time.

Mr. COWAN. I object.

The PRESIDENT *pro tempore*. Objection being made the resolution lies over.

#### RELATIONS WITH BRITISH PROVINCES.

Mr. MORRILL. I submit the following resolution, and ask for its present consideration:

*Resolved*, That the President be requested, so far as the same may be practicable, to enter into arrangements with the British Provinces of North America touching the fisheries, and also the commercial relations of the Provinces with the United States.

Mr. BROWN. I object.

Mr. MORRILL. I want it referred to the Committee on Foreign Relations.

Mr. BROWN. It is not in the shape of a resolution of inquiry.

The PRESIDENT *pro tempore*. Is there objection to the resolution?

Mr. BROWN. If it was a resolution of inquiry in the usual form I should have no objection; but as it is not in the usual form and takes the shape of a resolution of instruction I do object to it.

Mr. MORRILL. I stated that it was a resolution for reference. I introduce it with a view of having it referred to the Committee on Foreign Relations, to report as they choose in regard to it.

Mr. SUMNER. There can be no objection to that.

Mr. MORRILL. It is simply to request the President, if the thing is practicable.

Mr. BROWN. I object to the consideration of it.

The PRESIDENT *pro tempore*. The resolution lies over.

Mr. BROWN subsequently said: I desire to withdraw the objection I entered just now against the resolution offered by the Senator from Maine. The resolution was not exactly in the usual form, and I was led into a mistake in regard to it. I never desire to seem capricious or illiberal in my dealings with other Senators, and I therefore withdraw the objection.

The resolution was taken up and referred to the Committee on Foreign Relations.

S. H. FESSENDEN.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Claims be discharged from the further consideration of the petition of Sewell H. Fessenden, and that the petitioner have leave to withdraw the same.

#### CUSTOMS FINES AND FORFEITURES.

Mr. POLAND. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of the Treasury be directed to furnish to the Senate a copy of the account of fines, penalties, and forfeitures returned to the Treasury Department by the collector of the district of Vermont, from the 1st day of April, 1864, to this date, together with a statement of the dates at which the sums due to the United States thereon were paid into the Treasury.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DAVIS. I move to amend that resolution by adding after "Vermont" the words "and the collector of the district of Kentucky."

Mr. POLAND. I trust the Senator from Kentucky will put his amendment in the form of a separate resolution. This is a very small matter which I design to reach by my resolution, and I would not like to have it encumbered.

Mr. DAVIS. I will say to the honorable Senator that I think it will pass in this form without any question; if it still be objected to, I will withdraw it.

Mr. POLAND. I would prefer that the Senator would embrace the subject of his amendment in a separate resolution.

Mr. DAVIS. I should like very much to have that information in relation to my own State, and I think now is as convenient a time to obtain the information as any other. If it is at all objected to by any gentleman I will withdraw it.



Mr. POLAND. It will be quite easy for the Senator from Kentucky to get the information that he desires by offering a separate resolution. I would rather it should not be added to this.

Mr. DAVIS. I have no idea that the Senate would accord to me any such favor as that, disconnected with the company of the Senator from Vermont. I hope he will allow the question to be put in the present form, and if there is any obstruction to the passage of the resolution in consequence of my amendment, I will withdraw it.

Mr. POLAND. Certainly if the Senator thinks that he will be more likely to get what he desires by having it attached as an amendment to my resolution, I shall not object.

Mr. ANTHONY. There is only one objection to resolutions of this kind; I do not know whether it applies to this or not, although I think it is more applicable to the amendment than to the original resolution.

Mr. DAVIS. If the Senator will allow me, I will withdraw the amendment I have offered.

Mr. ANTHONY. I do not know that I wish the Senator to withdraw it, I merely wish to make a statement. These resolutions of inquiry sometimes cause the diversion of large numbers of clerks from their appropriate duties for weeks and months together. If this is a resolution that is to take a great deal of time and to involve the employment of a great many clerks, I should prefer it would not pass. If not, I have no objection to it. I suppose the Senator from Kentucky can answer that question himself. I have no desire to embarrass the Senator or to withhold any information he desires, but I do not wish, and I presume he does not wish that the clerks of the Departments shall be taken from their proper occupations to furnish large masses of information that are sent here and never read, merely putting us to the expense of printing. Perhaps the colleague of the Senator from Kentucky who has himself been Secretary of the Treasury can answer the question which I desire to have answered.

Mr. DAVIS. I am satisfied that there is a great deal of information of the class embraced in the resolution offered by the Senator from Vermont that ought to be laid before the Senate and before the country. It seems to me there is a very great disposition among some members of the Senate to suppress all such information. Now, I believe in relation to my own State that there has been received by the officers of the Government and their employes there large sums of money that never have been reported, to the Senate at least; whether they have been reported to the Treasury or not I do not know; and I want to know whether the money collected by the officers in Kentucky within the scope of the resolution offered by the Senator from Vermont has been accounted for at the Treasury Department or not.

Mr. ANTHONY. If the Senator has any reason to suppose that state of things, I withdraw the objection, and hope the resolution will pass with the amendment.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### COMMITTEE ON RETRENCHMENT.

Mr. EDMUNDS. I move that the President of the Senate be authorized to appoint the committee on the part of the Senate provided for by the concurrent resolution of the two Houses, on retrenchment. I supposed it to be contained in the resolution itself, but I see on looking at the resolution that that authority is not contained in it. I move that the committee on the part of the Senate be appointed by the Chair. The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 792) to authorize the Sec-

retary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government; and

A joint resolution (H. R. No. 192) relative to certain flags captured during the late war.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad of California to Portland in Oregon;

A bill (S. No. 236) to authorize the construction of certain bridges and to establish them as post roads;

A bill (S. No. 269) to define the number and regulate the appointment of officers in the Navy, and for other purposes;

A bill (H. R. No. 615) legalizing marriages, and for other purposes, in the District of Columbia;

A bill (H. R. No. 280) to amend an act to amend the charter of the Alexandria and Washington railroad, passed March 3, 1863;

A bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes;

A bill (H. R. No. 601) to grade East Capitol street and establish Lincoln square;

A bill (H. R. No. 709) for the relief of Mrs. Eleanor C. Ransom;

A bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia;

A bill (H. R. No. 559) to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia;

A bill (H. R. No. 124) authorizing the construction of a jail in and for the District of Columbia;

A bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes;

A bill (H. R. No. 379) to establish in the District of Columbia a House of Correction for Boys; and

A joint resolution (H. R. No. 159) authorizing the Commissioner of Public Buildings to employ three additional watchmen in the Smithsonian grounds.

#### UNIFORM BANKRUPT LAW.

Mr. POLAND. I desire to ascertain whether it is the purpose of the Senate to proceed with the consideration of the bankrupt bill which has passed the House of Representatives. I am not specially desirous to have it taken up for consideration at the present time, but I do desire to ascertain whether it is the purpose of the Senate to proceed to the consideration of that bill at the present session. I know that some of the friends of the measure fear that we have reached so late a period in the session that it may not be possible to pass the bill. For myself I regard it as a measure of so much importance that I should be willing to remain here long enough to consider and pass the bill; but I desire to ascertain now whether it is the purpose of the Senate to proceed to its consideration during this session, and I therefore move to take it up, and I desire that the vote on this motion shall be regarded as a test vote whether the Senate intend to proceed to consider it and pass it, if a majority are found to be in favor of it, at this session. If the vote shall be in favor of taking it up, I shall not insist upon proceeding with its consideration at the present time, but shall myself move to lay it over until to-morrow.

The PRESIDENT *pro tempore*. Will the Senator restate his motion?

Mr. POLAND. I move to take up the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States; and I desire that it may be understood that the vote upon this motion to take up is to be a test vote of whether we are to proceed to consider it at this session. I will myself move, if it is taken up, to lay it over until to-morrow, so as not to antagonize it with any other measure to-day.

Mr. SHERMAN. I rise simply to give notice that at one o'clock I shall call up the miscellaneous appropriation bill, whatever may be the result of this vote.

Mr. POLAND. I desire that this vote may not be influenced by the order of business merely. I wish to have the sense of the Senate on this motion, as to whether the bill shall be considered at this session.

Mr. JOHNSON. I understood my friend from Vermont to say that if the bankrupt bill was taken up he would ask to have its consideration postponed until to-morrow, not to interfere with the proceedings of the Senate to-day. I rise merely for the purpose of expressing a wish that the bill should be taken up. I think that the condition of the country imperatively demands that we should pass a law of this kind. Whether the particular bill upon the table the sense of the Senate will approve can only be ascertained after it shall be presented to the Senate; but I am satisfied that the people of the country almost universally desire a law of this description, and that it is important to the true interests of the country that some such measure as this should be adopted. In every commercial country, particularly in England, there has been a similar law, and, as I understand, at the last session of Parliament a law for the amendment of their old system was reported by some of the most enlightened men of that body, which is nearly the same with the provisions of this bill. They have almost literally copied the bill that was before us at the last session, and I think that that of itself, independent of our own judgment founded upon our own knowledge of the antecedent English system, should be considered as very persuasive evidence that the bill itself is one proper to exist in a country so much commercial as our own.

Mr. SUMNER. The bill to which the Senator from Vermont alludes, I believe, has been matured with singular care; it embodies everything that is good or important on the subject derived from the experience of England and the different States of our own country. I think that that bill with some possible amendments ought to pass, and we ought not to adjourn until it has passed. The Senator from Vermont reminds us that we are drawing toward the end of the session, and he does not know, or he suggests a doubt, whether we may have time to consider it. I would say that we ought to find time or make time for its consideration. At any rate we ought not to leave these seats until we have considered it and done our best to put it among the laws of the land.

Mr. COWAN. I hope the bill will not be taken up, and I hope it will not be taken up for consideration because it is this bill. I think the bill itself, so far from being a good one, is a very bad one, and if enacted into a law it would not exist upon our statute-book two years before it would be repealed. It would meet the fate of the bankrupt law of 1841, and it would meet that fate because it contains within itself the same inherent defect that that law did. This law it is proposed shall be administered in the United States courts; and I think that whenever that is done in this country with a bankrupt law, it will be fatal. If a uniform system or rule could be adopted, so that it might be administered in the State courts the same as the laws of naturalization are administered there, where the operation of it could be brought home to the people at their own doors, where they could go into court without the great expense and trouble necessarily attending upon the courts of the United States, then I think the people would

acquiesce in the law and it would be a good law; but if it is to be administered in the United States courts it will meet with the fate of the old law, and I think will be fatal to anybody who will vote for its passage.

Mr. GUTHRIE. Mr. President, I think the United States ought to have a bankrupt law; but I think the last one they had, which provided for a voluntary system of bankruptcy, was the very worst one we could have. If we have a bankrupt law passed by the United States, it must necessarily be administered in the Federal courts and cannot be administered in the State courts. In the first place, the United States cannot impose upon the State courts the duty of administering it; they must administer it in their own courts. It must be administered for a series of years, so as to be generally understood and become the rule of action for those entitled to the benefits of bankruptcy throughout all the States, in order that merchants and lawyers and business men in all the States may come to understand it. But I do not think that we are now in a situation to consider this bankrupt bill and give it that deliberate action that we ought to do; and I am against taking it up now or considering it at this session. I rather expect that if the bill is drawn as carefully as I understand it is, when it comes to be acted upon at the next session it will have my vote; but I have not determined to vote for it, and I am not now prepared for final action.

Mr. POMEROY. I believe we have had this question here for four years past, and there was a general understanding when the bill introduced by the Senator from Connecticut, who is now the Presiding Officer of this body, was before us, that after the close of the war we would consider it; that there would be new cases calling for a law of this kind that we could not turn away from on account of the exigencies of the war, men in hopeless bankruptcy for no fault of their own. Now, I say we ought to take up the bill, and I do not intend to vote for an adjournment until it is taken up and considered. We have had it here every year for four years, and we agreed that at the close of the war we would consider a bill of this character. I trust we shall now proceed to do so.

Mr. HOWE. I agree with the Senator from Kentucky that the United States ought to have a bankrupt law, and in about a minute and a half I shall be ready to vote to proceed to the consideration of this bill; but for that time I want to exert myself to save myself from bankruptcy if I can. I have been struggling for an hour to get the floor to submit a motion that the Committee on Claims be discharged from the further consideration of the resolution for the relief of Joseph Segar, and that he have leave to withdraw the papers in that case; and I appeal now to the magnanimity of the Senator from Vermont and the justice of the Senate to allow me to submit that motion.

Mr. CRESWELL. Will that save you from bankruptcy? [Laughter.]

Mr. HOWE. Yes; I am then all right.

The PRESIDENT *pro tempore*. The consent of the Senator from Vermont does not enable the Senator from Wisconsin to submit that motion without the consent of the Senate.

Mr. HOWE. I said that I appealed to the magnanimity of the Senator from Vermont, and to the justice of the Senate, to allow me to submit this motion.

Mr. SHERMAN. I now move, with the consent of the Senator from Vermont, it being one o'clock, to take up the miscellaneous appropriation bill. He can make his motion at some other time.

Mr. POLAND. No, sir, I desire to get a vote upon it now.

Mr. SHERMAN. Then I submit a motion to take up the appropriation bill now, if such a motion is in order.

The PRESIDENT *pro tempore*. Another motion being before the Senate, the Chair thinks it is not in order. The pending motion must be disposed of.

Mr. SHERMAN. I move, then, to lay the pending motion on the table.

Mr. POLAND. We are ready to take the vote, I think.

Mr. SHERMAN. I have no objection to the vote being taken if it can be done at once, but it is being discussed.

Mr. POLAND. I do not think anybody desires to discuss this question further; certainly I do not. Let us have a vote.

Mr. SHERMAN. I do not see any object in taking up the bill now, because the vote to take it up is not a definite vote.

Mr. POLAND. We desire to make it so.

Mr. SHERMAN. It ought not to antagonize the appropriation bill.

Mr. SUMNER. I suggest to the Senator from Vermont that his motion be to take up the bill with a view to make it the special order for to-morrow at one o'clock.

Mr. POLAND. I call for the yeas and nays on my motion.

Mr. CLARK. I may vote to take up the bill or I may not vote to take it up; but I entirely refuse to have the vote I shall give on that motion made a criterion as to how I may be in regard to the bankrupt bill.

Mr. JOHNSON. That is another matter.

Mr. CLARK. So I understand. I object to its being regarded a criterion as to whether I will consider the bill at this session. I do not see any object in moving to take it up at the present time if we are to immediately lay it aside and take up another bill. I am willing to take it up in the regular order of business when we can do it and give it consideration, and if it comes to that stage of the session that we can pass it, I shall be ready then to act upon it; but I do not see anything to be gained by taking it up merely to lay it aside, because I do not understand that is to be an indication how the Senate may be upon it.

Mr. POLAND. I do not desire that the vote upon this motion shall be a test of whether Senators are in favor of the bankrupt bill or against it; but I desire that it shall be a test of whether the Senate design to proceed to the consideration of the bill at this session. So far I desire to have it a test.

Mr. CLARK. So far as I am concerned, I cannot consent to that, because the miscellaneous appropriation bill now is in the order of business to be considered, and I do not understand that the Senator from Vermont proposes to consider his bill now. But if presently we shall come to that condition of business in the Senate that we can take it up and go on with its consideration, I will agree with him to do so; and then if we can dispose of it at this session I shall cheerfully do that.

Mr. LANE. This is a motion, as I understand, to take up the bankrupt bill. I am opposed to the bankrupt bill now or at any other time. I am opposed to taking it up now because it antagonizes with the miscellaneous appropriation bill, which must be passed, and I wish to consider the bounty bill, which is an important bill, and the Army bill, that must be passed before we adjourn. I therefore move to amend the motion of the Senator from Vermont by postponing the consideration of the bankrupt bill until the first Monday in next December.

The PRESIDENT *pro tempore*. The bill is not before the Senate, and a motion to postpone is not in order until the bill shall be before the Senate.

Mr. LANE. I move to amend the motion to take up by a motion to postpone.

Mr. SHERMAN. I take it it is in order for me to move to lay on the table the motion to take up. It certainly must be within the power of a legislative body at any time to come to a direct vote. I move to lay on the table the motion of the Senator from Vermont.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the motion of the Senator from Vermont be laid upon the table. The Chair is a little in doubt in regard to the propriety of the motion, but is strongly of impression that the late Vice President ruled such

a motion to be out of order. There must be some tangible subject before the Senate that can be laid on the table by the motion to lay on the table. Still, the Chair will entertain the motion, but with some hesitation. The question is on the motion of the Senator from Ohio to lay on the table the motion of the Senator from Vermont. That is not a debatable question.

Mr. POLAND. I am perfectly willing that the question shall be taken in that form. I merely desire to get the sense of the Senate, whether they will proceed to the consideration of the bill at this session, and I call for the yeas and nays on this motion.

The yeas and nays were ordered.

Mr. HOWE. I rise to inquire if there is now any objection to my submitting the motion which I asked leave to submit awhile ago.

Mr. JOHNSON. You can do that afterward.

Mr. HOWE. It is objected to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to lay on the table the motion of the Senator from Vermont, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 14; as follows:

YEAS—Messrs. Brown, Buckalew, Clark, Cowan, Davis, Guthrie, Henderson, Kirkwood, Lane, Morrill, Sherman, Sprague, Trumbull, Van Winkle, Willey, Williams, and Wilson—17.

NAYS—Messrs. Chandler, Creswell, Edmunds, Foster, Grimes, Harris, Johnson, McDougall, Morgan, Poland, Pomeroy, Ramsey, Sumner, and Yates—14.

ABSENT—Messrs. Anthony, Conness, Cragin, Dixon, Doolittle, Fessenden, Hendricks, Howard, Howe, Nesmith, Norton, Nye, Riddle, Saulsbury, Stewart, Wade, and Wright—17.

So the motion to lay on the table prevailed.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed, on the 23d instant, the following acts:

An act (S. No. 137) to amend the acts approved August 6, 1861, and July 16, 1862, establishing a Metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes;

An act (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph;

An act (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company;

An act (S. No. 246) relating to public schools in the District of Columbia;

An act (S. No. 277) for the relief of William Cook; and

An act (S. No. 325) to give certain powers to the levy court of the county of Washington, in the District of Columbia.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 760) for the relief of James C. Cook—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government—to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 192) relative to certain flags captured during the late war, was read twice by its title.

Mr. WILSON. If there is no objection, I should like to have that resolution put on its passage now.

Mr. JOHNSON. Let it be read.

The Secretary read as follows:

*Be it resolved, &c.*, That the Secretary of War be requested to transfer from the War Department to the Executives of the several States for safe-keeping the rebel flags captured by volunteer regiments during the late war, sending to each State the colors captured by the regiments from such State.

Mr. GRIMES. I trust that resolution will be referred to the Committee on Military Affairs. I am aware that in two or three instances there are regiments from two or three

States claiming that they were the captors of flags, and it will only involve us in an infinite deal of trouble if we undertake to distribute them.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) Objection being made, it cannot be considered at this time. The joint resolution is referred to the Committee on Military Affairs and the Militia.

#### CIVIL APPROPRIATION BILL.

On motion of Mr. SHERMAN, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, the pending question being on the amendment proposed by Mr. WILSON to the amendment of Mr. DAVIS to the second section of the bill.

Mr. SHERMAN. Before the question is taken on the pending amendment, I desire to suggest that there is an amendment of the Committee on Finance not yet disposed of, and I hope it will be acted upon before the other vote is taken. It is an amendment on page 21.

The Secretary read the amendment, which was to insert after line four hundred and ninety-four of section one—

To enable the Commissioner of Public Buildings to reimburse the corporation of Washington for expenses incurred in improving streets and avenues passing through and by property of the General Government, \$47,255 81.

Mr. SHERMAN. I move to amend the amendment by inserting after the word "Government," the words "under the third section of the act approved May 5, 1864, entitled 'An act to amend an act to incorporate the inhabitants of the city of Washington,' passed May 15, 1820."

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The Secretary will read the amendment of the Senator from Kentucky, and the amendment to it offered by the Senator from Massachusetts.

The Secretary read Mr. DAVIS's amendment, which was to add to the second section of the bill the following clause:

To pay bounties to the loyal owners of slaves mustered into the military service of the United States, according to the act of Congress approved February 24, 1864, \$5,000,000.

The amendment of Mr. WILSON was to strike out all of this amendment, and substitute for it the following:

That so much of any moneys in the Treasury known as the commutation fund as may be necessary be, and the same is hereby, appropriated for the payment to loyal persons claiming service or labor from colored volunteers or drafted men, the amounts heretofore or hereafter to be awarded them under the provisions of section twenty-four of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, for each person so claimed to be held to service or labor, who has enlisted or been drafted into the military service of the United States; but such payment shall in no case be made to any person except upon satisfactory proof that the claimant has firmly and faithfully maintained his or her adherence and allegiance to the Government of the United States by defending its cause against the government and forces of the so-called confederate States of America, in all suitable and practicable ways, and according to his or her ability and opportunity.

Mr. SUMNER. I will inquire of my colleague whether in his amendment he contemplates the examination of these claims by commissioners, as I think was proposed by the original statute. There is no reference to commissioners in his amendment.

Mr. WILSON. The payment is to be under the provisions of the act of 1864.

Mr. SUMNER. I merely wish to understand whether in the contemplation of my colleague that was embraced.

Mr. WILSON. I so understand; that was the object, to comply with the provisions of the twenty-fourth section of the act of 1864, which authorized the appointment of commissioners to report upon these claims. I am clearly of the opinion that commissioners must be appointed.

Mr. SUMNER. Then, as I understand my

colleague, this amendment of his is nothing more than to carry out the obligation or contract of the Government in that original act.

Mr. EDMUNDS. This original law, the twenty-fourth section of the act of 1864, only provides that compensation for the loss of the service of slaves shall be paid out of the moneys derived from commutations of drafted persons for military service; so that the whole question of the obligation of the Government is to hold that fund in trust for the payment of those claims; and it provides for the appointment of a commission to ascertain those claims. My point of objection to this present way and manner of payment is, that it does not appear that this fund will be sufficient for all the claims; and therefore it appears to me that we ought not to make provision for the payment of any of this money out of the fund which is held in trust for all until these commissioners shall have made their report of all the claims which may be made under the authority of the twenty-fourth section of the act of 1864, so as that if the fund turns out to be insufficient, the loyal slave-owner of Kentucky who happens to be behind in his application will not find that the money has been all paid over to the loyal slave-owners in Maryland, where the commission has been held. I think, therefore, we are premature in authorizing the payment of this money out of the Treasury until it shall have been ascertained, in the manner provided by law, what is the whole extent and amount of these claims, and who are the claimants. For this reason I am opposed to the amendment and to making any provision at this time, because the faith of the Government in this pledge is limited by the commutation money, the military fund derived in that way. There is no other obligation of any description; and fairness requires, as well as the law, that we should not pay one claimant who happens to be a little more diligent than another in getting before the commission and having his claim approved, until it is ascertained what is the total amount of the claims, so that a just disposition can be made.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. DAVIS. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I do not see why the yeas and nays should be called upon this particular amendment. The amendment is to a provision of the same sort in the original bill, which is more obnoxious than this particular amendment. The particular amendment, if I recollect aright, is the one offered by the Senator from Massachusetts, and I suppose that those who may be opposed to the provision in any form would prefer that to the form in which it stands in the bill, or will stand if it shall not be amended. My friend from Vermont therefore will accomplish his purpose better by suffering this particular amendment now to be adopted, and then making the objection, if he continues to entertain the opinion that the objection is well founded, to the adoption of the amendment as amended.

Mr. BROWN. I only desire to say for myself that I am opposed to both of the amendments. I am opposed to the compensation *in toto*. I do not believe it a contract under the law as it exists, and if it were a contract, it would be a contract against good morals. I differ, however, with the Senator from Maryland in this: I think if it is desired to defeat both of them, the better way is to defeat the amendment of the Senator from Massachusetts, because I think it very certain that thereafter we can defeat the other.

Mr. JOHNSON. That does defeat the other.

Mr. DAVIS. I understand the argument of the Senator from Missouri to be simply an argument in favor of repudiation.

The question being taken by yeas and nays, resulted—yeas 29, nays 6; as follows:

YEAS—Messrs. Chandler, Clark, Cowan, Creswell, Davis, Doolittle, Guthrie, Harris, Henderson, How-

ard, Howe, Johnson, Kirkwood, Lane, McDougall, Morgan, Morrill, Nye, Ramsey, Riddle, Sherman, Sprague, Sumner, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Brown, Edmunds, Foster, Grimes, Pomeroy, and Trumbull—6.

ABSENT—Messrs. Anthony, Buckalew, Conness, Cragin, Dixon, Fessenden, Hendricks, Nesmith, Norton, Poland, Saulsbury, Stewart, and Wright—13.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. SHERMAN. The only doubt I have about this matter is on a question of detail, on which I should like to have a little information. What is the amount of this commutation fund?

Mr. WILSON. Nine million dollars now in the Treasury.

Mr. SHERMAN. Is that sufficient?

Mr. CRESWELL. I think more than sufficient.

Mr. SHERMAN. The point made by the Senator from Vermont struck me as being very forcible.

Mr. WILSON. I think five or six millions will pay all these claims.

Mr. SHERMAN. If the United States should pay some of these claims in full and the result should be that there would be a deficiency, we would have to make it good on the principle of equalizing the sum. That is the only doubt I have about it. I have no doubt that to the extent of the commutation fund we ought to pay these claims. If there is any doubt as to the sufficiency of the fund for that purpose, I think the Senator from Massachusetts ought to be able to satisfy the Senate on that point.

Mr. WILSON. I certainly have no objection to the Senator making an amendment if he chooses that none of this money shall be paid until the final report of the commissioners is made.

Mr. SHERMAN. I think we had better do that.

Mr. WILSON. I certainly should not object to that; but my judgment is that five or six million dollars will pay all that will ever be found due to these persons. The sum cannot exceed \$300 for each slave, and it will range from one to three hundred dollars. The fact that slavery was abolished about a year and a half after we passed this act of course will have its effect upon the commissioners in estimating the value of the services of these persons. I have no idea that all the commutation money will be taken; but I have no objection to any Senator moving an amendment which will require the commissioners to make their final report of all cases before any of the money is paid out.

Mr. EDMUNDS. It will only take ten thousand blacks to use up \$1,000,000, and one hundred thousand would use up \$10,000,000, and fifty thousand at \$100 would use up \$5,000,000. According to the statement which was read the other day from the Treasury Department, there was only, as I understood, about seven million dollars of a balance in the Treasury instead of \$9,000,000, as I understood the Senator from Massachusetts to say. The final footing in that statement, I am sure, was only \$7,000,000 and something, after deducting \$2,000,000 that have been appropriated to some other purpose or paid out for this very purpose, which I do not recollect.

What the law of 1864 required to be done was, that there should be awarded to each loyal person to whom a colored volunteer should owe service, a just compensation. The Senator from Massachusetts says that that just compensation is to be diminished below what it would otherwise be by the fact that at some indefinite period afterward, a year or two, slavery was abolished. Now, if it related to any other species of property as it is called, that certainly could not be a sound proposition, because, I take it, if a man's horse had been taken in this way, or any other species of property, subsequent events would not affect the valuation, which must be rated according to



the state of things at the time the property was taken. Therefore, in my judgment, if a slaveholder was entitled to \$300 when his slave was taken, he continued to be entitled to \$300, although slavery was abolished two years afterward. I do not admit, for one, that the slaveholder was entitled, as a just compensation, to any sum whatever, because I think that, according to the theory of our Government, these slaves were so far persons as that the Government had a just claim upon them as upon all other persons for military service, and therefore that their owners were not entitled to any compensation in the nature of property any more than they were for their sons, or their white hired servants, or their free colored servants. But perhaps it is not the proper time to debate that question now. My only present proposition is, that taking this law of 1864 just as it stands, and taking the admitted fact that we do not know now, and cannot now ascertain, except by an indefinite estimate amounting to nothing more than a mere guess, how much will be required to fulfill the so-called obligation of this act, we ought not to make any provision for the payment out of the Treasury of this money until all the claims of these persons shall be ascertained and brought forward. Then will be time enough to provide for an appropriation to pay them.

Mr. JOHNSON. The honorable member from Vermont I have no doubt is right, and I endeavored to maintain that opinion in the Senate when it was proposed to enlist in the Army the slaves, that in their character of persons they owed allegiance to the United States and could be enlisted in the armies of the United States; but that was not what was done. Congress not only authorized their enlistment into the military service of the United States, but very properly declared that they should be free. They were not to return to their masters as slaves at the termination of their military service, but the moment they became soldiers of the United States that fact of itself gave them the right of freedom; and in that I concurred. I thought it would have been most unjust to summon those people into the field and submit them to the perils of war, reserving the right to return them afterward to a state of slavery. But another course was pursued. The language of the act of 1864 is, "and thereupon such slave shall be free." Free when? Free when he is a slave of a loyal master and shall be drafted and mustered into the service of the United States, and his master shall have a certificate thereof. Then he is to be free, and then the master is to be entitled to whatever may be allowed him under the provisions of this act. Now, although I do not propose to discuss the question (because, as I understand, the amount in the Treasury renders it wholly unnecessary) of the commutation fund, and that this act contains a contract between the United States and the master which compels the United States to pay the amount which it promises, the mode of payment, the provision that it was to be paid out of the commutation fund in the hands of the Treasury, was adopted by the United States for its own benefit. It was a specification of the fund out of which the payment was to be made, but had nothing to do with the obligation which the United States assumed by the law to pay the master whose slave, with his consent, went into the service of the United States. But the commutation fund is some seven or eight million dollars, as I understand.

Mr. CRESWELL. Nine million five hundred and fourteen thousand nine hundred and twenty-three dollars and forty-five cents, according to the report of the Secretary of War.

Mr. JOHNSON. Now, it is perfectly certain, I think, that that amount will be much more than sufficient to meet all the demands that can be made under the provisions of this section, with the aid of the amendment suggested by the honorable member from Massachusetts. The condition of the slaveholders in Maryland, whose slaves have gone into the service, is that commissioners were appointed to ascertain the amount that each was entitled

to; and the commissioners have long since reported, and the amount would long since have been paid to the Maryland slaveholders if the United States had not abolished the commission and for a time used the fund for another purpose, or, rather, directed that the fund should not be used for this particular purpose under an apprehension that the wants of the United States might require it to be used for a different purpose. This fund bears no interest; and I appeal to the Senate to know whether, under the circumstances, when there can be no possible danger that a dollar will be taken out of the Treasury, except from the particular fund set apart for the purpose, it is not just and proper that the loyal men of Maryland, who not only consented but urged their slaves to go into the military service of the United States, (and who are the only class who can be paid under the provisions of this act,) should be paid now. If you will agree to pay interest on the amount from the time their servants went into the service of the United States, there would be some show of justice in delay; but they have lost the labor of their servants; they are obliged to employ hands at from ten to fifteen and twenty dollars a month; and many of them are actually ruined by the failure to collect the sum which you proposed to pay them out of the fund now in the Treasury, more than sufficient to meet, not only whatever demands they may have, but whatever like demands the State of Kentucky or any other State in the Union may have.

I say, as my friend and colleague said the other day, that if there are any men in the United States who should be treated with generosity, to say nothing of justice, it is the men who remained loyal to the Union and true to their duty and the flag of the Union in Maryland, who were slaveholders, and who were willing to let the institution go rather than see the Government of the Union put at hazard. Many of them contributed of their funds, as well as provided for putting their negroes into the service of the United States; and many of them are now in actual want because of our failure to do what by the act of 1864, more than two years ago, we promised to do—unable to receive the pittance, (for it was but a pittance, looking to the value of this kind of property, if property it can be called, before the war commenced,)—the pittance not to exceed \$300, and, in many cases, not \$100 or \$150. There are a great many very poor men and some poor women who had two or three negroes, upon whom they depended for their support, and they are now left in a measure penniless. I submit, therefore, to the Senate that it would be not only just but grateful, grateful as a duty, that the United States should at once do what it can do now without danger, having promised to do it as far back as 1864.

Mr. CRESWELL. I desire to state, in reply to the remarks of the honorable Senator from Vermont, that having examined this subject with some care, I have no doubt whatever that the amount in the Treasury derived from commutations will be amply sufficient to pay for all these claims in the States where the claims can be made, to wit, Maryland, Delaware, Kentucky, and Missouri. The report of the Secretary of War shows that there is a balance of that fund answerable to these claims amounting to \$9,514,923 45. As I stated the other day, in Maryland there were mustered into the Army of the United States between eight and nine thousand colored men, of whom about one half only were slaves. In Maryland and the eastern shore of Virginia, which were organized into one division, there were claims presented to the commission sitting in Maryland amounting to thirty-eight hundred and three. Of that number, the board passed upon ten hundred and sixty-five, and awarded in payment of those ten hundred and sixty-five claims, \$222,450, or a fraction over \$200 per slave. Now, if all the four thousand were allowed in the same ratio, there would only be required the sum of \$800,000 to pay all these claims in Maryland; but the chief com-

missioner there goes on to make the remark, and he shows from his statement, that the sum of \$762,000 would pay all the claims in Maryland and the eastern shore of Virginia that would be allowed by that commission. That being the case, it would leave the sum of nearly nine million dollars answerable to the claims in other States, which I am satisfied will be more than sufficient, because, if we take of the number of colored troops enlisted in those States the usual proportion of slaves, we shall find that the number will be so far reduced that even at the sum of \$300 per capita the amount will not exceed \$9,000,000.

The difficulty will be just this, if the settlement of these claims is postponed: we have now proposed a constitutional amendment in which there is a flat denial of any power in Congress to pay for slaves of any description. If the satisfaction of these claims is now rejected, you will make all those interested in these States who think they have been unfairly dealt with active against the ratification of the constitutional amendment, which is a difficulty that I want to see removed from the political field. I desire to have that constitutional amendment adopted, but I know that human nature is such that where men's interests lie directly in an opposite direction, you cannot secure from them that support for the amendment which might otherwise be obtained. I hope, therefore, that the proposition will pass in the shape in which it now is and that these claims will be at once disposed of.

Mr. WILSON. In order to reach the objection made by the Senator from Vermont I move to amend my amendment by adding to it the following proviso:

*Provided*, That no money shall be paid under the foregoing provision until the final report of the commissioners under the act aforesaid shall have been made of all of the claims embraced under the twenty-fourth section of the said act.

Mr. EDMUNDS. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. WILSON. I will simply say that this is a provision which forbids the payment of any money under this act until the commissioners who are to be appointed for Maryland, Kentucky, and Missouri have made their final report and we have it all before us.

Mr. CRESWELL. Suppose, meanwhile, the constitutional amendment is adopted.

Mr. DAVIS. The amount of these bounties ought to have been ascertained two years ago. That has not been done, and consequently the owners of these slaves have been deprived of the money to which they are entitled under the act of 1864 up to the present time, and of course they never will have any interest allowed upon their claims. If there was any doubt as to the sufficiency of the fund specially appropriated to the payment of these claims, I would not make any objection whatever to the proposition now made by the Senator from Massachusetts; but when the commissioner who acted for Maryland and the eastern shore of Virginia, has reported that \$700,000 and a fraction will be sufficient to meet every claim from that section of country, and there will be nearly \$9,000,000 of this additional fund left to appropriate to Kentucky and Missouri and West Virginia, there cannot be any doubt whatever that the fund will be something like double what will be necessary to meet all these claims. I have no doubt that there will be a large surplus of this fund after all the claims are satisfied. If that be so, why postpone the payment of any claims until the commissioners have reported? It may be five years or more before the commissioners will report. I think that these men, who have already lain out of their money for two years longer than they ought to have done, ought not to be postponed indefinitely, and probably as long as five years, until there has been a report made by the commissioners.

The question being taken by yeas and nays, resulted—yeas 18, nays 13; as follows:

YEAS—Messrs. Brown, Clark, Cowan, Edmunds, Foster, Grimes, Howe, Lane, Morgan, Morrill, Po-

land, Pomeroy, Sherman, Sprague, Sumner, Train-bull, Wilson, and Yates—18.

**YAYS**—Messrs. Buckalew, Chandler, Creswell, Davis, Guthrie, Hendricks, Johnson, Norton, Nye, Ramsey, Riddle, Van Winkle, and Willey—13.

**ABSENT**—Messrs. Anthony, Conness, Cragin, Dixon, Doollittle, Fessenden, Harris, Henderson, Howard, Kirkwood, McDougall, Nesmith, Sautsbury, Stewart, Wade, Williams, and Wright—17.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

**Mr. SUMNER.** I offer an amendment, to come in as a new section at the end of the bill:

*And be it further enacted,* That there be paid to the several clerks of the Department of State twenty per cent. of the compensation now allowed to each, to commence from the 30th of June, 1865, and to continue until repealed by Congress; and a sum sufficient for this purpose is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

In support of this amendment I send to the Chair a petition from the clerks of the State Department, which I should like to have read.

The Secretary read as follows:

*To the Senate and House of Representatives:*

The petition of the undersigned, clerks in the Department of State, humbly represent that their salaries, which were fixed when gold was current and the prices of the necessities of life were comparatively low, are now entirely inadequate to their support with the most rigid economy. Indeed, some of them, who have been more fortunate than others in the enjoyment of small incomes from private sources, have from time to time been obliged to sacrifice the principal from which those incomes were derived, to provide themselves and their families with shelter and the plainest clothing and food. Many of them might earn more by obtaining employment elsewhere, but some of these have been so long in office that, in all humility, they deem it their duty to remain until it shall be otherwise decreed, at almost any sacrifice, believing that the knowledge and experience which they have gained is not their property, but a valuable one to the public, in whose service those qualifications have been acquired.

At the last session of Congress an appropriation was made for additional compensation to clerks in the Treasury Department. Your petitioners have no doubt of the wisdom of that measure, but regret that they may not have been deemed worthy of a similar boon.

Supposing, however, that the apparent partiality referred to may have been occasioned by an oversight, your petitioners appeal to your sense of justice to place them on a similar footing with the clerks in that Department, in respect to compensation.

And your petitioners, as in duty bound, will so ever pray.

W. HUNTER,  
GEORGE E. BAKER,  
JOHN A. JONES,  
R. S. CHEW,  
WILLIAM HOGAN,  
R. S. CHILTON,  
JOSEPH SMITH,  
H. D. J. PRATT,  
THOMAS C. COX,  
H. R. DE LA REINTREE,  
JOHN P. POLK,  
FERD. JEFFERSON,  
GEORGE BARTLE,  
H. N. GILBERT,  
ROBERT A. WILSON,  
S. S. BENEDICT,  
A. TUNSTALL WELCH,  
M. S. SCHIRMERHORN,  
GEORGE L. BERDAN,  
H. B. HASWELL,  
W. MARTIN JONES,  
THEODORE W. DIMON,  
E. HAYWOOD,  
GEORGE G. GAITHER,  
JOHN KRANSE.

**Mr. SHERMAN.** This is the same proposition that was moved by the Senator from Massachusetts to the consular and diplomatic bill, debated at some length, and resulted finally in the raising of the pay of Mr. Hunter. I trust that this precedent will not be set on this bill. If this appropriation now asked for the clerks of the State Department is made, of course, we shall have to extend it to all the other Departments. We passed a bill in relation to the Interior Department, but that bill and a bill for the Treasury Department have been laid on the table in the other House. I think, therefore, this is a bootless controversy. This proposition, I think, will require about a day to discuss it. I hope it will not be insisted on. The whole subject of the reorganization of the clerical force of the various Departments and the pay of the civil officers of the Government has at this session been referred to a joint select committee with a view to reexamine and readjust the whole civil service of the Government, and I hope it will be left there. That committee is required to sit during the

recess, and, probably will be able to report at the next session a fair and liberal compensation to all civil officers of the Government.

**Mr. SUMNER.** It will be difficult to add anything to the argument in the petition which has been read; and the Senator from Ohio will pardon me if I say that I think his objection does not meet the case. He calls this a bootless controversy. I do not so regard it, and if the Senator remembered what passed on the former occasion I think he would not have used that language. When I then made the same motion which I now make, according to my recollection, the chairman of the Committee on Finance objected rather to the amendment of that bill, the consular and diplomatic bill, than to the proposition itself; he said, "Make it one of the other appropriation bills that are to follow." I was not in my seat, being absent from here, when the legislative appropriation bill was under consideration or I should have moved it then. I am now in my seat when the miscellaneous appropriation bill is under consideration, and as the amendment is perfectly in order and perfectly germane I now move it.

I have said that it would be difficult to add anything to the argument in the petition, and I may be permitted to remind the Senate, in addition to that argument, that these gentlemen have now only the same pay that they had before the war; there has been no change with regard to any one of them, while we all know that everything else has risen in price. All that they are obliged to pay for their support is more than it was before, and yet they have only the small means that they had before.

There is another consideration in connection with this class of public servants of which, perhaps, the Senator is not aware. In the organization of the State Department there are no heads of bureaus, as, for instance, in the organization of the Treasury and of the Interior Department. There are no other persons than a chief clerk, and then clerks under him. I understand that Mr. Webster, while he was Secretary of State, had it in contemplation to organize the State Department on the model of the Treasury Department, so that there should be a number of bureaus with a bureau head, receiving a pay proportionate to the pay received by the heads of bureaus in the Treasury Department. That has never been done; so that you will perceive that all the servants of the Government in the State Department are on the simple pay of clerks, and nothing else. And yet, sir, during this time, while their compensation has been diminishing in value their services have been increasing in extent. I have here a very curious memorandum, which is not uninteresting, illustrative of the increase of business in that Department. For instance, the number of dispatches to our legation at London, in 1851, was twenty-nine; in 1852, thirty-eight; and in 1853, sixty-five. Now, come to the years of the war and down to the present time, and see the difference. In 1861 the dispatches to our legation at London was two hundred and twenty; in 1862, three hundred and seventeen; in 1863, three hundred and eighty; in 1864, four hundred and sixty-three; and in 1865, four hundred and forty-nine, in contrast with twenty-nine dispatches, which was all that were sent in 1851.

My colleague asks me if it would not have been wiser to have sent fewer. That question is not involved in this discussion. I adduce the facts simply to illustrate the increase of business on the part of these employés. This shows how much more they have had to do, and yet they receive only the compensation they had before.

Here is another curious illustration. The correspondence of the Department of State with the British legation in Washington, has latterly been as follows: in 1861 there were two hundred and forty-eight letters addressed by the Department to the British legation; in 1862, five hundred and twenty-nine; in 1863, twelve hundred and eighty-eight; and in 1864, twenty-six hundred and seventy-six; making, as

the Senate will see, a very large number of letters every day addressed to the British legation.

I mention these facts in order to bring home to your attention the increase of business in that Department, the burden of which has necessarily fallen upon these public servants. You have been raising salaries elsewhere. The other House has set the example by adding, I think, twenty-five per cent. to the pay of its own servants. You have various similar propositions before you. I understand that the State of New York has added twenty-five per cent. to the compensation of its public servants. The State of Massachusetts has added twenty per cent. recently to the compensation of its public servants. Now, I ask that you should add twenty per cent. to the compensation of the clerks in the State Department, whose labor has increased probably beyond that of any other public servants of the Government. I ask this, sir, as an act of justice to them. I do not see how you can refuse it; indeed, I think the argument is unanswerable. I do not think the Senate ought to postpone it, according to the suggestion of the Senator from Ohio, to await the report of any committee that shall undertake to remodel the civil service of the Government. Let us do this act of justice now, and that committee may proceed with its work; and I, for one, shall be ready to adopt the result. I do not wish to see the act of justice which I now propose postponed for the report of any committee.

**Mr. SHERMAN** called for the yeas and nays, and they were ordered.

**Mr. SHERMAN.** There is one statement made by the Senator from Massachusetts that I wish to correct. Up to this time, all efforts made by special departments of the Government to increase their pay have failed in one or the other House. The bill relating to the Treasury Department has failed undoubtedly for this session. I said the bill was laid on the table. Instead of that, I understand that it was referred to the Committee of the Whole on the state of the Union, and that is worse yet. The bill regarding the Interior Department has also been laid by, and will not pass; so that no bill has yet passed changing the salaries of the civil officers of the Government. But on the other hand, the House of Representatives, I think, originated a measure for the appointment of a special committee to sit during the recess to make the pay of the civil officers of the Government uniform, and to regulate it. I submit to the Senate whether we ought to legislate in view of the interests of any one Department of the Government, and that the least important of all. The most unimportant Department in this Government is the State Department. I think it could be abolished with less injury to the Government than any other, because our relations with foreign nations are generally of little account. Indeed, I think if we dispensed with most of our ministers abroad, we should be better off. We do not care much what foreign Governments say of us, or think of us, or write of us; and I have no doubt that nine tenths of the dispatches to which my friend has referred had better have remained unwritten. We should have got on just as well without them. No foreign nation helped us when we were in trouble; and now that we are out of trouble we do not want the help of any foreign nation.

It seems to me that to commence with the State Department and increase the compensation of clerks in that Department before we are prepared to act upon the general subject is simply wrong, and I hope the Senate will vote down this proposition, and thus relieve us from the whole controversy about increasing the compensation of civil officers during this session. Let that matter go to the committee who have charge of it, and let them report at the next session.

**Mr. SUMNER.** The Senator, it seems to me, goes too far when he says that this case stands alone. He has already submitted that there has been an increase in the Treasury Department.

Mr. SHERMAN. No, sir; I said distinctly that that bill failed in the House of Representatives.

Mr. SUMNER. Very well; but it has had the sanction of the Senate.

Mr. SHERMAN. The answer to our action was a resolution for the investigation of the whole matter. In regard to the increase by the House of the pay of their own officers, that only applies, I find on inquiry, to a few, and even that allowance will not be paid by the accounting officer of the Treasury Department unless it is sanctioned by the Senate.

Mr. SUMNER. The very bill which the Senator is now engineering through the Senate in its sixth section proposes an increase of the compensation of the Metropolitan police force of the District of Columbia.

Mr. SHERMAN. That is to be paid by the cities of Washington and Georgetown, and is made on the recommendation of the District authorities here who pay it themselves. It is not paid out of the Treasury.

Mr. ANTHONY. They only pay a part of it.

Mr. TRUMBULL. A small part.

Mr. SUMNER. Very well, it is an increase; and why is it made? It is because the existing compensation is not enough. Look at the bill before us. On page 28, the committee which the Senator from Ohio represents brings forward a proposition for adding to the salary of an assistant cashier in a certain place fifty dollars; from \$1,000 it is made \$1,050; the salary of teller from \$1,300 is made \$1,400; the salary of book-keeper, instead of \$1,500 is made \$1,800; they add \$300 there. The salary of two clerks, which originally was \$2,500, is made \$2,600. Now, I propose, just in conformity with the report of the committee which the Senator represents, an increase in the compensation of the clerks of the State Department. I do not ask so large an increase as that Senator or the committee which he represents asks us to give to certain other clerks. But the Senator replies that the State Department is the least important Department of the Government. That raises an immense political question which I do not think it would be very advantageous for us to discuss in this warm weather. It would be a very good discussion, perhaps, for students at college; for boys at school; it would be a very good theme, which Department of this Government is upon the whole the most important; is the State Department, or is it not, the most insignificant Department of the Government? I admit that would be a very good theme for college youths to discuss, on which, perhaps, something might be said on both sides. I doubt whether it can be discussed very profitably in this Chamber. I know the extravagant theories on certain sides that we had better dispense with our whole diplomatic service. I do not go into that, because when a person has made up his mind to dispense with all that service, I can imagine that it would be very easy for him to say he would not pay the clerks here at home that copy the dispatches. But, sir, in making this motion I proceed on the ground that the State Department is an existing Department of this Government. I will not dwell on its merits or its importance, whether it is performing its functions in the Government, employing these clerks. All I insist is, that employed as they are and rendering faithful service to the Government, they shall have a compensation which shall be to a certain extent commensurate with the labor that they give. Sir, the "laborer is worthy of his hire," and I know not why he is not worthy of his hire when he serves in the Department of State as well as if he served in one of those banks which seem to have found the patronage of the Senator from Ohio. I insist, therefore, that the Senator from Ohio shall go back to his own bill—

Mr. SHERMAN. They are not banks; they are United States depositories; the cashiers of these depositories get less than your clerks who are suffering so much.

Mr. SUMNER. The Senator has undertaken to lead in an increase of salaries. Now,

I simply follow his lead. He knows very well how happy I am, and proud, always to follow his distinguished lead. I follow it now, and I simply ask that he should do by these servants of the Government in the State Department what he has done for other servants of the Government elsewhere.

The question being taken by yeas and nays, resulted—yeas 16, nays 14; as follows:

YEAS—Messrs. Anthony, Davis, Doolittle, Harris, Hendricks, Johnson, Morgan, Nesmith, Nye, Poland, Pomeroy, Riddle, Sumner, Trumbull, Van Winkle, and Willey—16.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Guthrie, Howard, Lane, Morrill, Norton, Ramsey, Sherman, Sprague, Williams, and Wilson—14.

ABSENT—Messrs. Conness, Cowan, Cragin, Creswell, Dixon, Edmunds, Essenden, Foster, Grimes, Henderson, Howe, Kirkwood, McDougal, Saulsbury, Stewart, Wade, Wright, and Yates—18.

So the amendment was agreed to.

Mr. SUMNER. I offer another amendment to come in at the end of the bill, as a separate section, in regard to which I am sure there will be no question, as it proposes to reduce rather than add to the expenses of the Government. It is an amendment which I am directed to offer by the Committee on Foreign Relations:

*And be it further enacted, That so much of the act approved March 3, 1863, entitled "An act making appropriations for sundry civil expenses of the Government, for the year ending June 30, 1864, and for the year ending the 30th of June, 1865, and for other purposes," as appropriates \$3,750 for a minister resident in Greece, be, and the same is hereby, repealed.*

The amendment was agreed to.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to offer one more amendment, to come in on page 6, after line three hundred and seventy-four of section one:

For unusual extra services rendered under the amnesty proclamation of 29th May, 1865, by George Bartle, clerk of pardons in the Department of State, \$1,000.

The Senate are not perhaps aware that they have already made a similar appropriation at the suggestion of the Attorney General for services rendered in his Department. His letter is as follows:

ATTORNEY GENERAL'S OFFICE,  
WASHINGTON, April 13, 1866.

SIR: The President's proclamation of amnesty of May 29, 1865, imposed labor on the clerks of this Department unusual in responsibility and severity.

For many months the official hours of work were more than doubled, and neither Sabbath nor holiday were known by them.

It is in my opinion simply a matter of justice to make some recompense for services so exceptional. For this purpose I submit the following as an additional clause to the appropriation bill:

For unusual and extra services performed by the clerks of this office between June 1, 1865, and May 1, 1866, \$3,000, to be apportioned as may be deemed just by the Attorney General.

I am not satisfied with this manner of accomplishing the object I desire, but it is the best I can find to recommend.

I am, sir, very respectfully yours,

JAMES SPEED,  
Attorney General,

Hon. THADDEUS STEVENS, Chairman of Committee on Appropriations, House of Representatives.

In pursuance of this recommendation it is already proposed to give to the principal clerk of pardons in the Attorney General's Office the sum of \$1,000 and to his two assistants \$500 each. Now, the motion which I make is simply to do by the pardon clerk in the State Department, who has had in his department precisely the same services to perform which have been performed by the pardon clerk in the Attorney General's Department, what we have done in that case. His services, I am told, have been very great, day and night at work in order to carry out these purposes under the amnesty proclamation. I hope there will be no objection to it. Certainly there cannot be unless you are disposed to set aside what has already been done, I believe, in regard to the clerks in the Attorney General's Department.

Mr. WILLIAMS. I believe that a similar proposition, or the same proposition, was submitted to the Committee on Finance and considered, and it was the conclusion of the committee that this appropriation ought not to be made for the reason that this should not be an exceptional case. It had been made to appear to that committee that during the war there were very many clerks and persons engaged in the

different Departments of the Government who were employed during nights and on Sundays, and at times when the law did not require them to work; and it did not appear to the committee that there was any reason why this particular individual should be designated and his pay increased when it was not advisable, and perhaps not practicable, to increase the pay of all other clerks and employés in the different Departments who had expended the same amount of labor; and if this particular individual is to be paid, then whenever any application is made by any clerk or any person engaged in any Department for labor performed at unusual hours on account of a particular press of business, of course Congress will be bound to pay for the extra labor. It will be seen that there would be no end to these appropriations. I believe there was some proposition made in reference to the Attorney General's Office, and I am not certain as to whether the application was sanctioned or not; but if it was, it was upon some peculiar ground that did not apply generally to the employés in the other Departments.

I simply state to the Senate what the Committee on Finance determined on the subject. If it is thought advisable to pay in this particular case, then I can see no reason why we ought not to pay all the clerks and employés in the Navy Department, in the War Department, in the Treasury Department, who have performed an unusual amount of labor during the late war—pay them for all their extra services.

Mr. SUMNER. The Senator from Oregon has touched the key-note in his argument. He says, do not do this unless the case is exceptional. I understood that to be his argument—unless it was exceptional. Now, sir, I catch that argument from the Senator and repeat it. I present this case as exceptional. It is not a precedent that the Senator need dread unless he can show a case hereafter equally exceptional in character. The Attorney General recommended the payment of extra compensation to the clerks in his Department that had got up a large amount of pardons under the amnesty proclamation. Is not that exceptional in our history? I trust we shall never have any such thing repeated, never another amnesty proclamation or another crop of pardons under it that shall enlist these exceptional services of the clerks in two different Departments. I present it to you, sir, as exceptional, just as the Senator from Oregon insists that such a case should be in order to justify the intervention of the Senate. It is exceptional. The case of the clerks of the Attorney General was treated as exceptional, and I present the case of this gentleman of the State Department as exceptional also. He worked night and day to get up these pardons, to do the mechanical part of these pardons under the amnesty proclamation. I hope no Senator will raise the question of the value of these pardons. I certainly should not wish to argue it.

Mr. MORRILL. I should like to ask the Senator a question. I ask whether the twenty per cent. just voted here applies to this clerk.

Mr. SUMNER. I think it should, and for this reason: the Senate understands that this is compensation for extra services performed by this gentleman; the twenty per cent. is an addition to the compensation of all of them for their every day services.

Mr. MORRILL. That includes this man?

Mr. SUMNER. Yes, it includes him.

Mr. MORRILL. He gets twenty per cent. on this?

Mr. SUMNER. I hope there can be no doubt about it.

Mr. HENDRICKS. I was willing to vote for the Senator's other amendment, because I thought it stood on something like a principle, that is, that the compensation taken generally in view of the expense of living here is not sufficient, and I would vote for it; but to undertake to estimate how much work a particular clerk does and pay him something more for that is an impossibility. I recollect to have



heard a clerk mention to me that for four years he had not taken a holiday, he had not been out of the office a single Sunday for four years—a clerk in the ordinance department; and I presume that is very common. I am not willing to vote upon a supposed estimate of the amount of work one clerk does over another. I want to say to the Senate that in my judgment this is not a parallel case with the Attorney General's Office. As I understand, practically, the clerk in the Attorney General's Office has to examine the case, has to adjudicate upon it; he has to exercise judgment; while the clerk in the State Department performs simply mechanical duty; he has to record that which is adjudged in the Attorney General's Office. There is a very great difference. The one is the exercise of clerical ability simply, the other the exercise of judgment upon the merits of the case.

Mr. DAVIS. I congratulate my friend from Indiana and the country that we shall soon have an Attorney General who will not need a clerk to write his opinions for him. [Laughter.]

The amendment was rejected.

Mr. CHANDLER. I offer, from the Committee on Commerce, the following amendment, to come in on page 8, after line one hundred and seventy-four of section one:

For the erection of a light-house at Beaver bay on Lake Superior, \$15,000: *Provided*, That the Light-House Board of the Treasury Department, after due examination, shall deem that a light-house at that point is necessary.

Mr. SHERMAN. I ask if that comes from a committee.

Mr. CHANDLER. Yes, sir. There is a recommendation from the Light-House Board and from the Secretary of the Treasury which I will have read, if Senators desire it. ["No, no."]

Mr. SHERMAN. Never mind. The amendment was agreed to.

Mr. CHANDLER. In the same section, on page 9, after line one hundred and ninety, I offer the following amendment from the Committee on Commerce:

For light-house and pier light at South Haven, in the State of Michigan, \$6,000.

Mr. JOHNSON. Is that from a committee, too?

Mr. CHANDLER. Yes, sir.

Mr. SHERMAN. In these cases where there are new lights and they have not come before the Committee on Finance I should like, at least, to have the letter of the board read.

Mr. CHANDLER. There is a report of the Light-House Board, and likewise a letter from the Secretary of the Treasury.

Mr. SHERMAN. The letter of the Light-House Board is all I want.

Mr. CHANDLER. I send it up to be read. The Secretary read the following:

TREASURY DEPARTMENT,  
OFFICE OF THE LIGHT-HOUSE BOARD,  
WASHINGTON, March 12, 1866.

SIR: I have had the honor to receive the letter from Hon. Z. CHANDLER, chairman of the Committee on Commerce, with inclosed petition of citizens of South Haven, Michigan, praying an appropriation for the purpose of building a light-house at the mouth of South Black river, Michigan, referred to this board for report.

In reply I am directed to state that the amount asked for by the petitioners is in the opinion of the board greater than necessary for the purpose of building a pier light, which is all that is recommended. For such a structure the sum of \$6,000 would be sufficient, provided the site be given to the United States by the parties owning the pier, the Government having done no work upon this pier or harbor.

The papers in the case are herewith returned.  
Very respectfully, W. B. SHUBRICK,  
Chairman.

Hon. HUGH McCULLOCH, Secretary of the Treasury.

The amendment was agreed to.

Mr. CHANDLER. On page 10, line two hundred and twenty of section one, I move to amend by striking out "\$90,000" and inserting "\$200,000;" so that the clause will read:

For completion of pier of protection and repairing Waugoshance light-house, at straits of Mackinac, \$200,000.

That is the amount which the Light-House Board state will make the work permanent.

We had Commodore Shubrick and other members of the board before us, with the engineers, and the committee were unanimous in recommending that \$200,000 be appropriated. This is perhaps one of the most important lights in the United States; it is in the open lake; and the pressure of the ice is so great that it must be protected by very strong stone abutments; and the committee were unanimous in the opinion that the amount should be \$200,000.

Mr. SHERMAN. If there is any letter from any one I should like to hear it.

Mr. CHANDLER. There is a report from the Light-House Board. I send it to the desk.

Mr. SHERMAN. We have here the estimates from the Department.

Mr. CHANDLER. Here are the estimates, and the Clerk will read the report for the benefit of the Senator.

The Secretary commenced to read the report of the Light-House Board.

Mr. GRIMES. Is the whole of that document to be read?

Mr. JOHNSON. The Senator from Michigan tell us the facts, I suppose.

Mr. CHANDLER. The estimates are there precisely as recommended by the committee. The report is rather voluminous; it contains, I think, about sixty or eighty pages; but it will probably enlighten and amuse the Senator from Ohio, and I hope the Senate will consent to have it read for his enlightenment.

The PRESIDENT *pro tempore*. Does any Senator object to the reading of the report?

Mr. CLARK. We do not want all that.

Mr. SHERMAN. I, representing the Committee on Finance, will state that we have appropriated all that the Secretary of the Treasury estimated for, all that was asked by the Light-House Board, and now it is proposed to increase the appropriation for a single light-house from \$90,000 to \$200,000, and all the Senator has to say in favor of that proposition is to send a mass of manuscript to the table. I am perfectly willing to hear it.

Mr. CHANDLER. In that report from the Light-House Board are contained the estimates of the engineers for the completion of that work. We had the engineer of that board before us; we had Commodore Shubrick; we took the testimony of the most competent engineers on this subject, and came to the conclusion unanimously that that sum was required. The Senator has taken an old estimate and not a recent one.

Mr. SHERMAN. We have taken the annual estimates as they lie on our table. It may cost \$200,000 or it may cost \$1,000,000 to complete the work; but all they asked for as an expenditure during the next fiscal year was the amount we appropriate.

Mr. CHANDLER. I can turn to the estimates if the Clerk will hand me the document:

"In its report for 1865 the board called the attention of the honorable Secretary of the Treasury to the matter and renewed its estimate of \$90,000 as for the fiscal year ending June 30, 1866, and further estimated for \$110,000 to complete the work during the fiscal year ending June 30, 1867. These estimates are now before Congress."

This is the last report from the Light-House Board.

Mr. JOHNSON. What is the date of that report?

Mr. CHANDLER. January 26, 1866.

Mr. SHERMAN. We have the estimates made out officially on the 1st of December and submitted to us for the annual appropriations.

Mr. CHANDLER. This report refers to that, and says that in that report the board "renewed its estimate of \$90,000 as for the fiscal year ending June 30, 1866, and further estimated for \$110,000 to complete the work during the fiscal year ending June 30, 1867."

Mr. SHERMAN. I understand now precisely how it is. Last year we appropriated \$90,000 for this work, and that is part of the \$200,000 spoken of, and now they ask enough to complete it.

Mr. CHANDLER. The appropriation failed last year; it was in the omnibus bill.

Mr. SHERMAN. It was renewed, probably.

Mr. CHANDLER. It was never renewed: This is the whole amount. The \$90,000 appropriation was in the omnibus bill that was lost last year. Two hundred thousand dollars is the estimate of the engineer to complete the work. Perhaps this is the most important light-house in the United States, and less than this sum will not make it a permanent, substantial work.

Mr. SHERMAN. I can only state that I have now the estimates of the Light-House Board before me, and I find in them this item:

For completion of pier of protection, and repairing and renovating Waugoshance Light-house at the straits of Mackinaw, \$110,000.

That is the item in the annual estimates upon which all these appropriation bills are founded, and it seems that the House of Representatives lowered it from \$110,000 to \$90,000. I now remember the case. One hundred and ten thousand dollars was all that was asked for to complete the work. It may be that the \$90,000 has been already expended.

Mr. CHANDLER. The \$90,000 was not intended to complete the work, and if that sum had been appropriated last year, \$110,000 would now be sufficient; but whereas the \$90,000 was not appropriated last year, they now ask for the whole amount requisite to complete the work, which is \$200,000.

Mr. SHERMAN. But the estimate which I have read was made months after the defeat of the bill of last year. That bill failed in March, 1865, and this estimate was made in November, 1865.

Mr. GRIMES. I suggest to the Senators from Michigan and Ohio that this amendment be postponed for a few minutes until they can examine these reports and satisfy themselves on the question. I suppose there is some misunderstanding, which will be removed when the two Senators have conferred together.

Mr. CHANDLER. I have no objection to that course.

The PRESIDING OFFICER. This amendment will be laid aside for the present, if there be no objection.

Mr. CHANDLER. I have another amendment to propose, to come in after line two hundred and forty-three of the first section:

For George W. Fish, late acting consul at Ningpo, China, \$1,825 04, payable out of any money in the Treasury not otherwise appropriated, being the amount due him for consular services at Ningpo, and for exchange due.

Mr. SHERMAN. I raise the point of order that that is a private claim.

Mr. CHANDLER. No, sir; it is from a committee and is to pay for consular services.

Mr. SHERMAN. It is a private claim to pay money alleged to be past due for services. I raise the point of order.

Mr. CHANDLER. The Committee on Commerce never presents any improper appropriation.

The PRESIDING OFFICER. The Chair thinks it is a private claim; but if the Senator desires he will take the sense of the Senate on it.

Mr. CHANDLER. Does the Chair rule it to be out of order?

The PRESIDING OFFICER. The Chair thinks it out of order; but if the Senator requests he will take the sense of the Senate on the question whether it shall be received or not. ["Oh, no."]

Mr. CHANDLER. It is a very meritorious claim. This man actually performed the services and drew his drafts in accordance with directions from the State Department. On his return from there he immediately went into the Army and was in the military service when the drafts arrived and were protested, and he was obliged at great sacrifices and loss to raise \$1,825 to take up his own drafts drawn by direction of the Secretary of State, and for which services were performed. He actually had paid his office rent, paid his clerks, paid for his stationery, out of this very sum that is now his due; and certainly if there was ever any just claim put on an appropriation bill, I think this

is one. I ask for the sense of the Senate upon it.

The PRESIDING OFFICER. The Chair submits to the Senate whether this amendment can be received.

Mr. SHERMAN. It cannot be under the rule, being a private claim. I ask that the rule be enforced.

The PRESIDING OFFICER. The Chair has ruled it to be a private claim, but was willing to submit the question for the sense of the Senate, if desired.

Mr. SHERMAN. The question should be put, then, is this a private claim? The Senator himself admits that it is, and that is the end of it.

The PRESIDING OFFICER. The Chair does not regard the amendment as in order.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs to propose the following amendment, to come in at the end of the first section of the bill:

For the erection of a chapel in the Naval Academy grounds at Annapolis, Maryland, \$25,000.

When the naval appropriation bill was under consideration we had before us a recommendation of the Secretary of the Navy, based upon the report of Admiral Porter, in command of the Naval School, and of the chaplain at that post, recommending this appropriation. Having been at the Naval Academy upon several occasions myself, and knowing that there was a small chapel there, I thought that a considerable portion of the money proposed to be expended might be saved by enlarging the present chapel; and at that time, at my instance, instead of appropriating the \$25,000 that was asked for, the Senate appropriated \$7,000 to enlarge the old chapel. I have been there since with the Senator from Maine, [Mr. MORRILL.] We examined the chapel and after conversation with the officers in charge and from personal examination I became satisfied that I was mistaken in proposing to enlarge the present chapel; and in confirmation of that opinion I desire to read one paragraph from the report of the Board of Visitors who have recently visited the Academy, composed as it was of some of the ablest gentlemen in civil life and in the naval service, in which they say:

"The board learned with regret that it is proposed to try the experiment of enlarging the present chapel of the Academy. It is, in our judgment, a mistake to spend any considerable sum of money upon a building which, even with the proposed enlargement, must still be not only unsuited for its purposes in other respects, but of inadequate size; and we therefore recommend the erection of a new chapel, of a character better suited to its purposes, and of sufficient capacity to make it possible to assemble under its roof for divine worship all the midshipmen in the Academy and their officers of government and instruction."

Mr. JOHNSON. How do you get at the \$25,000?

Mr. GRIMES. That is what they recommended.

Mr. MORRILL. Having been referred to by the Senator from Iowa as having been present with him at the Naval Academy on a certain occasion, I can bear most decided testimony to the unsuitableness of the structure which was intended to be repaired. I think the money appropriated there would have been worse than thrown away. The only surprising thing to me was, that the honorable Senator from Iowa, who professes to have been there on a previous occasion, should have consented to an appropriation for the repair of such a structure as that was, and I am led to suppose that he must have been there under circumstances which could not have been favorable to a correct examination.

Mr. BUCKALEW. I desire to inquire of the Senator from Iowa what is to be done with the present appropriation for the enlargement of the chapel.

Mr. GRIMES. It is expected that that will lapse to the surplus fund in the Treasury.

Mr. BUCKALEW. I think it better to repeal it; and I move to amend the amendment by adding to it, "and the existing appropria-

tion for the enlargement of the chapel is hereby repealed."

Mr. GRIMES. I accept that.

The amendment, as modified, was agreed to.

Mr. GRIMES. I have another amendment from the Committee on Naval Affairs to come in as an additional section:

*And be it further enacted,* That midshipmen and acting midshipmen in the Navy of the United States shall be entitled to one ration or commutation therefor.

I hold in my hand a document that has been published at the present session, and I suppose is on the desks of members, a very full and very satisfactory report of the Board of Visitors that recently assembled at the Naval Academy for the examination of that institution. Among other things their attention was called to the subsistence, quarters, and everything of that description furnished to the young men, and I beg leave to read to the Senate a letter written to the board at their request by Paymaster Abbott, who was stationed at the Academy, showing the amount of expenses that each of the young men at the Academy is compelled to undergo. He says:

PAYMASTER'S OFFICE,  
UNITED STATES NAVAL ACADEMY,  
ANNAPOLIS, MARYLAND, May 25, 1866.

SIR: To your letter of the 23d instant, requesting information for the Board of Visitors in regard to the allowances, expenses, &c., of midshipmen, I respectfully reply as follows:

Midshipmen have no allowances in addition to their yearly pay, which is \$500, and from which fifty dollars per annum is reserved until their graduation. The statement appended will acquaint you with their necessary expenses for the current academic year:

Subsistence, @ \$22 1/2 month, for eight months.....	\$176 00
Washing and mending, @ \$3 1/2 month, for eight months.....	24 00
Room furniture, annual.....	5 43
Servant, @ 12 1/2 cents 1/2 month, for eight months.....	1 00
Barber, and one bath 1/2 week, hot or cold, @ \$1 1/2 month.....	8 00
Clothing.....	198 00
Text-books, average.....	24 50
Stationery and drawing materials.....	20 00
Assessment for band, 50 cents 1/2 month, for eight months.....	4 00
	<hr/> \$490 53

There have been miscellaneous expenses, (among which mending is included,) such as postage, dentist, and express, but these vary so much in individual cases that no specified amount can be designated as applicable to all. Table furniture is provided by the commissary without expense to the midshipmen.

I am, very respectfully, your obedient servant,  
CHARLES W. ABBOTT,  
Paymaster United States Navy.  
Lieutenant Commander S. B. LUCE,  
Commandant Midshipmen, Naval Academy.

Admiral Porter gives the expenses per month for the three months spent at sea:

NAVAL ACADEMY,  
ANNAPOLIS, MARYLAND, May 28, 1866.  
SIR: In reply to your letter of the 28th instant, asking, in behalf of a committee of the Board of Visitors, to be informed as to the duration of the cruises of the practice vessels in 1865, and the cost of subsistence and other items paid by a midshipman during that cruise, I have to state that the midshipmen were embarked on the 13th, and that the practice vessels sailed from Newport, Rhode Island, on the 20th of June, and arrived at this place on the 12th of September last, making a cruise of two months and twenty-five days, and that the cost of subsistence of each midshipman per day was 49 1/2 cents, or per month of thirty-one days.....

Washing per month.....	\$15 42
Contribution per month to band.....	3 00
	<hr/> \$18 92

This statement includes all disbursements made by the paymasters of the several practice vessels for the midshipmen who performed the cruise of 1865.

I am, respectfully, your obedient servant,  
DAVID D. PORTER,  
Rear Admiral and Superintendent Naval Academy,  
Surgeon D. HARLAN, United States Navy.

Add that amount per month for three months to the sum expended for their support during eight months on shore, and you have \$517 69 a year, which is \$17 69 more than this Government allows them. Then out of this \$500 it is to be remembered there is reserved fifty dollars immediately upon their entering to cover any contingencies that may occur, such as their being sent away and being compelled to pay the expenses of their travel to reach their friends. Calling the fifty dollars which is reserved in the Treasury an expense, their expenses are really \$67 69 more than the Government pays them.

This amendment proposes to give them one ration, which is thirty cents a day, amounting to \$109 50 a year, which will give these young men about forty dollars a year more than their actual expenses. It will be observed that there is no deduction made here for pocket money or anything of that kind: I have taken the trouble to look into the way in which the larger item in this account, \$198 for clothing, is expended, and I find that all the articles are obtained upon the most economical method possible; a suit of clothes is furnished complete to each of these lads at forty-six dollars and charged against the \$500 we allow them per year.

Mr. SHERMAN. I do not know whether it is worth while to appeal to the Senate not to pass this class of amendments upon this appropriation bill. The effect of this amendment is to increase the pay of the naval cadets. If we do it, the same application will be made on behalf of the Army cadets. I do not think this is the proper place to legislate on that subject. The Senator from Iowa can report a bill at any time for this purpose. If we put this amendment on this bill we shall have the same application from the Army. These young gentlemen now get \$500 a year toward aiding them in their education. They get the benefit of tuition and all various facilities and advantages extended to them by the Government of the United States. At any rate, I hope this bill will not be loaded down with this class of amendments. The compensation was fixed at \$500, I think about two years ago, both for West Point and Annapolis, and I trust it will not be altered in this appropriation bill.

Mr. GRIMES. It was fixed more than two years ago. It was fixed four years ago, in 1862.

Mr. SHERMAN. Since the beginning of the war.

Mr. GRIMES. In 1862, before high prices. I do not know when the law fixing the amount to be paid the cadets at West Point was passed. I remember that the amount paid to naval midshipmen was fixed in June, 1862, four years ago. The Senator says that these young men are educated at the public expense. That is true; but they are educated at the public expense because we think it to our advantage so to educate them; not as a gratuity bestowed on these young men, not for their benefit, but for our benefit. Let me say that a great many of them have passed into the Academy from apprenticeship, who when they first entered the apprenticeship were mere waifs upon the surface of society. How are they going to be able to keep up their standing in the Academy if it costs them \$67 69 more than the Government pays? I have not recommended any very great increase of pay, but simply enough, at the instance of the Superintendent of the Academy and the academic faculty, to keep them along without any pocket money.

The amendment was agreed to—ayes eight—eens, noes not counted.

Mr. CHANDLER. I offer the following amendment, on page 11, after line two hundred and forty-three of section one:

For R. P. Parrott, for building an iron light-house at Cape Canaveral, Florida, \$12,198 35.

Mr. SHERMAN. I raise the point of order—

Mr. CHANDLER. I ask that the letter of the Secretary be read.

Mr. SHERMAN. It is not worth while. I raise the point of order that it is a private claim.

Mr. CHANDLER. I suppose the Senator will admit that every dollar we appropriate goes to somebody. Now, I will strike out the name of R. P. Parrott, if that will improve the case in the Senator's mind. It is for building a light-house at Cape Canaveral. It so happens that R. P. Parrott's name was placed in it; but that can be struck out.

Mr. SHERMAN. Is it not for money due to him for building a light-house?

Mr. CHANDLER. Yes, sir.

Mr. SHERMAN. That is a private claim. The PRESIDING OFFICER. The Chair thinks it is a private claim.

Mr. BUCKALEW. I move this amendment from the select committee on ventilation, to come in on page 14, immediately after the appropriation for the Capitol extension:

For improvements in the Senate wing of the Capitol proposed in the report of the joint select committee of the two Houses upon the improvement of the Halls of Congress made at the last session, and approved and recommended at the present session by the select committee of the Senate upon the ventilation and sanitary condition of the Senate wing of the Capitol, the sum of \$117,635 25; and the said improvements shall be made and executed under the management and direction of Charles F. Anderson, as architect and superintendent, upon plans or specifications and details to be submitted to and approved by Dr. Thomas Antisell; and all necessary contracts for work and materials shall be made by the Commissioner of Public Buildings with the concurrence of the architect and all accounts and expenditures for said sums shall be examined and certified to the Secretary of the Treasury for payment by said Commissioner. The compensation of said architect and superintendent shall be at the rate heretofore paid to the superintending architect of the Capitol extension, payable quarterly out of the foregoing appropriation, commencing from and after the passage of this act.

I suppose it would be best to have the report of the committee on ventilation at the present session read in connection with this amendment.

At the last session of Congress an elaborate report was made by a joint committee of the two Houses, recommending precisely the improvements now contemplated. An appropriation, in accordance with their recommendation, was put upon the miscellaneous appropriation bill by the Senate last year, but without any debate, in the expiring hours of the session; and the committee of conference on the part of the Senate, in meeting a like committee from the House, abandoned the proposed appropriation, and they did it upon grounds which were perhaps unexceptionable. That bill was loaded down with enormous amounts of undigested or unexamined matter, and this section was of that character. The committee had not leisure to examine the subject, and it was abandoned, as I said before, along with a number of other sections in dispute.

At the present session the select Senate committee took up the investigation and went over the whole field of inquiry again, and we now report to the Senate the amendment which I have proposed. In the report at the present session the committee have not gone over the grounds covered by the former report, but they have called attention to leading and important points, which sufficiently vindicate the measure. Without consuming the time of the Senate in a prolonged debate upon all the points involved, I propose, as this subject is important, and as it will go to the House of Representatives and be the subject of reference hereafter, to have the brief report of the select committee at the present session read.

The Secretary read the following report, made by Mr. BUCKALEW on the 18th instant:

The select committee on ventilation report:

That a joint select committee of the two Houses of Congress was appointed under a joint resolution, passed at the first session of the Thirty-Eighth Congress, to examine into the condition of the Senate Chamber and Hall of the House of Representatives as regards their lighting, heating, and ventilation, and their acoustic properties, and the defects and disadvantages existing in the same. The committee consisted of three members from each House, and under authority of the resolution of appointment made an elaborate written report to their respective Houses upon the subjects referred to them in February, 1865. (See Senate committee report No. 123, Thirty-Eighth Congress, second session.) The report was accompanied by sundry documents and the evidence taken before the committee.

This committee, concurring in the main in the reasoning and conclusions of that report, and having reinvestigated the subjects covered by it, have now to recommend the carrying into effect of the plan of improvements contained in said report.

In making further observations upon the plan of improvement, the committee will confine themselves to the Senate wing of the Capitol, with the condition of which, in regard to its ventilation and sanitary condition, they are particularly concerned.

The committee are impressed with the conviction that perfect or satisfactory ventilation of the Senate Chamber cannot be secured so long as the present roof is retained. The area of glass surface for the admission of light in the Senate roof exceeds three thousand four hundred square feet. The remainder of the roof is much more extensive, and is composed of copper of a single thickness. Below this metal and glass roof, and separated from it by the air space used for lighting the Chamber, is the ceiling,

extending over the whole Chamber, and composed of glass and iron. The inevitable result of these arrangements is, that the Hall becomes inordinately heated in summer by the direct admission of solar rays, and by the radiation of heat from the glass and metal, of which the roof and ceiling are composed. The temperature of the Hall is therefore often elevated to about 90° Fahrenheit during the sessions of the Senate; besides, at night sessions, the temperature on the floor of the Chamber is elevated as much as five or six degrees by the lights above the ceiling. This is the case in summer; but in winter, on the contrary, the roof generates cold in enormous quantity, producing irregularity and disturbance, as well as expense, in the ventilation of the Chamber. In short, the committee believe that the roof must be removed or changed in order to any satisfactory ventilation of the Hall, and that a change should also be made in the manner of lighting the Hall from that now established. The present roof was not a feature of the original plan of the architect by whom the wings of the Capitol extension were designed. By that plan light was to be admitted into the Hall by side windows placed in its upper elevation, which would give free ingress, whenever desired, to the external atmosphere, and would have avoided all the objections which exist to the present roof. By placing side windows around the Hall, making them double, and, when necessary, shading those exposed to the direct rays of the sun, perfect illumination of the Hall including the floor and galleries, would have been secured and all injurious influence of external heat or cold excluded; and, besides, the pure external air could, whenever desirable, have been admitted, by simply opening the windows; and then, by having a closed roof, made double or counter-ceiled, all noise of storms would have been excluded and most of the existing difficulties in ventilation avoided.

Two remedies have been proposed for the defects arising from the existing arrangements: the one, to abolish the present roof, substituting one of different construction, and to place side windows in the upper part of the Hall, as originally intended; the other, to remove the hall to the side of the Capitol wing. The objections to the latter plan are very strong, and may be regarded as decisive. The cost would be very great, many inconveniences would be encountered in the general arrangement of the wings, and the results would not be entirely satisfactory as to the Hall itself. Side windows near the level of the floor would admit some noise; the light from them would be direct and offensive in certain situations; they would, when open, produce currents of air directly upon members, and would produce irregularities of temperature in the Hall. Besides, the difficulties of adopting a plan of regular and effective ventilation would recur upon us in adopting this arrangement.

But recurring to the other plan of windows in the upper part of the Hall, in connection with the other changes proposed by the architect, and recommended in the former report of the joint committee of the two Houses, we obtain, as the committee think, complete and satisfactory results. By abolishing the roof we secure the Hall from its direct and enormous influence upon temperature, avoid the noise of storms, and are enabled to obtain complete and regular control of the ventilation of the Hall. And by substituting a few lights with reflectors and ventilating chimneys for the present gas jets, we avoid the undue production of heat at night sessions. The plan also enables us to obtain pure air at all times with perfect facility, to hydrate it in winter in its passage to the Hall, and to cool it in summer, and to remove it with certainty and regularity at all times from the Hall before it becomes contaminated by respiration.

The committee will not repeat the explanations and reasonings of the former report, although they are necessary to the full comprehension of the subject. They will content themselves with referring to that report as satisfactory upon all the points and details of the plan now left unnoticed. But two points mentioned in the former report may deserve some further attention. The first is the exterior or upward elevation of the wing; and the second, the proposed downward movement of the air through the Hall in the process of ventilation.

The slight elevation of the central part of the wing, as proposed, will break the horizontal sky line of the building, and will conform to the order of architecture upon which the Capitol was designed. The outer lines of elevation will be behind the projections of the porticoes, colonnades, and most of the balustrading now placed upon the exterior walls. The committee believe the effect will be pleasing to the eye, while the work will be conformed to the principles of art. The attic designed will not be necessary to the practical results desired in the ventilation of the Senate wing, but may be vindicated as an architectural addition. It need not, however, be immediately erected.

The downward movement of air, in ventilating public buildings, discussed in the former report, is powerfully recommended by recent practice in Great Britain and France, and to some extent also in this country. It has been completely successful as applied to the Commons House of Parliament, and to other public structures in England, and it is the accepted system in France. The recent able and exhaustive works of General Morin upon the ventilation of the public buildings of Paris has been, at the instance of the committee, examined by a gentleman of high scientific character, and the result is a complete indorsement of the views of the architect who planned our Capitol extension, and who now proposes to apply his original principles in its improvement.

The committee recommend that the plan of improvement be carried into execution during the coming year, under the management of Charles F. Anderson as architect and superintendent; the details and plans of the work to be examined and approved

throughout by Dr. Thomas Antisell, and all contracts to be made under the authority of the Commissioner of Public Buildings. The work can be fully completed during the coming year, and all preliminary arrangements can be made, plans perfected, and materials and work contracted for before or during the next short session of Congress.

Mr. SPRAGUE. I hope the Senator will explain to us the changes it is proposed to make in the roof and Hall before we vote.

Mr. BUCKALEW. I will give some explanation of this plan of improvement proposed by the committee. The general features of the plan are these: that the present roof shall be abolished; we commence at the upper extremity; and in its place a double roof or one counter-ceiled be substituted, which will exclude all noise of storms and all influence of heat and cold in summer and winter; the ceiling to be elevated, and side windows to be placed in the upper elevation of the Hall in its whole circumference, enabling us at all times to command at pleasure a complete supply of pure external air directly into our Chamber; and by making the windows double, as they ought to be in all buildings of magnitude, we obtain control of the Chamber with reference to external heat and cold when we choose to exclude them.

It will be observed that so far as I have gone in my statement, the plan obtains direct communication with the external atmosphere from the Hall, and secures the air in it perfectly from the influence of external heat and cold as well as external noise.

The next point is a change in the lighting of the Hall. We propose to remove the present gas jets from above the ceiling and replace them by eight or twelve—I forget which—lights adjusted with ventilating chimneys and with reflectors. We can obtain from a limited number of such lights double the present amount of lighting power in the Hall, if we choose, by the simple device of using reflectors, and by using chimneys all the smoke and unused gas are immediately removed and discharged into the external atmosphere. That portion of the plan will avoid the throwing down into the Hall of heat at night sessions and enable us to sit here with perfect comfort in summer, even though we should not cool the air before we introduce it into the Hall, which we propose to do.

So much, sir, with regard to the changes above. Now, the general plan of improvement, as proposed in the former report, but not recited in the present one, was this: the air is obtained at a short distance from the wings, conveyed through an entrance passage of adequate capacity to a point in the basement, where it is subjected to the influence of a fan; that is the moving power, the one now used, and the one in almost universal use in all large structures. Near that fan is placed the heating apparatus; that which we have now can be used, and we may extend it somewhat in magnitude; but the same mode of heating can be applied. In summer also, in this passage near the fan, we can cool the air perfectly by a double process; first by placing ice upon a grating which is designed in the plan; and secondly, by causing jets and spray of water to pass through it in its way to the general air chamber, which is above in the neighborhood of the upper part of this Hall. The air then is conveyed upward from the fan through a passage to an air chamber, where, whenever you desire, there may be communication with the external atmosphere to temper it; that is, you can reduce the temperature or increase it at pleasure. It is then brought over the ceiling and admitted to the Chamber by the present apertures through which the air is excluded or carried away.

Then, sir, with regard to its removal from the Hall, it will be removed from the Hall through the present apertures in the floor designed for its introduction. It can be taken away from us through the present entrance passage, and the same power which is now used to introduce it can be used to remove it from the Hall.

Speaking, then, in general terms, we have



perfect control over the introduction of the air; we have perfect control over its temperature in winter and in summer; we have perfect control over its removal and its discharge without making any extensive change in the present arrangements for its introduction. It will be seen from this statement which I have made that there is one peculiarity, which is not familiar, perhaps, to most members of the Senate—I mean the introduction of air through the ceiling and its removal through the floor. The advantages of that system are so manifest, are so indisputable, that whenever any person examines the subject his conclusion must be in its favor. It is not a matter of debate or dispute. In the first place, one disadvantage of introducing air through the floor of the Chamber, and causing it to pass upward in currents, is that all the dust and impurities that are brought into the Hall, and are upon or about the floor, are carried up into the region of respiration and breathed. Another difficulty is, that these entrance currents affect, to some extent, the sound of the voice in speaking in the Hall. If these currents are active they must produce very considerable disturbance.

Another difficulty which we have in our present arrangements is the want of adequate space, which we obtain by the proposed plan. I mean adequate space for preparing the air before it is introduced into the Hall. Our Sergeant-at-Arms has made an attempt to hydrate the air, to impart to it adequate moisture in the winter months, when, I may say without exaggeration, it is in a state highly injurious to the human system, to which cause, I have no doubt, more than one victim has fallen. Now, the air taken at an external temperature in the winter of say 32° degrees, or the freezing point, is conveyed through a closed passage in which there is no access to sources of moisture, and it is heated up to a temperature say of 75°. It is then in a state where it demands, according to natural laws, more than three times the amount of moisture which it contained when first taken from the external atmosphere and subjected to this operation. Thus, sir, we have it in the Chamber, and we are obliged to breathe it without its being hydrated, without its having conveyed to it that adequate amount of moisture required at the temperature to which it is elevated.

I had that subject tested by Dr. Wetherill, of the Smithsonian Institution, who was here at that session, and who was doubtless observed by Senators on several occasions conducting his examinations. The average annual humidity of external atmospheric air in this country, I believe, is about 68°—it is a little higher in Great Britain—assuming that the saturation point of atmospheric air is indicated by the number 100; that is, when the air contains all the moisture which it can contain without precipitation, you indicate that state by the number 100, and then in examining any specimen of atmospheric air in a given case you may indicate the amount of moisture present by a number which will bear the same relation to the number 100 that the quantity present bears to what would be present if the air were entirely saturated. This amount, so present, is called by scientific men, "relative humidity," which is indicated by an absolute number. As I said before, the mean annual relative humidity of external atmospheric air is about 68° in this country. It is about that in Philadelphia. In the air in this Chamber we ought, at a temperature of 75°, to have a relative humidity of 68° or 70°. Upon one occasion Dr. Wetherill ascertained that the relative humidity of air in our galleries was 27°. He tested it in the galleries and upon the floor and in the air space above the ceiling upon another occasion when the relative humidity of the air stood at 21° in the diplomatic gallery and at 20° at the level of the desks near the floor of the Chamber. The relative humidity of the air we breathed was 20° instead of 70°. This was in cool weather, when the out-door temperature was at about the freezing point.

Mr. Roscoe, an English writer who examined this subject, informs us that the air in the House of Lords, where they have night sessions, sometimes very prolonged night sessions, especially in the latter part of the parliamentary sittings, is pleasant to breathe when its relative humidity ranges from 55° to 82°; and yet, sir, during the winter months we sit here in an atmosphere the relative humidity of which is sometimes 20° or 21°. Of course as the season advances, as warm weather comes on, as the external atmosphere is increased in its temperature, it obtains the moisture which it demands from external sources, and as we do not heat it by artificial means before it is introduced, this objection of aridity of the air does not exist here, and you are not obliged to any considerable extent to struggle against it. It is the difficulty in winter.

Now, sir, what the committee propose at this time is, that the architect who designed the Capitol wings originally, and a departure from whose plans has introduced every difficulty that exists now in the ventilation of the Halls—I speak that with confidence after three years' examination of this subject—shall proceed in accordance with the plans which have been examined and approved to make the necessary preliminary arrangements before the next session; to obtain materials and to make the proper contracts preliminary to carrying this work into execution; that during the next session we shall have the air introduced into the Senate hydrated, that is, have some amount of moisture forced into it, and that we shall get through the next session as well as we can with that single improvement. Immediately upon our adjournment at the next session, the work above, the change of roof and ceiling, the introduction of side windows, and all the other details of the plan, will be carried forward and can be executed a considerable time before the meeting of the next Congress.

I will conclude by saying that there are two leading defects we encounter at present in examining our ventilation: the one, the aridity of the air in winter; the other is the excessive heat in summer, and this excessive heat in the Hall is produced by the enormous amount of metal and of glass which is placed above us. It is impossible to have this Senate Chamber ventilated and the air made healthy and the condition of the members made comfortable so long as that roof is retained.

As I said before, the architect, in designing the Capitol wings, originally planned them with external windows in the whole circumference of the upper part of the Hall, and there was no glass roof. He never intended any such abortion, any such monstrosity in this climate, as a sort of Grecian temple, open to the heavens, or with the external heat and cold and the influence of noise excluded only by metal and glass in the manner which has obtained.

Let me explain the effect of that roof in the winter. We had that examined. Upon one occasion when the external temperature was at a temperature of 30½° of Fahrenheit the thermometer indicated 64° in the air space between the ceiling and the roof, which is our lighting space; in the galleries 68°, and on the floor of the Senate Chamber 70°. What did that mean? The warm air lying down in the lowest part of the space and the coldest air in the upper part; what did that mean? It meant this; your thirty-four hundred feet of glass roof and your seven thousand or ten thousand square feet of copper roof, (a single thickness at that,) and the iron and glass ceiling were such instruments and agents for imparting cold to the air within our space that the coldest air was actually in the upper part of the Hall and the warmest air in the lowest part. You are obliged to heat air and drive it in here and fight that roof—contend against it—throughout the cold months of the winter; and the disturbance thereby produced to your ventilation is incurable while the cause remains.

We had a Chaplain in the last Congress who understood the classic languages, and I went to him to obtain a Latin expression regarding

the roof analogous to that which is used in reference to the destruction of Carthage. He said it would be, *tectum delendum est*, which may mean, the roof must be destroyed; it must be abolished; the impertinence of its presence in this great structure must not be permanently permitted. I have taken that as my motto in reference to this question of ventilation which has been under consideration for three years. It is the key-note to the whole subject. You must abolish the present roof, and you must substitute some other arrangement by which you can get control of the air used in ventilating your Hall. By adopting this report the Senate two years from this time, on the 23d day of July, 1868, can sit with perfect certainty in an atmosphere of 70° in this Chamber. I think that is an illustration of the proposed reform which will come home to members.

Mr. JOHNSON. How is it about sound?

Mr. BUCKALEW. One of the leading ideas in the plan of introducing air through the ceiling and taking it out at the floor, one of the main recommendations of it, is its manifest improvement with regard to acoustics. By introducing the currents of air at the ceiling and causing the air to descend through a considerable space before it reaches the person the inevitable result is that the air becomes equalized in its temperature and in its density through its whole mass, and the voice traverses it with entire convenience and regularity. We have had that subject specially examined by Dr. Antisell, a man of science, and he has prepared for us an essay or a report which will accompany our report (read to-day) when it is regularly printed and prepared for future reference. This subject of the acoustics of the plan was also examined by Professors Bache and Henry when it was contemplated originally to adopt it here. They visited many public buildings and examined that question with care.

I may say to the Senator, in addition, that for the purpose of avoiding reverberations which to some extent prevail in the present Hall, it is only necessary to have passages for the air sunk in the panels of the woodwork which curtains the Chamber. In that case all surplus sound would be conveyed into the passages, and might by tubes be conveyed to the galleries, as is done in Drury Lane Theater. There are sub-passages connected with tubes by which the voice is conveyed into the upper extremities of the galleries and the voices of the actors upon the stage are heard distinctly at the most remote points of that building. If it become necessary to improve the acoustics of the Chamber with reference to the excess of sounds thrown back from the walls we can easily dispose of all that surplus sound by throwing it into the walls themselves and conveying it away and using it elsewhere if we please.

Mr. SUMNER. Mr. President, we must all be very grateful to the Senator from Pennsylvania for the attention which he has given to this important question which concerns so much the comfort of the Senate; I was about almost to say the character of our legislation; for while living in this anomalous atmosphere, certainly it may be well imagined that our legislation sometimes must suffer with our bodies. But the Senator will pardon me if I suggest that he has not been sufficiently radical in his proposition. I know the Senator in some respects is unwilling to be considered a radical. He does not like the name.

Mr. BUCKALEW. I have no distaste for the name; I claim to be very radical on some subjects.

Mr. SUMNER. Very well; now I wish the Senator to be radical on this subject which he has particularly in hand. He, catching a phrase from ancient Rome, says, not that Carthage is to be destroyed, but the roof is to be destroyed. Now, I tell the Senator he does not go far enough; these walls are to be destroyed. The difficulty is not so much with the roof over our heads, as with the surrounding walls. This room must be brought to the open air; it must be brought where there can be windows that will look out to the light of day. Through

those windows we can have a natural ventilation; and as this building is seated high on an eminence, it is open to the air always when there is any air stirring. I think I do not go too far when I say there is no public edifice in the world which enjoys advantages of site equal to that of this Capitol. If any one calls to mind the great buildings of London, of Paris, or of Rome, there is not one of them that can be compared in situation with this Capitol. Now, sir, when we voluntarily shut ourselves up in this stone cage with glass above, we renounce all the advantages and opportunities of this unparalleled situation. Let these walls be taken down, and by a radical change this room be brought to the open air. That will be a change that will accomplish at once all in the way of ventilation and everything else which the Senator so anxiously recommends. The proposition is more radical than his; it will be expensive, I fear very expensive, for this building as we all see is built for immortality. Unless there is some act of legislation by which it is to be changed this room will continue uncomfortable as it is now for centuries. Senators, centuries after us, unless some of us interfere to make the change, will be sitting as uncomfortably as ourselves. Now, sir, I think we owe it to those who are to come after us to initiate the change.

I would call attention to two things which I think essential. I have alluded already to one of them, and I will now individualize it again. First, this room is to be brought to the open air by taking down these walls and having windows that shall look out to the sky. Secondly, and that is not less important, the room should be not more than half its present size. Here we are in this room sacrificed to the galleries. In that respect we are not unlike the combatants in a Roman amphitheater, and here we are engaged in our disputes to make, not "a Roman holiday," but a Washington holiday. It is on the occasion of a considerable discussion, or what is sometimes called "a great debate," that these galleries are filled with fourteen or fifteen hundred people. I need not remind Senators how little the size of this room consists with the proper transaction of public business. It may do very well for a considerable occasion when some person is to occupy the whole day and to give himself to an occasional speech; but we all know that it is not consistent with our comfort in the transaction of everyday business.

I do not know that Senators remember the testimony that was given by Sir Robert Peel before the committee of the House of Commons when they were considering what should be the size of that room. He was summoned before the committee and interrogated as a witness is; he was reminded that the House of Commons consisted of six hundred and fifty-eight members; he was then asked what accommodation he thought, all things considered, should be provided for the House and spectators, to which he replied, according to my recollection: true the House of Commons consisted of six hundred and fifty-eight members, but that number was very rarely in attendance; then the number of spectators was comparatively small; on common occasions, upon everyday business, even a small house, he said, would not be filled, and he thought it better to construct the new House of Commons with a view to the business of every day rather than with a view to those rare occasions when the House would surely be filled. He said, summing up his testimony, we had better be comfortable every day and stand a tight squeeze on those rare occasions. I think there is a great deal of philosophy in that. I think that the Senate had better be comfortable every day and every hour of the day, when it is transacting its morning business, when it is considering the introduction of measures, and occasionally stand a tight squeeze, rather than be uncomfortable every day, as it is through the unreasonable size of this Chamber. You all know that when business is introduced or motions are made in a common tone of voice, it is difficult for us to

hear them unless we give very special attention, and if there is any interruption by conversation it is impossible. Now, I submit that the Chamber ought to be of such a size that a Senator making a motion in a common tone of voice, or asking a question in a common tone of voice, would be easily heard throughout the Chamber. I think that should be the rule of the architect. No such rule has been employed; this has been constructed with reference to these spacious galleries, and our daily business, I may say our daily life, is sacrificed to the accommodation of the galleries. I submit that if the galleries were half the present size, containing some seven hundred witnesses, with the reporter's gallery which already exists, the whole theory of our institutions would be amply fulfilled, the public would be in sufficient attendance, and our business would be transacted much more easily and advantageously than it is now.

I say, therefore, there are two things to be accomplished; one is to bring this room into a smaller space and another is to bring it out to the open air; and in doing that all the object of my friend from Pennsylvania would be satisfactorily accomplished. We should have a new system of ventilation which would be complete; it would be a natural ventilation in the main instead of an artificial one, such as he proposes.

I have thrown out these remarks as they come to my mind, believing that they are important for the consideration of the Senate, and further believing that it belongs to the older Senators of this body, those who have been the longest experienced in this Chamber, to take the lead in these suggestions. Of course Senators who have recently come into the Chamber will not consider themselves authorized by experience to propose a revolutionary or a radical change in the room. It will be for those who have had a longer experience of the Chamber, and especially for those who have had an experience of the other Chamber where we were before this, to insist upon this change. Why, sir, if it could be done by my vote, I would go back to-morrow morning gladly to that other Chamber where the Senate sat for so many honorable years of its existence. There is no one who remembers that Chamber who would not prefer to be there than here. For the transaction of public business it was infinitely superior to this room, and then on those rare occasions when there was a large attendance there were spectators enough; the theory of our Government was amply satisfied, the public were not excluded, and there were always reporters to communicate promptly what was said.

Mr. TRUMBULL. I am very much gratified that the Senator from Pennsylvania has moved in this matter. I think something ought to be done. This Hall has been a subject of complaint ever since we moved into it. I served for one or two Congresses—I do not recollect now the precise period when we moved into this Hall—in the old Chamber; and from the time we first came here until now it has always been a subject of complaint, not only in summer, but in winter. It used to be complained of when we first came here very seriously in consequence of currents of cold air in the Chamber, and at that time, some years ago—I think the late Senator from New Hampshire (Mr. Hale) moved in the matter first—a committee was raised, and it was proposed, I think, at that time to change the Chamber from its present position to the exterior of the building. I have always been hoping that that change would take place. I think it was the greatest mistake that could have been made to place these Halls in the center of the wings of the Capitol. Now it is in contemplation to improve the grounds. They are already very beautiful on the east and west sides of the Capitol. It is intended to extend the grounds on the north and south, and to plant trees. The prospect will be inviting and pleasing when these improvements are made. If our Hall was upon the exterior of the building, with these fine grounds surrounding them, the

windows open, and access out upon the balconies, what a relief it would be. What a relief it would have been during the late hot and oppressive weather to have had an opportunity, without losing the business of the Senate, without being so far away that you could not tell what was going on, to have the benefit of windows upon the exterior. It is not simply the air; it is the prospect. The prospect is worth a great deal. It is a relief from the tedious business of a six or eight or sometimes ten hour session to look out upon the world, and not to be shut up here like prisoners in a jail or school-boys in a school-room, where the windows are closed, lest they should look out of doors and their attention be directed from their books.

I therefore should be sorry to see any money expended in an attempt to raise the roof of this Chamber with a view of improving it where it is. I think that this room should be adjoining the exterior walls of the building. The architect some years ago made an examination to see if such an improvement could be made, and the matter was seriously considered. I have not looked at his report recently, but he made a report and an estimate of the expense. Two questions were considered: first, whether it was practicable, consistent with the safety of the building, in the manner in which it is constructed, to take out these walls and change the Hall to the exterior walls of the building; and secondly, what the expense of that change would be. The architect reported that it was practicable, that that change could be made without injury to the building; and my recollection is that he estimated the expense of doing it, making everything complete, and providing rooms for the Secretary's office and these other rooms elsewhere, at \$200,000. I do not remember what the estimate is of the improvement contemplated by the Senator from Pennsylvania. If he stated it, I was not paying attention at the moment. The cost of the improvement he designs making would of course be much less than this radical change, as the Senator from Massachusetts calls it, of moving the Hall to the exterior walls of the building. I am not now prepared to suggest a plan of doing that; but I hope we may have the sense of the Senate upon the question as to how this improvement is to be made. I take it, all will agree that some change or other ought to be had in this room. My own judgment is that when we make that change, we had better change the location of the Hall, and not attempt to improve it where it is. It is not in the right place. It never ought to have been in the center of the building. Let us be where we can have the prospect that will surround us and have the benefit of the air as nature furnishes it, without having it pumped up or blown up by artificial machinery.

Mr. BUCKALEW. I deem it necessary to make a few remarks in consequence of what has been said by Senators who have spoken in the debate. In the first place, I agree entirely in the opinion expressed by the Senator from Massachusetts that the Senate and House Halls were made too large; that it would have been much better if they had been constructed of smaller dimensions; but I take it for granted that we shall not get any measure through both Houses of Congress proposing a reduction or contraction in their size, and inducing the enormous expenditure which will be necessary to effect that object.

The Senator from Massachusetts says that he desires to get to the external atmosphere. Now, sir, by the plan proposed, you accomplish that object; you get to the external atmosphere. The only difference between the plan which the Senator suggested and that proposed is, that by this plan you get to the external atmosphere in the upper part of the Hall by windows surrounding it, and according to his idea you would get to the external atmosphere in the lower part of the Hall by side windows on two sides of the Chamber instead of four. Therefore, the whole object which he suggested as desirable is obtained by

the plan before us, while it would be but partially attained by his. Of course, the moment that air is introduced from windows in the upper part of the Hall, it would fall to the floor; the whole mass of air within the entire Chamber would be changed; and besides that, you would not be subjected to side currents of air upon the bodies of members themselves. There can be no question between the two, which is to be preferred.

Now, sir, with regard to the suggestion that we shall go to the sides of the wings with our Halls, my opinion is, after a long consideration of this subject, that that proposed reform is one which will never be accomplished; that it is simply a suggestion which, if not impracticable, will not within any reasonable period of time be realized. In the report made by the select committee on this subject, which has been read at the desk, a number of objections to it are stated which seem to me to be decisive. But in addition to those objections, there is this one: after you get the Hall to the side of the wing with two of its sides exposed to the external atmosphere through the windows or other apertures, the whole question of ventilation and its arrangement returns upon you. It is idle to talk of ventilating a hall of magnitude steadily, regularly, and successfully by side windows alone. Those side windows will be exceedingly objectionable to those who will occupy the Hall because of the currents of cold air which will fall from them if they are not double, and if you double them, as they will necessarily have to be in order to realize the result, the Senator's external prospect would be excluded or impaired. I do not know that there is a single recommendation of that plan which remains, after considering carefully the practical difficulties in the way, except this one of having a prospect, a thing which you can have now by stepping out upon the balcony under the colonnade. You are able, as far as that is concerned, to realize your wish if you choose to withdraw from business and from debate to enjoy the contemplation of nature, so far as nature can be seen in a city inhabited by fifty or one hundred thousand people with the artificial conditions established by them. I repeat again, that when we get to the sides of the building we shall have to adopt some effective plan of ventilation, to bring the air in above or below and remove it when it becomes contaminated.

I have but one further remark to make, which I think will tend to reconcile gentlemen to the adoption of this amendment, which is the only practical point before us. The elevation of the ceiling, the insertion of side windows, and the construction of a new roof, will not be entered upon before the next session of Congress. Of necessity, that part of the improvement will be delayed. When we meet next winter, we shall have a model in wood, open to the inspection of all the members of the Senate, showing precisely the effect of the changes proposed with reference to the roof and the ceiling and the side windows, so that it can be seen by the eye. Then if there be insuperable objections in the minds of Senators to entering upon that part of our plan of improvement, we can arrest it before any expense is incurred upon it. I suppose this explanation ought to be satisfactory to Senators, and induce them to agree to the amendment.

Mr. TRUMBULL. It is important that we should transact some executive business, and I therefore move that the Senate now proceed to the consideration of executive business, as there is to be a recess at half past four o'clock.

Mr. SHERMAN. Unless the Senate are disposed to waive the special order which was made some time ago for this evening, I should prefer to go on with the bill.

Mr. GRIMES. We shall take a recess in half an hour anyhow.

Mr. SHERMAN. I should like to reconsider that. I propose, however, to accommodate myself and this bill to the wish of the Senate.

Mr. LANE. Is the motion to go into executive session debatable? If it is, I should like to say that the less executive business we do until we adjourn, the better. I do not think I shall vote to go into executive session while we are here.

Mr. TRUMBULL. We must do some executive business.

The PRESIDING OFFICER. The motion to go into executive session is debatable to a limited extent, so far as to state the reasons for or against it.

Mr. HENDRICKS. I suggest to the Senator from Illinois to allow this amendment to be disposed of.

Mr. TRUMBULL. That is going to take some time, and we cannot dispose of it and go into executive session before half past four o'clock.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois. The motion was agreed to; and after some time spent in executive session the doors were reopened, and at five o'clock (the time fixed having been extended) the Senate took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 386) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 83) declaring Tennessee again entitled to Senators and Representatives in Congress.

The message further announced that the House of Representatives had passed a joint resolution (H. R. No. 198) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Jersey, in which it requested the concurrence of the Senate.

#### MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I ask the Senator who has charge of the business to-night, and I also ask other Senators, to give me unanimous consent to take up the Army bill, which lies on the table, having been returned from the House of Representatives with an amendment, and to move to concur in the amendment which they have made with an amendment, being the bill that the Senate passed the same day that that bill came here, with a view of bringing the matter before a conference. I have been endeavoring to make this motion all day, and if there is no objection, it will take but a moment; there is no need of reading the bill which I shall propose as an amendment, as it is the bill substantially we passed here the other day. I propose, if the Senator will allow me, to take up the bill and concur in the House amendment with an amendment striking it all out and inserting a substitute. That will probably bring the matter in such a shape that we shall have action upon it. If there be unanimous consent, it will not take a moment, and I should like to do it.

Mr. CHANDLER. Very well; I have no objection.

Mr. WILSON. I move, then, to take up the Army bill, and to concur in the amendment of the House, with an amendment striking out all after the word "that" and inserting what I send to the Chair.

Mr. HARRIS. It was stated, when the motion was made to have an evening session, that it was to be confined exclusively to the consideration of reports from the Committee on Commerce, and perhaps it will hardly be good faith toward the members who are absent to take up any other business.

Mr. WILSON. I do not believe there is a member of the Senate who will oppose it.

Mr. HARRIS. I want to state another thing. When this bill was under consideration before the Senate a few days since, I proposed two sections to the bill, which were adopted by the Senate, but which are not in the bill now proposed to be substituted for the House bill. If those sections were put in, I should have no personal objection to the motion.

Mr. WILSON. If it is thought that my motion will lead to debate or objection, I will not persist in it. The danger is, that if we put in any other sections, we may lose the whole bill.

Mr. HARRIS. Let me say to the Senator from Massachusetts that I think the section to which I refer would be very good capital for him to work on in the committee of conference.

Mr. WILSON. I have cut down the bill as it stands in regard to the volunteer officers to be added to the regular Army. The Senator may think that it is rather unfair to the absent members to call this up; but if unanimous consent were given, it would be all right. However, I withdraw the motion.

Mr. HARRIS. I think you had better take it up in the morning hour.

#### INTERSTATE COMMUNICATION.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 66.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 66) to facilitate commercial, postal, and military communication among the several States.

Mr. CHANDLER. As a House bill similar to this has already been acted upon, I move that the bill be indefinitely postponed.

The motion was agreed to.

#### REGISTRY OF VESSELS.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 728.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 728) authorizing the Secretary of the Treasury to issue certificates of registry, or enrollment and license, to certain vessels. It authorizes the Secretary of the Treasury to issue certificates of registry, or enrollment and license, to the steamer Diana, of Victoria, Vancouver Island; schooners M. C. Rowe, of Gloucester, Massachusetts; Mary, of Dexter, New York; Jesse Conger, of Oswego, New York; N. C. Ford, of Buffalo, New York; Sweet Home, of Rochester, New York; Alma, of Sodas, New York; Marcó Polo, of Erie, Pennsylvania; brig Three Bells, of Rochester, New York; bark J. S. Austin, of Buffalo, New York; and the sloop Dolphin, of Alexandria bay, New York.

Mr. EDMUNDS. I should like to ask a little explanation of this bill, which I presume to be entirely correct; but I ask whether these vessels, being foreign vessels, the effect of this bill will not be to introduce them into the service of the United States without paying any revenue duty or any internal tax whatever. I do not know what the circumstances are, and undoubtedly the chairman can inform me. I was not present in committee when the bill was considered by them.

Mr. CHANDLER. These vessels are of the same category with those in regard to which we passed a bill some time ago. They are Canadian-built vessels, and, as was stated at that time, are thrown out of use on account of the termination of the reciprocity treaty. We have been, perhaps, a little extra-liberal in nationalizing those vessels that were thus thrown out of employment; but we passed a similar bill a short time ago.

Mr. EDMUNDS. I move to amend the bill by adding at the end of it the following proviso:

*Provided, That there shall be paid on each of such vessels that are of foreign build a tax equal to the internal revenue tax upon the material and construction of similar vessels of American build.*



Mr. CHANDLER. I have no objection to that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

#### PORT OF ENTRY IN PUGET'S SOUND.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 729.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 729) to change the port of entry in Puget's Sound. It proposes to abolish, from and after the 1st day of October, 1866, the port of Port Angeles, in the district of Puget's Sound, in Washington Territory, as a port of entry, and to establish Port Townsend as the port of entry and delivery for the district from and after that date.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PORTS OF DELIVERY.

Mr. CHANDLER. I move that the Senate now proceed to the consideration of House bill No. 609.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 609) to constitute Omaha and Nebraska City, in the Territory of Nebraska, and St. Paul, in Minnesota, ports of delivery. It proposes to constitute Omaha and Nebraska City, in the Territory of Nebraska, and St. Paul, in the State of Minnesota, ports of delivery, subject to the same regulations and restrictions as other ports of delivery in the United States; and there is to be appointed a surveyor of customs to reside at each of the ports, who, in addition to his own duties, is to perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress, approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places," and the towns of Omaha and Nebraska City and St. Paul, as ports of delivery, are annexed to and made a part of the collection district of New Orleans, and all the facilities and privileges afforded by the act of Congress of the 2d of March, 1831, are extended to them.

Mr. CHANDLER. I move to amend the bill by adding as an amendment Senate bill No. 196, in these words:

*And be it further enacted*, That Council Bluffs, in the State of Iowa, shall be, and is hereby, constituted a port of delivery, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and there shall be appointed a surveyor of customs to reside at said port, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places," and the said town of Council Bluffs and the said port of delivery be, and is hereby, annexed to and made a part of the collection district of New Orleans, and all the facilities and privileges afforded by the said act of Congress of the 2d of March, 1831, be, and are hereby, extended to the said port of Council Bluffs.

*Sec. 2. And be it further enacted*, That Portland, in the State of Oregon, shall be, and is hereby, constituted a port of delivery, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States, and there shall be appointed a surveyor of customs to reside at said port, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places," and the said city of Portland and the said port of delivery be, and is hereby, annexed to and made a part of the

collection district of the State of Oregon, and all the facilities and privileges afforded by the said act of Congress of the 2d of March, 1831, be, and are hereby, extended to the said port of Portland.

Mr. EDMUNDS. I wish to suggest to my friend, the Senator from Michigan, that a great deal of useless repetition of language would be avoided by so changing the amendment as to insert the names of these new places after the word "Minnesota," in line four of the original bill, and again after the word "St. Paul," in the eighteenth line; because in all other respects the provisions are precisely the same; and if it be in order I will move to amend by substituting such provisions, because otherwise every word is a useless repetition of what is already in the bill.

The PRESIDENT *pro tempore*. An amendment to the amendment is in order.

Mr. EDMUNDS. I move to amend, then, by substituting for the amendment proposed by the Senator from Michigan the following: to insert after the word "Minnesota," in line four, the words "Council Bluffs, in the State of Iowa, and Portland, in the State of Oregon," and by inserting after the words "St. Paul," in the eighteenth line, the same words; and by inserting after the words "New Orleans," in line twenty, the words, "and the said port of Portland is annexed to and made a part of the collection district of the State of Oregon."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. WILLIAMS. I should like to hear the bill, as amended, read in full.

The Secretary read it as follows:

*Be it enacted, &c.*, That Omaha and Nebraska City, in the Territory of Nebraska, and St. Paul, in the State of Minnesota, Council Bluffs, in the State of Iowa, and Portland, in the State of Oregon, shall be, and are hereby, constituted ports of delivery, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and there shall be appointed a surveyor of customs to reside at each of said ports, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress, approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places," and the said towns of Omaha and Nebraska City and St. Paul, and Council Bluffs, in the State of Iowa, and the said ports of delivery be, and are hereby, annexed to and made a part of the collection district of New Orleans, and the said port of Portland is annexed to and made a part of the collection district of Oregon; and all the facilities afforded by the said act of Congress of the 2d of March, 1831, be, and are hereby, extended to the said ports of Omaha and Nebraska City and St. Paul, Council Bluffs, and Portland, in the State of Oregon.

Mr. WILLIAMS. I suggest that in the eighteenth line the words "the said ports of delivery" should be stricken out.

Mr. EDMUNDS. That will make better sense.

Mr. WILLIAMS. It will then read "and St. Paul and Council Bluffs be, and are hereby, annexed to and made a part of the collection district of New Orleans."

The PRESIDENT *pro tempore*. That correction will be made, no objection being interposed.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time and passed.

On motion of Mr. CHANDLER, the title of the bill was amended so as to read, "A bill to constitute Omaha and Nebraska City, in the Territory of Nebraska, St. Paul, in the State of Minnesota, Council Bluffs, in the State of Iowa, and Portland, in the State of Oregon, ports of delivery."

#### NORTH CAROLINA COLLECTION DISTRICTS.

Mr. CHANDLER. I move that the Senate now proceed to the consideration of Senate bill No. 399.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to

consider the bill (S. No. 399) relative to collection districts in North Carolina. It provides that from and after the 1st of October, 1866, there shall be in the State of North Carolina four collection districts: one, to be called the district of Albemarle, which is to include Albemarle, Currituck, and Croatan sounds, and all the waters, shores, harbors, rivers, creeks, bays, and inlets adjacent to and following into the sounds, together with that part of Pamlico sound north of and including Loggerhead inlet, and all waters and shores appertaining thereto. And the port of entry for the district is to be designated by the Secretary of the Treasury. Another, to be called the district of Pamlico, which is to include Pamlico sound, and all the waters, shores, harbors, rivers, creeks, bays, and inlets adjacent to and flowing into the sound, exclusive of the district of Albemarle, and including the south line of Neuse river to the northern entrance of Cove sound; and the port of entry for the district of Pamlico is to be at Newbern. Another, to be called the district of Beaufort, which is to include all the waters, shores, harbors, creeks, bays, and inlets south of the district of Pamlico and north of and including New River inlet; and the port of entry for the district of Beaufort is to be at Beaufort. And another, to be called the district of Wilmington, which is to include all the waters, shores, harbors, creeks, bays, and inlets south of the district of Beaufort to the southern boundary of the State. And the collector of each of the districts is to reside at the port of entry thereof. The Secretary of the Treasury is authorized, should it at any time hereafter seem to him necessary, to change the port of entry in the district of Beaufort to Morehead City.

The Committee on Commerce reported the bill with several amendments. The first amendment was in section one, line nine, to strike out the word "following" and to insert the word "flowing."

The PRESIDENT *pro tempore*. That is a mere verbal change, and will be made unless objection is interposed.

The next amendment was in section one, line twelve, to strike out the words "designated by the Secretary of the Treasury," and to insert the words "at Plymouth."

The amendment was agreed to.

The next amendment was in section one, line eighteen, to strike out the word "Cove" and to insert the word "Core" before the word "sound."

The PRESIDENT *pro tempore*. That correction will be made as a verbal alteration, no objection being interposed.

The next amendment was in section one, line twenty-seven, after the word "State," to insert "and the port of entry for said district of Wilmington shall be at Wilmington."

The amendment was agreed to.

The next amendment was to add at the end of the first section the following:

And shall be appointed by the President, by and with the advice and consent of the Senate, and receive a salary at the rate of \$1,000 per annum in addition to the fees of office: *Provided*, That such compensation shall in no case exceed the sum of \$2,500 per annum in the aggregate.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the following enrolled bill and joint resolutions; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 776) in relation to the unlawful tapping of Government water-pipes; A joint resolution (H. R. No. 83) restoring Tennessee to her relations to the Union; and A joint resolution (H. R. No. 191) relating to the building lately occupied for a national

fair in aid of the orphans of the soldiers and sailors of the United States.

#### COMPENSATION OF CUSTOMS COLLECTORS.

Mr. CHANDLER. I move to proceed to the consideration of Senate bill No. 400.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes.

The Committee on Commerce reported the bill with several amendments. The first amendment was in section one, line seven, after the word "Saluria" to insert "Corpus Christi."

The amendment was agreed to.

The next amendment was in section one, line nine, after the word "year" to insert "in addition to the fees of office; provided, that such compensation shall in no case exceed the sum of \$2,500 per annum in the aggregate."

The amendment was agreed to.

The first section, as amended, reads as follows:

*Be it enacted, &c.,* That the collectors of customs hereinafter named shall, from and after the 1st day of July, 1866, in lieu of the salaries to which they are now by law respectively entitled, receive the salaries following, to wit: the collectors of the districts of Texas, at Galveston, Saluria, Corpus Christi, and Brazos de Santiago, Texas, each at the rate of \$1,500 a year in addition to the fees of the office: *Provided,* That such compensation shall in no case exceed the sum of \$2,500 per annum in the aggregate; the collectors of the districts of Beaufort, South Carolina, and Pensacola, Florida, each at the rate of \$1,000 a year; the collectors of the district of Georgetown, in the District of Columbia, and of the districts of Cherrystone, Virginia; Beaufort, North Carolina; Brunswick, Georgia; St. Augustine, St. Marks, and Appalachicola, Florida, and Teche, Louisiana, \$500 a year each.

The next amendment of the committee was to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury shall have the power and authority to fix and determine the salaries of all deputy collectors, deputy naval officers, and deputy surveyors: *Provided,* That no increase of salary shall in any case exceed the sums annually allowed by law to any of such officers respectively, prior to 1860, more than fifty per centum, except in the city of New York, where the addition may, at the discretion of the Secretary of the Treasury, be extended to sixty per cent. above such former allowance.

And to insert in lieu thereof:

SEC. 2. *And be it further enacted,* That all that part of the State of Texas and the waters thereof included within the counties of Nueces, Starr, Zapata, Duval, Encinal, Webb, La Salle, McMullen, Live Oak, Bee, Refugio, and San Patricio, shall be a distinct collection district, to be called the district of Corpus Christi, and the town of Corpus Christi shall be its only port of entry; and a collector shall be appointed to reside at said port. And Aransas shall be a port of delivery in said district.

The amendment was agreed to.

The next amendment was to strike out section three, in the following words:

SEC. 3. *And be it further enacted,* That from and after the passage of this act no naval officer or surveyor of the customs shall be entitled to receive any compensation from the receipts for storage accruing from the deposits of merchandise in any public store or private bonded warehouse; and no collector of the customs, or officer acting as collector, shall receive any compensation for storage, except that derived from merchandise deposited in stores owned or leased by the United States and used by such collector as public stores.

And to insert in lieu thereof:

SEC. 3. *And be it further enacted,* That the town of Indianola shall hereafter be the port of entry for the district of Saluria, in said State, instead of La Salle. And all acts and parts of acts conflicting with the provisions of this act are hereby repealed; and this act shall take effect on and after the 1st day of August next.

The amendment was agreed to.

The next amendment was to insert as section four the following:

SEC. 4. *And be it further enacted,* That in lieu of the compensation now allowed by law there shall hereafter be paid to each of the deputy collectors, deputy naval officers, and deputy surveyors of customs at the ports of New York, Boston, New Orleans, and San Francisco a sum not exceeding \$3,500 per annum, out of the appropriation for expenses of collecting the revenue from customs.

Mr. CRESWELL. In this section provision is made for an increase of the salaries of deputy collectors, naval officers, and surveyors of the

cities of New York, Boston, New Orleans, and San Francisco. I see no good reason why, if those officers have their salaries increased, the like officers for the city of Baltimore should not also be included. Their compensation now is the same; their duties are precisely the same; they are alike onerous, and all alike exposed to the expense of living in large cities. I therefore move to amend the amendment in the fifth line by inserting after the word "Boston" the word "Baltimore."

Mr. MORRILL. These salaries are scaled, and they are graduated with reference to the business transacted at the different offices. Baltimore does not fall within this scale. The same reason that would increase the salary at Baltimore would increase the salary at Portland, in my State; but for the reason which I have assigned I did not insist in the committee that Portland should be kept in. Portland, Baltimore, and Philadelphia are on the same plane, or nearly so. Portland is ahead of both of them in the shape of importations.

Mr. TRUMBULL. I beg to inquire of the Senator from Maine whether this bill increases generally the salaries of collectors.

Mr. MORRILL. No, sir, it does not; and it is for that reason that I am making these remarks.

Mr. TRUMBULL. What is the reason for increasing these particular ones? Is there any complaint about them?

Mr. MORRILL. Yes, sir. Their salaries were thought to be inadequate. This bill does not very much increase them. It applies to four collection districts, the largest in the country. I was just remarking that the committee did not think it advisable to apply the same rule which the Senator from Maryland invokes, in favor of the lower class or grade of districts. I hope the Senator from Maryland will withdraw his motion, because it will inevitably lead to the raising of the salaries of the other officers who stand on the same grade as those in Baltimore.

Mr. CRESWELL. I do not see the force of the argument suggested by the honorable Senator from Maine. It matters not, certainly, so far as these officers are concerned, what amount of customs is received at their respective offices. The salary ought to depend upon the capability of the individual, the capacity of the man whose services are required, and the expenditures to which he is subjected. In the city of Baltimore, there are two deputy collectors; in Boston there are three deputy collectors, and in New York there are seven; so that if there is more business to be done there, there are also many more persons to do it. In New Orleans there is but one deputy collector. It appears to me that the capacity and the amount of labor required of these individuals should be the measure by which we should regulate their salary, not the amount of business done at the particular office where they are employed, because a man may be employed in a sinecure in an office where other persons may perform a great deal of labor. It seems to me that the same justice we exhibit toward New York, Boston, and New Orleans, should be extended toward other cities where men are required to perform precisely the same duties.

Mr. MORRILL. How can it be that the collector of customs at Baltimore who collects a million and a half, or two millions at most, has the same responsibilities as the collector at New York, who collects one hundred and fifty millions? Is there any sort of comparison between the two cases? These salaries are predicated upon that element. That element enters very largely into them. These offices are all scaled. They are scaled, not with reference to the particular personal qualifications of the men, but the responsibilities of the office, and those responsibilities attach in proportion, or are supposed to do so under our policy, to the amount of duties collected, because there is no other way of measuring the responsibilities of these men but by the amount of duties collected. Now, these four offices are selected as the leading offices in the country, and it was

supposed that they might very properly be increased. But if you grant this amendment, necessarily, to be just, you must include Portland. My friend would not object to that, perhaps; but the committee did not think it worth while to extend it to these offices, and the Department did not recommend it. I think, for the reason I have stated, it is obvious there is a distinction between the collectorship at New York and the collectorship at Baltimore.

Mr. CRESWELL. I should vote for Portland on your argument.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Maryland to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. CRESWELL. I was about to suggest a verbal correction which is necessary in the amendment to be inserted as the seventh section of the bill. It provides that the act approved April 29, 1864, be extended to July 1, 1866. I apprehend that that is a misprint.

Mr. MORGAN. That amendment is not necessary. A similar provision has been passed in another bill. I move, therefore, that that amendment be non-concurred in.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the committee to the fourth section. The seventh section has not yet been reached.

The amendment was agreed to.

The next amendment was to insert as section seven the following:

SEC. 7. *And be it further enacted,* That the provisions of the act to increase the compensation of inspectors of customs in certain ports, approved April 29, 1864, be extended to July 1, 1866.

Mr. MORGAN. A similar provision has been inserted in another bill, and I move, therefore, that the Senate non-concur in the report of the committee.

The PRESIDENT *pro tempore*. The question will be on agreeing to the amendment of the committee just read.

The amendment was rejected.

Mr. EDMUNDS. I move to strike out "Beaufort, North Carolina," in the sixteenth and seventeenth lines of the first section. The words I have named are included in the special bill for North Carolina that we have just passed, and are therefore incongruous here.

Mr. MORGAN. That is right. I hope they will be stricken out.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SEAMEN'S SHEATH KNIVES.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 334.

The motion was agreed to; and the bill (S. No. 334) to prevent the wearing of sheath knives by American seamen was read the second time and considered as in Committee of the Whole. It proposes to extend the existing regulation for the government of the Navy of the United States, prohibiting the wearing of sheath knives on shipboard, and make it applicable to all seamen in the merchant service. It is to be the duty of the master or other officer in command of any ship or vessel registered, enrolled, or licensed under the laws of the United States, and of the owner or other persons entering into contract for the employment of a seamen or other subordinate upon any such ship or vessel, to inform every person offering to ship himself of the provisions of this act, and to require his compliance, therewith, under a penalty of fifty dollars for each omission, to be sued for and recovered in the name of the United States of America, under the direction of the Secretary of the Treasury, one half for the benefit of the informer and the other half for the benefit of the fund for the relief of sick and disabled seamen. The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### SEAMEN ON AMERICAN VESSELS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of Senate bill No. 419.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 419) repealing an act entitled "An act repealing certain provisions of law concerning seamen on board public and private vessels of the United States," approved June 28, 1864.

Mr. EDMUNDS. As this bill is one of very considerable importance I think it right to state to the Senate what the effect of its passage will be. The law of 1864, which this bill proposes to repeal, is an act repealing the provisions of all the then existing laws requiring a certain proportion of the seamen engaged on American vessels to be citizens of the United States; so that the effect of the act of 1864, and of the existing law, is to open American commerce and American ships, both in the coasting and foreign trade, to the employment of foreigners entirely if the masters and owners of the vessels so choose. The policy of the Government has always been, from very early in the present century down to this time, to pursue the opposite course. The act of 1813, which is referred to in this act of 1864, provided that after the war citizens of the United States exclusively should be employed on board the public and private vessels of the United States. The act of 1817, supplementary to that, regulating navigation, required that two thirds of the crew and all the officers should be citizens of the United States, and that wherever they were not very heavy tonnage duties should be imposed, which it is not necessary to refer to. The act of 1830, which continued to be the law down to 1864, also provided that there should be three fourths of the crews American seamen, or those who had filed their declaration of intention to become such, with various other regulations; so that the policy of the Government has been to encourage the employment of American seamen in American commerce; to provide for the obvious contingencies of warfare and other disturbances, when it might happen otherwise that our merchant service would be filled with the citizens or subjects of the belligerent Power with whom we might be at war. The reason of the passage of the act of June 28, 1864, undoubtedly was that we were so pressed at that time for seamen that, as a temporary emergency, it was found necessary to resort to foreigners to fill up the naval service. That occasion has gone by; and it appeared to the committee to be quite obvious that it would be proper to return to the original policy of the Government and restore the laws which had thus been repealed. That is the effect of this bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### IOWA STREAMS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 135.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 135) declaring certain streams in the State of Iowa not navigable streams.

Mr. CHANDLER. As the report of the committee on that bill is adverse, I move that it be indefinitely postponed, without reading it.

The motion was agreed to.

#### R. P. PARROTT.

Mr. CHANDLER. I will now ask the unanimous consent of the Senate to report from the Committee on Commerce and pass at this time a bill which was ruled out of order as an amendment on the appropriation bill, and which I was ordered to place on that bill some four or five months ago. It would have been passed long ago but for that.

There being no objection, the bill (S. No. 445) for the relief of R. P. Parrott was read twice by its title and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to R. P. Parrott the sum of \$12,198 35, in full payment for building an iron light-house at Cape Canaveral, in the State of Florida.

Mr. JOHNSON. Is there any explanation of that?

Mr. CHANDLER. I will send the papers in the case to the Chair, and ask the Secretary to read the letter of the Secretary of the Treasury, and likewise the report in the case.

The PRESIDENT *pro tempore*. The letter of the Secretary of the Treasury will be read, if there be no objection.

Mr. MORGAN. Perhaps it is proper to state that Mr. Parrott made a contract with the Government for building a light-house at Cape Canaveral in 1860. The Government wished him to stop the work in 1861 when the troubles commenced, and he did so at their request. All the papers that are there go to show that fact. Since the war has terminated he has been directed to proceed with the work which he stopped at the request of the Government. Mr. Parrott, who is a very honorable man and would make no statement but what was entirely correct, has made a statement of this kind. That has been referred to the Light-House Board, and they confirm all that he has said and recommend that this amount be paid.

The PRESIDENT *pro tempore*. Is the reading of the letter asked for?

Mr. CHANDLER. Does the Senator from Maryland desire the reading of the letter?

Mr. JOHNSON. No, sir; I am satisfied.

Mr. CHANDLER. Then I presume it is not necessary to read the letter.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### GEORGE W. FISH.

Mr. CHANDLER. I now ask leave to introduce and have passed another bill, for the same reason, which was neglected to-day on account of not being in order on the appropriation bill.

The bill (S. No. 466) for the relief of George W. Fish was read twice by its title.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time. Is there any objection?

Mr. CLARK. Let us hear it read first.

Mr. CHANDLER. I will send the papers in the case to the desk. I will state that Mr. Fish was consul at Ningpo, where he served some eight months, and by authority of the Secretary of State drew drafts for his salary and the expenses of the office. He returned late in 1861, and went immediately into the Army. By some means or other those drafts were protested, and he was compelled to raise \$1,825, which he had actually negotiated. The Secretary of State recommends that it be paid. It is a just claim.

Mr. WILLIAMS. Is this amount due him for salary?

Mr. CHANDLER. Yes, sir; for salary, office expenses, &c.

Mr. CLARK. I will inquire of the Senator if this is the same matter that he attempted to put on the appropriation bill?

Mr. CHANDLER. Yes, sir; this and the previous bill are precisely the same case.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay George W. Fish the sum of \$1,825 04, in full for consular services as United States consul at Ningpo, in China, and for exchange due him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. BUCKALEW. I do not understand how this claim can arise. If the consul drew a bill of exchange for what was due him, if there was anything due him, on the settlement

of his accounts at the State Department, if the bill was protested he could still draw the amount by application to the State Department.

Mr. CHANDLER. He negotiated the bills and had to take them up himself. In point of fact another man got the salary and he did not.

Mr. BUCKALEW. But if the bill was not paid by the State Department, the fund upon which he drew that which was due to him would still continue due to him.

Mr. CHANDLER. And is due yet. That is what is the matter.

Mr. BUCKALEW. What is the difficulty in his drawing the amount if it stands to his credit in the settlement of his account?

Mr. CHANDLER. It does not stand to his credit. He drew a draft and it was protested. The Secretary of State recommends that this amount be paid because it is justly his due.

Mr. EDMUNDS. The facts in relation to this case as they appeared to us before the committee, are briefly these: This gentleman was the consul at Ningpo, in China, in 1860. Early in 1861, just about the time our troubles broke out, there appeared to him one morning another gentleman with a letter from one Treseott, assistant secretary of state, not a commission, as it appears, but a letter stating that he, this new man, had been appointed consul, and that this gentleman should turn over the office to him. This gentleman was a little suspicious that it was a contrivance for the purpose of getting the consulate with all its books and papers into the hands of the rebel authorities, and he refused to turn them over; and thereupon the person who came out and himself, in that dispute, agreed to leave it to the arbitration of Commodore Stribling, I think it was; at any rate the chief naval officer on that station, and who was then acting *chargé d'affaires*. They immediately submitted the question as to whether the person now under consideration ought, under those circumstances, to turn over the consulate, and the commodore decided that he ought not, but that he ought to hold on until regular papers from the State Department should be received. He accordingly did hold on and performed the duties of the office for these eight months; or whatever the time was, with the understanding between himself and this other gentleman, when the papers did come, that this man and not the other one should receive the compensation for that time. He accordingly, in good faith, drew his drafts in the regular way, down to the time of the termination of his official career; but when the drafts got home, by some accident or other, the State Department had paid the drafts of the other man who had retraced his steps from this understanding, and had drawn accordingly. Now, therefore, it appears that this man was acting consul, and that, so far as technical regularity went, he was consul, because it does not appear to this day in the Department of State that the new man ever had a commission.

Mr. CLARK. How came they to pay him?

Mr. EDMUNDS. You must ask the Secretary of State, not us. We did not get any explanation on that point. The result of the thing is, that this gentleman now under consideration justly refused to turn over the consulate; when it was left to the arbitration of the *chargé d'affaires* at that place, he was fortified in that refusal; he was authorized to draw these drafts by the understanding with the other party who finally got the papers, but before his draft got home the other party was allowed to take the money, and he was obliged to pay his own drafts. If ever a case appealed to the justice of Congress, this is one.

Mr. CHANDLER. The letter from the Assistant Secretary of State to Mr. Fish authorizing him to draw the drafts which he actually did draw is among the papers, and can be read if desired.

Mr. JOHNSON. I suppose we shall have to pay this amount; but the result is that we are paying two consuls for the same service during the same time. I understand the honorable member from Vermont to say that the successor of Mr. Fish drew his draft and it was



paid at the State Department for services supposed to have been rendered during these eight months. Now we are about to pay Mr. Fish for services actually rendered during the same period. The United States, therefore, are paying twice as much as they were bound to pay. I do not know where the fault was.

Mr. EDMUNDS. Exactly; but that ought not to be visited upon this gentleman.

Mr. CHANDLER. This gentleman resided there at great expense and performed all the duties of the office.

Mr. JOHNSON. I do not object to it. I only express surprise that the facts should be so.

The bill was passed.

#### DISMAL SWAMP CANAL COMPANY.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House joint resolution No. 178.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company. As the United States are interested in the Dismal Swamp canal, connecting the inland waters of the Chesapeake with the sounds of North Carolina, by holding eight hundred shares of the stock of the company; and as the canal should be kept open as a navigable highway without further outlay on the part of the United States; it is proposed to authorize the Secretary of the Treasury to sell the stock at auction, or otherwise, in such manner as will best protect the interest of the United States in the canal, and will insure that it be kept open as a navigable highway, without further expense to the Government; but the instruments and papers effecting such sale are to be approved by the Attorney General before the delivery thereof.

Mr. EDMUNDS. I should like to hear some explanation of this resolution. I was unable to get any in committee, and if any other gentleman of the committee has been more successful than myself, I should certainly be glad to have the Senate informed as to what is the object of selling eight hundred shares of this stock, and what good is to come of it under the conditions which are named in this resolution.

Mr. CHANDLER. I am unable to give the Senator the information which he desires. This resolution was referred by the Committee on Commerce to the Senator from Oregon, [Mr. NESMITH,] and he was to make investigation and report as he thought best; but he is not now present.

Mr. EDMUNDS. I move that the further consideration of the resolution be postponed until to-morrow.

The motion was agreed to.

#### SURVEYS OF WESTERN RIVERS.

Mr. CHANDLER. I now move to take up Senate bill No. 139.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 139) to provide for surveys of the upper Mississippi and Minnesota rivers.

Mr. CHANDLER. As the objects provided for in this bill were included in the general river and harbor bill, I move that this bill be indefinitely postponed.

The motion was agreed to.

#### IMMIGRATION.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 481.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 481) to amend an act entitled "An act to encourage immigration," approved July 4, 1864; and an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1865, and for other purposes.

Mr. MORGAN. I move that this bill be indefinitely postponed.

Mr. EDMUNDS. I should like to hear the bill and the amendment read before the bill is postponed.

The PRESIDENT *pro tempore*. The amendment recommended by the Committee on Commerce is to strike out all of the bill after the enacting clause and to insert a substitute. Does the Senator ask for the reading of the original bill or of the amendment?

Mr. EDMUNDS. The amendment.

The Secretary read the amendment, as follows:

That the act entitled "An act to encourage immigration," approved July 4, 1864, be, and the same is hereby, repealed.

Mr. JOHNSON. What is the effect of that?

Mr. MORGAN. I move that the bill be indefinitely postponed.

Mr. JOHNSON. I hope that motion will prevail. I understand that this amendment proposes to repeal the law in relation to immigration, which, I always thought, answered a very good purpose. I hope it will be indefinitely postponed.

Mr. POMEROY. I do not understand why that act should be repealed.

Mr. JOHNSON. Nor I; and that is the reason I want it postponed indefinitely.

Mr. BROWN. If we postpone this bill, it will not be repealed.

Mr. MORRILL. I do not think it is best to have it go off in that way without our understanding what the bill is. It is rather an important bill in some aspects. It received the careful consideration of the committee; and if it is desirable to consider the bill at the present time, I have a statement to make in relation to it.

The PRESIDENT *pro tempore*. The motion is that the further consideration of the bill be indefinitely postponed.

Mr. MORRILL. On that I will make a statement of the character of the bill. The committee instructed me to report against the House bill, which was a bill to amend the act of 1864 which created a Bureau of Immigration in the State Department, or rather was interpreted by the State Department to create a Bureau of Immigration. It did not do so, in fact. In fact, the bill of 1864 authorized a Commissioner of Immigration, but it was construed in the State Department to be a bureau. This bill from the House, it will be seen, is a bill to amend that act by enlarging its powers. The committee, of course, considered the whole subject, the act of 1864 as well as the one before them from the House, and came to the conclusion to recommend the repeal of the act of 1864 which authorized a Commissioner of Immigration, and of course to refuse to concur in the bill which came from the House. Now, I will state, if the Senate have any interest in this subject, which I very much doubt by the attention which I see they propose to give me, what that measure is.

In 1864 Congress passed an act, as I have said, creating a Commissioner of Immigration. He was to be under the direction of the Secretary of State. He was to have one clerk here, and he was to have a superintendent of immigration to reside at New York, who was also to have a clerk. His duty here was one of supervision; the duty of the superintendent at New York was one of supervision of immigration at the city of New York. They had a right to make rules and regulations, and a right to authorize contracts to be made for the importation of immigrants from abroad, which contracts by this law were declared to be valid and should be enforced in the courts of the United States.

The first thing that occurred to the committee on an examination of this subject was, why should the Government of the United States establish in the city of New York, or anywhere else, a Bureau of Immigration? On what principle is it that this Government can enter into the business of importing foreign labor? The Senate will see at once that it is a novel feature in the transactions of this Government. It smacks so nearly of that trade which was

African, and was forbidden in the Constitution of the United States, that we objected to it at first on that ground. Then it was so closely allied to the Coolie business that the committee was astonished that the Senate ever gave it a moment's consideration. It is to establish a bureau to import labor. We import almost everything else, and we have now come to the importation of men. If you look at the bill of 1864 you will see that they were to be imported under circumstances and rules and regulations which were of such a character, or might be of such a character, as to create an apprehension in the public mind that it was another species of slavery; and so it is provided. It was overlooked, I suppose, by the Senate, when it was passed; but there is an actual provision in that bill that the rules and regulations under which these importations may be made shall not be regarded as reducing these people, when they are landed on this side, to actual slavery. But the bill itself did authorize this Commissioner of Immigration to make rules and regulations to enforce contracts which anybody might make abroad, and to pursue those contracts all over this country anywhere where these imported persons should go, and enforce the contracts by impounding their labor.

I maintain, and the committee came to the conclusion, that that was a species of slavery; it was a species of servitude which had never been allowed or countenanced in this country. I submit to the Senate whether, with the understanding of the character of that bill, it can ever be conceived that the Government of the United States intended to enter into the business of importing men into this country. By that bill they were authorized to make contracts, they were authorized to send agents abroad into the cities and by-ways and lanes, and make contracts and advance the expense to bring over this labor, and then the Government of the United States was to be a party to enforce those contracts and impound the labor and pursue the laborer, the immigrant, where ever he might go to enforce the contract and recover the expenditures.

For these reasons, briefly stated, the committee were opposed to the whole system. By way of illustrating the workings of this system I will read, from a pamphlet published last year for our instruction when a similar bill was sent to the Senate by way of amending the act of 1864, the interpretation which those who favored that bill put upon it themselves. By the way, I ought to remark that the State of New York had for many years a board of immigration, and there is in the city of New York now a company of immigration whose business it is to import foreign labor. They import them on contract. They import them for anybody who desires the labor.

Now, sir, all on earth that this Bureau of Immigration has done since 1864 is to act in harmony and in subordination to that emigration aid society or company incorporated by the State of New York and doing business at the city of New York. The Commissioner or Superintendent of Immigration has held his office in their office. He has cooperated with them. They have made the contracts, and he has sanctioned the contracts. They have made the contracts for foreign labor and sent out for foreign immigrants, and he has ratified those contracts. The act provided that the Commissioner might have power to make contracts with railroads and canals when these passengers should have landed, for carrying them to remote parts of the country. This company has made those contracts and the Commissioner has ratified those contracts. He, then, paid by the Government of the United States, has done nothing else, and the report shows that fact, but to cooperate with the immigrant company in New York, to render that company efficient, and enable them, through the power of the General Government, to enforce the contracts which they make in foreign countries for the importation of this labor. I submit that it is not a very dignified business for

the Government of the United States anyway. I submit whether we are disposed to establish a Bureau of Immigration here at Washington and open a subordinate office at New York, to act in harmony with and subordinate to a company whose business it is to import foreign labor.

To show you that I am not mistaken on the subject, I hold in my hand a pamphlet which is a sort of dissertation on the whole thing, coming from this emigrant company, addressed, not to the Senate, but addressed to a committee of this body last year, in which they set out the defects of the act of 1864, in which they say what its defects are, how it ought to be amended, what they are doing, and what they could do if this Bureau of Immigration were made as effective as it ought to be, and then would act in harmony and cooperation with them. They say:

"It should be premised that the American Emigrant Company is a corporation of high character and abundant means, organized for the purpose of importing laborers (skilled and unskilled) upon orders of employers who advance the expenses and pay a small commission for the service."

That is all very well; but what have we to do with that? Now they ask us to come in and throw the shield of the General Government over it, authorize these contracts and enforce the contracts which they thus make.

"The system adopted is very complete, involving agencies in all parts of Europe and an efficient administration here; and so far it works well. The company now asks for no help from Government beyond the furnishing of reasonable facilities which will cost the Government nothing. The law of last year which aimed to do this has proved in its practical application defective, and hence the necessity for the further legislation requested."

"It may also be premised that the company have no interest in this matter which is not entirely coincident with the interest of the country."

I read this to show you that the legislation here asked for is suggested by this company, which is established in New York—a private enterprise for the importation of labor. That is a commercial transaction. I have no objection to that. Any company has a right to import labor as well as anything else; but what have we to do with it? Why should we put our fingers in it? Why should we go to their aid and authorize agents to go all over Europe to import labor? Following what I have read, this is what they want us to do, this what they desire the Government to enact into a law:

"THE REMEDY.—This is—1. By making the laborer forfeit double the amount remaining unpaid of the expenses advanced by the employer. 2. By enabling the employer to follow him and impound his wages and other dues wherever he finds him."

That is to say, this company go abroad, make a contract, import a thousand laborers, land them in New York, and then they want the Government of the United States to put agents on their track wherever they go, to Minnesota or the West, follow them through those agents and impound the laborer, to the end that this company, which is engaged in the business of importing laborers, shall not lose the expenses of importation. That is the dignified business in which the Government of the United States proposes to be engaged by this bill.

Then further:

"3. By compelling any new employer to elect whether to retain or dismiss the man; and if the former, to assume and pay to the importing employer his unpaid bill of advances, taking it afterward out of the wages of the workman."

That is to say—and I will come to that by and by—this bill provides that we are to send agents all over the country wherever these people go, and if these men, scattered broadcast, do not pay the expenses of their passage, and they are found in your employment, sir, [turning to Mr. SPRAGUE] an agent goes to you and says "Pay over; you must pay over or dismiss the man," so that he can put him to service to pay the expenses of his importation. That is exactly the character of this bill.

Mr. WILSON. A kind of slave trade.

Mr. MORRILL. It is a sort of "Coolie" business, close on to the business of slave importation. Now, he says there is an objection, somebody raises an objection to this sort of thing on the ground "that it is subjecting a

man to an offensive bondage, inconsistent with our general principles, which give a man the right even to break a contract if he pleases, taking the legal consequences."

See his answer to that:

Answer:

"1. It puts no restraint on his person. There is no power of personal reclamation."

"2. The ordinary 'consequences,' where a man breaks his contract, are a liability to subjection in damages. But this liability is nothing to this class of men. The 'consequences' should be adapted to the case, and the only ones that can operate upon them are those which give a special right to a claimant to take the fruits of their labor."

"3. This remedy is peculiarly fit in this view. The employer is an importer of labor. This labor he buys at a peculiar risk. The workman, who alone has this commodity—

That is this laborer—

"in charge, runs away with it. How fit that the commodity should be seized wherever found."

That is the language here.

Mr. WILSON. What is that? What have you got there?

Mr. MORRILL. I have got a dissertation on the bill under consideration which they ask us to pass. This is the commentary, and these are the reasons for passing the bill—the reasons for making the Government of the United States a party to a system to engage in the purchase of labor in foreign countries and the importation of it into this country, and enforcing an alien on the labor and pursuing it into the far West wherever it goes, impounding the labor for the payment of the expenses of importation. That is it. There has been nothing more absurd than this in my day and generation in legislation.

I do not know that I ought to take up any more time in commenting on this essay by which the bill is explained. It is very lengthy and refined you will see. Another objection, it is said, is—

"That the workman may be harshly treated, and so justified in running away."

Somebody, he imagines, will raise that objection. He answers that—

"The workman has some security in the fact that it is for the interest of every employer to treat him well, that he may not run away."

I supposed we had got through with that kind of argument long ago, especially when we emancipated the slaves. The idea of cruelty, he says, is no argument at all. To be sure we impound these men and impound their wages, but they are under contract and they ought to be impounded, and there is no hardship in it and there will be no oppression, because it will be for the interest of the employer always to treat them well! That is the old argument of slavery. The whole system was built up under it. Now, mind you, they not only ask that we shall authorize this board of commissioners to make this contract, but they ask us to enforce it; they ask us to send agents all over the country, into the West and elsewhere to enforce it.

By way of showing the refinement, the extent to which it goes, let me read a little more from this document:

"The new employer acts voluntarily in the matter."

That is to say, these agents have a right to follow this man, and if they find him employed they impound him, or they demand that the new employer shall pay the expenses of his importation or else discharge him; and it is fancied that somebody will object to that, and in reply to the objection, he says:

"1. The new employer acts voluntarily in the matter. He elects whether to keep the man with this liability, or to dismiss him. It is no burden imposed on him."

"2. It is clearly right in itself."

Here is the logic of it, and here is the morality of it:

"2. It is clearly right in itself. The original employer has imported the man at a far greater risk than that incurred by the new employer in keeping him."

Consider—

"1. That the importer took the risk of his being wrecked or dying on the way, and his being enticed away on landing."

"2. That the importer hired a man whom he had never seen, and took the risk of his capacity and character."

"3. That the importer has brought a new laborer

into the country, and so is entitled to special consideration.

"And now consider, on the other side—

"1. That the new employer is only electing to keep a man whom he has seen and tried, and of whose capacity and trustworthiness he can judge."

This is the reasoning and this is the logic; but the query I am addressing to the Senate is, what reason is there that the Senate of the United States should become a party to this sort of morality and this sort of contracts? That is the question.

For these and a variety of other reasons which would suggest themselves to the Senate and which are very obvious, the main one being that this is an utter and entire departure from the policy of this Government from its foundation down, the Committee on Commerce could not agree to this bill. While, sir, we have opened our arms to receive the down-trodden and oppressed from all the nations of the earth, while we have desired and intended to make and have actually made this the asylum for the oppressed from all the nations of the earth and have made it particularly attractive, and while by the beneficence of our institutions every man when he lands on our shores is entitled to protection, and so we hold out the grandest inducement on the earth for the oppressed of all nations to come here, yet we have never thought it worth while to inaugurate a policy to go out among the peoples of Europe and purchase them in the market like cattle, and then bind them to us by penalties and conditions and terms which would disgrace a barbarous nation and which would carry us back to that period when we were engaged in the importation of Africans, and justified ourselves upon the ground that they were savages and we were improving their condition. This is but one step removed from that.

Mr. CHANDLER. I would ask my friend from Maine if he will permit this bill to go over until to-morrow?

Mr. MORRILL. I have just a word or two more to say of it, and then I shall be done. I have now touched the general subject. When the act of 1864, which got through this Senate not exactly by misadventure, was proposed, I thought I saw in it what the Senate would not approve; but it was passed in the morning hour without attracting much attention, on the idea that it was entirely inoffensive. I do not think it would have arrested the attention of anybody now but for this publication and for the amendments which are asked. When they had taken the incipient step and had got a Commissioner of Immigration appointed, the next thing was to enlarge his powers because it was a large subject; if this nation was going to deal in importing men and pay the expenses of the importation and bind them by contracts to pay the money and impound them until they do, it was a pretty large subject. It grew upon the minds of these parties; and those who were engaged in it, you will see, when they came to consider it found that it was a thing that needed very much elaboration and very much of detail and very much of refinement, and involved a great many principles that are not exactly in harmony with the principles of our Government. It called not only upon the Executive, but it called upon the judiciary and all the powers of the Government to enforce it.

This amended bill which came from the other House was framed to meet this necessity, to meet this demand set out here, and what do they propose? Why, sir, they propose to establish in several of the Atlantic cities a commissioner of immigration, to open an office under the Government of the United States, to have one commissioner and as many clerks as the case may be supposed to require. The present office in New York is to be strengthened; one is to be opened in Boston, I do not know but in Portland, in New Orleans, in Philadelphia, in San Francisco, and in some of the cities of the interior. In all these places agencies or superintendencies under the authority and direction of the United States are to be opened, upon whom are to be conferred pow-

ers similar to, those now conferred upon the superintendent in New York. Contracts are to be made, and a wholesale business of importing labor under the authority of the United States and under contracts sanctioned by these persons is to be carried on.

The committee having condemned the general principle, of course condemned it in detail, and having settled that they would not recommend the general principle they rejected the details, and they would have rejected the bill, perhaps, if for nothing but the expense. I will state the items of expense which illustrate, perhaps in some measure, what the tendency of this thing is and where it would go naturally and where it would land if the Government of the United States was once committed to it. It is now in its incipient stages, but the increased expense proposed by this Department by the increase of the several agencies in these cities is \$72,600, which the Government of the United States are expected to pay to aid in the importation of this foreign labor. By this bill the machinery is enlarged so that the increased expense will be \$72,600. I make no great account of that item of expense, but advert to it as showing how this thing grows upon us. In 1864 we authorized a Commissioner of Immigration to reside here with a superintendent at New York. It was said to be an indifferent affair, and from that time down to the present we have cooperated with a private corporation in the State of New York, making contracts, and now it comes before us in this shape. The committee to whom it was referred having given the fullest consideration to the subject, became satisfied that the whole scheme was not in harmony with the principles of this Government, that it would not be attended with beneficial results, and that not only the Horse bill, which is an amendment to the act of 1864, ought not to pass, but that the whole system ought to be repudiated. They therefore recommended that the bill should not pass, and provided for a repeal of the act of 1864.

Mr. JOHNSON. The question before the Senate is whether the bill as proposed to be amended should be indefinitely postponed; and in what I am about to say—I shall occupy the Senate but for a few moments—it is not my purpose to inquire into the proposed amendments which the House bill suggests to the original act of 1864, but merely to say a few words as to the nature and legality of the act of 1864.

I suppose my friend from Maine and the Committee on Commerce will hardly doubt that Congress had the power to pass the act of 1864. Under the authority to regulate commerce there can be no doubt that they could regulate the transportation of passengers, and under the same authority they could authorize the immigration of those who were unable to pay their own passage money. The country in 1864 was or was supposed to be very much in need of labor. There was a great deal of hard work to be done on railroads and canals; and more of that work perhaps is in prospect now than there was then. The country is about to be, if it is not actually, reinstated in its original integrity, and all those improvements must be increased.

Now, the act of 1864 does nothing more than this: it says to the man in Europe who wishes to come to the United States but who has not the means of coming of his own, or who is unable to procure there the means of coming, that he may come in an American ship for such sum as may be agreed upon, and that his agreement to pay the amount of that passage money shall be a personal obligation to be paid within twelve months, and shall be a lien at all times upon any real estate which he may acquire, so as to constitute it in the nature of a mortgage upon any real estate which he may acquire in his hands to return to the party who advances the money the amount of the advance.

That is the principal provision of the act of 1864. The remainder of that act is, in my judgment, just as advantageous. When the immi-

grant arrived at one of our large cities, and particularly New York, before the act of 1864 was passed, he was taken possession of by those who thought they could make money out of him, either fraudulently or otherwise; he was deceived and deluded. His purpose was to get to one portion of our country in the West or Southwest or South, but he often found that the tickets which were placed in his hands carried him to a very different locality; and the object of one provision of the act was to make it the duty of the Commissioner of Immigration to see that means were afforded to him of being transported where he wished to go. That is for his protection. There is no slavery about it except the slavery that exists in the case of any man who gets in debt for any sum, and whose debts by the law of the place where he may be made an incumbrance upon any real estate that he may have.

It seems to me, therefore, with due submission to my friend from Maine and to the committee, that the act of 1864 is a very good law; and as far as I am advised, I never heard any complaint from any quarter of the operation of that act, nor is there anything in this bill as it comes from the House which shows that there is any ground for complaint. The object of the bill is to enlarge the provisions of the original act of 1864. Now, whether that enlargement would or would not be beneficial is a question which I do not propose to discuss, for I have not examined the bill; but I agree with my friend from New York [Mr. MORGAN] that the original act of 1864 is a very wise act, very beneficial to the country, and especially to the new States, where labor is wanted, and that the proposition of the committee to repeal the act of 1864 ought of course to be rejected. I shall therefore vote for the motion made by that honorable member that the subject be indefinitely postponed.

Mr. MORGAN. Mr. President, it has been the policy of this country for many years to encourage immigration. I think it is the policy of the country still. I think it is for the interest of the country to encourage immigration. Governor Marcy when he was Secretary of State sent an agent to Europe, at a very large expense, who was gone nearly a year, on this particular business of encouraging immigration by giving information to persons desiring to come to this country. I think we need the labor, as has been said by the Senator from Maryland; these immigrants dig our canals, they help us in agriculture, they especially help the West, and we confer a great benefit and blessing on the men, women, and children that we bring to this country.

In view of all this, Congress in 1864 passed the law for the encouragement of immigration. Its operation has not been very expensive. I do not undertake to say that that law is correct in all its details; but some such law is very necessary. When this amended bill came from the other House the committee would not really entertain it for a single moment. The Senator from Maine, I think, will admit that the Committee on Commerce did not intend to pass the bill that came from the House increasing the powers of the Commissioner, on which he has commented; but they never, as far as I understood, entertained the idea of repealing the law of 1864. Although I am a member of that committee I never heard the proposition suggested; but on one occasion being absent I heard that a bill was brought in for its repeal. I need not say that I was greatly surprised at that result, because I had heard no complaint of that act either here or in the country. By that act there was a bureau established here, with an agent at New York. What are the duties of that agent? They are simply to direct the immigrant when he arrives as to the best lines of communication for him to take to find his abode in the western States. It is not a money-making affair. It is to keep him from being defrauded by railroad agents, shop-keepers, and others who might get hold of him, and I think it is a very proper duty for that officer to perform.

Now, sir, I am not prepared to say on such a bill as this that a law of so much importance should be repealed. It has had no consideration.

I am quite willing, however, to let the matter go over until to-morrow if that is deemed better than an indefinite postponement, and I will modify my motion by moving simply that the bill be postponed until to-morrow, so that the other bills which the Committee on Commerce desire to pass to-night may be taken up.

The PRESIDING OFFICER, (Mr. POMEROY.) The motion of the Senator from New York is that the further consideration of the bill be postponed until to-morrow.

Mr. HOWE. I think that the amendment reported by the committee ought to be adopted, and that the bill so amended ought to pass. I really think the act of 1864 has stood upon the statute-book too long. That act, if I do not misunderstand it, has a very different significance from that attributed to it by the Senator from Maryland, [Mr. JOHNSON.] I do not understand it to be the whole scope or the main scope of that act to make these contracts entered into in different countries of Europe or elsewhere a lien on the land which the immigrant may acquire in this country. I understand it to be the main effect of these contracts to create a mortgage on the man himself.

Mr. JOHNSON. Oh, no. It only says the contract shall be a lawful one. It is no more a mortgage on the man than is any debt you or I owe a mortgage on us.

Mr. MORRILL. It says it shall be enforced.

Mr. JOHNSON. Of course, enforced like any other contract. Enforced how? By suit.

Mr. HOWE. The act is before me. It says:

"All contracts that shall be made by emigrants to the United States in foreign countries in conformity to regulations that may be established by the said Commissioner, whereby emigrants shall pledge the wages of their labor for a term not exceeding twelve months to repay the expenses of their emigration, shall be held to be valid in law."

If in any country in the world one seeking to emigrate to the United States has not the means to pay his passage over, shall pledge his labor for a term not exceeding twelve months, I do understand it to be the purpose of the second section of the act of 1864 to declare that a valid contract, and to authorize our courts to enforce it specifically against the immigrant. If that is not a mortgage of the man, so far, I should like to know what it is.

Mr. JOHNSON. It gives to whoever may be entitled to the benefit of the contract the right to receive his wages; that is all—a pledge upon his wages, not upon the man.

Mr. HOWE. And authorizes the courts to enforce that pledge.

Mr. JOHNSON. Certainly.

Mr. HOWE. There is only one way of enforcing it, and that is specifically against the man.

Mr. JOHNSON. To make him labor?

Mr. HOWE. Yes; make him labor. It means that or it means nothing. I am just as much in favor of encouraging immigration as the Senator from New York, [Mr. MORGAN,] but it is only one kind of immigration that I want. All men throughout the world who have the means to pay for coming here are at liberty to come, good, bad, or indifferent. I would rather only the good men would come and the bad and indifferent men would stay at home; but the purpose of this act is to enable contracts to be made with those who cannot pay their passage, and to make it safe for those engaged in the business of importation to advance the money necessary to pay their passage over here, and to give them a lien on the labor of the man himself to repay the sum loaned. Now, I say, for one, I do not want men imported into this country who have not integrity enough and character enough to stand security for the money advanced to bring them over. It is not for the benefit of this country, it does not subserve any interest of it, to import that kind of labor.

But now look at the act of 1864 and see what it is worth. It creates a Commissioner of Immigration, with three clerks of such grade as



the Secretary of State shall prescribe. That is the first section. What is the business of this Commissioner of Immigration and of his three clerks? Only to prescribe the forms for making contracts in Europe. That is all he has to do in the world; and you have a Commissioner of Immigration, at a salary of \$2,500, with three clerks of such grade as the Secretary of State shall direct, with no other business in the world than just to prescribe rules for making contracts in Europe. He never makes any contracts; his office is to be here in the State Department; he is just as efficient an aid of immigration, it seems to me, as would be a superintendent of a New England manufacturing company who should have his office located in the basement of this Capitol. He cannot do a thing to aid immigration; he is the merest show in the world.

There is a superintendent of immigration also provided for in this act to reside in New York. What is his business? His business is to meet the immigrant when he arrives in New York and to make contracts with railroad companies for his passage to the interior, if the man has the money to pay his passage.

Mr. MORGAN. That is better than to have him robbed.

Mr. HOWE. In the interest of humanity I would not very much object to the establishment of such an office as that if it were necessary for the purposes of humanity; but I take it the State of New York will prevent these immigrants from being robbed. In point of fact these immigrants are coming over on contracts made by a corporation existing under the laws of New York, which corporation not only undertakes to provide for their passage from Europe to New York; but from New York to the interior, where their labor is wanted. So there seems to me no possible use for this superintendent of immigration in the city of New York. The act provides merely for a Commissioner of Immigration to reside in the city of Washington, and with the help of three clerks to keep his hands in his pockets, and a superintendent of immigration to reside in the city New York and to make contracts or to help to make contracts for a class of immigrants that do not come at all; that is, a class of immigrants who have got their money to pay their own bills, when we are only bringing those over who have not money to pay their own bills, but come on special contracts. I think this law has stood on the statute-book too long. I therefore favor the amendment which was reported by the Committee on Commerce to repeal this act instead of enlarging it. If this bill now pending is postponed, of course the act of 1864 stands. If we adopt the amendment to the bill which came to us from the House, and the House shall concur in that, then the act of 1864 falls to the ground and we are played out in the business of importing labor, as my friend from Maine calls it.

Mr. WILLIAMS. Mr. President, I feel somewhat interested in this subject, and the people whom I represent here are considerably interested in it, and I hope that this law of 1864 will not be repealed. While the Senator from Maine was denouncing the law, I occupied my time in reading its different provisions, and I fail to discover in the law the objectionable features which he seemed to see. He is apprehensive that there is something in this law similar to the institution of slavery, and he says that it ought to be repealed because it operates with peculiar hardship upon immigrants to this country. I have heard of no abuses under this law. I do not believe that the immigrants for whose benefit it was intended have complained of its operation. I do not know why this effort is made to repeal the law. I have always supposed and understood that it was a law beneficial in its operation.

It is an admitted fact that there are thousands of people in Europe who are desirous to come to this country, and it is of advantage to the country that they should immigrate; their labor will be valuable to the United States. They have not the means to pay for their pas-

sage to the country. This law is intended to protect persons, ship-owners and others, that may provide those poor immigrants with a passage, because it provides that any contract that such an emigrant in Europe may make with a ship-owner to bring him to the United States shall be valid after his arrival here, and that it shall be enforced by the courts of the United States. The Senator says that the law provides for impounding the immigrant. I do not know what he means by that expression. There is nothing of that kind in the law.

Mr. JOHNSON. It says expressly that there shall be no servitude.

Mr. WILLIAMS. To guard against any inference of that kind, it expressly provides that "nothing herein contained shall be deemed to authorize any contract contravening the Constitution of the United States or creating in any way the relation of slavery or servitude." But suppose an emigrant in Europe makes this contract; he comes to the United States; he goes to the State of Ohio; under this law the contract which he has made may be enforced in the State of Ohio; he has pledged his wages for the payment of the money expended by the ship-owner to bring him to this country. If he refuses to pay, a suit may be brought, as I understand this law, by which his employer may be garnisheed—that is, the wages due the laborer may be stopped in the hands of the employer, and the employer, instead of paying the wages to the immigrant, may be required by an order of the court, as upon a garnishee process, to pay the money to the man who has transported him to the United States. That is all that that portion of the law means; and it does not in any way affect the liberty of the man but simply relates to his wages; and it further provides that if it be so stipulated in the contract and this contract be recorded in that State or county to which the immigrant removes, then that contract becomes a lien upon any land which that immigrant may purchase, and it operates like a judgment recorded; it becomes a lien upon the land and it may be collected by the sale of that land in case payment is refused.

That is all there is of the first provision, and I say instead of being injurious to the poor people of Europe it is an advantage to them, because it secures to those persons who advance money to bring them to the United States a mode of recovering back that money; and so persons are willing to advance their money for such purposes; and then it provides that when they arrive here this Commissioner of Immigration upon their arrival shall give them such information as they need as to those places in the United States where such labor is required, and it provides that this Commissioner of Immigration shall provide them with transportation and facilitate their removal to such portions of the United States as they may desire to go to. It seems to me that that provision is particularly desirable and useful, because when these people come here they are ignorant, they know nothing about the country, they are unable to speak our language, and they fall a prey to the sharks and others who are unprincipled and take advantage of their ignorance, and this law is intended to provide a person upon whom they can rely, who will give them the necessary information; and so far as I understand the operation of this law, in all respects it has been beneficial; it has assisted these poor people to come to this country; it has protected them after their arrival here; it has assisted them to travel from the large cities upon our eastern sea-board to the western States, where their labor is needed and where they can become useful and prosperous citizens; and there is no objection that I can conceive of to the law. The ghost that the gentleman from Maine conjures up here, that there is something like slavery about it, seems to me to be a figment of his own imagination. There is nothing in the law that warrants any such supposition, and I hope the law will not be repealed.

Mr. CONNESS. When the Senator from

Oregon rose and began by saying that his constituents were deeply interested in this bill, I spoke from my seat and said that "that was true;" but I had no idea that their interest lay in the direction that the Senator has spoken in; and, sir, if I had a constituency whose interests lay in that direction, they might have a representative voice, but it could never be mine. This law, if I am not mistaken, when a bill, was considered in the Committee on Finance in 1864; that is my recollection. I may be mistaken.

Mr. MORRILL. That is so.

Mr. CONNESS. I remember precisely how it struck my mind at that time. I did not know until now that it had passed and become a law in so offensive a shape—offensive, I mean, to my mind.

I had noticed this class of bills passed by the House of Representatives, and do not intend to reflect upon that body when I say that it is more monstrous, as I believe, in character than the negro slavery that we have abolished, and that we claim the good opinion of mankind because we have abolished it. The Senator's argument is that encouraging immigration by laws of this kind—that is by provisions which authorize contracts to be made in foreign countries and compel their execution by the laborer in distant lands—is for the benefit of the poor immigrant. That is the argument upon which negro slavery was vindicated. Those who vindicated it believed, or at least always said, that they knew the negro character best; they knew his wants and capacities best; they knew that he was not able to take care of himself; and they always professed and said they were engaged in a work of mercy in taking care of him, when the fact was I apprehend generally that the negro took care of them; certainly they lived by his labor. And now the mission that this great Republic is to go upon among the nations of the earth is to hunt up and hunt out white men, to enable men who want their labor, and can make money and profit and wealth out of it to make contracts with them in their impoverished condition, in their misfortunes, and then use the right arm of the law to compel their execution under the stars and stripes!

Mr. President, I believe in the assimilation of the peoples of the earth, and I feel no clannishness toward any. I should favor any system of immigration which was based on the circulation in foreign countries of such facts and information as should induce a good class of emigrants to come to our new land, to cultivate its broad acres, to aid in its manufactures, and incidentally at the same time to improve their own condition. I should very gladly favor any protections that the law could throw around their coming into our country, and after they arrive here protecting them from the vile of our own population, and giving them safe passage and conveyance to the new States and Territories of the West, taking care of their immediate wants if they were in want. Everything of that kind is due to humanity, due from us to them, and I have no doubt that the addition of their labor in a large amount is beneficial to the productive wealth of the nation.

But, sir, these plans, cunningly devised, by which capital is to seize labor, by which labor is to be turned up in its vise and held as if poverty were a crime, I am utterly opposed to, for they are repugnant to my sense, and all the conceptions I have of what is right among men.

I do not launch these criticisms against the gentlemen who advocate another view of the case; but I should be unjust to myself if I said less than to describe the utter aversion I have for these plans and schemes. And, sir, it is not the office of a great nation to engage in them; it is not the office of its lawgivers to devote their talent to producing them; and I am very glad, and compliment the Committee on Commerce and its honorable chairman, and thank them for the report they have made, and the condemnation they have launched upon the existing law.

Mr. CHANDLER. I ask that this bill be laid aside informally, while I get the Senate to pass a couple of others.

Mr. CONNESS. No, pass it over formally.

Mr. CHANDLER. It seems that the debate will continue, and I desire to pass a couple of other bills and then resume the debate on this.

Mr. SPBAGUE. I concur with the views expressed by the Senator from California, the Senator from Wisconsin, and the Senator from Maine. I have yet to see the necessity for a bill of this kind. The Government of the United States have guaranteed through this law and by their commissioner a company in New York to do the business of importing labor. It has under the auspices of the Government of the United States solicited from the capitalists and manufacturers and agriculturists of the country opportunities to bring to this country laboring people. It has obtained from them in advance moneys for that purpose. My constituents have advanced money, believing that they were advancing that money under the security and patronage of the Government of the United States, as it was so stated to them; but many of them up to this time, to my certain knowledge, have never received back the money that they advanced nor the labor that that money was to produce. Beyond all contradiction, the Government of the United States are a party to fraud upon the people through this arrangement.

Sir, those who employ labor have not been able to avail themselves of this law. Prior to its enactment labor came free and without hinderance and without disadvantage. There were occasionally those who came who were not able or who were not willing to refund the money that was advanced, but it was so in very few cases; and I know that where there were any extraordinary restrictions placed upon labor by any peculiar contract made with them for the refunding of the passage money and other expenses it was the exception that in those cases payments were not made, whereas in the cases where a free introduction of labor was allowed the laborer himself felt in duty bound or felt free or was treated in such a way that he did pay.

Well, now, sir, under this law in my judgment, the money advanced by the capitalist, if you so call him, will not be paid back to him if the labor does not come; and the laborer if restricted by the law will never pay back a cent, and the consequence will be that your law will be a mere trap set by parties who are desirous to obtain percentages upon labor that may be imported.

Mr. EDMUNDS. I move to lay this bill on the table. We have other business.

Mr. COWAN. I have always been of opinion that this bill was a very impolitic one, although I think it is free from some of the objections which have been taken—

The PRESIDING OFFICER. The question is to lay on the table. It is not a subject of debate.

Mr. COWAN. I should be very glad to see the law repealed.

The motion to lay on the table was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the following bills and joint resolution:

A bill (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union of Washington, District of Columbia;

A bill (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home; and

A joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war.

The message further announced that the House of Representatives had passed the following Senate bills and joint resolution, without amendment:

A bill (S. No. 361) to authorize W. J. Sib-

ley; and others, trustees, to sell and convey lot No. 9, in square No. 76, in the city of Washington;

A bill (S. No. 382) to change the place of holding court in the northern district of Georgia;

A bill (S. No. 385) for the relief of Thomas W. Stevens; and

A joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims.

The message further announced that the House of Representatives had passed the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad, and its extension to Red river, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had concurred in the amendments of the Senate to the bill (H. R. No. 775) to establish certain post roads, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a bill (H. R. No. 794) for the relief of Francis Colgen, in which it requested the concurrence of the Senate.

#### ADMISSION OF NEBRASKA.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 447) for the admission of the State of Nebraska into the Union; which was read twice by its title.

Mr. WADE. I move that the bill, together with the constitution of the State of Nebraska, which I now present, be referred to the Committee on Territories.

The motion was agreed to.

#### REVENUE OFFICERS IN THE SOUTH.

Mr. CHANDLER. I now move to proceed to the consideration of Senate joint resolution No. 108.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 108) in relation to the pay and accounts of collectors of revenue who have failed to take the required oath of office.

The Committee on Commerce reported the joint resolution with an amendment to strike out all after the word "that," in line four, to the end of the resolution, as follows:

The Secretary of the Treasury be, and is hereby, authorized to adjust the accounts and pay the salaries and compensation of all officers and employees of the Treasury Department who have been heretofore actually engaged in collecting the revenue within the States lately in insurrection; such adjustment and payment to be made with and to each officer or employee who has failed to take the oath of office required by law, whenever his successor has been duly appointed and lawfully qualified, and not otherwise.

And in lieu thereof, to insert the following:

The Secretary of the Treasury be, and is hereby, authorized to pay a reasonable compensation to persons by him employed for the purpose of and who have been actually engaged in collecting the revenue within the States lately in insurrection, notwithstanding the failure or inability of such persons to take the oath of office required by law: *Provided*, That said compensation shall not be greater in any case than that provided for by law for officers of the revenue performing such services: *And provided further*, That this act shall not be deemed to authorize the continuance of such persons in such employment.

Mr. EDMUNDS. It strikes me that it would be well to amend the amendment a little by adding at the end of it and as part of the proviso the following:

Nor shall any compensation or salary be paid for the services of any such person rendered after the 1st day of August, 1866, nor shall any such person be thereafter employed.

The object of this amendment is to provide for the departure of that class of persons out of the service, of the Government. There are loyal men enough who can be got to perform the service, and it is desirable to dissolve the partnership if possible.

Mr. NYE. I suggest to the Senator whether he had not better add in addition "that no

such sum shall be paid until all such officers or agents have settled with the Government." There is nothing to compel these men to pay over anything; they are under no obligations to the Government.

Mr. EDMUNDS. That would be a good addition to make, but I would put it in this form:

*And provided further*, That no such compensation shall be paid to any such person until his accounts shall have been finally settled and passed by the proper accounting officers of the Treasury.

The PRESIDING OFFICER. The question is on the amendment to the amendment as now modified.

The amendment to the amendment was agreed to.

The amendment of the committee, as amended, was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. TRUMBULL. I trust this joint resolution is not to pass, and I confess myself somewhat surprised to see it coming here with the indorsement of a committee of this body. There is a law, plain and positive, providing that no person shall be paid any compensation for the discharge of the duties of an office without taking the oath prescribed by law. In open defiance of this plain statute, men have been appointed to responsible and important offices, and now a bill is brought in to pay them, and a provision put upon it that they shall not be paid again. What do your laws amount to? Why reenact it over again? Next session, if these men continue, what good will your proviso do that has just been inserted, that they are not to be paid after a certain time? The law is now that they are not to be paid at all. Suppose the Secretary of the Treasury continues them as officers to collect the public funds of the nation, will you not be bound next session to pay them? Probably the Senators who are supporting this measure will say "no." The Secretary of the Treasury, in defiance of law, persisted in employing these men, and has been keeping them in office, I presume, ever since Congress met, and I suppose they are in office to-day, in the very teeth of a statute enacted for the very purpose of preventing men who were rebels to the country, who will not swear to their loyalty, from holding the offices of the country.

Now, sir, I am opposed utterly to paying these men one farthing for their services; I am opposed to legislating to cover up any such violations of the law, and I shall ask for the yeas and nays upon ordering this resolution to be read a third time. I trust we may have a fuller Senate when the vote is taken, that the bill may go over. Perhaps the better motion is to postpone it until to-morrow, until we can have a full Senate here, and let us vote deliberately whether we will pass such a bill as this; and when it is decided by the Senate that they will pass it, I propose, or I think the committee had better propose a repeal of the law which requires the oath.

The PRESIDING OFFICER. Does the Senator make that motion?

Mr. TRUMBULL. I move to postpone it until to-morrow.

Mr. EDMUNDS. My sympathies are entirely with the Senator from Illinois. I felt about this when it was first brought to my notice exactly as he did. I felt decidedly belligerent. There is another mistake about that; but when I came to be informed as a matter of fact that the fault about this business was much more with the Secretary of the Treasury than it was with these few gentlemen who were employed in collecting money for the United States and paying it over into the Treasury, my opinion changed, because the fact turns out to be that the Secretary of the Treasury informed these persons, who were men of individual honor as far as rebels could be such, and who were fit to be trusted in the ordinary respect of business, that this test oath would undoubtedly be repealed immediately on the assembling of

Congress; and therefore he asked them to take hold and collect money in that sudden emergency before things could be sifted down there, to save the Treasury of the United States the hundreds of thousands of dollars which were coming in and which must be attended to then; and he told them that they would be paid or appointed because the test oath would be repealed, or if not the justice of Congress would provide what was fair and right under the circumstances. These gentlemen accordingly, and there are not a very great number of them, in personal good faith, "reconstructed" rebels as they were, in personal fidelity to the Government, took upon themselves the performance of these duties; they collected the revenues and remitted them to the Treasury. Now, the simple question is whether it is not just to them that a reasonable compensation, a *quantum meruit* should be paid for the actual days' labor which they have performed, and so dismiss them.

Our responsible agent induced them to undertake the performance of this labor under the expectation that the law would be so modified as to allow them to proceed in the performance of their duties. We have thought fit not to do it. It appeared to us upon consideration, and I believe unanimously, that simple justice, simple policy required us to go so far. That was my reason for agreeing to the report; and notwithstanding what has been said by the Senator from Illinois so eloquently and so vigorously, I am of that opinion still.

Mr. CHANDLER. I hope the Senate will act upon this bill now, although if the Senator from Illinois is anxious to have a full Senate I will not insist upon it. As my friend from Vermont says, every member of the committee was opposed to it when it was first introduced; but upon mature consideration, upon looking over the whole ground, as these men had performed the labor, we thought it better to pay them and let them go. They are being discharged; I believe they have all been discharged now; I do not think there are a dozen of them to-day in the employment of the Government.

Mr. TRUMBULL. Is there one?

Mr. CHANDLER. I do not think there is one now. My impression is there is not one; certainly there are very few indeed. There ought to have been none, I admit; but had we not better pay them for the labor they have performed and dismiss them?

Mr. SPRAGUE. I ask whether these collectors, or persons so called, have not retained the amount of their salary from the taxes they have collected.

Mr. CHANDLER. In not one single instance as I have been informed.

Mr. JOHNSON. They paid everything over faithfully.

Mr. NYE. I hope this motion to postpone will prevail. I can see no obligation, legal or moral, to pay these men. The presumption of law, I believe, is that everybody understands, or should understand, or is presumed to know, what the existing laws are, and I think it no sort of apology at all that the Secretary of the Treasury held out inducements to these men that this test oath would be repealed. I do not know that he ever did. If he did, he was assuming to himself a prerogative that did not belong to him. I have no doubt that these reconstructed rebels supposed that the test oath would be repealed or modified when Congress convened; but they have learned ere this that no such foolish thing is going to be done at all. The Secretary of the Treasury, in the first place, had no right, under the law, to employ them. He knew it; they knew it; and therefore if there is a private contract existing between the Secretary of the Treasury and these men, let him settle with them.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. NYE. Certainly.

Mr. EDMUNDS. If that be so, what right has the Treasury to hold this money? We got it through these agencies; why not pay them

back the \$1,000,000? We take the fruit, and we ought to nourish the tree.

Mr. JOHNSON. Better return the money.

Mr. NYE. I have no doubt the Senator from Maryland would be very glad to have the money returned to these reconstructed rebels. Neither have I any doubt that the Government has a right to retain this money; it is its own; it does not belong to them.

Mr. EDMUNDS. But had these persons a right to collect it from individuals?

Mr. NYE. Whether they had a right to collect it or not, if it has found its proper lodgment, that is as far as we have a right to inquire. In the first place, there could be no security taken from these men that they would refund one dollar of the money that they collected, and if they had taken every dollar of it the Government would have been as helpless to-day as they are helpless in point of law to be remunerated for their pay.

Mr. EDMUNDS. Exactly; after they have paid over every dollar.

Mr. NYE. That I do not know.

Mr. EDMUNDS. The Secretary tells us so.

Mr. TRUMBULL. Where is the evidence?

Mr. EDMUNDS. In the letter of the Secretary.

Mr. TRUMBULL. Let us have it.

Mr. NYE. Whether they have paid the money or not is a matter entirely immaterial. Sir, these men were appointed in fraud of men who deserve at the hands of the Government its protection and its aid. The Secretary knew it as well as anybody when he appointed them; and we are not blind to the fact. The Secretary's letter has been on our desks asking for a modification of this law for the purpose of continuing these men in office, while around this city, as I have had occasion to say two or three times, there are starving men that have been faithful to this Union going around here wanting bread and belonging in these States. I confess that the case does not touch my sympathies at all as it did this Committee on Commerce. They have failed to arouse my sympathies for these reconstructed rebels in the least. They got their places in fraud of men who were entitled to them by every principle of honor and by every principle of duty on the part of this Government. In these States alone can be found crippled soldiers enough of this Union to fill the places that could have taken the oath, executed the bonds, and received the pittance for the collection that was their due for faithful service to this Government.

Sir, I protest against paying men who, although pretending to be reconstructed, are as rebellious to-day as they ever were, with the spirit of rebellion increasing in them, and this through the agency of the Secretary of the Treasury, is giving them the means to fight the battle against this Government and against the party that control it.

I am surprised that the distinguished Senator from Michigan, who is always so eagle-eyed to look out for these things, should have fallen into this net of the Secretary of the Treasury. Sir, they had no right to be appointed; the Secretary knew it; they have no right to be paid, and the Secretary knows it, and he appeals to this committee that have so kindly treated the thing, that were so shocked when it was first presented, and so mild upon mature deliberation! What phase of the case has been altered that changed this whole committee in the twinkling of an eye?

Mr. CHANDLER. It took a week.

Mr. NYE. My friend says "it took a week." It should have taken you a month to have undergone such a metamorphosis. Sir, I trust that before this is done we shall have a full Senate, so that we may take the deliberate sense of the body.

Mr. EDMUNDS. I do not object to that.

Mr. CHANDLER. I hope, then, this resolution will go over until to-morrow.

Mr. TRUMBULL. Before it goes over I desire to say a word in reply to the suggestions that are made in favor of this proposition. The Senator from Vermont very gravely asks if the

money collected should not be paid back. If this should be paid back, suppose the Secretary disobeys your law now, as he has been disobeying it for the last year, and continues these men in office. Next year you will pay them again, or else you will pay the whole money back.

Here is a palpable, clear violation of law. The law was enacted to meet just such cases as these. There was an apprehension in the mind of the Legislature when that statute was framed, that it was possible that persons might be appointed to office without taking the oath, and in order to provide against such cases there is a second provision that says that if they are so appointed they shall receive no compensation. Let me read a sentence from the statute:

"Hereafter every person appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, except the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath."

He was given notice that before he undertook to discharge the duties of the office he must take this oath; but it was thought he might disobey that, and then before he should be paid any money he must take this oath. He understood this. The Secretary understood it; and when the Secretary of the Treasury appointed him to go on and collect the money of the Government, not his money, he violated the law. There is no money to be paid back. If a distillery manufacturer of the State of Georgia manufactured twenty gallons of whisky, the Government of the United States was entitled to forty dollars, two dollars a gallon on the manufacture of it; and the fact that it was collected by a traitor and paid over does not make it the traitor's money. I submit to the Senator from Vermont that the two-dollar tax does not go to the traitor because it came through his hands. As well might you say that if the man who manufactured it was a traitor you had no right to collect money from him.

Mr. EDMUNDS. Could the person who owed the tax plead this payment in bar of prosecution?

Mr. TRUMBULL. He could plead this payment of money into the Treasury of the United States.

Mr. EDMUNDS. I take issue with you on that point as a matter of law.

Mr. TRUMBULL. I disagree with the Senator from Vermont as to the law.

Mr. EDMUNDS. He could not justify through an illegal source.

Mr. TRUMBULL. It makes no difference how the money got into the Treasury of the United States. If he has paid the taxes to the United States, I care not whether there was any revenue collector or not. If the money has been received by the Government of the United States, the two dollars a gallon upon the whisky that has been manufactured, neither the Senator nor I nor any jury in Christendom would hold the man to pay it over the second time after we had received the money.

Mr. EDMUNDS. The law would hold so.

Mr. TRUMBULL. Nor the law. There is no such law in Christendom. That is neither justice nor right nor law. The law is founded upon justice and reason and right. It would be money had and received.

Mr. EDMUNDS. There are no offsets in such cases.

Mr. TRUMBULL. No, sir; there is no offset to this rebel collector. Now, sir, I say to pay these officers is giving up the value of this law. You might just as well admit one of these persons here as a Senator into this body without taking the oath and pay him. Suppose he came here and refused to take this oath, and discharged his duties, was allowed to come in here and discharge his duties, I do not believe the Senator from Vermont would allow him to come in; but suppose he did, would he vote, if he had got in here, to pay him?

Mr. EDMUNDS. I should think if the other



people had let him come in, I should vote to pay him when I turned him out. If my friend from Illinois who was here before me let him in, when I sent him away I should give him his compensation.

Mr. TRUMBULL. I would neither let him in, nor pay him when he got in, and I would not pay these officers or these persons who claim to be officers. They are not entitled to it in any sense. There were not officers. They were ineligible; they could not be appointed. They are neither entitled to hold the office nor to receive its emoluments. And this evening the Senator from Michigan says there are very few of these persons now holding office.

Mr. CHANDLER. I said I did not know there was one.

Mr. TRUMBULL. And subsequently did not know there was one, and yet the committee is not advised whether there is one or not. I do not know how it is. It is enough for me to know that there can be no officer who refuses to take this oath, and there can be no person entitled to receive the emoluments of office who refuses to take it.

Mr. WILSON. The Senator from Illinois quotes to us the law. We all know what that law is. The Secretary of the Treasury knew when he made these appointments what the law was. I know further that some of the best men of the country wrote repeatedly to the Secretary of the Treasury against these appointments, told the Secretary that Congress would not repeal this oath; but the Secretary believed that the Administration was to have a controlling influence in both Houses of Congress, and this act was to be repealed; and the persons selected to collect the revenue were given to understand that the law quoted here to-night was to be repealed promptly by Congress. They accepted the appointments given them in that belief; they have discharged their duties, as far as I know, with ability; and while I condemn the act of the Secretary of the Treasury as a willful violation of the law of the country, I do not think these persons selected by him ought to be punished for acting according to the understanding they had with the Government when they were appointed. I believe there were loyal persons enough in the disloyal States to fill these offices had they been sought for. But it is a well-known fact, clear to the observation of everybody, that persons who were loyal have been regarded very much since the war, by the Secretary of the Treasury especially, as they were regarded by the rebels during the war, as a sort of inferior portion of the southern people. All the blame in this matter belongs to one man, and one man only, and that man is the Secretary of the Treasury of the United States, who deliberately acted against the advice of some of the best men of the country.

I think that we ought to pass this bill, that we ought to pay these persons, and they ought to go out of the service, those who have not already gone out, and that men who can take the oath ought to be selected to perform these duties. If they live in these States, select them there; if they do not live there, then select men from other portions of the country to perform the duty. It is well known, clear to the comprehension of every one in this country, that every one of these States has been put completely under the control and in the hands of rebels, and the great struggle is to keep them there, and no man in the country has gone so far and has acted so persistently in that course as the Secretary of the Treasury of the United States. He comes here now, and finding that he cannot obtain the repeal of this act—and if he had had any political intelligence or sagacity he would have known that before Congress met—he asks us to pay the persons he has appointed to office who have faithfully discharged their duties. I am for paying them. I do not think they are to blame. I think we ought to pass the resolution and that these persons ought to be paid and those who have not gone out ought to go out of the service, and let the responsibility of this action rest where it belongs, upon

the Secretary of the Treasury of the United States. I am for the measure.

Mr. TRUMBULL. Suppose they do not go out.

Mr. WILSON. We will get them out.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of the joint resolution until to-morrow.

The motion was agreed to.

#### DISMAL SWAMP CANAL.

Mr. CHANDLER. I now move to reconsider the vote by which the House joint resolution No. 178, was laid over until to-morrow. The Senator from Vermont withdraws his objection to that resolution.

The motion to reconsider was agreed to.

Mr. EDMUNDS. I now withdraw my motion to postpone until to-morrow, so that the resolution may be before the Senate.

The PRESIDING OFFICER. The joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company is before the Senate as in Committee of the Whole.

Mr. EDMUNDS. I will state in a word for the information of the Senate that I am informed credibly that the United States own a few hundred shares of stock in this company which were subscribed for the purpose of aiding a public work, and that the State of Virginia owns some of the stock, and possibly some other State; that the canal is also under a mortgage, and that it is necessary in order to keep it open to the public that this stock should be in some way consolidated and disposed of to prevent its going into private hands and to prevent the canal being closed in the interest of a rival company. I think that is a satisfactory reason for passing the resolution.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### KANSAS AND NEOSHO VALLEY RAILROAD.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, requesting the Senate to return to the House the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, in order that a correction might be made in the message announcing the amendments of the House to the said bill.

The Senate proceeded to consider the message of the House of Representatives, and it was

*Ordered*, That the Secretary return to the House of Representatives the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, with the amendments of the House thereto as requested by it.

#### CIVIL APPROPRIATION BILL.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House bill No. 737, the miscellaneous appropriation bill, for the purpose of leaving it as the unfinished business for to-morrow.

The motion was agreed to.

Mr. DOOLITTLE. I rise to take the floor on that bill, as when it comes up to-morrow I desire to move some amendments to it.

Mr. RAMSEY. I desire to move an adjournment.

Mr. DOOLITTLE. I give way to that motion.

Mr. RAMSEY. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, July 23, 1866.

The House met at twelve o'clock m. Prayer by Rev. M. FRENCH.

On motion of Mr. PRICE the reading of the Journal was dispensed with.

#### ORDER OF BUSINESS.

The SPEAKER stated as the first business in order the calling of the committees for reports to go upon the Calendar, and not to be

brought back into the House by a motion to reconsider.

No reports were made.

The SPEAKER stated as the next business in order the calling of the States for resolutions in the inverse order, commencing with the State of Kentucky, where the call rested last Monday.

#### COMMITTEE ON RECONSTRUCTION.

Mr. HARDING, of Kentucky. I offer the following resolution.

The SPEAKER. The gentleman offered one resolution on Monday last, and it requires unanimous consent to offer another.

The resolution was read, as follows:

*Resolved*, That the committee on reconstruction be required to report to this House whether any part of the \$10,000 heretofore appropriated for the use of said committee has been paid out or expended, and if so, for what purpose and to whom paid, exhibiting all the vouchers for each payment or expenditure.

Mr. STEVENS. I object to the introduction of the resolution, and I will state that all money expended has been expended by the officers of the Senate entirely. The officers of the House have expended no part of it.

Mr. HARDING, of Kentucky. I did not know but that the committee might want some more money, and I thought it would be nothing but proper to give the Secretary of the Treasury notice.

Mr. STEVENS. I object to the resolution.

Mr. RITTER. I now offer the same resolution as was offered by my colleague; and I call the previous question upon it.

The Clerk read the resolution, as follows:

*Resolved*, That the committee on reconstruction be required to report to the House whether any part of the \$10,000 heretofore appropriated for the use of said committee has been paid out or expended, and if so, for what purposes and to whom paid, exhibiting all the vouchers for each payment and expenditure.

Mr. STEVENS. Is that offered under the call of States for resolutions?

The SPEAKER. It is.

Mr. HARDING, of Kentucky. Is debate in order?

The SPEAKER. It is not.

Mr. HARDING, of Kentucky. Then I object to debate.

Mr. RITTER. I ask for tellers on the demand for the previous question.

Tellers were not ordered.

The House refused to second the demand for the previous question.

Mr. WILSON, of Iowa. I rise to debate the resolution.

The resolution giving rise to debate, went over under the rule.

#### IMPORTED WOOL.

Mr. BINGHAM introduced a bill to provide increased revenue from imported wool, and for other purposes; which was read a first and second time.

Mr. ANCONA. Does not that bill go to the Committee of the Whole on the state of the Union?

The SPEAKER. Any bill proposing increased taxation must go to the Committee of the Whole.

Mr. BINGHAM. I move a suspension of the rules.

The SPEAKER. That cannot be done during the morning hour.

The bill was referred to the Committee of the Whole on the state of the Union and ordered to be printed.

Mr. BINGHAM entered a motion to reconsider the vote by which the bill was referred; which was passed over for the present.

Mr. LAWRENCE, of Ohio. I ask leave to print a few remarks upon that bill.

No objection was made, and the leave was granted. [His remarks will be published in the Appendix.]

#### HOURS OF MEETING.

Mr. DELANO submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That during this week the House will meet at eleven o'clock a. m., and will take a recess

from half past four o'clock to half past seven o'clock p. m., and the first business in order at the evening session shall be business on the Speaker's table.

Mr. MORRILL. I demand tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. DELANO and LÉ BLOND were appointed.

The House divided; and the tellers reported—ayes 59, noes 34.

So the previous question was seconded.

The main question was then ordered to be put.

The question was upon agreeing to the resolution; and being taken, upon a division there were—ayes 69, noes 34.

Before the result of the vote was announced, Mr. FARNSWORTH called for the yeas and nays.

The question was taken upon ordering the yeas and nays, and fifteen members voted in the affirmative.

Mr. HARDING, of Illinois, called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was accordingly agreed to.

Mr. MORRILL moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to upon a division—ayes 64, noes 30.

#### FENIANS CAPTURED IN CANADA.

Mr. CLARKE, of Ohio, submitted the following resolution, upon which he called the previous question:

*Resolved*, That the House of Representatives respectfully request the President of the United States to urge upon the Canadian authorities and also the British Government the release of the Fenian prisoners recently captured in Canada.

Upon seconding the previous question, upon a division there were—ayes fifty-nine, noes not counted.

So the previous question was seconded and the main question ordered.

The question was upon agreeing to the resolution.

Mr. ANCONA. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 112, nays 2, not voting 67; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, Baker, Banks, Baxter, Benjamin, Bergen, Bidwell, Bingham, Boutwell, Boyer, Brewster, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Dawes, Dawson, Deftrees, Delano, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hart, Hayes, Higby, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James K. Hubbell, Hulburd, Ingersoll, Johnson, Julian, Kelley, Kerr, Ketchum, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, Marston, McCullough, Mercer, Miller, Moorhead, Morrill, Morris, Montton, Myers, Newell, Niblack, Nicholson, Neill, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Schenck, Scofield, Shanklin, Shollabarger, Sitgreaves, Strouse, Taber, Taylor, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—112.

NAYS—Messrs. Jenckes, and Williams—2.

NOT VOTING—Messrs. Alley, Belos R. Ashley, James M. Ashley, Baldwin, Barker, Beaman, Blaine, Blow, Brandegee, Broomall, Bundy, Chanler, Conkling, Cook, Cullem, Culver, Darling, Davis, Deming, Denison, Dixon, Donnelly, Dodge, Dumont, Finek, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kasson, Kelso, Longyear, Marshall, Marvin, McClurg, McIndoe, McKee, McKuer, Patterson, Phelps, Pomerooy, Samuel J. Randall, Sawyer, Sloan, Smith, Spalding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Winfield, and Wright—67.

So the resolution was agreed to.

During the roll-call the following announcements were made:

Mr. ANCONA. My colleague, Mr. SAMUEL J. RANDALL, is detained from the House by in-

disposition. If he were here he would vote for the resolution.

Mr. RADFORD. I desire to state that my colleague, Mr. WINFIELD, is absent on account of indisposition. If he were here he would vote for the resolution.

The SPEAKER. The Chair has been requested to announce that Mr. THAYER and Mr. DODGE are detained from their seats by indisposition.

The result of the vote was announced as above.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a joint resolution of the House (No. 191) relating to the building lately occupied for a national fair in aid of the orphans of the soldiers and sailors of the United States.

The message further announced that the Senate had passed, with amendments, a joint resolution of the House (No. 93) declaring Tennessee again entitled to Senators and Representatives in Congress; in which amendments the concurrence of the House was requested.

The message further announced that the Senate had agreed to the amendments of the House to Senate bill No. 269, to define the number and regulate the appointment of officers in the Navy, and for other purposes.

#### PARDON OF G. E. PICKETT.

Mr. SCHENCK submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the President of the United States be respectfully requested to inform this House, if in his opinion not incompatible with the public interest, whether an application has at any time been made to him for the pardon of G. E. Pickett, who acted as a major general of rebel forces in the late war for the suppression of insurrection; and if so, what has been the action thereon; and that he communicate copies of all papers, entries, indorsements, or other documentary evidence having relation to any proceeding in connection with such application for pardon. And that he also inform this House whether, since the adjournment at Raleigh, North Carolina, on the 30th of March last, of the last board or court of inquiry which was convened to investigate the facts attending the hanging of a number of United States soldiers for alleged desertion from the rebel army, any further measures have been taken to bring the said Pickett or other perpetrators of that crime to punishment.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ASSASSINATION OF PRESIDENT LINCOLN.

Mr. LE BLOND submitted the following resolution, on which he demanded the previous question:

*Resolved*, That A. J. ROGERS, a member of the Judiciary Committee, be, and he is, authorized to take a copy of the evidence before said committee in the case referred to it, to inquire into and report whether Jefferson Davis, and others, had any connection with the assassination of President Lincoln; and that he have a stenographer to assist him, who is to be appointed by the Speaker, sworn to secrecy and to be under the control of the House; and that said copy be taken when the papers are not in actual use by Hon. Mr. BOUTWELL; and that the papers, or any of them, be not taken from the committee-room, and be used for no purpose but for the use of said ROGERS as a member of said committee in investigating said case.

Mr. WILSON, of Iowa. I hope that the previous question will not be seconded.

On seconding the previous question, there were—ayes 30, noes 72.

Mr. ROGERS called for tellers.

Tellers were ordered; and the Speaker appointed Messrs. ROGERS and BOUTWELL.

The House divided; and the tellers reported—ayes 27, noes 73.

So the previous question was not seconded.

Mr. WILSON, of Iowa. I rise to debate the resolution.

The SPEAKER. Then it goes over under the rule.

#### PAY OF A COMMITTEE CLERK.

Mr. WELKER submitted the following resolution:

*Resolved*, That the salary of the clerk to the Committee of Claims be fixed at the same rate as that of the clerk of the Committee on Appropriations, to commence from the first day of the present session of Congress.

Mr. ANCONA. I make the point of order that, under the previous resolution of the House, this resolution must go to the Committee of Accounts.

Mr. WELKER. I introduced it for reference to that committee.

The resolution was referred to the Committee of Accounts.

#### PROVOST MARSHAL GENERAL FRY.

Mr. ECKLEY. I submit the following resolution at the request of the gentleman from New York, [Mr. DAVIS,] and I will state that I propose to debate it:

Whereas on the 30th of April a letter purporting to be written by General Fry was read in this House, together with sundry documents accompanying it, which letter was grossly libelous and reflected upon the public and private character of a member; and whereas the House having ordered an inquiry as to said letter and its truth or falsity; and whereas for that purpose a select committee was raised, which committee has ascertained and reported said letter to have been false and malicious; Therefore,

*Resolved*, That the Judiciary Committee be instructed to inquire and report whether any breach of the privileges of the House not sufficiently reported upon by said select committee has been committed in connection with writing or sending said letter, the documents accompanying the same, or the introduction thereof into the House, or causing the same to be read in the House, or entered upon the record of the House, or making the same public, and if so, by whom, and what action, if any, should be taken; and that said committee also inquire and report whether said libel has been republished or renewed by the said General Fry or any other person since the termination of the session of said committee, and if so, by whom, and whether any and what action ought to be had thereon; and that said committee have power to send for persons and papers.

The SPEAKER. As the gentleman from Ohio [Mr. ECKLEY] proposes to debate this resolution, it goes over under the rules.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 230) to amend an act to establish the charter of the Alexandria and Washington railroad, passed March 3, 1863;

An act (H. R. No. 559) to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia;

An act (H. R. No. 379) to establish, in the District of Columbia, a House of Correction for boys;

An act (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th of June, 1867, and for other purposes;

An act (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes;

An act (H. R. No. 124) authorizing the construction of a jail in and for the District of Columbia;

An act (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia;

An act (H. R. No. 709) for the relief of Mrs. Eleanor C. Ransom;

An act (H. R. No. 601) to grade East Capitol street and establish Lincoln square;

An act (H. R. No. 615) legalizing marriages, and for other purposes, in the District of Columbia; and

Joint resolution (H. R. No. 159) authorizing

the Commissioner of Public Buildings to employ three additional watchmen in the Smithsonian grounds.

#### FENIANS.

Mr. SPALDING submitted the following resolution; on which he demanded the previous question:

*Resolved*, That this House respectfully request the President to cause the prosecution instituted in the United States courts against the Fenians to be discontinued, if compatible with the public interest.

The previous question was seconded and the main question ordered.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. ANCONA moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### VERIFICATION OF ACCOUNTS.

Mr. LAWRENCE, of Ohio, submitted the following resolution, on which he demanded the previous question:

*Resolved*, That hereafter all bills or accounts for work or labor done, or materials or supplies of any kind furnished for the use of the House of Representatives of the United States, shall be verified by an affidavit that the same is correct, and the amount thereof is justly due and unpaid; that the items therein named were duly done or delivered for the use of the House of Representatives; that the prices therein charged, except when the price shall have been fixed by law or duly authorized contract, are the usual and ordinary prices; that nothing hath been, or is intended to be, paid, directly or indirectly, to any person as a consideration for the purchase of any of the items therein charged; and that no officer of the Government hath any interest, directly or indirectly, in the same: *Provided*, That this shall not apply to pay-rolls of the House, or to accounts incurred by any committee of the House, and approved by the chairman thereof in writing. And the resolution of the House of July 3, 1866, directing the mode of verifying accounts, is hereby repealed.

The previous question was seconded and the main question ordered.

Mr. KERR moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to lay upon the table was disagreed to.

The resolution was then adopted.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CONSTITUTIONAL AMENDMENT COMMITTEE.

Mr. ASHLEY, of Ohio, submitted the following resolution, on which he demanded the previous question:

*Resolved*, That a select committee of seven be appointed by the Speaker, to whom shall be referred all bills and joint resolutions now pending before any committee of this House, and all which may hereafter be offered, proposing an amendment to the Constitution of the United States, rendering any person who has been elected President, ineligible to a second term; as also all bills and joint resolutions proposing a change in the mode and manner of electing the President and Vice President of the United States.

The previous question was seconded and the main question ordered.

Mr. LE BLOND moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 42, not voting 58; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Baker, Benjamin, Bergen, Davis, Dawson, Defrees, Driggs, Eldridge, Farquhar, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hogan, Hooper, Chester D. Hubbard, John H. Hubbard, Ingersoll, Johnson, Kasson, Kelley, Ketchum, Kuykendall, Laffin, Latham, William Lawrence, Le Blond, Loan, Marston, McCullough, Miller, Moorhead, Morrill, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Phelps, Pike, Radford, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Ross, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Stevens, Strouse, Taber, Taylor, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, Wentworth, Whaley,

Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—71.

NAYS—Messrs. Ames, Anderson, James M. Ashley, Banks, Barker, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Hart, Hayes, Higby, Holmes, James R. Hubbard, Julian, Keontz, George V. Lawrence, McKuer, Morgan, Moulton, Orth, Paine, Perham, Price, John H. Rice, Spalding, Trowbridge, Van Aernam, Bart Van Horn, Welker, and Windom—42.

NOT VOTING—Messrs. Delos R. Ashley, Baldwin, Barker, Beaman, Blaine, Blow, Boyer, Brandegee, Buckland, Bundy, Chanler, Cook, Cullom, Culver, Darling, Dawes, Delano, Doring, Denison, Dodge, Dumont, Ferry, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Jencks, Jones, Kelso, Kerr, Longyear, Lynch, Marshall, Marvin, McClurg, McIndoe, McKee, Morris, Patterson, Plants, Pomerooy, Samuel J. Randall, Ritter, Sawyer, Sloan, Smith, Starr, Sulwell, Thayer, Francis Thomas, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Winfield, and Wright—38.

So the resolution was laid on the table.

The SPEAKER. The morning hour has expired, and the House resumes the consideration of the amendment of the Senate to House bill No. 365, which was under consideration when the House adjourned on Saturday.

#### NEW JERSEY SOLDIERS' CERTIFICATES.

Mr. NEWELL, by unanimous consent, introduced the following concurrent resolution; which was read a first and second time:

*Resolved by the House of Representatives*, (the Senate concurring,) That the adjutant general of New Jersey be authorized to transmit through the mail free of postage certain certificates of thanks awarded by the Legislature to the soldiers of that State, under such regulations as the Postmaster General may direct.

The resolution was read a third time and passed.

Mr. NEWELL moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SOLDIERS' CEMETERIES IN TENNESSEE.

Mr. SCHENCK. The Secretary of War has communicated to the Committee on Military Affairs a number of very interesting reports in relation to the national cemeteries for soldiers in Tennessee. I ask that they may be printed and laid on the table.

No objection being made it was so ordered.

#### ASSISTANT HOUSE STENOGRAPHER.

Mr. ROLLINS. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Speaker be authorized to appoint a competent stenographer as assistant official reporter to the committees of the House, who shall be paid out of the contingent fund, commencing 1st of June, 1866, the same compensation paid to such official reporter, whose term of service shall expire March 4, 1867.

Mr. RADFORD objected.

Mr. ROSS. I call for the regular order.

#### DITCHES AND CANALS IN PACIFIC STATES.

The House accordingly resumed the consideration of the regular order; being the unfinished business of Saturday, which was the amendment of the Senate to House bill No. 365, granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon and Nevada, on which the previous question had been ordered, the pending question being the motion of Mr. SCHENCK to lay the bill and amendment on the table, on which the yeas and nays had been ordered.

Mr. HIGBY. I ask unanimous consent to make a statement.

Mr. JULIAN. I will not object if I can make a statement also.

The SPEAKER. Is there objection?

Mr. INGERSOLL. How much time does the gentleman want? Five minutes?

Mr. HIGBY. I do not want more than two minutes. I only ask the gentleman from Ohio [Mr. SCHENCK] to withdraw his motion and that the House by unanimous consent allow twenty or thirty minutes for a statement of this case, giving the chairman of the Committee

on Public Lands [Mr. JULIAN] one half the time. I think we can dispose of this matter, which is one of great importance not only to the West but to the East.

Mr. SCHENCK. I am perfectly willing to withdraw it with that understanding.

The SPEAKER. How long does the gentleman from California want for debate?

Mr. HIGBY. Fifteen minutes to each.

Mr. KASSON. Before that I would ask if this will allow the carrying out of an arrangement with the gentleman in charge of the bill, that is, to endeavor to get the consent of the House to offer certain amendments that will remove certain objections.

Mr. HIGBY. I have no control of the matter except by the unanimous consent of the House. The bill is beyond debate except by unanimous consent, and I have no power to make any arrangement.

The SPEAKER. Is there objection?

Mr. ROSS. I object.

Mr. STEVENS. I find that this is a very important measure and ought to have examination. I therefore move to reconsider the vote by which the House ordered the main question to be put.

The motion was agreed to—yeas fifty-three, noes not counted.

Mr. JULIAN. I am very glad to have the opportunity which I have sought to discuss this extraordinary measure; and in the outset I desire to state some facts which are necessary to a full understanding of the questions involved. About two weeks ago the Senate passed a bill on the subject of the occupation and sale of the mineral lands of the United States. The bill was sent to this House, and on my own motion was committed to the Committee on Public Lands. That committee to-day has the whole subject under its consideration, and is maturing and perfecting the bill as fast as it can, and will soon be able to report it in some form to the House.

The friends of this bill in the other end of the Capitol, becoming eager and impatient of delay, on Saturday last called up a bill of the House of Representatives entitled "An act granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada," and struck out the whole of it except the enacting clause, and inserted the very bill which is now before the House Committee on Public Lands. This was done by the Senate, apparently without comprehending its own action, through the adroit tactics of the gentlemen referred to. The bill was sent in hot haste to this House on Saturday afternoon, when it went to the Speaker's table; and when, soon afterward, we proceeded to business upon the Speaker's table, the bill was taken up, and under the gag, with no opportunity for debate or amendment, the attempt was made to force through this House a measure revolutionizing the whole land policy of the Government, abdicating in the name of the nation its authority and jurisdiction over the richest mineral possessions on the face of God's earth, found imbedded here and there over a million square miles of our national territory.

Now, sir, if I had not obtained the opportunity to discuss this measure I should have raised the point of order that this bill is not properly before the House, and cannot be, without a successful motion to reconsider its reference to the Committee on Public Lands, or a motion to discharge that committee from the further consideration of it in order that the House may now act upon it. That point of order, however, is, perhaps, not now necessary, since the House has decided to allow the bill to be debated. But I refer to these facts to show how the attempt is made here to overturn all those parliamentary safeguards by which hasty and dishonest legislation is sought to be prevented in this body. For, if this style of legislation is to be tolerated by this House, every one of its standing committees becomes a sham and a mockery, and the House is defrauded of its right to have those commit-



tees prepare and mature measures for its action. Sir, this indecent haste, this attempt to thrust upon us a bill under a false title, which has taken its ordinary course under our rules, this plot to obtain legislation under false pretenses, is a reproach to public decency and common fair play, and merits the rebuke of this body.

Mr. Speaker, before proceeding to discuss this measure, I desire to move to amend the bill by striking out all after the first section, and insert what I send to the Clerk's desk.

The Clerk read as follows:

Sec. 2. *And be it further enacted*, That from and after the passage of this act the lands of the United States containing gold, silver, and other valuable minerals, the sale of which has not already been provided for by law, shall be subject to sale on the following terms and conditions, to wit: all such lands as are now known to contain, or which may hereafter be found to contain, such minerals, shall be sold at public auction, to the highest bidder, after six months' public notice of the time and place of sale, at least once a week for six months in some newspaper having the largest general circulation, published in the vicinity of the land to be sold, but at not less than the minimum price per acre fixed on said lands as hereinafter provided for. Said public notice to contain a full description of the location of said lands, the character and quality of the minerals, the nature of the deposits in which they are found, the general topographical features of the country, the means of access to the lands, and such other matters as may be deemed important by the officers having in charge the execution of this act.

Sec. 3. *And be it further enacted*, That the public sales of said lands provided for in the foregoing section shall not remain open longer than two weeks; and no sales of any of the lands embraced in such public notice shall be permitted at private entry during the continuance of such public sale. Should full, fair, and free competition be prevented at any of such public sales by combinations, the titles to all lands purchased by any person engaged in such combinations or their assigns shall be utterly null and void, whether the patents for such lands shall have been issued or not, and whether the fact of such combinations shall have been discovered before or after the titles shall have issued for said lands. No person shall be permitted to bid at any such sales, or to purchase any such lands, except citizens of the United States, or those who shall have declared their intention to become such, and any such bid or purchases shall be absolutely null and void. No lands shall be offered at any such public sale except such as shall appear to the Commissioner of the General Land Office to be required by the wants of the community; and they shall be offered in separate lots, beginning at the lowest numbered lot and proceeding in regular numerical order, giving a reasonable time for bidding on each lot. All lands thus offered and remaining unsold at the close of any such public sale shall be subject to private entry at the minimum price fixed on such land.

Sec. 4. *And be it further enacted*, That it shall be the duty of the surveyor general for the district in which any such lands are situated to prepare plats of subdivisions of any of said mineral lands, said subdivisions to be made in accordance with the provisions of the act of 5th of April, 1832; that is to say, where it is found necessary to subdivide a quarter section such subdivisions shall be made by drawing lines from a point equidistant between the two corners of each boundary of such quarter section to a point in the opposite boundary corresponding thereto; and where it is found necessary or expedient to subdivide any such quarter section into smaller lots than ten acres each, each of such ten-acre lots shall in like manner be subdivided into four equal parts, or still smaller, on the same principle, wherever it is deemed necessary; and fractional quarter sections, or fractional quarter quarter sections, shall in like manner be subdivided into lots of suitable size for mining. Said lots shall be numbered in the same manner that sections are numbered in townships.

Sec. 5. *And be it further enacted*, That for each land district there shall be appointed at least one geologist, who shall also be a good mining engineer, whose duty it shall be to make a thorough exploration of all the lands in such district containing or supposed to contain gold, silver, or other valuable ores, whether such lands are being worked or not, and to make full report of the same, with the size of the subdivisions necessary and proper to enable each purchaser to work and mine the land properly, and giving full descriptions of the kind and character of such lands and the mineral found in them; said report to be in triplicate, one to be sent to the General Land Office, one to the surveyor general, and the third to the district land office in which the land described is located; and the same shall be open to the inspection of all persons desirous of examining it for the term of at least three months prior to the time of sale of any of the lands described therein. The geologists shall be appointed in the same way as the district land officers, and receive per annum for their services — dollars.

Sec. 6. *And be it further enacted*, That whenever a person is or shall hereafter be in the occupancy of a mine, or lead, or deposit of mineral, and shall be actually mining or working the same, such person shall be, and is hereby, authorized to enter the lands so actually worked, and is hereby, by legal subdivisions at a price to be computed by the costs of survey and the fees of the proper land offices. The purchase

money for all said lands shall be paid in gold or silver or in bonds of the United States as hereinafter mentioned. Proof of the actual mining or working of such lands shall be made to the satisfaction of the register, receiver, and geologist for the district, or any two of them, at least thirty days before the commencement of the public sale; the proof of such mining or working shall be the affidavit of the party so mining or working, sustained by the affidavits of two respectable disinterested witnesses; and any person swearing falsely in any such case shall suffer all the pains and penalties of perjury, and forfeit all right, title, and claim he or she may have acquired to any such lands. Where any such lands are worked or mined by a company that is incorporated, the preemption right shall be proven, the entry made, and the patent issued in the name of such corporation or its assignees; but where any such company shall not be incorporated, the preemption right, entry, and patent shall be in the names of all the shareholders: *Provided, however*, That any such shareholder in either case, who is not a resident of the district, shall acquire, have, and hold no right to any such preemption, entry, or title: *And provided further*, That where two or more persons or companies shall occupy and mine or work the parts of the same lot or subdivisions, such persons or companies shall enter such lot as tenants in common; the rights of each to cover the land mined or worked by him or her, and the portion of each of the lot so occupied, shall be in proportion to the extent and value of their improvements or mines, and shall be so specified in the certificate and patent.

Sec. 7. *And be it further enacted*, That the register and receiver of the land district, in conjunction with the geologist, shall classify said lands with reference to their value, respectively, and the subdivisions that should be made of them to accommodate those who are actually working or mining them, or those who may thereafter desire to do so, and report to the surveyor general and the General Land Office, giving the minimum price that should be fixed on each class of lands, the location and extent of each deposit and of each settlement or mining operation, with full reasons for each conclusion. If the surveyor general has any reason to doubt the correctness of such report, he shall state his doubts and the reasons for them to the General Land Office and to the land officers and geologist, and the decision of the Commissioner of the General Land Office shall be final as to the minimum prices of said lands and the extent of the subdivisions. No person, corporation, or association shall be permitted to purchase at public or private sale more than forty acres of any such mineral lands, nor shall any person, corporation, or association enter a second tract till he or they have shown to the satisfaction of the land officers and geologist that he or they have worked the mineral out of said lands, and that it will no longer pay the expense of working. Said purchaser shall also, before being permitted to make a second entry, sell at public auction, to the highest bidder, for cash, the land embraced in his first entry, and which he proposes to abandon.

Sec. 8. *And be it further enacted*, That, for the purpose of assaying and coining said gold and silver, the President of the United States shall be, and is hereby, authorized to lay off said mineral regions into suitable assaying and coining districts, having regard to the mints now established by law, and all gold or silver mined or procured from any of the lands sold under this act shall be assayed and coined at United States assaying offices and mints, the owners paying — per cent. for assaying and coining gold, and — per cent. for assaying and coining silver; and any person who shall remove or attempt to remove any gold or silver out of the coining district in which it was procured without first having the same assayed and coined, shall forfeit said gold or silver, one half of which shall go to the informer and the other half to the United States.

Sec. 9. *And be it further enacted*, That before any person shall be permitted to purchase any of said mineral lands he shall take the oath of loyalty to the United States prescribed by law; and any violation of said oath, and any malfeasance on the part of any of the officers whose appointments are authorized by this act, shall be deemed a felony, and upon being proven before any court of competent jurisdiction the offender shall be punished by a fine of not less than — thousand dollars, or imprisonment at hard labor for not less than — years, or both, at the discretion of the court; and in case of the officers, they shall forever be disqualified from holding office under the Government of the United States.

Sec. 10. *And be it further enacted*, That the net proceeds of said lands shall be, and they are hereby, dedicated to the payment of the principal and interest of the bonds of the United States; and all bonds of the United States, principal and interest redeemable in gold, shall be received in payment for any of these lands. And all the provisions of this act relative to lands shall be carried out under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and all relative to assays, mints, coinage, &c., under such rules and regulations as may be prescribed by the Secretary of the Treasury for that purpose.

Sec. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, to which preemption or homestead rights shall not have attached as provided by law.

Sec. 12. *And be it further enacted*, That in extending the United States surveys over the mineral regions, the surveyor general shall be, and he is hereby, authorized, whenever he shall find mining settlements, made in accordance with surveys executed by such settlers, to establish such surveys by lines, courses, corners, and so forth, connecting such lines and corners with the boundaries and corners of the

sections of the rectangular surveys, and designate those lots by suitable numbers on the plats of survey, giving the reasons and facts in full for such anomalous surveys: *Provided, however*, That no such mining lot shall contain more than forty acres, nor shall more land be included in any such survey than the area being actually worked or mined by the settler: *And provided also*, That the surveyor general, under the direction of the Commissioner of the General Land Office, may cause adjacent lands to those mineral lots to be subdivided in the same manner with those lots, when the interest of the Government or the convenience of settlers shall, in his opinion, require it.

Sec. 13. *And be it further enacted*, That, when in his judgment it shall be necessary for the public interest, the President shall have the power, and is hereby authorized, to increase the number of land districts in any State or Territory, fix the boundaries of the same, appoint a register and receiver for each district so created, and to appoint such additional number of geologists in any land district as may be deemed necessary fully to carry out the purposes and intent of this act, the compensation of said officers to be paid out of any money in the Treasury not otherwise appropriated.

Sec. 14. *And be it further enacted*, That all laws or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. JULIAN. If that amendment is not adopted I desire to offer some amendments, which I ask to have read.

The Clerk read as follows:

Amend Senate bill No. 257, in line eight, section two, by striking out "one thousand" and inserting "five hundred."

Mr. JULIAN. I have designated my amendments by the lines and sections of that bill, because this is virtually the same bill, and the one now before us is not printed.

The SPEAKER. Senate bill No. 257 is not now before the House.

Mr. JULIAN. I know that, but I refer to it simply by way of designating my amendments.

Mr. HIGBY. I make the point of order that the bill to which the gentleman offers his amendments is not now before the House.

The SPEAKER. The Chair sustains the point of order. The Chair cannot entertain an amendment to Senate bill No. 257.

Mr. JULIAN. Well, I wish to offer these amendments to the bill in case my first amendment be voted down, and I will designate them without reference to the Senate bill.

Mr. Speaker, this bill is a very extraordinary one, as I shall endeavor to show by reference to its provisions. It declares that the mineral lands of the United States shall be open to exploration and occupation, "subject to the local custom or rules of miners." It then provides that the miner shall locate his claim, which shall be extended and bounded according to "the local custom or rules of miners." It provides that he shall improve or develop the mine according to "the local custom or rules of miners." It provides, then, that he shall have the right to have his lead or vein surveyed by the surveyor general of the land district, not according to the public surveys, and under the authority of the United States; not having reference to any base lines at all; but that he shall call upon the surveyor general to survey the vein according to the boundaries already fixed by "the local custom or usage of the miners," precisely as I call upon the surveyor of my county to survey my private estate. Upon that survey the surveyor general is to make out a plat or diagram of the vein, and transmit it to the General Land Office at Washington, upon which it is made the duty of the Land Office to issue a patent to the claimant.

The bill further provides that in case of any conflict between different claimants of any vein or lead it shall be determined by the local courts having jurisdiction, without any appeal to the general or local land office, or to any tribunal authorized to speak in the nation's behalf. The bill, in other words, as the House will observe, is an absolute deed of quitclaim of all right, title, and interest of the United States in and to the mineral lands of the nation, and committing them to the management, keeping, and disposition of the miners, who alone are henceforward to settle every question as to boundary, title, survey, and every

other matter and thing involved in this stupendous innovation upon the policy of the nation.

Now, I submit that this is an extraordinary measure indeed; and I take occasion here to refer to the argument, so persistently urged in support of this bill, that it is acceptable to Nevada and California and to the mining regions of our country. Why, undoubtedly it is acceptable to them. I should deem it marvelous if they did not accept a free gift of the gold and silver to be found interspersed over a million square miles of the richest mineral lands on the globe, at the hands of the Government of the United States, which is thus to renounce and abdicate in their behalf its ownership of the whole of it. If I had my home in the center of these mining regions, and owned an immense fortune in minerals, like some of the supporters of this bill, I should undoubtedly favor it. I would urge the passage of the bill with all the zeal which self-interest and local feeling could prompt. I do not think I would resort to the crooked and indefensible legislative tactics to which I have already adverted in order to carry my point, but certainly I would be swayed very strongly by circumstances so controlling.

It is altogether consistent with the interests of these mining districts that their Representatives should zealously labor for this bill, and that honorable gentlemen, not members of this House, should come upon this floor and perambulate these aisles as they did on Saturday and are again doing to-day, and tell us to vote for this bill, and command us, in the tone of slave-drivers, to "Get up, get up, help us, this is a local measure, help us to carry it!" Admirably natural and characteristic! But occupying the stand-point that I do outside these mineral districts, and of the contagion of local opinion and feeling, and having no other desire than the establishment of a broad and enduring national policy—

Mr. WOODBRIDGE. I rise to call the gentleman to order. I submit that reflections upon members of the Senate are not in order.

Mr. JULIAN. Mr. Speaker, I made no reflection upon any member of the Senate; and the gentleman's point of order is not well taken.

The SPEAKER. It is not in order to make reflections upon Senators. The Chair stated on a previous occasion that Senators have the right to come upon this floor to confer with members in regard to legislation, as Representatives have the right to go upon the floor of the Senate Chamber to confer with Senators in regard to legislation; and Senators coming on this floor must not be criticised by members, as the Presiding Officer of the Senate would refuse to allow Senators to criticise Representatives.

Mr. JULIAN. I understand the point of order perfectly. I have not mentioned any Senator from any portion of the country, and I shall not do so. I commented upon the conduct of distinguished gentlemen, not members of this House, who have undertaken to dragoon members on this floor into the support of a measure in which they are interested. But I have alluded to no Senators, for the simple reason that it would be unparliamentary to do so.

Now, Mr. Speaker, the basis of this policy, thus revolutionary of all the past action of the Government, the basis of this extraordinary movement here is the local custom or rules of the districts containing this mineral; the crudely extemporized usages of the miners; and I desire to show what a sandy foundation it is upon which these gentlemen propose to build up their grand superstructure of a land policy for the United States. I propose to read some passages—and I ask for them the attention of the House—from a Senate report of the Legislature of Nevada, the home of the mining gentlemen so deeply interested in this bill, and the locality, probably, of the richest mineral in America. It is an official legislative document, which one of the Senators from Nevada has

told me is authentic, and its statements to be accepted. I want the House to see upon what a sorry foundation this new edifice is to be built:

"1. As to uniformity, there is now nothing approaching it. There never was confusion worse confounded. More than two hundred petty districts within the limits of a single State, each one with its self-approved code; these codes differing not alone each from the other, but presenting numberless instances of contradiction in themselves. The law of one point is not the law of another five miles distant, and a little further on will be a code which is the law of neither of the former, and so on, *ad infinitum*, with the further disturbing fact superadded, that the written laws themselves may be overrun by some peculiar custom which can be found nowhere recorded, and the proof of which will vary with the volume of interested affidavits which may be brought on either side to establish it.

Again, in one district the work required to be done to hold a claim is nominal, in another exorbitant, in another abolished, in another adjourned from year to year. A stranger seeking to ascertain the law is surprised to learn that there is no satisfactory public record to which he can refer; no public officer to whom he may apply, who is under any bond or obligation to furnish him information, or guarantee its authenticity. Often in the newer districts he finds there is not even the semblance of a code, but a simple resolution adopting the code of some other district which may be a hundred miles distant. What guarantee has he for investment of either capital or labor under such a system?"

That, Mr. Speaker, is the foundation upon which the fabric of this new policy is to be built. Why, sir, the man who builds his house upon the sand is a philosopher in comparison with the men who would erect an enduring land policy for this nation on the basis of such confusion and bewilderment and jargon under which the people of Nevada are to-day groaning.

Mr. BIDWELL. I desire to ask the gentleman whether or not the report from which he has just read is not the strongest possible argument in favor of the bill now before the House; whether that report does not favor precisely this bill.

Mr. JULIAN. I will answer with very great pleasure. I answer that, so far as it from being true that these facts warrant the policy of this bill, the policy of making this confusion and conflict a basis of action, they prove directly the reverse. What you want is not to recognize this system of uncertainty and instability, but to sweep it away, and usher in through the authority of the nation a system of permanence and peace. The bill before us hands over the miners everywhere to interminable litigation, discord, and strife. Instead of leading them out of the bondage into which the non-action of the Government has led them, it leaves them to wrestle with their destiny as best they may. That is what the nation will do in remanding this question to the miners, as provided for in this bill.

Mr. Speaker, I will tell the gentleman from California [Mr. BIDWELL] what these facts and statements which I have read prove. They prove the absolute necessity for interposing the arm of the national Government through its system of surveys, and thus clearing away this disorder and confusion through the well-adapted machinery of the land department. That is my answer to the gentleman from California.

This machinery is as old as the Government, and perfectly fitted to do the work without any new inventions. My friend from New Hampshire [Mr. MARSTON] suggests that this bill overturns the common law of the world, by allowing one man to run half a mile under the land of another. I may have occasion to refer to that in another connection before I conclude. I resume the reading of the Nevada report:

"2. As to permanency of the regulations, even such as they are, there is now no guarantee even of that. A miners' meeting adopts a code; it stands apparently as the law. Some time after, on a few days' notice, a corporal's guard assembles, and, on simple motion, radically changes the whole system by which claims may be held in a district."

And this "local custom of miners," enacted by "a corporal's guard" of adventurers, who are here to-day and gone to-morrow, is to be the basis of a national policy, and the harbinger of order and peace in the mining regions! Instead of extirpating this pernicious system, or

rather lack of all system, we now propose to set it up as a rule, and coolly ask the nation to conform its policy to it. I will read on:

"Before a man may traverse the State, the laws of a district, which by examination and study he may have mastered, may be swept away and no longer stand as the laws which govern the interest he may have acquired, and the change has been one which by no reasonable diligence could he be expected to have knowledge of. But if the laws be uniform and registered upon the statute-book of the State, he will have security in his tenure, and reasonable notice of any change therein.

"3. As to protection to the miner and encouragement to the capitalist, the present system, or lack of system, affords neither. The curse of uncertainty of titles to land in our sister State did not, through fifteen years of her history, more paralyze her progress, than the uncertainty of mining titles in the outside districts now retards our development. Five years ago a horde of greedy prospectors, from every part of the Pacific coast, swept over our State, leaving their notices of location on every 'dip, spur, and angle,' 'thick as leaves in Vallombrosa,' and after a year or two of feverish unrest, swarmed away again to the newer fields of Idaho and Montana, leaving nothing to mark their passage but their faded 'notices' mouldering on the hill-sides, their pitiful burlesque of development in the way of assessment work, and the threatening terrors of the common-law doctrine as to 'vested rights.'"

Sir, in the light of these remarkable facts, coming to us in an authentic form from the State of Nevada herself, I argue the folly of now establishing any new dispensation on any such foundation. I repeat it, what the nation wants to-day, what the miners and the whole country are hungering and thirsting for, is the interposition of the national Government through the directing hand of the land department, dispelling the chaos and disorder which now afflict the mining regions, bringing light out of darkness, and opening up the pathway to prosperity and peace. That is what we want.

Why, Mr. Speaker, the Constitution of the United States declares that Congress "shall make all needful rules and regulations respecting the territory or other property of the United States." What right has the Congress of the United States to abdicate its jurisdiction over this great domain? What right has the central Government, owning these lands in fee, to say to these embryo communities in the far West that it gives up to their absolute discretion and management these great magazines of mineral wealth? Why, sir, it would be a most wanton recreancy to the grand trust devolved upon us if we should do so. Here is the General Land Office in Washington, with its local land offices multiplying in every portion of the public domain in which they are demanded. The State of Nevada has registers and receivers, with their offices located in the very midst of her minerals, and armed under existing laws with the power to deal with all questions which may arise affecting the public lands.

The register and receiver under the laws of Congress, charged with the execution of our land policy within their respective districts, and in the vicinity of the matter in dispute, can call parties before them, hear their statements, take evidence, and determine the whole matter, with the reserved right of either party who may feel aggrieved to appeal to the General Land Office at Washington or to the Federal courts under existing laws. Why do you propose to take away from the register and receiver of the land districts of Nevada their jurisdiction over this question? Why do you wish to confer the jurisdiction and settlement of a national question upon a State or territorial tribunal? Did anybody, before this bill was introduced, ever hear of such a proposition? Can Congress thus delegate such a power?

Mr. Speaker, it is said that the reason why these disputes should be referred to the local tribunals is that they are disputes about the possession of the land only, and not about the title; that it only involves the question as to whether A or B has been the trespasser upon the possessory title of the other. Why, sir, if you will read this bill you will find that the question of possession is the question of title, for it declares expressly that the party to whom is awarded by the local court the possession of the land shall thereupon receive the title from the Federal Government. A novel idea, in-

deed, that this does not involve anything but the right of possession; that I, owning a tract of land about which two men are quarreling, shall not have the right to say that the honest man and not the rogue shall take it if I see fit to grant it to either.

The nation owns the fee of every rood of these mineral lands. Every inch of them is, to-day, legally the property of the Republic. The title is in the great body-politic of the nation; and is it not a surprising doctrine that the Government, representing this body-politic, shall not be consulted as to the question of title between conflicting claimants? The House cannot fail to see that this question of possession, which it is proposed to refer to the local tribunals, is a question of title. The gentlemen from California know it. They know that the moment the question of possession is settled under this bill, it is made the duty of the land department to execute a patent accordingly. Even if it were not so, there is no occasion for transferring the question from the land department of the Government to the local tribunals of the miners. The machinery of the Land Office is well understood and is perfectly adapted to the work of settling all disputes.

Sir, I repeat, what we want to-day is the intervening arm of the national authority in the settlement of all disputes and the consequent security of titles. I see here around me gentlemen from the Northwest who know something about the policy pursued in relation to the lead and copper mines in the upper peninsula of Michigan and in the State of Illinois. Years ago we adopted the policy of leasing those mineral lands, and retaining the fee in the national Government. The result was an utter failure, financially and otherwise. We established, at length, the policy of survey and sale, and I remember that Congress instituted a geological survey, which was conducted, I think, by a distinguished scientific gentleman from my own State, David Dale Owen, in connection with another gentleman; and their labors proved to be of great value to the country and to the land department. We had also the ordinary land survey and subdivision of the mineral regions, and the lands were opened to purchase upon six months' notice. The moment we instituted this policy of survey and sale order began to bear rule in the mining regions, sober and intelligent citizens became purchasers and settlers, and organized and prosperous communities were established.

Sir, I would enact a law—and the Committee on Public Lands have agreed upon a bill to that effect—extending our surveys over all these mineral lands. The bill provides, in connection with the general survey, for a geological survey, the surveyor to be a mineralogist and mining engineer, and the mineral regions to be explored and classified preliminary to their sale. The bill, however, provides that these lands shall be open to occupancy and settlement, and the title is to be conferred in fee upon every man who is, or shall hereafter be found, in the occupancy of the lands, and developing the same, on payment of the fees of the Land Office and the costs of survey. Unlike the bill before the House, we require no thousand dollars' worth of improvement beforehand, and no five dollars per acre as a price, but we say to the adventurers and explorers from all quarters: explore these mineral regions; select your claim; occupy and improve it in good faith, and you shall have your lead or vein of land, with its minerals, on these conditions. This is the homestead law, in its essential principles, applied to these fields of gold and silver.

That is the policy that I propose. A bill making provision for these things and conforming to the land policy of the United States has been agreed upon by the Committee on Public Lands, as I have stated; and I have offered the sections of that bill as a substitute for the bill now before us. I hope, if any legislation is to be had upon this subject at this session, it will be legislation of that character, and I can

see no reason whatever for discarding the well-tried instrumentality of the Land Office for the purpose of trying experiments like this. I know it is said by the friends of this bill that these mines are so numerous and so peculiarly situated, and the strife growing out of them is so unusual, that the land department is incapable of settling it at all; that it would cost the miners more than their claims are worth to settle their disputes except in their local tribunals, and that it would be practical confiscation to require these disputes to be settled as other land controversies. But why should this be so? There are land offices in the mining districts. They are there for the purpose of surveying and disposing of the agricultural lands. The machinery of these offices extends everywhere over the Republic, and whether it applies to the gold and silver lands or not. I want to know why these offices cannot be used in the settlement of these difficulties.

Mr. McRUER. I would ask the gentleman if the registers and receivers of the land office have final jurisdiction over these questions, and if every single case brought before them is not subject to appeal to the Land Office in this city?

Mr. JULIAN. I will answer the gentleman. I supposed he knew, having been in California, and knowing all about these questions, that there is an appeal from the local land offices to the General Land Office in Washington. But let me say further that I can imagine no reason why the United States, owning these lands in fee, should not have the right on final appeal to determine the question of title. It may be attended with expense. It may be that a poor man in Nevada could not carry up his case to Washington, while a rich man could, but still the nation ought not to thrust itself in the way of applicants for relief. Why should we close the door against them? And let me say, that under the bill of the Senate, there may be litigation in the Federal courts at all events. If there is a claim between citizens of different States that delay and litigation which the gentleman so much dreads might occur. He does not wholly evade the difficulty by taking the jurisdiction from the local land offices; but I venture to say that in ninety-nine cases out of a hundred the final adjudication will be before the registers and receivers of the local land office. It would only be in rare cases that an appeal would be sought. All disputed claims between preëmptors and purchasers and homestead claimants on the public lands go before these officers, and the claimants of mineral lands certainly ought to have the right to appeal if they should desire it.

But, Mr. Speaker, I need not dwell upon that. If this bill is not disposed of in the way that I desire, by the adoption of the substitute I have offered, then I shall propose to amend certain features in the way I will now indicate. Where it requires the purchaser to pay five dollars per acre, I would change it so that he may pay but \$1 25 per acre, in conformity with our laws in other cases. The object is not to make money by the sale of these lands so much as to develop them. And any policy which stimulates exploration and development is the wisest policy for the Government, for individual wealth is national wealth.

I also propose to strike out that clause which requires the miner to have expended \$1,000 on his improvement before he can obtain a title to it. I think if a man spends \$500, or even \$100, on a vein, he should have a title; or even if he has expended a dollar on it, and will go on it, and work it and develop it, the Government ought to give him a title. I would not cripple the exploration and settlement of these lands by the interposition of this obstacle of \$1,000. It might do for my distinguished friend, the Senator from Nevada, to exact a condition of that kind; it might put money in his pocket, for aught I know. But it cannot serve the interests of the rank and file, the poor men who are exploring these mines and desire to find homes. And I propose further to provide, in accordance with the views already expressed, that the settlement of disputed cases shall be

determined by the land department of the Government, as in other cases, subject to the right of ultimate appeal to the Land Office at Washington.

If we adopt this bill at all it certainly should be with the amendments I have indicated. But I hope the substitute I have offered may prevail. I wish to inquire of the Speaker, before I take my seat, whether it is now in order for me to move to commit this bill to the Committee on Public Lands, as I gave notice the other day I would do, that committee now having charge of the subject.

The SPEAKER. That motion will be in order.

Mr. JULIAN. I will make that motion. As I said before, this bill is in the Committee on Public Lands, who have partially matured it. We are now completing the consideration of it, and perhaps after another session we will be through with it. The bill has been reenacted by the Senate under a false title, and is hurriedly brought here for the purpose of ousting a standing committee of this House of its jurisdiction. That action, I claim, ought not to receive the sanction of this House, unless we are willing to take from our standing committees their powers in the preliminary examination of questions upon which we are to act. I now move that this bill be referred to the Committee on Public Lands.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed, without amendment, a House bill (No. 776) in relation to the unlawful tapping of Government water-pipes.

The message further announced that the Senate had passed, with an amendment, a joint resolution of the House (No. 190) in regard to rations of Union soldiers held as prisoners of war, in which amendment the concurrence of the House was requested.

The message further announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

A joint resolution (S. R. No. 133) to change the place of holding the terms of the circuit court for the district of West Virginia; and

A joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy.

#### LEAVES OF ABSENCE.

Mr. ASHLEY, of Ohio, asked and obtained indefinite leave of absence for himself.

Mr. SCHENCK. My colleague, Mr. BUNDY, is compelled to leave on imperative business, and I ask leave of absence for the remainder of the session for him.

No objection was made, and leave was accordingly granted.

#### PRINTING OF TESTIMONY.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported certain testimony taken by that committee, in pursuance of the order of the House, in connection with Utah; which was laid upon the table and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. SPALDING. I ask leave of absence for my colleague, Mr. BUCKALEW, after Wednesday next.

Mr. WILSON, of Iowa. I must object to any further leaves of absence being granted this session, unless some very good reason is assigned.

The SPEAKER. The Chair asks leave of absence for the gentleman from Iowa, Mr. GRINNELL.

Mr. SPALDING. I object.

The SPEAKER. The Chair asks leave of absence for the gentleman from Missouri, Mr. NOELL.

Mr. ALLISON. I object.

The SPEAKER. The Chair will state that the votes this morning show the presence of only eighteen more than a quorum.



JANES, FOWLER, KIRTLAND AND COMPANY.

Mr. RICE, of Maine. I ask unanimous consent that Senate bill No. 429, for the relief of Janes, Fowler, Kirtland & Co., be taken from the Speaker's table and referred to the Committee for the District of Columbia.

Mr. SPALDING. I object.

MINING DITCHES, ETC.—AGAIN.

Mr. KASSON. I have several amendments which, by an arrangement that has been made, I propose to offer to this bill. I desire to inquire of the gentleman from California [Mr. HIGBY] whether he would prefer that I shall offer those amendments before or after he has submitted his remarks.

Mr. HIGBY. I would like to know by what agreement or arrangement the gentleman is to have the opportunity to offer those amendments.

Mr. KASSON. The gentleman in charge of this bill, with whom such understandings are always arrived at, agreed that I should have the opportunity this morning to offer the amendments. If the gentleman from California wishes to preclude all amendments to this bill, even those most friendly to his interests, I certainly shall not press them upon the attention of the House.

Mr. HIGBY. I was not aware that there had been any such agreement. Whatever arrangement has been made, I of course will live up to it.

Mr. KASSON. Mr. Speaker, I desire to remark upon the character of this bill that it is an entire divestment of the United States of two things, which I think the United States should always retain within its control: one is the fee of the mining property; the other is the right to regulate the production of gold, in order that no private interests, no local rules or regulations may interfere with the proper and legitimate supply of the mineral which furnishes our measure of value in the United States. As the Constitution gives us the right to exercise this control we should, in my opinion, never part with it.

With these views, deliberately and long entertained, I have made inquiry to ascertain whether this bill as it comes from the Senate could be intelligently amended so as to secure those two results, and at the same time attain the great object which the gentlemen from the mining districts have in view—an object equally legitimate and equally deserving the attention of the House—which is that security shall be given to the possessory titles and the interests already vested, under no authority from the United States, but simply through the enterprise and irrepressible zeal which characterize the American people. How shall we accomplish these two purposes—the reservation of this supreme right of the United States and the security of those who are willing to invest their property and even expose their lives in the production of this very valuable mineral?

In order to answer that question, I propose to amend in the fourteenth line of the second section by changing the phrase "granting such mine" so as to read, "granting the use of such mine;" also, by striking out in the sixteenth and seventeenth lines all after the word "adjoining." This, Mr. Speaker, is for the purpose of providing that the parties who now have possession of a mine shall have a patent granting to them the use of a mine, which, when the title is ascertained, is to be exclusive of all others making claim thereto hereafter, and will secure the investments already made by citizens of the United States.

The gentleman from Indiana [Mr. JULIAN] has suggested that we shall violate a great principle of the common law if we allow these miners to enter the adjoining lands. I wish to say, sir, that I differ with him; and with the adoption of my amendment his objection will fall to the ground. Gentlemen who have not visited the mining districts may not, perhaps, be aware that the different veins and lodes are not perpendicular, but descend frequently at an angle, the angle being sometimes even forty-five degrees; and thus they go down hundreds

of feet into the earth. They have been known to run a short distance very nearly horizontally, and then to descend at an angle.

The lode must be followed wherever it leads. I recollect two mines in Colorado of very great value indeed, where two lodes cross each other some three hundred feet below the surface of the earth, and each man must follow his own lode, and where it crosses he must go on the other side, on the other land, and *vice versa*, the other claimant must go on other land. This bill is intended to provide that each may use his own lode and nobody else, though in descending the earth he may strike another; that each must follow his own lode, wherever that may lead. That I regard as indispensable.

In the third section, page 3, line fifteen, where it provides that upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description, &c., I propose to strike out "per acre" and insert "for each one hundred lineal feet along the vein or lode." It is simply to make it follow the grant of the use of the mine, and that takes with it so much of the adjoining land as is necessary for the development of the mine. That is also indispensable.

I then insert "for the use thereof" and "a claim on;" so it will read:

And a patent for the use thereof shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for a claim on more than one vein or lode, which shall be expressed in the patent issued.

I also in the fourth section propose, in the adjustment of the survey, that it shall be made under regulations to be provided by the Commissioner of the Public Lands.

In the eighth and ninth lines of the fourth section I strike out "local rules, laws, and customs of miners" and insert "rights hereby conferred." That also accomplishes the purposes of the gentlemen from the mining districts.

At the end of the fourth section is a proviso that no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons. It is previously provided that the discoverer may make two. That is right, and I propose to insert "other than the discoverer." It will then read:

And provided further, That no person other than the discoverer may make more than one location on the same lode, and not more than two thousand lineal feet shall be taken in any one claim by any association of persons.

In the fifth section, where it is provided that "as a further condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development, and those conditions shall be fully expressed in the patent," I would add "until otherwise ordered by Congress." That gives them temporary regulation until we find it necessary to exercise the reserved supreme right of the United States. There are some other verbal corrections in the next and following sections. In the ninth section, instead of saying we protect the owners of reserved rights, I say so far as the rights of the United States are concerned as against any legal claims they may have the right of way as granted and limited by a right of way across and through the public lands of the United States.

In the tenth section, where agricultural lands are granted, I say it shall be done without prejudice to the right of the United States to deal with them as mineral lands in case of discovery of such mineral therein.

Then I add an additional section, as follows:

SEC. 12. And be it further enacted, That Congress reserves the right of forfeiture and of redispotion of all claims patented under the provisions of this act, which shall not be in good faith developed, used, and worked within three years from the date of such pat-

ent, and with reasonable continuity thereafter; and to provide all rules, regulations, and conditions for ascertaining the same and relating thereto; and if any such claim shall be abandoned, the same shall be thereby forfeited, and may be again patented to any other claimant on the same terms as before, the facts to be ascertained by the like proceedings as provided in the second and third sections of this act; and the proper regulations for carrying this act into effect shall be provided by the Commissioner of Public Lands, approved by the Secretary of the Interior; and Congress further reserves the right to adjust, by general law, in any mining district, any discrepancies, irregularities, or uncertainties touching the character and management of mining claims.

This concludes my own views as to the necessity of a reservation of the rights of the United States.

Mr. Speaker, the great object of the Government should be to develop the mineral resources of that part of the country; and in doing that it can best be accomplished by providing that they shall not absorb these lodes and veins and hold them, as they do the public lands of the United States, for purposes of speculation, but they shall go on and continue in good faith to develop them. If they do that, then the title will be granted; if they do not, the title reverts to the United States. Unless this be done, I see no safety in passing this bill as it comes from the Senate.

Mr. HIGBY. I yield five minutes to my colleague.

Mr. McRUER. I wish to make one or two remarks touching this bill. In the first place, I wish to say that the proposition to sell the mineral lands did not come from the Pacific coast or from the mineral region. Two years ago we were progressing, as we have progressed for the last seventeen years successfully, to develop the wealth of that country, and possessory titles were considered sound. They were bought and sold with entire confidence and faith in the legislation of this country, the same as titles to real estate were bought and sold. But, sir, since that time there have been introduced into Congress schemes to sell the mineral lands without any regard to the possessory titles.

I hold in my hand a bill that was introduced into the Thirty-Eighth Congress, reported from the Committee on Public Lands, which proposes—what? Why, sir, to put up every possessory right within that whole region, and sell it at auction to the highest bidder. And the whole logic of the speech and the report made in regard to that measure was, that the people of the mineral regions were a set of vagabonds, and the women were, to a large extent, unchaste, and therefore we should drive out that worthless class of people, sell the mineral lands, and thus attract a meritorious class of people to those regions as settlers. That was the logic of the speech made to the Thirty-Eighth Congress.

It is in consequence of the apparent encouragement which such a scheme has received here that we now feel that our whole titles are insecure. It has disturbed the faith, it has disturbed the credit, and consequently those who are interested in that region, those who have the interests of that country at heart, have set themselves to work to frame a bill recognizing the possessory rights of all these people, recognizing the fact that they are and have been a meritorious class of citizens and that the development of that region to its greatest extent is for the best interest of the whole country.

Now, sir, this bill came from the Senate some weeks since. It was sought to be referred to the Committee on Mines and Mining, which, in my opinion, was the proper committee to which it should have gone. But through the influence of the chairman of the Committee on Public Lands it was sent to his committee. And I wish to state to the House now that the majority of the Committee on Public Lands are in favor of this bill as it came from the Senate; and if it had not been for action of which the House has been advised it would have been reported to the House before this time. I understand the Committee on Mines and Mining have considered this bill, and are ready to report favorably upon it at any time.

It has also been before the Committee on Territories, and they approve of it. And, sir, I hope that this House will pass the bill just as it came from the Senate, without any further amendment; because there is an imperative necessity for something being done that will assure the people in those regions that the Government does not mean to undermine them.

[Here the hammer fell.]

Mr. HIGBY. I yield ten minutes to the gentleman from Nevada.

Mr. ASHLEY, of Nevada. Mr. Speaker, as a matter of course, in the brief space allowed me, I cannot discuss this bill fully. There are two or three objections that have been urged to this measure as if they were of vital importance. It is objected, first, that our local rules in regard to mining are conflicting. In regard to that, I will say that they are not so much so as the report which was read this morning by the gentleman from Indiana [Mr. JULIAN] would indicate. There are differences, it is true, but by no means to the extent indicated, as some of us know by experience.

Again, it is said that this bill is to overturn the whole land system of the United States. Sir, the United States has had a system applicable to farming lands, but since the discovery of our gold and silver mines, I will ask any gentleman to tell me what system this Government has had. In 1850 it was proposed to legislate upon this subject. A discussion took place in the Senate, but ultimately nothing was done, on the ground that Congress was not sufficiently informed, and it would, therefore, leave the people of the mining region to get along as best they could. Accordingly, they were let alone, and for seventeen years they have been going on under their own local rules. Rights of property have grown up. Men have spent seventeen years of their lives there, and invested their capital. Their future hopes are all centered in that country. They have considered themselves safe heretofore, and I tell you if we could be sure that the Congress of the United States would never interfere with our occupation of these lands, would never survey and cut them up into square parcels and sell them at auction, we would not come here asking you to dispose of these lands in the manner proposed by this bill, because the local title would be considered safe.

Sir, we ask gentlemen not to put us off. We want security. We have lived there almost a generation, and is it too much that we come here and ask you to pass this measure? Are we to be charged with being impudent because we are earnest and want you to believe us? We, as American citizens, ask that we shall have the same rights as you have. You own your property here. We ask that the Government of the United States shall give us the same titles to ours. I know that the response of every true man is that we are right. Why should we be lessees and tenants always? Is that the system that the American Government wishes to establish—that all the rest of you may own your homes, but we who delve in the earth for the precious metals shall be tenants and serfs always? I ask the House now to say "no."

Heretofore the United States has had no system in regard to the mineral lands. Now we propose that the people shall hold these lands under their local rules. This is a legalization of the system by the United States, a thing which has never been done except by permission heretofore. We ask that our occupation may be declared legal, simply retaining the right on the part of the United States to dispose ultimately of these lands to the possessors. That is the first section of the bill.

This bill gives a permissive right to a man in occupation of a mine or lode to buy of the United States provided he has expended \$1,000 upon it, showing that he is in earnest and has settled in good faith, and is not seeking to seize it and hold it for speculative purposes. Now, there have been disputes between men over what they consider valuable mines, involving sometimes millions of dollars. The rights of the

different parties to this dispute are dependent on our local rules. We occupy upon the doctrine of possession, upon that great common law that the people have established for themselves during the twenty years past, of which you know nothing and with which Congress has never undertaken to meddle. That determines our rights as between ourselves. Now, we say it is nothing to the United States who buys the land, but it is of immense importance to us that the man should be held to be the owner who, under our rules, regulations, and customs, is entitled to possession.

It is objected to the bill that we are to settle that question in our local courts. I tell you all our rights in these mining regions depend upon local rules and customs, and they must be settled there. We will trust to a jury of our countrymen and to the mode of procedure in our courts, our interests, our homes, our whole possessions much more freely and with much more confidence than we will trust them to any man who happens to be appointed to political position in the Government, whether he be commissioner in a land office, or Secretary of the Interior, or a clerk who may be deputed to decide upon our disputes. Our rights that have grown up under the common law give us that equal protection that Englishmen and Americans have always claimed, that their disputes shall be submitted to the courts and to a verdict of their peers. I ask this House not to change that, but let these disputes be settled there in our courts, for we can decide them much better there.

Further, let me tell this House that if Congress shall say that these disputes must go to the Land Office, it will have the effect of opening litigation which has been settled for years past, and mining claims that are now supposed to be worth fifty, sixty, or one hundred thousand dollars, will become worthless the moment the information reaches there that this Congress has decided that the Secretary of the Interior shall have the final decision of these claims.

Sir, there is not a man from those States and Territories who dare go home and face the indignation of that people if he should vote to throw this property into litigation again, after it has passed through the ordeal and had the determination of our highest courts. I have stated now all the overturning of our land system which this bill contemplates. You have never had any system as to our mineral lands. Now, we ask that the determination of the question as to who are rightfully in possession shall be left to our courts, and not to the Secretary of the Interior.

I know I have been a little broken in my argument, for I cannot state it fully and regularly in the brief time that is allowed me. I think I have referred to the prominent objections which have been made to this bill. In regard to whether the amount to be expended by a miner to entitle him to a title to his claim shall be \$1,000 or \$500, we are satisfied with the sum as it is in the bill, \$1,000. We would not object to \$500, except that it would involve delay to amend the bill. And so, too, in regard to the price per acre. We would not object to \$1 25, except that the bill now has it five dollars per acre, and we think it better to pass that way and changed afterward by another bill, if it should be considered necessary.

Mr. HIGBY. Mr. Speaker, I find that any bill asking for the settlement of questions pertaining to the great West, of the country beyond the Rocky mountains, has to be fought here through a terrible struggle before we can get a vote on it. Other questions of vast importance are settled here in a very few minutes if they only relate to matters near at hand. But when a bill comes up, for instance, to quiet land titles in the State of California, embodying the simplest proposition that could be presented to this body for its action—and he who would take the bill and read it would see how full of justice it was—it was subjected to a contest of several days. And the chairman of the

Committee on Public Lands, [Mr. JULIAN,] who was instructed by his committee to report the bill favorably, occupied some two hours and a half of that time in an effort to defeat the bill. And now when we come before this body with a bill that has met with the sanction of the Treasury Department, and of the Interior Department, and of every man who represents any portion of the mineral regions of our country, the minds of all coinciding in reference to the terms it contains, we find the very same man with his concentrated hostility trying to get this House if he possibly can to defeat the bill. He speaks of the bill as a swindle, and calls us pickpockets. Sir, that is undignified language to be used upon the floor of a body like this.

A few words, now, as to the merits of this bill. Let me first show the manner in which it came here, and the means and manner by which it went to the Committee on Public Lands. It was sent to the Committee on Mines and Mining of the Senate, that being the legitimate committee to consider it. The Senate gave that committee the care and custody of that bill because it properly belonged to that committee, it being a standing committee of that body.

The bill passed the Senate and came here, and we supposed it was proper that it should go to the Committee on Mines and Mining of this body. I moved its reference to the Committee on Mines and Mining; but the member from Indiana, [Mr. JULIAN,] as an amendment, moved its reference to the Committee on Public Lands, to which committee it was sent. That committee may have many respectable members upon it; one of them is my colleague [Mr. McRUER.] But I do not know whether he has ever been much in the mineral regions or not. But I presume from the character of the business he has pursued, he is at least conversant with the great question pertaining to the mineral lands. But, sir, the Committee on Public Lands are by no means well fitted, in comparison with the Committee on Mines and Mining, to take charge of this question; for we have upon the latter committee three members from the mineral belt, as well as members from other mining regions of the country. That was the proper committee. But by the malice and petty spleen in which the member from Indiana seems to have been indulging on this occasion and one other we are justified in believing him hostile to every interest of the Pacific coast. It has been stated here by a member of the Committee on Public Lands that a majority of that committee are ready to report a bill precisely similar to the bill now before us. The Committee on Territories have had the same subject before them; and I understand that the members present when the question was under consideration agreed unanimously to report a measure of this character.

That bill having gone to the Committee on Public Lands, the Committee on Mines and Mining felt that they had the right, with the mass of matter which had been referred to them, to report a bill and ask this House to pass it. A bill which was a precise copy of that which was referred to the Committee on Public Lands and of the bill now under consideration, has been considered and carefully examined by the Committee on Mines and Mining, who have unanimously decided to report in favor of the bill.

Thus the bill has the recommendation of two committees, as it would have of a third committee, but for the fact that its chairman is determined to stand in the way of the great interests of the mineral belt, and therefore prevents the committee from reporting upon the question. The Representatives from the States interested in this measure are unanimous in favor of its passage. It has also the approval of the Treasury Department and the Interior Department, as well as of the Senate Committee on Mines and Mining, and the same committee of this body. I trust it will also receive the approbation of a large majority of the members of this House.

Mr. TRIMBLE. Will the gentleman from California yield to me for a question?

Mr. HIGBY. I will.

Mr. TRIMBLE. Do I understand the gentleman from California to say that the Committee on Mines and Mining have had this bill under consideration and unanimously recommend its passage?

Mr. HIGBY. They have had before them a bill precisely similar, word for word, and have unanimously agreed to report it.

Mr. TRIMBLE. Let me ask one further question: has the same bill, or a bill substantially the same, received the approval of a majority of the Committee on Public Lands?

Mr. HIGBY. My colleague, [Mr. McRUER,] who is a member of the committee will answer that question. I have understood from him that such is the fact.

Mr. McRUER. The majority of the committee are ready to vote in favor of reporting the bill whenever an opportunity is afforded to them.

Mr. TRIMBLE. Do I understand that they have had the bill before them and that a majority of the committee are willing to report it?

Mr. HIGBY. They have had before them the Senate bill, which is precisely similar.

Now, Mr. Speaker, having given a history of this bill, let me say a few words as to its merits. Sir, the bill does not contain a single sentence which will compel any miner, if it becomes a law, to purchase one foot of mineral lands. It leaves untouched a large class of mineral lands, to be occupied as they have been for the last fifteen or seventeen years. I refer to the placer mines, the deep-shaft claims, the tunnel claims, and the hydraulic claims, where they have, by hydraulic power, washed down hills fifty, seventy-five, and even one hundred feet high. All these different classes of mines are left by this bill as they have been for fifteen or seventeen years, to be occupied by the people of the country. Such is the first section of the bill; and not only does it leave that class of claims, but it leaves the other class of claims, in reference to which provision is made in the second section, to precisely the same rules and regulations and the same conditions. All manner of mining is left open precisely as heretofore, and it is left optional, as you may see by the second section, with those who have quartz claims, by taking a certain course, to finally get a patent from the General Government. They are not compelled to take this course, but may do so if a patent title is desirable.

I will say further, Mr. Speaker, if a man has a quartz claim, holding it under the rules and regulations and customs of miners, if he does not see fit to take this step to get a patent from the General Government there is no man or company of men who can, under the provisions of this bill, force him or a company to leave the claim and give them an opportunity to proceed to obtain a patent for the same. The simplest proposition in the world is contained in this bill. It is but one proposition, and that is to leave the whole mineral district as heretofore, only saying that what the Government has tolerated for fifteen or seventeen years shall now be legalized by the Government. With millions, tens of millions, ay, many tens of millions of property in these mines, yet there are men entirely ignorant of this matter who seem to be determined to destroy the great interest we have acquired by fifteen years of labor. I say to this House that all these men who go upon mineral lands want is that their occupancy shall be their title for the time being. They do not want anything else.

Mr. Speaker, I wish now to say a word to this House why it is we are anxious to have some legislation at this session. It is true that it is late in having a bill prepared in the Senate, but this, like other important matters, takes time for consideration. It has to be amended and reamended and amended again, so as to get it in such shape that it will meet the concurrence of the various executive branches of Government, the Representatives

of the mineral belt and of the Senate. Thus it has come here late, thus it passed the Senate late, thus it comes to the House late, and at a time when I would have forborne to say anything on the subject, much less to enter into any lengthy debate, if the opposition came from an honest and sincere heart, as it is perfectly evident that it does not.

Sir, I will state the reason for this bill. As was well said by my colleague in the Thirty-Eighth Congress in its last session a bill was introduced by the Committee on Public Lands. It was crude and deformed. It had not a single feature in it that could be adapted to the mineral lands. If it had been enforced as law in any mineral district in ten years that district would have been a desolation. The chairman of that committee has brought forward another bill this session. It has been reported. I do not know whether a speech has been made upon it at this session, but there was one at the last session. It has been printed and sent back to that committee; and a report was made by that committee which came from the chairman. It is but a mere string of glittering generalities. There is not a particle of anything applicable to the question one way or the other. As I have said, these bills have been printed. Boys of twelve years old all along the mineral belt know what the gentleman from Indiana has been doing. They know that he is at the head of the Committee on Public Lands. The people there keep close watch of what is being done here. Sir, capital ready to go there hesitates and will not go. Capital already invested hesitates to add capital to carry on improvements. Why? Because of this very bill which the gentleman has reported at this session. Let it become a law and be enforced, and from one half to two thirds of the valuation of property in the mineral districts would be wasted by such a proposition in one year's time after its enforcement.

Mr. Speaker, I have said that different Departments of the Government had sanctioned this bill; and I send up to the Clerk to be read, as a part of my remarks, a few lines written on the back of the bill by the Secretary of the Interior. When these lines have been read I demand the previous question on the bill and the pending amendment.

Mr. KASSON. Before the question is put I would ask the member from California whether, in case the motion to commit the bill is defeated, he will then allow me to offer the amendment which I have already explained to the House.

Mr. HIGBY. I do not know that I have any objection to allowing a vote to be taken.

The SPEAKER. The Chair will state that when the gentleman from Iowa [Mr. KASSON] was upon the floor by the permission of the gentleman from California, [Mr. HIGBY,] he indicated certain amendments which he proposed to offer with a view of perfecting the amendment of the Senate. But previous to that time the gentleman from Indiana [Mr. JULIAN] had moved to commit the bill to the Committee on Public Lands, which of course prevented any amendment being offered. If there be no objection the amendments indicated by the gentleman from Iowa will be considered as pending.

Mr. EGGLESTON. I object.

Mr. KASSON. Then I hope the bill will be committed.

Mr. HIGBY. I now ask for the reading of the indorsement upon the bill which I send up.

The Clerk read as follows:

I have read the within bill. I do not hesitate to say that I heartily approve its principles and the policy indicated for the disposition of the mineral lands.

JAMES HARLAN.

July 23, 1866.

The previous question was seconded and the main question ordered; being first upon Mr. JULIAN's motion to commit the bill to the Committee on Public Lands.

Mr. JULIAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. JULIAN's motion was disagreed to—yeas seventeen, noes not counted.

The question recurred upon the amendment submitted by Mr. JULIAN for the amendment of the Senate, and being put, the said amendment was disagreed to.

The question then recurred upon agreeing to the amendment of the Senate.

Mr. JULIAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 37, not voting 71; as follows:

YEAS—Messrs. Alley, Ancona, Anderson, Delos R. Ashley, Banks, Barker, Baxter, Bergen, Bidwell, Boyer, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Davis, Dawson, Eggleston, Eldridge, Farnsworth, Ferry, Glossbrenner, Abner C. Harding, Hart, Hayes, Higby, Hogan, Hotchkiss, John H. Hubbard, James K. Hubbell, Hulburd, Ingersoll, Johnson, Kelley, Kerr, Koonz, Ladin, George V. Lawrence, Le Blond, Marshall, McClurg, McTuer, Morris, Moulton, Myers, Newell, Niblack, Nicholson, O'Neill, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Sawyer, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Taylor, John L. Thomas, Trimble, Trowbridge, Burt, Van Horn, Robert T. Van Horn, Ward, Welker, Whaley, Williams, Stephen F. Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. Baker, Bingham, Boutwell, Bromwell, Reader W. Clarke, Dawes, Deftrees, Delano, Eliot, Finck, Aaron Harding, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Jenckes, Julian, Kasson, Kuykendall, Latham, William Lawrence, Loan, Marston, Mercer, Miller, Moorhead, Orth, Paine, Pike, Plants, Radford, Rollins, Ross, Scofield, Shellabarger, Stevens, Thornton, and James F. Wilson—37.

NOT VOTING—Messrs. Allison, Ames, James M. Ashley, Baldwin, Beaman, Benjamin, Blaine, Blow, Brandegee, Bundy, Chanler, Cook, Cullom, Culver, Darling, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Farquhar, Garfield, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hooper, Demas Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Ketoham, Longyear, Lynch, Marvin, McCullough, McIndoe, McKee, Morrill, Noel, Patterson, Phelps, Pomeroy, Raymond, Alexander H. Rice, John H. Rice, Rogers, Schenck, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Upson, Van Aernam, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Winfield, and Wright—71.

So the amendment was concurred in.

Mr. HIGBY moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found correctly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 236) to authorize the construction of certain bridges and to establish them as post roads;

An act (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad of California, to Portland in Oregon; and

An act (S. No. 269) to define the number and regulate the appointment of officers in the Navy, and for other purposes.

#### ASSAULT UPON A CLERK.

Mr. ALLEY. I rise to a question of privilege. The special committee, to whom was referred the investigation of the assault upon Uriah H. Painter by B. F. Beveridge, have instructed me to report the testimony, with the accompanying resolution, which I send to the Clerk's desk and ask to have passed.

The Clerk read the resolution, as follows:

*Resolved*, That the Sergeant-at-Arms be directed to deliver into the custody of the civil authorities Benjamin F. Beveridge, and to prosecute the said Beveridge before the criminal court in this District for an assault upon the person of Uriah H. Painter, an officer of this House, within the walls of the Capitol, and that the evidence taken in the case by the special committee of the House be delivered to the United States district attorney for this District.

Mr. ALLEY. I will not ask for the reading of the testimony, as it is very voluminous, but I will state as briefly as may be the facts of the case. [Several members, "Oh, no; let us vote."] It seems to me that this is a very important matter, and that it should not be disposed of without some reference to the testimony, involving as it does the liberty of a citizen. As



a member of this House, I cannot reconcile it to my sense of duty and propriety to allow the question to be taken without some explanation; but I will be brief and endeavor to say what I have to say in a very few words, for no one appreciates more than I do the value of time at this late stage of the session. I will simply remark that the testimony shows that Mr. Painter was on his way to the committee-room in the lower halls of the Capitol, and was engaged in conversation with a friend, when he was met by this man Beveridge, knocked down, kicked several times in the head and leg, and, in the opinion of some of the witnesses, but for the interference of some who were present, as well as those who came to his assistance, he would have been killed. Such briefly are the facts, as the evidence will show.

Now, in regard to the authority for arresting and keeping in custody Beveridge, I will remark that there are a great many precedents for the action of the House, which I will not trouble the House by now referring to. In innumerable instances have Congress and the Legislatures of the States, when a breach of privilege has been committed, arrested and imprisoned the person committing the breach of privilege. The most prominent case of the kind that has come under the observation of the committee, is the case of *Anderson vs. Dunn*, which was taken up to the Supreme Court of the United States and there decided. The decision sets forth the authority of Congress at length. As to the duration of imprisonment, the court says:

"And even to the duration of imprisonment a period is imposed by the nature of things, since the existence of the power that imprisonment is indispensable to its continuance, and although the legislative body ceases to exist on the moment of its adjournment or dissolution. It follows that imprisonment must terminate with that adjournment."

This language seems to be susceptible of two constructions, and lawyers are not agreed upon the proper construction to be put upon it. The committee are of opinion that we have not the power to imprison this man beyond the present session of Congress; and that unless some measure is adopted, such as I have reported from the select committee, this man must be released when the present session of Congress shall terminate, and thus receive no adequate punishment. In view of that fact it was deemed best to report the resolution I have submitted, to have this person turned over to the civil authorities to be prosecuted for this assault.

Mr. FARNSWORTH. I do not like to have it go upon the record that I, as a member of this select committee, hold the law to be at all as stated by the chairman of the committee, [Mr. ALLEY.] I do not understand that the committee came to any such conclusion. My opinion is very clear that Congress has the right to imprison this person until the 4th day of March next. I do not see why it may not as well imprison over the recess until December next as over a recess of three days or one day.

Mr. ALLEY. I have consulted several of the most eminent lawyers in the House and in the Senate, and with a single exception they all came to the conclusion that we had not the power to imprison beyond the present session of Congress. I am no lawyer myself, but I will remark that it has been decided by the Supreme Court, by all the commentators on the Constitution, Kent, Story, and others, that when Congress terminates by adjournment or periodical dissolution, any person imprisoned by its order must be liberated. Now, there is a difference of opinion in regard to these terms used by the Supreme Court in this case. Story and Kent both held that adjournment and periodical dissolution, in the sense used by the court, are synonymous terms, and almost every one with whom I have consulted holds the same view, that they are synonymous; that when Congress adjourns permanently, that is, adjourns *sine die*, it terminates and the person must be liberated. Now, in regard to the period of dissolution, some hold that that term applies to the termination of Congress on the 4th of March. Others hold that it applies to the

annual termination of Congress by the adjournment *sine die* at the end of each session, such as will probably take place now in a few days. The committee, I understood, with perhaps one exception, to take that view of the case. That, at any rate, is the view taken by almost all the lawyers with whom I have consulted.

Mr. J. L. THOMAS. I desire to state merely, as a member of this committee, that while I do not desire to say anything against this resolution reported by the majority of the committee, I desire to place myself right upon the record by stating that I am not in favor of the majority report. My ideas of the laws and of the powers of Congress differ somewhat from the ideas of the chairman [Mr. ALLEY] and I believe the majority of the committee. I am of opinion that this House has the power, and having the power it ought to exercise it to keep this man in confinement until the 4th of March, 1867. I believe the power of the House extends that far, but in that opinion the majority of the committee did not agree with me. I desire to make this statement merely to place myself right on the record.

Mr. ALLEY. It is true, as the gentleman observes, that he did not concur with the majority of the committee in their opinion as to the construction of the law. With this exception I understood the committee to be unanimous. But the gentleman from Illinois [Mr. FARNSWORTH] now says that he dissents.

Mr. FARNSWORTH. I do not dissent from the resolution. I believe that it was originally my own proposition to turn this man over to the civil authorities. But I dissent from the statement that the committee came to the conclusion that this House has no power to imprison this man beyond the present session. I maintain that the House has power to hold him in custody till the 4th of March next.

Mr. ALLEY. I understood the gentleman to say that he was opposed to the resolution. I was somewhat surprised at this, because, as I have presented it, it is almost identical in form with a resolution which the gentleman himself drew up. The committee reluctantly came to the conclusion that it was the best course to report a resolution similar to that which the gentleman first proposed. I understood the gentleman to maintain in committee that it was a matter of great doubt whether the House has the power to hold this man beyond the close of the present session, and that he for one believed we had no such power. I of course accept the gentleman's correction. I have only mentioned this to show that I had reason for representing him as in favor of the resolution.

Mr. FARNSWORTH. Mr. Speaker, my only purpose is to put myself right on the record, as this case may be cited as a precedent hereafter. I concurred in reporting this resolution partly for the reason that I thought it well enough to turn this man over to the civil authorities, to be punished by them, but chiefly because the person assaulted, although an officer of the House, was not at the time in the performance of his duty as such officer; and therefore a question might arise as to the power of the House in such a case. The committee at first came to the conclusion to report a resolution providing for turning the man over to the civil authorities, to be kept in close confinement in the jail of the District of Columbia until the further order of the House, the object being to keep him there till the close of the next session of Congress. Subsequently the committee revised that conclusion, and thought it best, on the whole, to report this resolution, in which I concurred. I think it best, on the whole, that the resolution should be adopted.

I rose simply to protest that I did not concur in the opinion expressed by the chairman of the committee, that the House has no power to hold this man in custody beyond the close of the present session. As this report may be cited hereafter as a precedent, I want to go upon the record as in favor of the right of either House of Congress to punish a man for

contempt or breach of its privileges by confining him until the termination of the Congress—its dissolution, and not the mere end of the session.

Mr. ALLEY. I will add but a few words; and then I will call the previous question.

Mr. TRIMBLE. Will the gentleman yield to me for a moment?

Mr. ALLEY. Yes, sir.

Mr. TRIMBLE. Mr. Speaker, I heartily indorse this resolution, with the exception of that part which instructs the Sergeant-at-Arms to prosecute this man. I think that part is rather a reflection upon the local authorities of the District of Columbia. Still I presume that those authorities will not regard it in that light. I have been in favor all the time, since hearing the evidence, of turning this man over to the civil authorities, to be dealt with in accordance with the laws passed by Congress for the government of such cases in this District. Consequently I am in favor of the resolution. At the same time I do not believe that we have the power to keep this man in custody one moment beyond the close of the present session of Congress.

Mr. ALLEY. Mr. Speaker—

Several MEMBERS. Question! Question!

Mr. ALLEY. I understand my rights on this floor. Gentlemen may call "Question" as much as they please, but it does not affect me. This is an important matter, important as a precedent, and involving the rights and liberty of a citizen of this District.

Mr. HUBBARD, of Connecticut. What is the question? I do not understand any one objects.

Mr. ALLEY. I will say a single word in reply to the gentleman from Illinois, and then I will call for the previous question. The committee felt that this was a most aggravated assault, entirely without reason or provocation; and if it were in the power of this House to punish this man we all thought he deserved it, and we were disposed to inflict the severest punishment upon him. I understood most distinctly that they believed it was very doubtful at any rate whether we had the power, and therefore instructed me to offer the resolutions I have reported. It was for that reason, and that alone, I consented to report the resolutions. I believe the punishment inflicted upon this individual should be of the severest character, as for a great and heinous crime. But doubting our power to punish, as I do, after consultation with the best lawyers in both Houses of Congress, I have submitted the proposition before the House. I now demand the previous question.

Mr. ROSS. For how many papers does Mr. Painter report?

Mr. ALLEY. I do not yield for any purpose and insist upon the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

#### TENNESSEE—QUESTION OF PRIVILEGE.

Mr. TRIMBLE. I rise to a question of privilege. The Constitution declares that "each House shall be the judge of the elections, returns, and qualifications of its own members." On Friday last this House declared by resolution as follows:

"That the State of Tennessee is hereby declared to be restored to her former proper, practical relations to the Union, and again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified upon their taking the oaths of office by existing laws."

As I suppose this House will not stultify itself by refusing those gentlemen seats in this Hall, I now move as a question of privilege that N. G. Taylor, J. W. Leftwich, and Edward Cooper be sworn in as members of this House.

The SPEAKER. The Constitution does declare that each House shall be the judge of the elections, returns, and qualifications of its own members; but the House of Representatives has decided, with the concurrence of the Senate, that certain States, not represented during the last four years in the Congress of

the United States, shall not be entitled to representation again until by concurrent action of both branches they shall be declared to be entitled to representation. The House, therefore, declared it has no constitutional right so to judge. The Chair overrules the demand that gentlemen claiming seats from Tennessee shall be sworn in.

Mr. TRIMBLE. From that decision, with all due deference, I take an appeal.

Mr. STEVENS moved that the appeal be laid upon the table.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 18, not voting 69; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Davis, Defrees, Delano, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Julian, Kelley, Koontz, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, John L. Thomas, Thornton, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—94.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Dawson, Finck, Glossbrenner, Aaron Harding, Hogan, Le Blond, Nicholson, Radford, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Taber, and Trimble—18.

**NOT VOTING**—Messrs. Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Cook, Cullom, Culver, Darling, Daves, Deming, Denison, Dodge, Donnelly, Dumont, Eldridge, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Demas Hubbard, Edwin N. Hubbard, Humphrey, Ingersoll, Jencks, Johnson, Jones, Kasson, Kelso, Kerr, Ketcham, Kuykendall, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Niblack, Noell, Patterson, Phelps, Pomeroy, Rogers, Sloan, Smith, Starr, Stillwell, Strouse, Taylor, Thayer, Francis Thomas, Upson, Robert T. Van Horn, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Winfield, and Wright—69.

So the appeal was laid upon the table.

#### REPORT OF COMMITTEE ON MANUFACTURES.

Mr. LATHAM, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed of the report of the Committee on Manufactures, lately submitted, twenty-five hundred extra copies for the use of the committee, and five hundred extra copies for the use of the House.

Mr. BINGHAM. I move that the House proceed to the business on the Speaker's table. The motion was agreed to.

#### SOLDIERS' AND SAILORS' NATIONAL UNION.

The first business on the Speaker's table was the Senate's amendment to House bill No. 587, to incorporate the Soldiers' and Sailors' National Union of Washington, District of Columbia.

The amendment was agreed to.

#### SOLDIERS' AND SAILORS' ORPHAN HOME.

The next business in order on the Speaker's table was the Senate's amendment to House bill No. 779, to incorporate the National Soldiers' and Sailors' Orphan Home.

The amendment was agreed to.

#### POST ROADS.

The next business on the Speaker's table was the Senate amendments to House bill No. 775, to establish certain post roads.

Amendments to the Senate amendments were moved by Mr. COBB, Mr. CONKLING, Mr. ANCONA, Mr. NEWELL, and Mr. MOULTON, which were severally agreed to.

The Senate amendments, as amended, were then agreed to.

#### TENNESSEE.

The next business on the Speaker's table was the amendments of the Senate to House

joint resolution No. 83, declaring Tennessee again entitled to Senators and Representatives in Congress.

Mr. ELDRIDGE. I demand a separate vote on the amendments.

The first amendment of the Senate was to strike out of the resolution the words "duly elected and qualified upon their taking the oaths of office required by law," so that the resolution would read as follows:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union; and is again entitled to be represented by Senators and Representatives in Congress.

Mr. BINGHAM demanded the previous question on the amendment.

The previous question was seconded and the main question ordered.

Mr. WILLIAMS demanded the yeas and nays.

The yeas and nays were refused.

The amendment was agreed to.

The next amendment of the Senate was to strike out the preamble of the House and insert in lieu thereof the following:

Whereas in the year 1791, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution or government whereby slavery was abolished and ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution, which has ratified the amendment to the Constitution of the United States abolishing slavery; also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

Mr. ELDRIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS. I would inquire if the preamble is voted down, the resolution being adopted, would there not be a disagreement between the two Houses?

Mr. GARFIELD. If the House should vote this down would it not kill the joint resolution?

Mr. LE BLOND. It is not likely the House will kill it.

Mr. ELDRIDGE. If the lightning should kill all the members the bill would not be passed. [Laughter.]

The question was taken; and it was decided in the affirmative—yeas 93, nays 26, not voting 62; as follows:

**YEAS**—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Conkling, Defrees, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—93.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Jencks, Johnson, Latham, LeBlond, Marshall, Niblack, Nicholson, Radford, Samuel J. Randall, Raymond, Ritter, Ross, Shanklin, Strouse, Taber, Taylor, Thornton, and Trimble—26.

**NOT VOTING**—Messrs. Alley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bundy, Chanler, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Darling, Davis, Daves, Deming, Denison, Dodge, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hogan, Demas Hubbard, Edwin N. Hubbard, Humphrey, Jones, Kasson, Kelso, Kerr, Longyear, Marvin, McCullough, McIndoe, McKee, Noell, Patterson, Phelps, Pike, Pomeroy, Rogers, Sitgreaves, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Winfield, and Wright—62.

So the Senate amendment was agreed to.

During the roll-call,

Mr. BINGHAM stated that Mr. ASHLEY, of Ohio, had paired with Mr. Dawson.

Mr. LATHAM said: Believing that the preamble states what is not true, and believing that Tennessee is entitled to representation as well without this preamble as with it, I vote "no."

The result having been announced as above recorded,

Mr. BINGHAM moved to reconsider the vote by which the amendments were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment of the Senate was to strike out the title and insert in lieu thereof the following: "Joint resolution respecting Tennessee and her relations to the Union."

Mr. BINGHAM. On that I move the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to—ayes 88, nays 9.

Mr. BINGHAM moved to reconsider the vote by which the title was amended; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RATIONS OF UNION PRISONERS.

The last business on the Speaker's table was the Senate's amendment to House joint resolution No. 190, in regard to rations of Union soldiers held as prisoners of war.

The Senate's amendment was in the nature of a substitute, allowing payment of rations during imprisonment.

The amendment was agreed to.

Mr. WARD moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

#### WITHDRAWAL OF PAPERS.

Mr. RANDALL, of Pennsylvania, asked and obtained leave to withdraw from the files of the House the papers in the case of Frederick Laracker.

#### DEFICIENCY BILL.

Mr. STEVENS. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1866, and for other purposes.

On motion of Mr. STEVENS, the first reading of the bill was dispensed with, and the Clerk proceeded to read it by sections for amendment.

The Clerk having read the following paragraph:

For mail steamship service between the United States and Brazil, from November 1, 1865, to June 30, 1866, \$100,000—

Mr. KASSON said: I move to amend by adding "or so much thereof as may be due." My impression is it is not due.

The amendment was agreed to.

Mr. J. L. THOMAS. I move to amend the bill by inserting after line eighty the following:

Salary of the deputy solicitor of the Court of Claims: That the salary of the deputy solicitor shall be the same as the salary of the assistant solicitor of said court.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

Mr. DELANO. I move to strike out the following paragraph:

To pay Roy Stone, of Pennsylvania, for certain buildings owned by him in Memphis, Tennessee, and which were taken possession of, used, occupied, and destroyed by and for the benefit of the forces of the United States, the sum of \$12,000: *Provided*, That it shall first be shown to the satisfaction of the Secretary of War that said buildings were of the value of \$12,000, and were the property of said Stone: *And provided further*, That this sum shall be in full satisfaction of all claims on account of said property against the United States.

I do not know why this clause was introduced into this appropriation bill. If members will examine it they will see that it is in two particulars in direct violation of the rule of this House in reference to the payment of claims resulting from the destruction of property during the late war. In the first place, it is a claim from a rebel State; and in the second place, it embraces such damages as were the necessary result of the ravages of war.

I can give to the House some very strong cases of this character that have been rejected by the Committee of Claims in consequence of the rule of the House to which I have referred. A case from the State of Ohio has been reported to this House, and in my opinion is much more deserving the favorable action of this House than this case is. And yet that case has been referred to the Committee of the Whole, and I have no doubt it will be ultimately rejected. That was the case of a man holding a large property in Nashville, a man who was loyal beyond all doubt, and who was a paralytic at the time of the rebellion. He was carried upon a litter to the polls and voted against the ordinance of secession. His entire possessions were taken by the military and occupied for the purposes of a fortification. That was all the property the man possessed, and now with a wife and four children he is living upon the charity of friends in Ohio. That property was taken and torn down and the premises occupied for a fortification. And the Secretary of War has absolutely gone so far as to recommend that the Government have liberty to purchase the property for the use of the Government, in order that thereby we may be enabled to give this man compensation and not violate the rule of the House.

Mr. SCHENCK. Does my colleague [Mr. DELANO] refer to the case of Mr. Best?

Mr. DELANO. No, sir; though that was also a meritorious case. I refer to the case of Mr. Morrison, known to my colleague, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. I wish to inquire if the case of Morrison has been referred to the Committee of the Whole. I thought it was before the Committee of Claims.

Mr. DELANO. It may have been rereferred to the Committee of Claims some time when I was absent. I am myself prepared to recommend that claim on the simple and single ground that the Secretary of War has recommended that Congress confer upon him the right to purchase the property. I am therefore prepared to recommend a bill for the purchase of the property. But this whole subject, I submit, had better be left to be examined, in all instances by the Committee of Claims under the rule of the House, unless the House are willing at once to set that rule aside and open the flood-gates, I was about to say, of financial ruin and bankruptcy. I know of no investigation of this claim of Roy Stone; it has been referred to no committee that I know of.

Mr. LATHAM. I raise the point of order that this appropriation is not for the purpose of carrying out any existing law.

The CHAIRMAN. The point of order is made too late; it should have been made when the bill was reported to the House by the Committee on Appropriations.

Mr. LATHAM. The bill was not printed then, and this is the first opportunity we have had of knowing what it contains.

Mr. DELANO. I do not know but I have said all that I desire to say on this subject.

Mr. GARFIELD. I would like to know

from my colleague [Mr. DELANO] if the claim to which he referred a moment ago was the claim of Mr. Morrison, of Nashville.

Mr. DELANO. It was.

Mr. GARFIELD. I do not know how that claim came under discussion. But since it has been referred to, I wish to say that I am personally acquainted with it, and think it one of the most meritorious claims that ever came before Congress; and I should think it wrong at any time to exclude a claim of that kind.

Mr. DELANO. I was calling the attention of the House to the circumstances of that case to show the distinction between it and this case. I desire only to say to the House and to the country that we are treading on dangerous ground in this matter if we pass the claim contained in this bill.

Mr. TRIMBLE. I desire to ask the gentleman from Ohio whether the Committee of Claims had not before it numerous claims from citizens of Kentucky, some of them from my own district, citizens whose loyalty is unquestioned—claims for compensation for property destroyed by order of the commanders of United States troops, and whether the committee have not reported against those claims in accordance with a general rule which they have adopted.

Mr. DELANO. I answer the gentleman affirmatively in regard to the first branch of his question. I can also say that a large number of those claims were entitled, so far as I know, to more consideration than the claim proposed to be paid in this bill. I know nothing about the facts of this case except as they are recited in the bill.

Mr. TRIMBLE. I understand the gentleman to admit that the parties in the cases of which I speak made good their claims, if the committee had decided in favor of paying for property destroyed in that way.

Mr. DELANO. Undoubtedly. Those claims were rejected, because, in the first place, we did not feel ourselves authorized to report in favor of paying for property destroyed by the ravages of war; and secondly, we did not feel authorized, under the ruling of the House, to recommend the payment of such losses occurring in the rebel States.

Mr. SCOFIELD. I have nothing to say against the payment of the claims referred to by the gentleman from Ohio, [Mr. DELANO,] the gentleman from Kentucky, [Mr. TRIMBLE,] and other gentlemen. All those claims may be as meritorious as the gentlemen who have spoken in their favor represent them to be; and when they come before the House—

At this point, the hour of half past four having arrived, the committee rose and the House, agreeably to order, took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

#### ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions and a bill of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 83) restoring Tennessee to her relations to the Union;

Joint resolution (H. R. No. 191) relating to the building lately occupied for a national fair in aid of the orphans of the soldiers and sailors of the United States; and

An act (H. R. No. 776) in relation to the unlawful tapping of Government water-pipes.

#### COMMITTEE OF FOREIGN AFFAIRS.

Mr. BANKS. I ask unanimous consent that Thursday next, after the morning hour, may be assigned for the consideration of reports from the Committee on Foreign Affairs upon the several subjects of public interest referred to that committee.

Mr. RANDALL, of Pennsylvania. I would like to have the subjects named.

Mr. BANKS. The subjects upon which the committee report, and upon which, should the House accede to my request, their propositions will be ready in print on Wednesday, will be a resolution referred to the committee in regard to the invasion of Canada; the several propositions of gentlemen from different parts of the country in regard to aid to be given to Mexico; propositions relating to the interest which the Government of the United States has in the assertion of what is called the "Monroe Doctrine;" and subjects akin to those I have named.

The SPEAKER. Is there objection to the proposition of the gentleman from Massachusetts?

Mr. RANDALL, of Pennsylvania. I object.

Mr. BANKS. I appeal to the gentleman from Pennsylvania to withdraw his objection.

Mr. RANDALL, of Pennsylvania. I cannot withdraw it.

Mr. BANKS. Then I will ask the consent of the House that the Committee on Foreign Affairs may be permitted to report on Thursday upon the first subject that I have named—the neutrality laws.

Mr. RANDALL, of Pennsylvania. I have no objection to that.

Mr. BANKS. I would state that the report of the committee will be in print in season for the consideration of the House.

Mr. MORRILL. I desire to suggest to the gentleman from Massachusetts that it may not be wise for us to appropriate our time so far ahead. On the day named there may be various bills coming from the Senate which will require the consideration of the House.

Mr. BANKS. I would not press my proposition if I thought it would interfere with any business absolutely necessary to be disposed of.

The SPEAKER. The Chair would state that should the business named by the gentleman from Massachusetts be made a special order it can, when reached, be postponed like any other special order. Is there objection to the proposition of the gentleman from Massachusetts?

Mr. WENTWORTH. I will not object if the House will allow me to refer a resolution to the Committee on Foreign Affairs.

Mr. BANKS. I trust that may be done.

The SPEAKER. The Chair hears no objection.

Mr. STEVENS. At what time is it to be made a special order?

The SPEAKER. After the morning hour. The resolution will be referred to the committee.

Mr. BANKS. I feel it to be my duty, so many propositions have been referred to the Committee—

Mr. WENTWORTH. Let my resolution be read.

The Clerk read as follows:

*Resolved*, That the Committee on Foreign Affairs be requested to inquire into the expediency of reporting a bill applying the same regulations toward the Fenian belligerents that the Government of Great Britain applied to the so-called confederates of this country.

Mr. STEVENS. I desire to know how much of the day the special order is to occupy. We cannot go beyond what we have.

Mr. BANKS. We will submit the question to the House without debate. Unless gentlemen of the House shall choose to debate it we will not debate it.

Mr. STEVENS. I will not object if the gentleman does not ask more than two hours.

Mr. MORRILL. One hour.

Mr. BANKS. I will ask but two hours.

There was no objection; and it was ordered accordingly.

Mr. BANKS moved to reconsider the vote by which the subject of the neutrality laws was made the special order for Thursday next after the morning hour; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MEXICO.

Mr. BANKS. I move to postpone the regular order of business and to suspend the rules



for the purpose of fixing Thursday next for the consideration of the reports from the Committee on Foreign Affairs in reference to Mexico.

The SPEAKER. The regular order of business is the business upon the Speaker's table.

Mr. BANKS. The gentleman from Vermont [Mr. MORRILL] gives notice that he will oppose the motion, and as there is no quorum voting I give notice for the second time that I will on the first opportunity report from the committee on that subject.

Mr. RANDALL, of Pennsylvania. And for the second time I give notice I shall object.

#### NORTON'S CANCELING STAMP.

Mr. FERRY. I ask unanimous consent to make a report from the Committee on the Post Office and Post Roads which is recommended by the Post Office Department. I ask the Clerk to read the letter of the acting Postmaster General.

Mr. ANCONA. I demand the regular order of business.

#### REORGANIZATION OF THE DEPARTMENTS.

Mr. MORRILL. I ask leave of the House to set apart to-morrow after the morning hour for the consideration of the bills reorganizing the Interior, the Treasury, and the Post Office Departments, and for that purpose only.

Mr. STEVENS. I object. I will not object to day after to-morrow.

Mr. MORRILL. I will say day after to-morrow.

Mr. ELDRIDGE. I object. I would not object to giving to-morrow. The evident purpose is to continue the session.

Mr. MORRILL. I suggest to-morrow evening.

Mr. LOAN. I object.

#### FRANCIS COLGEN.

Mr. BAKER. I ask not exceeding two minutes for a report from the Committee on Invalid Pensions in behalf of a blind soldier.

Mr. ANCONA. I withdraw the call for the regular order of business for that purpose.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill for the relief of Francis Colgen; which was read a first and second time.

It provides that Francis Colgen shall be placed upon the pension-rolls at the same rate allowed to soldiers and seamen who have lost the sight of both eyes in the military and naval service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

#### COMMITTEE ON PACIFIC RAILROAD, ETC.

Mr. PRICE. I move to suspend the rules to enable me to submit the following resolution:

*Resolved*, That all other business be postponed, and that the Committee on the Pacific Railroad and the Committee on Public Lands be each allowed one hour of this evening's session for reports.

The rules were not suspended.

#### NORTON'S CANCELING STAMP—AGAIN.

Mr. FERRY. I ask leave to report from the Committee on the Post Office and Post Roads a joint resolution to provide for the payment of the use and title to Norton's post marking and postage canceling stamp. I ask that the letter of the Post Office Department be read.

The Clerk read as follows:

POST OFFICE DEPARTMENT,  
APPOINTMENT OFFICE,  
WASHINGTON, July 23, 1866.

Sir: Information has been received at this Department that the application of Mr. Norton for remuneration for the use of his patent marking and canceling stamp has not been reported upon by your committee.

This matter is considered one of great public importance and especially to this Department, and a report to the House and the prompt action of Congress on this subject would relieve the Department from much embarrassment in the future essential use of this stamp.

I have the honor to be, very respectfully, your obedient servant,

ALEXANDER W. RANDALL,  
Acting Postmaster General.

Hon. JOHN B. ALLEY,  
Chairman Committee on Post Offices.

Mr. SHELLABARGER. I make the point of order that the joint resolution makes an appropriation.

The SPEAKER. The Chair overrules the point of order. An appropriation bill must itself take money out of the Treasury. This will require another bill.

Mr. KASSON. Is not this the same stamp which has been used in the Post Office?

Mr. FERRY. Yes, sir, for three years.

Mr. MORRILL. I move that the joint resolution be laid upon the table.

Mr. FERRY. That motion is not debatable, but I trust it will not be agreed to.

The House divided; and there were—ayes 57, noes 17; no quorum voting.

The SPEAKER, under the rules, ordered tellers, and appointed Mr. FERRY and Mr. SPALDING.

Mr. MORRILL. I withdraw the motion to lay upon the table.

Mr. FERRY. I withdraw the report.

#### KANSAS AND NEOSHO VALLEY RAILROAD.

The House proceeded to the business upon the Speaker's table.

The first bill was Senate bill No. 285, granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river.

The bill was read a first and second time.

The bill was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the purpose of aiding the Kansas and Neosho Valley Railroad Company, the same being a corporation organized under the laws of the State of Kansas, to construct and operate a railroad from the eastern terminus of the Union Pacific railroad, eastern division, at the line between Kansas and Missouri, at or near the mouth of the Kansas river, on the south side thereof, southwardly, through the eastern tier of counties in Kansas with a view of its extension, so as to effect a junction at Red river with a railroad now being constructed from Galveston to Red river at or near Preston, in Texas, there is hereby granted to the State of Kansas for the use and benefit of said railroad company every alternate section of land or parts thereof, designated by odd numbers, to the extent of ten sections per mile on each side of said road; but in case it shall appear that the United States have, when the line of said road is definitely located, sold any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to the sections above specified so much land as shall be equal to the amount of such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached as aforesaid, which lands, thus indicated by the direction of the Secretary of the Interior, shall be reserved and held for the State of Kansas for the use of said company by the said Secretary for the purpose of the construction and operation of said railroad, as provided by this act: *Provided*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way two hundred feet in width is hereby granted, subject to the approval of the President of the United States: *And provided further*, That said lands hereby granted shall not be selected beyond twenty miles from the line of said road.

Sec. 2. *And be it further enacted*, That the sections and parts of sections of land which by the aforesaid grant shall remain in the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder, at or above the minimum price aforesaid: *Provided*, That actual bona fide settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *And provided also*, That settlers under the provisions of the homestead act, who make their settlement after the passage of this act, and comply with the terms and requirements of said act, shall be entitled, within the said limits of ten miles, to patents for an amount not exceeding eighty acres each.

Sec. 3. *And be it further enacted*, That the grant of lands hereby made is upon condition that said company, after the construction of its road, shall keep it in repair and use, and that at all times be in readiness to transport troops, munitions of war, supplies, and public stores upon its road for the Government, when required to do so by any Department thereof, the Government at all times having the preference in the use

of the road for all the purposes aforesaid, at fair and reasonable rates of compensation, not exceeding that paid by private individuals, or the average paid for like services on other roads. And the lands hereby granted, held, and reserved as aforesaid shall inure to the benefit of said company, as follows: when the Governor of the State of Kansas shall certify that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the said Secretary of the Interior shall issue to the said company patents for so many sections of the land within the limits above named as are contemporaneous with said completed section hereinbefore granted; and when certificates of the Governor aforesaid shall be presented to said Secretary, of the completion, as aforesaid, of each successive section of ten consecutive miles of said road, the said Secretary shall in like manner issue to said company patents for the land for each of said sections of road as in the first instance, until said road shall be completed: *Provided*, That if said road is not completed within ten years from the date of the acceptance of the grant hereinbefore made, the lands remaining unpatented shall revert to the United States: *And provided further*, That the said lands shall not, in any manner, be disposed of or incumbered by said company or its assigns, except as the same are patented under the provisions of this act.

Sec. 4. *And be it further enacted*, That as soon as said company shall file with the Secretary of the Interior maps of its line, designating the route thereof, it shall be the duty of the said Secretary to withdraw from the market the lands granted by this act, in such manner as may be best calculated to effect the purposes of this act and subserve the public interest.

Sec. 5. *And be it further enacted*, That the United States mail shall be transported on said road and its extension, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law the Postmaster General shall have power to fix the compensation.

Sec. 6. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said Kansas and Neosho Valley Railroad Company, its successors and assigns, for the construction of a railroad as proposed; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

Sec. 7. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Kansas and Neosho Valley Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act, and not afterward, and shall be deposited with the Secretary of the Interior.

Sec. 8. *And be it further enacted*, That said Kansas and Neosho Valley Railroad Company, its successors and assigns, is hereby authorized and empowered to extend and construct its railroad from the southern boundary of Kansas south, through the Indian Territory, to Red river, at or near Preston, in the State of Texas, so as to connect with the railway now being constructed from Galveston to a point at or near Preston, in said State; the right of way through the Indian Territory wherever such right is now reserved or may hereafter be reserved to the United States by treaty with the Indian tribes, is hereby granted to said company to the same extent as granted by the sixth section of the act through the public lands, and in all cases where the right of way as aforesaid through the Indian lands shall not be reserved to the Government, the said company shall, before constructing its road, procure the consent of the tribe or tribes interested, which consent, with all its terms and conditions, shall be previously approved and indorsed by the President and filed with the Secretary of the Interior.

Sec. 9. *And be it further enacted*, That the same grants of lands through said Indian Territory are hereby made as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act: *Provided*, That said lands become a part of the public [domain] lands of the United States.

Sec. 10. *And be it further enacted*, That said Kansas and Neosho Valley Railroad Company, its successors and assigns, shall have the right to negotiate with, and acquire from any Indian nation or tribe, authorized by the United States to dispose of lands for railroad purposes, and from any other nation or tribe of Indians through whose lands said railroads may pass, subject to the approval of the President of the United States, or from any company or parties incorporated or authorized for such purposes, by such nation or tribe, or which such parties may have acquired under the laws of the United States.

Sec. 11. *And be it further enacted*, That any railroad company chartered under any law of the United States, or of any State, which may have been heretofore or shall hereafter be recognized and subsidized by any act of the Congress of the United States, may connect, unite, and consolidate with this railroad company, after the same shall be located to the valley of the Neosho river, upon just, fair, and equitable terms, to be agreed upon between the parties, and shall not be against the public interest or the interest of the United States; nor shall any road authorized to connect as aforesaid charge the road so connecting a greater tariff per mile for freight or passengers than

is charged for the same per mile by its own road: And provided further, That should the Leavenworth, Lawrence, and Fort Gibson Railroad Company, or the Union Pacific Railroad Company, southern branch, construct and complete its road to that point on the southern boundary of the State of Kansas where the line of said Kansas and Neosho Valley railroad shall cross the same, before the said Kansas and Neosho Valley Railroad Company shall have constructed and completed its said road to said point, then and in that event the company so first reaching in completion the said point on the southern boundary of the State of Kansas shall be authorized, upon obtaining the written approval of the President of the United States, to construct and operate its line of railroad from said point to a point at or near Preston, in the State of Texas, with grants of land according to the provisions of this bill, but upon the further special condition, nevertheless, that said railroad company shall have commenced in good faith the construction thereof before the said Kansas and Neosho Valley Railroad Company shall have completed its said railroad to said point: And provided further, That said other railroad company, so having commenced said work in good faith, shall continue to prosecute the same with sufficient energy to insure the completion of the same within a reasonable time, subject to the approval of the President of the United States: And provided further, That the right of way, when not otherwise granted in this bill, shall be obtained by said Kansas and Neosho Valley Railroad Company, or either of the other companies named in this act, in accordance with the provisions of section three of an act to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Mr. ANDERSON. On behalf of the Committee on Public Lands, I submit the following amendment: in section one, line seventeen, after "road" insert "to be selected within twenty miles from the line of said road;" and in same section, line forty-four, strike out "said" and "not" and insert "none of them;" so it will read: "that none of the said lands hereby granted shall be selected," &c. Section three, line six, strike out "any Department thereof," and insert "at the cost, charge, and expense of said companies." In line seven, after the word "Government," insert "of the United States," and strike out the words "at all times having the preference in the use of the road for all the purposes aforesaid, at fair and reasonable rates of compensation, not exceeding that paid by private individuals, or the average paid for like services on other roads."

The amendments were agreed to.

Mr. VAN HORN, of Missouri, demanded the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. VAN HORN, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INCREASE OF PENSIONS.

Mr. PERHAM, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill of the House No. 692, increasing the pensions of widows and orphans, and for other purposes, made the following report, upon which he demanded the previous question:

The committee of conference upon the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first amendment of the Senate.

That the House recede from their disagreement to the second amendment of the Senate and agree to the same with the following amendments, namely: Insert the following new sections:

SEC. 4. And be it further enacted, That if any person, during the pendency of his application for an invalid pension, but after the completion of the proof showing his right thereto, has died or shall hereafter die, but not in either case by reason of wounds received or disease contracted in the service of the United States and in the line of duty, his widow, or if he left no widow, or in the event of her death or marriage, his relatives in the same order in which they would have received a pension if they had been entitled under existing laws on account of the service and death in the line of duty of such person, shall have the right to demand and receive the accrued pension to which he would have been

entitled had the certificate issued before his death; and in all cases where such person so entitled to an invalid pension has died, or shall hereafter die, under the circumstances hereinbefore mentioned, either by reason of a wound received or disease contracted in the service of the United States and in the line of duty, or otherwise, without leaving a widow or such relatives, then such accrued pension shall be paid to the executor or administrator of such person in like manner and effect as if such pension were so much assets belonging to the estate of the deceased at the time of his death.

SEC. 5. And be it further enacted, That the repeal by the act entitled "An act supplemental to the several acts relating to pensions," approved June 6, 1866, of parts of certain acts mentioned in the first section of said act shall not work a forfeiture of any rights accrued under or granted by such parts of such acts so repealed, but such rights shall be recognized and allowed in the same manner and to all intents and purposes as if said act had never passed, except that the invalid pensioner shall be entitled to draw from and after the taking effect of said act, the increased pension thereby granted in lieu of that granted by such parts of such acts so repealed.

SEC. 6. And be it further enacted, That nothing in the fourth section of the act entitled "An act supplemental to the several acts relating to pensions," approved March 3, 1865, or in any other supplementary or amendatory acts relating to pensions, shall be so construed as to impair the right of a widow whose claim for a pension was pending at the date of her remarriage, to the pension to which she would otherwise be entitled had her deceased husband left no minor child or children under the age of sixteen years.

HENRY S. LANE,  
P. G. VAN WINKLE,  
GARRETT DAVIS,  
Managers on the part of the Senate.  
S. PERHAM,  
M. C. KERR,  
P. SAWYER,  
Managers on the part of the House.

The previous question was seconded and the main question ordered.

The report of the committee of conference was agreed to.

Mr. PERHAM moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### JAMES P. JOHNSON.

The next business on the Speaker's table was bill of the Senate No. 374, for the relief of James P. Johnson; which was read a first and second time.

Mr. LAWRENCE, of Ohio, moved that the bill be referred to the Committee of Claims.

The motion was agreed to.

#### BRITISH SHIP MAGICIENNE.

The next business in order on the Speaker's table was the bill of the Senate No. 297, for the relief of the owners of the British vessel *Magicienne*; which was read a first and second time.

Mr. LAWRENCE, of Ohio. I move that that bill be referred to the Committee of Claims.

Mr. STEVENS. I hope that motion will not prevail. It is merely an appropriation to carry out a treaty.

Mr. PRICE. Is not this an appropriation bill?

Mr. LAWRENCE, of Ohio. It contains an appropriation, and I ask that it go to the Committee of the Whole on the state of the Union.

The SPEAKER. The bill certainly contains an appropriation.

Mr. LAWRENCE, of Ohio. Then I make the point of order that it must be first considered in Committee of the Whole on the state of the Union.

The bill was referred, under the rules, to the Committee of the Whole on the state of the Union.

#### WYANDOTTE AND QUINDARO CHURCH.

The next business on the Speaker's table was Senate bill No. 353, for the relief of the trustees of the Mission church of the Wyandotte Indians; which was read a first and second time.

The bill was read at length. It appropriates the sum of \$4,680, in consideration of the destruction of their church buildings and library, to the trustees and stewards of the Wyandotte and Quindaro church, the same to be applied to the rebuilding of said buildings and inclosing the grave-yard of the Wyandotte Indians, of the State of Kansas.

Mr. WINDOM. I ask that this bill be put upon

its passage at this time. The Senate has twice passed this bill, and although the bill has not been taken from the Speaker's table; it has been examined by the Committee on Indian Affairs, for they knew they would not possibly have time to report if the bill was referred to them. It provides a certain sum of money to supply what was destroyed in the border-ruffian times in Kansas, at which time the Government was under treaty obligation to protect these Indians.

Mr. LAWRENCE, of Ohio. I do not intend to offer any factious opposition to any bill. But we all know that just at the close of the session we are liable to be imposed upon by claims which members may think at the time to be right. Now, I do not know anything about this claim, and I suppose most of the members here are in the same situation. I therefore prefer that this claim should go to the Committee of Claims. If there is any objection to that, then I shall insist that it be referred to the Committee of the Whole as containing an appropriation.

Mr. WINDOM. It does not belong to the Committee of Claims. If it goes to any committee it should go to the Committee on Indian Affairs.

Mr. LAWRENCE, of Ohio. I insist upon my point of order, that this bill contains an appropriation, and therefore, under the rule, should go to the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred to the Committee of the Whole on the Private Calendar.

#### JAMES P. JOHNSON.

Mr. WILSON, of Iowa. I desire to enter a motion to reconsider the vote by which the bill for the relief of James P. Johnson was referred to the Committee of Claims.

The motion was entered.

#### NORTHERN JUDICIAL DISTRICT OF GEORGIA.

The next business upon the Speaker's table was Senate bill No. 382, to change the place of holding the court in the northern district of Georgia; which was read a first and second time.

The bill was read at length. It provides for changing the place of holding the court of the northern district of Georgia from Marietta to Atlanta.

The bill was read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ASBURY CHAPEL, WASHINGTON.

The next business on the Speaker's table was Senate bill No. 361, to authorize W. J. Sibley and others, trustees, to sell and convey lot No. 9, in square No. 76, in the city of Washington; which was read a first and second time.

The bill was read at length. The preamble sets forth that lot No. 9, in square No. 76, in the city of Washington, was conveyed for the purpose of erecting a church, but the church was not built, though one has been erected near there to which the trustees desire to apply the proceeds of said lot. The bill grants to the trustees authority to sell the lot and apply the proceeds to the benefit of Asbury chapel, of the city of Washington.

Mr. LAWRENCE, of Ohio. I move to refer this bill to the Committee on the Judiciary, upon which I call the previous question.

The previous question was seconded and the main question ordered.

The question was taken upon the motion to refer; and upon a division, there were—ayes 41, noes 40; no quorum voting.

Tellers were ordered; and Mr. STEVENS, and Mr. LAWRENCE of Ohio, were appointed.

The House again divided; and the tellers reported—ayes 47, noes 48.

So the motion to refer was not agreed to. The question was upon ordering the bill to be read a third time.

The bill was read the third time and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### RICHARD W. MEADE, DECEASED.

The next business upon the Speaker's table was Senate joint resolution No. 39, to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims; which was read a first and second time.

Mr. LAWRENCE, of Ohio. I move that this bill be referred to the Committee of Claims.

Mr. WOODBRIDGE. This matter has been before the Committee on the Judiciary, and by a vote of that committee I, as a member of it, was instructed to report a bill to the House with a recommendation that it pass. But before the Judiciary Committee was called the resolution was passed by the Senate and came here.

Mr. LAWRENCE, of Ohio. As this joint resolution has been considered by the Judiciary Committee, I will withdraw the motion to refer.

Mr. WOODBRIDGE. I call the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was then read the third time and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON GLASS COMPANY.

The next business on the Speaker's table was Senate bill No. 227, to incorporate the Washington Glass Company; which was read a first and second time.

Mr. ALLISON. I move to refer that bill to the Committee for the District of Columbia; and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### THOMAS W. STEVENS.

The next business on the Speaker's table was Senate bill No. 385, for the relief of Thomas W. Stevens; which was read a first and second time.

Mr. HOTCHKISS. This is a simple claim, which has been examined by the Committee of Claims, and I have their leave to say that it is correct.

The bill was read at length. It provides for the payment of \$1,025 50 to Thomas W. Stevens, on account of services as inspector of customs at the port of Albany, from the 1st of March, 1862, to the 1st of April, 1863.

Mr. HOTCHKISS. I call the previous question on the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time and passed.

Mr. HOTCHKISS moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

#### SOUTHERN BRANCH UNION PACIFIC RAILROAD.

The next business upon the Speaker's table was Senate bill No. 224, granting lands to the State of Kansas to aid in the construction of the southern branch of the Union Pacific railway and telegraph from Fort Riley to Fort Smith, Arkansas; which was read a first and second time.

The bill was read at length. The first section provides that for the purpose of aiding the Union Pacific Railroad Company, southern branch, a corporation organized under the laws

of the State of Kansas, to construct and operate a railroad from Fort Riley, Kansas, or near said military reservation, thence down the valley of the Neosho river to the southern line of the State of Kansas, with a view to an extension of the same through a portion of the Indian Territory to Fort Smith, Arkansas, there is hereby granted to the State of Kansas, for the use and benefit of said railroad company every alternate section of land or parts thereof designated by odd numbers, to the extent of ten sections per mile on each side of said road; but in case it shall appear that the United States have, when the line of said road is definitely located, sold any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to the sections above specified so much land as shall be equal to the amount of such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached as aforesaid, which lands, thus indicated by the direction of the Secretary of the Interior, shall be reserved and held for the State of Kansas for the use of the company by the Secretary for the purpose of the construction and operation of the railroad, as provided by this act; provided, that any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operation of this act, except so far as it may be found necessary to locate the route of the road through such reserved lands, in which case the right of way, two hundred feet in width, is hereby granted, subject to the approval of the President of the United States; and provided, further, that the lands hereby granted shall not be selected beyond twenty miles from the line of said road.

The second section provides that the sections and parts of sections of land which by the aforesaid grant shall remain in the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder, at or above the minimum price aforesaid; provided, that actual *bona fide* settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation; and provided also, that settlers under the provisions of the homestead act, who make their settlement after the passage of this act and comply with the terms and requirements of said act, shall be entitled, within the said limits of ten miles, to patents for an amount not exceeding eighty acres each.

The third section provides that the grant of lands hereby made is upon condition that the company, after the construction of its road, shall keep it in repair and use, and shall at all times be in readiness to transport troops, munitions of war, supplies, and public stores upon its road for the Government, when required to do so by any Department thereof, the Government at all times having the preference in the use of the road for all the purposes aforesaid, at fair and reasonable rates of compensation, not exceeding that paid by private individuals, or the average paid for like services on other roads. And the lands hereby granted, held, and reserved as aforesaid shall inure to the benefit of the company, as follows: when the Governor of the State of Kansas shall certify that any section of ten consecutive miles of

the road is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the Secretary of the Interior shall issue to the company patents for so many sections of the land within the limits above named, and continuous with the completed section hereinbefore granted; and when certificates of the Governor aforesaid shall be presented to the Secretary of the completion, as aforesaid, of each successive section of ten consecutive miles of said road, the Secretary shall in like manner issue to the company patents for the land for each of its sections of road as in the first instance, until the road shall be completed, provided, that if the road is not completed within ten years from the date of the acceptance of the grant herein before made, the lands remaining unpatented shall revert to the United States.

The fourth section provides that as soon as said company shall file with the Secretary of the Interior maps of its line, designating the route thereof, it shall be the duty of the Secretary to withdraw from the market the lands granted by this act, in such manner as may be best calculated to effect the purposes of this act and subserve the public interest.

The fifth section provides that the United States mails shall be transported on said road, and under the direction of the Post Office Department, at such price as Congress may by law provide; provided that until such price is fixed by law the Postmaster General shall have power to fix the compensation.

The sixth section provides that the right of way through the public lands be, and the same is hereby, granted to said Pacific Railroad Company, southern branch, its successors and assigns, for the construction of a railroad as proposed; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

The seventh section provides that the acceptance of the terms, conditions, and impositions of this act by the Pacific Railroad Company, southern branch, shall be signified in writing, under the corporate seal of the company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act, and not afterwards, and shall be deposited with the Secretary of the Interior.

The eighth section provides that the Pacific Railroad Company, southern branch, its successors and assigns, is hereby authorized and empowered to extend and construct its railroad from the southern boundary of Kansas, south through the Indian Territory along the valley of Grand and Arkansas rivers, to Fort Smith, in the State of Arkansas; and the right of way through said Indian Territory is hereby granted to said company, its successors and assigns, to the extent of one hundred feet on each side of said road or roads, and all necessary grounds for stations, buildings, workshops, machine-shops, switches, side-tracks, turn-tables, and water-stations.

The ninth section provides that the same grants of lands through said Indian Territory are hereby made as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act; provided that said lands become a part of the public lands of the United States.

The tenth section provides that the Pacific Railroad Company, southern branch, its successors and assigns, shall have the right to negotiate with, and acquire from, any Indian nation or tribe, authorized by the United States to dispose of lands for railroad purposes, and from any other nation or tribe of Indians



through whose lands said railroad may pass, subject to the approval of the President of the United States, or from any company or parties incorporated or authorized for such purposes, by such nation or tribe, or which such parties may have acquired under the laws of the United States.

The eleventh section provides that any railroad company chartered under any law of the United States, or of any State which may have been heretofore or shall hereafter be organized and subsidized by any act of the Congress of United States, may connect, unite, and consolidate with this railroad company after the same shall be located to the valley of the Neosho or Grand river, upon just, fair, and equitable terms, to be agreed upon between the parties as shall not be against the public interest, or the interest of the United States.

Mr. CLARKE, of Kansas. I understand that the gentleman from New York, [Mr. HOLMES,] from the Committee on Public Lands, has some amendments which he has been instructed by that committee to offer to this bill. I will therefore yield the floor to him for that purpose.

Mr. HOLMES. I am directed by the Committee on Public Lands to submit the following amendments:

In section two strike out the following words: "nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder, at or above the minimum price aforesaid."

Section three, line four, strike out "be in readiness to."

Line six, same section, insert after the word "Government" the words "to the United States free from all cost or charge therefor;" and strike out the words "at all times having the preference in the use of the road for all the purposes aforesaid, at fair and reasonable rates of compensation, not exceeding that paid by private individuals, or the average paid for like services on other roads."

In line eighteen, same section, after the word "land" insert the words "herein granted."

Section ten, line three, after the word "acquire" insert "title to land for railroad purposes;" and in line five strike out the words "for railroad purposes."

Section eleven, line four, strike out the words "and subsidized."

The amendments were agreed to.

Mr. CLARKE, of Kansas. I demand the previous question.

Mr. SPALDING. Has the bill been before the Committee on Public Lands?

Mr. CLARKE, of Kansas. I will state for the information of the House that this bill has been examined by the Committee on Public Lands.

Mr. SPALDING. Did not the bill come from the Senate?

Mr. CLARKE, of Kansas. Yes, sir.

Mr. SPALDING. How, then, has it been before the Committee on Public Lands?

Mr. CLARKE, of Kansas. This identical bill, as printed, was before the committee and has been examined, and the amendments submitted by that committee have been adopted.

Mr. WRIGHT. Is that in accordance with the rules for the committee to consider and act on a bill not referred to them? Is it not a violation of the rules of the House? Should not every measure go before the committee in the proper way? Is it the province of the committee to have the bill before them for examination and action, but they must wait till we send it to them. It is the right of the House to send it to them.

The SPEAKER. The examination by a committee of a bill pending in the Senate is not a violation of the rules. If the gentleman wants it referred, he can vote down the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio. This bill grants ten sections on each side of the road for each mile of the road. It covers an extent of forty miles wide, the grant being by alternate sections. It is not five sections per mile, but ten on each side of the road, equal to twenty sections per mile. If that be the design of the House, let the House understand it. If it be not, let that also be understood. Let the bill

be made to conform to, and carry out the purpose of the House.

As the bill is now drawn it is not ten sections per mile, but ten sections per mile on each side of the road; and being in alternate sections, it will extend over a country forty miles wide. It strikes me that is twice as much as was ever granted before. It admonishes us of the evil of having these bills passed hastily without proper examination. I do not want to object if this is the usual form of such bills. I know there are grave objections to disposing of our public lands in this way. It destroys our homestead system. It withdraws public lands from settlement and places them in the hands of corporations. But I do not expect the House to change its policy of granting lands for railroad purposes. I think it ought to go to some committee. I do not wish to place myself in the attitude of making objection to the bill, but I hope the gentleman from Kansas will consent to its going to some committee.

Mr. CLARKE, of Kansas. I have already said that a copy of this bill has been before the Committee on Public Lands, and it is in the same form as those that have already passed granting lands for railroad purposes.

Mr. LAWRENCE, of Ohio. I think the gentleman is mistaken. The form in which they have heretofore passed has been to grant ten sections per mile. This grants twenty sections—ten on each side of the road. I do not say that this language has been framed by design to operate as a fraud upon the House; but I do say it is high time that these bills should be examined, and that the House should understand what it is doing. Let the paragraph be read.

The Clerk read as follows:

Every alternate section of land or parts thereof designated by odd numbers, to the extent of ten sections per mile, on each side of the road: *Provided*, Such land shall not be selected beyond twenty miles from the said road.

Mr. LAWRENCE, of Ohio. Just double the amount granted heretofore.

Mr. STEVENS. Just exactly the amount granted hitherto. The gentleman has not looked into one of these acts and he gets up here to object.

Mr. WRIGHT. If this is a meritorious bill, what objection can there be to having it examined by a committee? If it is not meritorious, then I for one object to it.

Mr. JULIAN. It is not an extraordinary provision.

The question being taken on ordering the bill to be read a third time, there were—ayes 45, noes 44; no quorum voting.

Tellers were ordered; and the Speaker appointed Messrs. CLARKE of Kansas, and BERGEN.

The House divided; and the tellers reported—ayes 48, noes 53.

So the bill was rejected.

Mr. RADFORD. I move to reconsider the vote by which the bill was rejected, and also to lay that motion on the table.

Mr. CLARKE, of Kansas. On the latter motion I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on laying the motion to reconsider on the table, there were—ayes 59, nays 58, not voting 64; as follows:

YEAS—Messrs. Ancona, Benjamin, Bergen, Boutwell, Boyer, Bromwell, Broomall, Buckland, Conkling, Dawes, Defrees, Dixon, Eldridge, Eliot, Finck, Aaron Harding, John H. Hubbard, James R. Hubbard, Hulburt, Jenckes, Johnson, Kasson, Ketcham, Koontz, Latham, George V. Lawrence, William Lawrence, LeBlond, Marston, Mercer, Miller, Moorhead, Merrill, Morris, Moulton, Niblack, Nicholson, Orth, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ritter, Rollins, Ross, Scofield, Shellabarger, Sitgreaves, Spalding, Strouse, Taber, Taylor, John L. Thomas, Thornton, Trimble, Ward, Williams, Winfield, and Wright—59.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Bidwell, Bingham, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Cullum, Davis, Delano, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Perry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Julian, Kelley, Kuykendall, Ladin, Loan, Lynch, McKuer, Myers, Noel, O'Neill, Paine, Per-

ham, Price, John H. Rice, Sawyer, Schenck, Stevens, Van Aernam, Robert T. Van Horn, Welker, Wentworth, Whaley, James F. Wilson, Windom, and Woodbridge—58.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bundy, Chandler, Cook, Culver, Darling, Dawson, Deming, Denison, Dodge, Dumont, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hooper, Hotchkiss, Demas Hubbard, Edwin N. Hubbard, Humphrey, Ingersoll, Jones, Kelso, Kerr, Longyear, Marshall, Marvin, McClurg, McCullough, McIndoe, McKee, Newell, Patterson, Phelps, Pike, Plants, Pomeroy, Raymond, Rogers, Shanklin, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Stephen F. Wilson—64.

The SPEAKER. The Chair votes in the negative, making a tie.

So the motion to lay on the table was not agreed to.

The question recurred on reconsidering the vote by which the bill was rejected; and being put, there were—ayes 59, noes 55.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 64, nays 49, not voting 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Bidwell, Bingham, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cullum, Davis, Delano, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Julian, Kelley, Kuykendall, Loan, Lynch, McKuer, Mercer, Moulton, Myers, Noel, O'Neill, Paine, Perham, Pike, Price, John H. Rice, Sawyer, Schenck, Stevens, Thornton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Welker, Wentworth, Whaley, James F. Wilson, Windom, and Woodbridge—64.

NAYS—Messrs. Ancona, Benjamin, Bergen, Boutwell, Boyer, Broomall, Conkling, Dawes, Defrees, Dixon, Eldridge, Eliot, Finck, Aaron Harding, John H. Hubbard, James R. Hubbard, Hulburt, Jenckes, Johnson, Ketcham, Koontz, Latham, William Lawrence, LeBlond, Marston, Miller, Moorhead, Merrill, Morris, Niblack, Nicholson, Orth, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ritter, Rollins, Ross, Scofield, Shellabarger, Sitgreaves, Spalding, Strouse, Taber, Taylor, John L. Thomas, Williams, Winfield, and Wright—49.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bundy, Chandler, Cook, Culver, Darling, Dawson, Deming, Denison, Dodge, Dumont, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hooper, Hotchkiss, Demas Hubbard, Edwin N. Hubbard, Humphrey, Ingersoll, Jones, Kasson, Kelso, Kerr, Ladin, George V. Lawrence, Longyear, Marshall, Marvin, McClurg, McCullough, McIndoe, McKee, Newell, Patterson, Phelps, Plants, Pomeroy, Raymond, Rogers, Shanklin, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Trimble, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Stephen F. Wilson—68.

So the motion to reconsider was agreed to.

The question recurred upon ordering the bill to a third reading.

Mr. McRUER. I now move to amend the bill by striking out in line twelve the word "ten" and inserting "five alternate;" so that the bill will read, "five alternate sections per mile on each side of the road." That was doubtless the intention of the framers of the bill, but as the language is perhaps a little ambiguous, I move this amendment, and I now renew the demand for the previous question.

Mr. DRIGGS. I ask the gentleman to add the words "to the extent of ten sections per mile." I have only a word to say. It is contended that the bill is indefinite, and I offer this amendment so as to make it entirely definite.

Mr. McRUER. I accept the amendment, and move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof of Mr. McRUER's amendment, as modified, was agreed to.

The bill was then ordered to be read a third time, and it was accordingly read the third time.

Mr. McRUER. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WRIGHT demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table. The latter motion was agreed to.

#### CLAIMS OF IOWA.

The next business on the Speaker's table was joint resolution (S. R. No. 93) providing for the appointment of a commission to examine and report upon certain claims of the State of Iowa; which was read a first and second time.

Mr. PRICE. I desire that this bill may be acted upon at the present time, and I call the previous question.

The joint resolution, which was read at length, provides that the President of the United States be authorized and required to appoint three commissioners, whose duty it shall be to examine and report on or before the 1st day of December next upon the claim of the State of Iowa for forage, transportation, subsistence, and clothing furnished by that State to certain volunteers of the State, who, under the command of Colonels Morledge and Edwards, and at the request of certain officers commanding troops of the United States in the State of Missouri, marched into the State of Missouri to cooperate with the troops of the United States in that State in suppressing the rebellion; also the claim of the State of Iowa for repayment of certain moneys paid by the State in raising, arming, equipping, paying, and subsisting certain troops of the State maintained by the State on the southern and northwestern borders hereof during the late rebellion, for the purpose of defending the State against attacks by bushwhackers and Indians; and also the claim of that State for compensation for certain forage procured and barracks built by the State on the northwestern border thereof and turned over by the State to and used by the United States.

Mr. LAWRENCE, of Ohio. I would like to offer an amendment to this bill.

Mr. KASSON. I trust that will not be done. There is no land and no money in the bill; it is a simple proposition to state an account.

Mr. LAWRENCE, of Ohio. I desire to enlarge the scope of the inquiry of this commission. I wish to amend by providing that the commission shall also inquire into the claim of the State of Ohio for forage.

Mr. KASSON. That should be put in a separate bill.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRITISH SHIP MAGICIENNE—AGAIN.

Mr. BANKS. I understand that the objection to the passage of the bill for the payment of the award in the case of the *Magicienne* is withdrawn; and I move that, by unanimous consent, the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill, that it may be put upon its passage now.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill (S. No. 297) entitled "An act for the relief of the owners of the British vessel *Magicienne*."

Mr. BANKS. This award, made under an agreement between the President of the United States and the Queen of England, is to pay for a vessel wrongfully seized by the Government of the United States in 1863. We cannot escape the payment of the award, because it is made in pursuance of our own agreement. I trust the bill may be passed. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STROUSE. I ask unanimous consent to present for consideration at the present time a bill which I am instructed to report from the Committee on Territories.

Mr. WILSON, of Iowa. I insist on the regular order.

#### JAMES POOL.

The next business on the Speaker's table was a bill (S. No. 311) entitled "An act for the relief of James Pool;" which was read a first and second time.

The bill, which was read at length, provides that the Secretary of the Interior be authorized and directed to pay to James Pool the sum of \$1,287 10, out of any money in the Treasury not otherwise appropriated; \$487 50 of the amount to be paid out of any annuities or moneys payable to the Senecas and Shawnee Indians, if there be any, and if none, then the whole sum to be paid out of the Treasury of the United States.

Mr. ROSS. I make the point of order that this bill, containing an appropriation, must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. JOHNSON. I ask my friend from Illinois to withdraw his objection to this bill. I investigated this claim during the Thirty-Seventh Congress, and it is certainly correct.

Mr. ROSS. I insist on my objection.

#### COMSTOCK LODGE, NEVADA.

The next business on the Speaker's table was the bill (S. No. 352) entitled an act granting to A. Sutro the right of way, and granting other privileges, to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada; which was read a first and second time.

Mr. ASHLEY, of Nevada. Mr. Speaker, a bill similar to this was introduced in this House about four weeks ago and referred to the Committee on Mines and Mining, who have unanimously agreed to report in favor of it. As the measure involves to some extent the question of the right of way over public lands, I some time ago called the attention of the chairman of the Committee on Public Lands to the bill, and asked him to consider it that he might decide whether the public interests required its reference to his committee. I am not authorized to state positively, but I understand that he does not consider it necessary that the bill should be so referred.

It has become absolutely necessary for the development of the great Comstock lode that there should be a deep draining tunnel, which will be about four miles long, and the construction of which will require a large amount of capital. The bill is designed, not to grant any greater rights than exist under the present law, but to give to the parties investing their money in this undertaking a greater assurance that their rights will be secure.

Mr. STROUSE. Mr. Speaker, I desire to say that a bill similar to this, having been referred to the Committee on Mines and Mining, has been examined by each member of that committee. By the chairman it was referred to me. I have given it a thorough examination; I have ascertained all the facts connected with it; and I am satisfied that the construction of this tunnel is one of the greatest enterprises ever undertaken on the American continent. As the completion of the tunnel will require a large expenditure of capital, it is necessary that the enterprise shall have the sanction of the American Congress. This great work when constructed will be of vast benefit, not only to the Pacific slope, but to

the country. The Committee on Mines and Mining are thoroughly satisfied that the bill should pass.

The bill, which was read at length, provides in the first section that for the purpose of the construction of a deep draining and exploring tunnel to and beyond the Comstock lode, so called, in the State of Nevada, the right of way be granted to A. Sutro, his heirs and assigns, to run, construct, and excavate a mining, draining, and exploring tunnel; also to sink mining, working, or air shafts along the line or course of the tunnel, and connecting with the same at any points which may hereafter be selected by the grantee, his heirs or assigns. The tunnel is to be at least eight feet high and eight feet wide, and to commence at some point to be selected by the grantee, his heirs or assigns, at the hills near Carson river, and within the boundaries of Lyon county, and extending from said initial point in a westerly direction, seven miles, more or less, to and beyond the Comstock lode; and the right of way is to extend northerly and southerly on the course of the lode, either within the same or east or west of the same, and also on or along any other lode which may be discovered or developed by the tunnel.

The second section grants to A. Sutro, his heirs and assigns the right to purchase, at \$1 25 per acre, a sufficient amount of public land near the mouth of the tunnel for the use of the same, not exceeding two sections, and such land is not to be mineral land or in the *bona fide* possession of other persons who claim under any law of Congress at the time of the passage of this act, and all minerals existing or which shall be discovered therein are excepted from the grant. It is provided that upon filing a plot of said land, the Secretary of the Interior shall withdraw the same from sale, and upon payment for the same a patent shall issue. And Sutro, his heirs and assigns, are granted the right to purchase, at five dollars per acre, such mineral veins and lodes within two thousand feet on each side of the tunnel as shall be cut, discovered, or developed by running and constructing the same, through its entire extent, with all the dips, spurs, and angles of such lodes, subject, however, to the provisions of this act and to such legislation as Congress may hereafter provide. The Comstock lode, with its dips, spurs, and angles, is excepted from this grant; and all other lodes, with their dips, spurs, and angles, located within the said two thousand feet, and which are or may be at the passage of this act, in the actual *bona fide* possession of other persons, are also excepted from the grant. The lodes herein excepted, other than the Comstock lode, are to be withheld from sale by the United States; and if such lodes shall be abandoned or not worked, possessed, and held in conformity to existing mining rules, or such regulations as have been or may be prescribed by the Legislature of Nevada, they shall become subject to such right of purchase by Sutro, his heirs or assigns.

The third section proposes to enact that all persons, companies, or corporations, owning claims or mines on the Comstock lode or any other lode, drained, benefited, or developed by the tunnel, shall hold their claims subject to the condition—which shall be expressed in any grant they may hereafter obtain from the United States—that they shall contribute and pay to the owners of the tunnel the same rate of charges for drainage, or other benefits derived from the tunnel or its branches, as have been or may hereafter be named in agreements between such owners and the companies representing a majority of the estimated value of the Comstock lode at the time of the passage of this act.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ASHLEY, of Nevada, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## KANSAS AND NEOSHO VALLEY RAILROAD.

The SPEAKER. The gentleman from Missouri [Mr. VAN HORN] has discovered that in the engrossment of the amendments to the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, the word "not" was accidentally omitted. Is there any objection to ordering the recall of the bill from the Senate that the mistake may be corrected?

There was no objection; and it was so ordered.

## ETHAN RAY CLARK, ETC.

The next business on the Speaker's table was Senate bill No. 402, to confirm the title of Ethan Ray Clark and Samuel Ward Clark to certain lands in Florida claimed under a grant from the Spanish Government; which was read a first and second time.

On motion of Mr. LAWRENCE, of Ohio, the bill was referred to the Committee on the Judiciary.

## PURCHASE OF PETTIGRU'S LIBRARY.

The next business on the Speaker's table was Senate joint resolution No. 79, to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; which was read a first and second time.

It authorizes the Joint Committee on the Library to contract with the heirs of the late James Louis Pettigru for the transfer of the law library left by him to the Library of Congress, and appropriates the sum of \$5,000 out of any moneys in the Treasury not otherwise appropriated, for that purpose.

Mr. LAWRENCE, of Ohio. I move that the joint resolution be referred to the Committee on the Library.

Mr. KELLEY. It has been before that committee, and has met with their approval.

Mr. RANDALL, of Pennsylvania. I should like to join in doing honor to the memory of that good man.

Mr. STROUSE. The library is worth far more than we offer to give for it.

Mr. WILSON, of Iowa. If it be referred let it be with authority to report at any time.

Mr. LOAN. I object.

Mr. RANDALL, of Pennsylvania. I demand the previous question.

The previous question was seconded and the main question ordered.

The motion to refer was disagreed to.

The joint resolution was ordered to a third reading; and it was accordingly read the third time.

Mr. RANDALL, of Pennsylvania, demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio, moved that the joint resolution be laid upon the table.

The motion was disagreed to.

Mr. SPALDING demanded the yeas and nays; and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The joint resolution was then passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## REIMBURSEMENT OF MASSACHUSETTS.

The next business upon the Speaker's table was Senate joint resolution No. 121, providing for the auditing of the accounts of the State of Massachusetts for moneys expended during the war for coast defense; which was read a first and second time.

Mr. WRIGHT moved that it be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. HARDING, of Illinois, moved that the House adjourn.

The motion was disagreed to.

## ALOIS KLAUS.

The next business upon the Speaker's table was Senate joint resolution No. 164, for the relief of Alois Klaus; which was read a first and second time.

Mr. DELANO. It is to pay a poor soldier \$32 90. He paid his own transportation from Chicago to Fort Smith. It is all right.

The bill was ordered to a third reading, and it was accordingly read the third time and passed.

## ELECTION OF SENATORS.

The next business upon the Speaker's table was Senate joint resolution No. 414, to regulate the times and manner of holding elections for Senators in Congress; which was read a first and second time. It is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Legislature of each State which shall be chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress, in the place of such Senator so going out of office, in the following manner: each House shall openly, by a *viva voce* of each member present, name one person for Senator in Congress from said State, and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each House shall be entered on the Journal of each House by the clerk or secretary thereof; but if either House shall fail to give such majority to any person on said day, that fact shall be entered on the Journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place, as aforesaid, the members of the two Houses shall convene in joint assembly, and the Journal of each House shall then be read, and if the same person shall have received a majority of all the votes in each House, such person shall be declared duly elected Senator to represent said State in the Congress of the United States; but if the same person shall not have received a majority of the votes in each House, or if either House shall have failed to take proceedings as required by this act, the joint assembly shall then proceed to choose, by a *viva voce* vote of each member present, a person for the purpose aforesaid, and the person having a majority of all the votes of the said joint assembly, a majority of all the members elected to both Houses being present and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint assembly shall meet at twelve o'clock meridian of each succeeding day during the session of the Legislature, and take at least one vote until a Senator shall be elected.

Sec. 2. *And be it further enacted,* That whenever, on the meeting of the Legislature of any State, a vacancy shall exist in the representation of such State in the Senate of the United States, said Legislature shall proceed, on the second Tuesday after the commencement and organization of its session, to elect a person to fill such vacancy, in the manner hereinbefore provided for the election of a Senator for a full term; and if a vacancy shall happen during the session of the Legislature, then on the second Tuesday after the Legislature shall have been organized and shall have notice of such vacancy.

Sec. 3. *And be it further enacted,* That it shall be the duty of the Governor of the State from which any Senator shall have been chosen as aforesaid to certify his election, under the seal of the State, to the President of the Senate of the United States, which certificate shall be countersigned by the secretary of state of the State.

Mr. WILSON, of Iowa, demanded the previous question.

Mr. LE BLOND moved that the bill be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question being taken on laying the bill on the table, it was decided in the negative—yeas 21, nays 87, not voting 73; as follows:

YEAS—Messrs. Ancona, Bergen, Eldridge, Finck, Aaron Harding, Hogan, Johnson, William Lawrence, Newell, Niblack, Nicholson, Radford, Ritter, Ross, Strouse, Taber, Taylor, Thornton, Trimble, Winfield, and Wright—21.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Culom, Davis, Dawes, DeFrees, Delano, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, James R. Hubbell, Hulburd, Jencks, Julian, Kasson, Kelley, Koontz, Ladin, Latham, George V. Lawrence, Loan, Lynch, Marston, McRuer, Mercier, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, John L. Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—87.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Beaman, Blaine, Blow, Boyer, Brandegee, Bundy, Chandler, Reader W. Clarke, Cook, Culver, Darling, Dawson, Deming, Denison, Dixon, Dodge, Dumont, Eggleston, Glossbrenner, Goddard, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Asahel W. Hubbard, Dennis Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jucosoll, Jones, Kelso, Kerr, Ketcham, Kuykendall, Le Blond, Longyear, Marshall, Marvin, McClurg, McCullough, McDermoe, McKee, Noell, Patterson, Phelps, Plants, Pomeroy, Samuel J. Randall, Raymond, Rogers, Shanklin, Stigsen, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Walker—73.

So the motion to lay on the table was not agreed to.

The question recurred on seconding the demand for the previous question.

Mr. HARDING, of Kentucky. I move that the House adjourn.

The motion was disagreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time, and it was accordingly read the third time.

Mr. WILSON, of Iowa, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed—aye seventy-eight, noes not counted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## REIMBURSEMENT OF MASSACHUSETTS—AGAIN.

Mr. DAWES. I rise to a privileged question. I move to reconsider the vote by which the Massachusetts claim was referred to the Committee on Military Affairs. It is precisely like the one in reference to Iowa, merely to authorize a statement of the account. I think there can be no objection to it. Several of them have passed.

Mr. SCHENCK. The bill creates a couple of commissioners, and I do not know whether their salary is fixed or not. I doubt very much the necessity of settling this question in that way. I have now ready to report from the Military Committee a bill giving authority to the Secretary of War to audit the accounts of the Territory of Colorado for services of the militia of that State called out and actually employed in the Army of the United States.

Mr. DAWES. I do not want anybody but the Secretary of War to do this.

Mr. SCHENCK. It can be done by the accounting officer without creating a commission and having two or three officers to be paid liberal salaries, or eight or ten dollars a day for doing what the accounting officer ought to do.

Mr. DAWES. If the gentleman will allow me I will enter the motion to reconsider and prepare an amendment. I will also demand the previous question so as to bring it up tomorrow morning.

Mr. CONKLING. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten o'clock and ten minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. PIKE: The petition of S. T. King, and 32 others, of Calais, Maine, for inter-State insurance law.

Also, the petition of L. Leighton, 2d, and others, for reimbursement of money defrauded from them by claim agent.

By Mr. HOLMES: The petition of L. C. Rogers, and others, citizens of Madison county, New York, for Bureau of National Insurance.

By Mr. RAYMOND: The petition of Ignatius T. Chutkowski, of the city of New York, praying compensation for real and personal property used by the United States.

Also, two memorials of hardware dealers of New York and Philadelphia in regard to the tariff.



## IN SENATE.

TUESDAY, July 24, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.  
On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred resolutions of the Chamber of Commerce of the State of New York in favor of timely and adequate appropriations for exhibiting the products of the American Union at the Exposition at Paris in 1867, in such a manner and on such a scale as shall maintain its just rank among the nations of the earth, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of James Roache, praying for compensation for services rendered in Ireland during the late rebellion, in behalf of this country, asked to be discharged from its further consideration; which was agreed to.

## PACIFIC RAILROAD BONDS.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred a bill (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000, to report it back without amendment, and as it relates to a matter very simple in itself, I ask that it be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that hereafter the bonds of the United States authorized by the act of July 1, 1862, to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and by all acts amendatory thereof, may be issued in denominations greater than \$1,000, at the discretion of the Secretary of the Treasury; but it shall at all times be optional with any railroad company whether they will receive bonds of a larger denomination than \$1,000.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## NORTHERN PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad to whom was recommitted the bill (S. No. 387) to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes, have had the same again under consideration, and have instructed me to report it back to the Senate with certain amendments. In making this report, I beg the indulgence of the Senate for one moment, while I say that the Committee on the Pacific Railroad do not expect that at this late period of the session it will be possible for the Senate to act upon the bill further. Indeed, many of them are of opinion that it is not expedient under the circumstances to proceed further with the consideration of the bill at the present session, and I shall be content for one to have its consideration postponed until the commencement of the next session of Congress.

The amendments of the committee, I beg to say, are very brief, and I seize upon this opportunity of stating substantially what they are. The committee amend the scheme of guaranty embraced in the bill by dividing the whole route of the Northern Pacific railroad into three sections, the first section commencing at the eastern terminus on Lake Superior and running westwardly to the one hundred and eleventh degree of longitude, the distance being about one thousand one hundred miles, and on this section the amendments guaranty the interest on stock at the rate of \$16,000 per mile, that is, for one hundred and sixty shares, the shares of the company being \$100 each. The second section commences at the one hundred and eleventh degree of longitude, running west to the one hundred and nineteenth degree, being,

according to the bill which was referred to the committee, five hundred and twenty miles in length. This is the mountain region and is called the mountain district. On this section the amendments of the committee guaranty interest on stock at the rate of \$48,000 a mile, or four hundred and eighty shares per mile. The third section commences at the one hundred and nineteenth degree, running to the western terminus, that is the main trunk to Puget's sound and the branch to Portland, in Oregon; and on this section the amendments of the committee guaranty interest on stock at the rate of \$32,000 per mile, or three hundred and twenty shares. The distance to Puget's sound is supposed to be about two hundred miles, and the length of the branch, as near as it can be estimated by the materials which the committee have in their possession, is about four hundred miles.

The scheme presented by the amendments of the committee gives to the company the same rate of aid in guarantying stock per mile as the Union Pacific railroad has in bonds, and is in fact a reduction of the aid claimed in the original bill by nearly one half the whole amount of guarantied stock, that amount being by the scheme presented in the amendments about sixty million dollars in such stock so far as the distances can at present be estimated.

I present the following, Mr. President, as a rough estimate of each of the three sections of this Northern Pacific railroad route: the first section says eleven hundred miles at \$16,000 guarantied stock per mile would require \$17,600,000 of guarantied stock. Of course I speak of principal. The second section, being by the bill as originally presented five hundred and twenty miles, at the rate \$48,000 per mile would require \$24,960,000. The third section, including the branch to Portland, Oregon—these lines measuring, the main line to Puget sound, say two hundred miles, and the branch to Portland say four hundred miles, amounting together to six hundred miles, at the rate of \$32,000 per mile, would require \$19,200,000. The total of aid in the shape of guarantied stock being thus \$61,760,000. The annual interest upon it would be \$8,705,600, and the whole interest for twenty years \$74,112,000.

I avail myself of this opportunity of making this statement in order that the facts may appear upon the reports of our proceedings, and I ask that this bill be postponed until the next session of Congress, with a view to elicit discussion throughout the country upon the part of all persons who have an interest in the prosecution of this great enterprise. I therefore submit the motion that the bill be postponed until the next session of Congress, and that it be printed.

The motion was agreed to.

Mr. HOWARD. In connection with this subject I desire to present a resolution, and I hope the Senate will take it under present consideration. It is simply for the purpose of obtaining information from the War Department and from the Interior Department with a view to the ultimate cost and expense of building this road, and the amount of transportation which the Government will find it necessary to have upon it. I hope the resolution will be passed. It will lead to no debate, I am sure.

The resolution was considered by unanimous consent, and agreed to, as follows:

*Resolved*, That the Secretary of War be requested to furnish to the Senate such information as may be in the possession of the War Department touching the probable cost of constructing a railroad on the route mentioned in the charter of the Northern Pacific Railroad Company, together with estimates of the probable amount of Government transportation on said road, derived from such data as may be in his power, and that the Secretary of the Interior render him such aid he may call for in answering this resolution.

## BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 448) to credit sea service to officers of the Navy who have served during the war to suppress the rebellion who may have resigned prior to said rebellion; which was read twice

by its title and referred to the Committee on Naval Affairs.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 449) authorizing special juries in the District of Columbia; which was read twice by its title and referred to the Committee on the District of Columbia.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions of the Senate without amendment:

A bill (S. No. 164) for the relief of Alois Klaus;

A bill (S. No. 297) for the relief of the owners of the British vessel *Magicienne*;

A bill (S. No. 352) granting to A. Sutro the right of way and granting other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada;

A bill (S. No. 414) to regulate the times and manner of holding elections for Senators in Congress;

A joint resolution (S. R. No. 79) to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; and

A joint resolution (S. R. No. 93) providing for the appointment of a commission to examine and report upon certain claims of the State of Iowa.

The message further announced that the House of Representatives had passed the bill (S. No. 224) granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had corrected the error in the engrossment of its amendments to the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, and had returned the bill and amendments to the Senate, and asked the concurrence of the Senate in the amendments.

The message further announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes; and

A bill (H. R. No. 795) to authorize the entry and clearance of vessels at the port of Calais, Maine.

## MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I move to take up the amendment of the House of Representatives to the bill (S. No. 138) to increase and fix the military peace establishment of the United States.

The motion was agreed to.

Mr. WILSON. I will simply state that in March last the Senate passed an Army bill, which is the one now pending, and, some weeks ago passed another. On the very day on which we passed the last bill, the House of Representatives took up our Army bill that had lain for four months on their table, and passed it with an amendment in the nature of a substitute. I propose now to concur in that amendment, first striking it all out after the word "that," which is the first word in it, and inserting a bill which is the same that we last passed, with one or two small changes. I make that motion now, and as the amendment I offer has been passed by the Senate, it is not necessary to read it. I suppose this will put the matter in a shape that will lead to a committee of conference.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the amendment made to this bill by the House of Representatives be amended by striking out all after the word "that" and inserting what he has sent

to the Chair. The proposed amendment will not be read unless called for by some Senator.

The amendment to the amendment was agreed to, and the House amendment, as amended, was concurred in.

#### BOUNTIES OF COLORED SOLDIERS.

Mr. WILSON. I desire now to take up another very important resolution, which will take but a moment, and for the want of which there is great suffering in the country. We passed a bill a month ago which has stopped entirely the whole matter of bounty pertaining to colored persons; the House of Representatives made a mistake in it, and they have corrected it. I should like to put that resolution on its passage. It is very important and there is a great deal of complaint about it. I move to take up the House joint resolution No. 176.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 176) amendatory of a joint resolution entitled "A resolution respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs," approved June 15, 1866.

The Committee on Military Affairs and the Militia reported the resolution with amendments.

The first amendment was to strike out all after the enacting clause of section two down to and including the words "United States," in line nine of section three, as follows:

That whenever application shall be made by any claimant for bounty under the provisions of the joint resolution aforesaid, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent, that he has not charged, nor agreed for, and will not accept, more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

SEC. 5. And be it further resolved, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of said resolution, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term of not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

And in lieu thereof to insert the following:

That whenever application shall be made by any claimant for bounty under the provisions of the joint resolution aforesaid, by or through any agent or attorney, such agent or attorney shall hereafter be required to file with each claim his oath or affirmation that he has no interest whatever in said bounty beyond the fees for collection of the same, which are hereby fixed and established as follows, namely: for the preparation and prosecution of claims for, and the collection and remittance of, all sums not exceeding \$100, ten per cent. upon the amount collected, and for all sums exceeding \$100, the sum of ten dollars; and said fees shall include all expenses incident to the collection of said claims, except the expense of the necessary affidavits and notarial or other acknowledgments, which shall be defrayed by the claimant; and any agent or attorney who shall charge, directly or indirectly, in any case, a greater sum for his services in preparing and prosecuting said claims and remitting the amount due, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding \$3,000 nor less than \$1,000, and shall be forever excluded from prosecuting military or naval claims against the Government.

The amendment was agreed to.

The next amendment was in section [four] three, line four, after the word "depository" to strike out "in or near the district, wherein the claimant may reside."

The amendment was agreed to.

The next amendment was in section four, [five,] line two, after the word "soldier" to strike out "sailor or marine;" in line three after "discharge" to strike out "final statement, descriptive list, or other papers;" and in line nine after "soldier" to strike out "sailor or marine;" so that the section will read:

That it shall not be lawful for any soldier to trans-

fer, assign, barter, or sell his discharge, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of said resolution; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the joint resolution read the third time. The joint resolution was read the third time and passed.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes—to the Committee on Commerce.

A bill (H. R. No. 794) for the relief of Francis Colgen—to the Committee on Pensions.

A bill (H. R. No. 795) to authorize the entry and clearance of vessels at the port of Calais, Maine—to the Committee on Commerce.

A joint resolution (H. R. No. 198) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Jersey—to the Committee on Post Offices and Post Roads.

#### POST ROUTE BILL.

The Senate proceeded to consider the amendments of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 775) to establish certain post roads.

Mr. RAMSEY. I hope the Senate will at once dispose of those few amendments and finish the bill.

The Secretary proceeded to read the amendments of the House of Representatives to the amendments of the Senate.

Mr. RAMSEY. I have looked through all these amendments. There is no occasion to read them through. They are mere names of places, and are all right.

The amendments were concurred in.

#### KANSAS AND NEOSHO VALLEY RAILROAD.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad, and its extension to Red river.

Mr. POMEROY. I move that the Senate concur in those amendments.

The motion was agreed to.

#### RAILROAD FROM FORT RILEY TO FORT SMITH.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 224) granting lands to the State of Kansas to aid in the construction of the southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas.

Mr. POMEROY. I move that those amendments lie on the table.

The motion was agreed to.

#### PROPOSED RECESS OF CONGRESS.

The PRESIDENT *pro tempore* laid before the Senate the following resolution, from the House of Representatives:

*Resolved by the House of Representatives, (the Senate concurring.)* That the President of the Senate and the Speaker of the House of Representatives, on the day of —, at twelve o'clock meridian, adjourn their respective Houses until Tuesday, the 2d day of October, 1866, and that on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until Saturday, the 1st day of December, 1866.

Mr. CLARK. I move that the resolution lie on the table.

The motion was agreed to.

#### STOCKTON AND COPPEROPOLIS RAILROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 244.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 244) granting lands to aid in the construction of a railroad from the city of Stockton to the town of Copperopolis, in the State of California.

The Committee on Public Lands reported the bill with amendments.

The first amendment of the committee was in section three, line two, after the words "granted to the" to insert "State of California, for the construction of the;" after "railroad," in line three, to strike out "company;" in line nine, after the word "the," to strike out "amount" and insert "extent;" in the same line, after "ten," to strike out "alternate sections per;" and to add an "s" to "mile;" so as to make the clause read:

That there be, and is hereby, granted to the State of California, for the construction of the said Stockton and Copperopolis railroad, its successors and assigns, for the purpose of aiding in the construction of said railroad, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land designated by odd numbers, to the extent of ten miles on each side of said railroad line as said company may adopt, whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights at the time the line of said road is definitely fixed and a plot thereof filed in the office of the Commissioner of the General Land Office.

The amendment was agreed to.

The next amendment of the committee was in the same section, line twenty-one, to strike out the word "ten" and insert "twenty;" in the same line to strike out the word "same" and insert "said line of road;" and in line twenty-four, after the word "numbers," to strike out "not more than ten miles beyond the limits of said alternate sections;" so as to make the clause read:

And whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, or covered by private land grants, or occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, on the line of said road, within twenty miles of the said line of road, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers.

The amendment was agreed to.

The next amendment was in the same section, line twenty-eight, to strike out "agricultural" before "lands;" and in line twenty-nine, after "within," to insert "the said;" so as to make the proviso read:

*Provided,* That all lands containing gold or silver, or copper, bc, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated lands in odd-numbered sections, within the said twenty miles of the line of said road, may be selected as above provided.

The amendment was agreed to.

The next amendment was in section four, line twelve, to strike out "unless said lands are of a character that they are covered by the exceptions and reservations of this act; then said company shall have a right to select such lands on the line of said road so constructed;" and in line fifteen, after the word "miles," to strike out "of said road so completed," and insert "thereof;" so as to read:

And patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to and continuous with said completed section of said road, within twenty miles thereof.

The amendment was agreed to.

The next amendment was to strike out section nine of the bill in the following words:

SEC. 9. And be it further enacted, That all people of the United States shall have the right to subscribe to the stock of the said railroad until the whole capital is taken up by complying with the terms of subscription.

The amendment was agreed to.

The next amendment was to strike out section twelve of the bill, in the following words:

SEC. 12. And be it further enacted, That the said company is authorized to accept to its own use any grant, donation, or loan, power, franchise, aid, or assistance which may be granted to or conferred upon said company by the Legislature of any State, county, or municipal corporation, person or persons, and said corporation is authorized to hold and enjoy any such

grant, donation, loan, or power, franchise, aid, or assistance, to its own use for the purpose aforesaid.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following Senate bills without amendment:

A bill (S. No. 149) for the relief of Daniel Winslow;

A bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tidewater Canal Company to enter the District of Columbia and extend their canal to the Anacostia river; and

A bill (S. No. 374) for the relief of James P. Johnson.

The message also announced that the House of Representatives had passed the following Senate bill and joint resolutions, with amendments to each, in which it requested the concurrence of the Senate:

A bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York;

A joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel; and

A joint resolution (S. R. No. 121) providing for the examination of the accounts of the State of Massachusetts for moneys expended during the war for coast defense.

The message also announced that the House of Representatives has passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 797) granting a pension to Daniel Lucas;

A bill (H. R. No. 798) for the relief of Quincy A. May; and

A joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars per month.

#### MILWAUKEE AND ROCK RIVER CANAL.

Mr. HOWE. I move to proceed to the consideration of Senate joint resolution No. 102.

The motion was agreed to; and the joint resolution (S. R. No. 102) construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864, was considered as in Committee of the Whole. It proposes so to construe the resolution for the relief of the State of Wisconsin, dated July 1, 1864, as to entitle the Milwaukee and Rock River Canal Company to reimbursement, out of the canal land fund therein mentioned, for the amounts which are proved to have been paid out by it for interest in carrying on the work mentioned in the former resolution in the same manner as for other sums by it expended; also for the amount which is proved to have been expended by it in necessary repairs and management of the canal after the date of the resolution, but before the date of the settlement made thereunder; but the company is not to receive more than the amount of the residue of the trust fund arising from the sale of the canal lands charged against the State in the settlement and not heretofore paid over to the company; and the Secretary of the Interior is to complete the settlement by making these further allowances to the company up to the amount of the residue of the canal lands fund, and they are to be paid to the company out of any moneys in the Treasury not otherwise appropriated.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WADE. I move that the Senate pro-

ceed to the consideration of the bill (S. No. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes.

The motion was agreed to.

Mr. TRUMBULL. A joint resolution was passed a moment ago without attracting any attention; I did not myself observe it until it was on its passage; and I desire to move a reconsideration of the vote by which it was passed. I refer to the joint resolution to settle certain matters with the State of Wisconsin. I do not recollect the title of it. It is a subject which the Committee on the Judiciary had under consideration for several weeks and investigated very elaborately, and we were divided as nearly as a committee could be divided on such a question.

The PRESIDENT *pro tempore*. Does the Senator wish the question put on the motion to reconsider at the present time?

Mr. TRUMBULL. I wish the motion to reconsider entered, to bring it before the Senate, that the Senate may understand what the resolution is. I do not wish to delay it; I am willing to dispose of it now; but I think that it is a resolution that ought not to pass. It is a resolution that takes \$25,000 out of the Treasury, in my judgment, without the least particle of claim.

Mr. HOWE. I of course shall have no objection to the Senator entering that motion when the motion can be entertained.

Mr. TRUMBULL. It is a privileged motion.

Mr. HOWE. I understand there is another subject before the Senate.

Mr. TRUMBULL. I can enter the motion, I presume. It is a privileged motion that I can make at any time.

The PRESIDENT *pro tempore*. It is a proper motion, and the Chair can entertain it.

Mr. HOWE. I would inquire if a motion to reconsider can be entered while another question is pending.

The PRESIDENT *pro tempore*. The Chair thinks it can. It can be entered at any time, being a privileged motion; but when another subject is pending, it cannot be put without common consent.

Mr. HOWE. Then the effect of a motion to reconsider may be the most fatal possible, because it gives the enemies of a bill all the benefit of tying up the bill, preventing the progress of the bill, and still subjecting the other side to the risk of being able to get the motion taken up.

The PRESIDENT *pro tempore*. If the motion is not taken up, the bill would stand passed. The entering of the motion does not annul the vote of the Senate passing the bill. Unless the motion is considered the bill stands passed.

Mr. HOWE. If the motion has no other effect I have no objection.

Mr. CLARK. I think that has not been the ruling of the Senate. I think the motion to reconsider detains the bill here until it is disposed of.

The PRESIDENT *pro tempore*. It detains it unquestionably, but the bill stands as passed unless the Senate vote to reconsider it.

Mr. HOWE. Of course I shall submit to the ruling of the Chair, but it really seems to me the motion ought not to be entertained except when the Senate are prepared to consider the motion. It should be made on the conditions that all other motions are.

Mr. CLARK. The Senator will permit me to suggest that that cannot be so, because the time for entering a motion to reconsider is limited to two days. It is, therefore, considered a privileged motion, to be made at any time within the two days. It may not be considered for a month afterwards.

Mr. HOWE. I believe the bill before the Senate is one which was taken up on the motion of the Senator from Ohio. I wish he would allow it to go over.

Mr. WADE. There are but a few minutes of the morning hour left for anything.

Mr. HOWE. I should like to have the motion of the Senator from Illinois considered.

The PRESIDENT *pro tempore*. There is another bill pending—the bill called up on the motion of the Senator from Ohio.

Mr. HOWE. I understand the Senator consents to have that bill laid aside.

Mr. WADE. It is a long bill, and I suppose there is not time to go through with it before the expiration of the morning hour.

Mr. SHERMAN. I ask leave to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The Chair will receive it if there be no objection.

#### INDIAN APPROPRIATION BILL.

Mr. SHERMAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 337) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1867, having met after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 9, 10, 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, and 113, and agree to the same.

That the Senate recede from their seventeenth, one hundred and fourteenth, and one hundred and fiftieth amendments.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the one hundred and seventh amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same with amendments as follows: in line one, after the word "for" insert the following words: "gratuitous for;" and in line four of said amendment, before the word "thousand," strike out the word "five" and insert in lieu the word "three;" and the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment as follows: in line eighteen, page 16, of the engrossed bill, strike out the words "last of ten" and insert in lieu thereof the words "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same with an amendment as follows: in line three of said amendment, after the word "in," insert the words "money or;" and the Senate agree to the same.

That the House recede from their disagreement to the nineteenth amendment of the Senate, and agree to the same with the following amendment: in line four, page 17, of the engrossed bill, strike out the words "last of ten," and insert in lieu "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the twentieth amendment of the Senate, and agree to the same with an amendment as follows: in line seventeen, page 17, of the engrossed bill, strike out the following: "last of five," and insert in lieu the words "fourth of five;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same with an amendment as follows: in line thirteen, page 18, of the engrossed bill, strike out the words "last of ten," and insert in lieu the words "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and eighteenth amendment of the Senate, and agree to the same with an amendment as follows: add to the end of said amendment the following proviso: "Provided, That no part of the money hereby appropriated shall be paid until a full examination shall be made by the Secretary of the Interior and the First Comptroller of the Treasury; and they shall ascertain that the money is justly and equitably due under contracts made and executed in entire good faith and for necessary supplies actually delivered to the Indians as aforesaid, at reasonable prices, and for this purpose the Comptroller is hereby authorized to take testimony and state the amount due said contractors upon principles of equity; and no money shall be paid or allowed on account of supplies furnished after the passage of this act."

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment as follows: in line one of said amendment strike out the words "Cheyennes, Arapahoes and;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and nineteenth amendment of the Senate, and agree to the same with amendments as follows: in line four of said amendment, after the word "bond," insert the following words: "to the United States." And in line seven, after the word "trade," insert the following words: "or by the Uni-



ted States district judge or district attorney for the district in which the obligor resides."

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu thereof the following: "for this amount or so much thereof as may become due to the Choctaws and Chickasaws under the third and forty-sixth articles of the treaty of April 28, 1866, for interest at the rate of five per cent. upon the amount paid for certain lands ceded by them to the United States, \$15,000;" and the Senate agree to the same.

JOHN SHERMAN,  
J. W. NESMITH,  
J. R. DOOLITTLE,  
*Managers on the part of the Senate.*  
JOHN A. KASSON,  
WILLIAM E. NIBLACK,  
*Managers on the part of the House.*

The report was concurred in.

#### PROTECTION OF THE REVENUE.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call up the unfinished business of yesterday, being the civil appropriation bill.

Mr. SHERMAN. I propose, with the consent of the Senate, by direction of the Committee on Finance, to take up first the amended tariff bill with a view to its passage, and I believe it will not excite any discussion, there being no provisions in it that do not meet with general assent. I hope it may be taken up and got out of the way, without displacing the miscellaneous appropriation bill.

The PRESIDENT *pro tempore*. The Senator from Ohio asks that the unfinished business of yesterday be laid aside with a view to proceeding to the consideration of House bill No. 780. The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 780) to protect the revenue, and for other purposes.

Mr. SHERMAN. I suppose it would be better to act on the amendments of the committee as we go along in the reading of the bill.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection.

The Secretary read the first section of the bill, as follows:

That from and after the 1st day of August, 1866, in lieu of the duties now imposed by law on the articles mentioned and embraced in this section, there shall be levied, collected, and paid, on all goods, wares, and merchandise imported from foreign countries, the duties hereafter provided, namely:

On cigars, cigarettes, and cheroots of all kinds, \$2 50 per pound, and, in addition thereto, fifty per cent. *ad valorem*; and no tare for the box in which any cigars, cheroots, or cigarettes are packed shall be allowed in ascertaining the weight: *Provided*, That paper cigars and cigarettes, including wrappers, shall be subject to the same duties as are herein imposed upon cigars: *And provided further*, That on and after the 1st day of August, 1866, no cigars shall be imported unless the same are packed in boxes of not more than five hundred cigars in each box; and no entry of any imported cigars shall be allowed of less quantity than three thousand in a single package; and all cigars on importation shall be placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected and a stamp affixed to each box indicating such inspection, with the date thereof. And the Secretary of the Treasury is hereby authorized to provide the requisite stamps, and to make all necessary regulations for carrying the above provisions of law into effect.

On cotton, three cents per pound.

On all compounds or preparations of which distilled spirits is a component part of chief value, there shall be levied a duty of not less than that imposed upon distilled spirits: *Provided*, That brandy and other spirituous liquors may be imported in casks or other packages of any capacity not less than thirty gallons; and that wine in bottles may be imported in boxes containing not less than one dozen bottles of not more than one quart each; and wine, brandy, or other spirituous liquors imported into the United States, and shipped after the 1st day of October, 1866, in any less quantity than herein provided for, shall be forfeited to the United States.

Mr. SHERMAN. I move to strike out in lines eleven, twelve, and thirteen of section one these words: "and no tare for the box in which any cigars, cheroots, or cigarettes are packed shall be allowed in ascertaining the weight."

The amendment was agreed to.

The Secretary read section two, as follows:

Sec. 2. *And be it further enacted*, That the proviso in section four of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March 3, 1863, shall be construed to include any ship, vessel, or steamer to or from any port in the Sandwich Islands or Society Islands.

Mr. SHERMAN. Before the word "proviso," in line one of section two, I move to insert the word "second;" so as to read, "that the second proviso in section four," &c.

The amendment was agreed to.

Sections three and four were next read, as follows:

Sec. 3. *And be it further enacted*, That so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, as prohibits the export thereof is hereby suspended in relation to all persons who have complied with the provisions of section two of said act, for five years from and after the 14th day of July, 1867.

Sec. 4. *And be it further enacted*, That all laws and parts of laws allowing fishing bounties to vessels hereafter licensed to engage in the fisheries be, and the same are hereby, repealed: *Provided*, That from and after the date of the passage of this act vessels licensed to engage in the fisheries may take on board imported salt in bond, to be used in curing fish, under such regulations as the Secretary of the Treasury shall prescribe, and upon proof that said salt has been used in curing fish, the duties on the same shall be remitted.

Section five was read, as follows:

Sec. 5. *And be it further enacted*, That from and after the passage of this act all goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the adjacent British Provinces, may be entered at the custom-house, and conveyed in transit through the territory of the United States without the payment of duties, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may prescribe.

Mr. SHERMAN. By direction of the committee I move to amend section five by inserting after "British Provinces," in line six, the words "or arriving at the port of Point Isabel, Texas, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the republic of Mexico."

The amendment was agreed to.

The sixth section was read, as follows:

Sec. 6. *And be it further enacted*, That imported goods, wares, or merchandise in bond, or duty paid, and products or manufactures of the United States, may, with the consent of the proper authorities of the Provinces aforesaid, be transported from one port or place in the United States to another port or place therein, over the territory of said Provinces, by such routes, and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe; and the goods, wares, and merchandise so transported shall, upon arrival in the United States from the Provinces aforesaid, be treated in regard to the liability to or exemption from duty or tax as if the transportation had taken place entirely within the limits of the United States.

Mr. SHERMAN. I move to amend section six by inserting after the word "Provinces," in lines four, six, and ten, respectively, the words "or republic."

Mr. CONNESS. I should like to have the Senator explain that amendment briefly.

Mr. SHERMAN. We have already inserted in the fifth section a provision in regard to the republic of Mexico, and this is simply to conform to that.

Mr. CONNESS. That is right.

The amendment was agreed to.

The seventh and eighth sections were read, as follows:

Sec. 7. *And be it further enacted*, That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that more moneys have been paid to the collector of customs, or others acting as such, than the law requires, and the parties have failed to comply with the requirements of the fourteenth and fifteenth sections of the act entitled "An act to increase the duties on imports, and for other purposes," approved June 30, 1864, and the Secretary of the Treasury shall be satisfied that said non-compliance with the requirements as above stated was owing to circumstances beyond the control of the importer, consignee, or agent making such payments, he may draw his warrant upon the Treasurer in favor of the person or persons entitled to the overpayment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated.

Sec. 8. *And be it further enacted*, That the provisions of the second, third, and fourth sections of the act approved March 2, 1833, entitled "An act further to provide for the collection of duties on imports," and of the twelfth section of the act approved March 3, 1863, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," shall be taken and deemed as extending to and embracing all cases arising or which may have heretofore arisen, and all suits

and prosecutions heretofore brought and now pending, or which may hereafter be brought against any officer of the United States or other person by reason of any acts done or proceedings had by such officer or other person, under authority or color of the act approved March 12, 1863, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States," or the act approved July 2, 1864, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection:" *Provided*, That such acts done or proceedings had under the two acts last aforesaid, or under color thereof, shall have been done and had under the authority or by the direction of the executive Government of the United States: *And provided further*, That when a recovery shall have been or shall hereafter be had in any such suit or prosecution brought or which may hereafter be brought, as aforesaid, the payment of the amount recovered, as provided for in the said twelfth section of the act approved March 3, 1863, aforesaid, shall be made out of the moneys arising and obtained from the proceeds of sales and leases and fees collected and paid over to the Government under the two acts approved March 12, 1863, and July 2, 1864, aforesaid, in relation to captured and abandoned property.

The ninth section was next read, as follows:

Sec. 9. *And be further enacted*, That in determining the dutiable value of imported merchandise there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal markets of the country from whence the same shall have been imported into the United States, the cost of transportation, shipment, and transhipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States; the value of the sack, box, or covering of any kind in which such goods are contained; commission at the usual rates, but in no case less than two and a half per cent.; brokerage, export duty, and all other actual or usual charges for putting up, preparing, and packing for transportation or shipment. And all charges of a general character incurred in the purchase of a general invoice shall be distributed *pro rata* among all parts of such invoice; and every part thereof charged with duties based on value shall be advanced according to its proportion, and all wines or other articles paying specific duty by grades shall be graded and pay duty according to the actual value so determined: *Provided*, That all additions made to the entered value of merchandise for charges shall be regarded as part of the actual value of such merchandise, and if such addition shall exceed by ten per cent. the value so declared in the entry, in addition to the duties imposed by law, there shall be levied, collected, and paid a duty of twenty per cent. on such value: *Provided*, That the duty shall in no case be assessed upon an amount less than the invoice or entered value.

Mr. SHERMAN. I am directed by the Committee on Finance to move to strike out the ninth section of the bill, and as this is an important provision, I hope Senators will pay sufficient attention to know what it is. The ninth section proposes to add to the dutiable value of imported merchandise the cost of transportation, shipment, and transhipment, with all the expenses included, from the place of growth, manufacture, or production, to the vessel in which shipment is made to the United States, and also the value of the sack, box, or covering in which the goods are contained, and commission at the usual rates, but not in any case less than two and a half per cent., &c. The effect of this section is, in a great variety of cases, and especially in the case of heavy goods, to add to the duties on them by adding to the value of the merchandise, and consequently, a percentage on that increased value raises the duties. It was found that in certain heavy articles, especially very coarse wool, this section would operate very severely. It was first proposed to make an exception of the article of wool, and perhaps other articles; but on the whole, as this is a temporary provision only designed to be enforced until the new tariff act will take effect, which will probably be next winter or next spring, we think it better to strike out the whole section.

The principal objection to the section is that it would introduce into the computation of value to be assessed at the custom-house elements of uncertainty. It would be very difficult to ascertain the cost of a package, very difficult to ascertain the cost of transportation from the place of production to the place of shipment and then to the ship. All these are elements of computation which are new and difficult of ascertainment, giving rise to fraud and, perhaps, inequality. Bulky articles of least value

would have the largest addition made to them, when probably they ought to have the least. On the whole, as this is a temporary provision, and it would introduce uncertainty, the committee think it better to strike it out. At the next session, in framing the tariff bill, of course the rates of duties can be adjusted to meet this difficulty.

Mr. KIRKWOOD. Unless there be some better reason than that which has been given in regard to coarse wool why this should be stricken out, I prefer that it should be retained.

Mr. SHERMAN. The trouble is that it operates on every class of goods, and it introduces elements of uncertainty into every invoice in the custom-house, because, in addition to the present mode of ascertaining the value, they will have to enter into a computation of all these different things, and the importing merchant must be prepared with information which the law did not require him to furnish heretofore. To require it now suddenly, merely for a few months, would seem to be a great hardship. It was proposed, indeed, if this ninth section should be continued, to make an exception of wool and the Senator will see that we should be involved in a difficulty.

Mr. EDMUNDS. I hope this section will not be stricken out. The objection of the Senator from Ohio that it suddenly changes the rule so that importers cannot be advised of it, would apply to every change of the law. It is no more sudden than any other change, and it certainly provides, what I have always regarded as the proper doctrine of tariffs where you proceed upon valuation, that you proceed upon the home valuation. These costs and charges of transportation are elements which enter into the value of the property when it reaches the point where revenue is to be derived from it, when it reaches the point where it comes in competition with home productions. Therefore, in my judgment, whatever is a component element of the value of the property when it reaches the place of consumption ought to be, as it is in truth and in fact, a legal part of that value for the imposition of duties.

Now, it is well known to those engaged in the manufacture and in the production and sale of wool, for illustration, that South American wools are imported into the markets of the United States, and always have been, based upon the foreign cost, and by frauds and intermixtures of foreign substances, the value per pound is reduced below the amount fixed in the law for the higher duty, whereas if you added the cost and charges and transportation the real value and expense of the product would be nearly or quite doubled when it reaches this market. Then it comes in under the low duty, and the moment it is in the foreign substances are separated and you have a high grade of wool, or a common grade of wool which comes in competition with your own productions and defrauds the revenue at the same time.

Therefore, it does certainly seem to me that it is certainly better to subject the importer to these little inconveniences—and they surely are such—than it is to defraud the revenue and to injure that class of our citizens who are engaged in the production of this article and many other articles which in a similar way enter into competition with those of foreign production. I only speak of wool as one illustration, which is somewhat more familiar to me from being called to consider it, than many others which could be suggested by other gentlemen. I hope the Senate will keep the section in the bill.

Mr. GUTHRIE. I think it is highly proper to strike out this ninth section. Our tariff laws now prescribe that we shall take the foreign value in the markets of the country from which the goods are imported. All valuable goods come in packages that are not very costly. When you take the amount of the value of them, all cheap, heavy goods would be increased very much by the cost of the package, and thus we should increase the tariff upon cheap articles very greatly, while we increased it scarcely any at all upon the valuable goods. Now, we have provided, and

our experts have the means of ascertaining, the comparative value of every description of goods in the principal ports of the country from which they are brought, but there is no means of ascertaining the foreign cost of the packages in which they are wrapped. If this section be retained you will place everything in uncertainty until the means can be devised of ascertaining that foreign valuation. We know as a matter of fact that with the cheaper goods, the heavier goods, the packages have to be better and would be more costly, and thus we should greatly enhance the tariff on those articles. I think before a measure of this kind is adopted we should have an experiment as to the weight of these packages, so as to see how it would operate upon the tariff, and how it would increase upon some articles and not increase materially the costly articles. The striking out of this section has the full sanction of my judgment, from my knowledge upon the subject.

Mr. EDMUNDS. On this question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Brown, Buckalew, Clark, Davis, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill, Nesmith, Nye, Riddle, Sherman, Stewart, Sumner, Van Winkle, Willey, and Wilson—26.

NAYS—Messrs. Anthony, Chandler, Conness, Cowan, Creswell, Edmunds, Kirkwood, Pomeroy, Raub, Sprague, and Wade—11.

ABSENT—Messrs. Cragin, Dixon, Lane, McDougall, Norton, Poland, Salsbury, Trumbull, Williams, Wright, and Yates—11.

So the amendment was agreed to.

Sections ten, eleven, and twelve were read, as follows:

SEC. 10. *And be it further enacted*, That the second proviso in section twenty-one of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, which provides that any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury, be, and the same is hereby, amended so as to authorize the Secretary of the Treasury, in case of any sale under the said provision, to pay to the owner, consignee, or agent of such goods, the proceeds thereof, after deducting duties, charges, and expenses, in conformity with the provision of the first section of the warehouse act of August 6, 1846.

SEC. 11. *And be it further enacted*, That during the period of one year from the passage of this act, there may be imported into the United States, free of duty, any machinery designed solely for and adapted to the manufacture of sugar from beets, including all the preliminary processes requisite therefor, but not including any machinery which may be used for any other manufactures.

SEC. 12. *And be it further enacted*, That upon the reimportation of articles once exported of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal revenue laws upon such articles.

Mr. SHERMAN. As section thirteen is a very long section, and the Committee on Finance move to strike it all out, I presume it is hardly worth while to read it unless some Senator desires it. I will state that the effect of it is to establish in the Treasury Department a Bureau of Statistics with a pretty large force, and with the direction that certain reports now made to Congress be made to this bureau with a view to the collection of statistics. The Committee on Finance are in favor of the object of this section; but they think it ought not to be adopted in this form at this period of the session. The statistics proposed to be gathered together are chiefly of a commercial character, and when the Bureau of Statistics is organized, it ought to embrace agricultural and manufacturing statistics as well as commercial. On the whole, therefore, we thought it better to postpone action on the subject until the next session of Congress. We have therefore reported in favor of striking it out.

The PRESIDENT *pro tempore*. It is moved that the thirteenth section of the bill be stricken out.

The amendment was agreed to.

The Committee on Finance proposed to insert at the end of the bill the following additional section:

SEC. 14. *And be it further enacted*, That the Secre-

tary of the Treasury be authorized and directed to suspend the collection of the direct tax imposed by an act of Congress passed August 5, 1861, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," until January 1, 1868.

Mr. VAN WINKLE. I move to amend the amendment by inserting after the word "collection" in the third line, the words "in the States heretofore declared in insurrection."

Mr. CONNESS. I understand the effect of this amendment to be to exempt all the States lately in rebellion from the collection of the direct tax.

Mr. FESSENDEN. It is merely to suspend it.

Mr. CONNESS. To suspend it. I used the word "exempt" in place of "suspend."

Mr. SHERMAN. It postpones until the 1st of January, 1868, the collection of this tax, and I will state the reason. All of these States that have had even a temporary organization are prepared to assume the payment of the direct tax. They have submitted proposals to Congress and to the Treasury Department to pay the tax, some on a credit of three years, some more. On account of the peculiar condition of those States it is impossible to receive their bonds at present. Whether the governments that have been organized there were in a condition to issue bonds and many other political questions were connected with it; but they were all prepared to assume their portion of the tax in the same manner as the loyal States did, with or without interest as might be required by law. Under these circumstances, when they were ready to assume the payment of this tax to require it to be collected by direct tax commissioners, to go to every tax-payer and collect it at an enormous expense seemed to be unjust. I believe the Committee on Finance were unanimously of the opinion that the best way to dispose of the question at present was to postpone the collection of this tax until a time when we could treat with the State governments and arrange with them for the amount of this tax. It is not proposed by this amendment to relieve them from any portion of the tax, either principal or interest. The only question was whether, while they were offering as States to settle with us, to give us their bonds, or even if necessary to raise the money, we should, refusing that offer on account of their peculiar condition, go on and collect from individuals in those States this tax. We were of the opinion that it would be neither wise, politic, nor just to do so. The only effect of this amendment is to postpone the collection of this tax until these States will be in such a condition that we can settle with them upon principles of equity and justice.

Mr. VAN WINKLE. This section is taken from the tariff bill that passed the House; and it will be remembered by Senators that in one of the bills reported by the joint committee of fifteen on reconstruction, to accompany the constitutional amendment, a provision was inserted providing for giving to these States some ten years, I believe, within which to pay this tax in installments. It is working a great deal of distress at present, and is operating upon Union men as well as upon rebels. I have a very vivid conception of the injury that it is doing in this way, from its having been attempted to be collected in a portion of my own State by the commissioners of Virginia. Their proceedings were declared illegal there, but from the numbers of letters addressed to myself and my colleague, I know it is producing great distress there, and probably is doing the same throughout the southern States. The amendment I have introduced is on a suggestion of the Treasury Department to confine it to those States, because there are three States, my own included, in which this direct tax has not been settled, and they are able to pay and willing to pay, and they are already within the provisions of another law.

Mr. EDMUNDS. I should like to inquire of the honorable Senator from West Virginia whether this act of 1861, the direct-tax act, is not a continuing act, making it the duty of the executive officers of the Government to impose

this tax provided for by that law annually; and whether, therefore, it is not necessary, in order to prevent a reassessment on every northern State this year, to pass, as we have passed almost every year heretofore, a provision suspending its execution. For the information of the Senate, I will read the first part of the first section of that act:

That a direct tax, &c., be, and is hereby, annually laid upon the United States, and the same is hereby apportioned, &c.

Mr. SHERMAN. The Senator probably is not aware that that was only levied for one year and then was repealed, all the States, pretty much, demanding its repeal. It was only levied for one year.

Mr. EDMUNDS. My recollection is—I recollect it perfectly well, as the Senator does—that it was only levied for one year. All taxpayers found that out, fortunately; but instead of being repealed, so far as my knowledge goes—and I shall be glad to have the Senator refer to the statute repealing it—I think the fact is, it has only been suspended from year to year.

Mr. SHERMAN. It was suspended once or twice, but finally indefinitely postponed. I could, by looking at the internal revenue acts, hunt it up.

Mr. EDMUNDS. I suspect my friend from Ohio is mistaken about that, and therefore, for security, I think it would be better to make the special exemption in favor of the particular States named by the Senator from West Virginia, so as to avoid the unpleasant condition we shall be in by leaving this act of 1861, which I think is in force at this day.

Mr. TRUMBULL. If the Senator will allow me, I will read the statute on that subject:

"No direct tax whatever shall be assessed or collected under this or any other act of Congress heretofore passed, until Congress shall enact another law requiring such assessment and collection to be made; but this shall not be construed to repeal or postpone the assessment or collection of the first direct tax levied or which should be levied under the act," &c.

This act was passed on the 30th of June, 1864. That is the last one that was passed. The collection of the tax was first postponed, and then it was declared that no further tax should be collected until a law was passed authorizing it, except that the first tax should be collected in the States where it had not been collected. That is the state of the law at present.

Mr. EDMUNDS. The effect of that, then, would be, as the Senator from Illinois says, to provide for a general suspension until it shall be again put in operation. With that explanation, probably the result which the Senator from Ohio has suggested would be reached, and this amendment would not be necessary.

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) The question is on the amendment to the amendment.

Mr. SHERMAN. So far as the first year's assessments are concerned, the law still continues in force, and it is necessary to give them time within which to pay.

Mr. EDMUNDS. I alluded to the amendment that I had suggested.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the committee as amended.

Mr. TRUMBULL. I hope that amendment will not be adopted. I do not see any reason, and was not satisfied with those given by the Senator from Ohio, why we should now postpone the collection of this direct tax. I have had some conversation with some persons who have been officers under the law for the collection of this tax in the rebellious States. I know it may be suggested that they are interested; that is true. They would be interested as officers; but still they would be better informed on this subject than anybody else, and it is not to be presumed that the interest they would have in holding the office would so warp their judgments that they could not give correct information in regard to the effect of this tax.

I do not think that the people are less able

to pay this tax in the rebellious States than in other portions of the country. I do not believe in making this exception in favor of men who have been disloyal to the Government. I understand that loyal men, to a great extent, have paid this tax in the rebellious States, and that those who are disloyal contest the law. Many of them say that the law is invalid; that Congress has no right to assess this tax upon them, and they are not going to pay it.

Now, sir, the truth about it is, there is a great deal of money in the South. I was informed a short time ago, by a very influential banker from New Orleans, who had resided there for a quarter of a century before the war, and was recently engaged in the banking business in that city, that the amount of deposits of money in the city of New Orleans was larger than ever before; and he said to me that there was more money in the South than he had ever known to be there. The cotton that was found in the South at the close of the war, at the extravagant prices which it brought, took to that country more money for that crop than had ever been received before for any previous crop. It is not true that there is no money in the South.

This tax is a tax assessed upon land. It reaches these aristocratic land-holders of the South, the wealthy persons. They are much better able to pay this tax than thousands of our constituents at home; and it will be much more difficult to collect this tax in 1868 than it is now. The tax is partly paid. It has been partially collected in some of these rebellious States. I do not know that it has been entirely collected in any of them; perhaps it has been in Tennessee. I do not know how that is; but it has been partially collected, I presume, in all of them. Now, it seems to me it will be difficult to discriminate. It is going to complicate the matter. Suppose these States, in 1868, ask to pay this tax as the northern States did. Suppose the State of Georgia, if you please, upon whom a tax was assessed, according to representation, of, say a million dollars. I have not the statute before me, and do not remember the precise amount—

Mr. EDMUNDS. Five hundred and eighty-four thousand dollars upon Georgia.

Mr. TRUMBULL. I am informed that the precise sum is \$584,000. Suppose \$100,000 of that has been paid already. The persons who have paid that \$100,000 would be assessed in common with the others to raise a fund to pay the balance. It would complicate the matter very much. Again, the machinery for collecting this tax is in operation now.

Mr. FESSENDEN. Only in some of the States, not in all.

Mr. TRUMBULL. I supposed it was in all. I suppose the whole tax would have been collected before this but that the Secretary of the Treasury, under that power which he exercises, a sort of dispensing power to execute laws or not as he thinks proper, has suspended the collection of this tax from time to time under the same authority that he selected persons to collect the revenue who could not take the oath of office. He has gone on and refused to execute, or neglected to execute, the act of Congress. I suggest that there is no sufficient reason for postponing the collection of this tax, and that it will be attended with additional expense to seek to collect it by and by. It is not a very heavy tax at any rate upon these States. I would not be disposed to adopt any legislation which should be harsh toward these States that are disposed to return to their allegiance; but this is not the adoption of new legislation. We paid this tax long ago. Sir, your constituents and mine paid this tax years ago. These States have already had a credit of five years, by reason of their opposition to the Government, and I do not think there is any principle of justice or liberality that should require Congress to postpone it longer.

Mr. JOHNSON. I regret that my friend from Illinois should have deemed it his duty to oppose this proposition. I do not think he is aware of the condition of the South. He cannot know how exceedingly impoverished they

are. He cannot know that there is hardly any money there with which even to buy the necessities of life, much less to pay taxes. There may be in the city of New Orleans money in bank; but if so it belongs in a great measure to those who are doing business on account of the North—commission merchants. No doubt there is a large fund, because they have been dealing in cotton to a great extent.

But I rose simply for the purpose of saying, and I have thought my friend from Illinois was willing to adopt almost everything that the committee of fifteen recommended, that one of the measures recommended by that committee, and it received, as well as I recollect, the vote of every member, was to suspend the collection of this tax. The honorable member tells you that your constituents and his constituents have paid it. This is true; but your constituents and his are in a very different situation from the citizens of the States through which armies have marched, carrying desolation in their train. The march of General Sherman—and I find no fault with it, because he deemed it necessary, and perhaps it was necessary, to accomplish the end—the march of General Sherman extended for a width of some forty miles, and left that whole area almost in ruin. The inmates of many a homestead who were happy and prosperous are now not only without money but without homes. It seems to me, therefore, to be not only an act of humanity but an act of strict justice, if we do not wish to complete the desolation of the South, that we shall at least extend to them what they now only ask, some time within which they may be able to reinstate themselves in their ancient prosperity, and meet as of old the demands of the Government.

The amendment, as amended, was agreed to.

Mr. MORRILL. I move to strike out the fourth section of the bill, as follows:

Sec. 4. And be it further enacted, That all laws and parts of laws allowing fishing bounties to vessels hereafter licensed to engage in the fisheries be, and the same are hereby, repealed: *Provided*, That from and after the date of the passage of this act, vessels licensed to engage in the fisheries may take on board imported salt in bond to be used in curing fish, under such regulations as the Secretary of the Treasury shall prescribe, and upon proof that said salt has been used in curing fish the duties on the same shall be remitted.

I do not propose to present any argument to the Senate on this question. That I attempted to do on a former occasion, and should not think of craving the indulgence of the Senate at the present time to repeat it. But there are two or three considerations to which I desire to call the attention of the Senate.

In the first place, the subject is not a question of finance which properly falls within the jurisdiction of this committee. I do not think that it ought to have felt itself charged with such a subject. The protection of the revenue does not authorize the consideration of the question in the sense in which the committee has presented it to us, in my judgment. What is this interest with which this committee, if I may be allowed the expression, so unceremoniously deal? Why, sir, it is an interest that was established at the time the Government was established, and has uniformly been sustained and fostered since the Government had existence. It is an interest not only fostered by our Government, but it is an interest that every military, naval, and commercial Government on the globe has found it necessary to foster, cherish, and sustain. There is no Government in modern times that has pretended to maintain a commerce or a navy but has adopted this policy.

Now, sir, although this question has been repeatedly before the Senate, the enemies of this interest never have been able to carry the judgment of the Senate with them, I believe, in a single instance. My recollection is, that whenever it has been referred to an appropriate committee for consideration this interest has always been sustained. When it has been considered as a measure of commerce, as a measure touching the commercial marine of the country, and the Navy of the country, it has always been sustained; and the general



judgment of Congress time and again has been in favor of it. Therefore I submit that an interest which has been so largely fostered, until it has come to be the standing policy of the country, ought not to be repealed upon a bill of this sort. It is not that kind of legislation which I think ought to be encouraged upon such a bill. It is for this reason, among others, that it has not received that consideration of the Senate which would justify the Senate in legislating on the subject on a bill of this character, that I make this motion.

Now, Mr. President, I do not intend to disguise the fact, and I do not intend that the fact shall be disguised either, that this movement persisted in for years, always in the South and latterly in another direction, is the result of prejudice against this interest, on the ground that this is a bounty to a local interest. Nothing is further from the fact; nothing ever was further from the fact. It resulted from the broadest idea of national concern. It has been fostered and cherished and sustained uniformly upon the idea that it affected the whole country and was the interest of the whole country. Now, sir, we find a class of representatives from one section of the country going *en masse*, in a body, against this measure as one of local concern, who—I allude to it in no invidious spirit, of course; I think the argument is legitimate—when other interests of a local character touching their interests are concerned, you will find going in a body for them. If this interest is obnoxious to the charge of being a local interest, what do you say of the appropriations which you annually make to encourage agriculture? Is that more general? Suppose I should concede it to be so, I will ask those gentlemen whose constitutional scruples are affected by this measure, under what provision of the Constitution those appropriations are made? Sir, the appropriation to the Bureau of Agriculture is a tribute to the agricultural interest of the country purely. I do not object to it. When the agricultural interest of the country prospers the whole country prospers; but I say to that class of statesmen or representatives in the Senate, who find no difficulty in appropriating large sums to stimulate an interest which is a powerful and dominant interest in their section of the country, that it does not come with very good grace from them to talk about stimulating a local interest when you are called upon to appropriate at most a few hundred thousand dollars toward an interest which has had the sanction of the policy of the Government from its earliest period down to the present time.

I am not going to repeat what I said on this subject on another occasion. I am not going to make an argument upon it. I rose simply to arrest the attention of the Senate to this subject. It was by mere accident that I found this section in the bill. Upon this question, forbearing to trespass further upon the attention of the Senate, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CHANDLER. I confess that I am a little surprised to have cod-fish raised here again in this body. I supposed we had settled that question forever a year ago, when the Senator assented to a compromise, and I congratulated him and the country that we had got through with cod-fish. Now the Committee on Finance propose to give cod-fishermen all they ever asked—a remission of the duty on foreign salt. All that they pretended they ever asked was a remission of that duty, and that is contained in this section. I am surprised that exception is taken to this fourth section. It was distinctly understood, as I thought, by all parties a year ago that that question was ended, and ended forever. I hope that this vote will show that it is ended, and ended forever, and that we shall never have another vote in this body for cod-fish. I have voted for nine years to retain the bounty on the cod-fisheries; but now, for the first time, I am going to vote to get rid of it, and get rid of it forever.

Mr. MORRILL. I do not understand what the honorable Senator from Michigan means

by a compromise. Who are the parties to a compromise such as he speaks of?

Mr. CHANDLER. It was generally understood that if we would continue the bounty another year, at the end of the year this change should be made.

Mr. MORRILL. I was no party to such an understanding.

Mr. CHANDLER. Perhaps the Senator did not assent, but I understood that he did.

Mr. MORRILL. I am no party to such an understanding; and if I were I should be ashamed of it. If I understand the proposition of the honorable Senator, his statement is that somebody representing an interest which I say is national—the only ground I put it on is that it is in favor of your mercantile marine and your Navy—somebody here felt authorized to say that if they could make a catchpenny out of it, and get the duty off upon salt, that would be just the thing. What would become of the national interest which I am talking about? Sir, I never gave my consent to any such arrangement as that. I have not been advocating this bounty on the ground that it was particularly beneficial to the fishermen nor that it was particularly prejudicial. I have endeavored to put it upon higher grounds. I have endeavored to put it upon the ground of a national necessity, and that if you repeal the fishing bounties you strike a blow at your mercantile marine and at your Navy. That is the ground upon which I put it; and I should be ashamed if I had ever in any hour consented to the idea that if you would give us a little drawback on salt we would agree to abandon the bounty on fish, which was given to encourage and to sustain a national interest. I rose simply to repudiate the idea of any understanding or arrangement of that sort.

Mr. SHERMAN. I can only state that this section came from the House of Representatives in the bill, and I believe it passed the House of Representatives without a division. I must add my testimony to what has been said by the honorable Senator from Michigan. A year ago we had quite a struggle over this subject; and I understood then, by the Senator's colleague, that the interest represented, the local interest, would be very well satisfied if they could have a remission of the duty on salt—a provision which I thought was perfectly just and right, because as the fishermen in Canada and the French fishermen would be able to get their salt without duty, as a matter of course the American fishermen ought to be on the same footing, and ought to have the benefit of the remission of the duty. I think this is a wise settlement of the question, and I hope we shall have an end forever to this controversy.

Mr. FESSENDEN. "By the Senator's colleague," I presume the Senator does not mean me. I was not here at that time.

Mr. SHERMAN. I allude to your predecessor, Mr. Farwell. Perhaps I would be doing him injustice in saying that he assented to any arrangement, but I know that he pressed very strongly as an amendment or qualification to the bill to repeal the fishing bounty, a provision allowing a remission of the duty on salt, and he thought that that would be satisfactory to his constituents. I hope, therefore, that this question will be ended. This provision was put into the bill by the House of Representatives, and, I think, passed there without a division.

Mr. BUCKALEW. On a question of this kind it seems to me the Senate should have furnished to it some statement of the natural result of the proposed change.

Mr. SHERMAN. I supposed that this was a matter so familiar to all Senators that it was not necessary to say anything about it. We have discussed this question of the fishing bounties for several sessions.

Mr. BUCKALEW. Before the Senator proceeds to make an explanation, I will call attention to two points: first, the amount received now, the average amount actually paid under the law authorizing these bounties.

Mr. SHERMAN. About four hundred thousand dollars.

Mr. BUCKALEW. And next, the probable amount which will be withdrawn or diverted from the Treasury by allowing salt to be used without charge by the persons engaged in the fisheries.

The question being taken by yeas and nays, resulted—yeas 9, nays 29; as follows:

YEAS—Messrs. Anthony, Clark, Fessenden, Foster, Morrill, Nye, Ramsey, Sprague, and Williams—9.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness, Cowan, Davis, Doolittle, Edmunds, Grimes, Guthrie, Henderson, Hendricks, Johnson, Kirkwood, Lane, McDougall, Morgan, Nesmith, Norton, Poland, Pomeroy, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, and Wilson—29.

ABSENT—Messrs. Cragin, Creswell, Dixon, Harris, Howard, Howe, Riddle, Saulsbury, Wright, and Yates—10.

So the amendment was not agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill be read a third time.

Mr. SPRAGUE. I desire to offer an amendment.

The PRESIDING OFFICER. The bill has been ordered to a third reading and is not now open to amendment.

Mr. SPRAGUE. I presume there will be no objection to my offering the amendment. I was on the floor before the question was put. I move to reconsider the vote ordering the amendments to be engrossed and the bill to be read a third time.

Mr. SHERMAN. I think the Senator can accomplish his object by introducing his proposition as a simple resolution of the Senate. I hope, therefore, he will do it in that way, if there is any objection to it now.

Mr. SPRAGUE. The proposition that I have sent to the Chair is simply to authorize the Secretary of the Treasury to appoint a commission consisting of two officers of the Department and one other person to investigate into the bonded warehouse system, and to report to Congress the facts in regard to it. It is a subject in which I have a deep interest. I know that the country is suffering from the present administration of that system. This seems to me to be a proper provision to be attached to this bill, as it is essentially one connected with the revenue. I ask the Senate at any rate to listen to the reading of the proposition before they give it the go-by.

Mr. CONNESS. What is the proposition of the Senator?

Mr. SPRAGUE. The proposition is for the appointment of a commission by the Secretary of the Treasury to investigate the bonded warehouse system.

Mr. CONNESS. Is it offered as an amendment?

Mr. SPRAGUE. I offer it as an additional section.

Mr. CONNESS. I should like to hear it read.

The PRESIDING OFFICER. It is not now before the Senate.

Mr. ANTHONY. It is certainly proper to read the amendment so as to show the object of reconsidering the vote.

The PRESIDING OFFICER. The question now is on the motion to reconsider.

Mr. ANTHONY. Undoubtedly; but is it not competent for the Senator who makes that motion to read the amendment which he proposes to offer, so that the Senate may judge whether to reconsider or not?

The PRESIDING OFFICER. If there be no objection, the proposition will be read.

Mr. GRIMES. He has no right to read it.

Mr. ANTHONY. Certainly he has.

Mr. GRIMES. If that were so you could debate the whole question on the single question of reconsideration.

Mr. ANTHONY. It is a courtesy that I have never known to be refused before in the Senate.

Mr. GRIMES. If it is put as a question of courtesy, that is one thing; if it is put as a question of parliamentary law, that is another

Mr. ANTHONY. I put it on general parliamentary law.

Mr. GRIMES. The fact is nobody can tell how many commissions we have already had appointed under different laws passed at this session.

Mr. ANTHONY. I submit that a Senator in moving a reconsideration has a right to state the reason why he moves it; that he moves it with a view of offering the following amendment.

Mr. GRIMES. He has stated it.

The PRESIDING OFFICER. Is there any objection to the reading of the proposed amendment? The Chair hears none, and it will be read.

Mr. BUCKALEW. I desire to say that the Senator from Rhode Island was clearly upon the floor and stated his proposed amendment before the Chair announced the vote. The Chair did not observe the Senator; but he certainly made his motion in time. I shall therefore vote for the reconsideration.

The PRESIDING OFFICER. The Chair regrets that he did not observe the Senator.

Mr. SHERMAN. I feel bound to say that I was sitting here beside the Senator from Rhode Island, and he rose to make his motion before the action of the Senate upon the committee's amendments, but took his seat, until they should be disposed of, and the question was put before he had an opportunity of offering the amendment. I hope, therefore, the Senate will allow him to offer the amendment.

Mr. CONNESS. It will only take a single moment to have the proposed amendment read. I do not know that I shall agree with the Senator from Rhode Island, but I should like to hear his amendment read.

The Secretary read it, as follows:

*And be it further enacted, That the Secretary of the Treasury shall appoint a commission, consisting of the statistician of the Treasury Department, the collector of the port of New York, and one other person, who shall investigate the advantages or disadvantages growing out of the laws creating and regulating bonded warehouses, and to report at the next session of Congress the amount of revenue, if any, that would probably be saved to the Treasury if the duties upon imported goods were paid at the date of entry, and if thereby a more honest administration of the revenue laws and a greater security from fraud thereupon would be secured, and also as to any conditions that may exist in the laws aforesaid or the administration thereof, in contrast with the internal revenue laws that are, where competition exists, more favorable to the foreign than the home manufacture.*

The PRESIDING OFFICER. The question is, Shall the vote ordering the amendments to be engrossed and the bill read a third time be reconsidered?

Mr. CONNESS. If that vote were reconsidered I would not like to vote for the amendment in the shape the Senator has presented it, and therefore I do not feel inclined to reconsider it for him. I think the amendment is rather partially drawn up. I could tell by the reading of it that it was written by some person who was utterly opposed to the whole warehousing system. It casts an *onus* upon the system in almost every line.

The PRESIDING OFFICER. The merits of the proposition are not before the Senate.

Mr. CONNESS. I do not propose discussing the merits of the question.

The PRESIDING OFFICER. The question is, Shall the vote ordering the amendments to be engrossed and the bill to be read a third time be reconsidered?

The motion was agreed to.

Mr. SPRAGUE. I now offer my amendment as an additional section to the bill.

Mr. FESSENDEN. I move to amend it by striking out all the designations of individuals and providing simply that the commission shall consist of three persons to be appointed by the Secretary of the Treasury.

Mr. SPRAGUE. I accept that modification.

Mr. CONNESS. It is not satisfactory to me even with that modification. I should like to hear it read as it now stands.

Mr. FESSENDEN. I am not in favor of it.

I shall vote against it; but if it passes, it ought to be changed in that way.

The Secretary read the amendment, as modified, as follows:

*And be it further enacted, That the Secretary of the Treasury shall appoint a commission, consisting of three persons, who shall investigate the advantages or disadvantages growing out of the laws creating and regulating bonded warehouses for imported goods, and to report at the next session of Congress the amount of revenue, if any, that would probably be saved to the Treasury if the duties upon imported goods were paid at the date of entry, and if thereby a more honest administration of the revenue laws and a greater security from fraud thereupon would be secured, and also as to any conditions that may exist in the laws aforesaid, or the administration thereof, in contrast with the internal revenue laws, that are, where competition exists, more favorable to the foreign than to the home manufacture.*

Mr. McDUGALL. The Chinese-wall policy of shutting out all ingress to our country from foreign lands with foreign fabrics has been pretty pertinaciously maintained by the Senator from Rhode Island, who has become the champion of that policy. What this proposition strikes at is running that policy in its furthest extreme. The warehousing system of the United States is well understood, and it has been discussed frequently. No commission is required to inform the Senate or House of Representatives as to how it operates. It may make a job for some individuals, but only raises a useless question, and involves an intimation on the record that the system operates as a fraud upon the revenue of the United States. The warehousing system is demanded, and we have it in very excellent shape now. It has been carefully canvassed and discussed, and nothing but a Chinese-wall policy would lead to the introduction of any such proposition as this.

Mr. CONNESS. I move to amend the amendment by striking out all after the word "Congress," in the following words:

*The amount of revenue, if any, that would probably be saved to the Treasury if the duties upon imported goods were paid at the date of entry, and if thereby a more honest administration of the revenue laws and a greater security from fraud thereupon would be secured, and also as to any conditions that may exist in the laws aforesaid, or the administration thereof, in contrast with the internal revenue laws, that are, where competition exists, more favorable to the foreign than to the home manufacture.*

So that the amendment, if amended, will read:

*That the Secretary of the Treasury shall appoint a commission, consisting of three persons, who shall investigate the advantages or disadvantages growing out of the laws creating and regulating bonded warehouses for imported goods, and to report at the next session of Congress.*

Mr. SPRAGUE. I trust that that amendment to the amendment will not be agreed to. The object I have is to designate some few of the points upon which it is desirable that this commission shall investigate. The first of the persons who were suggested by myself in drawing this amendment was one who had been in the Department for many years, and who is conversant with all the laws regulating this Department of the Government as well as every other. It was, therefore, with the purpose of facilitating the objects of the commission that I named him, without in the slightest degree embarrassing or in any way prejudicing their views.

The object of appointing the collector of the port of New York was because he is, probably, in a situation to judge better than any other man in the country as to the workings of the system, without desiring to prejudice the opinions which might be made for or against the system. The collector of the port of New York comes directly in contact with the interests of the importer; and if I had a design to prejudice this commission in favor of the home manufacturer by the appointment of persons who would favor that idea, it would certainly not be accomplished by the appointment of the man who is constantly in contact with this class of the trade of our country. I had no such view. The object which I desire is simply to obtain this information. I believe the Senate and the country are not informed as

to the workings of this system. I do not care how much discussion has been had upon it in this Chamber or elsewhere, there is nothing in human affairs that will not be illustrated higher and better as time rolls round and as experience brings forth new light on the subject. The only object that I have is to obtain light on this subject.

I repudiate the suggestion of the Senator from California that I desire to build up a Chinese wall between this country and foreign countries. My object is to introduce into this country all that is good in foreign countries and make it our own, that we may illustrate the greatness and glory of our own country. Sir, when I have a feeling to promote any one interest that may be to the disadvantage of this country, or in any way taint its escutcheon, or any desire to promote one interest at the expense of another, may my tongue cease to speak and my hand to obey any emotion of my will. I have no such desire. It seems to me that Senators are remarkably sensitive on this subject. When simple truth is desired to be illustrated, when simple information upon a topic which has been discussed heretofore is sought, I am surprised that there should be hesitation upon such a subject, when upon all other subjects the Senate have exhibited the greatest desire for information.

Mr. POMEROY. I will suggest to the Senator to amend the portion proposed to be stricken out by substituting the word "equitable" for "honest." The language is, a "more honest administration." That is a little reflection on the system; but if the word was "equitable," I think we could vote for the amendment.

Mr. SPRAGUE. I will accept that suggestion.

The PRESIDING OFFICER. The amendment is not in order, there being an amendment to an amendment now pending.

Mr. SHERMAN. I hope we shall have a vote.

Mr. FESSENDEN. Let us have a vote. Everybody understands the question.

Mr. POMEROY. It is always customary to amend the clause proposed to be stricken out before the question is taken on striking it out.

The PRESIDING OFFICER. The amendment of the Senator from California is an amendment to an amendment, and the Chair thinks it is not further amendable.

Mr. SHERMAN. I trust the Senator from California will withdraw his amendment and let us take a vote.

Mr. CONNESS. I am willing to do that, but the portion of the amendment which I have moved to strike out is very offensive in its language to me. It alleges frauds in the system. I deny that that system generates frauds, and I do not wish to vote for that. Nevertheless, I am willing to withdraw the amendment and allow the vote to be taken.

Mr. POMEROY. As the Senator from Rhode Island says that he accepts my amendment, it becomes a modification of his amendment.

Mr. GUTHRIE. This proposition involves the question whether we are to have the warehouse system or cash payments, whether our merchants shall pay their duties according to the warehouse system, or whether we are to have cash payments upon the importation. In olden times we gave them credit upon the duties and took the bonds of merchants. When we abolished that system we introduced the warehouse system. There is a conflict between the manufacturers and the merchants as to whether there shall be cash duties or whether the warehouse system shall exist. There will be frauds in the importations upon the Treasury, adopt what system you may; for whenever it is the interest of individuals to evade your laws, your duties being high and the reward great, the evasion will be attempted to be made, and will be more or less successful. I am not willing to ingraft upon this bill the beginning of this war upon the warehouse system. The gentle-

man was exceedingly modest in indicating who was to be on this commission, so that he would have a partial report. It would be in the power of the Secretary of the Treasury to appoint those who would certainly report in favor of the warehouse system; it would be in his power to appoint those who would certainly report in favor of the cash system and doing away with the warehouse system; but neither report would settle this question if it is the determination of the great manufacturers of this country to war against the warehouse system and the importing merchants.

I will not go further into this question. This is a war against the warehouse system in favor of the cash system. If Senators are ready to give up the warehouse system, they will adopt the amendment proposed by the Senator from Rhode Island.

The PRESIDING OFFICER. The question is on the amendment to the amendment proposed by the Senator from California, to strike out the latter part of the proposition of the Senator from Rhode Island.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Rhode Island as amended.

The question being put, there were, on a division—ayes 6, noes 12; no quorum voting.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 23; as follows:

YEAS—Messrs. Anthony, Howard, Howe, Kirkwood, Lane, Morrill, Norton, Pomeroy, Sherman, Sprague, and Wade—11.

NAYS—Messrs. Brown, Chandler, Conness, Creswell, Davis, Fessenden, Grimes, Guthrie, Harris, Henderson, Hendricks, Johnson, McDougall, Morgan, Nesmith, Nye, Poland, Sumner, Trumbull, Van Winkle, Wiley, Williams, and Wilson—23.

ABSENT—Messrs. Buckalew, Clark, Cowan, Cragin, Dixon, Doolittle, Edmunds, Foster, Ramsey, Riddle, Saulsbury, Stewart, Wright, and Yates—14.

So the amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 179) in relation to the district courts of the United States in the States of California and Louisiana, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 643) to alter the places of holding the circuit courts of the United States for the Rhode Island district;

A bill (H. R. No. 755) amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved May 11, 1866; and

A bill (H. R. No. 800) for the relief of Marion M. Buxton.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands, and for other purposes;

A bill (H. R. No. 687) to incorporate the Soldiers' and Sailors' Union, of Washington, District of Columbia;

A bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes;

A bill (H. R. No. 729) to change the port of entry in Puget sound;

A bill (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home;

A joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company; and

A joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war.

#### ADMISSION OF NEBRASKA.

Mr. WADE. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 447, for the admission of Nebraska as a State.

Mr. SHERMAN. I will ask, what is the pending business? I think the civil appropriation bill is still pending as the unfinished business, and I hope my colleague will postpone Nebraska until we get through with this bill.

The PRESIDING OFFICER. The Chair understands that the bill mentioned by the Senator from Ohio has not yet been reported.

Mr. WADE. I believe it has not been. I will now report it from the Committee on Territories, and ask for its present consideration. I thought it had been reported.

The PRESIDING OFFICER. The Senator from Ohio asks the unanimous consent of the Senate to consider the bill just reported by him.

Mr. SHERMAN. I object until the miscellaneous appropriation bill is disposed of.

The PRESIDING OFFICER. Objection being made, it cannot be considered now.

Mr. SHERMAN. I will join my colleague in his efforts for the admission of Nebraska tomorrow, when we get through with this miscellaneous appropriation bill.

Mr. WADE. I give notice that I shall move to-morrow to take it up the first thing.

#### REPORT OF A COMMITTEE.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Joseph Segar, praying for compensation for property seized by the Union Army in Virginia, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, the pending question being on the amendment proposed by Mr. BUCKALEW from the select committee on ventilation.

Mr. SUMNER. That is a proposition to appropriate \$117,000 for the ventilation of this room. If we are to continue in this room I should like to have it ventilated; but I think that so large an outlay of money is out of place for that object. I think, as I said yesterday, we ought to go further and do something better. I am not willing, for one, to pay \$117,000 merely to stay in this gilded cage where we are kept. I will pay more in order to change the room entirely. I think that the committee has made a mistake. They will pardon me; I do not intend really any criticism; but I think they have made a mistake in trying to refashion this room. That is the object of this large appropriation, \$117,000, merely for the ventilation of this impossible Chamber; for when it is ventilated it is not a proper Chamber for the Senate of the United States. I hope, therefore, that instead of appropriating \$117,000 to ventilate this room, we shall appropriate perhaps a larger sum to make a more thorough change. In this matter I am in earnest. I feel that we shall make a mistake if we invest more money in this apartment. The object of the proposition of the Senator is a further investment of money in these walls by which we are

encaged. I will invest to take the walls down, but I am unwilling to pay more to keep these walls in their place.

I am not able to present a plan as a substitute for that of the Senator from Pennsylvania. I have never presented this subject to any architect or person who was able to make a report as an architect upon it; but I should like to have the whole question submitted to a proper person or a proper committee with a view to a practical result. As I tried to say last night, there were two objects at which I would aim. One would be to bring the Chamber right out in connection with the open air, and the other would be to diminish the size of the Chamber. I would reduce it by one half. For instance, a Chamber that would be left by running a line from the main door to the chair of the President, I think would be ample for all the business of the Senate. We should be more comfortable in it. Public business would be transacted more advantageously. For instance, what we are now engaged upon to-day would be attended to much better than in this large room.

Since the discussion last night, I have been reminded of a saying by one of the best of the early English writers, old Fuller, which you will find in his proverbs.

Mr. FESSENDEN. Can you give the chapter and verse. [Laughter.]

Mr. SUMNER. I cannot give the chapter and verse. I have got it here. I have written it down. It is as follows, and I think you will see the application of it, and my friend from Maine will not be insensible of it. A house, he says in this proverb, had better be too little for a day than too big for a year; therefore, houses ought to be proportioned to ordinary occasions and not extraordinary. Now, this Chamber of ours is not proportioned to ordinary occasions; it is not proportioned to our every-day business; and what I desire is that it should be brought into those proportions, that it should be brought into harmony with what we are called upon to do every day; and that it should not be kept in proportion to those extraordinary occasions when these galleries are filled.

Now, sir, I have no motion to make, but I do not see how I can vote for this large appropriation which is to involve an increased expenditure on this room, which, it seems to me, we ought to do all we can to get rid of, instead of putting more money into it.

Mr. HARRIS. Mr. President, I am not prepared to agree to any proposition to change this Chamber, so far as it relates to its size or its location, but I am decidedly in favor of improving its ventilation. But I desire to inquire of the Senator from Pennsylvania who presents this proposition, how much of this \$117,000 he proposes to have expended during the recess of Congress. I suppose a very small proportion; and I should think it much more advisable to make an appropriation equal to the amount to be expended during the time that will elapse between this and our reassembly in December, and then consider what we shall do after Congress shall adjourn next year. It seems to me we ought to make a moderate appropriation now to carry on the changes that he proposes to make during the coming recess.

Mr. BUCKALEW. Mr. President, the estimates for the different items of outlay were very carefully ascertained and reported at the last session in the report of the joint select committee, and they appear on pages 24 and 25 of that report. As a matter of course, the amount proposed for appropriation will not be expended before the meeting of the next session of Congress; but it is necessary to know what the Senate intend to do. This plan of improvement is an entirety; one part is dependent upon another; and a complete result can only be secured by the adoption of the entire scheme, at least in its main parts. The committee have reported to the Senate a plan in conformity to their investigations, and what is



desired is, not that we shall get the opportunity of spending money between this and the next session of Congress, but that we shall have the plan adopted and permit all the preliminary arrangements to be made, and the work to be carried forward to such a point that we can secure its completion during the vacation after the adjournment at the next session. As I said before, the Senate would still have it within their power at the next session to arrest those changes which I stated in connection with the roof and ceiling; but I do not believe that the Senate ever would arrest them if the work were once ordered.

I stated, also, that at the opening of the next session there would be a complete model of the Senate wing ready, showing the changes proposed above the Hall, by which members would be enabled to judge of the question, if indeed there should then be any question, with regard to proceeding in completing the improvements designed. To be sure, you can make appropriations for this, that, and the other items covered by the estimates in the report to which I have alluded; but that would be a very vain and frivolous mode of proceeding, leading to no results, bringing us to no conclusion, and securing no valuable and real improvement. The subject is to be passed upon as a general proposition, and not in detail.

I do not know that the Senator desired the particular estimates to be stated. I have them here for each item covered by this appropriation, amounting in the aggregate to a sum a little exceeding \$118,000. We voted last year, without serious question, \$160,000 for extending the Congressional Library. A debate took place on the subject. We thought that object was sufficient to warrant the appropriation of so much money. To be sure, it has not been all expended; it is not all expended even at this time. Now, sir, if it was worth while for us to expend \$160,000 in extending the Congressional Library, I ask whether it is not worth while to expend the amount proposed in the pending amendment for the purpose of preserving the health and securing the comfort of one of the branches of the great legislative department of this Government in future time.

Mr. FESSENDEN. I wish to ask the Senator whether he has any assurance that the work will be done between now and December next.

Mr. BUCKALEW. That is the very point to which the Senator from New York spoke a moment since in putting his question.

Mr. FESSENDEN. I did not observe it.

Mr. BUCKALEW. Only a certain portion of the work can be accomplished before the next meeting of Congress. I stated yesterday that the committee proposed for the next session simply to hydrate the air that is to be let into this Chamber?

Mr. HARRIS. Will the Senator allow me to inquire whether or not that is not a separate work from the work that is contemplated in the upper part of the Chamber?

Mr. BUCKALEW. Yes, sir.

Mr. HARRIS. Entirely distinct?

Mr. BUCKALEW. But that is not involved in this plan.

Mr. HARRIS. That is all that is proposed to be done this year.

Mr. BUCKALEW. It is no part of the plan of the committee. It is a mere temporary device for the next session. Unquestionably this roof cannot be elevated and side windows inserted all around the upper part of the Hall before the next session of Congress; it is impossible; but the committee have reported an entire plan, and they ask the Senate to adopt it as an entire plan securing results. You cannot take a part of it; you cannot take one fragment of it; you cannot adopt the improvement in one detail and get results. It would be just as absurd to have voted last winter for some part of the additional wing to the Library of Congress, because it was not proposed to expend the money before Congress would be in session again. The Senator will see that there is no force in his observations, unless you

could separate and divide one part of this plan of improvement from another.

Mr. SHERMAN. I should like to ask whether the plan proposed in the two wings will not involve some radical changes in the center building? Must there not be a proportional elevation given to the center?

Mr. BUCKALEW. The subject of the effect of the elevation upon the appearance of the building from the exterior is one upon which I do not propose to enter. It is insisted upon, and I believe correctly, that the present elevation of the Capitol is defective; that it departs from the order of architecture upon which the Capitol was originally designed; that being the Roman Corinthian order, as it is technically known, and which involves the breaking of sky lines by irregular elevations; whereas the sky line of our building is now horizontal; it is level from one end to the other. The eye does not rest upon the Senate or House wing in viewing the Capitol; nothing is dwelt upon but the dome. It departs altogether in that particular respect from the principle of the original design.

Mr. SHERMAN. What I desire to know is, whether this will render it necessary to change the elevation of the center of the building.

Mr. BUCKALEW. It was contemplated by the architect who had charge of the Capitol extension that there was to be an extensive addition built in connection with the dome, and when he resigned his office, about a year since, he left behind him in his regular annual report a plan for a change in the center part of the building. It would involve some future addition to the structure at the dome; but we are not concerned with that at present. The amount of elevation upon the Senate wing would not be considerable, and it would not interfere at all with the exterior adornment of the building, the porticos, the colonnades, and the balustrading above on the outer walls of the Senate wing. Our addition would be seen behind the exterior lines at a considerable distance. I do not now go into the question of an exterior attic or barrier, which may be added for architectural reasons and general effect, but is not contemplated by this appropriation.

Mr. WILLEY. I think I understood the honorable Senator to state that while it was not in contemplation to do anything more than hydrate the air in the Chamber between this session and the next session of Congress, yet, in order to be able to complete the arrangements in the roof of the Chamber between the end of the next session and the succeeding session, it would be necessary now, at this time, to engage in the commencement of materials and arrangements so as to enable the architect and builder to complete the changes in the roof between the next and succeeding session, and that therefore it was necessary to make the entire appropriation now, in order to secure the materials, &c., with a view to the ultimate completion. I believe I understood the Senator correctly in that respect.

Mr. BUCKALEW. Yes, sir.

Mr. ANTHONY. After the very elaborate and interesting speech which the Senator from Pennsylvania made yesterday upon this subject I do not feel as though I can add anything to it. I served on the committee under him, and I commenced the investigation with a very strong feeling in favor of pushing the Senate Chamber out against the exterior wall, which I have been told was the original plan of the building; but I was entirely satisfied, from examining the subject and hearing the discussion by scientific men, architects and chemists, that this Hall never would be properly ventilated by mere lateral ventilation; that the temperature would be different in different parts of the room, and in order to make it comfortable in some parts, it would be necessary to make it very uncomfortable in others, and even if the Senate Chamber was placed against the wall of the building with the windows opening directly into the air it would be necessary to have an artificial ventilation, and the only ventilation that has been

successful in a large room is ventilation from above and forced down by machinery. I believe we shall never have a comfortable, or a healthful, or a tolerable Chamber here, until we adopt some system like the one now proposed. This is altogether the best that I have been able to come at. I do not believe we can do any better than to adopt this system. I do not believe we can have on any other plan that has been brought to the knowledge of the committee anything like such conditions as we desire.

Mr. BUCKALEW. I will say a few words more, and then I will leave the subject. This plan which we will have will be substantially that which obtains in the House of Commons at London. After expending over \$2,000,000 in experiments in improving the ventilation of the Houses of Parliament, in 1854, the whole subject was turned over to Goldsworthy Gurney, who proceeded to adopt a plan involving two principles: first, the use of windows around the whole upper elevation of the hall; and, secondly, the downward movement of the air through the hall, for the purpose of ventilation. In 1852 there was a parliamentary committee which made an elaborate report. In 1854 another committee sat during one half, perhaps the entire session of Parliament. Their report constitutes a large volume in the Congressional Library. Lord Palmerston was a member of the committee, and must have expended two or three weeks of his valuable time in service upon it, prominent as he was in the Government of that country and in the councils of Parliament. They ventilated the House of Commons by the use of windows, precisely as we propose, in the upper elevation of their hall, when the temperature of the external atmosphere admits of it, and they warm their air at all times, when they do not use the external air directly, and bring it into the hall above and remove it at the floor. Although they had expended the enormous amount which I have mentioned in experiments before, on all sorts of plans, such as I have heard discussed for two or three sessions about the Capitol, they adopted this plan of 1854, and from that day down to this the parliamentary papers are a blank on the subject of ventilation; so perfect and so entirely successful was this system of windows in the upper elevation of the hall, and downward movement of the air.

Besides that, the legislative chambers at Paris and the public buildings in that city are ventilated on precisely these principles. A recent elaborate work of General Morin was sent for to Paris during the last year, and has been thoroughly examined. It is alluded to in our report. We have, in short, the highest scientific opinion in favor of the leading principles of our plan of improvement, and we have also the cases of the House of Commons and other public structures in Great Britain and the public buildings in Paris. It is idle for us to seek for information in this country, to call men who have a smattering of information on topics of this kind before us and reduce their evidence to writing. If we had twenty volumes of such testimony we could not have the guarantees for success for this plan which we have from the facts which I have stated.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Pennsylvania.

The amendment was agreed to.

Mr. DOOLITTLE. From the Committee on Indian Affairs I am instructed to offer the following amendment, to be inserted on page 26, after line six hundred and twelve of section one:

Appropriations required for fulfilling treaty stipulations with the Seminole nation of Indians, under treaty of March 21, 1866, for the fiscal year ending June 30, 1867:

For this amount, to be paid under the direction of the Secretary of the Interior, to enable the Seminoles to occupy, restore, and improve their farms, as per third article treaty of March 21, 1866, \$30,000.

For the purchase of agricultural implements, seeds, corn, and other stock, as per third article treaty of March 21, 1866, \$20,000.

For the erection of a mill as per third article treaty of March 21, 1866, \$15,000.

Interest on \$50,000 from the date of the ratification of the treaty, at the rate of five per cent. per annum, to be paid annually, for the support of schools, as per third article treaty of March 21, 1866, for the fiscal year ending June 30, 1867.

Interest on \$20,000 from the date of the ratification of the treaty, at the rate of five per cent. per annum, to be paid annually for the support of the Seminole government, as per third article treaty of March 21, 1866, for the fiscal year ending June 30, 1867.

For this amount to be expended for subsisting the Seminole Indians as per third article treaty of March 21, 1866, \$40,362.

For this amount, or so much thereof as may be necessary to pay the losses that may be awarded under the provisions of article four of treaty of March 21, 1866, as per third article of said treaty, \$50,000.

For this amount, or so much thereof as may be necessary to pay the expenses of a board of commissioners, to be appointed by the Secretary of the Interior, to investigate the losses of the loyal Seminole Indians, as per fourth article treaty of March 21, 1866, \$720.

For the erection of agency buildings, as per sixth article of treaty of March 21, 1866, \$10,000.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause a census of each tribe to be taken, as per first clause seventh article treaty of March 21, 1866, \$2,500.

For transportation of such articles as may be purchased under the direction of the Secretary of the Interior for the Seminole Indians, under treaty of March 21, 1866, for the fiscal year ending June 30, 1867, or so much thereof as may be necessary, \$12,000.

These are the estimates to carry out the third, fourth, fifth, sixth, and seventh articles of the treaty with the Seminoles made since the Indian appropriation bill was passed.

The amendment was agreed to.

Mr. DOOLITTLE. I am also instructed by the Committee on Indian Affairs to offer the following amendment to carry into effect the treaty with the Creeks:

Appropriations required for fulfilling treaty stipulations with the Creek nation of Indians under treaty of June 14, 1866, for the fiscal year ending June 30, 1867:

For this amount to be paid *per capita* in money, unless otherwise directed by the President, upon the ratification of the treaty, to enable the Indians to occupy, restore, and improve their farms, to pay the damage sustained by the mission school, and to pay the delegates of the council as per third article treaty of June 14, 1866, \$200,000.

Interest on \$775,168, from the date of the ratification of treaty, at the rate of five per cent. per annum, to be expended under the direction of the Secretary of the Interior, as per third article treaty of June 14, 1866, for the fiscal year ending June 30, 1867.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause the line dividing the Creek country as provided for in the terms of the sale of Creek land to the United States in article third, as per eighth article treaty of June 14, 1866, \$4,000.

For the erection of agency buildings, as per ninth article treaty of June 14, 1866, \$10,000.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause a census of the Creeks to be taken as per first clause tenth article treaty of June 14, 1866, \$2,500.

For this amount, or so much thereof as may be necessary, to pay the expenses incurred in negotiating treaty of June 14, 1866, as per fourteenth article of said treaty, \$10,000.

For transportation of such articles as may be purchased for the Creek nation of Indians, under treaty of June 14, 1866, for the fiscal year ending June 30, 1867, or so much thereof as may be necessary, \$7,000.

The amendment was agreed to.

Mr. RIDDLE. I offer the following amendment as an additional section:

*And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per year, and mileage as now provided by law; and this provision shall be construed to operate from the beginning of the Thirty-Ninth Congress.

I do not intend—I am not well enough if I desired to do so—to occupy the time of the Senate in discussing this proposition; but Senators have shown a disposition of late to be generous to others, and I think it now becomes them to be just to themselves. We have been detained here eight months during this session, and there is no Senator on this floor who can say that his salary for the year will pay his expenses during the session. We are increasing salaries everywhere. We are giving clerks more than we get ourselves. We are exhausting our energies, we are ruining our health, and we are really not getting enough to pay our house rent and marketing. I ask the calm consideration of the Senate upon this proposition. It is certainly not an extravagant one.

Every Senator will admit that we are paid less than any employes of the Government, and why this provision should not be passed I cannot imagine. I leave it to older Senators to say what they will do with the subject.

Mr. HENDERSON. I desire to offer an amendment to the amendment as a substitute for it. It is to strike out all after the word "that," in the first line of the proposed amendment, and insert:

The compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present session of Congress; and in addition thereto, mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives.

Mr. JOHNSON. The objection to the amendment to the amendment, if it is subject to objection, is to the clause which relates to mileage. Twenty cents would pay a Senator himself, but we have got into the practice—and a good one it is upon every account—of bringing our families here. It does not refer to me, because it costs me nothing; but to give twenty cents to a gentleman bringing his family with him, is not to pay his expenses at all. It was the opinion of Mr. Calhoun, and I think I have seen evidence of its justice more than once, that one of the bonds of the Union was the mileage. The distant States would be more likely, or just as likely, to be kept from leaving the Union because of this mileage provision as by any other cause of a similar character. Now, I suppose we will all admit that it is much better that Senators should have their families with them than that they should leave them at home and be here by themselves. Upon every account it is better; but they cannot do that, bring them here, or take them away, for anything like twenty cents a mile.

Mr. HENDERSON. I modify my amendment to the amendment by striking out the words "session of," at the suggestion of some Senators, and leave the compensation to be computed from "the first day of the present Congress" instead of the first session of the present Congress.

The PRESIDING OFFICER. If there be no objection, the amendment will be so modified.

Mr. HENDERSON. Mr. President, if this proposition be adopted, the compensation and pay of members of Congress, to be compensated from the beginning of the present Congress, will be \$5,000 a year and twenty cents mileage. Senators are aware that the mileage now is forty cents. The proposition as originally presented by the Senator from Delaware is to pay \$5,000 and forty cents mileage. I will not vote for that proposition. I will not vote any longer for the extravagant and extraordinary mileage that we are paying. We are paying too much mileage. We can strike off a part of that mileage, and yet give to members of Congress a fair compensation. We can save some sixty thousand dollars in mileage, putting the compensation at \$5,000 per annum, and yet pay every cent that ought to be paid in the way of compensation to members of Congress.

The difference now between the pay of members of Congress is too great. For instance, we pay to one of the California members \$16,964 80 per Congress; that is, \$8,482 per year. We pay to another one of the members \$17,124 80. We pay to one of the Oregon members \$17,936, and to another of them \$17,936, the same sum. We are paying to each one of those members \$11,936 in the way of mileage alone, their compensation being only \$6,000; the mileage being double as much as their regular pay. I hope those Senators will pardon me for referring to this subject, because it is a thing we must refer to in talking about the question of compensation. We are compelled to do it. In the same proportion is this thing unjust in regard to other members who live not so far as the Oregon and California

members, but still who live at a great distance from the capital.

The original mileage was adopted before railroads were known in this country, and the idea upon which it was adopted was that it was to be a part of the compensation of members. No idea was entertained that it was to be a part of the compensation for traveling expenses, but it was to be compensation for services rendered. In other words, those members could not get home in order to transact any business, and therefore they ought to be paid a larger compensation. Now, sir, a member from Minnesota or Wisconsin can go home just as easily as a member from Pennsylvania. I say as easily; I speak comparatively. Perhaps my friend from Rhode Island [Mr. SPRAGUE] will lose a day in going home, and a Senator going to St. Paul will lose two and a half days. Now, what is the difference? The Senator from Rhode Island gets comparatively nothing in the shape of mileage. He gets his \$3,000 a year, the amount that we pay to almost any clerk here about the Capitol, and he gets nothing more; while a gentleman who comes from Minnesota gets some three or four thousand dollars in the shape of mileage. Is that right? Is there that difference? Why, sir, he can go home in the course of two and a half or three days. He can attend to business just as well as the Senator from Rhode Island can.

Here is my friend from New York, [Mr. HARRIS,] living at Albany, New York; what compensation does he draw in the shape of mileage? Here is the Senator from Maine, [Mr. FESSENDEN,] what mileage does he get? He gets some three or four hundred dollars in the shape of mileage every year. Can he go home to transact any business any more than the Senator from Minnesota sitting farthest from me, [Mr. RAMSEY?] Has he been able to go home and transact any business during this session? The Senator from Minnesota gets some two or three thousand dollars in the shape of mileage, and my friend from Maine gets scarcely more than enough to pay his way here.

Mr. RAMSEY. I desire to correct the Senator from Missouri. There is no Senator from Minnesota who receives two or three thousand dollars mileage.

Mr. HENDERSON. You ought to get it.

Mr. RAMSEY. We do not get it.

Mr. HENDERSON. I will read what the Senator receives; I mean for the two sessions. I am not referring to the Senator for the purpose of calling in question his mileage, but only for the purpose of the argument and illustration. The Senator from Maine to whom I referred receives for mileage \$984, which is about correct, for the two sessions, for a Congress. My friend from Minnesota need not have become excited on the subject, for I see that he draws \$3,808 in the shape of mileage every Congress; that is \$1,904 each session. I stated the amount lower than it really is; but I only referred to it for the purpose of illustration. I say that the Senator from Maine can no more attend to business in the State of Maine and attend to his duties here than the Senator from Minnesota. It is perfectly unjust to have this distinction in compensation.

The Senator from Maryland asks me what his mileage is. I have been inquiring into the subject of mileage, not for the purpose of commenting upon the mileage of any particular Senator, but for the mere purpose of showing the inadequacy of the compensation of some Senators. The Senator from Maryland receives \$77 20 per Congress; that is, \$38 60 for each session of Congress; and he receives \$3,000 per year for his services in this body. Is that any compensation?

I know that a great deal of objection will be made to any increase of the compensation of members. We are all perfectly aware that the present compensation is about the compensation that was adopted some fifty years ago. It is true it was eight dollars per day with the very same mileage that we now have, but it amounted to about the same thing when Con-

gress was in session as long as it has been this year at least. We are paying to the Superintendent of the Coast Survey \$6,000 per annum. We pay to our Assistant Treasurer at St. Louis \$4,000 a year. We pay the Assistant Treasurer at New Orleans about the same amount. We increased the other day the compensation of the Commissioner of Internal Revenue to \$6,000. Although Mr. Rollins is a very excellent officer, and discharges very important and responsible duties, I submit to Senators whether Mr. Rollins's services are worth to the Government any more than Senators regard theirs worth to the Government. I think not. We pay to the assessors of the internal revenue at all the important points in this country from four to five thousand dollars. We pay to the collectors of internal revenue \$5,000; it amounts to that in almost every place. The collector of customs at Philadelphia receives \$6,000; at New Orleans \$6,000; and even the surveyor of customs at New York receives \$4,900. A proposition has been introduced here for paying, I believe, \$5,000 to the Assistant Secretary of the Navy, and so in regard to the Assistant Secretaries in all the other Departments. The people ought to understand one thing: that in the increase of salaries a feeling of delicacy on the part of members of Congress has prohibited them heretofore from making any increase whatever in their own cases. They have been compelled to increase in other cases, but they have not increased in their own.

Now, Mr. President, let us see what effect this proposition will have. The Senator from Maryland objects that if this plan be adopted the Senators from the Pacific coast will not have a sufficient compensation. Why, sir, their compensation will be from thirteen to fifteen thousand dollars a Congress. If the amendment that I have offered shall be adopted, they will receive from six to seven thousand dollars for each session of Congress; and other members will have on an average about fifty-five hundred dollars a year. The only question is whether that amount of mileage, the reduction from forty to twenty cents per mile, and the increase of the compensation, will not make the average compensation of Senators and Representatives better than it now is. I think that something of this sort ought to be adopted. I am perfectly satisfied of it. I am unwilling to vote an increase to \$5,000 per annum, leaving the mileage as it now stands. I think that that mileage is too much. We ought to adopt some rate of compensation which will pay each member, no matter how near he lives to the capital, a fair compensation. The larger body of the members live near to the capital. We ought to adopt a rate of compensation that will pay them, because it is perfectly notorious to the country, and the country understands perfectly well, that members who live within two or three hundred miles of the capital cannot attend to other business unless they happen to be, like my friend from Maryland, [Mr. JOHNSON,] able to attend to business in the Supreme Court, having already a large practice there. Many Senators are so situated that they cannot attend to business here. Some of them are not lawyers, and others of them have no practice in that court; and there is no other business, therefore, that a gentleman can attend to here. It is utterly impossible. Hence it is that some compensation ought to be adopted that will be fair, equitable, and just.

Mr. POMEROY. I do not care myself about this question at all. I only desire to say one word. The Senator from Missouri does not know anything about living; he is a bachelor. He never lived an hour in his life; and he is the very last man who should come here to talk to Senators about their expenses. [Laughter.]

Mr. HENDERSON. I never said a word about expenses. I did not mention the subject of expenses that I know of.

Mr. POMEROY. What is proper compensation depends to a considerable extent on a

person's expenses. I suppose it is generally understood that a Senator coming here should get compensation enough to meet his expenses. That is the reason why I find that many Senators about me cannot afford the luxury of a family; they tell me, in Washington, because their compensation will not justify it. That is the only way I can account for the leanness of my friend from Missouri. [Laughter.] For my own part I care nothing about the question of compensation one way or the other be it more or less; but I once thought I would keep an account of my expense in Washington, and I found that the actual expenses, without regard to luxuries such as wines, cigars, and tobacco—things for which I never spent a cent in my life—were for one year and one month, in my case, \$11,640. A person who intends to have anything like his expenses paid ought not to calculate upon any reduction either of salary or mileage; but I do not suppose Senators care whether their expenses are paid or not. On that account I do not care whether the Senator's amendment prevails or not. I only say we should not undertake to declare that a person must govern his expenses here in Washington in these times by any reference to his compensation, because the compensation is not the first step toward the payment of the expenses of a man who has a family, living as he ought to do.

Mr. CONNESS. Upon this question of compensation and mileage, so far as it is proposed by the Senator from Missouri to make a change affecting my own and others situated like me from the Pacific coast, I have little to say. When it shall come to voting I shall not even cast a vote upon it. I will leave the office to the Senator from Missouri of individualizing the cases of Senators and proving that his own compensation should be increased, being too low, because that of others was too high. I will only say to that Senator, that for myself, and I am rather a moderate person in my expenses and mode of life, I have not yet paid my expenses since I came to the Senate, notwithstanding this immense mileage that the Pacific Congressmen are said to receive or do receive.

I will not undertake to inflict upon the Senate nor to meet the logic of the Senator by describing what my expenses are, and will not leave the Senate to be at a loss to determine which is the most expensive mode of living in Washington—whether to be without a wife or to have obtained one; to be newly married. [Laughter.] I presume that each of them has its incidents, and I leave to the Senators whom it concerns so much to conceal or keep to themselves those incidents. For my own part, it is not a sphere that I would penetrate at all.

I will simply terminate what I intended to say by adding that I do not care what disposition is made of this question. I did not come to Congress for salary. I am not going to make any contest to keep up salary or compensation, nor to raise it beyond what it is, either in the way of mileage or yearly allowance. It is a subject that I cannot speak upon in that connection, and cannot vote upon.

Mr. HOWARD. I presume the Senator from Missouri has made some estimate as to the effect which his present proposition will have upon the whole amount paid out of the Treasury for the compensation and mileage of members of Congress. I wish to inquire of him whether, if his scheme be adopted, it would increase or diminish the total amount which the Government pays for that kind of service. I have not had an opportunity of making an estimate myself, but I presume he has, as he seems to have prepared himself very carefully.

Mr. HENDERSON. I can answer the Senator. I have made a calculation. My proposition will increase the expenses of the Senate, that is the amount paid by the Senate, a little over \$100,000. We now pay \$423,539.20 according to the report which was sent in to us for the last Congress; that was the amount paid for the Senate during the two sessions

of the Thirty-Eighth Congress. If my amendment be adopted—I have not made a calculation upon twenty cents, but I have upon ten cents mileage—it will increase it about \$120,000; the total will be about \$545,000, or in that neighborhood. At ten cents it would be about \$510,000, which would make an increase of about \$80,000. I can state to the Senator that I have made another estimate, and it is when you take in the members from the southern States, when we do receive them; if the mileage were ten cents a mile—I have not made a calculation at twenty cents, but it could be easily made—we shall have reduced the expenses of the Senate by my proposition. The effect of my amendment would be to make a small increase in the amount paid to the members of the House of Representatives, at present; but in a few years the large number of Representatives coming from the extreme western States will make the present compensation at forty cents a mile and \$3,000 a year amount to much more than the proposition I now make, so that we shall absolutely have reduced the compensation by the adoption of this plan in the course of a few years.

Mr. DOOLITTLE. I regret that the mileage question is disturbed, or attempted to be disturbed. I know that in some cases it seems that the mileage is very large; but the mileage question disturbs not merely that, but raises a question very difficult to settle. It seems to me that it bears a little on another question that ought not to be lost sight of. I dare say that the disturbance of the mileage question to a certain extent disturbs the location of the capital of the United States. The fact that when persons come from the Pacific coast, or come from the far distant Territories, to Congress their mileage is such as to compensate them for actually making the travel, makes them satisfied to come this great distance to attend the sessions of the Congress of the United States; and I think it not wise to disturb that question. I can conceive, too, that the real truth is that in the case of those who come from a far distant coast and bring their families here their mileage does not very largely go beyond their expenses. I can well conceive that a single gentleman, a bachelor or a widower, if he is a member of the Senate, can come here at ten cents a mile; but can a Senator bring a wife and four or five members of his family for any such sum as that? Not at all. I think the mileage paid to Senators does not, on the whole, more than pay their actual expenses of traveling backward and forward with their families.

The other question of what compensation they should receive for devoting their time here, I think should be considered by itself, and I do not think that \$5,000 a year is any too much. During the war, and when the Government was straining every nerve to save its credit and to concentrate all its strength in the prosecution of the war, I was entirely unwilling that this question of compensation should be disturbed at all. I wanted it to remain, willing to bear the sacrifice which every man certainly must have borne living here upon his compensation, especially if he had a family to support. Certainly for myself my salary and mileage and all I have received has not by any means defrayed the actual expenses of myself and family, and I live as economically as certainly the majority of men.

But, Mr. President, since the war is over and the question is up I am not afraid to say what I honestly think. I think that a man who serves as a Senator of the United States, devoting his time so much to the public service, certainly ought to receive as a compensation for his services \$5,000 a year.

Mr. LANE. I shall vote for the proposition of the Senator from Delaware to increase the compensation to \$5,000 a year, believing that the members of the Senate are not sufficiently paid for their labors and the necessary expenses incident to their office. I shall vote against the amendment of the Senator from Missouri to interfere now with the question of mileage. This question of mileage was arranged some



fifty or fifty-five years ago with a view to compensation for traveling expenses. It has always been more, perhaps, than the actual traveling expenses. The means of transportation now are more extensive and cheaper, but the expenses of tavern bills and all that would perhaps compensate for this diminished expense of transportation. I vote for it, believing that we are not paid sufficiently for our services. An ordinary superintendent of a railroad in my State gets from six to ten thousand dollars a year. I do not feel that our services are sufficiently compensated. I should prefer myself to make this increased compensation commence with the beginning of the next Congress, to avoid the appearance of selfishness, although I think no one acquainted with me will suppose that my money instincts are sufficiently strong to induce me to vote for it for this Congress and not for the next. I vote for it as a permanent system, believing that we are not sufficiently paid. I know that there is no draft resorted to to bring members into the Senate; I know that they can resign; I know that you could get men to serve here for perhaps less than we are now serving for; but suppose you should look out to get \$3,000 Senators from our State, how would the public interests suffer. Could you get two such Senators for any such compensation except that we feel we are serving the public and making sacrifices all the time; but how long can you rely upon this state of things? I shall vote to pay the present mileage and \$5,000 a year, and believe that I have not been too highly paid, and I do it with the more freedom because I have perhaps now as little interest in the question as any other member of the Senate. I think if gentlemen are willing to come here and serve at all, you should be willing to pay them at least \$5,000 a year, and the people will so regard it. They do not require that their public servants should come here and serve for nothing. I am, then, for increasing the annual compensation to \$5,000 a year and reducing the pay of no man on account of mileage. I would give to members from Minnesota, and from the Pacific coast, and from everywhere else, their present mileage, and I would give \$5,000 a year compensation.

The present system of mileage has been in operation for a great many years. It has been supposed to be just and equal; and, perhaps, taking into view all the considerations connected with the subject, it is equal as we shall get it. I shall vote then for the amendment of the Senator from Delaware fixing the compensation at \$5,000 a year and the present mileage. I believe that neither you, sir, [Mr. HENDRICKS in the chair] nor myself have one single constituent, who knows our services and sacrifices, who will believe we are paid a cent too much for our services; and if they desire a different state of representation, let them get a cheaper article in services and sacrifices than their present members.

I shall vote the increase. I should do it more cheerfully to apply prospectively for those who are to come after me; but believing that I have discharged my duty and that you have discharged your duty during the present Congress, I shall vote for it as it is, to pay us in the past, assured that no man who knows me will misconstrue my motive. I will vote for it to apply to the present Congress; I will vote for it to apply to the next Congress. It is a matter of justice.

There are two systems. Either pay your members sufficiently or do not pay them at all, as they do in the British Parliament, and there their system of legislation costs them ten times what ours does, in contracts and in the provision for junior members of distinguished families. I shall vote with great cheerfulness for the amendment of the Senator from Delaware, and I do it with the greater cheerfulness because I think it will be the first time in the last four years that we have voted together. [Laughter.]

Mr. STEWART. With regard to this question of mileage, I should like to call the atten-

tion of the Senate to the fact that the alleged inequality will to a great extent be rectified by the building of a Pacific railroad in a few years. The usual course of travel now from the Pacific is by way of the Isthmus, which is about seven thousand miles, or nearly that. The utmost mileage that can be allowed in the course of six or eight years will be for about three thousand miles, so that the practical inequality in regard to mileage will be removed by the construction of that road and its becoming the usual line of travel.

I do not propose to argue a question that I am particularly interested in or my colleagues from the Pacific coast. I simply want to state that I believe as a matter of policy one of two theories should be adopted: either there should be such pay as an economical man with a family might live on, or there should be none at all, so that it should be understood that nobody but the rich could come here. A reduction of the mileage to the Pacific to any less sum than we now receive with the present expenses, will exclude those who have no means upon which they can draw, or have not considerably large means on which to draw in order to live. The incidental expenses of going to the Pacific are quite considerable; I do not care to enumerate them; I propose to let gentlemen try it and see what it is. I simply say that, in my opinion, those who have families must necessarily be excluded from Congress or entirely excluded from their families, and if they have families to support there they cannot come here on the salary now paid, and the poor are necessarily excluded. If you intend to exclude the poor, the best way is to abolish this whole sum, or otherwise give such compensation as will enable a man to live upon it at the lowest basis of calculation.

I think it is not worth while to adopt the amendment of the Senator from Missouri. It was formerly the case that members could live on their pay, but now money is only worth half what it was at the time the compensation was fixed; everything costs more than double what it did then. We are not receiving half the compensation in reality that was formerly paid.

Mr. DAVIS. I was very much pleased with the remarks of my honorable friend from Indiana, and I indorse the whole of them with one slight exception. He says, and I have no doubt truly, that he would prefer to vote for this amendment if it was entirely prospective. I prefer it in the terms in which it has been presented. It will embrace me if the amendment as proposed by the honorable Senator from Delaware passes. A proposition to modify it, to begin it with the next Congress, might exclude me forever, [laughter,] and, therefore, I am for taking it in the form in which it has been offered by the honorable Senator from Delaware.

I was very much struck with a remark made by the honorable Senator from Wisconsin. He says that if the mileage be modified as is proposed by the proposition of the Senator from Missouri, it may lead to an agitation of the question of the removal of the capital. I think it would, and I think that the agitation of that question from session to session would lose much more to the country than the additional mileage will amount to. I am in favor of the proposition as made by my friend from Delaware, and I do not care what may be its operation upon the minds of my constituency. I am willing to risk that and to vote for the proposition.

The PRESIDING OFFICER, (Mr. HENDRICKS in the chair.) The question is on the amendment proposed by the Senator from Missouri to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Delaware.

The amendment was agreed to.

Mr. CLARK. I move the following amend-

ment to come in at the close of the seventy-second line of the first section on page 4:

For reconstructing and repairing the levees on the Mississippi river, in the States of Louisiana, Mississippi, and Arkansas, \$1,500,000, to wit: \$305,000 in the State of Louisiana, \$655,000 in the State of Mississippi, and \$550,000 in the State of Arkansas, as nearly as may be with a proper regard to the efficiency of the repair; said money to be expended under the direction of the Secretary of War, who shall, at the next session of Congress, make an accurate and detailed report to each House thereof of the amount of money expended under this appropriation, the amount of work done, how and in what manner, where and by whom, the particular levees repaired or reconstructed, the rates paid for work and material, the condition of the levees, the areas protected by such repairs or reconstruction, and what sums, if any, remain unexpended.

Mr. TRUMBULL. I hope that amendment is not to be adopted. I do not wish to take up time or discuss this matter further than to call attention to it. It appropriates \$1,500,000, I believe, for the purpose of constructing levees in Arkansas, Mississippi, and Louisiana. I have several objections to this. In the first place I should like to know where the constitutional authority is to do it. By what authority do we appropriate money to build fences around men's farms in the southern States? That is all there is to it. It is building a levee to keep the water out of the plantations belonging to these aristocratic rebels during the war.

Mr. CONNESS. To keep the water within the Mississippi.

Mr. TRUMBULL. To keep the water within the Mississippi if you please to state it that way! You might just as well appropriate \$1,500,000 to set hedges around the farms of the State of Illinois, not to keep the cattle out from the farms, but to keep the cattle in the road.

Mr. CONNESS. It is to preserve navigation.

Mr. TRUMBULL. To preserve navigation! Why, sir, I believe there is some such suggestion as that in the report made by the Senator from New Hampshire, that by building levees up in Arkansas improvements are to be made to the mouths of the Mississippi river five or six hundred miles below. It seems to me there is no constitutional authority whatever for such an appropriation; and if there were constitutional authority for it, I think there is no propriety in making the appropriation. This is not for the poor men of the South; it is not for the destitute people; but this is an appropriation that is being made of a million and a half of money to the wealthy men of the South; it is to the large land-holders of the South; it is not of one dollar's advantage to the great mass of the people of the southern country. It is an appropriation to the rich men who are able to buy out the very persons who will appropriate the money. And are your constituents and mine, sir, small farmers in Illinois and Indiana and in the West, to be taxed for the purpose of building fences around the cotton plantations and sugar plantations of the wealthy down upon the Arkansas and Mississippi rivers who have been waging war against us? The benefit of this appropriation is for them.

But, as I said, I do not wish to take up time. I wish to state the two propositions on which I rely. In the first place, in my judgment, the constitutional authority for this appropriation is extremely questionable, and in the second place it is an appropriation the benefit of which is to be for the wealthy and not for the suffering. If it is an improvement necessary to be made, let the owners of these plantations who hold them by the thousands of acres sell half their lands and make them, or let the parties who have mortgages upon these plantations, the rich and the wealthy who are to have the benefit of this, sell off a portion of the land and appropriate the proceeds to the improvement of the rest.

As a measure to conciliate the South I have no sort of faith in it. The conciliation is to that class of men who brought on this war; it is to the aristocrats of the South, to the slaveholders of the South; they were the persons who owned these large plantations that are to be protected by these levees. I trust

the amendment will not pass without the serious consideration of the Senate. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CLARK. Mr. President, I agree with the last remark of the Senator from Illinois. I hope that this measure will not pass without the serious consideration of the Senate; but I do also hope that it will pass with the serious consideration of the Senate, because it is a matter to which I suppose the Senate will give its consideration, and will act upon its serious consideration.

For the last four years the levees on the Mississippi river have been, one way and another, chiefly by neglect and by flood and by the operation of the war, broken down to a very great extent. Early in December last, considering the extent to which these levees had been broken down, the Secretary of War ordered General Humphreys to make a survey of the river, to the intent that he might do something toward building up the levees. General Humphreys went to make that survey, but when he got through the army had been removed to a great extent, through which the Secretary of War had intended to make some repairs; but he made a report to Congress, which has been brought here this session, stating that it would cost to build up those levees and put them in ordinary repair about four million dollars. Any one, I think, will see, when I state that sum, that it must be beyond the reach of those people within any ordinary period to reconstruct and repair the levees. They may do it in time; they may do a part this year, and a part next year, and a part the year after, and by and by bring them to a state of repair which shall enable them to cultivate their land. But in the mean time that people is suffering; the plantations are lying waste, and the national Government is absolutely losing more in the waste and destruction of property and in the want of general prosperity than it would cost to make the appropriation.

Mr. TRUMBULL. I ask the Senator if that argument applies to the raising of corn in my State. I ask the Senator from New Hampshire if he does not think that if \$1,500,000 were laid out in making fences in the prairie country we should raise enough more corn to benefit the country in the same way that he proposes here.

Mr. CLARK. Perhaps it might be so; and I would say to the Senator from Illinois that if his people were in the condition of the southern people, if they had been impoverished by a calamity or by their own wrong, as these people have been impoverished, so that they could not rise from the calamity that was upon them, I would, if I could find authority for it, make an appropriation that should enable his people to recover their prosperity.

Mr. TRUMBULL. The people who own these plantations are better off to-day than the mass of the people in my State.

Mr. CLARK. I do not know how that may be, but such is not my information. I know that people who were rich before the war and before the flood swept through their country are now impoverished; they are this present summer unable to cultivate their land because it is continually overflowed. When the memorials on this subject were referred to the select committee from whom this amendment comes, and they came to the consideration of what had best be done, I asked General Humphreys and I asked also General Canby to come to me and give me some information in regard to it. They both came. They both came, and they both assured me that in their judgment it was entirely beyond the power of the people living in that country to recover themselves for years; that unless something was done by the General Government they must suffer. I saw at once that the national Government would not be willing to do what would be required to put these levees at once in repair and reconstruct them; that is to say, I did not believe the national Government would be willing to expend four or five million dollars at once; but

it did seem to me—and I think the same was the view of the committee—that we might appropriate something which should make a beginning; that we might hold out the hand of encouragement to that people down there, and say to them, "We will not see you swept away by flood and by the operations of war, and not be willing to show to you that the Government will cherish the whole country as a part of its own." I thought, and the committee thought, we might expend about a million and a half of money. I asked General Humphreys if with a million and a half of money we could construct permanent levees, so that they would be of use to the country.

It was said by gentlemen from that region that \$1,500,000 would hardly do; you must make these repairs to that extent that they will not be swept away by the flood when it comes on in the recurring season; you might keep the water out, and to do it you must do it at once. When I called General Humphreys to me he assured me that he could, with \$1,500,000, do a vast deal of good. I asked him to state to me in what way he would do it, and he sent to me afterward a report, which I will read in part to the Senate:

WASHINGTON, June 26, 1866.

DEAR SIR: At your request I submit the following memorandum concerning the repair of the levees of the States of Mississippi and Louisiana. The Arkansas levees, just above the Louisiana boundary line, form part of the protection of the Tensas bottom, and must be repaired if that bottom is to be protected.

Having \$1,500,000 to expend I should recommend for the State of Mississippi the repair:

1. In Tunica county, of the six breaks named in my report to the Secretary of War, 460,000 cubic yards, at 35 cents, \$161,000.

It will be seen, Mr. President, that this report of General Humphreys is based upon actual estimate for the different levees from place to place. It is not any general estimate to get a large sum out of the Government.

1. In Tunica county, of the six breaks named in my report to the Secretary of War, 460,000 cubic yards, at 35 cents.....	\$161,000
2. In Coahoma county, the Yazoo Pass breaks, 130,000 cubic yards, at 60 cents.....	78,000
The seven other breaks in this county, named in my report, 140,000 cubic yards, at 40 cents.....	56,000
And the break in the Lewis Swamp levee, 400,000 cubic yards, at 40 cents.....	160,000
3. In Bolivar county the Pontchartrain break, by the Swan Lake route, 125,000 cubic yards, at 40 cents.....	50,000
The Bolivar Bend breaks (greatly enlarged during the present high water and since my report to the Secretary of War was made) 100,000 cubic yards at 40 cents.....	40,000
The Eastern break, 70,000 cubic yards, at 40 cents.....	28,000
4. In Washington county the Miller's Bend break, (as this break was only partially closed before the present high water, it has returned to its original dimensions,) 100,000 cubic yards, at 40 cents.....	40,000
5. In Issaquena county the Christmas break, 100,000 cubic yards, at 40 cents.....	40,000
Total for the State of Mississippi.....	\$653,000

The effective repair of these breaks will protect temporarily some three hundred thousand acres cultivated cotton lands, producing a bale to the acre.

Senators will see that if we appropriate this money the crop in one year, with the tax we have laid upon it, would repay it all. Then he goes on to estimate the breaks in other places:

For the Tensas bottom—

I will not detain the Senate to run through these various levees, because they will perhaps not be more intelligible than the mere name that would be given with the estimate. It was the opinion of General Humphreys that something should be done in order to enable this country to recover itself, and that with a million and a half of money we might be able to do much good in that regard.

I also received a letter from General Canby, who most of the Senators know as a very prudent and a very cautious man. It is dated June 30, 1866:

WASHINGTON, D. C., June 30, 1866.

SIR: I have the honor, in reply to your verbal inquiries of the 27th instant, to state:

1. That an efficient system of levees on the lower Mississippi is essential to prevent a considerable part of the State of Mississippi and a very large part of the State of Louisiana from becoming an absolute waste.

He says this expenditure on the reconstruction and repair of these levees is absolutely necessary to prevent this country from becoming an absolute waste.

In both of these States the lands subject to overflow are in the most productive sugar and cotton districts.

2. That the work can be most efficiently and economically done by the General Government, and should be placed, until completed, beyond the control of the State or other local authorities or individual interference. The cost of restoration, or rather of reconstruction, can only be estimated after a careful survey of the line on both banks of the river and on a part of the course of some of its tributaries and affluents. It will certainly exceed \$3,000,000 and will probably reach \$5,000,000.

I ask the attention of Senators to this statement that I am now about to read of General Canby, because he has been down in that country, he has given the subject his attention, and is a man of good judgment:

3. Neither of the States of Mississippi or Louisiana are at present, or will be for several years, in a financial condition that will enable them to undertake and carry out this work without the aid of the General Government.

4. If the work of reconstruction cannot be undertaken by the Government, the repair of the most important parts—having reference to the amount of work to be done and the extent and productiveness of the country to be protected—will be of immense value to the States interested by warding off the danger of inundation until they are in a condition to undertake the work for themselves.

5. An estimate of the sum required, if the work is limited to such repairs as are of immediate and pressing necessity, must be in great measure conjectural. In the spring of 1865 it was estimated that the repairs of the Mississippi levees within the limits of the State of Louisiana could have been made for the sum of \$200,000. This estimate was based upon the reports of the parish provost marshals, of the engineers employed by the United States and by the State, and included in its elements the employment of troops, the impressment of labor from the plantations to be benefited, and the use of the material that had been accumulated in the Army depots. At a later period a new estimate was made embracing the levees in the State of Mississippi, excluding the use of the impressed labor or Army material, but including, to a reduced extent, the employment of troops. The sum required as then estimated was \$500,000. This estimate was based in part upon the same data as the first, but mainly upon the estimates of Major General Humphreys. In the estimates to be made now, contract service or hired labor must be wholly relied on, and an allowance must be made for the damage done the levees by breaks or washing during the recent floods. These two elements will, in my opinion, increase the amount of the above estimate at least fifty per cent., making \$1,200,000 as the sum required for such repairs to the levees as are immediately necessary to prevent inundations.

Very respectfully, sir, your obedient servant,

ED. R. S. CANBY,  
Major General Volunteers.

Hon. DANIEL CLARK,  
United States Senator, Washington, D. C.

After the first letter of General Humphreys I received another from him, in which he says he had learned that the levees in some places had been very much washed and the cuts very much deepened since he made his former report, and that he hardly thought \$1,500,000, or what the committee have reported, would be sufficient; but the committee did not see fit to increase their recommendation of the amount to be appropriated by the General Government, and they still adhere to \$1,500,000.

Now, Mr. President, if we suppose that General Humphreys is correct, and that the building of these levees at the Yazoo pass would protect three hundred thousand acres of land which would yield a bale of cotton to the acre, allowing a bale to weigh about four hundred pounds, the tax that would be laid upon that cotton in one year would be double the amount you propose to appropriate. About the same amount of land would be protected by the building and reconstruction of the levees in the State of Louisiana, or about three hundred thousand acres, and that would give you as much more. And it is stated further, that if there could be a thorough construction of levees up and down the banks of the Mississippi, about seven million more acres of land would be brought under cultivation in time which would give you a bale to the acre, adding to your present crop of cotton about seven million bales, or an amount larger than we have ever had at any time.

If, then, you look at this matter in an economical point of view, if you look to see what is to be paid out from the Treasury and then look

to see what is to come in return into the Treasury, it is for the benefit and advantage of the Government to make this outlay.

But there is another point beyond that which was alluded to in the report of the committee, which has been alluded to by the Senator from Illinois, and to which he does not give much consideration; and that is, that at a time when that country is impoverished, at a time when it is cast down, at a time when we are excluding their representatives and not admitting them to this floor, I desire to hold out the helping hand of the Government to that people that they shall realize that they are still living under a Government which cares for them. I do not know how we can do anything better. I want that people to feel that they are a part of the Union, that they are to be still a part of the Union, that they are to have the benefits of the Government, and I am willing to be a little in advance. Before we collect the taxes, I am willing to take the money of the Treasury and pay for the repair of the levees on the Mississippi in this way, in a way of encouragement to that people.

I do not propose to enlarge on this matter, Mr. President, because it was before the Senate some time ago, and the report made by the committee has been before the Senate, and I propose to leave it to the votes of the Senators.

I have not much difficulty in finding a ground upon which we can go in making this appropriation; and that is the improvement of the river, which is perfectly a constitutional matter. If Senators will examine the engineers, they will all say to you that in order to carry out the rubbish and matter that is floated down the river it is necessary to confine the river within its banks, and if you suffer the levees to be broken down and suffer the water to go into the swamps in Arkansas or up in the higher parts of the river and then come back to the current bringing more rubbish and more dirt into the river, you form a bar at the mouth of the river which effectually obstructs its navigation. I inquired particularly in regard to this matter of General Humphreys, and he told me that he had examined it with great care, and there was no doubt of that result; so that if you will protect your river and have it open to commerce and navigation for time to come you must necessarily build these levees in order to protect the river, if you lay entirely out of the account the plantations and the land on either side. I do not propose to trouble the Senate further, but am willing to rely on the yeas and nays upon the adoption of the amendment.

Mr. SHERMAN. I have been endeavoring to ascertain the wishes of Senators in regard to a recess, and I find that it is the general desire to have a recess. With the understanding that we shall sit this bill out to-night I move that the Senate now take a recess until seven o'clock.

Several SENATORS. Say half past seven.

Mr. SHERMAN. No; I think till seven o'clock is long enough.

Mr. CRESWELL. I move to amend the motion by naming half past seven o'clock.

Mr. SHERMAN. I think we had better acquiesce in seven o'clock; I believe that is the sentiment of a majority.

The amendment was agreed to; and the Senate took a recess until half past seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven and a half o'clock p. m.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 643) to alter the place of holding the circuit courts of the United States for the Rhode Island district, and the bill (H. R. No. 675) amendatory of an act to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved May 11, 1866, were severally read twice by their titles and referred to the Committee on the Judiciary.

The bill (H. R. No. 800) for the relief of Marion M. Buxton, the bill (H. R. No. 797)

granting a pension to Daniel Lucas, the bill (H. R. No. 798) for the relief of Quincy A. May, and the joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars a month, were severally read twice by their titles and referred to the Committee on Pensions.

#### IMPORTED MERCHANDISE AT NEW YORK.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York.

Mr. MORGAN. I move that the Senate disagree to the amendments of the House, and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Messrs. CHANDLER, MORGAN, and RIDDLE were appointed.

#### RAILROAD FROM FORT RILEY TO FORT SMITH.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 224) granting lands to the State of Arkansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas.

Mr. POMEROY. I move that the Senate concur in the amendments of the House of Representatives.

Mr. TRUMBULL. What are they?

The Secretary read the first amendment, which was in section one, line twelve, to strike out "ten" and insert "five alternate."

Mr. GRIMES. What is the effect of that?

Mr. POMEROY. The effect of that is just nothing at all. The original bill granted ten alternate sections per mile, and the amendment grants five on each side, which is just the same thing.

The Secretary read the other amendments, namely:

In section one, line thirteen, after the word "road" insert "and not exceeding in all ten sections per mile."

In section two strike out from "sold," in line five, to and including the word, "aforesaid," at the end of line seven.

In section three, line four, strike out "be in readiness to."

In section three, line five, after "Government" insert "of the United States, free from all cost or charges therefor to the Government."

In section three, strike out after "thereof," in line six, down to and including "roads," in line ten.

In section three, line ten, strike out "and reserved as aforesaid."

In section three, line sixteen, after "land" insert "herein granted."

In section ten, line three, after "acquire" insert "title to land for railroad purposes."

In section ten, line five, strike out the words "railroad purposes."

In section eleven, line four, strike out the words "and subsidized."

The amendments were concurred in.

#### CALIFORNIA AND LOUISIANA DISTRICT COURTS.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 179) in relation to the district courts of the United States in the States of California and Louisiana. The House amendment was to add the following additional section:

SEC. 5. *And be it further enacted*, That the salary of the United States district judge for the district of Louisiana shall hereafter be \$4,500 per annum.

Mr. HARRIS. I move that the Senate non-concur in that amendment.

Mr. JOHNSON. Why?

Mr. HARRIS. I think we had better settle that question of judicial salaries all at once and not by installments.

Mr. JOHNSON. I ask my friend from New York if there is a bill to settle that.

Mr. HARRIS. There is a bill now pending in the Senate.

Mr. JOHNSON. What is the effect of this vote upon the other provisions of this bill?

Mr. HARRIS. This is the only amendment.

Mr. CLARK. It does not disturb anything else.

Mr. HARRIS. If we non-concur the House may recede.

The amendment was non-concurred in.

#### RESCUE OF THE SAN FRANCISCO.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 81) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with that vessel.

The amendment of the House was to strike out the second section of the joint resolution, and in lieu of it to insert these sections:

SEC. 2. *And be it further resolved*, That the sum of \$7,500 each is hereby appropriated, out of any money not otherwise appropriated, to the above-named captains respectively as a reward of their humanity and heroism in the rescue of the survivors of said wreck, and in case either of the said captains may have died, then the amount hereby appropriated shall be paid to the widow of such deceased captain respectively; if no widow survive, then to the respective child or children of said deceased captain; and in the event of there being no child or children of said deceased captain surviving, then the amount hereby appropriated shall be paid first to the father, or if the father be not living, then to the mother of said deceased captain, respectively.

SEC. 3. *And be it further resolved*, That there shall be paid to each mate of the three above-named vessels the sum of \$500, and to each man and boy the sum of \$100, and in case of the death of the respective mate or mates and men or boys, the said respective sums shall be paid in the same way and under the same conditions as the payment is to be made in case of the death of the respective captains.

Mr. JOHNSON. I move that the Senate concur in the House amendment. The original bill appropriated \$50,000 to be distributed by the President. The appropriation is reduced by the House, and the mode of its distribution is expressly provided for.

The amendment was concurred in.

#### CLAIMS OF MASSACHUSETTS.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 121) providing for the examination of the accounts of the State of Massachusetts for moneys expended during the war for coast defense. The amendment was to strike out all after the resolving clause and insert the following:

That the Secretary of War be authorized and required to settle with the proper authorities of the State of Massachusetts for expenses incurred by that State for coast defenses during the war, and that he report the amount found to be justly due said State on such account to Congress in December next.

Mr. GRIMES. I move that the Senate non-concur in that amendment.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following Senate bills and joint resolutions without amendment:

A bill (S. No. 358) granting a pension to Mrs. Nancy A. Stocks;

A bill (S. No. 866) granting a pension to Abraham Lansing;

A bill (S. No. 367) to extend the time of letters-patent issued to Thaddeus Hyatt;

A bill (S. No. 376) granting a pension to Drusey A. Layman;

A bill (S. No. 390) granting a pension to John Pyle;

A bill (S. No. 398) for the relief of W. B. Kelley;

A joint resolution (S. R. No. 82) to provide for codifying the laws relating to customs;

A joint resolution (S. R. No. 84) authorizing the payment of certain claims against the late Territory of Nevada;

A joint resolution (S. R. No. 111) for the relief of Sergeant Milton McKinnon;

A joint resolution (S. R. No. 125) granting the right of way through military reserves to the Union Pacific Railroad Company and its branches;



A joint resolution (S. R. No. 126) to authorize the use of certain plates of the United States exploring expedition by the Navy Department;

A joint resolution (S. R. No. 132) authorizing the Secretary of the Treasury to audit and settle the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco; and

A joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy.

The message further announced that the House of Representatives had passed the bill (S. No. 354) for the relief of William Crosswell, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the following bill and joint resolution:

A bill (H. R. No. 728) authorizing the Secretary of the Treasury to issue certificates of registry or enrollment and license to certain vessels; and

A joint resolution (H. R. No. 176) amendatory of a joint resolution entitled "A resolution respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs," approved June 15, 1866.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes;

A bill (H. R. No. 761) authorizing the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities; and

A bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, was read twice by its title and referred to the Committee on Finance.

#### COURTS IN WASHINGTON TERRITORY.

Mr. TRUMBULL. I do not see in his seat the Senator from Ohio, who has charge of the appropriation bill, and I move to take up House bill No. 438, which is a small matter and can be disposed of in a moment.

By unanimous consent, the bill (H. R. No. 438) in relation to the courts in Washington Territory was considered as in Committee of the Whole.

Mr. TRUMBULL. This bill was at first reported upon adversely by the Committee on the Judiciary; but since that report was made the attention of the committee has been called to it again, and I am instructed by the committee to move that the first section be stricken out, and to recommend that the bill as thus amended be passed. I move to strike out the first section.

The words proposed to be stricken out were read, as follows:

That the supreme court of the Territory of Washington shall be, and is hereby, authorized to fix the times for holding the supreme and district courts thereof at such places as may be designated by the laws of said Territory.

The amendment was agreed to.

Mr. TRUMBULL. There is only one other section in the bill, and I ask that it be read.

The Secretary read the section, as follows:

Sec. 2. And be it further enacted, That the judges of the district court shall appoint a clerk for each court in the district, who shall reside and keep his office at the place of holding said court, and exercise the powers now provided by law for the clerk of the supreme court of the Territory of Washington, and be subject to all provisions of law not inconsistent with this act applicable to the clerk of said supreme court.

The bill was reported to the Senate as amended and the amendment was concurred in.

Mr. TRUMBULL. I perceive that the bill

as it now stands ought to be amended. I move to strike out the words "the judges of the district court shall appoint a clerk for each court in the district," and in lieu thereof to insert "each judge of the district court shall appoint a clerk for each court in his district."

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time; the bill was read the third time and passed.

On motion of Mr. TRUMBULL, its title was amended to read: "A bill in relation to the appointments of clerks of courts in Washington Territory."

#### PAY OF ARMY OFFICERS.

Mr. RAMSEY, from the committee of conference on the disagreeing votes of the two Houses on the amendments to the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the resolution (H. R. No. 101) for the relief of certain officers of the Army, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 1, 2, 4, and 5, and agree to the same.

That the Senate recede from its third amendment.

ALEXANDER RAMSEY,

EDGAR COWAN,

W. SPRAGUE,

Managers on the part of the Senate.

JOHN A. BINGHAM,

GILMAN MARSTON,

NELSON TAYLOR,

Managers on the part of the House.

The report was concurred in.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN. I ask the Senate now to go on with the civil appropriation bill.

The PRESIDENT *pro tempore*. The bill (H. R. No. 737) making appropriations for sundry expenses of the Government for the year ending June 30, 1867, and for other purposes, is regularly before the Senate as in Committee of the Whole; and the pending question is the amendment proposed by the Senator from New Hampshire, [Mr. CLARK.]

Mr. TRUMBULL. I will take up no further time than to read a little statement that has been sent to me since this question arose. The Senate will recollect that the question under consideration is an appropriation of \$1,600,000 for the construction of levees on the Arkansas and Mississippi rivers to protect the low lands bordering upon those streams. Since the question has arisen this note has been sent to me, which I will read:

"The big crovasses were cut by the rebels themselves and would not bother had they not cut them. They cut them, as they asserted, to drown out the Yankees."

I suppose that is true.

Mr. JOHNSON. Will the honorable member tell us whom that note is from?

Mr. TRUMBULL. No, sir; I do not propose to tell that. I do not suppose the fact would be any different by stating the name of the party.

Mr. JOHNSON. But whether the party knew the fact would depend very much on the character of the writer.

Mr. TRUMBULL. I have understood from other sources that to be the fact. I have no doubt that our Army also was instrumental in destroying some of the levees.

Mr. JOHNSON. Ours cut a great many.

Mr. TRUMBULL. The rebels themselves destroyed the levees also to some extent. It was done, I suppose, by both armies, and I suppose that the parties to be benefited by this appropriation were as instrumental as any men in the nation in bringing on this war and in causing all this trouble, and that they are as well able to bear the losses they have suffered by the war as any other portion of the community.

Mr. SHERMAN. Mr. President, the Senate have already shown a disposition to load down this bill a good deal, but I feel it my duty to call their attention to the importance

of keeping it free at least from propositions likely to create objection in the House of Representatives. This appropriation, so far as I know, is not based upon any estimate or any recommendation by any officer of the Government. I have listened to the Senator from New Hampshire, and I have not heard that any officer has made a recommendation advising the appropriation of this sum of money, or that any estimates for any specific work have been made. Gentlemen interested in this enterprise have called on me, as they have no doubt on most Senators. I have no doubt that the object they contemplated is a very good one, the construction of levees along the Mississippi river, without which the best land on the Mississippi cannot be used for the growth of cotton. But it is a question whether we ought, at this period of the session, to engage in a work of this kind, when it is admitted by them, claimed by them indeed, that the work will cost some six or seven million dollars; that the expenditure of a million and a half would be only an imperfect work; that there is no general system or plan upon which the work can be done; that this will be but a partial relief, and the effect will be that we shall reclaim but a small portion of the land. We cannot cooperate now with the State authorities or with the local authorities. I understand that a local tax has heretofore been applied in the State of Mississippi to the construction of levees. No tax of that kind can now be assessed in the present condition of affairs there. There can be no cooperation between the local authorities and the authorities of the General Government, and therefore the work is not to be done unless we appropriate sufficient money for the purpose. I submit, therefore, whether it would not be better to let the subject stand upon its own merits, and let a bill properly prepared and guarded be proposed, appropriating a sufficient sum, and directing the mode and manner of expenditure.

If we continue to load down this bill, it will manifestly lead to its defeat. I feel that I neglected my duty in not calling for the yeas and nays on an important proposition which was adopted before the recess, and I shall take occasion to remedy that, so far as I can, by calling for the yeas and nays on that measure before the bill passes. It seems to me that we ought not now to jeopard our appropriation bills by introducing extraneous matter. This is an appropriation of \$1,600,000, a very large sum for a local purpose, a local improvement. If it had been put through like the ordinary river and harbor bill, or other appropriations for works of improvement, as a separate measure, on its own merits, I probably should have said nothing about it, but would have trusted to the report of the committee; but when it is proposed to be put on this appropriation bill, it is transferred to the Committee on Finance, and we are expected to take this appropriation upon ourselves, and take care of it, and "put it through," in cant phrase. It seems to me that, under the circumstances, these appropriations, extraneous in their character, and particularly this, local in its character, ought to stand upon their own merits. I call for the yeas and nays upon the adoption of this amendment.

The PRESIDENT *pro tempore*. The yeas and nays have already been ordered.

Mr. GUTHRIE. There was no reluctance to tax cotton and sugar. I gave notice then that I should vote for this measure, and I intend to stand by it. The system in all these States of keeping up the levees is totally deranged. Formerly they were kept up by a tax of a dollar a head on all the blacks on these plantations, and then there was a State tax of ten cents an acre, and then there was the aid that was given by the neighborhood in keeping up the levees. Now, there is no levee from Vicksburg to Natchez on the Mississippi side. At the last election before secession, when a Legislature was chosen, this very cotton region was conservative and elected representatives who were loyal to the Government and in favor

of the Union. They were afterward carried out, by what kind of process we cannot tell; but at the time that they elected a Legislature and elected the convention which finally carried them out this very cotton region sent a majority in favor of sustaining the Union. It is now impossible to tax the resources of the particular region as they were formerly taxed for keeping up these levees. Those resources are gone. I feel no hesitation about our power to maintain these levees, and I think we have not made an appropriation this session so wise and so beneficial and so calculated to make a quick return to the Government as this appropriation of \$1,500,000 for this purpose.

The Senator from Ohio says it will not do all that is needed. Well, sir, if we do a part this year, and they bestir themselves, as the owners of these farms will do, to eke it out, and if we make another appropriation next year, we shall only be, in the line of our duty, and we shall only the sooner have a cotton crop that will enable these people to pay their debts and to resume their trade and commerce with the provision States and with the manufacturing States, and until they can raise cotton and have a surplus we shall never have that trade restored. The gentlemen who are so much in favor of commerce ought to sustain this measure.

I shall not detain the Senate by arguing the question. These people have no servants now to work their farms; they have no steam-power to do it, they have no provisions, they have no means of hiring hands. All this must be done on credit. They cannot employ the freedmen beneficially unless they are enabled to cultivate their farms, and this appropriation, bringing that country into quick cultivation, is a great deal more beneficial to the freedmen than is feeding them through the bureau.

Mr. HENDRICKS. When this proposition was first presented by the special committee it was not very clear to my mind that we could make such an appropriation of the public money; but, sir, I believe that to some extent my judgment has been influenced by what I regard as a public necessity, and the further consideration that sixty-three years ago this country was acquired during the Administration of Thomas Jefferson, without any very clear authority to be found in the Constitution, and the most ardent supporters of that Administration were not able to see where the power lay to acquire the Louisiana country.

Now, sir, by a series of terrible misfortunes that country is almost lost, and it is very clear to us by the evidence, independent of that which the able committee has presented to the Senate, that the people of that locality are not able to recover that country themselves; and the question is, shall the Congress of the United States in 1866 make a small appropriation to recover a large and very important portion of the country which was purchased in 1803? If I do err on this question at all, it shall be in favor of what I regard as one of the most important measures before Congress, and I will say to the Senator from Illinois that this is not fencing the farms alone of the people of the South; it is helping to fence the farms of the men in Indiana and in Illinois. As soon as the waters of these great rivers are shut off from the lands, and the people upon the rich borders have restored them again to a condition of productiveness, we shall find and our constituents will find in that remarkably rich country their old and very profitable market, and every farmer in Indiana and Illinois that raises a bushel of corn is interested in having a market along the shores of the Mississippi river.

Mr. TRUMBULL. The Senator from Indiana will allow me to inquire where he finds the constitutional authority to improve the lands of individuals on the lower Mississippi for the purpose of making a market for the corn that his constituents and mine raise.

Mr. HENDRICKS. I was not discussing the question whether Congress can fence farms. That is not exactly the question. The question

is whether Congress can aid to reclaim a country which the Government bought in 1803, without the express letter of the Constitution authorizing it. This is to reclaim a whole section of the country and to restrain the Mississippi river within its natural limits. That river is under the control of the Government for almost every purpose. It is a great channel of commerce; it is the nation's river; it does not belong to Louisiana; it does not belong to Mississippi; it is the river of all the States; and when it has broken beyond its bounds, why may we not restrain it by some little aid which the Government of the United States may give to the people along the border?

But I was saying, when the Senator interrupted me, that there is no portion of the country more interested in this particular measure than the region of country that he and I represent. Let us have again that country restored to a condition of productiveness that our people—the men of Indiana and of Illinois—may find there the market that they did before these dreadful crevasses destroyed that country.

As I said, if I do err upon the question of the Constitution, I err in following the example that was set to us in the purchase of that country, and I will err on the side of a very important measure, as I understand it.

Mr. TRUMBULL. The only constitutional authority which the Senator from Indiana seems to find for this appropriation is in the fact that we acquired the Louisiana country without any express authority in the Constitution. Now, I suppose if the Government had had authority in the Constitution to purchase Louisiana, then, according to that argument, there would have been no constitutional authority to make this appropriation! But inasmuch as we bought the country without constitutional authority, therefore we have constitutional authority to appropriate money, now that it belongs to individuals, for the purpose of improving their farms; and the Senator calls that improving the Mississippi river. He says that we are all interested in the Mississippi river. True we are, but these levees are not constructed for the purpose of improving the Mississippi river; they are constructed for the purpose of protecting the alluvial lands upon the Mississippi bottom. That is the object.

I know it is said incidentally that will be the effect; and I believe the Senator from New Hampshire [Mr. CLARK] in his imagination conceived that it was possible that the building of these levees some five hundred or a thousand miles from the mouth of the Mississippi might confine the waters so as to assist in sweeping out the bar at the mouth—

Mr. CLARK. I cannot permit the Senator to state that it was my imagination. It is the report of the engineer, General Humphreys.

Mr. TRUMBULL. The report of the engineer supposing that levees upon the Arkansas river, for I believe this appropriation is partly to build levees upon the Arkansas—

Mr. CLARK. Not at all; not the least.

Mr. TRUMBULL. Well, in the State of Arkansas.

Mr. CLARK. Part of the State of Arkansas, on the Mississippi river.

Mr. TRUMBULL. The engineer seems to suppose that the building of levees up in the State of Arkansas would help to improve the navigation of the mouth of the Mississippi some thousand miles distant! It is possible.

Mr. CLARK. Yes, Mr. President, very possible, quite likely, exactly so, because the Mississippi requires a great volume of water to run in a current to carry forward the mud, &c., that comes down under the water, to prevent its being deposited at the mouth of the river and entirely obstructing navigation. If the river is once suffered to escape out into the swamps, the current is diminished in the channel of the river and it is not carried out into the Gulf.

Mr. TRUMBULL. I presume that we all know that a rapid current would have a tendency to carry off the deposits better than a slow one, but I do not suppose that a rapid

current coming down the mountain sides four thousand miles from the Gulf of Mexico would have much to do with the flow of water at its mouth; nor do I suppose that the rapidity of the current a thousand miles up in Arkansas would have anything to do with the rapidity of the current at the mouth of the Mississippi river.

Mr. HENDRICKS. Will the Senator allow me to interrupt him one moment? I believe the Senator was able to find the authority in the Constitution somewhere for the appropriation of \$7,000,000 to feed a portion of the people of that country and to build them school-houses and asylums in the States upon the ground that they were in a destitute condition. Now, I ask him if it is not quite as clearly within the Constitution to take the control of and restrain the great river of the West, and thereby restore a large farming country that these colored people and the refugees may find a place upon which to expend their labor profitably to them and profitably to the country.

Mr. TRUMBULL. If the Senator from Indiana can satisfy himself that this is an appropriation of money for the purpose of fencing in the Mississippi river, he may find authority to vote this appropriation; but that is not the object of this appropriation; it was not thought of for the improvement of the Mississippi river. The object of it is to protect the lands from the waters of the river, and not to improve the navigation of the stream. It is not placed upon that ground; and although it is a favorite argument of the Senator to suppose, as he has on several occasions, that because money was appropriated to take care of a whole race of people who as a consequence of the war were thrown upon the Government, therefore you could find authority in the Constitution for any appropriation whatever. I must say to the Senator from Indiana that I think there is no analogy between the cases. I take it that in the prosecution of the war and in the putting down of the rebellion the Constitution gave express authority for the armies to take possession of this country and take possession of its inhabitants, to put them in prison, to treat them as prisoners of war, and to feed them. Because the Government had authority to put down the rebellion by force of arms, to capture the enemies of the country and the inhabitants of the rebellious regions, if necessary to put down the rebellion, and imprison and feed them, it by no means follows that when the war is over the Government of the United States, not for the purpose of putting down a rebellion or suppressing an insurrection, but for the purpose of enhancing the value of private farms, has a right to appropriate money. That is all there is to this; it is an appropriation to help private individuals to make money from their plantations, and the Senator from New Hampshire says that the nation will be benefited by this, because if you will build these fences around the plantations of these former rebels you will enable them to plant a great deal more cotton; you tax the cotton and you will derive a larger revenue to the Government!

Why, sir, I look upon all such arguments as very far fetched. They would apply just as well in any other portion of the country as in Louisiana, Arkansas, and Mississippi. You might just as well appropriate money to build houses and fence farms in any other portion of the country and say if that was done the inhabitants of that locality would be enabled to raise larger crops, and as we tax the wealth of the country, the incomes of farmers, their incomes would be larger, and the Government would thereby derive a larger revenue. I do not think this Government will ever get rich by appropriating money to enable farmers to cultivate larger crops and then collecting a tax from the farmers. I look upon all such arguments as far fetched. But, sir, I do not wish to take time upon this matter; the yeas and nays are called for, and I am willing the Senate should decide it.

Mr. GUTHRIE. I am a good deal astonished at the argument of the Senator from Illi-

nois. He found no difficulty in voting for the ship-canal around the falls of Niagara, because it would enable vessels to reach the north end of Illinois and would benefit that State. There is as little in the Constitution to justify that work as there is to justify the redeeming the alluvial lands of the Mississippi where we have derived such immense amounts of cotton and sugar in the support of the commerce and trade of the United States. Indeed, it seems to me that all the venom and all the malignity that have been engendered in this war have found their resting-place within the bosom of that gentleman, and he cannot speak without abusing these people, now citizens of the United States, and once in rebellion. He can see nothing good there in any legislation except to tax that people without representation.

Mr. DOOLITTLE. Mr. President, if I understand this case, the United States found certain embankments on the shores of the Mississippi river and they cut holes in those embankments and let the waters run through; and the question is, has the United States the power to fill up the crevasses which they made?

Mr. SUMNER. The rebels made them.

Mr. DOOLITTLE. Our Government cut more holes than this \$1,500,000 will stop up.

Mr. TRUMBULL. Mr. President, I understand, and if the Senator from Wisconsin had read the history of the country, he must know, that the rebels cut holes in those levees.

Mr. DOOLITTLE. I do not doubt that.

Mr. TRUMBULL. Then why charge that the United States did it?

Mr. JOHNSON. Because they did it.

Mr. CLARK. Our troops did do it. The engineers and officers all say they did it.

Mr. TRUMBULL. They may have done it, too; but how came they to do it; let me ask the Senator from New Hampshire. They did it to put down the rebels, who did it themselves, did they not? They did it justly; they did it properly; and because these men fighting the Government themselves cut the levees and made it necessary for the United States to cut them, now you propose to rebuild them and tax your constituents to do it; and the Senator from Kentucky can see nothing but malignity in a refusal to do it.

Mr. GUTHRIE. Not exactly, Mr. President. All the malignity I think is engendered and resting in the gentleman's bosom.

Mr. TRUMBULL. The Senator thinks that the malignity is with me. When an appropriation goes into the pockets of the men who fought the country, it is malice to oppose it! When an appropriation is asked for the Niagara ship-canal, to promote the commerce of the country and the general welfare of the nation among all its people, the Senator from Kentucky can oppose it. I never opposed a proper appropriation for the improvement of the Mississippi river. This is not an appropriation for the improvement of that river. It may incidentally confine the waters to a narrower channel; but that is not the object of this appropriation, and the Senator knows it. Its object is to protect the farms of men who slew our brothers and our children, who brought war upon the country and desolation upon the land. Not one acre of this ground belongs to this Government; not one acre of this land scarcely, I think I may say, probably not a single plantation, belongs to a man true to the flag of his country. Who owns this land that you propose to appropriate this money for? Who owned it when this rebellion was inaugurated? Who fired upon the vessels going down the Mississippi river except the owners of these plantations? And it is malignant not to tax the people of this country now to protect these farmers! The object of this appropriation, and the Senator from Kentucky knows it as well as I, is not to improve the Mississippi river; and there is not in the history of this Government—and he cannot find it there by my vote or the vote of any Congress—a precedent for such an appropriation as this; and he, claiming to be guided by the Constitution, claiming to vote for nothing that the Consti-

tution will not warrant, finds no difficulty in voting money out of the Treasury for the purpose of reclaiming, as he calls it, the lands belonging to private individuals.

Sir, so far as the Constitution of the country is concerned and the authority to pass this bill is concerned, it is a matter wholly immaterial whether the owners of these lands were loyal or disloyal. I deny the authority as much in the one case as in the other. I would not vote a dollar from the national Treasury to protect the farms in Illinois from the overflows of the Mississippi river. I have seen in that State hundreds and thousands and hundreds of thousands of acres of as rich land as the sun shines upon inundated by the floods of the Mississippi river time and again, and I never thought of coming into Congress and asking for an appropriation from the Federal Government to protect the settlers upon those bottom lands. Sir, with the same propriety I might ask it. I do not put it upon the ground that the men who own these lands were once disloyal or are disloyal now. I stated that as one circumstance; but that does not affect the constitutional power. If they were as loyal as my own constituents I would not vote a dollar for such a purpose; and the distinction between an appropriation to improve the Mississippi river, a great highway of commerce, or to improve the passage from the lakes to the ocean, another great highway of commerce, and an appropriation for such a purpose as that now under consideration is very manifest.

Now, sir, it is not because this appropriation is made to affect people in the southern States that I object to it. I think I have as kindly feelings toward the people of the southern States as the Senator from Kentucky himself. I am for doing justice to that people. I am for treating them liberally. I am for treating them kindly. I am as desirous as he or any other member of the Senate at the earliest practicable moment, when it can be done with safety to the whole country, to welcome all the people into the Union, into the constitutional relations with the Union, and to receive their representatives here. I have manifested no such disposition as warrants the Senator in assuming that I am actuated by malignant feelings or that there is a concentration in myself of all the malignity of the country as against the people of the southern States. I have advocated upon this floor doing justice to all the loyal men of that country. I have been in favor of paying loyal men for the supplies that our armies took. I have advocated such a bill here; and on no occasion, if the Senator will search my action in this body, will he find that I ever placed my opposition to a measure upon the ground that it was to benefit one section of the country or another. I place it upon the ground that it must benefit loyal men. I will do nothing to benefit and aid the disloyal. But, sir, I care not, if it be a proper measure, what particular section of the country is to be benefited by it, and I will vote to improve the Mississippi river, if it needs it, as quickly in Louisiana as in Illinois.

Mr. WILSON. Mr. President, I shall vote for this proposition, although I believe the sum proposed is utterly inadequate to accomplish the purpose intended. I believe it will cost several million dollars to do the needed work on the Mississippi river; and I should be willing, as we have imposed a large tax upon cotton, that in the States of Arkansas, Mississippi, and Louisiana, a certain amount received from that taxation should go to improve that river and to secure the lands bordering upon it.

The Government of the United States immediately after the close of the war thought it so important to do something on this river that General Humphreys was sent down the river, and the armed forces of the United States were employed for some time in this work. For myself, I propose simply to act in regard to this river, that portion of it in the late rebel States, as I would were that portion of it in any other section of the country. It is not for us here to act in any other light than to comprehend

the entire country, and deal with every section of the country alike. I go as far as any man in requiring all needed guarantees in the Government of this country before the readmission of the representatives of the rebel States into these Chambers, but while I do that, I believe it to be our duty in all our legislation so to legislate as to improve and develop that section of the country as well as all other sections of the country. It has suffered greatly by this rebellion—the fault was theirs, and the punishment is theirs; but the war is over; the rebellion is crushed; the Government has complete control over every part of the country. I would not permit their late action in any way to influence our legislation here. I believe the good of the country requires that this measure should pass, and I shall vote for it cheerfully.

Mr. HENDERSON. As a member of the select committee that recommended this appropriation, I desire to state very briefly the reasons for it. I shall vote for this appropriation very cheerfully, not with a view of aiding and assisting the rebels or those men who fired on the steamers in 1861, because I apprehend that I was as much opposed to those men as the honorable Senator from Illinois or any other person. I believe that the power to make this appropriation is ample. I do not doubt it. I did not doubt the power to make an appropriation to keep from starvation the whites and the blacks of the southern States, and I voted for the bill appropriating money for that purpose. I regret very much that when an appropriation is asked for a purpose which is proper within itself we find many gentlemen suggesting that our Government is too limited to make it. I regret very much that oftentimes when we desire power to do that which is absolutely necessary for the protection of the Government itself, as has occurred repeatedly within the last five or six years, gentlemen can find no authority whatever to even save the life of the Government. There is nothing of that sort here; the life of the Government is not in danger whether this appropriation be made or be not made; and I appreciate the force of the argument made against it, that as a general thing it is an exceedingly bad policy to make such appropriations, and I do not think I would ever make another one like it. But what are the circumstances now? Perhaps similar circumstances will never exist again.

The Senator from Illinois mistakes when he supposes that this appropriation is exclusively for the benefit of disloyal men. I apprehend that he will find that a majority of the men who will cultivate cotton the next year in the protected region will not be disloyal but loyal men, and a majority of the men who will cultivate sugar in the protected region will be loyal and not disloyal men. But, sir, I apprehend that that makes but little difference; I apprehend that that does not affect the question of power; and I doubt whether it affects the question of expediency.

What have we done during this session of Congress? I stood here protesting against it, but how many votes did I get? The honorable Senator from Illinois did not give me his. I protested that it was bad policy to levy a tax of three cents a pound on raw cotton; but it carried. Now, will the Senator from Illinois, or any other Senator, tell me whether there is a tax levied upon the agricultural productions of any other section of the Union? Is any other agricultural production taxed but cotton? That is the only one. Why was that tax levied? I leave to honorable Senators to determine for themselves. We have the report of at least one Union officer, who has carefully investigated this matter, who tells us that without this protection there will be a failure to grow six hundred thousand bales of cotton next year. We know that no cotton has been grown this year in the region attempted to be protected by this appropriation, and there can be none next year unless this protection is given. How is it to be done? Unless we do it, it will not be done at all. Now, how much



taxes should we collect from six hundred thousand bales of cotton? A tax of three cents a pound is \$13 50 a bale. Thirteen dollars and a half a bale upon six hundred thousand bales of cotton would give us a revenue next year of \$8,100,000 from the article of cotton, which cannot be grown unless this appropriation is made.

The honorable Senator may say, "They are rebels anyhow, and we will make them pay taxes whether they are represented here or not." Senators know that I am in no hurry about their being represented, but when I undertake in the absence of the representatives of those men to impose a tax of \$8,000,000 upon them, I think I can very consistently make an appropriation of \$1,500,000 here asked. But is that all? Let me ask the honorable Senator if he proposes to levy any tax upon the sugar-cane grown upon the soil of Illinois? None whatever. We know that the sugar manufactured from the Chinese cane is free of taxes, every species of it. There is no tax levied except upon the sugar-cane grown exclusively in the southern States. How much shall we realize from that? Those officers who have examined this country say that the entire sugar section of Louisiana cannot now be cultivated. Senators know that every acre of it has been submerged this summer, to the utter destruction of the sugar crop. We shall not grow one dollar's worth of sugar in the submerged region of Louisiana this year.

Now, turn to the census of 1860 and see how much sugar was grown in that country. I find that there were two hundred and forty-one thousand hogsheads of sugar in 1860 grown in this protected region west of the Mississippi river in the State of Louisiana. Not one hogshead of that has been grown this year on account of the overflow of the river. That production of sugar would give us a tax of \$2,410,000 at one cent a pound, which is the tax we levy by our internal revenue act; and remember there is no tax on any other sugar-cane except that grown in the South. If we can realize two hundred and forty-one thousand hogsheads of sugar next year, we get a tax under our excise bill of \$2,410,000.

But that is not all. I found upon examination of the census that three hundred and seventeen thousand barrels of molasses was raised in this submerged country in Louisiana in 1860.

Mr. SHERMAN. But these levees are on the east side of the river.

Mr. HENDERSON. No, sir; they are intended to protect the sugar country on the west side as well as the cotton country on the east side.

Mr. CLARK. Certainly it provides for both.

Mr. SHERMAN. I understood from the Senator from New Hampshire that it was to protect the Yazoo land.

Mr. HENDERSON. It does protect the Yazoo land; but that is not a sugar-growing country. The Senator knows that the Yazoo land is the best cotton-growing country of the southern States; and I referred to the Yazoo country when I spoke of the country that produced six hundred thousand bales of cotton. That portion which we propose to protect south of the mouth of the Arkansas river is on the west side, and is exclusively a sugar-growing country.

I was going on to state that there were three hundred and seventeen thousand barrels of molasses grown there in 1860. I put those barrels at forty gallons each, making twelve million six hundred and eighty thousand gallons of molasses, which, at a tax of three cents a gallon, would yield \$380,400. Thus the aggregate of taxes which we may collect next year in consequence of this small appropriation is \$10,890,400. I have merely made a fair calculation from the census figures of 1860. Senators can see whether we shall make money by it or not so far as the taxes are concerned.

The Senator from Illinois need not make so much disturbance about "rebels." I am as much opposed to rebels as that Senator or any other Senator; but I am heartily tired of this

eternal calling out "rebels! rebels!" whenever an appropriation that is at all distasteful to gentlemen is asked. I am not in favor of rebels. I will go as far as that Senator or any other Senator to protect every man in the southern States in his equal rights against rebels. I am for equality before the law, and for establishing eternal justice in that country. I will go as far as any man to protect the white and black; but what does the Senator mean by this talk against "rebels?" Does he not know that there are perhaps seven hundred and fifty thousand negroes entirely dependent upon this very country which we propose to reclaim, for their support? If you will only throw up levees and enable the farmers of that country, rebel or not rebel, Union men or not Union men, to cultivate the land, to grow cotton, sugar, and molasses, next year you will not only collect nearly eleven millions of taxes, but you will give employment to seven hundred and fifty thousand of these suffering negroes that we are now feeding from the Treasury daily with rations.

If I have the power to pay money from the Treasury in order to feed these negroes, in the name of Heaven have I not the power to vote a small appropriation to enable them to work and make their own living; and if I can appropriate \$11,000,000 to feed the negroes in the southern States, why can I not appropriate a million and a half in order to give them land to work and toil and make their own living upon? I voted for the bureau bill, and I did not doubt my constitutional power to vote for it, and I do not doubt my constitutional power to make this appropriation to save these men from starvation and misery and death.

Mr. President, I have said enough. I hope the appropriation will be made.

Mr. HOWARD. I intend to vote for this amendment. I think it is a necessary appropriation and that the country will in the end be more than compensated for the amount which we are about to appropriate. I shall not vote for the measure simply because if enacted it will have the effect to drain the farms and plantations of proprietors along the banks of the river. If that were the sole object of the amendment, and it had no other effect, I do not see how under the Constitution I could vote an appropriation of money for that purpose. I shall vote for the appropriation for the same reason that has induced me and will continue to induce me to vote for the construction of a ship-canal around the falls of Niagara; the same reason which has induced me and others to make appropriations to improve harbors upon the lakes and on the seacoast, and to vote for every other measure the object of which is to protect commerce in the United States.

I vote for it, in other words, under the commercial power. The Mississippi river is one of the great channels of commerce through the United States. It bears upon its bosom the wealth of the North and the South, the East and West. It has been regarded and treated by the Supreme Court of the United States as being subject to the admiralty law far up from its mouth into the interior of the country—a principle which was long and most strenuously resisted by the bar as well as the bench.

Mr. CLARK. If the Senator will permit me, I will call the attention to two appropriations that have been made to the Mississippi river, one in 1850 on an appropriation bill, on the omnibus bill, "for the topographical and hydrographical survey of the delta of the Mississippi, with such investigations as may lead to determine the most practicable plan for securing it from inundation."

Mr. HOWARD. That is a very strong precedent.

Mr. CLARK. And then in 1852, \$50,000 more for the same purpose.

Mr. HOWARD. It is a great channel of commerce. Have we not a right to protect it as such? Have we not a right to dredge it out for the purpose of facilitating trade and navigation upon its bosom? I think no gentleman

will deny it; and if we have a right to dredge it have we not, upon the same principle, a right to establish embankments upon it for the purpose of keeping the waters within their proper channels? These levees, I understand, were erected there mainly for that purpose originally.

The Senator from Illinois says the object of this amendment is to protect the lands. The amendment does not so declare. If I have read it correctly, it says not one word about protecting the lands. The whole purpose of the appropriation is to repair the levees which have been erected there for the purpose I have mentioned, and they are just as necessary for the purpose of commerce and navigation as would be the dredging of the same stream, the removal of snags and sawyers from its channel, or doing any other act the object of which was to promote commerce and give it additional facilities upon that great Father of Waters.

I vote for this measure, not because I wish particularly to do a favor to planters and other proprietors on the banks of that river who have been or still are disloyal. I do not think I shall be accused of any very hot haste in extending favors to that class of persons; but still, even in regard to them, I shall always be disposed to do them justice, exact justice. I think, *en passant*, that justice has not yet been done to many of them. Her march is very slow, but I trust in God that she will yet overtake them.

I vote for this as a great national improvement. It may incidentally inure to the benefit of proprietors upon the banks of the river. If it does, I should be entirely content with it. But the great object is to afford facilities for commerce and navigation upon that stream, an object in which not only the States mentioned in the amendment are particularly interested, but in which Illinois, Ohio, Wisconsin, Iowa, Michigan, all the States of the Union, have an interest as part and parcel of this great nation; and I will not limit or confine my views to the small benefit which it may possibly confer upon the few persons who are immediately interested as planters and owners of farms upon this great river. I vote for it as a national object, as a national undertaking worthy of Congress, and I hope to see the amendment passed.

Mr. TRUMBULL. According to the Senator from Michigan this appropriation is necessary to improve the great Mississippi river. I wonder if it is on the great Mississippi river that the Senator from Missouri is going to raise the cotton from which he is going to get eleven millions in taxes. How do these arguments hang together? The Senator from Michigan supports the measure in order to improve the navigation of the river. If you have a right to dredge it out, he says you have a right to embank it and to protect it; it is a great matter like canalizing around the falls of Niagara; and he supports it on commercial grounds. The Senator from Missouri supports it because he is going to raise products from which he will in taxes derive \$11,000,000 next year. I suppose that the cotton and sugar that shall grow there on the waters of the Mississippi river would produce a vast crop if a revenue to be derived from which is to amount to \$11,000,000. The Senator from Missouri has detained the Senate some time with the figures. Now, there has been disclosed to us by the Senator from Missouri one of the finest operations that I think has ever been discovered in any country. There is nothing like it in the gold regions of Nevada and California, or in the oil country. No investment that I ever heard of would be equal to the investment of a \$1,500,000, according to the high authority of the Senator from Missouri, in building an embankment on the Mississippi river. He says that the additional product that will be raised in that country next year, in a single year, would be so great that the Government, which does not take a tenth of the value, will receive eleven millions. I believe the tax on cotton is only three cents a pound, which is not more than one tenth of its

value, and the tax on sugar is a cent a pound, about one tenth. Then if we get eleven millions in taxes, the product itself would be worth \$110,000,000; and an investment of only a million and a half is necessary to realize that. Did my friend from Nevada ever know of any investments like that in his country? Quit your gold mining, come over here, and enter into this arrangement. If the Senator from Missouri has full faith in his figures that one hundred and ten millions will be realized from an investment of a million and a half, why should the Government touch the thing? why not leave it to private capitalists? If I had any money I should be very glad to invest in an enterprise of this kind if my faith was equal to that of the Senator from Missouri. I have heard of no enterprise in oildom or in the gold regions to equal this. One hundred and ten millions in a single year from an investment of only \$1,500,000!

Mr. CLARK. Let us come to a vote.

Mr. TRUMBULL. I think we had better come to a vote at once. If there is going to be such a profit as that to the nation, let the Senate vote it.

Mr. DAVIS. The honorable Senator from Illinois takes a view of a single point of this subject, as he is prone too often to do in relation to other subjects. Now, he presents the profit upon an investment of \$1,500,000 to the Government, and he loses sight entirely of the other large classes of investment in this matter. How much is the land worth? From fifty to one hundred dollars an acre. How much is the labor worth? One hand, from one hundred and fifty to two hundred dollars a year. How much is there invested in agricultural implements, how much in stock, how much in provisions? Fiftyfold as much as the Government is asked to appropriate for the purpose of reconstructing these levees; and all this large investment outside of this meager amount of appropriation from the Government is on the individual credit and funds of the planter.

But, Mr. President, I rose to present one point of this case that has not yet been presented in the argument. It was once my fortune to reside upon the banks of the Mississippi as a cotton planter for a short time, and I know the matter by experience and observation. These levees sometimes are sixty feet in width at the base and they are ten or fifteen feet in height. They extend for miles and miles along the margin of the river, and at some stages of the river it is a common sight to see the steamboats moving along upon the river three or four feet higher than the cotton fields that are blooming and expanding their white folds on either bank. Why is this? The water is fenced into its natural channel by these numerous and gigantic levees, and in that way the navigation of the river is improved, the flow of the water is confined to a narrow and restricted channel, and the effect of this confinement is that the bosom of the water flows sometimes several feet above the surface of the cotton fields on either side the torrent in full cultivation.

Now, Mr. President, what is the Mississippi? It is one of our great natural channels of commerce. I have heard it called, not inaptly, the Mediterranean of the United States. The commerce that flows upon its bosom is boundless in its quantity and in its value. Along this great natural channel of commerce is it not legitimate and constitutional for the General Government of the United States to appropriate money to improve the navigation of this Mediterranean of the United States?

This magnificent river disembogues itself into the Gulf by six or seven different channels. These channels fill up with sand. No man can comprehend the character of that stream who has not looked upon it day after day, and seen the mighty forces that are operating upon it in the movement continually of sand, the filling of channels, the formation of embankments upon one side and the inundation of lands upon the other. I ask the honorable Senator from Illinois if it is not a perfectly legitimate exercise of power for Con-

gress to appropriate money for improving the navigation of this mighty stream. What has been done by Congress for the Delaware? A vast sum of money was appropriated to build a magnificent breakwater. Why? To improve the navigation of that stream and to construct an artificial harbor for the protection of commerce.

The honorable Senator from Michigan struck the right key when he said that Congress has the power to make this appropriation under the provision of the Constitution which invests in Congress the authority to regulate commerce among the several States. When these levees have the effect at many points and for miles and hundreds of miles upon that magnificent river to circumscribe the waters within its channel, so that they shall float several feet above vast cotton fields and sugar plantations, and in that way improve the navigation of the stream by increasing the depth of the water, what appropriation can be more legitimate, and wiser, and more constitutional, than for the purpose of repairing these vast levees that confine this stream within its natural channel?

The honorable Senator from Illinois says that there is no power in Congress to make this appropriation. Let me put a case. I have voted again and again for protective-tariff bills. One of the main incidental objects of such bills was to increase the profits of our manufacturers. If any gentleman were asked, has Congress the power to appropriate money to increase the profits of manufacturers, he would answer in the negative; but Congress has power to raise taxes by levying imposts upon foreign goods imported into the country, and as incidental to this power to levy taxes upon foreign importations, we discriminate so as to afford protection to certain manufactured articles. I was always taught that policy by the great father of the American system, and as one of the humblest of his pupils I have often voted in obedience to that lesson. The honorable Senator from Rhode Island [Mr. SPRAGUE] or his father and other northern manufacturers have again and again by my votes had the profits of their business increased incidentally in imposing taxes discriminating upon articles, with a view to protect domestic manufacturers when we had no power whatever to give any such direct protection.

The honorable Senator from Illinois will concede that as a great national channel of commerce we have a right to vote money to improve the passes at the mouth of the Mississippi river. As they fill up with sand, we have ordered dredging machines and other apparatus to be made to dredge out and to deepen those channels, and to open up the commerce from the Gulf to New Orleans, the emporium of the Southwest. We have a right to appropriate money to build these levees originally for the purpose of confining the water to the natural channel of the river, and to deepen that water, and to enable our commerce to float more commodiously upon it to that great southwestern emporium. When we have the power to do this directly for the purpose of improving the navigation upon the stream, if incidentally and collaterally to that we see vast fields where formerly grew cotton and sugar submerged, and in consequence of being submerged not fit to be cultivated, have we not a right at the time we prepare these levees for the purpose of improving the navigation of the stream, to look incidentally to the protection from overflow of the cotton and sugar fields? Certainly we have; and in that point of view the appropriation is legitimate, and it results constitutionally and properly from the power of Congress to regulate commerce among the several States.

Mr. BUCKALEW. Mr. President, I shall vote for this appropriation upon the ground that it is made to repair war damages. Our troops and forces went into the country in question and cut the banks and produced extensive damage. We have reliable estimates that it will require some four or five million dollars for the purpose of repairing these levees which have been injured. Now, it seems

to me that a contribution by the Government of the United States of a million and a half will be a very reasonable contribution to this general object, in view of the fact that our Government in conducting its military operations is partly responsible for the result which has happened. But I desire to be distinctly understood that I do not by this vote assent to the proposition that in future times improvements of this character on the Mississippi river shall be charged upon the national Treasury. I consider this as a measure temporary in its nature, growing out of or following upon the war; and that in making this appropriation we do nothing more than contribute a reasonable sum from the Treasury repairing the injury which we caused in carrying on our public purposes and objects in the late war. Upon this distinct ground, at least, I desire to place my vote.

Mr. CLARK. I hope Senators now will let us come to a vote upon the matter if agreeable to them.

Mr. BROWN. Before the vote is taken I desire to say that I should vote against this measure if I were at liberty to do so, but I am paired with the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. GRIMES. On this subject I am paired with the Senator from Maine now absent, [Mr. MORRILL.] I am against the appropriation, and he is for it.

The question being taken by yeas and nays, resulted—yeas 28, nays 7; as follows:

YEAS—Messrs. Buckalew, Clark, Cowan, Creswell, Davis, Doolittle, Edmunds, Foster, Guthrie, Harris, Henderson, Hendricks, Howard, Johnson, Lane, McDougall, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Stewart, Van Winkle, Willey, Williams, Wilson, and Yates—28.

NAYS—Messrs. Anthony, Morgan, Pomeroy, Sherman, Sumner, Trumbull, and Wade—7.

ABSENT—Messrs. Brown, Chandler, Conness, Cragin, Dixon, Fessenden, Grimes, Howe, Kirkwood, Morrill, Saulsbury, Sprague, and Wright—13.

So the amendment was agreed to.

Mr. WILSON. I move to amend the bill by adding several additional sections which I send to the Chair.

The amendment was read as follows:

SEC. —. *And be it further enacted*, That to each and every soldier who served in the armies of the United States in the late war of the rebellion, without distinction of color or race, and who has been or who may hereafter be honorably discharged therefrom, there shall be paid, except as hereinafter specified, a bounty of eight and one third dollars per month for each and every month of service rendered: *Provided*, That troops known as home guards, or other volunteer troops, organized for local service, which are now excluded from bounties by the rulings of the War Department or under the terms of their enlistment, shall not participate in the bounties provided by this act or any part thereof; but this exclusion shall not apply to those volunteers legalized as mustered into the three-year service of the United States under an act making an appropriation for completing the defenses of Washington, and for other purposes, approved February 13, 1862.

SEC. —. *And be it further enacted*, That in calculating the amount of bounty due and to be paid to each soldier under the provisions of this act, deductions shall be made for any and all payments of bounty made or agreed to be made by the United States, so that in no case will any soldier receive a greater sum in bounty than eight and one third dollars for each or any month of service; and no bounty whatever shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in the Army, Navy, or Marine corps, or who has deserted from the service, or who was a captured prisoner of war at the time of enlistment, or who has been discharged at his own request unless for transfer to the Navy, or for the purpose of accepting promotion or appointment in the Army or Navy, or after two years' service, or who has been discharged at the request of parents, guardians, or other persons, or on the ground of minority: *Provided*, That any soldier discharged from the service on account of wounds received in battle, on picket, or skirmish, or in the line of duty elsewhere than in actual conflict, and the widow or heirs of any soldier who may have died while in the service of the United States, shall be entitled to the same bounty as though such soldier had served out his full term of enlistment.

SEC. —. *And be it further enacted*, That any soldier who has bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any other act of Congress, shall not be entitled to receive any bounty whatever under this act; and when application is made by any soldier for said bounty, he shall be required, under the pains and penalties of perjury, to make oath or affirmation of his identity, and that he has not so bartered, sold, assigned, transferred, exchanged, loaned, or given away either his discharge papers or any interest in any bounty as

aforsaid; and no claim for such bounty shall be entertained by the Paymaster General or other accounting or disbursing officer except upon receipt of the claimant's discharge papers, accompanied by the statement under oath as by this section provided.

Sec. — *And be it further enacted*, That in the payment of the bounty herein provided for, it shall be the duty of the Paymaster General, under such rules and regulations as may be prescribed by the Secretary of War, to cause to be examined the accounts of each and every soldier who makes application therefor, accompanied with his discharge and the affidavit required by the preceding section; to ascertain and determine the amount, if any, due him under the provisions of this act; to indorse the same upon his discharge and to return the discharge to the claimant with a warrant or certificate for the amount due. Such warrant or certificate shall, in each case, be drawn upon an authorized depository or disbursing officer of the public funds, and shall be made payable to the order of the claimant: *Provided*, That the said warrant or certificate shall not be negotiated nor paid by the depository or disbursing officer upon whom it is drawn, nor by any other depository or disbursing officer, unless there be affixed to it proof of the identity of the payee, and of the genuineness of his indorsement, established by the oath or affirmation of not less than two reputable witnesses resident in the same county or district with said payee, and attested by the clerk of a court of record, under the seal of the court; and the said warrant or certificate, with such proof and attestation affixed thereto, shall thereafter be negotiable and payable by indorsement, in the manner of ordinary checks and drafts, and shall in no case be negotiable or payable without such proof and attestation; and the clerk of the court, before attesting said warrant or certificate, shall require the payee to exhibit his discharge, which he will compare with the warrant or certificate, and satisfy himself that it agrees in all respects therewith.

Sec. — *And be it further enacted*, That under no circumstances whatever shall the purchase, sale, transfer, or assignment of any bounty herein provided for, or of any interest therein, be recognized or entertained by any accounting or disbursing officer of the Government in the settlement or payment of such bounty; but whenever application shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the said claim, and the Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

Sec. — *And be it further enacted*, That in case bounty claims are presented by or through an agent or attorney, such agent or attorney shall be required to file with each claim his oath or affirmation that he has no interest whatever in said bounty beyond the fees for collection of the same, and that he has not charged nor agreed for and will not accept more than the sums hereby fixed and established, as follows, namely, for the preparation and prosecution of claims for all sums not exceeding \$50 the sum of \$5; for all sums exceeding \$50 and less than \$100, the sum of \$7 50; and for all sums exceeding \$100 the sum of \$10; and said fees shall include all expenses incident to the collection of such claims, except the expense of the necessary affidavits and notarial or other acknowledgments, which shall be defrayed by the claimant; and any agent or attorney who shall charge, directly or indirectly, in any case, a greater sum for his services in preparing and prosecuting said claims shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding \$3,000 nor less than \$1,000, and shall be forever excluded from prosecuting military or naval claims against the Government.

Sec. — *And be it further enacted*, That in the reception, examination, settlement, and payment of claims for said bounty due the widows or heirs of deceased soldiers, the accounting officers of the Treasury shall be governed by the same restrictions as herein prescribed for the Paymaster General: *Provided*, That when such claims are presented by or through an agent or attorney duly empowered to act for the claimant, the warrant for the amount due may be transmitted to such agent or attorney, but shall not be recognized or paid by the United States unless it be indorsed, witnessed, and attested by the persons and in the manner prescribed by the fourth section of this act; nor shall any claim for said bounty be entertained by the accounting officers of the Treasury unless presented in the manner and within one year from the passage of this act.

Sec. — *And be it further enacted*, That to each and every sailor and marine, and to the widow or heirs of any sailor and marine, who has served in the Navy and Marine corps in the late war of rebellion, there shall be paid the same amount of bounty as herein provided, and the examination, settlement, and payment of claims therefor shall be vested in the proper accounting officers of the Treasury, under rules and regulations subject to the approval of the Secretary of the Navy, and payment thereof shall be made in the same manner and under the same restrictions as hereby prescribed for the payment of said bounty to soldiers; and all sums in bounty or prize money heretofore paid or agreed to be paid to any sailor or marine for service rendered or prizes captured during the war, or any part thereof, shall in like manner be deducted from the amount of bounty to be paid under this act, so that no sailor or marine in the final settlement of his accounts will have received in bounty and prize money a greater sum than eight and one

third dollars for each or any month of service: *Provided*, That claims of sailors and marines now living for said bounty shall be presented to the proper accounting officers of the Treasury within two years, and the claims of their widows or heirs within one year, from and after the passage of this act, or such claims will not thereafter be received or entertained.

Sec. — *And be it further enacted*, That in settling the claims of the widow and heirs of deceased soldiers, sailors, and marines, under the provisions of this act, the accounting officers of the Treasury shall cause payment to be made to the following persons and in the order following, and to no other persons, to wit: first, to the widow of such deceased soldier, sailor, or marine, if there be one; second, if there be no widow, then to the children of such deceased soldier, sailor, or marine, share and share alike; third, if there be no widow, child, or children, then to the father or mother of such deceased soldier, sailor, or marine: *Provided*, That no bounty shall be paid to the heirs of any claimant not resident in the United States.

Mr. GRIMES. Before my colleague left the Chamber, from which he was necessarily called away, he left with me an amendment which he desired me to offer to the amendment of the Senator from Massachusetts. It is to insert in the second section, fifth line, after the words "United States," the words, "or by any State, county, city, town, or other municipal organization, or by any voluntary association, or by any person;" so as to read:

In calculating the amount of bounty due and to be paid to each soldier under the provisions of this act, deductions shall be made for any and all payments of bounty made or agreed to be made by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, or by any person, so that in no case will any soldier receive a greater sum in bounty than eight and one third dollars for each and any month of service.

Mr. WILSON. I desire simply to state the change that amendment will make in the amendment which I offered. It will be recollected that some weeks ago the House of Representatives passed a bill professing to provide for the equalization of bounties, but taking into account the bounties paid by the local authorities. It is not necessary for me to say that that bill, as passed by the House of Representatives, is not a bill for the equalization of bounties. In fact there is no equalization in it. It is a mere arbitrary assumption. Under the provisions of the House bill, which the Senator from Iowa now proposes to incorporate into this amendment, a large portion of the volunteers of the country would receive nothing whatever. In some of the States early in the war, either by the State, county, city, town, or other authorities, local bounties were paid, while in other sections of the country no bounties of that character were paid. The result would be that in those localities where the people raised the money and paid bounties to the early volunteers of the war, the volunteers will receive nothing, and that portion of the country will be taxed to pay bounties to volunteers in sections where the people did not raise money.

The Military Committee of the Senate early reported a bill providing for an absolute equalization of bounties so far as the national Government is concerned. I can state in a few words the idea on which it was based. The largest amount of bounties ever paid by the Federal Government during the war was at the rate of \$100 a year. We enlisted men for three years and agreed to pay them \$100 bounty. This continued up to the 17th of October, 1863. About a million and a half men volunteered into the service of the United States for three years on the agreement that they were to receive a bounty of \$100 from the Federal Government. On the 17th of October, 1863, in the pressure for men, the War Department offered a bounty of \$400 to veteran soldiers who had served two years and who would reenlist, and \$300 to other persons who would enlist in the service for three years.

The veterans were enlisted for three years, and at the end of two years if they would reenlist they were to receive \$400 bounty, and that, with the \$100 bounty offered them when they enlisted the first time, made a sum of \$500, for which they were to serve five years, which was at the rate of \$100 a year. We continued after the 17th of October, 1863, until near the

close of the war to pay at the rate of about a hundred dollars a year bounty for persons who would volunteer into the service. A few months before the close of the war we passed an act allowing men \$100 bounty who would enlist for one year, \$200 bounty to those who would enlist for two years, and \$300 to those who would enlist for three years. In fact we enlisted nearly all the men for the last sixteen or seventeen months of the war at the rate of \$100 a year, or eight and one third dollars per month bounty. Assuming, then, that our highest bounty was eight and one third dollars a month, the committee reported in favor of paying that rate of bounty to all the men who served in our armies, whether they were three months' men, one hundred days' men, nine months' men, or three years' men—to allow all of them eight and one third dollars per month, and to deduct from this amount whatever they may have received or are entitled to receive from the General Government as bounty.

So far as the Federal Government is concerned, this is a perfect equalization of bounties. It is true it requires a large sum to pay the amount, something between one hundred and fifty and one hundred and seventy-five or perhaps one hundred and eighty million dollars. It is a large sum, but it is based upon a principle of absolute equalization among all the men who have served the country in the field, not taking the local bounties into account which must certainly be a very unequal, and at the same time a very difficult thing to do, because when the Federal Government paid bounties of \$300 to volunteers and \$400 to veterans, the local authorities at the same time were paying \$200, \$300, \$400, in some cases \$500 to the same men. Men came into the old veteran regiments the members of which had enlisted early in the war for \$100 bounty, with from five hundred to twelve hundred dollars bounty, and served side by side with the men who bore the heat and burden of the day, who served three years and received only a bounty of \$100.

Under these circumstances it cannot be surprising to anybody that there should be a feeling deep down in the hearts of those men who enlisted during the first two years and a half of the war and bore the brunt of the contest and received only a bounty of \$100, when they saw men coming in at a later hour with their pockets filled and receiving at the same time from the Government a bounty of \$300, three times as much as they themselves were to have. I suppose they felt very much as we read in Holy Writ that the men felt who having agreed to serve for a penny, when they had borne the heat and burden of the day, saw men come in at the eleventh hour and receive the same amount. They grumbled about it; they were not satisfied with it; and I suppose our soldiers felt in the same way; and I presume the men mentioned in Holy Writ would have felt much worse on that day if the men who came in at the eleventh hour, instead of receiving one penny, had received three pennies—three times as much as they had.

Sir, I am in favor of the proposition which I have offered, because it rests upon the basis of perfect equalization. It includes all kinds and classes of our troops and gives them all a bounty of eight and one third dollars per month, or at the rate of \$100 a year, so far as the Federal Government is concerned. I believe its passage would satisfy the feeling, especially, of the million and a half men, or those who are left of them, who entered the war early, from patriotic motives, and who received only \$100 bounty for three years' service. I must confess that I have no great sympathy for any claims made by the one hundred days' men or the three months' men or the nine months' men, but I have included them all. Those classes will take no very great sum and I prefer to include them so as to make a perfect equalization; but I do sympathize with the men who served throughout the war. I believe the country owes this much to those men, and I believe the country will never be poorer for paying it to them. More than a million men entered



the service during the last year and a half of the war, enlisting for a long time and receiving enormous bounties, and then, when the war closed, they were discharged having served out only one third or one half of the time for which they entered, while the old weather-beaten regiments, organized in the first two and a half years of the war, received but a \$100 bounty and were shivered and shattered and torn. Many of the men who came in at the last hour received the favors of the local authorities, and of the Federal Government too. It is true all this was imposed upon us by the needs of the country, but now we have got through the rebellion and we ought to do justice.

I do not believe the country is very poor. We have got a large amount of property in this country, and we can stand this expenditure. It will take the Paymaster General four years' time; working all his force, to pay these bounties, so that my amendment will take perhaps forty or forty-five millions a year out of the Treasury for four years to come. The work cannot be done any faster than that with the present force. I do not believe it will affect the credit of this Government, or that it will be deemed an act of folly or of injustice. On the contrary, I believe that the tendency will be to make the men who fought the battles of the country and saved the country feel that the country has dealt generously by them. No soldiers were ever so largely paid, so well fed, or clothed, as our Army. They were men born among the mass of our people; they were a part of our people—not soldiers, but men who voluntarily entered the service of the country, exposed life and health and all they had for the cause of the country. They served faithfully. They saved the country, and if it takes \$175,000,000 to equalize the bounties among them, I do not believe the heart or the conscience of this nation will grudge the sum, and I do not believe in the long run of years the nation will be the poorer for it. We have acted upon the policy of keeping a small standing Army, relying upon the people to crowd the ranks of our military forces in time of war. We have held it to be the duty of every man liable to military service to give his time, his health, his blood, his life, if need be, for the service of the country in time of war. That has been the theory upon which the Government has acted. We have relied upon the people, and the people responded to our appeal as no people in history ever responded before; and if we do justice now, deal fairly by our neighbors, brothers, and friends scattered by the hundreds and thousands over this country, whenever the country shall again be engaged in war, foreign or civil—and God forbid that we should ever be, in our day and generation, at any rate, involved in either—these men will again respond to the call of the country, in the consciousness that the nation will deal justly, fairly, and equally by them.

Mr. LANE. Mr. President, at the beginning of the session, very early in the session, I had the honor to present several petitions and memorials from the returned soldiers of the State of Indiana, praying for an equalization of bounties. These petitions were very numerous signed, and they were also presented, I believe, from every State and Territory of the United States. In addition to that the Legislature of our State have taken the matter into consideration, and have memorialized Congress to equalize the bounties of the soldiers. Some weeks ago a bill passed the House of Representatives nominally for the equalization of the bounties of the soldiers. I shall endeavor to show very briefly that that bill as it passed the House is not a bill which in any sense can equalize the bounties of the soldiers. The main provision of that bill, differing from the Senate bill, was precisely the difference embraced in the amendment offered by the distinguished Senator from Iowa. You will perceive that our bill, the Senate bill, proposes an exact equalization of the bounties so far as they have been given by the Government of the United States. The bill of the House

proposes to equalize bounties given by the General Government, deducting local, State, county, and municipal bounties; and this is the radical difference between the two bills.

Now, in order to legislate knowingly upon the subject, I have prepared a very brief synopsis of the bounty laws we have passed since the beginning of the rebellion. By the act of July 21, 1861, volunteers were to have \$100 bounty for two years' service. By the act of July 29, 1861, regulars were placed upon the same footing as the volunteers were as to bounties. By the act of March 28, 1862, bounty was given to men employed in the department of Missouri; that was a special enlistment and mustering into service of the Missouri troops. The act of July 11, 1862, placed regular soldiers enlisted since July, 1861, on the same footing as volunteers respecting bounty, &c. By the act of July 17, 1862, nine months' troops were allowed twenty-five dollars bounty, twelve months troops fifty dollars bounty, one half to be paid in advance. By the act of March 8, 1863, nine months' troops who enlisted for one year were entitled to the fifty dollars bounty, for two years \$100. By the act of February 24, 1864, the loyal master of a slave drafted was to have the bounty of \$100, a provision carried out by an amendment to this very bill to allow the loyal master a bounty for slaves enlisted. By the act of June 15, 1864, colored soldiers enlisted who were free before April 1, 1861, were to receive \$100 bounty. Under the call of October 17, 1863, they were entitled to the bounty of \$800 for three years enlistment where they were free prior to 1861. These provisions have been carried out by an amendment to this bill. By the act of June 20, 1864, regulars who reenlisted were to have the bounty authorized by the joint resolution of June 13, 1864, after March, 1861. The resolution of January 13, 1864, continues reenlistment bounties to March, 1864, one year \$100, two years \$200, and three years \$300.

You will perceive, then, Mr. President, that the highest bounties given to any soldiers were \$400 bounty to the three years' men who reenlisted for three years. This provision goes upon the ground that eight and one third dollars per month will make the highest bounty given to any soldier when you carry it to the whole time of his enlistment, six months, nine months, one year, two years, or three years. Then the proposition is to equalize the bounties of all the soldiers. Under these several acts you will find that the bounties given by the General Government were unequal, owing to the emergency of the occasion at the particular times when the laws were passed. When we passed the first enlistment act it was thought that \$100 bounty was sufficient, and under that bounty your armies were speedily filed, and as the distinguished Senator from Massachusetts has said, the troops enlisted in 1861 and 1862, under the \$100 bounty, were the troops who bore the brunt of this whole war.

But we are met here with the argument that the Government of the United States has honestly paid to every enlisted man all that it promised. That is true. But under the emergency of the occasion the United States have at one time promised more than they have promised at another; and the services being equally meritorious and equally efficient, it does seem to me that the bounties should be equalized. I can conceive no objection to that. I grant you that in law there is no obligation that could be enforced, but I think in morals there is an obligation that should be enforced, that these bounties should all be equalized.

We are told that it will require a large amount of money. That is doubtless true. It will require from one hundred and fifty to one hundred and seventy million dollars, according to the estimate of your Paymaster General, if you pass the Senate bill; it will require perhaps a little less than half that amount if you pass the House bill; but I shall proceed to show you now that it is wholly impracticable to pass the provision as it passed the House.

We propose here to equalize the bounties paid by the Government of the United States. That we can readily do, for every cent of bounty paid is determined upon the pay-rolls by the date of enlistment of every soldier in the Army, compared with the laws in existence at the time of his enlistment. The rolls at the War Department are complete and the Paymaster General can pay the additional bounty as readily as he can pay the month's pay to each soldier. Then there is no trouble to administer this law as we propose to pass it in the Senate. But suppose you adopt a different rule and say you will equalize the bounties, deducting the amount of local, township, State, and municipal bounty, as provided for in the House bill; it is wholly impracticable to ascertain the amount paid. Every county perhaps in my State and in almost all the States raised by taxation or voluntary subscription a fund to pay as a bounty to soldiers to prevent a draft; a different amount was paid in almost every township, and in many instances different amounts were paid to soldiers from the same township. Then I say it is impracticable. You can never find out what the States, townships, counties, and cities paid, for there is no register of it. No register was kept; it was not returned to the Provost Marshal General's office; there is no paper in that department showing the amount of these local bounties, and in the very nature of the case no such paper could be returned.

I have endeavored to show the Senate the utter impracticability of equalizing bounties by taking into the account local, township, and State bounties, because there are no papers returned showing the amounts paid; but even if it were practicable it would be exceedingly unjust, and in my opinion exceedingly impolitic. What would be the operation? Suppose we pass a law nominally equalizing the bounties of these soldiers and deducting therefrom the local bounties, the operation would be just this: take for example the county in which I reside; there by taxation we raised \$375,000 as a bounty fund; that was paid to the soldiers of our county for going in and filling up the ranks. Pass now a bill to equalize the bounties and deduct that, and no soldier from that county will receive one cent benefit from your action, and they will be taxed to make up for those communities who refused to contribute anything to fill the ranks of your armies. I can see no justice in this.

But my main objection to it is that it is wholly impracticable and can never be carried out. Take the State of Indiana. We owe to-day over seventeen million dollars bounty fund raised by taxation upon our people to fill the ranks of the armies and to prevent drafts. Pass the House bill and our people, who have already contributed, who have already been taxed to pay the debt, will be taxed to pay communities where they raised no bounties, either by taxation or by subscription, while no citizen of Indiana will get a cent. I would about as soon pass no bill equalizing bounties as to pass that bill which can never be carried out, deducting local and township and county bounties.

Mr. President, I admit, as I have before said, that there is no legal obligation. We have paid to these soldiers all that we promised to them; but after having promised the veteran soldier who served three years \$100 bounty, the very next year we promised and paid \$300 and \$400. These men fought side by side in the ranks, and their blood mingled in the same common torrent, upon the same glorious battle-fields, the one having a bounty of \$100 or nothing, the other having a bounty of \$400 given by the Government, and perhaps five or six hundred dollars given by local corporations and townships. I can see no possible justice in this, and I believe the public sentiment of the whole country demands this legislation. The instincts of the people are right and honest and proper, and upon all questions of morals the voice of the people, uncorrupted, is the voice of God, echoing the sense of eternal justice

which lives in every human heart. The whole country demands it. There is no opposition to it. The only possible opposition is that the condition of the Treasury is such that it cannot stand this drain. I believe no such thing. Who is to pay this national debt? The whole people. The returned soldiers are a part of the people interested in the payment of the debt. By doing justice, by dealing liberally with them, you have a much better prospect of final payment than you have by dissatisfying those who have fought the battles of the country.

Mr. President, I shall not enlarge on this subject, nor would it be prudent, perhaps, at this stage of the session, but I do feel that upon this occasion I speak for those who have no right to speak here for themselves; but they have spoken for us elsewhere at the mouth of cannon and by the victors' shout upon a hundred battle-fields; and that we sit here to-night is owing to the exertions, the bravery, and prowess of the very men whose cause I feel plead to-night. We should do justice to these men; we should satisfy them not only that the Government is inclined to be just but to be liberal and fair, for we must rely in all future wars upon the volunteer forces of the country, we must rely upon the soldiery drawn from the ranks of common life, every man of whom feels that he is a part of the Government, responsible for the conduct of the Government, and every man of whom feels that this is his Government.

I then shall vote most cheerfully for this amendment. An objection has been urged that this is not the proper place for it, that it should not have been moved as an amendment upon this bill. What is this bill you are considering? An appropriation bill. What is the amendment? A provision to appropriate further to discharge this debt of gratitude and honor and justice that we owe to the common soldier. It is strictly germane to the bill, and there can be no point, no time, no occasion when it is not proper and in order to do justice to these brave soldiers of ours.

But why is it moved here as an amendment upon this bill? Simply because four days ago, when gentlemen sought to consider this bill, we asked that the bounty bill might be taken up in advance, knowing that the appropriation bill would pass any way at any stage of the session. We asked then that a vote should be taken upon the bounty bill. We were then told, "Do not antagonize it with the appropriation bill; wait." We did wait until we are now within less than three days of the adjournment of this Congress, and I, for one, am unwilling to adjourn without doing justice to the soldier, and this is the only opportunity we shall have. If it is not put upon this bill it is the last you will hear of it this session. There is no other opportunity of getting it up, and it is germane to the subject, precisely right and proper. This is an appropriation bill to pay your civil employes, to pay for the repair of the Mississippi levees, to pay a hundred other miscellaneous objects. It is in order to do all these things, but exceedingly improper to move an amendment to pay your soldiers and equalize their bounties! I hope that the Senate, without hesitation, will pass this amendment, and I regret to have been compelled to have said one word in its defense.

Mr. SHERMAN. Mr. President, since I have had the honor of a seat in this body, no task has been imposed upon me so unpleasant as to oppose an appropriation for the class of soldiers who are to be benefited by this bill; but a sense of public duty compels me to do so. In this I know that I do not agree with the general sentiment of the people of my State, and with the general popular sentiment throughout the country; but I do it from a sense of responsibility which allows me no doubt or hesitation.

The honorable Senator from Indiana, with his impulsive and generous manner, appeals to us to equalize the bounties to soldiers, and to give them some reward for their sacrifices in

the cause of their country. Mr. President, we cannot suitably reward the services of our soldiers by money. If we were to pour into their pockets all the money, and give them all the property of our people; if we were to destroy our credit, and roll up mountains of debt, and break down the future prosperity of our country, we could not, in money, compensate for the privations and suffering of our soldiers in this war. It is impossible for us to compensate them for the services they have rendered; nor do they seek it. I do not believe that the mass of the soldiers who are to be the recipients of this bounty have demanded it of us. I know that in some cases I have received letters from discharged soldiers, who oppose the appropriation of this sum of money; and I have no doubt all Senators have received similar letters. Any attempt to equalize bounties, or to pay the soldiers for their services and sacrifices is utterly futile. All the money of this country, all the credit of this country, could not accomplish this result; and every attempt to equalize bounties will only make the inequality more manifest.

Why, sir, there have been soldiers who have served for one month, and yet who received four or five hundred dollars as bounty. They entered the service as the war was closing. Could you equalize bounties upon their cases? Some men have received as substitutes \$1,000, and probably have been discharged for inability in three months. Would you equalize on that basis? Many soldiers who served during three years of the war and rendered the most valuable service, far more valuable than any rendered by any other class of our soldiers, reenlisted and received a bounty of three hundred or four hundred dollars as reenlisted veterans. They get nothing under your bill. They may have lost their limbs or been disabled for life during their second enlistment, and urged to do so by the call of patriotism, but they get nothing by your bill. The soldier who enlisted first and refused to reenlist again when the country was in the deepest distress, gets the bounty by your bill, while those gallant veterans who reenlisted and received the bounty you then offered them get nothing at all. That class of men, and there are 158,507 of them—the best soldiers of the Republic—who, after having served three years, took the bounty that was offered, and with their ample experience and their skill and discipline, went again into the service and fought the war through, get nothing by this bill. The bounties proposed by this bill are only to be granted to those who, having served their first enlistment went out of the service, or the nine months' men, or the three months' men, and those who have heretofore been excluded from your bounty. I say, therefore, that any attempt by any general legislation to equalize bounties is utterly futile.

But, sir, I would be willing to make the attempt did I not see other difficulties in the way. Before we make this attempt we must remember that if we appropriate this money we must borrow money to pay these bounties. There is now no authority of law for any increase of the public debt. The only law you have passed at this session in relation to the public debt expressly provides that the public debt shall not be increased. No authority is given to increase the public debt. You must propose a measure which, in my judgment, will require at least \$300,000,000. Upon what basis the Senator from Massachusetts says it will require only \$170,000,000 I cannot compute. I have the papers and documents before me. It is too late to go into the analysis of this computation, but I say it will require not less than \$300,000,000. Where is this money to come from? The Senator says it will take four years to pay it. Will you dole out this pittance, as you call it, to these soldiers? Why, sir, when the four years expire you will have a demand made from these soldiers to equalize the interest upon these bounties. But, sir, the very provisions of this bill require the payment to be made within one year, and they will be made promptly. The evidence is easily acces-

sible, and the payment will be promptly made, and you have got to meet this sum. If you intend to appropriate it, why not provide for its payment? Are you now prepared to vote an increase of the public debt to an amount sufficient to meet this bill?

If the Senate adopt this amendment it will become my duty then to propose a measure to raise the means to pay this money. It is utterly idle for us to hold out the promise of bounty to the soldiers without having the money to pay it. It is a delusion; it is a fraud upon them. We must not, and we cannot, do it. Now, we have, during this whole session, gone upon the basis that we would return gradually again to a peace basis; that we would reduce our expenses to the measure of our income; and, in order to relieve the industry of our people, composed in a great measure of returned soldiers, we have thrown off from their shoulders a vast burden of taxation. We have taken off at least \$100,000,000 of taxes. We propose to do more year by year. We are now reducing daily our receipts. The numerous taxes imposed by us during the war have yielded us a revenue of over \$500,000,000, but next year they will be far less. Are you prepared to stop now the process of throwing off the burden of taxation? Are you prepared to lay on a new tax in order to raise this sum of money, or are you prepared to go to sea again, financially, and borrow money and increase your debt with money at a discount of thirty-three per cent. in gold? These are the questions that must be considered, as well as the patriotic *furor* by which it is sought to carry this bill at the heel of the session as an appendix to the appropriation bill.

Mr. President, I have here remonstrances from officers of the Government against this bill. I have here a letter from the Secretary of the Treasury stating that he is unable to pay these bounties. I have here a letter, full of instruction, from Mr. Wells, the chairman of the revenue commission, stating his views on the matter of the inadequacy of our tax laws to raise an amount sufficient to pay this sum. I have here an official letter from General Fry, the Provost Marshal General, showing that the number of persons enlisted into the service of the United States during the war was 2,461,062, of whom 780,721 have received no bounty, and all of whom would be entitled to bounty under the provisions of this bill. Why, sir, the actual bounty paid out by us during the war was \$300,223,500, and of this 1,156,868 men received but the bounty of \$100. Their bounty is increased at the rate of eight dollars and some cents a month, or \$100 a year. No man can sit down and look over these figures and estimate the amount required by this bill at less than \$300,000,000. In the amount of bounty that we paid out heretofore, we paid nothing to 750,000 of our soldiers; we only paid bounty to the men who served for two and three years. I say, then, to sit down and compute the amount required by this bill at less than \$300,000,000 is simply idle and illusory; and we must be prepared to raise the money when we propose to pay it. As I said, I have all these documents before me, but it is too late to read them. I have the statement of General Fry, who computes the amount required by this bill at from \$300,000,000 to \$600,000,000; and here let me say that the Paymaster General, the Provost Marshal General, and so far as I know, the Secretary of War, and every officer of the Government connected with the service, is opposed to this scheme.

Under these circumstances it is my duty to oppose this appropriation. But there is another ground of objection. Without going into the general merits of the amendment, I submit to Senators this plain proposition: here is a bill which one of your committees is required to report, for what? For the civil service of the Government during the next fiscal year, not to cover past debts; not to cover old matters, but for the civil service of the Government during the next fiscal year. This bill provides for your light-houses; it provides for the sur-

veys of the public lands; it provides for the care and custody of your public buildings. It is called the civil or miscellaneous appropriation bill. Its passage is absolutely necessary to carry on certain functions of the Government. Now, what is proposed? The Senator from Massachusetts comes here with a bill that the Committee on Finance have never considered and have had no opportunity to consider, and proposes to load this bill upon our shoulders so that we shall be compelled to take care of it, and to represent the Senate in regard to a bill providing for at least \$300,000,000 at this stage of the session. I ask, is that fair or legitimate legislation? Until recently things of that kind were not done.

The Committee on Finance is opposed to this bill, I believe, unanimously, not that we love the soldiers less than other Senators. I think I have as warm a heart and as kind a feeling for the soldiers who saved our country in this war as my honorable friend from Indiana, who always appeals to us so strongly in their behalf. But we have other duties and other difficulties to take care of. We have to look at another aspect of the affair; and in the present condition of our finances I say it is not wise to assume this burden; yet it is proposed to put this bill upon the back of the civil appropriation bill at this stage of the session and force a controversy with the House upon it. The House passed a bill long ago on this subject that will not take more than one third the sum proposed by the Senate bill. It is framed upon a correct principle; and why? It authorizes a reduction for local bounties. Why should not that be done? You want to equalize to the soldiers the bounty paid. Does it make any difference to him whether he has received that bounty from his State, his county, his principal, his town, his city, or the nation? None whatever. You cannot equalize this among communities or cities. It is a bill for equalizing bounties among soldiers. If a soldier received \$1,000 in the city of Boston and entered into the service with that bounty in his pocket, did it not answer his purpose just as well as if he had received it from the hands of the Government? My own impression always has been during the war that the United States should not have granted any bounties except the \$100 bounty, which is a substitute for the land grant heretofore given, but allowed the local authorities to make up the bounty.

Another thing is to be considered. In different portions of our common country there is a great difference in the value of money. Thus in the West, \$100 to a man in the State of Indiana is worth as much as \$200 to a man in the State of Massachusetts. Why? Because the price of food, the price of raiment, the price of the necessities of life is much less in an agricultural community.

Mr. LANE. Will the Senator from Ohio allow me to interrupt him for one moment?

Mr. SHERMAN. Yes, sir.

Mr. LANE. I understand the Senator, then, to be in favor of the bounty bill which passed the House, which is the amendment of the Senator from Iowa. If we can compromise on that I shall be willing, if I can get nothing more, to take that.

Mr. SHERMAN. I stated distinctly when I rose that I was opposed to the system of the equalization of bounties at the present session and in the present condition of our finances; but I am now talking about the amendment. I say, if the Senator really wishes to equalize bounties, he should base his bill upon the proposition made by the House of Representatives, because if local communities did pay to the soldier money, it was just as good to him as if it had been paid by the national Government. When we started out in this war we started out with the proposition that the United States should pay no bounties. The \$100 was given rather as the substitute for the quarter section of land usually voted to our soldiers.

Mr. President, I find that my throat is so much affected that really I ought not to pro-

ceed; but there are two or three other considerations in this matter that I probably ought to mention. This is not a debt. It is admitted on all hands that we do not owe our soldiers anything. It is said that no soldiers ever served so well or deserved so well of their country. That is true; but no soldiers were ever paid so well; no soldiers ever received so much money per month; no soldiers ever received such gratuities and bounties and aids, both local and national; no soldiers were ever so honored by any people in the world as our soldiers have been; no soldiers ever had the road to promotion open to them as ours have had; and now many a gallant fellow who entered the ranks as a common soldier bears upon his shoulder the star of a brigadier and even the double star of a major general. No soldiers were ever so kindly treated. They are a part of our community. They are our fathers and brothers and kindred. Now it seems to me to treat them as you would mercenary soldiers who entered the service merely to gain money is absurd. It is not the proper view to present of this case. They entered into it in many instances without regard to the money they were to receive. In the early period of the war I saw hundreds of the finest young men of Ohio enter the service—men who were entirely independent, above want, who need not have given a stroke of labor during their whole lives—at eleven dollars a month, and they served gallantly and well. The idea of trying to equalize them or putting them upon the basis of receiving money gratuities I am sure would wound their pride. There are thousands of such soldiers throughout the country who do not ask your bounty.

I believe that more than ten, perhaps twenty percent. of the money appropriated by this bill will go into the hands of agents and attorneys; it will never reach these soldiers; while the fact of this increase of the public debt will, in my judgment, tend to lower the price and value of our securities, to derange the currency of the country, and by increasing the public debt increase the cost of all the necessities of life. The evils which will flow from it will be very great indeed.

I therefore, in any aspect, am opposed to this attempt to equalize the bounties; but if it must be done, if the Senate have made up their minds to do it, it is much wiser to take the House proposition requiring the equalization of the bounties upon the basis of a deduction of the local bounties. If it is to be done, in my judgment it ought to be done by a bill fully discussed on its own merits and not hitched on to an appropriation bill. Suppose this matter does go over until next winter, will any harm result? The Senator from Massachusetts says these men cannot get their money for four years. Then what harm will be done by a postponement? We will have time to consider it; the Committee on Military Affairs will have time to reexamine this question and to mature a proper bill; we will have new information on the subject. We can have an estimate made by the Paymaster General and by the proper accounting officers of the Treasury as to the amount that will be necessary. We may then be able to see our way through financially. Our revenues may be larger than we anticipate; our expenses may not be so great. No harm can be done by laying this proposition over until next winter, while now, just at this critical moment, when there is so much uncertainty, not only in our financial affairs, but abroad, the passage of this measure, by showing an utter disregard of all these pecuniary considerations, may seriously embarrass our public credit.

I say that no harm can be done by putting this measure over. The people of this country will never forget the services of their soldiers. They are showing everywhere, all over the country, the highest appreciation of their services. Soldiers are now filling your offices; they are receiving your honors; and they will always be regarded with favor and with affec-

tion. Your miserable bounty bill, while it may embarrass the Government and derange our finances, will scarcely be anything to them. Suppose you give to one of these gallant heroes \$100 or \$200, what will he care for it? If he is an able-bodied man, he has resumed the ordinary occupations of his life, everywhere favored and befriended; if he is dead and has left behind him a widow and children, they are provided for by increased pensions; so that in no view that I can take of this subject is it indispensable to pass this bill at this time. If he is disabled, wounded, he is on your pension-list. If the pension is not large enough my friend from Indiana is the almoner of our mercy and of our bounty in that regard, and any bill that he introduces in regard to pensions will pass, and his heart is overflowing with kindness toward these men.

I ask, therefore, is there any necessity or pressure for this measure? None whatever. To force us at this period of the session, at this hour of the night to vote upon a bill of this kind, without any opportunity to study its details, it seems to me unwise legislation. If, however, the Senate are disposed to do it, I must, in pursuance of the instructions I have received and of my public duty, make some provision, either that these bounties shall only be paid out of the current revenue as it accrues and exceeds our expenditure, or else we must meet the question fairly and authorize the Secretary of the Treasury to borrow money to pay these bounties. We all know that it is perfectly idle, in addition to the enormous appropriations that we are passing this session, which will absorb the current revenue, to throw upon him this large mass of unliquidated and unadjusted debt. We must provide the ways and means of paying it if we propose to contract this liability.

Mr. EDMUNDS. The extreme injustice of the amendment of the Senator from Iowa as applied certainly to the State of Vermont, and I do not know but to other States—they can answer for themselves—compels me to enter my dissent to that in particular. It is fair to say, also, that I dissent from the amendment of the Senator from Massachusetts; but that is far better for my State than the amendment of the Senator from Iowa. The State of Vermont from the beginning, from the first soldier of hers that entered the field—and I believe she has never been accused of being behindhand in sending them there—provided by State tax for every soldier an extra compensation of seven dollars per month; so that every soldier of her twenty thousand, or whatever her share might have been—and it was filled—received from month to month, as he was in the field performing service, seven dollars per month from the State in addition to his United States pay. He received at a time when it was fit and proper that the faith and justice of the State should be exercised toward him because it was at a time when, more than any other, himself and his family whom he had left behind needed it. We entered upon that scheme as an act of justice, so that the dear ones who were left behind should be provided for then. The result of it is that it only leaves a compensation under this amendment to all of our soldiers of one dollar and a third per month and no more. Now, if you take from that the United States bounty that has been paid, of \$100 in the first place, and then of \$200, \$300, or \$400 in later times, according to the particular circumstances under which each man enlisted, the result is that, except in the accidental cases of death sometimes when the man did not serve out his term and therefore his seven dollars per month stopped, there is not a soldier of the State of Vermont who will receive a penny of bounty in pursuance of the amendment of the Senator from Iowa. Out of the \$200,000,000 or \$300,000,000 that you propose to give to the soldiers of the nation, the Vermont soldiers will receive not one dollar. That is the "equalization" which they are to have under the provision so kindly offered by the Senator from Iowa, and supported by the Senator from Ohio,



on the ground, I suppose, that the burden upon the Treasury will be less.

Now, reverse the picture. That is the equalization of the bounties for us. Where is the equalization of the burdens upon the States on the other hand? The State of Vermont pays one half of one per cent. and a little over of all the internal taxes of the country. It is a small sum, to be sure, fractionally; but the result is, under this measure as provided for by the amendment of the Senator from Iowa, if it will take, for illustration, \$200,000,000 to accomplish the object, it will be the duty of the State of Vermont to contribute from the labor of her people \$1,000,000 toward it. Therefore, while you profess to equalize the bounties to soldiers in Iowa and the other States, where they did not provide for them in the time of need, you call upon the State of Vermont to pay over a million dollars to those States without receiving a penny of compensation or bounty in return. Certainly, if that equalizes bounties, it unequalizes, if there be such a term, the burden of taxation which our Constitution and laws require to be imposed equally upon the States.

For one, sir, I object decidedly to this late species of gratitude which, in order to show your generosity toward the soldiers of one section of the country, takes from the pockets of the soldiers of another section (because they are at home and hard at work, all who have not their graves in the South) the money to make that good. If the State of Iowa or the State of Indiana or any other State feels that she has not done justice to her soldiers as the time went by, it is not too late for her to show it. They have the power of taxation in those States, I suppose. They know the wants of their local soldiery. They are quite competent and able to provide for them. Why call upon us who, as the time went by, made proper and efficient provision, so that we were not only just but generous to our soldiers, and they are satisfied with it.

I do not wish to occupy the time of the Senate; but, sir, it appears to me that in these considerations we have rather underrated the material of which these soldiers are composed. As has been said by the Senator from Ohio, they are not mercenaries, they are not hirelings, they are not persons whose favor, political or otherwise, is to be bought and sold by the paltry bid of a few bounties just now. They are the citizens, they are the responsible men of the nation; they are the owners of property, small, to be sure, individually, but property which is sacred to and cared for by them. They feel the responsibilities and the troubles that are imposed upon us now in the way of keeping clear and pure our public faith as highly as any Senator in this Chamber does. I do not believe that they will feel complimented by any extraordinary effort at this time, under a profession of equalizing bounties, to unequalize and disturb the burdens imposed upon the different States and to imperil in a large degree the public faith and the public credit.

Thus much I have said in relation to the pending amendment as it applies to my State. When the amendment in chief comes to be considered I may have something to say upon the details of it.

Mr. GRIMES. I desire simply to say that I did not offer this amendment in the interest of Iowa soldiers.

Mr. EDMUNDS. I only spoke of Iowa as an illustration.

Mr. GRIMES. I am very happy to be able to say that I am a citizen of a State that was not compelled to pay seven dollars a month additional to each one of its soldiers to induce them to go into the Army. The entire amount of public indebtedness created by my State—and let me remark that when the last draft was proposed there was a surplus of three years' men from the State of Iowa of twelve thousand and eighty—the entire public indebtedness created by my State to send seventy-nine thousand men to the field was only \$500,000. I had no allusion to the State of Vermont. The remarks

of the Senator as to the ability of the State of Iowa to protect her own soldiers, or any disposition on the part of that State to legislate specially for her interests and against the interests of Vermont, were hardly called for.

Mr. EDMUNDS. I beg the Senator from Iowa not to suppose that I had any personal reference to that particular State. I did not know but what Iowa paid her soldiers twenty dollars a month; she is rich enough to do it; but what I intended was to show the inequality of the proposition, not to apply to that particular State any scheme whatever.

Mr. HENDRICKS. Mr. President, pending the war, I felt it to be my duty to favor the policy of filling up the Army by the inducement of large bounties rather than the enactment of conscription laws. Having done that, I now feel it to be my duty to equalize the bounties as nearly as may be possible. Upon the particular amendment proposed by the Senator from Iowa I have just this to say: I cannot vote for it, for I think it is not a proposition to equalize bounties. He proposes to set off against one class of the soldiers the bounties that were given to them by the local authorities. I suggest to him that the soldiers who enlisted during the last two years of the war and who received \$300 and \$400 bounty from the General Government, received also quite as large local bounties as those who enlisted in the first and second years of the war, and who received but \$100 bounty. Indeed, to the extent of my observation, I am satisfied that the local bounties received by the soldiers during the last year or two years of the war were larger than the local bounties received during the earlier part of the war. Is it right, then, to set off, in the adjustment of the bounties and in equalizing them, the local bounties which were less the first and second years of the war than they were during the latter part of it? In other words, the soldiers who received large bounties from the Government received large bounties also from the local authorities; and I think the proposition is not one tending to equalize them.

Mr. WADE. Mr. President, this is, in my judgment, a great question. The amount that it will take to equalize these bounties is very large. I have reflected upon the subject ever since it has been first mentioned. It will, undoubtedly, burden the Government somewhat to equalize these bounties; and yet I cannot persuade myself, notwithstanding all the difficulties that may accrue to the country in consequence of their payment, that they ought not to be paid. There is no Government in the world yet that has done entire justice to its soldiery, in my judgment.

Now, sir, when this war broke out, all of us adjourned and went home for the purpose, as much as anything else, of persuading our people to turn out into the field and to meet all the perils and privations of war. I was one of those that went home for that purpose. I did all I could to persuade the able-bodied men to believe that it was their duty to turn out and defend their country. As a general thing, it was not the rich, the wealthy, and the powerful that turned out. The hardships of campaigning and the perils and privations of war have no charms for those whose circumstances enable them to live at home at ease. All these burdens as a general thing fell upon those who were least able to bear them; and although it may cost considerable to pay them off generously, nevertheless they deserve it. It ought to be the peculiar province of a republican Government to see that its soldiers are paid, and paid generously and well. Who is there that has property, and lives at ease to-day, that does not feel that he owes that property and that ease to the toils, the privations, and the perils of these men who, taking their lives in their hands, went forth to meet this accursed foe of ours? Ought we not willingly to part with a portion of our means in their favor? Men do not like to part with their possessions; but if they ever were compelled to do so for any purpose that was laud-

able, just, right, and politic for a republican Government to do, it would be to do justice and to deal generously and bounteously with our soldiers.

I find that gentlemen here have no hesitation in rewarding with great honors and pecuniary emoluments the officers of your Army who have gone forth and done themselves honor; for honors will accumulate upon the heads of those who command your armies in the field; yea, sir, bequests will be heaped upon their heads. We find no difficulty in obtaining any amount of votes here to heap honors and emoluments upon them. That is all right; I am not here to complain of it. The man who is capable of leading your armies to victory ought to come out of it with honor, and will always be dealt with generously and bounteously. But, sir, the privations of your officer are as nothing compared to the privations and hardships of the soldier; and what a pitance does the soldier get compared to the pay you give to the officer. His merits are as great; his compensation cannot be as great; but nevertheless what it can be by taking from the property of those whose property has been defended by the soldier, it ought to share and share generously of that bounty which he has protected and saved from destruction. From all the thought I can give this subject, it seems to me, whether it comes as a great burden upon this Government or whether it does not, there is property enough when properly shared with the soldier to deal generously with him, and I cannot persuade myself that we ought not to do it. There is wealth enough in the country to do it. It will take somewhat from the property of those who have it in abundance to contribute toward this fund; but never was there a fund more meritorious than this; never was a bounty proposed to men more due to them than this. Sir, it is no gratuity. They have saved the country from ruin and destruction. But for their exertions, their perils, and their blood, you would have nothing to bestow. Let us then look the thing in the face as they looked the enemy in the face, and we shall find no difficulty and the Government will find no difficulty in doing justice to its soldiery. I am their advocate here, and I am ready to give the vote, although it may burden property, to pay off the just dues of these men.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from Iowa to the amendment of the Senator from Massachusetts.

Mr. CONNESS. We had better have the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Davis, Doolittle, Grimes, Guthrie, Henderson, Johnson, Nesmith, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Van Winkle, Willey, and Williams—21.

NAYS—Messrs. Chandler, Cresswell, Edmunds, Foster, Harris, Hendricks, Howard, Howe, Lane, Morgan, Morrill, Nye, Poland, Sumner, Trumbull, Wade, Wilson, and Yates—18.

ABSENT—Messrs. Cragin, Dixon, Fessenden, Kirkwood, McDougall, Norton, Saulsbury, Stewart, and Wright—9.

So the amendment to the amendment was agreed to.

Mr. GRIMES. I move to add to the eighth section of the amendment:

Surgeons' and paymasters' stewards shall be included within the provisions of this section, and shall be entitled to the same bounty as seamen.

The amendment to the amendment was agreed to.

Mr. CONNESS. The impropriety of offering such a bill as this in this shape as an amendment is apparent from the fact that we have not copies of it before us. Now, I discover by an examination of the first section of it, that in all probability its terms would not apply to a single volunteer that enlisted in my State during the war. The class of volunteers who enlisted there into the service of the United States and fought the Indians for more than a year are

specially excluded by the language of the first section. When they performed that service, they supplied the place of the regular troops of the United States, or allowed the regular troops of the United States to go into the field, or to go to the East; and yet, sir, we have not a copy of the bill before us by which we can propose amendments.

Mr. LANE. It has been printed.

Mr. CONNESS. This is not the manner or way in which to present such a measure, in my judgment.

Mr. SHERMAN. I desire to offer an amendment. I will state, before doing so, that I have had one prepared for the bill itself as an independent bill, which I will read:

That nothing contained in this act relating to bounties to soldiers, sailors, and marines shall authorize any increase of the national debt of the United States; but all expenditures of money rendered necessary by the provisions in this act for their benefit shall be drawn from the receipts of the internal revenue, and only as they exceed the current expenditures of the Government and the appropriations for the public debt.

Either that amendment or this one will have to be adopted in order to provide this immense sum:

And be it further enacted, That to enable the Secretary of the Treasury to pay the sums herein appropriated for the payment of bounties to soldiers, he is hereby authorized to borrow upon the credit of the United States a sum sufficient for that purpose; and he is authorized to issue therefor any description of bonds authorized by the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865."

I do not know that it is necessary for me to offer either of these amendments now. I can offer them at some other time, and I will withhold them until the final vote is taken on the amendment.

Mr. EDMUNDS. I should like to inquire of the chairman of the Military Committee, who proposes this amendment, why it is, if he proposes to equalize on the basis of eight dollars and one third per month, that he prohibits anybody from receiving any bounty under it who did not at least serve two years.

Mr. CONNESS. In that connection I will also submit a question to be answered.

Mr. EDMUNDS. Let him answer this first.

Mr. CONNESS. He may answer both at the same time, and thus save time. What is the reason for this proviso in the first section?

That troops known as home guards, or other volunteer troops organized for local service, which are now excluded from bounties by the rulings of the War Department, or under the terms of their enlistment, shall not participate in the bounties provided by this act or any part thereof.

I should like to know why the Senator desires to make the rulings of the War Department, which may be very unjust indeed, law by declaring them a law in this act. Under one of these rulings the troops that I have already spoken of have been excluded.

Mr. NYE. I should like to inquire at the same time of the chairman what he understands by the term "organized for local service."

Mr. WILSON. I will answer the Senators. During the war there were small bodies of men raised for local purposes, and in some cases they were called "home guards." I believe we had one or two companies raised in Massachusetts of that kind, who were sent into the harbors and scattered up and down the country. There were small collections of men of that kind. I think this proviso will exclude but a very few men.

Mr. CONNESS. Then the exclusion had better not be made if it excludes but a few men.

Mr. WILSON. I think it will exclude but very few, indeed.

Mr. CONNESS. Then I will submit an amendment to the amendment in that regard.

Mr. WILSON. We have by legislation authorized the payment of bounty to the men who were raised in Missouri as home guards and who went into the service of the United States, and we have also authorized it to be paid to the three Indian regiments that were raised. I do not think this proviso will cover a great number.

Mr. CONNESS. Then I submit an amendment to the amendment to strike out the proviso to the first section.

Mr. NYE. If the Senator from California will allow me, I wish to make one more inquiry of the chairman of the Committee on Military Affairs. I should like to know whether the troops raised in the Territory of Nevada—we raised between one thousand and eleven hundred—who were ordered to Fort Bridger, in Utah, come within this provision.

Mr. WILSON. They do.

The PRESIDING OFFICER. The Senator from California proposes to amend the amendment by striking out the proviso to the first section, which will be read.

The Secretary read it, as follows:

Provided, That troops known as home guards, or other volunteer troops organized for local service, which are now excluded from bounties by the rulings of the War Department or under the terms of their enlistment, shall not participate in the bounties provided by this act or any part thereof; but this exclusion shall not apply to those voluntarily legalized as mustered into the three years' service of the United States under an act making an appropriation for completing the defenses of Washington, and for other purposes, approved February 13, 1862.

The amendment was agreed to.

Mr. SHERMAN. I will state to the Senator from California that if that proviso is stricken out the vote will extend the bounty to all the Ohio men, all the Indiana men, all the Morgan men, of Kentucky, and I do not know how many hundreds of thousands more.

Mr. CONNESS. Did they not do good service?

Mr. SHERMAN. I know; but they ought not to get bounties. If that proviso is stricken out, it will take millions upon millions.

Mr. CONNESS. The Senator and myself are looking at this from different stand-points now. The Senator naturally enough desires to save money to the Treasury. I do not wonder at that. This professes to be an equalization of bounties. Now, if troops went into that service, and they took all the risks of war, and all the dangers of war, and a very disagreeable service, I know of no reason why they are not entitled to the bounty. The Senator will observe that under this proviso a great many are excluded. I move to strike it out because I do not know how to separate them. It is brought in here at this time without time to examine it closely. The chairman of the Committee on Military Affairs has informed us that this will exclude but a comparatively few men; because, it will be noticed, in the latter part of the clause it is provided that this exclusion shall not apply to those volunteers legalized under a certain act, so that its application is not as wide as it might seem to be.

Mr. SUMNER. If the Senator will give way I will move an adjournment. ["Oh, no."]

Mr. CONNESS. I do not think the Senate will agree with the Senator if he moves an adjournment.

Mr. SUMNER. I move that the Senate do now adjourn.

Mr. SHERMAN. I hope we shall get through with this bill.

Mr. SUMNER. We cannot.

Mr. SHERMAN. I am opposed to adjourning. I want to get through with the bill.

The motion was not agreed to; there being, on a division—ayes 14; noes 17.

Mr. WILLIAMS. I think the amendment proposed by the Senator from Massachusetts ought not to be adopted until it has more consideration; and the suggestion I make is an argument against attempting to place a piece of legislation involving so much as this does upon an appropriation bill as an amendment. Now, sir, I am not prepared to say that I will or will not vote for a bill equalizing the bounties as an independent proposition, but I think it is clearly improper to attach to this appropriation bill a proposition of this magnitude, one that needs careful consideration in every respect; and a feature of the bill presents itself here which shows that it has not been properly matured and considered. In the State which I have the honor to represent there were, during the war,

three regiments of volunteers raised. They were engaged in the service of the United States; they were engaged in campaigns against the Indians of the frontier; they were subjected to hard and perilous service; many of them lost their lives; many of them have been disabled.

Mr. WILSON. How long were they in the service?

Mr. WILLIAMS. I do not remember how long they were in the service, but they were raised for three years' service. They were raised for local service. They were raised for the purpose of protecting the frontier and suppressing Indian hostilities. They were not raised for the purpose of taking part in the suppression of the rebellion. This first section provides—

That to each and every soldier who served in the armies of the United States in the late war of the rebellion, without distinction of color or race and who has been, or who may be hereafter honorably discharged therefrom, there shall be paid, except as hereinafter specified, eight and one third dollars per month for each and every month of service rendered.

And then there is a proviso which excludes—

Troops known as home guards, or other volunteer troops organized for local service.

I suppose that clause would embrace the troops that were raised in the State of Oregon.

Mr. NESMITH. It would embrace all the troops raised on the Pacific coast.

Mr. WILLIAMS. They would all be excluded by that expression in this section. It seems to me that a measure framed so as to have that effect is one that will work great injustice, and so far as I am concerned I do not feel at liberty to consent to any such proposition.

Mr. WILSON. They never had any bounty.

Mr. WILLIAMS. They had State bounty.

Mr. DAVIS. I think, sir, that a bill of some sort to equalize bounties ought to pass, but it is a most extensive, complicated, and difficult subject. It certainly, I think, in its importance and complexity requires due consideration in a separate measure. Therefore, although I am in favor of a judicious and just bill to equalize the bounties to our soldiers, I am utterly opposed to attaching this subject to the appropriation bill now under consideration. I shall vote for the best amendments that are offered to the proposition, and ultimately I shall vote against attaching the subject of the equalization of bounties to this bill.

Mr. HENDERSON. The Senator from California will not accomplish anything that he thinks he will accomplish by striking out this proviso. I am satisfied that under the ruling of the War Department he will accomplish nothing, and I have had some experience on that subject.

Mr. CONNESS. Then I will withdraw my amendment, and let us come to a vote on the main question.

Mr. SHERMAN. The better way is to vote down the original amendment.

Mr. CONNESS. I do not know why the chairman of the Committee on Military Affairs introduced here the words "without distinction of color or race;" for, in the first place, he says that "to each and every soldier who served in the armies of the United States" the bounty shall be paid. After using those general words, why introduce the words "without distinction of color or race?" Is the black man not a soldier, because of his "color?" Why introduce these words "without distinction of color or race?" into everything? How long is it to be continued? I expect if I live for seventy-five years to come to have "color or race" running through, not my recollections and memories merely, but through my every-day life.

Mr. COWAN. I have simply a word to say. I think the adoption of the amendment of the Senator from Iowa was fatal to this whole proposition, as it was right and proper that it should be. This is an attempt to equalize bounties among our soldiers. Well, if you undertake to equalize the bounties, you must take into the account all the bounties they have received, and that has been done by that amendment. But in avoiding Scylla we run

upon Charybdis. The honorable Senator from Vermont showed that very clearly. Are we to tax those States which did pay their full proportion of bounties to their soldiers in order to make up for those States which did not? In my State, very much in the condition of Vermont, we paid large bounties and raised large relief funds. Now, shall we be taxed to make up the deficit which occurred by the negligence or default of other States? Certainly not. It is utterly unjust and unfair to tax a State which has paid her full share, or to tax the county or the township or the town or the individual.

The honorable Senator from Iowa [Mr. GRIMES] says "not default or negligence, but excess of patriotism." Well, if we are to pay for that excess of patriotism at this late day, I should like to be very well assured of it. We thought it was an excess of patriotism to pay upon the counter, upon the nail. If Iowa chose to postpone the day of payment, we have no objection that she shall pay now if she will.

But, Mr. President, there is another general objection to this project, which in my mind is equally fatal to it, and that is, its utter and total impossibility. When you come to contemplate the magnitude of the subject, the idea of adjusting the equities—because that is what you want to get at, not to equalize the bounties but to adjust the equities between the nation generally, not the nation particularly, the United States and the individual, but between the United States, the States, the counties, the towns, the boroughs, the cities and the individual—the idea cannot be carried out. Think of it for one moment; think of the magnitude of that task, and think of the difficulties that stare you in the face at every foot of the way when you attempt to adjust the equities between a million of men and half a dozen of employers. How is it to be done? It is utterly and totally impossible, and in attempting it you will do wrong to just as many soldiers as you will benefit by the operation; you imperil the Treasury of the country; you impose burdens upon innocent people, people who have paid heretofore their full share of the burdens of the country, and what do you gain? I am told that not one tenth of this appropriation will ever go into the pockets of the soldiers. These claims are now in the hands of brokers and speculators of all kinds, who ever since the war closed have been buying up the discharges of the soldiers in order that they might come in for some share in an appropriation of this kind.

There is one law on this subject which I believe I would cheerfully vote for, and that is a law declaring that we would, at some time or other, pay assignees of these discharges; and after all the discharges had been assigned, then I would vote for another law to declare that we would not pay them. That, perhaps, would throw the burden upon the right shoulders.

Mr. CHANDLER. I move that the Senate do now adjourn.

Several SENATORS. Oh, no; let us vote.

The question being put, the motion was not agreed to; there being, on a division—ayes 17, noes 20.

Mr. HENDERSON. I desire to offer an amendment to come in at the end of the first section of the proposition of the Senator from Massachusetts.

Mr. BROWN. I suggest whether it would not be better to take the sense of the Senate on the amendment as it stands; we can perfect it afterward when the bill comes into the Senate, if it shall be adopted.

Mr. HENDERSON. Very well; I withdraw my proposition.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts from the Committee on Military Affairs.

Mr. EDMUNDS. I now repeat the question which I had the honor to submit to the honorable chairman of the Committee on Military Affairs a few moments ago, and to which I have not yet received an answer. I want to know why it is that this amendment of his ap-

pears to provide against allowing a bounty of eight and one third dollars a month, or any other sum, to soldiers unless they served at least two years, or if the language of the thirteenth line of the second section is to be construed literally, why it is that he prohibits any soldier who has served more than two years from having any bounty at all. Here in the list of prohibitions, in the description of those who are prohibited from having any bounty, I find this language:

And no bounty whatever shall be paid to any soldier who has deserted from the service, nor to any soldier who was a captured prisoner of war at the time of enlistment, or to any soldier who has been discharged at his own request, unless for transfer to the Navy, or for the purpose of accepting promotion or appointment in the Army or Navy or after two years' service, or who has been discharged at the request of parents, guardians, or other persons, or on the ground of minority.

It is open to a little doubt upon the face of it whether that language, properly construed, means that no soldier who served less than two years shall have anything, or whether it means, as it literally reads, that no soldier who served more than two years shall have anything. I should be glad to be informed, first, what that means, and second, why it is inserted at all.

Mr. WILSON. The Senator will find that every month of service, if it be but one month, is paid for by this provision, eight dollars and one third a month. The clause to which he refers is the clause containing exceptions, and it is "and no bounty whatsoever shall be paid to any soldier who has deserted"—if the soldier has deserted he cannot receive any part of this bounty—"nor to any soldier who was a captured prisoner of war"—that is, a rebel who entered into our service—"nor to any soldier who has been discharged at his own request, unless for transfer to the Navy or for the purpose of accepting promotion or appointment in the Army or Navy or after two years' service." That is the meaning of that provision.

Mr. GRIMES. What is the meaning?

Mr. WILSON. It is a very plain provision. It is that no bounty shall be paid to any soldier who has been discharged at his own request, unless for transfer to the Navy or for the purpose of accepting promotion or appointment in the Army or Navy or after two years of service. If a man asked to be discharged for his own account, under two years of service, he gets nothing. If he served two years we give him the bounty, because we think two years is so long a time that after he has served that period he ought not to lose the entire bounty. This clause as to two years, in this place, only applies to those who themselves asked to be discharged.

There has been great criticism made on this measure, and I wish simply to say one word in reply to it. The Senator from Oregon spoke of it. Let me tell him that this measure has been studied and written carefully. It is one of the best drawn bills presented to the Senate this year from any committee. After being drawn up here it went through the hands and received the careful and thorough revision of the Paymaster General of the Army. It then went under the revision of Mr. Brodhead, of the Treasury Department, then under the eye of the Secretary of War, and through the hands of some six or seven of the best informed men in the various Departments. It was specially discussed and considered in reference to its provisions concerning those Departments.

The object was not to take into account troops that had been temporarily raised for local purposes. Some say there will be a large number excluded by that provision, but I do not think there will be a great many.

The Senator from Pennsylvania spoke about equalization. Let me tell the Senator that this measure is one of absolute equalization. That is as clearly demonstrable as any proposition in Euclid. It is based on the highest bounty ever paid by the Government of the United States, \$8 33 a month. We accept that as the basis, and on that theory the bounty of the Federal Government is made equal in every case.

Now, it is said we are to equalize it in regard to local bounties. I say \$8 33 a month is not the measure, if you include not only the bounty of the Federal Government but the bounties of the State governments as well. On that basis, instead of the measure being \$8 33 per month, it should be at least twenty-five dollars. During the first two years and a half of the war we paid at the rate of \$100 for three years' service. The early men who enlisted got but little from the local authorities; but after the Federal Government offered \$300 for volunteers and \$400 for veterans, the State authorities and other local authorities carried up the bounties on their part to \$300 or \$400 and in some cases to \$500, so that the men enlisted during the last eighteen months of the war got their \$300 United States bounty, while the men enlisted at the beginning of the war got, many of them, but \$100 bounty for three years' service.

Mr. COWAN. If I understand the position of the Senator from Massachusetts, he is speaking now of the original measure and not of this proposition as it has been amended by the amendment of the Senator from Iowa.

Mr. WILSON. Certainly.

Mr. COWAN. That contemplates, if I understand the Senator, merely to adjust the equities between the United States and the soldier, without going further.

Mr. WILSON. Yes, sir.

Mr. COWAN. Then I would ask how the honorable Senator distinguishes between the States and the municipal communities and the United States. Are they not all one and the same? And if the equities are to be adjusted at all, does it not follow as a matter of necessity that you must include all these various parts of the general whole? Would it be fair to simply take the equities between the United States and the soldiers and throw out the others?

Mr. WILSON. So far as the Federal Government and the soldier are concerned, I think it would be fair; but allow me to say to the Senator that the difficulty of taking into account the local bounties is so great that I do not believe we can take them into account.

Now I wish to say another word. The men who have a claim in equity for the equalization of bounties are the men who enlisted from April, 1861, to the 17th of October, 1863, during the first two years and a half of the war. They enlisted for \$100 bounty for three years' service. They are the only men, I think, who have any claim in equity upon us, because all enlisted after October 17, 1863, with perhaps a very few exceptions, received the large bounty of \$300 from the Government, or \$400 if they were veterans, and they received also large local bounties.

Now, I will read a provision that I should prefer to anything which has been presented, and which, I think, will reach the case fully as far as the Federal Government is concerned:

That to each and every soldier who enlisted into the service of the United States for a period not less than two years during the war, and who has received or is entitled to receive \$100 bounty and no more, there shall be paid an additional bounty of \$100; and any soldier who has been discharged on account of wounds received in battle, and the widow or heirs of any soldier who has died in the service of the United States, shall be paid the bounty hereby provided the same as though such soldier had served the full term of enlistment.

That would give to every soldier who enlisted for \$100 bounty for three years and who got that bounty, who complied with the law and the rules and regulations and got his \$100, an additional \$100. It is clear and well defined. I prefer this to the other proposition as it has been amended.

Mr. COWAN. Then the thing should be called by its right name. That is not an equalization of bounties at all; it is an addition to bounties before received, and has no element of equality about it, because men who received the largest bounty would as well be entitled to this \$100 as those who received but \$100 from the United States. This is entirely a different proposition, and one which I think



ought to be well considered before it is hurried through the Senate.

Mr. SHERMAN. I suggest to the Senator from Massachusetts that now the very fact that he is compelled to suggest amendments to his own proposition shows that we are not prepared to consider this measure on this bill.

Mr. WILSON. I only read it as a proposition. I do not offer it.

Mr. SHERMAN. I suggest that we had better take a vote on the proposition before us, reject it, and let it come up again for future consideration. It is so late to-night that we are all weary.

Mr. EDMUNDS. It is not too late to see that what is necessary and proper should be done. Now, I want to ask the chairman of the Committee on Military Affairs—I assume that he is one of the numerous gentlemen who have had a hand in this pie—why it is that our gallant soldiers who were taken prisoners and were languishing in prisons and lost their health and almost their lives, and came home skeletons; or those who had the malaria in the swamps down here and were discharged on account of sickness and not on account of wounds received in battle, are not provided for.

Mr. WILSON. I will say to the Senator that they got their pay for the time they served the country, and they got their bounty for the time they served.

Mr. EDMUNDS. So do those who were wounded.

Mr. WILSON. But these men by the ruling of the Government have never had any bounty.

Mr. EDMUNDS. So much the more reason why they should have it now.

Mr. WILSON. Men who retired wounded received bounty, and men who retired for sickness, whether real or pretended, whether a sickness for which they ought to retire, or a sickness growing out of disease before they entered the service, have never received any bounty, and we now propose to give them bounty for the time they served. If they served two years they get two years' bounty, but nothing after that.

Mr. EDMUNDS. Why not?

Mr. WILSON. It is so difficult to tell who retired on account of sickness justly and who not; but there is no difficulty in telling about a wounded man.

Mr. EDMUNDS. Why is it any more difficult in regard to bounty than it is under the pension laws?

Mr. WILSON. At any rate it is so difficult that the Government has never yet allowed any bounty for them, and nobody has ever proposed to give any, and this is the only chance they have to get any bounty at all.

Mr. EDMUNDS. We are the Government.

Mr. WILSON. I mean Congress. The Department have never paid these men anything. In the beginning of the war, for the first six or eight or perhaps twelve months of the war, hundreds and thousands and tens of thousands went out of the service who ought not to have gone out and who could not have got out during the last two years. They let almost anybody go out at first. Now, the question is, are you to give a bounty to those men for a longer time than they served? Will you treat them as you do the wounded men who could not serve you? There are cases, I admit the fact, of men who retired on account of sickness, who ought to have bounty up to the end, but it is so difficult to confine it to those cases that it is an impracticable thing to do.

Mr. GRIMES. I suppose the expression, "nor to any soldier who was a captured prisoner of war at the time of enlistment," refers to the few regiments raised among the rebel prisoners at Rock Island and Fort Delaware.

Mr. WILSON. Yes, sir.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts on behalf of the Committee on Military Affairs, as amended.

Mr. LANE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. HOWARD, (when his name was called.) On this question I agreed to pair off with the Senator from Maine, [Mr. FESSENDEN,] who is absent in consequence of ill health. I should vote in the affirmative on this question, and he would vote in the negative if he were here.

Mr. MORRILL, (when his name was called.) I should vote in favor of the amendment, but I have paired off with the Senator from Maryland, [Mr. JOHNSON,] who was obliged to leave the Hall a short time ago.

The Secretary concluded the call of the roll. Mr. HENDRICKS, (who had voted in the affirmative.) I ask permission of the Senate to withdraw my vote. I forgot at the time I voted that I had paired off with the Senator from Kentucky, [Mr. GUTHRIE.] He is against the measure, as an amendment to this bill, and I am for it.

No objection being made, leave was granted to withdraw the vote.

The result was announced—yeas 14, nays 22; as follows:

YEAS—Messrs. Chandler, Creswell, Grimes, Henderson, Howe, Kirkwood, Lane, Pomeroy, Ramsey, Trumbull, Wade, Willey, Wilson, and Yates—14.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Davis, Doolittle, Edmunds, Foster, Harris, McDougall, Morgan, Nesmith, Poland, Riddle, Sherman, Sprague, Stewart, Sumner, Van Winkle, and Williams—22.

ABSENT—Messrs. Cragin, Dixon, Fessenden, Guthrie, Hendricks, Howard, Johnson, Morrill, Norton, Nye, Saulsbury, and Wright—12.

So the amendment was rejected.

Mr. HOWARD. I desire to move an amendment.

Mr. CONNESS. If the Senator will give way I will move an adjournment.

Mr. SHERMAN. I hope we shall go on and finish the bill to-night.

The motion to adjourn was agreed to; there being, on a division—ayes 22, noes 15; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 24, 1866.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. ELIOT the reading of the Journal was dispensed with.

### PERSONAL EXPLANATION.

Mr. FINCK. I ask unanimous consent of the House to record my vote on the Fenian resolution yesterday.

The SPEAKER. By the rule of the House it cannot be done.

Mr. FINCK. I wish to state, then, that if I had been present I should have voted for both resolutions offered yesterday on that subject. I was unavoidably absent.

### PORT OF CALAIS, MAINE.

Mr. ELIOT. I am instructed by the Committee on Commerce to report a bill to authorize the entry and clearance of vessels at the port of Calais.

The SPEAKER. This is in accordance with the leave granted by the House the other day at the request of the chairman of the committee, [Mr. WASHBURN, of Illinois.]

The bill was read a first and second time. It provides that the Secretary of the Treasury may authorize the collector of customs at the port of Calais, Maine, to enter and clear vessels and perform such other official acts as the Secretary of the Treasury may think advisable.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### WEIGHING OF EXPORTS.

Mr. ELIOT, from the Committee on Commerce, reported back House bill No. 480, to provide for and to regulate the weighing of exports, and for other purposes.

The bill was read. It provides that on all weighable articles on which drawback or return

duty is allowed there shall be levied and collected from the several ports three cents per hundred pounds, to be returned by the weighers. It also abolishes the office of measurer at New York, whose duties shall be performed by the weighers. It also regulates the salary of the weighers.

Mr. DAVIS. Do I understand that this bill abolishes the office of inspector?

Mr. ELIOT. Not the inspectors, but the measurers are abolished, because all their duties are transferred to the weighers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### PACIFIC RAILROAD.

On motion of Mr. PRICE, by unanimous consent, the Committee on the Pacific Railroad was discharged from the further consideration of bill of the Senate No. 20, granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and the same was laid upon the table.

### INSPECTORS OF MERCHANDISE.

Mr. ELIOT, from the Committee on Commerce, reported back bill of the Senate No. 39, to amend the act in relation to officers employed in the examination of imported merchandise in the district of New York, with sundry amendments.

The amendments were agreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time and passed.

### WRECK OF THE SAN FRANCISCO.

Mr. ELIOT, from the Committee on Commerce, reported back, with an amendment, joint resolution of the Senate No. 31, manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel.

Mr. ANCONA. Is this the regular order of business?

The SPEAKER. It is. Leave was granted to the gentleman from Illinois [Mr. WASHBURN] to make these reports, and in consequence of his sickness the leave was transferred to his colleague on the committee, the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELIOT. I demand the previous question on the amendment, first yielding to my colleague on the committee [Mr. O'NEILL] to make a report upon the subject.

Mr. O'NEILL. I submit a report upon this joint resolution, and move that it be printed.

The motion was agreed to.

The report is as follows:

The Committee on Commerce, to which was referred joint resolution of the Senate No. 31, "manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel," respectfully reports that the subject has had full, mature, and ample consideration. The services rendered by Captain Creighton, of the ship *Three Bells*, of Glasgow; Captain Stouffer, of the ship *Antarctic*; and Captain Low, of the bark *Kilby*, on the occasion of this terrible wreck, about the end of the year 1853, and their voluntary and magnanimous conduct in saving the lives of some six hundred soldiers of the United States with the passengers and crew of the ill-fated steamship, in the estimation of the committee indeed deserve some marked manifestation of the American Congress. The joint resolution passed the Senate unanimously on the 20th of April last, and proposed that "valuable gold medals with suitable devices" should be presented to each of these noble captains, and that the President should reward them and the officers and crews of their vessels and such other persons as aided in the rescue, by distributing among them, in such manner as he might deem expedient, the sum of \$50,000, and recommended that such an amount of money be appropriated out of any money in the Treasury not otherwise appropriated for carrying the joint resolution into effect.

Your committee concurs with the Senate in the presentation of the medals, but does not adopt the views of that body in the appropriation of so large an amount as \$50,000, although that appropriation was adopted by the unanimous vote of Senators, without a division. A similar appropriation passed the Senate in the Thirty-Third Congress, but the joint resolution failed to reach the House for want of time. Your committee, feeling that the justice of a suitable reward, for such disinterested actions should be fully appreciated, especially in a case like the one under consideration, where these captains not only risked their own lives but the lives of their crews and the safety of their vessels, recommends that in addition to the medals for the captains, there be given to each of the captains, namely, Captain Creighton, Captain Stauffer, and Captain Low, the sum of \$7,500; to each of the mates of the respective vessels the sum of \$500; and to each man and boy of the respective crews the sum of \$100; these amounts to go, in the event of the decease of the respective captains, mates, men, and boys, first to their widows respectively, if they be living, or in the event of their death, then to their children respectively, or those surviving neither widow or children, then to their respective fathers, or if the fathers be not living then to their respective mothers.

The circumstances attending the wreck of the San Francisco were perhaps the most distressing known in the annals of the ocean. She was crowded with some seven or eight hundred passengers, five or six hundred of whom were officers and soldiers of the United States Army, with their wives and families, on their way to California and the Pacific coast. She left the port of New York in the month of December, 1853, and on the 24th of that month was overtaken by a most terrible storm, which continued without interruption twelve or thirteen days. The steamer became unmanageable and entirely at the mercy of the winds and waves. At about eight o'clock in the evening the sea broke over her, and carried to the depths of the ocean nearly one hundred and eighty of the soldiers and passengers, with some of the women and children. It was at this time that Colonel J. M. Washington, Major George Taylor, Captain H. B. Field, and Lieutenant Smith, all distinguished officers of the Army, were lost. Subsequently some sixty or seventy others of the soldiers, passengers, and crew died from injuries received during the storm and from exhaustion caused by their great distress and unremitted labor.

Upon the 1st day of January, 1854, Captain Creighton, of the bark Three Bells; Captain Stauffer, of the ship Antarctic; and Captain Low, of the bark Kilby, hove in sight. Their vessels had been scarcely able to outride the storm. Their crews had been night and day for several days at the pumps to keep them afloat, and their stores and water had been so much reduced by lightening the ships that starvation literally stared them in the face. Fortunately for the San Francisco her signals were seen and her guns of distress heard by these captains, who, with all the humanity and self-sacrificing spirit for which sailors are distinguished, "stood off and on" the wreck for six consecutive days until the storm had abated and they could so communicate with the sinking hulk as to give hope and encouragement to her desponding hundreds who momentarily expected to go to the bottom. The words of Captain Creighton, "Be of good cheer, we will stand by you," should never be forgotten. Captain Stauffer and Captain Low in the same spirit, "stood by," and the Three Bells, the Antarctic, and the Kilby, all of them so injured by the storm, actually filling with water at the rate of almost nine inches an hour, never left the wreck until over five hundred survivors of the perils of this widely spread storm were saved and eventually landed at New York and Liverpool. Many a poor sailor of each of these three vessels lost his life by his efforts in behalf of the sufferers of the San Francisco, and so crippled were the crews that port was not made for many, many days after these humane acts had been performed.

Your committee submit the amendments as indicated, and respectfully urges the House to do this eminent act of justice to the heroic captains, mates, and crews of these vessels.

By order of the committee:

CHARLES O'NEILL.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment reported by the committee was agreed to.

The bill, as amended, was then ordered to a third reading; and it was accordingly read the third time.

Mr. ELIOT. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INSPECTORS OF MERCHANDISE—AGAIN.

Mr. ELIOT. The House has just passed bill of the Senate No. 39, to amend the act relating to officers employed in the examination of imported merchandise in the district of New York. Since the passage of the bill I have received a note from the Secretary of the Treasury recommending an amendment of the bill. I move, therefore, a reconsideration of

the vote by which the bill was passed; in order that I may offer the amendment now.

By unanimous consent, the votes by which the bill was ordered to a third reading and passed were reconsidered.

Mr. ELIOT. I move to amend by adding the following section:

*And be it further enacted, That all aids to the revenue or others performing the duties of inspectors be paid the same per diem compensation as inspectors of customs.*

Mr. WILSON, of Iowa. I would like to know how much that is, and what change it makes in the law.

Mr. ELIOT. It is four dollars a day.

Mr. WILSON, of Iowa. What change does it make?

Mr. STEVENS. It is now five dollars a day for one year.

Mr. ELIOT. It continues it now at the same rate. It was to have been put in another bill, but was inadvertently omitted.

Mr. STEVENS. We did prolong the time so far as inspectors are concerned.

The amendment was agreed to:

The bill, as amended, was then read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDonald, its Chief Clerk, returned, in pursuance of the request of the House, Senate bill No. 285, granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, with the House amendments to the same.

DANIEL LUCAS.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill for the relief of Daniel Lucas; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to place the name of Daniel Lucas, of Plymouth, Massachusetts, formerly a private in company E, third United States infantry, on the roll of invalid pensions, at the rate to which he may be entitled under the pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES M. POTT.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars per month; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to pay Charles M. Pott, late of company K, one hundred and seventy-ninth Pennsylvania militia, the same pension as is provided for persons having lost one hand in the military service of the United States.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

QUINCY A. MAY.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill for the relief of Quincy A. May; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to pay to Quincy A. May, company H, eighty-third Illinois volunteers, a pension at the rate of eight dollars per month from and after the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARION M. BUXTON.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill for the relief of Marion M. Buxton; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to pay to Marion M. Buxton, widow of James H. Buxton, late an ensign in the United States Navy, a pension out of the naval pension fund at the rate furnished by law to officers of his rank, the pension to be continued to the minor children in case of her death or remarriage.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. SCHENCK. I must insist upon the regular order. This irregular firing enables some of the committees to get rid of their business. If the House will adopt a resolution to enable all the committees to be called in regular order in the evening as well as the morning sessions, then we can get rid of our business. I send to the Clerk's desk a resolution on the subject.

The Clerk read as follows:

*Resolved, That in addition to the regular call of committees in the morning hour, the call of committees for reports shall proceed continuously in the evening sessions of the House, after the business now on the Speaker's table shall have been disposed of, and until the present call of all the committees shall have been concluded.*

Mr. KASSON. I must object to that unless it contains one other element in it, and that is, that each committee shall have the privilege of reporting but one measure. Otherwise the benefit of this rule will be confined to two or three committees, who will take up the balance of the session.

Mr. SCHENCK. I do not think this objection comes with a very good grace from gentlemen whose committees have been already called. There are committees who have not been called for months, and now their drawers are crowded with reports.

Mr. DRIGGS. It is suggested that each committee have half an hour.

The SPEAKER. The Chair will state that, as soon as the special order at the evening session—bills on the Speaker's table—shall be disposed of, there will be, in accordance with the previous order of the House, an hour at each evening session for business of the morning hour.

Mr. SCHENCK. I ask more than that. I propose that we shall not only have an hour at the evening session, but that, after business on the Speaker's table shall have been disposed of, the remainder of the evening session shall be devoted to reports of committees.

The SPEAKER. The gentleman from Iowa [Mr. KASSON] objects.

Mr. DRIGGS. The gentleman does not object, if each committee be confined to half an hour.

Mr. WILSON, of Iowa. If this is to interfere with the regular call of committees, I must object to it; but if it is in addition to the regular call of committees, I have no objection.

The SPEAKER. The Chair will suggest that committees called at the day session, being entitled to an hour, would stand in a much better position than committees called at the evening session and having but half an hour.

Mr. SCHENCK. Gentlemen will observe that my proposition will not interfere with the

present call of the morning hour. The language of the resolution is—

That in addition to the regular call of committees in the morning hour, the call of the committees for reports shall proceed continuously in the sessions of the House, after the business now on the Speaker's table shall have been disposed of, until the present call of committees shall have been completed.

I propose, if gentlemen insist upon it, to add the words "allowing one hour to each committee;" though I think that when gentlemen have been occupying days with the reports of their committees, it comes with a bad grace for them to insist on this restriction.

Mr. STEVENS. I do not see how we are to get through with the special orders if we adopt this proposition. The bills which are matured and before the House will all be pushed aside.

Mr. SCHENCK. Not at all. Gentlemen will have the whole of the day session for such business. My resolution applies only to the evening session.

Mr. STEVENS. If the morning hour of the day session be abolished, I will consent to the proposition.

Mr. HARDING, of Kentucky. I call for the regular order.

JAMES P. JOHNSON.

Mr. WILSON, of Iowa. I call up the motion to reconsider the vote by which Senate bill No. 874, an act for the relief of James P. Johnson, was referred to the Committee of Claims.

The bill, which was read, provides that the Secretary of the Treasury be authorized and required to pay to James P. Johnson, of Iowa, the sum of \$202 50, in full payment for his services as veterinary surgeon in the fourth Iowa cavalry.

The motion to reconsider was agreed to.

The question then recurred, Shall the bill be referred to the Committee of Claims? which was decided in the negative.

Mr. ANCONA. I desire to reserve my right to make the point of order that this bill must, under the rule, go to the Committee of the Whole on the state of the Union.

Mr. WILSON, of Iowa. I ask the gentleman to hear the report read. When he learns the circumstances of the case, I think he will not object.

The report was read.

Mr. ANCONA. I make the point of order that the bill must go to the Committee of the Whole on the state of the Union.

Mr. WILSON, of Iowa. I appeal to the gentleman to withdraw that point of order. The papers upon which the report is based show that this claim is indorsed by the Secretary of War, as well as by the colonel of the regiment and the general commanding the brigade.

Mr. ANCONA. I have no doubt as to the merits of the case. The report satisfies me on that point. But I do not see why this claim should be preferred to others of equal merit.

Mr. WILSON, of Iowa. The bill simply proposes to pay a man who performed service in the Army, and who cannot get his pay because of a mere mistake in the voucher.

Mr. ANCONA. I will withdraw the point; and I will see whether other gentlemen appreciate the favor.

Mr. RADFORD. There are a thousand cases similar to this, and I do not see why this should be preferred.

Mr. WILSON of Iowa, demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REORGANIZATION OF TREASURY DEPARTMENT.

Mr. MORRILL, from the Committee of Ways and Means, reported a bill, in the nature

of a substitute for House bill No. 696, to reorganize the Treasury Department, and to fix the pay of its officers; which was ordered to be printed and referred to the Committee of the Whole on the state of the Union.

MILLER AND ULRIK.

Mr. MOORHEAD, from the same committee, moved that the committee be discharged from the consideration of the memorial of Miller and Ulrick, and that the same be laid upon the table.

The motion was agreed to.

JAMES POOL.

Mr. JOHNSON. I move to reconsider the vote by which Senate bill No. 311, for the relief of James Pool was referred to the Committee of the Whole House on the Private Calendar.

A bill for the payment of this claimant was passed by the Senate in 1861, on the report of Senator WADE, which I now hold in my hand. I was requested to look at the case, and did so and became satisfied it was a just claim and ought to be paid. It failed in the House. The Senate again passed it in 1862, and it again failed to pass the House. It has once more passed the Senate, and I think there will be no objection when the report has been read. The bill directs the Secretary of the Interior to pay to James Pool \$1,287 10 out of any money in the Treasury not otherwise appropriated, provided that \$487 50 of said amount shall be paid out of any annuities or moneys payable to the Senecas or Shawnee Indians, if there be any, and if none, then the whole sum to be paid out of the Treasury of the United States. That is much less than was provided in the bill of 1861, when, if it were not a just claim, it would not have been passed.

I ask the Clerk to read Senator WADE'S report.

The Clerk read as follows:

"It appears that the petitioner was employed by the United States, under the provisions of sundry treaties, as a blacksmith for the Delaware, Shawnee, and Seneca tribes of Indians, from August, 1823, until November, 1838.

"During portions of this period it became necessary to employ an assistant or striker, and Mr. Pool employed a striker and paid him out of his private funds, under the assurance, as is alleged, of the commissioners or Indian agents, that the money should be refunded as soon as appropriations could be obtained. In consequence of the death of Governor Stokes and Captain Vaishon, the Indian agents, the proper estimates and vouchers failed to be forwarded, and although the claim was repeatedly and urgently pressed upon the Government, it was not paid until 1852.

"In 1851 he renewed the application, but there being no fund out of which he could be paid, a clause was inserted in the deficiency bill for that year (Thirty-Second Congress, first session, page 19,) 'for payment for services of blacksmith and for use of tools for the Seneca tribes of Indians, from July 1 to November 8, 1838, \$213 33.' And in the deficiency bill for 1852, (Thirty-Second Congress, second session, page 186,) 'for the services of a striker in the shop of the Delaware Indians, from August 1, 1823, to August 31, 1826, and for the services of a smith and striker in the shop of the Senecas and Shawnees of Lewiston, from 17th November, 1823, to 15th February, 1838, deducting all amounts paid for such service during said period, and for balance due for services on Seneca mill-dam, as estimated by the proper Department, \$2,229.'

"Both of the above sums were found by the accounting officers to be due to the memorialist, and were paid to him.

"He now asks that interest may be allowed him from the time the sums became due until provision was made by Congress for their payment.

"The chiefs of the tribes certify that the payment was demanded, at the time, of Major Graham, the Indian agent, and that he had no funds in his hands out of which he could pay it.

"The memorialist further states that this money was actually paid out by him at the time; that he expected immediate reimbursement; that upon making the demand it was found that there was no fund applicable to that object, although the treaty stipulations with those tribes required the expenditure; that the successive deaths of Governor Stokes and Captain Vaishon, Indian commissioners, prevented the proper application being made at the time for the appropriation; and that his laborious duties, and the care of a family dependent on his labor for support in that remote section of country, together with the repeated promises of successive agents that his case should be attended to, prevented his coming to Washington to demand payment at an earlier day. When he did come the indebtedness was admitted by the Department, and an appropriation was asked and granted to pay the principal, but no allowance was made for interest."

The House divided; and there were—ayes 80, noes 10; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Mr. JOHNSON, and Mr. HARDING of Illinois.

Mr. FARNSWORTH. I make the point of order that the bill makes an appropriation, and must have its first consideration in the Committee of the Whole House.

The SPEAKER. The Chair sustains the point of order.

Mr. JOHNSON. I have done my duty.

SENATE BILLS REFERRED.

Mr. CONKLING moved to reconsider the votes by which the business on the Speaker's table last evening was referred to the several committees; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REIMBURSEMENT OF MASSACHUSETTS.

Mr. DAWES. I call up the motion to reconsider the vote by which Senate joint resolution (S. R. No. 121) providing for the auditing of the accounts of the State of Massachusetts for moneys expended during the war for coast defense, was referred to the Committee on Military Affairs.

The motion was agreed to.

The motion to refer was disagreed to.

The joint resolution was read, as follows:

That the President of the United States be, and he is hereby, authorized and requested to appoint, by and with the advice and consent of the Senate, two commissioners who shall examine into the claim and audit the accounts of the State of Massachusetts for moneys expended for coast defense during the war, and shall make a full and complete report thereon to Congress at its next session.

Mr. DAWES. I move the following substitute which conforms to the bill prepared by the committee. It strikes out the appointment of commissioners and leaves the Secretary of War to do this work:

That the Secretary of War be authorized and required to settle with the proper authorities of the State of Massachusetts for expenses incurred by that State for coast defenses during the war, and to report the amount found to be justly due to said State on said account to Congress in December next.

The amendment was agreed to.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. DAWES moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BENJAMIN. I call for the regular order.

The SPEAKER. The morning hour has now commenced, and the first business in order is the consideration of the bill reported on Thursday last during the morning hour by the gentleman from Maryland, [Mr. McCULLOUGH.]

CHESAPEAKE AND POTOMAC CANAL COMPANY.

The House accordingly resumed the consideration of Senate bill No. 281, to authorize the Chesapeake Bay and Potomac River Tidewater Canal Company to enter the District of Columbia and extend their canal to the Anacostia river at any point above Benning's bridge.

Mr. INGERSOLL. Is the gentleman who has charge of this bill present?

The SPEAKER. He is not.

Mr. INGERSOLL. What is the condition of the bill?

The SPEAKER. The question is on ordering it to be read a third time.

Mr. INGERSOLL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also



moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed, without amendment, bills and joint resolutions of the House of the following titles:

Joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company; and

An act (H. R. No. 729) to change the port of entry in Puget Sound.

The message further informed the House that the Senate had passed the following House bills, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 609) to constitute Omaha and Nebraska City, in the Territory of Nebraska, and St. Paul, in Minnesota, ports of delivery; and

An act (H. R. No. 728) authorizing the Secretary of the Treasury to issue certificates of registry or enrollment and license to certain vessels.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes;

An act (S. No. 334) to prevent the wearing of sheath knives by American seamen;

An act (S. No. 399) relative to collection districts in North Carolina;

An act (S. No. 445) for the relief of R. P. Parrott;

An act (S. No. 419) repealing an act entitled "An act repealing certain provisions of law concerning seamen on board public and private vessels of the United States," approved June 28, 1864; and

An act (S. No. 446) for the relief of George W. Fish.

#### DANIEL WINSLOW.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back Senate bill No. 149, for the relief of Daniel Winslow, with a recommendation that it do pass. The bill was read. It releases the petitioner from certain judgments obtained against him in the district courts of the United States, upon failure to comply with his contract, dated September 29, 1846, with the chief of the Bureau of Provisions, to deliver at Charlestown, Massachusetts, eighteen hundred barrels of Navy beef.

Mr. SPALDING. I would like to know the reason for this.

Mr. WILSON of Iowa. I will state the case briefly. Daniel Winslow in 1846 made a contract for furnishing the United States with eighteen hundred barrels of beef at \$7 87½ per barrel. Soon after the contract was made the Mexican war commenced, and the price of beef rose rapidly to fifteen dollars per barrel. Mr. Winslow continued to comply with his contract until beef reached twelve dollars, and at that time had furnished three hundred and fifty barrels upon his contract. He then failed and was unable to complete his contract. The Government subsequently bought the amount of beef at \$12 or \$12 50 per barrel, paying \$8,061 75 more than the contract price, but not more than the market price of beef. Owing to this failure to comply with his contract Mr. Winslow has been under a cloud ever since, and has been unable to engage in any business; and to add to his calamity, during the recent fire at Portland, Maine, what little property he had was destroyed by that fire. This bill proposes merely to relieve him from his liability under that contract.

I will state that this case has been reported on several times in the House and once or twice in the Senate. It has been recommended by the United States district attorney for the State of Maine at different times, and I be-

lieve by the Attorney General, and I certainly can see no kind of detriment to the Government in the passage of the bill. I demand the previous question.

Mr. SPALDING. This is a special act of bankruptcy; that is all. I have no objection to it.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### UNITED STATES DISTRICT COURTS.

Mr. WILSON, of Iowa, also, from the Committee on the Judiciary, reported back, with an amendment, bill of the Senate No. 179, in relation to the district courts of the United States in the States of California and Louisiana.

The amendment was agreed to.

Mr. SPALDING. I desire to inquire how this bill fixes the salaries of the judges of the district courts.

Mr. WILSON, of Iowa. It affects only the salary of the judge of the district court of the State of Louisiana.

Mr. LE BLOND. What change does it make in the amount of salary?

Mr. WILSON, of Iowa. It changes it from \$3,500 to \$4,500, and it abolishes the southern district of California and the western district of Louisiana.

Mr. LE BLOND. I understand that, but why abolish these offices? What necessity is there for it?

Mr. WILSON, of Iowa. I will state to the House that there is not business enough in the southern district of the State of California to warrant the continuance of the district court, and consequently it should be abolished. In relation to the district in Louisiana, I will state that a memorial from the bar of Louisiana has been referred to the committee requesting that the two districts be consolidated, on the ground that it will advance the interests of the State and be more convenient for the people. The committee, therefore, recommend the passage of the bill.

Mr. LE BLOND. What is to become of the judge?

Mr. WILSON, of Iowa. We are already rid of him. There is no judge in either of these districts.

Mr. LE BLOND. Well, if what the gentleman states is the sole object of the bill, I have no objection to it. We have had so much legislation for the purpose of getting rid of objectionable incumbents that it struck me that that might be the object of this bill.

Mr. WILSON, of Iowa. There is nothing of that kind in it.

Mr. WARD. What is the reason for increasing the judge's salary?

Mr. WILSON, of Iowa. That amendment has been adopted, and the reason why the committee reported it was that they were satisfied that the present compensation of the judge of the district court of Louisiana, the two districts being combined, would not be sufficient.

Mr. McRUER. At present the business in the southern district of California is not very large, but the country is rapidly filling up. The people of southern California have now to travel three or four hundred miles to reach the court, and if the court for the southern district be abolished, they will be compelled to travel a hundred miles further to San Francisco, which is the distance from Monterey, where the court is now held. I trust, therefore, that the amendment so far as it affects California will not be agreed to. It costs some six or seven thousand dollars a year to maintain that court. The southern district of California is being rapidly settled, and the presumption is that the business will increase rather than diminish. Now, if

the bill to reorganize the judiciary shall pass, and I understand it is about to be reported, it will increase very materially the business to be transacted. And, therefore, those who are conversant with this subject, think that this judgeship should be continued. Therefore I hope that the bill, so far as it relates to the southern district of California, will not be passed.

Mr. WILSON, of Iowa. I will state, in reply to what the gentleman from California [Mr. McRUER] has said, that the Committee on the Judiciary have investigated the subject of the amount of business transacted in the southern district of California. And we have come to the conclusion that there is not business enough in that district to occupy the attention of a judge for one month of the entire year. They have always stated to gentlemen who have opposed the abolition of that district, that if they will show to the committee that there is business enough there to warrant the continuance of the district we would recommend an amendment of this bill. No such showing has been made, and no such showing can be made. And therefore I hope this bill will pass.

Mr. HIGBY. I agree with my colleague [Mr. McRUER] that the time may arrive when it will be necessary to have a judicial district in the southern part of California. I recollect that during the Thirty-Eighth Congress the question came up, and information was obtained from the most authentic sources that there was very little business done in this southern district, and that it might as well be abolished as not.

Let me state one other fact: Monterey, the place where the southern district court is held, is one hundred miles from the city of San Francisco. The facilities for traveling there are as good as they are in other parts of the State. From Monterey to the southern part of the State is about four hundred miles; and people who have to go from the southern part of the State four hundred miles to Monterey, with the facilities for travel which they have, might as well go the other hundred miles to a court that can attend to all their business as to go to this court which is almost a sinecure. We want the appropriations for California to be given for good and useful purposes. And that is one reason why I favor the position taken by the Committee on the Judiciary.

Mr. WILSON, of Iowa. I now call the previous question on this bill.

Mr. JENCKES. I understand this is a bill to decrease the judicial force of the United States, when it ought to be increased.

The SPEAKER. Debate is not in order pending the call for the previous question.

The question was taken upon seconding the call of the previous question; and upon a division, there were—ayes 56, noes 30; no quorum voting.

Tellers were ordered; and Mr. WILSON of Iowa, and Mr. JENCKES were appointed.

The House again divided; and the tellers reported that there were—ayes 64, noes 29.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the bill was read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### RHODE ISLAND UNITED STATES COURTS.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back without amendment, and with a recommendation that it do pass, House bill No. 643, to alter the places of holding the circuit courts of the United States for the Rhode Island district.

The bill was read at length. The first section provides that from and after the 1st of July, 1866, the circuit courts for the district of Rhode Island shall commence and be held at the United States court-room, in the city of Providence, on the 15th of November, and the 15th of June in each year, instead of at the

places heretofore established by law; provided, that when either of the days last named shall fall on Sunday, the session of said court then next to be held shall commence on the Monday next following.

The second section provides that all indictments, informations, suits, or actions, and proceedings of every kind, either of a civil or criminal nature, pending in said circuit court on the 1st of July, 1866, shall thereafter have day in court and be proceeded in, heard, tried, and determined on the days and at the place herein appointed for holding said court, in the same manner and with the same effect as if the court had been held as heretofore ordered by law.

The third section provides that all writs, suits, cognizances, and other proceedings, which shall or may be instituted, served, commenced, or begun in said court, shall be returnable at the times and place by this act provided, in the same manner and with the same effect as if the court had been held as heretofore provided by law.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time and passed.

#### COUNTERFEITING PUBLIC SECURITIES, ETC.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back with amendments the bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes.

The bill, which was read, provides in the first section, that if any person or persons shall buy, sell, exchange, transfer, receive or deliver, any false, forged, counterfeited or altered bond, bill, certificate of indebtedness, certificate of deposit, coupon, draft, check, bill of exchange, money order, indorsement, United States note, Treasury note, circulating note, postage stamp, postage stamp note, fractional note, or other obligation or security of the United States, or circulating note of any banking association organized or acting under the laws of the United States, which has been issued or may hereafter be issued under any act of Congress heretofore passed, or which may hereafter be passed, with the intent, expectation, or belief, that the same shall or will be passed, altered, published or used as true and genuine, such person or persons so offending, shall be deemed guilty of felony, and on conviction thereof shall be imprisoned not more than fifteen years, or fined not more than \$10,000, or both, at the discretion of the court.

The second section proposes to enact that it shall not be lawful to design, engrave, print, or in any manner make or execute, or to utter, issue, distribute, circulate or use, any business or professional card, notice, placard, circular, handbill, or advertisement, in the likeness or similitude of any bond, certificate of indebtedness, certificate of deposit, coupon, United States note, Treasury note, circulating note, fractional note, postage stamp note, or other obligation or security of the United States, or of any banking association organized or acting under the laws thereof, which has been or may be issued under or authorized by any act of Congress heretofore passed or which may hereafter be passed. Any person or persons offending against the provisions of this section are on conviction to be fined \$1,000, to be recovered by an action of debt, one half to the use of the informer.

The third section provides that it shall not be lawful to write, print, or otherwise impress upon any bond, certificate of indebtedness, or other instrument specified in the last preceding section, any business or professional card, notice, or advertisement, or any notice or advertisement of any goods, wares, or merchandise, or of any drug or medicine, or of any invention or patent, or of any other matter or thing whatsoever; and any person or persons offending against the provisions of this section is to be subject to a penalty of \$300, to be recovered by an action of debt, one half to the use of the informer.

The fourth section enacts if any person shall, without authority from the United States, take, procure, make, or cause to be taken, procured, or made, upon lead, foil, wax, plaster, paper, or any other substance or material, an impression, stamp, or imprint of, from, or by the use of, any bed-plate, bed-piece, die, roll, plate, seal, type, or other tool, implement, instrument, or thing, used or fitted, or intended to be used, in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used, or fitted, or intended to be used, in printing, stamping, or impressing any kind or description of bond, bill, note, certificate, coupon, or other paper, obligation, security, or instrument now authorized, or hereafter to be authorized, by law, to be executed, altered, delivered, given, issued, or put in circulation by, for, or on behalf of the United States, such person shall be deemed guilty of felony, and on conviction be punished by imprisonment not more than fifteen years nor less than five years, or by fine not less than \$5,000, or both, at the discretion of the court.

It is provided in the fifth section that if any person shall have in his possession, keeping, custody, or control, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument, or thing used or fitted, or intended to be used, for any or either of the purposes mentioned in the last foregoing section; or if any person shall sell, give, or deliver any such imprint, stamp, or impression to any other person, such person, so offending, shall be deemed guilty of felony, and on conviction be punished by imprisonment not more than fifteen years nor less than five years, or by fine not less than \$5,000, at the discretion of the court.

The sixth section proposes to enact that if any person, whether employed under the United States or not, shall, without authority from the United States, secrete within, embezzle, or take and carry away from any building, room, office, apartment, vault, safe, or other place where the same is kept, used, employed, placed, lodged, or deposited by authority of the United States, any bed-piece, bed-plate, roll, plate, die, seal, type, or other tool, implement, or thing used, or fitted to be used, in stamping or printing or in making some other tool or implement used, or fitted to be used, in stamping or printing any kind or description of bond, bill, note, certificate, coupon, postage stamp, revenue stamp, fractional currency note, or other paper, instrument, obligation, device, or document now authorized or hereafter to be authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation by or on behalf of the United States, or shall, without such authority, so secrete, embezzle, or take and carry away any paper, parchment, or other material prepared and intended to be used in the making of any or either of such papers, instruments, obligations, devices, or documents, or shall, without such authority, so secrete, embezzle, or take and carry away any paper, parchment, or other material printed or stamped, in whole or in part, and intended to be prepared, issued, or put in circulation, by or on behalf of the United States, as one of the papers, instruments, or obligations hereinbefore named or printed or stamped, in whole or in part, in the similitude of any such paper, instrument, or obligation, whether it be intended to issue or put the same in circulation or not, such person or persons so offending shall, on conviction, be punished by imprisonment not exceeding fifteen years nor less than five years, or by fine not less than \$5,000, or both, at the discretion of the court.

The seventh section enacts that if any person shall take and carry away, without authority from the United States, from the place where it has been filed, lodged, or deposited, or where it may for the time being actually be kept by authority of the United States, any certificate, affidavit, deposition, written statement of facts, power of attorney, receipt,

voucher, assignment, or other document, record, file, or paper prepared, fitted, or intended to be used or presented in order to procure the payment of money from or by the United States or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, whether the same has or has not already been so used or presented, and whether such claim, account, or demand, or any part thereof, has or has not already been allowed or paid; or if any person shall present or use or attempt to use any such document, record, file, or paper so taken and carried away, in order to procure the payment of any money from or by the United States, or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, such person so offending shall be deemed guilty of felony, and on conviction be imprisoned not more than fifteen years or fined not more than \$10,000, at the discretion of the court.

Mr. WILSON, of Iowa. The amendment which I am directed by the committee to report is to insert after the words "postage stamps," in the eighth line of the first section, the words "revenue stamps."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JOHNSON. The first section of this bill, if I understand it correctly, provides for punishing, by heavy penalties, any person having in his possession any forged or counterfeit money without requiring proof of any guilty knowledge. I suggest that the word "knowingly" ought to be inserted. I call for the reading of the first section.

The Clerk read the first section of the bill.

Mr. JOHNSON. It will be observed that this section provides a penalty for any person who undertakes to pass any forged or counterfeit security, but it requires no proof fixing guilty knowledge upon the party. It seems to me especially important that the word "knowingly" should be inserted.

Mr. WILSON, of Iowa. I think the gentleman misapprehends the language of the bill.

Mr. JOHNSON. I certainly listened to it with a great deal of attention.

Mr. WILSON, of Iowa. The first section provides for the punishment of those who circulate counterfeit securities "with the intent, expectation, or belief, that the same shall or will be passed, altered, published, or used as true and genuine."

Mr. JOHNSON. Every man who disposes of a genuine security expects that.

Mr. JENCKES. I wish to call the attention of the chairman of the Judiciary Committee to a fact which I mentioned to him in the early part of the session, that there is no punishment now prescribed by law for forging registers and other documents of United States courts and custom-houses; and I ask him whether he will not consent to have inserted in this bill a provision supplying this omission in our laws.

Mr. WILSON, of Iowa. It may be very proper for us to pass a separate bill to meet the difficulty suggested by the gentleman from Rhode Island, [Mr. JENCKES;] but I think we ought not to delay the passage of this bill in order to prepare an amendment to cover that case.

Mr. ELDRIDGE. I desire to call the attention of the chairman of the Judiciary Committee to that section with reference to having the possession of dies or stamps. I think that the objection suggested by the gentleman from Pennsylvania certainly applies to that section. The section, I believe, contains no words which require proof of guilty knowledge or intent.

Mr. WILSON, of Iowa. A die found in possession of a person not entitled to have the same raises a presumption of guilt.

Mr. ELDRIDGE. I think not.

Mr. WILSON, of Iowa. They are to be

kept in certain places, and the possession of those stamps in any other way than that provided by law ought to demand some explanation.

Mr. ELDRIDGE. A person may be put in possession without guilty knowledge.

Mr. WILSON, of Iowa. He does not come within the operation of this bill. I wish to say, Mr. Speaker, that this bill has been carefully prepared by the law officers of the Treasury Department. It was sent to the committee in a draft prepared in the Department. They have found a good deal of difficulty in enforcing the law in regard to the securities of the United States and the subjects connected therewith; and they are anxious this bill should be passed to cure the defects in the existing law.

Mr. JENCKES. I ask the gentleman to yield to me to move an amendment in reference to the forgery of records of courts of the United States.

Mr. WILSON, of Iowa. I am not prepared to accept that. I think when we are preparing a penal law it should be done with caution, and I am not prepared to say what will be the effect of the proposed amendment. The gentleman from Rhode Island has suggested this matter before. Now, let him prepare a bill and present it to us, and I have no doubt it will pass if it be all right.

Mr. JENCKES. Let me move the amendment. It is remarkable that the records of our courts can be forged, and there is no power to punish the forgery.

Mr. WILSON, of Iowa. As I have already said, I am not prepared at this time to accept the amendment. We ought to examine it and know its effect.

Mr. LE BLOND. Let this bill be recommended. There is doubt on this side of the House as to the language of one or two sections. If the bill does not provide that there shall be a criminal intent, as I understand from the chairman it does not, then that should be provided. Suppose a party is put clandestinely in possession of a die?

Mr. WILSON, of Iowa. The possession of the die raises the presumption of guilt. In explanation the party may give in evidence the circumstances, and so relieve himself of guilty intent.

Mr. LE BLOND. The gentleman fails to answer my point. He is to be presumed to be guilty, and yet has not the means to prove his innocence. It was put there without his knowledge. In that way a bad man could ruin a good man.

Mr. WILSON, of Iowa. This bill in relation to the possession of dies and stamps makes no change whatever in the existing law. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 25, not voting 67; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Boutwell, Brownell, Broomall, Reader, W. Clarke, Sidney Clarke, Cobb, Conkling, Davis, Dawes, De-frees, Dixon, Donnelly, Driggs, Eakley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Kasson, Kelley, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Seafeld, Shellabarger, Spalding, Stevens, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—89.

NAYS—Messrs. Ancona, Bergen, Boyer, Eldridge, Finck, Glossbrenner, Hogan, Jenckes, Johnson, Kerr, Latham, Le Blond, McCullough, Niblack, Nicholson, Ritter, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Ward, and Wright—25.

NOT VOTING—Messrs. Deles R. Ashley, James M.

Ashley, Baldwin, Beaman, Bingham, Blaine, Blow, Brandegee, Buckland, Bundy, Chandler, Cook, Cullom, Culver, Darling, Dawson, Delano, Deming, Denison, Dodge, Dumont, Gootyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, James R. Hubbard, Humphrey, Jones, Julian, Kelso, Longyear, Marshall, Marvin, McClurg, McIndoe, McKee, Noel, Patterson, Phelps, Pondray, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Rogers, Ross, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Williams—67.

So the bill was passed.

During the roll-call,

Mr. LOAN stated that his colleague, Mr. McClurg, was detained from the House by reason of sickness.

The result having been announced as above recorded,

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HABEAS CORPUS.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back House bill No. 775, amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved May 11, 1866, with a recommendation that it do pass.

The bill was read. It provides that whenever in any suit or prosecution which has been or may be commenced in any State court, and which the defendant is authorized to have removed from said court to the circuit court of the United States, under and by virtue of the provisions of an act relating to *habeas corpus* and regulating judicial proceedings in certain cases, approved March 3, 1863, or by virtue of an act amendatory thereof, approved May 11, 1866, and all the acts necessary for the removal of said cause to the circuit court shall have been performed, and the defendant in any suit shall be in actual custody on process issued by said State court, it shall be the duty of the clerk of the said circuit court of the United States to issue a writ of *habeas corpus cum causa*; and it shall be the duty of the marshal, by virtue of the said writ of *habeas corpus*, to take the body of the defendant into his custody to be dealt with in said circuit court according to rules of law and the orders of the said court or of any judge thereof in vacation; and he shall file a duplicate copy of said writ of *habeas corpus* with the clerk of the State court in which said suit was commenced, or deliver said duplicate to the clerk of said court, and all attachments made and all bail and other security given in any suit or prosecution which has been or shall be removed from any State court to the circuit court of the United States in pursuance of law shall be and continue in like force and effect as if the same suit had proceeded to final judgment and execution in the State court.

Mr. WILSON, of Iowa. This bill is rendered necessary by a defect in the former act, which provides no means for removing the person of a defendant whose cause has been removed from the State court to the jurisdiction of the United States courts. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON, of Iowa. I demand the previous question on the passage.

The previous question was seconded and the main question ordered.

Mr. TRIMBLE. I demand the yeas and nays on the passage.

The yeas and nays were not ordered.

Mr. TRIMBLE. I demand tellers.

Tellers were refused.

The bill was then passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

Mr. JOHNSON. I call for the regular order.

The SPEAKER. The regular order is the consideration of the banking bill.

#### DEFICIENCY BILL.

Mr. STEVENS. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1866, and for other purposes.

The pending question was the motion of Mr. DELANO to strike out the following paragraph:

To pay Roy Stone, of Pennsylvania, for certain buildings owned by him in Memphis, Tennessee, and which were taken possession of, used, occupied, and destroyed by and for the benefit of the forces of the United States, the sum of \$12,000: *Provided*, That it shall first be shown to the satisfaction of the Secretary of War that said buildings were of the value of \$12,000, and were the property of said Stone: *And provided further*, That this sum shall be in full satisfaction for all claims on account of said property against the United States.

On the pending motion Mr. SCOFIELD was entitled to the floor.

Mr. SCOFIELD. I am opposed to the amendment offered by the gentleman from Ohio [Mr. DELANO.] I happen to know this General Stone, and the circumstances under which the indebtedness of the United States to him originated. When the war broke out he was a resident of my district. He was a large manufacturer of lumber which he sold at Memphis, Tennessee. For purposes connected with his business there he had purchased some buildings upon the banks of the river. Just at the time the war broke out he had in the city of Memphis a large amount of lumber in the yard for sale. He left his business at home and his business at Memphis in the care of an agent, raised a company which he uniformed and equipped at his own personal expense, made some boats or skiffs, put his company on board of them, started down the Alleghany river and was mustered at Pittsburg in the United States service. That company went into the celebrated regiment called the Bucktails, of Pennsylvania, probably the most celebrated of any in our State.

From being a captain of the company which he himself raised he rose to the command of the regiment, and led it through many battles in the Peninsular campaign. He then came back to Pennsylvania and raised a brigade, and was made a brigadier general, and was put in command of the brigade known as the "Bucktail" brigade. He then went again to the war. He continued in the service until the war ended, and then he came home, having been in all the battles in which the Bucktail brigade was engaged, and that brigade was engaged in the McClellan campaign, was at Gettysburg when Pennsylvania was invaded, and in the battles of the Wilderness under Grant. He came back with a person maimed and a constitution shattered by the accidents of the service, to find that his fortune which, when he entered the service, was considerable, was worse shattered than his person. During the first months of the war the rebels seized a large and valuable lumber-yard belonging to him at Memphis and converted it to their own use. I am told by him that the value of it was about forty thousand dollars. Then his mill up in my district, on the Alleghany river, was accidentally destroyed by fire.

When the United States forces took possession of Memphis, they took his buildings, which



were conveniently situated, and after occupying them for some time demolished them for the purpose of using the materials in the construction of fortifications for the protection of the river at that point. All there is in this bill is a small appropriation to pay this officer for the value of the materials on his place, saying nothing about the use of the buildings. That was the only remnant of the large fortune with which he entered the war that was left. I know about his affairs personally. He is now poor, although he went into the service probably with more wealth than any other young man in that region of the country. I hope the amendment of the gentleman from Ohio [Mr. DELANO] will not prevail, but that this very deserving officer may be able to secure from the United States this little amount that belongs to him. I now yield to the gentleman from Illinois.

Mr. FARNSWORTH. This case was referred to the Committee on Appropriations, and was examined by that committee, and I believe they were unanimously in favor of the claim. I happen to know something myself of General Stone's claim, having served with him during the Peninsular campaign in 1862 where I first met him. He was then connected with the Pennsylvania "Bucktail" regiment, which was located very near my own regiment, the eighth Illinois cavalry, at the extreme right of the army. His regiment and mine received the first shock of Stonewall Jackson's corps at the commencement of the war. I knew him well and intimately, and have known him very well since. He served in the Army very bravely and faithfully until the spring or summer of 1865, when he was mustered out of the service. After the retreat at Harrison's Landing, I came up on the same boat with General Stone, he having been wounded in one of the engagements. He was then placed upon the recruiting service, when he raised a brigade and returned again to the field. No more gallant and meritorious soldier could be found in the army of the Potomac than Roy Stone. I have here an old paper which contains, I think, an allusion to this same officer. I judge so from the remarks made by the gentleman from Pennsylvania [Mr. SCOFIELD] in reference to his losses at Memphis and the circumstances connected with his entering the service. It is a New York paper published in July, 1861.

A MEMBER. What paper?

Mr. FARNSWORTH. The New York Tribune. It says:

"On the head waters of the Alleghany river lives an active, thrifty citizen, still in early manhood, who devotes his energies to the preparation and sale of lumber. He raises many thousands of fine boards annually down the rivers, and has a lumber-yard at Memphis, probably not his only one."

"Hearing of trouble at Memphis he started for that city some weeks since to look after his property, but was met at Cincinnati by representations that induced him to think he might not be safe in the Tennessee emporium. He telegraphed to Memphis for a solution of his doubt, and was rather surprised at receiving the gruff answer, 'Damn you! come on!' He obeyed this rather discourteous invitation, reached Memphis, and soon found his hotel surrounded by a mob of demons yelling for his blood, though they only knew of him that he came from the North, and was supposed to be after pay for his property. Aided by a friend he made his escape and somehow reached Cincinnati, whence he telegraphed home that he would follow the message forthwith, and wished to meet his friends and neighbors the next evening. He did so meet them, told them he was for the war for the Union, and raised a battalion of sharpshooters on the spot, and is now at its head in Virginia. Whenever the North shall decide to entertain propositions looking to compromise, we shall move that he be appointed one of the commissioners to arrange the terms of adjustment."

General Stone, as the proof before the committee showed, was the owner of certain brick buildings in Memphis on the old navy-yard ground. He had purchased these buildings, and they were under lease at the commencement of the late war. The proof shows, I think, that they were, every one of them, under lease, from which he was realizing a rental of \$1,800 per year. Besides that, as has been stated by the gentleman from Pennsylvania, [Mr. SCOFIELD,] he owned a lumber-yard, and a large quantity of lumber there, that was taken possession of by the rebels, and was lost to him

entirely. Now, this appropriation does not cover that at all; we do not propose to make him any compensation for anything destroyed by the rebels. But when our own Government has taken possession of his buildings for the use of the Army, occupying them exclusively, and eventually taking them down for the purpose of using the brick in the erection of barracks and fortifications, thus depriving him entirely of his property by taking it for the use of the Government, he at that time fighting to sustain that Government, it seems to me it would be the height of injustice to refuse to pay him. There is nothing in this paragraph to pay General Stone for any property either destroyed or used by the rebels. It is only for the value, at a very moderate estimate, of the property which was taken and used by our own Army.

The gentleman from Ohio, [Mr. DELANO,] in discussing this subject yesterday, spoke of the fact that the Committee of Claims universally rejected all claims for property taken or destroyed in the rebel States during the rebellion, under a resolution adopted by this House. Now, while that may be so, I protest against the most manifest injustice of refusing to open the doors of Congress, even to the petition of a just claimant who happened to have property south of Mason and Dixon's line, and who was most loyal and true to the Government. Now, if we cannot pay all let us pay what we can. It is manifestly unjust to say that because we cannot at this moment pay everybody, therefore we will not pay anybody; that because we owe so much, therefore we will repudiate the whole. It seems to me there is no debt more sacred under the sun than such debts as these. General Stone was twice wounded in the service of his country. He came out of the war with a broken constitution, as has been stated to the House by the gentleman from Pennsylvania, [Mr. SCOFIELD.] Not only did he find all his property South destroyed, but his mills in Pennsylvania were burned and all his business was gone. He came back at the end of the war a broken man, not only in constitution but in fortune. And it seems to me to be manifestly unjust for the House now to refuse to pay this little pittance for property which was taken possession of and used for the benefit of our Army, the very Army he was connected with.

Mr. SCOFIELD. I will now yield a portion of my time to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. If this were a mere question of sympathy, I should go most heartily with the gentleman from Pennsylvania [Mr. SCOFIELD] and the gentleman from Illinois [Mr. FARNSWORTH] in favor of this proposition. But as this is not such a case, I cannot go with them. Now, there is no question but that there is here a most meritorious, and more than that, an interesting case of just and fair claim against the Government on the part of General Stone. But that is not the question now before this Committee of the Whole. The question before us is whether we shall separate the case of General Stone from all other meritorious cases and give to it the advantage which it has obtained over all other similar claims by being put into this appropriation bill, nobody knows how.

Mr. STEVENS. I can tell the gentleman how. It was sent by the House to the Committee on Appropriations, and they put it in this bill. So the gentleman need not be so anxious about it.

Mr. SCHENCK. I intend to be distinctly understood, and I wish I had the power of invective possessed by the gentleman from Pennsylvania, [Mr. STEVENS,] if it was necessary to use it all in treating of this matter. The gentleman says this subject was referred to the Committee on Appropriations by the House. Now, everybody knows how petitions are referred to committees by the House. And I suppose this was referred by some one under the rule to the Committee on Appropriations.

Mr. DELANO. Will my colleague allow

me to state a fact? This claim was brought before the Committee of Claims, either formally or informally; and the party was instructed that the committee could not recommend its payment without a direct violation of the rule established by the House. How the claim was taken away from our committee, and how it reached the Committee on Appropriations, is for other gentlemen to say. I do not know.

Mr. SCHENCK. Now, Mr. Chairman, I am provoked to speak plainly about this matter, more plainly than I had intended to do. I will speak plainly.

This is a Pennsylvania claim, the claimant being a most excellent gentleman and a gallant officer. But he saw that there was no chance for him if he were put upon the same footing with thousands and thousands of others of meritorious claimants coming before Congress. Therefore his case, which under the general ruling of the House had no chance before the Committee of Claims, is presented somehow or other under the rule and sent to the Committee on Appropriations, a committee having nothing under heaven to do with the subject. By that committee it is reported in an appropriation bill. It is not an appropriation to carry out the object of any law, or to pay anything regularly due by the Government of the United States. It is an ordinary claim for damages, which should have gone properly to the Committee of Claims. Yet it goes to the Committee on Appropriations, upon some supposition that this Pennsylvania case would before that committee stand a better chance to be favorably reported upon and included in some appropriation bill, than if the claim should take the usual course. Thus, General Stone's claim is separated from every other case in this House, and sent to a committee which properly has nothing upon the face of the earth to do with it. By this committee it is inserted as a clause in an appropriation bill, and thus brought before the House, gaining in this manner an advantage over every other case of the same class that has been presented to this House.

Now, sir, I sympathize with General Stone; I admire him. I know his reputation. I believe that this is a meritorious case; I believe it is a case that appeals not only to our sense of justice but to our sympathies. But I will not vote to put General Stone or any other man—no matter how gallantly he may have behaved, nor how just may be his claim—upon a different footing from the thousands of men, women, and children throughout the whole extent of this land who by an inexorable rule are cut off from such an advantage, unless they get round through some back door. Gentlemen say that this is a peculiar case. Why, sir, there are thousands of other cases presenting just as strong claims upon us. I had the honor to present here the case of Dr. Best, of Paducah, Kentucky, who was the owner of a brick house (constituting pretty much the whole of his possessions) which was torn down under a written order of the Union officer in charge of the place to afford range for cannon for the defense of that town against an attack of the rebels. Best was one of the few thorough-going good Union men residing there. He had already been threatened, and perhaps even his life endangered; and at one time he had to flee from his home on account of the approach of the guerrillas, because he was a Union man. He received a written certificate of these facts. His case has been before the Committee of Claims, who say, "No matter how meritorious the claim, we cannot consistently with the order of the House, pay this honest thorough-going Union man, who was not only driven from his home, but had his house torn down, a written certificate of the fact being given to him by the officers in command, the house being torn down by the Union forces in order to resist an attack on the town."

I might name another case which has also been before the Committee of Claims, who have refused to consider it, under the general rule which they deem themselves bound to ob-

serve. I refer to the case of General Thomas, an officer of our Army, who, like General Stone, has been fighting for us all through the war. He was the owner of brick-yards across the river here, in Fairfax county. His brick-yards and bricks were used in constructing buildings for the shelter of the soldiers. Other property belonging to him was also taken for the use of the Army. This gentleman is not only loyal to the Government, but he fought for it as an officer of the Army till the end of the war, and is perhaps not yet mustered out. But under this general rule to consider none of these cases that among others has been ruled out. I am not saying—far be it from me to say it—this is not a just and fair demand on our Government. I am not saying it ought not at some future time, if not now, to be fairly met and paid.

I go further. I opposed that resolution passed by the House instructing the Committee of Claims to entertain none of these cases. I tried to get an amendment to the resolution that property actually taken or destroyed or used in any way for the public service and for the advancement of our armies in fighting against the rebellion should be made at least exceptional. I did not succeed. I submitted to the judgment of the House; I submitted to the resolution; I submitted reluctantly. I think this and like cases should be paid; but so long as you have made a general rule, and refused to pay such cases as a class, I will be opposed forever, while you maintain that law, and will therefore vote to strike out this appropriation, no matter how meritorious the officer who gets in in some back door-way, while others are refused and driven away.

Mr. FARNSWORTH. How long are we to regard the House as being bound by that resolution that claimants shall not come to Congress?

Mr. SCHENCK. Until they repeal it. While this Congress at this session has made that rule, and your committee, as the chairman of the committee tells you, are fairly adhering to that rule, I do not think it proper, finding it has no chance before that committee, to take a case of that character from that committee and send it to a committee to which it does not belong, to get in indirectly that which the House says shall not be done directly.

Mr. KELLEY. The gentleman from Ohio says if this were a case of sympathy he would vote for it; and his colleague, the chairman of the Committee of Claims, says it was excluded from their consideration by coming within the rule. I think they are both mistaken. I think it is a claim which, if they had considered the facts, they would have found not to be excluded by the rule of the House. General Stone does not come here and ask compensation for loss caused by act of war by taking down his house in order to have fair range of the enemy. His house was torn down when our troops were in possession of Memphis, and they took the bricks for the purposes they needed. The case of the claimant from Paducah is entirely different. It was clearly in the field of battle. It was a territory about to be fought for.

Mr. DAVIS. The gentleman does not say that Paducah was not in possession of our troops.

Mr. KELLEY. Our troops were not in peaceful possession if they had to remove the building near to them for the purpose of having range of the enemy.

When I first saw General Stone he was hanging, a mere skeleton on crutches, from his third wound received in our service. He had the larger part of his property within the insurrectionary lines. He had chosen his lot. He had become captain of a company which he had raised and boated down to Pittsburgh. He had become colonel and then general. There he hung upon his crutches, I say, a mere skeleton. Had he not been in the service of the country his claim would have been paid by the quartermaster's department or received a certificate. He simply asks to be paid in accordance with the vote this morning in

reference to an Iowa soldier, where payment was withheld because he was physically unable from wounds to be present to demand his pay.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that they had, according to order, had the Union generally under consideration, and particularly House bill No. 791, to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, and had come to no resolution thereon.

#### CLOSE OF DEBATE.

Mr. STEVENS. I move when the House resolves itself again into the Committee of the Whole on the state of the Union that general debate be terminated in five minutes.

The motion was agreed to.

#### DEFICIENCY BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1866, and for other purposes.

Mr. STEVENS. The Committee on Appropriations found referred to it, by order of the House, the claim of this officer. We supposed that it was our duty to dispose of it, and we saw no reason why we should not dispose of it as we did. We do not propose to ask the gentleman from Ohio [Mr. SCHENCK] whether it has come in at the back or the front door when this House sends it to us. We hold that we understand and know when we have a right to act upon a thing sent to us, as well as the chairman of the Committee on Military Affairs. So much for that. We took this claim and we recommended considerably less than one eighth part of it. That was all that we suppose came within the rules. As regards the rule which was adopted at the commencement of this session, on the report of the Committee of Claims, it does not touch this case. That rule is as follows:

*Resolved*, That, until otherwise ordered, the Committee of Claims be instructed to reject all claims referred to it for examination by citizens of any of the States lately in rebellion growing out of the destruction or appropriation or damage of property by the Army or Navy engaged in suppressing the rebellion.

That rule, I say, does not touch the case of General Stone. He never was a citizen of a rebel State. He was a citizen of Pennsylvania, and remained so. He was in the rebel States only as an officer of the Army. He came, therefore, within the rule, and we, in pursuance of what was considered as most overpowering justice, reported in his favor. We violated no rule. I have no respect for that resolution of the Committee of Claims. I look upon it as a most cruel and unjust rule to say that citizens of the United States who have lost their property by its being taken by the Army of the United States from military necessity under an order of a United States officer shall not be paid because we are embarrassed. It is as much as to say, because we have not just as much money as we can appropriate to pay everybody now, we will rob them. It is nothing more. I thought so at the time that resolution was passed—though it does not reach this case—and I think so still. It does not bind us, and when I come to vote I shall pay no regard to such a rule. If we cannot pay them let us give them certificates of indebtedness or bonds, and not cut off all these people because of this rule of the Committee of Claims. I say again, I look upon it as the most rank injustice, as wronging the most meritorious, suffering classes

of the people of the United States. I scorn the principle contained in that resolution, although I have great respect for the committee that reported it, and never when I am called upon to act will I act in accordance with it.

[Here the hammer fell.]

Mr. SCHENCK. I simply wish to say this in response to the gentleman from Pennsylvania. Everybody knows how petitions are presented here. They are presented by individual members and referred to any committee the member chooses to indorse upon them. And everybody knows that when a committee finds that a subject has been referred to it which does not properly belong to the matters which, under the rule, should go to that committee, it is usual to report it back and ask to be discharged from its consideration, and that it be sent to the appropriate committee. Everybody knows, therefore, that it would have been the most natural thing in the world for the Committee on Appropriations, finding a claim of this kind before them, to have reported it back and asked to have it referred to the appropriate committee.

The CHAIRMAN. Debate is exhausted on the motion to strike out the paragraph.

Mr. MORRILL. I move *pro forma* to strike out "twelve" and insert "one." This appropriation to pay the claim of Roy Stone is very like some items introduced into an appropriation bill here two years ago, containing provisions for the payment of private claims, when the House most emphatically set the seal of its condemnation upon that practice. A question of order was successfully made, and they were ruled out of order. Another member of the Committee of Ways and Means reported the same bill with the same items, or nearly the same, in it, and so indignant was the House at the attempt to ingraft on an appropriation bill items that ought to be considered by the Committee of Claims that they immediately, at the very first opportunity in Committee of the Whole, struck out the enacting clause of the bill. So much for the practice.

Now, in relation to the substance of this appropriation, if we shall once set the example, I warn the House that it will take several hundred million dollars to pay off these claims. The gentleman from Pennsylvania holds, not only that those actually in arms, but the entire South were alien enemies and must accept the consequences of their position in accordance with the principle which he lays down. Now, if we are to consider losses of Union men, however much our sympathy may be excited, I say that it will be utterly impossible for us to get along with the present arrangement for taxation. We shall immediately have to provide means for an increase of revenue if we shall once commence paying off these claims, and I doubt whether, with all our means, we can afford to assume the responsibility of paying the vast sums of damages done by our armies in the South, and for which this would justly be cited as a precedent. I hope, therefore, the motion to strike out will not prevail.

Mr. SPALDING. I wish to say, as a member of the Committee on Appropriations, that this is not *par excellence* and was not treated as a Pennsylvania claim. Neither was the chairman of the committee [Mr. STEVENS] at first in favor of it. To my knowledge he voted to refer it back to the Committee of Claims; but at the instance of myself, or of the member from Illinois, that vote was reconsidered, and we then decided to act upon the claim ourselves, because the House had told us to do so. That is the whole sum of it. It was done in defiance of the intimation of the chairman of the committee. But when we had reconsidered it, and when we had agreed to put this claim in the appropriation bill, the chairman agreed with us in regard to the expediency of providing for the payment of this claim.

Now, sir, so far as regards the rule of the House, adopted at the instance of the Committee of Claims, I apprehend that the rules are intended for the government of the committee. At all events, I was one of the minor

ity who voted against that resolution. I did not conceive that as a member of the Committee on Appropriations I was bound to abide by it at all. I conceived that I was bound by the rule of eternal justice, as being superior to this resolution adopted by the majority of the House. I believe that this claim is one which is rightfully due to this applicant for the use of his property by the Government of the United States. It was not the waste committed particularly by the Army, but his property was taken and used by the United States Government. A portion of it was torn down and destroyed, and the committee make as much appropriation to pay this man as will pay for the property thus wasted by the Government. I see no impropriety in this, nor any great conflict even with the rule which was established by the Committee of Claims.

Now, it may be well enough to refer to this claim as being a claim of an officer of our gallant Army who made great sacrifices; but I do not rest the claim entirely upon that. I think the claim is just, aside from the merits of the man as an officer of the Army, and I hope the motion to strike out will not prevail.

Mr. DAVIS. I move to amend the amendment so as to make it "three" instead of "one." I do so for the purpose of suggesting whether there is any difference in principle in these cases between the case of a citizen residing in Pennsylvania who is loyal to the Government and a citizen of Tennessee or Kentucky who is loyal to the Government. It is proposed to pay Mr. Stone for property which was taken by this Government within the rebel lines, in a country which was disputed between our forces and the rebel forces. But by the rules which have been laid down by this Congress it has been determined that all this property, no matter by whom owned, whether by rebels or loyal persons, was the property of public enemies, and liable to seizure and confiscation. And in respect to that property, as I took occasion once before to assert on this floor, under the principles which have been alleged here, General Roy Stone himself was a public enemy.

I have nothing to say in derogation of the patriotism or ability of General Stone. I believe that his claim is a just one, and that it ought to be paid by this Government. And I believe there are other claims just as much entitled to consideration on the part of this Government. Loyalty is the same in Tennessee as in Pennsylvania: it is devotion to the flag of the country, to the Union, to the Constitution, and to the laws. Wherever that devotion exists, and wherever a man is faithful to his flag and his country, there I hold that the shield of the Government is over him; and you have no right to confiscate his property, whether it is situated within the lines of the rebellion or not.

Now, I know of cases of loyal men in Tennessee who have lost everything, who have been stripped of every dollar's worth of their property, whose houses have been burned down over their heads, and whose families have been driven into the forest. Yet they have come to this Congress for reparation and redress, asserting their loyalty; and we are told by the Committee of Claims that, in consequence of the action of this House, they have no power to relieve. It is said here that this case is an exception to that rule; that because the claimant is a citizen of Pennsylvania, therefore he does not come within the rule which alludes to citizens of the rebel States. But I would ask, is not the principle the same? Is it not payment for property seized within the lines of rebellion? I can see no difference whatever in the principle. I do hope that the time may come when all these just claims, preferred by loyal and true men, may be recognized and adjudicated by this Government. But until that time shall come I will not insult the loyal men of the South by voting for such partial legislation as this.

[Here the hammer fell.]

Mr. SCOFIELD. Mr. Chairman, it is never

difficult for a pretty able lawyer to find a tolerably good and fair reason for a bad conclusion. I have no doubt that all those gentlemen who have spoken upon this subject have always found in their practice at the bar, when hunting around for an argument, an opportunity to make a middling fair argument which they knew would be likely to bring the jury to a wrong conclusion.

The gentleman from Ohio [Mr. SCHENCK] says that this claim ought to be denied to this wounded soldier hobbling around our Halls here, because injustice has been done to another deserving soldier of the Republic. And with that earnestness he always brings to bear upon even the most trifling subject, he says that over and over again, and tells us of a man in Kentucky that has been wronged, and of a man in Ohio that has been wronged, and thence draws the conclusion that you must wrong a most deserving soldier from Pennsylvania. And the gentleman from Vermont, [Mr. MORRILL], whose fairness and candor always take this House captive, comes on with another middling fair argument for a wrong conclusion, and his argument is that two years ago the committee of which he was then a member, and of which he is now the chairman, attempted to palm off upon this House an item of expense which they had condemned, and that the House rejected it, as it ought to have done, of right; therefore, he argues, you ought to rob this wounded and suffering soldier of what he concedes is his due.

Mr. MORRILL. The gentleman should state fairly what I said.

Mr. SCOFIELD. Of course I do not mean to state what the gentleman said in the very language which he used, because he put his argument so plausibly that the House would not perceive its error. But I mean to state the result of his argument accurately.

Mr. MORRILL. But the gentleman does not state it accurately. The House had not condemned the appropriations in the bill, not having seen them until they were reported.

Mr. SCOFIELD. I am very sure the gentleman said that they came here and were ruled out, and were put back in another bill in a little different shape.

Mr. MORRILL. They were ruled out on their first appearance here; and if the point of order had been made when this bill was first reported this appropriation would certainly have been ruled out.

Mr. SCOFIELD. I have mentioned two of the reasons which have been given. There is another; and that is urged by my friend from Ohio, [Mr. DELANO], who is always more ingenious in this line of debate than either of the gentlemen to whom I have referred. He says that if this claim had come to his committee he would have rejected it on the ground that the House has so instructed him. Now, sir, this resolution instructing the Committee of Claims provides that the committee "be instructed to reject all claims, referred to them for examination, by citizens of any of the States lately in rebellion." General Stone was a citizen of New York. A year or two before the war began he came with his patrimony to my own district. He lived there for a short time, investing his fortune, as I have stated, and sinking it. He was never a citizen of a rebel State.

So far as I had anything to do with the presentation of this claim upon the Government, I did not have it referred to the Committee of Claims, because I had understood from conversation with the chairman of that committee that he was giving to this resolution a construction which the House never intended—a construction in violation of the very language of the resolution. I had learned from him in conversation that, according to his construction, that resolution cuts off all demands of any citizen of the United States for damages sustained or losses incurred in rebel States.

[Here the hammer fell.]

Mr. DAVIS. I withdraw my amendment to the amendment.

Mr. MORRILL. I withdraw the amendment.

Mr. DELANO. I move *pro forma* to amend by striking out the last word of the paragraph. Mr. Chairman, I do not know to whom may be most applicable the gentleman's rule that "a good lawyer can always find a pretty good reason for a wrong conclusion." The gentleman from Pennsylvania may be disposed to apply it to me and my colleague, [Mr. SCHENCK]; while other gentlemen might be disposed to apply it to other distinguished lawyers.

Now, sir, let me say that the rule which the House adopted with reference to claims of this character was adopted at the instance of the Committee of Claims at an early period of the session, the committee seeing the necessity of meeting that question promptly. That rule, sir, whatever may be its particular terms or phraseology, was intended to cut off all claims for property destroyed in the rebel States; for it was there that the great destruction had been committed. There were two reasons for the adoption of this rule: one was the inability of the Government to meet these numerous claims for the ravages of war; the other was the difficulty of ascertaining the loyalty of parties making these claims.

Now, sir, that rule, in its spirit, was not intended to make the residence of the party the test with reference to allowing claims of this character. In my opinion it is "sticking in the bark" to give it such an interpretation. We all feel the necessity of the adoption of this rule as a security for the present; and we regarded it as a rule of only temporary application. I wish to say that the Committee of Claims, faithfully adhering to this rule, have rejected claims which appealed to the humanity and the sympathy of the committee much more strongly than this claim can. Let me say also in this connection that it is the purpose of the committee—I now have the subject under consideration—to mature and present to the House at an early period of the next session some plan by which this class of cases may be examined and uniform and equal justice be meted out to all claimants. I have not been able to bring forward this plan at the present session; nor have I deemed it necessary to do so in the present disturbed and unsettled relations of the States whose people were recently in rebellion. I beg that the House will for the present let this rule stand as it is, and that it will not, in this indirect manner, open, as it were, the flood-gate for all claims of this description.

That this claim is not as meritorious as others I know. There is near by where this property stands to-day a poor widow woman whose husband was murdered before her eyes because he was a loyal man, and whose property was afterward destroyed by our own forces as a military necessity just as this was destroyed. There is such a woman there, and she is unable, under this rule at this time, to receive relief. There are thousands of such cases.

Mr. SCOFIELD. Where does she reside?

Mr. DELANO. In Tennessee, not far from Memphis.

Mr. SCOFIELD. She comes under your rule, as she was the citizen of a rebel State.

Mr. DELANO. I do not come here to make a construction of the rule. I am speaking of it in a larger sense than that. It was for that reason I took occasion to say, when the gentleman from Pennsylvania said there were some gentlemen who could find a good reason for a bad conclusion, he might find its application to somebody else than myself.

Mr. TRIMBLE. I would like to know whether the gentleman has investigated as to the probable amount which will be required to pay all of this class of claims.

Mr. DELANO. I can make an approximate estimate, but it is needless to do so. I will say to the committee if you settle the rule of paying for property destroyed by the ravages of war it will include all the destruction by General Sherman, from Chattanooga to Savannah, and from Savannah home. It will also



include the destruction of Atlanta—I mean so far as loyal citizens are concerned.

[Here the hammer fell.]

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that they had, according to order, had the Union generally under consideration, and particularly House bill No. 791, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1866, and for other purposes, and had come to no resolution thereon.

#### CLOSE OF DEBATE.

Mr. STEVENS moved that all debate in the Committee of the Whole on the state of the Union on the pending paragraph shall terminate in one minute after its consideration shall be resumed.

The motion was agreed to.

#### DEFICIENCY BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1866, and for other purposes.

Mr. DELANO. I wish to suggest that having acted under this rule for six months, now at the close of the session and under these circumstances it would be a great act of injustice to ourselves as well as to those who have been refused to withdraw it now.

The committee divided; and there were—ayes 57, noes 27.

Mr. SCOFIELD demanded tellers.

Tellers were ordered; and Mr. SCOFIELD and Mr. DELANO were appointed.

The committee again divided; and the tellers reported—ayes 67, noes 29.

So the paragraph was stricken out.

The Clerk read as follows:

Public buildings and grounds:  
To complete the sewer through the Botanic Garden, \$15,000.

Mr. CONKLING. I move to add the following:

*Provided*, That the Commissioner of Public Buildings shall advertise for two weeks for sealed proposals for the performance of such work, and the furnishing of materials therefor, in the two newspapers in the city of Washington authorized to publish the official advertisements, and at the expiration of such time on a day to be specified in such advertisement, the proposals shall be opened by the Commissioner of Public Buildings, in the presence of the Secretary of the Interior, and the work shall be then let to the person who shall have offered to do the same and furnish the materials at the lowest rates and aggregate, and who shall give proper security for the performance of his contract; and the Commissioner of Public Buildings is hereby required to report to Congress at the commencement of the next session a full statement of the expenditure of the present and past appropriations for this work, with the rates that have been paid for the work and materials under each appropriation.

I presume there will be no objection to the amendment. It is a very ordinary provision, and I am induced to offer it because I think it worth while to continue the effort to annex some sort of guarantees in the disbursement of money in this capital. My recollection is that a hundred thousand dollars were originally appropriated, and then not twenty, but twenty-five thousand dollars were appropriated for the purpose. Now, I think that proposals should be advertised for from parties who would be responsible for the doing of the work.

Mr. STEVENS. I suppose it is known to the gentlemen of the House that mechanics have been employed upon this sewer. More was appropriated at first than was necessary, but the Secretary now informs the Senate that an additional appropriation is necessary.

The amendment was agreed to.

Mr. STEVENS. I move to strike out from line 119 to line 121, as follows:

For annual repairs of President's House, \$6,000, for the year ending June 30, 1867.

I rise mainly to do justice to a constituent of mine, a late President of the United States. On a former occasion, in discussing a deficiency for furnishing the White House, I said that they existed in other Administrations; that during Mr. Buchanan's the deficiency was \$4,000, for which we made an appropriation. On further examination I find I was in error. The amount settled by Dr. Blake, the then Commissioner of Public Buildings, shows that there was no deficiency. The only sum expended beyond the usual appropriation of \$20,000 was the proceeds of the sale of the old furniture, between one and two thousand dollars, which always goes to that object.

Mr. O'NEILL. I move to amend by adding after line 131 the following:

That the Secretary of the Treasury is hereby authorized to alter and repair the building in the city of Philadelphia, belonging to the United States, known as the Pennsylvania bank building, so as to render it suitable for the occupancy of the appraisers connected with the customs at Philadelphia, and that the sum of \$20,000 is hereby appropriated for said alterations and repairs, payable out of any money in the Treasury not otherwise appropriated.

The subject of procuring proper accommodations, Mr. Chairman, for the appraisers' department of the customs in Philadelphia came before the Committee on Commerce by a petition presented by me some time since, signed by many of the most prominent merchants, citizens, and Government officials of that city. The appraisers' offices and store-houses are now rented from private individuals, and while they are located at inconvenient distances from the business centers of Philadelphia, this bank building, so admirably situated for the purpose, accessible on all its sides by streets, and having cost the Government a large sum of money, has remained vacant for years. Efforts have been made to sell it at public sale several times, at a price fixed by the Government, but it still is unsold. The subject was referred to me by the Committee on Commerce, and after submitting it to the Secretary of the Treasury, I have a communication from him, dated the 18th instant, inclosing the section read by me, and in which he recommends to the Committee on Commerce that the proposed alterations and repairs should be authorized to be made. I call the attention of my colleague, the chairman of the Committee on Appropriations, to the amendment, and send the letter of the Secretary to the Clerk's desk, to be read, if desired.

The amendment was agreed to.

Mr. CONKLING. I move to insert, after line one hundred and thirty-one, "to ventilate the bath-room of the House of Representatives, \$200." All the members of the House who resort to this bath-room know what it requires; but, as there may be some who do not do so, I will state that there is no ventilation and no escape for the steam which rises there, making it a most uncomfortable place instead of a luxury. It may be necessary to run a tube through the ceiling of one of the committee-rooms, but I think that \$200 will be a sufficient sum to defray all the necessary expenses.

The amendment was agreed to.

Mr. RADFORD. I move to amend the bill by striking out, in line one hundred and fifty-three, the word "twenty;" so as to make it read, "to enable the Secretary of State to remove his office and contents, \$5,000 in addition to the sum heretofore appropriated."

I do not propose to argue the question at all, we recently appropriated \$25,000 for this purpose, and now we have before us an additional appropriation of \$25,000. I would like the chairman of the Committee on Appropriations to inform us why this large amount of money is necessary for the purpose of securing the safety of some few papers in the State Department? It seems to me that \$5,000 would be more than enough.

Mr. STEVENS. I will only say this: that

when the Secretary of State found it necessary to move his office, he asked for \$50,000. This House, not knowing at the time what arrangements were proposed, cut the appropriation down to \$25,000. We find now that that amount will not answer the purpose, and we have therefore reported this appropriation of \$25,000, which will make the amount what it was originally. If there is any one Department of the Government which is economical in the administration of its affairs, it is the Department of State, and I have no idea that a dollar more than is necessary will be expended of this amount.

The question was taken on the amendment, and it was disagreed to.

Mr. KASSON. I move to amend the bill by striking out in line one hundred and fifty-five the words, "for this sum, or so much thereof as may be necessary," and to insert in lieu thereof the words, "to enable the Secretary of War;" so that it will read:

To enable the Secretary of War to make the pay of the persons employed at any time during the last fiscal year as temporary clerks in the office of the Quartermaster General, or any division thereof, equal to the pay of first-class clerks, which is hereby allowed.

Mr. KASSON. I move now to strike out the word "allowed," at the end of that section, and to insert in lieu thereof the word "directed." I also move to add to the section the words "and such sum as may be necessary for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated."

The amendment was agreed to.

The Clerk read the third section, as follows:

SEC. 3. *And be it further enacted*, That such sum as may be required to enable the Clerk of the House of Representatives to execute the resolutions of the House of the present session, directing the payment of increased and additional compensation to officers, clerks, messengers, and others in the employ of the House of Representatives be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WRIGHT. I move to amend that section by inserting after the word "Representatives," in line five, the words "including the Capitol police." I do this because it was the intention of the House in passing the resolutions to allow them additional pay, and I wish to make it clear that these gentlemen are included in the increased compensation.

The amendment was agreed to.

Mr. CONKLING. I move to strike out the fifth section of this bill, calling attention to the fact that it is evidently improperly put in an appropriation bill.

The fifth section was as follows:

SEC. 5. *And be it further enacted*, That the sum of \$32,000 be, and is hereby, appropriated to pay Madison Sweetzer, upon condition that the said Madison Sweetzer shall first, by a good and sufficient deed, convey to the United States all his right, title, and interest in and to the following lands, conveyed by the United States to Joseph Richardville, sr., and Joseph Richardville, jr., by treaty at St. Mary's, October 6, 1818, to wit: the west half of section No. 26, the east half of section No. 28, and section No. 27 of township five south, range four east, lying in the county of Angell, and State of Ohio.

Mr. STEVENS. This is a case involving land which was granted by the United States, which grant it was afterward found was to some extent informal. Some two or three years ago a commission was appointed by the Government to examine the whole question and determine the amount to which this Mr. Sweetzer was entitled. They determined not to disturb those now in possession, but recommend this appropriation to pay Mr. Sweetzer.

Mr. CONKLING. Is not this the same case which was here during the Thirty-Seventh Congress, and which was referred to the Committee on Private Land Claims?

Mr. LE BLOND. I will explain to the gentleman. This case has been here two or three times, and a bill to authorize the Secretary of the Interior to appoint a person to appraise these lands passed the House at one time, passed the Senate at another time, but failed to pass both Houses at the same Congress. But in the Thirty-Eighth Congress a bill passed

Congress authorizing the Secretary of the Interior to appoint a commissioner to appraise these lands and determine their value in a state of nature.

I will state briefly the history of this case, and then I think gentlemen will at once see its merits. There are two sections of land involved. One section was conveyed by the General Government to individuals, and the other section was conveyed by the General Government to the State of Ohio for canal purposes. That land was sold by the State to individuals who are now in possession of it. At the time the Government thus conveyed this land it was supposed that it had the right to do so. But prior to this conveyance of this land to the State of Ohio and to these individuals, the Government by treaty had conveyed these very lands to Joseph Richardville, senior, and Joseph Richardville, junior. The senior Richardville died, and this man Sweetzer obtained a judgment against Joseph Richardville, junior, who had become the sole owner of these two sections of land. After obtaining his judgment he levied upon these lands, which were sold and bid in by him. He then instituted an action of ejectment in the district court of the United States against the occupants of the land. That suit was fiercely contested, but the court found the title to be in this man Sweetzer, and that the Government had no title at the time it conveyed the land to these individuals.

Now, these parties, as well as the State of Ohio, ask Congress to quiet their titles to these lands. And Mr. Sweetzer has agreed to accept the value of these lands, free from improvements, and to relinquish his title to the General Government, which will make the title of these individuals perfect. In pursuance of that request a law was passed by the Thirty-Eighth Congress and the appraisement of these lands had. The appraiser reported to the Secretary of the Interior at this session, and the Secretary of the Interior has sent the report in here asking for this appropriation. The value of the land was ascertained by the testimony of disinterested witnesses who live in the neighborhood and know the value of it. And I myself know that these lands were not appraised too high in a state of nature. This appropriation is for the purpose of paying Mr. Sweetzer, upon the condition that he will relinquish his title and leave these parties in possession of this land.

Mr. RADFORD. At what time did the Government transfer these lands, and what consideration did it receive for them?

Mr. LE BLOND. I cannot tell the exact time, but I suppose it was something like twenty years ago.

Mr. FARNSWORTH. How much did these parties pay to the Government for this land?

Mr. LE BLOND. I suppose the Government have received \$2 50 per acre for one of the sections under the alternate section rule.

Mr. FARNSWORTH. Does the Government ever do anything more in such cases than to refund the money to the purchaser?

Mr. LE BLOND. Let me say to the gentleman that that question was argued in this House when the bill originally passed. Opposition was made to it upon that very ground, but the House settled the question that in this case at least the Government would pay the value of these lands in a state of nature. Now let me call the attention of gentlemen to it, and see the position in which you leave these men if this is not done.

[Here the hammer fell.]

Mr. STEVENS. I move *pro forma* to amend by striking out the last two words. I desire to say that this is not a question whether the money shall be refunded to the persons who bought this land from the Government. Mr. Sweetzer is not anxious that the money shall be refunded. He bought the property from third persons, who had bought it from the Government. The Government had no title; and the question now is whether Sweetzer shall get property worth three times the appraised value

of this land, or whether the Government will quiet his title.

Mr. CONKLING. Mr. Chairman, I dislike very much to insist upon an amendment when the gentleman from Ohio, [Mr. LE BLOND,] who knows most about the matter, deems the provision of the bill entirely fair. Yet, upon the whole presentation of the case, I do not think that \$32,000 ought to be appropriated in this bill for this purpose. This claim, if I understand it correctly, is one which should properly be embraced in a private bill. It does not appropriately belong in an appropriation bill or in any public bill. It is a claim about which a great deal is to be said on both sides. And I have a lurking recollection that, during this session, this very matter has been before the House, and has been in some way disposed of. I ask the gentleman from Ohio [Mr. LE BLOND] whether I am not right.

Mr. LE BLOND. When the miscellaneous appropriation bill was before the House this was offered as an amendment to that bill, and the Chair ruled that it was not in order. Perhaps, however, the gentleman may have reference to the appointment of the commissioner who was directed to appraise the land.

Mr. CONKLING. No, sir; I think it is the miscellaneous appropriation bill to which I refer. In that case the Chair ruled as the Chair would have ruled upon this bill, had any one known that this section was covered up in the bill, and had thus been enabled to make the point of order in season. Manifestly this appropriation does not belong in this bill. The Committee of the Whole, in acting on the case of General Stone this morning, has by a very pronounced majority declared in favor of the principle which has been acted upon by the committee almost uniformly heretofore, that it is right to discourage the practice of introducing into a general appropriation bill sections designed to accomplish a purpose which should be accomplished by private bills.

Now, Mr. Chairman, I confess that I do not for one feel at all satisfied in reference to the merits of this case; but I do feel clear that an appropriation for this claim does not properly belong in this bill, and that the committee should adhere to what has been its previous practice, allowing all parties to fare alike in the presentation of private claims, and insisting that such claims shall be embraced in private bills, to the end that they may be deliberately passed upon by the appropriate committees. Therefore, sir, I insist upon my original motion to strike out the paragraph.

Mr. STEVENS. I withdraw my amendment.

Mr. LAWRENCE, of Ohio. I renew the amendment. Mr. Chairman, I ask the attention of the House, and particularly the lawyers of the House, to what little I have to say in relation to this claim. I am conscious that it is a painful duty for members of the House to resist an appropriation for a private claim; but I do trust that the character of this claim may be understood by members before they agree to set a precedent that may involve the nation in an expenditure of millions of dollars.

What is this claim? If I understand the facts correctly, Madison Sweetzer was the owner of two sections of land, the title to which he derived from certain Indian tribes. The Government of the United States supposed that it had acquired the title from those tribes. The Land Office directed the land to be surveyed; and one section was given to the State of Ohio for canal purposes, and another section of the land was sold. The title of the Government failed because Sweetzer had a prior title derived from the Indian tribes. The grantee of the State of Ohio, and the private individual who derived his title from the Government, took possession of these lands, made improvements upon them, and have occupied them up to the present time.

Madison Sweetzer, who held the original prior Indian title, brought an action in the circuit court of the United States against the

occupants, and judgment was rendered in his favor. He, I understand from my colleague, has the judgment and can enforce it against the occupants of the land. Now, the Government of the United States received for one section \$2 50 an acre, and for the other he says the United States received nothing at all, but there is no doubt that it was of equal value. This is the highest price the Government has received for any land sold for a great number of years. The whole amount received by the Government would be \$4,000.

What is this bill? It is not a bill for the relief of the occupants of the land, but it is a bill which proposes to quiet title, the occupants all buying out the prior title held under the Indian tribes, the prior title of Madison Sweetzer. What is the measure of damages the Government propose to pay to quiet these titles? It is not the measure of damages which may be awarded against the Government if the occupants of these lands could bring an action in a court of law. If we authorized these occupants to sue in a court of claims their measure of damages, according to the decision in Ohio, would not be the value of the lands. That rule does not prevail in more than one or two States of the Union, if anywhere. The measure of damages would be simply the money which was paid, without interest, because the occupants under the decision are not entitled to interest unless it be interest after suits have been commenced in the circuit court. In other words, then, instead of getting \$32,000, these occupants would get \$4,000, with a modicum of interest amounting to a very small sum.

Now, this man Sweetzer can enforce a writ of ejectment by showing his right of possession; but he cannot turn these occupants out until they have been paid for all the improvements which have been made and for all the taxes which have been paid upon the lands. It will be seen, Mr. Chairman, from the statement I have made in this matter, that the Government of the United States is establishing a new mode of relief for all persons who acquire land from the Government and whose title happens to fail. It is a mode of relief unknown to any judicial tribunal. It has never before been adopted by this Government. It is important and ought to be carefully considered. What, I pray you, is to be the result? In the conflict of titles which must follow the making of land grants for railroad purposes and the passage of land bills for California, as well as the thousand other grants in which controversies will arise—

[Here the hammer fell.]

Mr. CONKLING. I rise to oppose the amendment; but I will give the gentleman from Ohio a part of my time.

Mr. LAWRENCE, of Ohio. The thousands of cases in reference to which controversies will arise respecting title, and where the title of the United States may fail, it would be monstrous to adopt the principle here contended for. It is therefore for the House to say whether it will adopt a rule different from that now established, and load the Government down with responsibilities amounting to untold and countless millions of dollars. When the Government sells land the title to which fails the purchasers under the Government certainly ought not to ask any more than they would be entitled to claim as against a private grantor. I withdraw my amendment.

Mr. STEVENS. I renew it. Mr. Chairman, there has not been an appropriation which we have not been told not only involves the safety of this nation, but the ruin of God's creation. I have heard that sort of thing over and over again from the gentleman who has just spoken, as well as from others. I have heard it so often that I have ceased to be alarmed at their thunder. When there is an honest debt due I will pay it if I am able; if not I will confess the debt. In the letter of the Secretary of the Interior to Hon. John F. Kinney, it is stated that pursuant to the authority vested in him by a joint resolution

approved on the 5th of May, he appointed Mr. Kinney a commissioner to appraise the lands described in the act entitled "An act for the relief of William Sawyer and others, of Ohio," approved July 1, 1864. I need not go on further to state what the Secretary says. Here is an appropriation to carry out the law. The value of these lands has already been ascertained in the mode prescribed by act of Congress.

Mr. BINGHAM. I ask the gentleman whether the statute under which this appraisal was made does not expressly provide that the land shall be appraised and valued according to its present valuation in a state of nature.

Mr. STEVENS. It does, and so the commissioner, in a long report giving us the evidence, states that he did value it in a state of nature. Now, sir, it is the most remarkable thing in the world that Mr. Sweetzer, who has a right to this land, is to be held responsible for the original title given by the Government of the United States to these settlers. Mr. Sweetzer can turn them out to-morrow under the law without asking anybody's favor, and in order to prevent it the vendor, who sold what he did not possess and thus put into possession innocent men, is asking us to appropriate this money to protect the vendees from a just and lawful claim, so decided by ourselves and decided by the judgment of the courts.

Mr. WILSON, of Iowa. I wish to ask whether there have not been two appraisements of this land; whether the commissioner who made the first did not appraise it at a much less price than is now fixed; whether Sweetzer did not refuse to take it, demanding a higher price; and whether he did not procure the appointment of another commissioner who, for some reason, I know not what, has returned this appraisal, which is satisfactory to Sweetzer.

Mr. STEVENS. I do not know about the first appraisal, but the resolution shows that this is a reappraisal; hence there must have been one before. Mr. Sweetzer was not bound to accept it, but he has signified his willingness to accept the sum which was fixed by Mr. Kinney. Now, it is a simple question whether this Congress will allow their own vendee to be turned out.

[Here the hammer fell.]

The question being taken on the amendment of Mr. CONKLING to strike out the section, it was not agreed to—ayes thirty-five, noes not counted.

Mr. KASSON. I move to add the following as an additional section:

*And be it further enacted, That whereas doubts have arisen whether the fourth section of the act approved March 3, 1865, entitled "An act to amend an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, authorized disbursing agents to disburse other moneys than those appropriated in the said fourth section; therefore for the purpose of removing said doubts and declaring the true intent and meaning of said fourth section the said fourth section shall be deemed, held, and construed as being and remaining in full force and effect from and after the 3d day of March, 1865, until the same shall be modified and repealed, and as authorizing the disbursement through such agents of money heretofore appropriated and that may hereafter be appropriated for the payment of the lawful expenses incident to carrying into effect the various acts relative to the assessment and collection of the internal revenue; and all bonds and obligations heretofore entered into by collectors of internal revenue as disbursing agents shall be binding and obligatory upon such collectors and their sureties as well in respects to moneys which have been or may hereafter be received by said collectors as such disbursing agents as to moneys appropriated in the said fourth section.*

The amendment was agreed to.

Mr. KASSON. I offer the following additional items as amendments to the bill:

For compensation of the depositary at Santa Fé, New Mexico, as per act of March 3, 1863, \$1,000.

For salaries of additional clerks and additional compensation of officers and clerks, under act of August 6, 1846, at such rates as the Secretary of the Treasury may deem just and reasonable, \$10,000.

For compensation of two superintendents for the life-saving stations on the coast of Long Island and New Jersey, per acts of December 14, 1854, and August 13, 1856, \$2,500.

For compensation of fifty-four keepers of stations, per same act, \$6,000.

For salary of the superintendent of the building occupied by the Quartermaster General's office, \$200, for the current fiscal year.

The amendment was agreed to.

Mr. WRIGHT. I offer the following as an additional section:

*And be it further enacted, That the Capitol police shall be entitled to the increased compensation allowed to officers, clerks, messengers, and others in the employ of the House of Representatives.*

I will state that last year a bill was passed which it was supposed gave to them their compensation as employes of the House, but it appears that as the law stood they were employed by Congress, the House paying one half and the Senate the other half. Therefore they were left out in the cold. The object of my amendment is to have that mistake rectified. There are only a half dozen of these men and I think justice requires that this amendment should be adopted.

The amendment was agreed to.

Mr. STEVENS. I move that the committee lay this bill aside and take up another small appropriation for Nebraska.

The amendment was agreed to.

#### REIMBURSEMENT OF NEBRASKA.

The Committee of the Whole then proceeded to consider House bill No. 761, to authorize the reimbursement of Nebraska of certain expenses incurred in repelling Indian hostilities.

On motion of Mr. STEVENS, the first reading of the bill was dispensed with, and the bill was read by sections.

No amendment was offered.

Mr. J. L. THOMAS. I move that the committee rise.

Mr. KASSON. I move to amend by adding that the Chairman report both bills to the House.

Mr. J. L. THOMAS. I accept the amendment.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 791, to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1866, and for other purposes, and had directed him to report the same to the House with sundry amendments; also that the Committee of the Whole had had under consideration the special order, being bill of the House No. 761, to authorize the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities, and had directed him to report the same to the House without amendment.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendments of the House to the amendments of the Senate to House bill No. 775, to establish certain post roads.

Also, that the Senate had passed without amendment House bill No. 772, to authorize the issue of certain bonds in denominations greater than \$1,000.

Also, that the Senate had passed House joint resolution No. 176, amendatory of a joint resolution entitled "Resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances to their heirs," approved June 15, 1866, with amendments, in which the concurrence of the House was requested.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 387) making appropriations for the current contingent expenses of the Indian department for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1867.

#### ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee

had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes;

An act (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union, of Washington, District of Columbia;

An act (H. R. No. 729) to change the port of entry in Puget Sound;

An act (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home;

An act (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands, and for other purposes;

Joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war; and

Joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company.

#### DEFICIENCY BILL—AGAIN.

Tha House proceeded to the consideration of the deficiency bill as reported from the Committee of the Whole.

Mr. STEVENS. I demand the previous question on the several amendments made in committee.

Mr. LAWRENCE, of Ohio. I ask for a separate vote on striking out section five.

The SPEAKER. That was not stricken out in committee.

Mr. LAWRENCE, of Ohio. Then I hope the previous question will not be seconded so that the motion may be made to strike out.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments reported from the Committee of the Whole were concurred in, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS. I call the previous question on the passage of the bill as amended.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REIMBURSEMENT OF NEBRASKA.

The House then proceeded to consider House bill No. 767, authorizing the reimbursement of the Territory of Nebraska for certain expenses incurred in repelling Indian hostilities; which had been considered in Committee of the Whole and reported to the House without amendment.

Mr. KASSON. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TENNESSEE.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

The following "Joint resolution, restoring Tennessee to her relations in the Union," was last evening presented for my approval:

"Whereas, in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its



former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession, and debts contracted under the same, were declared void; and whereas a State government has been organized under said constitution, which has ratified the amendment to the Constitution of the United States abolishing slavery; also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

*"Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress."*

The preamble simply consists of statements, some of which are assumed, while the resolution is merely a declaration of opinion. It comprises no legislation, nor does it confer any power which is binding upon the respective Houses the Executive, or the States. It does not admit to their seats in Congress the Senators and Representatives from the State of Tennessee; for, notwithstanding the passage of the resolution, each House, in the exercise of the constitutional right to judge for itself of the elections, returns, and qualifications of its members, may, at its discretion, admit them or continue to exclude them. If a joint resolution of this kind were necessary and binding as a condition-precedent to the admission of members of Congress, it would happen, in the event of a veto by the Executive, that Senators and Representatives could only be admitted to the halls of legislation by a two-thirds vote of each of the two Houses.

Among other reasons recited in the preamble for the declarations contained in the resolution, is the ratification, by the State government of Tennessee, of "the amendment to the Constitution of the United States abolishing slavery, and also the amendment proposed by the Thirty-Ninth Congress." If, as is also declared in the preamble, "said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States," it would really seem to follow that the joint resolution which at this late day has received the sanction of Congress, should have been passed, approved, and placed on the statute-books before any amendment to the Constitution was submitted to the Legislature of Tennessee for ratification. [Applause from Democratic side.] Otherwise the inference is plainly deducible that while, in the opinion of Congress, the people of a State may be too strongly disloyal to be entitled to representation, they may nevertheless, during the suspension of their "former proper, practical relations to the Union," have an equally potent voice with other and loyal States in propositions to amend the Constitution, upon which so essentially depend the stability, prosperity, and very existence of the nation.

A brief reference to my annual message of the 4th of December last will show the steps taken by the Executive for the restoration to their constitutional relations to the Union of the States that had been affected by the rebellion. Upon the cessation of active hostilities, provisional governors were appointed, conventions called, Governors elected by the people, Legislatures assembled, and Senators and Representatives chosen to the Congress of the United States. At the same time the courts of the United States were reopened, the blockade removed, the custom-houses reestablished, and postal operations resumed. The amendment to the Constitution abolishing slavery forever within the limits of the country was also submitted to the States, and they were thus invited to and did participate in its ratification, thus exercising the highest functions pertaining to a State. In addition, nearly all of these States, through their conventions and Legislatures, had adopted and ratified constitutions "of government whereby slavery was abolished and all ordinances and laws of secession and debts and contracts under the same were declared void." So far, then, the politi-

cal existence of the States and their relations to the Federal Government had been fully and completely recognized and acknowledged by the executive department of the Government; and the completion of the work of restoration, which had progressed so favorably, was submitted to Congress, upon which devolved all questions pertaining to the admission to their seats of the Senators and Representatives chosen from the States whose people had engaged in the rebellion.

All these steps had been taken, when, on the 4th day of December, 1865, the Thirty-Ninth Congress assembled. Nearly eight months have elapsed since that time; and no other plan of restoration having been proposed by Congress for the measures instituted by the Executive, it is now declared, in the joint resolution submitted for my approval, "that the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress." Thus, after the lapse of nearly eight months, Congress proposes to pave the way to the admission to representation of one of the eleven States whose people arrayed themselves in rebellion against the constitutional authority of the Federal Government.

Earnestly desiring to remove every cause of further delay, whether real or imaginary, on the part of Congress for the admission to seats of loyal Senators and Representatives from the State of Tennessee, I have, notwithstanding the anomalous character of this proceeding, affixed my signature to the resolution. [General applause and laughter.] My approval, however, is not to be construed as an acknowledgment of the right of Congress to pass laws preliminary to the admission of duly qualified representatives from any of the States. [Great laughter.] Neither is it to be considered as committing me to all the statements made in the preamble, [renewed laughter,] some of which are, in my opinion, without foundation in fact, especially the assertion that the State of Tennessee has ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress. [Laughter.] No official notice of such ratification has been received by the Executive or filed in the Department of State; on the contrary, unofficial information from most reliable sources induces the belief that the amendment has not yet been constitutionally sanctioned by the Legislature of Tennessee. The right of each House, under the Constitution, to judge of the elections, returns, and qualifications of its own members is undoubted, and my approval or disapproval of the resolution could not in the slightest degree increase or diminish the authority in this respect conferred upon the two branches of Congress.

In conclusion, I cannot too earnestly repeat my recommendation for the admission of Tennessee, and all other States, to a fair and equal participation in national legislation when they present themselves in the persons of loyal Senators and Representatives, who can comply with all the requirements of the Constitution and the laws. By this means harmony and reconciliation will be effected, the practical relations of all the States to the Federal Government reestablished, and the work of restoration, inaugurated upon the termination of the war, successfully completed.

ANDREW JOHNSON.

WASHINGTON, D. C., July 24, 1866.

[Applause from the Democratic side.]

The message was laid on the table, and ordered to be printed.

Mr. STEVENS. Inasmuch as the joint resolution in regard to Tennessee has become a law by the entire and cordial approval of the President, [laughter,] I am directed by the joint committee on reconstruction to ask that that committee be discharged from the further consideration of the credentials of the members-elect from the State of Tennessee, and to move that the same be referred to the Committee of Elections of this House.

Mr. DAWES. I should like to have one of the credentials read to the House, in order to give me an opportunity of inquiring of the House whether it is expected of the Committee of Elections, if these credentials shall be referred to them now, to pass upon anything more than the fact whether or not they conform to the law. If that be all that the committee is expected to do, then I think the House can act as well as the Committee of Elections on that matter.

Mr. LE BLOND. I rise to a privileged question. I move that the members-elect from the State of Tennessee, now present, have administered to them the oath of office.

The SPEAKER. It is within the power of the House to refer to the Committee of Elections the credentials of any gentleman claiming a seat even from a State that has not been in rebellion. But the gentleman from Pennsylvania [Mr. STEVENS] is still on the floor, which would prevent the motion of the gentleman from Ohio [Mr. LE BLOND] from being made.

Mr. STEVENS. I believe that these credentials are in the usual form, and it is to be expected that they will be examined by the Committee of Elections just as the credentials are which are referred to that committee by the House. They will understand whether they are irregular or not. I now call the previous question.

Mr. LE BLOND. Does not my motion take precedence of that?

The SPEAKER. It does not; the usage has been precisely the other way. If a motion is made to swear in a man claiming a seat in the House after it is organized, and a member rises and moves to refer the credentials to the Committee of Elections, that motion is entertained and acted upon.

Mr. LE BLOND. I have always understood that the credentials alone are considered *prima facie* evidence of a right to a seat when there is no contestant.

The SPEAKER. That is only for the purpose of organizing the House. The Chair will refer the gentleman to a case in point. In the Thirty-Seventh Congress a gentleman from Tennessee (the Chair does not now recollect the name) claimed to have been elected a Representative from that State, and there was no contestant in his case. The credentials in that case were referred to the Committee of Elections, who examined as to the number of votes cast for him, the condition of the district, &c., and reported upon the case, and the Chair thinks he was admitted to his seat.

Mr. LE BLOND. That, Mr. Speaker, grew out of the fact that the State at that time was in a state of rebellion and no election could be held.

The SPEAKER. That is true; but there was no contestant at that time. The question was whether the gentleman presenting the credentials should be admitted to a seat, no person contesting his election.

Mr. LE BLOND. My recollection of that case is that the certificate was informal.

The SPEAKER. The Chair overrules the point that the gentleman has the right to make this motion pending the demand for the previous question.

Mr. RADFORD. I desire to inquire whether it is now in order to move to lay the resolution of the gentleman from Pennsylvania on the table.

The SPEAKER. It is.

Mr. RADFORD. I make that motion.

The SPEAKER. That motion, if adopted, will carry the credentials to the table; but they can be taken up by the House.

Mr. RANDALL, of Pennsylvania. I rise to a point of order. My colleague [Mr. STEVENS] moves to discharge the committee on reconstruction from the further consideration of the credentials of the Tennessee members, and also moves that those credentials be referred to the Committee of Elections. I wish to inquire whether it is not in order to have the question divided. I am in favor of discharging

the committee on reconstruction but am opposed to referring these credentials to the Committee of Elections, for the reason that we have for eight months been discussing this subject, and—

Mr. MYERS. I object to my colleague making an argument under the guise of a point of order.

The SPEAKER. The Chair is of opinion that the motion of the gentleman from Pennsylvania [Mr. SREYENS] is susceptible of division. It embraces two distinct propositions.

Mr. SCHENCK. I desire to make an inquiry.

Mr. WENTWORTH. I insist on the previous question.

Mr. RADFORD. I withdraw the motion to lay on the table.

The SPEAKER. The question is first upon discharging the committee on reconstruction.

Mr. BANKS. If the first branch of the motion of the gentleman from Pennsylvania is defeated we cannot vote on the second. Therefore I think the question ought to be taken as a whole.

The SPEAKER. The rule declares that a motion may be divided if it embraces two distinct and substantive propositions. That is the case here. The two propositions could have been presented as separate motions.

The question being taken on the motion to discharge the committee on reconstruction from the further consideration of the credentials, it was decided in the affirmative.

The question recurred on referring the credentials to the Committee of Elections.

Mr. LE BLOND and Mr. FINOK called for the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK. I ask for the reading of the credentials of one of the gentlemen from Tennessee.

The Clerk read the credentials of Mr. Nathaniel G. Taylor.

Mr. BINGHAM. Mr. Speaker, I desire to inquire whether the President of the United States has returned to this House, in which it originated, the joint resolution for the restoration of the State of Tennessee with his approval.

The SPEAKER. The President of the United States when he approves a bill or joint resolution, sends it to the Department of State and not to either House of Congress. The message of the President states that he has signed the joint resolution.

The yeas and nays having been ordered on referring to the Committee of Elections the credentials of the gentlemen claiming seats as Representatives from the State of Tennessee,

The question was taken; and it was decided in the affirmative—yeas 90, nays 28, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Brownell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Dawes, DeForest, Dixon, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James L. Hubbard, Hubbard, Ingersoll, Kasson, Kelley, Ketcham, Koonz, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, John L. Rice, Tollins, Sawyer, Schenck, Shellabarger, Spalding, Stevens, John L. Thomas, Trowbridge, Van Arman, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—90.

NAYS—Messrs. Ancona, Bergen, Boyer, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Jencks, Johnson, Kerr, Le Blond, Marshall, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Strouse, Taber, Thornton, Trimble, Winfield, and Wright—28.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bundy, Chanler, Cook, Culver, Darling, Davis, Dawson, Delano, Deming, Denison, Dodge, Dumont, Eggleston, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Ashael W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Jones, Julian, Kelso, Ladin, Longyear, Marvin, McClurg, McCullough, McIndoe, McKee, Moulton, Neell, Patterson, Pomeroy, William H.

Randall, Rogers, Scofield, Sloan, Smith, Starr, Stillwell, Taylor, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Williams—63.

So the credentials were referred to the Committee of Elections.

Mr. WENTWORTH moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN APPROPRIATION BILL.

Mr. KASSON. I submit the following privileged report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 8, 9, 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, and 113, and agree to the same.

That the Senate recede from their seventeenth, one hundred and fourteenth, and one hundred and fifteenth amendments.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the one hundred and seventh amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same with amendments as follows: in line one, after the word "for," insert the following words: "gratuities for;" and in line four of said amendment, before the word "thousand," strike out the word "five" and insert in lieu the word "three;" and the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment as follows: in line eighteen, page 16, of the engrossed bill, strike out the words "last of ten" and insert in lieu thereof the words "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same with an amendment as follows: in line three of said amendment, after the word "in," insert the words "money or;" and the Senate agree to the same.

That the House recede from their disagreement to the nineteenth amendment of the Senate, and agree to the same with the following amendment: in line four, page 17, of the engrossed bill, strike out the words "last of ten," and insert in lieu "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the twentieth amendment of the Senate, and agree to the same with an amendment as follows: in line seventeen, page 17, of the engrossed bill, strike out the following: "last of five," and insert in lieu the words "fourth of five;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same with an amendment as follows: in line thirteen, page 18, of the engrossed bill, strike out the words "last of ten," and insert in lieu the words "ninth of ten;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and eighteenth amendment of the Senate, and agree to the same with an amendment as follows: add to the end of said amendment the following proviso: "Provided, That no part of the money hereby appropriated shall be paid until a full examination shall be made by the Secretary of the Interior and the First Comptroller of the Treasury; and they shall ascertain that the money is justly and equitably due under contracts made and executed in entire good faith and for necessary supplies actually delivered to the Indians as aforesaid, at reasonable prices, and for this purpose the Comptroller is hereby authorized to take testimony and state the amount due said contractors upon principles of equity; and no money shall be paid or allowed on account of supplies furnished after the passage of this act."

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment as follows: in line one of said amendment strike out the words "Cheyennes, Arapahoes an;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and nineteenth amendment of the Senate, and agree to the same with amendments as follows: in line four of said amendment after the word "bond," insert the following words: "to the United States." And in line seven, after the word "trade," insert the following words: "or by the United States district judge or district attorney for the district in which the obligor resides."

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out

all of said amendment and insert in lieu thereof the following: "for this amount or so much thereof as may become due to the Choctaws and Chickasaws under the third and forty-sixth articles of the treaty of April 28, 1866, for interest at the rate of five per cent. upon the amount paid for certain lands ceded by them to the United States, \$15,000;" and the Senate agree to the same.

JOHN SHERMAN,  
J. W. NESMITH,  
J. R. DOOLITTLE,  
*Managers on the part of the Senate.*  
JOHN A. KASSON,  
WILLIAM E. NIBLACK,  
*Managers on the part of the House.*

Mr. KASSON. If no member wishes to ask a question, I submit the report without debate, and call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. KASSON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### WASHINGTON CENTER MARKET.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the Center Market Company in the city of Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### JANES, FOWLER, KIRTLAND, AND COMPANY.

On motion of Mr. INGERSOLL, by unanimous consent, Senate bill No. 429, for the relief of Janes, Fowler, Kirtland & Co., was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

#### NATIONAL FARM SCHOOL.

Mr. KASSON. I ask unanimous consent to introduce a bill to incorporate a National Farm School.

Mr. SCHENCK. I object to anything but the regular order of business.

#### CAPTORS OF BOOTH, ETC.

Mr. HOTCHKISS, from the Committee of Claims submitted a report relating to the rewards for the arrest of the assassins of President Lincoln and the capture of Jefferson Davis; which was ordered to be printed and its further consideration postponed until tomorrow after the reading of the Journal.

#### THE BANK BILL.

The SPEAKER stated the first business in order to be House bill No. 771, to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," and for other purposes, on which the gentleman from Massachusetts [Mr. HOOPER] was entitled to the floor.

Mr. HOOPER, of Massachusetts. The object of the first amendment proposed by this bill to the eighteenth section of the bank law is to give additional power to the Comptroller of the Currency to examine the character of any application to organize a bank, to satisfy himself that it is for the purpose of establishing a legitimate bank, and to give him the power after the bank is organized to wind it up if he has reason to believe it to be fraudulently or illegally conducted. The existing law makes it the duty of the Comptroller to give the required certificate to any association if the prescribed formula of the law has been observed. The bank may violate every provision of the law, in defiance of any power possessed by the Comptroller, until some of its notes have been protested; that being the only circumstance under which the Comptroller can interfere with the conduct of the bank.

The next amendment is in the twenty-ninth section of the law, limiting the liability of any person, firm, company, or corporation to one tenth of the capital of the bank. The existing law has no provision to prevent loans beyond that proportion of the capital. Many small banks organized in different parts of the country are owned and managed for the benefit of

individuals and firms in the city of New York and other places, who use nearly all the assets of the bank. The Comptroller may know this, as was the case with the bank at Venango, with Culver, Penn & Co., and the Merchants' Bank at Washington, with Bayne & Co., but he cannot interfere until the notes of such a bank are protested. It is easy for any one to organize a bank by furnishing the bonds required to be deposited as security for the ninety per cent. of circulating notes, and the party organizing the bank may then take the circulating notes for his own use. These notes are equal in value to the same amount of greenbacks, for when put into circulation they never go back to the bank for redemption, in the present condition of the currency; it is true a debt to the bank is created amounting to more than one tenth of the capital, but the Comptroller has no power to interfere, and the bank claims it to be "a balance" due them and not a loan.

The amendment to section thirty forfeits the whole debt whenever interest is taken beyond the amount allowed by law, instead of forfeiting only the interest, as provided by the law now.

Section thirty-two relates to the redemption of circulating notes, and changes the present law so far as to require the banks in certain cities named in the bill to redeem their own circulation and the circulation of those banks for which they are redeeming agent in the cities of New York, Philadelphia, and Boston. It provides for the redemption of all national bank notes in one of the seventeen great commercial centers of the country, and requires the banks in those commercial centers to redeem their own notes and the notes of the banks they redeem, either at New York, Philadelphia, or Boston. It also makes satisfactory compensation to all these banks for this work of redemption by allowing balances in other banks to be counted as part of the required reserve. The banks in places outside the seventeen commercial centers are required to have a reserve of fifteen per cent. of their liabilities for circulation and deposit to meet demands against them, but may count balances due them from banks employed as their redeeming agent to the extent of three fifths of the required reserve. Banks in the seventeen commercial centers are required to have a reserve equal to twenty-five per cent. of their liabilities but may count balances due them from their redeeming agents in New York, Philadelphia, or Boston, to the extent of one half the required reserve; while the banks in New York, Philadelphia, and Boston must have the full amount of twenty-five per cent. reserve. A bank in any part of Illinois, Ohio, or any other State may redeem in New York, Philadelphia, or Boston; otherwise it must redeem in Cincinnati, Chicago, or some other commercial center; and in the latter case, the bank redeeming the notes must also redeem them at some bank in New York, Philadelphia, or Boston.

When the effect of the national banking law is fully understood and appreciated the national banks will discover that their circulating notes are required at home for their own use, and that it is not for their interest to send them to distant places for circulation. The great difficulty in the banks now throughout the interior of the country is to find currency; and they generally give a draft on New York or some one of the large centers of commerce rather than pay out currency. Under the old system, the State banks issued as many notes as they could circulate, and preferred always to pay in their notes; but the amount of notes that any national bank can issue being limited by law, the difficulty with the banks is to procure a sufficient amount of currency for the daily transaction of their business; after sending away their own notes they often find it necessary to send to New York and pay a premium for other notes for their daily use.

The amendments of section thirty-four relate to the returns of the banks, the object of it being to make the returns more complete and intel-

ligible, and to provide penalties for neglect or for deceptive or fraudulent returns.

Section forty-one relates to the tax on banks, and changes the existing law by striking out the annual tax of one half per cent. on the amount of capital in excess of the amount invested in bonds of the United States, and diminishes the annual tax on circulation from one per cent. to one half per cent. The provisions in regard to State taxation are left precisely as in the existing law. This amendment provides also for the return of the amount of notes of State banks which have been paid out by any association, on which after the 1st of August a tax of ten per cent. is levied; any bank may receive such notes at one hundred cents for a dollar, but with the tax of ten per cent. on the amount paid out only ninety cents for a dollar would be realized for them. The effect of this will doubtless be to exclude the notes of State banks from circulation, leaving greenbacks and national currency the only paper money in circulation.

The amendment to section forty-five requires security to the full amount of public money deposited in any national bank designated as a public depository, and weekly returns to be made of the amount of public money deposited to the credit of the Treasurer or any disbursing officer or agent of the United States. It also makes it the duty of the Treasurer to transfer to the Treasury any excess of deposit beyond the amount of security. A proviso is added to this section, prohibiting the selection of any national bank as a depository of public money at Washington or in the cities where a sub-Treasury is located; requiring all public money in those places to be deposited in the Treasury or sub-Treasuries. I am opposed to the use of the public money by banks, and wish to restrict it; yet I believe this provision applied only to a few of the large cities will operate to incommode the Government and the public. In New York, for example, collectors of internal revenue being obliged to deposit their collections every day, would be at a great inconvenience, and I think they would find it impossible to make all their deposits each day in the sub-Treasury. The objects of the amendments to section fifty-six are mainly to give the power to any receiver appointed under the law to bring suits, and to meet other difficulties which have been found by recent experience to exist in discharging the duties which the law devolves upon him.

The amendments of the twenty-first section are, in some respects, the most important in this bill; their object was to furnish currency for new banks and for the conversion of the remaining State banks, by withdrawing from each bank now established ten per cent. of the amount of currency they are entitled to under the existing law. This if carried out fully would give thirty millions for the purpose, and be sufficient to supply what is now wanted. A majority of the committee were unwilling to reduce the *pro rata* of circulation of any bank with a capital not exceeding \$300,000; making up for it, in part, by taking an increased proportion from a few large banks by limiting the amount of currency to any one bank, not to exceed \$1,000,000. The National Bank of Commerce of New York with a capital of ten millions, and four millions of currency now in circulation, would by this amendment be entitled to ten per cent. only of currency; although one third of the capital of that bank must be invested in Government bonds to be deposited in the Treasury of the United States.

I cannot perceive the justice of taking away all but ten per cent. of the amount of currency to which a bank of ten millions is entitled, and allowing other banks to invest the whole of their capital, when not exceeding \$300,000, in bonds to be pledged as security, and receive ninety per cent. of that amount in notes for circulation. The abuses of the national currency act will be found to be generally in banks of small capital, which can be controlled and managed by individuals for

their own benefit. It has always seemed to me that the system of a national currency would have been better for the community if the ratio of circulation to capital had been made uniform, and in no case to exceed fifty per cent. of the capital of any bank; so that while one half of the capital was in bonds deposited in the Treasury, the other half would be employed in the regular business of the bank. As this amendment now reads, exempting the banks of not more than \$300,000 capital from any reduction, there will be a margin of about twenty-four millions to organize new national banks.

The Comptroller of the Currency, in his annual report, recommended the issue of one hundred millions of six per cent. bonds in place of one hundred millions of greenbacks to be withdrawn from circulation, and to give the banks ninety millions more of circulating notes upon the pledge of those bonds as security.

The committee could neither see the wisdom nor justice of the Government assuming the payment of six millions annually for interest, only for the purpose of increasing the bank circulation. So long as there is no redemption of the notes of national banks, they circulate, in every respect, equally as well as greenbacks. The national currency now in circulation is so much addition to the currency of the country. The Government might as well loan greenbacks to the banks without interest as to authorize the issue of more national currency. If the \$300,000,000 of national currency had been issued by the Government in greenbacks it would have saved annually at least eighteen millions, which is now paid for interest on the bonds pledged to secure that three hundred millions of national bank notes. The Government should have the benefit of the issue if more paper money is necessary. It is to be hoped that the national bank notes will never be allowed by Congress to exceed the present amount of three hundred millions; and when more bank notes are required, that the ratio of circulation to each bank be reduced to furnish the currency required for the new banks. I have stated the leading features of the amendment proposed by this bill, and now leave it for the action of the House.

**THE SPEAKER.** The amendments of the committee will be first in order.

**MR. HOOPER, of Massachusetts.** I move to insert on page 13, after line three hundred and four, the following:

*And provided further,* That in all cases where a national bank has paid, or may pay, in excess of what may be found due from said bank, on account of the duty required to be paid to the Treasurer of the United States, the bank so having paid or paying such excess of duty, may state an account therefor, on being certified by the Treasurer of the United States and found correct by the First Auditor and approved by the First Comptroller of the Treasury, shall be refunded in the ordinary manner by warrant on the Treasury.

**MR. HOOPER, of Massachusetts.** I send up to the Clerk's desk a letter, which I ask to be read.

The Clerk read as follows:

THE TREASURY OF THE UNITED STATES,  
WASHINGTON, July 14, 1866.

SIR: A number of national banks having made application for return of duties claimed to have been illegally exacted and paid, a statement of said claims, so far as they had at that time been preferred, was, on the 21st day of May last, submitted to the Solicitor of the Treasury for his opinion, and with the view of ascertaining whether proper authority of law existed for the return to the banks of the duty claimed to have been overpaid.

I inclose copies of a circular issued from this office under date of June 27, 1866, which circular embodies a statement of the origin of said claims made to the Solicitor, with his opinion, in reply, that there was no existing law authorizing the return to the banks of the amounts claimed.

In regard to these claims, I desire respectfully further to state, that as the matter now stands, those banks which refused compliance with the requirements of this office, in the particulars named, and continued so to refuse until the modifications which in effect released them had been adopted, escaped the payment of the duty; while such banks as did comply with the requirements and paid duty on the items have now no means of recovery; the effect being to make a distinction against those banks which complied, and in favor of those which resisted the payment required. Many of the banks which paid the duty,



protesting that they deemed the requirement an improper one, were informed from this office that it was not deemed that their rights to recovery, thereafter, of an amount of duty improperly exacted, would be prejudiced by their making payment then, as in case it was decided by competent authority that such payment was improperly exacted, the amount overpaid would be allowed as a credit on the payment due on the next return.

It appearing from the opinion of the Solicitor of the Treasury that this course cannot lawfully be pursued, and deeming it an act of justice to the banks concerned that some provision should be made for the return to them of such amounts of duty as may have been paid by them under requirements subsequently modified, (which modification would, if made before the payment, have released them therefrom,) I have prepared, and have the honor to submit herewith, an amendment to section forty-one of the national currency act, providing for the return of duty under all the safeguards provided by any act for the payment of money out of the Treasury, the adoption of which amendment I beg respectfully to recommend.

Very respectfully, F. E. SPINNER.

Treasurer United States.

Hon. SAMUEL HOOPER, of Committee on Banking and Currency, House of Representatives, Washington, D. C.

TENNESSEE—AGAIN.

Mr. DAWES. I rise to a question of privilege, to make a report from the Committee of Elections.

The SPEAKER. If there is no objection, the banking bill will be laid aside to allow the Committee of Elections to make a report.

No objection was made.

Mr. DAWES. The Committee of Elections, to whom were referred the credentials of certain persons claiming to have been duly elected as Representatives to this Congress from the State of Tennessee, have instructed me to report that the credentials of the following gentlemen have been referred to the committee, namely: Nathaniel G. Taylor, for the first district of Tennessee; Horace Maynard, for the second district; William B. Stokes, for the third district; Edmund Cooper, for the fourth district; William D. Campbell, for the fifth district; Samuel L. Arnold, for the sixth district; Isaac R. Hawkins, for the seventh district; and John W. Leftwich, for the eighth district. The credentials presented have been examined by the committee and appear to be in conformity with the laws of the State of Tennessee and of the United States. They set forth that on the first Thursday of August, in the year 1865, each one of these gentlemen was duly elected a Representative in Congress in conformity with the laws of Tennessee and of the United States. Each one of the credentials is signed by the Governor of the State and attested by the secretary of state, with the seal of the State affixed thereto. The committee have instructed me to report that those credentials are in conformity with law, and to move that these several gentlemen be sworn in as members of the House from the State of Tennessee.

Mr. LE BLOND. Will the gentleman yield?

Mr. DAWES. Yes, sir.

Mr. LE BLOND. I fully concur with the report made by the chairman of the Committee of Elections. But, sir, I am somewhat puzzled to know how that committee comes to the conclusion that it has given any force or effect to the resolution that passed this House and the Senate. The preamble to that resolution presupposes that the State of Tennessee was out of the Union and not entitled to representation until the adoption or ratification of the constitutional amendment. If so, I ask the chairman of the committee how in Heaven's name the election of these Representatives can be legal. For one I believe the election to be proper. I believe these members are entitled to seats and that they have been so entitled all the time. But if the spirit of that preamble is right, certainly the report of this committee is a perfect anomaly. I have been in favor of admitting these men all along, and I simply make this statement, hoping that the chairman of the committee may be able to reconcile his position.

Mr. DAWES. After the luminous exposition of the gentleman showing the inconsistency of the position in which he finds himself after having voted for that resolution, I do

not think it necessary to detain the House any further, and I therefore demand the previous question.

Mr. LE BLOND. I do not vote for it at all. [Laughter.]

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee was agreed to.

Mr. DAWES moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

Mr. LE BLOND. It is not necessary; there is nobody opposed to it.

The latter motion was agreed to.

MESSRS. NATHANIEL G. TAYLOR, HORACE MAYNARD, and WILLIAM B. STOKES then came forward amid applause, took the oath of office prescribed by the act of July 2, 1862, and took their seats in the House.

Mr. EGGLESTON. I move the House now adjourn.

The SPEAKER. That will be till to-morrow.

Mr. EGGLESTON. That is what I propose. The motion was disagreed to.

BANK BILL—AGAIN.

The House resumed the consideration of the banking bill, the pending question being on the amendment offered by Mr. HOOPER, of Massachusetts.

Mr. STEVENS, I think I understand the object of that amendment; I am not quite sure. Some time ago it was decided by the late Commissioner of Internal Revenue that banks were bound to pay the tax of one sixth of one per cent., and I suppose it has reference to what is paid under that decision. Now, that was decided by the courts in Philadelphia to be illegal. There has been paid a good many thousand dollars of revenue in Pennsylvania under that erroneous decision. I believe this amendment has reference to that.

Mr. HOOPER, of Massachusetts. It refers entirely to that. The Solicitor reported that there was no authority to refund the money.

Mr. STEVENS. I suggest whether we ought not to have a clause ratifying what has already been paid.

Mr. HOOPER, of Massachusetts. They have not asked it.

Mr. STEVENS. Very well.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting after the word "any," in line fifty-one, page 3, the words, "national banking," so that it will read "national banking association."

The amendment was agreed to.

Mr. RANDALL, of Pennsylvania. I suggest that the bill be now taken up and read by paragraphs for amendment.

The SPEAKER. Under what rule?

Mr. RANDALL, of Pennsylvania. Let the Chair suggest the rule.

The SPEAKER. If there is no objection the bill will be read by paragraphs for amendment, the same as in Committee of the Whole, allowing five minutes' speeches pro and con.

No objection being made, it was so ordered.

The Clerk read the first paragraph, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, be, and the same is hereby, amended as follows, namely:*

That section eighteen of said act be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if, upon a careful examination of the facts so reported and of any other facts which may come to the knowledge of the Comptroller of the Currency, whether by means of a special commission, which he is hereby authorized to appoint for the purpose of inquiring into the condition of such association, or otherwise, it shall appear to him that such association has complied with all the provisions of law and is prepared and intends to engage in, and is lawfully entitled to commence, the business of banking, he shall give to

such association a certificate, under his hand and official seal, that such association has complied with all the provisions of law required to be complied with before being entitled to commence the business of banking under the national currency act, and that such association is authorized to commence said business accordingly; and it shall be the duty of said association to cause said certificate to be published in some newspaper in the city or town where the association is located for at least sixty days next after the issuing thereof, and if no newspaper is there published, the certificate shall be published in a newspaper designated by the Comptroller of the Currency. And whenever the Comptroller of the Currency shall have evidence, or shall have reason to believe, that any such association is not carrying on the proper business of banking, or that any of its reports required by law have been false or fraudulent, or that its funds have been willfully misapplied by the directors or officers, in violation of the national currency act, or that the directors have intentionally or negligently violated, or intentionally or negligently permitted any of the officers, agents, or servants of the association to violate any of the provisions of law, it shall be the duty of the Comptroller of the Currency to cause an examination of its affairs, and upon satisfactory proof to the Comptroller that such association is not carrying on the proper business of banking, or has rendered false or fraudulent reports, or that its funds have been misapplied, or that it has violated the provisions of law, he may, with the approval of the Secretary of the Treasury, appoint a receiver to close up its business, according to section fifty of the national currency act.

Mr. LYNCH. I offer the following amendment, to come in at the end of this paragraph:

*Provided, however, That the appointment of such receiver shall be vacated and the Comptroller shall be enjoined and restrained from further proceedings in the premises under this section, if the nearest district, circuit, or territorial court of the United States shall, on application of such association, made within ten days after it shall have been notified of such appointment and upon hearing of the case, so order.*

The object of the amendment is to give the same right of appeal that is given in section fifty of the national currency act. That provides for closing up on certain violations of the law.

Mr. CONKLING. If I caught the sense clearly I would suggest that the amendment goes further than the gentleman intends. It provides that the appointment of any such commissioner shall be vacated if the court shall so order.

Mr. LYNCH. The section provides that the Comptroller of the Currency shall wind up the bank under certain provisions of the national currency act, and the proviso is to give the parties a right to appeal to the courts. If the gentleman will refer to section fifty he will find the provision referred to.

Mr. CONKLING. I would suggest to the gentleman, then, that he ought to provide not only that the appointment should be vacated, but that the proceedings themselves should be vacated.

Mr. LYNCH. It provides just that.

Mr. HOOPER, of Massachusetts. Perhaps I misunderstood the gentleman; but I understood him to say that his amendment was from the Committee on Banking and Currency.

Mr. LYNCH. I did not say it was from the committee; I offered it as an amendment of my own.

Mr. HOOPER, of Massachusetts. It seems to me unnecessary, as that provision already exists in the law. The propriety of the provision I assent to, but it is already provided for in the law. This subject was discussed in the committee, and they thought it was sufficiently provided for now in the fiftieth section of the national currency act.

Mr. LYNCH. Section fifty does not cover this case. That section provides in relation to "such association against which proceedings have been so instituted on account of any alleged refusal to redeem." This is not on account of any alleged refusal to redeem; therefore that proviso is not applicable to this at all. It is only applicable to a bank which is being wound up on account of its alleged refusal to redeem, and it does not apply to the extension given under this section.

Mr. RANDALL, of Pennsylvania. I think I understand very well what the gentleman from Maine [Mr. LYNCH] is seeking to accomplish. The object of the committee in this respect was this: that where a bank fraudulently

violates the law, or neglects the requirements of the law, the Comptroller of the Currency shall have the opportunity to come in and take possession of the assets of the bank, giving him more full power than he has heretofore had to save the public money, if it be a public depository, and if not at least to save the money due to the depositors, and also provide that the circulation may be promptly redeemed. I hope the amendment of the gentleman from Maine will not be adopted.

Mr. LYNCH. I would call the attention of the gentleman to section fifty of the currency act, to which this section relates. As the gentleman from Massachusetts [Mr. HOOPER] has said, it was the intention that this proviso should apply. But he will find that the proviso of section fifty does not apply to this section at all.

The hour of four o'clock and thirty minutes p. m. having arrived, the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The hour of half past seven o'clock p. m. having arrived, the House resumed its session.

#### LEAVE OF ABSENCE.

Mr. O'NEILL asked and obtained leave of absence for the remainder of the session for his colleague, Mr. THAYER.

#### ADAM GARLOCH.

On motion of Mr. HOLMES, the Committee on Revolutionary Pensions were discharged from the further consideration of the petition of Adam Garloch, and the same was referred to the Committee on Invalid Pensions.

#### ASSAULT ON A MEMBER.

Mr. BANKS. I move that all further proceedings under the order of the House relating to the assault upon the member from Iowa [Mr. GRINNELL] be dispensed with.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. ANCONA demanded the regular order of business.

The House, pursuant to order, resumed the consideration of business upon the Speaker's table.

#### PORTS OF DELIVERY.

The first business upon the Speaker's table were amendments of the Senate to the bill of the House No. 609, to constitute Omaha and Nebraska City, in the Territory of Nebraska, and St. Paul, in Minnesota, ports of delivery.

Mr. ELIOT. I move that the bill with the amendments be referred to the Committee on Commerce.

The motion was agreed to.

Mr. PRICE moved to reconsider the vote by which the bill and amendments were referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### CERTIFICATES OF REGISTRY TO VESSELS.

The next business upon the Speaker's table was the amendment of the Senate to the bill of the House No. 728, to authorize the Secretary of the Treasury to issue certificates of registry or enrollment and license to certain vessels.

The amendment was as follows:

Add to the bill the following proviso: *Provided*, That there shall be paid on each of said vessels that are foreign built a tax equal to the internal revenue tax upon the materials of construction of similar vessels of American build.

Mr. ELIOT. I move that the House concur in the amendment of the Senate.

The amendment was concurred in.

Mr. ELIOT moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PETER ANDERSON.

The next business upon the Speaker's table was Senate bill No. 79, for the relief of Peter

Anderson; which was read a first and second time and referred to the Committee on Invalid Pensions.

#### REUBEN CLOUGH.

The next business upon the Speaker's table was Senate bill No. 171, for the relief of Reuben Clough; which was read a first and second time and referred to the Committee on Invalid Pensions.

#### MRS. NANCY A. STOCKS.

The next business upon the Speaker's table was Senate bill No. 358, granting a pension to Mrs. Nancy A. Stocks; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to place the name of Mrs. Nancy A. Stocks, widow of Reuben Stocks, late a private in company K, eighteenth regiment Illinois infantry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the 11th day of June, 1868, and to continue during her widowhood.

Mr. ANCONA. I insist on the motion to refer the bill to the Committee on Invalid Pensions.

The motion was not agreed to; there being—ayes nine, noes not counted.

The bill was ordered to a third reading, read the third time, and passed.

#### WILLIAM CROSWELL.

The next business on the Speaker's table was the bill (S. No. 324) entitled "An act for the relief of William Crosswell;" which was read a first and second time.

The bill, which was read at length, proposes to direct the Secretary of the Interior to place the name of William Crosswell, of Boston, Massachusetts, on the roll of invalid pensioners at the rate of eight dollars per month, the pension to commence February 1, 1865.

Mr. PERHAM. I move to amend the bill by adding the words, "and said pension shall be paid out of the naval pension fund."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HOPESTILL BIGELOW.

The next business on the Speaker's table was the bill (S. No. 359) entitled "An act for the relief of Hopestill Bigelow, of New Market, New Jersey;" which was read a first and second time and referred to the Committee on Invalid Pensions.

#### ABRAHAM LANSING.

The next business on the Speaker's table was the bill (S. No. 366) entitled "An act granting a pension to Abraham Lansing;" which was read a first and second time.

The bill, which was read at length, directs the Secretary of the Interior to place the name of Abraham Lansing, late a master's mate in the United States Navy, on the pension-roll, at the rate of ten dollars per month, to commence from and after the passage of this bill and to continue during his natural life; said pension to be paid out of the naval pension fund.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DRUSEY A. LAYMAN.

The next business on the Speaker's table was the bill (S. No. 376) entitled "An act granting a pension to Drusey A. Layman;" which was read a first and second time.

The bill, which was read at length, directs the Secretary of the Interior to place upon the pension-roll the name of Drusey A. Layman,

of Palatine, Marion county, West Virginia, widow of Eugenius E. Layman, deceased, late a private in company C, of the seventeenth regiment of West Virginia volunteers, and allow and pay to her a pension of eight dollars per month from the death of her husband on the 18th day of January, 1865, to continue during her widowhood.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN PYLE.

The next business on the Speaker's table was a bill (S. No. 390) entitled "An act granting a pension to John Pyle;" which was read a first and second time.

The bill, which was read at length, directs the Secretary of the Interior to place the name of John Pyle, late a sergeant in company B, one hundred and fifth regiment Indiana militia volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from and after the passage of this bill, and to continue during his natural life.

Mr. ANCONA. I move that this bill be referred to the Committee on Invalid Pensions, and on that motion I demand the previous question.

Mr. PERHAM. I desire to state that the Committee on Invalid Pensions have had before them substantially the same bill, and are in favor of its passage. I ask that the report be read.

The Clerk read the report.

Mr. LAWRENCE, of Pennsylvania. I hope that this bill will not be referred. I trust that my colleague [Mr. ANCONA] will withdraw the motion.

Mr. ANCONA. I cannot withdraw it. Let us take the same course with these Senate bills that the Senate has taken to-day with our bills of a precisely similar character.

On the motion to refer the bill to the Committee on Invalid Pensions, there were—ayes 6, noes 55; no quorum voting.

The SPEAKER, under the rules, ordered tellers, and appointed Mr. ANCONA and Mr. PERHAM.

The House divided, and the tellers reported—ayes 9, noes 79; no quorum voting.

Mr. ANCONA. I withdraw the demand for a division.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### W. B. KELLEY.

The next business on the Speaker's table was Senate bill No. 398, for the relief of W. B. Kelley; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to pay to W. B. Kelley, late a second lieutenant in company F, first regiment Kentucky cavalry volunteers, a pension, at the rate of fifteen dollars per month, from the 31st of July 1863, to March 13, 1865, amounting to \$291 60.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### BOUNTIES TO COLORED SOLDIERS.

The next business on the Speaker's table was the following amendments of the Senate to House joint resolution, No. 176 amendatory of a joint resolution entitled "A resolution

respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs," approved June 15, 1866:

Strike out all after the enacting clause of section two down to the end of section three, and insert in lieu thereof as follows:

That whenever application shall be made by any claimant for bounty under the provisions of the joint resolution aforesaid, by or through any agent or attorney, such agent or attorney shall hereafter be required to file with each claim his oath or affirmation that he has no interest whatever in said bounty beyond the fees for collection of the same, which are hereby fixed and established as follows, namely: for the preparation and prosecution of claims for and the collection and the remittance of all sums not exceeding fifty dollars, the sum of five dollars, and less than \$100 the sum of \$7.50, and for all sums exceeding \$100 the sum of ten dollars; and said fees shall include all expenses incident to the collection of said claims except the expense of the necessary affidavits and notarial or other acknowledgments, which shall be defrayed by the claimant; and any agent or attorney who shall charge directly or indirectly in any case a greater sum for his services in preparing and prosecuting said claims and collecting and remitting the amount due, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding \$3,000 nor less than \$1,000, and shall be forever excluded from prosecuting military or naval claims against the Government.

Section four, strike out all after the word "depository" to the end of line five.

Section five, line three, strike out "sailor or marine."

Section five, lines four and five, strike out "final statement, descriptive list, or other papers."

Section five, line twelve, strike out "sailor or marine."

Mr. SCHENCK. The amendments of the Senate do not make the resolution so stringent against claimants as the House committee would desire, but after examining the amendments I think we had better concur. I move concurrence.

The amendments were concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CLAIMS AGAINST NEVADA.

The next business in order on the Speaker's table was Senate joint resolution No. 84, authorizing the payment of certain claims against the late Territory of Nevada; which was read a first and second time.

To enable the Secretary of the Treasury to settle and pay outstanding claims chargeable to the contingent expenses of the executive department of the Territory of Nevada, it proposes to transfer so much of the unexpended balance of the appropriation "for compensation and mileage of members of the Legislative Assembly of the Territory of Nevada" as may be found necessary for that purpose, to the credit of the fund for paying the contingent expenses of the executive department of that Territory, and the proper accounting officers of the Treasury, out of the balance so transferred, are to pay "the said claims as adjusted and allowed."

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

#### ARMY OF THE UNITED STATES.

The next business in order on the Speaker's table was bill of the Senate No. 401, to increase and fix the military peace establishment of the United States, which was read a first and second time.

Mr. SCHENCK. I desire to say to the House that this is one of the numerous Senate Army bills, but as we have succeeded at length in getting an arrangement by which the Senate adopted this as a substitute for the substitute of the House, so that we may have a committee of conference, I move that the bill be referred to the Committee on Military Affairs, and that the committee have leave to report it back at any time.

Mr. WILSON, of Iowa. I object to that. Pass it over for the present.

The SPEAKER. The Chair thinks the bill had better be referred until after this order is executed.

The motion to refer was agreed to.

#### EXTENSION OF CAPITOL GROUNDS.

The next business in order upon the Speaker's table was bill of the Senate No. 389, to enlarge the public grounds around the Capitol; which was read a first and second time and referred to the Committee on Public Buildings and Grounds.

#### THADDEUS HYATT.

The next business in order upon the Speaker's table was bill of the Senate No. 367, to extend the letters-patent granted to Thaddeus Hyatt; which was read a first and second time.

The bill was read. It extends the patent of Thaddeus Hyatt for vault lights for seven years, to end in November, 1873.

Mr. JENCKES. The Committee on Patents have instructed me to report in favor of agreeing to the bill of the Senate. I ask the previous question on its passage.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### UNITED STATES EXPLORING EXPEDITION.

The next business upon the Speaker's table was joint resolution of the Senate No. 126, "to authorize the use of certain plates of the United States exploring expedition by the Navy Department;" which was read a first and second time.

The joint resolution authorizes the Joint Committee on the Library to grant to the Navy Department the plates used in illustrating the exploring expedition of Captain Wilkes, with a view of printing a supply of charts for the use of the Navy Department.

Mr. RICE, of Massachusetts. Let me state that the Committee on Naval Affairs have examined this bill and recommend its passage.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PACIFIC RAILROAD.

The next business in order upon the Speaker's table was bill of the Senate No. 125, granting the right of way through the military reserves to the Union Pacific railway and its branches; which was read a first and second time.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. LAWRENCE, of Ohio. Is it in order to move to refer this bill to the Committee on Public Lands?

Mr. DRIGGS. It merely grants the right of way.

Mr. PRICE. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### THE PORTLAND FIRE.

The next business on the Speaker's table was joint resolution of the Senate No. 131, for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine; which was read a first and second time.

Mr. ALLISON. I move that the bill be referred to the Committee on Appropriations.

Mr. RICE, of Maine. I trust not. This resolution contains no appropriation. It simply provides for a suspension of the collection of taxes.

Mr. WILSON, of Iowa. There is one provision of the joint resolution which I think

ought to be amended. It would relieve from taxation persons owning property in Portland, but residing and doing business elsewhere. For instance, if there be a distiller owning property there, but doing business in Peoria, the payment of his tax would be suspended.

Mr. ALLISON. I will move that the resolution be referred to the Committee of Ways and Means, with leave to report at any time.

Mr. RICE, of Maine. I believe there is no objection to that on the part of the gentleman who represents the Portland district.

Mr. LYNCH. I have no objection to that reference if the committee have leave to report at any time.

Mr. STEVENS. I desire to add to the resolution an amendment providing that taxes shall also be suspended in the burnt portion of Chambersburg, Pennsylvania.

Mr. WILSON, of Iowa. I supposed that question had already been referred to the Committee of Claims.

Mr. CONKLING. I have been seeking the floor for an opportunity of making some remarks in regard to this Chambersburg matter.

I notice by the Globe that during my necessary absence from the House, the gentleman from Pennsylvania made some remarks in reference to that Chambersburg matter in which he stated that I had been appointed by the Committee of Ways and Means a sub-committee in relation to it. I wish now to set the matter right, and to remind the chairman of the Committee on Appropriations that he was forgetful of the facts when he made that statement. I did examine into the matter, but subsequently, upon suggestion of a party admitted into the committee-room, the matter was acted upon by the Committee, and since that time it has never, in any sense, been in my hands. I wished to state this fact for the information of the gentleman and the House, and in justice to myself.

Mr. ALLISON. I demand the previous question on the motion to refer.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer to the Committee of Ways and Means, with leave to report at any time, was agreed to.

#### MAIL SERVICE TO CHINA.

The next business upon the Speaker's table was joint resolution of the Senate No. 98, to amend an act entitled "An act to authorize the establishment of ocean mail steamship service between the United States and China," approved February 17, 1865; which was read a first and second time.

On motion of Mr. ALLEY the joint resolution was referred to the Committee on the Post Office and Post Roads.

#### C. T. FAY AND WILLIAM Y. PATCH.

The next business on the Speaker's table was joint resolution of the Senate No. 182, authorizing the Secretary of the Treasury to audit and settle the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco, California; which was read a first and second time.

Mr. McRUER. I desire to call the previous question upon this joint resolution, but before doing so I will ask for the reading of a letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, July 13, 1866.

DEAR SIR: I inclose to you herewith a proposed resolution authorizing the settlement of the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco, upon an equitable and just basis.

From the report to me of clerks of this Department, appointed as a committee to investigate the accounts of those officers and to settle them if possible, I am satisfied that, by reason of informality in the appointment of certain persons who acted and were paid by the collector as assistant assessors, the accounts of these gentlemen cannot be justly settled without the aid of some legislation like that proposed in the accompanying resolution. I therefore desire to call the attention of Congress, through you, to this subject.

Very respectfully,

H. McCULLOCH, Secretary.

Hon. D. C. McRUER, M. C., House of Representatives.

Mr. McRUER. I will merely say that this is a question arising from certain informalities in appointments.



Mr. STEVENS. It seems to me that a more definite bill ought to have been drawn.

Mr. McRUER. The Government failed for six or seven months to furnish the funds there to pay the clerks in the internal revenue department; and it was absolutely necessary that those informalities should take place, or the office be closed.

Mr. STEVENS. What informalities? It very often happens that there is a deficiency in the money needed.

Mr. McRUER. These men were appointed, *pro forma*, as assistant assessors, without any direct authority of law for the purpose; and on account of this informality the Auditor refuses to pay the account. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time and passed.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MARINE HOSPITAL IN JAPAN.

The next business upon the Speaker's table was Senate bill No. 408, making an appropriation for the erection of a marine hospital at Yokohama, in Japan, and for other purposes; which was read a first and second time.

The bill was read at length. The first section provides that the sum of \$10,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a marine hospital for the use of the United States, and to furnish the same with proper furniture, instruments, and medicine, at Yokohama, in Japan. The second section provides that the said sum of money, or so much thereof as shall be necessary for the purposes aforesaid, shall be expended under the direction of the Department of State.

Mr. LAWRENCE, of Ohio. I raise the point of order that this bill contains an appropriation, and therefore must be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred accordingly.

#### CODIFYING CUSTOMS LAWS.

The next business upon the Speaker's table was Senate joint resolution No. 82, to provide for codifying the laws relating to the customs; which was read a first and second time.

The joint resolution was read at length. It authorizes and directs the Secretary of the Treasury to cause to be prepared and submitted to Congress at its next session, under the direction of one member of the Senate and one member of the House of Representatives, each to be appointed by the Presiding Officer of the body to which he belongs, a general customs revenue law, designed to supersede all other laws on that subject, and embracing all necessary provisions for regulating the foreign and coasting trades, the assessment and collection of duties on goods, wares, and merchandise imported from foreign countries, and other subject-matters immediately pertaining thereto; the expenses necessarily incurred in the preparation thereof to be paid from the appropriation for the "expenses of collecting the revenue from customs," provided the said expenses shall not exceed \$10,000.

Mr. MORRILL. It must be obvious to all that this is a very necessary work, almost as necessary, perhaps, as the general codification of the laws of the United States. I trust it will meet with no objection.

Mr. ELIOT. I desire to state that the Committee on Commerce have had this subject under consideration, have examined it pretty fully, and are agreed that this joint resolution should pass. This work should have been performed years ago. I have a letter here from the Secretary of the Treasury stating the importance of the passage of this joint resolution,

which I will have read if any gentleman desires to hear it.

Several MEMBERS. That is not necessary.

The joint resolution was then read the third time and passed.

Mr. MORRILL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### SERGEANT MILTON M'KINNON.

The next business upon the Speaker's table was Senate joint resolution No. 111, for the relief of Sergeant Milton McKinnon; which was read a first and second time.

The joint resolution was read at length. It authorizes and directs the Secretary of the Treasury to pay to Sergeant Milton McKinnon the sum of \$58 45, being the amount of a draft drawn in his favor by Major M. L. Martin, late paymaster in the United States Army, on the Assistant Treasurer of the United States in New York, dated March 24, 1864, and which was lost in its transmission to New York; provided Milton McKinnon file a duplicate of the draft, duly authenticated, with the Secretary of the Treasury; also that the payment authorized shall not be made until McKinnon shall execute to the United States a bond, with security, to be approved by the Secretary of the Treasury, conditioned to indemnify the United States against all loss, cost, or damage incurred by reason of the payment hereby authorized.

The joint resolution was read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ILLINOIS SOLDIERS' COLLEGE.

The next business on the Speaker's table was joint resolution S. No. 139, for the benefit of the Illinois Soldiers' College and Military Academy; which was read a first and second time.

Mr. FARNSWORTH. I hope that this bill will be put upon its passage now.

The resolution, which was read at length, provides that the Secretary of War be authorized to transfer to the Illinois Soldiers' College and Military Academy, from the surplus on hand and not needed for the public service, cots and bedding necessary to accommodate five hundred persons, for the use of free students in that institution disabled by the war.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOLOMON P. SMITH.

The next business on the Speaker's table was the bill (S. No. 410) entitled "An act for the relief of Solomon P. Smith;" which was read a first and second time.

The bill, which was read at length, provides that there shall be paid to Solomon P. Smith, late a captain in the one hundred and fifteenth regiment of New York volunteers, out of any money in the Treasury not otherwise appropriated, \$260, for his pension from January 14, 1865, when he was mustered out of the service, until February 15, 1866, the date of the filing of his application for a pension with the Commissioner of Pensions.

Mr. TAYLOR, of New York. I move that this bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

#### ALEXANDER F. PRATT.

The next business on the Speaker's table was the bill (S. No. 435) entitled "An act for the relief of Alexander F. Pratt;" which was read a first and second time.

It proposes to direct the Secretary of the Treasury to pay to Alexander F. Pratt \$530,

in full for pursuing and capturing Elijah K. Jauner, convicted of counterfeiting United States coin.

Mr. ALLISON. I move that this bill be referred to the Committee of Claims.

Mr. PAINE. I understand that a bill for the payment of this claim has passed the House on two or three occasions at former sessions of Congress, and has been lost in the Senate. I believe that those members of this House who are familiar with this case are satisfied with the bill. I am not myself familiar with the facts, but I wish that the gentleman from Iowa [Mr. Allison] would withdraw his motion for the reference of the bill.

Mr. ALLISON. The Secretary of the Treasury has at his disposal a large fund which is annually appropriated for the payment of such claims as this. There must be something peculiar about this claim or it would be paid by the Secretary of the Treasury without any special authority. I would like to know what there is peculiar about this case.

Mr. PAINE. Perhaps I may be able to state sufficient to satisfy the gentleman on that point.

Mr. ROSS. I make the point of order that this bill contains an appropriation, and must be referred, under the rule, to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order; and the bill must be so referred.

#### MRS. AMELIA FEASTER.

The next business on the Speaker's table was the bill (S. No. 434) entitled "An act for the relief of Mrs. Amelia Feaster, of Columbia, South Carolina;" which was read a first and second time.

The bill requires the Secretary of the Treasury to pay to Mrs. Amelia Feaster, of Columbia, South Carolina, \$10,000, as a reimbursement for money expended by her in alleviating the suffering of the officers and soldiers of the United States Army confined in the rebel prisons in that city during the late rebellion.

Mr. KELLEY. I move that the bill be referred to the Committee of Claims.

The motion was agreed to.

Mr. BENJAMIN moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### E. J. CURLEY.

The next business on the Speaker's table was the bill (S. No. 433) entitled "An act for the relief of E. J. Curley;" which was read a first and second time.

The bill requires the Secretary of the Treasury to pay to E. J. Curley \$34,248 52, as compensation in full for corn purchased of him by Captain E. B. W. Reslieaux, assistant quartermaster, on the part of the Government.

Mr. CONKLING. I move that it be referred to the Committee of Claims.

Mr. FARNSWORTH. It makes an appropriation, and must be referred to the Committee of the Whole on the Private Calendar.

It was referred accordingly.

#### WASHINGTON CROSLAND.

The next business on the Speaker's table was Senate bill No. 431, for the relief of Washington Crosland; which was read a first and second time.

Mr. CONKLING moved that it be referred to the Committee of Claims.

The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MISS SUE MURPHEY.

The next business on the Speaker's table was Senate bill No. 412, for the relief of Miss Sue Murphey, of Decatur, Alabama; which was read a first and second time.

Mr. CONKLING moved that it be referred to the Committee of Claims.

The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEWIS DYER.

The next business on the Speaker's table was Senate bill No. 383, for the relief of Lewis Dyer, late surgeon of the eighty-first regiment of Illinois volunteers; which was read a first and second time.

Mr. LAWRENCE, of Ohio, moved that it be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN HASTINGS.

The next business on the Speaker's table was Senate bill No. 324, for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburgh; which was read a first and second time.

Mr. MOORHEAD. I hope that bill will be put on its passage.

Mr. WILSON, of Iowa. What are the provisions of the act to which this refers? I remember we had a contest over this case at the last session.

Mr. MOORHEAD. The gentleman recollects the law as well as I do. I did not know this was here until just now. I know this man suffered in the war; that he was terribly wounded and is now destitute. This is to release one of his bail, an honest, hard-working man.

Mr. WILSON, of Iowa. If John Hastings was disabled in the war I am willing he shall have a pension. The gentleman says he did not know this bill was here till just now. He did not know last session why the original bill was here. If we grant a pension to Hastings it is enough. The original bill allowed him a credit for \$9,956 62, and this allows a like credit. Now, is it proposed to cover \$18,000? Why we are asked to pass this I cannot understand. I think it ought to be referred.

Mr. MOORHEAD. I move it be referred to the Committee of Ways and Means.

Mr. WILSON, of Iowa. I do not object to that.

Mr. MOORHEAD. I ask that the committee shall have leave to report at any time.

Mr. CONKLING. I object to that.

The motion to refer was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOSIAH O. ARMES.

The next business upon the Speaker's table was Senate bill No. 16, for the relief of Josiah O. Armes; which was read a first and second time.

Mr. WINDOM. I call the previous question on the passage of the bill.

Mr. LAWRENCE, of Ohio. The bill makes an appropriation, and must have its first consideration in the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Chair sustains the point of order.

The bill was referred accordingly.

THE PORTLAND FIRE.

The next business in order upon the Speaker's table was bill of the Senate No. 428, for the relief of the sufferers by the late fire in Portland, Maine; which was read a first and second time.

The bill authorizes the President to tender to the Governor of Maine, in the name of the Government of the United States, for the relief of the sufferers by the late fire in Portland, \$50,000, to be used for that end in such man-

ner as he may think best. The bill also makes an appropriation of \$50,000.

Mr. LAWRENCE, of Ohio. I move the reference of that bill to the Committee of Claims.

Mr. RICE, of Maine. I hope the gentleman from Ohio will permit the bill to pass. There are now from twelve to fifteen thousand of the people of Portland homeless and houseless.

Mr. LATHAM. I rise to a question of order. I submit that this is an appropriation bill, and must have its first consideration in Committee of the Whole House.

Mr. RICE, of Maine. I appeal to the gentleman from West Virginia to withdraw that point of order.

Mr. INGERSOLL. Give the reasons.

The SPEAKER. Debate on the bill must take place in Committee of the Whole.

The question was taken on the motion of Mr. LAWRENCE, of Ohio, and it was agreed to.

So the bill was referred to the Committee of Claims.

PAYMENT OF THE PUBLIC DEBT.

The next business in order on the Speaker's table was bill of the Senate No. 300, for the payment of the public debt; which was read a first and second time.

Mr. MORRILL. I suppose the members of the House have noticed this bill. I do not suppose the House wishes to consider the bill to-night. I move that it be referred to the Committee of Ways and Means with leave to report it at any time.

Mr. WILSON, of Iowa. I object.

Mr. MORRILL. Well, I believe we have that authority, whether the gentleman objects or not.

The motion to refer was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. MORRILL. I understand the committee have leave to report the bill back at any time?

Mr. WILSON, of Iowa. I do not understand that they have a right to report back a bill of this character at any time.

The SPEAKER. The Clerk will read from the Digest, the last part of the one hundred and fifty-first rule in reference to the Committee of Ways and Means.

The Clerk read as follows:

"And the said committee shall have leave to report for commitment at any time."

The SPEAKER. The Chair thinks the committee have a right to report a bill of this character at any time.

Mr. MORRILL. I move that the bill be printed.

The motion was agreed to.

MARGARETTE ANN LAURIE.

The next bill in order upon the Speaker's table was the bill of the Senate, No. 441, for the relief of Margarette Ann Laurie; which was read a first and second time.

The bill was read. It authorizes and directs the Secretary of the Treasury to pay to Margarette Ann Laurie \$2,700 for the use of her house and lot by the military authorities of the District of Columbia.

Mr. CONKLING. I move that the bill be referred to the Committee of Claims.

Mr. DELANO. I ask that the report of the Senate, which I send up, be read.

The report was read.

Mr. DELANO. I wish to say that I have examined the evidence in this case as well as I could, and I think the evidence sustains the report of the Senate committee. These premises were occupied from 1862 to the termination of the war without any payment of rent and at very considerable damage. As to the loyalty of the claimant there can be no doubt, if the evidence can be depended upon, and I have no doubt it can be.

Mr. SCOTFIELD. Allow me to interrupt the gentleman with a question. I wish to know whether he is in favor of paying this woman because the Bucktail regiment of Pennsylvania encamped upon her lot, when he refused to support a bill for the benefit of the man who led that regiment?

Mr. DELANO. If the gentleman has delivered himself and is easy in his mind I will state that I am in favor of this bill upon its merits, and I base my support upon its merits alone.

Mr. CONKLING. I think such a bill as this should be referred to some committee.

Mr. DELANO. This lot was occupied by the Government and no rent was paid for it. It was taken possession of by the medical department of the Army, and it was done so illegally and irregularly that the claim could not be settled by the Department.

Mr. CONKLING. I ask the gentleman, regardless of what may be the particular merits of this bill, whether it is not better to refer all these claims to a committee rather than to select out a particular case in this way. I think, upon reflection, he will agree with me that the bill had better go to a committee. If it has merits it will certainly be reported back.

Mr. DELANO. There is certainly much force in the remarks of the gentleman from New York. I, however, look upon this case as simply a claim for rent and occupancy by the Government of the claimant's property. It is a very clear case, and I should be glad if the House would pass it without a reference; but if there be serious objections, I will not press the matter.

Mr. CONKLING. If the gentleman presses it, I will withdraw my motion; but I submit to him that the bill really better be referred.

Mr. DELANO. My judgment is that the bill ought to be passed. That is all I can say. I leave the matter with the House.

Mr. HOTCHKISS. There are a great many cases of precisely the same character, where buildings have been taken by the Government without any order, and if we establish a precedent by passing this bill it might be dangerous. For one I would much rather it should be referred and reported on.

Mr. CONKLING. Then I will insist upon my motion, and upon it demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof it was referred to the Committee of Claims.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ACCOUNTS OF ARMY OFFICERS.

Mr. BINGHAM. I rise to a question of privilege. I send to the Clerk's desk a report of the committee of conference upon the disagreeing votes of the two Houses on the bill of the House No. 101, for the relief of certain officers of the Army. I ask that it be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the resolution (H. R. No. 101) for the relief of certain officers of the Army having met, after full and free conference have agreed to recommend, and do recommend, to the respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate, numbered 1, 2, 4, and 5, and agree to the same:

That the Senate recede from its third amendment.

ALEXANDER RAMSEY,  
EDGAR COWAN,  
W. SPRAGUE,

Managers on the part of the Senate.

JOHN A. BINGHAM,  
GILMAN MARSTON,  
NELSON TAYLOR,

Managers on the part of the House.

Mr. BINGHAM. I will explain to the House that the bill, as amended by the conference committee, provides for an agreement to some of the Senate amendments and a disagreement to others. The effect of the report will be to leave the bill so as to provide that in every

case in which a commissioned officer has actually entered on his duty, but by reason of being killed or captured by the enemy or other cause beyond his control, was not mustered into the service, the pay department shall allow such officer or his heirs the full pay and emoluments of his rank from the day when he actually entered on such duty, deducting all pay that may have been actually received by such officer. It provides that in case of death, the heirs or legal representatives of the party who would have been entitled to this compensation if he had lived, shall receive it. I now call the previous question on agreeing to the report of the committee of conference.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. BINGHAM moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PORTRAIT OF PRESIDENT LINCOLN.

Mr. RAYMOND. I ask unanimous consent of the House to suspend further proceedings under the order of the House for the present, until I submit a resolution for its action, the object of which I will briefly explain. Some months ago I received from the United States consul at Aix-la-Chapelle a letter of introduction which he had given to a Venetian artist by the name of Salviati. He inclosed a letter from that artist, from which I now send to the Clerk's desk an extract, and ask that it may be read.

The Clerk read as follows:

134 REGENT STREET, WEST LONDON,  
April 9, 1866.

SIR: I have the honor to address you, through the inclosed introduction of W. H. Vesey, Esq., of Aix-la-Chapelle.

During the deplorable war, which has now ceased, my fellow-citizens and myself ever felt the deepest sympathy for your great nation; and on hearing of your national bereavement in the death of one who will ever be remembered as one of the world's greatest heroes, my establishment thought it could not better express the sympathies of our countrymen than by presenting to the American nation a portrait of their deceased President, executed in such imperishable materials that it might be handed down to their posterity, and ever preserve in their memories the greatness and recollections of Abraham Lincoln.

Prompted by such heart-felt emotions, a portrait of him has been executed in enamel mosaic, at my establishment in Venice, and now begs its acceptance by the United States people, as a small token of our deepest sympathies with them in their bereavement, and as an expression of our unqualified admiration of the character of the great man represented by the portrait.

Should this favor be denied me, I would beg that the portrait may be accepted by the American people, and placed in one of their great and admirable institutions, where it may be seen by all true Americans, who may rest assured that one thousand years hence the great President's portrait will be as perfect as when first executed, if uninjured by accident or willful damage.

I have the honor to be, sir, your most obedient servant,

A. SALVIATI.

Hon. HENRY J. RAYMOND,

Member of the House of Representatives.

Mr. RAYMOND. The portrait, to which reference is made in the letter which has just been read, reached me a week or two since, and I caused it to be placed in the Speaker's room for the examination of members of this House. Those who have examined it will have seen that while the class of art to which it belongs is not perhaps the highest among the fine arts, it has nevertheless a great many recommendations, chief among which, as the artist himself states, is its imperishable nature. It is a style of art which is one of the oldest in Europe, and has contributed by its character to the preservation of the great master-pieces of early ages, which otherwise would have gone to decay. Some of the principal buildings of Italy, and notably among them San Marco of Venice, and St. Peter's of Rome, are ornamented with works of art in mosaic, some in precious stones and others in enamel. They have endured for hundreds of years, and are still as bright and fresh as when first executed. I trust that this House and this Congress will deem it proper to accept this gift from this for-

eign artist, presented as a tribute on his behalf and that of those associated with him to the greatness of our deceased President, as a mark of their respect for the great country over which he presided.

Some writer—I do not now recollect who—has remarked, in reference to criticism upon literary works, that the verdict of a foreign nation may well be regarded as essentially the verdict of posterity. I am sure that that remark, to a certain extent, may be applied to the verdict of foreign nations upon the political character of the great men of any day; and in this respect we may well congratulate ourselves upon the unanimous approbation and applause which have greeted the career of the deceased President, whose loss we so recently were called upon to deplore. Perhaps more than any other prominent American who ever lived, except, perhaps, Benjamin Franklin, Abraham Lincoln was the embodiment and representative of whatever is peculiar in the American character and in American culture; and more than any American, with possibly the same exception, his character and his career have commanded the admiration and applause of foreign nations. From all parts of Europe—from the workmen of England, from the workmen of the great manufacturing cities of France—have come to us in various forms tributes to his character and tributes to the great work which he performed for this his native land, and the only land which his eyes had ever seen. And now, sir, there comes to us from the ancient city of Venice a tribute in the form of a work of art, to which, I am sure, we shall accord a similar welcome.

Something, perhaps, of respect and sympathy may be due to the city from which this work comes; a city whose vicissitudes, political and civil, have been among the most remarkable in the history of the world; a city rightly styled by one of England's greatest poets the "eldest child of liberty" that—

"Once did hold the gorgeous East in fee  
And was the safeguard of the West;"

a city which has passed through all the perils and changes to which free institutions are always subject, and which will stand as a monument of political vicissitude and uncertainty through all time to come; a city which is now passing through some of the most remarkable fortunes ever connected with the history of any people—having been the first great representative in Europe of republican liberty; then handed over by the first Napoleon to the domination of Austria; and now received from Austria by the third Napoleon, to be handed back again, as we may hope and trust, to the dominion of liberty. A present of this sort from such a city to this country, as a token of remembrance for Abraham Lincoln, may well be received by us with special expressions of appreciation and regard.

Sir, I offer this resolution, which I trust will be adopted unanimously:

*Resolved by the House of Representatives, (the Senate concurring) That Congress accept the portrait of Abraham Lincoln, presented by Signor Salviati, of the city of Venice, with thanks to the donor, and that the portrait be placed for safe custody in the Library of Congress.*

The resolution was unanimously agreed to.

#### COURTS OF WASHINGTON TERRITORY.

The House resumed the consideration of business on the Speaker's table, the first business being Senate amendments to the bill (H. R. No. 438) entitled "An act in relation to the courts of Washington Territory."

The amendments of the Senate were read, as follows:

On page 1, line five, strike out "the" after "that" and insert in lieu thereof "each."

In the same line strike out "judges" and insert "judge."

On the same page, in line seven, strike out "the" after "in" and insert "his."

Amend the title by inserting, after the word "relation," the words "to the appointment of clerks for."

Mr. WILSON, of Iowa. I move that the amendments be concurred in.

The motion was agreed to.

#### PROTECTION OF THE REVENUE.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 780,) entitled "An act to protect the revenue, and for other purposes."

Mr. MORRILL. Several of the amendments to this bill are important, while others are merely verbal. I move that the House non-concur in all the amendments, and ask the appointment of a committee of conference.

Mr. WILSON, of Iowa. It is not necessary, I suppose, that all these amendments should be read; but there is one striking out the ninth section of the bill which I think ought to be concurred in; and as I shall ask a separate vote on it. I request that it may be reported.

The Clerk read the following amendment of the Senate:

Strike out the ninth section of the bill, as follows: *And be it further enacted, That in determining the dutiable value of imported merchandise there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal markets of the country from whence the same shall have been imported into the United States, the cost of transportation, shipment, and transhipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States; the value of the sack, box, or covering of any kind in which such goods are contained; commission at the usual rates, but in no case less than two and a half per cent.; brokerage, export duty, and all other actual or usual charges for putting up, preparing, and packing for transportation or shipment. And all charges of a general character incurred in the purchase of a general invoice shall be distributed pro rata among all parts of such invoice; and every part thereof charged with duties based on value shall be advanced according to its proportion, and all wines or other articles paying specific duties by grades shall be graded and pay duty according to the actual value so determined: *Provided, That all additions made to the entered value of merchandise for charges shall be regarded as part of the actual value of such merchandise, and if such addition shall exceed by ten per cent. the value so declared in the entry, in addition to the duties imposed by law there shall be levied, collected, and paid a duty of twenty per cent. on such value: *Provided, That the duty shall in no case be assessed upon an amount less than the invoice or entered value.***

Mr. MORRILL. I trust the House will consent to non-concur in all the amendments of the Senate. I do not consider the matter of any great importance; but it seems to me that the best way would be to allow the whole subject to go to the committee of conference.

Mr. WILSON, of Iowa. If we non-concur in the amendment of the Senate to strike out the ninth section, of course the managers of the conference on the part of the House would feel bound to insist on the retention of that section. I think it ought to be stricken out. It provides for a general increase of duty on imported goods. It is really an indirect way of revising the tariff. On many articles the increase of duty will be considerable. I ask the House to concur in this amendment, inasmuch as the gentleman from Vermont says it is unimportant and he does not care about it. I want to place it beyond doubt.

Mr. MORRILL. The gentleman from Iowa is mistaken if he supposes this will have the effect of making a great difference in the tariff. It is not true in relation to some articles that the duty will be considerable. To be sure it would add a little on wool, and on other articles not subject to specific duties. However, as I have already said, it is not a section about which I feel tenacious, but I hope the House will non-concur in all the amendments of the Senate and let the whole subject be referred to the committee of conference.

Mr. WENTWORTH. As the gentleman from Vermont has alluded to the subject of wool we may as well have the whole story. The understanding was that this should be a compromise tariff. We were to send nothing over to the Senate which they could object to; but, sir, no sooner was this bill over there than this class of men who are constantly crying for protection for themselves and careless of the destruction of others went over to that body and acted with that ferocity with which they have always hunted down the producers of the West. In this you have an explanation of the whole matter. The Senate were willing to



strike out the ninth section, to which allusion has been made; and I call the attention of our agricultural friends to the fact that the time has come when we should strike for our freedom from these manufacturers. If protection be a good thing, let the wool-growers have a share of it.

Mr. GARFIELD. Mr. Speaker, I am not one of those who see an intrigue covered up in every proposition presented to my mind, and therefore I do not see under this small amount of meal any very large-sized cat. [Laughter.] It seems to me the purpose of the committee was a plain one, and one not at all complicated by ulterior purposes. The fact was this: in different countries, from which products are shipped to the United States, different practices prevail. Some men go far into the interior and buy to ship. Sometimes they buy at the dock at a foreign port. Sometimes they buy before the port charges are paid, and sometimes they buy afterward. They buy under all these conditions and in all these different situations, and the question naturally arises when the duty shall be laid, whether on the price of the article two hundred miles in the interior, or one hundred miles, or at the port, or if at the port, before the charges are paid or afterward? Shall it include transportation or exclude it? We wanted to get some uniform rule as to the conditions under which the duties should be levied on these different articles. If, when it got to the Senate, it fell among thieves who expected to find something else in it, we, of course, are not to blame for that. I am willing it should go to the committee of conference. I do not think the House will be frightened or aroused to a great pitch of animosity if it should give some measure of protection to some classes of our interests, because I think the House by a very large majority has already shown its willingness to give them protection. I hope it will go to the conference committee and be a part of the whole plan before them.

Mr. MORRILL. I demand the previous question.

Mr. WILSON, of Iowa. I ask the gentleman to yield to me for a moment.

Mr. MORRILL. I withdraw it for that purpose.

Mr. WILSON, of Iowa. My objection to sending this section to the committee of conference is that it places in the hands of that committee the entire subject of a tariff. Here we are at the close of the session, and as the gentleman from Illinois [Mr. WENTWORTH] says, the western interests have been cheated time and time again in these tariff acts, and we may be most desperately cheated during this session. Now, sir, let it go out entirely, so that the subject shall not be sent to a committee of conference.

Mr. MORRILL. I do not understand what the gentleman from Iowa means by saying that the West has been cheated.

Mr. WILSON, of Iowa. Quoting the gentleman from Illinois.

Mr. MORRILL. I think you are the responsible indorser.

Mr. WILSON, of Iowa. Very well; if the gentleman insists upon it I will become responsible, and I will tell the gentleman what I mean by it. I mean that in the arrangement of the tariff laws of this country the western interests have not received that share of protection which other interests have received.

Mr. MORRILL. If they have not received that share of protection it is simply because they have not as much of manufactures of iron, copper, cotton, and wool. They have the same identical protection on whatever they produce.

Mr. WILSON, of Iowa. We have different interests.

Mr. MORRILL. Another point raised by the gentleman from Illinois. What he stated in relation to the arrangement of this bill in our committee was true in so far as this, that we agreed not to report anything that was a disputable matter. And so far as this bill goes the ninth section does somewhat increase per-

haps the foreign cost of iron because it adds to the amount of the expense, even getting it from the wharf on board the vessel. It would increase to the same extent the cost of wool. But we gave no equivalent at all to manufacturers. It was found when it came from the Senate that there was one matter that it would interfere with very essentially, and that was coarse ingrain three-ply carpets, made up of very long, coarse wool, costing less than twelve cents a pound. An agent of the manufacturers came to the Finance Committee of the Senate and represented the facts. I do not understand that there was anything unfair about it. The fact would be if it was made to cost above twelve cents per pound it would double the duties. I suppose it was for this reason that the Senate struck out this section. I think it would be much better for the wool-grower that this section should remain in and a compromise should be made on that class of wool which we never have produced and which we probably never shall produce. If we should allow that particular class of wool to be exempt from the operation of the ninth section I suppose the Senate would be very willing to allow the section to remain. For one, representing a large class of wool-growers as I do, I would be in favor of such a compromise as that rather than lose the section. But at the same time, as the Senate has postponed the general tariff bill, I am not very tenacious about it. I suppose very likely this section will have to be given up. The whole subject of the tariff would not be opened by the committee of conference. They cannot consider any subjects but such as are in the bill, and if they should bring back anything else it would be against all parliamentary law.

Mr. WILSON, of Iowa. They could agree with various amendments.

Mr. MORRILL. But they must be pertinent.

Mr. WILSON, of Iowa. Pertinent to the subject of the bill which relates to duties.

Mr. MORRILL. Certain things would be pertinent and others not. The gentleman from Iowa knows very well that in a committee of conference we cannot have all we ask on the part of either House. Both must give up something. That is the usual practice.

Mr. WRIGHT. I inquire what the manufacturers give up on their side by way of compromise.

Mr. MORRILL. Nothing that I am aware of.

Mr. MOORHEAD. I call the attention of the House to the fact that it has passed this section twice. It was in our original tariff bill, and it was discussed here and adopted. The Senate postponed that bill. It was afterward put in the next bill which passed the House, and went to the Senate; and now when it appears that the Senate has stricken it out, are we to back down without meeting the issue and say we will not talk about it? I hope the House will refuse to concur in the Senate's amendment. I think the section is an exceedingly important one, and I should be very sorry that it should be given up. As the subject of the tariff appears to have been postponed for this session this will afford a little relief in some cases. I trust, therefore, that the House will refuse to concur in the amendment of the Senate.

Mr. MORRILL. I move the previous question on the motion to non-concur, and ask a committee of conference on all the amendments of the Senate excepting that in relation to the striking out of the ninth section, upon which a separate vote seems to be desired.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. MORRILL's motion was agreed to.

The question recurred upon concurring with the Senate in striking out the ninth section of the bill.

The question was put, and there were—ayes 48, noes 48.

The SPEAKER voted in the negative.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 58, not voting 76; as follows:

YEAS—Messrs. Allison, Baker, Bergen, Bromwell, Cobb, Cullom, Dawes, Deftrees, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Aaron Harding, Abner C. Harding, Hogan, Ingersoll, Julian, Kasson, Kerr, Kuykendall, Le Blond, Loan, Marshall, Moulton, Niblack, Nicholson, Noell, Orth, Paine, Price, Radford, Alexander H. Rice, Ritter, Ross, Shanklin, Stigroaves, Strouse, Taber, Nelson Taylor, Trimble, Wentworth, Whaley, James F. Wilson, Windom, Winfield, and Wright—50.

NAYS—Messrs. Ancona, Barker, Baxter, Bidwell, Bingham, Boyer, Brommell, Buckland, Reader W. Clarke, Conkling, Davis, Delano, Dixon, Garfield, Hart, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, James R. Hubbell, Hulburt, Jenckes, Johnson, Kelley, Ketcham, Koontz, Laffin, Latham, George V. Lawrence, William Lawrence, Marston, McKee, Mercer, Miller, Moorhead, Morrill, Myers, Newell, O'Neill, Patterson, Perham, William L. Randall, Raymond, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Stokes, Van Aernam, Robert T. Van Horn, Welker, Williams, Stephen F. Wilson, and Woodbridge—58.

NOT VOTING—Messrs. Alley, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Benjamin, Blaine, Blow, Boutwell, Brandegee, Bundy, Chanler, Sidney Clarke, Cook, Culver, Darling, Dawson, Deming, Denison, Dodge, Dumont, Eckley, Farnsworth, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Longyear, Lynch, Marvin, Maynard, McClurg, McCullough, McIndoe, McKee, Morris, Phelps, Pike, Plants, Pomeroy, Samuel J. Randall, Rogers, Schenck, Sloan, Smith, Starr, Stillwell, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Unson, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, and William B. Washburn—76.

So the amendment of the Senate was not concurred in.

Mr. MORRILL moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WAR CLAIMS OF MASSACHUSETTS.

The next business in order was the consideration of the joint resolution of the Senate No. 121, providing for the examination of the accounts of the State of Massachusetts for moneys expended during the war for coast defenses. The joint resolution was returned from the Senate, the Senate non-concurring in the amendment of the House.

Mr. DAWES. I move that the House recede from its amendment. The only question is whether these accounts shall be audited and settled by a commission or by the Secretary of War. It is not worth while to contend with the Senate upon such a point, and I move the previous question on my motion.

Mr. ROSS. I move to lay the whole subject upon the table.

Mr. DAWES. I trust the accounts of the State of Massachusetts will not be treated differently from those of other States. The reason why the Senate non-concurred in this amendment was because all the accounts of other States had been referred to commissions.

The question was taken on Mr. Ross's motion, and it was disagreed to.

So the House refused to lay the subject upon the table.

The question recurred upon Mr. DAWES's motion, that the House recede from its amendment; and being put, the said motion was agreed to.

Mr. DAWES moved to reconsider the vote by which the motion to recede was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### LOUISIANA AND CALIFORNIA DISTRICT COURTS.

The next business on the Speaker's table was the disagreement of the Senate to the amendments of the House to Senate bill No. 179, in relation to the district courts of the United States in the States of California and Louisiana.

Mr. WILSON, of Iowa. I move that the House insist upon its amendments to the bill of the Senate.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to recon-

sider the vote by which the House insisted upon its amendments; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 149) for the relief of Daniel Winslow;

An act (S. No. 164) for the relief of Alois Klaus;

An act (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad, and its extension to Red river;

An act (S. No. 297) for the relief of the owners of the British vessel *Magicienne*;

An act (S. No. 352) granting to A. Sutro the right of way and granting other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada;

An act (S. No. 361) to authorize W. J. Sibley and others, trustees, to sell and convey lot No. 9, in square No. 76, in the city of Washington;

An act (S. No. 374) for the relief of James P. Johnson;

An act (S. No. 382) to change the place of holding court in the northern district of Georgia;

An act (S. No. 385) for the relief of Thomas W. Stevens;

An act (S. No. 414) to regulate the times and manner of holding elections for Senators in Congress;

A joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims;

A joint resolution (S. R. No. 79) to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; and

A joint resolution (S. R. No. 93) providing for the appointment of a commissioner to examine and report upon certain claims of the State of Iowa.

#### CALIFORNIA VOLUNTEERS.

Mr. HIGBY. I ask unanimous consent of the House to submit the following resolution for consideration at this time:

*Resolved*, That the Secretary of War be requested to inform the House why the California volunteers in the United States service during the late rebellion, stationed and doing service in the Territories of Arizona, New Mexico, and Utah, were mustered out and discharged from service in said Territories, and what, if any, transportation was furnished to each of said soldiers to enable him to return to his home in California.

Mr. ANCONA. I think the Committee on Military Affairs already has all the information required on that subject.

Mr. HIGBY. It will do no harm to have this information. I think the resolution had better be passed.

Mr. ANCONA. I will not object. The resolution was agreed to.

Mr. HIGBY moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. DAVIS asked and obtained leave of absence for himself for the remainder of the session, after to-morrow night.

Mr. HOGAN asked and obtained leave of absence for his colleague, Mr. NOELL, for the remainder of the session.

Mr. BAKER asked and obtained leave of absence for his colleague, Mr. THORNTON, for the remainder of the session.

#### SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. FARQUHAR. I ask unanimous consent to submit the following resolution for consideration at this time:

Whereas the Committee for the District of Colum-

bia of this House was instructed, on the 29th day of January, 1866, as follows, to wit: "*Resolved*, That the Committee on the District of Columbia be instructed to report an amendment to the election laws of the District of Columbia, excluding from the privilege of suffrage within said District all persons who have voluntarily borne arms against the United States, or accepted office from the rebels during the late rebellion." And whereas the said committee have omitted or neglected to affirmatively respond to the imperative instructions of this House: Therefore,

*Resolved*, That the Committee for the District of Columbia be, and they are hereby, again instructed to report to this House without delay, as instructed by said resolution.

Mr. ELDRIDGE. I object.

#### NAVIGATION OF NEWARK BAY, ETC.

Mr. WRIGHT. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of the Navy be requested to appoint a suitable officer, whose duty it shall be to proceed to Newark, in the State of New Jersey, and examine into the condition of the navigation of Newark bay and the navigation of the mouths of the Passaic and Hackensack rivers, and whether the same needs improvement, and report the result of such examination to this House on the first Monday in December next.

Mr. ELDRIDGE. I object.

And then, on motion of Mr. ALLISON, (at ten o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. NIBLACK: The memorial of John Hicks, late a private in company D, fifty-eighth regiment Indiana volunteers, praying a pension.

By Mr. RICE, of Massachusetts: The petitions of T. R. Peale, and 28 others, and James A. Hardie, and 8 others, for a public park for the cities of Georgetown and Washington.

#### IN SENATE.

WEDNESDAY, July 25, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. POMEROY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHEENSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the joint resolution (H. R. No. 101) for the relief of certain officers of the Army.

The message further announced that the House of Representatives had receded from its amendment to the joint resolution (S. R. No. 121) providing for the examination of the accounts of the State of Massachusetts for money expended during the war for coast defense.

The message also announced that the House of Representatives insisted upon its amendment to the bill (S. No. 179) in relation to the district courts of the United States for the States of California and Louisiana.

The message further announced that the House of Representatives had passed the following resolution; in which it requested the concurrence of the Senate:

*Resolved*, (the Senate concurring,) That Congress accepts the portrait of Abraham Lincoln, presented by Signor Salvati, of the city of Venice, with thanks to the donor, and that the portrait be placed for safe custody in the Library of Congress.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 149) for the relief of Daniel Winslow;

A bill (S. No. 164) for the relief of Alois Klaus;

A bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river;

A bill (S. No. 297) for the relief of the owners of the British vessel *Magicienne*;

A bill (S. No. 352) granting to A. Sutro the

right of way and granting other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada;

A bill (S. No. 361) to authorize W. J. Sibley and others, trustees, to sell and convey lot No. 9, in square No. 76, in the city of Washington;

A bill (S. No. 374) for the relief of James P. Johnson;

A bill (S. No. 382) to change the place of holding court in the northern district of Georgia;

A bill (S. No. 385) for the relief of Thomas W. Stevens;

A bill (S. No. 414) to regulate the times and manner of holding elections for Senators in Congress;

A joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims;

A joint resolution (S. R. No. 19) to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; and

A joint resolution (S. R. No. 93) providing for the appointment of a commission to examine and report upon certain claims of the State of Iowa.

#### SENATE CONTINGENT FUND.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, communicating, in obedience to law, a detailed statement of the payments from the contingent fund of the Senate for the year ending December 3, 1865; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

#### SENATOR FROM KANSAS.

Mr. POMEROY presented the credentials of Hon. EDMUND G. ROSS, appointed a Senator by the Governor of the State of Kansas, to fill the vacancy occasioned by the death of Hon. James H. Lane, until the next meeting of the Legislature of that State.

The credentials were read, the oaths prescribed by law were administered by the President *pro tempore* to Mr. Ross, and he took his seat in the Senate.

#### SENATOR FROM TENNESSEE.

Mr. SHERMAN presented the credentials of Hon. JOSEPH S. FOWLER, chosen a Senator by the Legislature of the State of Tennessee, for the term of six years commencing on the 4th day of March, 1866.

The credentials were read, the oaths prescribed by law were administered to Mr. FOWLER, and he took his seat in the Senate.

#### AGRICULTURAL REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print the Agricultural Report, have instructed me to report it back with an amendment, and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution, as follows:

*Resolved*, That there be printed for the use of the Senate ten thousand extra copies of the Report of the Commissioner of Agriculture for the year 1865, with the accompanying documents.

The amendment of the Committee on Printing was, in line two, to strike out "ten" and insert "seventeen," and at the end of the resolution to add, "and three thousand extra copies of the same for the use of the Department of Agriculture;" so that the resolution will read:

*Resolved*, That there be printed for the use of the Senate seventeen thousand extra copies of the Report of the Commissioner of Agriculture for the year 1865, with the accompanying documents, and three thousand extra copies of the same for the use of the Department of Agriculture.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### FINAL ADJOURNMENT.

Mr. FESSENDEN. I wish to call up the resolution from the House of Representatives, now upon the table, fixing the day of adjourn-

ment for to-day. It should be acted upon this morning, I believe. I move to take it up.

The motion was agreed to; and the Senate proceeded to consider the following resolution, which was passed by the House of Representatives on the 18th instant:

*Resolved*, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 25th day of July, at twelve o'clock meridian.

Mr. FESSENDEN. I move to strike out "the 25th" and insert "the 27th." To-day is the 25th, I believe.

Mr. SUMNER. Why not say Monday?

Mr. FESSENDEN. I will make a motion for the 27th and Senators, if they choose to do so, can move to amend the motion. I will also include in my motion to strike out the words "at twelve o'clock meridian." It may be necessary to go a little beyond that time.

The PRESIDENT *pro tempore*. The Senator from Maine moves to amend the resolution by striking out "25th" and inserting "27th," and also by striking out after the word "July" the words "at twelve o'clock meridian;" so that the resolution will read:

*Resolved*, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 27th day of July.

Mr. SUMNER. I move to amend the amendment by substituting the 30th. That will be Monday.

Mr. FESSENDEN. I wish to observe that I moved to strike out the words "at twelve o'clock meridian" for the reason that I thought it very doubtful whether we should be able to get through by that time. I know in the former practice here when a day has been fixed for an adjournment it has been considered that the day lasts, if necessary, until the next day at noon. Now, if you insert the hour, the adjournment must be at that hour. When we adjourn the second session, the Congress expires on the 3d or 4th of March at twelve o'clock, and the two Houses must be adjourned when that hour arrives; but, according to my recollection, when we fix a day of adjournment for the first session it has not been the custom to fix the hour. I suppose if the hour was fixed, when that hour arrived it would be necessary to carry the order into effect. I think it would be rather dangerous to fix Friday at twelve o'clock meridian, because we may not be quite finished by that time. But if it is necessary to fix the hour, I think perhaps another day might be better. I should like to inquire of experienced Senators whether it is absolutely necessary. I think the Chair will be able to inform the Senate.

Mr. SHERMAN. The Constitution, every other session, fixes the day of adjournment on the 4th of March. No hour is fixed. Sometimes it has been continued until the close of the session on that day. That has been the established precedent, and therefore it is not necessary, in the order, to fix the hour, because the Constitution, which provides for the adjournment every other session, does not fix the hour. It fixes the day, and the day is construed to mean until the termination of the session of that day. I think the Senator from Maine is correct; and if the hour is not fixed we shall have the benefit of Friday's session. As a matter of course, when the business is done a resolution is usually sent from one House to the other, asking if there is any further business, even where the hour is fixed.

The PRESIDENT *pro tempore*. It is the impression of the Chair that the practice has been uniform to fix the hour for the adjournment at the long session, the Constitution fixing it at the short session.

Mr. FESSENDEN. My recollection about it is, that we fix simply the day.

Mr. SHERMAN. It is usual to fix the hour, the Chair says. The precedent may be that way; but I do not think there is any necessity for it.

Mr. FESSENDEN. I think we have within my experience, on more than one occasion,

gone over from the day fixed in fact to the next day at noon before we adjourned, because the business was not finished, and it was absolutely necessary to continue the session.

Mr. SUMNER. I think that is always at the close of the short session.

Mr. FESSENDEN. No; at the short session we must adjourn at a particular time, because the Constitution adjourns us.

Mr. TRUMBULL. But we may adjourn a short session before that time.

Mr. FESSENDEN. I know we may.

Mr. TRUMBULL. We have not always sat at the short session until twelve o'clock of the 4th of March.

Mr. FESSENDEN. I never knew it otherwise. I never knew an adjournment until twelve o'clock arrived on the 4th of March; that is when the Congress expires, and of course it must adjourn then.

Mr. TRUMBULL. I think it has not always been so.

Mr. SUMNER. If we adjourn on Monday at twelve o'clock, that will allow time for the enrolling of the bills.

Mr. FESSENDEN. They can be enrolled before that.

Mr. SUMNER. There is always a great pressure of that kind at the end of the session, and taking till Monday will enable us also to finish a great deal of business that is pending. I hope that we may yet take up the bankrupt bill. I do not despair of that. I hope my friend from Vermont will not let the bankrupt bill go over this session. I will ask him if he proposes to abandon the bankrupt bill during the remainder of this session. If we adjourn on Friday, that will be equivalent to an abandonment of the bankrupt bill. If we sit here until Monday or later, we may take up that bill and proceed with it to an end. I do not think we ought to adjourn until we have finished that bill.

Mr. POLAND. I supposed that the vote which was taken the other day on the question of taking up the bankrupt bill and laying that motion on the table was regarded as final for this session; but still I should be very glad to have the bill passed and very willing to remain here long enough to have it passed, if that is the sense of the Senate.

Mr. GRIMES. If we agree to adjourn on Monday or Friday or Saturday, the appropriation bill now pending will drag its slow length along for three days; and if we agree to adjourn to-morrow at twelve o'clock the bill will be passed, and it will be in just as perfect a shape when we pass it and all of our other business will be just as well disposed of as if we sat here for a week. I am in favor, instead of lengthening the time, of shortening it.

Mr. POMEROY. I do not see how we can tell at this moment whether we can adjourn on Friday or not. There are some bills that it is more important to pass than it is to adjourn, I am sure, and particularly the one which the Senator from Ohio [Mr. WADE] has given us notice of, for the admission of Nebraska, and I think we ought not to adjourn until that is passed. There are some measures pending of such public importance that I do not think we can justify ourselves in going away until they are disposed of, and we do not know at this moment whether we can pass them or not by that time. I of course shall vote for the amendment of the Senator from Massachusetts.

Mr. CONNESS. With my observation of the business of the Senate, it is clear to me that Monday would be the best day to fix. I think we can get through by that time. It will leave sufficient time intervening to get up all the important business. Whether the bankrupt bill shall be included in that or not will be for the Senate to determine. There is another appropriation bill in addition to the one that is now pending to be considered; and I cannot agree to the argument of the honorable Senator from Iowa that no matter how short a time we fix, the business will be equally well done. If that be the case, we might adjourn at noon to-day or to-morrow.

Mr. GRIMES. I did not say so, in the first place.

Mr. CONNESS. Then I misunderstood the Senator. I hope that the amendment will be adopted. I think Monday will be a good time to adjourn.

Mr. FESSENDEN. I hardly think that we can get through to-morrow, as suggested by my friend from Iowa. In addition to the miscellaneous appropriation bill, which is not yet finished, there is a deficiency bill coming from the House of Representatives which it is necessary to act upon, and the House of Representatives have disagreed to our amendments to the revenue bill, and there has to be a conference on that. Those, in my judgment, are all the measures that are absolutely necessary, because they are all that come from the Committee on Finance. What others there may be it is for others to say. But those are all in the shape of appropriation bills that it is, I think, absolutely essential to pass before we adjourn. Perhaps we can get through on Friday. I was disposed to fix Friday on the supposition that if we did not get through by noon on that day, our session on Friday, being fixed generally, would last until we adjourned. I am informed by the Chief Clerk that an hour has always been fixed at the long session. If that is so, I suppose that is the ordinary rule.

The PRESIDENT *pro tempore*. The recollection of the Chair is that the hour has always been fixed, but it has frequently been the practice of the two Houses, by a concurrent resolution, to protract from hour to hour, sometimes for several times, the length of the session.

Mr. TRUMBULL. When the hour is fixed, my recollection is we have often postponed the hour by a concurrent resolution from one House to the other. I think it might as well be left at twelve o'clock, and if there is occasion, when that hour is nearly arrived, for prolonging the session, we can do it by a concurrent resolution.

Mr. FESSENDEN. I will vary my motion so as not to strike out the words "at twelve o'clock meridian," and then it is for the Senate to decide whether Friday is the proper day for an adjournment.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment striking out "the 27th" and inserting "the 30th."

Mr. WADE. I do not believe that we can do the business that is most pressing before us sooner than by Monday at twelve o'clock. There are two bills that I am charged with, which I have been anxious to get up for more than six weeks: the one for the admission of the State of Colorado, and the other for the admission of Nebraska. The Senators elected from those States are here. The admission of a State is as important business as any other. When a State has prepared to come into the Union on our own invitation, and has sent her representatives here from a great distance, we ought not to snub them and send them back without the question being acted upon.

I hope, sir, that no childish impatience will impel us to adjourn, leaving this important business undone. I am as anxious to go as anybody else; but I would rather stay here than to leave the most important business undone or hurry it through without its being done as well as it can be done. My better opinion is that we ought not to adjourn at all. That was the almost uniform sentiment of the Senate itself two months ago, that from the peculiar condition in which the country was at this time, the great council of the nation ought not to abandon its post now and surrender all its best interests into hands that most of us believe to be hostile to them. I think, sir, we ought to act as the guardians of the country, which the people have sent us here to be, especially in the peculiar circumstances in which we are placed.

When all the branches of the Government are harmonious, all acting alike, all consenting to the same great principles, we can leave the country in the guardianship of the President of the United States; but there is an



almost universal apprehension, as I learn from a great number of correspondents that I have, that there is danger to the country if Congress abandons its post and leaves now. I do not say there is anything in this; but I say I cannot conceal from myself the fact that, from the great number of letters I receive from intelligent sources all over the country, there is a universal apprehension that something is to take place detrimental to the country whenever we leave our posts, for which reason my counsel is not to leave our posts at all; but if the Senate will adjourn, let us postpone it to such a time that we can get through with the most important business on hand. I want sufficient time to get through with all the business that I am charged with. It is but a little; but I deem it as important as anything else. The financial business is nearly brought to a close, we are told. That is important, and the most important perhaps of any business; but it is not all the business of the Senate, and other committees ought to be consulted about the business that belongs to them, and which is of interest, as well as the Finance Committee. We have been at work on their business for a long time to the exclusion of almost everything else; and because they are almost through I do not think that is a reason why we should abandon everything else. I hope, at all events, that we shall not fix a day short of Monday next.

The *PRESIDENT pro tempore*. The question is on the amendment to the amendment striking out "the 27th" and inserting "the 30th."

Mr. SUMNER and Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Creswell, Harris, Howard, Howe, McDougall, Nye, Pomeroy, Ross, Sumner, Wade, Williams, and Wilson—15.

NAYS—Messrs. Buckalew, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Henderson, Hendricks, Johnson, Kirkwood, Lane, Morgan, Morrill, Nesmith, Norton, Poland, Ramsey, Riddle, Sherman, Sprague, Trumbull, Van Winkle, and Willey—25.

ABSENT—Messrs. Brown, Clark, Cragin, Dixon, Fowler, Guthrie, Saulsbury, Stewart, Wright, and Yates—10.

So the amendment to the amendment was rejected.

The *PRESIDENT pro tempore*. The question now is on the amendment of the Senator from Maine.

Mr. FESSENDEN. As the hour of adjournment is now fixed at twelve o'clock meridian, and the two Houses must be adjourned at that time, I doubt whether we can finish up by Friday. I suppose we could do it sometime in the course of the night or next morning, but all these bills must go to committees of conference and, necessarily, that will take some time; and I doubt very much whether we can get through before Saturday. That is my opinion about it.

Mr. JOHNSON. You had better say Saturday at twelve o'clock.

Mr. FESSENDEN. For that reason I will change my motion, and say "the 28th, at twelve o'clock meridian."

The *PRESIDENT pro tempore*. The amendment will be so modified, by inserting "the 28th" instead of "the 27th."

Mr. SUMNER. Before that is adopted I wish to call the attention of the Senate to the business that is before it. The Senator from Iowa has told us that the appropriation bill now under discussion could be disposed of in a short time as well as in a long time. Now, sir, there are at this moment pending on that bill some of the most important propositions that Congress has ever been called to entertain—propositions which admit of much discussion, which, indeed, require much discussion for their proper elucidation. I might mention several propositions, any one of which in the ordinary course of business would occupy a full week; and yet we are expected to take a dozen such propositions right off, with hardly any discussion, with no time for reflection,

but close the whole bill up suddenly, almost without a word.

Sir, I do not think that is the proper way of prosecuting such important business. I do not think the Senate is just to itself or just to the country. I think we ought to stay here until all this important business is thoroughly considered and finally acted on. Now, that clearly cannot be done at the time proposed. I regret, therefore, that such a proposition is brought forward. If I could have my way, I would postpone the adjournment much further than in the motion that I made, and which has already been voted down. I think we ought to stay here much longer. Indeed, we ought to stay here until some important measures now pending before the Senate have been disposed of.

Mr. FESSENDEN. What are they?

Mr. SUMNER. There is the bankrupt bill for one. That ought to be taken up and considered. Then the various propositions that have been made on this miscellaneous appropriation bill ought to be carefully considered, much more carefully considered than they have been. For instance, last evening we had suddenly moved upon us one of the most important bills of the session, the equalization of the bounties. It was discussed very briefly, impatiently, certainly without reaching the merits of the question. I think that no one who was here last night imagines that that measure had any adequate discussion. There was a vote upon it. I do not know whether that vote can be regarded as definitive or not. Probably it addressed itself to the particular condition of the proposition at the time, having been already amended on the motion of the Senator from Iowa, so that many persons who were favorably disposed to the original bounties bill probably became disaffected to it, and then the question came up on a proposition to attach it to an appropriation bill. That bill, therefore, has not been considered on its merits. I merely refer to it as one of the measures pending before us. Then there is the other proposition, involving millions of money, of charity to the people in Louisiana and Mississippi, in order to restore their levees. That proposition ought not to be acted upon hastily or impatiently. I think, therefore, we ought to stay, I would say indefinitely, in order to consider these questions; and though I am against the propositions which the Senator from Ohio [Mr. WADE] announces so earnestly that he is determined to press, I am for giving him full time.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Maine to strike out "the 25th," and to insert "the 28th."

The amendment was agreed to.

Mr. CHANDLER. I call for the yeas and nays on the adoption of the resolution as amended.

The yeas and nays were ordered.

Mr. TRUMBULL. I am sorry that the Senator from Maine changed his proposition. If we are going to adjourn at all, we might as well adjourn on Friday as on Saturday, the last day of the week. Unless Congress proposes to sit here indefinitely, as suggested by the Senator from Massachusetts, we can get through with all the necessary business to be done by Friday noon as well as Saturday noon, which brings us to the close of the week. I am sorry he has changed it. I should prefer voting for it as the Senator first proposed it.

Mr. FESSENDEN. It was my individual opinion that we could not very well get through before Saturday. If Senators differed with me on that point they could have voted otherwise. I made that alteration on my own suggestion because I doubted very much whether we could dispose of our business by Friday at twelve o'clock. If the Senate are of opinion that they can do so, I suppose it is not too late to reconsider the amendment.

The question being taken by yeas and nays, resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Buckalew, Clark, Conness, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guth-

rie, Henderson, Hendricks, Johnson, Kirkwood, Lane, McDougall, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Sherman, Sprague, Stewart, Van Winkle, and Willey—29.

NAYS—Messrs. Chandler, Creswell, Grimes, Harris, Howard, Howe, Pomeroy, Ross, Sumner, Trumbull, Wade, Williams, and Wilson—13.

ABSENT—Messrs. Anthony, Brown, Cragin, Dixon, Fowler, Saulsbury, Wright, and Yates—8.

So the resolution, as amended, was adopted.

#### REPORTS FROM COMMITTEES.

Mr. WADE. I now move to proceed to the consideration of Senate bill No. 447, for the admission of Nebraska into the Union.

The *PRESIDENT pro tempore*. Reports from committees are first in order.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the petition of the North American Ressel Company of New York city, praying for an appropriation by Congress to aid in the erection of a monument at the national capital to the memory of Joseph Ressel, the inventor of the screw in steam navigation, reported that the committee be discharged from the further consideration thereof and that the petition be postponed indefinitely.

The report was agreed to.

Mr. GRIMES. The same committee, to whom was referred a bill (S. No. 448) to credit sea service to the officers of the Navy who have served during the war to suppress the rebellion, who may have resigned prior to the rebellion, have instructed me to report it adversely and to ask that it be indefinitely postponed. As the committee understand it, all that is provided for in the bill is already accomplished by the law as it now stands. I therefore move its indefinite postponement.

The motion was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom the subject was referred, reported a bill (S. No. 450) to further regulate the printing of public documents and the purchase of paper for the public printing; which was read and passed to a second reading.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred a petition of citizens of New Orleans, Louisiana, praying for relief in the matter of certain assessments made upon them by order of Major General B. F. Butler in August, 1862, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDRICKS. The Committee on Naval Affairs, to whom was referred a petition of officers and seamen formerly in service in the Mississippi squadron, praying that they may be allowed prize money on captures made by them, have directed me to ask to be discharged from its further consideration. I will state that I was requested by the committee to prepare a written report on this subject, but in the pressure of business it has been impossible for me to do so.

The report was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills and joint resolution, reported them severally without amendment:

A bill (H. R. No. 794) for the relief of Francis Colgen;

A bill (H. R. No. 797) for the relief of Daniel Lucas;

A bill (H. R. No. 798) for the relief of Quincy A. May;

A bill (H. R. No. 800) for the relief of Marion M. Buxton; and

A joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay to Charles M. Pott a pension of fifteen dollars per month.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 449) authorizing special juries in the District of Columbia, reported it with an amendment.

Mr. HARRIS. I am instructed by the Committee on the Judiciary, to whom was referred a bill (S. No. 406) for the removal of causes in certain cases from State courts, to report it back without amendment and recommend its

passage; and as this is a bill of some importance to suitors, I ask that it may be considered now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill on the day it is reported.

Mr. WADE. I must object to it.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. SPRAGUE. I am directed by the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government, to report it back without amendment; and as this is a bill of but three or four lines, I ask for its present consideration.

Mr. WADE. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered on the day it is reported.

Mr. SPRAGUE. I hope that that bill—

The PRESIDENT *pro tempore*. It is not debatable. The objection of any Senator carries it over.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred a joint resolution (H. R. No. 198) authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Jersey, have directed me to report it back without amendment; and I ask for its immediate consideration. It is a very simple bill, providing for the transmission through the mails of certain certificates issued to soldiers in the State of New Jersey, to which there can be no objection.

Mr. WADE. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a bill (H. R. No. 755) amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved May 11, 1866, have instructed me to report it without amendment, and recommend its passage, and not to ask for its present consideration. [Laughter.]

The PRESIDENT *pro tempore*. It will not be considered. [Laughter.]

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had approved and signed on the 23d instant an act (S. No. 343) to quiet land titles in California. On the 24th instant he approved and signed an act (S. No. 357) to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes. And he this day approved and signed an act (S. No. 269) to define the number and regulate the appointment of officers in the Navy, and for other purposes.

#### COMMITTEE ON VENTILATION.

Mr. BUCKALEW. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the select committee upon the ventilation and sanitary condition of the Senate wing of the Capitol be continued for the next session of Congress.

Mr. WADE. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

#### EQUALIZATION OF BOUNTIES.

Mr. BUCKALEW. I offer the following resolution, upon which I desire action at the present time, if there is no objection:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to report to the Senate for its action some appropriate bill or amendment for the allowance of additional bounties to soldiers in the recent war who entered the military service in 1861 and 1862, and in the early part of 1863, and it shall be in order for said committee to report at any time.

The PRESIDENT *pro tempore*. It requires

unanimous consent to consider the resolution at the present time.

Mr. WADE. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

#### ADMISSION OF NEBRASKA.

Mr. CHANDLER. I now move to call up the resolution offered by me yesterday, with a view of referring it to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no further morning business, the motion of the Senator from Ohio is before the Senate, to proceed to the consideration of Senate bill No. 447.

Mr. RAMSEY. Does that require unanimous consent? [Laughter.]

The PRESIDENT *pro tempore*. It does not. It requires a majority of the members present. But the Chair is advised that no such bill has been reported to the Senate.

Several SENATORS. It was reported yesterday.

The PRESIDENT *pro tempore*. The Senator from Michigan [Mr. CHANDLER] moves that the Senate proceed to the consideration—

Mr. WADE. What has become of my bill?

The PRESIDENT *pro tempore*. There is no such bill reported.

Mr. WADE. It was reported yesterday. I made the report yesterday.

Mr. POMEROY. It was reported at the evening session.

Mr. WADE. Yes, sir; reported at the evening session yesterday.

The PRESIDENT *pro tempore*. The Chair is only advised at present that no such bill has been reported.

Mr. POMEROY. It was reported.

The PRESIDENT *pro tempore*. It can be corrected if it is a mistake.

Mr. WADE. It is the bill for the admission of Nebraska into the Union, and it has been reported, and the whole Senate knows it has been reported back.

Mr. CRESWELL. I have a distinct recollection of it.

Mr. POMEROY. I was occupying the chair temporarily, and I recollect that the bill was reported.

Mr. CRESWELL. The Senator from Ohio endeavored to call up the bill, but it was objected that it had not been reported, and thereupon he immediately reported it to the Senate and the matter went over.

Mr. GRIMES. I remember the circumstance, and I move that the Journal be ordered to be corrected so as to recognize that fact.

Mr. SPRAGUE. If it is in order, while the Journal is being corrected, I move that the Senate proceed to the consideration of the House joint resolution No. 150.

Mr. CHANDLER. I believe I have a motion before the body which I will ask to have considered.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio is at present undisposed of, the question whether the bill has been reported or not being undetermined.

Mr. CHANDLER. Will the Senator from Ohio give way to allow me to make this motion while the Journal is being corrected?

Mr. WADE. If I were to yield now, I should lose my right to the floor entirely. You can dispose of your matter in a moment some other time. I have only got two or three minutes of the morning hour, and I will hold them if I can. The motion is now to correct the Journal according to the understanding of the whole Senate.

The PRESIDENT *pro tempore*. It is moved that the Journal of yesterday's proceedings be corrected so as to show the fact that the bill named by the Senator from Ohio was reported by him.

Mr. BUCKALEW. I will inquire whether the bill is in the possession of the Clerk. That will determine the fact whether it was actually reported or not, and the Journal can be corrected on that fact being shown.

The PRESIDENT *pro tempore*. The Chair is advised that there is no bill of that description on the files of the Senate.

Mr. HOWE. I think I remember how this mistake occurred. Just before the expiration of the morning hour yesterday the Senator from Ohio moved that the Senate proceed to the consideration of that bill, and he held the bill in his hand. It then occurred to him that he had not reported the bill, and he then asked leave to make the report, and that the Senate proceed to its immediate consideration. It was two minutes to one o'clock. In the mean time the Senator from Illinois [Mr. TRUMBULL] interposed a motion to reconsider the vote passing a bill in which I was interested, and I appealed to the Senator from Ohio to waive his motion and allow the motion to reconsider to be taken up at once. The Senator remarked that there were but a few minutes to one o'clock left, and one o'clock arrived while we were discussing that matter.

Mr. POMEROY. It was reported in the evening session.

Mr. WADE. The Senator from Kansas was in the chair, and I have no doubt recollects, as I do, that I rose to call the bill up and the objection was made that the report had not been made. I immediately reported it. I said, "I will make the report now," and I did make it; and so everybody about here understands it. There is no mistake about it; and I gave notice that I should take the earliest opportunity to call it up.

Mr. SUMNER. I think I can confirm what the Senator from Ohio says, and I can add something to it, that I rather think the report in the Globe will show that I objected to the consideration of the bill. I think the Senator will remember that he proposed to press the consideration at once when he made his report, and I said, "Not to-day; I object." I am sure of that incident; and I mention it in order to complete the testimony with regard to what occurred yesterday.

Mr. WADE. Is there anything in the Globe on the subject?

Mr. KIRKWOOD. I find in the Globe this:

"Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 447) for the admission of the State of Nebraska into the Union; I move that it read twice by its title."

"Mr. WADE. I move that the bill, together with the constitution of the State of Nebraska, which I now present, be referred to the Committee on Territories."

"The motion was agreed to."

Mr. WADE. That is what occurred on Monday night. I reported it back after that.

Mr. SUMNER. At the same time, I would like to say that I hope the bill will not be proceeded with to-day. It seems to me we should not take up a measure of such importance in these hurried hours.

Mr. SHERMAN. I think the morning hour has expired.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. WADE. I hope the Senate will at all events postpone other business long enough to have this mistake corrected, so that the bill can be got up the next time the motion is made.

Mr. SHERMAN. I do not think there can be a particle of doubt as to the fact that my colleague reported that bill. I remember distinctly that he reported it and tried to get the Senate to act upon it. Just at that moment the morning hour expired, and I insisted on going on with the pending appropriation bill. I made the remark at the time that when we got those bills through I would help him to pass his bill.

Mr. HENDRICKS. This does not seem to me to be a debatable question. The Senator from Ohio says he reported the bill, and of course he did. We have nothing to do but correct the Journal.

The motion to correct the Journal was agreed to.

Mr. JOHNSON. Has the bill been printed?

Mr. WADE. Yes, sir.

Mr. SHERMAN. I call for the order of the day.

The PRESIDENT *pro tempore*. With the permission of the Senate, before calling up the unfinished business, the Chair will lay before the Senate certain House bills for reference.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary; and the bill (H. R. No. 761) authorizing the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities, was read twice by its title and referred to the Committee on Territories.

#### PORTRAIT OF ABRAHAM LINCOLN.

The Senate proceeded to consider the following resolution from the House of Representatives:

*Resolved*, (the Senate concurring,) That Congress accepts the portrait of Abraham Lincoln presented by Signor Salvati, of the city of Venice, with thanks to the donor, and that the portrait be placed for safe custody in the Library of Congress.

Mr. SUMNER. I move the concurrence of the Senate in that resolution.

The motion was agreed to.

#### WILLIAM CROSWELL.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 354) for the relief of William Crosswell, which was to add at the end of the bill the following words: "to be paid out of the naval pension fund."

Mr. GRIMES. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

#### COURTS IN CALIFORNIA AND LOUISIANA.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is House bill No. 737, the civil appropriation bill.

Mr. HOWARD. I have an amendment to offer to that bill.

Mr. CONNESS. With the leave of the Senator, I should like to get action on an amendment of the House to a Senate bill. It will only take a moment.

The PRESIDENT *pro tempore*. It requires unanimous consent, another measure being before the Senate. No objection being interposed, the message of the House will be read.

The Secretary read it, as follows:

*Resolved*, That the House insist on their amendment to the bill of the Senate (S. No. 179) in relation to the district courts of the United States in the States of California and Louisiana.

Mr. CONNESS. This bill abolishes one of the districts in the State of California and one in the State of Louisiana, and the House amendment proposes, as the whole State of Louisiana is to be one district, to increase the salary of the district judge there to \$4,500, and they insist on their amendment. I think in all probability that the amendment was right; the salary should be increased, as increased duties will have to be performed. Therefore I move that the Senate recede from their disagreement to the House amendment and agree to the same.

Mr. HARRIS. I hope this will not be done. The Committee on the Judiciary have reported a bill in relation to the salaries of all district judges, and I believe in that bill the salary of this district judge is fixed at precisely the sum fixed by the House. What I desire is, that that bill shall be acted upon, and that there shall be a uniform and regular system of salaries for the judges, so as not to be raising the salary of one judge until we are ready to adjust them in all cases. I think that the Senate bill should be acted upon, and that this gentleman should wait until the salaries of the other judges are raised. If we cannot act upon it at this session, let him wait until December. I am opposed to acting upon individual cases in reference to the increase of salaries. We have

perfected a bill with some care in reference to the salaries of all the district judges in the United States, this judge with others, and I think we should wait until that bill is acted on.

Mr. SHERMAN. How did this bill interpose?

The PRESIDENT *pro tempore*. By unanimous consent, and can be proceeded with only by unanimous consent.

Mr. SHERMAN. I hope it will be referred to the Committee on the Judiciary. It proposes to increase the salary of a judge, and I think it should go to that committee.

The PRESIDENT *pro tempore*. It is moved that the bill and amendment be referred to the Committee on the Judiciary.

Mr. CONNESS. Does the Senator know the course the bill has taken?

Mr. SHERMAN. I heard the statement of the Senator from California. I do not think this bill ought to stand in the way of the appropriation bill. Let it be put out of the way.

Mr. CONNESS. I hope the Senator will have patience for an instant.

Mr. SHERMAN. I submit the motion; or if the bill can only be considered by unanimous consent, I object to it, if it is not too late to object. I did not hear it when the bill was taken up.

Mr. CONNESS. This is not the first time that the Senator has objected while—

Mr. SHERMAN. I do not want to be lectured by the Senator from California.

The PRESIDENT *pro tempore*. Order must be observed. In the opinion of the Chair, this bill is before the Senate simply by common consent and liable to be laid aside at any time on an objection. Is the further consideration of this bill objected to?

Mr. SHERMAN. I do object; and I hope when I am transacting the public business that the Senator will not interpose these measures.

The PRESIDENT *pro tempore*. Objection being made, it will be laid aside.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending 30th June, 1867, and for other purposes.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 780) to protect the revenue, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES A. GARFIELD of Ohio, Mr. JAMES K. MOOREHEAD of Pennsylvania, and Mr. JOHN HOGAN of Missouri, managers at the same on its part.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the amendments of the House to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBERT C. SCHENCK of Ohio, Mr. HALBERT E. PAINE of Wisconsin, and Mr. SYDENHAM E. ANCONA of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 804) to regulate the appointment of clerks and commissioners of bail in the circuit or district courts of the United States;

A bill (H. R. No. 32) to extend the jurisdiction of commissioners of the circuit courts of the United States;

A bill (H. R. No. 92) to ascertain the practicability of having a steamboat navigation

from the Chesapeake bay, at the mouth of the Susquehanna river, to Lake Ontario, in the State of New York;

A bill (H. R. No. 468) to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana;

A bill (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes;

A bill (H. R. No. 802) to incorporate the National Farm School;

A bill (H. R. No. 803) to amend an act entitled "An act to incorporate the trustees of the Female Orphan Asylum in Georgetown and the Washington City Orphan Asylum in the District of Columbia," passed May 24, 1823;

A bill (H. R. No. 584) for the relief of William Joslin;

A bill (H. R. No. 604) to define and punish certain crimes therein named; and

A bill (H. R. No. 805) to restore the possession of lands confiscated by the authorities of the States lately in rebellion.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 224) granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas;

A bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tidewater Canal Company to enter the District of Columbia and extend their canal to the Anacostia river at any point above Benning's bridge;

A bill (S. No. 358) granting a pension to Mrs. Nancy A. Stocks;

A bill (S. No. 366) granting a pension to Abraham Lausing;

A bill (S. No. 367) to extend the time of letters-patent issued to Thaddeus Hyatt;

A bill (S. No. 376) granting a pension to Drusey A. Layman;

A bill (S. No. 390) granting a pension to John Pyle;

A bill (S. No. 398) for the relief of W. B. Kelley;

A joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel;

A joint resolution (S. R. No. 82) to provide for codifying the laws relating to the customs;

A joint resolution (S. R. No. 84) authorizing the payment of certain claims against the late Territory of Nevada;

A joint resolution (S. R. No. 111) for the relief of Sergeant Milton McKinnon;

A joint resolution (S. R. No. 121) providing for the examination of the accounts of the State of Massachusetts for moneys expended during the war for coast defense;

A joint resolution (S. R. No. 125) granting the right of way through military reserves to the Union Pacific Railroad Company and its branches;

A joint resolution (S. R. No. 126) to authorize the use of certain plates of the United States exploring expedition by the Navy Department;

A joint resolution (S. R. No. 132) authorizing the Secretary of the Treasury to audit and settle the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco;

A joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy;

A bill (H. R. No. 438) in relation to the appointment of clerks of courts in Washington Territory;



A bill (H. R. No. 728) authorizing the Secretary of the Treasury to issue certificates of registry, enrollment, and license to certain vessels;

A bill (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000;

A joint resolution (H. R. No. 101) for the relief of certain officers of the Army; and

A joint resolution (H. R. No. 176) amendatory of a joint resolution entitled "A resolution respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs," approved June 15, 1866.

#### PROTECTION OF THE REVENUE.

The Senate proceeded to consider its amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, disagreed to by the House; and

On motion of Mr. FESSENDEN, it was

*Resolved*, That the Senate insist upon its amendments, and agree to the conference asked by the House on the disagreeing votes of the two Houses.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FESSENDEN, Mr. HOWARD, and Mr. HENDERSON the conferees on the part of the Senate.

#### MILITARY PEACE ESTABLISHMENT.

The Senate proceeded to consider its amendments to the amendments of the House of Representatives to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, disagreed to by the House of Representatives; and

On motion of Mr. WILSON, it was

*Resolved*, That the Senate insist upon its amendments to the amendments of the House of Representatives to the said bill, disagreed to by the House, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WILSON, Mr. HARRIS, and Mr. NESMITH.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes.

Mr. HOWARD. I offer the following amendment, in pursuance of a recommendation of the Committee on Military Affairs and the Militia, to come in as an additional section:

*And be it further enacted*, That there is hereby appropriated for the payment of the traveling expenses of the members of the first regiment of Michigan cavalry from the place in Utah Territory where they were mustered out of service, in the year 1866, to the place of their enrollment, a sum sufficient to allow to each member \$325, deducting therefrom the amount paid to each for commutation of travel, pay, and subsistence by the Government when thus mustered out, and that the accounts be settled and paid under the direction of the Secretary of War.

The amount called for by this amendment will not exceed \$207 to each soldier.

Mr. SHERMAN. I will ask my friend if it is reported from the Military Committee.

Mr. HOWARD. I so remarked when I presented the amendment. The ground of the claim is this: the first regiment of Michigan cavalry were taken to Utah at or about the close of the war. They were there detained about six months, if I am rightly informed, beyond the period of their enlistment. They were then very improperly informed by their commanding officer that unless they consented to be mustered out of the service at or near Salt Lake City they would be detained in the service for two months longer, the consequence of which was that all, or nearly all of them, consented to be mustered out there and were paid off there in the usual way. They found themselves at a very great distance from their homes, which were in Michigan, where they enlisted, and the amount of traveling pay they received upon being mustered out was entirely insufficient to pay their expenses in traveling home. They ought not to have been detained in the service beyond the period of their enlistment, and they ought not to have been mustered out in

Utah where they were actually mustered out. The whole proceeding seems to have been an imposition upon this excellent regiment of cavalry. Many of the boys mustered out at that remote place, spent all the money which they received for travel and pay there, and some of them were almost obliged to beg their way home again. I think it is a matter of simple justice to indemnify them for the losses which they were thus compelled to sustain in consequence of the proceedings on the part of the officer. I have here a very brief report in manuscript of the Committee on Military Affairs which I will send to the Chair to be read, if it is called for. ["No!" "No!"]

Mr. CONNESS. The case presented by the honorable Senator is not the only case of this kind, and without desiring to oppose this one, I think all such cases should be settled together.

Mr. HOWARD. It is too late now.

Mr. CONNESS. The Senator replies that it is too late. It is not too late. It would be manifestly improper to make this appropriation and then refuse to make an appropriation for the soldiers of other States who were served in like manner. Several regiments of the volunteers of California have been mustered out in the same improper manner in Utah, in Arizona, and in New Mexico, and in traveling homeward they have experienced the most sore and severe distress. I have letters now in my possession and continue to receive them on this subject. On making representations to the War Department no cure could be administered there. The representations made by the commanding officers who resorted to these modes of mustering out the men and these systems of deception were conclusive to the War Department, and they would do nothing. I suggest, therefore, to the Senator not to press this proposition at this time, but let the matter go over and let all these cases be settled at once.

Mr. HOWARD. Whenever any other case of this kind shall arise, I shall be entirely willing to grant similar relief; but I hope this amendment will not be embarrassed by other cases.

Mr. CONNESS. They exist now.

Mr. HOWARD. There appears to have been no application thus far, so far as I am advised, on the part of other soldiers.

Mr. CONNESS. Yes, sir; there have been.

Mr. HOWARD. In this case, the proceedings are perfectly regular.

Mr. STEWART. I think there will be no great difficulty in amending the amendment, so as to apply it to all the cases of those who were thus mustered out at that time. I have received many letters on this subject. There were several hundred men from Nevada and California mustered out and left in Utah without transportation home. Utah is a very expensive place, and some of them really suffered, and did not have the means to get away. I received a letter a few days ago from a soldier who was left there. I suggest an amendment to the amendment, so that it shall cover all the soldiers who were in Utah and mustered out under those circumstances.

Mr. NESMITH. This is a very peculiar case, and as a member of the Committee on Military Affairs I had occasion to investigate the subject when it was before the committee. It was the only case of the kind that was presented. If other cases exist, as the Senator from California and the Senator from Nevada state, and as doubtless do exist, it seems to me they should have been presented to the consideration of the committee as this case was. The facts in this case, I apprehend, will vary very much from the facts in the cases to which they allude.

The facts in this case are substantially these: this regiment was marched to Utah and was kept there for some time after the expiration of its term of service. The evidence submitted to the committee went to show that in February last, in the dead of winter, the regiment was paraded, and the proposition was made to them whether they would consent to be mustered out at that point, Fort Bridger, or

Salt Lake, or whether they would prefer to be retained two months more beyond their time, and be marched back to the frontier. The men had become tired of the service. They had served for some time over their term of enlistment, and they supposed that in any event their transportation would be paid to the frontier. Upon this proposition being submitted to them, the majority of them came to the conclusion that they would prefer to be mustered out, under the impression that they were to be transported back to the place of enlistment. When the paymaster came to pay them off, he paid them commutation at six cents a mile from Fort Bridger to the place of enlistment. There were no means of their getting back in small squads. Their road was through a dense wilderness, full of hostile Indians, with no subsistence on the route, no hotels or places where they could be accommodated; the traveling exceedingly bad and no steamboat or railroad line or facility of that kind for traveling. They received \$118 70 a piece to pay their commutation from Salt Lake City and Fort Bridger back to Michigan, where they were mustered in; while the stage fare, the only mode of traveling by that road was \$300 from Salt Lake to the Missouri frontier, leaving them there out of pocket the difference between \$118 70 and the mere stage fare, to say nothing of their subsistence, and then entirely destitute of funds to transport themselves from Atchison, in Kansas, to their homes in Michigan.

Ordinarily I should be opposed to giving any additional compensation beyond that allowed by law to troops for returning home; but as I stated before, there are peculiarities about this case which deserve consideration. It was a very great hardship, I think, to leave men destitute in the middle of a wilderness country, and in the dead of winter, under such circumstances. Why, sir, if those men had undertaken to make the march on foot—the only mode they had of making it except by stage-coach—the commutation which they were allowed of \$118 70 would not have been sufficient to pay for their meals on the route, even if there were facilities for obtaining them, allowing that they marched twenty miles a day for the distance of twelve hundred miles. Those who got to the frontiers were in a very destitute condition, and arrived there without any means to pay their transportation back to their homes. There was great suffering among the men. They had behaved gallantly during the war. They were a fine regiment. They had served over their time without any complaint. They were marched twelve hundred miles beyond the frontiers after the expiration of their term of service; and I think all the circumstances taken together make it the strongest possible case, and I believe the Government should remunerate them. This amendment only gives them the difference between \$118 70 and \$325. I do not believe that the allowance of \$325 would take them home. That allowance would only take them to Atchison, in Kansas, and leave them to pay their expenses from there home; but the appropriation is limited to \$325, and I trust it will be granted as a matter of justice to these gallant men who served the country so willingly and uncomplainingly. I passed through the country when they were there on duty. They were behaving well; they were the best soldiers I saw in the country. I think, as a matter of justice to these gallant men, that the Government should make them this compensation for the amount they were deprived of by its own unjust decision.

Mr. GRIMES. How much is the amount altogether?

Mr. NESMITH. I do not know what the aggregate amount is. It will amount, I believe, to \$217,560. I have not got it exactly.

Mr. STEWART. I do not wish to throw any obstruction in the way of this amendment, because I think the claim is entirely just. I think it was wrong to muster out any soldiers at Salt Lake without furnishing them transportation from there to their homes; but that

was done to the soldiers from Nevada and California. They were mustered out there. There was great complaint about it. It took more than all the pay they got and all that they could possibly save to get back home. The fare is exceedingly high if they go by means of public conveyance; and they could not march it for a month or six weeks after they were mustered out.

Mr. NESMITH. I will state that in this case the evidence was taken by the Military Committee, fully considered, and a report made on it; and I think that similar cases should be submitted to the committee for examination before an appropriation is made.

Mr. GRIMES. Did it appear before the Committee on Military Affairs that these men desired to be mustered out there?

Mr. NESMITH. It appeared that when they were paraded and the alternative presented to them of being mustered out then, or retained two months beyond their time and then marched to the frontier, they selected to be mustered out, under the impression that their expenses would be paid back to the frontier. When they came to be paid they saw there was a trick in it, and they found that they had been deceived.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the amendment proposed by the Senator from Michigan?

Mr. SHERMAN. As this will set the example for many other cases of this kind, I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SHERMAN. According to the statement made by the Senator from Oregon, this amendment involves an immediate appropriation of \$270,000.

Mr. NESMITH. I would not undertake to state the exact amount.

Mr. SHERMAN. At any rate it is \$325 for each soldier of the regiment; and if the regiment contained nearly a thousand men it would be in the neighborhood of what he states it to be. Now, we are told that there are other regiments in the same predicament. It seems they chose to be discharged in the dead of winter, in a remote region, the Government offering to transport them home two months later and give them two months' additional pay. I am not prepared to enter into the merits of such a claim as this; but I ask the Senate whether it has been sufficiently considered and discussed in the Senate to establish a precedent of this kind, which will undoubtedly lead to other claims of the same sort, which cannot be rejected if this should be adopted. I trust, therefore, the Senate will detach this proposition from this bill. Let it be considered purely as a military measure in a separate bill. This is an appropriation bill for sundry civil expenses of the Government. It is now proposed to make it pay the expense of transportation of the military service. If that is done, then the title of the bill is incongruous; it has no connection with the bill itself or the character of the appropriations provided for by it. I trust that the Senate will at this stage of the session keep off all these extraneous matters. There will be no trouble in the Senator getting up a separate bill for this claim, and discussing and passing it as a separate proposition.

Mr. CHANDLER. This appropriation has been recommended by General Sherman and all the officers acquainted with the facts of the case. Those men are in a destitute condition for want of these means. As this is the only chance we shall have of doing justice to these brave men, who served all of them four years, and some five years, during the war, and did more gallant fighting, perhaps, than any other cavalry regiment, I hope this little, simple act of justice will be done them now, in the last hours of the session, on this bill.

The Secretary proceeded to call the roll on the amendment.

Mr. JOHNSON (who had at first voted in the affirmative) said: I should like to know what is the amount this amendment will take out of the Treasury. I was under the impression, from the statement made by the Senator

from Michigan, [Mr. HOWARD,] that it would be only some seventeen or eighteen hundred dollars; but I understand now that it is nearly three hundred thousand dollars.

Mr. CHANDLER. Oh, no; no such sum. It is a very small regiment. I do not know the precise amount.

Mr. HOWARD. The amendment will give to each soldier \$325, less the amount he received at the time he was mustered out, not more than \$207 to each soldier.

Mr. CHANDLER. It was a very small regiment; I think perhaps not more than three hundred men, all told.

Mr. JOHNSON. I beg leave to change my vote. I vote "nay."

The result was announced—yeas 22, nays 16; as follows:

YEAS—Messrs. Chandler, Connors, Creswell, Davis, Harris, Hendricks, Howard, Howe, Lane, McDougall, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Ross, Sprague, Stewart, Sumner, Wade, Wilson, and Yates—22.

NAYS—Messrs. Anthony, Buckalew, Clark, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Henderson, Johnson, Kirkwood, Morgan, Sherman, Van Winkle, and Williams—16.

ABSENT—Messrs. Brown, Cowan, Cragin, Dixon, Fowler, Norton, Poland, Riddle, Saulsbury, Trumbull, Willey, and Wright—12.

So the amendment was agreed to.

Mr. ANTHONY. I move to amend the bill on page 2, after line twenty-seven, by adding the following:

*Provided, That the building shall be constructed in accordance with the plan prescribed by the joint resolution of Congress, as exemplified in the construction of the south wing.*

Mr. SHERMAN. I ask the Secretary to read the whole clause as it will stand if amended.

The Secretary read as follows:

For completion of north wing of Treasury extension, and grading and fencing grounds, \$300,000: *Provided, That the building shall be constructed in accordance with the plan prescribed in the joint resolution of Congress, as exemplified in the construction of the south wing.*

Mr. ANTHONY. Mr. President, this building, which is one of the most superb on the face of the earth, was planned after much deliberation. The plans were accepted, after much deliberation, by a committee of both Houses of Congress, and the plans were certified by the chairmen of the two Committees on Public Buildings and Grounds. The building in its progress has been varied in several instances from that plan, and every departure has been to its injury. Every Senator will recollect the face of the building toward the President's House. On the roof, instead of a balustrade, which the most untrained eye can see is necessary to the finish of it, there is a row of tin or galvanized iron leaves, which I will venture to say no person ever saw before or since upon any other building. This was as much a violation of the act of Congress as it was a violation of all the rules of architecture and good taste. I am credibly informed that when that hideous deformity was put upon the roof, the balustrade, according to the plan adopted by Congress and by which those entrusted with the construction of the building were bound, was upon the ground, the stone cut and paid for; and it has now been put around the sides of the inclosure that protect the basement of the building. I ought to say that the present architect of the building is in no degree responsible for these and some other deformities. He is an exceedingly competent and intelligent gentleman in his profession, and he has told me that he considered those departures from the original plan a great mistake and a great defect; and he proposes to build it as this amendment requires; but nobody knows how long he will be there.

Mr. MORRILL. I should like to ask the Senator by whose authority the change was made.

Mr. ANTHONY. I do not know by whose authority it was done. I think it was in violation of the law of Congress; but it was done; and I wish to have some protection against any further alterations.

Mr. SHERMAN. I have no doubt it was done by the architect.

Mr. ANTHONY. Every architect thinks as a matter of course that he must do something to show that his predecessor did not know anything about his business. That is the reason why we have this room constructed exactly upon the principle of a hot-house, merely because the subsequent architect thought that he must discard the plans of his predecessor. I have already said that I design no reflection upon the present architect, who is, I think, a very competent person, and who entirely agrees with me on this subject, although I did not mention to him that I should propose the amendment. My only object is to protect the building from barbarous violations of taste. If the present plan is not the best one, it can be altered by the same authority that ordained it; but it should not be altered by any less authority.

The amendment was agreed to.

Mr. ANTHONY. I have one other amendment I should like to propose; and that is on page 22, line five hundred and twenty-one, to strike out the word "brick" and insert the word "granite;" so that the clause will read:

For the purpose of erecting on the public land adjacent to the Treasury Department, a fire-proof granite building to afford additional room for the Treasury Department, \$200,000.

All the public buildings that have been erected lately have been erected of the most substantial materials; but here is a building to be erected adjoining the Treasury building and for the purposes of the Treasury Department, and it ought to be in the same style and the same character. It should be of enduring materials and should be built of granite.

Mr. GRIMES. Is that for the printing office?

Mr. ANTHONY. No; for the Treasury Department?

Mr. SHERMAN. It is to be a printing office. I will state that the plans and specifications for this building submitted to us contemplate a modest building, rather out of the view of the Treasury building, for the purpose of the Treasury printing. The plans are that it be in brick, and the Department prefer that it be made of brick; and to require them to build it of granite, it seems to me, would be a very unreasonable requirement simply because granite is a better material.

Mr. ANTHONY. I would strike out brick and let them build it as they choose.

Mr. SHERMAN. They must build it according to the plans and specifications.

Mr. GRIMES. The best way would be to strike it all out.

Mr. ANTHONY. I would rather strike it all out if it is considered too expensive to build it as it ought to be built, and let us wait until we can build it to correspond with the present building.

Mr. SHERMAN. I will state that there was some doubt about this matter in committee, and the honorable Senator from Kentucky, [Mr. GUTHRIE,] who takes great pride in the supervision of the Treasury extension, it having been commenced while he was Secretary, went up there and examined the plans and the site, and he became satisfied that not only the site proposed, but the plans and the material designated, were the best that could be used.

Mr. ANTHONY. I will bow to his decision.

Mr. GUTHRIE. The advantage of making this building of brick is that it can be built within the year, and they want it at once for the printing establishment. It would be a great convenience and advantage to them to have it. They will then have ample room. By building it of brick, they will get the building this year; but they will not get it for three years if it is built of granite.

The PRESIDENT *pro tempore*. The Chair understands the amendment to be withdrawn.

Mr. ANTHONY. I thought the ground of opposition to my motion was economy; but if it is put merely on the ground of time, we have done without this addition for a great while,

and I suggest whether it would not be better to have a proper building, such as we want, if it takes a little longer time to build it.

Mr. GUTHRIE. It is in that square across the street.

Mr. ANTHONY. Across Fifteenth street?

Mr. GUTHRIE. Yes; it is to be built on the public ground across the street from the south front.

Mr. ANTHONY. The clause reads, "for the purpose of erecting on the public land adjacent to the Treasury Department, a fire-proof building," &c. I thought it was to be adjoining the Treasury Department.

Mr. SHERMAN. We have some public ground over there.

Mr. GUTHRIE. It is to be built across the street from the south front.

Mr. ANTHONY. Across that private street, where the sheds are?

Mr. GUTHRIE. Yes, sir.

Mr. WILSON. I ask if the amendment of the Senator from Rhode Island is withdrawn.

Mr. ANTHONY. No, sir; I think we may as well take a vote upon it.

The amendment was rejected.

Mr. WILSON. I offer the following amendment as an additional section:

*And be it further enacted*, That the sum of \$500,000, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War in the erection of a suitable building for the accommodation of the bureau of the War Department not now located in the Northwest Executive Building.

I have a letter from the Secretary of War, covering also a letter from the Quartermaster General, making the estimates for this building.

Mr. GRIMES. Where do you propose to build it?

Mr. WILSON. The proposition is to extend Winder's building for the purposes of the quartermaster's department. They now occupy a building that they have taken possession of, but which they will be compelled to leave in a very short time. They have in that department nearly two thousand million dollars of vouchers and papers. It is very important that those papers should be in a fire-proof building. At the present time some of those papers are hardly in a safe condition, although the present building has been made as nearly fire-proof as possible; but they must leave that in a short time.

Mr. GRIMES. Where is that?

Mr. WILSON. Corcoran's building. They took possession of it and modified and changed it to accommodate the business of the department. It is now proposed to extend Winder's building. The plans and estimates are all set forth in the report of the Quartermaster General, which I hold in my hand, and which can be read if it is necessary.

Mr. SHERMAN. I never heard a word about this proposed building until to-day. There have been no specifications or plans submitted to the Committee on Finance of the Senate or the Committee of Ways and Means of the House. The proposition does not come within the rule which we have adopted. We have always required in our committee specific plans and drawings and estimates. I hope, therefore, that this matter will be postponed until the next session. It is a very ungracious way to legislate to the amount of \$500,000, making contracts to that amount, without any more information than we now have on this subject. The only information we have is a mere letter of the Secretary of War.

Mr. WILSON. I will simply say in regard to the matter that these papers were sent here some time since, but they did not come to my committee. The other day I saw the Secretary of War, who stated to me that he was very anxious that some action should be had on this matter; that they could not hold the building they now occupy any length of time, and he supposed that the Committee on Military Affairs had the papers relating to it. On examination, it was found that we had no such papers, and we sent him word to that effect.

He has since sent in those papers, covering the estimates of the Quartermaster General, and stating what they intend to do. I ask the Secretary to read the letter of General Meigs.

The Secretary read as follows:

QUARTERMASTER GENERAL'S OFFICE,  
WASHINGTON, D. C., April 12, 1866.

SIR: I have the honor to acknowledge receipt of your request to prepare and submit a plan for "a suitable building for the various branches of the War Department, with an estimate of its approximate cost, and a suggestion as to a site therefor."

At some future time Congress will doubtless make provision for the erection of a building on Seventeenth street and Pennsylvania avenue, in style and construction to correspond in some degree with the Treasury building.

In the mean time, and during the construction of any such building, it is of importance to have a building in which the business of the War Department can be concentrated and its records placed in greater safety than is possible in the present condition of the Department, many branches of which are now scattered about the vicinity of Seventeenth street in combustible buildings.

The square between Seventeenth and Eighteenth and between F and G streets, being directly opposite to the War and Navy Departments, offers the greatest advantages for this purpose.

A portion of this square is now occupied by Winder's building, which is already the property of the Government.

This building cost, including the land, in 1854, about two hundred thousand dollars. The appropriation made by Congress authorized its purchase, provided the cost did not exceed that sum, and I remember that it was stated, at the time of purchase, that officers who examined it on the part of the Government placed its value at somewhat less than two hundred thousand dollars.

The records of the War Department, however, will show the exact sum paid for it.

Winder's building fronts on Seventeenth and F streets. It can be extended either to the north with a return on G street, or to the west, fronting on F street.

I transmit herewith a drawing of the square with plans for either of these extensions.

No. 1 being one hundred and fifty-six and a half feet front on Seventeenth street, and two hundred and ten on G street, would afford sixty-three thousand square feet of office floor if built four stories in height and uniform with Winder's building in construction, except that rolled iron beams should be used in place of cast-iron girders to support the floors. They are cheaper, and their manufacture has been established in this country since the erection of Winder's building.

No. 2 represents an extension on G street, occupying the whole south front of the square.

It would afford sixty-five thousand six hundred square feet of office floor in four stories.

The cost of construction of either of these buildings is estimated at about one hundred and seventy-five thousand dollars.

The site of No. 1, it is supposed, would cost, 29,295 feet of land, at two dollars..... \$58,590

The improvements thereon would cost probably..... 68,000

\$126,590

The site of No. 2 would probably cost, land, 39,430 square feet, at one dollar..... \$39,430

Improvements..... 15,000

\$54,430

The estimates thus, for the extension north and its site, will be \$300,000; the extension west, \$230,000.

As a basis of comparison I may state that each of these buildings is of about the same capacity as Winder's building, including the addition thereto built by the Ordnance office in the court-yard.

The space of office floor, occupied and crowded at this time by the business of the Quartermaster General's office, is twenty-eight thousand feet. Either of the buildings shown in the plans would afford about sixty-three thousand feet of flooring.

When a sufficient building is constructed upon the site of the present War and Navy Departments, for the permanent use of those Departments, Winder's building will be valuable to the Government for some of the branches of the Government, which, as this country increases in wealth and population and influence, must certainly expand.

The accumulated records of the business of the War and Navy Departments need some safe fire-proof depository, and this building, if constructed, will in time afford such a hall of records.

I recommend that Congress be requested to authorize the purchase or condemnation of the site and the construction of an extension of Winder's building, according to the accompanying plans, either to the north or west, as may be determined by the Executive.

The right to choose between the two sites will have a favorable effect upon the price of the site, and of the buildings to be removed.

It is to be understood that the estimates contemplate the construction of a plain brick and iron building, stuccoed, or covered with mastic, in the style of Winder's building, and without any elaborate or expensive finish.

I am, very respectfully, your obedient servant,

M. C. MEIGS,

Quartermaster General,  
Brevet Major General U. S. A.

Hon. EDWIN M. STANTON, Secretary of War.

Mr. WILSON. If the Senator from Ohio objects to the large sum named in this amendment, I am willing to reduce it to \$150,000 and let them commence the work with that, and at the next session we can appropriate what is necessary. We have got to provide them with a building. They cannot stay where they are now for any length of time.

Mr. SHERMAN. The objection I have is not the amount of the appropriation, because if we commence we shall have to appropriate the whole \$500,000, but as a question of expediency. If it is absolutely necessary to build a new building for this bureau, I ask, is it proper for us to commit ourselves to this particular site by this appropriation at this time? The passing of this appropriation, under the estimates now submitted to us, would commit us to the purchase of this property. We have got to go into the market then with the knowledge on the part of the owners of this ground that we have decided upon that site. I think it would be much better not to make any appropriation at this session, but let them submit to us the offers of the owners of the property for this purpose. The rule adopted by the Committee on Finance, so far as we can control it, has been never to engage in the purchase of sites or the erection of new buildings until we have the title to the property or an offer for the property at a definite sum and then plans and estimates based upon the site; and then, for the first time, we make an appropriation. That was the case with the appropriation for the printing office at the Treasury Department. I trust, therefore, that this matter will go over until the next session. It is too large a sum to be put upon this bill at this period of the session without consideration. It has never been considered by any committee, except a casual consideration by the Military Committee within the last few days. It was never sent to the Committee on Finance or to the Committee on Public Buildings and Grounds; and I trust, therefore, it will not be put on this bill until we have further information.

Mr. WILSON. I will not press this amendment against the wishes of the Senator. The subject was called to our attention yesterday morning or the day before yesterday for the first time, and last evening we got this report. We have certainly not thoroughly examined the matter; but the Secretary of War was very earnest about it, and I saw the Quartermaster General this morning, who thought it very important that some action should be had at once; for of course they cannot retain the building they now have for any length of time.

Mr. GRIMES. I have no doubt in the world that there ought to be a new War Department, and I am glad the attention of the Senate has been called to the subject. Although I am not in favor of the proposition submitted by the Senator from Massachusetts in the shape in which it stands, for I do not believe we ought to erect a building on the ground proposed in the amendment, yet I trust he will propose some other amendment to this bill, looking toward the selection or securing of ground for the erection of a proper building at the next session.

The PRESIDENT *pro tempore*. Is the present amendment withdrawn?

Mr. WILSON. Yes, sir. I withdraw it.

Mr. WILLIAMS. I propose the following amendment as an additional section:

*And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of continuing the index to the Senate list of private claims down to the present Congress, in pursuance of an order of the Senate dated March 16, 1866.

Mr. SHERMAN. What index is that?

Mr. WILLIAMS. I will make a brief statement in regard to this matter.

Mr. SHERMAN. I will ask if it comes from any committee.

Mr. WILLIAMS. It does not.

Mr. SHERMAN. Then I object. The rule requires that an amendment shall be reported by a committee.



Mr. POMEROY. It is reported in pursuance of a law. There is a law for it.

Mr. SHERMAN. I raise the question of order.

The PRESIDENT *pro tempore*. Objection is raised to the reception of this amendment on the ground that it does not come from a committee. The Chair understands the Senator from Oregon to say that it does not come from a committee.

Mr. WILLIAMS. It does not; but it is in pursuance of a resolution adopted by the Senate.

Mr. GRIMES. Not a law.

Mr. JOHNSON. A joint resolution, or a resolution of the Senate?

Mr. WILLIAMS. A resolution of the Senate. These men have been employed and have been at work three or four months. There is no way to pay them, and the work has got to stop unless an appropriation is made. That is all there is about it. There is no reason in the world why the appropriation should not be made.

Mr. SHERMAN. This matter was proposed to the Committee on Finance, but we concluded that as the clerks were paid during the year, they might as well make up this little index to the private claims during the recess of the Senate; and as we have considered it there I do not want it brought here.

Mr. WILLIAMS. I was not present at the time it was considered in committee, but it is evident the facts were not known to the committee. In the first place, this work is not done by the clerks. Three other persons are employed.

Mr. SHERMAN. Under what resolution; under what authority, I should like to know?

Mr. WILLIAMS. I have the resolution here.

Mr. SHERMAN. I should like to hear it.

Mr. WILLIAMS. On the 16th of March, 1866, this resolution was adopted by the Senate:

"Resolved, That the Secretary of the Senate be directed to cause the alphabetical list of private claims extending to the end of the Thirty-third Congress to be continued to the close of the last Congress and printed for the use of the Senate."

Pursuant to that resolution the Secretary of the Senate proceeded to employ certain persons to make this alphabetical list. Those persons have been engaged in that business now for two or three months. The work is partly completed, and this is simply an application that an appropriation be made to pay these clerks for this labor; and I am advised that heretofore this alphabetical list has been made in pursuance of similar resolutions which have been repeatedly followed by appropriations to meet the expenses.

Mr. SHERMAN. When was that resolution passed?

Mr. WILLIAMS. On the 16th of March, 1866. The Secretary, depending upon the resolution, has made this contract, employed these men; they have been at labor for two or three months; and now, unless an appropriation is made, they must be discharged, they must get nothing for the labor they have performed, and the work must stop. It seems to me, under such a resolution, there ought to be an appropriation.

Mr. SHERMAN. I withdraw my point of order. I find that the rule I referred to reads as follows:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session."

I suppose this resolution having been passed at this session, the case is brought within the rule.

The PRESIDENT *pro tempore*. If the Senator withdraws his objection, the Chair has no decision to make; but he thinks the amendment is to provide for a private claim, and the rule declares that "no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation." This is a resolution merely, not a law.

Mr. SHERMAN. I insist upon the point of order. I do not think it ought to be acted on here. I do not think money ought to be appropriated here.

The PRESIDENT *pro tempore*. In the opinion of the Chair, the amendment is not in order, it being for a private claim.

Mr. CONNESS. I am directed by the Committee on Post Offices and Post Roads to offer this amendment, to be inserted after line four hundred and sixteen, on page 18:

To provide for a survey of the Isthmus of Darien, under the direction of the War Department, with a view to the construction of a ship-canal, in accordance with the report of the Superintendent of the Naval Observatory to the Navy Department, \$40,000.

It will be remembered that in accordance with a resolution passed by the Senate calling upon the Superintendent of the Naval Observatory for a report of all the information, facts, data, together with the maps, charts, lines of level, &c., in possession of his office, relating to the various routes over the Isthmus, with a view to railroad and ship-canal communication, a report has been submitted by that officer, and is now ordered to be printed by the Senate. It will be on the desks of members, probably, before we adjourn. It is, perhaps, the most interesting paper that has ever been submitted to Congress. It involves a subject of the greatest possible interest, not only to the people of the United States, but to the commercial people of the world. It is now proposed further, as the necessity and propriety of a further survey is shown by the report, to authorize the War Department to depute some of our Army engineers and a party of men to make an additional survey across the Isthmus of Darien, to be commenced say next December. This point at which it is proposed to carry on the further work is a little south of the Isthmus of Panama or Porto Bello on this side of the continent. I submit in this connection and ask for the reading of a brief letter from the Superintendent of the Naval Observatory addressed to myself on the subject, and I ask the attention of the Senate while it is being read.

The Secretary read the following letter:

WASHINGTON, July 10, 1866.

DEAR SIR: I shall send in my report and the accompanying maps this evening or to-morrow morning, and I presume it will be transmitted to the Senate immediately.

Inclosed is a copy of a letter from General Grant to me, showing the very deep interest he takes in the subject. An appropriation of forty or fifty thousand dollars will enable the Government to put the surveying parties in the field at the beginning of the next season. I trust this small sum—small indeed when contrasted with the grandeur of the object—can be obtained. I hope to have the pleasure of seeing you in a few days.

Very respectfully and truly yours,

C. H. DAVIS,

Rear Admiral, Superintendent.

Hon. JOHN CONNESS,

United States Senate, Washington.

Mr. CONNESS. Now I submit the letter of General Grant on this subject. It will be observed that I have named the lowest sum spoken of in the letter of the Superintendent.

The Secretary read the following letter:

HEADQUARTERS ARMIES UNITED STATES,

WASHINGTON, D. C., July 7, 1866.

DEAR SIR: Your letter of the 3d of July, alluding to the interest which I have heretofore expressed in favor of a canal to connect the Atlantic and Pacific oceans, is received.

I firmly believe the scheme practicable, and if it is, there is no doubt but that in this age of enterprise the work will be done. I regard it as of vast political importance to this country that no European Government should hold such a work. For this reason I have endeavored for the last year to get such a thorough survey made by the Government of the United States through the territory of the Colombian Government as would fully determine whether such a project is feasible; not doubting but that on the presentation of such feasibility, American capital and an American company, under some treaty that could easily be arranged between the two Governments, would undertake it.

To carry out this project an appropriation by Congress, but what amount I could scarcely say, would be necessary.

At the instance of Captain Ammen, United States Navy, and myself, the Secretary of State has put himself in communication with the Colombian Government with the view of obtaining the authority to make a survey through their territory for the purpose

of determining the practicability of an interoceanic canal.

Very respectfully, your obedient servant,

U. S. GRANT,

Lieutenant General.

Rear Admiral C. H. DAVIS, United States Navy.

Mr. CONNESS. Desiring to be able to present to the Senate, in the absence of the full report made by Admiral Davis on this subject, such a synopsis of the facts as would present the subject intelligently to the body, and not having time to examine the report myself, I called upon Admiral Davis to furnish such a synopsis. He has furnished a very brief one, and I will ask the Clerk to read it and then be done with the subject; and I beg the Senate to give its attention.

The Secretary read as follows:

"The object of the resolution to which the report is a reply, was to collect together and put in order all the existing information concerning this question of interoceanic communication between the Atlantic and the Pacific. This has never been done before in a satisfactory manner. It is true that several able and comprehensive papers on the subject have appeared among the Geographical Memoirs of England and France, but no one of them has been accompanied with a full set of charts and statistical data, and no one of them furnishes in itself the means of arriving at a definite and distinct idea of what has been done in each case, of what remains to be done in each case, and in what direction we are to turn our future efforts and investigations.

"It is unnecessary to enlarge upon the importance of this subject. No intelligent person who has paid even slight attention to it will fail to perceive that the construction of a practicable ship-canal through one of the American isthmuses would be attended with the most wonderful results in respect to the commerce and intercourse of the different nations of the globe.

"We are so situated, occupying a central position between Europe and Asia on the line of oceanic navigation, that we shall be more benefited by these results than any other people. The magnitude of the enterprise, its influence upon our national life and progress, and the exceeding importance, as I conceive, of keeping this undertaking in the hands and under the control of some one of the members of the American family of nations, all these considerations of themselves render it extremely desirable that the United States should prosecute to completion certain surveys and explorations which are pointed out in this report. But it is further to be said that this is a peculiarly favorable juncture for making such surveys; and in order to explain myself on this head I will offer a brief synopsis of the report.

"As many as twenty-six different routes have been proposed at various times by different persons for interoceanic communication either by canal or by railroad. All these routes are classified under a few general titles. Thus several routes across the Isthmus of Tehuantepec are discussed; so again of Honduras, Nicaragua, Panama, Darien, and the province of Chio. Now, in this report, each one of these isthmuses is taken up separately and treated at sufficient length to make its value and merits perfectly intelligible. In each case there is a map which gives, by inspection, heights, distances, summit levels, and, in most instances, topographical features and plans of construction, with minute details wherever such plans could be obtained. In this respect the report is so full that the reader has the means of forming an independent judgment, but to this end a careful study of the maps is necessary; and that being out of question at present, I shall only attempt to give you the most general conclusion.

"On each one of the isthmuses which I have enumerated there are circumstances and features which have attracted in a greater or less degree the attention of projectors, capitalists, and engineers; and of course the real feasibility of the project could only be revealed by an actual survey. I will cite a single example by way of illustration. In the State of Nicaragua, nature seems to have extended a helping hand by offering the aid of the river San Juan and the Central lakes, and thus diminishing by a natural water communication the territory to be pierced to one tenth of the whole length of the canal. Here, as in several other cases, attractive circumstances have led to accurate surveying operations on which we can build safe conclusions. These surveys supply a process of elimination by removing certain routes altogether from our further consideration, at least for the present, and thus narrowing down our field of operations. Thus, our reliable surveys of the Isthmus of Tehuantepec, Honduras, Nicaragua, Panama, and the upper waters of the Atrato exclude all these places for the present from our inquiry. We are satisfied that no ship-canal will be undertaken at present at either of these places, and, indeed, I may say, will ever be undertaken at either of these places until we are convinced that there is not a better site for a canal elsewhere. Now, a concurrence of favorable indications and of highly advantageous natural conditions points out one region as the proper field for our immediate labors; and that is the Isthmus of Darien east of a line joining Panama and Porto Bello and more particularly the three routes between Chopo and San Blas, between San Miguel and Port Escozes by the Savana, and between San Miguel and Uraba by the way of the Tuva. The report shows what has been done and what has been attempted on each one of these routes; it also shows what advantages these routes possess and what promise they give of affording a successful solution to our great problem.

It is for carrying out and completing the surveys in this direction, that I ask for an appropriation of \$40,000, not doubting that those who hear me, as well as all educated gentlemen throughout the country, will regard this problem as Mr. Jefferson did, as "a vast desideratum for reasons political and philosophical."

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. SUMNER. I have not heard any objection to this proposition, although the Senator from Ohio called for the yeas and nays.

Mr. SHERMAN. If the Senator is willing, this session, to commence the construction of a ship-canal across the Isthmus of Darien, I think it is a question that he is sufficiently intelligent to answer for himself. It is in foreign territory, and we are to commence it without the aid and coöperation of any other country, when other countries are interested in the project as well as ourselves. If the survey is made, I suppose it is for the purpose of inducing the construction of a ship-canal by the national Government or by some American company. If the Senator is prepared to enter upon it, be it so. I wish simply the instruction of the Senate on the question.

Mr. DOOLITTLE. I do not know whether that is a violation of our treaty stipulations with Great Britain, but it looks somewhat in that direction, if I understand it. We are under treaty obligations with Great Britain not to assume on the part of this Government to build certain routes between the two oceans or endeavor to control them, and we are under obligations with Great Britain to guaranty the neutrality of those routes. I do not know that I have any special objection, as a matter of scientific curiosity in the geography of the world, to spend a small sum of money in ascertaining the practicability of a route there, because it may be the basis, perhaps, of future negotiations with England to join with us in building a canal. But I will not occupy the time of the Senate.

Mr. CONNESS. There is no such question involved as has been suggested by the honorable Senator from Wisconsin; but on the contrary, the State Department has been already in negotiation with the Colombian Government to obtain, and have obtained, the privilege of sending an armed party there to make this survey, so that it is in accordance with the obligations of the Government and with its faith to foreign nations. A survey has already been made, demonstrating where the next is to be made; and the object is simply to demonstrate to the commercial world that this great work is practicable, and to that end \$40,000 is asked that the work may be entered upon at the proper season for that country, which owing to its climate will be next December. It is not proposed, I will say to the Senator from Ohio who has charge of the bill, to commit the Government to the construction of this great work, but it is believed to be the duty of a Government that has such great interest in commerce as ours has, to make this demonstration when it can be done at so light a cost.

Mr. SUMNER. I think that the Senator from Wisconsin referred to what is known as the Clayton-Bulwer treaty, but I think if he will examine that carefully he will see that it is not applicable to this case. This is on the Panama route; it is a different line from that covered by that treaty. It is not embraced within the terms of what is known as the Clayton-Bulwer treaty.

Mr. CONNESS. Not at all.

Mr. SUMNER. It is therefore to be taken separately by itself, on its own merits. I have had the advantage of cursorily examining the very able and interesting report made by Admiral Davis on this line. It is very learned and instructive, and develops the importance of this line to the commerce of the United States. I need not remind you that California is necessarily interested in this line, because this is the highway by which we reach that distant part of our own country; and I call the attention of the Senator from Ohio to that pre-

cise point. This is to increase and extend the facilities of communication with a part of our own country. It is true that unhappily we are obliged to go outside of our own borders in order to do this work, but I do not know that it becomes on that account any the less important.

If the Senate will reflect upon it a moment they will see not only its practical value but also its grandeur in a historical aspect. From the time of Charles V one of the aspirations of Spain, and indeed of all adventurers and navigators in these seas, has been to find what in that early time was called a gate through which they could pass through that isthmus into the other ocean. The proposition now is, not to find, but to make a gate by which we can pass from one ocean to the other.

I stated that it had a historic grandeur; it also has a practical value from the relations with the different parts of our own country. But, sir, I am admonished by the pressure of business that I ought not to occupy the time of the Senate. I content myself, therefore, with one additional remark. The proposition before you, as I understand, is simply to provide for the surveys. We do not venture beyond that. There is no appropriation for the work. We do not bind ourselves to the work. Here is an appropriation for surveys which, whether regarded in a practical or in a scientific or a historic light, will be of very great value. I, sir, shall gladly vote for it.

The question being taken by yeas and nays, resulted—yeas 22, nays 18; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Doolittle, Fowler, Howard, McDougall, Morrill, Nesmith, Nye, Poland, Ramsey, Ross, Stewart, Sumner, Van Winkle, Wade, Williams, Wilson, and Yates—22.

NAYS—Messrs. Cowan, Fessenden, Grimes, Henderson, Howe, Lane, Morgan, Pomeroy, Riddle, Sherman, Sprague, Trumbull, and Willey—18.

ABSENT—Messrs. Brown, Cragin, Creswell, Davis, Dixon, Edmunds, Foster, Guthrie, Harris, Hendricks, Johnson, Kirkwood, Norton, Saulsbury, and Wright—15.

So the amendment was agreed to.

Mr. CONNESS. I offer the following amendment, to be inserted after line ninety-five, on page 5:

To enable the Secretary of the Treasury to collect reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, and which information shall be reported to Congress at its next session, \$15,000.

In this connection, I submit a letter from the Secretary of the Treasury, which I ask to have read to the Senate.

The Secretary read as follows:

TREASURY DEPARTMENT, June 20, 1866.

SIR: I have the honor, in reply to your letter of the 16th instant, relative to the want of reliable information concerning the mineral resources of the Pacific States and Territories and the importance of supplying it, to say that this Department has long felt the want to which you refer, and concurring in your views as to the necessity of collecting full and reliable statistics upon the subject, and as to the means of effecting this object, I shall most cheerfully, within my appropriate sphere, coöperate with you in carrying your suggestions into effect. To this end, I respectfully recommend the adoption of a joint resolution authorizing the Secretary of the Treasury to appoint a commissioner, and appropriating such sum as may be necessary for compensation and necessary traveling expenses, or the incorporation of a like provision in one of the appropriation bills.

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. JOHN CONNESS, United States Senator.

Mr. FESSENDEN. I should really like to ask the Senator whether it is worth while to put on all the loose legislation any gentleman may desire, if we ever expect to get through with the miscellaneous bill. It must be obvious that we never can pass the bill if we put on all these things; we shall have a quarrel with the House and lose the bill finally. I suppose it is in the power of the Senate to put on anything they please; but if we go on in this way and put on everything that Senators fail to get in any other shape standing by itself, there is no end, and we cannot get through the bill at all. We have now fixed a time for adjournment, and we may go on day after day precisely in this way until the budget of each Senator is exhausted. I hope this course will not be persisted in.

Mr. CONNESS. This amendment has been recommended with unanimity by the Committee on Mines and Mining. It is no new proposition. I supposed that no Senator would accept it more readily than the honorable Senator from Maine. I think that the Senator, when occupying the high position of Secretary of the Treasury, with so much distinction as he did, must have felt the importance of the information proposed to be collected. Indeed I know he did, for I remember very distinctly that in one of his annual reports (I have it not before me now) he confessed that so far as the mining interests, the productiveness, and the management of the mines of the great West were concerned, it was to the Department of which he was the head the *terra incognita* of the United States. He confessed that he did not understand it or know anything about it; and the present Secretary of the Treasury has again and again felt the necessity and the value of such information to that Department.

I cannot propose to occupy the time of the Senate by showing that this proposition is just; but it occurs to me that this ought not to be looked upon as loose legislation, or a mere call for the expenditure of money, but as a proposition to collect data of the most important kind to the Government for its uses with reference to its policies, to its measures, to taxation, to be intelligently applied. There are no statistics on this subject at the present time. It is time to begin to collect them. Why, sir, in the colony of Australia the British Government have already a system the most exact and comprehensive for the collection of information and statistics. I was very much surprised within the last year to find the elaborateness and completeness with which the English Government are proceeding there in this very direction. Within the last few years, I wish to say to the honorable Senator and the Senate, the Emperor of France has sent a commission into the States of California and Nevada, and kept them there for nearly an entire year investigating this whole subject, and the forthcoming report from that commission I have no doubt will be one of great interest and value. But in regard to our own country we have not taken the first step; we have not initiated the first proceeding to collect a single fact.

Mr. President, during the present session of Congress I was in receipt of a communication from the honorable Secretary of State, Mr. Seward, inclosing a letter from a distinguished English gentleman about to publish a book in the city of London in regard to the resources of our country; not Sir Morton Peto, I will say, but a very distinguished author. He had written to the State Department to be supplied with material which he could lay before the European world concerning the resources of the States and Territories lying west of the Rocky mountains. The Secretary of State inclosed the communication to myself and asked me to supply him with the information to furnish to this author. Of course I was not in possession of any. I referred him to the Interior Department; but I undertake to say, as I suggested to him, that there was very little there that was obtainable. This is an appropriation of a like amount with one that has been made for years to continue investigations from the Land Office, and which, at the suggestion of the honorable Senator from Nevada [Mr. STEWART] and myself, has been remitted for the last two years because we believed, nay, we knew, there was no corresponding benefit from the outlay; and when that appropriation was proposed we so advised the Senate, and it has not recently been made. Now we propose to resume the collection of exact information and data upon a subject I think of such a degree of consequence that all will at once admit it.

Mr. GUTHRIE. I am inclined to vote for this amendment to the bill. I have felt myself in great difficulty and doubt about the question of these mines and what they are practically worth, and would be very willing to have at least one report on the subject, so that we may

see if they really are what they are represented to be. I think it is an expenditure which the country is prepared to approve, and it is information that everybody desires.

Mr. NESMITH. Perhaps no question has been before Congress of more interest to the Pacific States and Territories than the measure proposed by the Senator from California. I am very glad that he and the committee of which he is chairman has brought the subject to the attention of the Senate. There is a vast mining region there, extending from the base of the Rocky mountains on this side to the Pacific ocean, and from our Mexican border to the forty-ninth parallel. Its development has been left entirely to private enterprise. There has been no regular system by which reports have been made in relation to it, as to its resources, its value, its productions, what has been derived from it, and what is likely to be derived from it. It is a source of very great revenue to the country and one upon which we must depend eventually for the precious metals to discharge our immense annual obligations, and I think there is no subject which comes within the purview of national legislation which should so much attract the attention of the Government, or which is so important as to get correct and reliable data relative to the great mining interests of that country. I trust that the amendment will be adopted and a commissioner be appointed, and that we shall have a thorough investigation on the subject and a report at the next session of Congress, so that we may have reliable information on a subject of such very great interest to the country.

Mr. STEWART. I have opposed the appropriations of \$15,000 expended hitherto, because I could not see any good results from them; but I am satisfied that if this appropriation is made we shall have a report that will give some information, and I hope the appropriation will be made.

Mr. SPRAGUE. I would ask the Senator from California if he would permit an amendment to go upon his proposed amendment, that the commission which is to be appointed may be directed to turn their attention to the bonded warehouses? [Laughter.] If he will permit that I should like to move an amendment of that kind.

Mr. FESSENDEN. There was in the revenue bill a section which we struck out providing for a Bureau of Statistics in the office of the Secretary of the Treasury. If that had passed I think the statistics in relation to mining would be a part of it, but we concluded to strike it out. The mere obtaining of these statistics is of no more pressing importance just now than the obtaining of statistics in relation to matters of trade and other things. The striking out of that section of the revenue bill has been disagreed to on the part of the House, and it is very possible that the section may finally pass, but probably with some amendments. I do not see why this particular subject of mining statistics should be taken out of the general question of statistics as applicable to other things. I see no reason for putting this in here without putting in a great many other things. I do not exactly go the bonded warehouses, but statistics in regard to trade and agriculture and other matters ought to be provided for at the same time. I admit that the obtaining of these statistics is important; that I have no question of; but I doubt the policy and good sense of putting on to this bill where it does not properly belong an appropriation for obtaining these statistics, when we have refused in the Senate to pass any appropriation or make any provision for obtaining statistics upon other subjects.

Mr. CONNESS. I think I can explain that to the Senator.

Mr. FESSENDEN. I do not think the Senator can explain it to me, because I believe I understand it now so far as the position I take is concerned.

Mr. CONNESS. I am quite aware that I can throw no light on a subject that the Sena-

ator has investigated, but I can give him a few words upon the course this question has taken. The section relating to statistics that is found in the revenue bill now pending between the two Houses, I think, arose and grew out of communications between the Secretary of the Treasury and myself in the early part of the winter. I called his attention in a letter addressed to him to the necessity and the public advantage of a central Bureau of Statistics near the Government which should embrace the three subjects of agriculture, mining, and manufactures. The honorable Senator from Rhode Island will perceive that in considering the subject the question of manufactures was not lost sight of. I believe that such a bureau could be established and conducted at a less public expenditure of means than the present Agricultural Bureau and be of infinite benefit to all three branches of industry; and I invited the Secretary to have a bill prepared with a view to that end. The result eventually was the addition of a long section to the revenue bill spoken of by the Senator from Maine, but which did not include in any respect statistics concerning the mines. There is a necessity for beginning the collection of statistics concerning the mines at an earlier day than you shall collect them for other branches of industry, for you have them already in regard to these branches; they are coming into your Government from commerce; they are coming into your Government for manufactures, as every single day progresses; but to begin to collect statistics on the subject of mines and mining agents will have to be employed, or a commissioner of great ability, and he must necessarily visit every mine and report upon it.

Mr. FESSENDEN. A job for somebody.

Mr. CONNESS. It is not intended, I wish to say, for any individual on earth. There is nothing in it or about it that participates of a job. I would despise the appropriation of money with such a view; but if Senators will remember for a single moment the importance to citizens in all the States of the Union who are investing in mines of collecting such statistical information as I have suggested, and laying it before the whole people in a financial report in an authoritative shape, I think they will concede that it is time to begin and also concede its value. I hope the amendment will be adopted.

Mr. STEWART. I will make a single remark in addition to what I have already said, inasmuch as the chairman of the Committee on Finance does not appreciate the importance of getting this information more than the importance of getting statistical information in regard to agriculture, manufactures, commerce, or anything else. Other nations do see an additional importance in statistical information on the subject, and they have taken some pains to ascertain what the mineral wealth of the United States is, for the purpose of predicating their financial operations upon that knowledge, they being in debt as we are now. We do not propose to send a commissioner to Europe to inform them in regard to our mines; the fact is, they can inform us. There is no part of the civilized world where there is more ignorance in regard to our mines than right here in Washington, where we are called on to legislate in regard to them.

I think it highly important that we should get reliable information in regard to the yield of the gold and silver mines and its probable continuance. It is necessary to our financial calculations. The value of our bonds may depend very much upon the probable yield of gold and silver. If it were reliably ascertained that there would be a continual increase of gold and silver, so that those metals would be cheap, so that we should have no difficulty in redeeming our bonds, it might have an important bearing upon the value of the bonds. I think authentic information with regard to the vast mineral wealth of this country will do more to strengthen our credit than anything else we can do. The only objection to the appropria-

tions heretofore made was, that they did not produce any result. We think now this can be so directed as to produce valuable results. The Secretary of the Treasury, taking special interest in it with a view to our public credit, we think it can be so arranged as to get information that will be very gratifying to the people of the United States and to the national bond-holders, and will strengthen our credit considerably.

In this view, I think the small appropriation that is asked ought to be cheerfully granted. For some years a similar amount was appropriated without yielding any result; but now the Secretary of the Treasury thinks he can get a report, and I believe he can. I think when a report is made, and the people of the United States see the prospect of the yield of gold and silver upon which to predicate the payment of our debt, our credit will be very much strengthened.

Mr. McDUGALL. I desire to say one word. The importance of a complete knowledge of our resources in the precious metals should be understood by every Senator on the floor. It is a singular fact that France, Great Britain, Austria, and Russia, through their agents sent into our country, are now better possessed of our resources in mineral wealth than is the Government of the United States; they have bestowed pains to understand the value of the respective resources of the various portions of the world, and particularly in the precious metals. There is no work of authority to which we can now go to ascertain anything in detail as to what we may rely upon in regard to the development of the mining region and its capability of further development. This lies within the general range as promoting the general prosperity and enabling the Government to know what it can rely upon. The amount of the appropriation is trifling. It can be no job. It cannot more than pay the common, ordinary expenses of such an enterprise. If a person fond of science and fond of these inquiries and desirous of pursuing them can be employed at \$15,000 to make these investigations and report to the Government, the Government will be a great gainer, and not only the Government, but the people generally throughout the United States. I trust the amendment will be adopted.

The amendment was agreed to.

Mr. WADE. The special committee who were directed to equalize the payment of the employés of the Senate and House of Representatives have directed me to offer as an amendment the bill they reported on that subject.

Mr. SHERMAN. I desire to make a suggestion to my colleague which perhaps will be agreeable to him. The proposition to increase the pay of the employés of the House of Representatives has been put into what is called the deficiency bill, where this whole subject will come up. That bill is now before the Committee on Finance, and I suggest whether he had not better let this measure come up on that bill. The extra pay to employés of the House is already put upon that bill by the House of Representatives. It will lead to considerable discussion. I make the suggestion to save time, because the whole subject will all come up then.

Mr. WADE. I do not know when that will come up.

Mr. FESSENDEN. To-morrow, probably.

Mr. SHERMAN. It must come up. The question is on that bill now.

Mr. WADE. I have no choice which bill it is to be in; but I am directed to offer it to one of these bills. Perhaps that is the most appropriate for it as the House regulation is in that bill. I withdraw the amendment for the present, and will offer it on the other bill.

Mr. POMEROY. I am authorized by the Committee on the District of Columbia to move the following amendment, to come in on page 21, after line four hundred and ninety-four:

For the National Association for the relief of destitute colored women and children, incorporated under



an act of Congress, approved February 14, 1863, \$5,000, to be expended under the direction of the officers of the association.

I hold in my hand the annual report of the association in this District that have in charge the destitute colored women and children. This association was organized by an act of Congress approved February 14, 1863. It has hitherto been supported mainly by voluntary contributions. General Howard has made a report in reference to it, from which I will read a few extracts. The president of the association is Mrs. Benjamin F. Wade, the vice-president Mrs. George W. McLellan, the treasurer Mrs. Germond Crandell, and the secretary Miss Eliza Heacock. Among the executive committee appear the names of Mrs. Lyman Trumbull, Mrs. General O. O. Howard, Mrs. D. N. Cooley, and other ladies of the District. The trustees are Messrs. A. M. Gangewer, S. J. Bowen, and Charles King.

A report to General Howard, from the commissioner appointed by him, speaks of it as follows:

"In accordance with your directions I have carefully examined the conduct of the National Association, incorporated by act of Congress, approved February 14, 1863, for the relief of destitute colored women and children, and find it favorably situated, in good condition, saving much suffering, and serving also an excellent purpose in training for virtuous citizenship many outcast children. Sixty children are now in it."

That was true at the time of the report. There are more in it now. It goes on to state that the expenses monthly *per capita* are about \$11 19, but the superintendent assures him that this amount can be reduced to about nine dollars *per capita*.

"They need," says this report to General Howard, "for annual expenditure not less than \$10,000 to meet current expenses."

A few individuals have hitherto contributed the sum necessary. One gentleman from Birmingham, in England, sent £100. That is the only amount that I know of that has been contributed abroad. The commissioner further says:

"I believe the asylum deserves your indorsement, and should receive the favorable consideration of the charitable public."

This is signed by "John Eaton, jr., colonel and assistant commissioner of the Freedmen's Bureau."

General Howard adds:

"I earnestly commend the Georgetown asylum, and hope our benevolent friends in the country will aid the trustees in putting it on a permanent basis."

Mr. SHERMAN. I will ask the Senator from Kansas if this amendment is reported from a committee.

Mr. POMEROY. I stated in the beginning that I was authorized by the Committee on the District of Columbia to propose this amendment. I will only add—for I do not want to take up time—that this institution has been well conducted and has been very well supported during the war from voluntary contributions, but it is one of those cases that does not come exactly within the law authorizing the Freedmen's Bureau to make any expenditure. The persons for whom it makes provision are not refugees, they are not freedmen; they are children picked up by the wayside who are either orphans or worse than orphans. They are gathered into this institution and supported at the expense of charitable individuals. Our contributions during the war for sanitary and other purposes were so great and our appropriations by Congress so large, that the trustees thought they would, if they could, get along without asking any aid from Congress; but they have now asked, as the amendment shows, an appropriation of only one half of the current expenses this year, leaving the other half to be collected from charitable individuals. The two extremes of human life are in this institution, the very aged who are unable to care for themselves, and the very young who have no one to care for them. Very aged females occupy their time in taking care of the little ones. They are very useful in that regard, but they cannot earn a livelihood from their labor. I spent last Sabbath at the institution, and was deeply in-

terested in the progress the little ones had made, and I think it strongly commends itself for a small appropriation of \$5,000.

The amendment was agreed to.

Mr. NYE. I am authorized by the Committee on Naval Affairs to report the following amendment:

*And be it further enacted,* That there shall be paid to Donohue, Ryan & Secor, builders of the iron-clad monitor Camanche, in accordance with the estimate and allowances, the sum of \$179,993 80 upon the loss sustained by the parties named in the construction of the Camanche, and the Secretary of the Treasury is directed to pay the same.

Mr. SHERMAN. I raise the point of order that that is a private claim. It cannot be attached to an appropriation bill. It is not claimed to be in pursuance of law, but a mere private indemnity.

Mr. NYE. I think the Senator will see by looking at the law authorizing the construction of these iron-clads—

Mr. SHERMAN. I believe these points of order are settled without debate on the face of the amendment.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) They are settled without debate unless by unanimous consent.

Mr. SHERMAN. There can be no doubt it is a private claim.

Mr. NYE. I think there is very great doubt of it.

The PRESIDING OFFICER. The Chair is of opinion that it must be regarded as a private claim.

Mr. NYE. Then, with great respect to the opinion of the Chair, I propose to take the sense of the Senate upon that question.

Mr. SHERMAN. Very well; let us have the vote.

The PRESIDING OFFICER. The Senator from Nevada appeals from the decision of the Chair.

Mr. NYE. Is that question debatable?

The PRESIDING OFFICER. Certainly.

Mr. NYE. I suppose the Senator from Ohio objects to this amendment under the thirtieth rule, which reads:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

In February, 1862, a law was passed by Congress authorizing the Secretary of the Navy "to cause to be constructed, by contract or otherwise, as he shall deem best for the public service, not exceeding twenty iron-clad steam gunboats for the use of the Navy of the United States." I suppose that the law authorizing the Secretary of the Navy to construct these iron-clads carried with it the power to contract, superintend, and build them; and it authorized him and made it obligatory upon him to pay for them.

The Senator from Ohio will remember this case, I trust. Some weeks ago I had the honor to report a bill paying all these naval constructors twelve per cent. on the contract price for damages sustained. This claim is a claim that the Committees of both Houses on Naval Affairs and all parties concerned raised no possible objection to the justice of, but all admitted that it ought to be paid. The distinguished chairman of the Naval Committee, of which I have the honor to be an humble member, with all his scrutiny, said here upon the floor repeatedly of the Camanche, that there was no question but that this amount was honestly due, and ought to be paid to those who built her.

Mr. SHERMAN. I submit the question as a matter of convenience, whether it is in order to debate the merits of a proposition on the mere question as to whether it is a private claim. I can stay here as well as other Senators; we have to pass this bill to-night if we

mean to adjourn on Saturday; and I ask the Chair whether it is in order to discuss the merits of the claim, whether it is a just claim or not, on the question whether it is a private claim. That is the only point now before the Senate.

Mr. NYE. I merely suggested that point to show the justice of the claim and to appeal to the Senator from Ohio if there was here a mere question of technicality interposing to prevent justice being done to waive it. I hope the Senate will disregard a mere technicality that is disregarded on every appropriation bill every year, more or less. It is impossible that any claim, general in its character as it may be, does not inure to the benefit of individuals. These general appropriations are all, in one sense, to inure to the benefit of certain individuals.

Now, sir, the law authorizing the construction of a certain number of iron-clads—and it being a conceded fact that the Camanche was one of the twenty authorized to be constructed—it being agreed by the Department and by both committees to which the case has been referred that there is this amount due upon its construction, I insist upon it that this amendment is not to provide for a private claim within the sense of the thirtieth rule, so as to be excluded. It is to carry out the provision of the law of February, 1862, for I shall not be told by the Senator from Ohio, I trust, that it is not as much a part of the obligation to pay as it is to construct, and upon that I am willing to take the sense of the Senate for my rule and guide of action.

I ought to state one thing, perhaps, that the action on the general bill passed by the Senate and sent to the House has been deferred until next December. Now, I happen to know that this money thus justly due is crushing and grinding one of the worst men of this country to the very earth by the interest he is paying. It is utterly ruinous; and to defer this on a mere question of forced technicality I insist upon it is not fair. It will cost the Government no more, I suggest to the Senator from Ohio, to pay it here than it will at any other time. It is acknowledged to be due; the scrutiny of two committees has declared so; the Navy Department has declared so; and I trust that no little technicality here will so warp the judgment of the Senate as to say that these men shall be further and totally demolished upon a mere question of what I consider forced technicality.

Mr. SHERMAN. I suppose that in calling for the enforcement of the rules of the Senate I simply do my duty. Not to do it would be to create "confusion worse confounded." Here the rule of the Senate plainly denies to any one, even to a committee, to propose a private bill as an amendment to an appropriation bill, for the simple reason that while you are considering general appropriations for future expenditures you cannot stop to consider all the private claims that may have arisen in the past. The rule is founded upon the necessity of the case, upon common sense, and upon parliamentary law. The Chair has decided that this is a private claim. The Senator scarcely disputes that proposition; but he asks the Senate to overrule the decision, not that he disputes that the measure is a private claim, but because the claim is a just one. It is to avoid the discussion of that very question at this period of time on the appropriation bills that this rule is made; and we have no right, when the question is left to the Senate, to decide it by saying this is a just claim. The purpose of the rule is to exclude all private claims, whether just or unjust, simply because, while a general appropriation bill is pending, it is wrong as a matter of parliamentary principle to encumber that bill with private claims, whether just or unjust. That this is a private claim no man can question; and that is the only question submitted to us for our judicial opinion. It is money due to an individual for past services, whether just or unjust is not the question.

Mr. NYE. Under an existing law.

Mr. SHERMAN. It is money due to a private individual, past due. That is enough to make it a private claim. That is the only definition of a private claim. An appropriation is for future expenditures.

Mr. HOWE. Will the Senator allow me to inquire—I inquire for information—if this be money due to these individuals, is not this amendment offered with a view of carrying out the provisions of an existing law?

Mr. SHERMAN. No, sir.

Mr. HOWE. Then how is the money due?

Mr. SHERMAN. I say the question whether it is due or not cannot possibly arise, because if it is a private claim, even if the money is due it cannot be inserted here. The law to which the Senator refers provided that certain vessels should be built, and provided for the manner of building them. Every dollar the United States agreed to pay for those vessels has been paid, and the whole basis of the claim is that it is equitably due. It does not arise under an existing law; the only claim is that the vessel was built under a law. Every private claim that is presented in any shape or form to us arises under some existing law, because it all grows out of the service of the Government. Nearly all the private claims that are on your Calendar grow directly or indirectly out of existing laws. If the Senate will overrule the plain provisions of the thirtieth rule in order to put this private claim upon this bill, as a matter of course there is an end of all checks, and I shall not deem it my duty to interpose any further check.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. HENDRICKS. It is very disagreeable of course to differ with the Chair on a question of this sort, and I know the Chair will not be at all displeased or feel hurt if the Senate shall overrule his decision. Here is money that ought to be paid. Nobody questions it. Everybody said this claim was right when the bill was up. There was an appropriation to build certain ships; this ship was built, and there is not enough of money appropriated to pay it. It is built according to law and there is no appropriation to pay what everybody admits to be due. This is the claim that the Senator from New Hampshire now occupying the chair [Mr. CLARK] said was right when it was up. Everybody said so.

Mr. EDMUNDS. Will the Senator from Indiana allow me to inquire whether this amount which is to be paid to these gentlemen is a sum due to them by contract, or a sum which ought to be paid to them in excess of what was agreed to be paid?

Mr. HENDRICKS. It is a sum due to them by contract, not the written contract, but it grows out of the fact that the Government took from them after they had finished the machinery the important part of that machinery and thereby they were delayed in their work, and now it is a *quantum meruit* instead of the stipulated price. The conduct of the Government was such as to raise that class of contract. I hope this claim will be allowed. It is a question of life or death. The vessel was swamped once and was a dreadful loss upon these parties, and now the question is whether we shall delay this thing and swamp in a financial way the parties who have rendered such good service to the Government. I hope it will be allowed.

Mr. EDMUNDS. If I understand the question now, it is whether the decision of the Chair shall stand as the judgment of the Senate, and it appears to me that that is purely an intellectual question. It has nothing to do with the admitted or claimed justice of these gentlemen's claim; but it is a question which we are bound to decide upon the law and the rule irrespective of what we desire shall be the result of it. It would not do for us, I take it, if we were sitting, as the Senator from New York [Mr. HARRIS] used to sit, as judges here on an appeal from some lower court, to have our wishes enter into the question of deciding what the law really is.

Now, the Senator from Indiana tells us that this is not a sum of money which is to be paid in pursuance of a contract made under the law authorizing the construction of these vessels, but that on account of some interference with that contract by the power of the Government a just claim in equity arose in favor of these gentlemen. I do not know that; but I do not doubt it, because the Senator says it is so. But the question recurs, not whether or not we ought to pay these people, but whether we can conscientiously decide that your decision, sir, is an error, merely because it happens to suit our wishes at this moment to accomplish a particular result. That is the question; and that being the question, it appears to me that we cannot hesitate to sustain the decision that the Chair has made; and if this claim be a just one, as it is represented, a bill to pay these gentlemen can be introduced and be passed in an hour by itself, if it be really true as is stated—and I have no reason to doubt it—that this is that species of claim.

Mr. CONNESS. This question assumes a very disagreeable attitude to Senators. I have understood the practice of the Senate usually to be when a question of this kind arises for the Chair to submit the question to the Senate and let the Senate decide whether the proposition presented is a private claim or not, and I hope, in that view of the case, that the Senator will withdraw his appeal from the decision of the Chair, and that the Chair will submit the question to the Senate in the ordinary way.

Mr. POMEROY. I was going to suggest that we may take the question in another way.

Mr. NYE. I will withdraw the appeal. All I desired was to have the sense of the Senate.

The PRESIDING OFFICER. The Chair certainly has no desire to decide the point of order; but when a point is made it is the duty of the Chair to decide it, and he cannot have any question about it; but the Chair will submit the question to the Senate if Senators have any delicacy about it. The question is, Shall this amendment be received under the rule?

Mr. STEWART. I simply wish to remark that if there is any embarrassment in regard to the question of order, there can be no embarrassment with regard to the propriety of passing the measure. Before, when it came before the Senate, it was accompanied by a large number of other measures as to which we were not informed; but the chairman of the Naval Committee and every Senator who spoke concurred in the fact that this was a just claim and ought to be paid. Now, inasmuch as we are relieved from a great deal of embarrassment that may come at another time in a combination and omnibus bill to pay a number of claims, having an honest claim before us that we all concur in, it seems to me it should be received now with a good deal of favor by the Senate. It is the portion of the iron-clad bill which every one agreed ought to be passed; and that being the case, it is a hardship on them to postpone it to another session.

Mr. FESSENDEN. The same remark would apply to a hundred other cases of hardship. If there ever was a private claim in the world, this is one. It was submitted to the Senate originally as a private claim, on a petition, referred to a committee as a claim and a private claim merely. To be sure there were a good many others of the same kind; but its character cannot be possibly changed by that circumstance in any possible way. If the Senate, merely because it is in favor of a particular claim, is to hold that it is not a private claim, there will be no getting along at all with our appropriation bills. The Senate on the construction of a rule so clear in this case will only stultify itself by deciding that this is not a private claim. There is nothing else about it. It is in favor of a private party for a claim which has gone before a committee and been considered as a private claim.

Mr. HOWARD. I have no doubt there is a private claim; but it is not every private claim that is excluded from consideration by the thirtieth rule. The exception made to that

rule in regard to private claims is in these words: "unless it be to carry out the provisions of an existing law or a treaty stipulation." I think the question here is whether this case does not fall within the exception. What is this claim? It is a claim, as I understand it, presented by the contractors for compensation on account of the losses which they assert they have sustained in executing a contract with the Government, and by the action of the Government which has tended to prevent them from performing the contract as they were required to do by its letter.

Mr. SHERMAN. In the nature of unliquidated damages, I suppose.

Mr. HOWARD. No, sir. The claim arises under a contract which was entered into to carry out, in the language of the rule, "an existing law."

Mr. EDMUNDS. But the Government violated the contract by taking away the property. Then their conduct was contrary to law instead of under the law.

Mr. HOWARD. If these claimants have an equitable claim against the Government arising out of and under a contract which was entered into to carry out an existing statute, it seems to me that it is a private claim arising out of the provisions of an existing statute. I cannot confine the language of the rule to claims which are strictly legal claims, where there has been a *quid pro quo*, a legal, formal consideration; but it embraces by its very terms all claims, whether legal or equitable, and I understand that these claimants found their claim upon the equities of their case, and in that point of view I certainly can make no distinction between an equitable claim and a legal claim, both arising under a contract to carry out the provisions of an existing statute.

It is alleged that the failure of the contractors to perform their contract arose from the intervention of the Government itself, which prevented them from performing it in the mode and within the time required by their contract. If that be the case, then surely there must be an equity on the part of the claimants, arising out of their contract and out of the action of the Government itself. It seems to me; therefore, it will be giving this rule a very narrow and insufficient construction to confine it to cases which are stripped of every character of equity but resting solely upon a point of law. I cannot give it that narrow construction.

Mr. FESSENDEN. The construction that my honorable friend gives would be a very excellent one. This is a private claim, he admits, but under his construction it comes under the exception to the rule; being to carry out an existing law; and how does he proceed to do it? Why, there is no law for it; it is a mere equitable matter, for which the parties are obliged to come to Congress because there is no law, and therefore it arises under an existing law! That is his logic, stated in plain terms. This, he says, is a private claim. Nobody doubts that. Why is it not paid? Because there is no law for it. It is nothing but an equitable claim upon the Government.

Mr. HOWARD. Will the Senator allow me to inquire whether, in his opinion, the rule contemplates that there shall be a law to pay the claim?

Mr. FESSENDEN. I will state the construction that has always been put upon it. It is that there must be a law admitting the thing itself, but where there has been no appropriation to meet the provisions of that law, an amendment is allowable.

Mr. TRUMBULL. For instance, where there is an officer provided for without an appropriation for his salary.

Mr. HOWARD. That is not a fair construction of the rule.

Mr. FESSENDEN. Where the law provides that the thing shall be done, but there has been no appropriation to do it, that is something arising out of an existing law. But here is a claim which has not a law to found itself upon, but is simply equitable in the strictest sense of the word, if anything. It surely

cannot be received. The Senator from Michigan admits that there is no law to pay it, and yet he says it arises under an existing law. He will see at once that that cannot be.

Mr. HOWARD. The interpretation of the Senator from Maine seeks to interpolate into the language of the rule that which it does not contain, because he insists in the first place that the claim shall be a private claim; and, secondly, that there shall be a law requiring its payment. The language of the rule is that the character of the claim shall be to carry out the provisions of an existing law; that is, a statute that is in force.

Mr. FESSENDEN. Will the Senator refer me to the existing law which this amendment is to carry out?

Mr. HOWARD. The law which authorized and required the construction of these vessels, the law now in force so far as this contract is concerned.

Mr. FESSENDEN. The contract was made; and as this does not come under any law authorizing payment, it is necessary to pass a new appropriation, and therefore it is within the existing law.

Mr. HOWARD. That is the Senator's *reductio ad absurdum*; it does not arise from the rule or from my argument.

Mr. EDMUNDS. The case is simply this: here was a law which provided for the construction of vessels; the United States contracted with these parties to construct one of those vessels in a particular way and deliver it in a particular place; and when they were about to do that the authorities of the United States stepped in because they were the strongest, and took certain parts of that vessel and made use of them in another way. These gentlemen were not carrying out the provisions of an existing law when they yielded to the force of the Government any more than the men whose property was taken by quartermasters were carrying out the provisions of a law to carry on the war because they gave up their property to the Army—not a particle.

All that I rose to say was that the day before yesterday the Committee on Commerce undertook to get an amendment put on this identical bill which was precisely parallel to this, and the Chair ruled with the acquiescence and assent of the Senate, and with our acquiescence because we thought it to be correct, that it was not in order; and that case was this: an existing law required the construction of a lighthouse at Cape Canaveral, in Florida; the Light-House Board or the Secretary of the Treasury, whichever is the proper authority, entered into a contract with R. P. Parrott to build it; he went on in the execution of that contract until the war broke out, when the Department stopped it, so that he was unable to get the pay which he should have had under the contract. They recommended the claim to our consideration; it was perfectly just, and the Committee on Commerce offered it as an amendment to this bill; but the Chair ruled only the day before yesterday, with the acquiescence of the Senate, that that was a private claim, and not to be entertained as an amendment to this bill. Now, the Senate ought to be consistent with itself, however strong its wish may be to relieve these men.

Mr. McDOUGALL. Perhaps there may be another view taken of this subject in regard to the rule. There was a law passed for the construction of these iron-clads, and there was an appropriation made for their construction. There was then a law and a provision for payment, with the right to contract for their construction, with the right to alter the plans, with the right to make any changes, and the right to do it with the consent of the contractors, which immediately created an obligation on the Department and charged them just as much as the original contract made between the parties in writing. It is just as obligatory, and the money here claimed could have been paid out of the Treasury upon the warrant of the Secretary of the Treasury from the appropriation made for the construction of the iron-clads.

There was a law for the construction of iron-clads, and a general appropriation placed in the hands of the Secretary, and he was given a general discretion. He was authorized to charge the Treasury with the responsibility of his proceedings in their construction; and when he changed the plan of the vessel, or when he asked for a different thing to be done from that which the parties agreed to do, it was an *addendum* to the contract, just as binding as if it had been put in writing, with all the ceremonies of the Department. You can make no distinction between the contract, the result of these circumstances, and the written contract, so far as obligation is concerned.

Here, then, I say, is a contract with an appropriation. There were circumstances that charged the Government with a positive obligation. Why is that not an exception which takes it out of the rule relied upon by the chairman of the Committee on Finance?

Then, Mr. President, the question whether or not this matter shall be considered is a question for the Senate to determine by a majority vote. The Senate is not, and never has regarded itself bound by any technical question on such a subject. Measures of this kind, private bills, have often been placed upon appropriation bills, the Senate taking the responsibility of doing it, the Senate thinking that the circumstances justified it. Surely, if circumstances would justify such action in any case, this is that case. I trust, under all the circumstances, without raising mere technical questions, although I believe the technical point is in favor of the amendment, the Senate will allow it to be considered on this bill, it being the universal voice of the body that this is a just claim which should be paid, and a denial of this acknowledged justice will involve ruin to the parties claimant.

Mr. HENDERSON. I desire to ask the Senator who presented this amendment, which will involve an appropriation of \$180,000, if the committee who examined it did not find that a part of the damages resulting to these individuals arose from the sinking of this vessel. Am I mistaken or not? I ask, did not a part of the damages which this amendment is intended to cover arise from the sinking of the vessel in the harbor of San Francisco?

Mr. HENDRICKS. If the Senator propounds his question to me, I will state what the fact was. The vessel was about completed and ready to be taken round to San Francisco, it being intended for service upon that coast. The Government had occasion to use the machinery in a vessel then at Port Royal or at Charleston, and took out of this vessel a very important portion of the machinery, thus increasing the cost of replacing it, because of the enhanced prices in the mean time, and delaying the shipping of the vessel until the stormy season. Then at the time the vessel went to the Pacific coast it encountered an extraordinary storm, being in the season when storms are likely to occur, and was sunk, and there was great cost in raising her. A portion of the cost was in raising and restoring the vessel after it got to the Pacific coast. A portion of it was because of the enhanced prices in the mean time.

Mr. HENDERSON. That was my recollection in reference to the damages that this amendment was intended to cover. The Senator from Michigan says that this claim grew out of an existing law. Now, it turns out that the larger portion of the claim does not grow out of a law but grows out of the sinking of the vessel. The damages, it seems, grew out of the storm; and if there be any law for the allowance, it must be the storm itself, for surely there is none other. It is not pretended that these parties have not been paid every dollar that the law authorized to be given for building the vessel. My remembrance is that the contract was made with these parties under an appropriation to cover the contract price, and every dollar of that has been paid. But they say that the Government did not comply with its part of the contract, and they now ask

for damages that resulted from the sinking of their vessel in consequence of the failure of the Government to comply with its part of the contract.

The latter part of the thirtieth rule of the Senate is—

"No amendment shall be received whose object is to provide for a private claim unless it be to carry out the provisions of an existing law or a treaty stipulation."

What is the meaning of that? If a contract had been entered into a number of years ago to build the Capitol, for example, and appropriations were made from year to year, as was the case, in order to pay for the work that might be done during the year, this would be an existing law under which the work would go on, and an amendment might be offered making an appropriation to cover the work that might afterward be done. That is to say, the work is to be done from year to year, and the law is an existing law. Perhaps, in such a case, the appropriations, running through a series of years—fifteen or twenty years—would amount to many millions, but only a sufficient amount is appropriated each year to meet the work that may be done in the succeeding year.

When the bill for the relief of the iron-clad contractors was pending I took some part in the discussion. I did not remember the precise character of this particular claim, but it turns out as I supposed, and the facts are such as to make it unquestionably a private claim. The thirtieth rule was adopted for a good purpose. The Chair says that this proposition cannot be entertained under the rule; but Senators say, submit the question to the Senate and let us take a vote upon it, and if a majority wish to violate the rule of the Senate let them do so. Sir, that ought never to be done; and why? Are we, under a mere proposition to make an appropriation to pay a certain amount of money, to take up and consider the merits of this claim? I understand that an appropriation bill is not for the purpose of considering the merits of the claims that may be presented. An appropriation bill is intended to carry out the existing laws imposing obligations for carrying on the Government. By making an appropriation for this claim we admit its justice. I am not prepared to admit the justice of this claim, and I apprehend the Senate is not prepared to admit any such thing. I know it has been repeatedly said during the short discussion we have had about it—and surely that has been long enough—that all the Senate concurred in this claim. I apprehend not. It is said the committees have concurred in it. Sir, if this proposition is to be received, the door will be opened to consider all this iron-clad business. The Senator from Iowa, chairman of the Committee on Naval Affairs, did not admit the justice of this claim; but, as I understand, he only proposed to pay twelve per cent. upon the contract price.

Mr. HENDRICKS. Not upon this particular claim.

Mr. CONNESS. This was specially excepted from that rule. All of this claim is to be paid, and twelve per cent. of the others.

Mr. HENDERSON. Was not this claim in the original bill?

Mr. HENDRICKS. Yes, sir; but this claim was provided for in the original bill, by the consent of everybody, at its face.

Mr. HENDERSON. At any rate, I ask if the Senate is going to violate its rules? If we want to pay this claim, let us take it up on a separate bill and pass it; but it is certainly a private claim because it is founded on unliquidated damages. If this is not a private claim, there is nothing of that character.

Mr. BUCKALEW. I rise to make a suggestion to the Senate. I hope that by common consent it may be understood that a bill for this particular clause of the large omnibus bill which has been passed by the Senate for the relief of the iron-clad contractors will be at once introduced and passed through the Senate and sent to the other House. I recollect very well that when that question was up be-



fore, gentlemen upon the committee who examined the subject, and who were very critical in their objections to most of the claims comprised in that bill, conceded that this ought to be paid, and upon the face of that bill it was made an exception, or, at all events, it was provided for in a peculiar form. I am satisfied that the examination then given to the subject, both in committee and in the Senate, was sufficient to warrant us in assuming it as a just and a good claim. But, sir, it will not answer for us to put it on this bill. This precedent, if established, can be quoted during the remainder of the session, and I presume that if you are to apply the precedent to other cases which will be introduced you will have to extend the session. There are an innumerable number of claims floating through the two Houses of Congress, and the wisdom of the existing rule cannot be questioned by any member, whether he be recent in service or has prolonged experience. As this is a case of unusual merit, my suggestion would be that in order to prevent any possible violation of the rule or any question about the rule, the maintenance of which is indispensable to the purity of our legislation, and in fact to our having our legislation transacted in proper time toward the end of the session, the present amendment be withdrawn and that we provide for the case in a separate bill.

Mr. NYE. I withdraw the amendment with that understanding.

Mr. TRUMBULL. I offer this amendment as an additional section:

*And be it further enacted, That the sum of \$2,000 is hereby appropriated to enable the Commissioner of Public Buildings to cause the chamber of the Supreme Court to be painted, and to make such needful repairs therein as the Chief Justice may deem necessary.*

Mr. FESSENDEN. There is a provision in regard to the Supreme Court room on the deficiency bill, which I shall report to-day.

Mr. TRUMBULL. For this same purpose?

Mr. FESSENDEN. Not precisely the same, but with reference to the same room.

Mr. TRUMBULL. I withdraw my amendment if it is provided for elsewhere.

Mr. FESSENDEN. I do not say it is provided for, but there is a provision there on the subject, and this would come in appropriately on that bill.

Mr. TRUMBULL. Very well; I withdraw the amendment.

Mr. STEWART. I offer this amendment, to come in on page 24, after line five hundred and sixty-four of section one:

For compensation of the surveyor general of Nevada, \$3,000.

For compensation of clerks in his office, \$5,000.  
For office rent, messenger, furniture, books, fuel, stationery, and incidental expenses of the office, \$3,000.

Mr. FESSENDEN. Does this come from the Land Office?

Mr. STEWART. Yes, sir. I am directed by the Committee on Public Lands to offer this amendment, based on the recommendation of the Commissioner of the General Land Office.

The amendment was agreed to.

Mr. STEWART. I offer another amendment, to come in on page 25, after line five hundred and eighty-four of section one:

For compensation of the surveyor general of Montana, \$3,000.

For compensation of the clerks in his office, \$5,000.  
For office rent, messenger, furniture, books, fuel, stationery, and incidental expenses of the office, \$3,000.

I will state that these amounts are the estimates of the Commissioner of the General Land Office, and I was instructed by the Committee on Public Lands to offer the amendment. A bill creating the office of surveyor general for Montana has passed both Houses, but has not yet been signed by the President. It is now pending before the President. Of course the appropriation will not be used unless the bill is signed.

Mr. JOHNSON. Is that the usual amount?

Mr. STEWART. It is the estimated amount.

Mr. JOHNSON. Eleven thousand dollars?

Mr. STEWART. This is for starting the office. There is \$1,000 extra put in for fixing up the office. In other respects it is the usual estimate.

The amendment was agreed to.

Mr. CRESWELL. I am instructed by the Committee on Agriculture to offer this amendment as an additional section:

*And be it further enacted, That to enable the Commissioner of Agriculture to purchase for the use of the Department of Agriculture, from Townsend Glover, Esq., his collection of insects, birds, models of fruits, &c., as per his schedule thereof of May 15, 1866, the sum of \$10,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.*

Mr. FESSENDEN. I hope that will not be put on this bill.

Mr. CRESWELL. I desire to say a very few words in support of this proposition. This collection has been on exhibition for the benefit of the Agricultural Department for more than ten years past, and at the session of 1855-56 an appropriation of \$10,000 was made to purchase but a portion of it, that portion of it which includes the birds.

Gentlemen seem to regard this appropriation as something entirely unworthy of the consideration of the Senate. On the contrary, I have a very different opinion. It is not a collection of two-headed calves and monstrosities generally, but it is a scientific collection, arranged with the utmost care after a protracted life of hard work. Mr. Glover is a gentleman of acknowledged high position as an entomologist. He is acting in that capacity in the employment of the Agricultural Department. He was for many years preceding his engagement there employed in the Agricultural College of Maryland. He has devoted all the active years of his life to making this collection, and it is of the utmost practical utility, in my estimation. He arranges all substances that come within the scope of his investigations in a manner that will lead to the dissemination of the most valuable information. For instance, he takes up the subject of flax; he collects every specimen grown in the United States or elsewhere; he arranges them according to their proper names, and then he accompanies each with a card giving all the information he has been able to collect upon the cultivation of flax, its application to certain climates, the effects of certain soil upon it; he then gives all the products from flax and all the practical uses to which it can be applied.

The object of his collection is that, upon application to the Department, any person who may desire information upon any subject can be immediately referred under his arrangement to the matter upon which he desires to become conversant, and can there find in a very few moments all the information which the Department has been able to collect on that subject.

During the last five or six years his collection has been of great use in that way, and gentlemen have derived from it certain information that they could not collect, perhaps, under years of labor elsewhere. His collection now occupies two rooms of the Agricultural Bureau. It is designed to form the nucleus of a grand museum of agricultural and economic subjects; and I think, with my limited knowledge of the question, that no more appropriate expenditure could be made with reference to that Department. It seems to me that it is only a modicum of what is due to the great interest of agriculture.

Mr. FESSENDEN. I think we can hardly, at this period of the session, pass an appropriation to meet the convenience of every gentleman who has devoted his time and his talents and his tastes to a particular pursuit. This is one of them, and I do not know what occasion we have to appropriate \$10,000 for this purpose. It strikes me as very singular that there is no proposition of any kind or description that the good nature of some Senator may not be prevailed upon to offer to the Senate, and in that way we spend a good deal of time. I really hope the Senate will not adopt this amendment.

Mr. CRESWELL. I claim a good deal of credit for being amiable, but I am sure that in offering this amendment the Senator will not find an instance of that. I offer it not for the convenience of Mr. Glover or any other scientific man, but I offer it with a view to the interests of the agriculture of the country.

Mr. SHERMAN. I was a member of the committee that authorized the amendment to be moved, and while I am not anxious that the Senate shall agree to it, and while from my relation to the bill I am rather inclined to keep it off this bill, I feel bound to state some facts that have come to my knowledge. Mr. Glover is a man who has devoted his life to the collection of specimens of fruit, birds, plants, and all the various branches of the different sciences connected with these subjects. He is a very learned man. He took the highest prize at the recent exhibition at Paris, the gold medal, which is now in the possession of the Government, because he being an employé of the Government could not hold it himself. He has a collection of specimens of fruit, birds, plants, &c., very beautifully and wonderfully arranged. He has spent a whole lifetime at it. For instance he takes the curculia in its various stages, shows how it is destroyed, what its effect is, and then he represents the fruit and shows how it is affected by it.

Mr. GRIMES. I desire to inquire of the chairman of the Committee on Agriculture if this Mr. Townsend Glover has discovered any way by which the ravages of the curculia can be remedied.

Mr. FESSENDEN. If he has, let him take the prize which has been a standing offer for years, of £5,000, by the English agricultural societies.

Mr. SHERMAN. I hope Senators will not go off at a tangent, because although Mr. Glover has not discovered everything he has discovered a great many things, and his collection is of great interest and immense value. An appropriation was made some years ago to buy this identical collection, I think about eight years ago.

Mr. CRESWELL. In 1855-56.

Mr. SHERMAN. Ten thousand dollars was then appropriated for the purchase of this collection which he had collected as a private citizen. He was then, however, in the employment of the Government, and was ordered by Mr. Mason, the Commissioner of Patents, on some other duty, and the money was misapplied, applied to different purposes. There is with the papers a letter of the Commissioner of Patents, and also a letter of Mr. Holloway, the late Commissioner, explaining the matter. This property has been in the custody of the Government and in the sole use of the Government from that time to this. It has been there in the office of the Department of Agriculture.

Mr. GRIMES. What is the use of it?

Mr. SHERMAN. It has been of great use. As to whether it is prudent or wise for the Government to buy it, I leave every Senator to judge for himself. I have no doubt that if we pay this man \$10,000 he will devote the whole of the \$10,000 to the pursuit of this very business. That he has been a useful man, I do not think there can be any question about; a very useful man in his way.

Mr. GRIMES. These models of fruit are very pretty things to look at, but as I have been in the fruit business somewhat, I will state to the Senator from Ohio that they are of no possible use to a man from his region of country and mine.

Mr. SHERMAN. Oh, yes, they are.

Mr. GRIMES. I have had a little experience on that subject, and a good deal of observation. Take the Rhode Island greening and the Roxbury russet, which he has taken as a model from which to manufacture his specimens, raised in Connecticut or New York, and transplant them to Illinois and Iowa, and they become an autumn fruit, an altogether different kind of apple.

Mr. SHERMAN. This gentleman has speci-

mens of fruit from all the different States; for instance, the Baldwin apple, which I raise a good many of. He has it from New England, he has it from Ohio, he has it from New York, he has it from Illinois, showing different specimens from different States, and showing where particular kinds of fruit succeed the best.

Mr. GRIMES. It is not possible for this gentleman to have these things so as to be of any use. The Senators from Illinois and Wisconsin will tell you that a fruit growing on the black prairie soil, one hundred yards from the same variety of fruit growing on the yellow timber soil, is altogether a different sort of fruit. They are various in the description of the tree and in the production of the fruit. What does Mr. Glover tell us about that? Does he give you any information by his models as to how one variety of fruit may be grown upon one character of soil and another grown upon another character of soil? He gives you merely the exterior outline of the fruit.

Sir, this Agricultural Bureau is altogether too great a thing to be run by a central government here at Washington, and we shall discover that after awhile. We must have these organizations in each State. The idea of one man here at Washington undertaking to tell the people of this country, extending as it does through so many parallels of latitude and longitude, what may be the particular description of fruits or cereals or of anything else adapted to a particular kind of soil or climate, is a great humbug, and this, I think, is a part of it.

Mr. CRESWELL. The difficulty that the Senator from Iowa states is precisely one that Mr. Glover wants to overcome. It is a part of his plan to keep specimens of all these fruits from the various soils and localities of the entire Union.

Mr. GRIMES. It is too big a business; it cannot be done.

Mr. CRESWELL. It can be done, and only done by the General Government, by some person here who has an opportunity to interchange views with gentlemen who represent all the States. He has, as the Senator from Ohio has stated, varieties of the Baldwin apple grown in almost every State of the Union; and upon the cards accompanying the specimens he says distinctly, this apple is valuable grown in certain localities and worthless grown in others; and persons who will consult him can at once ascertain where it is desirable and where not desirable to plant that variety. I am sure if this collection is purchased by the Government and he is allowed to continue his plan, very valuable information can be disseminated throughout the whole country in that way.

Mr. GRIMES. Just so long as the General Government here at Washington undertakes to control these things the State governments will not do it; but the moment we decline to do it here then your agricultural colleges in the various States will undertake to do precisely this character of services, and you will get such information as will be of value to the people of the respective States. Now, sir, when you say that Mr. Glover or Isaac Newton can tell me which is the best variety of fruit of the thousand kinds that are raised, to be raised on a river bottom land adjacent to a large body of water; what is the best on a small piece of bottom land where there is not much water; what is best on a piece of yellow clay land; what is best on a piece of black prairie land, and what is best on a piece of thin sandy land, it is more than anybody here can do. We must do it in the States. So long as the Federal Government arrogates to itself the power of concentrating all information here, so long the States will neglect to obtain that kind of information.

The amendment was rejected—ayes twelve, noes not counted.

Mr. SUMNER. I offer an amendment as an additional section, in which there is no appropriation:

And be it further enacted, That the provisions of the act to carry into effect the treaties between the United States and China, Japan, Siam, Persia, and other countries, giving certain judicial powers to

ministers and consuls, or other functionaries of the United States in those countries, and for other purposes, approved June 22, 1860, shall extend to Egypt; and the consul general at Alexandria shall have the power provided by section twenty-two of such act for the consul general or consul residing at the capital of a country where there is no minister.

I move this amendment under the direction of the Committee on Foreign Relations. I moved it last year and the Senate adopted it on the appropriation bill which, it will be remembered, failed. The object is simply to extend certain powers to our consul general at Alexandria which he has not now under the existing law.

Mr. SHERMAN. There are plenty of bills to which this would be more germane.

Mr. SUMNER. I beg the Senator's pardon. There is no other bill to come forward where it can be offered.

Mr. SHERMAN. Why has it not been presented before?

Mr. SUMNER. My attention was called to it only yesterday.

Mr. SHERMAN. When you kept quiet so long, there would seem to be no haste for putting it here. It is legislative in its character, purely.

Mr. SUMNER. What is the character of half the propositions that have been voted on this bill?

Mr. SHERMAN. They were appropriations. This is the first one of this kind.

Mr. SUMNER. This was voted last year on the same appropriation bill. It is according to the usage of the Senate to make the appropriation bill the occasion of passing propositions like this which have been forgotten. My attention was called to this during this session for the first time yesterday.

The amendment was agreed to.

Mr. RAMSEY. I have waited a long time for an opportunity to offer one of the most meritorious amendments that has been presented to this bill. It is to insert on page 10, after line two hundred and eighteen:

For light-house at Grand Portage, mouth of Pigeon river, Minnesota, \$6,000; subject to the approval of the Light-House Board as to the necessity of this light.

I will say in explanation of this amendment that the appropriation has been twice made; once in 1856 for a light at Grand Marie, on the north shore, and it was subsequently transferred in 1859 to Grand Portage, which is at the boundary line between the British possessions and the United States. The money, however, was not used, but lapsed into the Treasury, and it is necessary now, in order to go on with that light, that the appropriation be made.

Mr. SHERMAN. Is there any recommendation from the Light-House Board?

Mr. RAMSEY. I have a letter from the chief of the Light-House Board which I can send to the desk; and I am directed by the Committee on Commerce to move the appropriation.

Mr. GRIMES. Before acting on that, as it is almost half past four o'clock, I desire now to submit a motion, that at half past four o'clock the Senate take a recess until half past seven o'clock.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair will take this opportunity to present some House bills which are on the table, for the purpose of reference.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 32) to extend the jurisdiction of commissioners of the circuit courts of the United States—to the Committee on the Judiciary.

A bill (H. R. No. 92) to ascertain the practicability of having a steamboat navigation from the Chesapeake bay, at the mouth of the Susquehanna river, to Lake Ontario—to the Committee on Commerce.

A bill (H. R. No. 468) to provide for the

suits, judgments, and business of the United States provisional court for the State of Louisiana—to the Committee on the Judiciary.

A bill (H. R. No. 584) for the relief of William Joshua—to the Committee on Claims.

A bill (H. R. No. 604) to define and punish certain crimes therein named—to the Committee on the Judiciary.

A bill (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes—to the Committee on Naval Affairs.

A bill (H. R. No. 802) to incorporate the National Farm School—to the Committee on the District of Columbia.

A bill (H. R. No. 803) to amend an act entitled "An act to incorporate the trustees of the Female Orphan Asylum, in Georgetown, and the Washington City Orphan Asylum, in the District of Columbia," passed May 24, 1828—to the Committee on the District of Columbia.

A bill (H. R. No. 804) to regulate the appointment of clerks and commissioners of bail in the circuit or district courts of the United States—to the Committee on the Judiciary.

A bill (H. R. No. 805) to restore the possession of lands confiscated by the authorities of the States lately in rebellion—to the Committee on the Judiciary.

#### COURTS IN CALIFORNIA AND LOUISIANA.

The Senate, on motion of Mr. CONNESS, proceeded to consider the amendment of the House of Representatives to the bill (S. No. 179) in relation to the district courts of the United States in the State of California, disagreed to by the Senate and insisted upon by the House.

Mr. CONNESS. I move that the Senate recede from its disagreement to the House amendment. The Senator from New York has withdrawn his objection, and admits it to be right. The amendment has been read.

The motion was agreed to.

#### DONOHUE, RYAN, AND SECOR.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 141) for the relief of Donohue, Ryan & Secor, builders of the iron-clad monitor Camanche; which was read twice by its title and ordered to lie on the table.

#### DEFICIENCIES IN APPROPRIATIONS.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, reported it with amendments.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had insisted upon its amendments to the bill (S. No. 89) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, which were disagreed to by the Senate, had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. THOMAS D. ELIOT of Massachusetts, Mr. CHARLES O'NEILL of Pennsylvania, and Mr. WILLIAM RADFORD of New York, managers at the same on its part.

#### FINAL ADJOURNMENT.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the resolution of the House fixing the day for the adjournment of the present session of Congress.

#### EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business. At half past four o'clock the doors were reopened, and the Senate took a recess till half past seven o'clock, p. m.

## EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

## PETITIONS.

Mr. WILSON presented a petition of citizens of New Jersey, praying for an equalization of bounties of the soldiers who served in the late war; which was ordered to lie on the table.

## REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred three memorials of Norman Wiard, in relation to contracts for furnishing vessels to the War and Navy Departments, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

## WEIGHING OF EXPORTS.

Mr. MORGAN. I am instructed by the Committee on Commerce, to whom was referred a bill (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes, to report it back without amendment. I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that upon all weighable articles hereafter exported, upon which a drawback or return duty is allowed, and upon all weighable goods withdrawn from bonded warehouses for export, there shall be levied and collected, by the collectors of the several ports, three cents per hundred pounds, to be determined by the returns of the weighers.

The bill further proposes to abolish the office of measurer at the port of New York, and provides that the duties heretofore performed by them shall be performed by the weighers. The weighers at the port of New York are to receive an annual salary of \$2,500; but the increase of compensation over and above their present salary is not to exceed, in any fiscal year, the amount of fees earned by them.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## ANN E. SMOOT.

Mr. GRIMES. There is a little bill that was in charge of the Senator from New Hampshire, [Mr. CRAGIN,] who is sick, which will take no time, and he wanted me to call it up. It is House bill No. 422. I move to proceed to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot. It proposes to extend the benefit of the sixth section of an act to amend an act to promote the efficiency of the Navy, approved January 16, 1859, to Mrs. Ann E. Smoot, widow of the late Captain Joseph Smoot, of the United States Navy, and to direct the proper accounting officers of the Treasury to pay her the amount her husband was receiving at the time he was placed on the reserved list on furlough pay, to the date of his death, deducting therefrom whatever amount he may have received in the mean time on account of pay.

The Committee on Naval Affairs reported an amendment to the bill in lines nine and ten to strike out the words "amount her said husband was receiving" and in lieu thereof to insert "waiting orders pay of his rank which her said husband would be entitled to receive."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

## CIVIL APPROPRIATION BILL.

Mr. CONNESS. I move to proceed to the consideration of the joint resolution for the relief of the builders of the Camanche. It will only occupy a moment.

Mr. SHERMAN. I object. I insist on the regular order of business.

Mr. McDUGALL. There will be no debate upon it.

The PRESIDING OFFICER. The bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, is now before the Senate, as in Committee of the Whole, and the pending question is on the amendment proposed by the Senator from Minnesota, [Mr. RAMSEY,] on page 10, after line two hundred and eighteen, to insert:

For a light-house at Grand Portage, mouth of Pigeon river, Minnesota, \$6,000, subject to the approval of the Light-House Board as to the necessity of this light.

Mr. SHERMAN. I hope that will be passed over until the Senator comes in. He was giving some information about it at the time of the recess.

The PRESIDING OFFICER. The amendment will be passed over for the present.

Mr. MORRILL. I call the attention of the Senator from Ohio to the sixteenth page of this bill, where is this item, "to grade East Capitol street \$3,000." I move to strike it out. There is some misapprehension about that, I presume. The Committee on the District of Columbia reported a bill to appropriate some \$15,000 for grading East Capitol street and fencing Lincoln square at the end of that street, and it has been passed. This item ought to be stricken out, undoubtedly.

The amendment was agreed to.

Mr. MORRILL. I move to amend on page 15 by striking out lines three hundred and forty-nine and three hundred and fifty, namely, "for taking care of the Circle on Pennsylvania avenue, \$1,000." Unless the Finance Committee have information which I have not, I cannot understand how that can be possible.

Mr. SHERMAN. That is in the regular estimates.

Mr. MORRILL. But I cannot conceive that it is very regular. How taking care of the Circle, which is a little plat of ground entirely fenced in, should involve a cost of \$1,000, seems inconceivable. I move to strike it out.

The amendment was agreed to.

Mr. MORRILL. I call the attention of the committee, on the same page, to another item, in line three hundred and fifty three, "for removal of nuisances, \$10,000." I move to strike out those words.

Mr. SHERMAN. This was the estimate of the Commissioner of Public Buildings and was allowed by the House of Representatives; was in the bill when it came from the House. I am not sufficiently informed about it. I think the chairman of the Committee on Public Buildings and Grounds ought to understand about this.

Mr. MORRILL. It is clear enough that somebody ought to be responsible for these improvements, and I am led to criticise this from the fact that I know there are a good many items in this bill which ought to have been submitted either to the Committee on Public Buildings and Grounds or to the Committee on the District of Columbia.

The amendment was agreed to.

Mr. MORRILL. I move further to amend by striking out, on the same page, lines three hundred and forty-one, three hundred and forty-two, and three hundred and forty-three of section one, namely, "for repairs of Pennsylvania avenue, and sprinkling the same, and keeping it clean and free from dirt, \$10,000." We make appropriations for that avenue, but they are always submitted either to the Committee on Public Buildings and Grounds or to the Committee on the District of Columbia. There are some specific appropriations here for Pennsylvania avenue, but it will be seen by reference to this item that it is impossible to tell what it is for. "For repairs of Pennsylvania avenue."

Mr. SHERMAN. The repairs of the pavement.

Mr. MORRILL. "And sprinkling the same, and keeping it clean and free from dirt, \$10,000." We have been in the habit of cleaning it, but it is inconceivable that it is the duty of the Government to sprinkle this street when we have been to an expense of over three million dollars in bringing water here, and there is an abundant supply of water, and we have put down main pipes everywhere, and it is only to be let on. Now, that the Government should be called on to incur the expense of sprinkling the avenue it seems to me is absurd. I move to strike it out.

Mr. SHERMAN. I think it ought not to be stricken out.

Mr. MORRILL. On the same page, lines three hundred and forty-four, three hundred and forty-five, and three hundred and forty-six, I find this item:

For public reservation No. 2 and Lafayette square, in addition to the sale of hay which may be raised on the former, \$3,000.

If the Finance Committee have any information in relation to that, I will not move to strike it out; but it seems to me the very statement of the thing shows the absurdity of it. "For public reservation No. 2."

Mr. SHERMAN. It is the reservation east of the President's grounds.

Mr. MORRILL. "And Lafayette square, in addition to the sale of hay." It will be seen that there is an item of \$500 for repairing the iron gates on Lafayette square, and then still further a specific appropriation, and then comes in this general appropriation, for the square, accompanied with the public reservation. It is impossible for anybody to know when we have got done appropriating, if appropriations can be made in this way, and these parties are not required to come before the proper committees and state specifically the necessity for these appropriations. I make these propositions as a whole for the purpose of calling the attention of the Committee on Finance to them, so that we may have some understanding how these appropriations are to be made and on what basis.

Mr. SHERMAN. The chairman of the Committee on Public Buildings and Grounds is not here. He would probably be able to give the Senate more information on these matters.

Mr. MORRILL. These propositions should properly go before the Committee on the District of Columbia.

Mr. SHERMAN. I think not. There has been always since I have been a member of Congress an appropriation varying from \$3,000 and upward for the repair of Pennsylvania avenue.

Mr. MORRILL. Sometimes much larger.

Mr. SHERMAN. Then there is here an appropriation for public reservation No. 2 and Lafayette square. Lafayette square is in front of the President's House, and reservation No. 2 is immediately east of it, and I have no doubt a considerable sum of money is required to keep it in repair. We generally have allowed these appropriations for public buildings and grounds to rest with the Committee on Public Buildings and Grounds, and usually have added to them rather than taken away from them. I will state that all these appropriations are in the regular estimates submitted to us by the Commissioner of Public Buildings, and he is continually asking for an increase.

Mr. GRIMES. I have no doubt that is so; but I do not understand that the Commissioner of Public Buildings is the organ of the Senate, through whom the Committee on Finance should be informed.

Mr. SHERMAN. But these items come to us in the regular estimates from the Treasury Department. They are here in the printed estimates.

Mr. GRIMES. Then it results in this simply, that the Commissioner of Public Buildings, who makes this estimate, is the author of our legislation, inasmuch as whatever he does the Committee of Ways and Means and the Committee on Finance incorporate into their financial bills and pass through Congress.



Mr. TRUMBULL. Is it not so as to all our appropriations?

Mr. GRIMES. There are some things that are right patent before our eyes. I live near this Circle that we struck out an appropriation for. They asked an appropriation of \$1,000 "to take care of the Circle." That is the language.

Mr. CONNESS. To take care it does not run off. [Laughter.]

Mr. GRIMES. I would undertake to take care of it certainly as well as it has ever been taken care of, for \$100 a year. It is the Circle where the Washington monument is. In regard to Pennsylvania avenue, Congress has never appropriated any money to clean or to sprinkle it except just before the inauguration of the Washington statue, on the 22d of February, 1869, when we appropriated \$200, and I guess that is the only time it ever was cleaned. We are gradually working in here, through the phraseology adopted in this clause, a recognition of the obligation of the Government to clean and to sprinkle it, when we have furnished an aqueduct that gives a bountiful supply of water, at an expense of \$3,000,000. All they have to do is to put on the hose and sprinkle it themselves; and yet they have got an appropriation of \$10,000 here to sprinkle it.

Mr. MORRILL. I will vary my motion so as to strike out after the word "avenue" the words "and sprinkling the same, and keeping it clean and free from dirt."

Mr. SHERMAN. Before these amendments are made I want to show the Senate that the Committee on Finance have pursued the ordinary course in regard to these appropriations. We first found them submitted to us in the Secretary of the Treasury's annual estimates. They are sent from the Commissioner of Public Buildings through the Interior Department to the Secretary of the Treasury, and are submitted to us in the annual printed estimates. All these estimates are indorsed by the Treasury Department and submitted to us in printed form. These estimates referred to by the Senator from Maine now were submitted to us in that way. As a matter of course they have the sanction of the executive department of the Government before they come to us. It is right and proper that the Committee on Public Buildings and Grounds or the Committee on the District of Columbia should exercise a supervision over these matters; but as a matter of course the Committee on Finance cannot go behind these appropriations made according to estimates unless some complaint is made. I am very glad to see the Senator take supervision of the subject.

Mr. MORRILL. I ask that the amendment be reported.

The PRESIDING OFFICER. It will be reported as modified.

The Secretary read the amendment, which was on page 15, in lines three hundred and forty-one and forty-two, to strike out the words "and sprinkling the same, and keep it clean and free from dirt;" so as to read, "for repairs of Pennsylvania avenue, \$10,000."

Mr. MORRILL. Now, I move to strike out "\$10,000" and insert "\$5,000."

Mr. FESSENDEN. I suggest that it is not probable that keeping it clean and sprinkling it would amount to as much as one half the appropriation. There is a good deal to be done on Pennsylvania avenue this year. I do not feel disposed to dispute the authority of the chairman of the Committee on the District of Columbia if he has investigated it.

Mr. MORRILL. There are other specific appropriations made for it.

Mr. SHERMAN. What are they?

Mr. FESSENDEN. I do not find anywhere the estimate for taking care of the Circle.

The amendment, as modified, was agreed to.

Mr. MORRILL. I move further to amend on the same page by striking out lines three hundred and thirty-nine and three hundred and forty, as follows:

For casual repairs of the Potomac, navy yard, and upper bridges, \$6,000.

Mr. FESSENDEN. Why strike out that?

Mr. MORRILL. I will explain. This session, and within a month, on the application of the Commissioner of Public Buildings, the Committee on the District of Columbia reported a resolution appropriating \$10,000 or \$15,000, I am not sure which, but I think the latter sum, for repairs of the Potomac bridge, which was said to be ample. Now this provision here is "for casual repairs of the Potomac, navy-yard, and upper bridges." We have got an appropriation for the Potomac bridge on the eleventh page of this bill, where you appropriate, "to enable the Commissioner of Public Buildings to put in thorough repair the bridge across the Potomac at Little Falls, in accordance with the estimate of the engineer, \$2,410." There is a specific appropriation for one of the bridges covered by the item I move to strike out, so that we have already had specific appropriations said to be ample for two of the three bridges here provided for.

Mr. FESSENDEN. This is a bill making appropriations for sundry civil expenses for the coming year. The specific appropriations alluded to are made for repairs actually necessary at the present time to put the bridges in order. There are four bridges that are provided for. We provided the sum estimated from actual examination to make the repairs absolutely necessary now. Then it is customary to provide a fund for the year for casual expenses that may occur in the way of injury to these bridges; there are four of them. If the sum appropriated is too large to provide for contingencies we can cut it down.

Mr. MORRILL. You have appropriated in this bill \$5,000 for the navy-yard bridge besides this.

Mr. FESSENDEN. That is absolutely necessary now.

Mr. MORRILL. What occurred to me was that if this is for the contingent expenses of the coming year, this Congress will be in session again, and ample time will be given.

Mr. FESSENDEN. But we are now making appropriations for the year 1867. We do not wait until the next session of Congress to do that. We bring in a deficiency bill if it becomes necessary, but we do not provide in advance for deficiency bills.

Mr. MORRILL. My ground is that all the specific appropriations necessary for these bridges have been made. The Commissioner has not been before either of the committees of the Senate that have the supervision of these matters. There is opportunity for him to do so at the next session, and before these repairs will be needed; and I submit to the Senate that it should be his duty to go before these committees and submit the estimates.

The amendment was agreed to.

Mr. MORRILL. On page 14, lines three hundred and nineteen, three hundred and twenty, and three hundred and twenty-one, I move to strike out "for the necessary expenses to be incurred in consequence of opening Sixth street west across the Mall, and in making fences, \$2,000." That street is not open.

Mr. FESSENDEN. I suspect it has been opened.

Mr. MORRILL. No, sir; it has been authorized, but not opened.

Mr. FESSENDEN. Authorized by whom?

Mr. MORRILL. Authorized by Congress two years ago. The street has been authorized to be opened. It is to be opened by the city. There are no expenses to be incurred by us until the street is made. I move to strike out the appropriation.

Mr. FESSENDEN. If the city open it, who is to fence the public grounds?

Mr. MORRILL. We.

Mr. FESSENDEN. This is to meet, not the expense of opening, but the expense that is to follow the opening. We have authorized the opening of the street through the public grounds. If the city authorities open it, as I suppose they intend to do, we have got to meet certain expenses and provide for them

in advance. This is an appropriation of \$2,000 for that purpose. Why should that be struck out?

Mr. MORRILL. It should not, provided the city open the street, but the city are under no obligation to do it. They have been authorized to do it for two years, and have not taken the first step yet.

Mr. FESSENDEN. I suppose this is put in because they have expressed their determination to open it. What steps they have taken in the matter I do not know.

Mr. MORRILL. I have no disposition to urge it.

Mr. BROWN. The money cannot be expended until the street is opened.

Mr. FESSENDEN. Certainly not.

Mr. SHERMAN. I was opposed to this item originally on the ground that we ought not to open Sixth street; but on looking at the law I found that its opening had already been provided for.

Mr. FESSENDEN. I agree to that; but we cannot help ourselves.

Mr. GRIMES. The law that authorized the street to be opened provided that it should not be opened until it was done with the assent of the Surgeon General of the United States Army, who was occupying a portion of the square through which the street would run, with the Armory hospital. I have looked at that street recently, and I do not see that those hospitals have been removed or that the buildings will be interfered with. I apprehend there is not much likelihood of their being removed before we assemble again in December at any rate. If the Committee on Finance are disposed to keep the clause in upon the supposition—for I understand they do not know anything about it—that the city may open the street, I am content. I desire to say, however, that the city did not seek to have the street opened; the law that was passed authorizing it to be opened was in the interest of a railroad company who desired to establish a street railroad down there. I was opposed to opening it; but Congress decided differently.

Mr. FESSENDEN. I have no sort of objection to the clause being struck out personally, but I gave what I supposed to be the reason for the appropriation.

Mr. MORRILL. I do not think it is needed.

Mr. FESSENDEN. It is for the Senate to do what it pleases.

The amendment was agreed to.

Mr. MORRILL. I call the attention of the committee to this item commencing at line three hundred, on page 18:

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, \$3,000.

I have noticed for several years since I have been here that that is the usual appropriation. What is peculiar in it will be seen. In the first place, it cannot be supposed that \$3,000 would be necessary every year as an appropriation for planting trees. We do not plant, probably, three thousand trees here each year on the public reservations.

Mr. FESSENDEN. It is for several other things.

Mr. MORRILL. That is what I object to.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, \$3,000.

It is impossible to tell what is for pavements, what is for tree-boxes, and what is for whitewashing; and then in another part of this bill you appropriate \$1,500 for whitewashing fences. I make no motion, of course; I am not certain that it is not proper; I know it has been the usual appropriation; but I call attention to it on the ground that I think the Commissioner of Public Buildings ought to send to some proper committee his estimates, and they should not come in in this way.

Now, I offer this amendment, to come in on

page 18, after line four hundred and twenty-five:

To enable the Secretary of the Treasury to pay the persons employed by the Committees on the District of Columbia of the two Houses of Congress, under the provisions of the joint resolution approved June 18, 1864, entitled "A resolution to provide for the revision of the laws of the District of Columbia," the compensation provided in said resolution, \$2,000, or so much thereof as may be necessary for that purpose.

The amendment was agreed to.

Mr. MORRILL. I offer another amendment to go in connection with that:

For the payment in part for the purchase of sites and the erection of school-houses in the county of Washington, in the District of Columbia, payable to the board of commissioners of primary schools of said county, the sum of \$10,000.

Mr. FESSENDEN. I should like to have an explanation of that.

Mr. MORRILL. It will be seen by the amendment that it applies entirely to the country quarter of the District; and I will say, for the information of the Senate, what I think will astonish them, that in all that region of country which embraces the entire District outside of the cities of Washington and Georgetown there never had been until within three years a school-house of any description, and there never had been a school maintained in that entire section of the District. In 1864 the people of that section of the District were authorized to establish and maintain primary schools, taxing themselves for the support and maintenance of the schools. They have built seven school-houses, and are erecting seven more, at a cost of \$2,000 each. They have established seven schools for white children and five for colored children. The country quarter of this District has never had the benefit, I believe, of a single dollar's appropriation for any public object whatever.

As we had authorized these people to levy this tax on themselves, and they had gone forward in this spirit of enterprise and established these schools throughout the country quarter of the entire District, and incurred the large expense of some twenty-five or twenty-eight thousand dollars for these school-houses, which is to be assessed upon their polls and estate, it seemed to me that the Senate would, on these facts being called to its attention, be willing to aid them thus far, particularly as this District is entirely under the supervision and control of the Congress of the United States; and considering, moreover, that during the war there has been thrown into this District a floating population who are upon the hands of these people, more or less. I hope there will not be any opposition to the amendment.

The amendment was agreed to.

Mr. MORRILL. I offer this amendment to come in on page 20, after line four hundred and sixty:

The Secretary of the Interior is hereby authorized to grant the superintendent of the Government Hospital for the Insane a leave of absence for six months to enable him to visit institutions for the insane in America and Europe, the salary of said superintendent to be continued in the mean time.

Mr. SHERMAN. Why is that?

Mr. MORRILL. The Secretary of the Interior addressed a note to the committee on the subject, saying that this officer had been a very faithful officer; his duties during the war had been particularly onerous; his health had been a good deal impaired; and he thought it but just to a faithful Government officer to let him go abroad at his own expense, his salary to be continued in the mean time, for a period not longer than six months. As another reason why the Government should be thus indulgent, this vacation will allow the superintendent to visit different institutions in other countries as well as in our own, and thus he will be better enabled to discharge the duties of his office on his return. The Secretary assures us in his letter that the institution will suffer no detriment in the hands of the assistant superintendent in the absence of the superintendent.

Mr. FESSENDEN. It is just as well that this matter should be definitely understood. Dr.

Nichols, the superintendent, is a very valuable officer; none more so in his line. I give him credit for discharging his duties well and faithfully and most devotedly. I have no doubt he is perfectly competent to the management of the institution. He erected it, and has managed it with ability. But this is nothing more nor less than a proposition to give a public officer an opportunity to travel in Europe or elsewhere for six months at the expense of the Government, rendering no service; and we must have somebody in his place while he is gone. If Congress thinks it worth while to establish a precedent of that kind—we are establishing new precedents of all kinds nowadays—with reference to public officers, it should be properly understood.

If Dr. Nichols, the superintendent, was out of health, if he was a sick man, I should not hesitate. When I was in authority in a different place I took the responsibility of giving leave of absence for six months to one of the officers of my Department for the purpose of allowing him to go to Europe and see if he could reestablish his health. I allude to Professor Bache. Unfortunately he did not reestablish his health, and I am afraid we shall have his services but a very short time longer. In a similar case I would do the same again. I suppose the Secretary of the Interior has the same authority in this case, if he deems it proper to give leave of absence to the superintendent of the asylum, if the circumstances of the case are such as require it. I think the responsibility should be upon the head of the Department. He can exercise the power if he sees fit, he being responsible for the exercise of it. I see no reason why he should not take the responsibility that I took and that the head of a Department ought to be willing to take under proper circumstances. I think, therefore, this amendment is unnecessary. I believe it is unwise for Congress to begin to legislate in this direction with regard to public officers.

Mr. MORRILL. The view the committee took of it was that it was simply a proposition to allow a leave of absence. To be sure his salary is not suspended; but in the mean time I think it not unreasonable to suppose that the officer will be qualifying himself for a more satisfactory discharge of his duties on his return; so that the Government will lose nothing by the permission.

Mr. HENDRICKS. We need not give permission. Cannot the Secretary do it?

Mr. MORRILL. He thought not.

The amendment was rejected.

Mr. MORRILL. I have one more amendment to offer, to come in on page 18, after line four hundred and twenty-nine:

For support of the Columbia Hospital for Women and Lying-in Association, \$10,000.

Mr. FESSENDEN. I should like to have some explanation of that.

Mr. MORRILL. This is one of the class of charitable institutions of a private character to which I invited the attention of the Senate when they were about to make an appropriation to one of the class; and I have no hesitation in saying, from the examination the committee gave it, that it is as meritorious as any of its class; and in some sense it has a much higher merit than any of the class which have been presented to the Committee on the District of Columbia. It has a board of very high professional skill, and it deals with a class of cases which are in themselves a specialty, and which involve the very highest skill of the profession. Its title in the amendment sufficiently discloses the character of the institution. If any institution in the District of Columbia of a private character is entitled to consideration, either by its object or by the skill and care with which the institution is conducted and the high reputation and character of the persons under whose charge it is, this is the one above all the others that I have become acquainted with in the city of Washington. The appropriation is only \$10,000.

Mr. FESSENDEN. My friend, the chairman of the Committee on the District of Colum-

bia, I believe, has succeeded in knocking off some four or five thousand dollars for sprinkling Pennsylvania avenue, &c., and I do not know how many \$20,000 he has put on by way of showing how much more economical the Committee on the District of Columbia is than the Committee on Finance!

Mr. MORRILL. The balance is more than \$10,000 in my favor. [Laughter.]

The amendment was agreed to.

Mr. GRIMES. I offer an amendment to insert after the word "dollars," at the end of the sentence in line five hundred and twenty-three, page 22, making an appropriation for the erection of a fire-proof brick building for the Treasury Department, the following:

*Provided*, That the Secretary of the Treasury be, and he hereby is, authorized to remove and sell at auction or otherwise, any portion of the presses, machinery, and apparatus employed in the Treasury building, which, from the diminution of the volume of business or otherwise, he may from time to time find to be no longer required.

The amendment was agreed to.

Mr. WADE. I renew the amendment on the bill that I offered some time ago, and withdrew for reasons which I need not mention now. It is to insert as additional sections the following:

Sec. —. *And be it further enacted*, That from and after the 4th day of March, 1865, the following salaries be paid to the different officers, clerks, messengers, and others receiving an annual salary or compensation in the service of the Senate, namely: Secretary of the Senate, \$3,000; officer charged with disbursements of the Senate, \$4,800; chief clerk, \$3,200; principal legislative clerk, \$3,000; principal executive clerk, \$3,000; nine clerks in office of the Secretary of the Senate, \$2,500; keeper of the stationery, \$2,500; one temporary clerk, \$1,800; messenger in stationery-room, \$1,500; messenger in Secretary's office, \$1,500; page in stationery-room, \$1,000; page in Secretary's office, \$1,000; Sergeant-at-Arms and Doorkeeper, \$3,600; assistant doorkeeper, \$2,160; clerk to Sergeant-at-Arms, \$1,800; Postmaster to the Senate, \$2,160; assistant postmaster, \$1,740; two messengers in charge of mails, \$1,440 each; two mail carriers, \$1,200 each; superintendent of document-room, \$2,100; two assistants in document-room, \$1,500 each; superintendent of folding-room, \$2,160; three acting assistant doorkeepers, \$1,740 each; seventeen messengers, at \$1,500 each; two messengers in lieu of superintendent and assistant superintendent of furnaces, who have been acting as messengers, \$1,500 each; and nine laborers, at \$2.50 per day each.

Sec. —. *And be it further enacted*, That the sum of money required by the provisions of the foregoing section be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Sec. —. *And be it further enacted*, That the chief engineer of the heating and ventilating apparatus shall be paid \$1,750; two assistant engineers, \$1,500 each; captain of the Capital police, \$2,175; lieutenant of the Capital police, \$1,875; twenty-nine Capital policemen, \$1,630 each; page to the Vice President, the same compensation as is paid to the other permanent pages of the Senate; one special policeman in the office of the Secretary of the Senate, \$1,000; three laborers in the office of the Secretary of the Senate, \$2.50 per day each; clerk of printing records of the Senate, \$2,500; the public gardener, with the force employed under him, an additional increase of twenty-five per cent. to the compensation now received by them.

Mr. JOHNSON. I should like to know how much in the aggregate that will increase the appropriations.

Mr. WADE. I am not able to say what the aggregate of the proposed increase is. I do not know how much it will amount to. I have never summed it up. This proposition adds to all these employes about twenty-five per cent. on their present salaries, the object being, according to the instructions of the committee at the time they prepared it, to equalize the salaries of the Senate employes with those of the House. What we have added will vary but little from twenty-five per cent. on their present salaries, except perhaps in the case of the Sergeant-at-Arms, to whom we give a greater increase than that.

Now, Mr. President, if we go by the principle we have already laid down in this bill, if we increase our own salaries over sixty per cent., I think these employes might well be increased to the amount of twenty-five per cent. I cannot imagine what argument Senators will make, after voting to increase their own salaries to the amount of about sixty per cent. against increasing the salaries of the employes at least twenty-five per cent. I do not think there is anything extravagant in this proposition for the equalization of these salaries. The

House came to a conclusion on the subject as to what they supposed their employes ought to have, and I believe they passed a resolution giving their employes the salaries which this amendment proposes to give the corresponding officers of the Senate. It is said, however, that what they undertook to do they were not authorized to do, and that it may be stricken out; but that will make no difference finally, if Congress should come to the conclusion that the increase was not unreasonable and that it was judicious to distribute it among their employes. I suppose if it was illegal when they fixed it, if it was so adjudged by us, we could make it legal, and it would not alter the proportion, and would not change the propriety of this bill.

I will say, however, that the special committee that was raised with directions to equalize the salaries of the Senate employes with those of the House, equalized upon the hypothesis that what the House had done was or would be made legal, and that it would stand as the judgment of the House that their salaries ought to be enhanced to that amount. It was upon that ground that we acted, without exercising any particular judgment as to what might be deemed right. In fact, there is no criterion by which you can measure the compensation of these employes. You will have to measure some by what they have heretofore received, with the additional expenses that everybody is put to at present; and it will be a matter of judgment in every one who is called upon to pass on such a question. I know of no exact criterion or any particular rule by which we can regulate the question. It seems to me, however, that the arrangement here is a judicious one. It does not alter materially the relation of the compensation of the employes except in the case of the Sergeant-at-Arms, who I know has received a very slender compensation for the services he has rendered. He has performed the duties that are performed by some three or four officers of the other House, and I believe their combined compensation would be something like eight thousand dollars per annum. I need not speak of his merits. Every gentleman knows with what faithfulness he has attended to his duties here; that he has always been at his place; that all the machinery under him has gone on, so far as I am able to judge, like perfect clock-work.

Mr. SUMNER. Who is that?

Mr. WADE. I am speaking of the Sergeant-at-Arms; and I will speak of some other gentlemen here, not particularly under him, that we have to deal with daily, who, I think, are entitled to our commendation for their constant, faithful attendance to their duties. I know of no reason why, if salaries are to be enhanced, there is anything unreasonable in the proposed salary of the Sergeant-at-Arms. His compensation by this proposition is made equal with that of the Sergeant-at-Arms and Doorkeeper of the House, \$8,600 per annum. That is not a very extravagant salary, as things go here in Washington now. His entire time must be taken up with his duties here. He has but very little time to go anywhere else. During the vacation he is employed in making his purchases for the accommodation of the Senate Chamber and the other rooms in this wing, taking care of them, and superintending this great building. I believe he is occupied all the time; and I do not think the salary that we now propose to give him is an extravagant one.

I do not wish to go into particulars, for I could throw no additional light upon this subject if I were to do so. As I said before, I know of no particular criterion of compensation that you can fix upon that everybody can affirm is right or wrong. This is an increase to all these employes, and I believe they will be satisfied with it, of about twenty-five per cent. Although I have generally been opposed to increasing the compensation of employes, I see that there are very strong reasons why it should be done now. I do not think the expenses of living here were ever so high as they are at the present time. I know that these

employes are not making a great deal of money by the compensation we give them. I think they are entitled to this increase. I do not think it will put them in a better position now than they were at the old prices that existed here some years ago. I believe that the compensation they received before the war, though much less in amount nominally, was much more valuable than this compensation will be if we increase it according to the proposition contained in this amendment.

Mr. SUMNER. The proposition of the Senator from Ohio is in many respects very complete, and yet, for a proposition which seems so complete, it is singularly defective. There is one class of the servants of the Senate that I find are absolutely ignored.

Mr. WADE. Who are they?

Mr. SUMNER. The clerks of committees.

Mr. WADE. We did not attempt to regulate the compensation of clerks of committees because there were resolutions pending on that subject, and because, also, the compensation of the clerks of committees of the Senate and the compensation of clerks of committees of the House was just the same; and therefore they are not mentioned here. There was a proposition then pending proposing to employ them during the year and give them a salary instead of a per diem. That class of employes we have left out, subject, however, to any regulations the Senate may think proper to make in regard to them.

Mr. SUMNER. What the Senator says explains his leaving this class out, but I cannot say that it justifies it. We understand now why he has left them out, but I must confess that I do not appreciate his reasons. Now, I find in the first section of this amendment a provision for "nine clerks in office of the Secretary of the Senate, \$2,500 each." Mark that, if you please—" \$2,500 each." I have no criticism to make upon it; I only wish to call attention to it. Then comes next "keeper of the stationery, \$2,500." Then, "one temporary clerk, \$1,800." Then next, "messenger in stationery room, \$1,500." I merely call attention to these cases. The special committee have undertaken to provide for these cases; and I think we may well ask why they stopped there. Are the clerks of committees less important than all of those nine clerks in the office of the Secretary of the Senate who are to receive \$2,500 each; less important than the keeper of the stationery, who is to receive \$2,500; or than the temporary clerk mentioned at \$1,800? I do not think so. I think that my colleague, who is chairman of the Committee on Military Affairs and the Militia, has a clerk who certainly deserves as much as any of the gentlemen who are protected by this bill. There is in the service of the committee with which I am connected a scholar, a thoroughly educated young man, who has come here to Washington from a distance expressly to discharge these duties, who deserves as much as any of the gentlemen to whom I have referred, and who are already protected by this bill.

I cannot enter into the discrimination which the Senator makes. I do not appreciate it. I believe if we are to protect the nine clerks in the office of the Secretary of the Senate and the others mentioned in this bill, we ought to complete our work by taking care of the clerks of committees. Now, with regard to those, there may be a difference. There are some, perhaps, who have very little to do. There are others who are constantly employed. I think they are employed fully as much as those that are already protected by this bill. Therefore, with a view to carry out what seems to me to be something omitted in this bill, and which I think my excellent friend would have introduced had it occurred to him, I propose to amend the amendment on page 2, line fourteen, by inserting after the word "each:"

Clerks of standing committees of the Senate, \$1,850 per annum; and it shall hereafter be part of the duty of said clerks to direct and send off all documents published for distribution by order of the Senate.

Mr. WADE. The Senator speaks of my

discriminating between these classes of employes. He did not understand the explanation I gave before. Our special committee did not take into consideration, as I told him, the compensation of these peculiar clerks, because we were directed to equalize the compensation of the employes of the Senate with that of the House employes; and we found that the compensation of these clerks was exactly the same in both bodies. We did not undertake to do anything with them, because our simple duty was to equalize the salaries. I told you the other day how we equalized them; that this was an increase of about twenty-five per cent.; but the increase to our clerks in some cases was more than that, because the House raised the salaries of their clerks twenty-five per cent., and many of their salaries were higher than those of our clerks previous to that, and we had to make the increase in some cases a little more than twenty-five per cent. in order to make them equal with the corresponding officers of the House; but we did not attempt to discriminate against this class of employes. I have only to say that there were propositions then pending before the body on the subject of these particular clerks.

I am not going to resist this amendment to the amendment. Let it be submitted to the judgment of the Senate to say whether it is reasonable or unreasonable. I know that many of these clerks of committees are gentlemen of acquirements, of talent, able to command large wages for their services anywhere. I know that while they are employed a considerable portion of the year here, as long as they are engaged in this business they cannot very well engage in anything else for the residue of the year. About all the compensation they can obtain is while they are employed here; and perhaps it would not be unreasonable to give them salaries that are suitable for that purpose, inasmuch as if their employment is not constant they can make little in that part of the year that they are not employed here.

Mr. FESSENDEN. I think the honorable Senator from Massachusetts could hardly have understood the force of his own provision. In the first place, it is not true, as a general rule, that these gentlemen come here because their services are so absolutely necessary. As to the general run of these clerks you can get any number of them. A great many of them come here because it is very pleasant to spend the winter here during the session of Congress, and be paid for their services at the same time. The rule of their compensation has been fixed and acted upon for some years. Formerly, it used to be four dollars a day, during the session of Congress; but subsequently it was increased to six dollars.

With regard to three of the clerks of committees, the Senate came to the conclusion, after a full examination—for it was all revised by a committee of which I was a member some years ago—that they ought to be made permanent. With regard to the Committee on Finance, particularly, and nobody seems to dispute the necessity of it, it requires practice, experience, and a knowledge that cannot be obtained in one session, and it was necessary that the clerk should be in some degree permanent because of the services he is required to render. It is so in a very great measure with regard to the clerk of the Committee on Claims. That committee has a vast deal of business before it. The clerk is required to draw a great many reports, and he has to attend to a great many papers that occupy him ordinarily through the recess. I know with regard to one former clerk of that committee that he took pains, not being a lawyer by profession, to go and study law for a period of time in order to fit himself for the place; and he became a very valuable and able and competent clerk. It was necessary, I suppose every member of the Committee on Claims will bear me witness in saying—I was formerly a member of that committee myself—that the clerk of that committee should be permanent on account of the business done by it. With



regard to the clerk of the Printing Committee, that is an office established by law. The chairman of the Committee on Printing can explain better than I can the duties that the clerk of his committee has to perform. He is employed necessarily pretty much the year round.

Mr. ANTHONY. His duties as clerk of the Committee on Printing are the smallest part of the duties that he has to perform. He has to prepare indexes and other things, and is compelled to remain here in the vacation.

Mr. FESSENDEN. This whole subject was very thoroughly discussed some years ago, and it was decided by the Senate that the business that those three clerks performed was such that it was absolutely necessary that they should be made permanent clerks at fixed salaries, and that the same reason did not apply to any other clerkship of a committee of the Senate. The duties of the clerks of committees are not so difficult to learn but what any young man of intelligence can perform them without any very great deal of scholarship.

It may be that the honorable Senator from Massachusetts has for clerk of the Committee on Foreign Relations an accomplished gentleman. We cannot afford to pay for the performance of those duties any more to a man because he is an accomplished gentleman and scholar than we can to anybody else who is competent to perform the duties. We cannot make that distinction. We do not pay for scholarship or accomplishments in a clerk; and the duties, as everybody knows, of the Committee on Foreign Relations are not so extensive that the clerk should be, necessarily, a permanent officer. A clerk for that committee can easily be found from one session of Congress to another; and so with regard to the other committees generally. Hence I have deemed it unwise to attempt to extend these salaries, because when you once attempt it, there is no knowing where you will end.

Now, my honorable friend proposes to make all the committee clerks permanent and give them a salary of \$1,850. Take the clerk of the Committee on Agriculture; I do not suppose that he knows that he has anything to do from the beginning to the end of the year. Take the clerk to the Committee on Manufactures, which, I suppose, never meets at all. Take the clerk of the Committee on Revolutionary Claims. I have not heard of a bill being before that committee this session. There may have been one.

Mr. RAMSEY. We have considered a great many matters and reported upon them adversely, and thus saved large sums to the Treasury. [Laughter.]

Mr. FESSENDEN. Exactly; some few old claims reported upon adversely. The idea is ridiculous to establish permanent committee clerkships at \$1,850, when they are mere sinecures now, except to the extent that the clerks do the necessary work of dispatching documents for the chairmen of the committees and, perhaps, others. That is substantially all the duty that a great many of them have to perform. The pay now is ample, and you can get any number of men that are perfectly competent to discharge the duties for the present pay.

Now, sir, from the way gentlemen seem to be going on with regard to salaries at the present time, I think it would be much more simple to try another plan; and that is, to decide (for that seems to be the principle) that if there is any surplus left in the Treasury, after paying the expenses absolutely necessary for carrying on the Government, it shall be divided up among the members of Congress and the clerks at the Capitol, clerks of committees, &c. That would be a much more simple way of disposing of it, and there would be just about as much principle in it as there is in the manner in which we seem to be going on in voting the public money. Sir, I cannot prevent it; I can only enter my protest against it and vote against it.

I have no doubt—I do not want to be unreasonable about it—that some of these salaries ought to be raised. I have no doubt, as I said the other day, that the salaries of some officers

of the Senate ought to be increased. I think the simplest and best way is to have a system, fix it from beginning to end, and let it rest there. I never will consent, so far as I am individually concerned, to the style of managing these matters adopted by the House—that is, in the face of the law of the land to vote a percentage and then try to legalize it by putting the amount on an appropriation bill, and telling us, "Take that or not take the bill." I do not like that mode of legislation. I think, therefore, these things ought to be directed in the mode that my honorable friend from Ohio suggests—I do not say I agree with the bill, but in the mode he suggests—and by having a proper provision made. I understand the Committee on Contingent Expenses have with great care prepared a bill, which they think to be just and right, to be moved upon this. Perhaps that would be the best way of settling it. If that is the case, we can see what the whole is.

As to the idea of the honorable Senator from Massachusetts, of putting up all the clerks of committees who do not remain here except during the session of Congress, a great many of whom have nothing in the world, or very little to do, except to wait upon the chairmen, the more just way, really, as the matter has gone, would be to say that every member of the Senate should have a clerk, to be paid out of the public Treasury, to dispatch his documents, &c. That would equalize it much better than it is equalized now.

Now, sir, if we are going to do this, let us do it with some understanding and with a due and proper discrimination; understand what duties are to be performed, and pay a reasonable sum according to the performance of those duties and the nature of them. My honorable friend from Massachusetts could not certainly have understood exactly what he was about in making so sweeping a provision as he has made in this case. I cannot agree with him that the quality of the man ought to make any difference in the amount of salary. We cannot afford to legislate in that way. Otherwise, my honorable friend would have a salary of \$100,000, while I should only have \$5,000. [Laughter.] The Government cannot afford to make those discriminations; and I should not like it either. [Laughter.]

Mr. SUMNER. I can assure the Senator from Maine that the Senator from Massachusetts was not quite as ignorant of what he undertook to speak about as the Senator imagines. I have in my hand the bill which is under consideration, and I find in that that the keeper of the stationery is to have \$2,500. Then I find that the assistant doorkeeper is to have \$2,160, and that the clerk to the Sergeant-at-Arms is to have \$1,800. I find these provisions in this bill, and I say this is a bill which is to equalize the salaries of public servants here connected with the Senate. Does it equalize them when it undertakes to give these salaries and leave the clerks of committees with their present salaries? I say that it does not. I say that if you undertake to pay the keeper of the stationery \$2,500, you cannot make a mistake if you give to any clerk of a committee of this body what I have proposed, \$1,850.

The Senator from Maine says that many of these committees have very little to do; but it is perfectly well understood that the clerk of the committee represents to a certain extent, the labor of the chairman. He aids the chairman in his work; he is his private secretary; and I remember perfectly well when the system of clerks of committees was first established in this Chamber. When I first came here, I think there were only one or two committees that had clerks. Afterward the system was greatly extended, one by one, and it was always with the understanding that the clerk was needed by the chairman of the committee in the discharge of his public duties, in the copying of papers, in drawing bills and resolutions, and in aiding him in reports. He might not have work, perhaps, to do in the committee-room; but he was to accompany the chairman

to his own home, and to be there his private secretary. That was the understanding when this system was inaugurated some twelve or fourteen years ago. If any one chooses to refer to the Globe, he will find those reasons assigned for its introduction. I remember them perfectly well, as they were expressed on this floor.

Now, sir, the system has gone on. Our committees are provided with clerks. They had not them at first. When I came into this Chamber there were only one or two that had clerks. Now all the committees have clerks; and the question is, whether we are going to degrade those servants of this Chamber below the keeper of the stationery, below the clerk of your Sergeant-at-Arms. I do not see how you can do it. I think, if you insist upon that degradation, you cannot pretend that your bill equalizes the compensation of the employés of the Senate.

I do not know that the clerks of committees may not, as the phrase is, be graded. There may be certain committees that may be justified in having a clerk who shall receive a higher compensation than another. I am not able to enter into that discrimination. In the motion that I have made, I have attributed to them all an equality. I went upon this idea, that if they were not all engaged to the same extent in committee services, they would be engaged equally in the service of the chairman of the committee, whom they would be aiding in the discharge of his public duties. It is on that account that I have made this motion. I make it in good faith, believing that if you are going to remodel these salaries and compensation, you ought not to neglect this other class. I believe that this other class is as deserving as the classes that are already protected by this bill.

Mr. YATES. Some of them are men of families.

Mr. SUMNER. Some of them, I am reminded by my friend, the Senator from Illinois, have families. That is not the case with all of them. I do not go into that. It is enough, however, that they are appointed as clerks of certain specified committees, and as such, it seems to me that they are entitled to an adequate compensation according to the scale adopted for other officers of the Senate. That is my argument, sir. I do not originate this proposition. I should not have thought of originating the proposition. I should have allowed the clerks to continue on their present pay; but you are now undertaking to remodel the compensation of all the employés of this Chamber, and as you are undertaking to do that, I insist that you shall not neglect a class that ought to be as well paid as any other.

I think the Senator from Maine rather disparages what is required of a clerk of a committee. He thinks that any one may come on, almost by the accident of a journey, and find a place here; that he may drift here as by high tide, and find himself in a committee-room and discharging those duties. That may be so; but I think that the duties of a clerk of a committee are in themselves important; and especially if he becomes attached to the chairman of the committee in that other capacity to which I have referred as his assistant and secretary, it is almost impossible to measure their importance, because he naturally enters into the labors of the Senator with whom he is associated; and, as I have already stated, when this system was originally commenced it was with a view to aid the chairmen by supplying to each a secretary.

Mr. HENDERSON. This whole matter was referred to the Committee on Contingent Expenses, and we took the trouble to go to the Clerk of the House of Representatives and to the Secretary of the Senate and get the amount of compensation that is allowed by law to each employé, with the extra compensation allowed in the House of Representatives, and we have examined the whole contingent expense account of the Senate, and we have prepared a bill which we believe to be important. It has been reported, and is Senate bill No. 443. I hope the Senate will vote down the proposi-

tion of the Senator from Massachusetts, so that we can offer that bill as an amendment to the amendment of the Senator from Ohio, or, rather, as a substitute for it. I intended to do so, but the Senator from Massachusetts got the floor ahead of me. That bill, I think, covers the whole question; and if any measure is to be adopted on this subject, my impression is that it is the best measure that can be adopted. It is the unanimous opinion of the Committee on Contingent Expenses that something of this sort ought to be done at once.

Mr. JOHNSON. Perhaps he will withdraw his amendment.

Mr. HENDERSON. If the Senator from Massachusetts will withdraw his amendment for the time being, and allow me to offer this, he can renew his amendment afterwards. This bill covers the question of the clerks of all the standing committees.

Mr. SUMNER. I have looked over the proposition of the Senator, and I certainly do not think it practicable.

Mr. HENDERSON. I hope, then, that the Senate will vote down the amendment to the amendment.

Mr. HENDRICKS. I ask for the reading of the amendment to the amendment.

The Secretary again read it.

Mr. HENDRICKS. The latter part of that amendment I like. As to the first part, I do not know whether the salary proposed would be too high or not. It has come to be the fact that the clerks of committees are clerks simply to the chairmen. Since the war every Senator has so much private matter to attend to here that it is almost impossible for him to get along unless he can hire a clerk. Now, if the practice or the law can be so changed that the clerks of the committees will be clerks for all the gentlemen of the committee, we shall get along very well; and that part of the proposition I like. I believe in view of the whole matter that I shall vote for it, because I think it introduces one desirable reform.

Mr. BUCKALEW. I desire simply to suggest that under the amendment proposed by the Senator from Massachusetts, the compensation of all the clerks of the committees of the Senate each alternate year, that is the year of the short session, will be over eighteen dollars per day. An amendment that leads to a result of that sort, I suppose, is scarcely to be indorsed by a majority of this body.

I will repeat what has been already stated by the Senator from Missouri, that the Committee on Contingent Expenses have reported a bill covering all the officers and employes of the Senate, and they have also drafted in blank a section which can be filled up by the House of Representatives, if that House choose, in connection with our proposition, and bearing throughout a somewhat similar character. We have also attempted to introduce some reforms and improvements in our present system of outlay as it obtains in the respective Houses of Congress.

For the present, on the motion made by the Senator from Massachusetts, I suppose the Senate will have no difficulty as to what decision is to be come to.

There is great inequality between the different committees as to the necessity for clerks, and a great inequality as to the amount of labor to be performed by clerks of committees. We have thought it most convenient and most proper to provide additional compensation to the clerks of committees by extending their time of service, paying them for one month after the expiration of our regular session. This will enable them to perform such duties as have been suggested by the Senator from Indiana, in sending off documents, to conclude and close up the business of their committee-rooms, and to get the matter which goes over in a state of order and preparation for the next session. However, I shall not discuss that point, as the amendment is not yet before the Senate.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amend-

ment offered by the Senator from Massachusetts to the amendment moved by the Senator from Ohio.

The amendment to the amendment was rejected.

Mr. HENDERSON. I desire to offer Senate bill No. 443, with some few changes, which Senators can discover as the bill is being read, as a substitute for the amendment proposed by the Senator from Ohio.

The Secretary read the amendment to the amendment, which was to strike out all after the enacting clause of the first section of the amendment of Mr. WADE, and to insert:

That the officers and employes of the Senate, together with their compensation and pay for services shall be as follows:

A Secretary of the Senate, who shall be charged with the disbursement of the contingent fund of the Senate, \$4,080 per annum; one chief clerk, \$3,000; one principal clerk, \$2,500; one principal executive clerk, \$2,500; eight clerks \$2,200 each; one purchasing agent of the Senate, \$3,000; and one clerk at \$1,800; and one messenger, at \$1,200, for service under the purchasing agent, and to be appointed by him; two laborers, to be employed by the Secretary in his office, \$2 50 per diem; one Sergeant-at-Arms and Doorkeeper, \$3,000; one assistant doorkeeper, \$2,200; one Postmaster, \$2,200; one assistant postmaster and mail carrier, \$1,750; two mail boys, \$1,200 each; two messengers in charge of mails, \$1,400 each; one superintendent of document-room, \$1,400 each; one superintendent of folding-room, \$1,800; one assistant superintendent of folding-room, \$1,400; one chief engineer, for heating and ventilating apparatus, \$1,700; three assistant engineers, \$1,400 each per annum; six firemen and laborers at \$2 50 per diem; ten laborers at \$2 50 per diem; three acting assistant doorkeepers, \$1,600 each; seventeen messengers, \$1,400 each; one secretary to the Vice President, \$1,750; one clerk of Committee on Finance, \$1,850; one clerk of Committee on Claims, \$1,850 per annum; two temporary clerks for the Secretary of the Senate, \$150 per month each—clerks of the standing committees of the Senate not provided for, \$6 per day each, during the sessions of the Senate, and for one month thereafter.

SEC. 1. *And be it further enacted*, That the purchasing agent of the Senate shall be elected as the Secretary of the Senate is now elected, but on the nomination of the Committee to Audit and Control the Contingent Expenses thereof. Such purchasing agent shall, within ten days after his election, take an oath that he will truly and faithfully discharge the duties of his office to the best of his knowledge and abilities, and shall also take the oath of loyalty required by law of Government officers, and within the time aforesaid he shall be required to execute a bond payable to the United States, with two or more securities, each possessing property valued in amount not less than the penalty of the bond, and to be approved by the Secretary of the Senate; such bond to be in the penal sum of \$20,000, and conditioned that said agent will from year to year contract for all necessary printing, and cause to be purchased and procured, on the most reasonable terms he can obtain, for the use of the Senate, all stationery, furniture, wood, coal, ice, and other articles now authorized by law, and the orders of the Senate, or which may be hereafter so authorized, and that he will cause such articles to be delivered only on the written requisition of the proper officer or person authorized by law or the resolutions of the Senate to receive them. Said bond shall be filed with the Secretary of the Senate before said agent shall enter on the discharge of his duties.

SEC. 2. *And be it further enacted*, That the said agent shall have the same power to advertise proposals for printing and for supplying necessary articles as the Secretary of the Senate now has by law, but all bids received by him, and all contracts made thereon, or which may be based on private purchase, shall be laid before the Committee to Audit and Control the Contingent Expenses. Said agent shall also contract for the carrying of mails, documents, or other printed matter, and for all other carrying or transportation needed by the Senate, and no payment shall be made by the disbursing officers of the Senate on account of purchases or contracts of said agent until authorized by the committee controlling its contingent expenses.

SEC. 3. *And be it further enacted*, That the agent aforesaid shall make and keep in his office a complete record of all contracts made by him and of all articles purchased, from whom purchased, the price paid therefor, and also of the articles delivered to officers and members of the Senate, showing the quantity and value of articles delivered on the requisition of each; and at the beginning of each session of Congress he shall lay before the Senate a report, showing a detailed statement from his books of all the purchases and appropriations of property made by him. Said report shall show all printing contracted for, all stationery obtained, and the persons to whom delivered, the quantity of fuel purchased and used, all furniture purchased and for what purposes obtained, all expenditures for repairs and preservation of furniture, and all expenditures authorized for horses and hacks used in the service of the Senate, and all other items not herein specified; said statement to give the names of persons connected with each item of purchase and expenditure. Said agent shall, in each report, make an estimate of expenditures for the succeeding year, and shall recommend such

measures for economy in the expenses of the Senate as he may deem proper.

Mr. TRUMBULL. I suggest whether it is worth while to read the next section, as it is merely an enumeration of the officers of the House, with no salaries fixed.

Mr. HENDERSON. I have no objection to dispensing with the reading of that section, but the following sections ought to be read.

The PRESIDING OFFICER. The reading of the fifth section of the amendment to the amendment will be omitted.

The Secretary continued the reading of the amendment to the amendment, as follows:

SEC. 4. *And be it further enacted*, That the following shall be the officers in charge of the Library of Congress, and the compensation of each, to wit:

One Librarian, \$2,500; three assistant librarians, \$2,100 each; one assistant librarian, \$1,800; one assistant librarian, authorized by act approved April 5, 1866, to provide for the transfer of the Smithsonian library, \$1,200; one assistant librarian authorized by same act, \$1,000; three messengers, in lieu of laborers now authorized, \$900 per annum each.

SEC. 5. *And be it further enacted*, That there shall be one superintendent of the botanical garden, with an annual salary of \$1,400; four assistants to superintendent, with a salary of \$900 per annum each; six laborers in the botanical garden, at two dollars per diem; public gardener, \$1,400 per annum.

SEC. 6. *And be it further enacted*, That no officer, clerk, agent, or other employe named in the foregoing sections of this act, and no officer or employe in any branch of the public service, whose salary, pay, or emolument may have been fixed by law or regulation, shall receive any extra allowance, pay, or compensation for the disbursement of public money, or for the performance of any other service whatever, unless such extra allowance, compensation, or pay be authorized by law. No allowance or compensation shall be made to any such clerk, agent, or employe for the discharge of duties which belong to any other clerk, agent, or employe in the same or any other department. And it shall not be lawful for either House of Congress to increase the salary, pay, or compensation of any clerk, officer, agent, or other person in its service or employment, or to authorize from any fund whatever, or in any manner, the payment of any such increase, or of any additional sum for extra services, or for services rendered outside of the prescribed duties of such persons; and the proper accounting officers of the Treasury and the disbursing officers of the Government shall in no case audit, pay, or allow any claim or demand presented for any such unauthorized increase of compensation or extra pay, nor unless an express appropriation therefor shall be first made by law.

Mr. ANTHONY. If the chairman of the Committee on Contingent Expenses will accept an amendment—I suppose his amendment cannot be amended but with his consent—

Mr. TRUMBULL. I understand this to be a substitute, which is amendable.

The PRESIDING OFFICER. The substitute is in the nature of an amendment to an amendment.

Mr. TRUMBULL. But may not the substitute be amended before it is adopted, or the original proposition either?

The PRESIDING OFFICER. It will be in order first to amend the portion proposed to be stricken out, if that is the question of the Senator.

Mr. TRUMBULL. But can you not amend the substitute offered by the Senator from Missouri?

The PRESIDING OFFICER. The Chair thinks that that is an amendment to an amendment.

Mr. ANTHONY. Then I will ask the Senator from Missouri whether he will accept a suggestion that I wish to make to him. In looking over this proposition as a whole, looking at the harmony of the system, it seems to me that the compensation provided for the assistant sergeant-at-arms and doorkeeper does not correspond with his position. I think it should be \$2,500.

Mr. JOHNSON. What does he get now?

Mr. HENDERSON. Twenty-two hundred dollars by our bill.

Mr. ANTHONY. I suggest to the Senator from Missouri to make it \$2,500. I think that will make the gradation correspond with the others.

Mr. HENDERSON. I understand the other members of the committee are willing to consent to that. We thought that Mr. Bassett's position and his services demanded that compensation, and at one time agreed upon that sum, but reduced it to \$2,200 because we were

unwilling to make an increase in the case of a very meritorious officer, as we did not know how soon we might have one that was not quite so meritorious.

Mr. JOHNSON. You can reduce it again.

Mr. HENDERSON. But as Senators say, we can reduce it when the man does not suit well, I will accept that suggestion and change the amendment in line twenty of page 2 by striking out "two" where it last occurs and inserting "five;" so that it will read, "one assistant doorkeeper, \$2,500."

Mr. BROWN. Do I understand that the substitute offered by colleague is now open to amendment?

Mr. JOHNSON. No; you may make a suggestion and he may adopt it.

Mr. BROWN. I might as well state now, then, what I propose to offer as an amendment. I like the character of his bill in some respects, and particularly those sections which set out the manner in which purchases shall be made for the use of the Senate, in which books shall be kept, and in which issues shall be made upon requisition. I think that is all very proper and very well set forth; but I think there is one defect in the bill; certainly it seems a defect to me; and that is, in creating another officer called the purchasing agent of the Senate. I see no reason for creating that office. The great object that we have in view is to separate the purchasing from the paying, and that can be done just as well without creating another officer called the purchasing agent as it can by that process, and the accounts can check each other just as perfectly without the addition of this office. Now, sir, I shall propose to strike out so much of section one as reads, "one purchasing agent of the Senate, \$3,500."

Mr. HENDERSON. Three thousand dollars.

Mr. BROWN. It is \$3,500 in the copy I have; and in the second section I shall move to strike out all after the word "that," in the first line, down to and including the word "will," in the fifteenth line, and to insert "the Sergeant-at-Arms shall be the purchasing agent of the Senate, and as such shall;" so that the section will read:

That the Sergeant-at-Arms shall be the purchasing agent of the Senate, and as such shall from year to year contract for all necessary printing, &c.

Putting him under all the regulations of this bill in regard to the contracts which he shall make, and devolving that duty upon him specifically. I think that will make an improvement to the bill. I think it will save just that much in useless expense, and, besides, afford all the check that is necessary between the two accounting officers of the Senate.

Mr. HENDERSON. If my colleague will examine this bill carefully, he will find that so far as the expenses are concerned, we have curtailed expenses.

Mr. BROWN. Well, I would curtail them still more.

Mr. HENDERSON. He will find that really we have fewer officers under this proposition than there were before. We have stricken off the stationery clerk. If he were left in, he would have to be paid according to the system adopted here for paying clerks, \$2,200. We have stricken off the superintendent of the furnaces \$1,700, and an assistant at \$1,200, and two drivers of Senate carriages at \$1,440 for both as now fixed, making \$6,540 per annum. We appoint a purchasing agent at \$3,000; a clerk at \$1,800, and a messenger at \$1,200, which makes just \$6,000; saving \$540 a year over the present system as it now stands. In addition to that, I may say that we get rid of several other messengers, pages, &c., making an actual saving of three or four thousand dollars more.

One word in regard to the bill that is now pending. The Senator from Ohio, I suppose with a view of having the Sergeant-at-Arms do this business of purchasing, proposes that there shall be a clerk to the Sergeant-at-Arms, which is a new office, and he fixes the salary at \$1,800.

He proposes also to retain the stationery clerk at \$2,500, and to give to the Secretary of the Senate an additional clerk. There are now but eight clerks in the office of the Secretary of the Senate, and he proposes nine, which is \$2,500 more; making altogether an increase of \$6,800; and the Senator's bill will cost the Government \$800 more than the bill we now propose to substitute for it.

One word in regard to another point: it is a delicate question, and I dislike very much to refer to it. It is this—we might as well be plain about the matter—the Secretary of the Senate claims that, under the laws as they now stand, he is entitled to do this work, and you will recollect that under the act of 1842 the Secretary is required every year to report to the Senate a statement of the expenses from the contingent fund. The honorable Senator from Iowa, [Mr. GRIMES,] the honorable Senator from Pennsylvania, [Mr. BOOKALEW,] and myself are upon the Committee on Contingent Expenses. We called upon the Secretary of the Senate to furnish us a report of the expenditures from the contingent fund, which has not been made since 1864. The law requires that these reports shall be made at the end of every year. We know but little about the contingent expenses of the Senate. If the Senate are to require us to pass upon the bills, I desire, as my colleague says, to have sections specifically setting forth the duty of every officer of the Senate. The Committee on Contingent Expenses are not particular who shall do this work, whether the Secretary of the Senate or Mr. Brown, the Sergeant-at-Arms, or a new officer to be appointed for the purpose. We do not care who does it, provided the officer gives a bond in a large sum. I have no doubt that either of these officers can do that; but we want him to give a bond, and we want him to keep books so that we can understand the exact condition of the contingent expense account every month, or every two weeks if we desire, during the year.

That is the wish of the committee; and I will state that it is useless to have a Committee on Contingent Expenses unless we can have these facts before us. Who is at fault about this thing, I do not know. The Secretary says he knows he is required by law to make this report; but he says, "I cannot make this report because I do not make the purchases; I do not know what Mr. Brown pays for articles; I cannot tell all the contracts that he makes; I know nothing with regard to them."

Mr. GRIMES. The Secretary is authorized by law to make them.

Mr. HENDERSON. The committee have had that matter under investigation. We examined it, and examined it with a great deal of care. Mr. Brown claims that he has the right to make purchases, and the Secretary of the Senate claims that he has the right to make purchases, and the Secretary insists that he must do it in order to comply with the law; and there is very considerable justice in his claim. We referred the matter to the honorable Senator from Pennsylvania to investigate it, and he reports to the committee that under the law as it now stands the Secretary of the Senate is entitled to make the purchases. That is the condition of affairs; and the majority of the committee have come to the conclusion that under the law the Secretary is entitled to make them. As I stated before, we do not care who makes these purchases. All that we desire is, that the officer making the purchases shall keep a set of books and that we shall know exactly what he pays for every article that he purchases, and that he shall be enabled at any and all times to tell us to whom he has distributed them. But, sir, I believe I cannot proceed. I shall not be able to speak in this storm.

[At this moment an unusually violent storm of hail and rain was raging. The pattering of the hail upon the glass roof rendered it impossible to proceed with business for some time.]

Mr. DOOLITTLE. I believe the question now is whether we shall change the roof or not. [Laughter.]

Mr. WADE. The amendment which I have offered contains no more offices, or but one more, I believe, than we have had in the Senate heretofore. It gives the Sergeant-at-Arms a clerk, and the reason was that as he performs his duties now, he is performing the duties of several officers. I have not examined the law to see whose duty it is to make these purchases; but I conclude, from the very fact that there is a dispute on that subject, and that it is claimed by both these officers, that the law is not very definite about it, and it is not very certain, perhaps, whose duty it is. There has never been a complete code on the subject of the duties of these employes that I know of; they are not very well specified; but their duties are well enough known by prescription and the manner in which they have been done heretofore. I do not think there is any great difficulty on that subject. I believe the Sergeant-at-Arms has made most of the purchases, and I am not aware that there has ever been any complaint about the manner in which the purchases have been made.

As to the keeping of the stationery-room, whose clerk this bill endeavors to dispense with, I believe I can truly say that the same force is now provided in that room that always has been there. I know that the Senator from Maine [Mr. FESSENDEN] the other day said he believed that under Mr. Clubb it was very different from what it is now; but I have made some inquiries upon that subject, and I find that it is the same now as it was then. Senators all know the officer who presides over that department, Mr. Jones. I believe there is no Senator who will say he is not an exceedingly faithful and obliging man. He attends to all the disbursements of money for Senators, I believe, and no man here has any fault to find in him. He is faithful, prompt, eager, ready always to perform his duties; and his duties take him out of that room a very considerable part of the time; but then he has clerks there and Mr. Clubb had clerks there, to deliver to Senators whatever they called for. If there is any fault in that regard, it is not so much in the manner that your clerks perform their duty, as in the fact that there is no limitation upon the powers of members of the Senate to get whatever they please there.

The Committee on Contingent Expenses say they want a rigid account kept, and that for everything you get you must give an order, or sign a receipt every time you go there. I believe this bill provides for that. It is a very good way for doing business, and if you want to be exact about it, it is all well enough; but the Senate of the United States did not believe originally that it was necessary for them to come down to these minute particulars that shopkeepers resort to in carrying on their business. It has been the habit of the Senate from the earliest times not to do that; and it was the habit of the House not to do it for a great many years; but they have finally changed their entire system of stationery, and instead of being furnished in kind, each member is furnished with a certain sum of money to select his own purchases with. I am not prepared to say that we ought not to adopt the same system; but until we do that it is idle to talk of reducing things to anything like an absolute certainty of account-keeping in that room. I do not believe that any Senator has ever abused the privilege he had of going there and getting whatever he wished to have. I never heard of any such thing, nor do I believe it. It is not insinuated on the other side: but it is said there is not that rigid account-keeping that would be desirable by those who administer upon those accounts. I have no doubt that is so; and the reason is because we have not got ourselves down to that rigid way of keeping these accounts.

I do not think we are prepared now to make a code on this subject at this late period of the session. I do not think this bill is prepared for it. It seems to me to be a very cumbersome thing. Here is a clerk for purchases to be established; and who is he? Why, sir, the



committee will not trust even the Senate to appoint him. They preserve in their own hands the nomination of the man that is to be the clerk of purchases, and he is to be a new officer with an additional salary. If you are to change this system, I do not think this is necessary. I think that either the Secretary of the Senate or the Sergeant-at-Arms may do as they have done heretofore, make all these purchases and make them well, and be charged with the duty of doing it; and if gentlemen want them to give bond for the rigorous accountability of what they do, I have no objections to that. But I do not think we have time to go into all these things now. I think we ought to begin it earlier in the session and reduce it to a perfect system. I think it would be well to do so; but I do not think this bill does that any more than the amendment I have offered. It certainly does devolve the duty of making these purchases upon a new officer instead of the old officers who have been heretofore making them. If it is necessary, let us charge one of our present officers with this duty and then lay him under such responsibilities as you please; but at this stage of the session I do not think it is necessary to do this. All that is necessary to do now is to take the old employés, who know their places, whom we do not displace, where we leave no gaps, try no experiments, and go on in the way we have been going on heretofore during the session, and at the next session let the Committee on Contingent Expenses get up a perfect code, reduce it to a system, which they certainly have not done now.

The amendment that I have offered follows the old line of business, and barely undertakes to give an additional compensation to the employés as they formerly existed. I think it is the safest way now; and that if we undertake to get up a new system we shall not perfect it so that it will work well, and we shall not be perfectly sure that in skipping over or leaving out some of these officers their duties will be as well performed as they have been. I prefer the amendment that I have offered to this amendment, because I understand what I have done better. They have attempted to reduce it to a system, but it seems to me they have failed to perfect it.

Mr. GRIMES. Very much against my will I have been for the last three or four months a member of the Committee on Contingent Expenses, and I desire to state, in a word or two, why I assented to the introduction of the bill which has been proposed by the Senator from Missouri as a substitute for the proposition of the Senator from Ohio.

In the first place I understand that the office of Sergeant-at-Arms is as chief executive of this body. He is the head of the police of the Senate. His place is there, at the right hand of the President of the Senate, [pointing to the chair of the Sergeant-at-Arms,] and we used to see him there as regularly as we saw the President of the Senate in the Vice President's chair. We were in the habit of seeing him there; and I suppose the reason why we are not now in the habit of seeing him there is because he has encroached, as I undertake to say, upon the jurisdiction of other officers of the Senate, and drawn to himself an authority which was not exercised before he became the Sergeant-at-Arms.

I speak thus plainly because all these officers are my personal and political friends, and it is due to them and to myself that I should state what are my honest convictions upon the subject. I am satisfied from all the investigation that I have been able to make, that up to the last five years the Sergeant-at-Arms did not make purchases. That business was confided to the Secretary of the Senate. During the illness of Mr. Dickens, the former Secretary, the late Vice President gave the Sergeant-at-Arms, as I understand, authority, which he had no right to give, to make purchases; and out of that authority bestowed by Mr. Hamlin has grown the practice of making purchases on the part of the Sergeant-at-Arms. I do not say that there is an express, absolute declara-

tion of statute saying that nobody shall make these purchases except the Secretary of the Senate; but such had been, as I am informed by those who are familiar with the practice, the invariable custom up to within the last four or five years.

But when I became a member of the Committee on Contingent Expenses I found that there were four or five different persons who made purchases, each of whom certified to the bills as being correct, and we were called upon to indorse and order the payment of those bills, certified to by four or five different persons. We found that the same kinds of articles were purchased; as an illustration we found that since the 1st of January there had been purchased by the Sergeant-at-Arms and Doorkeeper of the Senate, and by the Secretary of the Senate, somewhere from seventy to ninety hair-brushes. I only allude to this one article as an evidence of the variety of articles purchased and the method in which they were purchased.

What was the remedy for such a condition of things as this? And mind you, Mr. President, our purchases are not made on such terms as you and I would make if we went to buy for our own individual purposes.

Mr. WILSON. Why not?

Mr. GRIMES. Because everybody who sells to the Government expects to get a larger percentage for whatever he sells to us than when he has a purchaser in a private individual I think that is the reason why.

Mr. WILSON. Cannot our agents buy as cheap as anybody else?

Mr. GRIMES. Well, I do not think they do. That is my opinion. Now, what was the remedy? The Committee on Contingent Expenses believed that it was their duty to furnish some remedy. They believed—and I think I was the first one that proposed it, and I therefore am willing to take all the responsibility in that connection—I believe that it was our interest to do exactly as I would do under similar circumstances. If I was the proprietor of a large institution like this, in which there was an expenditure of \$300,000, or \$400,000, or \$500,000 a year, I should employ some one man to make all the purchases for me—some man in whom I could place implicit confidence, and not allow the purchases to be made by Tom, Dick, and Harry, and half a dozen agents of mine, some with express authority and some with no authority at all. The committee concurred with me in that opinion, and hence it is that we have proposed that there shall be one purchasing agent.

Now, I understand that the amendment proposed by the Senator from Missouri [Mr. Brown] would change this provision which we recommend and allow these purchases to be made by the Sergeant-at-Arms, whose office was created for no such purpose; who has enough to do to look after the police of the Senate; who is required in some instances to leave this body entirely and go away in order to execute the processes of the Senate; sometimes to accompany committees of the body, and therefore cannot attend to business of this kind; and who ought not, under any circumstances, in my opinion, to be the man employed for the discharge of any such duty. His business is, as I say, as the executive officer of this body, and he should be occupying the seat which we have selected for him, and which his predecessors have occupied for the last seventy years.

I have not got the bill before me, and I am not able to go through it and analyze it, as the Senator from Missouri and the Senator from Pennsylvania are far better able to do than I am. It will be observed that the amendment offered by the Senator from Ohio, for which the proposition of the Senator from Missouri is a substitute, is based upon the House salaries. As an example, he proposes to give the Sergeant-at-Arms \$3,600. There is not the slightest analogy between the organizations of the House and the Senate. The Sergeant-at-Arms in the House is the disbursing officer of the House. He keeps the money; he gives

bonds; he pays the compensation and mileage of the members of the House; and hence it is that in the House of Representatives a larger compensation has been awarded to the Sergeant-at-Arms than probably would have been awarded to him if he had merely the authority to discharge the same kind of duties that are devolved by law upon the Sergeant-at-Arms of the Senate.

Mr. WADE. He has three or four clerks to assist him.

Mr. GRIMES. Very well; he is paid that extra compensation, this \$600 additional for the responsibility of handling a million dollars of money, for the requirement which is imposed upon him of executing a bond, for the responsibility of having those very clerks, and being responsible to the House of Representatives for their good conduct and behavior.

So in regard to some of the clerks. The principal clerk in the House of Representatives is Mr. Barclay, an old employé, an excellent parliamentarian.

Mr. WADE. He is dead.

Mr. GRIMES. No, sir; he is not dead; I saw him to-night. He is alive and well. He is the man who wrote a book on parliamentary law. He has been employed in the House of Representatives for, I suppose, twenty-five or thirty years. They give him a larger compensation than they assign to any other officer of that description; and why? Because of the personal qualifications of the man. Now, it will be observed that the Senator from Ohio selects out our principal clerk, who is Mr. Smith, and attaches to him the same compensation that is attached to Mr. Barclay in the House. It may be that Mr. Smith is entitled to more than anybody else; but it may not be that he is as well qualified to discharge the duties of a clerk as somebody else is here. It appears, therefore—and I only allude to this to show the way in which the Senator from Ohio has drawn his bill—that in order to make it correspond with the House of Representatives, he takes the same titles and attaches the same salaries to the titles, without having regard to the principle upon which the House bill was drawn; and the House bill is drawn more in relation to the qualifications and characters of the employés of the House than to anything else.

Mr. President, I have no idea that the amendment of the Senator from Missouri is going to be adopted; among others, for the reason that was stated by the Senator from Ohio. The Senate will not be disposed to consider it at this late hour of the session, and there is a disinclination always in bodies of this description to make reforms. In my opinion, this is a very important and salutary reform, and will work vastly to the advantage of your contingent expenses. I believe that if the purchases for this Senate were concentrated in the hands of one man, and that a judicious man, a man who was not extravagant, a man who would manage the affairs of the Senate precisely as he would manage his own, there would be from fifty to seventy thousand dollars saved every two years. That is all I have to say.

Mr. TRUMBULL. Mr. President, I was somewhat surprised at a statement made by the Senator from Missouri in regard to the contingent expenses of the Senate. My attention has not been very specially turned to them; I have not been a member of the Committee on Contingent Expenses, and I am not familiar with the details of these matters; but I was astonished when the Senator from Missouri said, as I understood him, that we had no detailed account of the contingent expenses of the Senate; and I understood him that the Secretary of the Senate could not make a report because he did not purchase everything, that he did not know the cost of the articles that were purchased by the Sergeant-at-Arms, and it was impossible for him to make the report showing the facts. I believe I understood the Senator correctly.

Mr. HENDERSON. I stated that in investigating the law I found that it was the duty

of the Secretary of the Senate at the beginning of every session to make a detailed report, the items of which the Senator will find in the statute I have just given him—the act of 1823, and subsequently the act of 1842.

Mr. TRUMBULL. I have the statute, but I wish to know as to the statement of fact.

Mr. HENDERSON. I called on the Secretary of the Senate to know why no report had been made since 1864; and he stated to me that it was almost impossible for him to comply with the law. The report that was made in 1864 does not comply with that law by any means. He said that the purchasing had been usurped and taken out of his hands, and that he was unable to make the report as required by the law. The Senator can read the law to the Senate. I intended doing so.

Mr. TRUMBULL. I do not see any difficulty in making this report. The law of March 1, 1823, provides:

"That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, required to lay before the two Houses, respectively, at the commencement of each session of Congress, a table or statement showing the names and compensation of the clerks employed in their respective offices, and the names and compensation of the messengers of the respective Houses, together with the detailed statement of the items of expenditure of the contingent fund of the respective Houses for the next immediately preceding year; in which statement the disbursements shall be arranged under the following heads, to wit: first, printing; second, stationery, and distinguishing under this head the articles furnished for use of the members from those furnished for the offices of the Secretary and Clerk, and specifying the number of reams of each kind of paper; third, book-binding; fourth, fuel; fifth, newspapers, specifying under this head the amount of orders given at the preceding session, as well as the payments made; sixth, the post offices; seventh, the repairs and preservation of the furniture; eighth, services of messengers and horses; ninth, miscellaneous items not included under the preceding heads. Which statements shall exhibit also the several sums drawn by the said Secretary and Clerk, respectively, from the Treasury, and the balances, if any, remaining in their hands."

The subsequent law of 1846 provided:

"That it shall be the duty of the Secretary of the Senate, at the commencement of every regular session of Congress, to report to the Senate, and of the Clerk of the House of Representatives to report to the House, and of the head of each Department to report to Congress, a detailed statement of the manner in which the contingent fund for each House, and of their respective Departments, and for the bureaus and offices therein, has been expended, giving the names of every person to whom any portion thereof has been paid; and if for anything furnished, the quantity and price; and if for any services rendered, the nature of such service, and the time employed, and the particular occasion or cause, in brief, that rendered such services necessary."

There is more of the law; I will not read it all. That was the law. Under that law, I have here the printed report of 1864, which the Senator from Missouri says is the last one. It gives all these items. I cannot read it; there are some eighty-three pages of it. I open it on page 43, and I find on this page:

"B. L. Barker, services as clerk to the Committee on Manufactures, from April 14 to May 10, inclusive, twenty-seven days, at six dollars per day, \$162."

I find on the same page:

"Two reams extra heavy note and ruled, to order, ten dollars. One ream letter, eight dollars."

Again:

"One pocket-wallet for money messenger, three dollars."

"Attendance as a witness before joint committee on the conduct of the war," &c.

"Hack hire for Committee on Enrolled Bills, nine dollars."

There are a variety of items which are extended, as I have said, through eighty pages. Now, sir, here is a report of everything purchased and what it cost. Here are the hair-brushes and the wisp-brooms. "Three wisp-brooms, sixty cents." All these items are here, and I should like to inquire of the chairman of the Committee on Contingent Expenses if every one of these bills, before it is paid, is not approved by the Committee on Contingent Expenses; whether the purchases made by the Sergeant-at-Arms are ever paid for by the disbursing officer until the bills receive the approval of that committee.

Mr. HENDERSON. Does the Senator want an answer now?

Mr. TRUMBULL. I understand that to be the fact, that they are always approved.

Mr. HENDERSON. I can state that accounts are brought before us, as the Senator from Iowa says, perhaps a purchase by Mr. Bassett, perhaps a purchase by Mr. Brown, perhaps a repair of furniture by the carpenter, and perhaps a purchase of furniture by somebody else. We do not know anything about them. We send for the officer; and he tells us that it was needed; and we are bound either to pay it or to reject the claim upon our knowledge of the matter, and it is a past transaction. In fact, accounts have come before us since I have been on the committee—and I have only been upon it for two months—of two or three years' standing, and it is utterly impossible for me to go back now to ascertain whether those accounts were just at that time or not. It resolves itself into this, that I am a mere recording clerk; I amount to nothing; and I think if that system is to be pursued the Senate had better abolish the Committee on Contingent Expenses. My idea is to know something about every transaction.

Mr. TRUMBULL. I merely wanted to know the fact whether the bills are approved by the Committee on Contingent Expenses before they are paid. Now, I understand they are. This is the important matter to be had in view—

Mr. SHERMAN. I served on that committee once, and I want the Senator from Missouri to say whether or not purchases are not always made before the accounts are submitted for approval, and the contract completed and the property delivered.

Mr. GRIMES. Certainly they are.

Mr. TRUMBULL. I understand all accounts pass through the Committee on Contingent Expenses; and the important matter to be observed is, that the same person shall not disburse and purchase. If you want a check, one person must buy and the other must pay the money. It will never do to put into the same hands the money to pay for the articles and the purchase of them; because if you have a dishonest officer—I hope we have no such officers; I am only speaking by way of illustration—he may give more than he ought to give for the article, and may in some way keep part of the money himself; but if he purchases the article and another third party pays for it, it requires collusion between them all; no money can go to the purchasing agent.

Mr. HENDERSON. That is just what we are aiming at now.

Mr. TRUMBULL. I understand, so far as the Sergeant-at-Arms is concerned, that he does not handle a dollar and never has handled a dollar of the public money. I was somewhat astonished, and I confess to a little feeling when the Senator from Iowa rose in his place a few moments ago and made this attack—I undertake to say unwarranted attack—upon the Sergeant-at-Arms. I have known that gentleman for a quarter of a century.

Mr. GRIMES. What attack?

Mr. TRUMBULL. You assaulted him here as not being in his place and not doing his duty.

Mr. GRIMES. I repeat that.

Mr. TRUMBULL. I say he does do his duty. I undertake to assert that he does his duty as faithfully as any officer I ever knew; and I undertake to say here to the Senator from Iowa that the assault was unjustified, uncalled for, and unwarranted by the fact. Sir, who is your Sergeant-at-Arms? I have known him for a quarter of a century; and he is as honest a man as any in this Chamber. He has never handled a dollar of the public money. He has no money to put in his own pocket. The purchases he makes are not paid for by him.

It is said that his duty is to be seated at the right hand of the President of the Senate. I deny it. It is no more his duty to be there than it would be the duty of a general of an army, instead of being in a position where he could take charge of the whole army, to march with a gun upon his shoulder, or than it would be the duty of a contractor with one hundred hands under him to take a shovel and go to

shoveling dirt. It is his business, as the executive officer of the Senate, to see that the men employed under him do their duty. How many men has he under him? The Senator from Iowa probably knows; I do not; perhaps forty; and having charge of all your committee-rooms, having charge of all these pages, having charge of all these messengers, seeing that order is preserved throughout the building, seeing that all these persons discharge their duties, seeing that the messages sent out by Senators are attended to, and yet it is his duty to sit there! Sir, it is his duty to be in and out of the Chamber, to be about the building, to be wherever duty calls him; and the idea of his sitting there would, as a necessity, take from him the ability to superintend what was going on.

Sir, I can see through the bill. What favorite officer is it that the Senator from Iowa wants to make a purchasing agent, with a salary of \$3,500?

Mr. HENDERSON. Three thousand dollars.

Mr. TRUMBULL. Then it has been altered, for the printed bill before me gives him a salary of \$3,500.

Mr. GRIMES. Who is it?

Mr. TRUMBULL. I should like to know who it is, with a salary nearly double that of the Sergeant-at-Arms, the officer here who has discharged the duties of three or four men, who has purchased all the articles for your committee-rooms, purchased the articles that are furnished this room, purchased the articles connected with all this wing of the Capitol. He has not paid for them; but he has rendered the bills, which have been certified to by the Committee on Contingent Expenses, and paid by the disbursing officer.

Now, sir, why is such an assault made upon him? Why is he singled out here as not being in his place? Will the Senator from Iowa tell me why he is singled out here? Does not the Senator from Iowa see the Sergeant-at-Arms as often as he sees other officers of the Senate? Why is he held up before the country as neglecting his duties? Sir, I deny it. I say he is as faithful an officer as ever was Sergeant-at-Arms in any legislative body.

In regard to his purchases, I will say this much further of Mr. Brown: he is a gentleman of taste; a gentleman who always purchases a good article; and it is economy to purchase a good article. In furnishing chairs, carpets, and whatever else he is required to furnish, he gets a good article. That is characteristic of him. It is in keeping with the building which we occupy; it is proper; it is economy in the long run. Sir, I cannot sit here, I confess, and see the Senator from Iowa rise in his place and single out the Sergeant-at-Arms as neglecting his duty in this body when such duties have been devolved upon him as he has had to perform, charging him with usurping authority, and admitting, before he sat down, that under the direction of the Vice President the Sergeant-at-Arms had performed these duties. I have not examined the law; but from what the Senator says I understand it is very doubtful as to whose duty it is to make these various purchases; but one thing I know, that propriety requires that the same person who makes the disbursements should not make the purchases.

Now, sir, I think there are some very excellent features in the bill which the Senator from Missouri has reported; but I think there are some features in it that this Senate would never agree to. Let me read a section of this bill that the Senator from Missouri has introduced and which he is indorsing, and see how we shall get along. This purchasing agent, who is to have a salary almost twice as large as you ever gave the Sergeant-at-Arms, who has done all your purchasing and everything else—

Shall also contract for the carrying of mails, documents, or other printed matter, and for all other carrying or transportation needed by the Senate.

He is to let out a contract to bring up a mail to your house; to let out a contract for taking your documents to the post office. No articles

are to be delivered except on a written requisition:

The articles to be delivered only on the written requisition of the proper officer or person authorized by law or the resolutions of the Senate to receive them.

Why, sir, if you should happen to want a pen or a sheet of paper, you must make a written requisition before you can get either. This is a very small business, in my judgment. The purchasing agent is to hire your hacks; he is to do all the business; and I believe a penalty is inflicted upon anybody else for doing any of it. You had better make your purchasing agent the Sergeant-at-Arms at once and let him do all the duty. Suppose a committee is ordered to go to the President to inquire whether he has any communication to the Senate; you must go and hunt up the purchasing agent and let him make a contract for a hack. Where would you find him? The Sergeant-at-Arms is forbidden to do it. You had better dispense with the Sergeant-at-Arms at once and call him a purchasing agent and let him do it.

Now, sir, I am for all proper checks and balances. I hope this bill will be so arranged that the same person shall not be purchaser and disbursing agent. Do not let the man who makes the purchases handle any money, but let the money come from some other party; and strike out of this bill all such provisions as this of making a contract for carrying the mails to Senators, and all such provisions as require a written requisition from a Senator. It is very likely that there have been abuses connected with the stationery-room. I have not inquired into it. Whether Senators have abused their privileges or not, I will not undertake to say; I do not know; but let an account be kept of every article that each Senator gets; let him be charged with it; let the account be seen; and if there is a disposition to draw improperly, I would limit the amount as they have done in the House of Representatives, so that no Senator should be permitted to take from the stationery-room more than a certain amount. But, sir, I would not clog it with this sort of a provision requiring a written requisition for every article that he got. I would not put in a provision here that this agent should contract for carrying the mail and for the hiring of a hack to take a committee to the Presidential Mansion.

Mr. HENDERSON. Let me ask the Senator, if he pleases, how the mail is now carried; whether it is not done by contract, and whether the law does not require it to be so done?

Mr. TRUMBULL. I suppose it is done under the direction of the Sergeant-at-Arms.

Mr. HENDERSON. How is it done?

Mr. TRUMBULL. I suppose he is paid a certain amount; I do not know how much; but I know he has control of it. I know it is sent around by messengers that are employed by the Sergeant-at-Arms, by one of our officers of whom we have control, and not a purchasing agent who is not under our control at all, a purchasing agent to be appointed by the Committee on Contingent Expenses of the Senate. The Senator from Iowa gets up here and charges usurpation on one of the officers of the Senate who cannot defend himself, and at the same time modestly asks the Senate of the United States to confirm his nomination of a purchasing agent! When did the Contingent Committee of the Senate become the executive of the Senate to nominate to us whom we should confirm? This bill provides that the Senate shall be permitted to elect a purchasing agent, provided they elect one that is nominated by the Senator from Iowa; and he talks about usurpation! Was there ever such a thing as that heard of before? I take it, the Senate is capable of electing its own purchasing agent, if it thinks best to have one. We should listen with very great respect to the gentlemen who have framed this bill, in making that selection, I have no doubt; we shall be very glad to hear from them as to who is the proper person; but the idea of putting it into a law that the Senate of the United States is

merely to confirm or not the nominations of this committee is an anomaly in this body.

Sir, if I have been betrayed into making any excited remarks or saying more than I intended, it was because of an unjustifiable assault upon a friend of twenty-five years; and I will not sit still when an attack is made upon a faithful public servant which, in my judgment, is unwarranted and without excuse.

Mr. GRIMES. It is very well, Mr. President, that issues are not to be decided in the Senate of the United States by the positiveness of the man who addresses the body or by the volume of sound which proceeds from his lungs. If it were so I would acknowledge at once that the judgment should go against me in this case.

Sir, whom have I assaulted? When did I assault the Sergeant-at-Arms of this body? What did I say of him? Did I charge him with dishonesty? Is the Senator from Illinois correct in making such an issue or attempting to make such an issue as that with me? Have I charged him with usurpation? I said this: I said that during the sickness of Mr. Dickinson, as I understood, authority was given by the President of the Senate, without having any warrant of law to do it, however, conferring upon the Sergeant-at-Arms the power to make certain purchases, and that he has continued to make purchases since, and drawn to him and enlarged his jurisdiction. That is what I said. I said nothing more than that. I did say that his place was in that chair, at the right hand of the President; and when I gave that utterance I heard responses from all the Senators to the rear of me, the men who have been the longest in this body, both the Senators from Massachusetts, and others, and it has been a universal remark among the older members of this body, that the Sergeant-at-Arms was not performing his full duty in this regard.

Mr. TRUMBULL. I have not heard it.

Mr. GRIMES. The Senator has not heard it, perhaps. The Senator was not the man whom they would approach. The Sergeant-at-Arms was brought here as the friend and henchman of the Senator from Illinois, from that State, and Senators did not choose to go to him and lay their charges against the Sergeant-at-Arms, or make any complaints against him to the Senator. But I have heard it. I have heard it on the floor of the Senate, since this discussion began, from both the Senators from Massachusetts. I say, sir, I have made no charges against the Sergeant-at-Arms. I said he was my personal and political friend, but I chose to speak frankly on this subject, and to say that I did not think he was performing his full duty to the Senate. He is the executive arm of this body. He is the chief of our police. His business is here, not down on Pennsylvania avenue or in Wall street making purchases for this body. The Sergeant-at-Arms never attempted to fulfill such duties until within the last few years. The Senator makes a great deal of sport of the bill that has been introduced. My colleagues on the committee will bear me witness that I was opposed to that provision that conferred on the Committee on Contingent Expenses the power to select this officer. They insisted that that power should be conferred upon the Committee on Contingent Expenses, and overruled me, and I consented to the proposition.

But the Senator says that this Contingent Expenses Committee have authority to make bargains by which the mails are to be delivered. Who delivers the mails now? Mr. Brown, the Sergeant-at-Arms; and how much does he get for it? Does the Senator suppose that it would be impossible for the Committee on Contingent Expenses to make arrangements with somebody to deliver the mails to Senators at a less price than Mr. Brown gets for the hire of his horses?

Mr. TRUMBULL. I did not say a word about the Committee on Contingent Expenses making a contract; I spoke of the agent making the contract.

Mr. GRIMES. Very well; the agent making the contract. Could not the agent selected

by the Committee on Contingent Expenses make the contract just as readily as Mr. Brown, and upon just as favorable terms? Does the Senator from Illinois know that we have paid to Mr. Brown upward of six thousand dollars per annum for the use of horses, by which our mails are delivered—I have the bills upon my table—and that we pay a portion of the expense of keeping the horses besides?

I beg the Senator from Illinois to remember that this committee have given some slight attention to this subject. They have not any pique against Mr. Brown. They have desired to reconcile the difficulties that are existing between our various servants on this subject, and they thought that the safest and best way was to select a new man and confer upon him the authority to make these purchases. I should not have alluded to Mr. Brown if it had not been for the effort that I knew the Senator from Illinois was making through his friends here to confer upon him the exclusive power to make all the purchases for the Senate, and I did not think that that power should be united with the duties which he is called upon and should properly perform for the Senate. I say that we should have a man perfectly independent of the executive officer of this body; that a new man should be selected.

The Senator says that the Senator from Iowa wants to select some friend. I wish he would name him. I wish the Senator from Iowa had some friend to designate for the place, if such a place is to be created. I can tell the Senator that the name of no friend of mine ever entered into my mind. I am prepared, if this duty is conferred upon me as one of the members of the Contingent Expense Committee, to act perfectly independently, and to accept the man selected and nominated to me by the Senator from Illinois if he will present a man whom I believe to be worthy and capable of discharging the duties. There is no man from my State in this city or about it that I would consent to appoint to that place who I believe would desire to take it, or who would be likely to come; nor is there any man here who has been mentioned to me that I have the slightest desire to fill any such place.

Mr. President, I certainly—and I think I need not say it here—have had no feeling in this matter. I have had no desire to attack Mr. Brown. I have told Mr. Brown himself exactly what I thought about his occupying his place here. I have told him that it was not his business to be running over this city, or to be sitting up in the Sergeant-at-Arms's room. I told him that there were complaints against him because of his not occupying his seat in the Senate; that his predecessor was invariably to be found in it; and the Senator from Illinois knows it. I have been told by men who have been here for thirty and forty years about the Senate that that seat was no more frequently vacant than was the seat of the Presiding Officer of this body. I did desire that we should return to the old tradition on this subject; that the Sergeant-at-Arms should perform the duties that he was originally selected to perform; and I told Mr. Brown so. I have only repeated here in the presence of the Senate what I told to him privately in the Committee on Contingent Expenses.

I have no purpose to accomplish in connection with this subject. It has been an exceedingly disagreeable position for me to occupy on this Committee on Contingent Expenses. I think that my colleagues have found it about equally disagreeable, and I think my predecessor, the Senator from Maine [Mr. Morrill] found it about as disagreeable as we find it. There has been and is now a constant collision on this subject of purchases. We wanted to get rid of it. We did not know any better way to settle it than to appoint an agent to make these purchases. The committee disagreed—and I think I am permitted to say that—as to the manner in which this agent should be selected. I was overruled on that subject. I am prepared to act with the committee in their suggestion if the Senate see fit to adopt it.



Mr. YATES. Mr. President, I care not whether the Secretary of the Senate or the Sergeant-at-Arms makes the purchases. That is entirely immaterial to me. Let it be done as the law provides. Let either of these officers do it. All that I care about is, that in this discussion any question should arise as to the character or the integrity of the officer who has made the purchases; and upon that question I feel it to be my duty to bear my testimony to the high character of the Sergeant-at-Arms. I have known him myself for twenty-five years. A man of more spotless integrity and of a higher sense of honor does not live. He possesses a character for integrity as high as that of the gentleman from Iowa or any other gentleman here.

I simply rose for the purpose of saying that I care not who makes these purchases, but I do not wish it to be inferred from the debate, or from insinuations which have been made, that there can be any question as to the character for integrity of Mr. Brown. While I am up, however, I will say that if we cannot trust the Sergeant-at-Arms of the Senate, if we cannot trust the Secretary of the Senate, those high officers of the body, and have no confidence in their integrity in the management of the affairs of the Senate and in the purchases that are to be made for the Senate, shall we trust a man who is not an officer of the Senate? Shall we go abroad for a purchasing agent? Shall we throw suspicion upon the character of those officers, and shall we intimate or insinuate that they cannot be trusted in the purchase of the articles which are necessary for the use of the Senate? Sir, I consider the establishment of a purchasing agent an imputation in itself, especially when it is the duty of the officer now, whether it be the Secretary of the Senate or the Sergeant-at-Arms, to purchase these articles without additional expense to the Senate.

Mr. GRIMES. Will the Senator permit me to suggest to him that the Sergeant-at-Arms and the Secretary are not the only ones who make purchases? There are three or four more. Everybody makes purchases for us, almost.

Mr. YATES. I understand that. There are certain particular qualifications which the purchaser of these articles should possess. He should be a business man, perhaps; but such a man is always employed by the Secretary of the Senate or by the Sergeant-at-Arms in making these purchases. He is simply a superintendent of this matter. Now, sir, an intimation or an insinuation may do a good deal of harm, as, for instance, that the Sergeant-at-Arms has purchased forty hair-brushes.

Mr. GRIMES. I said there had been purchased by four different parties about ninety. There were four different bills presented to us, running through the same months.

Mr. YATES. About ninety hair-brushes. That may seem very extravagant at first blush; and yet when we consider that every committee-room must be supplied, or ought to be supplied with a hair-brush, that the ante-rooms should be supplied with hair-brushes, that the bath-rooms should be supplied with hair-brushes, the office of the Sergeant-at-Arms, the post office and barber shop, &c., it will be seen that such an intimation may convey to the public mind an idea that there has been gross extravagance and a wasteful expenditure of the money of the people, when the officer has simply been discharging his duty faithfully, and buying no more articles than were necessary to the use of the various departments of the Senate.

For these and many other reasons, sir, I prefer the bill of the Senator from Ohio. I simply rose, however, to say here that the character of George T. Brown is above suspicion; that he is a man who sustains a high character and has a large influence in the State from which he comes; and I felt it my duty to say this much in his vindication, provided these charges are to be considered as assaults upon him.

Mr. SHERMAN. I believe that this amendment is proposed on the miscellaneous appro-

priation bill, which has been lost sight of to some extent.

The PRESIDING OFFICER. The pending question is on an amendment to an amendment.

Mr. SHERMAN. There is one long bill offered as an amendment to the miscellaneous appropriation bill, and then another long bill offered as an amendment to that amendment. Now, sir, it is very important if we intend to pass the miscellaneous appropriation bill that it should be passed to-night. All the numerous amendments that have been acted upon by the Senate for several days past must be acted on in the House to-morrow or the next day. We adjourn on Saturday at noon. It is manifest, therefore, that this discussion ought to come to an end. My opinion is that neither of these bills ought to be attached to the appropriation bill, and that several other amendments put upon it ought to be stricken off in the Senate, so that this bill may be stripped a little and sent to the House of Representatives. I hope that we may now have a vote on this question, and that we may be able to pass the bill to-night. I am told by members of the House that the number of members is decreasing, and there may be a possibility of being without a quorum in the last stages of the session, a contingency that has happened several times. I hope, therefore, we may get through with the bill to-night.

Mr. DOOLITTLE. I desire to say, somewhat in the same line of remark with the Senator from Ohio, that if the bill which has been reported by the special committee in regard to the Senate employes is put on this miscellaneous appropriation bill as an amendment, I shall feel it to be my duty as the chairman of the special committee, on the subject of the reorganization of the Interior Department to move the bill reported by that committee as an amendment. It is just as necessary that that should go in as this, indeed more necessary, if this kind of legislation is to be attached to the appropriation bills at the close of the session. I confess, for one, that I am entirely opposed to that mode of proceeding; I do not think it is right. These matters ought to be determined upon bills appropriately considered by themselves.

Mr. HENDERSON. I wish to say for the Committee on Contingent Expenses that we examined this measure with a great deal of care; we have presented it to the Senate; and if it is not adopted here it will not be adopted at all. I have nothing to do with any fight as to the character of Mr. Brown or any other officer. As a member of the Committee on Contingent Expenses I ask the Senate to discharge that committee from any further duty unless you adopt such laws that we can compel the officers to make reports to us so that we can know what we are doing, because I confess to the Senate that I do not know how your contingent fund is expended to-day.

The Senator from Ohio [Mr. WADE] proposes an increase in the officers that the Committee on Contingent Expenses is not willing to grant; it is too large. He proposes to grant from fifteen to twenty per cent. more than we allow. His colleague [Mr. SHERMAN] says "Let us get rid of this thing." Does he not know that the House of Representatives have sent here another appropriation bill, which his Committee on Finance have been considering, in which they propose to pay all their clerks and employes twenty per cent. additional; and it will make no difference if that committee reports against it? Do you not know that the House of Representatives have increased the pay of their clerks and have been paying a large increase during the whole session, much beyond what we are paying here? You had the same controversy a few years ago; and in order to prevent the House from doing such things the Finance Committee secured the insertion, a year or two ago, of a clause in one of the appropriation bills, declaring that no amount should be drawn from the contingent

fund of the House in order to pay their clerks. Now, what have the House done? They pay their clerks whatever they choose, not from the contingent fund but from the salary fund.

Mr. SHERMAN. They cannot do it.

Mr. HENDERSON. It has been done, and you cannot get the money back.

Mr. SHERMAN. But they now see the difficulty they are in: the accounting officers will not pass the accounts, and they ask us to make an appropriation.

Mr. HENDERSON. That very difficulty came up here once before, and the Senator knows very well, as I do, that the Senate had to yield.

Mr. TRUMBULL. And the Senator from Ohio recommended that we should yield.

Mr. SHERMAN. No, sir, never. I would never have yielded on that matter until the Capitol crumbled.

Mr. TRUMBULL. I knew the Senate gave it up; I thought the Senator from Ohio had proposed to do so.

Mr. SHERMAN. No, sir!

Mr. HENDERSON. The Capitol will crumble unless you agree to what the House has done, for you cannot get back the money from these men. Look at the compensation allowed to the House clerks. The chief clerk, whose pay by law is \$2,160, has been receiving all the session at the rate of \$3,000; the Journal clerk, whose legal salary is \$2,500, they have been paying \$3,200; the reading clerk, whose legal salary is \$2,160, they have been paying \$2,500; his assistant, who is entitled to \$1,800 by law, they have been allowing \$2,500; the tally clerk, whose legal allowance is \$2,160, they have been paying \$2,500; the assistant disbursing clerk, whose legal compensation is \$1,800, they allow \$2,500; and so on through the list which I have in my hand, certified by the Clerk of the House of Representatives. The Senator from Ohio knows he cannot get back that money paid to messengers and pages and others by the other House. Now, this proposition is not to make the salaries of the officers of our branch of Congress equal to theirs, but to elevate them somewhat, leaving a section for the House employes blank, for the House to fill up.

Mr. WADE. I wish to inquire of the Senator from Missouri, upon what principles does he increase the salaries? What percentage does he add?

Mr. HENDERSON. We did not adopt a percentage.

Mr. WADE. I have not compared the bills, but your compensation is as large as mine.

Mr. HENDERSON. Not by any means.

Mr. WADE. I have not compared them, but I understood it to be so.

Mr. HENDERSON. I have compared them.

Mr. WADE. What principle do you adopt?

Mr. HENDERSON. Here is the chief clerk, Mr. McDonald, whose services I know are worth all that the Senator proposes to give him; he puts it at \$3,200; we put it at \$3,000. He puts the principal legislative clerk at \$3,000; we put it at \$2,500. He puts the principal executive clerk at \$3,100; we put it at \$2,500, which is a difference, of course, of \$600. He gives to the Secretary of the Senate nine clerks; we give him eight. He puts their compensation at \$2,500; we put it at \$2,200. That is the difference, and it runs clear through the bills.

Mr. WADE. That ninth clerk was because there had been a temporary clerk all the time, and we supposed he might as well be made permanent.

Mr. HENDERSON. I am not going to take up the time of the Senate. The House of Representatives have increased the pay of their clerks and we propose to increase ours, not so much as the House, but to give such compensation as we think ought to be paid to our clerks. It is a very reasonable compensation, and I am willing to grant it. Our bill is carefully prepared on that subject, because we had the officers of the two bodies before us, and

we have compared the various duties critically and carefully, and if you are going to adopt any bill on the subject of increase, you might as well adopt this.

Now, in regard to the purchasing agent; we have drawn off the clerks and agents enough to make up for the purchasing agent. I have nothing to reflect against Mr. Brown, nothing to reflect against Mr. Forney, nothing to reflect against anybody; but if the Senate want me and the other members of this committee, or any other member of this committee, that may hereafter be appointed to be of any service to them in auditing claims, I beseech of them to do something upon this subject. I believe it is the duty of Mr. Forney now by law to make the purchases; the committee came to that conclusion, and we do not feel like taking it away from him and turning it over to Mr. Brown. I have no feeling against one or in favor of the other. I believe conscientiously the Secretary has the legal authority to do it; upon an examination that is my opinion, and I do not desire to take it away from him and turn it over to Mr. Brown.

Senators ought to be aware that there is a good deal of feeling about this matter. Mr. Forney gives as an excuse for neglecting to make his reports to us that he does not advertise these proposals. The Senator from Illinois I know can make a great deal of fun of a reported bill; he can say that this is parsimonious; but if he knew something about the contingent expenses of the Senate he would feel a little parsimonious, I apprehend. Let him take the last report made in 1864 and glance over it. I do not wish to comment upon it, and I do not intend to do so.

Mr. JOHNSON. What is the amount?

Mr. HENDERSON. It is lying here before me; I have not footed up the figures; it would take me too many days to do it. I have not had an opportunity to do it. The honorable Senator from Illinois asks whether the Committee on Contingent Expenses cannot know what is going on. I want to say to the honorable Senator from Illinois that I do not know, I cannot know, and I will tell him why. The law which he just now read requires that in the purchase of stationery, for instance, the Secretary of the Senate shall advertise, and he shall purchase the stationery from the man who makes the lowest bid. Is there any member of the Contingent Expenses Committee that ever saw a bid? I ask the honorable Senator from Ohio, [Mr. SHERMAN,] who used to be upon that committee. Did the Senator from Missouri, [Mr. Brown,] who served upon it, ever see one of them? I never saw one of them. I never saw a bid for any article.

Mr. JOHNSON. Are there no bids?

Mr. HENDERSON. We pay for the advertising, but I never saw the bids. I know nothing about them. We pay three or four hundred dollars for advertising every year, and I never saw one of the bids.

Mr. BROWN. I have seen bids.

Mr. HENDERSON. Where are they?

Mr. BROWN. I do not know where they are now.

Mr. HENDERSON. They are not there now. I have never seen one of them. The coal is purchased by Mr. Brown, and I have no doubt honestly purchased; I have never seen anything to the contrary; and he purchases the wood; but I never saw an advertisement for bids for those articles. I have audited the claims for advertising in the newspapers here, but I never saw a bid. Whether the bid accepted was the lowest or the highest bid, I do not know. Now, I beseech the Senate, if they have any use for a Contingent Expense Committee, to modify the law so as to make it the duty of those officers to report to us the amount of their purchases and how they expend the money. I know nothing about it, and no Senator in this body does know now. If you want to give the making of purchases to Mr. Brown, do so; if you want to give it to Mr. Forney, do so; all I ask is that you shall adopt some provisions

of law which shall require them to report to the Contingent Expense Committee; so that we shall know what is going on.

Mr. TRUMBULL. I think that is proper. There is no objection to that.

Mr. HENDERSON. If the Senator has no objection to that, let us adopt the measure I have offered. So far as the clerks are concerned, it is carefully graded.

Mr. BROWN. Adopt it with that amendment.

Mr. HENDERSON. I have already demonstrated to the Senate that if you make a purchasing agent you diminish instead of increasing expenses. If Mr. Brown makes the purchases, he must have a clerk; if another man makes them, it only amounts to employing a clerk. Mr. Brown cannot make the purchases and make to us the reports we require without additional help, and every Senator knows it.

Mr. HOWE. On the question of cost, as I read the proposition submitted by the Senator from Missouri, it provides for a purchasing agent of the Senate with a salary of \$3,000, with a clerk at \$1,800, a messenger at \$1,200, and a page at \$750.

Mr. HENDERSON. Only three officers, the purchasing agent, a clerk, and a messenger; the rest is stricken off. We strike off the stationery clerk. We have stricken off the superintendent of the furnaces, and assistant superintendent, and various other officers. The Senator from Ohio proposes several clerks which we have stricken off. The cost is no more. If the Senate has any confidence in the committee, of course they can take the assurance of that committee that the cost is less. I state it upon my responsibility, I state it from an examination of the facts, that the cost under our bill is less than it is now. We have cut off various supernumerary officers, and we shall get along a great deal better. If you wish to put Mr. Brown under bonds and require of him to make these purchases and reports, if you wish to take it away from the Secretary, to whom it now lawfully belongs, be it so. I do not desire to make that difference between the two officers. I do not desire to reflect upon Mr. Forney. I know he has feeling about it. I do not desire to reflect on Mr. Brown; but we thought to avoid the difficulty by decreasing the expenses of the body and making an officer who would be responsible to this body under his bond.

Mr. BROWN. If my colleague will permit me, I will ask him right there how he makes it out that the striking out of a purchasing agent at \$3,500 would not reduce the expenditure under his bill just that much. Suppose you devolve these duties on the Sergeant-at-Arms and strike out this additional pay of \$3,500, does it not reduce the expense under your amendment just that much?

Mr. HENDERSON. Will the Senator tell me why this anxiety to have the Sergeant-at-Arms perform this duty when his duties, as the committee supposed, were to serve the processes of the body and to remain in the Senate?

Mr. BROWN. That is another question. We are talking about the question of expense now.

Mr. HENDERSON. I have stated again and again the offices that we have gotten rid of by virtue of this bill.

Mr. HOWE. Now, I wish the Senator to state once more what officers are got rid of who are now employed in making these purchases.

Mr. HENDERSON. We got rid of the stationery clerk, to begin with.

Mr. HOWE. He is not employed in making purchases.

Mr. HENDERSON. The stationery clerk does make purchases of stationery, as I understand, under the direction of the Secretary of the Senate.

Mr. HOWE. Very well. Now, what is the salary of the stationery clerk?

Mr. HENDERSON. The salary now is

\$1,750, but of course if we retain him we have got to increase his salary with the rest of them.

Mr. HOWE. You get rid of \$1,750.

Mr. HENDERSON. No, \$2,200. If you retain this man you must increase his salary nearly in the neighborhood of the purchasing agent.

Mr. HOWE. What else?

Mr. HENDERSON. You get rid of the superintendent of furnaces.

Mr. HOWE. Is he engaged in making these purchases?

Mr. HENDERSON. Certainly not. I am not talking about the expense of the particular matter of purchases; I was speaking of the bill of the Senator from Ohio. He proposes to have an additional clerk to the Sergeant-at-Arms, and I tell the Senator now that if he devolves this matter on the Sergeant-at-Arms he must give him a clerk.

Mr. WADE. No doubt about it. He ought to have one.

Mr. HOWE. Let us treat this matter frankly. We somehow or other have the purchases made with the present force, and we do not employ the superintendent of the furnaces in making them—

Mr. HENDERSON. The committee instructed me to report this bill. They examined this subject carefully and they have reduced the expenses. They believe there ought to be a superintending officer for this business. That is the opinion of a standing committee that you have appointed to investigate this matter. I am not going into details; but if the Senate insist upon it I will do so. I am not going to discuss this subject of contingent expenses; but I say to the Senate that a standing committee of this body have investigated it and they believe that this ought to be done, that it is for the economy of the Senate; they believe that it is proper and necessary in order to bring economy into our expenses. That is what they have instructed me to do. The Senate have it before them and they can do as they please.

Mr. CONNESS. Mr. President—

Mr. FESSENDEN. I wish my friend from California would allow me to say one word before he goes on.

Mr. CONNESS. The Senator always speaks so well that I shall be glad to hear him.

Mr. FESSENDEN. I do not desire to speak, but I wish to point the attention of the Senate to the fact that it is now eleven o'clock, and if we expect to get through with the business of the session at the time we have fixed we must finish this bill to-night. At the rate we are going on we shall not get through with it. These matters have been fully discussed, and if everybody makes a speech about them we may just as well give it up first as last, and I do pray the Senate to have a little forbearance in the way of discussion of these matters and come to a vote upon the questions.

Mr. CONNESS. I suppose that speech is intended for me, in the main.

Mr. FESSENDEN. Not at all. It was not intended for the Senator, because he had not begun, but it was intended for the whole body, if the Senate will allow me to say so and not quarrel with me for saying it. If the Senate chooses to sit all night, so be it; but that must be the inevitable consequence at the rate we are going on with this bill.

Mr. CONNESS. I rose to make a speech, and I intend to make it. It will be a very short one. I shall make the one I rose to make notwithstanding the very good one we have heard from the Senator from Maine. [Laughter.] I rose to say that the Senator from Missouri should not complain and refuse to bring the details of the business of his committee into the Senate Chamber after he had already introduced combs and hair-brushes this evening. I think the details of that committee's business have been brought in here to too great an extent, and, for one, I rose to say that I was rather tired of it, and hoped we should get to voting.

Now, Mr. President, I wish to say to the Senator from Maine that that was the speech I rose to make. [Laughter.]

Mr. FESSENDEN. It is a very good speech. If you would only always make as good ones, you would do very well. [Laughter.]

Mr. BUCKALEW. I rise for the purpose of proposing a modification or two before the vote is taken, not to speak. On the fourth page of the amendment, in the twenty-second line, after the word "person," I move to insert "other than Senator."

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The modification can be made by unanimous consent, no amendment being in order.

Mr. BUCKALEW. This amendment will narrow the requirement of a regular requisition for articles to the officers and other persons besides Senators. That was the leading design, of course, of this section.

The PRESIDING OFFICER. The modification will be made if no objection be interposed.

Mr. BUCKALEW. I suggest also to the chairman to omit the latter part of the third section commencing with the word "said," in the seventh line, authorizing this agent to employ horses and contract to carry the mails. The sum total of expenditure under that head is not very considerable, and although I agree with the Senator in the opinion that it might be well enough to bring that subject under the general purview of the section, it is not material, and as it is a matter of debate it had best be omitted.

The PRESIDING OFFICER. That further amendment will be made if there be no objection. Is there any objection?

Mr. HENDERSON. I will make no objection to it.

The PRESIDING OFFICER. The modification is made.

Mr. BUCKALEW. I believe these were two of the main points of the amendment which were objected to by the Senator from Illinois, and upon which he made his speech. There remains no other particular feature which has elicited debate, except the provision in the first section by which we secure system and reform in the purchases of this body. When the committee made up their minds to suggest this change to the Senate they expected it to be opposed. No reform of the kind was ever introduced and carried without a contest; it is against the nature of things and against the experience of legislative bodies; but there are two facts which will arrest attention and ought to command votes; in the first place, that under the existing laws and the uniform practice of this Senate down until a very recent period the Secretary of this body was charged with these duties connected with purchases as well as with the disbursement of funds. I have in my table papers made out by our late Chief Clerk, Mr. Hickey, which demonstrate it, if anything can be demonstrated by argument and by an appeal to past facts. I have also here a letter from the late Vice President, whose verbal authority to the Sergeant-at-Arms was relied upon as the foundation of his habit of making purchases recently, in which he disclaimed altogether having, as the Presiding Officer of this body, vested in him any control over the subject, and in which he explains the circumstance upon which this pretension was founded. He states that upon some former occasion—his letter is here—he was spoken to by the Sergeant-at-Arms with reference to some changes in, I think, the galleries, and also in one of the rooms, and in reply to that officer he remarked that those things ought to be done and he would approve of them. If there was any authority, it was slight indeed, none in law, and if he gave any he withdrew it in this letter, which was written in September, 1861. However, sir, I will not go through with that.

I understand, then, the law to be—the former statutes are alluded to in the argument which I have mentioned—and the uniform practice of the Senate from the beginning until very

recently has been, that the Secretary of this body is charged with this whole duty from beginning to end, all sorts of purchases. Now, then, the question with the Committee on Contingent Expenses, as dispute and debate had arisen is, what shall they do? If you leave it as it was, they must say hereafter, if they are brought to the strict point, and the Secretary of the Senate makes the point, that no purchases will be legal under the law and under the practice of the Senate except purchases made by the Secretary. That is where you leave the subject if you do not adopt our amendment.

I wish to add but one remark. I know the Senate is impatient, and I am very sorry to occupy their time; but I consider that as this subject was charged upon our committee by a special reference of the Senate, we are entitled to be heard so far as to understand the proposition which we have made.

These duties are extensive; these purchases are large; they are various things; they will occupy the whole time and attention and ability of a good officer. You cannot charge these duties upon our Secretary. He does not discharge them, he cannot discharge them. You cannot charge these duties upon the Sergeant-at-Arms. He is overcharged with employment now. He has thirty or forty officers under him, he attends to the post office, he has superintendence over the folding-room, over the document-room, and over the building generally, besides the furnaces and the ventilation of this building. His duties are of that character that they absorb his whole time and attention and withdraw him from our Chamber. I do not complain of his absence, because these duties are sufficient to occupy his whole time and attention. It would therefore be unwise and unreasonable, in my opinion, to charge upon him these whole duties relating to purchases. If we do not charge them upon him he will have to turn them over to another officer. I believe the amendment we have reported is a proper one, and therefore I shall vote for it.

Mr. SPRAGUE. I am very sorry to detain the Senate a moment; but as this is a bill to raise compensation, and it is also a bill under which if one person's compensation is raised others who perform like duties also claim to have their compensation raised, I desire to call the attention of the Senate to the fact that there are eight special and additional messengers who have performed duty the same as those provided for by law who are not paid, and whose compensation is not increased by the bill under consideration; and if it was in order I should deem it my duty to offer an amendment of this character:

Special or additional messengers of the Senate not provided for in this act shall receive twenty-five per cent. in addition to their present compensation.

I ask the Senator from Missouri to permit that amendment to go into his bill to provide for the eight additional messengers who have been appointed from session to session for many years. They are now upon duty here, and have been during this whole session.

Mr. HENDERSON. Where employed?

Mr. SPRAGUE. I do not know where; but the Sergeant-at-Arms says they are here. I have a memorandum. "The additional messengers are not affected by the bill of Mr. WADE or Mr. HENDERSON;" so that there are eight of these gentlemen who have served the Senate faithfully, as faithfully as any that are provided for in this bill, that do not, under the bill reported by the Committee on Contingent Expenses, receive compensation; and I hope, therefore, the Senator will permit this amendment to be made.

Mr. HENDERSON. I was not aware of the fact that there were any additional messengers. The committee undertook to define the number of these officers, so that we could get rid of a difficulty upon this subject. Wherever an officer wants to employ additional men somehow or other he finds authority, and we thought we would get rid of that thing and define the

exact number of officers. We did not know that there were eight additional messengers, and we do not know where they are employed. If they are employed, I have no objection to increasing their compensation along with the others; and if the Senator will so modify his amendment as to say, "any messengers who may be employed under proper authority," I shall not object; but I do not know under what authority, and it seems he cannot tell me, these messengers were appointed. I know nothing about it. If they have been appointed, they ought to be paid.

Mr. SPRAGUE. I can only say that these additional messengers have been employed for a good many Congresses, if not by law, by precedent, not alone by the present Sergeant-at-Arms, but by his predecessor.

Mr. HENDERSON. I suggest to the Senator that he let it remain and we will inquire into it. We will take a vote now, and when the bill comes into the Senate, I will look into that matter and I will see Mr. Brown and see if there are additional messengers. I have no doubt we can confer and provide an amendment to meet the cases. Let my amendment be voted upon now as it is.

Mr. HOWE. I want to inquire, simply, if the amendment offered by the Senator from Missouri shall be adopted as an amendment to the amendment of the Senator from Ohio, will this be subject to amendment.

Mr. HENDERSON. It will in the Senate. The PRESIDING OFFICER. It will be subject to amendment in the Senate, the Chair understands.

Mr. FESSENDEN. I hope we shall cut the knot by rejecting the whole. If we expect to get through with this bill at this session it is absolutely necessary that these subjects should not go upon it. The Senator from Wisconsin has given notice of what he will do if this goes on; other Senators probably will do similar things. It has already been suggested to me that the bill reorganizing the Treasury Department ought to go on this bill. We shall have, I suppose, then, the honorable Senator from Massachusetts [Mr. WILSON] with a bill reorganizing the War Department, with just as much sense, and then the State Department.

Mr. SHERMAN. That is on.

Mr. FESSENDEN. I hope it will be got off when we go into the Senate.

Mr. SUMNER. I hope it will stay on.

Mr. FESSENDEN. We will try, anyhow. Now, the question is, do the Senate mean to finish or pass the bill at this session? They have already begun to see and to feel, I think, the utter absurdity and folly of this kind of legislation. It begins with one Senator; he disapproves the principle, but he has something that must go on; another Senator disapproves the principle; he does not like it, but he has something that must go on, and so we load an appropriation bill down with these bills that could not pass, perhaps, in any other way, and make very bad legislation. This bill should go to the House to-morrow if we expect to pass it at all during this session; we have fixed the day of adjournment, and yet gentlemen persevere in putting on these bills. I really hope that the Senate will just vote down this and everything connected with it, and also vote down all other propositions of the kind if they expect to get through. I appeal to the majority, if you want to pass your appropriation bills during this session before we adjourn, just assume the position that you ought to assume and enforce the rules and understanding in regard to these bills and keep these extraneous matters off. I have, so far as I have had a chance to vote when I have been able to be here, voted against the whole of them, and I shall continue to do so, because experience has satisfied me of their utter impropriety and the embarrassment that arises from them. Here we are, nearly at midnight, discussing this matter, and every other thing that is offered will be discussed in the same way. Now, I beg Senators not to say that the chairman of the Committee on Finance is manifesting his usual temper on this matter;



he cannot stand anything at all. I think I have stood it quite respectably.

Mr. WADE. Well, just quit talking and we will all agree. [Laughter.]

Mr. FESSENDEN. If you will be agreed to what I propose, I will not only quit but I will engage to be good-natured for the rest of the evening. [Laughter.]

Mr. HENDRICKS. I think the suggestion of the Senator from Maine ought to be respected by the Senate. I desire to see a bill something like this pass, mainly to provide for the very efficient chief clerk here, who does the duties that are discharged in the House of Representatives by three clerks. But an appropriation bill ought to be an appropriation bill; it ought not to be a legislative bill; and although I am in favor of the bill of the Senator from Missouri, in its main features, I think it ought not to be attached to an appropriation bill. It ought to stand upon its merits; but if anything of the kind is to be passed, I think it is better than the bill of the Senator from Ohio, because it seems to be a well-considered measure.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri, to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is now on the amendment of the Senator from Ohio, [Mr. WADE.]

Mr. WADE. I wish barely to say that if we are to increase the compensation of these employes, we have got to take this measure or they do not get anything more this session.

Mr. FESSENDEN. The House employes will not get anything more.

Mr. SPRAGUE. I must offer the amendment I proposed.

Mr. FESSENDEN and others. Offer it in the Senate.

Mr. SPRAGUE. On page 3, after line thirty-eight, I move to insert:

The special or additional messengers of the Senate not provided for in this act shall receive twenty-five per cent. in addition to their present compensation.

The amendment to the amendment was rejected.

Mr. SPRAGUE. That ought to be adopted if any.

Mr. FESSENDEN. Vote against the other.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. WADE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I desire simply to state that the House have put a proposition for increasing the pay of their officers upon the deficiency bill which comes up after this; and if this question is to be raised anywhere, it ought to be there.

The question being taken by yeas and nays resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Chandler, Creswell, Howard, Howe, Lape, McDougall, Norton, Nye, Poland, Ramsey, Riddle, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, and Yates—19.

NAYS—Messrs. Brown, Buckalew, Clark, Conness, Cowan, Davis, Doolittle, Edmunds, Fessenden, Grimes, Guthrie, Henderson, Hendricks, Morgan, Nesmith, Pomeroy, Ross, Sherman, Sprague, and Wilson—20.

ABSENT—Messrs. Anthony, Cragin, Dixon, Foster, Fowler, Harris, Johnson, Kirkwood, Morrill, Saulsbury, and Wright—11.

So the amendment was rejected.

Mr. POLAND. I am directed by the Committee on the Judiciary to propose a single amendment as an additional section:

SEC. —. And be it further enacted, That the solicitor of the court for the investigation of claims against the United States shall receive an annual salary of \$4,500, and the deputy solicitor of said court shall receive an annual salary of \$3,500, to be paid quarterly from the Treasury of the United States out of any money not otherwise appropriated.

This matter came before the Committee on the Judiciary and was very carefully examined, and we reported a bill on the subject, which, by direction of the committee, I was instructed to propose as an amendment herc. It raises the salary of the solicitor \$1,000 and the sal-

ary of the deputy solicitor \$1,000. I think the compensation is no more than they ought to have.

The amendment was rejected.

Mr. WADE. I offer this amendment, to come in after line one hundred and eighteen, on page 6:

For compensation to the consul at Quebec, in Canada, \$1,500.

I am told that this item was omitted from the consular and diplomatic bill by a bare mistake in the House; and they want it put on here, as there is no other chance for it. It ought to be done.

Mr. SUMNER. The Senator is right. A gentleman on the part of the House intended to have it inserted, but in making up the report of the committee it did not appear on the record of the House.

Mr. SHERMAN. Is it for the salary of this consul, fixed by law?

Mr. SUMNER. It is one of those consulates that had \$1,500 during the war, and the salary has ceased.

Mr. SHERMAN. Is it reported from any committee? It is not in pursuance of law.

Mr. SUMNER. No; it is not in execution of any law.

Mr. FESSENDEN. Then it is not in order.

Mr. SUMNER. It is to correct a mistake that was made. A gentleman on the part of the House brought it to the Senator from Ohio and myself, and said they wanted the mistake remedied.

Mr. FESSENDEN. The amendment is clearly out of order. It is not recommended by any committee, and it is not in pursuance of any law or treaty stipulation.

The PRESIDENT *pro tempore*. If that be the case the amendment is not in order.

Mr. SPRAGUE. I am instructed by the Committee on Military Affairs and the Militia to move the following amendment as an additional section:

And be it further enacted, That the sum of \$5,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the preservation of the harbor of Provincetown, Massachusetts, the same to be expended under the supervision of a commission or board of officers to be appointed by the Secretary of War.

Mr. SHERMAN. I should like to know how the Military Committee got jurisdiction of that matter.

Mr. SPRAGUE. It was referred to them by petition from the Legislature of Massachusetts.

Mr. SHERMAN. The Military Committee?

Mr. SPRAGUE. Yes; and by them referred to the Secretary of War; and I hold in my hand his communication.

Mr. FESSENDEN. It should have gone on the river and harbor bill. We cannot put such items on this bill.

Mr. SPRAGUE. The Committee on Military Affairs referred this matter to me; but when the river and harbor bill was considered by the Senate I was necessarily absent, and I have had this amendment in my desk ever since.

The work is a very important one, one that affects the whole New England coasting trade in the same way that the Delaware breakwater affects the southern coasting trade. This will save the Government an immense sum of money, which otherwise it will be called on hereafter to appropriate, for it is to preserve a natural tongue of land from being washed by the water, and thereby save us from the necessity of very much larger appropriations.

Mr. FESSENDEN. It can well enough stand over till the next session.

Mr. SPRAGUE. If it is in order, I hope it will be put here.

The PRESIDENT *pro tempore*. No question of order is raised on the proposed amendment.

Mr. SPRAGUE. I send to the desk to be read a communication from the engineer department on the subject.

Mr. FESSENDEN. Oh, do not have that long communication read. We take it for granted that you state the facts correctly.

Mr. SPRAGUE. If you will let the amendment go on the bill I shall not ask for the reading.

Mr. FESSENDEN. I cannot let it go.  
Mr. SPRAGUE. Then I insist on the reading of the letter.

The Secretary read as follows:

ENGINEER DEPARTMENT.

WASHINGTON, February 13, 1866.

SIR: In relation to the resolutions of the Legislature of Massachusetts in favor of an appropriation for the preservation of the harbor of Provincetown, &c., referred to this Department, I have to report that this harbor is of much importance to the commerce of the country, and particularly to our coasting trade. It bears the same relation to the northeastern trade that the Delaware breakwater does to the South and southwestern trade. It is a harbor of refuge, in which numerous vessels seek shelter and find security during adverse winds and gales in the passage around Cape Cod.

Its importance is greater from being free from drift ice and thoroughly land-locked. As a natural harbor it possesses all that has been obtained at the cost of nearly two million dollars in creating such a refuge at the entrance of Delaware bay. Such is its importance and value to the commerce of the country. Nature having provided it and the industry of our country having for years past greatly profited and benefited by the security it affords, its preservation and protection have been and continue to be recommended by this department to the fostering care of the national authorities.

Its preservation is mainly for commercial interests. To this end structures on the ocean side of the narrow neck of sand beach are advisable to prevent the ocean waves breaking across that neck and driving the sands into parts of the harbor now resorted to and valuable for the smaller class of coasting vessels as well as guarding against more enlarged encroachments from the ocean, and contraction of this valued natural roadstead.

The superintending engineer has presented an estimate for several operations that he considers expedient and proper to be constructed, amounting to \$43,068 44.

There may be well-founded objections to a part of the system thus recommended. Until the subject is more fully studied and examined in all its bearings by some competent board that shall be ordered to examine it, the department can only recommend an appropriation for protecting the encroachments of the sea upon the narrow neck indicated on the plan by the letters A, B, C; and for this purpose the sum of \$5,000 should suffice to do all that at this time is advisable, profiting by the experience gained for similar protection on the Atlantic side of Sandy Hook, New York.

As a military site it is of importance as a harbor for our vessels-of-war under all the varied circumstances of offense and defense of and from our coast by a floating force. In possession of an enemy, the harbor of Boston is sealed by blockade as long as a superior floating force can occupy it. Whatever may be our naval force at times, it may be inferior to a single as well as a combined naval European antagonist. To preserve its use and value for purposes of peace and war, its anchorage should be commanded by permanent defenses on the land, mounting the heaviest of artillery and a number of the longest-range mortars. When such artillery is mounted in works susceptible of defense on the land as well as from the water, it is believed that all the conditions are fulfilled that the nature of the case demands.

It is not considered that a railroad from Orleans to Provincetown should be constructed by the United States as a necessary element of efficiency in the defense of this harbor. Whenever an enemy shall set foot on shore to make an attack by land upon any defensive work at Provincetown, the population in his rear in the districts between Boston and Providence would render such an enterprise next to impracticable.

Respectfully, your obedient servant,  
RICHARD DELAFIELD,  
Brevet Major General,  
Chief Engineer United States Army.

Hon. E. M. STANTON, Secretary of War.  
Mr. FESSENDEN. The reading of that long document at this time of night is argument enough against the amendment. [Laughter.]

The amendment was rejected.

Mr. RAMSEY. I now offer the amendment which I submitted this afternoon, but was laid aside after the recess. It is to insert after line two hundred and eighteen, on page 10:

For a light-house at Grand Portage, mouth of Pigeon river, Minnesota, \$5,000, subject to the approval of the Light-House Board as to the necessity of this light.

There is a short letter from the chief of the Light-House Board than can be read. ["Oh, no."]

Mr. SHERMAN. The Senator told us the appropriation had been made twice but they had refused to expend the money.

Mr. RAMSEY. It lapsed into the Treasury and was not spent on account of the war.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendments made as in Committee of the Whole? If Senators desire a separate vote on any particular amendments, they will now designate them.

Mr. SHERMAN. I desire a separate vote on two of the amendments, the one in regard to the pay of the clerks of the State Department, and the other in regard to the compensation of members and Senators.

Mr. CHANDLER. I desire a separate vote on the amendment which struck out lines two hundred and forty-four and two hundred and fifty, on page 11, being the clause granting certain compensation to the Commissioner and chief clerk of the General Land Office.

Mr. FESSENDEN. I ask for a separate vote on the amendment in regard to the Michigan cavalry.

Mr. TRUMBULL. I desire a separate vote on the appropriation of \$1,500,000 to rebuild the levees on the Mississippi river.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments which have not been specially excepted.

The unexcepted amendments were then concurred in.

The PRESIDENT *pro tempore*. The excepted amendments will now be read in their order.

The Secretary proceeded to read the amendment to insert after line seventy-two, on page 4:

For reconstructing and repairing the levees on the Mississippi river, in the States of Louisiana, Mississippi, and Arkansas, \$1,500,000—

Mr. TRUMBULL. It is not necessary to read the amendment at length. We all understand what it is. I ask for the yeas and nays upon concurring in it.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 6; as follows:

YEAS—Messrs. Buckalew, Chandler, Clark, Conness, Cowan, Creswell, Davis, Doolittle, Edmunds, Foster, Guthrie, Henderson, Hendricks, Howard, Howe, Lane, McDougall, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Ross, Stewart, Van Winkle, Wiley, Williams, Wilson, and Yates—30.

NAYS—Messrs. Grimes, Morgan, Sherman, Sumner, Trumbull, and Wade—6.

ABSENT—Messrs. Anthony, Brown, Cragin, Dixon, Fessenden, Fowler, Harris, Johnson, Kirkwood, Morrill, Pomeroy, Saulsbury, Sprague, and Wright—14.

So the amendment was concurred in.

The next excepted amendment was to strike out from lines two hundred and forty-four to two hundred and fifty of section one, in the following words:

For compensation to the Commissioner and chief clerk of the General Land Office, (to be apportioned by the Secretary of the Interior,) in consideration of the increased duties devolving on them from June 7, 1865, to December 31, 1865, in connection with the census of 1860, \$1,750.

Mr. CHANDLER. I will state that this appropriation—

Mr. FESSENDEN. I think there is now no objection to the appropriation. I am perfectly willing that it should be made.

Mr. CHANDLER. Very well.

Mr. SHERMAN. I hope the amendment will be rejected.

The amendment was non-concurred in.

The next excepted amendment was to insert as an additional section:

And be it further enacted, That there be paid to the several clerks of the Department of State twenty per cent. of the compensation now allowed to each, to commence from the 30th of June, 1865, and to continue until repealed by Congress, and a sum sufficient for this purpose is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. SHERMAN. All I wish to say is, that the different bills on the subject of increasing the pay of the clerks in the different Departments of the Government have, as I understand, been either postponed or rejected in the other House. It has been so in regard to the Treasury and Interior Departments, and therefore it would be manifestly improper to increase the compensation of the clerks in the State Department, when the others are not provided for. All ought to stand on the same footing.

Mr. SUMNER. I do not feel that it is manifestly improper. On the contrary, I feel that

this appropriation is manifestly proper. I do not wish to take time in arguing it. I presented the facts when it was under consideration before, and though I think the Senator from Ohio attempted to answer it, I feel sure he did not succeed. The case is peculiar. These clerks are few in number. They are not so numerous as those in the Treasury Department.

Mr. SHERMAN. They get higher pay in proportion.

Mr. SUMNER. I beg the Senator's pardon. There are no heads of bureaus in the State Department. In the Treasury Department, I need not remind the Senate, there are heads of bureaus who have three, four, five, and some even six thousand dollars a year. There is no head of a bureau in the State Department. They are all simply clerks, and nothing more.

Mr. SHERMAN. They are the highest grade of clerks.

Mr. SUMNER. That may possibly be the case, but they perform the highest grade of service. The other day the Senator chose to let drop some remarks in disparagement of what they did. The Senator showed that he was very little conversant with what they did. The service of many of the clerks in the Department of State is highly intellectual.

Mr. FESSENDEN. A high grade of gentlemen, I suppose.

Mr. SUMNER. No; I do not introduce that element; I say nothing about it. I am speaking in earnest for men who have rendered good service to the State, who are not adequately paid, who are receiving now what they had before the war, and many of them cannot live on their pay. I do not wish to take up time with this matter.

Mr. GRIMES. I appeal to the Senator to know if he is willing that I should put on the bill increasing the pay of clerks in the Navy Department as an amendment to his proposition.

Mr. SUMNER. The Senator acts here on his own responsibilities, and he knows perfectly well what he ought to do and what he ought not to do. I do not know the merits of that case, but I do know the merits of the case which I have presented, and I believe the Senate were convinced of the merits yesterday, or the day before, when by a majority of several on the yeas and nays they put this appropriation in the bill. I hope it will not now be taken out of the bill.

It is perfectly vain to say that the other House has made no appropriation for the Interior Department, or for the Treasury Department, of this nature. I did not find this proposition on the argument that the other House had done this or that. As the Senator refers to what the other House has done, though, I may remind him that both Houses, on a former occasion, appropriated \$250,000 for extra compensation to the clerks of the Treasury Department. The Senator undertook to correct me the other day with regard to that; but the statute-book will show that I am right. Two hundred and fifty thousand dollars was appropriated for extra compensation in the Treasury Department. I then showed the Senator from Ohio that his own bill, which he had charge of in this Chamber, undertook to raise a great many salaries, not in the Departments, but elsewhere, and this very deficiency bill, which we are told is to come forward tomorrow, has a section, section four, which is additional to what has already been provided in a former bill, with regard to the distribution of certain funds among the clerks and employes of the Treasury Department. The Senator from Maine suggests that I shall put my proposition on that bill. It is already on this bill, and I wish to keep it there.

Mr. FESSENDEN. I hope it will not be kept there.

Mr. CHANDLER. It is perfectly evident that if this clause remains in the bill, other Departments should go on it. In the War Department three fourths of the clerks are dis-

abled soldiers, drawing only \$1,200, nearly every one of them. If this provision stays on this bill, I hope you will put on a provision for the War Department clerks certainly, if not for the Interior and all the other Departments of the Government. It is simply absurd to say that the State Department should be on and other Departments off. I hope Senators will either put them all on or strike this off.

Mr. SUMNER. I hope the Senate will be willing to do justice, and if in doing justice requires that all the other Departments should go on, put them on. I have shown that justice requires that the State Department should go on: I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Conness, Creswell, Henderson, McDougall, Morgan, Nye, Poland, Pomeroy, Riddle, Ross, Stewart, Sumner, Trumbull, Van Winkle, Wade, and Yates—16.

NAYS—Messrs. Buckalew, Chandler, Clark, Cowan, Davis, Doolittle, Edmunds, Fessenden, Grimes, Guthrie, Hendricks, Howard, Howe, Lane, Nesmith, Norton, Ramsey, Sherman, Sprague, Wiley, Williams, and Wilson—22.

ABSENT—Messrs. Anthony, Brown, Cragin, Dixon, Foster, Fowler, Harris, Johnson, Kirkwood, Morrill, Saulsbury, and Wright—12.

So the amendment was non-concurred in.

The next excepted amendment was to insert as an additional section:

And be it further enacted, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per year and mileage as now provided by law; and this provision shall be held to operate from the beginning of the Thirty-Ninth Congress.

Mr. HENDERSON. I move the proposition which I offered yesterday as an amendment to that. I move to strike out all after the enacting clause of the section and insert:

That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present Congress, and in addition thereto, mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from the regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives.

Mr. HENDRICKS. I suggest to the Senator from Missouri, that it would be more acceptable to some of us if he would provide that the change in the mileage should take place at the commencement of the next session of Congress.

Mr. HENDERSON. That is just what it is.

Mr. HENDRICKS. No; I understand that it will take place at the beginning of the next session.

Mr. HENDERSON. The Senate will remember that mileage accounts are due on the first day of every session, and therefore the mileage for this session was due last December. That has been drawn and this provision will not affect that mileage.

Mr. HENDRICKS. But it will affect next session's mileage.

Mr. FESSENDEN. It ought to.

Mr. HENDRICKS. I want to suggest to the Senator from Missouri that he change his amendment so that the alteration in the mileage shall commence with the commencement of the next Congress.

Mr. WILSON. I suggest to the Senator from Missouri that he make it ten cents a mile east of the Pacific coast, and twenty cents for those from the Pacific coast.

Mr. SHERMAN. That would assimilate it to Army mileage.

Mr. WILSON. During the war we gave to Army officers six cents mileage east of the Rocky mountains and ten cents beyond the mountains and on the Pacific coast; and I think that distinction is proper to be made as to members of Congress, at any rate for the present; because a member who comes from the Pacific coast, no matter what may happen to his business at home, cannot go there during the session. I think some increased allowance of that sort should be made to members

coming from the Pacific coast, and I would give them twenty cents a mile, and to those east of the mountains ten cents. Changed in that way I think the proposition will add very little to the average expense of Congress and will give fairer pay and more equally distributed than that now allowed.

Mr. SHERMAN. I like very much the suggestion of the Senator from Massachusetts. It is important that we should have this matter as near right as we can. This distinction between the Pacific coast and the Atlantic coast has been made in military bills for years, and it is founded in reason. I think that a mileage of ten cents a mile on the Atlantic coast and twenty cents a mile on the Pacific coast is fair and just, and I think probably the Senator from Missouri ought to modify his amendment in that way, but if he does not we can amend it afterward if it shall be adopted.

Mr. HENDERSON. Let me say to Senators that this measure must go to the House of Representatives, and finally to a committee of conference, and that committee can take this suggestion into consideration. The suggestion is perhaps a very good one, but Senators should remember that no matter what we adopt here, the House is to act on it, and it will be subject to revision in the conference committee.

Mr. HENDRICKS. I do not believe in that way of legislating. I am in favor of making it as near right as we can. I move to add a proviso that the mileage of members coming from east of the one hundredth meridian shall be ten cents and those coming from west of the one hundredth meridian shall be twenty cents a mile.

Mr. SHERMAN. Say "Pacific coast."

Mr. HENDRICKS. Nevada is not on the Pacific coast.

Mr. SHERMAN. But the members from Nevada have to come that way.

Mr. HENDRICKS. By fixing the one hundredth meridian I think we shall have it right.

Mr. SHERMAN. This law will last for years probably, but the one hundredth meridian will be reached in one year by railroad.

Mr. HENDRICKS. Very well; I am not particular about the words. I will adopt the suggestion and move this proviso:

*Provided*, That the mileage of members of Congress from the Pacific coast shall be twenty cents a mile.

Mr. HENDERSON. All mileage under my amendment as it stands is twenty cents a mile.

Mr. HENDRICKS. Then I move to amend it by striking out "twenty" and inserting "ten."

The PRESIDING OFFICER. As the proposition of the Senator from Missouri is an amendment to an amendment, an amendment to it would be in the third degree, and therefore not in order.

Mr. HENDERSON. In order to gratify Senators, if they insist upon having their own mileage reduced to ten cents, I will modify my amendment. My original view of the subject was to reduce all mileage to ten cents, and I modify my amendment in that way.

Mr. HENDRICKS. I do not think it is right to fix ours at ten cents and make no further provision for those on the Pacific coast. I am not willing to vote money into my own pocket out of other Senators' pockets.

Mr. HENDERSON. I will modify my amendment, by providing ten cents mileage instead of twenty, and then by providing that Senators, Representatives, and Delegates living west of the Rocky mountains shall have twenty cents a mile.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Missouri, as modified, to the amendment made as in Committee of the Whole.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. WILLEY. Before the vote is taken I desire to say that the Senator from Missouri [Mr. Brown] was compelled to retire from the Chamber on account of the condition of his health, and I agreed to pair off with him. I do not know exactly how he would have voted

on this particular amendment, but as I paired with him on the main question—the amendment adopted in Committee of the Whole—I decline to vote on this question.

The question being taken by yeas and nays, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Buckalew, Clark, Cowan, Creswell, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Henderson, Hendricks, Howe, Poland, Pomeroy, Ross, Sherman, Van Winkle, and Wilson—18.

NAYS—Messrs. Chandler, Davis, Grimes, Howard, Lane, McDougall, Morgan, Nesmith, Norton, Nye, Ramsey, Riddle, Sprague, Stewart, Sumner, Trumbull, Wade, Williams, and Yates—19.

ABSENT—Messrs. Anthony, Brown, Conness, Craig, Dixon, Fowler, Harris, Johnson, Kirkwood, Morrill, Saulsbury, Willey, and Wright—13.

So the amendment to the amendment was rejected.

The question recurring on the amendment made as in Committee of the Whole.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. WILLEY, (when his name was called.) I have already stated that the Senator from Missouri [Mr. Brown] retired from the Chamber in consequence of indisposition, and that I was paired with him. If he were here he would vote in favor of the amendment and I against it.

The result was announced—yeas 18, nays 19; as follows:

YEAS—Messrs. Cowan, Davis, Doolittle, Hendricks, Howard, Lane, McDougall, Nesmith, Norton, Pomeroy, Ramsey, Riddle, Ross, Sprague, Stewart, Trumbull, Van Winkle, and Yates—18.

NAYS—Messrs. Buckalew, Chandler, Clark, Creswell, Edmunds, Fessenden, Foster, Grimes, Guthrie, Henderson, Howe, Morgan, Nye, Poland, Sherman, Sumner, Wade, Williams, and Wilson—19.

ABSENT—Messrs. Anthony, Brown, Conness, Craig, Dixon, Fowler, Harris, Johnson, Kirkwood, Morrill, Saulsbury, Willey, and Wright—13.

So the amendment was non-concurred in.

Mr. DAVIS. I move to reconsider the vote previous to that just taken.

Mr. SHERMAN. That is not necessary. The bill is open to amendment, and that proposition can be offered again.

Mr. DAVIS. Very well.

The Secretary read the next excepted amendment, as follows:

*And be it further enacted*, That there is hereby appropriated for payment of travelling expenses of the members of the first regiment of Michigan cavalry from the place in Utah where they were mustered out of service in the year 1866 to the place of their enrollment, a sum sufficient to allow each member \$325, deducting therefrom the amount paid to each for commutation of travel, pay and subsistence by the Government when thus mustered out; and that the accounts be settled and paid under the direction of the Secretary of War.

Mr. SHERMAN. Since this question was discussed before I have become satisfied that some allowance ought to be made to the soldiers that were scattered in Utah, but I think this provision has not been sufficiently considered. There are several other regiments in the same predicament, and I hope the Senator from Michigan will allow this to go over to the next session. From the examination of the papers, I have no doubt some allowance ought to be made to these soldiers for their expenses, but it had better be a general provision which would include all the regiments disbanded in Utah. I think it had better be allowed to go over until the next session. The sum fixed is an arbitrary sum, \$325. It may be too much in some cases.

Mr. HOWARD. I suppose every case of this kind will necessarily stand upon its own merits, and whenever any other soldiers who have been treated as the first regiment of Michigan cavalry has been present their claim here, I shall be very willing to come to their aid. I do not conceive it to be easy to frame a general act which shall meet all cases. At all events, I prefer to have a vote taken on the amendment which I have presented, and I assure the Senate that the amount contained in it is supposed by the committee to have been just about the amount the members of that regiment necessarily expended in returning to their homes from Great Salt Lake City, in Utah, where they were mustered out. It simply indemnifies the soldiers of that regiment.

Mr. CHANDLER. I desire to say that these soldiers had served five years; they had done distinguished service for five years, having reenlisted as veterans. They supposed their time was out before they were marched to Salt Lake. While at Salt Lake, as the letter of General Sherman informs us, their horses were taken from them and they were informed that if they remained in service they would have to march on foot; having ridden five years on horseback their horses were taken from them because the Government required the horses at Salt Lake. They supposed their expenses would be paid home, and they accepted the muster-out not knowing that they were to receive one third, or a little more than one third, of their expenses. They came home after five years of service ragged and without a dollar, a single man of them. I hope the Senate will do an act of justice to one of the best regiments in the service. Their first colonel was killed at the second battle of Bull Run, and they lost two or three colonels afterward. They were decimated four times; over three thousand men were enlisted for that regiment.

Mr. SPRAGUE. I hope this amendment will be made. There is one point in it which is worthy of consideration. Every Senator knows how anxious the troops were to be mustered out of service at the close of the war, and they would sacrifice anything rather than be kept in the service beyond that time. I think it is a just claim, and out to be put upon this appropriation bill.

The amendment was concurred in.

The PRESIDENT *pro tempore*. All the amendments made as in Committee of the Whole have been disposed of.

Mr. HENDERSON. I now offer as a separate amendment the proposition which I offered before as an amendment to the amendment of the Senator from Delaware.

The Secretary read the amendment, as follows:

*And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present Congress, and in addition thereto, mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives.

Mr. HENDRICKS. I move to strike out "twenty" and insert "ten," and also to add that members west of the Rocky mountains shall have twenty cents per mile. I intend afterward to propose that the mileage shall take effect from the commencement of the next Congress.

Mr. GRIMES. And the salary, too?

Mr. HENDRICKS. No, sir.

Mr. HENDERSON. The proposition, as I present it, is for twenty cents a mile to all members. The Senator from Indiana moves to amend it. Let us take a vote upon his amendment, so that we can get the sense of the Senate on all these propositions.

Mr. DOOLITTLE. There are two things about the mileage proposed by the Senator from Missouri: first, to reduce it to one half what it now is, and second to reduce the computation of it to the direct route.

Mr. HENDERSON. The usually traveled route.

Mr. DOOLITTLE. The most direct usually traveled route.

Mr. HENDERSON. The nearest.

Mr. DOOLITTLE. If we are to change the mileage at all, that is a very great improvement on the present system of mileage; but if we are to give any mileage, I suppose if a man traveled alone, without any family, ten cents a mile would cover his expenses; but if it is supposed that he is to bring any family with him, and come here to Washington to live six, eight, or nine months at a time, ten cents would not cover his expenses in coming, and the mileage certainly ought to cover the tra-



eling expenses. It ought to be twenty cents a mile at least.

Mr. TRUMBULL. I desire to say, in reference to this amendment, which commends itself to most of the Senate, that it contains one provision which is an insurmountable objection to me, and I would not vote for it with it in. I will make no such discrimination between mileage as to pay one person twenty cents and another person ten cents, and particularly to compute ten cents to those who live near. It looks to me like a very small matter and a discrimination that cannot be sustained. It is wrong upon principle. I would not vote for it. That is the reason I voted against the proposition before, and I should vote against it if this was put into it again. I merely wished to state my view.

Mr. HENDRICKS. The reason that I propose this is, that the gentlemen who come from the Pacific coast have to turn their backs upon their entire business for the term for which they are elected. It is the same as closing up a man's business.

Mr. FESSENDEN. So do I, and so does every man who attends to his duties here.

Mr. HENDRICKS. The Senator from Maine says he does. I do not know why. That is his own choice. It is not so with me. It is very different. I know I do not. A very considerable portion of the time I give to my private pursuits, and the Senator from Maine does. If he has property, which I suppose he has, when he is at home he gives a good deal of time to seeing to it. He can see to its condition.

Mr. FESSENDEN. I can do no business; I may attend somewhat to private affairs.

Mr. HENDRICKS. So can the Senator from Illinois. He can see to his property. If he has farms he can see how they are cultivated.

Mr. TRUMBULL. I can do no such thing.

Mr. HENDRICKS. I do not see why he cannot do any such thing, when he can be at home every other year on the 5th day of March. The Senators from the Pacific coast cannot be at home at all. It strikes me it is a very different thing.

Mr. HENDERSON. They can go home in twenty-five days.

Mr. HENDRICKS. No; they can hardly go home during their term.

Mr. HENDERSON. I wish to state that packets go by way of the Isthmus of Panama within twenty-eight days, anyhow, from New York city.

Mr. HENDRICKS. If Senators prefer twenty cents as the rate of mileage, I have no objection to it. I do not care much about it, but I want to make this thing acceptable to the House. I have conversed with some gentlemen of the House and they seem to prefer this.

Mr. TRUMBULL. My reason is a matter of principle. I would not vote for a bill that had such a discrimination in it.

Mr. HENDERSON. We can get the sense of the Senate very easily. I move twenty cents for everybody. The Senator from Indiana moves to strike out "twenty" and insert "ten" with a view hereafter of moving another amendment by which those members coming from east of the Rocky mountains will get ten cents a mile and those west twenty cents. The Senate can express their opinion on it. I move twenty cents and the Senator from Indiana moves ten cents. Now let us vote.

Mr. FESSENDEN. I will vote to make it all ten or all twenty. I voted before for the amendment of the Senator, but I cannot see the sense of the distinction. If the Senate votes to put it all at ten, I have no objection.

Mr. HENDRICKS. My amendment is one entire amendment to make it ten for those east of the mountains and twenty for the others.

The PRESIDENT *pro tempore*. The amendment to the amendment, as it has been modified, will be read.

The Secretary read the amendment of Mr. HENDRICKS to the amendment, which was to strike out the words "mileage at the rate of

twenty cents per mile" and insert "mileage of Senators, Representatives, and Delegates coming from east of the Rocky mountains shall be at the rate of ten cents per mile, and the mileage of those coming from west of the Rocky mountains shall be twenty cents per mile."

The amendment to the amendment was rejected.

Mr. HENDRICKS. Now, it stands at twenty cents. I move to amend the amendment so that the change in the mileage shall take effect at the commencement of the next Congress. I move to insert the words "to take effect from and after the 4th day of March next."

Mr. CRESWELL. In this question of mileage I have no direct interest, scarcely any interest worth speaking about; it does not matter to me whether you give ten cents or no mileage; but I rise to ask the Senator from Missouri a question. I wish to know what difference this change will make in the aggregate expenses of Congress.

Mr. HENDERSON. I stated it as near as I could yesterday. I have not made an accurate calculation as far as the House of Representatives is concerned, but I suppose that in the two Houses it will increase the aggregate expenditure for the pay of members perhaps \$225,000. When, however, the South shall be represented, there will be hardly any increase, and in the course of a few years it will decrease as the western Territories are admitted and represented as States.

Mr. POMEROY. I do not see any propriety in having the change of mileage commence at the beginning of the next Congress when the change of salary begins at this.

The amendment to the amendment was rejected—yeas 14, nays 15.

Mr. SHERMAN. I desire to modify the last proviso. I do not want any officer of either House to have anything to do with stating this mileage. I move, therefore, to strike out that proviso and insert these words:

*Provided*, That the distance of each Senator, Representative, and Delegate by the route usually traveled from his place of residence to the seat of Government shall be certified to each House by the Postmaster General within thirty days after the organization of each Congress.

Mr. HENDERSON. The difficulty about that is that the mileage now as fixed by law is to be paid on the first day of the session, and this amendment provides that it is to be certified within thirty days after the session commences.

The amendment to the amendment was rejected.

Mr. WILSON. Now let the amendment be read just as it stands.

The Secretary read as follows:

*And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present Congress, and, in addition thereto, mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate and those of Representatives and Delegates by the Speaker of the House of Representatives.

Mr. POMEROY. But suppose you do not have any Speaker of the House.

Mr. HENDRICKS. That would not make any difference.

Mr. FESSENDEN. There is always one, first or last.

Mr. POMEROY. Perhaps it would not make any practical difference.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Backalew, Clark, Cowan, Creswell, Davis, Doolittle, Edmunds, Henderson, Hendricks, Howard, Lane, McDougall, Norton, Poland, Pomero, Ramsey, Riddle, Ross, Sprague, Trumbull, Van Winkle, Wilson, and Yates—23.

NAYS—Messrs. Chandler, Fessenden, Foster, Grimes, Guthrie, Howe, Morgan, Nesmith, Nye, Sherman, Sumner, Wade, and Williams—13.

ABSENT—Messrs. Anthony, Brown, Connors, Cragin, Dixon, Fowler, Harris, Johnson, Kirkwood, Morrill, Saulsbury, Stewart, Willey, and Wright—14.

So the amendment was agreed to.

Mr. WADE. I renew my amendment now as to the employés of the Senate, and let us see how we shall come out on that.

Mr. HOWE. I wish to inquire if that amendment makes any provision for the officers of the Library.

Mr. WADE. I do not think it does.

Mr. FESSENDEN. Let it go to the next bill.

Mr. WADE. No; I do not like to let it go off this time.

Mr. GRIMES. I propose, then, to the Senator that he amend his proposition so as to allow twenty per cent. to all the employés. There are the persons mentioned by the Senator from Rhode Island, who are only getting two dollars a day and doing us just as good service as any of these messengers; they ought not to be excluded.

Mr. WADE. They are included. They have the same increase. It is not so much, but it is in the same proportion all around. I think we had better stand by the bill as it is.

Mr. GRIMES. I move as a substitute for the amendment of the Senator from Ohio, a provision to add twenty per cent.

Mr. WADE. I hope that will not prevail. We have voted into our pockets a pretty good sum. Now, I think we can afford something to the clerks.

Mr. GRIMES. I move to strike out all after the enacting clause and to insert:

That there be allowed and paid to the officers, clerks, and employés of the Senate twenty per cent. on their present compensation.

Mr. HOWE. Will the Senator insert "and in the Library?"

Mr. GRIMES. Yes, I will include all those connected with us. I examined the subject in reference to the librarians. It was referred to the Committee on Contingent Expenses, and that committee reported back exactly the proposition that came from the Senator from Wisconsin, and thought it was equitable. I will apply it to the Library.

Mr. SUMNER. And I add, "also of the Department of State."

Mr. GRIMES. I do not accept the amendment.

The Secretary read the amendment of Mr. GRIMES to the amendment of Mr. WADE, which was to strike out all after the enacting clause of the amendment and to insert:

That there be paid to the officers, clerks, messengers, and other employés of the Senate, and to the Librarian, assistant librarians, messengers, and other employés of the Congressional Library, an addition of twenty per cent. on their present pay; and the amount necessary to pay this allowance is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WADE. I hope we shall not agree to that. I believe we have just increased our own pay something over sixty per cent., and I do not see on what principle these employés are to be put off with twenty per cent.; and besides for the duties performed by some of these officers the increase ought to be higher than that. I hope the graduated bill presented by the committee will be taken instead of this.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. WADE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. This is a just thing; it is equal to all. It is not taking out half and giving them a large amount, and neglecting others. It is a simple proposition that we all understand, not a series of sections like the bill proposed by the Senator from Ohio; and I hope it will be adopted.

The question being taken by yeas and nays, resulted—yeas 28, nays 6; as follows:

YEAS—Messrs. Backalew, Chandler, Clark, Cowan, Creswell, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Henderson, Hendricks, Howe, Lane, Morgan, Poland, Pomero, Ramsey, Riddle, Ross, Sherman, Sprague, Sumner, Van Winkle, Willey, and Wilson—28.

NAYS—Messrs. Howard, McDougall, Trumbull, Wade, Williams, and Yates—6.

ABSENT—Messrs. Anthony, Brown, Connors, Cragin, Dixon, Fowler, Harris, Johnson, Kirkwood, Morrill, Nesmith, Norton, Nye, Saulsbury, Stewart, and Wright—16.

So the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. SUMNER. I move as an amendment to that the proposition which I moved in reference to the State Department. We have already by a large vote voted to increase our own pay. We have also now voted to increase the pay of the servants of the Senate Chamber. I think we ought to do justice now to that other class in the State Department. They are not numerous, they are poor, they do need this, and I ask you now for the last time to do them this justice.

Mr. HOWE. I should like to have the amendment reported.

The Secretary read the amendment to the amendment, which was to add:

And that there be paid to the several clerks of the Department of State twenty per cent. on the compensation now allowed to each, to commence from the 20th of June, 1865, and to continue until repealed by Congress; and a sum sufficient for this purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. EDMUNDS. I should like to inquire of the chairman of the Committee on Foreign Relations if we have not increased the compensation of the chief clerk of the State Department already at this session.

Mr. SUMNER. We have not.

Mr. EDMUNDS. Did we not pass a bill of that sort?

Mr. SUMNER. We have created in the State Department an office of Second Assistant Secretary of State.

Mr. FESSENDEN. This amendment goes back a year and pays them for the year past.

Mr. SUMNER. I know it does.

Mr. FESSENDEN. I hope the Senator will amend that, at any rate.

Mr. SUMNER. If the Senator from Maine will accept it with that amendment I will consent.

Mr. FESSENDEN. Oh, no; I shall vote against it anyhow.

Mr. DOOLITTLE. I hope the honorable Senator from Massachusetts will reserve this proposition to go on the other bill. It is in the nature of a deficiency.

Mr. SUMNER. I should be willing to do so if I could have a general understanding that it shall go on the other bill.

Mr. FESSENDEN. You can move it.

Mr. DOOLITTLE. You cannot get it on this bill, and may on that.

Mr. SUMNER. I withdraw it, then, for the purpose of moving it on the deficiency bill.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Massachusetts to withdraw his amendment?

Mr. SUMNER. I withdraw it, with the understanding that it is to be moved on the deficiency bill.

Mr. GRIMES. I want to amend my proposition so as to provide for the time when it shall take effect, and I suppose the most proper time would be the beginning of the present session of Congress. I make that modification.

Mr. HOWE. I suggest to the Senator that it should commence with the beginning of some fiscal year.

Mr. GRIMES. That is not necessary. So far as the statement of the accounts of our financial agents is concerned, it does not make any difference whether we begin with the fiscal year or not. I propose that we commence from the first Monday in December last.

The PRESIDENT *pro tempore*. The amendment will be so modified at the suggestion of the mover, and the question is on the amendment as modified.

The amendment, as modified, was agreed to.

Mr. WADE. I am authorized by the Committee on Foreign Relations to propose this amendment, to come in after line one hundred and eighteen, on page 6:

For compensation to the consul at Quebec, in Canada, \$15,000.

The amendment was agreed to.

Mr. SPRAGUE. I now renew my amendment, and I hope my want of tact in presenting the matter before will not injure a very important measure with the Senate. I hope the Senate will let it go on this bill. It is to insert as an additional section:

And be it further enacted, That the sum of \$8,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated for the preservation of the harbor of Provincetown, Massachusetts, the same to be expended under the supervision of a commission or board of officers to be appointed by the Secretary of War.

Mr. HENDRICKS. I think when Senators reflect a moment there will not be anybody objecting to this amendment. The work is recommended by the proper Department; there is no question about its propriety; and the Senator from Rhode Island was instructed from his committee to report the proposition to another bill, but he was necessarily absent from the Senate on that day and did not offer it to that bill, and he therefore feels personally somewhat embarrassed about it. Now, I am sure, as the measure is right and proper in itself, and ordered by the proper Department, we shall relieve the Senator from any sort of embarrassment he feels about it, and add it to this bill.

The amendment was agreed to.

Mr. POLAND. I move to add to the list of employes to whom we have given twenty per cent. the members of the Capitol police.

Mr. FESSENDEN. They are employes of the Senate. They come under that head.

Mr. HOWARD, and others. Oh, no.

Mr. FESSENDEN. We increase their pay somewhere.

Mr. POLAND. They are not employes of the Senate any more than of the House.

Mr. TRUMBULL. They are not employed by the Senate. They are employed by the Commissioner of Public Buildings.

Mr. FESSENDEN. I think the Senator had better wait until the next bill comes and see if their pay has not been increased. That is my impression.

Mr. NYE. I am quite certain that it has not been. It is the pay of the police of the city that has been increased. These policemen here have to stay the year round; the other employes can go away; so that their expenses are very much increased.

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont will be read.

The Secretary read the amendment, which was to insert after the word "Library" the words "and the members of the Capitol police."

Mr. SHERMAN. I knew a provision for these men was in some bill, and I have found it in the deficiency bill, which will be considered to-morrow. In section three of the House deficiency bill there is a provision for the increase of the pay of the employes of the House of Representatives, "including the Capitol police," so that it ought not to be put here.

Mr. HOWARD. How much is it increased?

Mr. SHERMAN. Twenty-five per cent. We shall have that bill before us to-morrow.

Mr. EDMUNDS. I should like to ask the Senator from Ohio whether the committee who report that bill recommend that the Capitol police be paid.

Mr. SHERMAN. It will be before the Senate to-morrow.

Mr. EDMUNDS. The question I ask is whether the committee recommend that that be paid or that the clause be struck out.

Mr. FESSENDEN. The committee have not struck it out.

Mr. EDMUNDS. Then you recommend that it be adopted.

Mr. FESSENDEN. That is the best of my recollection. The bill is before you.

Mr. SHERMAN. The Senate will have it in its power to-morrow.

Mr. EDMUNDS. I wish the Senator from Ohio to inform the Senate what the purpose of

the committee is as to the Capitol police. It is obviously just that these men—

Mr. SHERMAN. I have nothing to do with that bill. I was not present when it was considered in committee.

Mr. FESSENDEN. I will say to the Senator we have gone all over that bill, and I have not the slightest recollection that we struck that out. I do not believe we did, but it is on the table somewhere.

Mr. SHERMAN. It will come up to-morrow, at any rate.

Mr. POLAND. I withdraw the amendment under those circumstances.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789; and

A joint resolution (H. R. No. 195) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of Tennessee.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1867, and for other purposes;

A bill (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes; and

A bill (H. R. No. 775) to establish certain post roads.

#### COMMITTEE ON RETRENCHMENT.

The PRESIDENT *pro tempore*, in pursuance of the order of the Senate of the 23d instant, appointed Mr. EDMUNDS, Mr. WILLIAMS, and Mr. BUCKALEW as the members of the joint committee on retrenchment on the part of the Senate.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789, and the joint resolution (H. R. No. 195) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of Tennessee, were severally read twice by their titles and referred to the Committee on the Judiciary.

#### DEFICIENCIES IN APPROPRIATIONS.

Mr. FESSENDEN. I desire to take up the bill making appropriations for deficiencies with a view to have that the order of business for to-morrow. It is House bill No. 791.

Mr. WILSON. Before that is taken up I want some little understanding about business. I thought that when we got through with the appropriation bill just disposed of we were to take up the House bill in regard to bounties. Now, I find that the Senator is pressing another appropriation bill.

Mr. FESSENDEN. The Senator tried that measure on the bill we have just passed.

Mr. WILSON. Yes; but I propose to take up the House bounty bill.

Mr. FESSENDEN. This bill must go back to the House with the disagreements.

The motion of Mr. FESSENDEN was agreed to.

Mr. FESSENDEN. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned at five minutes before one o'clock.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 25, 1866.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

## RAILROAD TO HUMBOLDT BAY.

Mr. McRUER. I move that the Committee on Public Lands be discharged from the further consideration of the bill (S. No. 133) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California," and that the bill be laid on the Speaker's table.

The motion was agreed to.

## PROMOTION OF NAVAL OFFICERS.

Mr. RICE, of Massachusetts, by unanimous consent, reported from the Committee on Naval Affairs, with amendments, the bill (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle.

The bill provides that the provision of section four of the act to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862, requiring that no officer in the naval service shall be promoted to a higher grade upon the active list until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea, shall not be construed to apply to and exclude from the promotion to which he would otherwise be regularly entitled any officer in whose case such medical board shall report that his physical disqualification was occasioned by wounds received in battle.

The first amendment reported by the Committee on Naval Affairs was read, as follows:

At the end of line fourteen insert the following: In the line of his duty, and that such wound does not incapacitate him for other duties in the grade to which he shall be promoted.

The amendment was agreed to.

The next amendment was read, as follows:

Add the following as a new section:

SEC. 2. *And be it further enacted*, That the rate of pay of officers of the Navy on the retired list and not on duty, when retired on furlough pay, in cases where such rate of pay has not heretofore been fixed by law, shall be one half of the pay to which such officers would be entitled if on duty at sea; and the pay of clerks to commandants of navy-yards and of clerks to naval store-keepers is hereby increased twenty-five per cent. upon their present salaries from the commencement of the present fiscal year.

The amendment was agreed to.

The next amendment was read, as follows:

Add the following as a new section:

SEC. 3. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of the accounts of the disbursing officers of the Navy and Marine corps, subject to the approval of the Secretary of the Navy, to allow such credits for losses of property and funds as have occurred during the late rebellion, or shall occur hereafter, and which shall appear to them, by such vouchers and testimony as they shall require, to have been occasioned by accidental circumstances, or a condition of things over which such officers had no control, and for which they are not justly responsible.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SITE FOR NAVAL DEPOT.

Mr. HUBBARD, of Connecticut, by unanimous consent, presented the following resolutions of the Legislature of Connecticut in regard to the selection of New London, Connecticut, as a site for a naval depot; which were referred to the Committee on Naval Affairs and ordered to be printed:

At a General Assembly of the State of Connecticut, holden at New Haven, in said State, on the first Wednesday in May, in the year of our Lord 1866.

Whereas the city of New London has offered to the United States, as a gift, three miles of shore line on

the Thames river, with all the land adjacent thereto which may be required for an iron-clad navy-yard, and whereas a competent board of officers appointed under an act of Congress in 1862, charged with the special duty of selecting the most eligible site for the purpose, after a "thorough examination and survey of League Island," and "the harbor of New London and its surroundings," and "the waters of Narragansett bay" made report that "the public interest will not be promoted by acquiring title to League Island for naval purposes," and "that the harbor of New London possesses greater advantages for a navy-yard and naval depot than any other location examined by this board," and whereas in 1864 the Committee of Naval Affairs of the House of Representatives, "after a very thorough and careful consideration of the whole subject," concurred with the "board of officers" in their report, and recommended the acceptance of New London, instead of League Island; and whereas the House of Representatives of the United States have during the present session passed an act authorizing the Secretary of the Navy to accept the title to League Island on certain conditions, to the exclusion of all other sites, notwithstanding the two reports they made against its acceptance; and whereas it is of national importance that the best site for the proposed navy-yard should be secured by the United States: Therefore,

*Resolved*, That we do earnestly request our Senators and Representatives in Congress to use every proper effort to obtain the passage of an act whereby the comparative merits of each site offered for the purpose may be ascertained with a view to the adoption of that one by which the public interest will be best promoted.

*Resolved*, That a copy of the foregoing preamble and resolution be transmitted to the Senators and Representatives from this State.

Approved, June 27, 1866.

## RAILROAD TO TEXAS.

Mr. DELANO. I move that the Committee on Public Lands be discharged from the further consideration of the bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes; and that the same be laid on the Speaker's table.

The motion was agreed to.

## NATIONAL FARM SCHOOL.

Mr. KASSON, by unanimous consent, introduced a bill to incorporate the National Farm School; which was read a first and second time.

Mr. BINGHAM. I desire to ask whether this bill makes any appropriation of any sort.

Mr. KASSON. Not at all. I will state, Mr. Speaker, that a philanthropic French gentleman of New York has already established a school farm for the purposes indicated in the act, and I understand it is now in operation in this District. He simply desires an act of incorporation recognizing his institution, and writes me that it will probably aid him in obtaining funds from philanthropists abroad, in aid of his object. The incorporation named is Henri de Mareil. I do not know the names of his associates. I have exhibited the bill to gentlemen on both sides of the House, and there is no objection to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

## INQUIRY INTO PUBLIC EXPENDITURES.

Mr. HULBURD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the powers conferred upon the Committee on Public Expenditures by a resolution of the House adopted April 30, 1865, be enlarged to such an extent that said committee be authorized to inquire into any and all public expenditures, receipts, and keeping of the public moneys by officers of the Government; and the committee are authorized to employ a clerk.

Mr. HULBURD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ASSISTANT HOUSE STENOGRAPHER.

Mr. ROLLINS, from the Committee of Accounts, by unanimous consent, reported the following resolution:

*Resolved*, That the Speaker be authorized to ap-

point a competent stenographer as assistant official reporter to the committees of the House, who shall be paid out of the contingent fund, commencing 1st of June, 1866, the same compensation paid to such official reporter, whose term of service shall expire March 4, 1867.

Mr. JOHNSON. That has been up before, but no one has stated what this reporter is to do. Who is to control his services? If the Speaker is to control them then let the resolution say so. If he is to be used by members who have no clerks to their committees let us know it.

Mr. ROLLINS. He is to assist the official reporter for the committees. If the gentleman had been present when the resolution was introduced and referred to the Committee of Accounts, and had heard the discussion, he would have known the reason for the resolution. We have modified it so as to provide for this reporter only during the present Congress. His term of office is to close at the expiration of the present Congress, the 4th of March, 1867. He is to assist the present official reporter, who has more than he can do, and who will be obliged to pay out more than he receives.

Mr. JOHNSON. We cannot appoint this reporter on a simple resolution. I was not present when the resolution was introduced, and therefore waive all further objection.

Mr. HARDING, of Kentucky. This session is within a few days of its close, and I would like to know the reason for the appointment of an additional reporter.

Mr. ROLLINS. I will inform the House there are two or three special committees which are to sit during the recess, and it will be impossible for one reporter to be present at more than one place at a time.

The resolution was adopted.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## STEAMBOAT NAVIGATION.

Mr. MILLER, from the Committee on Roads and Canals, reported back House bill No. 92, to ascertain the practicability of having a steamboat navigation from the Chesapeake bay, at the mouth of the Susquehanna river, to Lake Ontario, in the State of New York.

The first section was read, as follows:

That the Secretary of War be, and is hereby, authorized and required to cause a survey to be made, by competent engineers, of the Susquehanna river from the Chesapeake bay to the southern line of the State of New York, and also a survey from the said line to Lake Ontario, with a view to ascertain the practicability of a communication by steamboats from the Chesapeake bay to said lake, and to report accordingly; and also, if any part of said route is deemed practicable, then to cause to be made an estimate of the probable cost of the work, and report the same.

Mr. MILLER moved to add the following:

And also to examine and report whether the west branch of the Susquehanna river, or any part of it, can be made practicable for steamboat navigation.

The amendment was agreed to.

Mr. MILLER. There was some difficulty about the second section, as it makes an appropriation. It is as follows:

SEC. 2. *And be it further enacted*, That in order to defray incidental expenses in carrying out the provisions of this act, the Secretary of War is authorized to draw his warrant on the Treasury, to be paid out of any money not otherwise appropriated: *Provided*, That the money to be drawn shall not exceed the sum of \$20,000.

I move that it be stricken out.

The motion was agreed to.

Mr. ALLEY. I should like to know whether the Committee on Roads and Canals recommended the passage of this bill.

Mr. MILLER. The committee authorized me to make the report without taking action for or against it. The question was in regard to the second section, and that has been stricken out. I demand the previous question.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 30, noes 20; no quorum voting.

Mr. BERGEN demanded tellers.



Tellers were ordered; and Mr. MILLER and Mr. DELANO were appointed.

The House again divided; and the tellers reported—yeas 58, noes 18; no quorum voting. Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question being taken on ordering the bill to be engrossed and read the third time, it was decided in the affirmative—yeas 70, nays 24, not voting 90; as follows:

**YEAS**—Messrs. Allison, Anderson, Baker, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Davis, Dawes, Delano, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Abner C. Harding, Hayes, Higby, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Jenckes, Julian, Kasson, Kelcham, Koontz, Kuykendall, Ladin, George V. Lawrence, Lynch, Maynard, McClure, McRuer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Paine, Perlman, Plants, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Stevens, Stokes, Trowbridge, Ward, Wentworth, Williams, and Windom—70.

**NAYS**—Messrs. Ancona, Bergen, DeLoes, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Johnson, William Lawrence, Le Blond, Niblack, Nicholson, Radford, Ritter, Ross, Shanklin, Taber, Nelson Taylor, Thornton, Trimble, James F. Wilson, Winfield, and Woodbridge—24.

**NOT VOTING**—Messrs. Alley, Ames, Delos B. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Blaine, Blow, Boyer, Brundage, Bundy, Chandler, Reader W. Clarke, Cook, Cullom, Culver, Darling, Dawson, Deming, Denison, Dodge, Dumont, Farnsworth, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Ingersoll, Jones, Kelley, Kelso, Kerr, Latham, Loan, Longyear, Marshall, Marston, Marvin, McCullough, McIndoe, McKee, Mereu, Morris, Newell, Noell, Orth, Patterson, Phelps, Pike, Pomeroy, William H. Randall, Raymond, Rogers, Sawyer, Sitgreaves, Sloan, Smith, Spalding, Starr, Stillwell, Strouse, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Upton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whaley, Stephen F. Wilson, and Wright—90.

So the bill was ordered to be engrossed and read a third time.

Mr. FINCK. I move to lay the bill on the table.

The motion was disagreed to.

The bill was then read the third time and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REFUNDING OF FINES.

Mr. HOGAN. I ask unanimous consent to report, from the Committee of Ways and Means, a bill (H. R. No. 769) to authorize the refunding of certain fines.

The bill was read. It provides that where the license tax imposed upon any wholesale dealer has been collected upon the amount of such dealer's sales for the previous year, in accordance with the terms of the seventy-ninth section of the act approved June 30, 1864, and it shall be proved to the satisfaction of the Commissioner of Internal Revenue that the sales of such license did not equal in amount the sales of such previous year, it shall be lawful for the said Commissioner to refund to such wholesale dealer so much of the amount paid for such license as may be in excess of the proper tax chargeable upon the amount of sales actually made under such license during the year for which the same was issued.

Mr. HOGAN. This bill is recommended by the Secretary of the Treasury and the Commissioner of Internal Revenue. I ask that the letter of the Commissioner be read.

Mr. HARDING, of Illinois. I object.

The SPEAKER. The gentleman can move to refer it to the Committee of the Whole.

Mr. HOGAN. Very well. I make that motion.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed a bill (S. No. 138) to increase and fix the military peace establishment of the United States, in which he was directed to ask the concurrence of the House.

#### MEMBER SWORN IN.

Mr. FINCK. I rise to a question of privilege. I ask that Mr. COOPER be sworn in as a member from the State of Tennessee.

Mr. EDMUND COOPER accordingly came forward, and having qualified, by taking the oath of office prescribed by the act of July 2, 1862, took his seat in the House.

#### REWARDS FOR ARREST OF BOOTH.

Mr. HARDING, of Illinois. I call for the regular order.

The House accordingly resumed the consideration of the special order, being House bill No. 801, authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward.

The SPEAKER. The gentleman from New York [Mr. HOTCHKISS] who has charge of this bill is not present.

Mr. DELANO. I move to postpone it till to-morrow, immediately after the reading of the Journal.

The motion was agreed to.

Mr. CULLOM. I demand the regular order.

The SPEAKER. The morning hour having now commenced, the call of the committees is resumed, commencing with the Committee on the Judiciary.

#### CIRCUIT COURT COMMISSIONERS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back with the recommendation that it do pass, bill of the House No. 32, to extend the jurisdiction of commissioners of the circuit court of the United States.

Mr. JENCKES. Will the gentleman from Massachusetts explain the object of this bill?

Mr. BOUTWELL. It is merely to give the commissioners the same power as justices of the peace have in cases where seamen undertake to avoid their contracts. It is a proper bill to be passed, and I move the previous question upon it.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BOUTWELL. I demand the previous question on the passage of the bill.

Mr. JENCKES. I move to lay the bill upon the table.

The question was put; and there were—yeas 24, noes 70.

So the House refused to lay the bill upon the table.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BOUTWELL. I move to amend the title of the bill so as to read, "An act to extend the jurisdiction of the commissioners of the circuit courts of the United States."

The latter motion was agreed to.

#### PROVISIONAL COURT OF LOUISIANA.

Mr. BOUTWELL also, from the same committee, reported back, with an amendment in the nature of a substitute, and with the recommendation that it do pass, bill of the House No. 468, to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana, and called for the previous question.

The previous question was seconded and the main question ordered.

The substitute was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. BOUTWELL moved to reconsider the

vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### UNITED STATES REVENUE COURTS.

Mr. BOUTWELL also, from the same committee, reported back with the recommendation that it do not pass, bill of the House No. 287, to establish United States revenue courts, and for other purposes, and moved that the same be laid upon the table.

The motion was agreed to.

#### RIGHTS OF CITIZENS.

Mr. WILSON, of Iowa, from the same committee, reported back, with an amendment in the nature of a substitute, bill of the House No. 437, to declare and protect all the privileges and immunities of citizens of the United States in the several States.

Mr. WILSON, of Iowa. I do not desire to have the substitute read or acted upon at this time. The bill is of such a nature as to excite discussion, and I do not desire to occupy the morning hour, inasmuch as other members of the committee have numerous bills to report. I will merely state that this is a bill that was introduced by the gentleman from Ohio, [Mr. SHELLABARGER,] and that the substitute is substantially his bill with slight amendments. I move to postpone the consideration of the bill until the second Tuesday in December next.

Mr. SHELLABARGER. I think that under the circumstances in which we are now placed the committee have done wisely in recommending the postponement of this bill. I desire now to ask the leave of the House to have printed with the debates some remarks, which I have prepared as carefully as I could, in regard to the constitutional right of Congress to pass this bill, and also in regard to the propriety of doing so. I desire, if I can, to attract the attention of my fellow-members in that way to the bill, and also, as far as I am able to do it, to call the attention of the country to it.

No objection was made, and leave was accordingly granted. [The speech will be found in the Appendix.]

The motion to postpone was then agreed to.

#### GENERAL GEORGE WRIGHT.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary was discharged from the further consideration of the bill of the House No. 578, for the relief of the representatives of the late Brigadier General George Wright, United States Army; and the same was laid on the table.

#### WISCONSIN JUDICIAL DISTRICTS.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary were discharged from the further consideration of the memorial of the Legislature of the State of Wisconsin in relation to dividing the State of Wisconsin into two judicial districts, and to create the western district; and the same was laid on the table.

#### SOLDIERS' AND SAILORS' ORPHANS' HOME.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported back, with an amendment, the bill of the House No. 552, to incorporate the National Soldiers' and Sailors' Orphans' Home, District of Columbia.

The amendment was to amend the last section so that it would read:

That Congress may at any time hereafter alter, amend, or repeal this act.

Mr. WOODBRIDGE. I call the previous question on the bill and amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## FEMALE ORPHAN ASYLUM.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported a bill to amend an act entitled "An act to incorporate the trustees of the Female Orphan Asylum, of Georgetown, and the Washington City Orphan Asylum, of the District of Columbia," passed May 24, 1828; which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## NATIONAL TELEGRAPHIC ASSOCIATION.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary was discharged from the further consideration of House bill No. 237, to incorporate the National Telegraphic Union Association; which was laid on the table.

## WILLIAM JOSLIN.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported back House bill No. 584, for the relief of William Joslin, with a recommendation that the same do pass.

The bill was read at length. It directs the Secretary of the Treasury to issue to William Joslin, of the State of Vermont, bonds of the United States to the amount of \$5,230 in lieu of an equal amount of bonds alleged to have been destroyed by fire while in possession of said Joslin, as owner and trustee for others, provided satisfactory evidence shall be furnished to the Secretary of the Treasury of the destruction of the bonds so claimed to have been destroyed.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. LAWRENCE, of Ohio. For one, I am opposed to any such legislation.

Mr. WOODBRIDGE. I will explain the object of the bill in a few words. I am aware that there is a feeling in this House, heretofore developed, that in cases of the destruction of bonds of the United States other bonds in lieu thereof should not be issued. But the facts in this case are peculiar, and as to the loss of the bonds conclusive. Mr. Joslin is a citizen of the town where I reside. He had in a box \$5,250 in United States bonds, but did not have the numbers of them. If he had had the numbers they would have been duplicated by the Treasurer of the United States. A fire occurred during a very windy night. He rushed to the place where the box was deposited in which these bonds were placed, and took it with him. He then went to another room with the box, for the purpose of obtaining some valuable papers there. But he was driven from the room by the flames, and was obliged to leave the box and papers there, and they were destroyed with everything that he had. The box and the papers were of course consumed. But a watch that was in the box with these bonds, was found in the ruins as soon as they could be examined. There is no doubt about the loss of these bonds.

Now, every member here knows that if the papers had consisted of notes against persons, a recovery could be had upon them. If bank bills had been destroyed, and the proof of their destruction had been as full as is the proof of the destruction of these bonds, then the banks at a suit of law would be obliged to refund the money which had been destroyed. Now, this is a case eminently just. The Government can suffer no loss. These are notes which the Government has issued; they are evidences of indebtedness which, beyond all controversy, have been destroyed by fire. And is it fair and honorable for us to say that when by an act of Providence property of that kind is destroyed, the Government of the United States will absolutely cheat the owners outright?

Sir, the cases should be met as they come up,

one after the other. They should be subjected to the closest scrutiny; and when it is determined that the property is absolutely destroyed, and that the Government can lose nothing, there should be no hesitation on the part of the Government in meeting its just debts, or renewing the evidence of its indebtedness. If we refuse to do this, we are not acting in the manner in which we deal with one another as neighbors and business men. If there should be presented to any gentleman of this House proof that the evidence of a debt for which he was justly bound had been destroyed, he would at once come forward and renew the evidence of indebtedness. This bill simply proposes that the Government shall do what every one acknowledges ought always to be done as between man and man.

Mr. JENCKES. I desire to ask the gentleman whether the bill provides that the claimant shall give a bond of indemnity to the Government.

Mr. WOODBRIDGE. The bill does not in its terms provide for a bond of indemnity, because it is not known what were the numbers of these bonds. They were held by the gentleman, a portion for himself, a portion as guardian for two young children, and a portion as agent for a widow.

Mr. JENCKES. If the Government issues new evidences of indebtedness, why should it not require a bond of indemnity against any further claim?

Mr. WOODBRIDGE. Because the proof of the loss of the bonds is so conclusive that no gentleman investigating the circumstances could doubt it.

Mr. JENCKES. But there is no proof before the House now.

Mr. WOODBRIDGE. I have no sort of objection to a provision requiring that a bond shall be given. But the bill now requires that the Secretary of the Treasury shall, before duplicating these bonds, be convinced beyond the shadow of a doubt that the bonds were destroyed. All the proof must be made to the Secretary of the Treasury before the bonds are duplicated. When men have stood by the nation, assisting it by investing their money in the national securities, and have had the misfortune to have those securities destroyed, why should the Government commit the gross injustice of refusing to duplicate the evidences of its indebtedness?

Mr. SPALDING. We have no doubt as to the equity of duplication of the evidence of indebtedness in such a case as the gentleman describes. What we want is to be satisfied that this is such a case, and that proper provision is made so that the Government can protect itself.

Mr. WOODBRIDGE. The proof is as conclusive as any the gentleman ever had before him as a lawyer or judge.

Mr. SPALDING. Has the gentleman any description of the bonds at all?

Mr. WOODBRIDGE. I have all the description that can be given. These bonds were purchased and put into the hands of this gentleman, a part of them as the guardian of these children; and he does not know the numbers. Proof is to be made to the Secretary of the Treasury, who is to be satisfied beyond doubt that the bonds have been lost. Why should we refuse to do justice in a case like this?

Mr. SPALDING. I wish to know whether these bonds can be identified, so that the Government can be protected from loss if the bonds are still outstanding.

Mr. WOODBRIDGE. The bonds cannot be identified, because the gentleman cannot state the numbers.

Mr. SPALDING. Then of course it must be his loss.

Mr. DELANO. Will the gentleman from Vermont yield to me for a few moments?

Mr. WOODBRIDGE. Certainly.

Mr. DELANO. Mr. Speaker, I do not rise for the purpose of opposing this measure; but I desire to say to the gentleman from Vermont

and to the House that it involves a question which ought to be considered with great deliberation. The question has been before the Committee of Claims; and the applications of this sort are very numerous indeed. There are now on record in the Treasury Department cases in which it is shown that securities—

Mr. WOODBRIDGE. With the leave of the gentleman from Ohio, I will move to amend the bill by adding a provision that a satisfactory bond shall be given to the Secretary of the Treasury to secure the Government against any loss.

Mr. WILSON, of Iowa. If the gentleman will yield a moment, I wish to state that this report does not come to the House with the indorsement or recommendation of the committee from which it comes. The committee consented that the gentleman might report the bill; but I do not wish it to be understood that the Committee on the Judiciary indorse the bill.

Mr. WOODBRIDGE. I beg the gentleman's pardon; I do not desire to misrepresent the committee. I understood some members of the committee were in favor of the bill. It may be as a special favor to me I was permitted to report it for the action of the House.

Mr. WILSON, of Iowa. That is correct.

Mr. DELANO. I want to state to the House that the conclusion arrived at by the Committee of Claims of the Senate, as well as of the House, after consulting the officers of the Treasury, was that it is not safe for the Government to attempt to duplicate the securities of the United States which are in circulation; that it is not safe to duplicate in any case where the numbers of the securities cannot be given; and that even then there should be, as I understand there is in this case, before the committee, clear and exclusive evidence of the destruction of the bonds. Then the Government is safe. I do not rise to oppose this measure. There is not a member on this floor I would sooner accommodate than the gentleman from Vermont, but I am constrained to say, as the sense of the Committee of Claims, that I doubt the propriety of duplicating the securities of the Government where the numbers cannot be given. That is the only absolute safety the Government has in the premises.

Mr. WOODBRIDGE. I move to add that a bond satisfactory to the Secretary of the Treasury shall be given by the claimant to secure the United States against any other claim for the bonds alleged to be lost.

The amendment was agreed to.

Mr. WOODBRIDGE demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The House divided on the passage of the bill; and there were—ayes 58, noes 36.

Mr. COBB demanded the yeas and nays.

The yeas and nays were not ordered.

So the bill was passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## SWEARING IN OF A MEMBER.

Mr. BUCKLAND stated that Hon. JOHN W. LEFTWICH, member-elect from Tennessee, was present and desired to be sworn in.

Mr. LEFTWICH appeared at the Speaker's desk, and was accordingly sworn in.

## NEPOTISM.

Mr. WILLIAMS, from the Committee on the Judiciary, reported a bill to regulate the appointment of clerks and commissioners of bail; which was read a first and second time.

It provides that it shall not hereafter be lawful for any judge of the circuit or the district courts of the United States to appoint or commission to the office of clerk or commissioner of bail in either of said courts any person or

persons who may be connected with either of said judges by blood or marriage.

Mr. WILLIAMS. It is the design of the bill to do away with that nepotism known to every lawyer as existing under our judicial system. It is in analogy to legislation in some of the States.

Mr. JOHNSON. It seems to me we are going abroad when we neglect to remedy the evil at home here. We find many members who have sons and brothers and wives' brothers employed here. It is the same in reference to the Departments: the heads of Departments and bureaus employ their blood relatives. When we clear our own skirts it will be time to go elsewhere.

Mr. O'NEILL. I hope my colleague will yield to my other colleague to move an amendment embracing the cases to which he has referred.

Mr. WILLIAMS. If my colleague [Mr. JOHNSON] thinks the evil is past cure I do not. If he will put an amendment in shape I will accept it. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time, and being engrossed it was accordingly read the third time.

Mr. WILLIAMS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILLIAMS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PUNISHMENT OF CRIMES.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back House bill No. 604, defining and punishing certain crimes therein named, with a recommendation that it do pass.

The bill was read. It provides that any person who shall rob another of any personal property belonging to the United States, or shall steal or purloin any personal property of the United States, shall, upon conviction, be punished by a fine not exceeding fourfold the value of such property, or by imprisonment not more than twenty years, or both. It also provides that any person who shall willfully obstruct the passage of any locomotive, tender, car, or carriage on which is being transported any mail, troops, or property of the United States, shall, upon conviction, be punished by a fine not exceeding \$10,000, or imprisonment not exceeding twenty years, or both.

Mr. LAWRENCE, of Ohio. I demand the previous question.

Mr. LE BLOND. I would like my colleague to explain what the particular necessity of this bill is. It does seem to me as though it is going too far. It fixes the punishment of imprisonment for a term of years for larceny of property that may not be worth five dollars. It takes jurisdiction from the State courts and confers it upon the Federal courts, where a person willfully obstructs the passage of a train of cars containing the United States mail, though the laws of the States are ample for the punishment of the offense.

Mr. LAWRENCE, of Ohio. I hope my colleague will consume no more time. We have but a few moments left for our committee.

Mr. LE BLOND. I do not wish to consume time. I am certain the House will do me the credit to say that I have not taken upon myself the running of this machine. I only wish the House to know what we are doing before we undertake to pass bills that are calculated to upset the criminal code of the United States. Bills are brought in here without being printed, and members have no opportunity to look at them.

Mr. LAWRENCE, of Ohio. This bill contains two sections. The first makes it a penal

offense to rob any person of property which belongs to the United States; or to steal any personal property which belongs to the United States. There is now no act of Congress which makes this a penal offense. We make violations of the rights of the United States, in many respects, penal offenses; but this particular act, described in the first section, is not made such by law. There is, in my judgment, no objection to the bill, and I demand the previous question.

Mr. LE BLOND. Does it not do away with the difference between petit and grand larceny?

Mr. LAWRENCE, of Ohio. There is now no distinction between petit and grand larceny by the statutes of the United States.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RESTORATION OF CONFISCATED LANDS.

Mr. WILLIAMS, from the Committee on the Judiciary, reported a bill to restore the possession of lands confiscated by the authorities of the States lately in rebellion; which was read a first and second time.

The bill was read in full. It provides that in all cases any loyal citizen of the United States who may have been dispossessed of any lands or tenements belonging to him within any of the States lately in rebellion by any order or decree of the so-called confederate government on account of adherence to the cause of the Union, or absence or failure to give support to the rebellion, it shall be the duty of the President of the United States or of the military force within the district, on complaint in writing by such person, accompanied by satisfactory evidence of title, to restore such person to the possession of the rights of which he has been deprived, and protect him in their enjoyment by such force as may be necessary.

Mr. TRIMBLE. Will the gentleman from Pennsylvania yield?

Mr. WILLIAMS. I decline to yield.

Mr. TRIMBLE. Then I move to lay the bill on the table. It confers power upon the military commanders to decide upon questions of—

The SPEAKER. It is not debatable.

Mr. TRIMBLE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 24, nays 81, not voting 81; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Cooper, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Johnson, Kerr, Le Blond, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Ross, Strouse, Taber, Thornton, Trimble, and Winfield—24.

NAYS—Messrs. Allison, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Buckland, Sidney Clarke, Cobb, Conkling, Culom, Davis, Dawes, DeForest, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farguhar, Ferry, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Jonckes, Julian, Kelley, Ketchum, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Maynard, McClurg, Mercer, Mercer, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, Raymond, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stevens, Stokes, Nathaniel G. Taylor, John L. Thomas, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—81.

NOT VOTING—Messrs. Alley, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Dawson, Delano, Deming, Denison, Dodge, Donnelly, Dumont, Garfield, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Asabel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Ingersoll, Jones, Kasson, Kelso, Kuykendall, Latham, Leftwich, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Morrill, Moulton, Noel, Patterson, Phelps, Pike, Pomerooy, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Schenck, Shanklin, Sitzgreaves,

Sloan, Smith, Starr, Stillwell, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Wright—81.

So the House refused to lay the bill upon the table.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WILLIAMS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### JUDICIAL COURTS OF THE UNITED STATES.

Mr. LAWRENCE, of Ohio, also, from the Committee on the Judiciary, reported back bill of the House No. 605, to amend an act to establish the judicial courts of the United States, approved September 24, 1789.

The bill was read. The first section provides that the several courts of the United States, and the several justices and judges of such courts, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States. And if any person or persons to whom such writ of *habeas corpus* may be directed shall refuse to obey the same, or shall neglect or refuse to make return, or shall make a false return thereto, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall, on conviction before any court of competent jurisdiction, be punished by fine not exceeding \$1,000, and by imprisonment not exceeding one year, or by either, according to the nature and aggravation of the case. From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause is heard, and from the judgment of said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or in default of such, as the judge hearing said cause may prescribe, and pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, and proceeding against such person so alleged to be restrained of his or her liberty in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus*, shall be deemed null and void.

The second section provides that a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity, or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of such their validity, or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, may be reexamined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being



signed by the chief justice, or judge, or chancellor of the court, rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution, or remand the same to any inferior court.

The committee reported the following amendment:

"Amend section one by inserting after the words 'United States,' in line eight, the following:

"And it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of *habeas corpus*, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known, and the said justice or judge to whom such application shall be made shall forthwith award a writ of *habeas corpus*, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the Constitution or laws of the United States. Said writ shall be directed to the person in whose custody the party is detained, who shall make return of said writ and bring the party before the judge who granted the writ, and certify the true cause of the detention of such person within three days thereafter, unless such person be detained beyond the distance of twenty miles, and if beyond the distance of twenty miles and not above one hundred miles, then within ten days. And if beyond the distance of one hundred miles, then within twenty days. And upon the return of the writ of *habeas corpus* a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning shall request a longer time. The petitioner may deny any of the material facts set forth in the return, or may allege any fact to show that the detention is in contravention of the Constitution or laws of the United States, which allegations or denials shall be made on oath. The said return may be amended by leave of the court or judge before or after the same is filed, as also may all suggestions made against it, that thereby the material facts may be ascertained. The said court or judge shall proceed in a summary way to determine the facts of the case, by hearing testimony and the arguments of the parties interested, and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the Constitution or laws of the United States, he or she shall forthwith be discharged and set at liberty.

The committee further proposed to amend the second section of the bill by adding thereto the following:

"This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to the passage of this act.

Mr. LAWRENCE, of Ohio. I demand the previous question on the bill and the amendments.

The previous question was seconded and the main question ordered.

Mr. LE BLOND. I desire to inquire of the gentleman who reported this bill whether in case a person who is not bound to perform service in the Army or Navy is taken possession of by the Government, he is cut off from the benefit of the writ of *habeas corpus* under this bill.

Mr. LAWRENCE, of Ohio. I think not. I will state briefly what the object of the bill is.

Mr. LE BLOND. The idea suggested itself to my mind that the bill was not broad enough to cover that class of persons. If it is not, it ought to be. I believe the doctrine is pretty well settled, or if not it very soon will be, that the military authorities have no jurisdiction over private citizens. Every citizen owing military service may be dealt with by the military authorities, but a private citizen not owing such service, unless he violates some military regulation, is amenable to the civil law only.

Mr. LAWRENCE, of Ohio. This has no relation to that subject at all.

Mr. LE BLOND. The second section looked to me as if it went that far.

Mr. LAWRENCE, of Ohio. I will explain. On the 19th of December last, my colleague [Mr. SHELLABARGER] introduced a resolution instructing the Judiciary Committee to inquire

and report to the House as soon as practicable, by bill or otherwise, what legislation is necessary to enable the courts of the United States to enforce the freedom of the wife and children of soldiers of the United States, and also to enforce the liberty of all persons. Judge Ballard, of the district court of Kentucky, decided that there was no act of Congress giving courts of the United States jurisdiction to enforce the rights and liberties of such persons. In pursuance of that resolution of my colleague this bill has been introduced, the effect of which is to enlarge the privilege of the writ of *habeas corpus*, and make the jurisdiction of the courts and judges of the United States coextensive with all the powers that can be conferred upon them. It is a bill of the largest liberty, and does not interfere with persons in military custody, or restrain the writ of *habeas corpus* at all. I am satisfied there will not be a solitary objection to this bill if it is understood by the House.

Mr. LE BLOND. I call for the reading of the second section as it is proposed to be amended.

The Clerk read as follows:

Sec. 2. And be it further enacted, That a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision is against their validity, or where is drawn in question the validity of a statute or of an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of such their validity, or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of or commission held or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, may be reexamined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution, or remand the same to any inferior court. This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to the passage of this act.

Mr. LE BLOND. If I understand this section aright, it is that all those held by the military are not entitled to the privileges of this act. I confess that it is exceedingly difficult for us to determine the scope of the bill.

The amendments reported by the committee were agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I ask unanimous consent of the House that the Judiciary Committee have another hour in which to make reports.

Mr. ROSS. I object. I think we have had enough bills from that committee.

Mr. WILSON, of Iowa. Then I will ask for a half an hour more for that committee.

Mr. LE BLOND. I am compelled to object, from the fact that we have no opportunity to consider and understand the bills that are brought in here.

#### NATIONAL BANK BILL.

The House resumed the consideration of House bill No. 771, to amend an act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," and for other purposes.

The pending question, upon which Mr. LYNCH was entitled to the floor, was upon the amendment offered by him, to insert the following:

*Provided, however,* That the appointment of such receiver shall be vacated and the Comptroller shall be enjoined and restrained from further proceedings in the premises under this section, if the nearest district, circuit, or territorial court of the United States shall, on application of such association, made within ten days after it shall have been notified of such appointment and upon hearing of the case, so order.

Mr. LYNCH. I will yield to the gentleman from Wisconsin [Mr. PAINE] for a few moments.

Mr. PAINE. I move to substitute for the amendment of the gentleman from Maine [Mr. LYNCH] the following:

*Provided, however,* That the appointment of such receiver shall be vacated, and the Comptroller shall be enjoined and restrained from further proceedings in the premises under this section, if the nearest district, circuit, or territorial court of the United States shall so order, on application of such association, made within ten days after it shall have been notified of such appointment, and after the decision of the court or the finding of a jury that such association has not been guilty of any of the violations of law on account of which such receiver shall have been appointed.

Mr. LYNCH. I accept the amendment of the gentleman from Wisconsin, [Mr. PAINE.]

Mr. CONKLING. I agree entirely with the purpose of this amendment, but I wish to submit to the gentleman from Maine [Mr. LYNCH] and the gentleman from Wisconsin [Mr. PAINE] that if this amendment shall be adopted they will have rather an extraordinary act. The fiftieth section of the bank act is referred to as covering and controlling the course of proceeding in this regard; and yet they propose here to repeal a large part of that fiftieth section. Now, I would suggest that altogether the briefer and plainer way of disposing of this would be to provide that this proceeding shall be subject to the remedy by appeal now existing by the fiftieth section of the national currency act. That certainly covers the whole ground and obviates the necessity of repeating the same provision twice in the statute. The gentleman from Iowa [Mr. PRICE] hands me a proviso which I believe covers the suggestion I make, though I think it can be covered even more briefly. In order to test the sense of the House, I will move, as a substitute for the proposed amendment, to insert after the words "according to" in the forty-seventh line on the third page these words: "and with the same remedy and subject to the same right of application to the courts as provided."

Mr. PRICE. Let me suggest whether it would not be better to say, "as provided by the proviso of section fifty."

Mr. CONKLING. In answer to that I will say that the proviso is a part of the section; and it is the only place in the section where the subject is referred to. Therefore my amendment meets the gentleman's suggestion.

Mr. HOOPEL, of Massachusetts. I concur with the gentleman from New York in his suggestion; and I hope his amendment will be adopted.

#### ARMY BILL.

Mr. SCHENCK. I move that the House insist on its disagreement to the amendments of the Senate to the bill (S. No. 138) to reorganize the Army, and that we ask for a committee of conference.

The motion was agreed to.

#### NATIONAL BANK BILL—AGAIN.

Mr. PAINE. Mr. Speaker, I suppose that we are all seeking to accomplish the same object; but I am compelled to disagree with the gentleman from New York [Mr. CONKLING] in respect to the amendment which he has submitted. Now, sir, section fifty of the present law provides for a case in which the bank shall have refused to redeem its circulating notes; and it authorizes the Comptroller of the Currency to appoint a receiver to wind up the affairs of the bank; and it is provided that if the bank shall satisfy the chancellor that it has not refused to redeem its circulating notes, an injunction shall be issued, and the receiver shall be restrained. If the amend-

ment suggested by the gentleman from New York should be adopted, what will be the result? Let us take a case in which the Comptroller shall have undertaken to close up the affairs of a bank, either because that bank was not carrying on a legitimate banking business, or because it has rendered false or fraudulent reports, or because its funds have been misapplied, or because it has violated some other provision of law. If the amendment be adopted, then, although the Comptroller shall have commenced proceedings against this banking institution for one of the reasons I have named, the institution may come in and show—what? Not that it has been innocent of any violation of law in either of the four particulars I have named, but that it has not violated the law in a fifth particular, which is not covered by this case. Suppose, for example, that the Comptroller shall institute these proceedings because the bank has rendered false accounts. The bank comes in and shows that it has not refused to redeem its circulating notes; and then further proceedings may be restrained by injunction. I can see no propriety in this. If proceedings had been commenced by the Comptroller against the bank and a receiver had been appointed, because the bank had rendered false accounts, then it seems to me that the only manner in which the bank should be allowed to escape from those proceedings should be by showing that it has not rendered false accounts. But if you adopt the amendment the bank, by showing that it has not refused to redeem its circulating notes, may relieve itself from proceedings instituted against it because it has rendered false accounts. So if proceedings have been instituted against a bank because it has not been carrying on a legitimate banking business, the bank can come in and show that it has not refused to redeem its circulating notes; and all the proceedings of the Comptroller and receiver may be restrained.

Now, I have offered an amendment which applies to all four of these cases—which applies precisely the same remedy in these four cases that is applied in the other case, when a bank has refused to redeem its circulating notes. The provision of my amendment is that if the bank shall come in and show it is carrying on a legitimate business when it shall be charged with not carrying on such a business, it shall be relieved from all proceedings of the receiver. If it shall show it has not rendered a false account it shall be relieved from these proceedings. If it shows its funds have not been misapplied the amendment will relieve the bank.

Mr. RANDALL, of Pennsylvania. I quite agree with the gentleman from Wisconsin in his view of this subject. This amendment was put in by the committee after careful consideration, not for the purpose of reaching honest banks, not banks doing a legitimate business, but banks doing an unlawful and fraudulent business. I admit the provision of this clause is summary. So it should be in the case of men who are violating the national banking law. I think the amendment proposed by the committee had better be allowed to pass as it is. I hope the House will give no opportunity to these banks like the Merchants' Bank of this city, which swore through thick and thin, and no Comptroller could reach them. It is such banks which it is intended to reach, and not the banks doing a lawful business.

Mr. LYNCH. I wish to call the gentleman's attention, if he were in the committee, to the discussion which took place on this question. It was the intention to give the banks the right to appeal to the courts under the proviso. The proviso was not carefully read. If it had been the committee would have seen it does not apply to the case. This is to make that apply to the case.

Mr. RANDALL, of Pennsylvania. I do not remember distinctly the discussion in the committee. Perhaps the gentleman is correct. I know what my object was. It was to reach in a summary manner and put an end to those

dishonest banks, and not let them appeal to the courts. I am unable to speak of the amendment of the gentleman from Wisconsin, as I have not heard it read.

Mr. HOOPER, of Massachusetts, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. CONKLING. If there is any difficulty about the amendment I will modify it by adding at the end of line forty-eight the words "and on such application the bank may relieve itself by disproving the allegations on which said receiver was appointed." If debate were in order I could show that would cover the whole ground.

Mr. PAINE. It does not cover the whole ground.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The Clerk read as follows:

That section twenty-nine be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that the total liabilities to any national banking association of any person or of any firm, company, or corporation, including in the liability of any firm or company the liabilities of the several members thereof, shall at no time exceed one tenth part of the amount of the capital stock of such association actually paid in, unless such liabilities consist of *bona fide* bills of exchange or drafts payable at another place than where it is drawn, and drawn against actually existing values, or of commercial or business paper discounted for the indorser and actually owned by the person, firm, company, or corporation for whom it is discounted; including all balances due from any person, firm, company, or corporation, except balances due from another national banking association, and no association shall issue any certificate, receipt, or other obligation payable at any future day, nor advertise, solicit, or receive deposits as a savings bank. And in case of any violation of this section, the president and cashier and directors shall be personally liable to the association for any loss incurred by the association on the excess of liability beyond the amount of one tenth of the capital stock as aforesaid; and the association shall be subject to a penalty of \$1,000 for every case in which the liability of any person, firm, company, or corporation, as aforesaid, is in excess of one tenth part of the amount actually paid in of the capital stock of such association, to be recovered to the use of the United States and deposited in the Treasury, and a like penalty for any certificate, receipt, or other obligation issued as aforesaid, or for advertising, soliciting, or receiving deposits as a savings bank.

Mr. HOTCHKISS. I move the following amendment, to come in before the paragraph just read:

Strike out "three" in line three of section twenty-two, and insert "four;" and insert at end of section: "And provided further, That these said notes additional to the three hundred millions authorized to be issued under the act entitled 'An act to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof,' shall only be issued upon the return to the Treasury to be canceled of United States notes bearing the same proportion to said notes for circulation as the capital of the bank presenting said United States notes shall bear to the circulation to which it may be entitled under said act and the several acts amendatory thereof, and for which United States notes so returned to the Treasury to be canceled, the Secretary of the Treasury shall issue at par bonds of the United States in the form now authorized by law payable not more than twenty years from date, and bearing a rate of interest not exceeding five per cent. in gold, and thereupon such United States notes so returned shall be canceled by the Secretary of the Treasury: *Provided further*, That any existing bank or banking association organized under the laws of any State which shall apply for authority to become a national bank under the act hereby amended before the 1st day of October, 1866, and shall comply with all the requirements of said act, as hereby amended, shall, if such bank be found by the Comptroller of the Currency to be in good standing and credit receive authority to become a national bank, and banks of unimpaired capital in States which have heretofore received the least ratable amount of circulating notes under the provisions of said act shall have preference in receiving such authority: *And provided further*, That the entire amount of circulating notes to be delivered to banks thus converted from State banks to national associations, shall not exceed \$30,000,000, and in the organization of new associations preference shall be given to applications for association in such States and Territories as have heretofore failed to secure their ratable proportion of circulating notes under the provisions of said acts so as to equalize the apportionment of the whole four hundred millions of circulating notes."

I will state that I offer this on behalf of the chairman of the Committee on Banking and Currency, [Mr. POMEROY,] who was obliged to leave. He was unable to confer with any member of the committee who held the same views on this question, but he left this amend-

ment with me with a request that I would offer it. The substance of the amendment is, that it substitutes ninety millions of national currency for the same amount of greenbacks. It enables the State institutions now in existence to change to national institutions and have sufficient circulation to prosecute their business. It was suggested by the gentleman from Massachusetts [Mr. HOOPER] yesterday that the theory of his bill was, that for all time to come we should have only three hundred millions of paper currency in circulation in this country.

Mr. HOOPER, of Massachusetts. I beg to correct the gentleman; I said for national bank circulation.

Mr. HOTCHKISS. With that correction I believe I understand the views of the gentleman. National bank circulation is redeemable in specie, or I trust in a short time will be. National currency is not. I apprehend we shall have in coin in due time a sufficient specie basis for the currency of the country. At least we ought to have, and if we shape legislation properly we shall have. There is a great anxiety to retire greenbacks in order that we may return to specie payment. The objection to doing that is that it reduces the volume of currency too rapidly. The amendment offered by me obviates that objection; it also obviates the objection that we have an irredeemable paper currency.

In regard to the question of reducing the volume of our currency to three hundred millions, it is, in my estimate, impracticable. We have now in circulation about one thousand millions of paper currency, exclusive of \$800,000,000 of seven-thirties, which pass from hand to hand as circulating medium to a great extent. The volume of currency now in circulation is as follows:

National currency.....	\$300,000,000
Greenbacks.....	409,801,368
Fractional currency.....	27,070,878
Compound-interest notes.....	159,012,140
State bank notes.....	45,000,000
Total.....	\$931,974,384

How we are going to come down to \$300,000,000 without great distress in the country is more than I can see. I think that this amendment would relieve all the parties interested, would relieve the business of the country from embarrassment, and enable the Government to return to specie payments, and enable the banks to return to specie payment.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I wish to say that the gentleman from New York is mistaken in stating that his colleague, [Mr. POMEROY,] the chairman of the committee, had no opportunity to bring this question before the committee.

Mr. HOTCHKISS. I beg the gentleman's pardon. I did not say so. My statement was that the chairman had to leave for home, and that before doing so he had no opportunity to confer with any of the members of the committee who harmonized with him in his views.

Mr. HOOPER, of Massachusetts. The reason was that there was no member of the committee who harmonized with him in his views.

Mr. HOTCHKISS. I was only explaining why I offered the amendment.

Mr. HOOPER, of Massachusetts. The object of the amendment is to withdraw \$100,000,000 of greenbacks and give the benefit of that amount of circulation to the banks. It would cost the Government from five to six million dollars annually to do it. The committee were unanimous, with the exception of the chairman, in their opposition to any such measure, and I hope the amendment will not be adopted.

Mr. ROSS. I move to amend the amendment by adding thereto the following proviso:

*Provided, however*, That hereafter no bonds or obligations of the United States shall be issued which are exempt from State, county, or municipal taxation.

I think it is time that there was a concurrence of sentiment between the members of the House and myself upon this subject.

Mr. RANDALL, of Pennsylvania. I do not think this amendment is in order at this time.

The SPEAKER. The Chair thinks that it is not germane to the amendment, and an amendment to an amendment must be germane.

Mr. ROSS. It is germane to the bill.

The SPEAKER. That may possibly be, but it certainly is not germane to the amendment. The Chair will reserve the question whether it is germane to the bill until he can examine the bill to see if it provides for the issuing of bonds. If it does the amendment of the gentleman from Illinois will be germane.

Mr. HOOPEL, of Massachusetts. The bill does not provide for the issue of any bonds.

The SPEAKER. Then the amendment is not germane.

Mr. RANDALL, of Pennsylvania. It is hardly necessary for me to add anything to what has been said by the gentleman from Massachusetts [Mr. HOOPEL] in connection with this subject. The main feature of the amendment is to increase the banking circulation \$100,000,000. The wish of the public is that the amount of the present circulation of the national banks should be reduced rather than increased, and that greenbacks should take their place. I hope the amendment will be voted down.

Mr. STEVENS. I move to strike out all that part of the amendment which refers to the retiring of greenbacks. My opinion is that instead of the pernicious provisions of this bill curtailing the circulation ten per cent. it ought to provide for an increase of circulation. In my judgment this whole national banking system was a mistake. I thought so at the time it was adopted, and I think so still. I think every dollar of paper circulation ought to be issued by the Government of the United States. I think that the Government ought to have all the profit of such circulation, which would be more than \$20,000,000 a year. I should have preferred that the gentleman from New York [Mr. POMEROY] had proposed there should have been \$20,000,000 in greenback bearing no interest; but I am content. I know that the present circulation is not adequate to the business of the country. This bill is calculated to destroy all the interests of the country except those of a few metropolitan banks which seek to absorb all the business of the country. With the exception of the banks of Boston, New York, and Philadelphia, the amount will do no harm. If the amendment to the amendment which I have proposed should be adopted I will then vote for the amendment of the gentleman from New York, otherwise I shall be compelled to oppose it.

Mr. ROLLINS. I rise to oppose the amendment to the amendment. I desire to suggest to this House that it is necessary, at least in some parts of the country, that there should be provided additional banking facilities. Before making any remarks upon this subject I ask to have read some resolutions of the State of New Hampshire, approved July 7, 1866.

The Clerk read as follows:

"Whereas the banking capital of the State of New Hampshire, prior to the late war, was no more than sufficient to meet the ordinary wants of the business of the State; and whereas the advance in prices during the late war has made a much larger amount of capital necessary to afford the usual banking facilities to our business community; and whereas the change in our system of banking recently adopted by Congress has diminished our former facilities nearly three-fifths, thereby compelling many sound and much needed State banks to close up their business, and many of our business men to go out of the State to find banking facilities which were enjoyed to a greater extent elsewhere: Therefore,

*Resolved by the Senate and House of Representatives in General Court convened.* That our Senators be instructed, and our Representatives in Congress be requested, to give this subject their immediate attention, and urge upon Congress the necessity of granting to our State a larger amount of banking capital.

*Resolved.* That the Governor be requested to transmit, immediately, a copy of these resolutions to the President of the Senate and Speaker of the House of Representatives of Congress, to the Secretary of the United States Treasury, to the Comptroller of the Currency, and to each of our Senators and Representatives in Congress."

Mr. ROLLINS. I desire to say that the na-

tional Government having undertaken to regulate this matter of banking throughout the country, having undertaken to control entirely this subject, it seems to me it is our duty to give to the States of the Union sufficient banking facilities to enable the people thereof to do their business. We have passed a bill which has deprived the State of New Hampshire of three fifths of its banking facilities, leaving but two fifths of the same to accommodate the people in their constantly increasing business, with prices largely enhanced. In the year 1862 we had in New Hampshire fifty-two banks, organized under our State laws, with a capital of \$4,928,700, a circulation of \$3,249,693, and deposits to the amount of \$1,207,289 13, thus enabling the banks to loan to the people of our State \$8,168,977 42. Those were our banking facilities in 1862. In 1864, on the 1st day of June, we had fifty banks, with a capital of \$4,595,500, a circulation of \$4,294,787, and deposits to the amount of \$1,714,089 39, making an aggregate of \$10,604,876 39, while the loans were \$9,271,391 54.

[Here the hammer fell.]

The question was upon the amendment of Mr. STEVENS to the amendment of Mr. POMEROY.

Mr. STEVENS. I will withdraw the amendment to the amendment if the gentleman from New Hampshire [Mr. ROLLINS] will renew it.

Mr. ROLLINS. I renew the amendment to the amendment. I have stated the condition of our banks in 1864, and the amount of their loans, which were \$1,332,984 85 less than the aggregate of their capital, circulation, and deposits. On the 1st day of April, 1866, we had thirty-nine national banks organized under the national bank law, with a capital of \$4,735,000, and an authorized circulation of \$4,171,500, though at that time but \$3,325,591 of that circulation had been issued.

Now, what are the available means of our State? In 1862 we had a capacity to loan to the people more than \$8,000,000, and in 1864 more than \$9,000,000. And now what can the national banks organized under the bank law loan to the people of New Hampshire? There is a banking capital of \$4,735,000, all loaned to the national Government to start with. The largest possible circulation under that capital, ninety per cent., will be \$4,261,500, or an aggregate of capital and circulation of \$8,996,500. To obtain this circulation they must hold Government bonds to the amount of \$4,735,000. To enable part of the banks to become Government depositaries they have deposited \$550,000 as a bond. They must reserve fifteen per cent. of their circulation, or \$369,225. All these sums added together make \$5,924,225, which, deducted from the \$8,996,500, leaves the available amount of banking facilities afforded to the people of New Hampshire \$3,072,275, against \$9,271,391 54 in 1864, and \$8,168,977 42 in 1862. I do not here allow anything to the ability of the banks to accommodate the people on account of deposits, because in 1864 the loans were only about two hundred and fifty thousand dollars larger than the amount of their capital stock and circulation, when nearly all the banks had a surplus of capital stock. It is quite probable the excess of loans above the whole amount of capital and circulation was nearly equaled by this surplus. The national banks being so recently put in operation have but a small accumulated surplus. Thus, it would seem, the ability of the banks to make loans cannot be much more than the amount of capital and circulation.

Mr. ALLEY. Will the gentleman from New Hampshire [Mr. ROLLINS] permit me to ask him a question?

Mr. ROLLINS. Yes, sir.

Mr. ALLEY. I would ask the gentleman to state what, at the last report, was the amount of loans of the banks, national and State, in New Hampshire.

Mr. ROLLINS. I have not the figures at hand.

Mr. ALLEY. I think the gentleman will find that their facilities have not been reduced

in the least. I think if he will look at the amount of loans of the banks of New Hampshire, State and national, he will find it as much as before the banking law went into operation.

Mr. ROLLINS. I think, Mr. Speaker, he will find no such thing. The Legislature of the State of New Hampshire has passed a series of resolutions—and I think it is to be presumed that the Legislature knows something of the available amount of capital in the banks of the State—declaring that three fifths of our banking facilities have been taken from us under the existing law. The banks organized under State law will be obliged to withdraw their circulation; and we shall have left to us the national banks, with ability to loan to our business people but a little more than \$3,000,000, if every dollar is made available that is allowed to us under the law. Whatever the gentleman from Massachusetts may think, I know it to be a fact that we have now but two fifths of the banking facilities that we formerly had. I believe that it is the duty of the national Government to afford to us privileges equal to those of which we have been deprived by the legislation of the Government under which our State banks have been taxed out of existence. The uniform intent and design of the legislation of Congress in reference to the national banks has been to destroy the local institutions of the States, and, in my view, it is the duty of Congress to give us banking facilities equal to those of which we have been deprived. I withdraw my amendment to the amendment.

Mr. KELLEY. I renew the amendment. I desire to say that the proposition to reduce the amount of currency appears to me most unfortunate.

Mr. RANDALL, of Pennsylvania. I rise to correct my colleague. This bill in no manner proposes to reduce the circulation to the extent of a single dollar.

Mr. KELLEY. Mr. Speaker, the country is not suffering from redundant currency. Why, sir, we must consider the increased requirements of the country in this respect. The amount of currency which was in circulation at the breaking out of the war would not be more than sufficient for the transaction of the business of the internal revenue department of our Government. Look at the immense payments made into and by that department, and you will find that it alone requires a volume of currency equal to that in circulation at the time of the breaking out of the war.

Sir, excessive circulation is not what stimulates prices. As well might you say that when the warehouses of Chicago and Milwaukee and New York are stored with flour it is attributable to an excessive number of plows. Currency is but the machinery of commerce, of petty commerce. You find it in the pocket of the traveler; you find it employed in all the minor uses of life. But when a cargo of goods or a warehouse gorged with wheat is paid for you use no currency; you draw checks or drafts representing deposits.

Sir, banking upon accumulated deposits is what gives us undue expansions in business and those periods of speculation whose termination is a crisis and a crash. Until we shall have a system of banking under which discounting upon deposits shall be restricted, we shall be liable to all the evils which we are now suffering. Whether the amount of currency be one half what it is now or thrice what it is now does not affect this question, but affects merely the convenience of making ordinary exchanges.

In the interior of Pennsylvania to-day the great want is an increased amount of currency. In the mining districts, men with large deposits in bank are unable to pay their laborers because they cannot get the necessary currency. An increased amount of circulation is needed that the laborer may receive his weekly or monthly wages, and be enabled to go to the store and settle his little accounts.

We need more currency and not contraction. Look at it. With the system of banking on



deposits, when a man, a real capitalist, has more money than he feels it safe to use, he deposits it; that bank deposits it in one nearer the commercial center, and from there it goes to the commercial center; so that there are from ten to fifteen people operating on each deposit. The men who enter into wild adventures are stimulated by the bank directors to borrow their deposits. Shrewd, capable, business men, men of capital, see dangers around them and will not embark in business; they find it more profitable to let their funds lie in the banks at interest. The bank directors want to make interest out of them, and lend to what are called men of enterprise, men who will engage in speculations, and will take the risks that sensible men avoid.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts, demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment to the amendment was agreed to.

Mr. HOOPER, of Massachusetts, demanded the yeas and nays on the amendment as amended. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 87, not voting 71; as follows:

YEAS—Messrs. Barker, Sidney Clarke, Driggs, Eckley, Eggleston, Farquhar, Hart, Hayes, Hotchkiss, Kelley, Leftwich, Loan, Marston, McClurg, Miller, Moorhead, Newell, Patterson, Rollins, Ross, Stevens, Nathaniel G. Taylor, John L. Thomas, Trimble, Van Aernam, Robert T. Van Horn, Stephen F. Wilson, and Windom—28.

NAYS—Messrs. Alley, Allison, Ancona, Baker, Banks, Baxter, Benjamin, Bidwell, Bingham, Boyer, Buckland, Cobb, Conkling, Cook, Cullom, Dawes, Dofrees, Delano, Dixon, Donnelly, Eldridge, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulbert, Jencks, Julian, Kasson, Kerr, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Le Blond, Lynch, Marshall, Maynard, McCullough, McRuer, Mercur, Morris, Moulton, Myers, Niblack, Nicholson, Orth, Paine, Perham, Phelps, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ritter, Sawyer, Seofield, Shanklin, Shollabarger, Spalding, Stokes, Strouse, Taber, Nelson Taylor, Thornton, Trowbridge, Burt Van Horn, Ward, Wentworth, Whaley, Williams, James F. Wilson, and Winfield—87.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Bergen, Blaine, Blow, Boutwell, Brandegee, Brownwell, Broomall, Bundy, Chanler, Reader W. Clarke, Culver, Darling, Davis, Dawson, Deming, Denison, Dodge, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Higby, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Humphrey, Ingersoll, Johnson, Jones, Kelso, Ketchum, Longyear, Marvin, McIndoe, McKee, Morrill, Noel, O'Neill, Pike, Pomerooy, Raymond, John H. Rice, Rogers, Schenck, Stigeraves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Woodbridge, and Wright—71.

So the amendment, as amended, was rejected.

#### PAY OF TENNESSEE MEMBERS.

The SPEAKER. The Chair has received the following letter from the Sergeant-at-Arms:

SERGEANT-AT-ARMS'S OFFICE,  
HOUSE OF REPRESENTATIVES,  
WASHINGTON, D. C., July 26, 1866.

SIR: My attention has been called to the question of the payment of the members recently admitted from the State of Tennessee, and as I can only fill up certificates for pay and mileage under your direction I desire to be informed of the amount which you will certify to be due to each member.

I am, with respect, your obedient servant,

N. G. ORDWAY,

Sergeant-at-Arms House of Representatives.

Hon. SCHUYLER COLFAX,  
Speaker House of Representatives.

As this embodies a new question, the Chair will refer it to the decision of the House.

Mr. STEVENS. There is no difficulty about it. These members were members from the commencement of this Congress, as it afterward turned out. I move they be allowed pay and mileage from that time.

Mr. DAWES. There can be no doubt about it. The precedents are all in favor of the motion. It was so in the Louisiana case and in all the others.

Mr. LOAN moved that the matter be referred to the Committee of Elections.

The motion to refer was disagreed to.

Mr. STEVENS's motion was adopted.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS, ETC., SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 438) in relation to the appointment of clerks to the courts of Washington Territory;

An act (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000;

An act (H. R. No. 728) authorizing the Secretary of the Treasury to issue certificates of registry, or enrollment and license, to certain vessels;

Joint resolution (H. R. No. 101) for the relief of certain officers of the Army; and

Joint resolution (H. R. No. 176) amendatory of a joint resolution entitled, "A resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances to their heirs," approved June 15, 1866.

#### BANK BILL—AGAIN.

Mr. FARQUHAR. I desire to move to strike out the paragraph.

Mr. HUBBARD, of West Virginia. I move to strike out after the word "associations," in line sixty-three, down to and including the word "act" in line sixty-six, namely, "and no association shall issue any certificate, receipt, or other obligation payable at any future day, nor advertise for, solicit, or receive deposits as a savings bank."

Mr. FARQUHAR. I accept that amendment in lieu of what I proposed.

The question being taken on the amendment, it was not agreed to—yeas twenty-seven, noes not counted.

The Clerk read as follows:

That section thirty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that every association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State or Territory where the bank is located, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rates so limited shall be allowed for associations organized in any such State under this act. And when no rate is fixed by the laws of the State or Territory the bank may take, receive, reserve, or charge a rate not exceeding seven per cent., and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. And the knowingly taking, receiving, reserving, or charging a rate of interest greater than as aforesaid shall be held and adjudged a forfeiture of the entire debt. And hereafter, in case a greater rate of interest has been paid, the person or persons paying the same, or their legal representatives, may recover back the amount of the entire debt, or so much thereof as may have been paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred: but the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts, in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

Mr. PRICE. I move to strike out after the word "more," in line eighty-six, down to and including the word "act," in line eighty-nine, namely, "except that where by the laws of any State a different rate is limited for banks of issue organized under the State laws, the rate so limited shall be allowed for associations organized in any such State under this act." The object will be obvious. There are some States where there are two rates of interest fixed, one for banks and another for individuals. Some of the banks are winding up, and it is a question whether they are in existence or not. If a national bank should change a rate of interest, that would be decided under

the law where the State banks are winding up to be illegal; it would forfeit the entire debt. By striking out the words I have indicated it will allow a national bank in any State or Territory to change the rate of interest allowed in that State or Territory by law. The State Bank of Iowa, for instance, has been winding up for some eighteen months, and it is a question whether it is now in existence or not. If a national bank in Iowa should charge interest exceeding the rate allowed to be charged by the State Bank of Iowa, the question would arise whether that bank was in existence or not, and upon the decision of that question would depend the legality of the transaction. Therefore I wish to get rid of this thing. The same thing may exist in other States. By striking out these words we clear the section of ambiguity, and leave the banks to charge the rate of interest allowed by law in the States and Territories.

The question was taken upon Mr. PRICE's amendment, and it was agreed to.

Mr. PRICE. I move now to strike out the word "debt" where it occurs in the ninety-seventh line, and to insert in lieu thereof the word "interest."

Mr. CONKLING. I hope that amendment will not prevail.

Mr. PRICE. Why not?

Mr. CONKLING. I will tell you why not presently.

Mr. PRICE. The reason for the amendment, it seems to me, is so obvious that I did not suppose any gentleman would require anything to be said about it. It is this: that if there are any States or Territories in which two rates of interest are allowed, and a bank should inadvertently charge the wrong rate of interest, then, under this bill, they would forfeit the entire debt. I trust the House will not hesitate to adopt this amendment.

Mr. CONKLING. The propriety of the proposition of the member from Iowa is a great deal more obvious to him at present than it would have been if his profession, like that of many of us, had led him to try a great many usury cases. He would then understand better than he does the ins and outs of the usury laws. Now, I submit to every lawyer in the House that the striking out of the word "debt" and inserting "interest" in place of it is nothing more than a bungling, shambling way of striking out the whole section. If the gentleman from Iowa will give me his attention I think he will agree with me that if his amendment were adopted this section of the bill would become a mere dead letter, and that we had better strike it out altogether; or, to be more frank and plain-speaking, insert a section striking off the shackles from these banking institutions, and letting them range free and uncontrolled, to feed upon the necessities of the business community. There is a very good argument to be made on the other side, and it has been made over and over again in all the State Legislatures in regard to the expediency of usury laws; but I submit that there is no argument that can be made in favor of a usury law which confines the banks to the legal rate of interest, at the same time providing that if they violate the statute they shall forfeit the interest—a mere bagatelle. They might as well be required to forfeit a black bean or a button. The provision amounts to nothing at all.

Now, sir, I have an amendment which I propose to offer, and which I will offer if this amendment does not prevail, and the section is left with any utility at all in it, providing not only what is provided now, that the taking of usury shall lead to a forfeiture of the debt, but that all bills, notes, and obligations tainted with usury shall be void in the inception. Otherwise, even as the section now stands, it amounts to nothing. Because a bank may take usury, and having taken it may turn around and hand the note to my friend before me, for instance, [Mr. PRICE,] and take his check for the amount of the note, and he may go on and sue the note at once, and the right of the

defendant amounts to nothing more than the right to furnish a fleece to be shorn without having a share in the fleece. I submit that we ought to do one of two things. If we are prepared to repeal the usury laws as to this particular class of corporations, and allow them to demand just what they please, then so be it. But do not enact a usury statute, and then provide that the three dollars or the five dollars or in the case of a large sum the ten dollars of usury shall be forfeited, for we know that that would never pay the cost of a suit, and thus no party would be enabled to insure himself against the extortions of these moneyed corporations.

Mr. LYNCH. Does not this bill provide that a bank shall be wound up if it violates this particular provision?

Mr. CONKLING. Undoubtedly this bill provides that in a variety of cases a bank shall be wound up by machinery which is here provided. But let me ask the gentleman from Maine [Mr. LYNCH] if he supposes that a poor man who has been obliged to pay ten dollars for blood money will ever resort to that proceeding and have a bank wound up. It is very much like a right that a black man formerly had in some of the States to appear in court in a suit to establish his freedom. Sir, it is holding out the idea of hope to the ear and breaking it to the heart. If we are going to have a usury statute let us have one that the rich man and the poor man may alike avail themselves of, and not evade it by saying that there is a provision by which they may go to the Comptroller of the Currency, and from the Comptroller of the Currency to some one else, who will send a commissioner to institute proceedings before some one else to wind up the bank.

The question was upon the amendment of Mr. PRICE.

Mr. PRICE. I will withdraw the amendment if the gentleman from Maine [Mr. LYNCH] will renew it.

Mr. LYNCH. I will renew the amendment.

Mr. PRICE. Will the gentleman yield to me for a moment?

Mr. LYNCH. Certainly.

Mr. PRICE. I want to say to members here, in answer to all the fine arguments made by the gentleman from New York, [Mr. CONKLING,] that this has been the law ever since the organization of the national bank system, and I think that gentlemen will say with me that there has not probably been one case in a hundred where any fault has been found with the law as it exists. I only ask that the law shall remain as it has been since the organization of the national bank system.

Mr. LYNCH. I desire to say but a few words in reply to the gentleman from New York, [Mr. CONKLING.] In addition to the power given here to wind up a bank by the Comptroller of the Currency, there is another safeguard against the charging of usury by the banks. That is, that the president and directors of a bank in making out their certificates must, under oath, certify that they do not take usurious interest.

I wanted to ask the gentleman from New York, while he was up, whether in the State of New York there is a forfeiture of the entire debt for usury. In but very few of the States of the Union, in none of the New England States, I think, is there anything more than the forfeiture of the interest. And as has been remarked by the gentleman from Iowa, [Mr. PRICE,] since the passage of the first national bank bill to the present time, such has been the provision upon that subject.

Mr. CONKLING. I will call the attention of the gentleman from Maine [Mr. LYNCH] again to the fact that he is quite mistaken in supposing that the effect of the amendment now offered would be to restore the old law. Very far from it. The old law provides that whoever suffers from the taking of usury may institute a suit to recover back twice the amount which he has suffered. Here is a provision that the taking of usury shall simply forfeit the

amount of interest. It will be seen that it is a very different provision.

Mr. LYNCH. I had intended to move to strike out that section when we shall come to it, believing that the section in the present law is very much better than this new provision.

Mr. DAWES. I wish to call attention to the fact that the effect of this enactment will be to produce in almost all the States of the Union two sets of negotiable notes—one liable to absolute forfeiture if the notes be in any way tainted with usury, and another liable simply to the penalty provided by the State laws. In our own State, for instance, we have tried various penalties for usury. First we had a law similar to that now in force in the State of New York, providing that as a penalty for usury the debt should be forfeited. Then the law was modified so as to provide that three times the whole amount of interest should be forfeited if there were any unlawful interest exacted. Now our law provides that three times the amount of the unlawful interest shall be forfeited; and there is a provision for the recovery of the unlawful interest from any party who has taken it. Such would be the law applicable to all negotiable paper in Massachusetts except that which might pass through these national banks. Then there is another class of negotiable paper, that passing through the national banks in Massachusetts and throughout New England, which would have attached to it the entire forfeiture of the debt as the penalty for usury.

Now, sir, I do not desire to oppose this amendment, but I wish to suggest to my colleague [Mr. HOOPER] whether it is not practicable to provide that the penalty of usury in the several States shall conform to the law of the individual State, whether the State has deemed it wise, like the State of New York, to retain the old provision, or whether, like the State of Massachusetts, it deems it sufficient to provide a forfeiture of three times the amount of unlawful interest, or whether, like the State of Indiana, it declares that the forfeiture of the interest itself is sufficient. I throw out this suggestion to my colleague, for it seems to me to be a great evil that different classes of negotiable paper, having on their face nothing to distinguish one class from another, should have attached to them by law a very different penalty. It seems to me quite worth the while of the gentlemen having charge of this bill to try whether they cannot devise a penalty which shall conform to the law of each of the States respectively; so that all the negotiable paper in Massachusetts shall be subject for usury to the penalty provided by the law of that State, and all the negotiable paper in the State of New York shall for usury be subject to the penalty provided by the law of that State. I do not know that this is practicable; but I throw out the suggestion for what it may be worth.

Mr. BINGHAM. In connection with what has been said in reference to the penalty for usury, let me suggest whether it might not be well enough, while we are upon the subject, to establish a uniform rule of interest.

Several MEMBERS. We cannot do that.

The amendment of Mr. PRICE, as renewed by Mr. LYNCH, was rejected.

Mr. JENCKES. Mr. Speaker, I desire to meet this question squarely. I am somewhat surprised, sir, that anybody in this age of the world should make a serious proposition to sustain the usury laws; and it is made in this bill in a way which shows that the movers of it do not really believe in the wisdom of such enactments. Of all the section, down to line one hundred and four, every word is a tribute, not to the wisdom, but to the folly of such enactments; and every line after that is devoted to pointing out the mode of evasion.

I believe that now no commercial country in the world recognizes the value of such enactments. We know that they have been abolished in England. We know they have no validity in the commercial nations on the continent of Europe. There is a lingering prejudice in their favor in the State of New York, and some other States of this Union, but every

one knows that there has been practiced in those States just such ingenious modes of evasion as that sought to be incorporated in this bill. Every one knows, also, that a prohibition of this sort upon banking corporations does not operate for the benefit of the man who wishes to borrow money, but it compels the banking corporation either to evade the law or to force its customer into the street. Instead of limiting the rate of interest to be paid for the use of money, it is a premium in favor of those who have money to lend, whereby they can exact a larger rate of interest than that allowed by law. I wish, as I said at the outset, to meet this question fairly and clearly, and to move to strike out of any banking law anything which looks to the recognition by Congress of any system of usury laws.

Mr. DELANO. I move that the further consideration of this bill be postponed until the first Monday of December next.

Mr. RANDALL, of Pennsylvania. This is a most important question. There can be none more so than these amendments to the national banking law. The present law is full of defects which experience has shown to be detrimental to the public interest. We have made this report late in the session; but it is better late than never. I will not enter into the discussion of the banking system. I do not consider the system a sound one; but I think we should as far as possible remedy these defects and prevent fraudulent transactions in connection with these banks.

Mr. DELANO. We cannot mature this measure at the present session. I am not hostile to the bill; but I believe my motion is for the interest of the country. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. HOOPER, of Massachusetts, demanded tellers.

Tellers were ordered; and Mr. HOOPER, of Massachusetts, and Mr. DELANO, were appointed.

The House divided; and the tellers reported—ayes 54, noes 47.

So the motion was agreed to.

Mr. DELANO moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the resolution providing for the acceptance of the portrait of President Lincoln.

The message further announced that the Senate insisted upon its amendments to House bill No. 780, to protect the revenue, and for other purposes, agreed to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and had appointed Messrs. HOWARD and HENDERSON conferees on the part of the Senate.

The message further announced that the Senate had disagreed to the amendment of the House to Senate bill No. 89, to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, asked for a committee of conference on the disagreeing votes of the two Houses thereon, and had appointed Messrs. CHANDLER, MORGAN, and RIDDLE conferees on the part of the Senate.

#### IMPORTED MERCHANDISE.

Mr. ELIOT, by unanimous consent, moved that the House insist on its amendments to Senate bill No. 39, to amend all acts relating to officers employed in the examination of imported merchandise in the district of New York, and agree to the conference asked for by the Senate.

The motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

Mr. DELANO. I move to take from the

Speaker's table the amendment of the Senate to the House resolution fixing the day of adjournment.

The motion was agreed to.

The Senate concurred in the resolution of the House with an amendment fixing Saturday, the 28th of July, instead of Wednesday, the 25th, as the day for the adjournment of Congress.

Mr. CONKLING. I ask the gentleman to allow me to move to strike out "Saturday, the 28th," and insert "Friday, the 27th."

Mr. DELANO. The Senate will not concur, and I cannot yield. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BROMWELL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 54, not voting 64; as follows:

**YEAS**—Messrs. Alley, Ancona, Barker, Baxter, Bergen, Bingham, Boyer, Buckland, Cooper, Davis, Dawes, Delano, Dixon, Eckley, Eggleston, Eldridge, Finck, Gurfield, Glessbrenner, Aaron Harding, Hart, Hayes, Hogan, Holmes, Chester D. Hubbard, James B. Hubbard, Johnson, Kasson, Kerr, Ketcham, Kootz, Kaykendall, Laffin, Latham, George V. Lawrence, Le Blond, Leftwich, McCullough, Miller, Moorhead, Merrill, Morris, Niblack, Nicholson, Patterson, Phelps, Plauts, Radford, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Ross, Sawyer, Shanklin, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thornton, Frieble, Trowbridge, Van Aernam, Burt Van Horn, Ward, Whaley, Winfield, and Wright—68.

**NAYS**—Messrs. Allison, Anderson, Baker, Banks, Benjamin, Bidwell, Bromwell, Broomall, Sidney Clarke, Cobb, Conkling, Cullom, DeForest, Driggs, Eliot, Farquhar, Ferry, Abner C. Harding, Hiebo, Hooper, Hotchkiss, Hulburd, Ingersoll, Jencks, Kelley, William Lawrence, Loan, Lynch, Marston, Maynard, McClure, McKuer, Mercer, Moulton, Myers, Newell, O'Neill, Orth, Paine, Ritter, Rollins, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stokes, John L. Thomas, Robert T. Van Horn, Volker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—54.

**NOT VOTING**—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Boutwell, Brandegee, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Dawson, Deming, Denison, Dodge, Donnelly, Dumont, Farnsworth, Good-year, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Asahel W. Hubbard, Dennis Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Julian, Kelso, Longyear, Marshall, Marvin, McLeod, McKee, Noell, Perham, Pike, Pomeroy, Alexander H. Rice, Rogers, Sitgreaves, Sloan, Smith, Starr, Stillwell, Taber, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Windom, and Woodbridge—64.

So the amendment of the Senate was concurred in.

Mr. DELANO. I move to reconsider the various votes by which the amendment of the Senate was concurred in; and also move to lay that motion upon the table.

The latter motion was agreed to.

#### NEUTRAL RELATIONS OF THE UNITED STATES.

Mr. BANKS, by unanimous consent, from the Committee on Foreign Affairs, reported a bill effectually to preserve the neutral relations of the United States, which was ordered to be printed with the accompanying report, with leave to call the same up to-morrow after the morning hour.

Mr. RAYMOND, by unanimous consent, submitted a minority report on the same question; which was ordered to be printed.

#### ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco, from perishing with the wreck of that vessel;

Joint resolution (S. R. No. 121) providing for the examination of the accounts of the

State of Massachusetts for moneys expended during the war for coast defense;

Joint resolution (S. R. No. 11) for the relief of Milton McKinnon;

Joint resolution (S. R. No. 82) to provide for codifying the laws relating to the customs;

Joint resolution (S. R. No. 132) authorizing the Secretary of the Treasury to audit and settle the accounts of Caleb T. Pay and William Y. Patch, late assessor and collector of internal revenue at San Francisco;

Joint resolution (S. R. No. 125) granting the right of way through military reserves to the Union Pacific Railroad Company and its branches;

Joint resolution (S. R. No. 84) authorizing the payment of certain claims against the late Territory of Nevada;

Joint resolution (S. R. No. 126) to authorize the use of certain plates of the United States exploring expedition by the Navy Department;

Joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy;

An act (S. No. 367) to extend the time of letters-patent issued to Thaddeus Hyatt;

An act (S. No. 350) granting a pension to John Pyle;

An act (S. No. 376) granting a pension to Drusey A. Lyman;

A bill (S. No. 224) granting lands to the State of Kansas, to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas;

An act (S. No. 358) granting a pension to Mrs. Nancy A. Stocks;

An act (S. No. 398) for the relief of W. B. Kelley;

An act (S. No. 366) granting a pension to Abraham Lansing; and

An act (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tidewater Canal Company to enter the District of Columbia, and extend their canal to the Anacostia river at any point above Benning's bridge.

#### COURT OF CLAIMS.

Mr. STOKES, by unanimous consent, introduced a joint resolution to extend the jurisdiction of the Court of Claims.

The joint resolution was read. It extends the provisions of the act of July 4, 1864, entitled "An act to limit the jurisdiction of the Court of Claims," to the loyal citizens of the State of Tennessee.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STOKES moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NATIONAL DEBT.

Mr. GARFIELD. I am instructed by the Committee of Ways and Means to report back Senate bill No. 300, to reduce the rate of interest on the national debt and for funding the same, with sundry amendments, and with a recommendation that it do pass.

Mr. WILSON, of Iowa. I object to considering it in the House.

Mr. GARFIELD. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering it.

Mr. RANDALL, of Pennsylvania. Let the bill be read.

The Clerk read the bill.

Mr. GARFIELD. I will modify my motion by moving that the House consider this bill as in Committee of the Whole under the five-minute rule.

The SPEAKER. That is in order.

Mr. ANCONA. Is not the rule peremptory that all these bills must be considered in Committee of the Whole?

The SPEAKER. All rules can be suspended during the last ten days of the session.

On the motion, as modified, there were—yeas 30, noes 30; no quorum voting.

Mr. GARFIELD. I adhere to the original motion to suspend the rules and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question being taken, there were—yeas 40, noes 33; no quorum voting.

Tellers were ordered; and Messrs. NICHOLSON and GARFIELD were appointed.

The House divided; and the tellers reported—yeas 53, noes 42.

Mr. WILSON, of Iowa, demanded the yeas and nays, and tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

So the motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into Committee of the Whole on the state of the Union, (Mr. ROLLINS in the chair.)

#### WINNEBAGO RESERVATION.

The CHAIRMAN stated that the first business in order before the committee was the consideration of bill of the Senate No. 121, to provide for the enlargement of the Winnebago reservation, in the Territory of Nebraska, and for other purposes.

Mr. GARFIELD. I wish to say a few words in relation to the bill which I propose to take up.

Mr. WINDOM. Oh, no! You cannot do that. I object.

Mr. BINGHAM. The bills upon the Calendar must be taken up *seriatim*.

Mr. GARFIELD. I move, then to lay the bill aside.

Mr. WINDOM. I trust the committee will not agree to that motion. This is a bill which ought to have been passed at least three months ago. I demand tellers upon the gentleman's motion.

Tellers were not ordered; and Mr. GARFIELD's motion was agreed to.

#### WYANDOTTE INDIANS.

The next bill on the Calendar was the bill (S. No. 432) for the relief of the Wyandotte tribe of Indians.

Mr. GARFIELD. I move that the bill be laid aside.

Mr. ROSS. Oh, no! This is a very important bill. I ask unanimous consent to say a word about it.

The CHAIRMAN. No debate is in order.

The question was put upon Mr. GARFIELD's motion; and there were—yeas, 48 noes 29; no quorum voting.

Mr. WINDOM demanded tellers.

Tellers were ordered; and Messrs. ROSS and GARFIELD were appointed.

The committee divided; and the tellers reported—yeas 52, noes 43.

So Mr. GARFIELD's motion was agreed to; and the bill was laid aside.

#### IOWA CLAIMS.

The next bill upon the Calendar was bill S. No. 305, for the relief of the citizens of Iowa for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians.

Mr. GARFIELD. I move that the bill be laid aside.

Mr. PRICE. Oh! I object to that. That bill ought to be passed.

The question was put upon Mr. GARFIELD's motion; and there were—yeas 50, noes 44.

Mr. WINDOM demanded tellers.

Tellers were ordered; and Messrs. WINDOM and GARFIELD were appointed.

The committee divided; and the tellers reported—yeas 48, noes 47.

So the motion was agreed to; and the bill was laid aside.

#### BOUNDARIES OF IDAHO AND OREGON.

The next bill upon the Calendar was bill of the Senate No. 251, providing for the survey of the boundary between the Territory of Idaho and the State of Oregon.



Mr. GARFIELD. I move that that bill be laid aside.

The question was put; and there were—ayes 28, noes 34; no quorum voting.

Mr. RADFORD demanded tellers.

Tellers were ordered; and Messrs. MORRILL, and WILSON of Iowa, were appointed.

The committee divided; and the tellers reported—ayes 48, noes 40.

No quorum voting, the Chairman, under the rule, ordered a call of the committee.

The roll was accordingly called, and the following members failed to respond to their names:

Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Boutwell, Brandegee, Bundy, Chandler, Reader W. Clarke, Cobb, Cook, Culver, Darling, Davis, Dawson, Deming, Denison, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Asahel W. Hubbard, Domas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, George V. Lawrence, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Moulton, Nowell, Noel, Phelps, Pike, Plants, Pomeroy, Samuel J. Randall, Raymond, Alexander H. Rice, Rogers, Schenck, Sitgreaves, Sloan, Smith, Spalding, Starr, Stilwell, Taber, Thayer, Francis Thomas, Thornton, Upson, Van Aernam, Warner, Elihu B. Washburne, Henry D. Washburn, and William B. Washburn.

The committee rose, and the Speaker having resumed the chair, Mr. ROLLINS reported that the Committee of the Whole on the state of the Union, having found itself without a quorum, he had directed the roll of members to be called, and now reported the names of the absentees to the House.

The SPEAKER. More than a quorum having answered to their names, the chairman of the Committee of the Whole on the state of the Union will again resume the chair.

The Committee of the Whole on the state of the Union (Mr. ROLLINS in the chair) accordingly resumed the consideration of Senate bill No. 251, providing for the survey of the boundary between the Territory of Idaho and the State of Oregon.

The pending question was upon the motion of Mr. GARFIELD, that the bill be laid aside.

Mr. MORRILL, and Mr. WILSON of Iowa, had been appointed tellers, and they resumed their places.

The committee again divided; and the tellers reported—ayes 51, noes 45.

So the motion to lay the bill aside was agreed to.

Mr. WRIGHT. The number of the bill which the gentleman from Ohio [Mr. GARFIELD] desires to have considered is Senate bill No. 300, and there are a dozen bills before it. Now, at this rate we may occupy the entire day in getting at that bill. I therefore move that the committee rise for the purpose of allowing me to submit a motion to postpone all prior orders in Committee of the Whole on the state of the Union, so that we may at once take up that bill.

The question was taken, and the motion was not agreed to.

#### SANITARY MEASURES FOR WASHINGTON.

The next business on the Calendar was a House joint resolution (No. 121) reported from the Committee for the District of Columbia, to place funds in the hands of the Commissioner of Public Buildings for sanitary purposes.

Mr. GARFIELD. I move that this joint resolution be laid aside.

Mr. STEVENS. I hope not; I think it should be passed.

Mr. GARFIELD. I withdraw my motion.

The joint resolution was read. It provides that the sum of \$25,000 be appropriated, payable out of any money in the Treasury not otherwise appropriated, and placed at the control of the Commissioner of Public Buildings, to be expended by him, or so much thereof as may be necessary, to do such work as may be required to put in a proper sanitary condition the avenues and public reservations under his control, so as to prevent, if possible, the appearance of the cholera or other epidemic in the city of Washington.

Mr. GARFIELD. I move that this joint resolution be laid aside, to be reported to the House with a recommendation that it do pass.

Mr. FARNSWORTH called for tellers.

Tellers were ordered; and Messrs. INGERSOLL and RADFORD were appointed.

The committee divided; and the tellers reported—ayes 42, noes 52.

So the motion was not agreed to.

Mr. FARNSWORTH. I move to strike out the enacting clause of the joint resolution.

The motion was agreed to.

#### RECONSTRUCTION.

The next business upon the Calendar was a bill introduced by Mr. STEVENS, (H. R. No. 623,) to enable the States lately in rebellion to regain their privileges in the Union.

Mr. STEVENS. I ask that the committee proceed with the consideration of that bill. It will probably not take over an hour, and it is a very important bill, and I am not willing that Congress shall adjourn without voting upon it. I have some amendments which I desire to offer, and then I propose to move that the bill and amendments be reported to the House and printed, and postponed until tomorrow. I trust that the committee will agree to that.

Mr. LE BLOND. I call for the reading of the original bill and the amendments.

Mr. STEVENS. I am willing to have it read; but I do insist that a vote shall be taken upon it.

Mr. BINGHAM. I rise to a question of order. My colleague [Mr. GARFIELD] rose in his place before the gentleman from Pennsylvania offered his amendment and moved to lay the bill aside.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Pennsylvania was recognized.

Mr. GARFIELD. I rise to a question of order. I desire to ask whether it is not in order, before the bill is read, to move to lay it aside.

The CHAIRMAN. That motion is in order.

Mr. STEVENS. I have not surrendered the floor.

The CHAIRMAN. The Chair supposed that the gentleman had yielded the floor.

Mr. STEVENS. Not at all. I do not mean to yield it. I want to have a vote upon this question.

Mr. ALLISON. I ask the gentleman from Pennsylvania to yield for the purpose of allowing the bill and amendments to be reported.

Mr. STEVENS. I will yield for that purpose, with the understanding that I still retain my right to the floor.

The Clerk proceeded to read the bill, as follows:

Whereas the eleven States which lately formed the government called the "confederate States of America," have forfeited all their rights under the Constitution, and can be reinstated in the same only through the action of Congress; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the eleven States lately in rebellion may form valid State governments in the following manner:

Sec. 2. *And be it further enacted*, That the State government now existing *de facto*, though illegally formed in the midst of martial law, and in many instances the constitutions were adopted under duress, and not submitted to the ratification of the people, and therefore are not to be treated as free republics, yet they are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers shall be recognized as such.

Sec. 3. *And be it further enacted*, That whenever the Legislatures of said States shall enact that conventions shall be called to form legitimate State governments by the formation and adoption of State constitutions, the Governor, or chief executive officer, shall direct an election to be held on a day certain to choose delegates to a convention, who shall meet at the time fixed by the Legislature and form a State constitution, which shall be submitted to a vote of the people, and if ratified by a majority of the legal voters shall be declared the constitution of the State.

Sec. 4. *And be it further enacted*, That the persons who shall be entitled to vote at both of said elections shall be as follows: all male citizens above the age of twenty-one years who have resided one year in said State, or ten days within the election district.

Sec. 5. *And be it further enacted*, That the word citizen, as used in this act, shall be construed to mean

all persons (except Indians not taxed) born in the United States or duly naturalized. Any male citizen above the age of twenty-one years shall be competent to be elected to act as a delegate to said convention.

Sec. 6. *And be it further enacted*, That all persons who held office, either civil or military, under the government called the "confederate States of America," or who swore allegiance to said government, are hereby declared to have forfeited their citizenship and to have renounced allegiance to the United States, and shall not be entitled to exercise the elective franchise until five years after they shall have filed their intention or desire to be reinvested with the right of citizenship, and shall swear allegiance to the United States and renounce allegiance to all other Governments or pretended governments, the said application to be filed and oath taken in the same courts that by law are authorized to naturalize foreigners.

Sec. 7. *And be it further enacted*, That no constitution shall be presented to or acted on by Congress which denies to any citizen any rights, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void and said State lose its right to be represented in Congress.

Sec. 8. *And be it further enacted*, That whenever the foregoing conditions shall be complied with, the citizens of said State may present said constitution to Congress, and if the same shall be approved by Congress said State shall be declared entitled to the rights, privileges, and immunities, and be subject to all the obligations and liabilities of a State within the Union. No Senator or Representative shall be admitted into either House of Congress until Congress shall have declared the State entitled thereto.

The hour of half past four o'clock having arrived, the committee rose; and the House, agreeably to order, took a recess till half past seven o'clock, p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock, p. m.

#### PAY OF A COMMITTEE CLERK.

Mr. BROOMALL, by unanimous consent, reported back from the Committee of Accounts the following resolution; which was read, considered, and agreed to:

*Resolved*, That the compensation of the clerk to the Committee of Claims be fixed at the same rate as that of the clerk to the Committee on Appropriations, to commence from the first day of the present session of Congress.

Mr. BROOMALL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RELIEF OF DRAFTED MEN.

Mr. ANCONA. I ask unanimous consent to report from the Committee on Military Affairs, for action at the present time, a bill for the relief of certain drafted men.

Mr. ALLEY. I must object. I think we should not attempt to pass any bill of this kind while there are so few members present.

Mr. ANCONA. Then I call for the regular order.

The House agreeably to order, proceeded to the consideration of the business on the Speaker's table.

#### ALABAMA AND FLORIDA RAILROAD.

The first business on the Speaker's table was the joint resolution (S. R. No. 134) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron; which was read a first and second time.

Mr. WILSON, of Iowa. I move that this bill be referred to the Committee of Ways and Means.

Mr. BINGHAM. I hope that the bill will not be referred. It ought to be passed.

On the motion of Mr. WILSON, of Iowa, there were—ayes 16, noes 11; no quorum voting.

Mr. WILSON, of Iowa, moved that there be a call of the House.

The motion was agreed to.

Mr. WILSON, of Iowa, by unanimous consent, withdrew the motion that there be a call of the House, and moved that the joint resolution be postponed for half an hour.

The motion was agreed to.

## WILLIAM P. WINGATE.

The next business upon the Speaker's table was Senate joint resolution, No. 123, in relation to the settlement of the accounts of William P. Wingate, collector of the port of Bangor, Maine; which was read a first and second time.

On motion of Mr. McRUER, the joint resolution was temporarily laid aside.

## RECORDING WILLS.

The next business upon the Speaker's table was Senate bill No. 289, to provide for the probate of and for the recording of wills of real estate situated in the District of Columbia, and for other purposes; which was read a first and second time.

On motion of Mr. WILSON, of Iowa, the bill was referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LAND AND BUILDING COMPANY.

The next business on the Speaker's table was Senate bill No. 384, to incorporate the Washington Land and Building Company of the District of Columbia; which was read a first and second time.

Mr. MERCUR. When this bill came to this House it was taken up and examined by the Committee for the District of Columbia, and it was agreed that I should recommend its passage.

Mr. STEVENS. Was it the same bill?

Mr. MERCUR. Yes, sir.

The bill was read.

Mr. KASSON. I thought I observed a prohibition against any other company engaged in the like business. Is there any such restriction?

Mr. MERCUR. It declares, on the contrary, "that nothing in this act shall be construed to prevent any other incorporated company, hereafter to be incorporated by Congress for this purpose, from engaging in and pursuing the same business, as specified in the seventh section of this act."

Mr. CONKLING. I should like to understand something about this bill before we pass it. We have had in the State of New York a great deal of experience in reference to building associations and building companies under various names and with various arrangements of legislation, and all that experience has led me to dread special charters for nothing so much as for the business of building houses on this plan of fifty-dollar shares, or any other similar plan.

But beyond all that, I wish the gentleman from Pennsylvania would tell us why it is in this District, in defiance of the legislation of the whole country, now and for years, of general acts under which all the business that capital needs can be carried on, special charters are granted giving monopolies more or less to certain named men and their successors. We have in most of the States abandoned the whole practice of special charters. We have adopted general laws; and the more universally they are adopted the more entirely are all communities satisfied that that is the proper way—a mode which engenders competition, discourages monopoly, and leads to general and wholesome condition in all respects. I do not see why that should not be adopted here. I do not see why this city should be deprived of the advantages which accrue to other parts of the country from the mode in which business is there transacted. I have no doubt the bill is right so far as any act for this purpose is right.

Mr. MERCUR. The gentleman from New York inquires why we have not provided by general legislation for the incorporation of such associations. I presume for the same reason that the Legislatures of many of the middle and southern States have not made such provisions. I am aware that the eastern States and New

York have made general laws for incorporation. The gentleman from New York has had much more experience in national legislation than I have, and if he had assumed the duty of framing a bill at any time during this session and had it referred to the committee of which I am a member, I have no doubt it would have received a favorable report. But no bill of that kind has been introduced by any member of this Congress. None has been laid before this committee and they have not felt it incumbent upon them, in the absence of any such bill and in the absence of any instruction from the House, to make so wide a departure from the legislation of this District. I fully agree with the gentleman that as a general rule it is wise and judicious to provide by general legislation for incorporations. But it has not been the policy of this District, and it is too late in the session now to apply the remedy. This bill, then, is presented as bills have been heretofore presented in this District. All the incorporations in the District have been special in their character.

If I understand the gentleman from New York he makes no specific objection to this bill or to any of its features. I will state, however, for the benefit of the House, some few facts connected with it. The incorporators named in this bill, or some of them at least, are persons who have purchased quite a body of land in this city lying east, in the vicinity of Lincoln square. They have already erected a row of buildings called Philadelphia row. They propose to erect other and additional buildings of lesser value in order that they may be brought within the reach of the clerks and mechanics of this city. From the experience they have had in building they believe that they can be instrumental in reducing the value of real estate in this city and in reducing the rents which men of limited means are obliged to pay, and thus indirectly reducing the rentals and prices which members of this House have to pay. They propose to put up numerous buildings and sell them to persons of limited means upon a long credit, requiring them to pay annually such sums as they can save out of their earnings, and thus bring within the means of the more humble citizens of this District an opportunity of acquiring permanent homesteads for their families where they may rest secure for the remainder of their lives. This subject received full and careful consideration and inquiry before the committee agreed to report the bill. We came to the conclusion to which the Senate came, that it was for the interest of the citizens of this District, and especially for the interests of those who are of limited means, that this bill should pass. If no further questions are desired to be put, I will move the previous question.

Mr. CONKLING. I want to call the gentleman's attention and also the attention of the House to the seventh section:

Sec. 7. *And be it further enacted*, That the president and directors shall have full power and authority, on behalf of the company, to purchase or lease land within the city of Washington, and sub-lease or sell and convey the same, to erect dwelling-houses and all other buildings on the land so leased or purchased, and rent, lease, or sell the same, with the land appurtenances thereunto belonging, and generally to do and perform all acts, matters, and things to encourage mechanics and citizens of Washington in procuring houses and homes upon the most advantageous and economical terms.

Now, I ask whether that section does anything more or less than to charter an incorporation for the purpose of possessing itself of the most desirable and available bits of property all about the city on the best terms and making a profit out of the operation. It seems to me it is a mere intelligence office of real estate for the benefit of the monopolists, and I undertake to say that if any reason can be furnished why this corporation should be chartered in the city of Washington to handle real estate, that reason will show that no such provision as that should be contained in it, unless the object is to subvert the interest, not of the public, but of those who are to profit by it. I think that those who come here and those who legis-

late here are sufficiently ridden now with the enormities of exaction which prevail here, and I think it wrong that a company should be chartered with a capital of half a million dollars to begin with, to snap up every scrap of real estate in the District.

Mr. MERCUR. I will yield now to my colleague, [Mr. WILLIAMS.]

Mr. WILLIAMS. The bill contains a provision that nothing therein contained shall be construed to deny to Congress the power of incorporating other companies of a like description. I wish to know if it is the judgment of the committee that the incorporation of such a company involves a surrender of such power on the part of Congress. If not, then it follows that this provision is unnecessary, and there is only one thing in the section that is of any value, and that is so much as reserves to Congress the right to amend, repeal, or alter the charter. Then there is another matter connected with this to which I desire to call attention. I find a clause here providing that the stockholders of this company shall be liable, individually, to the amount of the stock held by them. The liability is not to be confined, as I understand this provision, to the amount of stock subscribed; so that if the debts of the company exceed the amount of stock subscribed, the creditors of the company would have to suffer.

Mr. MERCUR. I am not authorized to express the opinion of the committee on the legal point raised by the member from Pennsylvania, but I have no hesitation in submitting my own opinion, which is that it is necessary that Congress should retain the power to charter other companies. The House will bear in mind that this is substantially a provision authorizing the company to perform any business that may be in pursuance of their charter. They have real estate. They own lands upon which buildings will be erected. It is something that is not transient or fleeting; something that cannot go out of their pockets; so that the creditors of the company have a permanent security, and all persons who may deal with this corporation. It strikes me that may be held to be a sufficient security; but in addition to that, this clause proposes that there shall be an individual liability on the part of each incorporator equal to the amount of his stock. There certainly could be no objection to putting this additional guard upon the operations of this incorporation, and thus seeking further to protect the interest of all those who may become its creditors.

Mr. Speaker, let me say a word in answer to the gentleman from New York, [Mr. CONKLING,] who thinks that under this charter this incorporation will purchase and hold too much property in the city. It is true, by this bill they are authorized to sell stock to the amount of \$500,000, or not less than \$100,000. But if I understand this matter, the incorporators do not possess sufficient means to go far in purchasing up real estate. If the gentleman from New York will reckon up the valuation put upon some of the houses and lots in this city, he will find that the sum mentioned in this bill would purchase very few of them.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate receded from its disagreement to the amendments of the House to the bill (H. R. No. 179) in relation to the district courts of the United States in the States of California and Louisiana, and agreed to said amendment.

The message further informed the House that the Senate insisted on their amendments disagreed to by the House to the bill (H. R. No. 138) to increase and fix the military peace establishment of the United States, agreed to the conference asked by the House thereon, and had appointed Messrs. WILSON, HARRIS, and NESMITH the conferees upon the part of the Senate.

The message further informed the House that the Senate had passed the bill of the House

(No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph W. Smoot, with an amendment, in which he was directed to ask the concurrence of the House.

#### LAND AND BUILDING COMPANY—AGAIN.

Mr. MERCUR. I believe that there is nothing in the statement of the gentleman from New York calculated to injure this bill or to harm any person interested in it, and I therefore demand the previous question.

Mr. PAINE. I rise to a privileged question. My conviction is that this bill—

The SPEAKER. That is not a privileged question pending the demand for the previous question.

Mr. PAINE. Well then, sir, I move to lay the bill upon the table.

The SPEAKER. That motion is not debatable.

Mr. PAINE. It is a privileged motion, however, and I make it.

The question was taken, and upon a division there were—ayes 61, noes 31.

Before the result of the vote was announced, Mr. MERCUR called for the yeas and nays. The yeas and nays were not ordered.

So the motion to lay on the table was accordingly agreed to.

Mr. PAINE moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ALABAMA AND FLORIDA RAILROAD.

The next business upon the Speaker's table was a joint resolution of the Senate (No. 134) extending time to the Alabama and Florida Railroad Company for the payment of duties on railroad iron; which at the commencement of the evening session had been laid by on motion of Mr. WILSON, of Iowa, for half an hour.

The joint resolution was read a first and second time.

The question was upon ordering it to be read a third time.

The joint resolution was read at length. It authorizes the Secretary of the Treasury to extend a credit of five years to the Alabama and Florida Railroad Company for the duties upon a sufficient quantity of railroad iron and fastenings to relay the track of the railroad from Pensacola, Florida, to the Alabama State line, a distance of thirty-seven miles, by the railroad company giving satisfactory security for the payment of such duties within the term of five years with semi-annual interest thereon at the rate of six per cent. in gold, and the iron and fastenings shall be used for no other purpose until the duties are paid in full.

Mr. BINGHAM. I call the previous question on the third reading of the bill.

Mr. INGERSOLL. I move to lay the bill on the table, as that seems to be the order of business this evening.

Mr. ALLISON. I call the yeas and nays on the motion to lay this bill upon the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 54, nays 48, not voting 84; as follows:

YEAS—Messrs. Alley, Allison, Banks, Benjamin, Bidwell, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Conkling, Cullom, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Abner G. Harding, Hayes, Hotchkiss, James R. Hubbard, Ingersoll, Julian, Kelley, Koontz, George V. Lawrence, William Lawrence, Loan, Marston, McClurg, Mercur, Miller, Morris, Myers, O'Neill, Orth, Paine, Perham, Rollins, Sawyer, Scofield, Shellabarger, Spaulding, Stevens, Stokes, Trimble, Van Aernam, Ward, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—54.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Baker, Baxter, Bergen, Bingham, Dawes, De-frees, Delano, Eldridge, Finck, Garfield, Glossbrenner, Aaron Harding, Holmes, Chester D. Hubbard, Hulburd, Johnson, Kasson, Kerr, Kuykendall, Laffin, Le Blond, Marshall, Maynard, McKuer, Morrill, Nicholson, Phelps, Plants, Price, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trowbridge, Robert T. Van Horn, Woodbridge, and Wright—48.

NOT VOTING—Messrs. Ames, James M. Ashley,

Baldwin, Barker, Beaman, Blaine, Blow, Boyer, Brandegee, Bundy, Chanler, Reader W. Clarke, Cobb, Cook, Cooper, Culver, Darling, Davis, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Farnsworth, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Henderson, Higby, Hill, Hogan, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Humphrey, Jenckes, Jones, Kelso, Ketchum, Latham, Leitch, Longyear, Lynch, Marvin, McCullough, McIndoe, McKee, Moorhead, Moulton, Newell, Niblack, Noell, Patterson, Pike, Pomeroy, Radford, William H. Randall, Rogers, Schenck, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Windom, and Winfield—84.

So the bill was laid on the table.

Mr. INGERSOLL moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

Mr. MORRILL. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

The motion to reconsider was laid on the table.

#### MEMPHIS RIOTS.

Mr. BROOMALL. In the absence of the chairman [Mr. WASHBURN, of Illinois,] of the select committee appointed by this House to investigate the late riots in Memphis, Tennessee, the chairman being detained from the House by illness, I am instructed by the committee to submit a report, which, together with the testimony, I move be laid on the table and printed.

Mr. SHANKLIN. I submit a minority report from the same committee.

Mr. BROOMALL. I am also instructed by the same committee to move that there be printed for the use of this House twenty thousand extra copies of the reports and testimony and fifty thousand copies of the reports without the testimony.

The SPEAKER. The motion to print extra copies will go to the Committee on Printing under the law.

The question was upon laying the reports and testimony upon the table and ordering the same to be printed.

Mr. LE BLOND. I hope this testimony will not be printed. I do not think any member will read it even should it be printed, and therefore it would be a useless expense to print any copies at all. The whole subject-matter of the investigation is entirely of a local character; a matter the regulation of which belongs wholly to the State of Tennessee. But Congress has taken upon itself to go into the different States to regulate what should be regulated by the police of the State.

Mr. SCOFIELD. We have been regulating the business down there for the last five years. [Laughter.]

Mr. LE BLOND. I should not be surprised if there had not been some regulating down there, and some regulating should have been done North, instead of all being done in the South. If that had been done, I have no doubt we should to-day have had a better state of things and a united country. But, sir, I am opposed to printing this report for the reasons I have named and for other reasons. The report, as I am informed, will make eight hundred pages of printed matter. It details the circumstances of a riot which took place in the State of Tennessee, and the facts of which have been published all over the country. We are just as well advised now of what occurred there, and what gave rise to that riot, as we should be if this report were printed for electioneering purposes. I shall call for the yeas and nays upon the motion to print. I will now yield to my friend from Pennsylvania, [Mr. JOHNSON.]

Mr. JOHNSON. The subject-matter of this investigation was nothing more than a riot. Nobody ever pretended at the start that it was more; and the committee, I understand, have arrived at the same conclusion. A riot in Memphis no more calls for investigation by this House than a riot in New York or Philadelphia. If every riot occurring anywhere in the country

is to be investigated by a congressional committee, and a voluminous report of the testimony to be printed at the public expense for circulation throughout the country, I think we shall find ourselves involved in a larger outlay of money than the people will justify.

But, sir, in considering this proposition it must be borne in mind that it has a political object, a partisan purpose. This investigation has been so treated by the public press of the country. I understand, however, that it has failed of its object; and the matter will not be bettered by printing this report. We are already circulating more documents than are read by the people. We are already expending more money for publications of this sort than the people desire shall be so expended. This money, it must be remembered, is drawn from the people by direct taxation; it comes out of the labor and sweat of the country. I respectfully protest against this system. I have no objection to printing the ordinary number of copies of this report; but as for publishing fifty thousand copies for circulation all over the country under the franks of members, I think we should leave such publications to private enterprise or to the political partisans whose purposes it may subserve.

Mr. LE BLOND. Mr. Speaker, I oppose this proposition in entire good faith. This report is a document which, in my judgment, ought not to be printed at all; and one of the principal reasons why I think so is that, as I understand, the committee recommend no action whatever on the part of Congress. If no action is to be taken upon all this pile of testimony which the committee have reported, what can be the use of printing it in order to be sent broadcast over the country? If gentlemen wish to economize let them commence now.

Mr. BROOMALL. Mr. Speaker, I do not at all wonder that the two gentlemen who have spoken are opposed to the printing of this report and testimony. They know what it is. I will not pretend to make any argument in favor of printing it. I know whence the opposition comes and the reason for it. I call the previous question.

The previous question was seconded and the main question ordered; which was upon ordering the printing of the usual number of copies of the report and testimony.

Mr. LE BLOND. My proposition was to print the report alone without the testimony.

The SPEAKER. The gentleman's proposition comes too late. That might have been offered as an amendment to the motion of the gentleman from Pennsylvania, [Mr. Broomall.] But the House is now acting under the operation of the previous question.

Mr. HARDING, of Kentucky. I rise to a point of order. I wish to inquire whether it is in order to move a reconsideration of the vote by which the report was accepted. I understand that it is not the report of the committee at all.

The SPEAKER. There is no such motion known in the practice of this House. When the report of a committee is presented, any gentleman can raise the question whether the committee have actually agreed to the report. But after the report has been received, no member can raise the question that it is not the report of the committee.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 23, not voting 58; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Benjamin, Bidwell, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Conkling, Cullom, Davies, De-frees, Delano, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Abner G. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, James R. Hubbard, Koontz, Laffin, George V. Lawrence, William Lawrence, Leitch, Loan, Lynch, Marston, Maynard, McClurg, McKuer, Mercur, Miller, Morrill, Morris, Myers, O'Neill, Paine, Patterson, Peom, Price, William H. Randall, Ray, Rollins, Sawyer, Schenck, Scofield, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Spaulding, Stevens, Stokes, Nathaniel G. Taylor, Trowbridge, Van Aern-



nam, Bart Van Horn, Robert T. Van Horn, Ward Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—85.

**WAYS**—Messrs. Ancona, Bergen, Boyer, Eldridge, Finch, Glossbrenner, Aaron Harding, Hogan, Johnson, Kerr, Le Blond, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Strouse, Taber, Nelson Taylor, Thornton, Trimble, and Wright—23.

**NOT VOTING**—Messrs. Ames, James M. Ashley, Baldwin, Baxter, Beaman, Bingham, Blaine, Blow, Brundage, Bundy, Chandler, Renshaw W. Clarke, Cobb, Cook, Cooper, Culver, Darling, Davis, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Earnsworth, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kasson, Kelso, Kuykendall, Latham, Longyear, Marvin, McCullough, McIndoe, McKee, Moorhead, Moulton, Newell, Noell, Orth, Phelps, Pike, Plants, Pomeroy, Radford, Alexander H. Rice, Rogers, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Windom, Winfield, and Woodbridge—58.

So the motion to print was agreed to.

**MR. LE BLOND.** Will the minority report be printed with the majority report?

**THE SPEAKER.** Both reports, together with the evidence, will be printed in the regular number; but in reference to the extra number it will depend on the report of the Committee on Printing. If the minority report had been made eleven days after the majority report, perhaps it would not be printed with the majority report.

**MRS. ANN E. SMOOT.**

The next business on the Speaker's table was an amendment of the Senate to House bill No. 422, for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot; which was concurred in.

**WILLIAM P. WINGATE.**

The next business on the Speaker's table was Senate joint resolution No. 123, in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine; which had already been read a first and second time.

**MR. MORRILL.** I hope we will have some explanation of the joint resolution.

**MR. RICE, of Maine.** The resolution is explicit. It provides that as certain goods (molasses and salt) were imported by Fisk & Dale, Josiah Towle, and Morse & Co., and held in bond at the custom-house in Bangor, Maine, on the 2d of May, 1864, and were on that day released and withdrawn upon payment of the duties imposed thereon prior to the enactment of the joint resolution of April 29, 1864, the collector not then having received official notice of such enactment; and as the said collector is now charged with fifty per cent. additional to the amount already paid upon the goods, and claims to hold the importers to pay the same to him, the Secretary of the Treasury shall be authorized and directed, in the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine, not to exact from him the payment of the additional duty of fifty per cent. imposed by the joint resolution of April 29, 1864, on the merchandise withdrawn for consumption by the parties on the 2d of May, 1864, and to order the cancellation of the several bonds given by the importers in the above cases. The facts recited are all as stated.

On the 24th of April, 1864, the duties on imports was increased fifty per cent. The decision of the Secretary was that it went into immediate effect, so there was no time to withdraw goods in bond. An act was passed by which the time was extended. In New York, Boston, Philadelphia, and at all the principal ports the goods were withdrawn. That act provided, if paid, the money should be refunded to the importers. The notice did not reach the collector at Bangor until the 4th of May, and these goods were withdrawn on the 2d of May. When the notice had come to the collector the bonds had been canceled and the amount of fifty per cent. charged against the collector. A resolution was passed in February, 1865, intended, as the gentleman from Pennsylvania [Mr. SEEVERS] and other members of the Committee of Ways and Means will remember, to

relieve cases of this kind, but the Secretary of the Treasury did not understand it to that extent and instructed the collector at Bangor not to enforce payment, but to allow the parties to come to Congress for relief. It has been examined and reported unanimously by the Committee on Finance of the Senate. It has been fully explained to one of the members of the Committee of Ways and Means.

**MR. MORRILL.** I hope it will be referred to the Committee of Ways and Means. There are a good many cases of the kind, and it ought to be carefully examined.

**MR. RICE, of Maine.** I agree to that, provided they have leave to report at any time.

**MR. WILSON, of Iowa.** They have that power.

**THE SPEAKER.** They have power to report at any time for commitment only; it will require unanimous consent to report at any time. Is there objection? The Chair hears none, and it is so ordered.

#### GENERAL HOSPITAL.

The next business in order on the Speaker's table was Senate bill No. 214, to incorporate the General Hospital of the District of Columbia; which was read a first and second time.

**MR. INGERSOLL.** I demand the previous question.

The bill was read. It constitutes Joseph Henry, James C. Hall, Amos Kendall, Thomas Miller, Richard Wallace, George W. Riggs, Grafton Tyler, Henry D. Cooke, D. W. Middleton, Charles Knap, Benjamin B. French, James C. McGuire, Charles H. Nichols, William B. Todd, William Gunton, Edward Simms, and Thomas Young, and their successors in office, a corporation and body politic, under the name and style of the Directors of the General Hospital of the District of Columbia, to have, purchase, receive, possess, and enjoy any estates in lands, tenements, annuities, goods, chattels, moneys, or effects, and to grant, demise, and dispose of the same in such manner as they may deem most for the interest of the hospital; provided that the annual income from the same held by such corporation shall not exceed in value the sum of \$25,000.

Section two provides that the said corporation shall have full power and all the rights of opening and keeping a hospital in the city of Washington, for the care of such sick, wounded, and invalid persons as may place themselves under the care of the said corporation.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time.

**MR. CONKLING.** I ask the gentleman from Illinois to explain to us a little about this \$25,000, the object of it and what relation it has here; whether the hospital is a side-show, or whether it is the other way.

**MR. INGERSOLL.** I believe it is the other way. [Laughter.] I demand the previous question on the passage.

**MR. CONKLING.** I am not the only member who desires an explanation.

**MR. JOHNSON.** I suggest that we pass the bill the other way. [Laughter.]

**MR. CONKLING.** Suppose the gentleman makes that motion, and we will vote on it.

**MR. INGERSOLL.** The only object that these corporations have that I know of is charitable, to take care of the sick and wounded, or such of them as are disposed to put themselves under the charge of the hospital. This \$25,000, I believe, is a limitation upon the value of the real estate.

**MR. CONKLING.** It is the annual income, as I understand it.

**THE SPEAKER.** The Clerk will report that part.

The Clerk read as follows:

*Provided, That the annual income from the same held by such corporation shall not exceed in value the sum of \$25,000.*

**MR. TRIMBLE.** If the gentleman can establish a charitable hospital for that much money I do not see any objection. [Laughter.]

**MR. CONKLING.** This corporation can hold any amount of property. The only restriction is that the annual rent which they realize shall not exceed \$25,000. The gentleman who stands sponsor for this bill says that \$25,000 is to be the limit of the value of the real estate. Why, sir, they can hold under this bill five millions of real estate, but their income must not exceed \$25,000 per annum. I think that is an extraordinary proposition.

**MR. BINGHAM.** Strike out "annual income."

**MR. DAWES.** Amend by providing that the proceeds shall be applied exclusively to the support of the hospital.

**MR. INGERSOLL.** I have no objection to that.

**MR. TRIMBLE.** Has this corporation authority under this bill to do anything else?

**MR. INGERSOLL.** It has not.

**MR. CONKLING.** I would like to have that provision in the bill pointed out which requires this corporation to have any hospital at all, large or small. I cannot find it. It is entirely optional; the corporation may establish a hospital if they choose.

**MR. INGERSOLL.** I do not suppose it is the business of Congress to impose upon any number of gentlemen, no matter how philanthropic they may be, the duty of opening a hospital for the sick in the District of Columbia, but if they see fit to do so and ask to be incorporated for that purpose with limitations which confine the operations of the corporation to that specific business, and no other, I have no objection to it, and I suppose no humane man in this House has. That is all this bill proposes. They are limited to \$25,000 so far as the value of the property is concerned, and I have accepted an amendment to insert after the proviso containing that limitation, these words: "and the property held by said corporation shall be devoted exclusively to the purposes of such hospital."

**MR. ELDRIDGE.** If the property is limited to \$25,000, of what earthly use is that to establish a hospital? It would not be capable of containing a half dozen invalids.

**MR. INGERSOLL.** Well, sir, if a half dozen gentlemen will take care of a half dozen invalids, I have no objection. It is a voluntary proposition on their part.

**MR. ELDRIDGE.** It will require more than \$25,000.

**MR. INGERSOLL.** They may not be able to get more.

**MR. WILSON, of Iowa.** Is there anything in the bill which will prevent this corporation engaging in any other business under the corporate name given in this bill, and receive compensation therefor—investing money in real estate, for instance, or anything else?

**MR. DAWES.** There is a corporation known in Massachusetts by the name of the General Hospital. It loans money all over the State. It has a little hospital somewhere in Boston—for its own use, it is suggested—and it is one of the largest money corporations in Massachusetts. I was led to suspect that there was some such thing as that covered up in this bill because of the similarity in name. The bill does not require these parties to devote the real estate which they are permitted to hold to the purposes of the hospital, nor the income therefrom.

**MR. INGERSOLL.** I see the necessity of the amendment. I was not up to the Yankee way of doing these things until the gentleman from Massachusetts informed me. I will have the bill read again, and then demand the previous question.

**MR. WRIGHT.** The reason the gentleman wants this bill passed is he is anticipating his fate in November next. [Laughter.]

**MR. BINGHAM.** Oh! The bill was again reported as amended.

**MR. INGERSOLL.** I call the previous question.

**MR. FARQUHAR.** Will the gentleman yield?

**MR. INGERSOLL.** I yield to no one.

Mr. WILSON, of Iowa. I move to lay the bill on the table.

On the motion to lay on the table there were—ayes 55, noes 40.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question being taken on laying the bill on the table there were—yeas 49, nays 49, not voting 88; as follows:

YEAS—Messrs. Allison, Ancona, Baker, Barker, Benjamin, Bidwell, Boutwell, Boyer, Broomall, Sidney Clarke, Conkling, Dawes, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Abner C. Harding, Holmes, Hotchkiss, Hulburd, Julian, Kelley, Kerr, Koontz, George V. Lawrence, William Lawrence, Marston, McClurg, Miller, Morrill, Morris, Paine, Price, William H. Randall, Ritter, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Stokes, Van Aernam, Burt Van Horn, Robert T. Van Horn, Wentworth, James F. Wilson, and Stephen F. Wilson—49.

NAYS—Messrs. Delos R. Ashley, Baxter, Bergen, Bingham, Bromwell, Buckland, Cobb, Cullom, Dofrees, Delano, Donnelly, Eldridge, Finck, Hart, Higby, Chester D. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Johnson, Kasson, Ketcham, Kuykendall, Latham, LeBlond, Leitch, Loan, Lynch, Maynard, McRuer, Mercer, Moorhead, Moulton, Niblack, Nicholson, Perham, Raymond, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Ward, Welker, Woodbridge, and Wright—49.

NOT VOTING—Messrs. Alley, Ames, Anderson, James M. Ashley, Baldwin, Banks, Beaman, Blaine, Blow, Brandegee, Bundy, Chanler, Reader W. Clarke, Cook, Cooper, Culver, Darling, Davis, Dawson, Deming, Denison, Dixon, Dodge, Dumont, Farnsworth, Garfield, Glossbrenner, Goodyear, Gridder, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Ladin, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Myers, Newell, Nogli, O'Neill, Orth, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rogers, Rollins, Sitgreaves, Sloan, Smith, Spalding, Starr, Stillwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Williams, Windom, and Winfield—88.

The SPEAKER. The Chair votes in the negative; so it is not laid on the table.

The question recurred upon seconding the demand for the previous question upon the passage of the bill as amended.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 387) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1867, and for other purposes;

An act (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes; and

An act (H. R. No. 775) to establish certain post roads.

#### WASHINGTON COUNTY HORSE RAILROAD.

The next business upon the Speaker's table was Senate bill No. 380, to incorporate the Washington County Horse Railroad Company, in the District of Columbia; which was read a first and second time.

Mr. INGERSOLL obtained the floor.

Mr. LE BLOND. If the gentleman from Illinois [Mr. INGERSOLL] will yield to me for that purpose, I will move to postpone the further consideration of this bill until December next. It may be well that this bill, or some other like it, should pass; but certainly we cannot give to a bill of this length the consideration that it deserves at this time. Now, so far as I could understand this bill from its reading, it lacks one feature which I think this House ought to require to be inserted in every bill of this kind. I refer to the individual-

liability clause, which, so far as I could understand the bill, is omitted.

Mr. MILLER. What has individual liability to do with a railroad company?

Mr. LE BLOND. It ought to have something to do with it, if it has not.

Mr. CONKLING. It does not make them liable for anything.

Mr. INGERSOLL. I suppose it would be too much to ask the House to consider this bill at this time, and therefore I move that it be referred to the Committee for the District of Columbia.

The motion to refer was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### METROPOLITAN CLUB OF WASHINGTON.

The next business upon the Speaker's table was Senate bill No. 393, to incorporate the Metropolitan Club of the District of Columbia; which was read a first and second time.

Mr. INGERSOLL. I call the previous question on the third reading of the bill.

Mr. LAWRENCE, of Ohio. Will the gentleman from Illinois [Mr. INGERSOLL] yield to me to offer an amendment?

Mr. BINGHAM. With all respect to my colleague, I hope the gentleman will not yield.

Mr. INGERSOLL. I cannot yield.

The previous question was seconded.

The question was upon ordering the main question.

Mr. LAWRENCE, of Ohio. I move that the bill be laid on the table.

Mr. INGERSOLL. Upon that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The question was then taken upon the motion of Mr. LAWRENCE, of Ohio, to lay the bill upon the table; and upon a division there were—ayes 51, noes 43.

So the bill was laid on the table.

Mr. WENTWORTH moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALLEY (at nine o'clock and forty-five minutes p. m.) moved that the House adjourn. The motion was not agreed to.

#### WASHINGTON TEMPERANCE SOCIETY.

The next business upon the Speaker's table was Senate bill No. 424, to incorporate the Washington Temperance Society, of the city of Washington, District of Columbia; which was read a first and second time.

Mr. WARD. I call the previous question on the third reading of the bill.

Mr. STEVENS. I move to lay the bill on the table.

Mr. CONKLING. Let the bill be read.

The Clerk read the bill.

The motion to lay the bill on the table was not agreed to.

The question recurring on ordering the bill to be read the third time,

Mr. WARD called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIRCUIT COURT OF WEST VIRGINIA.

The next business on the Speaker's table was joint resolution S. No. 133, to change the place of holding the terms of the circuit court for the district of West Virginia; which was read a first and second time.

It provides that the terms of the circuit court for the district of West Virginia, heretofore held at Lewisburg, in the county of Greenbrier, shall be hereafter held at the city of Parkersburg, at the time now fixed by law.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF COLLECTORS OF CUSTOMS.

The next business on the Speaker's table was the bill (S. No. 400) entitled "An act to fix the compensation of certain collectors of customs, and for other purposes;" which was read a first and second time.

Mr. BINGHAM. I move that the bill be referred to the Committee of Ways and Means.

Mr. WILSON, of Iowa. On that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was referred to the Committee of Ways and Means.

#### PACIFIC RAILROAD, SOUTHERN ROUTE.

The next business on the Speaker's table was the bill (S. No. 20) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast by the southern route."

The SPEAKER. This bill has been read a first and second time, referred to the Committee on the Pacific Railroad, reported back by unanimous consent, and placed upon the Speaker's table. The question is on ordering the bill to a third reading.

Mr. PRICE. I call the previous question.

Mr. CONKLING called for the reading of the bill.

The Clerk proceeded to read the bill, but before he had concluded,

Mr. ALLEY moved that the House adjourn.

The motion was agreed to; and the House (at ten o'clock and five minutes p. m.) adjourned.

#### PETITION.

The following petition was presented under the rule and referred to the appropriate committee: By Mr. ORTH: A petition from citizens of Indiana on the subject of national insurance.

#### IN SENATE.

THURSDAY, July 26, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. HARRIS, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 24th instant, information in relation to the probable cost of constructing a railroad on the route described in the charter of the Northern Pacific Railroad Company; which was ordered to lie on the table.

#### REPORTS OF COMMITTEES.

Mr. LANE, from the Committee on Pensions, to whom were referred the amendments of the House of Representatives to the bill (S. No. 354) for the relief of William Crosswell, reported a recommendation that the Senate agree thereto.

#### PORT OF CALAIS.

Mr. MORGAN. I am instructed by the Committee on Commerce to report back the bill (H. R. No. 795) to authorize the entrance and clearance of vessels at the port of Calais, Maine; and I ask to have it considered at once.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to allow the Secretary of the Treasury to authorize, under such regulations as he shall deem necessary, the deputy collector of customs at Calais, Maine, to enter and clear vessels and perform such other official acts as the Secretary shall think advisable.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## REMOVAL OF CAUSES TO FEDERAL COURTS.

Mr. HARRIS. I move to proceed to the consideration of Senate bill No. 406. It was objected to yesterday, but it is very important that it should be passed at this session. It will take but a moment.

The motion was agreed to; and the bill (S. No. 406) for the removal of causes in certain cases from State courts was considered as in Committee of the Whole. It provides that if in any suit already commenced, or that may hereafter be commenced, in any State court against an alien, or by a citizen of the State in which the suit is brought against a citizen of another State, and the matter in dispute exceeds the sum of \$500, exclusive of costs, it to be made to appear to the satisfaction of the court that a citizen of the State in which the suit is brought is or shall be a defendant, and if the suit so far as relates to the alien defendant or to the defendant who is the citizen of a State other than that in which the suit is brought, is or has been instituted or prosecuted for the purpose of restraining or enjoining him, or if the suit is one in which there can be a final determination of the controversy, so far as it concerns him, without the presence of the other defendants as parties in the cause, then and in every such case the alien defendant, or the defendant who is a citizen of a State other than that in which the suit is brought, may, at any time before the trial or final hearing of the cause, file a petition for the removal of the cause as against him into the next circuit court of the United States to be held in the district where the suit is pending, and offer good and sufficient surety for his entering in such court, on the first day of its session, copies of the process against him, and of all pleadings, depositions, testimony, and other proceedings in the cause affecting or concerning him, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein; and it is thereupon to be the duty of the State court to accept the security and proceed no further in the cause as against the defendant so applying for its removal; and any bail that may have been originally taken is to be discharged, and the copies being entered in such court of the United States the cause shall there proceed in the same manner as if it had been brought there by original process against the defendant who shall have so filed a petition for its removal. Any attachment of the goods or estate of the defendant by the original process shall hold the goods or estate so attached to answer the final judgment, in the same manner as by the laws of the State they would have been holden to answer final judgment had it been rendered by the court in which the suit commenced; and any injunction granted before the removal of the cause against the defendant applying for its removal shall continue in force until modified or dissolved by the United States court into which the cause shall be removed; and any bond of indemnity or other obligation given by the plaintiff upon the issuing or granting of any attachment, writ of injunction, or other restraining process against the defendant petitioning for the removal of the cause, shall also continue in full force and may be prosecuted by the defendant and made available for his indemnity in case the attachment, injunction, or other restraining process be set aside or dissolved, or judgment be rendered in his favor, in the same manner and with the same force and effect as if such injunction, attachment, or restraining process had been granted, and such bond had been originally filed or given in the court to which the cause is removed. The removal of the cause, as against the defendant petitioning therefor, into the United States court shall not be deemed to prejudice or take away the right of the plaintiff to proceed at the same time with the suit in the State court as against the other defendants, if he shall desire to do so. Copies of all pleadings filed or entered in the United States court by the defendant applying for the removal of the cause, shall have the same force and effect in every respect

and for every purpose as the original pleadings would have had by the laws and practice of the courts of the State if the cause had remained in the State court.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## SUSPENSION OF JOINT RULES.

The PRESIDENT *pro tempore*. The Chair will state that under the joint rules of the two Houses this bill cannot be sent to the other House.

Mr. SHERMAN. I submit the usual motion that the sixteenth and seventeenth joint rules be suspended for the residue of the present session.

The motion was agreed to.

The rules referred to are as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a resolution to suspend the sixteenth and seventeenth joint rules of the two Houses for the residue of the session, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot.

The message also announced that the House of Representatives had passed the following Senate bills and joint resolution:

A bill (S. No. 324) for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburg;

A bill (S. No. 424) to incorporate the Washington Temperance Society of the city of Washington, District of Columbia; and

A joint resolution (S. R. No. 133) to change the place of holding the terms of the circuit court for the district of West Virginia.

The message further announced that the House of Representatives had passed the bill (S. No. 214) to incorporate the General Hospital of the District of Columbia, with an amendment, in which it requested the concurrence of the Senate.

## SUSPENSION OF JOINT RULES.

The Senate proceeded to consider the resolution of the House of Representatives suspending the sixteenth and seventeenth joint rules of the two Houses for the residue of the present session; and

On motion of Mr. SHERMAN, it was

*Resolved*, That the Senate agree thereto.

## PROTECTION OF THE REVENUE.

Mr. FESSENDEN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the second, third, fourth, fifth, sixth, and seventh amendments of the Senate, and agree to the same.

That the Senate recede from their eighth amendment.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with the following amendment: in line nine, page 1, of the engrossed bill, strike out "\$2 50" and in lieu thereof insert "three dollars."

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same with the following amendments: in line two of said amendment strike out the words "and directed," and in line three, after the words "collection in," insert the words "any of;" and the Senate agree to the same.

W. FESSENDEN,

J. B. HENDERSON.

Managers on the part of the Senate.

JAMES A. GARFIELD,

JOHN HOGAN.

Managers on the part of the House.

The report was concurred in.

## SENATOR FROM TENNESSEE.

Mr. FOWLER presented the credentials of Hon. DAVID T. PATTERSON, chosen a Senator of the United States by the Legislature of the State of Tennessee for the term commencing March 4, 1863.

The credentials were read.

Mr. SUMNER. I move that these credentials be referred to the Committee on the Judiciary, with a view to inquire whether Mr. PATTERSON can take the oaths required by the act of Congress and the rule of the Senate.

Mr. COWAN. I suppose Mr. PATTERSON would be the best judge himself whether he can take the oaths or not. I suppose we shall hardly undertake to inquire whether a man can take an oath or not.

The PRESIDENT *pro tempore*. The Chair will state the question. It is moved that these credentials be referred to the Committee on the Judiciary for the purpose of making the inquiry stated by the Senator from Massachusetts.

Mr. SUMNER. In support of that motion, I beg to call attention to a precedent of the Senate, at the Thirty-Seventh Congress, second session, 1861-62, in the case of Benjamin Stark, a Senator from Oregon. I have a memorandum of it, as follows:

"When his credentials were presented, January 6, 1862, Mr. FESSENDEN moved that the oath be not administered, and that his credentials be referred to the Committee on the Judiciary."

It will be remembered that the occasion of that motion was that there was reason to believe that Mr Stark had expressed disloyal sentiments. The reference to the Judiciary Committee was for an inquiry into the facts. It appears that at a subsequent day, January 10, this motion was agreed to, and on the 7th of February, more than a month after the presentation of the credentials, Mr. HARRIS, from the committee, made a report with the following resolution:

"Resolved, That Benjamin Stark, of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office."

This resolution was amended in the Senate by adding thereto the words "without prejudice to any subsequent proceedings in the case;" and so amended, was agreed to, February 27, 1862. The oath was then taken by Mr. Stark and he took his seat in the Senate.

Now, sir, I have been assured, and other Senators about me have been assured, by more than one gentleman from Tennessee, that Mr. PATTERSON acted as a judge under the rebel authorities, and in that capacity he took the oath of allegiance or some equivalent oath to the rebel government. In holding office under the rebel government he has, of course, disqualified himself from holding a seat in this Chamber; at least until the existing law of the land has been changed. Under these circumstances, and following the approved precedent of the Senate, I have submitted the motion which is now before you.

Mr. JOHNSON. What is the motion?

The PRESIDENT *pro tempore*. The motion is that these credentials be referred to the Committee on the Judiciary, charged to make the inquiry named by the Senator from Massachusetts.

Mr. JOHNSON. I was not fortunate enough to hear what the inquiry was.

The PRESIDENT *pro tempore*. The Senator from Massachusetts can state it more clearly than the Chair.

Mr. SUMNER. The inquiry is whether the gentleman can take the oath required by the law.

Mr. JOHNSON. Is that a legal question, Mr. President? I do not see that the Judiciary Committee are peculiarly fitted to decide that question. It is a question that the party must decide for himself, subject to the responsibilities of making intentionally an incorrect decision.

Mr. SHERMAN. I ask what the resolution in regard to the State of Tennessee says. I think it declares that when the Senators and



Representatives take the oaths prescribed by the Constitution and laws they shall take their seats.

Mr. JOHNSON. I was about to state that. I supposed the whole matter was settled. Permit me to ask the Chair whether the resolution admitting the State of Tennessee which passed the House is before it.

The PRESIDENT *pro tempore*. The Chair is advised that it is not on the desk. It can be obtained, however, in a few minutes.

Mr. JOHNSON. I should like to have it. My recollection is in accordance with that of the member from Ohio. It was passed with a knowledge that Mr. FOWLER and Mr. PATTERSON were both elected Senators. The only question was, before the passage of this resolution, whether the State of Tennessee could be received by her representatives on this floor, and I considered that question as settled by the passage of the resolution, not only in relation to the right of the State, but in relation to the right of the representatives, provided they took the oath.

I have got the resolution now. As it came to us from the House the resolution was that "the State of Tennessee is hereby restored to her former proper, practical relations to the Union and is again entitled to be represented by Senators and Representatives in Congress duly elected and qualified, upon their taking the oaths of office required by existing laws." These last words were stricken out, because they were supposed to be altogether surplusage, and only upon that ground. They were stricken out, therefore, under the impression that they in no way changed the meaning of the resolution. I supposed, therefore, the resolution to say that Tennessee is entitled to be represented by Senators upon this floor as well as any other State in the Union, they, of course, taking the oaths which the Constitution and the laws that may be in force prescribe. But I am at a loss to imagine in what possible way the Judiciary Committee can decide whether Mr. PATTERSON or any individual Senator can take the oath as a question of law. He has a right to take it, as I think, subject, as I stated before, to the responsibility of sinning against the law or the Constitution by taking a false oath. If he takes a false oath he can be proceeded against, or the Senate can proceed against him afterwards if it deems it proper.

Mr. SUMNER. I have already read the precedent of the Senate in the case of Benjamin Stark. I think the Senator from Maryland did not hear that precedent.

Mr. JOHNSON. Yes I did. I recollect it.

Mr. SUMNER. It seems to me completely applicable to the case; but I take it the facts in this case are open as day. The whole case is historic. I suppose there can be no doubt on the question. I might appeal to the Senator from Tennessee who is now upon the floor, and whom we have all been so happy to welcome to his seat, to state the simple facts in the case. They must be unquestionably within his knowledge. On those I would like a judgment of the Senate. It seems to me the Senate ought to act intelligently, with eyes open, knowing what has occurred. If, knowing what has occurred, the Senate thinks that the oath can be administered at that desk to this gentleman, it will be so administered; but if when the facts are all stated to the Senate the Senate shall be of a contrary opinion, then I presume it will declare in some way that the oath shall not be administered.

Mr. COWAN. Mr. President, this is a motion to refer the credentials of a Senator to the Judiciary Committee to inquire whether he can take a particular oath. Why, Mr. President, if the Judiciary Committee or the Senate either can inquire and determine beforehand whether a man can take an oath or whether he cannot take a judicial oath, what is the use of the oath? If he is incapable of taking the oath truly, and the Senate so declare, may they not as well declare that without the formula of an oath? The official oath usually looks forward, swear-

ing the incumbent that he will do certain things; for instance, support and maintain the Constitution. This oath is retrospective; it looks backward, and requires him to swear that he has not done certain things. Now, if we are to inquire beforehand whether he can take this latter oath, why not the right to inquire whether he can take the former? And in that aspect of it, it becomes, I think, apparent to everybody that such a motion and such a reference as this is to do away entirely with the efficacy of the oath itself.

I hope, sir, that these credentials will not be referred for any such purpose, and that the Senator from Tennessee will be allowed to take his seat upon taking the customary oaths. As to the precedent in Stark's case, there is no resemblance whatever between the two cases. There was a reference to inquire, not whether Mr. Stark could take a particular oath or not, but it was a question whether Mr. Stark had been guilty of particular conduct which was alleged to be in itself treasonable, and the Judiciary Committee were instructed to inquire as to that fact, which is, I take it, very different, entirely different, from this case. I trust that the motion will not prevail.

Mr. FOWLER. Mr. President, my colleague desires to give a full explanation of this matter; he is perfectly willing that this step shall be taken; he will satisfy all the Senate in regard to the charge that has been made; and will be very happy to do so.

Mr. HOWARD. I am very happy to be informed that the applicant is willing that the reference shall be made.

Mr. ANTHONY. The Senator from Tennessee spoke in so low a tone that I did not hear him.

Mr. HOWARD. I understood him to say that his colleague, the applicant now for a seat in this body, is willing that the reference should be made to the Committee on the Judiciary, to make the inquiry suggested by the amendment offered by my friend from Massachusetts.

Mr. FOWLER. That is the fact. He is not only willing, but will be very happy, to make a statement before the Committee.

Mr. HOWARD. While I am up, I beg to say one word, with the indulgence of the Senate. The act of 1862 provides that every person appointed to any civil office, or elected to the House of Representatives or to the Senate of the United States, shall, before entering upon the discharge of his duties, take the oath prescribed in the act, and among other facts which the applicant is required to attest to in that solemn form is, that he has neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; not only that he has not exercised the functions of such an office, but that he has not sought to exercise them. So strict and so stringent is the act of 1862. Now, sir, I infer from this statute that the applicant in such a case is not subjected to the taking of this oath as a mere empty, unmeaning formality. I do not understand that Congress referred it to the conscience of the claimant, whether he would or could take this oath. I understand the statute to require that in each case the facts required to be sworn to by the applicant shall be true in point of fact. It would be a very idle ceremony to require an applicant for office to take this oath if he, and he alone, were to be the judge of the truth of the facts required by the oath. In short, I hold that under the terms of this oath every individual is in point of law prohibited as plainly as if the prohibition were enacted in the oath, from holding any office unless the facts stated in the oath are in point of fact true.

I hope, therefore, that the Committee on the Judiciary, when this case shall go before them, will make a full and complete inquiry into all the facts of the case for the information of the Senate, showing us whether or not this applicant has ever exercised an office under the confederate government, or whether he has ever sought to exercise any such office, because if

he has done the one thing or the other it is plain to my mind that he is prohibited by this statute from taking a seat in this Chamber. I understand—I shall not, of course, vouch for the truth of the information—that this gentleman not only sought a judicial office in the State of Tennessee under the late confederate government, but actually proceeded to the exercise of the functions of that office and acted as a judge under the authority of the rebel confederacy. If that should turn out to be the fact, however much I might esteem the personal character of the applicant—and as to that I do not profess to have any knowledge—I should be constrained to vote against his taking a seat in this Chamber.

Mr. EDMUNDS. I think that the motion of the Senator from Massachusetts is not exactly in the form that propriety would require. The motion is to inquire whether the Senator-elect can take the oath required by law. There is force in what the Senator from Pennsylvania has said on that subject. I think the proper direction to that committee is to inquire into the qualifications of the Senator-elect, which implies of course an inquiry into whether he is in that personal condition which entitles him, being properly elected, to admission. I therefore move to amend the motion in that way.

Mr. SUMNER. I accept the modification.

Mr. EDMUNDS. My motion is, that in lieu of directing the Judiciary Committee to inquire whether the Senator-elect can take the oaths required by law, we direct them to inquire into the qualifications of the Senator-elect.

Mr. SUMNER. I accept that modification.

The PRESIDENT *pro tempore*. The question is on the motion, as modified, that these credentials be referred to the Committee on the Judiciary, with instructions to inquire into the qualifications of the individual presenting the credentials.

Mr. GRIMES. It seems to me that this is a very important precedent that we are about to establish, and I call the attention of the Senate specially to it. Gentlemen appear before us representing themselves as Senators from a State which we all recognize as being entitled to representation on this floor. A member of this body rises, and without any written declaration on the part of anybody, without making any charges himself or becoming responsible for any or introducing the name of a single individual who is willing to become responsible for any, proposes that the introduction of one of the Senators upon this floor as a Senator from that State shall be postponed until the question can be determined whether that man is qualified to occupy his seat. Heretofore the case has always been that, *prima facie*, the man presenting credentials was entitled to the occupation of the seat, to exercise the functions of the office that his State elected him to; and if it was afterward discovered that he was not entitled to occupy the seat, then it was the duty of the Senate, and they always exercised it, to investigate that question through their proper organ, the Judiciary Committee, and if they found that he was not qualified, then to reject him. If I should present my credentials on the 4th of March next as a Senator from the State of Iowa, would it be competent for a gentleman to rise here in his place and say he did not believe that I was able to take that oath conscientiously and justly, without presenting any charges against me, and require my credentials to be sent to the Committee on the Judiciary, and my State to be deprived of representation until that Judiciary Committee should make a report and the Senate should act upon that report? There is no analogy, or very little between the Oregon case and this. In that case, if I remember, there were very responsible parties who made declarations to a member of this body charging the Senator from Oregon or attempting to represent the State of Oregon, with the expression of certain sentiments.

Mr. FESSENDEN. There were affidavits.

Mr. GRIMES. Yes, they were based on

affidavits. Then letters were produced here in the Senate and read in the presence of the Senate, and there was no alternative in that case but for the Senate to make some investigation. But in this case there does not seem to be anything upon which to base any charges; but blindly it is proposed to refer to the Committee on the Judiciary these credentials. Now, Mr. President, I have a very slight acquaintance with the gentleman who is sent here to represent Tennessee; and I am not influenced in the slightest degree by any personal considerations to him; but it seems to me that it is very important that we should not in this instance establish an improper precedent, and one that may come home to our own cases in the course of a few years. The State of Tennessee is entitled to representation upon all the precedents that have been established in this body in the past. If we discover that she is represented by a wrong man, a man who ought not to have taken the oath, then let some gentleman make charges against him, and let those charges be referred to the Committee on the Judiciary.

Mr. HOWARD. Mr. President, the Senator from Iowa would allow the applicant in this case to take his seat before any inquiry is made into the question of fact whether he is qualified to take his seat here and act with us under the law of 1862. It seems to me that the Senator from Iowa overlooks the act of 1862, prescribing the oath of office in all cases. Let me call his attention to it.

Mr. GRIMES. I am perfectly familiar with the act, and I should like to hear the evidence that brings this gentleman within the act; that is all.

Mr. HOWARD. The statute declares:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, except the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation."

He is not, under this act, entitled to sit and vote here at all, although his credentials may be entirely formal and sufficient *prima facie*, if it be the fact that he has exercised or sought to exercise any office under a government in hostility to the Government of the United States. That preliminary fact is first to be ascertained and established before he has the right to take his seat here. In ordinary cases I am quite aware that on the presentation of formal credentials here the Senator-elect is allowed to take his seat, and the question as to his qualifications under the Constitution is referred, if a question of that kind be made, to the Committee on the Judiciary, and in the mean time he sits and votes and acts here until that question is determined; but that is not the present case.

Mr. JOHNSON. Will the honorable Senator permit me to ask whether before that act was passed a Senator could vote or take his seat here without taking the oath prescribed by the Constitution of the United States, and what difference there is?

Mr. HOWARD. Of course he could not take his seat or vote here before the enactment of this statute unless he took the oath prescribed by the Constitution. That was a preliminary step; but the act of 1862 requires something more of a preliminary character before he can take his seat and act here. It declares that before he shall enter upon the discharge of his duties he shall take this oath, and I insist that the facts implied by the oath if they are disputed—and they are disputed in this case; I dispute them myself—must be ascertained and decided upon by the Senate.

Now, sir, I am informed from sources for which I entertain great respect that this gentleman cannot truthfully take the oath which is prescribed by the act of 1862, and if he cannot he ought not to be allowed to take his seat or to vote at all until that question is determined.

Let us adhere to the statute we have passed and not evade it by allowing a gentleman to take his seat here as to whom the truth may turn out to be that he was not able truthfully to take this oath, and, therefore, had no right to take his seat at all. It seems to me that such a step leads to a very manifest absurdity.

Mr. TRUMBULL. I think that either course might be pursued in regard to the admission to his seat of the gentleman who presents himself at the present time from Tennessee. The practice of the Senate has been entirely uniform. On the presentation of a proper credential, *prima facie*, the gentleman is entitled to be sworn in. That has been the general understanding of the Senate; but that *prima facie* case may be overcome. The Senate considered that it was overcome in the case of Mr. Stark, alluded to by the Senator from Massachusetts. No objection interposing, as a matter of course a Senator is sworn in on the presentation of his credentials, without any reference to a committee. In legislative assemblies where all the members come together for the first time, where there is no organized body to decide upon the right of any of the members to seats, it is a necessity that the body must organize on the *prima facie* papers of the members. The Senate, however, is somewhat differently constituted; the Senate is always organized; it is a permanent body, only one third of its members going out of office at any one time; two thirds are always in office; hence there is not the same necessity which prevails in bodies where all meet together upon a common footing, none having yet been qualified; and it is out of that necessity that the rule I imagine has been adopted that the person, having the credential is to be sworn without any further question; otherwise you never could organize a legislative body at all, as there is no one to decide as to other questions. Now there is a manifest impropriety in this. It often occurs in legislative bodies; it has once or twice in the House of Representatives at the present session, that members who have ultimately been decided not entitled to seats have sat for months and voted upon the most important questions. Of course that is an evil; that is not right, that ought not to be; and if there was any way of avoiding it it would not be. It can be avoided in the Senate, because this being a permanent body and being always organized, there is no such absolute necessity to swear in a person presenting the *prima facie* case. We are organized without that; but the general practice in the Senate has been when a party presented a *prima facie* case to allow him to be sworn. Now, what is this case? I think that Mr. PATERSON on the presentation of his credentials is entitled to be sworn as a member of the Senate, unless now something has occurred that makes it proper that he should not be sworn. What has occurred?

The Senator from Michigan says that he is informed that the gentleman who presents himself as a Senator cannot take the oath which is required before he is entitled to take his seat in this body. To put the case strongly, not intimating or supposing or believing that any such case exists in this instance, suppose that a known and avowed instigator of the late rebellion; to make the case more palpable, suppose Jefferson Davis himself were to be sent here as a Senator from the State of Mississippi; or as he is, I believe, in confinement, take the case of the rebel vice president, and as Stephens has been elected a Senator, that is a case we may well imagine; suppose he were to present himself here to be sworn as a Senator, what should we do? The Senate and the country know, we all know, that Mr. Stephens was engaged in a rebellion against the Government of the United States, and that if he took this oath in which he declared that he had not been, it would not be true. Now, the Senate would not sit by and with the knowledge, every one of us, that this was false we would not permit a man to come here and take

such a false oath as that. A judge of a court would not allow a witness to go on to testify to that which was palpably false right in his presence. He would stop him, and the Senate in such case as that would not allow the person to take the oath.

I do not think we could justify ourselves in permitting a person to commit a crime of that character in our presence when we knew he was committing the crime for which he would subject himself, by the law to which the Senator from Michigan has referred, to all the pains and penalties of perjury. We should no more be excusable if we were to sit still and allow a man to commit perjury in our presence when we might prevent it, than we should if we allowed him to commit murder in our presence if we could prevent it. We would not allow a man to commit murder here; if we knew he was about to do it we would interfere to prevent it if we could. If we knew he was about to commit robbery or any other crime, it would be our duty to interfere to prevent it.

If we knew that a man came here who was not qualified to be a Senator it would be our duty to interfere. In this case the Senator from Michigan states that he has such information if it be true, and it has made an impression on his mind sufficiently, in his judgment, to justify him to rise in the Senate and state in his place—

Mr. SUMNER. I have the same information, and I have stated it.

Mr. TRUMBULL. Two Senators then rise in their places and state that the person presenting himself upon this occasion cannot, as they are informed of the facts, take this oath without committing this high crime. I think that makes a case which justifies us in referring the credentials to examine into that matter. I express no opinion as to what the facts may be. I have no opinion. I know nothing in regard to the matter.

Therefore I shall for myself vote to refer the credentials, under the circumstances, and I am the more happy to do so because the gentleman presenting himself desires to remove any imputation of this kind, as I understand by his colleague who has presented the credentials to our consideration. The rule by which I as at present advised shall be governed is this: when a credential is presented in due form I shall always be in favor of allowing the party to be sworn if the credentials come from a body authorized to be represented here. If, however, facts are presented which overcome the *prima facie* case thus presented, on the authority of Senators or otherwise, making it proper to inquire, I shall not hesitate to vote to refer such credentials and make the inquiry before the person is sworn in.

Mr. SUMNER. I think, sir, I shall not err if I refer to the practice of the House of Representatives with regard to the members from Tennessee. It will be within the recollection of all that the credentials of these members were referred to the Committee of Elections. Now, sir, notoriously, that is not the ordinary course with regard to credentials. The gentlemen who appear at the House with credentials are sworn, as a matter of course, in ordinary cases. The gentlemen from Tennessee were not sworn as in ordinary cases. Their credentials were referred to the Committee of Elections, and on the report of that committee they were sworn in. Now, the Committee on the Judiciary in the Senate for these purposes corresponds to the Committee of Elections in the other House. We call upon our Judiciary Committee to perform the service which in the other House is performed by a special committee. Therefore, sir, we have already with reference to the case of Tennessee the example of the other House. In making the motion that I have made, I have followed that example.

But, sir, there was something that fell from the Senator from Iowa, to which I wish to make a moment's reply. He imagines that if we make this reference we shall establish a dangerous precedent, and he even goes so far as to

imagine the possibility under this precedent, that he or his colleague, coming from the patriotic State of Iowa, may find their credentials called in question. Sir, the Senator from Iowa in making that suggestion has forgotten for a moment the history of the country; he has forgotten that we have just emerged from a great civil war; that the State of Tennessee had taken a part in that war, and that the very question now under consideration is whether the gentleman who presents himself for reception as a Senator was compromised by that war.

If in the State of Iowa there should unhappily be a rebellion, and if public report should announce that our patriot friend had taken a part in it to such an extent as to sit on the bench as a judge and enjoy its commission and swear allegiance to it, then if he should present himself with credentials as a Senator in this Chamber, I should think that we should be justified in asking an inquiry, and that is all that I ask now. I take the case that the Senator from Iowa supposes, but I add to it facts which he omits; and that, permit me to say, contains the whole question. If the case of Tennessee now were an ordinary case, like the case of Iowa, like the case of Maine, there would be no occasion and no justification for any such inquiry; but it is not an ordinary case, it is a case incident to the anomalous condition of affairs in our country at this moment. It cannot be treated, therefore, according to the ordinary rule; it is a new case, and to meet it we must make a new precedent.

The Senator from Iowa was very much afraid of precedents. Sir, I am not afraid of any precedent which has for its object the protection of right. I have said we must make a new precedent. Are we to confine ourselves absolutely to the precedents of the past? Clearly not. Just in proportion as new circumstances arise must they be met by a new precedent; and new circumstances have arisen now and you are called upon to meet them frankly, simply, and in so doing to make a new precedent for the future.

Mr. COWAN. Mr. President, this is a question that does not concern the Senator from Tennessee alone; it concerns the Senate; and it concerns the law that it should be maintained. Honorable Senators seem to forget that the right of a Senator to take his seat does not depend on the will of this body. That is a mistake which I wish to correct now once for all. Senators upon this floor are the representatives of the States of this Union; they derive from the States their authority to sit here, and not because we are willing to have them or unwilling. When a Senator presents the credentials of his State here in due form, that is a decision of the State that he shall take his seat, and by that decision we are bound.

Mr. SUMNER. Are we not the judges of the elections and qualifications?

Mr. COWAN. We are the judge of the elections, the qualifications, and the returns; but we cannot go any further; we cannot superadd any additional qualifications, nor can we come to the conclusion that we will reject him because he is a bad man or because he believes differently from us or has a different religion or a different creed, or anything of that kind. We must take him because he is the chosen representative of the State sending him; and if the State cannot send whom she pleases to represent her, then she is not a free State, and somebody else has the right to dictate to her who shall represent her.

When a Senator presents here credentials in due form, there being no objection to his election, no objection to the return, and he offers to qualify, he is entitled to take his seat; and why? The honorable Senator from Illinois might have followed with great profit the analogy that he started upon. He admits that in the organization of a body of this kind, a representative and deliberative body, unless the credentials were *prima facie* and unless the members were allowed to take their seats upon those credentials, never could be organized;

organization would be utterly impossible. Again, he might have said that unless members come here and take their seats *prima facie* upon the credentials this would be a close corporation; this would be a body, once in the hands of a particular majority, always in the hands of that majority, and you could never break it. How would a minority of this body ever become the majority if the existing majority at the very threshold can say to a man upon his credentials, "You cannot have a seat?" That is to mistake two different functions—entirely different functions. After a man takes his seat, if it is found that he has been guilty of any crime, any offense, any violation of that which is essential to the good order of the Senate, then two thirds may expel him, but it requires two thirds, and that is the security of the body.

Mr. EDMUNDS. Will the Senator tell us first, what he considers to be included within the term "qualifications" of which we are to judge, and, second, whether we cannot rightfully judge before we admit the member?

Mr. COWAN. You may decide upon the constitutional qualifications before you admit the member. I suppose you would have a right to inquire whether he was thirty years of age, whether he had been nine years a citizen of the United States, whether he resided in the State; but you cannot go outside of the constitutional qualifications.

Mr. EDMUNDS. Can we not inquire whether he has been a traitor?

Mr. COWAN. No, sir; you cannot inquire whether he has been a traitor or not, because to inquire into that is to inquire into a fact, and a fact over which a majority of this body has no jurisdiction whatever. When I am charged with a crime I have a right to be tried by a court having jurisdiction. I have no right to be convicted by part of the jury. According to the common law the whole of the jury must agree to my conviction; and if I am charged with a crime in the Senate, two thirds of the Senate must agree, and not one half or one more than one half; and that is just the difference, I can state to the honorable Senator from Vermont. This is an attempt on the part of a majority of the Senate to usurp a function which only belongs to two thirds.

Mr. EDMUNDS. But we do not usually put a prisoner into the jury box in trying the question of his guilt.

Mr. COWAN. Whether you put the prisoner into the jury box or not in trying the question of his guilt, it does so happen when the representative of a sovereign State here in the Senate is put on trial, he is in the jury box and he sits in his own case, and he has a right to be heard upon it, and I think he has a right to vote upon it, although that may be a disputed question; but he unquestionably has in every assembly of this kind the right to be heard and a right to be heard here as a Senator.

It just brings itself down to this precisely: can a majority of this Senate, at the threshold, as in this case, prevent the admission of a member from a State in this Union. If they can, then, as I said before, it just comes to this: whenever a majority take possession of the body, if they are disposed to override the law and to trample the Constitution under foot, they may keep themselves in power just so long as they are derelict in their duty to the Constitution. Now take this case; *prima facie*, the honorable Senator from Tennessee is entitled to his seat here; he takes his seat; but it is alleged after he has taken his seat that he has sworn falsely, for instance, in taking the oath that we have imposed here, the test oath. Upon that inquiry, he has a right to resolve the Senate into a judicial tribunal for the purpose of trying the fact; and nobody else can try it, and it requires two thirds of the Senate to expel him.

I trust Senators will see that this is a most important difference; one that is vital to the very constitution of the body; and the honorable Senator from Iowa well said we are making a precedent here which may meet us at

some future time upon presenting ourselves to the body. Where is the necessity for this? Where is the necessity for violating the rule? It has been said that the House adopted another rule. I was informed immediately after by the chairman of the House Committee of Elections that they did the very reverse: they adopted the rule that the credentials were *prima facie*; and the credentials are *prima facie* in the House; then the case is referred to the Committee of Elections, and the parties are heard, and the person having the *prima facie* credentials is the sitting member until the House determines the contrary.

Then I hope, sir, that this member from Tennessee will be sworn and admitted to his seat here. If he has done anything which, under the law, would justify two thirds of the Senate in expelling him, let two thirds, then, expel him; but let us preserve intact the institution itself; do not let us put a mine under it to blow it up, perhaps about our own ears, with the whole fabric along with it. Nothing can be clearer to me than that if the majority are allowed to keep out men who they think ought not to come in, there is an end of liberty, there is a usurpation of the whole on the part of that majority; and it is no better (and only differs in the means used) than when Colonel Pride, with a troop of dragoons, went into the English Parliament and drove out all hostile to the majority. This is done by another means; that was done by actual force; but both tend to the same end, and that is, to keep the existing majority always in possession of the body. If you can meet the Senator from Tennessee upon the threshold here, as he is met, why can you not meet the Senator from Iowa or any other Senator in the same way? It behooves us to consider the fluctuations of fortune here. Those in the majority now may not be in the majority the next year or the year after, or two or three years from now. There may no trouble come from the usurpation of this power for ten years or for twenty years, but as we have received the law and the Constitution, and as we are the guardians of the institutions of the country, we ought to preserve them for those who come after us. We ought not to lay violent hands upon them in this way.

Mr. HENDRICKS. On some reflection, I think the Senator from Pennsylvania is right in the position which he has taken. The law and the rule of the Senate require that the oath shall be taken as a condition to the right to occupy the seat. If the proposed member takes the oath, then under the law and the rule of the Senate he is entitled to his seat. The condition of the law and of the rule is complied with thus far. But if in the taking of the oath he is false, I would be unwilling to sit with him. I should regard it as an offense to the Senate that in taking the seat a man had taken a false oath, and should with a majority of two thirds join for his expulsion.

But, Mr. President, I think this question goes further and deeper than that question, which is one of technicality rather. I understand the charge is that the person who presents himself as a Senator from the State of Tennessee occupied the position and office of judge during the rebellion in that State. Now, I submit to Senators that this may be within the letter of the law but it is not within the spirit of the law, nor within the spirit of the rule of the Senate. It is not in the nature of things a crime of any grade to hold and exercise the powers of a judicial office under a government *de facto*. It cannot be attributed as a wrong to a man that under a government *de facto*, however great a usurpation that government may be, he holds a judicial office. The holding of a judicial office is not giving aid and comfort to a rebellion. It is a commendable thing that a man shall faithfully discharge the duties of a judicial office anywhere and at any time. A political office or a military office in a government *de facto* set up against the rightful government is a very different thing. In the exercise of a political or a military office a man gives aid and comfort to the government *de facto*.



Upon this question I ask the attention of the Senate to two very high authorities. I ask the attention of the Senate to the opinion of the distinguished Senator now deceased from the State of Vermont, and I ask the attention of the Senate to the opinion of Chief Justice Hale, when he held office under the Cromwellian Government. I will read from a speech delivered by Senator Collamer in 1862, during the rebellion, in which he discussed this very question:

"But, it is said, men have actually taken offices there under that government; they have had the audacity to do that since that government has been established over them. I do not profess to be very highly versed in the ethics of politics, but I am fond of looking to examples that are bright and high. At the time of the rebellion under Cromwell, which had established a government *de facto* over the people of England, and had put down the existing Government, application was made to Chief Justice Hale, a man whose character stands as high, perhaps, as any in the annals of Christian judges, to take the place of chief justice, he being opposed to that Government. Justice Hale consulted with a couple of his friends, (bishops,) and after full deliberation came to this conclusion: 'Justice must be administered; the rights between man and man must be adjudged upon; somebody must hold courts; I can consider it no sin to take an office under a *de facto* government, though it is a usurpation.' He took it; and that man was not adjudged guilty of treason upon the restoration of Charles II. He continued in position ever afterward. In all the trouble between the House of York and the House of Lancaster, in the wars of the Roses, when revolutions were constant and frequent, one day a man of this family upon the throne, and the next day one of the other, as early as the period of Henry VII a statute was passed which has abided in England through all the revolutions afterward, that no man should be adjudged of treason because he was obedient to the reigning king, no matter if he was a usurper. Such, sir, is the respect paid by the world, and especially that part of the world from which we spring, to a *de facto* government; and the nations of the earth deal with them as governments, no matter what the usurpation."

After the rebellion became completely inaugurated the authority of the Government of the United States was for the time suspended in the southern States, it became impossible for this Government to defend the people there, and of necessity they fell under the government *de facto* that was established over them. Is any Senator here prepared to say that it was a wrong in any man of the southern States to occupy an office which was not political in its character, which was not military in its character, which did not give aid and comfort to the rebellion, which added nothing whatever to its strength or power? Is any Senator prepared to say that it was wrong for a man to go upon the bench and adjudicate the civil and criminal questions that properly came before his court?

Mr. HOWARD. If the Senator from Indiana will allow me, I desire to say a word. It is notorious that the confederacy enacted very stringent confiscation laws, under which a vast amount of property of Union citizens residing in the insurrectionary States was seized, condemned, and sold, and the proceeds put into the confederate fisc for public use and for the purpose of prosecuting the war of the rebellion against the authority of the Government. Would the Senator regard it a perfectly innocent act on the part of a judge in the rebel confederacy to exercise his functions as he would be compelled to do undoubtedly in carrying out those cruel and proscription laws of confiscation against the property of Union citizens? Was it not a direct offense against the Government of the United States to do so? Were not his judgments declaring confiscation, his approval of judicial sales, and all other judicial acts connected with the execution of such laws in as direct hostility to the authority of the United States as would be his acts as a soldier with a musket in his hands? Where does the Senator draw the line of demarcation between the guilt on the one hand and the guilt on the other, or where is the line of distinction between guilt and innocence in the two cases?

Mr. HENDRICKS. Before the Senator takes his seat, I wish to ask him—inasmuch as he has stated that he personally makes the charge to the Senate—whether Mr. PATTERSON held a judicial office under the State of Tennessee or under the so-called government of the confederate States? Is the charge that he held an office under the State or the confederate government?

Mr. HOWARD. My information upon that particular question is not ample, but I submit to the Senator that there neither is nor can be any distinction between the two cases. The State of Tennessee, as a State, was as much an enemy of the United States as all the insurrectionary States combined acting under the denomination of the confederate government. That government was made up of the various insurrectionary States as the political elements composing it; and a judge in a State acting under a State commission and carrying out laws hostile to the Government of the United States was just as guilty, in my judgment, as if he had been acting as a confederate judge in the execution of confederate statutes. I can draw no distinction between the two cases.

Mr. HENDRICKS. I understood the Senator, in reply to what I submitted, to attempt to draw such a distinction. When I quoted the case of Chief Justice Hale, when I cited the opinion of that eminent jurist and great statesman, Mr. Collamer, now deceased, to the effect that the support of a government *de facto* by the act alone of holding a judicial office in no enlightened Government is to be regarded as a crime, the Senator arrested my remarks by saying that the confederate government so-called had enacted confiscation laws and that it would be in aid of that government to execute and administer those laws, and therefore a judge being connected with the administration of those laws would give aid and comfort to the southern cause. I understood that to be the argument of the Senator. If it did not have that point, I am not able to see that his argument had any. Now, Senators around me say that the charge is that Mr. PATTERSON exercised the office of a State judge. As such he had no duties to discharge in connection with the administration of the objectionable laws to which the Senator from Michigan has referred; those laws were to be executed in the courts of the confederacy.

Then, Mr. President, we have the case of a man who under a government *de facto*, a State government *de facto*, exercises the powers and discharges the duties of a judge. I say that is no crime; I say that is not giving aid and comfort to any cause. It is the discharge of a duty to humanity.

Mr. KIRKWOOD. Let me remind the Senator from Indiana that the government of Cromwell was for many years perfectly established in Great Britain.

Mr. HENDRICKS. Twelve years, I believe.

Mr. KIRKWOOD. And it was as thoroughly submitted to as that of Queen Victoria is to-day. For many years no hostile force existed in England against it. Now, does the Senator say that while war existed upon the part of the General Government to put down the insurrection in the South, the insurrectionary government existed so *de facto* as to entitle officers holding under it to the same protection as those holding under Cromwell's Government, when Cromwell's Government was the only Government existing either in fact or attempted to be established in England?

Mr. HENDRICKS. As the point made by the Senator from Iowa is a point of time, I will ask him during what period of the Protectorate did Chief Justice Hale take office.

Mr. KIRKWOOD. I am not able to say.

Mr. HENDRICKS. Very well, then, as the Senator is not able to say, his criticism upon that point has not much weight. Cromwell held the power in England for twelve years, or about that length of time. His government was a usurpation. It was treated so by its opponents during its entire existence. It was treated so after it ceased to exist and after the monarchs were restored to the throne. It was treated so by the execution of men connected with that government, men who had connected themselves with the political movements and the military movements of the Protectorate; but no man after the Restoration brought a charge against any judge because he had administered law and equity among

the people of England. It is left for us among our race to aver that it is a crime to hold a court in a State under the State authorities, under a *de facto* government, if you please. It is left for us to say that a man who discharges that duty to mankind is guilty of a crime. Mr. Collamer, who was a well-read historian as well as a light in the law, stated the case of Chief Justice Hale as applicable to the case of the people in the southern States. There was no charge against that distinguished statesman that he sympathized with the southern cause; it was not questioned that he was patriotic and true to his country, but he said that the discharge of judicial powers, the exercise of a judicial office under these State governments was no crime. They were governments *de facto*; the authority and the power of the Government of the United States was for the time suspended and he who exercised an office which gave no aid and comfort to the rebellion was not guilty of crime. Is it the opinion of learned Senators that for five years the people of the southern States were to remain without the administration of the law? Is it the opinion of learned Senators that a government *de facto* being established no man dared to exercise the powers of a judge under that government for five years?

Mr. President, I believe that upon this question I am so unfortunate as, perhaps, not to agree exactly with any political party. I believe that the States of this Union are indestructible. I believe that they continued to exist during the period of the whole rebellion, and that their attempt to detach themselves from the Government of the United States and to attach themselves to another government was simply null and void. I believe that during the whole period of the rebellion the governments of the States continued to exist, and I look for the time when the Supreme Court of the United States will say that the acts of the State governments during the entire period of the revolution, which were not political in their character, and which were not to contribute aid to the rebellion, were legal and valid, and that the acts of the confederate government, so called, were *ab initio* void.

For myself, I do not believe that the President of the United States had any occasion to reorganize the State governments. That was my opinion about it; but he thought it to be his duty, and the people accepted his proposition, and the people gave validity and power and authority to that which he could contribute neither to. By the act of the people the new constitution has been adopted in North Carolina and other States. It is not because the President suggested that it should be done, but because the people acquiesced in the proposition and breathed into the new organization the breath of life. I believe that those State governments continued during all the period of the rebellion; that in the eye of the law their connection with the Government of the United States was never broken; that their resolutions of secession were simply nothing; that their old obligation to the United States and their legal connection with the United States continued all the while, and that it was perfectly right and proper for any man to hold a judicial office in any State of the Union. Sir, we cannot go the length of saying that in the case of a revolution, when a government *de facto* is established and the authority and power of the Government of the United States for the time being is suspended, the laws shall not be administered. It is in the cause of humanity that courts shall be held.

Then, upon this question, Mr. President, my opinion goes somewhat further than the technical points which have been made. If Mr. PATTERSON held the office of judge in the State of Tennessee and under the authority of the State of Tennessee, it is no treason, it is no wrong; it is a right and virtuous act, for which we cannot punish him and for which we cannot drive him from the Senate, if the people of Tennessee have rightfully elected him.

This, sir, is an important question, if we shall

say that it is necessarily treason to hold any office whatever in the States of the South during the rebellion. I am not prepared to go so far. I do not think it is the spirit of the statute, or the spirit of the rule of the Senate; but, sir, I agree with the Senator from Pennsylvania upon the technical question made by him that the proposed Senator is to take the oath under the rule; and if that oath be not true, then the question comes up before the Senate whether the Senate has been offended by that act, and upon that question two thirds alone can render an effective vote.

Mr. DOOLITTLE. Mr. President, I desire to say in very few words that, in my opinion, looking over the whole field of the war and our operations with this rebellion, it was the loyalty of East Tennessee which saved us in the struggle; and I believe further, from the history which I have had, that of all the men in East Tennessee there is no man who, in his whole character during the rebellion, did more to sustain the loyalty of East Tennessee than the present applicant for a seat. I shall not go into the details. There seems to be a wrong impression, I think, resting on the minds of some in relation to the circumstances under which it is said he accepted the office of judge in the State of Tennessee.

Sir, when the rebellion came it found him one of the judges of the State of Tennessee. During his office as such, after the rebellion began, he charged in the face of the people of Tennessee that those who were engaged in the rebellion against the United States were guilty of treason, while the rebel Governor of Tennessee and his myrmidons were calling upon him and insisting that he should charge that to raise troops for the Federal Government was treason against the confederate States. He refused to do so. He was arrested time and again. The order of Benjamin, the pretended secretary of war, was out against him to have him seized and confined at Tuscaloosa during the whole war. It was under circumstances like these that his office expired, and at the solicitation of the Union men of Tennessee he consented to be a candidate under the laws of the State of Tennessee, no one of which had been changed but existed precisely as before the rebellion began. He consented, as I understand, to be a candidate. His competitor was an open rebel, and, as a Union man, at the solicitation of the Union men of Tennessee, he consented to run, and was elected by the loyal people of East Tennessee by four thousand majority. He took the oath of office as judge of the State of Tennessee; and when the oath was administered to him by the officer that administered it—under the circumstances by which he was surrounded, he was compelled to take the oath to which reference has been made, to support the confederate States government, and at the time he took it, to the officer who administered it he declared that he would spit upon the oath, that he took it at the point of the bayonet and under duress, accepting the office at the solicitation of the Union men to keep the office and all the power of that office in East Tennessee out of the hands of rebels, which would have crushed down still further the Union men of that State.

This, sir, is what I have been informed of the history of these transactions, and there is nothing in this, in my judgment, which shows on his part any assent of his whatever to act in behalf of the confederate government, and he never did act in behalf of the confederate government, officially or otherwise. His house was the home of the fleeing men who sought their way through the mountains from North and South Carolina. His fortune was at their disposal. He organized a system by which the men of East Tennessee ran into Kentucky and flocked to our armies by thousands upon thousands. To talk about condemning such a man as having been guilty of a crime against the United States or having intentionally violated any obligation of the duty which he owed to us, is to me simply without any foundation whatever.

I will not take up time in relation to this matter. I think what has been said by others is sufficient to justify the ordinary course of proceeding in this case as in the case of all other Senators who apply for admission.

Mr. FESSENDEN. Before the honorable Senator from Wisconsin made the remark he has just made, I had made up my mind to vote against this reference as unnecessary; but I do not know but that what he has said will compel me to vote for it. On the general subject I hold that rules as to the form and manner in which we shall admit an associate into this body coming from a State are properly settled by the majority either by a specific rule or by custom. It has been the custom of the Senate from time immemorial, undoubtedly, when credentials are presented in due form, upon their presentation to have the member qualified and let him take his seat. The very remarkable and anomalous state of things growing out of the rebellion rendered it absolutely necessary to take a somewhat different course, and when the credentials were presented by the late Senator from Oregon, Mr. Stark, certain papers were sent to me to be presented to the Senate. Those papers contained a great deal of proof, affidavits charging and going to show disloyalty on the part of the member presenting himself, disloyal sentiments and expressions. In the state in which the country then was, new as it was to our experience, I deemed that the Senate had a perfect right, and it was its duty before proceeding to make him a member of this body, to inquire into a fact so material; and when his credentials were presented I rose and presented the papers and moved the reference of the credentials and papers themselves, thus leaving the whole question to the Committee on the Judiciary to be investigated.

It was a new case which was argued at length in the Senate, and it was finally decided by the Senate that the course I proposed was a proper disposition of the subject. It thus formed a new precedent, and a precedent necessary, in my judgment, at the time, arising from the peculiar state of affairs. I afterwards became satisfied that there was nothing in the case which should properly exclude Mr. Stark, and voted for his admission.

Yesterday when the credentials of the honorable Senator from Tennessee [Mr. FOWLER] were presented, it was my opinion that in the condition of things in which we found ourselves the advisable course was to submit all the credentials coming from the late confederate States, in the first instance, to the Committee on the Judiciary. I knew that in his case that would be a mere form; but I regarded it, as a precedent, as an advisable mode of proceeding, owing to the fact that we did not know under what state of facts other gentlemen claiming to be Senators might come here from the late confederate States. My opinion was expressed to some members of the Senate, but I was overruled by wiser men than myself and some who are now perhaps in favor of referring these credentials. They thought it was not worth while to refer the credentials; they said it was contrary to usage, and we must follow the ordinary usage, which was, when credentials were laid upon our table in due form from a State which we admitted to be a member of the Union, that the Senator should be sworn in; and that course was pursued in Mr. FOWLER's case. This morning when the credentials of the other gentleman claiming to be a Senator from Tennessee were presented, that precedent having been established, though against my opinion, I was not inclined to extend one rule to one man and another rule to another. The Senate must take the consequences of its own rule established in relation to that matter. Those who have these things under consideration and who ordinarily decide them for the Senate having so determined, I did not choose to interpose any objection.

Now, sir, how does this particular case stand? I was not disposed to attach to the mere statement made by the Senator from Massachu-

setts and the Senator from Michigan that importance which would induce me to change the opinion to which I had come with regard to the case, namely, that we should apply to this gentleman the same rule that we yesterday applied to his colleague; and why? Because they presented no proof, they presented no papers, they made no specific charges as of their own knowledge; they did not state that they knew any fact of themselves, nor did anybody state so. On a mere rumor, on a mere outside statement, on a rumor that somebody told somebody else that such a fact existed, I would not vary from the ordinary rule of the Senate, but would regard it as a rumor not affording a sufficient foundation for proceeding. That was the conclusion to which I had arrived in my own mind; but here the Senator from Wisconsin gets up and tells us what I did not suppose to be the fact, what had not been established, what nobody had asserted, that this gentleman actually took an oath to support the confederacy.

Mr. DOOLITTLE. Will the Senator allow me a word?

Mr. FESSENDEN. Certainly.

Mr. DOOLITTLE. I stated, upon my information from the history of the times and of the country, what I understood the facts to be. I did not state it by authority from any gentleman. I stated it just as the Senator from Massachusetts stated his objection, and as the Senator from Michigan stated what he understood about it from rumor or from history. By way of reply to those Senators, I stated what I had heard of it, because I did not wish a statement of the facts to go out to the country in such a shape as to prejudice this case one way or the other. The Senator has no right to claim that I made any statement more than the Senator from Massachusetts or the Senator from Michigan.

Mr. HOWARD. I understood the honorable Senator from Wisconsin to make a very specific statement in regard to the taking of the oath, going into particulars.

Mr. FESSENDEN. I listened to the honorable Senator from Wisconsin with a great deal of attention, and I was surprised that, arguing that the gentleman from Tennessee should be allowed to come forward and qualify, he should have gone on and given a history of what he professed to know and a statement of the circumstances under which Mr. PATTERSON took the oath to support the confederate government, and all about it. Before that I regarded it as a case not proved, not sufficiently worthy of my attention to induce me to vote for a reference; and I was somewhat astounded at the statements of the honorable Senator from Wisconsin, professing, as I thought from the way in which he said it, to know all about the case. I supposed he spoke from authority.

Mr. DOOLITTLE. I spoke from the authority of what I have seen and heard.

Mr. FESSENDEN. If the Senator now says that he spoke merely from rumor, that he does not know whether the statements he made were true or not, that he does not know anything about the facts, that is another thing.

Mr. DOOLITTLE. I stated what I have been informed and what I believe to be true. If the Senator takes my statement upon it, I believe it to be true that when the oath was administered to him which is said to have been administered it was at the point of the bayonet. Now let the Senator take the statement.

Mr. FESSENDEN. I am perfectly willing to take it; I have been taking it all along; [laughter;] and I am ready to take more of it if the Senator has got any more that he wants me to take. I do not like that style of address, though; that kind of phisic does not operate much on me.

Mr. DOOLITTLE. As to the style of address between the honorable Senator and myself, or the honorable Senator and other Senators in the Chamber, I am perfectly willing to submit my style as compared with his to the judgment of the Senate. I do not think that

I assume any more authority when I speak to the Senate or to Senators than does the honorable Senator from Maine. I sometimes speak earnestly, it is true; I do not deny that; but I have no disposition to dictate to any one or to dogmatize to any one.

Mr. FESSENDEN. It happens to be the case that whenever a gentleman gives a fling at me or bids me defiance in a very assuming manner, and I undertake to reply, it is said at once, "Oh, I will compare my general reputation for good nature and good manners with the Senator at any time." [Laughter.] He does not undertake to meet the case; but he falls back on his record. The case is just as I stated, and I do not like to be addressed in that sort of style.

As I said before, in his zeal with reference to this particular case, the Senator from Wisconsin undertook to state facts, and he did not talk about suppositions or hearsay or anything of that kind, but he stated them as facts known to himself in the plainest and most palpable form that a man could state them. He undertook to say that he would state the facts, and he did go on to make a recital of them, and now he says that after all he was only talking rumor. As the Senator really cannot tell whether he was undertaking to state the facts or to state a mere rumor, and is so undecided about it, I do not know that it is worth while for me to predicate a vote on his statements; but if I was convinced from any evidence before the Senate at this time upon which reliance should be placed that this gentleman had taken the confederate oath, I would insist on a reference and an inquiry. I do not say that even if that was proved to my satisfaction there might not be circumstances under which I would vote that he should be admitted; but I say that if that fact were shown it would be sufficiently grave, in my judgment, to require that the case should go through the form of a reference to the Committee on the Judiciary that we might have the facts and circumstances connected with it reported to us. I might perhaps come to the same conclusion that the honorable Senator from Indiana has arrived at upon a certain state of facts. I will not undertake to pre-judge on that subject. That might be the result in my own mind; there might be circumstances that would excuse it, perhaps; but it would make the case sufficiently grave, in my judgment, to justify the Senate in referring the matter to the Committee on the Judiciary that we may know exactly what the facts are.

Mr. GUTHRIE. This proceeding strikes me as wrong. We have established a test oath which is a very rigid one, and I have some doubts in my own mind whether it is constitutional as applied to members of Congress; but we have enforced it upon all who have taken seats since its enactment. This motion is predicated upon the fact that the Senator who presents his credentials cannot take that oath, and we are to refer it to a committee to inquire into the fact and report to the Senate whether he can legitimately take it, and if he can he is then to be sworn in. Now, how long is this to take? The committee are to hear proof; of course they are to hear counter-proof; and instead of this question being decided by the Senate, it is to be decided by the committee. This investigation may go over until next December. The people of the country had entire confidence in our sincerity when we agreed to receive Tennessee; but are we now to establish a precedent by which every man's case may be investigated by a committee sitting as court of justice swearing witnesses *pro* and *con* before he is allowed to take his seat? It strikes me it is for the Senator whose credentials are presented to say whether he can take this oath. If he can, *prima facie* I think we have to admit him. If he cannot take the oath we reject him, as a matter of course. It is a question for the Senate. If we are satisfied after he is sworn in that under all the circumstances he ought not to have taken the oath, it furnishes ground for expulsion. I rather think we had better let

him take the oath without this reference, and I shall vote against the reference, because it would be a most curious proceeding in a court of justice to appoint triers to know whether a juror was competent to sit before he had presented himself and was called as a juror.

Mr. CONNESS. During the progress of the past year particularly, there has been very much said upon the exact issue that is now before the Senate; that is, the power of this branch of Congress and the other, or to use the language of the honorable Senator who has so often spoken here from Wisconsin, [Mr. DOOLITTLE,] of each House for itself to determine the elections, returns, and qualifications of its own members under the Constitution of the United States. Whenever it has been asserted that the legislative department of this Government had a right to determine whether a State was entitled to representation or not, Senators like the Senator from Wisconsin have taken the position that Congress was restricted from dealing with the question, and that each House must deal with the question, under the Constitution, for itself. Now, a case is presented; a Senator applies for admission; the second from the State of Tennessee. The first has been admitted, there being no question in regard to his capacity for taking the oath and entering upon his duties; and he took the oath and took his seat. The second applies and a question is raised. What question? It is stated that the candidate for admission, or rather the Senator who proposes to take his seat in this body, was elected to an office under the so-called confederate government; that he took the oath of office to support that government; that the nature of his office required him to pass upon the confiscation of the property of loyal men; that those acts were inconsistent with his fealty to the United States and now constitute an inconsistency with his taking the oath that the law prescribes for a Senator. The objection is made to his taking his seat, and it is put upon that ground, on which it is moved to refer the case to a committee of this body. The Senator making the application states that he desires it to be so referred; he wishes the whole record examined that it may be determined before he takes the oath whether he can do so or not, whether it is a case in the judgment of the Senate to which the Senate can take exception; and Senators rise here and oppose the reference. The Senator from Wisconsin particularly, who has so often declared that each House for itself under the Constitution must determine the elections, returns, and qualifications of its own members, opposes the reference, and the Senator from Kentucky, last on the floor, says: "Let the Senator take the oath first, and then if it be found that he could not have taken the oath properly and legally, I will vote to expel him." A very pretty proceeding!

Mr. DOOLITTLE. The Senator from California will allow me a word. I do not at all question the right of the Senate to inquire into his qualifications or into his election or his return; but all I insist on in this matter is that we should pursue the same rule in this case that we do in other cases, the same that was pursued in the case of Stockton, from New Jersey. He was admitted and sworn, his case referred to the Committee on the Judiciary. They reported in that case and the Senate decided that he was not properly elected. Just precisely so in this case, if the Senate decide that Mr. PATTERSON is not properly elected or not properly qualified, they pass on the case; but shall you pass on the case before he is admitted to the seat *prima facie*?

Mr. CONNESS. I submit that this is another question altogether. This is a question under the test oath. The Senator from New Jersey could take the test oath; he did take it; there was no question about that; but the objection to this Senator taking his seat is that he cannot take the oath legally and properly. Therefore the inquiry in this case must take place now properly, and all the argument that has been addressed to this case as it ap-

pears to me should have occurred upon the report made from the committee of this body to which the case is to be referred.

Mr. President, in view of Senators from the rebel States taking their seats again in this body, it behooves the Senate and is a necessity that an exact rule should be established on the subject. I do not mean to pronounce on the merits of this case at all. I know nothing about this Senator's case. If it shall appear that he ought to take his seat in this body no Senator will welcome him more cheerfully than I shall; but it is essential to him, to his standing among the members of this body, to the Senate, to the country, that the case be examined, the proper rule laid down, and I think in that all ought to agree.

Mr. DAVIS. I object most to the form of the proposed reference of this matter to the committee, and I object to a reference at all at this time. The Constitution requires every member of the Senate to take an oath to support that instrument upon his admission to a seat. If a gentleman who claimed to be a member refused to take that oath, of course it would not only be the right but the duty of the Senate to prevent him from taking the seat, to exclude him from the Chamber. Now we have another oath under the act of Congress in addition to that. The act of 1862 provides—

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation."

Now, sir, what is the condition that is offered by this law to a gentleman who presents himself here claiming a seat as a member of the body? He is required to take the oath. Who is to be the judge whether he can take the oath or not? Himself and himself alone. As a general rule, a man who is entitled to any right or privilege upon taking an oath is the sole judge whether he can take the oath or not. That question is referred to him. He may take it falsely; and if he takes it falsely he commits the crime of perjury if it is an oath administered according to law, and he is then amenable for having perpetrated that offense. What does the Senate now propose to do? To inquire beforehand whether Mr. PATTERSON can correctly and truly take this oath or not.

Whence does the Senate derive such a power as that? What law, what principle of constitution or law authorizes them, after they have determined that this gentleman shall take the oath, to investigate beforehand whether he can take it consistently with truth or not? Does this act authorize any such investigation by the Senate? Not at all. There is no pretense of power for any such imposition by the Senate. It is just like any other oath which an officer is required to take before he enters upon the discharge of the duties of his office, or which a private citizen is required to take as a precedent condition to his acquisition of a right. Unless there is a power created and invested with the authority to inquire whether he can take the oath truly or properly, all that is to be done is to tender the oath to him. If he takes it he is entitled to the right, whether it be an official right or a right of property or any other right that is to rest in him on taking the oath. Whether he has taken it truly or not, is a matter for after inquiry; and if he has taken it falsely he has committed a crime which is to be punished not by the prevention of his taking the oath, because that would not be punishment, but he is allowed to take the oath and if he has committed the offense he is responsible for the legal penalty that is declared against it.

Sir, the high authority of the Senator from Vermont, now deceased, has been referred to here, and there is no higher authority. What did he say when application was made by Messrs. Willey and Carille to take their seats in this body as Senators from the State of Vir-



ginia? I will read a single short paragraph from his speech on that occasion. The right of these gentlemen to take their seats was controverted by Mr. Bayard, of Delaware, and by other gentlemen who were then members of the Senate. On that point Mr. Collamer said:

"It seems, Mr. President, that objections are taken to the reception as members of this body of the gentlemen who have presented their credentials."

These gentlemen offered themselves at the bar, presented their credentials, and asked permission to take the oath and to be admitted to their seats as members of the body. Upon that state of fact the deceased Senator Collamer was then remarking, and after having stated that fact, what does he add?

"I think it will be difficult to find a precedent in the history of this body by which men who presented papers *prima facie* good were not allowed to take their seats. I think the thing never did happen. They have been sometimes deprived of those seats afterward on investigation, but I have never known them rejected at first. So much for the precedent."

The deceased Senator stated the precedents of our Congress, and especially of the Senate, truly. Whenever, and up to that very time and including that case, a gentleman presented to the Senate a credential in due form of law as a Senator, he was admitted, in the language of Senator Collamer, in the first instance to his seat, and if there was a valid objection to his retaining his seat it was made the subject of after inquiry before the proper committee.

Let me illustrate that point by a reference to the qualifications of a Senator. A Senator is to be thirty years of age, he is to have been nine years a citizen of the United States, he is to be a resident of the State from whence he was elected. In the absence of all or any of these qualifications he is not entitled to take his seat. All of these qualifications may not in fact exist, any of them may not in fact exist; but if he presents his credentials in due form of law, that upon its face, according to the uniform precedents of the Senate, entitles him to take his seat, whether he is qualified or disqualified by being under thirty years of age, by having been for a less period than nine years a citizen of the United States, or not being a resident of the State from whence he is elected, is a subject for inquiry by the proper committee after he has been allowed to take his seat. If the present applicant was not thirty years of age he would not be entitled to his seat; but would any Senator move to exclude him when he presented his credentials upon that ground, and in order to inquire into the fact whether he possessed that qualification or not before he was admitted to the seat? He might not be a citizen of the United States at all; he might be an unnaturalized foreigner; he might not be a resident of the State that has given him his credential by its proper authority; but whether any or all these objections exist to his taking his seat is not inquired into when he presents himself at the bar with a proper credential in his hand and asks to be admitted to take the oath and his seat. All that is to be done, of course; and after that is done then the inquiry whether he has the requisite qualifications or not is to be made under the direction of the Senate and reported upon by its proper committee.

I voted against the law imposing this oath at the time of its passage. I believed then, as I now believe, that it is a flagrant violation of the Constitution, that it is Congress adding qualifications to members of Congress when the Constitution alone can do that thing; but without making that question at all, I now take the position that it cannot be inquired into, it cannot be examined into whether the present applicant can truly take the oath which is prescribed by the law that I have read; that is a matter, in the language of Judge Collamer, for after inquiry; all he has to do to entitle himself to a seat in this body is to show his credential from the Governor of the State of Tennessee in the usual form. That has been presented, and it is not controverted that he has it in due form. Upon that warrant he is entitled to be admitted to his seat, he is entitled

to have the oath of office and the test oath administered to him if he is disposed to take that oath. If he refuses either to take the oath to support the Constitution or to take the test oath, by the terms of the law he cannot be admitted to his seat; but if he is willing to take these oaths, the question whether he can take them properly is submitted and can be submitted, in the first instance, only to him. If he is willing to take these oaths he is entitled *prima facie* to his seat in this body; and if he takes either oath falsely it becomes a subject for after inquiry by the Senate; and for the crime of perjury, which would be perpetrated by taking the oath falsely if it be a valid oath, he would be subject to expulsion by the Senate.

Mr. WILSON. I hope we shall have the question.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts [Mr. SUMNER] to refer these credentials to the Committee on the Judiciary with instructions to inquire into the qualifications of Mr. PATTERSON.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Brown, Chandler, Conness, Creswell, Edmunds, Fessenden, Foster, Harris, Henderson, Howard, Howe, Kirkwood, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Ross, Sprague, Stewart, Sumner, Trumbull, Wade, Williams, and Wilson—26.

NAYS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, Lane, McDougal, Nesmith, Norton, Sherman, Van Winkle, and Wiley—14.

ABSENT—Messrs. Anthony, Clark, Cragin, Dixon, Fowler, Grimes, Riddle, Saulsbury, Wright, and Yates—10.

So the motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 759) authorizing the refunding of certain taxes;

A bill (H. R. No. 807) amendatory of the preemption and homestead laws;

A joint resolution (H. R. No. 196) to construe an act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes; and

A joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln.

#### SOUTHERN PACIFIC RAILROAD.

Mr. FESSENDEN. I call for the order of the day.

The PRESIDENT *pro tempore*. It will be considered as before the Senate.

Mr. BROWN. If the Senator from Maine will indulge me a moment, there is a bill pending on the Senate table from the House of Representatives that comes back with some amendments. The amendments are verbal in their character mostly. I desire to concur in them all; it will only take a moment.

Mr. FESSENDEN. If the appropriation bill does not lose its place, I have no objection.

The PRESIDENT *pro tempore*. House bill No. 791 is regularly before the Senate. The bill suggested by the Senator from Missouri will be taken up by unanimous consent, no objection being made.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast.

The amendments were to change the names

of corporators or to alter the phraseology of the bill, with the exception of the addition of the following additional section:

Sec. 21. And be it further enacted, That whenever in grants of land or other subsidies, made or hereafter to be made to railroad or other corporations, the United States has reserved the right, or shall reserve it, to appoint directors, engineers, commissioners, or other agents, to examine said roads or act in conjunction with other officers of said company or corporations, all the costs, charges, and pay of said directors, engineers, commissioners, or agents shall be paid by the respective companies. Said directors, engineers, commissioners, or agents shall be paid for said services the sum of ten dollars per day for each and every day actually and necessarily employed, and ten cents for each and every mile actually and necessarily traveled in discharging the duties required of them, which per diem and mileage shall be in full compensation for said services; and in case any company shall refuse or neglect to make such payment no more patents for lands or other subsidies shall be issued to such company until these requirements are complied with.

Mr. BROWN. The amendments of the House of Representatives are merely the addition of a few names to the corporators, the change of a few words to make the language of the bill conform more accurately to the language of land-grant bills as heretofore passed, and I move that they be concurred in. I have examined them all carefully.

The amendments were concurred in.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had approved and signed, on the 25th instant, the following bills and joint resolutions:

A bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon;

A bill (S. No. 149) for the relief of Daniel Winslow;

A bill (S. No. 164) for the relief of Alois Klaus;

A bill (S. No. 236) to authorize the construction of certain bridges, and to establish them as post roads;

A bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river;

A bill (S. No. 297) for the relief of the owners of the British vessel *Magicienne*;

A bill (S. No. 352) granting to A. Sutro the right of way and granting other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada;

A bill (S. No. 361) to authorize W. J. Sibley and others, trustees, to sell and convey lot No. 9, in square No. 76, in the city of Washington;

A bill (S. No. 374) for the relief of James P. Johnson;

A bill (S. No. 382) to change the place of holding court in the northern district of Georgia;

A bill (S. No. 385) for the relief of Thomas W. Stevens;

A bill (S. No. 414) to regulate the times and manner of holding elections for Senators in Congress;

A joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims;

A joint resolution (S. R. No. 76) to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; and

A joint resolution (S. R. No. 93) providing for the appointment of a commission to examine and report upon certain claims of the State of Iowa.

And on the 26th instant he approved and signed the following bills and joint resolutions:

A bill (S. No. 224) granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph, from Fort Riley, Kansas, to Fort Smith, Arkansas;

A bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tidewater

Canal Company to enter the District of Columbia, and extend their canal to the Anacostia river at any point above Benning's bridge;

A bill (S. No. 358) granting a pension to Mrs. Nancy A. Stocks;

A bill (S. No. 366) granting a pension to Abraham Lansing;

A bill (S. No. 367) to extend the time of letters-patent issued to Thaddeus Hyatt;

A bill (S. No. 376) granting a pension to Drusey A. Layman;

A bill (S. No. 390) granting a pension to John Pyle;

A bill (S. No. 398) for the relief of W. B. Kelley;

A joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers in the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel;

A joint resolution (S. R. No. 82) to provide for codifying the laws relating to the customs;

A joint resolution (S. R. No. 84) authorizing the payment of certain claims against the late Territory of Nevada;

A joint resolution (S. R. No. 121) providing for the examination of the accounts of the State of Massachusetts for moneys expended during the war for coast defense;

A joint resolution (S. R. No. 125) granting the right of way through military reserves to the Union Pacific Railroad Company and its branches;

A joint resolution (S. R. No. 111) for the relief of Sergeant Milton McKinnon;

A joint resolution (S. R. No. 126) to authorize the use of certain plates of the United States exploring expedition by the Navy Department;

A joint resolution (S. R. No. 132) to authorize the Secretary of the Treasury to audit and settle the accounts of Caleb T. Fay and William Y. Patch, late assessor and collector of internal revenue at San Francisco; and

A joint resolution (S. R. No. 139) for the benefit of the Illinois Soldiers' College and Military Academy.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 759) authorizing the refunding of certain taxes—to the Committee on Finance.

A bill (H. R. No. 807) amendatory of the preemption and homestead laws—to the Committee on Public Lands.

A joint resolution (H. R. No. 196) to construe an act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes—to the Committee on Commerce.

The joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln; was read twice by its title.

Mr. BROWN. I have the authority of the Committee on Public Buildings and Grounds to ask that that resolution be not committed. They have examined it and concurred in it, and I ask that it be put on its passage.

Mr. FESSENDEN. That should go to the Committee on the Library.

Mr. SUMNER. I hope it will be referred to the Library Committee.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered now. It will be referred to the Committee on the Library.

#### GENERAL HOSPITAL.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 214) to incorporate the General Hospital of the District of Columbia, which was to add to the second section of the bill the words "and the property held by said corporation

shall be devoted exclusively to the purposes of such hospital."

Mr. MORRILL. I move that the Senate concur in the amendment.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. GRIMES. I am satisfied that if the Senate would proceed to the consideration of executive business for three or four minutes, for the purpose of referring the messages that have been sent in, a very long space of time might be saved, perhaps a day or two. Some of them are very voluminous and must be considered. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### REPORTS OF COMMITTEES.

Mr. HENDERSON, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the report of the Secretary of the Senate communicating a detailed statement of the payments from the contingent fund of the Senate for the year ending December 3, 1865, asked to be discharged from its further consideration and that the report be printed; which was agreed to.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 444) to reorganize and fix the pay of certain officers of the Post Office Department, reported it without amendment.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the amendment of the Senate to the joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM WINDOM of Minnesota, Mr. SIDNEY CLARKE of Kansas, and Mr. LEWIS W. ROSS of Illinois, managers at the same on its part.

The message further announced that the House of Representatives had passed the following bill and joint resolution of the Senate:

A bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin; and

A joint resolution (S. R. No. 117) for the relief of Charles M. Blake.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 86) to provide for the publication of the Official History of the Rebellion, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 808) for the relief of Martha A. Estill, of the State of California;

A joint resolution (H. R. No. 92) authorizing the Secretary of the Interior to pay certain claims out of the balance of an appropriation for the payment of necessary expenditures in the service of the United States for Indian affairs in the Territory of Utah;

A joint resolution (H. R. No. 198) authorizing the purchase of a certain collection or museum, and the transfer of certain funds therefor by the Commissioner of Agriculture; and

A joint resolution (H. R. No. 199) for the relief of certain Chippewa, Ottawa, and Pottawatomie Indians.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 179) in relation to the district courts of the United States for the States of California and Louisiana;

A bill (S. No. 324) for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburg;

A bill (S. No. 424) to incorporate the Washington Temperance Society, of the city of Washington, District of Columbia; and

A joint resolution (S. R. No. 123) to change the place of holding the terms of the circuit court for the district of West Virginia.

#### BENJAMIN HOLLIDAY.

The Senate proceeded to consider its amendment to the joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims, which was disagreed to by the House of Representatives; and

On motion of Mr. POMEROY, it was *Resolved*, That the Senate insist upon its amendment to the said resolution, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CLARK, Mr. HOWE, and Mr. DAVIS.

#### OFFICIAL HISTORY OF THE REBELLION.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 86) to provide for the publication of the Official History of the rebellion; and

On motion of Mr. WILSON, it was *Resolved*, That the Senate agree to the amendment of the House of Representatives to the said resolution.

#### HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 808) for the relief of Martha A. Estill, of the State of California—to the Committee on Claims.

A joint resolution (H. R. No. 92) authorizing the Secretary of the Interior to pay certain claims out of the balance of an appropriation for the payment of necessary expenditures in the service of the United States for Indian affairs in the Territory of Utah—to the Committee on Indian Affairs.

A joint resolution (H. R. No. 198) authorizing the purchase of a certain collection or museum and the transfer of certain funds therefor by the Commissioner of Agriculture—to the Committee on Agriculture.

A joint resolution (H. R. No. 199) for the relief of certain Chippewa, Ottawa, and Pottawatomie Indians—to the Committee on Indian Affairs.

#### DONOHUE, RYAN AND SECOR.

Mr. JOHNSON. I ask the unanimous consent of the Senate to take up Senate joint resolution No. 141, to which I am sure there will be no objection.

Mr. FESSENDEN. I must insist upon going on with the regular order of business, which is the deficiency bill.

Mr. JOHNSON. I am sure this resolution will give rise to no debate. It will take but a moment.

Mr. FESSENDEN. If it will give rise to no debate, I give way, but with the understanding that if it does it shall be laid aside.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 141) for the relief of Donohue, Ryan & Secor, builders of the iron-clad monitor Camanche. It provides for the payment to them of \$179,993 80 for losses sustained by them in the construction of that vessel.

Mr. TRUMBULL. I should like to know why this case is singled out from all the others, and whether it comes now from a committee.

Mr. FESSENDEN. I hope the honorable Senator from Maryland will now let this matter go over as it will give rise to debate.

Mr. JOHNSON. If there is any opposition to it, I will not, in accordance with the understanding, press it at this time; but I do not think there will be. This case was reported without objection in the other bill.

Mr. TRUMBULL. Very well; the other bill was opposed strenuously.

Mr. JOHNSON. The bill was, but not this case.

Mr. TRUMBULL. I think there were objections to the whole of these claims.

Mr. HENDRICKS. Nobody objected to this.

Mr. TRUMBULL. I objected and voted against the bill.

Mr. FESSENDEN. I hope my friend from Maryland will now allow me to go on with the regular order of business.

Mr. JOHNSON. The Senator from Illinois will not oppose this, I think.

Mr. FESSENDEN. He does oppose it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLONEL H. C. DE AHNA.

Mr. SPRAGUE. I now renew my motion that the Senate proceed to the consideration of House joint resolution No. 150.

Mr. FESSENDEN. With the understanding that it will not displace the regular order of business, and that it will take no time, I shall not object.

The PRESIDENT *pro tempore*. The motion can be entertained only by unanimous consent, there being another subject before the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 150) to provide for payment of the claim of Colonel H. C. De Ahna for military services. It directs the proper disbursing and accounting officers of the Treasury to pay to Henry Charles De Ahna a sum equal to the pay, allowances, and emoluments of a colonel of infantry in active service for one year from March 31, 1862, and he is to be considered honorably mustered out of the military service.

Mr. HENDERSON. I should like to know where those services were rendered.

The PRESIDENT *pro tempore*. The Chair is unable to answer.

Mr. FESSENDEN. As it will give rise to debate, I hope my friend from Rhode Island will postpone its further consideration for the present.

Mr. HENDERSON. I shall oppose it.

Mr. SPRAGUE. I withdraw the consideration of it.

The PRESIDENT *pro tempore*. The bill will be laid aside, and the bill regularly before the Senate will be proceeded with.

#### DEFICIENCIES IN APPROPRIATIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, which had been reported from the Committee on Finance with several amendments.

Mr. FESSENDEN. I move that the amendments be considered as they are reached in the reading of the bill.

The PRESIDENT *pro tempore*. That course will be adopted, no objection being interposed. The Secretary proceeded to read the bill.

Mr. FESSENDEN. I move to insert the word "namely" after the word "extension" in line twenty-five, in order that it may be understood that it refers to the two clauses following.

The PRESIDENT *pro tempore*. That is merely a verbal correction and will be made, no objection being interposed.

The first amendment reported by the Committee on Finance was in section one, line fifty-one, after the word "dollars" to insert:

*Provided, That from and after June 30, 1866, the*

regular compensation of the female folders in the dead-letter office shall be at the rate of fifty dollars per month.

So that the clause will read:

For twenty per cent. additional to the salaries of female clerks employed in the Post Office Department, as per act of June 25, 1864, for the fiscal year ending June 30, 1866, \$4,000. *Provided, That from and after June 30, 1866, the regular compensation of the female folders in the dead-letter office shall be at the rate of fifty dollars per month.*

The amendment was agreed to.

The next amendment was in section one, after line sixty, to strike out the following clauses:

For additional compensation to the Assistant Attorney General, \$500.

For amount required for salaries of clerks, \$2,800.

For temporary clerks, additional compensation to clerks, and so forth, \$10,000.

For contingent expenses, \$3,500.

The amendment was agreed to.

The next amendment was after line eighty-three, to strike out the following:

Salary of the deputy solicitor of the Court of Claims: The salary of the assistant solicitor of the Court of Claims shall be the same as that of the solicitor of said court.

Mr. CRESWELL. I am not aware of any reason for striking out the eighty-fourth, eighty-fifth, and eighty-sixth lines in regard to the salary of the deputy solicitor of the Court of Claims.

Mr. FESSENDEN. The reason is that no appropriation is made in it. It does not state what it is or anything about it. No information was received by the committee in regard to it, and we found no papers on file in relation to it.

Mr. CRESWELL. Then the deputy solicitor of the Court of Claims is to be without his salary.

Mr. FESSENDEN. This clause provides that it shall be the same as that of the solicitor. It is to equalize their salaries.

Mr. CRESWELL. That is for the assistant.

Mr. FESSENDEN. It is to equalize it and bring it up, I suppose. I have no objection to this amendment lying over until the Senator can look it over and ascertain what the present salary of the solicitor is and the difference between it and the salary of the assistant and deputy, and then, if he will offer a proper amendment making an appropriation, the question will be fairly before the Senate.

Mr. CRESWELL. I will do that.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The amendment will be passed over for the present.

The next amendment was in section one, line fifty, to insert the word "five" before "dollars;" so that the clause will read:

For salary of marshal of the eastern district of New York from March 22, 1865, to June 30, 1866, \$255 35.

The amendment was agreed to.

The next amendment was in section one, after line one hundred and thirty-four, to insert the following:

To complete the repairing and furnishing of the President's House, \$20,000.

Mr. FESSENDEN. Before that amendment is acted upon, I deem it my duty to make a statement to the Senate with reference to it, to explain it. In the deficiency bill that we passed at the beginning of this session, we appropriated \$46,000 for the repair of the President's House, and it was supposed at that time that that was ample to cover everything that was necessary and called for. We have, however, a full statement made by the Commissioner of Public Buildings before the committee, from which it appears that, large as that amount was, a very considerable portion of it was taken up in the payment of bills that were found to exist against the President's House, which had accumulated before the time that appropriation was passed, and of which the Commissioner knew nothing. In consequence of that and of the unexpectedly large repairs that were needed there, especially in the upper part of the house, the house being in a very dilapidated condition, they have got to a point where there is no provision whatever left for

the East Room. The East Room has been dismantled with reference to repairs, and is in a very unfit state. The curtains are cut to pieces and much defaced; the furniture is all worn out, pretty much, as we understand; and in order to be in keeping it will be necessary when it is repaired to have new curtains, &c., and to furnish everything up \$20,000 will undoubtedly be necessary, if we undertake to repair it at all, in order to put the East Room in a proper situation. The repairs of the building have necessarily been large. The building and the furniture were very much dilapidated. The question presented itself whether the appropriation should be made; whether the East Room, which is the only room that is usually open to visitors, should be left in its present situation or should be put in a proper condition. The committee thought, on the whole, that while we are about it we might as well make the house decent, although the appropriations are unexpectedly large, larger than was anticipated; and for that reason we recommend this appropriation.

Mr. HOWE. Do I understand the Senator from Maine to say that the \$46,000 that was appropriated in the last deficiency bill has been expended to discharge debts?

Mr. FESSENDEN. Some part of it.

Mr. HOWE. And that the Commissioner knew nothing about it?

Mr. FESSENDEN. They were existing debts against the house.

Mr. HOWE. I should suppose there would be no debts against the President's House.

Mr. FESSENDEN. In modern times it has so happened that as the business has been managed debts have been contracted for furniture, fixings, &c., and the bills have proved to be larger than we were aware of. There is no doubt of that fact and of the propriety of paying them.

Mr. HOWE. The explanation suggests this state of facts: that you put \$46,000 into the hands of the Commissioner of Public Buildings to disburse in a particular way, and he has appropriated it to an entirely different purpose, for which he had no authority whatever. Under those circumstances I do not know what assurance we can have that if we put \$20,000 more in his hands it will not go the same way.

Mr. FESSENDEN. We have the estimates now to cover the amount.

Mr. HOWE. To cover what you design to have done; but to cover what the Commissioner may choose to do I suppose the committee is not prepared to say that this will be sufficient.

Mr. JOHNSON. Somebody must expend it.

Mr. HOWE. I take it there are ways in which you can give away more than \$20,000. That \$46,000 seems to have been disposed of without accomplishing anything that was designed to be accomplished by it.

Mr. FESSENDEN. Oh, yes; a large portion of it has been expended on the house.

Mr. HOWE. What portion of it I do not know, but a large portion of it has been appropriated to purposes not contemplated by the appropriation and not authorized by any law. For my part, I am not willing to vote appropriations until we can have them expended for the purposes for which they are designed.

Mr. SUMNER. There is another reason why we might hesitate about this. I do not know that is definitive. It is already seriously considered to build another house for the President.

Mr. FESSENDEN. That will take some years, and this furniture will be all worn out before a new house is built.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Finance.

The amendment was agreed to.

The next amendment was in section one, line one hundred and forty-nine, to strike out the words "that the Secretary of the Treasury is hereby authorized," in line one hundred and fifty-four to strike out the words "and that the sum of" and to insert "under the direction



of the Secretary of the Treasury;" and in line one hundred and fifty-five, after the word "dollars," to strike out the words "is hereby appropriated for said alteration and repairs, payable out of any money in the Treasury not otherwise appropriated;" so that the clause will read:

To alter and repair the building in the city of Philadelphia belonging to the United States, known as the Pennsylvania Bank building, so as to render it suitable for the occupancy of the appraisers connected with the customs at Philadelphia, under the direction of the Secretary of the Treasury, \$20,000.

The amendment was agreed to.

The Secretary continued the reading of the bill down to and including the following clause:

To enable the Secretary of War to make the pay of the persons employed at any time during the last fiscal year as temporary clerks in the office of the Quartermaster General, or any division thereof, equal to the pay of first-class clerks, which is hereby directed, such sum as may be necessary for this purpose.

Mr. SHERMAN. I think the word "last" before "fiscal" ought to be "present," so as to make it apply to the present fiscal year. The technical language of that clause will extend it back to 1864. I suggest to the chairman to strike out the word "last" and insert "present." I think that is what it means.

Mr. FESSENDEN. That did not occur to me before, but I am very much inclined to think it was intended for the last fiscal year.

Mr. SHERMAN. I do not think it ought to be so.

Mr. FESSENDEN. The fact as stated to me about it was that certain clerks were temporarily employed there on trial, the trial being intended to be about thirty days and at a reduced rate; but instead of being kept thirty days on trial, they have been kept along eight or nine months, doing all the work of first-class clerks precisely as they did it; and we thought it was no more than fair to pay them at the same rate as first-class clerks. That is the meaning of it.

Mr. SHERMAN. I will not insist on the amendment; I have no particular desire about it.

The next amendment was in section two, line seven, to strike out "seven" and insert "six," and also to strike out "\$4,870 45" and to insert "\$374 65;" so that the section will read:

SEC. 2. *And be it further enacted*, That for increased compensation of the chief justice and associate justices of the supreme court of the District of Columbia, authorized by the second section of the act of June 1, 1866, to the 30th day of June, 1866, the sum of \$374 65 is hereby appropriated.

Mr. JOHNSON. Is that sufficient to pay the increased compensation.

Mr. FESSENDEN. In another bill we provided for the increase for the present year. This section was intended to cover the appropriation for the present fiscal year, as well as one month in the last year; but we have appropriated in another bill for the present year; and as we have amended it, this only pays the difference in a month's salary.

The amendments were agreed to.

The next amendment was to strike out the third section, in the following words:

SEC. 3. *And be it further enacted*, That such sum as may be required to enable the Clerk of the House of Representatives to execute the resolutions of the House of the present session, directing the payment of increased and additional compensation to officers, clerks, messengers, and others in the employ of the House of Representatives, including the Capitol police, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. That is simply the same matter that they sent us once before, and we once yielded to, of legalizing the action of the House increasing the compensation of its clerks.

The amendment was agreed to.

The next amendment was to strike out the fourth section, in the following words:

SEC. 4. *And be it further enacted*, That the words "one year," in the proviso regulating the distribution of a certain fund among the clerks and employees of the Treasury Department who had served therein one year prior to July 1, 1866, in the act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June

30, 1867, and for other purposes, approved July 23, 1866, are hereby changed to six months, and the same shall be construed accordingly.

Mr. CONNESS. I do not know why the committee struck that out.

Mr. FESSENDEN. We legislated on this subject in the legislative appropriation bill fully. There was a difference between the House and Senate on the subject with regard to giving this increased compensation at all. The Senate had refused to give it so far as many of them were concerned; the House insisted upon it. We finally agreed that the compensation should be given, but it should only be given to clerks who had served one year. The result was that we had a committee waiting upon us to know why those who had served eleven months could not have it. They thought that was so near the time fixed, they ought to have it, and if we had made it six months that would be right. Then I asked them what those who had served five months would say to that; and if we put it at five months, what those who had served four months would say to that. We should get into the same difficulty precisely; and after establishing a rule by the consent of both Houses, we thought it very unwise to be continually changing it. The effect of changing it will be to give it to everybody.

Mr. CONNESS. The reasoning of the Senator would be very good if this were an original proposition; but as it comes from the House it appears to me that we might readily accede to it, and that the reasoning is not quite so good.

Mr. FESSENDEN. It is only the House insisting in another way on doing what they gave up on full conference before.

Mr. CONNESS. But my appeal to the Senator is upon this ground, and I think it is the strong point in the case: that in adopting this proposition of the House we take the more liberal and generous view of the case, and it will only include a few more deserving persons. I need not tell the Senator that those persons regard it like manna from heaven; it is the brightest light that has beamed upon their vision for many a day. I believe that the chairman of the Finance Committee and the Senate are generous enough to accede to this proposition and to include a few more.

Mr. FESSENDEN. It will include a great many more. The proposition, if adopted, will take a great many thousand dollars out of the Treasury. It will include all the first and second class clerks, all the women, all the laborers, all the messengers, all the watchmen, and it is to come, not out of any fund particularly, but out of the Treasury. If you adopt this section, you do not save yourselves from further difficulty, for those who have been there under six months will claim just as much, and you will have the same trouble over again. As we have settled it at this session, it would be most unwise, in my judgment, to allow ourselves to change it. I hope the Senate will strike out this section and not bring up that vexed question again.

The amendment was agreed to.

The next amendment was to strike out the fifth section, in the following words:

SEC. 5. *And be it further enacted*, That the sum of \$32,000 be, and is hereby, appropriated to pay Madison Sweetzer, upon condition that the said Madison Sweetzer shall first, by a good and sufficient deed, convey to the United States all his right, title, and interest in and to the following lands, conveyed by the United States to Joseph Richardville, sr., and Joseph Richardville, jr., by treaty at St. Mary's, October 6, 1818, to wit: the west half of section No. 23, the east half of section No. 28, and section No. 27, of township five south, range four east, lying in the county of Auglaize and State of Ohio.

Mr. FESSENDEN. The reason why we struck that out was because it is a private claim.

Mr. SHERMAN. I desire to amend the section before the vote is taken on striking it out.

Mr. FESSENDEN. The proper way would be to allow the vote to be taken on striking it out, and then, if that fails, to move to insert afterward, because this being a private claim—

Mr. SHERMAN. It does not come within the rule as it comes to us in the bill from the House. The Senate rule only applies to amendments offered in the Senate.

Mr. FESSENDEN. It comes under the rule of the Finance Committee and which you and I have always acted upon and enforced to the best of our ability.

Mr. SHERMAN. I would always vote to exclude from a House appropriation bill a private claim; but I wish to change the character of this section before the vote is taken on striking it out. That is the easiest form in which to do it. I move to strike out in lines three, four, and five the words "pay Madison Sweetzer upon condition that the said Madison Sweetzer shall, first, by a good and sufficient deed, convey to the United States all his right, title, and interest in and to," and insert in lieu thereof "enable the Secretary of the Interior to quiet the title of the occupants of;" so that the section will read:

That the sum of \$32,000 be, and is hereby, appropriated to enable the Secretary of the Interior to quiet the title of the occupants of the following lands, &c.

I examined this question thoroughly this morning in connection with the Senator from Maine, and I am satisfied it would promote the public interest to pass this proposition in some form. The only doubt I had was as to the amount. The facts are about these: in 1816, by an Indian treaty, the United States granted in severalty to the persons named in this bill, two Indians or half-breeds, I am informed, two sections of land in St. Mary's purchase, as it is called. At a subsequent date, in 1826, the United States sold this land to other parties. One of the Indians had died and the other was a minor and did not present or make a claim. He was not in a condition to make it. Subsequently judgment was obtained against the Indian who had undoubtedly the legal title to two sections of land in favor of Madison Sweetzer, a citizen of the State of Indiana.

Mr. JOHNSON. How did he get it?

Mr. SHERMAN. Richardville owed money and Sweetzer got a judgment against the Indian, levied it in 1855 upon this land, and sold it. In the mean time the United States had sold it in the ordinary course of settlement of the public lands, and it is now occupied by some twenty-two families and divided into small tracts varying from twenty acres up to one hundred and twenty, and lying near a flourishing village in Ohio. Madison Sweetzer thereupon commenced an action of ejectment against the occupants of this land, and by the judgment of the Supreme Court finally maintained his title and got an order of eviction, and he has now a writ of eviction against the parties in possession of the land, under the decision of the Supreme Court; so that the truth is, the United States having first given this land to an Indian, subsequently sold it, and the title of the Indian is now vested in Madison Sweetzer under a sale upon his judgment. It is manifest, therefore, that the United States must by some rule of law either maintain the title of the present occupants, or pay back the purchase money with interest and such stipulated damages as the law would allow. That is perfectly clear.

Under these circumstances, two years ago a bill passed both Houses authorizing an appraisal of this land upon certain principles in order to ascertain how much the United States ought to pay to protect the settlers who held under the patents of the United States. I am told that the first appraisal was \$12,800. This appraisal Madison Sweetzer, who held his writ, refused to take. His title had been perfected by the decisions of the courts and he was entitled to turn these people out of doors, although in all probability, if he were to attempt to do so, it would create trouble and perhaps a riot in the community, as the people were all against his claim. Thereupon the citizens applied for a reappraisal, desiring that Sweetzer's claim might be satisfied and that their title might be protected.

At this session we passed a joint resolution

authorizing a reappraisal of the land, directing the appraiser to appraise the value of the land without the improvements. That resolution was referred to the committee of which the Senator from New York [Mr. HARRIS] is chairman, was examined and passed, and approved on the 5th of May last. Under that law, a reappraisal was had, and the appraiser assessed the value of the land, without the improvements at twenty-five dollars an acre, which makes the amount stated here, \$32,000. That is now the assessed value; and this section is simply to carry into execution the reappraisal heretofore made under a law of Congress. I doubt very much whether it comes under the title of a private claim; but I will not dispute that matter. There may be some doubt about that; but there is no doubt that the United States ought to protect these persons in their title. They are innocent parties; they bought the land in good faith; in entire ignorance of this prior title, and they ought to be protected in the enjoyment of their rights. The only question with me was, what amount we ought to give Madison Sweetzer; but here we are not in a good position to negotiate.

Mr. KIRKWOOD. Whom did the settlers buy of?

Mr. SHERMAN. The settlers bought of the United States and hold under the patent of the United States; but this Indian title was prior to the patent, and according to the decision of the court, and no doubt properly rendered, overrides the patent because the first title is under the Indian treaty. Now Madison Sweetzer's judgment is only \$6,000, recovered in 1855. The principal and interest of that judgment would only amount to from \$10,000 to \$12,000; but Madison Sweetzer has got this right, a legal right which he has maintained in the courts, as he says, at great expense, and he refuses to surrender this right for the amount of his judgment and we cannot compel him to do so. He is a citizen of the State of Indiana. I do not know anything of him. At any rate he thinks he has got a good thing, and I presume he is disposed to hold on to it.

Under the circumstances I think we shall have to pay this reappraisal made by a person selected by the Secretary of the Interior, and I think made upon a proper basis. I read this morning the testimony upon which it was based. He assesses the value of the land, without improvements, at twenty-five dollars an acre. I have never been on this land, or probably in the county in which it is, but from my general knowledge of the location I do not think the reappraisal is unreasonable. Twenty-five dollars an acre for unimproved land in that country is not a very high price. It is not more than from fifty to one hundred miles from Dayton, and is in the Miami valley, in a very rich country. Under these circumstances I think we ought to place a sufficient sum in the hands of the Secretary of the Interior to enable him to extinguish this claim of Madison Sweetzer. If he can do it for less, well and good; but if he insists on enforcing his right or having this amount of money we ought to pay it.

Mr. RAMSEY. I should like to inquire of the Senator from Ohio whether the United States were represented in these suits on the part of Madison Sweetzer.

Mr. SHERMAN. Yes; the United States always resisted the claim, and it was settled finally by the decision of the Supreme Court.

Mr. RAMSEY. This is the claim of Richardville under one of the Miami treaties.

Mr. SHERMAN. That is the name of the Indian.

Mr. RAMSEY. And Madison Sweetzer claims through Richardville. One of the provisions of that treaty, I think, is that the President of the United States shall assent to the alienation by the Indian of his title; is it not?

Mr. SHERMAN. No; the subsequent treaty that was made treated Richardville as dead. They assumed a fact that did not exist. This

young Richardville, who was one of the grantees, was actually living, and that was proved, as a matter of course, as one of the facts in the case; but in a subsequent treaty they alleged the fact that Richardville was dead.

Mr. FESSENDEN. That is a sample of the way our Indian treaties are made.

Mr. SHERMAN. Yes, sir. The fact was not so, and Richardville turned up again, contracted debts, and one of his creditors got judgment against him for \$6,000 and interest and sold this title under that judgment, and that title has been held by our courts to be good.

Mr. RAMSEY. This claim, I believe, has been before the Indian Bureau and very thoroughly gone into, and there was a report made there. I know nothing about it.

Mr. SHERMAN. I have here a report made by Mr. Neell in the House of Representatives June 20, 1862, and Congress passed a bill for the relief of these parties and authorized an appraisal; but the trouble was that Madison Sweetzer would not take the amount of the first appraisal. The result was that a new appraisal was ordered and the appraisal amounts to \$32,000, twenty-five dollars an acre.

Mr. RAMSEY. The sixth article of the treaty made and concluded at St. Mary's, in the State of Ohio, between Jonathan Jennings, &c., on October 6, 1818, contains this provision:

"ART. 6. The several tracts of land which, by the third article of this treaty"—

The article making the grant to Richardville, under whom this man claims—

"the United States have engaged to grant to the persons therein mentioned, except the tracts to be granted to Jean Bapt. Richardville, shall never be transferred by the said persons or their heirs, without the approbation of the President of the United States."

Now, I am told that approbation has never been had. Why these facts were not made to appear before the court I do not understand. I do not understand that the United States were at all represented there.

Mr. FESSENDEN. There was another treaty after that and they bought Richardville out; that is, they made a bargain with the father, and treated the son as dead, because he was a minor.

Mr. RAMSEY. I presume the committee are fully informed of and know all about the investigation on the part of the Indian Bureau here.

Mr. FESSENDEN. I know nothing about it except what is suggested in these reports.

Mr. HENDRICKS. This has been regarded by Congress, whenever it has been examined, as a very clear case. The simple question is, whether the Government shall make good their own title.

Mr. SHERMAN. Except as to the amount.

Mr. HENDRICKS. Except as to the amount.

Mr. Sweetzer would not take \$12,000.

Mr. FESSENDEN. That is so; but there are some facts that the Senate ought to understand. This property was sold by the United States about forty years ago for something like two thousand dollars. It has been in the possession of the claimants, the same persons to whom it was sold, ever since that time. By the laws of Ohio, where a person is evicted the grantor is obliged to pay back the consideration with interest. All the claim there would be upon us would be to pay back the consideration with interest, and at the ordinary rate of price—I do know what it was—

Mr. SHERMAN. Two dollars and a half per acre.

Mr. FESSENDEN. It would not amount to anything like the sum mentioned here. That is really the liability of the United States, supposing they were an individual, to make good to these persons what they have suffered in case of an eviction. It would not be anything like the sum that is here appropriated. There was one appraisal; the land was valued at ten dollars per acre. Mr. Sweetzer would not take it. Somehow or other this Congress—I suppose without knowing much about it—passed

a bill for a reappraisal. That has been had, and it has got up to twenty-five dollars per acre. That Mr. Sweetzer says he is willing to take. The only question is this: as there are some twenty families on this tract, will the United States, instead of waiting and taking the consequences of an absolute eviction, if one be had, and then paying the damages which they are legally liable to pay by the laws of Ohio, which would be, comparatively, a small sum, consent to quiet the title by paying this very large sum of \$32,000? Would it not be better to let Mr. Sweetzer get possession as he can, and then settle with the claimants on legal principles or even equitable principles, which would not require anything like the sum now demanded? As the Senator from Ohio says, it is a question of how much money we are willing to pay. This is the only way we can settle with Mr. Sweetzer, perhaps; but I am told that Mr. Sweetzer would have a very hard time of it to get possession.

Mr. JOHNSON. We cannot force him to part with his title.

Mr. FESSENDEN. Undoubtedly you could not; but you could settle with the occupiers of the land if they were evicted; and you could settle with them, as I have said, for what they originally paid with interest until the time they were evicted, and in addition to that, their improvements, deducting what they have received from the avails of the lands. Their improvements, the Commissioner says, amount to very little, and they have cut off about half the timber on the land, amounting to more than their improvements were worth; so that the legal claim against the United States, in case of an eviction, would amount to very little. Probably Mr. Sweetzer, from what I learn, if he were to undertake to enforce his writ of eviction, would find it pretty hard work without calling out the *posse comitatus* and having a row. The persons living on the land are not willing to give it up, and the people of the county sustain them in holding on. The question simply is, whether the Congress of the United States will pay this exorbitant sum—there is no doubt about that, in my judgment—to quiet this claim for the benefit of those persons, some twenty families, who hold under the original grant. For my part, I dislike very much being imposed upon, and I would rather take the legal consequences.

Mr. HENDRICKS. Mr. Sweetzer will not take less than the reasonable value of the land without the improvements. Now, this is the estimated value of the land without the improvements.

Mr. FESSENDEN. I know it is not. I have no faith in the estimate.

Mr. HENDRICKS. If he recovers the land he gets the improvements unless the occupant-claimant law of Ohio protects the occupant. I do not know how that is.

Mr. FESSENDEN. He has got to settle for the improvements himself.

Mr. KIRKWOOD. I was going to inquire about that. An occupying claimant in Ohio coming in would be compelled to pay for the improvements, I think.

Mr. HENDRICKS. I say I do not know what the occupying-claimant law of Ohio is. I have not examined the statutes.

Mr. KIRKWOOD. There used to be a law of that kind. I was about to ask the Senator from Ohio about that.

Mr. HENDRICKS. But I submit to Senators it would not be just to the occupants of this land to say that "you shall have just the technical rule of law on this subject." I know that in the case of a breach of warranty the rule is purchase money with interest, but perhaps there is no warranty in the patent the Government has given. Perhaps there is no liability on the part of the Government, technically, to that extent. I do not know that there is, because a Government patent is not a warranty deed; but the case is just this: these people have relied upon the title that the Government has given them; we all know the common people think a patent is perfect; they

think when they have got a patent that that ends all questions; they rely upon that. They purchased this land. No doubt it has cost these claimants that now occupy the land very much more than what the Government originally got. They have acted on the title of the Government. I think good faith requires it to make that title good to them—not to Mr. Sweetzer. Mr. Sweetzer is not interested in this question. He is willing to get out of the way if he gets the reasonable value of his land. He would rather hold on to the land. He told me so early in this session. He is a citizen of Indiana. He can make more than this out of the land. Almost anywhere in Ohio good land is worth more than twenty-five dollars per acre. We western men all know that. This land will very soon be worth fifty dollars an acre. If the improvements in the neighborhood are going on with any degree of rapidity that land will be worth fifty dollars an acre in two or three years, the way lands are going up. It is for the interest of the Government now to close this matter up, to settle this dispute, and to settle the title in favor of these occupiers, so that they may go and make valuable improvements. The report of the Commissioner shows that improvements in that neighborhood have been delayed by the uncertainty of this title. Good faith, I think, requires the Government to secure to these occupants a title which the patent induced them to believe they received. On that ground I go for it.

Mr. FESSENDEN. I will ask the Senator whether good faith requires any more from the Government than it requires of him in business.

Mr. HENDRICKS. Yes, sir; for the simple reason that our plain, common people, when they see a patent from the Government of the United States, ask no lawyer's opinion about it. They take that as conclusive. It may be foolish on their part; but the patents have so uniformly all over the country proven to be sufficient that they make no inquiry about them. Just show them the great seal from the Land Office, and that is satisfactory; and it is not often that the courts will disturb them either; but in this case the patent is not good, and I think it ought to be made good to these people.

Mr. HARRIS. I do not know that I should have said anything in reference to this claim but for a remark of the Senator from Maine, who stated that the bill that had been passed at this session probably was not much considered.

Mr. FESSENDEN. I apologize to my friend for the remark.

Mr. HARRIS. I do not ask for any apology; but I wish to say a word in reference to the matter. This subject came before the committee of which I am a member, and I examined the case with as much care as I was able to bestow upon it; and I consulted the Commissioner of the General Land Office in reference to it. There was some evidence before the committee on the subject. I became entirely satisfied that the first appraisal was really not to be relied upon. It was an appraisal made by an officer of the Government; a surveyor, I think. I was satisfied he did not know much about the value of the land. It appeared to the committee that this owner was willing to take the venture of a second appraisal by appraisers to be appointed in an impartial manner. He had remarked that he would take the value of the land as it should be found upon a reappraisal. Under these circumstances I thought the owner was acting fairly, and I thought the Government ought not to insist upon the former appraisal made by one of its own officers, who probably never saw the land and knew nothing about its value. Under these circumstances it was that the committee reported a bill for a reappraisal; and it seems to me good faith toward the settlers upon the land, who have taken the land from the Government and gone on and occupied it, requires that the Government should now pay this appraisal thus made, evidently impartially, and

thus relieve these settlers, who have acted in entire good faith, from any further trouble about it. It seems so to me.

Mr. SHERMAN. I can state that the appraiser appointed, J. F. Kinney, is an employé of the Interior Department, and he went out there and took the testimony of quite a number of witnesses; among the rest, he took the testimony of one or two interested in this matter as settlers; and that testimony is given in a report which is before me. I have no doubt this is about the fair value of the land.

Mr. GUTHRIE. Upon the whole I think we might as well make this appropriation and close this business.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the committee.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the committee striking out the section as amended.

The amendment was rejected.

The next amendment was to strike out the seventh section, in the following words:

SEC. 7. *And be it further enacted*, That the Capitol police shall be entitled to the increased compensation allowed to officers, clerks, messengers, and others in the employ of the House of Representatives.

Mr. FESSENDEN. The reason why that was stricken out was that it was a sequence of the other provision, where they had raised the salaries of their employés by a mere resolution; and therefore, unless we struck out this section providing that "the Capitol police shall be entitled to the increased compensation allowed to officers, clerks, messengers, and others in the employ of the House of Representatives," it would not conform, and it is really putting the Capitol police upon the same ground that we object to putting the others upon; that is to say, allowing the House by resolution to raise them. I should have no objection, individually, to this section if it was amended to read in this way, to meet what will probably be done on the other bill:

That the Capitol police shall be entitled to the increased compensation allowed by law to officers, clerks, messengers, and others in the employ of the House of Representatives.

And then if they are raised the Capitol police will be raised also.

Mr. SHERMAN. I think you had better strike it out and let them both be considered in the other bill.

Mr. FESSENDEN. This will not be considered in the other bill necessarily.

Mr. SHERMAN. It is in the other section at any rate. It is twice in this bill about the Capitol police.

Mr. FESSENDEN. Where else?

Mr. SHERMAN. In section three. That includes the Capitol police.

Mr. FESSENDEN. We have stricken out section three.

Mr. SHERMAN. I know; but that question is open between the two Houses. It is repeated twice in this bill.

Mr. FESSENDEN. In the bill that was sent to the House last night the Senate inserted a clause giving twenty per cent. to its employés. That will undoubtedly afford the House an opportunity to put theirs upon the same level. It is therefore in that bill that that will be considered, and not in this.

Mr. SHERMAN. I spoke of the Capitol police.

Mr. FESSENDEN. Very well; if we insert in this section the words "allowed by law" and we amend the other bill as is proposed by giving the employés twenty per cent., the Capitol police will get that; if we do not, they will stand as the others do.

Mr. SHERMAN. My impression is that the committee was right in striking them out and leaving them to the committee of conference.

Mr. FESSENDEN. The question would not necessarily arise before a committee of conference, because no amendment was made with reference to the Capitol police.

Mr. POLAND. I quite agree with the Senator from Maine in saying that the House has no right to raise the wages of the employés of the House without our consent. It is done by law, and they cannot make a law alone, and the mode in which they have undertaken it is irregular; but upon the bill that we passed last night we provided that the employés of the Senate should have twenty per cent. in addition to what is now provided by law. I shall, at the proper time, move an amendment proposing to give twenty per cent. in addition to the employés, clerks, and other officers of the House of Representatives, including the Capitol police. I cannot offer my amendment until we get through with the committee's amendments, but I shall propose an amendment to this bill, which the House will have to concur in to make it a law, that the employés of the House shall have the same per cent. addition to what is now provided by law that we have given to ours.

Mr. FESSENDEN. The result will be that you bring the same subject to be dispatched in two bills. They have already gone on the miscellaneous bill in which we have made a provision for the officers, clerks, &c., of the Senate.

Mr. POLAND. But there is nothing in it in relation to the officers of the House or the Capitol police.

Mr. FESSENDEN. Very well; it has been sent to the House, and the understanding is that they will on that move an amendment giving the same compensation to their officers.

Mr. POLAND. I have become a little shy of understandings.

Mr. FESSENDEN. That was supposed to be the course that would be taken with a view to avoid this difficulty that arises here. If it is not done there, it will not be done here. There is no use of putting on both.

Mr. POLAND. If it is not done there and it is not done here it will not be done at all, and I propose that it shall be.

Mr. FESSENDEN. If they disagree to it in that bill they will disagree to it in this.

Mr. POLAND. I propose that it shall be put on this bill and we shall get together somewhere. There is no danger of doing it twice.

Mr. FESSENDEN. I think there is very great awkwardness in doing the same thing twice, and I do not want to have both bills burdened and debated about the same thing. Besides, it is not customary. I have never known an instance in which the Senate undertook to fix the compensation of the officers or clerks of the House, or the House the officers and clerks of the Senate. That is a new idea. It is always left to each branch to settle that matter, and if there is a dispute it is settled in a conference.

Mr. POLAND. The House have undertaken to do that.

Mr. FESSENDEN. Not at all.

Mr. POLAND. They have undertaken to fix the wages of the employés of their department, and we say they have not done it in a legal way.

Mr. FESSENDEN. The Senator in his inexperience is introducing a totally new practice into the Senate and into Congress. In all my experience here I never saw it attempted in either House to fix the compensation of the employés of the other.

Mr. POLAND. I do not care about the employés of the House; they may take care of themselves. I will restrict my amendment to the Capitol police.

Mr. FESSENDEN. Then I will ask the Senator: suppose the amendment with regard to the officers, clerks, &c., should fail, does he mean to give the twenty per cent. to the Capitol police and not to the others?

Mr. POLAND. We shall get together about that. I do not apprehend any difficulty. If they are left off in both bills they will be very sure not to get it; but if they are kept on both, I think we shall contrive some way by which they shall get it but once.

Mr. FESSENDEN. I was instructed by the committee to move to strike out this section;



but as we have now passed this additional compensation for our employés, I thought the better way was simply to insert the words "by law," so that the Capitol police shall be entitled to the increased compensation allowed by law. Then if we fix upon the other bill the extra compensation of the officers and clerks of the two Houses, the Capitol police get it; if we do not fix it, they do not get it.

Mr. POLAND. I should like to inquire if we fail to put them on this bill and the House fail to put them on the other bill, how they are going to get it at all.

Mr. FESSENDEN. They will be on this bill if the words "by law" are inserted in this section, and they will get whatever the law fixes as the extra compensation of the other employés.

Mr. POLAND. If I understand it, the provision in their favor in this bill is stricken out on the recommendation of the committee.

Mr. FESSENDEN. But if a law is passed in either bill, then they will get the benefit of this twenty per cent.; if it is not passed, they do not.

Mr. POLAND. I do not understand that you propose to pass any such law. Any proposition to cover these officers must be in one or the other of these bills.

Mr. FESSENDEN. It is in the bill we finished last night with regard to the Capitol police and the employés of the Senate. The House will undoubtedly put on to that the employés of the House. Then, if that is agreed to, and probably it will be, it will be a law.

Mr. POLAND. Where are the Capitol police to stand?

Mr. FESSENDEN. They are then to take advantage of that law and get the same twenty per cent.

Mr. POLAND. They are not named in the bill.

Mr. FESSENDEN. They are named in this bill, and whatever is fixed by law as extra compensation for the others they will receive the same.

Mr. JOHNSON. Where is the same provision in this bill?

Mr. FESSENDEN. Section seven.

Mr. POLAND. If I understand the effect of the amendment you proposed, it was to strike out everything in reference to the Capitol police.

Mr. FESSENDEN. No, sir; I propose, instead of striking out the section, to insert the words "by law" after "allowed," and let it stand, "that the Capitol police shall be entitled to the increased compensation allowed by law to officers," &c., instead of standing as it does now, allowed by a resolution of the House.

Mr. EDMUNDS. That is all right.

Mr. FESSENDEN. It is all right and will accomplish the purpose.

Mr. EDMUNDS. That will cover it certainly.

The PRESIDING OFFICER. The Senator from Maine proposes to amend the section by inserting in line two, after the word "allowed," the words "by law."

The amendment was agreed to.

Mr. HENDRICKS. I move to add after the word "police," in the first line of that section, the words "and two policemen at the Executive Mansion." They discharge the same duty and perhaps more duty than the Capitol police.

Mr. FESSENDEN. We are providing here for the Capitol and not going any further than that, and in a bill which we have passed at this session we fixed the salaries at the President's Mansion just as they asked for them precisely, and they all professed to be satisfied with them.

Mr. HENDRICKS. They are fixed at just the same that the Capitol police here get, I understand.

Mr. FESSENDEN. Why go to the Executive Mansion and the Departments in this matter, where we are merely acting for the Capitol? I do not want to burden this bill with other matters.

Mr. HENDRICKS. I think the Senator is

mistaken. I think that the bill he refers to fixes the compensation of the messengers at the Executive Mansion, but not the policemen. My amendment is to provide for two policemen who have been detailed for service at the Executive Mansion.

Mr. FESSENDEN. We provided for them in the executive bill. Their salaries are all fixed.

Mr. HENDRICKS. This session?

Mr. FESSENDEN. Yes, sir; of all the officers there.

Mr. HENDRICKS. I think not these two policemen. One of them spoke to me about it, and said they rendered more arduous service than the policemen do here.

Mr. FESSENDEN. What I object to is to traveling outside of the object of this provision and beginning with the policemen there. The next thing will be that somebody will speak to a Senator about the policemen in the Departments, and so it will go on. This is confined to the officers, clerks, and policemen of the Capitol.

Mr. HENDRICKS. I think the Executive Mansion ought to stand, in that regard, precisely with the Capitol. I think they ought to have the same compensation.

Mr. FESSENDEN. We have provided exceedingly liberally for everything about the Executive Mansion, just as it was asked for.

Mr. HENDRICKS. I think you are mistaken about these policemen.

Mr. CONNESS. If the Senator from Maine will excuse me, I can add a little information on this subject. The fact appears to be this: when the guard of soldiers that attended at the Executive Mansion were relieved there were two policemen deputed to serve there; it was deemed prudent to have them there; and there is no provision for their compensation by any existing law; and therefore, unless the words suggested by the Senator from Indiana are added, those two persons will have no compensation. That is all there is in it. I got this information from an undoubted source.

Mr. FESSENDEN. It cannot be so.

Mr. CONNESS. It is so.

Mr. HENDRICKS, [to Mr. FESSENDEN.] You had better let it go in any way.

Mr. FESSENDEN. If that is the fact I will not object. I will send for my clerk and find out. I ask that the amendment of the Senator from Indiana be laid over at present until we can get some information about it.

The PRESIDING OFFICER. The amendment will be passed over by general consent, if there be no objection.

Mr. KIRKWOOD. Do the words "Capitol police" in this section include those employed in the grounds as well as in the building?

Mr. FESSENDEN. All around the Capitol.

The PRESIDING OFFICER. The question now is on the amendment of the committee to strike out the seventh section, as amended.

The amendment was rejected.

The next amendment was to insert after section seven the following words:

Sec. —. And be it further enacted, That the following sums be appropriated out of any money in the Treasury not otherwise appropriated, namely:

The PRESIDING OFFICER. That is a verbal amendment, and will be considered as agreed to, if there be no objection.

The next amendment was to insert at the end of the bill the following:

For contingent expenses of the Senate, namely: For the Senate folding-room, \$5,000. For additional messengers during the session, \$5,000.

Mr. SPRAGUE. I desire to move an amendment to that amendment. I will state that my amendment is to correct a mistake or an error in the motion of the Senator from Iowa, [Mr. GRIMES,] who suggested an increase of twenty per cent. in the compensation of the employés of the Senate. It appears that there are seven or eight additional messengers whose compensation is not provided by law, and it has been ascertained this morning that the motion of the Senator from Iowa does not meet their case; that

they will necessarily be left out; and it is to perfect his motion that I offer this amendment. It was thought that they would be unable to get it perfected in the other bill. My amendment is to insert at the end of the amendment of the committee the following:

And such messengers and other employés and clerks of committees whose compensation has not been otherwise increased at this session of Congress shall receive twenty per cent. in addition to the compensation heretofore allowed, commencing the first Monday in December, 1865.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. FESSENDEN. After the word "dollars" in line eleven, page 12, I move to insert the following:

To supply a deficiency in the appropriation for the compensation of the clerk engaged in the sale of internal revenue stamps in the office of the United States Assistant Treasurer at San Francisco, \$600.

The amendment was agreed to.

Mr. FESSENDEN. If the Senator from California will give me his attention for one moment, I will now read the provision in regard to the policemen at the Executive Mansion. We inserted in the Senate the following amendment on the legislative appropriation bill, which was agreed to by the House:

To enable the Commissioner of Public Buildings to pay two policemen at the President's House, \$2,640.

To enable the Commissioner of Public Buildings to pay two policemen at the President's House (one from August 24, the other from November 23, 1865, to June 30, 1866, \$2,023 34.

Mr. CONNESS. All I have got to say is the very highest compliment to the committee; it is all right.

Mr. CRESWELL. I desire now to go back to the amendment which was passed over in lines eighty-four, eighty-five, and eighty-six of the first section. In lieu of those lines I move to insert the following:

The compensation of the deputy solicitor of the Court of Claims shall be \$3,500, payable quarterly out of any money in the Treasury not otherwise appropriated.

It appears that upon the establishment of this court in 1855 there was authorized to be appointed a solicitor of the Court of Claims alone; but it was soon found that it was impossible for him properly to discharge the duties; and the next year authority was given for the appointment by the President of an assistant solicitor of the Court of Claims, and also authority given to the solicitor himself to appoint a deputy. The assistant was to receive under the law of 1856 \$3,500, and the deputy \$2,500. By subsequent legislation in 1863 it was enacted:

"That the solicitor, assistant solicitor, and deputy solicitor of said court shall hereafter be appointed by the President, by and with the advice and consent of the Senate, and it shall be their duty faithfully and diligently to defend the United States in all matters and cases before said Court of Claims, and in all cases taken by appeal therefrom to the Supreme Court; and no other fee or compensation than the salary of said solicitor and assistant and deputy solicitors shall hereafter, in any case, be paid to either of them, and no fee or compensation for services in either the Supreme Court or Court of Claims shall hereafter be allowed or paid in any case by the United States."

By this last enactment it will be observed that these three officers are put on precisely the same basis, all appointed by the President, and all have exactly the same duties to perform. Of course, the solicitor is the chief officer, who directs the operations of the other two; but the same duties being required of all these officers it seems to me to be eminently just that the deputy solicitor should receive the same salary as the assistant solicitor.

Mr. FESSENDEN. What does the assistant solicitor receive?

Mr. CRESWELL. Thirty-five hundred dollars.

Mr. FESSENDEN. The provision in the bill is that he shall receive the same salary as the solicitor. What does the solicitor receive?

Mr. CRESWELL. Thirty-five hundred dollars.

Mr. FESSENDEN. What does the deputy solicitor receive?

Mr. CRESWELL. Twenty-five hundred

dollars; and this amendment is to raise his salary to \$3,500, the same as the assistant receivers. The duties incumbent on those officers are very onerous.

Mr. FESSENDEN. The increase should be made to commence "from and after the 30th day of June, 1866."

Mr. CRESWELL. I have no objection to that.

Mr. TRUMBULL. The Committee on the Judiciary reported in favor of a similar proposition to this, which was inserted in a bill that was passed by the Senate.

Mr. FESSENDEN. I presume it is all right, but I wish to put it in a shape in which it will be intelligible.

Mr. CRESWELL. Very well; I will modify my amendment so as to make it read:

The compensation of the deputy solicitor of the Court of Claims, shall be, from and after June 30, 1866, \$3,500, payable quarterly out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. The provision in the bill refers to the "assistant solicitor." Are you sure which one it is?

Mr. CRESWELL. The eighty-fourth line refers to the deputy solicitor.

Mr. FESSENDEN. I know; but the rest of the provision speaks of the assistant. Which is it?

Mr. CRESWELL. It is the deputy.

Mr. TRUMBULL. The assistant solicitor now receives \$3,500.

Mr. FESSENDEN. Then you have got it right.

The amendment was agreed to.

Mr. SUMNER. I offer the following amendment to come in as a new section:

And be it further enacted, That there shall be paid to the several clerks of the State Department twenty per cent. of the compensation now allowed to each, to commence from the 30th of June, 1866, and to continue until repealed by Congress; and a sum sufficient for this purpose is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. President, I observe on page 7 of this bill that there is an appropriation for an additional twenty per cent. compensation to the messenger of the Court of Claims. There is one instance. Then on page 9 there is an appropriation for increased compensation of the chief justice and associate justices of the supreme court of the District of Columbia.

Mr. FESSENDEN. That is to meet an existing law. We have to pay them the salaries provided for by law.

Mr. SUMNER. I understand that; but there has been a law giving an increased compensation in that case. Then again on page 12 we have a provision "for salaries of additional clerks and additional compensation of officers and clerks in the Treasury, &c., \$10,000." I will say nothing now in behalf of the proposition that I have sent to the Chair. It was so thoroughly discussed yesterday and two days ago, when first introduced, that I believe the Senate fully understand it. I hope, however, that they will not now hesitate to adopt it.

Mr. FESSENDEN. What is that last provision you referred to? Where do you find it?

Mr. SUMNER. On page 12, from line seven to line eleven.

Mr. JOHNSON. It has been my fortune to be in the District for the last eight or ten years and to be very familiar with the officers of the State Department particularly. It has been rendered necessary by professional as well as public business. I do not think that there are more competent clerks to be found anywhere. Many of them are men of very distinguished capacity. I have always been surprised that men of that standing, intellectually and morally, would remain in the office for the salaries they get. They are barely able to live at all by the strictest economy. I hope, therefore, that the Senate will adopt the amendment.

Mr. FESSENDEN. I sincerely hope that this amendment will not be adopted. If we begin with the Departments, we have got to go through with them. The Senator from Wisconsin [Mr. DOOLITTLE] has given notice that

he shall move as an amendment the bill for the reorganization of the Interior Department. The Senator from Massachusetts [Mr. WILSON] will move the twenty per cent. additional, or something similar to it, for the reorganization of the War Department. Now, if you begin that kind of legislation on this bill for the Departments, the Senate can see where it will go. I should think they had experience enough of such legislation on the miscellaneous appropriation bill, which we have just passed, not to be very desirous of entering into it again. If we do enter upon it, it is impossible to foresee when we shall get through or where it will end.

Now, sir, we have no statement from anybody of what the classification of these clerks is, what salaries they now receive, what duties they perform, or anything about it. We have simply the statement of the honorable Senator from Massachusetts, the chairman of the Committee of Foreign Relations, that they are a very accomplished set of gentlemen and render good service. When the question is put what each one in detail receives he is not prepared to say.

Mr. SUMNER. Oh, yes.

Mr. FESSENDEN. I have not heard any statement, at any rate. We do not know what the rates of salaries paid there are. It has not been communicated to the Senate. Before the Senate act on this question we ought to know what the number of clerks is and what they severally receive. The objection, however, which I have to it is to legislating for the Departments in this way. In some of the Departments I know that the large body of the clerks receive as much as they ought to receive. Take the Treasury Department, for instance. The only use of the additional appropriation made there, as I have often explained, is to enable the Secretary of the Treasury to keep the higher class of clerks that he could not keep without it. We have given no twenty per cent. to the lower class of clerks; we have given no twenty per cent. to the clerks in the War Department; we have given no twenty per cent. to the clerks in the Interior Department; we do not propose to do it; and yet the State Department is singled out on account of the labors there, which certainly, to say the least or most of it, cannot exceed the labors that have been performed in the War Department and in the other Departments for the last four years. The State Department has had, comparatively, a very easy time of it, and always has an easy time of it. If they are so superior to the clerks in the other Departments and have these interesting duties to perform, which are so gratifying to gentlemen of taste and scholarship, &c., it is all for their advantage, and I should not think it was wise to give them the additional advantage of putting upon them an increase in this way which you do not propose to give to the clerks in the other Departments. At all events, I am exceedingly anxious that we should not begin that kind of legislation for the Departments, at least upon this bill, for there is no knowing where it will end, or when we shall get through with the bill if we attempt it.

Mr. SUMNER. We have begun this kind of legislation, in the first place, for ourselves, and we have begun it, in the second place, for the servants and employés of the Senate. I think, having done that, our mouths are closed. We have got to go forward and meet every case on the principles of justice.

Now, sir, in bringing forward the proposition that I have, I do not intend, by suggestion or implication, to intimate anything against any similar proposition with reference to any other Department. I have brought forward this proposition because the subject was specially referred to the committee with which I am connected on a petition from the clerks of this Department. That petition was presented now many months ago. It has been considered more than once in the committee, and I was instructed to make the motion which I have now made. That explains my position in this mat-

ter. I have had before me no petition from any other Department. I am not instructed by the committee which I represent here to speak for any other Department. I move what I have moved according to the instructions which I have received, and the evidence before that committee. That is the reason why I confine my motion to the State Department.

But the Senator from Maine says that he has no information with regard to the compensation of these clerks. Why, sir, he knows very well what the compensation of clerks is. It is the compensation of the clerks in the other Departments. There are the fourth-class clerks who receive \$1,800, the third-class clerks who receive \$1,600, the second class who receive \$1,400, and the first class who receive \$1,200. There are no heads of bureaus in the State Department, and I wish to call the attention of the Senate to that. I mentioned it last night. In the other Departments there are, and these heads of bureaus, I need not remind you, receive \$3,000, \$4,000, \$5,000, and there is one at least who receives \$6,000. Now, there are very important services rendered by certain clerks in the State Department—services comparable to those of heads of bureaus which, in any other Department, would be performed by the head of a bureau.

Mr. FESSENDEN. I will ask the Senator why he has not done like the other committees having charge of other Departments—brought in a bill to reorganize the State Department?

Mr. SUMNER. The Senator puts me another question, why I have not brought in a bill to reorganize the State Department? I alluded the other day, or last night, I forget which, somewhat to the history of the State Department in that connection. The idea is not a new one to reorganize it. It was a favorite one of Mr. Webster. He did propose at one time to reorganize it and commenced a work to that end, but he never completely carried out his idea, and the State Department has gone on now for a generation without any change or modification or open attempt at reorganization. I think it ought to be reorganized, but the measure that I propose is not as radical as that which the Senator from Maine invites. If I should propose a reorganization, involving as it would the payment of some considerable salaries, \$3,000, \$4,000, or \$5,000 to certain persons, I should expect to encounter his most fervid opposition. I make no such proposition. I simply ask the Senate to add twenty per cent. to the compensation that these faithful servants now receive. In adding that twenty per cent. you simply follow the precedent you have set with regard to your employés in this Chamber and also with regard to other employés elsewhere. I do not see how you can resist the precedent. I do not see how you can untie your hands. You have tied your hands upon this question. When you voted what you did for your own employés, when you voted still more what you did for yourselves, you incapacitated yourselves from denying this addition of twenty per cent. to those faithful servants.

On another occasion I went at very considerable length—I think the Senator from Maine was not here; I do not know that I said anything, of course, that he would value—but I went at some length into some of the considerations why these clerks should receive an additional compensation. I set forth the work they were called to perform, and how immensely that work had increased during the last five or six years. I had in my hand at the time the statistics on the subject, which Senators will remember I read. I called attention then to the increase of prices in provisions and in everything else to which they were subjected, without any increase of compensation, and I think I referred to some of them as being so situated, having large families, that they were actually pinched by poverty and hardly able to get along. I know among them some cases that do appeal most powerfully to one's sympathies; and therefore I speak now, not only from my sense of justice to them, believing that they do deserve this increase, but I speak

also with a sympathy for men who I know have been subjected to grinding poverty.

Now, sir, I make this appeal sincerely to the Senate. I hope they will not let this opportunity pass. Do not answer me by saying that the Interior Department ought to have the same, or the War Department the same. I am not going to argue that question. If you think they ought to have the same, make the motion; I shall not oppose you. I offer the amendment which I do on the evidence which has been laid before the committee which I represent. Had I had further evidence with reference to other Departments and proper instructions from the committee, I should have made my proposition broader.

Mr. WILSON. I move that the Senate take a recess until seven o'clock.

Several SENATORS. Say half past seven.

Mr. FESSENDEN. If anybody wants to meet at seven, make it seven o'clock.

Mr. TRUMBULL. Several of us cannot get back to the Senate Chamber by seven o'clock.

Mr. WILSON. Then I will say half past seven.

The motion was agreed to; and the Senate accordingly took a recess until half past seven o'clock.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

FONTAINE T. FOX, JR.

Mr. DAVIS. Before we proceed with the regular order of business, I move to take up House joint resolution No. 164, which is to pay a little claim of \$200 or \$300; it has already been passed by the House and favorably reported on by the Senate Committee on Military Affairs.

The motion was agreed to; and the joint resolution (H. R. No. 164) for the relief of Fontaine T. Fox, jr., was considered as in Committee of the Whole. It is a direction to the proper accounting officers to pay to Fontaine T. Fox, jr., late aid-de-camp to Brigadier General W. T. Ward, a sum equal to the pay and allowances of a first lieutenant and aid-de-camp, from the 8th day of October, 1861, to the 8d day of April, 1862.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### NEBRASKA INDIAN HOSTILITIES.

Mr. WADE. I am directed by the Committee on Territories, to whom was referred the bill (H. R. No. 761) authorizing the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities, to report it back without amendment; and I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to instruct the Secretary of War to examine, adjust, and allow the expenditures and liabilities of the Territory of Nebraska, made and incurred in the year 1864, for the pay, equipment, and maintenance of territorial troops in the suppression of Indian hostilities and protection of the lives and property of citizens of the United States exposed to the attacks of the confederated tribes. The amount so allowed, when approved by the proper accounting officers of the Treasury, is to be paid into the territorial treasury by a warrant payable to the order of the Governor of that Territory, and is to be in full for all claims in the premises on the part of the Territory or the troops thereof. But no allowance is to be made for troops beyond the companies called out by the Governor in that year, and placed under the command of the general commanding the troops of the United States in that Territory; nor is any rate of pay or expenses of any kind to be allowed higher or greater than those allowed by law to like troops regularly enlisted in the service of the United States. Forty-five thousand dollars, or so much thereof as may be necessary, is appropriated to carry out the bill.

Mr. GRIMES. I should like to hear the report read.

The PRESIDENT *pro tempore*. The Chair is advised there is no report accompanying the bill.

Mr. WADE. I do not know that there is anything in the shape of a report, but all the original papers in the case are here. I presume it is all right. It only requires the claim to be settled according to what the officers find the facts to be.

Mr. GRIMES. I do not want to object to it, but I think the Senator had better put it in the same shape other bills are for Massachusetts, Iowa, Oregon, and Missouri—authorize the Secretary of War to investigate the subject and report at the next session of Congress. I do not want to object to the bill, but this is a departure from the uniform custom on such bills as the Committee on Military Affairs have been in the habit of reporting to the Senate, which all the Senate have concurred in.

Mr. WADE. I do not know of any other except in this shape.

Mr. GRIMES. Yes, one for my own State, one for Oregon, one for Massachusetts, one for Missouri, and I do not know how many others have been passed in the shape I suggested. I do not interpose any objection to the bill if the Senate see fit to pass it in its present shape, but it is a departure from the uniform practice.

Mr. FESSENDEN. I should like to have it read.

The Secretary read the bill.

Mr. WADE. It seems to me a carefully drawn bill.

Mr. GRIMES. I do not object to it.

Mr. WADE. If there is no objection to it I hope it will pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 89) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 588) for the relief of Richard Cheney;

A bill (H. R. No. 788) to establish and protect national cemeteries;

A joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865;

A joint resolution (H. R. No. 201) for the relief of the officers of the thirteenth regiment of the United States colored heavy artillery;

A joint resolution (H. R. No. 202) in relation to brevet appointments and commissions in the United States Army;

A joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar;

A joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri; and

A joint resolution (H. R. No. 205) for the erection of an equestrian statue to the memory of Brevet Lieutenant General Winfield Scott.

#### BILL INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 142) respecting the Army of the United States; which was read twice by its title and ordered to be printed.

#### DEFICIENCIES IN APPROPRIATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, the

pending question being on the amendment of Mr. SUMNER, to add the following as an additional section:

*And be it further enacted*, That there be paid to the several clerks of the Department of State, twenty per cent. of the compensation now allowed to each, to commence from the 30th of June, 1866, and to continue until repealed by Congress; and a sum sufficient for this purpose is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. GRIMES. I move to insert after "State" the words "and Navy Department."

Mr. FESSENDEN. I am opposed to the amendment to the amendment, as I am to the original amendment. If one is wrong, the other is, and I do not want to give additional strength by having the two coupled together, which it might or might not do; I do not know how that would be.

My friend from Massachusetts closed his speech with an appeal to the Senate to do justice as he called it, and I hope really that the Senate will endeavor to do so. I also appeal to the Senate to keep this bill free from additional legislation. The argument is quite as strong with reference to other Departments as it is with regard to the State Department. According to the Senator's own statement the salaries are the same, and Senators may very easily see from the amendment proposed by the honorable Senator from Iowa what the result must necessarily be. We must spend the night here in squabbling over proposed amendments to put on the other Departments.

Now, sir, in the first place, as I understand it, I have seen no recommendation from the head of any one Department recommending a general increase of the salaries of the clerks. The Senator from Massachusetts has not told us that the Secretary of State recommends this increase. We have no such recommendation from the Secretary of War; and I know that the Secretary of the Treasury has made no such recommendation. There is one thing they do desire, probably, and that is that there shall be an increased compensation given in a few special cases. If Congress chooses to do that, I have no objection; but I have an objection to reorganizing the Departments on a bill of this description. It is bad and hasty legislation.

But the Senator has used one or two arguments to which I beg leave to allude. He says, in the first place, that we have raised the salaries of ourselves. So far as that is concerned I am not responsible for it, for one; but it is not done yet; it is only done so far as the Senate is concerned. In the next place, if that has been done, or is considered as having been done, it is, I suppose, because a majority of the Senate thought that we were not well enough paid; and we are the judges of that. There is no other tribunal to appeal to. We recommend it and act upon it. We are the head of this department in reference to that matter. So with regard to the clerks and employes here. We think that their pay is too low and that it should be raised. We act in a double capacity in these cases; but no head of any of the Executive Departments has recommended to my knowledge any general increase of the salaries of the employes in the Departments. I know with regard to the Treasury it is not so, and I know, moreover, that if applied to one Department it must go through all of them necessarily. This is a general increase of salary, because the argument is used, and used with great effect, "You have begun with one Department; apply it to the others; treat us all alike." That is the result of it, and it is very difficult to resist the argument, because they are equally meritorious. Now, I know with reference to the Treasury Department that it is merely in a very great degree a waste of money to do any such thing; that a large number, and the largest number, much the largest number of the clerks in that Department are paid to-day all that they ought to be paid; and to tender them twenty per cent. increase is merely taking money out of the Treasury because we happen to take a fancy to take it out to give those who serve the public, with no reason whatever to justify it.



The argument that we have placed \$160,000 at the disposal of the Secretary of the Treasury for the purpose of increasing salaries does not apply. That is not for a general increase of salaries; it is for the purpose of avoiding the increase of salaries, and I put it on that ground in the Senate. There are certain clerks to whom you must pay more to keep them; there is also a necessity for temporary clerks to be employed there; and it was with reference to those cases that that amount of money is placed at the disposal of the Secretary, not to raise salaries generally but to avoid the necessity of it, and thus save money; and so it will prove in all the other Departments. And yet here is a proposition to put on this twenty per cent., beginning with the State Department, not called for, not asked for by the head of that Department, because the clerks apply to a committee of this body, and thus we begin a system which must necessarily be carried through. I have had occasion to remark before that in my judgment on the main question we are getting into the habit of dealing with a very lavish hand, carelessly, with regard to the public money—very much so in the other House, in my judgment, and not less so in this. Times have changed, and we have changed with them. Before the war we used to hesitate about appropriations, examine something about them; gentlemen considered themselves the guardians of the public Treasury and were averse to making appropriations. Now the race seems to be who shall be foremost in making appropriations out of the public Treasury, who shall exhibit the greatest zeal to take money out of the Treasury at this time to put into the hands of somebody, and now absolutely in this case we go hunting up persons to whom to give the public money. I think that is worth being considered.

But, sir, what I have principally to deal with is the fact that in this kind of legislation upon these bills we are following an exceedingly bad precedent. The Senate is getting out of its usual strictness on that subject, and we are running into very dangerous territory indeed in the way of legislation. I have no unwillingness to have these Departments reorganized. I shall be glad to aid in doing it; I think they need it; but let it be done systematically; let it be done for some good reason, and let us not, to avoid the trouble incident to that, just take the whole in a sweeping clause and apply it.

Sir, if we have done wrong in increasing by a vote of the Senate, so far as that could do it, our own pay and that of our own employes, it is no reason why we should do wrong in another direction. The Senator says, having begun we must go on. We had better retrace our steps if they are in a wrong direction. The doctrine that we must go on in wrong, if wrong, because we have begun, is not exactly to my mind a legislative idea. It is to be presumed whatever we have done we have done for good reasons, satisfactory to ourselves as applied to the individual case or cases; and it by no means follows that because we are satisfied of it in one case we must do it in all others. I think the experience the Senate had in the civil or miscellaneous appropriation bill for the last three days, when we went staggering, and I had almost said blundering, on in it, and came to a point almost where it seemed to be impossible to pass the bill, would be enough to warn us not to attempt to follow in the same course with regard to another bill at this period of the session, and really—I use the language of my friend, though I cannot use it so pathetically as he did—I do appeal to the Senate to keep the bill clear from amendments of this description.

Mr. SUMNER. Mr. President, there is one general remark that I would make in reply to what has fallen from the Senator from Maine. He complains of the disposition which is now so prevalent to increase the compensation of public servants. Sir, we cannot forget that we are at this moment in what I may call a transition period, passing from the old time to the new time, from the old system to the new system, and the

incident of that transition period is a change in prices and the consequent necessity of an increased compensation for public servants. Sir, you will not do your duty as legislators if you do not take into consideration that condition of things and its essential incidents. When the Senator from Maine reminds us of the present disposition to make these appropriations he must not forget that that disposition arises from the nature of things. We are in a period of transition; we must not be insensible to it; we must accommodate ourselves to it. That is the first remark I have to make in reply to the Senator from Maine.

But the Senator goes further and says that if we make an appropriation for the employes in the State Department, we must make it for the employes in other Departments of the Government. Sir, that does not follow. It may be so, I admit, but it does not follow necessarily. It may be that the need of these appropriations is greater in one Department than in another. But, sir, admit that we must follow this example and make these appropriations in other Departments, is that any answer to the case that I present? Not at all, sir. Let us go forward and consider the case of each Department on its own merits, and if on these merits we must make this appropriation let us make it twenty per cent. The Senator from Maine gives us his testimony with regard to one Department with which he has been so honorably associated. I refer to the Treasury Department. He says that he knows that the clerks in that Department as a body do not deserve this addition. Very well, sir; then it must not be made. I accept his testimony on that case, but there is no such testimony on the case which I now have the honor of presenting.

And that brings me to another point made by the Senator from Maine. He says that this appropriation is not recommended by the head of the Department. Sir, let me state how this appropriation is recommended. It comes before the Senate first on the petition of the clerks themselves. The petition was duly presented many months ago; it was referred to the appropriate committee; the committee took it into most careful consideration, not once or twice but several times, and finally directed the report which I have made, and which is now under consideration in the amendment moved. They have directed me to press that. This case, therefore, is presented to the Senate by one of the committees of this body.

What more, sir, do you need? The Senator from Maine says that it is not urged or recommended by the head of the Department. It is recommended by a committee of this body, having that subject specially in charge. But the Senator is entirely mistaken when he says that it is not recommended by the head of the Department. The head of the Department, it is true, has not in a formal letter recommended it to the Senate. He felt a motive of delicacy on the subject, and declined thus directly to interfere, but he has, in a letter addressed to the committee, expressed a strong desire that this appropriation should be made. Sir, I have not introduced this testimony before in this argument, and I do it now only in direct reply to the Senator from Maine, who virtually challenged it by saying in advance, or complaining in advance, that no such recommendation has been made.

I believe that I have now answered point by point all that the Senator from Maine has said. There is one other circumstance connected with this case to which I call attention. The number of employes or clerks in the other Departments, especially in the Treasury and the Interior, is very great. When you undertake to deal with their case you have a very large question, but the number employed in the State Department is comparatively limited. I have in my hands now a list of all those employes. From this list it appears that there are distributed annually among the twenty-five permanent clerks in the State Department for salaries, \$41,000. You have there twenty-five

permanent clerks of the State Department, among whom are distributed \$41,000; and it is now proposed to add to that sum total twenty per cent. Sir, the appropriation is small. I think it hardly justifies the protracted debate which it has had now running over portions of three different days. The Senator inquired this afternoon in debate not only as to the number of these clerks but what they received. I had not at the time a memorandum of what they received, but I have received it since. I have already given the sum total received by the twenty-five permanent clerks, \$41,000. Of this sum the chief clerk receives \$2,200; the disbursing clerk, \$2,000; the superintendent of statistics, \$2,000; then there are eight clerks of the fourth class at \$1,800 each, making \$14,400 which that class receives; then there are nine clerks of the third class at \$1,600 each, receiving a sum total of \$14,400; then there are three clerks of the second class at \$1,400 each, making a sum total in that class of \$4,200; then there are three clerks of the first class at \$1,200 each, making a sum total in that class of \$3,600; the whole being a sum total of \$41,000 distributed among twenty-five permanent clerks. There is then an Immigration Bureau with one clerk of the fourth class at \$1,800, and one of the first at \$1,200, making a total sum in that bureau of \$3,000. There are also temporary clerks, about eight, who receive four dollars a day when they work full days, and proportionately for parts of days. And lastly, there are a few, say three or four, temporary clerks who copy for the compensation of ten cents a folio of one hundred words. Among these public servants there are many who have given their life to the service. At the head of the list is William Hunter, chief clerk, who has served in that Department thirty-six years.

Mr. HENDRICKS. I ask the Senator how much he gets under the present law.

Mr. SUMNER. Twenty-two hundred dollars.

Mr. HENDRICKS. But the law has been changed.

Mr. SUMNER. He gets \$2,200.

Mr. SHERMAN. Thirty-five hundred dollars.

Mr. HENDRICKS. The change was made at this session.

Mr. SUMNER. That has not yet gone into operation. The Senator will remember that we created a new office of Second Assistant Secretary of State which it was expected that he would fill.

Among these is Robert S. Chew, who has been in the service thirty-two years; William Hogan, who has been in the service eleven years; R. S. Chilton, who has been in the service fourteen years; H. D. J. Pratt, who has been in the service fifteen years; Thomas C. Cox, who has been in the service eleven years; John P. Polk, who has been in the service eighteen years. However, sir, I will not follow out this narrative. I merely call attention to the length of service of these gentlemen as furnishing evidence of their fidelity to the Government by the extent by which, if I may say so, they have embodied themselves and their lives in the public service so that they have been so completely identified with it that they cannot easily pass from it into any other career of life. There they are, sir. You have had not only the flower of their years but almost the fruit of their existence on earth; and it seems to me that such public servants before they die do deserve a certain consideration from the Government which they have so faithfully served.

As I stated this morning, if we had bureaus in the State Department; if that Department was organized as the Treasury Department is organized, so as to furnish a place at \$6,000 a year or \$3,000 or \$4,000 a year for the head of a bureau, these valued public servants would find perhaps a certain reward for their services; but there are no such bureaus in the State Department. All there are on a certain equality, a certain dead level; they range as clerks and nothing else, and they have only the pay of

clerks; and my motion now is to add to that compensation twenty per cent. additional.

Mr. WILLIAMS. Independent of the objections that have been urged to this amendment by the Senator from Maine, there is one that has considerable weight upon my mind which has not been mentioned. I conceive this to be a vicious and unjust mode of compensation. Different employes in all the Departments now receive a different compensation; some are paid \$3,000 or \$4,000 a year, others are paid \$1,500 or \$1,200 a year, showing that there is a difference in the value of the services of these different employes. This amendment proposes to pay to each one of them twenty per cent. without respect to the value of the services of either one of them. It may be and I presume it is the fact that there are persons in the State Department who on account of their abilities and their experience ought to have their salaries increased perhaps \$500 or \$1,000, and I have no doubt that there are others in the State Department, as in every other Department, who receive a full equivalent for their labor.

That is undoubtedly true as to the Treasury Department, and I have no doubt it is true as to all the Departments; and if it be necessary to raise the compensation of any of the employes in any of the Departments let each Department be reorganized; let a salary be attached to each office according to the responsibility of the individual who fills that office; let the man who is required to exercise skill, who is required to have peculiar abilities or great learning, be paid a sum that will be an adequate compensation for what he brings into the performance of his duty, and let those who perform nothing but manual or mechanical labor be paid according to the value of their services. Last night we passed an amendment providing that twenty per cent. should be added to the compensation of the employes of the Senate. I voted against that amendment; I regard it as entirely unjust. I am willing to say, by way of an illustration, that our chief clerk, for instance, in my judgment, should have his salary raised \$500 or \$1,000, while there are messengers and persons employed about this Capitol who, in my judgment, receive every cent that their labor is worth, and yet he, notwithstanding the responsibilities of his position, notwithstanding the experience and skill which he is required to bring to the performance of his duties, receives his twenty per cent., while pages and the men who perform nothing about this Capitol but manual labor receive the same addition to their salaries. I object to this mode of compensation. Let the State Department be reorganized; let each office have a salary attached to it according to its individual importance in the Department; so of the Treasury Department, the Navy Department, and all the Departments, and that is the only way in which justice can be done.

Mr. GRIMES. I wish to withdraw the amendment I proposed.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. HENDRICKS. I was very anxious for an early adjournment, but I now rather regret that a day is fixed. I think if this session were to be continued four or five days longer perhaps we could come to an understanding on this most difficult question of the relation of the clerks of the State Department to the Government. [Laughter.] That is the only regret I have that the session is to come to a close on Saturday. The Senate has very fully expressed its views on several occasions; the Senator from Massachusetts has given us the benefit of his learning and the force of his argument on this question, how many times I will not undertake to say; and I think he might come to the conclusion that possibly the Senate understands, to say the least of it, the borders of this great and troublesome and difficult subject. He has shown by giving a statement of the facts that the clerical force of the State Department is the best paid clerical force in Washington. He says there are eight clerks

who get the highest clerical salary, \$1,800. One of the eight gets \$2,000. Then there are nine that get the next highest salary of \$1,600. Then there are three who get the next highest salary of \$1,400, and only three who get the lowest salary of \$1,200, while I suppose in the Treasury Department there are a thousand men working at \$1,200 a year.

Mr. FESSENDEN. The clerks of the State Department are the best paid in proportion to those of any Department there is.

Mr. HENDRICKS. I did not know so much about it until the Senator made his statement. That statement has shown the facts that this Department is the best paid Department in the Government. He says it has no bureaus. Take one of the bureaus in the Treasury Department; the bureau of the Second Auditor.

Mr. FESSENDEN. Notwithstanding the small number there, it has, by the legislation of this year, two Assistant Secretaries and one examiner of claims at \$3,000, the ordinary pay of the head of a bureau.

Mr. HENDRICKS. I was not aware of that fact; but take the Senator's own argument: he says it has no bureaus. Take one of the bureaus of the Treasury Department, the Second Auditor's, where they settle bounties and the like. I guess there are four hundred clerks, perhaps, in that bureau, and they are nearly all \$1,200 clerks. If we are going to correct this thing, we had better do it upon some system and principle; we cannot do it in this way properly, and I think we might as well go on and make an appropriation bill of this.

I cannot say that it is particularly gratifying to my taste that whenever the Senator alludes to this interesting and delicate question, he says that Senators have voted to increase their own pay. What connection has that with this? What connection have the accomplishments required for a United States Senator with those of a clerk in a Department? I cannot see the force of the argument. Senators are presumed to bring to this body experience and learning; some from the professions, some from the commercial and manufacturing pursuits of the country. I should like very well that at an early hour we could get through with this bill; and if we can just get through this troublesome question, the greatest of all questions, the like of which is not known in our legislation, I have some hopes that we can get through the bill at a reasonable hour. [Laughter.]

Mr. SPRAGUE. I desire to offer an amendment to the amendment.

Mr. GRIMES. Wait till that is disposed of.

Mr. SPRAGUE. Very well; I will not propose it.

Mr. WILLEY. I desire to direct the attention of the honorable Senator from Massachusetts to the phraseology of his amendment. It seems to me a literal interpretation of his amendment as it is there, instead of increasing the compensation of the clerks in the State Department would diminish it. As I understand it, it is that "twenty per cent. of the compensation" now received by them shall be paid. I suggest to him that what I understand to be the design of the amendment is that an amount equal to twenty per cent. of all they now get be added to their present compensation. If I heard the amendment read correctly it simply is a direction to pay to the clerks twenty per cent. of the compensation now received by them.

Mr. SUMNER. I have already corrected it so as to meet the criticism of the Senator, though he will pardon me if I say that I think the criticism was not applicable. The salary which they receive now of course stands on the law, and this would be an appropriation of twenty per cent. further, but to obviate all doubt I have put in the word "additional."

Mr. McDOUGALL. I move to amend the amendment by inserting after "State" the words "and of the Treasury, Interior, War, and Post Office Departments, and in the office of the Attorney General." I offer this amendment in good faith. I concur with the proposition of the Senator from Massachusetts, who

appears simply in behalf of the State Department; but what is true of the State Department is true of all employes of the Government, as well as the employes of this body. The same reasoning applies equally well. The clerks employed in any of the Departments of our Government do not receive compensation enough for reasonable subsistence and clothing. They are not compensated as clerks are in commercial cities; they are not compensated as are persons of equal skill anywhere in the United States, and here in the most expensive city of the United States there are reasons why, the expenses of living having been vastly increased, we should make some provision to meet the consequences of that result.

I believe in good pay and exact service. For some years past the clerks in none of the Departments have been paid sufficient compensation to live comfortably here. I believe it would be a simple act of justice to increase their pay generally on a general principle. Assuming that their present pay is averaged properly and was properly averaged when it was arranged by previous laws, an increase by regular proportion would be just unless we reorganize altogether the Departments of the Government in their clerical force—a thing which should have been done long ago; which has been talked of for years but which no one has attempted. I believe the expenses of the Departments could be greatly reduced by a reorganization and a system that would make a smaller clerical force much more efficient than the present. But there is no prospect of that being done; and their being no such prospect I say adequate compensation should be allowed; and I am in favor as well of the amendment of the Senator from Massachusetts as of the general proposition that all the employes of the several Departments should have their pay increased.

Mr. SPRAGUE. The amendment which I was about to propose but which I withdrew, was substantially the amendment of the Senator from California. I had put it in this shape:

There shall be allowed and paid to the clerks and employes of the War Department whose compensation has not been otherwise increased previous to July 1, 1866, twenty per cent. additional on their respective salaries, to take effect from and after the 1st day of July, 1865.

If the amendment of the Senator from California fails, I shall take an appropriate occasion to offer that which I have just read, and I will say a word in support of it. I have been credibly informed that the employes of the War Department consist in a very large degree of retired and discharged soldiers, many of them wounded. More than three fifths of the appointments to clerkships in that Department have been of soldiers in our Army. I have been informed also that the average compensation at the present time of the clerks in the War Department, taking all the grades, is \$1,200, whereas in the Treasury Department the average is \$1,400. I understand further that the clerks of the War Department are employed seven hours per day while the average number of hours in the Treasury Department is six per day, so that it is very evident that the pay of the clerks in the War Department is inferior to that of the clerks in the Treasury Department.

The amendment to the amendment was rejected; and the amendment was rejected.

Mr. WILSON. I offer the following amendment as an additional section:

And be it further enacted, That the Secretary of War be directed to cause estimates to be made for the erection of suitable fire-proof buildings for the quartermaster's department in Washington, stating the location and price of the land, and plans and cost of necessary buildings, to be reported at the next session of Congress.

Mr. GRIMES. I move to strike out "quartermaster's department" and insert "War Department." The offices of that Department ought all to be under the same roof in the same building—the Commissary, Quartermaster, Ordnance, Surgeon General, and all of them. We have got plenty of reservations elsewhere in the city. There is plenty of ground to be obtained if we did not own any; but we

own enough. It may not be advisable to place this building in the square where it is now located. Let the matter be investigated by proper parties before the next session, and let them make a report.

Mr. WILSON. To build a building for the War Department is the work of years. They are under the necessity now of getting some safe place for the quartermaster's department and for the protection of the papers in that department that are now very much exposed, and the Secretary of War is exceedingly anxious that something should be done at this session.

Mr. SHERMAN. It will take no longer to have estimates for the whole. We have the Surgeon General's office in one place, the Paymaster General's in another, the Commissary General's in another, and the Quartermaster General's in another. It is difficult to tell where the offices are. I hope the amendment to the amendment will be made.

Mr. GRIMES. The War Department ought to be an entirety.

Mr. WILSON. Why not say "the War Department and quartermaster's department?"

Mr. GRIMES. The greater includes the whole. If the Secretary of War thinks it only advisable to build a quartermaster's department, he will so report to us.

Mr. WILSON. I have no objection. I will accept the modification.

The PRESIDENT *pro tempore*. The amendment will be so modified.

The amendment, as modified, was agreed to.

Mr. WILLIAMS. I offer this amendment to come in on page 8, after line one hundred and sixty-eight:

For this amount, or so much thereof as may be necessary to pay the indebtedness incurred for the Indian service, in the State of Oregon and the Territory of Washington, in the years 1860, 1861, and 1862, \$40,000.

I will state this is recommended by the Secretary of the Interior, and has also been recommended by the Committee on Indian Affairs. It was passed by the Senate upon the Indian appropriation bill and stricken off by the committee of conference with the understanding that it should be put upon the deficiency bill, and for that reason I offer it at this time.

The amendment was agreed to.

Mr. DAVIS. I offer an amendment, after the word "dollars," in line thirty-five, on page 2, to insert:

For deficiencies in the payment of balances due for taking the census of 1860, \$230,369 21.

I submit a letter from the Department which I will ask the Clerk to read.

The Secretary read the following letter:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., June 13, 1866.

SIR: In answer to your letter of yesterday, desiring to be informed what sum would suffice to pay the balances due for taking the census of 1860 I have to say that the books of the Census office show the balance due United States marshals and their assistants on this account to be \$230,369 21, and this Department has asked of Congress an appropriation of this amount for the purpose of liquidating these claims.

I am, sir, very respectfully, your obedient servant,

W. T. OTTO,

Acting Secretary.

Hon. GARRETT DAVIS, *United States Senate*.

Mr. SHERMAN. I desire to offer as an amendment to that this proviso:

*Provided*, That no portion of this sum shall be paid to any marshal or other person who has taken part in the rebellion against the United States.

If any of the marshals to whom this money is due entered into the rebel service and tried to overthrow the Government, they ought not to be paid.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I wish to say, in order that the Senate may understand the views of the Finance Committee, that this question was before us, and I suppose it was before the committee of the House, and it was not acceded to by either committee. We thought, as the presumption was that in the confederate States these persons had been employed in the rebellion, we had better wait until we got some

proof of well ascertained claims of loyal persons before we made an appropriation for payment, and therefore declined to put it upon the appropriation bill.

Mr. SHERMAN. It is really in the nature of a private claim.

Mr. FESSENDEN. I do not know whether it would come exactly within that category; but whether or not, we came to the conclusion that although this might appear to be due by the books, yet it was unwise to make this large appropriation. Let it first be ascertained what amounts are due to parties who stood in proper relation to the Government to make a claim, and then we can make an appropriation to pay it. We thought that was the wisest course to take. I believe that is the conclusion to which the committees of both Houses came.

Mr. DAVIS. The object of this appropriation is to compensate for labor that was performed before there was a war or a rebellion. The sums due to these deputy marshals have been due about five years. I have had the honor of being a member of this body for about that period of time, and I have been pursuing some half a dozen claims with all the assiduity of a most vigilant constable from that time to the present and have not been able yet to overtake them. I hope with the guard that has been thrown around the appropriation by the very commendable vigilance of my honorable friend from Ohio, the amendment will be adopted. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. I wish to say before the vote is taken that it is within my knowledge, as within that of the Senator from Kentucky, that these claims have been ascertained for a long time. There is scarcely any State, I apprehend, in the Union where there are not moneys remaining unpaid. It has been earned for five years past, and the only difficulty in the way of payment is the want of an appropriation. A great many cases have come to my knowledge.

The question being taken by yeas and nays, resulted—yeas 19, nays 14; as follows:

YEAS—Messrs. Buckalew, Conness, Creswell, Davis, Doolittle, Guthrie, Henderson, Hendricks, Howard, Johnson, Nesmith, Norton, Poland, Sprague, Stewart, Trumbull, Wade, Willey, and Yates—19.

NAYS—Messrs. Edmunds, Fessenden, Foster, Grimes, Harris, Howe, Lane, Morgan, Pomeroy, Ross, Sherman, Sumner, Williams, and Wilson—14.

ABSENT—Messrs. Anthony, Brown, Chandler, Clark, Cowan, Cragin, Dixon, Fowler, Kirkwood, McDougall, Morrill, Nye, Ramsey, Riddle, Saulsbury, Van Winkle, and Wright—17.

So the amendment was agreed to.

Mr. WILSON. I move this amendment as an additional section:

*And be it further enacted*, That section four of the act entitled "An act to provide for the payment of horses and other property lost or destroyed in the service of the United States," approved March 3, 1849, be amended by striking out all after the enacting clause and in lieu thereof inserting the words, "that the said Auditor shall in all cases transmit his adjustment, with all the papers relating thereto, to the Second Comptroller for his revision and decision thereon, the same in all respects as is provided in the act of the 2d of September, 1789."

The amendment was agreed to.

Mr. WILLIAMS. I offer this amendment as an additional section:

*And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of continuing the index to Senate lists of private claims down to the present Congress, in pursuance of the order of the Senate dated March 16, 1866.

Mr. FESSENDEN. That was before the Committee on Finance and was not recommended for the want of information, but I am since satisfied that it is right, and I make no objection to it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. DOOLITTLE. I am instructed by the Committee on Indian Affairs to offer an amendment, and I send to the desk with the amendment a letter of the Secretary of the Interior.

The amendment was read, as follows:

Insert after line one hundred and eighty-six on page 9:

To enable the Secretary of the Interior to pay the

reasonable costs and expenses paid or incurred by the delegates of the southern Cherokees in coming to and going from Washington, and during their stay, upon the formation of treaties of peace and amity with the Indian tribes, a sum not exceeding \$25,000: *Provided*, That said sum shall be refunded to the Treasury from the proceeds of the sales of Cherokee neutral lands in Kansas.

The following letter was read:

UNITED STATES SENATE CHAMBER,  
WASHINGTON, July 25, 1866.

SIR: Delegates from the southern Cherokees, invited by the Government to visit Washington for the purpose of consultation in the negotiation of a treaty with the Cherokee nation, have been thus occupied since October last, first meeting Government commissioners at Fort Smith, and since at this city. They have thus lost their whole time and incurred considerable expense, which should be provided for by an appropriation. I am of the opinion that the sum of \$25,000 would cover these expenses.

The amount might be restored to the Treasury when the Cherokee neutral lands in Kansas shall have been sold.

With great respect, I have the honor to be your obedient servant,  
JAMES HARLAN,  
*Secretary Interior.*

Hon. J. R. DOOLITTLE,  
*Chairman Committee Indian Affairs.*

The amendment was agreed to.

Mr. SUMNER. I now renew my amendment in regard to the clerks in the State Department.

Mr. SPRAGUE. I move to amend the amendment by adding to it:

And that there shall be allowed and paid to the clerks and employes of the War and Navy Departments whose compensation has not been otherwise increased previous to July 1, 1866, by law of this session, twenty per cent. additional on their respective salaries, to take effect from and after the 1st day of July, 1865.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 18; as follows:

YEAS—Messrs. Creswell, Harris, Henderson, Morgan, Poland, Pomeroy, Ross, Sprague, Sumner, Trumbull, Van Winkle, Wade, and Yates—18.

NAYS—Messrs. Buckalew, Clark, Davis, Edmunds, Fessenden, Foster, Grimes, Guthrie, Hendricks, Howard, Lane, Nesmith, Norton, Ramsey, Sherman, Willey, Williams, and Wilson—18.

ABSENT—Messrs. Anthony, Brown, Chandler, Conness, Cowan, Cragin, Dixon, Doolittle, Fowler, Howe, Johnson, Kirkwood, McDougall, Morrill, Nye, Riddle, Saulsbury, Stewart, and Wright—19.

So the amendment was rejected.

Mr. HENDRICKS. I offered an amendment which was postponed, the Senator from Maine saying he would examine it.

Mr. FESSENDEN. I did examine it and I found that that matter was arranged on the other bill.

Mr. HENDRICKS. Very well.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 334) to prevent the wearing of sheath knives by American seamen.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 131) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast;

A bill (S. No. 214) to incorporate the General Hospital of the District of Columbia;

A bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and



purchase a certain tract of land in the Stockbridge reservation, Wisconsin;

A joint resolution (S. R. No. 86) to provide for the publication of the Official History of the Rebellion; and

A joint resolution (S. R. No. 117) for the relief of Charles M. Blake.

#### REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, reported it without amendment.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 468) to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana, reported it without amendment.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 588) for the relief of Richard Chenery—to the Committee on Indian Affairs.

A bill (H. R. No. 788) to establish and protect national cemeteries—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the Militia of said Territory employed in the service of the United States in the years 1864 and 1865—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 201) for the relief of the officers of the thirteenth regiment of the United States colored heavy artillery—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 202) in relation to brevet appointments and commissions in the United States Army—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 205) for the erection of an equestrian statue to the memory of Brevet Lieutenant General Winfield Scott—to the Committee on Military Affairs and the Militia.

#### THE PORTLAND FIRE.

On motion of Mr. FESSENDEN, the Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 181) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine, which was in line seven to strike out "or" and insert "and."

On motion of Mr. FESSENDEN, the amendment was concurred in.

#### EXAMINATION OF MERCHANDISE.

Mr. MORGAN, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on bill of the Senate No. 39, entitled "An act to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York," having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the first, second, third, fourth, fifth, and eighth amendments as made by the House.

That the Senate agree to the ninth amendment made by the House, with the following amendment: insert after the word "inspectors," in the second line of said amendment, the words "of customs in any collection district shall;" and that the House agree to said amendment.

That the House recede from the sixth and seventh amendments made by them.

That the title of the bill be amended by adding thereto the words "and for other purposes."

Z. CHANDLER,  
E. D. MORGAN,  
GEORGE READ RIDDLE,  
*Managers on the part of the Senate.*  
THOMAS D. ELIOT,  
CHARLES O'NEILL,  
W. RADFORD,  
*Managers on the part of the House.*

Mr. FESSENDEN. I should like to know what the report is.

Mr. MORGAN. The most important matter of difference was in relation to the salaries of the appraisers. The Senate fixed the salary of the principal appraiser at \$4,000, and of the other appraisers at \$3,000; the House amended by fixing the salary of the principal appraiser at \$5,000, and of the others at \$4,000. The House recede and agree to the bill as passed by the Senate in that respect. That was the principal matter of disagreement; the others were verbal. In relation to the time, we make it the 1st of September.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 780) to protect the revenue, had further insisted upon its disagreement to the amendments of the Senate to the said bill, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES K. MOORHEAD of Pennsylvania, Mr. JUSTIN S. MORRILL of Vermont, and Mr. COLUMBUS DELANO of Ohio, managers at the same on its part.

The message further announced that the House of Representatives had passed without amendment the bill (S. No. 406) for the removal of causes, in certain cases, from State courts.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 693) for the relief of Robert Baldwin;

A bill (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward;

A bill (H. R. No. 806) more effectually to preserve the neutral relations of the United States;

A bill (H. R. No. 809) to further regulate the printing of public documents and for the purchase of paper for the public printing; and

A joint resolution (H. R. No. 206) in relation to pensions of widows of revolutionary soldiers.

#### EXECUTIVE SESSION.

Mr. SPRAGUE. I move to proceed to the consideration of House bill No. 756.

Mr. DOOLITTLE. I gave notice to the Senate early this morning that it was necessary to have an executive session for business of the Committee on Indian Affairs. It has now got to be nine o'clock, and I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The motion of the Senator from Rhode Island is superseded by the motion of the Senator from Wisconsin that the Senate proceed to the consideration of executive business.

Mr. WILSON. I should like to take up the bill for the equalization of bounties.

Mr. DOOLITTLE. I gave notice this morning that it was absolutely necessary to have an executive session for the consideration of certain treaties, which must be considered this evening or not at all; and there is other very important business also to be attended to in executive session. I must insist on my motion.

Mr. WILSON. I ask for the yeas and nays on the motion to go into executive session. I want to call up the House bill to equalize bounties.

Mr. GRIMES. That is not the question.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 11; as follows:

YEAS—Messrs. Bäckelew, Clark, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Hendricks, Morgan, Norton, Pomeroy, Ramsey, Ross, Sherman, Van Winkle, and Wiley—19.

NAYS—Messrs. Chandler, Creswell, Guthrie, Lane, Poland, Sprague, Sumner, Wadde, Williams, Wilson, and Yates—11.

ABSENT—Messrs. Anthony, Brown, Conness, Cowan, Cragin, Dixon, Fowler, Howard, Howe, Johnson, Kirkwood, McDougall, Morrill, Nesmith, Nye, Riddle, Sautsbury, Stewart, Trumbull, and Wright—20.

So the motion was agreed to.

After two hours spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, July 26, 1866.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Clerk commenced the reading of the Journal of yesterday.

Mr. ORTH. I move that the further reading of the Journal be dispensed with.

Mr. WENTWORTH. I object.

The Clerk continued the reading of the Journal.

Mr. GARFIELD. I move to dispense with the further reading of the Journal.

Mr. WENTWORTH. I object, and shall insist on my objection. There is a proposition before the House to increase the salaries of members of Congress to \$5,000. My object is to consume time and defeat that proposition.

The Clerk concluded the reading of the Journal.

#### PASSENGERS BY STEAM VESSELS.

Mr. O'NEILL, by unanimous consent, reported from the Committee on Commerce, a joint resolution to construe an act further to provide for the safety of the lives of the passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes; which was read a first and second time.

The joint resolution, which was read at length, provides that the act which it proposes to construe shall not apply to boats used exclusively as tugs or tow-boats.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time and passed.

#### REBECCA J. SHEPPARD.

Mr. GARFIELD. I ask unanimous consent to introduce a bill for the relief of Rebecca J. Sheppard.

The bill, which was read for information, authorizes the Secretary of the Treasury to issue a new bond for \$100, with coupons from May 1, 1865, to Rebecca J. Sheppard, of Philadelphia, in place of her coupon bond for a like amount numbered twenty-nine thousand six hundred and ninety-seven, fourth series, loan of February 25, 1862, destroyed by fire.

Mr. COBB. I object.

#### AMENDMENT OF THE PREEMPTION LAWS, ETC.

Mr. FERRY, by unanimous consent, introduced a bill amendatory of the preemption and homestead laws; which was read a first and second time.

The bill provides that no existing provision or construction of law shall operate in the State of Michigan to the exclusion from the benefits of the preemption or homestead laws of half-breeds or other Indians, disconnected from tribal relations, where such parties in all other respects are able to meet the requirements of those enactments.

Mr. FERRY. I will state that this confers the benefits of the preemption and homestead laws on the Indians in the States. It has the approval of the Commissioner of the General Land Office as well as of the Committee on

Public Lands. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. FERRY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MISS VINNIE REAM.

Mr. RICE, of Maine. I ask unanimous consent to report from the Committee on Public Buildings and Grounds a joint resolution authorizing the Secretary of the Interior to contract with Miss Vinnie Ream for a life size model and statue of the late President, Abraham Lincoln, to be executed by her at a price not exceeding \$10,000, one half payable on the completion of the model in plaster, and the remaining half on the completion of the statue in marble to his acceptance.

Mr. COBB. I object.

Mr. RICE, of Maine, moved to suspend the rules.

Mr. COBB demanded tellers.

Tellers were not ordered.

The rules were suspended.

The joint resolution was then received and read a first and second time.

Mr. RICE, of Maine, demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

On the passage of the joint resolution, there were—ayes 57, noes 7; no quorum voting.

Mr. COBB demanded tellers.

Tellers were ordered; and Mr. COBB and Mr. LE BLOND were appointed.

Mr. COBB. Since the gentleman from Illinois [Mr. WENTWORTH] votes for the joint resolution, I withdraw the demand for a division.

The joint resolution was then passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN HASTINGS.

Mr. MOORHEAD, from the Committee of Ways and Means, reported back Senate bill No. 324, for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburg, with the recommendation that it do pass.

The bill was read.

Mr. MOORHEAD. The explanation I can give of this bill is brief and comprehensive. The bill passed a year ago on the 3d of March, 1865; the description was wrong; Mr. Hastings was described as collector of customs of Pittsburg, when it ought to have been surveyor and depository of public moneys. This only makes the necessary correction. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. MOORHEAD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REFUNDING OF TAXES.

Mr. HOGAN moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill (H. R. No. 759) to authorize the refunding of certain taxes.

The motion was agreed to.

The bill provides that where the license tax

imposed upon any wholesale dealer has been calculated upon the amount of such dealer's sales for the previous year, according to the seventy-ninth section of the act approved June 30, 1864, and satisfactory proof has been made to the Commissioner of Internal Revenue that the sales made under such license did not equal in amount the sales of such previous year, said commissioner shall refund to such wholesale dealer so much of the amount paid for such license as may be in excess of the proper tax chargeable upon the amount of sales actually made under such license during the year for which the same was issued.

Mr. HOGAN. It meets with the approval of the Secretary of the Treasury and of the Commissioner of Internal Revenue.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. HOGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ATLANTIC AND PACIFIC RAILROAD.

Mr. LOAN and Mr. DAWES called for the regular order of business.

The House accordingly resumed the consideration of the bill of the Senate (No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast by the southern route; pending the reading of which the House adjourned last night.

The Clerk concluded the reading of the bill.

The amendments reported from the Committee on the Pacific Railroad were read, as follows:

Amend first section by inserting names of persons as additional corporators; also, by striking out the words, "between the twenty-fifth and ninety-eighth meridians," and the words "by way of the valley of the Canadian river and the headwaters of the Rio Pecos, near Anton Chico;" so that that portion of the section will read:

And said corporation is hereby authorized and empowered to lay out, locate, and construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, namely, beginning at or near the town of Springfield, in the State of Missouri, thence to the western boundary line of said State, and thence by the most eligible railroad route as shall be determined by said company to a point on the Canadian river, thence to the town of Albuquerque, on the river Del Norte, and thence by way of the Agua Frio, or other suitable pass, to the headwaters of the Colorado Chiquito, and thence along the thirty-fifth parallel of latitude, as near as may be found most suitable for a railway route, to the Colorado river, at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific.

Also amend first section by striking out "January" and inserting "October," and striking out "1867" and inserting "1866;" so that that portion will read: "the first meeting of said board of commissioners shall be held at the Turner Hall, in the city of St. Louis, on the 1st day of October, A. D. 1866."

Amend second section by striking out "two" and inserting "one," so that that portion will read:

Said way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary grounds for station buildings, workshops, depots, machine-shops, &c.

Amend the third section by inserting the words "and not including the reserved numbers" after the following clause: "and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections."

Also amend the third section by striking out "fifty" and inserting "twenty;" so that that portion will read:

Provided further, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided.

Amend the fourth section by striking out the words "United States" and inserting the word "company" after the words "shall be paid a reasonable compensation for their services by the;" and also insert the words "under oath" after the words "the commissioners shall so report."

Amend the sixth section by striking out the words "and the reserved alternate sections shall not be sold by the Government at a price less than \$250 per acre when offered for sale."

Amend the seventh section by striking out "two" and inserting "one;" so that that portion will read:

That the said Atlantic and Pacific Railroad Company be, and is hereby, authorized and empowered to enter upon, purchase, take, and hold any lands or premises that may be necessary and proper for the construction and working of said road not exceeding in width one hundred feet on each side of the line of its railroad, unless a greater width be required for the purpose of excavation or embankment.

Also amend the same section by striking out the words "increasing or diminishing, as the case may be, the award of the commissioners," and inserting the words "more favorable;" so that that portion will read:

And said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any cost that may arise upon such appeal; and in case the party appealing does not obtain a verdict more favorable, such party shall pay the whole cost incurred by the appellee, as well as his own.

Also add to the bill the following section:

SEC. 21. And be it further enacted, That whenever in any grant of land or other subsidies, made or hereafter to be made, to railroad or other corporations, the United States has reserved the right, or shall reserve it, to appoint directors, engineers, commissioners or other agents to examine said roads, or act in conjunction with other officers of said company or companies, all the costs, charges, and pay of said directors, engineers, commissioners, or agents shall be paid by the respective companies. Said directors, engineers, commissioners, or agents shall be paid for said services the sum of ten dollars per day, for each and every day actually and necessarily employed, and ten cents per mile for each and every mile actually and necessarily traveled, in discharging the duties required of them, which per diem and mileage shall be in full compensation for said services. And in case any company shall refuse or neglect to make such payments, no more patents for lands or other subsidies shall be issued to said company until these requirements are complied with.

The amendments were agreed to.

Mr. CONKLING. I move to strike out from the list of corporators the name of "James M. Scovel" and insert the name of "Alexander C. Cattell."

The motion was agreed to.

Mr. WENTWORTH. I notice that there are several members of Congress named among these corporators. I think it would be better to strike their names out.

Mr. PRICE. I have no control over that matter; it is for the House to decide.

Mr. WENTWORTH. Then I move to amend by striking out the names of members of Congress in the list of corporators named in this bill.

The motion was agreed to.

Mr. LAWRENCE, of Ohio. Will the gentleman from Iowa [Mr. PRICE] allow me to offer an amendment?

Mr. PRICE. I will hear it.

Mr. LAWRENCE, of Ohio. I desire to amend the last section by adding thereto the following:

And Congress shall at all times have the right to prescribe the rate of charges for the transportation of freight and conveyance of passengers on said road.

Mr. PRICE. I cannot yield for any such purpose, for it is an entirely unusual provision, and I see no necessity for introducing a different feature into this grant.

Now, in reference to this bill, I have but a few words to say, and then I shall call the previous question. This bill gives about the same grant of land to this Atlantic and Pacific railroad that was given to the Northern Pacific railroad. I desire to state but one other fact. The Northern Pacific railroad is not allowed to go further south than the forty-fifth parallel of latitude. This Atlantic and Pacific railroad runs along the thirty-fifth parallel of latitude, so that it is kept some three or four hundred miles from the Central Pacific railroad, which is now being built under the control of the Government. Therefore they will not be conflicting lines.

Mr. WILSON, of Iowa. I wish my colleague [Mr. PRICE] would state to the House how much land per mile and how much in the aggregate this bill grants.

Mr. PRICE. I will answer my colleague [Mr. WILSON] by reading from the bill, which states that the company shall be allowed "every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United

States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State." And as I said before, that is about as much as is granted to the Northern Pacific Railroad Company.

Mr. WILSON, of Iowa. I ask the gentleman to state in round numbers the number of acres of land that is given.

Mr. PRICE. I have as high respect for my colleague as I have for any gentleman upon this floor; and I will say now, for I may not have the opportunity again, that if I was delivering his eulogy I would say that he is a good lawyer and an honest man, and it is with great regret that I ever differ with him.

Mr. WILSON, of Iowa. Of course, I am very glad to hear all that; but the gentleman does not answer my question.

Mr. PRICE. Before you can tell how much there is in anything you must know how wide it is and how long it is. Now, I only know how wide this road is, but I do not know how long it is. Now I call the previous question.

The question was taken upon seconding the call for the previous question; and upon a division there were—ayes 52, noes 42.

Before the result of the vote was announced, Mr. LAWRENCE, of Ohio, called for tellers.

Tellers were ordered; and Mr. LAWRENCE, of Ohio, and Mr. PRICE were appointed.

The House divided; and the tellers reported—ayes 57, noes 37.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the bill was ordered to a third reading and read the third time.

Mr. FINCK. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 44, not voting 82; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Bromwell, Buckland, Sidney Clarke, Cooper, Delano, Driggs, Eckley, Farnsworth, Garfield, Hayes, Higby, Hogan, Holmes, Chester D. Hubbard, James R. Hubbell, Julian, Kelley, Koonz, Kuykendall, Ladin, Latham, Loan, Maynard, McClure, McCullough, McRuer, Miller, Moorhead, Moulton, Newell, O'Neill, Paine, Perham, Platts, Price, Shanklin, Spalding, Stevens, Stokes, Strouse, Nathaniel G. Taylor, Thornton, Van Aernam, Robert T. Van Horn, Welker, Wentworth, Whaley, Stephen F. Wilson, Windom, and Woodbridge—60.

NAYS—Messrs. Alley, Ancona, Bergen, Broomall, Cobb, Conkling, Cullom, Dawes, DeForest, Eldridge, Eliot, Farquhar, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Hotchkiss, John H. Hubbard, Kasson, Ketchum, George V. Lawrence, William Lawrence, Le Blond, Mercer, Morrill, Myers, Niblack, Nicholson, Orth, Radford, Samuel J. Randall, Ritter, Rollins, Ross, Sawyer, Schenck, Shellabarger, Taber, Nelson Taylor, Trimble, Ward, Williams, James F. Wilson, and Winfield—44.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Benjamin, Blaine, Blow, Boutwell, Boyer, Brandegee, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Eggleston, Ferry, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Henderson, Hill, Hooper, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Ingersoll, Jencks, Johnson, Jones, Kelso, Kerr, Letwith, Longyear, Lynch, Marshall, Marston, Marvin, McIndoe, McKee, Moore, Noell, Patterson, Phelps, Pike, Pomeroy, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Seafeld, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Wright—82.

So the bill was passed.

Mr. VAN HORN, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUSPENSION OF JOINT RULES.

The SPEAKER. The Chair will have read two of the joint rules which it is the invariable practice to suspend during the last days of the session.

The Clerk read as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation, on the last day of the session."

Mr. KUYKENDALL. I ask unanimous consent to offer the following resolution:

*Resolved*, (the Senate concurring.) That the sixteenth and seventeenth joint rules be suspended during the remainder of the present session.

Mr. WENTWORTH. I object. There are bills in the Senate which I do not want to come here.

Mr. KUYKENDALL. I move that the rules be suspended, in order to allow me introduce the joint resolution.

The motion to suspend the rules was agreed to; and the resolution was introduced and adopted.

#### PAYMENT OF ASSASSINATION REWARDS.

The House, agreeably to order, resumed the consideration of the bill (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward, on which Mr. HOTCHKISS was entitled to the floor.

The bill was read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be paid, out of any moneys in the Treasury not otherwise appropriated, in satisfaction of all claims for the rewards offered by the President of the United States or by authority of the War Department for the capture of the assassins of the late President, Abraham Lincoln, and the Secretary of State, William H. Seward, the following sums to the following named persons, namely:

For the capture of Payne:

To Major H. W. Smith, the sum of \$1,000; to Richard C. Morgan, Ely Devos, Charles H. Rosch, Thomas Sampson, William W. Wernerskirch, John H. Kimball, and P. M. Clark, the sum of \$500 each, and to Susan Jackson and Mary Ann Griffin, the sum of \$250 each.

For the capture of Atzerodt:

To Major Enos R. Artman, the sum of \$10,000; to Zachariah W. Gemmill, the sum of \$5,000; to James W. Purdham, the sum of \$3,000; to Christopher Ross, David H. Parker, Albert Bender, Samuel J. Williams, George W. Young, and James Longacre, the sum of \$1,100 each.

For the capture of Booth and Herold:

To Lafayette C. Baker, the sum of \$17,500; to Everton J. Conger, the sum of \$17,500; to Luther B. Baker, the sum of \$5,000; to James R. O'Beirne, the sum of \$2,000; to H. H. Wells, the sum of \$1,500; to George Cottingham, the sum of \$1,500; to Alexander Lovett, the sum of \$1,000; to Samuel H. Beckwith, the sum of \$500; to Lieutenant Edward P. Doherty, late of the sixteenth New York cavalry, the sum of \$2,500; to Sergeant Boston Corbett, sixteenth New York cavalry; Sergeant Andrew Wendell, sixteenth New York cavalry; Corporal Charles Zimmer, sixteenth New York cavalry; Corporal Michael Uniac, sixteenth New York cavalry; Corporal John Winter, sixteenth New York cavalry; Corporal Herman Newgart, sixteenth New York cavalry; Corporal John Walt, sixteenth New York cavalry; Corporal Oliver Longay, sixteenth New York cavalry; Corporal Michael Hornsby, sixteenth New York cavalry; Private John Myers, sixteenth New York cavalry; Private John Ryan, sixteenth New York cavalry; Private William Byrne, sixteenth New York cavalry; Private Philip Hoyt, sixteenth New York cavalry; Private Martin Kelley, sixteenth New York cavalry; Private Henry Putnam, sixteenth New York cavalry; Private Frank McDaniel, sixteenth New York cavalry; Private Lewis Savage, sixteenth New York cavalry; Private Abraham Genay, sixteenth New York cavalry; Private Emory Parady, sixteenth New York cavalry; Private David Baker, sixteenth New York cavalry; Private William McQuade, sixteenth New York cavalry; Private John Millington, sixteenth New York cavalry; Private Frederick Deitz, sixteenth New York cavalry; Private John A. Singer, sixteenth New York cavalry; Private Carl Steinbrugge, sixteenth New York cavalry; Private Joseph Zissen, sixteenth New York cavalry, the sum of \$1,000.

For the capture of Jefferson Davis:

To Lieutenant Colonel B. D. Pritchard, \$10,000. To Captain John C. Hathaway and Captain Charles C. Hudson, \$729 60 each.

To First Lieutenant Lauren H. Ripley, First Lieutenant John A. Palmer, First Lieutenant Henry S. Boutell, First Lieutenant Herbert A. Bachus, First Lieutenant Silas J. Stauber, First Lieutenant Charles W. Risk, First Lieutenant T. H. B. Hazelton, Second Lieutenant Hiram D. Treat, Second Lieutenant John Bennett, Second Lieutenant Chasula M. Bickford, Second Lieutenant Lorenzo T. Southworth, Second Lieutenant Alfred B. Purinton, Second Lieutenant Leonard C. Remington, Second Lieutenant Samuel F. Murphy, \$553 83 each.

To Adjutant Julian G. Dickinson, \$563 10.

To Regimental Quartermaster Perry J. Davis, Regimental Commissary John S. Pugsley, \$669 10.

To Assistant Surgeon John A. Grooves, ninety-eighth Illinois mounted infantry, \$555 88.

To Sergeant Major Fitz E. Stevens, \$271.

To Hospital Steward Amos Knight, \$239 72.

To Commissary Sergeant Harlan P. Dunning, \$229 30.

To First Sergeant Othniel E. Gooding, company A; First Sergeant John W. Bradner, company B; First Sergeant John H. Shoemaker, company C; First Sergeant Edwin Hines, company E; First Sergeant Stanley L. Nichols, company F; First Sergeant Francis Maguire, company G; First Sergeant George Hall, company H; First Sergeant E. F. Price, company I; First Sergeant George Davenport, company K; First Sergeant Wesley D. Pond, company M, \$250 15 each.

To Sergeant B. Frank Gooding, company A; Sergeant Thomas Davis, company A; Sergeant George H. Simmons, company A; Sergeant Thomas Riley, company A; Sergeant George Miles, company A; Sergeant Rezin Wright, company A; Sergeant Wake-man L. Grant, company B; Sergeant Morris Brass, company B; Sergeant Abel A. Braley, company B; Sergeant Simon Voght, company B; Sergeant Alonzo E. Ford, company B; Sergeant Charles L. Leathers, company C; Sergeant Thomas D. Smeed, company C; Sergeant Edward W. Parker, company D; Sergeant Robert W. Morris, company D; Sergeant David B. Green, company E; Sergeant William F. Babcock, company E; Sergeant George A. Bullard, company E; Sergeant Calhoun M. Burch, company E; Sergeant Benjamin S. Vest, Sergeant John C. Correnton, company F; Sergeant Thomas Gorman, company F; Sergeant Howard A. Dickerson, company F; Sergeant John C. Nichols, company G; Sergeant Benjamin F. Archer, company G; Sergeant Jacob N. Trask, company G; Sergeant James T. Obrien, company G; Sergeant John Cavanaugh, company G; Sergeant Jeremiah P. Craig, company G; Sergeant William H. Palmateer, company G; Sergeant Horace B. Warner, company H; Sergeant Solomon Wightman, company H; Sergeant Samuel Van Etten, company H; Sergeant Martin Horan, company H; Sergeant Daniel O'Creedy, company H; Sergeant Emory A. Miller, company I; Sergeant Lester F. Bates, company I; Sergeant Ansel Adams, company K; Sergeant George R. Vantine, company K; Sergeant Andrew Snook, company K; Sergeant Joseph Hofmaster, company L; Sergeant John F. Beebe, company L; Sergeant Levi Tuttle, company L; Sergeant Gordon N. Kenyon, company L; Sergeant James H. Holdsworth, company L; Sergeant Benjamin K. Goff, company L; Sergeant Alonzo C. Burnham, company L; Sergeant Edwin Pearce, company M; Sergeant George W. Collins, company M; Sergeant Roland Osgood, company M; Sergeant James W. Argo, company M, \$208 45 each.

To Corporal Darwin Dunning, company A; Corporal William P. Smith, company A; Corporal Robert L. Reynolds, company A; Corporal Lyman J. Russell, company A; Corporal William Crow, company B; Corporal John F. Shurburn, company B; Corporal Chester Barber, company B; Corporal G. F. Parker, company B; Corporal Nelson B. Tuttle, company B; Corporal A. W. Kenney, company B; Corporal Baxter B. Bennett, company B; Corporal Charles Burdell, company C; Corporal Reuben Palmerston, company C; Corporal David Q. Curry, company C; Corporal George M. Munger, company C; Corporal James Place, company D; Corporal Ephraim H. Truesdell, company D; Corporal William C. Siff, company D; Corporal William H. Crittenden, company D; Corporal John Hines, company E; Corporal Charles W. Carr, company E; Corporal Charles W. Tyler, company E; Corporal James Peor, company E; Corporal Christian Dorringer, company E; Corporal Adam Kline, company F; Corporal William F. True, company F; Corporal H. Connor, company F; Corporal George W. Vassiekle, company G; Corporal John Ballou, company G; Corporal George Myers, company G; Corporal Leander B. Shaw, company G; Corporal Benton D. Thurston, company H; Corporal Daniel P. Welton, company H; Corporal Charles Blackall, company H; Corporal Horace Heath, company H; Corporal William H. Conover, company H; Corporal Jerome B. Hath, company I; Corporal Martin V. Pomeroy, company I; Corporal Preston W. Brown, company I; Corporal Leander Van Kleeck, company K; Corporal Robert Day, company K; Corporal Alonzo Moe, company K; Corporal John Morrish, company K; Corporal Charles Cobb, company K; Corporal Charles F. Tabach, company L; Corporal Charles C. Marsh, company L; Corporal William Oliver, company L; Corporal William G. Rowe, company L; Corporal Henry Shanahan, company M; Corporal Simeon Huff, company M; Corporal Samuel Wilson, company M; Corporal Elias M. Engling, company M; Corporal John E. Rankin, company M; Farrier Gurley B. Chase, company C; Farrier Hiram S. Younes, company D; Farrier Orlando E. Carpenter, company E; Farrier Nathaniel Kix, company E; and Farrier John C. Rapp, company F, \$187 61 each.

To Private Hiram Austin, company A; Private William Balon, company A; Private James B. Boyle, company A; Private Daniel C. Blinn, company A; Private John Baty, company A; Private Joseph Corbitt, company A; Private Gilbert Coats, company A; Private James Fullerton, company A; Private Peter Gallagher, company A; Private Timothy Hill, company A; Private John L. Harlan, company A; Private Casper Knoble, company A; Private Joseph Moore, company A; Private Philo Morse, company A; Private Joshua Moe, company A; Private Henry Prevost, company A; Private John Rose, company A; Private Gilbert H. Haight, company A; Private Thurmon D. Gilbert, company A; Private John W. Ward, company A; Private John Schweigart, company A; Private George Rinko, company A; Private Thomas Lennon, company A; Private Wells Sprague, com-



pany A; Private John Fleming, company A; Private Augustus Armstrong, company B; Private William Amidon, company B; Private Francis Busha, company B; Private Erastus W. Blair, company B; Private Albert N. Babcock, company B; Private Franklin A. Crim, company B; Private Andrew Cleary, (or Clara), company B; Private Stephen Gardner, company B; Private Willard Huffman, company B; Private George Jacobs, company B; Private John Nicholas, company B; Private Solomon Powell, company B; Private Jacob J. Powell, company B; Private J. J. Perry, company B; Private Patrick Ryan, company B; Private Alpheus F. Sheppard, company B; Private W. P. Steadman, company B; Private David B. Skinner, company B; Private John Trumbel, company B; Private William V. Wood, company B; Private Frank Wright, company B; Private Peter Williams, company B; Private Enoch Woodbridge, company B; Private Joseph Wilch, company B; Private Albert Raymond, company B; Private Louis H. Wilcox, company B; Private Albert B. Bradley, company B; Private Jerome Rockwell, company C; Private Azro Blaklee, company C; Private James F. Bullard, company C; Private Simon S. Cooper, company C; Private Gilbert H. Darling, company C; Private Egbert O. Dickinson, company C; Private David Dillon, company C; Private Franklin C. Leach, company C; Private James H. Lynch, company C; Private George N. McCarthy, company C; Private Benjamin McElroy, company C; Private Stephen B. Munson, company C; Private Henry D. Murry, company C; Private George B. Reddick, company C; Private Thomas Robb, company C; Private John Ruppert, company C; Private Ranslear Riggs, company C; Private Benjamin F. Sherman, company C; Private George L. Smith, company C; Private William J. Smith, company C; Private Harmon Stephens, company C; Private Ira Stockwell, company C; Private Gabriel Swagart, company C; Private Emory Waurle, company C; Private Benson B. Withey, company C; Private George Worthly, company C; Private Jacob Bancers, company D; Private John Brown, company D; Private Columbus C. Cole, company D; Private Levi H. Hatch, company D; Private John A. Horrigan, company D; Private Thomas Hunter, company D; Private Horace C. Jenne, company D; Private Elisha Kelley, company D; Private Burt Judson, company D; Private George H. Mott, company D; Private William H. J. Martin, company D; Private Barnabas A. Mosher, company D; Private Jacob E. Num, company D; Private Theodore Mero, company D; Private William Parker, company D; Private James Putman, company D; Private Franklin Sawyer, company D; Private Henry Stanford, company D; Private David A. Sicknor, company D; Private Francis E. Thompson, company D; Private Henry M. Wisnor, company D; Private Orin Wiswell, company D; Private Zebodeo Wilcox, company D; Private James H. Collins, company D; Private John E. Dart, company E; Private William J. Frazier, company E; Private John L. Brown, company E; Private John G. Brindle, company E; Private Sela Cochran, company E; Private Cornelius Carroll, company E; Private Oscar Decker, company E; Private William F. Driscman, company E; Private George F. Dulmaye, company E; Private Henry Johnson, company E; Private Lucius M. Keyes, company E; Private Parmenas E. Keyes, company E; Private Edwin Lary, company E; Private Peter Leary, company E; Private James Lindsey, company E; Private Charles Martin, company E; Private James Merriek, company E; Private Edwin Besha, company E; Private Silas Bullard, company E; Private Charles Padlock, company E; Private Joseph Riley, company E; Private Russell S. Seaman, company E; Private John G. Stevens, company E; Private Oscar E. Teft, company E; Private Robert G. Tripp, company E; Private Albert J. Webb, company E; Private George Mills, company E; Private Christian Becht, company F; Private Henry Brodbeck, company F; Private Joseph Bellinger, company F; Private Dennis Brosco, company F; Private William J. Evans, company F; Private George Glazer, company F; Private John E. Grossman, company F; Private Ira Harrington, Jr., company F; Private Homer Hazelton, company F; Private B. Franklin Nichols, company F; Private James Patterson, company F; Private Barret Pierson, company F; Private George W. Rabb, company F; Private John P. Perkins, company F; Private Homer Leach, company F; Private Lucian B. Smith, company F; Private James F. Smith, company F; Private James St. John, company F; Private Henry Tricky, company F; Private George W. Temple, company F; Private William Wright, company F; Private Walter S. Mead, company F; Private William Beusider, (bugler), company F; Private William Brigham, company G; Private Lewis R. Bridge, company G; Private Lawrence E. Carr, company G; Private Alexander Cameron, company G; Private Stephen Cunningham, company G; Private David Cunningham, company G; Private Nelson Day, company G; Private David Dewey, company G; Private Frederick Deventer, company G; Private Robert Ferguson, company G; Private Timothy C. Green, company G; Private Japhet Godfrey, company G; Private Henry Gray, company G; Private Charles D. Hughes, company G; Private Michael Leary, company G; Private Joseph Odrin, company G; Private Joshua Parks, company G; Private Cary Reed, company G; Private John A. Skinner, company G; Private Samuel Underwood, company G; Private Daniel Graham, company G; Private Lucius O. Bates, company H; Private Henry M. Brown, company H; Private Abel H. Berry, company H; Private Benjamin Bump, company H; Private Milo D. Cooper, company H; Private Edwin Crou, company H; Private Francis J. Corey, company H; Private Jerome B. Cady, company H; Private William H. Davenport, company H; Private Charles H. Delany, company H; Private Noble Dougherty, company H; Private Orin H. Denning, company H; Private Lawrence Fletcher, company H; Private

Augustus Graum, company H; Private David Greer, company H; Private Leonard Gates, company H; Private Homer Hill, company H; Private John W. Holmes, company H; Private Madison A. Hoose, company H; Private Patrick Haggarty, company H; Private Charles Hunt, company H; Private William S. Herrick, company H; Private Charles Powell, company H; Private James R. Reynolds, company H; Private John Sullivan, company H; Private Albert Spinks, company H; Private John Saur, company H; Private William O. Wilson, company H; Private Francis Warner, company H; Private Oscar Thomas, company H; Private Joseph Cogswell, company H; Private Luke M. Thayer, company I; Private M. L. Brown, company I; Private George W. Bodwell, company I; Private William Dill, company I; Private George W. Dutcher, company I; Private Charles Flucker, company I; Private D. E. Krumm, company I; Private Charles M. Middaugh, company I; Private Peter McKennedy, company I; Private Hiram H. McCollough, company I; Private M. B. Pettit, company I; Private O. J. Bates, company I; Private Abraham Black, company I; Private C. Craig, company I; Private Matthias Esser, company I; Private H. C. Kenyon, company I; Private Joseph H. Abbey, company I; Private John Lauphere, company I; Private Joseph Jaturno, company I; Private Robert Love, company I; Private T. Lee, company I; Private F. E. McVane, company I; Private P. D. Pettit, company I; Private L. C. Wilbur, company I; Private Charles Fetterley, company I; Private John T. Byers, company I; Private John S. Booth, company K; Private George W. Baldwin, company K; Private John H. Cunningham, company K; Private George W. Foster, company K; Private Thomas Foley, company K; Private William Tilkins, company K; Private Abram H. Fox, company K; Private John Higgins, company K; Private Decator Jacox, company K; Private John H. Kelch, company K; Private Edwin Mabie, company K; Private Henry Malone, company K; Private Smith B. Mills, company K; Private James R. Norton, company K; Private John Nelson, company K; Private Jacob D. Newth, company K; Private Edwin Potter, company K; Private Renslear Rawson, company K; Private Enoch L. Rhodes, company K; Private George Somers, company K; Private Nathaniel Root, company K; Private Winfield S. Tripp, company K; Private John S. Torrence, company K; Private Lucius N. Wade, company K; Private Charles H. Stevens, company K; Private Timothy Sheppard, company K; Private Ira D. Brooks, company L; Private Andrew Bee, company L; Private Benjamin F. Carpenter, company L; Private Horatio W. Cliff, company L; Private Albert D. Carpenter, company L; Private Elijah Cummins, company L; Private Henry Chase, company L; Private Rufus N. Davison, company L; Private Francis M. Eddy, company L; Private James M. Flowers, company L; Private Rodney G. Flower, company L; Private Stillman W. Green, company L; Private John Harrington, company L; Private Otis L. Holton, company L; Private John C. Kizer, company L; Private John W. Lindsley, company L; Private Edwin Lowe, company L; Private John Lowe, company L; Private William Munn, company L; Private Alonzo Miller, company L; Private George Noggle, company L; Private William Newkirk, company L; Private J. J. Pennfield, company L; Private Peter Passenger, company L; Private Albert B. Payne, company L; Private Perry Phelps, company L; Private James W. Robinson, company L; Private Henry Smith, company L; Private Joseph E. Stewarts, company L; Private Oren Tucker, company L; Private William West, company L; Private Alvah C. Fisk, company L; Private Ferdinand Sobright, company L; Private Patrick McGrady, company L; Private Samuel F. Martin, company L; Private Daniel Edwards, company L; Private Judson J. Bailey, company L; Private George G. King, company L; Private Wilts H. Williams, company L; Private William Farrow, company L; Private James H. Burns, company L; Private Robert A. Van Tiffin, company L; Private Thomas Baldwin, company M; Private James Newell, (saddler), company M; Private Robert Arnold, company M; Private Andrew Anderson, company M; Private Ezra Bair, company M; Private Cornelius Bassford, company M; Private Emanuel Beazan, company M; Private Simon Brownell, company M; Private Samuel Harris, company M; Private Nathan E. Harrison, company M; Private Samuel W. Hubbard, company M; Private Elisha B. Perkins, company M; Private Eugene M. Seely, company M; Private John Vantyle, company M; and Private Walter Smith, company M, \$166 76, each.

Sec. 2. *And be it further enacted*, That the said several sums shall be paid to the several persons above named, respectively, personally, or in case of their decease, to the persons who would be entitled to the same under the bounty laws of the United States in case of a deceased soldier; and all assignments or transfers of said sums, or any part thereof, and all powers of attorney to collect or receive the same, or any part thereof, except as hereinafter provided, are hereby declared void.

Sec. 3. *And be it further enacted*, That any of the persons entitled to receive payment under the provisions of this act may authorize, by a proper instrument in writing, (without stamp), the Representative in Congress from his or her district to receive and pay over the same.

Sec. 4. *And be it further enacted*, That any person holding an assignment of any of the sums herein awarded, or a power of attorney to collect the same on account of moneys claimed to have been heretofore actually advanced to any of the parties herein provided for, may, within thirty days from the passage of this act, give notice thereof to the proper accounting officer of the War or Treasury Departments who shall have such matter in charge; and such accounting officer shall thereupon refer the same, with

all papers and vouchers relating thereto, to the chief justice of the supreme court of the District of Columbia, who is hereby authorized to investigate and determine the validity of such claim, and by a certificate to be signed by him, (without stamp,) direct the payment of so much of the money claimed as shall be equal to the amount heretofore advanced by the claimant to the person executing such assignment, transfer, or power of attorney. But no notice of such claim shall delay the payment of such sums to the parties herein named by the proper officer for a longer period than ninety days from the passage of this act, unless the certificate of such justice shall be filed within that period.

Sec. 5. *And be it further enacted*, That no payments shall be made under the provisions of this act until after the expiration of thirty days from the passage thereof; and in all cases when notice of an assignment or transfer shall be given, such payment shall be delayed until the filing of the certificate of the chief justice of the supreme court of the District of Columbia, as herein provided, not exceeding, however, ninety days from the passage of this act.

Mr. DELANO. I ask the gentleman from New York to yield to me that I may offer a substitute for the bill.

Mr. HOTCHKISS. I yield for that purpose.

Mr. DELANO. I move to amend by striking out all after the enacting clause of the bill and inserting the following:

That there be paid, out of any moneys in the Treasury not otherwise appropriated, in satisfaction of all claims for the rewards offered by the President of the United States or by authority of the War Department for the capture of the assassins of the late President, Abraham Lincoln, and the Secretary of State, William H. Seward, the following sums to the following named persons, namely:

For the capture of Payne:  
To Major H. W. Smith, who had charge of and commanded the force, the sum of..... \$1,000  
Richard C. Morgan, detective..... 500  
Eli Devoe, detective..... 500  
Charles H. Rosch, detective..... 500  
Thomas Sampson, detective..... 500  
William M. Wermerskirsh, detective..... 500  
John H. Kimball, citizen..... 500  
P. M. Clark, citizen..... 500  
Susan Jackson, colored..... 250  
Mary Ann Griffin..... 250

For the capture of Atzerodt:  
To Major E. R. Artman, 238th Pennsylvania volunteers..... \$1,250 00  
Sergeant Zachariah W. Gemmill, 1st Delaware cavalry..... 3,598 54  
Private Christopher Ross, 1st Delaware cavalry..... 2,878 78  
Private David H. Barker, 1st Delaware cavalry..... 2,878 78  
Private Albert Bender, 1st Delaware cavalry..... 2,878 78  
Private Samuel J. Williams, 1st Delaware cavalry..... 2,878 78  
Private George W. Young, 1st Delaware cavalry..... 2,878 78  
Private James Longacre, 1st Delaware cavalry..... 2,878 78  
James W. Purdum, citizen..... 2,878 78

For the capture of Booth and Herold:  
To E. J. Conger..... \$15,000  
Lafayette C. Baker..... 3,750  
Luther E. Baker..... 3,000  
Lieutenant R. P. Doherty..... 5,250  
James R. O'Beirne..... 2,000  
H. H. Wells..... 1,000  
George Cottingham..... 1,000  
Alexander Lovett..... 1,000

Sergeants Boston Corbett and Andrew Wendell, 16th New York cavalry; Corporals Charles Zimmer, Michael Unice, John Winter, Herman Newgarten, John Walz, Oliver Lonpay, and Michael Hornsby, 16th New York cavalry; Privates John Myers, John Ryan, William Byrne, Philip Hoyt, Martin Kelley, Henry Putnam, Frank McDaniel, Lewis Savage, Abraham Genay, Emory Parady, David Baker, William McQuade, John Millington, Frederick Deitz, John A. Singer, Carl Steinbrugge, and Joseph Zisgen, 16th New York cavalry, \$1,653 84.8.

For the capture of Jefferson Davis:  
Lieutenant Colonel B. D. Pritchard..... \$10,000 00  
Captain John C. Hathway..... 729 60  
Captain Charles C. Hudson..... 729 60  
First Lieutenant Lauren H. Ripley..... 555 88  
First Lieutenant John A. Palmer..... 555 88  
First Lieutenant Henry S. Boutell..... 555 88  
First Lieutenant Herbert A. Bachus..... 555 88  
First Lieutenant Silas J. Stauber..... 555 88  
First Lieutenant Charles W. Fisk..... 555 88  
First Lieutenant T. H. B. Hazellon..... 555 88  
Second Lieutenant Hiram D. Treat..... 555 88  
Second Lieutenant John Bennett..... 555 88  
Second Lieutenant Chacla M. Bickford..... 555 88  
Second Lieutenant Lorenza T. Southworth..... 555 88  
Second Lieutenant Alfred B. Parinton..... 555 88  
Second Lieutenant Leonard C. Remington..... 555 88  
Second Lieutenant Samuel F. Murphy..... 555 88  
Adjutant Julian G. Dickinson..... 600 10  
Regimental Quartermaster Perry J. Davis..... 600 10  
Regimental Commissary John S. Fugley..... 555 88  
Ass't Surg. J. A. Grooves, (98th Ill. m't'd inf.)..... 271 00  
Sergeant Major Fitz E. Stover..... 229 72  
Hospital Steward Amos Knight..... 229 72  
Commissary Sergeant Harlan P. Dunning..... 250 15  
First Sergeant Othniel E. Gooding, Co. A..... 250 15  
First Sergeant John W. Bradner, Co. B..... 250 15  
First Sergeant John H. Shoemaker, Co. C..... 250 15

First Sergeant Edwin Hines, company E.....	250 15	Private Hiram Austin, company A.....	166 76	Private Edwin Besha, company E.....	166 76
First Sergeant Stanley L. Nichols, Co. F.....	250 15	Private William Balon, company A.....	166 76	Private Silas Bullard, company E.....	166 76
First Sergeant Francis Maguire, Co. G.....	250 15	Private James B. Boyle, company A.....	166 76	Private Charles Paddock, company E.....	166 76
First Sergeant George Hall, company H.....	250 15	Private Daniel C. Blinn, company A.....	166 76	Private Joseph Riley, company E.....	166 76
First Sergeant E. F. Price, company I.....	250 15	Private John Baty, company A.....	166 76	Private Russell S. Seaman, company E.....	166 76
First Sergeant George Davenport, Co. K.....	250 15	Private Joseph Corbitt, company A.....	166 76	Private John G. Stevens, company E.....	166 76
First Sergeant Wesley D. Pond, Co. M.....	250 15	Private Gilbert Coata, company A.....	166 76	Private Oscar E. Tefft, company E.....	166 76
Sergeant B. Frank Gooding, company A.....	208 45	Private James Fullerton, company A.....	166 76	Private Robert G. Tripp, company E.....	166 76
Sergeant Thomas Davis, company A.....	208 45	Private Peter Gallagher, company A.....	166 76	Private Albert J. Webb, company E.....	166 76
Sergeant George H. Simmons, company A.....	208 45	Private Timothy Hill, company A.....	166 76	Private George Ellis, company E.....	166 76
Sergeant Thomas Riley, company A.....	208 45	Private John L. Harlan, company A.....	166 76	Private Christian Becht, company E.....	166 76
Sergeant George Miles, company A.....	208 45	Private Casper Knoblo, company A.....	166 76	Private Henry Brodcock, company E.....	166 76
Sergeant Rezin Wright, company A.....	208 45	Private Josiah B. Moore, company A.....	166 76	Private Joseph Bellinger, company E.....	166 76
Sergeant Wakeman L. Grant, company B.....	208 45	Private Joseph Moore, company A.....	166 76	Private Dennis Dresco, company E.....	166 76
Sergeant Morris Brass, company B.....	208 45	Private Philo Morse, company A.....	166 76	Private William J. Evans, company E.....	166 76
Sergeant Abel A. Bralcy, company B.....	208 45	Private Joshua Moe, company A.....	166 76	Private George Glazer, company E.....	166 76
Sergeant Simon Voght, company B.....	208 45	Private Charles W. Nichols, company A.....	166 76	Private John F. Grossman, company E.....	166 76
Sergeant Alondo E. Ford, company B.....	208 45	Private Henry Prevost, company A.....	166 76	Private Ira Harrington, Jr., company E.....	166 76
Sergeant Charles L. Leathers, company C.....	208 45	Private John Rose, company A.....	166 76	Private Homer Hazelton, company E.....	166 76
Sergeant Thomas D. Sincad, company C.....	208 45	Private Gilbert H. Haight, company A.....	166 76	Private B. Franklin Nichols, company E.....	166 76
Sergeant Edward W. Parker, company D.....	208 45	Private Thurmond D. Knapp, company A.....	166 76	Private James Patterson, company E.....	166 76
Sergeant Robert W. Morris, company D.....	208 45	Private John W. Ward, company A.....	166 76	Private Barret Pierson, company E.....	166 76
Sergeant David B. Green, company B.....	208 45	Private John Schweigart, company A.....	166 76	Private George W. Rabb, company E.....	166 76
Sergeant William F. Babcock, company E.....	208 45	Private George Rinke, company A.....	166 76	Private John P. Perkins, company E.....	166 76
Sergeant George A. Bullard, company E.....	208 45	Private Thomas Lennon, company A.....	166 76	Private Homer Leach, company E.....	166 76
Sergeant Calhoun M. Burch, company E.....	208 45	Private Wells Sprague, company A.....	166 76	Private Lucian B. Smith, company E.....	166 76
Sergeant Benjamin S. Vest.....	208 45	Private John Fleming, company A.....	166 76	Private James F. Smith, company E.....	166 76
Sergeant John C. Correnton, company F.....	208 45	Private Augustus Armstrong, company B.....	166 76	Private James St. John, company E.....	166 76
Sergeant Thomas Gorman, company F.....	208 45	Private William Amidon, company B.....	166 76	Private Henry Tricky, company E.....	166 76
Sergeant Howard A. Dickerson, Co. F.....	208 45	Private Francis Busha, company B.....	166 76	Private George W. Temple, company E.....	166 76
Sergeant John C. Nichols, company G.....	208 45	Private Erastus W. Blair, company B.....	166 76	Private William Wright, company E.....	166 76
Sergeant Benjamin F. Archer, Co. G.....	208 45	Private Albert N. Babcock, company B.....	166 76	Private Walter S. Mead, company E.....	166 76
Sergeant Jacob N. Trask, company G.....	208 45	Private Franklin A. Crim, company B.....	166 76	Private William Beusneider, (bugler) Co. F.....	166 76
Sergeant James T. O'Brien, company G.....	208 45	Private Andrew Cleary, (or Clara) C. B.....	166 76	Private William Brigham, company G.....	166 76
Sergeant John Cavanaugh, company G.....	208 45	Private Stephen Gardner, company B.....	166 76	Private Lewis R. Bridge, company G.....	166 76
Sergeant Jeremiah P. Craig, company G.....	208 45	Private Willard Huffman, company B.....	166 76	Private Lawrence E. Carr, company G.....	166 76
Sergeant William H. Palmateer, Co. G.....	208 45	Private George Jacobs, company B.....	166 76	Private Alexander Cameron, company G.....	166 76
Sergeant Horace B. Warner, company H.....	208 45	Private John Nicholas, company B.....	166 76	Private Stephen Cunningham, company G.....	166 76
Sergeant Solomon Wightman, Co. H.....	208 45	Private Solomon Powell, company B.....	166 76	Private David Cunningham, company G.....	166 76
Sergeant Samuel Van Etton, company H.....	208 45	Private Jacob J. Powell, company B.....	166 76	Private Nelson Day, company G.....	166 76
Sergeant Martin Horan, company H.....	208 45	Private J. J. Perry, company B.....	166 76	Private David Dewey, company G.....	166 76
Sergeant Daniel O. Crotty, company H.....	208 45	Private Patrick Ryan, company B.....	166 76	Private Robert Dwyer, company G.....	166 76
Sergeant Emory A. Miller, company I.....	208 45	Private Alpheus F. Sheppard, company B.....	166 76	Private Robert Ferguson, company G.....	166 76
Sergeant Lester P. Bates, company I.....	208 45	Private W. P. Steadman, company B.....	166 76	Private Timothy C. Gecon, company G.....	166 76
Sergeant Ansel Adams, company K.....	208 45	Private David B. Skinner, company B.....	166 76	Private Japhet Godfrey, company G.....	166 76
Sergeant George B. Vantine, company K.....	208 45	Private John Trumbel, company B.....	166 76	Private Henry Gray, company G.....	166 76
Sergeant Andrew Snook, company K.....	208 45	Private William V. Wood, company B.....	166 76	Private Charles D. Hughes, company G.....	166 76
Sergeant Joseph Hofmaster, company L.....	208 45	Private Frank Wright, company B.....	166 76	Private Michael Leary, company G.....	166 76
Sergeant John F. Beebe, company L.....	208 45	Private Peter Williams, company B.....	166 76	Private Joseph Ordini, company G.....	166 76
Sergeant Levi Tuttle, company L.....	208 45	Private Enoch Woodbridge, company B.....	166 76	Private Joshua Parks, company G.....	166 76
Sergeant Gordon N. Kenyon, company L.....	208 45	Private Joseph Welch, company B.....	166 76	Private Cary Reed, company G.....	166 76
Sergeant James H. Holdsworth, Co. I.....	208 45	Private Albert Raymond, company B.....	166 76	Private John A. Skinner, company G.....	166 76
Sergeant Benjamin K. Coif, company L.....	208 45	Private Louis H. Wilcox, company B.....	166 76	Private Samuel Underwood, company G.....	166 76
Sergeant Alonzo C. Burnham, company L.....	208 45	Private Albert B. Bradley, company B.....	166 76	Private Daniel Graham, company G.....	166 76
Sergeant Edwin Pearce, company M.....	208 45	Private Jerome Rockwell, company C.....	166 76	Private Lucius O. Bates, company H.....	166 76
Sergeant George W. Collins, company M.....	208 45	Private Azro Blakelee, company C.....	166 76	Private Henry M. Brown, company H.....	166 76
Sergeant Roland Osgood, company M.....	208 45	Private James F. Bullard, company C.....	166 76	Private Abel H. Berry, company H.....	166 76
Sergeant James W. Argo, company M.....	208 45	Private Simeon S. Cooper, company C.....	166 76	Private Benjamin Bump, company H.....	166 76
Corporal Darwin Dunning, company A.....	187 61	Private Gilbert H. Darling, company C.....	166 76	Private Milo D. Cooper, company H.....	166 76
Corporal William P. Smith, company A.....	187 61	Private Egbert O. Dickinson, company C.....	166 76	Private Edwin Croun, company H.....	166 76
Corporal Robert L. Reynolds, company A.....	187 61	Private David Dillon, company C.....	166 76	Private Francis J. Corey, company H.....	166 76
Corporal Lyman J. Russell, company A.....	187 61	Private Franklin C. Leach, company C.....	166 76	Private Jerome B. Cady, company H.....	166 76
Corporal William Crow, company B.....	187 61	Private James H. Lynch, company C.....	166 76	Private William H. Davenport, company H.....	166 76
Corporal John F. Shurburn, company B.....	187 61	Private George N. McCarthy, company C.....	166 76	Private Charles H. Delany, company H.....	166 76
Corporal Chester Barber, company B.....	187 61	Private Benjamin McElroy, company C.....	166 76	Private Noble Dougherty, company H.....	166 76
Corporal C. F. Parker, company B.....	187 61	Private Stephen B. Munson, company C.....	166 76	Private Orin H. Denning, company H.....	166 76
Corporal Nelson B. Tattle, company B.....	187 61	Private Henry D. Murry, company C.....	166 76	Private Lawrence Fletcher, company H.....	166 76
Corporal A. W. Kenney, company B.....	187 61	Private George B. Reddiker, company C.....	166 76	Private Augustus Graum, company H.....	166 76
Corporal Baxter B. Bennett, company B.....	187 61	Private Thomas Robb, company C.....	166 76	Private David Greer, company H.....	166 76
Corporal Abram Sebring, company C.....	187 61	Private John Ruppert, company C.....	166 76	Private Leonard Gates, company H.....	166 76
Corporal Charles Burrell, company C.....	187 61	Private Ransler Riggs, company C.....	166 76	Private Homer Hill, company H.....	166 76
Corporal Reuben Palmerton, company C.....	187 61	Private Benjamin F. Sherman, company C.....	166 76	Private John W. Holmes, company H.....	166 76
Corporal David Q. Curry, company C.....	187 61	Private George I. Smith, company C.....	166 76	Private Madison A. Hoose, company H.....	166 76
Corporal George M. Munger, company C.....	187 61	Private William J. Smith, company C.....	166 76	Private Patrick Haggarty, company H.....	166 76
Corporal James Place, company D.....	187 61	Private Harman Stephens, company C.....	166 76	Private Charles Hunt, company H.....	166 76
Corporal Ephraim Truesdell, company D.....	187 61	Private Ira Stockwell, company C.....	166 76	Private William S. Herrick, company H.....	166 76
Corporal William C. Stiff, company E.....	187 61	Private Gabriel Swagart, company C.....	166 76	Private Charles Powell, company H.....	166 76
Corporal William H. Crittenden, Co. E.....	187 61	Private Emory Waurle, company C.....	166 76	Private James P. Reynolds, company H.....	166 76
Corporal John Hines, company E.....	187 61	Private Benson B. Withey, company C.....	166 76	Private John Sullivan, company H.....	166 76
Corporal Dewitt C. Carr, company E.....	187 61	Private George Worthy, company C.....	166 76	Private Albert Spinks, company H.....	166 76
Corporal Charles W. Tyler, company E.....	187 61	Private Jacob Bauers, company D.....	166 76	Private John Saur, company H.....	166 76
Corporal James Peeler, company E.....	187 61	Private John Brown, company D.....	166 76	Private William O. Wilson, company H.....	166 76
Corporal Dewitt C. Cobb, company F.....	187 61	Private Columbus C. Cole, company D.....	166 76	Private Francis Warner, company H.....	166 76
Corporal Christian Boringer, company F.....	187 61	Private Levi H. Hatch, company D.....	166 76	Private Oscar Thomas, company H.....	166 76
Corporal Adam Kline, company F.....	187 61	Private John A. Horizion, company D.....	166 76	Private Joseph Cogswell, company H.....	166 76
Corporal William F. True, company F.....	187 61	Private Thomas Hunter, company D.....	166 76	Private Luke M. Thayer, company H.....	166 76
Corporal H. Connor, company F.....	187 61	Private Horace C. Jennie, company D.....	166 76	Private M. L. Brown, company I.....	166 76
Corporal George W. Vansickle, company G.....	187 61	Private Elisha Kelley, company D.....	166 76	Private George W. Bodwell, company I.....	166 76
Corporal John Ballou, company G.....	187 61	Private Burt Judson, company D.....	166 76	Private William Dill, company I.....	166 76
Corporal George Myers, company G.....	187 61	Private George H. Mott, company D.....	166 76	Private George W. Dutcher, company I.....	166 76
Corporal Leander B. Shaw, company G.....	187 61	Private W. H. J. Martin, company D.....	166 76	Private Charles Flugger, company I.....	166 76
Corporal Benton D. Thurston, company H.....	187 61	Private Barnabas A. Mosher, company D.....	166 76	Private D. E. Krumm, company I.....	166 76
Corporal William McCune, company H.....	187 61	Private Jacob E. Num, company D.....	166 76	Private Charles M. Middaugh, company I.....	166 76
Corporal Daniel P. Welton, company H.....	187 61	Private Theodore Mero, company D.....	166 76	Private Peter McKennedy, company I.....	166 76
Corporal Charles Blackall, company H.....	187 61	Private William Parker, company D.....	166 76	Private Hiram H. McCollough, company I.....	166 76
Corporal Horace Heath, company H.....	187 61	Private James Putnam, company D.....	166 76	Private M. R. Pettit, company I.....	166 76
Corporal William H. Conover, company H.....	187 61	Private Franklin Sawyer, company D.....	166 76	Private O. J. Bates, company I.....	166 76
Corporal Jerome B. Hath, company I.....	187 61	Private Henry Stanford, company D.....	166 76	Private Abraham Black, company I.....	166 76
Corporal Martin V. Pomeroy, company I.....	187 61	Private David A. Sickner, company D.....	166 76	Private C. Craig, company I.....	166 76
Corporal Preston W. Brown, company I.....	187 61	Private Francis E. Thompson, company D.....	166 76	Private Matthias Esser, company I.....	166 76
Corporal Leander Van Kleck, company K.....	187 61	Private Henry M. Wisnor, company D.....	166 76	Private J. C. Kenyon, company I.....	166 76
Corporal Robert Dey, company K.....	187 61	Private Orin Wiswell, company D.....	166 76	Private Joseph H. Abbey, company I.....	166 76
Corporal Josiah R. Lewis, company K.....	187 61	Private Zebedee Wilcox, company D.....	166 76	Private John Launphere, company I.....	166 76
Corporal Alonzo Moe, company K.....	187 61	Private James H. Collins, company D.....	166 76	Private Joseph Laturno, company I.....	166 76
Corporal John Morrish, company K.....	187 61	Private John F. Dart, company E.....	166 76	Private Robert Love, company I.....	166 76
Corporal Charles Cobb, company K.....	187 61	Private William J. Frazer, company E.....	166 76	Private T. Lee, company I.....	166 76
Corporal Charles F. Tabah, company L.....	187 61	Private John E. Brown, company E.....	166 76	Private D. F. McVane, company I.....	166 76
Corporal Charles C. Marsh, company L.....	187 61	Private John G. Brindle, company E.....	166 76	Private P. D. Pettit, company I.....	166 76
Corporal William Oliver, company L.....	187 61	Private Sela Cochran, company E.....	166 76	Private L. C. Wilbur, company I.....	166 76
Corporal William G. Rowe, company L.....	187 61	Private Cornelius Carrold, company E.....	166 76	Private Charles Fetterley, company I.....	166 76
Corporal Henry Shanahan, company M.....	187 61	Private Oscar Decker, company E.....	166 76	Private John T. Byers, company I.....	166 76
Corporal Simcoe Huff, company M.....	187 61	Private William F. Driesman, company E.....	166 76	Private John S. Booth, company I.....	166 76
Corporal Samuel Wilson, company M.....	187 61	Private George F. Dulnaye, company E.....	166 76	Private George W. Baldwin, company K.....	166 76
Corporal Elias M. Engling, company M.....	187 61	Private Henry Johnson, company E.....	166 76	Private John H. Cunningham, company K.....	166 76
Corporal John E. Rankin, company M.....	187 61	Private Lucius M. Keyes, company E.....	166 76	Private George W. Foster, company K.....	166 76
Farrier Gurley B. Chase, company D.....	187 61	Private Parmenas B. Keyes, company E.....	166 76	Private Thomas Foley, company K.....	166 76
Farrier Watson S. Williams, company D.....	187 61	Private Edwin Larry, company E.....	166 76	Private William Tilkins, company K.....	166 76
Farrier Hiram S. Youngs, company D.....	187 61	Private Peter Legarry, company E.....	166 76	Private Abram H. Fox, company K.....	166 76
Farrier Orlando B. Carpenter, company E.....	187 61	Private James Lindsey, company E.....	166 76	Private John Higgins, company K.....	166 76
Farrier Nathaniel Eix, company E.....	187 61	Private Charles Martin, company E.....	166 76	Private Deator Jacox, company K.....	166 76
Farrier John C. Rapp, company F.....	187 61	Private James Merriek, company E.....	166 76	Private John H. Kelch, company K.....	166 76

Private Edwin Mabio, company K.....	168 76
Private Henry Malone, company K.....	168 76
Private Smith B. Mills, company K.....	168 76
Private James R. Norton, company K.....	168 76
Private John Nelson, company K.....	168 76
Private Jacob D. North, company K.....	168 76
Private Edwin Potter, company K.....	168 76
Private Rensselaer Rawson, company K.....	168 76
Private Enoch L. Rhodes, company K.....	168 76
Private George Somers, company K.....	168 76
Private Nathaniel Root, company K.....	168 76
Private Winfield S. Tripp, company K.....	168 76
Private John S. Torrence, company K.....	168 76
Private Lucius N. Wade, company K.....	168 76
Private Charles H. Stevens, company K.....	168 76
Private Timothy Sheppard, company K.....	168 76
Private Ira D. Brooks, company L.....	168 76
Private Andrew Bee, company L.....	168 76
Private Benjamin F. Carpenter, Co. L.....	168 76
Private Horatio W. Cliff, company L.....	168 76
Private Albert D. Carpenter, company L.....	168 76
Private Elijah Cummins, company L.....	168 76
Private Henry Chase, company L.....	168 76
Private Rufus N. Davison, company L.....	168 76
Private Francis M. Eddy, company L.....	168 76
Private James M. Flowers, company L.....	168 76
Private Rodney G. Flower, company L.....	168 76
Private Stillman W. Green, company L.....	168 76
Private John Harrington, company L.....	168 76
Private Otis L. Holton, company L.....	168 76
Private John C. Kiser, company L.....	168 76
Private John W. Lindsey, company L.....	168 76
Private Edwin Lowe, company L.....	168 76
Private John Lowe, company L.....	168 76
Private William Munn, company L.....	168 76
Private Alonzo Miller, company L.....	168 76
Private George Neagle, company L.....	168 76
Private William Newkirk, company L.....	168 76
Private J. J. Pennfield, company L.....	168 76
Private Peter Passenger, company L.....	168 76
Private Albert B. Payne, company L.....	168 76
Private Perry Phelps, company L.....	168 76
Private James W. Robinson, company L.....	168 76
Private Henry Smith, company L.....	168 76
Private Joseph E. Stewarts, company L.....	168 76
Private Oren Tucker, company L.....	168 76
Private William West, company L.....	168 76
Private Alvah C. Fisk, company L.....	168 76
Private Ferdinand Sobright, company L.....	168 76
Private Patrick McGrady, company L.....	168 76
Private Samuel F. Martin, company L.....	168 76
Private Daniel Edwards, company L.....	168 76
Private Judson J. Bailey, company L.....	168 76
Private George G. King, company L.....	168 76
Private Wills H. Williams, company L.....	168 76
Private William Farrow, company L.....	168 76
Private James H. Burns, company L.....	168 76
Private Robert A. Van Tiffin, company L.....	168 76
Private Thomas Baldwin, company M.....	168 76
Private James Newell, (saddler), company M.....	168 76
Private Robert Arnold, company M.....	168 76
Private Andrew Anderson, company M.....	168 76
Private Ezra Bair, company M.....	168 76
Private Cornelius Bassford, company M.....	168 76
Private Emanuel Beazan, company M.....	168 76
Private Simcon Brownell, company M.....	168 76
Private Samuel Harris, company M.....	168 76
Private Nathan E. Harrison, company M.....	168 76
Private Samuel W. Hubbard, company M.....	168 76
Private Elisha B. Perkins, company M.....	168 76
Private Eugene M. Seeley, company M.....	168 76
Private John Vantyle, company M.....	168 76
Private Walter Smith, company M.....	168 76

Sec. 2. And be it further enacted, That the said several sums shall be paid to the several persons above named, respectively, personally, or in case of their decease, to the persons who would be entitled to the same under the bounty laws of the United States in case of a deceased soldier.

During the reading of the substitute, Mr. STEVENS said: May I ask whether that is not the award of the War Department commission?

Mr. DELANO. So far as it concerns the award for the capture of Jefferson Davis; the substitute is as reported from the Committee of Claims. It is just as reported by Judge Advocate General Holt. In reference to the awards for the arrest of Atzerott, they are precisely as reported by Judge Holt. The changes in the bill from the Committee of Claims are in reference to the arrest of Booth and Herold.

The reading of the substitute was then concluded.

Mr. DRIGGS. I ask to offer an amendment to the amendment.

Mr. HOTCHKISS. I am willing to let the amendment be submitted.

The Clerk read as follows:

Strike out the following:

For the capture of Booth and Herold:  
To Lafayette C. Baker, the sum of \$17,500; to Everett J. Conger, the sum of \$17,500; to Luther B. Baker, the sum of \$5,000; to James R. O'Beirne, the sum of \$2,000; to H. H. Wells, the sum of \$1,500; to George Cottingham, the sum of \$1,500; to Alexander Lovett, the sum of \$1,000; to Samuel H. Beckwith, the sum of \$500; to Lieutenant Edward P. Doherty, late of the sixteenth New York cavalry, the sum of \$2,500; to Sergeant Boston Corbett, sixteenth New York cavalry; Sergeant Andrew Wendell, sixteenth New York cavalry; Corporal Charles Zimmer, sixteenth New

York cavalry; Corporal Michael Uniac, sixteenth New York cavalry; Corporal John Winter, sixteenth New York cavalry; Corporal Herman Newgarten, sixteenth New York cavalry; Corporal John Walz, sixteenth New York cavalry; Corporal Oliver Lonpay, sixteenth New York cavalry; Corporal Michael Hornsby, sixteenth New York cavalry; Private John Myers, sixteenth New York cavalry; Private John Ryan, sixteenth New York cavalry; Private William Byrne, sixteenth New York cavalry; Private Philip Hoyt, sixteenth New York cavalry; Private Martin Kelley, sixteenth New York cavalry; Private Henry Putnam, sixteenth New York cavalry; Private Frank McDaniel, sixteenth New York cavalry; Private Lewis Savage, sixteenth New York cavalry; Private Abraham Genay, sixteenth New York cavalry; Private Emery Parady, sixteenth New York cavalry; Private David Baker, sixteenth New York cavalry; Private William McQuade, sixteenth New York cavalry; Private John Millington, sixteenth New York cavalry; Private Frederick Deitz, sixteenth New York cavalry; Private John A. Singer, sixteenth New York cavalry; Private Carl Steinbrugge, sixteenth New York cavalry; Private Joseph Ziegen, sixteenth New York cavalry, the sum of \$1,000 each.

And in lieu thereof insert the following:  
For the capture of Booth and Herold:  
Colonel (now Brigadier General) L. C. Baker \$3,750 00  
First Lieutenant (now Captain) R. P. Doherty, sixteenth New York cavalry..... 7,000 00  
E. J. Conger, (detective)..... 4,000 00  
Luther B. Baker, (detective)..... 4,000 00  
Sergeant Boston Corbett, sixteenth New York cavalry..... 2,545 68  
Sergeant Andrew Wendell, sixteenth New York cavalry..... 2,545 68  
Corporal Charles Zimmer, sixteenth New York cavalry..... 2,291 09  
Corporal Michael Uniac, sixteenth New York cavalry..... 2,291 09  
Corporal John Winter, sixteenth New York cavalry..... 2,291 09  
Corporal Herman Newgarten, sixteenth New York cavalry..... 2,291 09  
Corporal John Walz, sixteenth New York cavalry..... 2,291 09  
Corporal Oliver Lonpay, sixteenth New York cavalry..... 2,291 00  
Corporal Michael Hornsby, sixteenth New York cavalry..... 2,291 09  
Private John Myers, sixteenth New York cavalry..... 2,036 53  
Private John Ryan, sixteenth New York cavalry..... 2,036 53  
Private William Byrne, sixteenth New York cavalry..... 2,036 53  
Private Philip Hoyt, sixteenth New York cavalry..... 2,036 53  
Private Martin Kelly, sixteenth New York cavalry..... 2,036 53  
Private Henry Putnam, sixteenth New York cavalry..... 2,036 53  
Private Frank McDaniel, sixteenth New York cavalry..... 2,036 53  
Private Lewis Savage, sixteenth New York cavalry..... 2,036 53  
Private Abraham Genay, sixteenth New York cavalry..... 2,036 53  
Private Emery Parady, sixteenth New York cavalry..... 2,036 53  
Private David Baker, sixteenth New York cavalry..... 2,036 53  
Private William McQuade, sixteenth New York cavalry..... 2,036 53  
Private John Millington, sixteenth New York cavalry..... 2,036 53  
Private Frederick Deitz, sixteenth New York cavalry..... 2,036 53  
Private John A. Singer, sixteenth New York cavalry..... 2,036 53  
Private Carl Steinbrugge, sixteenth New York cavalry..... 2,036 53  
Private Joseph Ziegen, sixteenth New York cavalry..... 2,036 53  
Susan Jackson, (colored)..... 250 00  
Mary Ann Griffin, (colored)..... 250 00  
Total..... \$75,000 00

Mr. DRIGGS. I do not want to see two or three men have \$40,000 of the reward. At the suggestion of the gentleman from Pennsylvania I have added provisions for the two colored women, Jackson and Griffin. This man Baker is building a big hotel in my State with the money he has made off the Government, and yet it is proposed to pay him \$17,500!

Mr. HOTCHKISS. Mr. Speaker, before the various amendments are discussed I will explain my position to the House in reporting the pending measure. The question of the distribution of these awards was referred to various committees in this House, and it was bandied about from committee to committee without action. It finally fell into the hands of the Committee of Claims. They were directed to make an investigation and to report to the House in what manner the rewards should be distributed. The duty was then devolved upon me by the committee. I have heard all the evidence in relation to the several awards, all that I have been able to procure from the War Department and elsewhere,

and presented this report to the committee. I supposed it was satisfactory to the committee. I had no idea any member had any objection to it or any part of it. If I had I should not have reported it. It is a matter in which I have no personal feeling. It is merely my judgment from the investigation I have made of the evidence. It is news to me that any member here objected to it. I do not wish to be forced to have an issue between myself and the commission that reported this matter to the House, and which was unacceptable to the House. I do not wish to have an issue forced on me and be compelled to discuss it here. I am told that the previous question will be voted down in case that it is called now, and members advise me not to press it. I am at a loss to know what my duty in the premises is.

Several MEMBERS. Call it now.

Mr. HOTCHKISS. In deference to many members of the House, I will now demand the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER stated the first question to be on the amendment offered by Mr. DRIGGS, which was the award of the War Department.

Mr. HOTCHKISS. I understand the question now is on the amendment which looks mainly to the award for the capture of Booth and Herold.

A MEMBER. That is all.

Mr. HOTCHKISS. Mr. Speaker, I am surprised at a remark made by the gentleman from Michigan [Mr. DRIGGS] when he offered his amendment, that General Baker was now building a hotel somewhere.

Mr. DRIGGS. Well, that is so. [Laughter.]

Mr. HOTCHKISS. The gentleman says that is so. Then, that is the length and breadth, I suppose, of his argument. Has the gentleman taken any testimony in this case to determine who is entitled to the reward for the apprehension of Booth and Herold? Does he know anything about the case? And are the circumstances, business, or private character of General Baker an element in this case?

Mr. STEVENS. Allow me to say that the evidence before the War Department shows that Baker did not know anything about it.

Mr. HOTCHKISS. The evidence before the War Department, begging the gentleman's pardon, gives the entire credit to General Baker for having planned, originated, and executed this enterprise; and I say, as a lawyer, that if you take the evidence set forth in the report of the commission of the War Department, take the reward offered and the terms of it, it will give every cent of it to General Baker. The report of the commission says:

"The expedition which resulted in this arrest was originated, planned, and generally directed by Colonel L. C. Baker, who, though not accompanying it, is regarded as having occupied the position of superior and commanding officer of those by whom it was immediately conducted. He is therefore deemed to be entitled to the same share of the reward which, under the statutory rule referred to, would be payable to the commander of a squadron, by a separate ship of which a prize had been taken, to wit: one-twentieth of the whole amount to be distributed, or, in this instance, \$3,750."

Wherein the report before the House differs from the report of the commission is not in the service performed, but the principle upon which the reward is distributed. The report before the House is that it should be distributed upon the ground of service actually performed and of merit in this particular case, and not with reference to the rule governing a seizure in a prize case. I will read further from the report of the commission:

"The services of Messrs. Conger and Baker upon this expedition were, no doubt, of great value; and, inasmuch as these parties immediately represented the views and intentions of Colonel Baker, their part in carrying out the original plan was particularly important."

These are the persons to whom the War Department give the credit of having performed the service; and they say, in short, that they shall not be paid for it, but somebody else shall. If it were a prize case the law in prize cases would not give them the reward. Now, this



reward was offered for the apprehension. The sum is fixed by the statute, and the parties who apprehended these men are entitled to it.

Now, in deference to this commission, in deference to what seems to be the popular wish, this sum has been divided up as the evidence seemed to require it to be done. Now, whether General Baker gets one dollar or one penny is wholly immaterial to me. When I shall have presented the case here I shall have discharged my duty. If the House chooses to deprive him of what belongs to him upon the ground suggested by the gentleman from Michigan, [Mr. Briggs,] then upon them will rest the responsibility. He is no friend of mine. In fact, all these men are strangers to me. If I had had the giving of the reward after the services had been performed I might not have given so much to any of them. But that is not the duty I was called upon to perform.

Now, in regard to the capture of Booth and Herold the circumstances are these: General Baker had that matter in charge as chief detective in Washington. He procured the evidence of where these men were; he mapped out the country to be searched; he called to him his aids, Lieutenant Colonel Conger and Lieutenant Baker, and gave them their orders. He procured a military force, and furnished the men who were in command of them with guides, with their charts, and with their directions. He did the brain work; he was responsible for the execution of the plan. It was his own plan, and if it had been unsuccessful the consequences would have fallen upon him, as they would have fallen upon General Grant, had he been unsuccessful in taking Petersburg and Richmond.

General Baker committed the execution of his plan to Lieutenant Colonel Conger, as brave and gallant a soldier as any who fought in our Army. He was a young man who enlisted from the town of Fremont, in the State of Ohio, on the 17th of April, 1861, and fought his way through from that time until the end of the war. He was twice shot through the hips, and he is now here with a withered limb, and unable to perform any manual labor. In God's providence he had this trust committed to him, and nobly did he discharge it.

If personal sympathy was to be allowed to have anything to do with this matter, I should say that Lieutenant Colonel Conger was the most meritorious man who had aught to do with this whole affair. He performed his duty as well as any man has performed any service during the war. And he accomplished his object. And with my consent he shall never be ignored in this matter with the paltry sum given to him under the rule prevailing in prize cases. You might just as well undertake to apply the rule which was observed in marching the beasts into Noah's ark as to undertake to apply that rule in this case. It is a perfect absurdity, and will strike every loyal mind in that way. It does manifest injustice to that brave soldier, and perpetrates an outrage upon him. There are persons in this House who fought with Lieutenant Colonel Conger, and who know whether what I say is true. I only speak from the evidence produced before me.

Now, sir, Lieutenant Colonel Conger and Lieutenant Baker started on their quest of Booth and Herold. I do not wish to say anything about the twenty-five men who were sent with them; I do not wish to have that issue forced upon me. I do not wish to discriminate one way or the other; but I will say that the evidence proves that the sum that is recommended to be given to them is all that they deserve to receive. That is the evidence; and if any gentleman in this House has any evidence to the contrary, I will yield to give him an opportunity to produce it.

Finally, after laborious services, they reached the tobacco warehouse where Booth and Herold were secreted. And I say here that to Lieutenant Colonel Conger and Lieutenant Baker is due the entire credit of capturing those men in that tobacco warehouse. It was with great difficulty that they were able to obtain

six men out of the whole twenty-five to assist them. Finally, Lieutenant Colonel Conger went and laid down rails in the vicinity of three sides of the tobacco warehouse, and took six men and placed them upon the rails, telling them that he would shoot the first man who should leave his place. And this man Corbett, who performed such great services to the country, was one of the six men.

Lieutenant Baker stood alone at the front door where Herold was captured. Herold came out and surrendered to Lieutenant Baker, and he was taken and bound and tied securely to an apple tree. Then Lieutenant Colonel Conger went to the warehouse and set it on fire. Then as Booth was walking to the front door, with his arms trailing, evidently with the intention of surrendering, after having refused to do so for half an hour—as he was walking to the front door, Corbett, who was then an insane man, thrust his pistol in through a crack and fired it without knowing where the ball was going. By a singular circumstance he hit Booth in the neck and Booth was killed. This Corbett had been placed on a rail, and told that if he left his place he would be shot.

Now, mark another fact. In the mean time Lieutenant Colonel Conger had to go, and with his own hands, with the aid of young Garrett, one of these rebels, and get rails to be propped against the doors. Now, if you could see this Lieutenant Colonel Conger here, see his crippled condition, you would understand why it is proposed to allow him what is called here an "enormous sum," \$17,500, for performing the part which he did. The cavalrymen, to whom the War Department proposes that large sums shall be given, were lying around under the apple trees and elsewhere.

Corbett's version of the affair is that he forsook his place and fired this shot because Providence directed him to do so. I am told that Corbett has since died in a lunatic asylum, and he was then evidently an insane man. Yet he is given the same sum as the other soldiers receive. For a two days' ride I think that is an ample compensation.

These soldiers had no care, no responsibility. If they had been unsuccessful they would have lost nothing. It was those who had charge of the expedition who had all to gain or all to lose. And the idea that the legislation of this country is to be based upon any such paltry consideration as to whether General Baker keeps a hotel or dram-shop, or is engaged in any other employment, is wholly foreign to the subject.

Mr. SCHENCK. Will the gentleman from New York [Mr. Hotchkiss] yield to me for a moment?

Mr. HOTCHKISS. Certainly.

Mr. SCHENCK. I would ask the gentleman upon what principle of calculation did the committee propose to give \$17,500 to General Baker.

Mr. HOTCHKISS. Upon the principle of giving him the same sum as would be given to any one else for the same service.

Mr. SCHENCK. How in regard to Lieutenant Colonel Conger?

Mr. HOTCHKISS. By the principle that would govern me if I was acting as a referee or judge, or was sitting as a juror.

Mr. SCHENCK. Is there not, in the kindred cases of distribution of prize money, a law which gives to the commander of an expedition, whether an admiral, captain, or commodore, whether accompanying the expedition or not, one twentieth of the whole prize money? Now, General Baker, who is said to have been the brains of the expedition, remained here in Washington all the time, is allowed \$17,500, which is nearly one fourth of the whole.

Mr. HOTCHKISS. I am not a sailor nor the judge of a prize court, and I do not know anything about their rules, nor do I care anything about them. I judge of the merits of the case as it is presented to me.

Mr. SCHENCK. The gentleman will understand me. I desire to know what principle was adopted.

Mr. HOTCHKISS. The rule of merit; the same judgment I would pronounce had I been a referee, or a judge or a jurymen.

Mr. SCHENCK. I understand the gentleman to say the committee did not adopt any kindred system.

Mr. HOTCHKISS. The report says so.

Mr. SCHENCK. They adopted an arbitrary system of their own.

Mr. HOTCHKISS. It is not arbitrary. An arbitrary rule is the will or fiat of the person who adopts the rule. This is a rule which grows out of the justice of the case.

Why, sir, this military commission deprived James R. O'Beirne, the provost marshal of this District, who performed extraordinary and meritorious services, who tracked Booth and Herold through the swamps of lower Maryland, who tracked them to their hiding places in Virginia, and who would have captured them if this other expedition had not been sent out. Colonel O'Beirne was deprived by this commission of all share in the reward.

Mr. SCHENCK. I ask the gentleman to yield to me. I am desirous of getting information.

Mr. HOTCHKISS. I do not yield further. I remember when I could not have a moment's time yielded to me by the gentleman, and when I simply asked him a question. I remember the language used upon the occasion.

George Cottingham, who is certified by the assistant judge advocate as having performed as meritorious service as any man engaged in the expedition, with having furnished him with evidence, as the only man who adhered to him night and day, procuring witnesses and securing the conviction of the criminals. Yet this man, supported by the strongest testimony, is entirely ignored by this commission. There are a number of like cases, but I will not follow them all up. Alexander Lovett, who is certified as having performed valuable and meritorious services, is also ignored by this commission.

Mr. O'NEILL. I should like to ask a question of the gentleman. If he is so convinced of Lieutenant Lovett's finding out these men, and giving the information which led to the arrest of almost the whole party, why has not he been recommended for more than \$1,000?

Mr. HOTCHKISS. The committee have taken the responsibility to give him \$1,000. The War Department commission refused him anything. I must confess we have been somewhat influenced by their judgment in this matter. An effort has been made to deny these men any reward whatever. If any gentleman wants to give these men more than we have reported I have no objection to it.

Mr. O'NEILL. One word more. I ask whether the gentleman will permit me to amend the bill so as to raise the amount of Lieutenant Lovett to \$1,500.

Mr. HOTCHKISS. This subject has been before the committee for several months. I believe it was referred to us in May last, and every man has had a full and fair opportunity to come before the committee and disclose all the facts within his knowledge. I have sent far and near to procure evidence.

Mr. O'NEILL. I understand there was a letter before the committee from General Augur, commanding this department, indorsing Lieutenant Lovett, and certifying that he had first found out where these parties had gone.

Mr. HOTCHKISS. The gentleman's affection for Lieutenant Lovett is a very sudden one. I have met the gentleman frequently, and supposed I was on reasonable, intimate terms with him, but never till now has he said a word upon the subject. It is easy enough where there are several hundred claimants here to exhaust one's time and strength in explaining why he has done this or that in each individual case. The most I can say is, so far as I am concerned, I have done the best I knew how. If anybody else knows any better I hope he will undertake the task.

Mr. O'NEILL. I desire to state that I presented the claim of Lieutenant Lovett to the chairman of the Committee of Claims some

weeks ago. I think the papers in the case were submitted through me to the committee. I wish I had known that my friend was taking an interest in the matter.

Mr. HOTCHKISS. I read the papers in the case of Lieutenant Lovett. I have examined and reported upon them. I have heard all there was about it. I have done for Lieutenant Lovett what his associates in arms would not do. They had not the courage to adopt any rule based upon equal and exact justice, but must go to the prize cases for an analogy. There are cases where there are no precedents and where you are not to be governed by precedents.

The gentleman from Michigan [Mr. DRIGGS] says that being referred to in the manner he has been, he thinks he ought to have a little time. Sir, how did the gentleman open his case here? He informed the House that there was an attempt to do a great outrage against some constituents of his, because a man had come into his State to keep a tavern that he did not like. Now, I discard everything of that kind, and if the House shall vote down this report and refuse to adopt this law, why, well and good. But I think we have had enough of these insinuations from gentlemen on this floor and from outsiders. During this session a telegram has been shown me from Lieutenant Doherty, saying that there was a great fraud being perpetrated here, and he wanted the American Congress to stop the wheels of legislation and wait until he could be here. Lieutenant Doherty has been here pretty much all winter, and has been before me time and time again in regard to this matter. I have had rolls of documents from him, and I wish to avoid saying anything about him. But now, since he has had the impudence to come here and charge a man who has been engaged in the honest discharge of his duty, without fear or favor, one who is a stranger to all these men, who does not care personally whether they get a cent, and since gentlemen have shown the want of confidence in the committee to make the remarks they have, I feel constrained to say that I believe Lieutenant Doherty was a downright coward in this expedition.

From all the evidence, I believe that while these five men were guarding that tobacco-house where these prisoners were secreted, and while Lieutenant Colonel Conger was endeavoring to get a guard around the building, Doherty stayed under a shed, and no power could drive him out of it. And now he comes in and claims that he did the whole. Such is the evidence in the case, as it has been presented. If there is anything to contradict it, let it be brought in. I would like to know if gentlemen suppose that men are influenced by the considerations which they suggest here. I would like to know if legislation is to be based upon the conditions of men or the business they pursue, or what the public say about them; if a bad man is not going to have the same measure of justice meted out to him here as a good man, or if a hotel keeper is not to be treated as well as a minister of the Gospel, so far as justice is concerned. I would scorn myself if I were to listen to such suggestions. Sir, I am no friend of these men. I am not here to express my private opinion of them. That is no part of this case. The question is, what did they do; what service did they perform, compared one with the other? Here is a large sum to be distributed, and you have got to distribute it somewhere. You may place it where it belongs, according to merit, according to the service performed, where the want of success would have brought sad consequences to those engaged in the expedition.

We are about to reward men for their services in suppressing this rebellion—for the brains which they possessed and brought into action when the country required brains, for their skill and fidelity in the service which they undertook to perform. It is not the gunner who is to receive the largest acknowledgment of gratitude from the country, although he may

have done good service in manning the batteries. It is the man who conceived the plan and executed it through the instrumentality of others. The report, if gentlemen will read it, will show upon what principle these recommendations are based.

Mr. DRIGGS. Will the gentleman from New York yield to me a few moments before he closes?

Mr. HOTCHKISS. I yield to the gentleman for five minutes.

Mr. DRIGGS. In regard to this report I have only to say that out of the \$75,000 awarded to the captors of the assassins of President Lincoln—

Mr. HOTCHKISS. The gentleman makes a mistake; the amount to be distributed under the bill is \$105,000.

Mr. DRIGGS. Out of the entire amount to be distributed, this report proposes to give \$40,000 to three persons—\$17,500 to General Baker, the same amount to Lieutenant Colonel Conger, and \$5,000 to another person named Baker, a brother, I believe, of the general.

Mr. HOTCHKISS. No, sir.

Mr. DRIGGS. Well, he is a relative at any rate. Now, Mr. Speaker, one word in reference to the "hotel." I did not say that General Baker had not as good a right to build a hotel as any man; but I mentioned that incidentally to show that he had not suffered much pecuniarily by his connection with the War Department.

Mr. HOTCHKISS. Will the gentleman allow me to say that, so far as General Baker is concerned, he never has received from this Government compensation in proportion to the services which he performed?

Mr. DRIGGS. I was informed by an honorable constituent of mine that this General Baker is building a first-class hotel in the city of Lansing, the capital of my State, but not in my district. I know but very little of this General Baker except as to his connection with the War Department. For some very mysterious reason this gentleman acquired a remarkable power in the Government, or at least in one branch of it, and exercised this power for many months during the progress of the war. But I have been unable to discover in what consists the great merit of this gentleman which entitles him to receive nearly one quarter of the whole amount awarded.

The award made by the War Department is, in my opinion, just. Under that award the privates will receive their equitable share. The gentleman from New York has said that the privates who assisted in the capture of Booth and his associates had nothing to lose; that General Baker and Lieutenant Colonel Conger had all the responsibility, had everything to gain or lose. Certainly I should think they had everything to gain if we adopt this report. If this bill passes in the shape reported by the committee, it will, in my judgment, inflict a great outrage upon all the privates, most of whom aided at least as much as Baker did in the capture of the assassins. Baker was in the city of Washington at the time. These privates had as much at stake in the work they undertook as he had.

Sir, I can see no justice, no propriety, in the award which the committee propose shall be made. It seems to me there must be some mysterious influence at work—I cannot tell where; nor do I make any personal charge in reference to any gentleman; but it must be obvious, I think, that a great wrong is about to be perpetrated if the House should adopt the report of the committee.

One word in regard to Lieutenant Colonel Conger, and I am done. He is really a noble, high-toned gentleman, and I should have been better pleased if he had been awarded about ten thousand dollars. I think he was really the active man in the whole affair. In regard to General Baker, I know nothing personally; but, as I have before remarked, I cannot see that he has rendered such services as to entitle him to nearly one quarter of the whole amount awarded. I shall vote against the bill as it

now stands; and I hope that my amendment will be adopted.

Mr. HOTCHKISS. I want the House to take notice that the gentleman from Michigan [Mr. DRIGGS] has said that improper influences have been at work in this matter. It is a very singular remark for one Representative on this floor to make in regard to another.

Mr. DRIGGS. I disclaimed making any personal allusion.

Mr. HOTCHKISS. I shall not resent the remark. I intend to prove to this House that I can stand here and hear such remarks without taking offense at them, particularly when they do not arouse either my resentment or my respect. But let me say to the gentleman from Michigan that such things ought to be avoided here. Until a man's character here is proved to be untrustworthy no such intimations should be made upon this floor, because, unless we stop this sort of thing, we shall have repeated the scenes that have given us so much trouble during the last few weeks.

Mr. DRIGGS. I distinctly disavowed any personal allusion.

Mr. HOTCHKISS. Of course there is only one man whom he claims has been influenced. The gentleman, I suppose, would step up and wring a man's nose, and then say that he meant no personal offense.

I only desire to make one additional remark, and that is with reference to Lieutenant Baker. Lieutenant Baker guarded one side of this tobacco warehouse; and when Herold surrendered he took him prisoner, bound him, and guarded him. Not only that; in every part of this enterprise he performed his duty faithfully, while this Lieutenant Doherty lay under a shed in the neighborhood. That is the evidence. Yet in deference in part to popular clamor he must be allowed something. When you cannot do as you would, you must do as you must.

Mr. FARNSWORTH. I thought the committee were uninfluenced by anything except the merits of the case.

Mr. HOTCHKISS. It is very embarrassing to any gentleman to be interrupted so frequently when on the floor; and I will now yield for five minutes to the gentleman from Michigan [Mr. TROWBRIDGE].

Mr. TROWBRIDGE. Mr. Speaker, I desire to appeal to the House not to adopt the award which has been made by the War Department in this case. If that award should be adopted, manifest and great injustice would be done to the gentleman who commanded this expedition, Lieutenant Colonel Conger. As a lieutenant colonel of the volunteer army of the United States he was put in command of the expedition down the river on the Virginia side for the capture of Booth and Herold. He went to the commander of this department and obtained a force of men under the command of a Lieutenant Doherty, but they were all put under the control of Lieutenant Colonel Conger; they were subject to his orders. He accomplished the purpose for which he was sent. Through his efforts Booth and Herold were discovered and taken. On his return to this city, some three or four days afterward, he received a muster-out, dated anterior to the time when he started on the expedition. Simply and solely because of the fact that his muster-out antedated his performance of these services he is denied the first place in the award of the War Department. By that award, Lieutenant Doherty is placed at the head. Sir, I affirm here in my place that on the night of the capture, Lieutenant Colonel Conger put Lieutenant Doherty twice in a position of command, requiring certain duties of him, but afterward found that he had abandoned his post and left the premises, and then he ordered him to the rear, taking himself the personal command of the men.

Mr. FARNSWORTH. How much do they give Doherty for that?

Mr. TROWBRIDGE. Under the award of the War Department he would receive \$7,500, while Conger would receive only \$4,000. I ask this House not to perpetrate such an injus-

tice upon a brave, gallant, and true man. I know Lieutenant Colonel Conger well, although he is no constituent of mine and lives in a distant State. I ask that the mere fact of an anterior muster-out, of which no one, except perhaps somebody at the War Department, knew anything until after the performance of this service, shall not be made a pretext for inflicting such an injustice as to deprive Lieutenant Colonel Conger of the honor and the compensation which he so well deserves. I ask the House to vote down the amendment of my colleague. I am sure if I could read to him the proofs he would withdraw the proposition himself. As to the substitute of the gentleman from Ohio, I have nothing to say.

Mr. STEVENS. The gentleman has five minutes left, and if he does not object, I should like to make a few remarks.

Mr. HOTCHKISS. I yield to the gentleman from Pennsylvania the time I have left.

Mr. STEVENS. As there seems to be some difficulty in this matter in regard to the facts, it is right to know that the War Department appointed a judicious man, Judge Holt, as careful and honest a man as ever lived, and Adjutant General Townsend to make this examination. They say they examined the whole matter with great care. They made a distribution of the rewards and gave the grounds on which they made it. They are not arbitrary grounds. There are one or two particulars I should like to see otherwise in the substitute of the gentleman from Ohio, [Mr. DELANO;] but I am entirely opposed to the monstrous report of the committee which is now before the House. It seems to be an outrage on all justice and decency. That a man who did nothing should have \$17,500, while those who did the work should only get \$1,000, is too monstrous.

The gentleman says that if Mr. Baker, who remained here in town and issued his orders across the Potomac, had failed, the disaster would have been as terrible as if General Grant had been defeated. I do not see what the disaster was or what he had to lose. He had nothing to lose in this matter. He had not a great deal of character to lose before. I do not see what was the disaster which was to befall him. He did nothing; he sat here; he risked nothing. He is awarded by the War Department commission \$3,000. I think he ought to be thankful that he gets anything. For the report of the War Department commission, I think it was excellent. I prefer the amendment of the gentleman from Ohio, [Mr. DELANO;] but taking two chances, I say that I will vote first for the amendment of the gentleman from Michigan, [Mr. DRIGGS;] and if that fails, for the substitute of the gentleman from Ohio; and if that fails, I shall vote against the whole thing.

Mr. HOTCHKISS. This report from the War Department is signed by General Townsend and not by Judge Holt. The report, instead of being signed and coming sustained with the authority of Judge Holt, comes only under the authority of General Townsend. I do not see any ear-marks of Judge Holt on it. The gentleman from Pennsylvania says it is a most excellent report, but the first thing he does here is to attack it.

Mr. STEVENS. If the gentleman will refer to page 21 of the report he will see that Judge Holt does sign it.

Mr. HOTCHKISS. He may have had some hand in it.

Mr. STEVENS. It is a plain thing, I think.

Mr. HOTCHKISS. The first thing that the gentleman from Pennsylvania does is to attack the report of this commission. He referred to the fact that the colored servant of Mrs. Surratt was excluded from any share in the reward, although she was the most meritorious person concerned in the arrest of the assassin of Mr. Seward. She lay upon the floor feigning sleep, overheard the communications of these assassins, one to the other, saw their transactions, and at the peril of her life disclosed them. Yet this commission refused to allow her a cent. I apprehend that the gentleman has been read-

ing my report instead of that of the War Department. [Laughter.]

Mr. STEVENS. The amendment of the gentleman from Michigan includes these two persons.

Mr. DELANO. I want to place before the minds of the House the skeleton of the report of the War Department. For the arrest of Payne, \$10,000; for the arrest of Booth and Herold, \$75,000; for the arrest of Atzerodt, \$25,000, and for the arrest of Davis, \$100,000. In reference to the arrest of Payne, the Committee of Claims have reduced the amount, and given something to these two colored women. It is small and not worth quarreling about.

In reference to the arrest of Atzerodt, the War Department gives to Artman \$1,200, and divides the rest among the others. The report of the Committee of Claims gives to Enos R. Artman, \$10,000, to Zachariah W. Gemmill \$5,000, and to another man who was not included, I believe, in the report of the War Department, \$3,000. There is the variation in reference to the \$25,000.

In reference to the \$75,000 for the arrest of Booth and Herold, the War Department propose to give to Baker \$3,000, to Doherty \$7,500, to Conger \$4,000, and to another man by the name of Baker \$4,000. The Committee of Claims—and here is a material change—reported \$17,500 for Baker, \$17,500 for Conger, and \$5,000 for the other Baker. The report that has been submitted I do not concur in. It so happened that the member of the Committee of Claims having charge of this report was not able until the last of the session to make his report, and I signed the report agreeing that it should be made, but I stated in writing that I did not concur in all of the views. Nevertheless, had I not been apprehensive that the effort to give these people this sum might have defeated the just and meritorious claim of Conger I should have offered my amendment.

I want to say that Conger was the brains and mostly the courage that brought to a successful issue the efforts to arrest Booth and Herold. It was through his sagacity that they first found the track that enabled them to follow up both to their destination. They got there at two o'clock at night. They called upon the man in whose tobacco house these men were secreted. Conger demanded to know where Booth was. He was told that he was not there. He said instantly, "Boys, give me a rope; I will hang this man." The man's son, fearing the execution of the threat, stated where Booth and Herold were. He then told his men to surround the barn. They were reluctant to do so in the moonlight. But he laid rails and caused them to stand there while he fired the building with his own hand. Thus by his skill and courage the arrest was made.

Now, if the report of the War Department is adopted, Conger is not rewarded. I say therefore, distinctly, I hope it will not be adopted. I hope this objection to Baker's claim will not cause the adoption of the War Department report, but that if the House is not willing to take the report of the Committee of Claims, it will adopt my substitute, and do something like justice to a man who for four years has been not only a brave soldier, but has suffered himself to be cut and hewed to pieces in the defense of his country. I propose to give Baker just what the War Department proposed to give.

The SPEAKER. The hour has expired and debate is exhausted.

The question being taken on the amendment of Mr. DRIGGS, it was disagreed to.

The question recurred on the substitute offered by Mr. DELANO, and it was agreed to—ayes eighty-seven; noes not counted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. TRIMBLE. I call for the yeas and nays on the passage.

The yeas and nays were not ordered.

The bill was passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I ask unanimous consent to introduce the following joint resolution:

*Be it resolved by the Senate and House of Representatives, That the thanks of Congress are hereby given to Allen Pinkerton, for his services in detecting the conspiracy to assassinate Abraham Lincoln in Baltimore, at the time of his passing through that city on his way to the capital to be inaugurated as President of the United States, in the spring of 1861, and preventing its accomplishment.*

Mr. LE BLOND. I object.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had concurred with the House in the passage of the resolution suspending the sixteenth and seventeenth joint rules of the two Houses.

The message further informed the House that the Senate had passed the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, with amendments, in which the concurrence of the House was requested.

Also, that the Senate had passed an act (S. No. 406) for the removal of certain cases from State courts; in which the concurrence of the House was requested.

Also, that the Senate had passed joint resolution (S. No. 141) for the relief of Donahue, Ryan & Secor, builders of the iron-clad monitor Camanche; in which the concurrence of the House was requested.

Mr. ANCONA. I call for the regular order.

The SPEAKER. The morning hour has commenced, and the regular order of business is the calling of the committees for reports, beginning with the Committee on Revolutionary Claims.

#### TOWNSEND GLOVER.

Mr. BIDWELL, from the Committee on Agriculture, reported a joint resolution authorizing the purchase of a certain collection or museum and the transfer of certain funds therefor by the Commissioner of Agriculture; which was read a first and second time.

The joint resolution was read at length. It authorizes the Commissioner of Agriculture to purchase of Townsend Glover, entomologist of the Department of Agriculture, his collection of natural history, of fruit, fungi, reptiles, insects, &c., at a sum not to exceed \$10,000, if that amount can be spared from the appropriations heretofore made for that Department.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. BIDWELL. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. BIDWELL. I ask that the Clerk read the letter which I now send to his desk.

The Clerk read as follows:

WASHINGTON, February 10, 1865.

DEAR SIR: During the session of Congress of 1855-56, two appropriations were made for agricultural purposes: one for \$30,000, and the other for \$75,000, as will be seen by reference to volume two of the Statutes-at-Large, pages 14 and 89.

I was at that time Commissioner of Patents, and had charge also of the Agricultural Department. Mr. Holloway, the present Commissioner of Patents, was then chairman of the Committee on Agriculture in the House of Representatives.

I was informed from various sources at the time, that among the items for the appropriations of that year was an estimate of \$10,000 for the purchase of your specimens of fruits, with a view of having them permanently retained by the Government.

As, however, this purpose did not appear in the law itself, I had some scruple in regard to appropriating so much money for that purpose, but this scruple was removed by a statement prepared and signed by a majority of the members of each branch of Congress to the effect that such was their intention, and they desired to have it carried into effect.

The contract was accordingly regarded as having been closed, but before the money was paid and the



transfer actually made, it was ascertained that so much of the appropriation had been devoted to other purposes that there was not sufficient remaining to make the payment to you. This is my best present recollection in relation to the matter.

Yours truly,  
TOWNSEND GLOVER, Esq. CHARLES MASON.

Mr. BIDWELL. I might send to the Clerk's desk to be read many other communications relating to this subject. But the letter which has been read is sufficient to show that there was at one time an appropriation made for this purpose. I would also say that this collection in the Department of Agriculture is deemed to be one of great importance. It embraces many specimens of natural history of this country, and forms the foundation for a museum of natural history embracing specimens of the flora and fauna of this country, and more especially those things which relate nearly to agriculture. I believe there is now an implied contract on the part of the Government to purchase this collection of Mr. Glover, the price having been fixed at \$10,000. Since that time the collection has been almost doubled in its proportions, and yet the committee propose that the same sum only shall be given for it now. I hope this joint resolution will be passed.

Mr. BROMWELL. Will the gentleman from California [Mr. BIDWELL] yield to me for a moment?

Mr. BIDWELL. I will.

Mr. BROMWELL. I do not know what this collection is worth in money; but I am fully satisfied that it is just what this Government ought to have. I believe that the idea embodied in that collection ought to be fully carried out. It embraces the classification of the agricultural and mineral substances out of which many products of art are formed; also, the various insects which are inimical to the production of certain substances, as well as those which are beneficial or which are innocuous. It also embraces the birds which prey upon certain insects which are injurious to fruits, and which are not; and these are so classified that any person going to that office, when the collection is complete, will find in regard to any particular product of agriculture the entire history and uses of it; the substances in the raw state, as well as in the various stages in which they are worked up into fabrics and articles of use. There is to be found there all the information which pertains to that whole class of subjects, arranged in such a manner that any agricultural department would, I think, be incomplete without it. This collection embraces such a numerous class of cases, not only of the productions of this country, but, to some extent, of the world, that the amount of information which can be obtained from that museum is of a value far beyond the price which it is now proposed to give for it. I hope the joint resolution will pass.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. BIDWELL. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. LAWRENCE, of Ohio. I move to reconsider the vote by which the joint resolution was passed.

Mr. NICHOLSON. I move to lay the motion to reconsider on the table.

Mr. LAWRENCE, of Ohio. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

Mr. LAWRENCE, of Ohio. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

On the motion to lay on the table the motion to reconsider the vote by which the joint resolution was passed there were—ayes 55, noes 16; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. LAWRENCE, of Ohio, and Mr. BIDWELL.

The House divided; and the tellers reported—ayes 70, noes 26.

So the motion to reconsider was laid on the table.

#### TRADE WITH THE INDIAN TRIBES.

Mr. WINDOM, from the Committee on Indian Affairs, reported back a bill (H. R. No. 610) in relation to trade and intercourse with the Indian tribes, with a recommendation that it do not pass.

The bill was laid on the table.

#### RELIEF OF CHIPPEWA INDIANS, ETC.

Mr. WINDOM, from the Committee on Indian Affairs, reported a joint resolution for the relief of certain Chippewa, Ottawa, and Pottawatomie Indians; which was read a first and second time.

The joint resolution provides that the Secretary of the Interior shall pay to the Chippewa, Ottawa, and Pottawatomie Indians of Michigan, in pursuance of an agreement and compromise made with the Pottawatomie nation of Indians by treaty of 1846 with the United States, \$39,000, in full of all claims in favor of said Michigan Indians, either against the United States or said nation of Indians, past, present, or future, arising out of any treaty made with them or any band or confederation thereof; and the annuity now paid to them is to be restored and paid to said nation for the future. This sum of \$39,000 is to be paid out of funds now held by the United States in trust for said nation, drawing interest at the rate of five per cent.; the payment to be made *per capita* directly to heads of families, parents, or guardians of minors, as now required by law in reference to the payment of annuities.

Mr. WINDOM. I desire to say that this resolution grows out of a disagreement between certain tribes of Indians. A portion of the Ottawa and Pottawatomie Indians of Michigan removed to Kansas. There has always been a disagreement as to the amount due to those who remained behind. At the last session of Congress the Senate passed a bill appropriating \$50,000 for the Chippewas. This House passed a bill appropriating a somewhat larger sum. The Indians of each of those tribes have sent on their representatives here this winter; and as it is simply a controversy between themselves, they have agreed on this bill, and desire very much that it shall be passed.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WINDOM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN TRIBES IN UTAH.

Mr. WINDOM, from the Committee on Indian Affairs, reported back with amendments joint resolution H. R. No. 92, authorizing the Secretary of the Treasury to pay certain claims out of the balance of an appropriation for the payment of necessary expenditures in the service of the United States for Indian tribes in the Territory of Utah.

Mr. WINDOM. I move to strike out the word "and," in line six, and after the word "severe" to insert "Buchanan & Co."

The amendment was adopted.

Mr. WINDOM. I move in the fourteenth line to insert "\$710."

The amendment was agreed to.

Mr. WINDOM. I wish to say one word. An appropriation was made for the Indian service in Utah. The Department thought all the just claims had been satisfied and the balance was transferred to the surplus fund. This is to provide that this balance may be again made available.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time and passed.

Mr. WINDOM moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MARTHA A. ESTILL, OF CALIFORNIA.

Mr. WINDOM, from the same committee, reported a bill for the relief of Martha A. Estill, of California; which was read a first and second time.

The bill provides for the payment of \$3,000, with interest at the rate of six per cent. per annum from the 1st of January, 1853, for beef furnished to the Indians by her husband under contract.

Mr. SPALDING. There is an interest account in the bill which ought to be explained.

Mr. WINDOM. I desire to say that in 1851-52 the Government appointed certain commissioners to make treaties with Indians in California, and one was this man McKee, who made this treaty with Estill. Those treaties provided that certain provisions should be furnished to the Indians. This beef was furnished at eight cents per pound. Congress heretofore has paid large bills at fifteen cents per pound to Fremont and others for beef furnished from the same localities. The committee examined the subject thoroughly and came to the conclusion that the claim was a just one.

Now, in reference to the interest account. It has been fourteen years since this beef was furnished. The committee were satisfied that it was sold at a reasonable price, and they have provided that interest should be paid at the rate of six per cent. per annum. If the House thinks it is not right it can be stricken out.

Mr. SPALDING. I move to strike it out.

The motion was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RICHARD CHENERY.

Mr. WINDOM, from the same committee, reported back House bill No. 588, for the relief of Richard Chenery, with a recommendation that it do pass.

Mr. WRIGHT. I make the point of order that the bill makes an appropriation, and must, under the rules, have its first consideration in the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Chair sustains the point of order; and the bill accordingly will be referred to the Committee of the Whole House on the Private Calendar.

#### BENJAMIN HOLLIDAY.

Mr. WINDOM, from the same committee, reported back the amendment of the Senate to House joint resolution No. 103, to refer the petition of Benjamin Holliday to the Court of Claims, with the recommendation that the Senate amendment be non-concurred in.

The amendment of the Senate was to strike out the words "damages for change of route by military orders and;" so that the resolution would read:

That so much of the claim of Benjamin Holliday as relates to property taken by the military authorities and appropriated to the use of the Government, be referred to the Court of Claims for adjustment.

The amendment was non-concurred in.

Mr. WINDOM moved that the House request a committee of conference.

The motion was agreed to.

#### SAMUEL STEVENS, A STOCKBRIDGE INDIAN.

Mr. WINDOM, from the same committee, reported back Senate bill No. 309, to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin, with the recommendation that it do pass.

The bill authorizes Samuel Stevens, a Stockbridge Indian, to enter and purchase the tract of land known as lot No. 123, in the Stock-

bridge reservation, in the county of Calumet, and State of Wisconsin, under the act to authorize the issuing of patents for certain lands in the town of Stockbridge, Wisconsin, and for other purposes, approved March 3, 1865. It also authorizes the Commissioner of the General Land Office, upon the entry and payment therefor, to cause a patent, in due form of law, to be accordingly issued to Samuel Stevens.

Mr. WINDOM. This bill is recommended by the Commissioner of Public Lands. The only question in reference to his right to pre-empt arises from the fact that his name is upon the roll as one of the members of the tribe, whereas he is really a citizen.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table. The latter motion was agreed to.

JOHN T. JONES.

Mr. CLARKE, of Kansas, from the Committee on Indian Affairs, reported back Senate bill No. 122, for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory.

The bill was read. It directs the payment of \$6,700 for depredations, that being the amount adjudged by the Commissioner to be the value of the property destroyed.

Mr. WRIGHT. I raise the point of order that this is an appropriation bill.

Mr. CLARKE, of Kansas. I ask the gentleman to listen to the reading of the report. The bill has passed the Senate on three different occasions; the facts are simple and the report is brief.

Mr. WRIGHT. I will hear it read, reserving my right to object.

The report was read. It showed that the depredations were committed in August, 1856. In April, 1858, the Secretary of the Interior ordered an investigation. A report was made in July, 1858. The testimony of loyal whites established the fact of the loss of the dwelling valued at \$7,000, of gold and silver to the amount of \$700, and of injury to business to the amount of \$7,000, this being less than half the amount claimed.

Mr. WRIGHT. The report shows that this is one of those old claims that has been no less than three times before Congress. This loss occurred long ago, and if we are going to take up the border troubles of—

The SPEAKER. If the gentleman debates it he waives the point of order.

Mr. WRIGHT. I was going to say that under these circumstances I must insist on my objection.

The SPEAKER. Then it must go to the Committee of the Whole.

Mr. CLARKE, of Kansas. Is it in order to move to suspend the rules?

The SPEAKER. The Chair thinks it is, the Committee on Indian Affairs having control of the morning hour.

Mr. CLARKE, of Kansas. I will not press it.

WYANDOTTE INDIANS.

Mr. ROSS. On behalf of the Committee on Indian Affairs, I move to discharge the Committee of the Whole from the consideration of House bill No. 432, for the relief of the Wyandotte tribe of Indians. This matter has been fully examined. It is a claim founded upon a treaty between the General Government and this tribe of Indians.

Mr. LAWRENCE, of Ohio. Is that the church claim?

Mr. ROSS. No, sir; it appears by the treaty that they were to invest a certain amount of money in Government stock. Instead of doing that they invested it in Missouri and Tennessee State stocks which depreciated in value, so that when they came to receive their pay the stocks were sold, under protest, for what they would bring. This claim is for the difference

between what they should have had and what they actually received under the treaty. A majority of the committee think they were entitled to interest upon this claim, but there is none allowed in the bill. It has been reported upon favorably by two or three previous committees and has passed through the lower House of Congress once or twice.

Mr. WRIGHT. Do I understand that these bonds were sold for less than par and now these Indians ask to be paid the difference between what they sold for and the par value of the securities?

Mr. ROSS. Yes, sir.

Mr. WRIGHT. Well, you will have Wall street down on you by daylight to-morrow morning. [Laughter.]

Mr. ROSS. By the treaty stipulation the contract was to invest in Government securities. Instead of that they invested in State bonds of Missouri and Tennessee, and when payment became due the attorneys of the Indians received these bonds under protest and sold them for what they would bring. I have a report here, made in 1858, showing the amount due to these Indians.

Mr. TAYLOR, of New York. Were they bound to take them?

Mr. ROSS. They were not bound to take them, but the debt was due them and they took these obligations and sold them for what they would bring. The Secretary of the Interior and Commissioner of Indian Affairs have both reported favorably upon this measure.

Mr. SPALDING. I would inquire—

Mr. FARNSWORTH. Is the motion to discharge the Committee of the Whole debatable?

The SPEAKER. It is not.

The question being taken on the motion to discharge the Committee of the Whole, there were—ayes twenty-nine.

Mr. ROSS. I withdraw the motion.

HISTORY OF THE REBELLION.

Mr. SCHENCK, from the Committee on Military Affairs, reported back, with an amendment, a joint resolution of the Senate No. 86, to provide for the publication of the official history of the rebellion.

The joint resolution was read at length. The first section repeals the joint resolution to provide for the printing of official reports of the armies of the United States, approved May 19, 1864. The second section authorizes the Secretary of War to appoint a competent person to revise, arrange, and prepare for publication the official documents relating to the rebellion and the operations of the Army of the United States, who shall prepare a plan for said publication and estimates of the cost thereof, to be submitted to Congress at its next session. The third section provides that the person whose appointment is hereby authorized shall receive a compensation for his services not to exceed \$2,500 per annum, to be paid monthly by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated; provided, that said compensation shall not be paid for a longer period than two years from and after the passage of this resolution.

The amendment of the committee was to strike out the word "revise" in the second section.

The amendment was agreed to.

Mr. JOHNSON. I notice that the Secretary of War is authorized to appoint this historian. I would inquire if the Secretary of War knows who are good historians and who are not. It strikes me that this is rather a strange proposition.

Mr. SCHENCK. The Secretary of War is now authorized by law to publish these records at his discretion, and there is now being prepared an enormous record of about thirty volumes. This joint resolution proposes to repeal the law giving him that authority, and to authorize him to appoint some person to collate all the records, and to report at the next session to Congress what should be published, if anything. I now call the previous question.

The previous question was seconded and the

main question ordered; and under the operation thereof the joint resolution was read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES M. BLAKE.

Mr. SCHENCK, from the Committee on Military Affairs, reported back Senate joint resolution No. 177, for the relief of Charles M. Blake, with a recommendation that it do pass.

The joint resolution was read at length. It provides for the payment to Charles M. Blake of an amount equal to the pay and allowances of a chaplain in the Army for one year, namely, \$1,560, less the amount which may have been paid him under a joint resolution for his relief, passed June 27, 1866.

The joint resolution was read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL CEMETERIES.

Mr. SCHENCK, from the Committee on Military Affairs, reported back, with amendments, House bill No. 788, to establish and protect national cemeteries.

The bill was read at length. The first section provides that in the arrangement of the national cemeteries in the States lately in rebellion and in the District of Columbia, established for the burial of deceased soldiers and sailors, the Secretary of War shall have the same inclosed with a good and substantial stone or iron fence; and hereafter such cemeteries shall be laid out in sections, to contain not less than two hundred nor more than three hundred graves, and to each section there shall be erected a marble monument on which shall be inscribed the name of each soldier buried in such section, with his rank, number of his regiment, his company, and State.

The second section provides that each grave shall be marked with a small marble headstone, with the number of the grave thereon, corresponding with the number opposite to the name of the party inscribed on the monument. And national cemeteries already established shall be made to conform as far as practicable to the foregoing plan.

The third section directs the said Secretary of War to erect at the principal entrance of each of the national cemeteries a suitable building to be occupied as a porter's lodge; and it shall be his duty to detail a meritorious and trustworthy sergeant to reside therein, for the purpose of guarding and protecting the cemetery and giving information to parties visiting the same. And the Secretary shall detail some officer of the Army, not under the rank of colonel, to visit annually all the cemeteries, and to inspect and report to him the condition of the same, and the amount of money necessary to protect them, to sod the graves, gravel and grade the walks and avenues, and to keep the sections and grounds in full and complete order; and the Secretary shall transmit the report to Congress at the commencement of each session, together with an estimate of the appropriation necessary for that purpose.

The fourth section provides that any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, grave-stone, or other structure in any of the national cemeteries, or shall willfully destroy, cut, break, injure, or remove any tree, shrub, or plant within the limits of any of the national cemeteries, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any district or circuit court of the United States within any State or district where any of the national cemeteries are situated, shall be liable to a fine of not less than twenty-five nor more than one

hundred dollars, or to imprisonment of not less than fifteen nor more than sixty days, according to the nature and aggravation of the offense. And the sergeant, or other officer on guard, in charge of any national cemetery, is authorized to arrest forthwith any person engaged in committing any misdemeanor herein prohibited, and to bring such person before any United States commissioner or judge of any district or circuit court of the United States within any State or district where any of the cemeteries are situated, for the purpose of holding the person to answer for the misdemeanor, and then and there shall make complaint in due form.

The fifth section makes it the duty of the Secretary of War to purchase from the owner or owners thereof, at such price as may be mutually agreed upon between the Secretary and such owner or owners, such real estate as in his judgment, is suitable and necessary for the purpose of carrying into effect the provisions of this act, and to obtain from the owner or owners title in fee-simple. And in case the Secretary of War shall not be able to agree with the owner or owners of any real estate needed for the purpose of this act upon the price to be paid therefor, or to obtain title in fee-simple for the same, he is authorized to enter upon and appropriate any real estate which, in his judgment, is suitable and necessary for the purposes of this act.

The sixth section authorizes the Secretary of War or the owner or owners of any real estate thus entered upon and appropriated to make application for an appraisement of the real estate thus entered upon and appropriated to any district or circuit court within any State or district where such real estate is situated; and any of the courts are authorized and required, upon such application, and in such mode and under such rules and regulations as it may adopt, to make a just and equitable appraisement of the cash value of the several interests of each and every owner of the real estate and improvements thereon entered upon and appropriated for the purposes of this act, and in accordance with its provisions.

The seventh section provides that the fee-simple of all real estate thus entered upon and appropriated for the purposes of this act, and of which appraisement shall have been made under the order and direction of any of the courts, shall, upon payment to the owner or owners, respectively, of the appraised value, or in case the owner or owners refuse or neglect for thirty days after the appraisement of the cash value of the real estate or improvements by any of the courts, to demand the same from the Secretary of War, upon depositing the appraised value in the court making such appraisement to the credit of said owner or owners, respectively, be vested in the United States, and its jurisdiction over the real estate shall be exclusive and the same as its jurisdiction over real estate purchased, ceded, or appropriated for the purposes of navy-yards, forts, and arsenals. And the Secretary of War is authorized and required to pay to the several owner or owners, respectively, the appraised value of the several pieces or parcels of real estate, as specified in the appraisement of any of the courts, or to pay into any of the courts by deposit, as before provided, the appraised value; and the sum necessary for such purpose may be taken from any moneys appropriated for the purposes of this act.

The eighth section appropriates the sum of \$50,000 to carry out the purposes of this act out of any moneys in the Treasury not otherwise appropriated.

The amendments of the committee were to insert the words "or granite," after the word "marble" in the first section; and the words "or cast-iron" after the word "marble" in the second section.

The amendments were agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REIMBURSEMENT OF COLORADO.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865; which was read a first and second time.

The resolution authorizes the Secretary of War to settle with the proper authorities of the Territory of Colorado for the services of the first regiment of Colorado mounted militia, called into the service of the United States on the requisition of Colonel Thomas Moonlight, in the year 1865, and for the services of any other militia forces of said Territory which were employed in the service of the United States on the call of the Governor of the Territory in the year 1864; allowing in such settlements all amounts paid by the Territory to those troops for pay, use of horses, clothing, and other proper allowances during the time when they were actually in service; and the Secretary of War is to report to Congress in December next the amount found to be justly due.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RELIEF OF ARMY OFFICERS.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution for the relief of the officers of the thirteenth regiment United States colored heavy artillery; which was read a first and second time.

The resolution authorizes and instructs the proper accounting officers to pay to the officers of the regiment named the full pay and allowances of their several grades from the date on which they actually entered upon duty as officers of such regiment to the date from which they have already been paid, deducting such amounts as they may have received as pay of enlisted men during the period named.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BREVET APPOINTMENTS IN THE ARMY.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution in relation to brevet appointments and commissions in the United States Army; which was read a first and second time.

The joint resolution, which was read at length, provides that hereafter every brevet appointment or commission conferred upon any officer of the Army shall specify precisely the distinguished act of gallantry or meritorious conduct for which the same is conferred, and which is intended to be rewarded by such brevet rank; and that the annual Army Register shall hereafter have appended to the name of each officer who has been or may be brevetted such particular statement of the act of gallantry or meritorious conduct for which the brevet was granted, and where and in what arm of the service or what department the same was performed or rendered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DOCTOR ALEXANDER DUNBAR.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution authorizing the Secretary of War to contract with Dr. Alexander Dunbar; which was read a first and second time.

The joint resolution, which was read at length, authorizes and directs the Secretary of War to contract on such terms as in his discretion he may think fair and reasonable with Dr. Alexander Dunbar for the use by the Government of his alleged discovery of a mode of treatment of the diseases of the horse's foot, and for his services for one year in instructing the farriers of the Army in such treatment; the amount agreed upon to be paid out of the fund already appropriated for the purchase of horses for the general support of the Army.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MRS. MARY PHELPS.

Mr. BINGHAM, from the Committee on Military Affairs, reported a joint resolution to reimburse Mrs. Mary Phelps; which was read a first and second time.

The joint resolution appropriates \$20,000 to reimburse Mrs. Mary Phelps for expenditures made by her in raising and equipping troops for the United States during the late rebellion, and for expenses incurred in succoring wounded soldiers, &c.

Mr. BINGHAM demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### EQUESTRIAN STATUE OF GENERAL SCOTT.

Mr. BINGHAM, from the same committee, reported a joint resolution for the erection of an equestrian statue to the memory of Brevet Lieutenant General Winfield Scott; which was read a first and second time.

The joint resolution appropriates \$20,000 to H. K. Brown, of Newburg, New York, for an equestrian statue of Brevet Lieutenant General Winfield Scott, to be cast of guns captured in Mexico, and to be erected at West Point.

Mr. BINGHAM demanded the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. KETCHAM, from the Committee on Military Affairs, made adverse reports in the following cases; which were laid on the table:

The memorial of Edwin B. Waggoner, of Richland county, Wisconsin, late lieutenant and prisoner at Andersonville, praying compensation for his services;



The petition of Edmund F. Jenkins for pay as second lieutenant from the date of his commission until the date of discharge;

The petition of D. W. Wallingford, late second lieutenant fifteenth Kansas cavalry volunteers, for compensation for services rendered as an officer, for which he was not paid; and

The petition of W. F. Scott, late adjutant fourth Iowa cavalry, for the difference between the pay of sergeant major and adjutant previous to his muster; also for the three months' extra pay proper.

Mr. ANCONA, from the Committee on Military Affairs, made adverse reports in the following cases; which were laid on the table:

The petition of H. B. Lacey, late brevet major United States volunteers, for relief for losses of property and vouchers taken and destroyed, without fault or negligence on his part;

The petition of J. B. Allen, late lieutenant and quartermaster seventy-second Pennsylvania volunteers, for relief from responsibility for certain money accounts lost during the Antietam campaign;

The petition of Henry C. Pearson, first lieutenant twenty-first regiment Pennsylvania volunteer cavalry, for compensation for loss of a horse and equipments; and

The memorial of Brevet Major General John B. Sanborn in favor of soldiers in southwest Missouri who furnished their private horses in the campaign of 1864.

Mr. ANCONA also reported adversely on the following resolution and bills of the House; which were laid on the table:

A resolution instructing the Committee on Military Affairs to inquire into the expediency of reporting an amendment to the act of March 3, 1849, providing payment for horses and equipments of officers lost by accident beyond the control of the owner, resulting from the management of railroad transportation, while in the service of the United States;

A bill (H. R. No. 542) to allow the extension of the wharf at St. Louis;

A bill (H. R. No. 751) for the relief of Henry C. Pearson; and

A bill (H. R. No. 752) for the relief of Samuel J. Green, late lieutenant third Pennsylvania volunteer cavalry.

#### CIVIL APPROPRIATION BILL.

Mr. STEVENS. I move to take from the Speaker's table the amendments of the Senate to the civil appropriation bill.

The motion was agreed to.

Mr. STEVENS. I move that they be referred to the Committee on Appropriations.

Mr. WILSON, of Iowa. I move to amend that motion so that the Committee on Appropriations shall be instructed to report back as an amendment to those amendments the following amendment, to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union:

That, instead of any grant of land or other bounty, there shall be allowed and paid to each and every soldier, sailor, and marine who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been or who may hereafter be honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served between the 12th day of April, 1861, and the 19th day of April, 1865. And in case of any such soldier, sailor, or marine discharged from the service on account of wounds received in battle or while engaged in the line of his duty, the said allowance of bounty shall be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine while in the service, or in case of his death after the discharge and before the end of his term of enlistment, if discharged on account of being wounded, as provided, the allowance and payment shall be made to his widow if she has not been remarried, or if there be no widow, then to the minor child or children of the deceased who may be under sixteen years of age.

SEC. 2. And be it further enacted, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws, by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that

in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

SEC. 3. And be it further enacted, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request prior to the 9th day of April, 1865, unless such discharge was obtained with a view to re-enlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and who did actually enlist or accept promotion or was so transferred. And no bounty shall be paid to any soldier, sailor, or marine discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

SEC. 4. And be it further enacted, That every petition or application for bounty made under the provisions of this act shall disclose and state specifically under oath, and under the pains and penalties of perjury, what amount of bounty, either from the United States or from any other source, and what amount of prize money, if any, has been paid or is payable to the soldier, sailor, or marine by whom or by whose representation the claim is made.

SEC. 5. And be it further enacted, That whenever applications shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent that he has not charged, nor agreed for, and will not accept more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

SEC. 6. And be it further enacted, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

SEC. 7. And be it further enacted, That in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

SEC. 8. And be it further enacted, That it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

SEC. 9. And be it further enacted, That no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines shall be made in the same manner as now provided by law.

Mr. STEVENS demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. WILSON, of Iowa. Mr. Speaker, I desire to say that my object in offering this amendment to the motion of the gentleman from Pennsylvania [Mr. STEVENS] is to place the subject of the equalization of the bounties of the soldiers in such position as to force the Senate to some action on it. The House has passed the bill embodied in my amendment, but I fear it will not pass the other House during this session; and I want to put the subject in such shape as to compel action by both Houses. We ought not to adjourn without adopting some just system of equalization of soldiers' bounties. If my amendment should

be adopted, and the Senate should refuse to concur, the subject can then go to a committee of conference where it can be so disposed of as to secure an agreement between the two Houses, and do justice to those who fought our battles. We ought not to delay this matter, and I hope the adoption of my amendment will secure speedy action.

The question being taken on the amendment of Mr. WILSON, of Iowa, to add that the committee be instructed to report the amendment, it was agreed to—ayes 69, noes 27.

The motion, as amended, was then agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the motion, as amended, was agreed to; and also moved to lay the motion to reconsider on the table.

#### FENIAN PRISONERS IN CANADA.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to two resolutions of the House of Representatives of the 23d instant, in the following words, respectively—

"Resolved, That the House of Representatives respectfully request the President of the United States to urge upon the Canadian authorities and also the British Government the release of the Fenian prisoners recently captured in Canada."

"Resolved, That this House respectfully request the President to cause the prosecutions instituted in the United States courts against the Fenians to be discontinued, if compatible with the public interest."

I transmit a report on the subject from the Secretary of State, together with the documents which accompany it.

ANDREW JOHNSON.

WASHINGTON, July 26, 1866.

Mr. BANKS. I move that the papers be printed and referred to the Committee on Foreign Affairs.

The motion was agreed to.

#### NEUTRAL RELATIONS OF THE UNITED STATES.

The House proceeded to the consideration of the regular order, being House bill No. 806, more effectually to preserve the neutral relations of the United States.

The bill was read, as follows:

That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, State, colony, district, or people in war, by land or by sea, against any prince, State, colony, district, or people with whom the United States are at peace, the person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by fine and imprisonment, or either, at the discretion of the court in which such offender shall be convicted.

SEC. 3. And be it further enacted, That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, and arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of any foreign prince, State, colony, district, or people to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or State, or any colony, district, or people with whom the United States are at peace; or shall issue or deliver a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid, or shall have on board any person or persons who shall have been enlisted, or shall have engaged to enlist or serve, or shall be departing from the jurisdiction of the United States with intent to enlist or serve in contravention of the provisions of this act, every person so offending shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by fine and imprisonment, or either of them, at the discretion of the court in which such offender shall be convicted; and every such ship and vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited.

SEC. 4. And be it further enacted, That it shall be lawful for any collector of the customs, who is by law empowered to make seizures for any forfeiture incurred under any of the laws of customs, to seize such ships and vessels in such places and in such manner in which the officers of the customs are empowered to make seizures under the laws for the collection and protection of the revenue, and that every such ship and vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition and stores which may belong to or be on board such ship or vessel, may be prosecuted or condemned for the violation of the provisions of this

act in like manner as ships or vessels may be prosecuted and condemned for any breach of the laws made for the collection and protection of the revenue.

SEC. 5. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting the force of any ship-of-war, or cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship-of-war, or cruiser, or armed vessel in the service of any foreign prince, or State, or colony, district, or people, or belonging to the subjects or citizens of any such prince, or State, or of any colony, district, or people, the same being at war with any foreign prince or State, or of any colony, district, or people with whom the United States are at peace, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war, or shall have on board any person or persons who shall have been enlisted or engaged to enlist or serve, or who shall be departing from the jurisdiction of the United States with intent to enlist or serve in contravention of the provisions of this act, every person so offending shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by fine and imprisonment, or either of them, at the discretion of the court in which such offender shall be convicted.

SEC. 6. *And be it further enacted*, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

SEC. 7. *And be it further enacted*, That in every case in which a vessel shall be fitted out and armed; or in which the force of any vessel-of-war, cruiser, or other armed vessel shall be increased or augmented; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as before defined; and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel-of-war, cruiser, or other armed vessel of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince, State, or of any colony, district, or people, in any such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibition and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he shall empower for that purpose, to employ such part of the land and naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign ship or vessel to depart the United States in all cases in which by the laws of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 9. *And be it further enacted*, That offenses made punishable by the provisions of this act, committed by citizens of the United States beyond the jurisdiction of the United States, may be prosecuted and tried before any court having jurisdiction of the offenses prohibited by this act.

SEC. 10. *And be it further enacted*, That nothing in this act shall be so construed as to prohibit citizens of the United States from selling vessels, ships, or steamers built within the limits thereof, or materials or munitions, the growth or product of the same, to inhabitants of other countries or Governments not at war with the United States: *Provided*, That the operation of this act shall be suspended whenever the United States shall be engaged in war.

SEC. 11. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason or any piracy defined by the laws of the United States.

SEC. 12. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Mr. BANKS. I move to amend the first section by inserting after the word "fine," in the tenth line, the words "not exceeding \$2,000," and after the word "imprisonment," the words "not exceeding two years."

Mr. JENCKES. The uniform rule in the statutes of the United States is \$3,000 and three years. There is a number of these statutes punishing offenses, and I hope the gentleman will accept the amendment.

Mr. BANKS. I propose to change it in this instance.

Mr. JENCKES. It would be in conformity to the statutes to make it read, "by fine not exceeding \$3,000 and imprisonment not exceeding three years, either or both, at the discretion of the court."

Mr. BANKS. They are both included.

The amendment was agreed to.

Mr. BANKS. I also move to amend the second section by inserting after the words "be punished by fine," the words "not exceeding

\$1,000," and after the words "and imprisonment" the words "not exceeding two years." The amendment was agreed to.

Mr. BANKS. I also move to amend the third section by inserting after the words "and shall upon conviction thereof be punished by fine" the words "not exceeding \$3,000," and after the word "imprisonment," the words "not exceeding three years."

The amendment was agreed to.

Mr. JENCKES. I would suggest that this third section be further amended by adding to the closing words of the section, namely, "shall be forfeited," the words "to the United States of America;" so that the forfeiture shall go entirely to the Government.

Mr. BANKS. I have no objection to that. The amendment was agreed to.

Mr. JENCKES. I desire to call attention to another amendment, which I think should be made in the sixth section. That section now reads:

That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

I think it should be amended by inserting after the word "complaints," the words "informations, indictments, or other proceedings."

Mr. BANKS. I have no objection to that. The amendment was agreed to.

Mr. JENCKES. And section ten, I think, should be amended. That section now reads:

That nothing in this act shall be so construed as to prohibit citizens of the United States from selling vessels, ships, or steamers built within the limits thereof, or materials or munitions the growth or product of the same, to inhabitants of other countries or to Governments not at war with the United States: *Provided*, That the operation of this act shall be suspended whenever the United States shall be engaged in war.

I think the word "munitions" should be stricken out and the word "articles" inserted.

Mr. BANKS. Insert the word "articles" after the word "materials."

Mr. JENCKES. I will agree to that.

The amendment was agreed to.

Mr. JENCKES. I think the proviso in this section should be amended. I move to amend the proviso so that it shall read:

That the operation of this section of this act may be suspended by the President of the United States in regard to all classes of purchases whenever the United States shall be engaged in war or whenever the continuance of friendly relations with any foreign nation may in his judgment require it.

Mr. BANKS. I have no objection to that. The amendment was agreed to.

Mr. JENCKES. I have an amendment to suggest to section eleven, which now reads:

That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason or any piracy defined by the laws of the United States.

I move to insert after the word "piracy" the words "or other felony." If the gentleman from Massachusetts [Mr. BANKS] will look into the Constitution of the United States he will find that the power to pass this bill is derived from the power given to Congress to define and punish piracies and felonies on the high seas. And felonies on the shores of the high seas have been declared to be punishable.

Mr. BANKS. I will not object to the amendment.

The amendment was agreed to.

Mr. SCHENCK. I desire to call the attention of the gentleman from Massachusetts [Mr. BANKS] to the twelfth section, which now reads:

That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

I would inquire of the gentleman if he regards this section as sufficiently specific. There may be provisions not inconsistent with this act applying to other conditions of circumstances, which ought also to be repealed. Ought there not to be a specific repeal of the present existing neutrality laws, naming them particularly?

Mr. BANKS. The committee had supposed that this section was sufficiently specific. But I will not object to any proposition the gentleman from Ohio [Mr. SCHENCK] may submit.

Mr. SCHENCK. I think there should be a specific repeal of all former neutrality laws.

Mr. BINGHAM. I hope that will not be done at this time, because there may be some important provisions of the neutrality laws to which the attention of the committee has not been called, and which may be very important to the interests of the Government.

Mr. SCHENCK. Under the terms of this act, all the provisions of our present neutrality laws which are not inconsistent with this act, but go beyond it, will stand.

Mr. BINGHAM. Well, let them stand.

Mr. CONKLING. It strikes me that there is something in the objection suggested by the gentleman from Ohio, [Mr. SCHENCK;] and with the consent of the gentleman from Massachusetts, [Mr. BANKS,] I will move to amend by inserting after the word "acts," in the next to the last line, the words "or inflicting any further or other penalty or forfeiture than hereinbefore provided."

The amendment was agreed to.

Mr. BANKS. Mr. Speaker, I have no intention to trespass on the patience of the House by a lengthy discussion of this bill, but I desire to occupy a few minutes in explaining the modifications of the neutrality act of 1818 recommended by the Committee of Foreign Affairs. I will not debate the origin of the statutes of 1794 and 1797, or those of 1817 and 1818; I content myself with stating simply the modifications proposed.

The object of the committee has been to scale the neutrality act of 1818 to the standard of the foreign enlistment act enacted by Great Britain in 1819. The provisions of the bill which has been read are essentially the same as the provisions enacted for the same purpose in the foreign-enlistment act of Great Britain. With the exception of the section giving to citizens of the United States authority to sell vessels, the material of which they are made, and munitions of war to Governments or citizens of Governments with whom the United States may not be at war, there is nothing in this bill which is not contained in that act, and there is no provision in that act which is not substantially embraced in this bill.

One of the proposed changes is the repeal of that provision which prohibits the fitting out vessels without the jurisdiction of the United States. That section of the act of 1818 makes the Government responsible for the acts of those beyond its jurisdiction. This is a responsibility which belongs to other Governments; not to ours. The bill presented provides, however, that if citizens who have committed crimes beyond its jurisdiction shall return to the United States they shall be punished. This corresponds with the provision in the English act. It provides also for the repeal of the ninth section of the act of 1818, which requires owners and consignees of armed vessels departing from our shores to give bonds for their good conduct, whether these vessels are under the command and control of citizens of the United States or of citizens of foreign States, or within or beyond its jurisdiction. It also repeals the very oppressive and onerous provision of section eleven, which commands collectors of customs to detain vessels whenever there shall be any cause to suspect, either from the crew, cargo, "or other circumstances," that they were to be against other Governments. In place of this the bill provides that collectors of the customs shall have power to prosecute any vessel for offenses against this act, precisely as they have power to prosecute under similar circumstances for offenses against the laws for the protection and collection of the revenue of the United States, upon the effective execution of which the Government depends for its existence.

The bill also repeals the provision giving informers one half the fines and forfeitures that may result from the execution of the law. No such provision is contained in the English act. The amendments proposed by the gentleman from Rhode Island [Mr. JENCKES] and adopted by the House provide that all the pro-

ceeds of the prosecution shall be paid into the Treasury of the United States.

The bill also repeals the sixth section of the act of 1818, against setting on foot expeditions against a foreign Government. The effect of that section is to enable the Government to hold a single man, a society, or association of men responsible for acts committed by a people. It is not contained in the English law. Instead of this the bill proposes that every man engaged in any enterprise prohibited by the provisions of this act or the laws of the country, shall be held responsible for what he himself does and shall be punished for any violation of law.

Mr. STEVENS. I ask the gentleman to yield to me for a moment.

Mr. BANKS. Certainly.

Mr. STEVENS. I understood the gentleman to say that, as amended, the bill gave the whole forfeiture to the United States. Is that one of the amendments which has been adopted by the House?

Mr. BANKS. The amendment has been adopted by the House.

Mr. STEVENS. Then I do not think there will ever be a prosecution. I suppose that is the object of it.

Mr. BANKS. The Government is remanded to the persons by whom the offenses are committed. It is a provision which is based upon sound principles of law and justice. On the other hand, the bill gives the Government every power required for maintaining the neutrality of the nation. It gives the Government power to prevent and punish enlistments within the United States for hostilities against foreign Powers. It prohibits and punishes the organization of any expedition within the United States against other Governments by making every man engaged therein responsible for his crime. It gives to the President, the same as the law of 1818, power to use the land and naval forces to execute the law; and also to compel foreign vessels, if necessary, to depart from the country.

The bill clothes the collectors, as I have said before, with power to prosecute violations of this law as in the prosecution of violations of the revenue laws, upon which the existence of the Government depends. It provides for the punishment of citizens who have committed offenses against other Governments beyond its jurisdiction whenever they shall have returned. It withholds nothing given by other Governments to maintain in force laws of neutrality, but imposes upon the people no restrictions not necessary for maintaining peace with other nations. Beyond this I have nothing to say. I repeat, the purpose and object of this bill is to modify our statutes to correspond with the statutes of Great Britain, to place them upon a level with those of other Governments, and to give our citizens, as far as possible, all the privileges necessary to the full development of the prosperity and power of the country, and which may not conflict with the rights of other Governments. The single addition made by the committee in this bill is that embodied in section ten. It provides—

Sec. 10. *And be it further enacted*, That nothing in this act or any other existing law shall be so construed as to prohibit citizens of the United States from selling vessels, ships, or steamers built within the limits thereof, or materials or munitions of war the growth or product of the same, to inhabitants of other countries or to Governments not at war with the United States: *Provided*, That the operation of this section of this act shall be suspended by the President with regard to any classes of purchasers, whenever or wherever the maintenance of friendly relations with any foreign nation may, in his judgment, require it.

It is believed by many well-informed citizens that this right now exists. But citizens are prosecuted for its violation and the business of the country is greatly impeded by this uncertainty. Therefore, to remove all doubt, the committee have reported this section.

I surrender the floor now to the gentleman from New York, [Mr. RAYMOND.]

Mr. RAYMOND. My main purpose in rising, Mr. Speaker, is to move the substitution of a resolution reported by the minority of the

Committee on Foreign Affairs for the bill now before the House. I do not propose to enter upon any discussion either of the bill or of the very important principles which it embodies. I think that even the cursory statement just made by the chairman of the Committee on Foreign Affairs will show the House that the change proposed in the neutrality laws of this country is one of a very sweeping character and one which ought not to be made without more careful deliberation than it is now in our power at present to give it. I think the position which the United States has always held on the subject of the duties and obligations of neutrality has been such as to command in a very high and marked degree the respect of all other nations as well as the confidence and approval of our own people.

While our Government has always given the largest scope to the claims of neutral Powers it has also assumed in the fullest and most complete manner all the obligations and duties of neutrality. It has provided, I think, more fully than any other nation for the preservation of the rights and obligations of neutrality toward all other Powers. While it claims to the fullest extent that neutral nations shall enjoy the rights to which they are entitled as against belligerents, it has also held that war was exclusively the concern of the Government, and that individual citizens in any nation should never be allowed either to make war or to commit acts calculated to lead the nation into war without the fullest sanction of the Government, with whom alone that right and that power exist. And while it has always had upon its statute-books stringent laws of neutrality conformable in all respects to the rights of neutrality, it has also endeavored—sometimes I admit with indifferent success—to enforce these laws with rigid and exact justice, and to prevent citizens of the country from making war with any Power to which the Government itself had not previously made itself a party. It seems to me well for us to consider whether we can afford, in point of character—I do not speak of what we can afford to do in point of interest—to depart from the great principles which were laid down and embodied in the action of our Government under the administration of Washington, and which has continued to sway its counsels without interruption from that day to this.

But, as I said, I do not wish to enter at this late day upon any discussion of the general principles which this subject involves. I rose rather to say that it seems to me, as it seemed to my colleague on the committee, [Mr. PATTERSON,] who joined me in the minority report, that this subject merits much more full and careful consideration than we are now able to give it. But a few months will elapse before we shall again reassemble in the December session. The resolution reported by the minority proposes that a joint committee, to consist of three members of the Senate and six members of the House, shall take into consideration during the recess the subject of revising our neutral laws, and that they shall report at the next session such changes as they think it wise and expedient to make in order to conform these laws to the changed condition of international affairs and the progressive spirit of the age. I submit to the House that in that way we shall stand a much better chance of attaining results which will be satisfactory to us as well as to the people of the whole country than by acting in this necessarily hasty and imperfect manner upon the bill now brought before the House. I know no exigency in our public affairs which requires us to enter upon an immediate change in our neutrality laws. On the contrary, circumstances exist which incline me to believe that caution is more than ever requisite in making such a change. I can very readily see how the enactment of such a law as this, in haste necessarily, might encourage individual enterprises and expeditions at war with the spirit of our laws and with the real interests and honor of the nation.

It is proposed in this bill, moreover, as the

chairman of the committee has stated, to base our laws of neutrality, not upon the principles which we ourselves have always held on this subject, but upon the laws and practices of a foreign Power. Now, sir, I submit that that is not a wise basis for our action. I concur fully in the sentiment that members cherish here concerning the action of certain foreign Powers on the subject of neutrality during our recent civil war. But do we not owe it to our own dignity and honor to continue to do hereafter what we have always done hitherto—base public laws of this kind upon the public principles which have come to be known as the American principles on the subject of international law? I shall with great reluctance consent to a departure from that which is our traditional policy, and which I believe to be the policy most consistent with the dominion and greatness of our nation. Especially should I be unwilling to make these serious changes in so hasty and imperfect a manner as these must be made if they are made now in the way proposed.

I move to amend this bill by substituting the resolution reported by the minority of the Committee on Foreign Affairs; and I ask the Clerk to read the resolution.

The SPEAKER. A joint resolution or a bill cannot be amended by substituting a concurrent resolution for it, for the two are incongruous.

Mr. RAYMOND. I understand that the bill is before the House for consideration.

The SPEAKER. It is.

Mr. RAYMOND. My proposition is to substitute a joint resolution for it.

The SPEAKER. The resolution reported by the minority of the Committee on Foreign Affairs is a concurrent resolution.

Mr. RAYMOND. I move, then, to amend the bill by striking out all after the enacting clause and inserting the following:

That a joint committee of three members of the Senate and six members of the House of Representatives be appointed to revise the several statutes affecting the neutral relations of the people of the United States with those of other nations, and to consider and report what legislation is necessary to secure to the people of the United States the rights enjoyed by other nations; to secure the largest liberty of intercourse and trade consistent with permanent peace, and to harmonize the statutes of the United States upon this subject with those of other nations, and with the progressive spirit of the age.

The SPEAKER. The motion to amend is not now in order, pending the motion to recommit.

Mr. BANKS. I will withdraw the motion to recommit, in order to allow my colleague on the committee [Mr. RAYMOND] to offer the amendment he proposes.

Mr. RAYMOND. I now move the amendment I have indicated.

Mr. BANKS. I now renew the motion to recommit, and will yield to the gentleman from Indiana, [Mr. ORTH.]

Mr. SCHENCK. Before the gentleman from Indiana [Mr. ORTH] proceeds, I rise to a question of order. As I understand the amendment of the gentleman from New York, [Mr. RAYMOND,] it would require, if adopted, the assent of the President to the appointment of a joint committee of the Senate and House of Representatives.

The SPEAKER. What is the point of order which the gentleman makes?

Mr. SCHENCK. My point of order is, that it is not competent to put into the shape of a law requiring the signature of the President the appointment of a joint committee of the two Houses.

The SPEAKER. Resolutions appointing joint committees are not necessarily required to be sent to the President for his signature. But if Congress should consider the subject important enough they could send a resolution of that kind to the President. It may be an argument against the adoption of a joint resolution that it requires the President to approve the appointment of a joint committee of Congress; but it is not a point of order. The Constitution reads as follows:

"Every order, resolution, or vote to which the com-



currency of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him," &c.

This clause has been construed so as not to require the signature of the President for simple concurrent resolutions of the two Houses. But if Congress should see fit they could send a resolution appointing a joint committee to the President for his signature.

Mr. ORTH. I will not detain the House long, because I am admonished by the closing hours of the session that debate cannot be indulged in to any great extent. I presume, also, that this House is prepared to vote upon the principles contained in the bill now under consideration.

Mr. Speaker, I trust this House will not sanction the appointment of a joint committee, as proposed by the gentleman from New York, [Mr. RAYMOND.] This neutrality act has been upon our statute-book for nearly fifty years. And for this long time this great and powerful Republic has occupied a position before the world of placing upon her citizens restraints and curbs that no other nation on earth places upon its citizens or subjects. I think it is high time that our neutrality act should be so amended as to conform to the liberal spirit of the age. And if we pass this bill to-day I believe our action will be in full accord with the opinion and the outspoken sentiment of our constituents; a sentiment which demands that our country shall take her position as an equal with the most powerful nation on earth, and proudly maintain such position, if need be, by the strong arm of the Republic.

Whence the necessity of referring this subject to a joint committee of the two Houses for deliberation? Why give to this statute, old, hoary-headed with error, which should never have been upon our statute-books at all, a degree of consideration which is denied to the most important of our other laws? Is there any sanctity about this neutrality law except that which may have accrued to it from age? The only effect of such reference will be to retard legislation on this subject, and keep in force for a longer period a policy far from complimentary to our manhood as a nation. Let us show that as a nation we will no longer impose shackles and restraints upon our people which other nations less free and less liberal do not impose upon theirs. Let us especially show to Great Britain—and I presume no one will claim that we are under any obligations to her for her conduct toward us during the last five years—let us show Great Britain that if we apply to her the same test of neutrality that she has applied to us, she, at least, has no cause for complaint; that in adopting this law we but follow the precedent that she has set us, when we refuse to hold our people to a stricter neutrality than she enforces upon her people.

But I did not rise for the purpose of entering into a discussion of the merits of this bill. I rose simply to oppose the reference of this subject to a joint committee of the two Houses, for no good can result from such reference. If our neutrality law is wrong and requires amendment, let us amend it now, and not wait action which is uncalled for, and which is hardly without a precedent in the history of congressional legislation. Let us not sanction the idea that we cannot touch a law, amend it, or repeal it without first referring it to a joint committee of the two Houses. The bill is right, and should speedily become a law.

Mr. BANKS. Mr. Speaker, I yield to the gentleman from New Hampshire, [Mr. PATTERSON.]

Mr. PATTERSON. Mr. Speaker, I do not rise to oppose this bill, nor indeed to discuss it; for I concur heartily in the general scope of the able report of the chairman of the committee on this subject. But, sir, I desire to state my reasons for signing the minority report.

The bill has never been read before our committee. I never heard of the bill until yesterday morning at a meeting of the com-

mittee of about fifteen minutes' duration. Now, sir, the purpose and effect of the bill are to modify, if not entirely change, the policy of this Government, adopted under the auspices and direction of Washington and adhered to from that time to this—a policy under which our commerce has enlarged and prospered, and our rights and liberties been fully maintained. This bill is to affect all our interests as a commercial people; it is to affect our relations with foreign Governments now and hereafter. It proposes an essential and important change in the legislation of this country; and it appears to me to present questions of such gravity and magnitude as to demand more deliberate consideration than we can possibly give it in the few remaining hours of this session. Certainly a bill involving questions of such serious import should be maturely and thoroughly considered by the committee reporting it; and it appears to me to be a measure of such a nature that it should emanate from the best legal ability of this country, acting upon the most thorough and deliberate consideration.

Now, sir, the chairman of the committee may have considered this question thoroughly, and of course is justified under such circumstances in reporting the bill. But as regards myself, I have not considered it. At a time like this, when the principal nations of Europe are engaged in a war which may ultimately involve the whole of Europe, and when our own relations toward France and England are such as to demand our serious attention, we should not, it seems to me, by a measure of this kind, hastily considered and hurriedly passed, take a step which may effect our interests in such a way as to cause us grave regret hereafter. We should remember that we are even now asking of England reparation for injuries which we have suffered at her hands during the late war, from an administration of affairs which she claims is in entire accordance with her neutrality laws. Should we now modify our own neutrality laws so as to correspond with the law of England, we may thereby place ourselves at a disadvantage in our controversy with that nation. In my opinion, we ought, standing upon our present legislation, to make our demand and insist upon it. It is for these reasons, and for these reasons only, that I object to the consideration of this bill now. At a proper time, and after due consideration, I might be inclined to support it. I am opposed to hasty legislation on questions of such reach and magnitude.

Mr. BANKS. I now yield to the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. Mr. Speaker, I concur with those who have expressed a wish that we had time to consider this bill with greater deliberation; yet I am in favor of final action within the time that remains. My colleague, [Mr. RAYMOND,] who says everything well, remarked that our neutrality laws have long commanded the respect of other nations. He might have gone further and told us that our acts of neutrality, as well as our laws of neutrality, have long commanded, not only the respect, but the approbation of foreign nations. Sir, there was a time when we might be the objects of this respect, the recipients of this approbation, if not with satisfaction, at least with indifference. That was the time when we were in the midst of undisturbed prosperity. It was when we were every now and then engaged, because bound in honor and in law to do so, in discharging our obligations of neutrality as inscribed upon our statute-book, giving to them a broad and generous interpretation. This was when with unflinching hand we chastised all interference in the struggles of other nations, now in the interest of England, now of France, and then of Spain against the Spanish American Republics.

But, Mr. Speaker, there came another time. There came a dark and portentous hour—an hour when we were no longer prosperous, but when we were in time of trouble—in the throes of distressing revolution. Then we were, as

we had a right to suppose, to receive a just return for the hard faith we had so sacredly kept. Did we receive a just return? Did we receive any return which a proud and powerful people can brook? Did we receive any return which leaves us self-respect, not to speak of satisfaction, when we remember that we have enacted international comity into laws, that we have bound ourselves more and more by enactments in the interest of foreign Powers, that we have disciplined and hampered our people as other nations have not hampered or disciplined theirs, and that at last we have been despitely used and put off with excuses when our calamities seemed to have left us without power to exact our rights?

If we once derived pleasure from our painstaking foreign policy on the subject of neutrality, or if we once viewed it with indifference, that time is gone, and the feeling of the nation is changed. American citizens, of all nationalities, feel that if we have been parties to a golden rule we have received no exemplification of its spirit from our haughty neighbors, and now fair play and equal rights is to be the rule.

Look at the last four years. Begin with the Trent affair. Remember our harmless merchantmen burned at midnight in mid-ocean. Consider the Canadian raid upon Vermont and its issue. Recall the building of rams and the fitting out of pirates; and then the laggard and shambling efforts to arrest them. Do not forget the recent incursion upon Canada nor the rigorous fidelity with which the Government punished that incursion. Bear in mind the approbation with which that rigor was received in England, the gracious praise of the "Thunderer" of Fleet street; and from which shall we derive consolation? I remember all these things, and in the light of all I am unwilling to vote to postpone this bill, and I am in favor of such a change in our neutrality laws as will give to other nations neither more nor less than we ourselves receive. The particular bill before us was so recently reported that I have been unable to examine it except as I followed the reading from the desk. If it had not been reported from a committee in whose learning and ability I have so much confidence, I might feel more solicitude than I do as to its provisions in detail, and a greater reluctance to vote with so little deliberation.

I am willing to accept the assurance of its author, the gentleman from Massachusetts, [Mr. BANKS,] that it so readjusts the standard of neutral obligation as to make it conform to that which the leading Governments of Europe have established. I receive it as a measure of equality between America and the other nations of the earth.

Mr. JENCKES. I ask the gentleman from Massachusetts whether the law now reported is not substantially the original neutrality law of the United States, the first one ever adopted by any nation?

Mr. BANKS. The bill reported, I will say, in answer to the inquiry of the gentleman from Rhode Island, is identical with that adopted during Washington's administration, and from which we have since departed.

Mr. JENCKES. I ask whether that portion of the neutrality laws complained of recently was not adopted at the request of the Portuguese and Spanish Governments.

Mr. BANKS. Such is the impression made by the history of the times.

Mr. JENCKES. I ask further, whether in the Russell and Adams correspondence the whole history of these neutrality laws has not been exposed.

Mr. BANKS. I believe it has.

Mr. PAINE. The tenth section of the bill proposes to permit citizens of the United States to sell vessels and steamers to foreign Governments. The chairman of the committee has informed the House that the reason for this provision was that an impression had prevailed that such sales were prohibited and punishable. Accordingly, it is here provided "that nothing in this act shall be so construed as to prohibit citizens of the United States from

selling vessels, ships, or steamers built within the limits thereof, or materials or munitions the growth or product of the same, to inhabitants of other countries or to Governments not at war with the United States; provided that the operation of this act shall be suspended whenever the United States shall be engaged in war."

Now, Mr. Speaker, I wish to call the attention of the chairman of the committee to this. Will not these same prohibitions which he imagines exist in other laws still exist even though this section shall be passed? Will it not, therefore, be necessary, in order to carry out the object he proposes, to provide that this should not be prohibited either by this act or any other act. I suggest, therefore, to amend so as to have it read "that nothing in this act or in any other existing law shall be so construed," &c.

Mr. BANKS. I have no objection to the amendment suggested by the gentleman from Wisconsin, to add after the words "this act" the words "or any other act."

The amendment was agreed to.

Mr. BANKS. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BANKS. I desire to say a few words. I will not trespass long for I wish a vote before the recess to-day. The proposition of the gentleman from New York [Mr. RAYMOND] was carefully considered by the gentlemen composing the Committee on Foreign Affairs, and upon a call of the roll of the committee it was disapproved by them with the exception of himself and the gentleman from New Hampshire, [Mr. PATTERSON.] It was the judgment of the committee that this question be met now and that it should not be postponed; that both the committee and the House would be in a condition to pass final judgment upon the subject. Therefore, I trust, whatever that judgment may be, we shall not consent to a postponement, but approve or disapprove of the bill according to the judgment of the House. Let me here say a word in reply to the suggestion of the gentleman from New Hampshire [Mr. PATTERSON] that this bill had not been read in committee. The gentleman did not honor us with his attendance except at the last moment of our deliberations upon the subject. We had given many hours of careful consideration to the subject for several weeks past.

Mr. PATTERSON. I would say to the gentleman that to the best of my knowledge I have been absent from but one meeting. I was absent one week, and if this matter was brought up at any time in the committee it must have been then.

Mr. BANKS. There have been several meetings of the committee on this subject. Perhaps the gentleman's attention was not called to it, because it was for a considerable time in the hands of a sub-committee. But at the last meeting of the committee when the bill was agreed to, the principles of it were distinctly stated as well as the points of agreement and disagreement between it and the other acts of this Government upon this subject as well as of Great Britain, and if the gentleman had desired the reading of the bill proposed it would have been read. It is suggested that we ought not to depart from the early policy of the Government on this subject. Let me say that the first object of this bill is to return to the early policy of the Government. Its provisions are substantially those of the act of 1794, enacted under the administration of Washington. Of the ten sections of this act, all are retained in this bill with one exception. Its passage will bring our legislation back to the policy of Washington's administration. The acts of 1797, 1817, and 1818 were departures from the policy of the Government, the principles of international law, and the legislation of every other Government. This bill strikes from the statutes enacted since 1794 the unnecessary, unusual, and onerous restrictions and prohibitions upon the commerce of the country and the power of its people.

I do not like to say much about the history of this legislation because it is not an agreeable subject; but it appears distinctly in the history of the periods to which I have referred that the changes in the neutrality law of 1794 were made to correspond, not with the wishes of the people or Government, or with a view to its interest or prosperity, but at the solicitation, and I might say at the demand, almost, of foreign Governments, and especially of Portugal and Spain, supported by Great Britain. We made our laws to correspond with their interests and wishes rather than our own, because we were in a condition not to resist that which they pressed upon us. But it was distinctly stated by John Adams, as President, by John Quincy Adams, as Secretary of State, and more recently by Mr. Adams, representing our Government at the Court of St. James, that the legislation and policy of that day were adopted with a full comprehension that the time would come when the people of this country would be able to assert their own right, upon the judgment of the people alone rather than at the dictation or upon the representations of representatives of foreign Governments. The question for this House to determine is whether that time has come. Sir, I think it has come.

If we want anything to prove our power, let us look at the history of this country for the last five years. If anything is required to exhibit our sense of justice, let the world look at the manner in which we have enforced our own laws against our own citizens, suffering under irreparable wrongs, at the demands of a Government that has been most unjust and ungenerous toward us. If anything is required to satisfy the world of our sense of justice, we offer it assuredly in the history of this country for the years just closed. But the gentleman from New Hampshire [Mr. PATTERSON] suggests that upon this subject we should call in the aid of the best legal talent that can be obtained. Sir, we have had enough of the best legal talent for the surrender of our rights. What we want now is talent for maintaining them. I would rather go to the hearts of the people and take counsel of their courage and love of country than to professional men, of whatever class or character, for instruction as to what should be our action upon this question. Let me ask my friend from New Hampshire, should he go to the people of the State he represents and asks them whether it is time to defend the rights of this country against Great Britain, what he supposes their answer would be.

Mr. PATTERSON. Does the gentleman want a reply to his question?

Mr. BANKS. If the gentleman is able to give it, I should be glad to hear it.

Mr. PATTERSON. I am as heartily in sympathy with the cause of liberty in this country or in the Old World as the gentleman himself can be. If the gentleman refers to Ireland, as he undoubtedly does, let me say to him that to that country I owe my origin, and I am as deeply interested in its liberty as he can be. My opposition to this bill is because it is being pushed too rapidly through this House when great interests of the country are involved in its passage. That is the only objection I have made to the passage of this bill; no other objection whatever.

Mr. BANKS. The gentleman says he owes his origin to Ireland. All I can say is that his opposition to this bill does his origin no credit.

Mr. PATTERSON. I do not ask the gentleman from Massachusetts [Mr. BANKS] to help preserve the credit of my origin.

Mr. BANKS. But the gentleman has not answered my question. I ask him again whether he supposes, if he should go to the people of New Hampshire and ask them whether the time had come when we should strike from our statute-books restrictions and prohibitions upon our power and prosperity, which were placed there at the dictation of foreign nations, they would say that it was not yet time. Sir, I do not believe there is one son of New Hampshire who would not say that this is the time, or who

would say that any higher talent is required in determining this question than the spirit of justice which fills the hearts of the people. But it is not necessary to debate this question further. The proposition submitted by the committee is, that we shall return to the statutes and policy of the age of Washington. Our purpose is to strike from our statutes unusual and unjust restrictions and prohibitions upon the privileges of our citizens and upon the power of our country which now stand upon our statute-books, but which are to be found upon the statute-books of no other nation upon the face of the earth. The bill we propose gives to the Government of the United States power to maintain our relations of neutrality with other nations, and at the same time relieves our citizens from restrictions and prohibitions that no considerations of fidelity or justice to other nations can justify.

The question was taken upon the amendment of Mr. RAYMOND, and it was rejected.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 0, not voting 64; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Benjamin, Bergen, Bidwell, Bingham, Boutwell, Boyer, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Cooper, Cullom, Dawes, DeFrees, Delano, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hart, Hayes, Higby, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jonckes, Julian, Kasson, Kelley, Kerr, Ketcham, Kootz, Keykendall, Leitch, Lakin, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, Marston, Maynard, McClurg, McRuer, Mercier, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Sawyer, Schenck, Seofield, Shanklin, Shellabarger, Spalding, Stevens, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Wright, and the Speaker—123.

NAYS—0.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Barker, Beaman, Blaine, Blow, Brandegee, Bundy, Chandler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawson, Deming, Denison, Dodge, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Asahel H. Hubbard, Demas Hubbard, Edwin H. Hubbard, Hubbard, Humphrey, Johnson, Jones, Kelso, Latham, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Noel, Pike, Pomeroy, Radford, William H. Randall, Raymond, Rogers, Sitgreaves, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, John L. Thomas, Thornton, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Woodbridge—63.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. ANCONA. I wish to state that my colleague, Mr. DAWSON, is absent and is paired generally with Mr. ASHLEY, of Ohio.

Mr. DAWES. My colleague, Mr. WASHBURN, is necessarily absent, and is paired upon this vote, as also upon the admission of Tennessee, with the gentleman from Kentucky, Mr. GRIDER.

Mr. HOTCHKISS. My colleague, Mr. DEMAS HUBBARD is absent on account of sickness. If he were here I have no doubt he would vote for this bill.

Mr. WARD. The gentleman from Maryland, Mr. J. L. THOMAS is sick. If he were here he would vote for this bill.

Mr. NEWELL. The gentleman from New York, Mr. MARVIN, is absent. If he were present he would vote "ay."

Mr. KASSON. The gentleman from New York, Mr. DARLING, has gone home in consequence of sickness in his family. If he were here he would vote "ay."

Mr. TAYLOR, of New York. My colleagues,

Messrs. HUMPHREY and POMEROY, are both absent, and on general questions are paired. If they were here I presume they would both vote for this bill.

When the call of the roll had been concluded, The SPEAKER, directing his name to be called, voted "ay."

The result was then announced as above stated.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC PRINTING.

Mr. LAFLIN, from the Committee on Printing, reported a bill to further regulate the printing of public documents and the purchase of paper for the public printing; which was read a first and second time.

The bill, which was read at length, provides in the first section that hereafter it shall be the duty of the Superintendent of Public Printing, in place of the reports of the executive Departments ordered by the act of June 25, 1864, to cause to be printed and bound twenty-five hundred copies of the annual reports of the executive Departments, with such accompanying documents as the heads of those Departments may respectively select, but not to exceed three hundred pages, for the use of said Departments, respectively.

The second section proposes to enact that whenever papers relating to foreign affairs shall be communicated to Congress, accompanying the annual message of the President, it shall be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, two thousand copies for the use of the members of the Senate, four thousand copies for the use of the House, and twenty-five hundred copies for the use of the State Department, in place of the numbers ordered by the act of June 25, 1864.

The third section provides that in the publication of the report of the Secretary of the Navy, the detailed statement of offers for supplies and of articles embraced in each class under contract be omitted, and in lieu thereof the Secretary of the Navy shall prepare and submit with his report a schedule embracing the offers by classes, indicating such as have been accepted.

It is provided in the fourth section that it shall be the duty of the Superintendent of Public Printing, at the commencement of each session of Congress, to submit to the Joint Committee on Printing, estimates of the quantity of paper of all descriptions which will, in his opinion, be required for the execution of the public printing during the coming year. The Joint Committee on Printing shall then fix upon a standard of paper for the different descriptions of congressional and executive printing, and it shall be the duty of the Superintendent of Public Printing, under the direction of the Joint Committee on Printing, to advertise in only two newspapers published in each of the cities of New York, Cincinnati, Boston, Philadelphia, Baltimore, and Washington, for sealed proposals to furnish the Government of the United States with paper of the quality and in the quantity specified in the advertisements, and it shall be the duty of the Superintendent to furnish samples of the standard papers adopted by the committee to applicants therefor; such sealed proposals to be opened before, and the award of contracts to be made by, the Joint Committee on Printing. It is provided that the advertisement for sealed proposals for furnishing paper shall designate the minimum portion of each particular quality of paper required for either three months, six months, or one year, as the Joint Committee on Printing may determine; but when the minimum portion so specified shall exceed in any case one thousand reams, the advertisement shall state that proposals will be received for one thousand reams or more. No proposals are to be considered

by the Joint Committee on Printing unless accompanied by satisfactory evidence that the person or persons making such proposals are manufacturers of or dealers in the description of paper which they propose to furnish. In awarding contracts an equitable period of time for filling the same is to be designated and allowed by the Joint Committee on Printing, without whose approval no contract shall be valid. It is to be the duty of the Superintendent of Public Printing to include in his annual report to Congress a detailed statement of all proposals made and contracts entered into for the purchase of paper.

The fifth section proposes to enact that it shall be the duty of the Superintendent of Public Printing to compare every lot of paper delivered by any contractor with the standard of quality, and also to see that it is of the weight contracted for, and to refuse to accept any paper from any contractor which does not conform to the standard of quality and is not of the stipulated weight. In case of difference of opinion between the Superintendent of Public Printing and any contractor for paper with respect to its quality, the matter of difference is to be determined by the Joint Committee on Printing. In default of any contractor to comply with his contract in furnishing the paper contracted for in the proper time and of proper quality and weight, it is to be the duty of the Superintendent of Public Printing to report the same to the Joint Committee on Printing if Congress is in session, or to the Secretary of the Interior if during a recess of Congress, and he shall, under the direction of the Joint Committee on Printing or of the Secretary of the Interior as the case may be, enter into a new contract with the lowest and best bidder for the interests of the Government, among those whose proposals were rejected at the last opening of bids, or advertise for new proposals, under the regulations before established; and during the interval which may thus be created, he shall, under the direction of the Joint Committee on Printing or of the Secretary of the Interior, as provided, purchase in open market at the lowest market price, all such paper necessary for the public service. For any increase of cost to the Government in procuring a supply of paper for the use of the Government, the contractor or contractors in default and his or their securities are to be charged with and held responsible for the same, and are to be prosecuted upon their bond by the Solicitor of the Treasury, in the name of the United States, in the circuit court of the United States in the district in which the defaulting contractor resides. To enable the Solicitor to do so, it is made the duty of the Superintendent of Public Printing to report to him the default on its happening, with a full statement of all the facts in the case. The Joint Committee on Public Printing, or, during the recess of Congress, the Secretary of the Interior, is authorized to empower the Superintendent of Public Printing to make purchases of paper, in open market, at the lowest market price, whenever in their opinion the quantity required is so small, or the want is so immediate, as not to justify advertisement for and award of contract therefor.

The sixth section provides for the repeal of all laws or parts of laws, joint resolutions or parts of resolutions, conflicting with the above provisions; and it provides also that the Superintendent of Public Printing shall not print any greater number of the reports herein named unless otherwise directed by either House of Congress.

Mr. LAFLIN. Mr. Speaker, I do not wish to detain the House a single moment in the discussion of this bill. It has been submitted to the Joint Committee on Public Printing, and meets their approval. It is also approved by the Superintendent of Public Printing.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. LAFLIN moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. HOGAN. The Committee of Ways and Means, to whom was referred a bill (H. R. No. 324) entitled "An act for the relief of John M. Avery," have directed me to report adversely upon it, and to move that the committee be discharged from its further consideration, the purpose sought having been accomplished by other means.

The motion was agreed to; and the bill was laid upon the table.

Mr. HOGAN. I am also directed to report back, with a similar recommendation, the bill (H. R. No. 323) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The bill was laid on the table.

#### TARIFF BILL.

Mr. GARFIELD. I submit the following report from a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the second, third, fourth, fifth, sixth, and seventh amendments of the Senate, and agree to the same.

That the Senate recede from their eighth amendment.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with the following amendment: In line nine, page 1 of the engrossed bill, strike out "\$2 50" and in lieu thereof insert "three dollars."

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same with the following amendments: in line two of said amendment strike out the words "and directed," and in line three, after the words "collection in," insert the words "any of;" and the Senate agree to the same.

W. P. FESSENDEN,  
J. M. HOWARD,  
J. B. HENDERSON,  
*Managers on the part of the Senate.*  
JAMES A. GARFIELD,  
JOHN HOGAN,  
*Managers on the part of the House.*

Mr. GARFIELD. Most of the amendments are verbal. Three of them make an addition to the bill by which trade between our own Government and the republic of Mexico is granted the same privileges and put upon the same footing as the trade with our northern neighbors.

The three leading points of difference between the House and the Senate are in reference to the second, ninth, and thirteenth sections. On the second section, relating to cigars, the committee effected a compromise which will be satisfactory, I think, to both Houses. The House is asked to agree to the Senate amendment in consideration of raising the duty on cigars from two dollars and a half to three dollars. The ninth section provides that in determining the dutiable value of imported merchandise, there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal markets of the country from whence the same shall have been imported into the United States, the cost of transportation, shipment, and transshipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States, &c. The committee on the part of the House made an earnest effort to save the section, but we were reminded that it passed the House only by the casting vote of the Speaker, and that it was rejected by a nearly unanimous vote in the Senate. The Senate committee believed that it would be impossible to carry it through the Senate. The Senate recede from its disagreement to the thirteenth section, which establishes a Bureau of Statistics in the Treasury Department. Though I greatly regret the loss of the ninth section, I hope the report will be



adopted as the best that is likely to be secured at this late period of the session.

Mr. MOORHEAD. I rise for the purpose of opposing the adoption of this report.

Mr. GARFIELD. I will give the gentleman two minutes; I cannot give him more, for the House must take its recess in five minutes from this time.

Mr. MOORHEAD. The ninth section is the vital part of this bill. Without the ninth section I would not give a straw for the bill. If we strike that out, therefore, there is no use in the bill at all. It provides for levying duty on the article when put on shipboard, and is a feeble approach to the principle of Mr. Clay of having a home valuation. It is a feeble effort, but it is an effort in the right direction. I do not see why the House should back down and yield to the Senate. It is said that it interferes with the manufacture of coarse wools in New England.

Mr. GARFIELD. I cannot yield any further, as it is near the hour of recess. There is much in the bill besides the ninth section that ought to be saved, and I hope we shall not lose all in the effort to save a part—

Mr. MOORHEAD. I hope the House will vote this report down.

Mr. GARFIELD demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. MOORHEAD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 55, not voting 82; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Delos R. Ashley, Baker, Banks, Benjamin, Bergen, Bontwell, Cobb, Conkling, Cooper, Cullom, Dawes, Defrees, Eliot, Finck, Garfield, Hogan, Holmes, Hooper, Hotchkiss, Ingersoll, Letcham, McKim, McRuer, Morrill, Blond, Lott, Lynch, Marston, McRuer, Morrill, Niblack, Nicholson, Orth, Paine, Perham, Price, Alexander H. Rice, John H. Rice, Rollins, Ross, Sawyer, Schenck, Nelson Taylor, Robert T. Van Horn, Wentworth, James F. Wilson, and Windom—49.

NAYS—Messrs. Buckland, Delano, Donnelly, Briggs, Dumont, Eckley, Eggleston, Eldridge, Glossbrenner, Abner C. Harding, Higby, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Jenckes, Johnson, Julian, Kelley, Kerr, Koontz, Latham, William Lawrence, Maynard, McClurg, Mercer, Miller, Moorehead, Myers, Newell, O'Neill, Patterson, Samuel J. Randall, Rogers, Scofield, Shellabarger, Spaulding, Stevens, Stokes, Strouse, Taber, Nathaniel G. Taylor, Trimble, Trowbridge, Van Arnum, Ward, Welker, Whaley, Williams, Stephen F. Wilson, and Wright—55.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Baxter, Beaman, Bidwell, Blaine, Blow, Bradecoe, Bromwell, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Dawson, Deming, Denison, Dixon, Dodge, Farnsworth, Farquhar, Ferry, Goodyear, Grider, Griswold, Griswold, Hale, Aaron Harding, Harris, Hart, Hayes, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Jones, Kasson, Kelso, George V. Lawrence, Loan, Longyear, Marshall, Marvin, McCullough, McIndoe, McKee, Morris, Moulton, Neill, Phelps, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, Ritter, Shanklin, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Thornton, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Winfield, and Woodbridge—82.

So the report of the committee of conference was rejected.

During the vote, the hour of half past four having arrived, the question was raised, and the Speaker decided that when a call of the roll had been commenced it could not be interrupted until it had been concluded.

And then, agreeably to the order of the House, at four o'clock and forty minutes p. m., the House took a recess till seven o'clock p. m.

#### EVENING SESSION.

The hour of half past seven o'clock p. m. having arrived, the House resumed its session.

#### BRANCH MINT IN MONTANA.

Mr. McLAIN presented the memorial of the Legislature of the Territory of Montana for the establishment of a branch mint in the Territory

of Montana; which was referred to the Committee of Ways and Means and ordered to be printed.

#### SOUTHERN BOUNDARY OF MONTANA.

Mr. McLAIN also presented the memorial of the Legislature of the Territory of Montana for the alteration and extension of the southern boundary line of Montana; which was referred to the Committee on Territories and ordered to be printed.

#### PROTECTION OF THE REVENUE.

Mr. MOORHEAD. I rise to a privileged motion. I move that the House still further insist upon its disagreement to the amendments of the Senate to House bill No. 780, to protect the revenue, and for other purposes, and that the House ask for another committee of conference; and upon that I call the previous question.

Mr. WENTWORTH. Will the gentleman withdraw his call for the previous question while I ask a question of the Chair?

Mr. MOORHEAD. Certainly.

Mr. WENTWORTH. I desire to ask the Chair this question: if the House shall insist upon its non-concurrence in the amendments of the Senate, and we send the bill back there notifying the Senate of our non-concurrence, will not the responsibility of defeating the bill, if it should be defeated, then rest upon the Senate? I understand it will. Now, everybody knows that the Senate dare not defeat this bill. I believe if we insist upon our non-concurrence in the amendments of the Senate, and do not ask for another committee of conference, the Senate will either ask for a committee of conference themselves or they will recede from their amendments. There are two positions for us to take; and I think our first position should be to notify the Senate that we do not agree to the report of the committee of conference, and there leave the matter; and leave them to take the next step. And then the responsibility of defeating this bill, if it is defeated, will rest upon that body.

Mr. DAWES. I do not see how the responsibility will be with the Senate any more than with this body.

Mr. GARFIELD. Especially as this is a House bill.

Mr. DAWES. If the bill is defeated, I think the country will understand who is responsible for it, without any ruling of the Chair upon the subject.

Mr. WENTWORTH. I would ask the gentleman from Massachusetts [Mr. DAWES] what he understands to be the difference between the two Houses.

Mr. DAWES. I understand the difference to be that one House wants the ninth section, and the other does not.

Mr. WENTWORTH. If the gentleman from Massachusetts will give me his attention for a few moments, I will tell him what I think the issue is. As to the ninth section, I am willing to vote for the bill with or without the ninth section; I believe I have already voted for the bill both ways.

Mr. DAWES. I also am willing to vote for the bill with or without the ninth section.

Mr. WENTWORTH. As I understand it, the issue is this: the House wants the wool tariff to be collected upon principles which should apply to all articles upon which there is a tariff. But I understand there is a class of men represented in the Senate who want everything else protected but wool. Now if that is the case, I want to say here that I am not for any such compromise, I will go for the bill with or without the ninth section; but I do not feel that it is just longer to discriminate against wool.

Mr. DAWES. I do not understand the opposition to the bill, either with or without the ninth section, to be discriminating against wool. I heard the gentleman from Illinois [Mr. WENTWORTH] propose last night to emancipate the wool-growers from the wool-manufacturers. It occurred to me that if he should succeed in

doing so he would be in a curious position. I want to know if he supposes the wool-growers can get along without the wool-manufacturers, or the wool-manufacturers without the wool-growers. The one is the breath, the atmosphere, of the other; neither can live without the other. And when my friend emancipates the wool-growers from the wool-manufacturers he will be about in the position of the darky who proposed to keep store when everybody else in the world was dead. [Laughter.] Now, I suggest to him that the only way is to take care of them both. And when he proposes to frame a tariff bill in such a way that the wool-manufacturer cannot live, in order to protect the wool-grower, he is at a kind of work I cannot understand; I do not know how he will do it. I suggest to him that the only way is for the two to go hand in hand. Let the wool-manufacturer use what the wool-grower produces, and let the wool-grower produce what the wool-manufacturer wants to use.

Mr. WENTWORTH. My idea is this: that the wool-manufacturer ought to give us the protection on our wool which we ourselves ask, and that when you come to the protection of the manufacturers, they shall dictate their own terms. But when they try high duties for themselves and low duties for us, then I say it is time that we should emancipate ourselves. That is what I mean.

J. SAUNDERS AND W. H. HALL.

Mr. RANDALL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That James Saunders and William Henry Hall be placed upon the roll and paid out of the contingent fund the same compensation as other laborers of the House from the period at which they were employed, and until otherwise ordered.

Mr. RANDALL, of Pennsylvania, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ACCOUNTS OF GEORGE N. CARLTON.

Mr. HOOPER, of Massachusetts, submitted the following report:

The Committee on Banking and Currency, to whom was referred the report of the evidence obtained by H. A. Risley, superintending special agent of the Treasury Department, to investigate the accounts and official transactions of George W. Carlton, late special agent and acting surveyor of customs at Memphis, Tennessee, and designated a depository of public money, report that there has not been time for a full investigation of the subject; and they submit to the House the accompanying papers which furnish all the information obtained by the committee, with the request that they be printed as part of this report.

The report, with the accompanying papers, was laid on the table and ordered to be printed.

#### EXAMINATION OF IMPORTED MERCHANDISE.

Mr. ELIOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the Senate No. 39, entitled "An act to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York," after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the Senate agree to the first, second, third, fourth, fifth, and eighth amendments, as made by the House.

That the Senate agree to the ninth amendment made by the House, with the following amendment: Insert after the word "inspectors," in the second line of said amendment, the words "of customs in any collection district shall," and that the House agree to said amendment.

That the House recede from the sixth and seventh amendments made by them.

That the bill be amended by adding thereto the words "and for other purposes."

Z. CHANDLER,  
E. D. MORGAN,  
GEORGE REAR RIDDLE,  
Managers on the part of the Senate.  
THOMAS D. ELIOT,  
CHARLES O'NEILL,  
WILLIAM RADFORD,  
Managers on the part of the House.

The report was agreed to.

Mr. ELIOT moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LAND-GRANT RAILROAD IN OREGON.

Mr. McRUER. I ask unanimous consent to report from the Committee on Public Lands Senate bill No. 62, entitled "An act to amend an act entitled 'An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State.'"

Mr. ALLEY. Let the bill be read.

The bill, which was read, provides that an act granting lands to Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of the State, be amended as follows:

That there be, and is hereby, granted to said State, for the purposes aforesaid, such odd sections or parts of odd sections, not reserved or otherwise legally appropriated, within six miles on each side of said road, to be selected by the surveyor general of said State, as shall be sufficient to supply any deficiency in the quantity of said grant as described, occasioned by any lands sold or reserved, or to which the rights of preemption or homestead have attached, or which for any reason were not subject to said grant within the limits designated in said act.

Mr. ALLEY. I object.

Mr. McRUER. I think the gentleman will not persist in his objection when he hears a brief explanation. There is no grant of land in this bill. By the previous legislation of Congress there was a grant of three sections per mile to aid in the construction of a military road. This merely provides that where the land cannot be found within three miles of the road, the company may go three miles further.

Mr. ALLEY. I must object.

The objection was subsequently withdrawn, when

Mr. SPALDING renewed the objection.

LEWIS F. FIX.

Mr. SHELLABARGER. I ask unanimous consent to introduce a joint resolution for the relief of Lewis F. Fix.

The joint resolution, which was read for information, proposes to direct the accounting officers of the United States to pay to Lewis F. Fix, of Ohio, the pay and emoluments of a lieutenant colonel of infantry for services as an officer of that rank, from March 1, 1865, to July 29, 1865.

Mr. SHELLABARGER. This bill is for the relief of a loyal German, who went to the war and was wounded so severely that he could no longer discharge his duties in line. He was appointed by Governor Fletcher, of Missouri, to the position indicated in the resolution; and in that capacity he served several months on the staff of General Dodge, of Missouri. The appointment, being made by a Governor, was technically not legal. But the services were rendered; they are recognized by the Government of the United States as proper to be paid; and the only reason why they are not paid is the technical defect in the appointment. The claim has been before the Committee on Military Affairs, and is approved by that committee, who are prepared to report in its favor; but I have thought it best to introduce the bill this evening.

Mr. SPALDING. I object.

CHARLES YOLEY.

Mr. VAN AERNAM asked and obtained leave to withdraw from the files of the House the papers of Charles Yoley, an applicant for a pension.

## TAXATION OF UNITED STATES OFFICERS.

Mr. ANCONA. I ask unanimous consent to report from the Committee on Military Affairs, for action at the present time, joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special five per cent. income tax imposed thereby.

Mr. HOOPER, of Massachusetts. I object.

## CLERK OF COMMITTEE ON COMMERCE.

Mr. O'NEILL, by unanimous consent, introduced the following resolution; which was referred, under the rule, to the Committee of Accounts:

*Resolved*, That the compensation of the clerk of the Committee on Commerce be fixed at the same rate as that of the clerk to the Committee on Public Lands, to commence from the first day of the present session of Congress.

REBECCA J. SHEPPARD.

Mr. GARFIELD. I ask unanimous consent to introduce a bill for the relief of Rebecca J. Sheppard.

Mr. WARD. I object.

## PROTECTION OF THE REVENUE—AGAIN.

Mr. MOORHEAD. I now renew my motion that the House insist on its disagreement to the amendments of the Senate to the bill (H. R. No. 780) entitled "An act to protect the revenue, and for other purposes," and ask for another committee of conference. On that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. Moorhead was agreed to.

Mr. MOORHEAD moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SUFFERERS BY PORTLAND FIRE.

Mr. ALLISON, from the Committee of Ways and Means, reported back, with an amendment, joint resolution (S. No. 131) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

The amendment, which was read, was to strike out in line seven the word "or" and insert "and."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

## RELIEF OF DRAFTED MEN.

Mr. ANCONA. I ask unanimous consent to report from the Committee on Military Affairs a bill for the relief of certain drafted men.

Mr. CONKLING. Let it be reported.

The bill, which was read, proposes to direct the Secretary of War to refund \$300 to each person who paid that amount as commutation under the calls of the President of the United States of February 1, 1864, and March 14, 1864, and was again drafted under the call of December 19, 1864, and required to enter the service or furnish a substitute. It is provided that the total payments under this authority shall not exceed the sum of \$60,000. The second section proposes to require the Secretary of War to refund from the commutation money an amount not exceeding \$300 to each person drafted during the late war who furnished a substitute or paid commutation money when he was not legally liable to draft or was rightfully exempt from personal service under the decisions and rules of the War Department. The provisions of the act are to apply only to claims received at the War Department prior to its passage.

Mr. WARD. I desire to inquire how much money this will take.

Mr. ANCONA. It is provided in the bill that the amount shall not exceed \$60,000.

Mr. WARD. Has not this or a similar bill been reported to the House?

Mr. ANCONA. It has not.

Mr. WARD. It looks to me like an old acquaintance. It seems to be one of the claims presented to the Committee of Claims, and which were rejected by them. In the opinion of the committee, it would be dangerous to establish this class of claims.

Mr. ANCONA. The gentleman is mistaken as to the character of this bill.

Mr. WRIGHT. If this bill is to pass this House or this Congress, it is because it is just

and well founded on a correct principle; but to declare that all who have made this payment shall have refunded to them \$300 each, and yet that the whole sum to be distributed shall not exceed the amount here prescribed renders the law nugatory and void. If there are more claimants than the fund will justify in making payment to, the question will naturally arise on the part of the proper officer of the Government, who shall be paid and who shall remain unpaid?

Mr. ANCONA. I demand the previous question.

Mr. HARDING, of Illinois. I make the point of order that this is an appropriation bill, and under the rules must have its first consideration in the Committee of the Whole.

The SPEAKER. It is now too late to make the point. It should have been made when the bill was first considered.

The House divided; and there were—ayes 30, noes 60; no quorum voting.

Mr. ANCONA demanded tellers.

Tellers were ordered; and Mr. ANCONA, and Mr. TAYLOR of New York, were appointed.

The House again divided; and the tellers reported—ayes thirty, noes not counted.

Mr. ANCONA withdrew the call for the division, and also withdrew the bill.

## WIDOWS OF REVOLUTIONARY SOLDIERS.

Mr. PRICE. I ask unanimous consent to report from the Committee on Revolutionary Pensions a joint resolution providing that the pension of widows of revolutionary soldiers, whose names are now on the pension-roll, and who were married to revolutionary soldiers prior to January 1, 1800, shall be increased to the same rate that the deceased soldiers would be entitled to under existing laws, if now living, such increase to be paid from the 30th of September, 1865.

There was no objection, and the joint resolution was received and read a first and second time.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed; it was accordingly read the third time and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ROBERT BALDWIN.

Mr. DRIGGS. I ask unanimous consent to report back from the Committee on Public Lands House bill No. 693, for the relief of Robert Baldwin. It is merely in reference to a land warrant lost through the mails.

The bill was received, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The House then proceeded to the regular order, being business on the Speaker's table.

## WEARING OF SHEATH KNIVES.

The first business in order on the Speaker's table was Senate bill No. 334, to prevent the wearing of sheath knives by American seamen; which was read a first and second time.

The bill provides that the existing regulation for the government of the Navy of the United States, prohibiting the wearing of sheath knives on shipboard, shall be extended and made applicable to all seamen in the merchant service; and that it shall be the duty of the master or other officer in command of any ship or vessel registered, enrolled, or licensed under the laws of the United States, and of the owner or other person entering into contract for the employment of a seaman or other subordinate upon any such ship or vessel, to inform every person

offering to ship himself of the provisions of this law, and to require his compliance therewith, under a penalty of fifty dollars for each omission, to be sued for and recovered in the name of the United States, under the direction of the Secretary of the Treasury, one half for the benefit of the informer and the other half for the benefit of the fund for the relief of sick and disabled seamen.

Mr. ELIOT demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NORTH CAROLINA COLLECTION DISTRICT.

The next business on the Speaker's table was Senate bill No. 399, relative to a collection district in North Carolina; which was read a first and second time.

Mr. ELIOT moved that it be referred to the Committee on Commerce.

The motion was agreed to.

#### R. P. PARROTT.

The next business on the Speaker's table was Senate bill No. 445, for the relief of R. P. Parrott; which was read a first and second time.

Mr. WRIGHT. I make the point of order that the bill must have its first consideration in the Committee of the Whole; that it cannot now be considered without reference.

Mr. LAWRENCE, of Ohio, moved that the bill be referred to the Committee of Claims. The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SEAMEN.

The next business on the Speaker's table was Senate bill No. 419, to repeal an act entitled "An act repealing certain provisions of law concerning seamen on board of public and private vessels of the United States," approved June 28, 1864; which was read a first and second time.

Mr. ELIOT moved that the bill be referred to the Committee on Commerce.

The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved to lay that motion on the table.

The latter motion was agreed to.

#### ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast;

An act (S. No. 214) to incorporate the General Hospital of the District of Columbia;

An act (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin;

Joint resolution (S. R. No. 86) to provide for the publication of the Official History of the Rebellion; and

Joint resolution (S. R. No. 117) for the relief of Charles M. Blake.

#### GEORGE W. FISH.

The next business on the Speaker's table was Senate bill No. 446, for the relief of George W. Fish; which was read a first and second time.

Mr. ROSS raised the point that the bill made an appropriation, and moved that it be referred to the Committee of Claims.

The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed.

#### STOCKTON AND COPPERPOLIS RAILROAD.

The next business on the Speaker's table was Senate bill No. 244, granting lands to aid in the construction of a railroad from the city of Stockton to the town of Copperopolis, in the State of California; which was read a first and second time.

Mr. HIGBY. I ask that the bill be read, as I propose to put it on its passage.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Stockton and Copperopolis Railroad Company, a corporation organized under the laws of the State of California, is hereby authorized and empowered to lay out, locate, construct, furnish, equip, maintain and enjoy a continuous railroad from the city of Stockton to the town of Copperopolis, in the State of California, by the most feasible route, to be selected by said corporation, and is hereby vested with all the powers and privileges and immunities necessary to carry into effect the purposes of this act.

SEC. 2. *And be it further enacted,* That the right of way through the public lands be, and the same is hereby, granted to said Stockton and Copperopolis Railroad Company, its successors and assigns, for the construction of a railroad as proposed; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said right of way is granted to said railroad company to the extent of two hundred feet in width on each side of said road where it may pass through the public domain; also, all necessary ground for station-buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables and water-stations.

SEC. 3. *And be it further enacted,* That there be, and is hereby, granted to the said Stockton and Copperopolis Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land designated by odd numbers to the amount of ten alternate sections per mile on each side of said railroad line as said company may adopt, whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights at the time the line of said road is definitely fixed and a plot thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, or covered by private land grants, or occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, on the line of said road, within ten miles of the same, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections: *Provided,* That all lands containing gold or silver, or copper, be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections, within twenty miles of the line of said road, may be selected as above provided: *And provided further,* That the word mineral when it occurs in this act shall not be held to include iron nor coal.

SEC. 4. *And be it further enacted,* That whenever said railroad company shall have ten consecutive miles of any portion of said railroad ready for the service contemplated, the Pacific railroad commissioners shall examine the same; and if it shall appear that ten miles of said road have been completed in a good and substantial manner, and in all respects as required by this act, the commissioners shall so report to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to and contiguous with said completed section of said road, unless said lands are of a character that they are covered by the exceptions and reservations of this act; then said company shall have a right to select such lands on the line of said road so constructed, within twenty miles of said road so completed. And from time to time whenever ten additional miles shall have been constructed, completed, and in readiness as aforesaid, and verified by the commissioners to the President of the United States, then patents shall be issued to said company, conveying the additional sections of land as aforesaid; and so on as fast as every ten miles of said road are completed.

SEC. 5. *And be it further enacted,* That said railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class, when prepared

for business, with rails of the best quality. And a uniform gauge with the Pacific railroad shall be established the entire length of the road.

SEC. 6. *And be it further enacted,* That the President of the United States shall cause the lands to be surveyed for twenty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of railroad; and the odd sections of land hereby granted shall not be liable to sale or entry or preemption before or after they are surveyed except by said company, as provided in this act; but the provisions of the act of September, 1841, granting preemption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1832, shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company.

SEC. 7. *And be it further enacted,* That each and every grant, right, and privilege herein are so made and given to and accepted by said Stockton and Copperopolis Railroad Company, upon and subject to the following conditions, namely, that the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than ten miles per year after the second year, and shall construct, furnish, equip, and complete the whole road by the 4th day of July, 1872.

SEC. 8. *And be it further enacted,* That the United States make the several conditioned grants herein, and that the said Stockton and Copperopolis Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upward of one year, then, in such case, at any time hereafter, Congress may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

SEC. 9. *And be it further enacted,* That all people of the United States shall have the right to subscribe to the stock of the said railroad until the whole capital is taken up by complying with the terms of subscription.

SEC. 10. *And be it further enacted,* That said Stockton and Copperopolis railroad, or any part thereof, shall be a post route and military railroad, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation.

SEC. 11. *And be it further enacted,* That the acceptance of the terms, conditions, and impositions of this act by the said Stockton and Copperopolis Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within two years after the passage of this act, and not afterward, and shall be served on the President of the United States.

SEC. 12. *And be it further enacted,* That the said company is authorized to accept to its own use any grant, donation, or loan, power, franchise, aid, or assistance which may be granted to or conferred upon said company by the Legislature of any State, county, or municipal corporation, person or persons, and said corporation is authorized to hold and enjoy any such grant, donation, loan, or power, franchise, aid, or assistance, to its own use for the purpose aforesaid.

SEC. 13. *And be it further enacted,* That unless the said Stockton and Copperopolis Railroad Company shall obtain *bona fide* subscription to the stock of said company to the amount of \$200,000, with five per cent. paid within two years after the passage and approval of this act, it shall be null and void.

SEC. 14. *And be it further enacted,* That the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and keeping the same in working order, and to secure to the Government at all times the use and benefit of the same for postal, military, and other purposes, Congress may, at any time, having due regard for the rights of said railroad company, add to, alter, amend, or repeal this act.

SEC. 15. *And be it further enacted,* That lots in towns and villages shall be exempt from the provisions of this act.

Mr. WILSON, of Iowa. I suggest to the gentleman from California that this bill should be referred to one of the standing committees. It is one of the most remarkable railroad bills ever presented to this House. The first section provides for the creation of a corporation.

Mr. HIGBY. If gentlemen will wait the bill will be fully explained. The gentleman from New York, [Mr. HOLMES,] a member of the Committee on Public Lands, will offer amendments which I think will obviate all objections to the bill. It has been submitted to a majority of the Committee on Public Lands, although there has been no regular session of the committee, the bill not having been referred to them, and it has met with their approval.

Mr. ROSS. I ask the gentleman to let me move a postponement of this bill till next December.

Mr. HIGBY. I cannot yield for that purpose.



Mr. HOLMES. I move the following amendments:

Strike out sections one and two and insert the following in lieu thereof:

SECTION 1. *Beit enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way through the public lands be, and the same is hereby, granted to the Stockton and Copperopolis Railroad Company, a corporation organized under the laws of the State of California, its successors and assigns, for the construction of a railroad from the city of Stockton to the town of Copperopolis, in the State of California, by the most feasible route, to be selected by said company; and the right is hereby given to said company to take from the public lands adjacent to the line of said road material for the construction thereof. Said right of way is granted to said company to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station, buildings, workshops, depots, machine-shops, switches, side-tracks, turntables, and water stations: Provided, That all the rights conferred upon said railroad company by this act are made upon the express condition that said company shall first be designated by the Legislature of the State of California as the company to be vested with the rights, privileges, franchises, and grants created or conferred by this act.*

Section three, line four, after the word "railroad" insert the following: "upon the conditions presented in section one of this act;" and in lines seven and eight strike out "ten miles" and insert "five alternate sections."

Section four, line nine, after the word "lands" insert "hereinbefore granted;" and at the end of the section add the following: "the services of said commissioners under this act shall be paid for by said company."

Section six, at the end of the section add the following: "and the sections and parts of sections which shall remain in the United States within ten miles of said railroad on each side thereof shall not be sold for less than \$2.50 per acre."

Section seven, at the end of the section add the following: "and upon a failure of said company to comply with either of said conditions the lands then unpatented to said company shall revert to the United States."

At the end of section nine add the following: "and all troops and munitions of war of the United States shall be transported over said railroad free of all expense or charge to the Government thereof whenever the same shall be required by the Government of the United States."

Section ten, at the end of the section add the following: "and filed in the office of the Secretary of the Interior."

Section twelve, line one, after the word "that" strike out all down to and including the word "purposes," in line six.

Change the number of sections so as to correspond with the amended bill, and number from one to twelve, inclusive.

Mr. CONKLING. May I inquire whether these amendments have been printed?

The SPEAKER. They have not.

Mr. HIGBY. I have but a few words to say upon this subject. As I stated in the outset, the bill has been made to conform almost precisely to the Folsom and Placerville railroad bill which passed the House the other day, with the exception that there is only one half of the land granted in this bill that was granted in that. All the guards and restrictions of that bill have been placed upon this by the amendments which have been read.

Mr. DAWES. Is this the other half of the lands they did not take last night?

Mr. HIGBY. No, sir; it is not.

Mr. DAWES. Let us know where the other half goes.

Mr. HIGBY. This road is forty miles long.

Mr. CONKLING. And how wide?

Mr. HIGBY. For the first twenty miles of the road they can get one half the land within the width granted, and on the other twenty miles they can get two thirds or three quarters. But I will not occupy the time of the House further, and unless some one desires to ask a question, I will call the previous question.

Mr. CONKLING. I will inquire whether there is any reason for pressing the passage of this bill now.

Mr. HIGBY. Simply this reason: this bill came from the Senate yesterday; and, for the sake of having it passed now, I had the Committee on Public Lands take the bill that passed the other day, and conform this bill to it precisely, with the exception that this bill gives only one half the amount of land.

Mr. CONKLING. I understand there has been no meeting of that committee, but that a majority of the individual members of the committee concur in the amendments.

Mr. HIGBY. The gentleman [Mr. HOLMES] says he has consulted a majority of the members of the committee, and that they concur in the amendments.

Mr. CONKLING. But that is not a parliamentary or competent committee for that purpose.

I wish to say that I would vote for a bill of this sort upon the statement of my colleague, who offered these amendments, [Mr. HOLMES,] as soon as I would vote for any such bill under circumstances like these, where I have not had an opportunity to examine it myself. Knowing him, as I do, I take his statement and assurance upon this subject as the highest evidence that the bill is a proper one, without an opportunity myself to examine it, or having him and his committee examine it with more deliberation; and yet I submit to the gentleman that a bill of this magnitude ought not to pass in this way, at this stage of the session, the amendments never having been printed, we never having had an opportunity to see them, and when nothing will be lost by having the bill passed over, the amendments printed, examined and reported upon, and deliberately passed, if passed at all. I do not want to interfere with the bill, but I appeal to the gentleman to allow somebody not inimical to the bill to move that it be postponed until the next session that we may consider it with some deliberation. I think I am not mistaken that the temper of the House is not favorable to passing the bill in this way, upon manuscript and unprinted copy; and if the gentleman will allow me I will make the motion.

Mr. HIGBY. The gentleman can make the motion after I yield the floor.

Mr. CONKLING. I cannot do it if the gentleman demands the previous question.

Mr. HIGBY. I call the previous question.

Mr. CONKLING. Then I move to lay the bill upon the table in order to take the sense of the House.

Mr. HIGBY demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were refused.

The motion was then agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SAN FRANCISCO AND HUMBOLDT BAY RAILROAD.

The next business upon the Speaker's table was the amendment reported from the Committee on Public Lands to the bill of the Senate No. 133, granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California; from the consideration of which bill the Committee on Public Lands had been discharged, and the bill and amendment ordered to lie on the table. The amendments were read.

Mr. McRUER. I regret to see this evening a disposition to lay these bills on the table. There has not been a more meritorious railroad bill presented this session of Congress than that presented by my colleague, and which has just been summarily disposed of. I wish to say in regard to the bill now before the House, that it was passed by the Senate last February, that it came here and was referred to the Committee on Public Lands, and this has been the first opportunity presented to consider it. It provides for the construction of a road two hundred and fifty miles long through what is known as the coast range of California. For that two hundred and fifty miles along the coast there is not a navigable river. The land is to a great extent mountainous, and, without a railroad, comparatively valueless. For the first seventy miles the land of an agricultural character has been entirely taken up, and there is an absolute necessity for having some channel of communication with the waters of the bay of San Francisco if we expect that region

of country to be settled and occupied. To-day that land is worth scarcely anything. Construct a railroad through it and the alternate sections of the public lands which are reserved by the Government will be worth four times as much as the whole land is worth or ever will be worth without it. This will be an expensive road to build, and if there is any reason for granting aid by the donation of public lands to aid in the construction of any road this is as meritorious a road as any for which lands have ever been granted.

It seems to be the opinion of Congress that California comes here asking immense donations. These railroad grants are not donations, for the Government and the nation are benefited by every section of land that will aid in constructing the road. The alternate sections will be worth four, five, yea, ten times, in many cases, what the whole country is worth without the road. We have no channels of communication there; we have no navigable rivers flowing to the ocean between the bay of San Francisco and the Columbia river; and it is necessary, in order that these lands may be made valuable, that we have some communication to tide-water and to a market.

Now, sir, I hope this bill will receive the favorable consideration of the House; and I move the previous question.

Mr. CONKLING. I ask the gentleman to allow me to make a remark.

Mr. McRUER. Certainly.

Mr. CONKLING. I wish to say a word about this bill, without the slightest reference to its merits. This may be a very proper grant, the purpose to be attained may be of infinite importance or absolutely necessary—and I make no issue upon that—but I submit to the House, as I did in regard to the other bill, that at this stage of the session the proposition to pass such a bill is not fortunate. The substitute offered has not been printed, and we cannot see and examine it at all; and without its being printed we cannot comprehend the magnitude of this proposition. What is it? It is to grant a State—a State nearly as large as Massachusetts—for the purpose of constructing a railroad. It grants twenty square miles of land for every square mile of the road, as I make it, which amounts to five thousand square miles, a State almost as large as the State of Massachusetts, which I believe contains six thousand and some hundred square miles.

Now, consider the magnitude of that proposition, and then think of our sitting here the last night but one of the session and, without the bill being printed, and under the operation of the previous question, without the opportunity afforded of deliberate consideration of this measure, passing upon a bill of the magnitude of this.

As I said before, it is an ungracious thing to interpose, and I do not intend my interference to be special in the case of land grants to this particular State; but I say with regard to all measures as important as this, which come here in the form of bills which have not been printed, that they may be passed over without harm to anybody; and I shall raise my voice, feeble as it may be, against any final action at this stage of the session. All I ask of the gentleman is to allow me, or somebody not in hostility to the bill, to make a motion that it be postponed until next session.

Mr. McRUER. I must take the sense of the House on seconding the demand for the previous question; but before doing so I wish to say one word in reply to the gentleman from New York. He objects because the amendment has not been printed. Sir, it is not usual to have amendments brought in by committees printed. This bill has been upon the files of the House for five months. It has been considered by the appropriate committee, and unanimously reported by them with a recommendation that it do pass. It has received ample and full consideration, and this House is usually governed by the recommendation of its standing committees in matters of this sort. It is not pre-

sumed that one member in ten is going to investigate thoroughly for himself all the conditions of these railroad grants. Every amendment proposed to this bill by the Committee on Public Lands is of a restrictive character. They compel the grantees to act in good faith, and to construct this road with all reasonable degree of rapidity, or they lose their franchise and it reverts to the Government. But I am consuming too much of the time of the House, and I beg leave to move the previous question, which I will consider a test vote upon the passage of this bill. If the previous question is not sustained I will move to recommit.

Mr. CONKLING. I understood the gentleman to say he would allow me to move to postpone it.

Mr. McRUER. That is the same thing.

Mr. CONKLING. Oh, no; not by any means. Why not postpone it until next session?

Mr. McRUER. I call the previous question and hope it will be seconded.

The previous question was not seconded, only twenty-one voting in favor thereof.

Mr. McRUER. I move to recommit the bill to the Committee on Public Lands, and that the same be printed.

Mr. JOHNSON. That is a breach of the understanding, as I understood it, and therefore I move to lay the bill on the table.

Mr. McRUER. My motion is to recommit to the Committee on Public Lands, with instructions to report at the next session.

Mr. CONKLING. No, sir; that is substantially giving the sanction of the House to the bill. I move to postpone the bill until the first Tuesday in December next.

The motion of Mr. CONKLING was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ALLEY. I now ask unanimous consent to take the other bill, the Copperopolis railroad bill, from the table and make the same disposition of that.

Mr. RANDALL, of Pennsylvania, objected.

#### THE TAX BILL.\*

Mr. GARFIELD, by unanimous consent, reported from the Committee of Ways and Means a bill to amend an act to amend an act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes, approved June 30, 1864," approved March 8, 1865.

The bill, which was read, amends the thirteenth section of said act by striking out the words "without having first obtained a license so to do" and inserting in lieu thereof the words "without paying a special tax therefor."

The bill was read a first and second time by its title.

Mr. GARFIELD moved the previous question.

The previous question was seconded; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RAILROAD GRANTS TO ARKANSAS AND MISSOURI.

The next business upon the Speaker's table was the amendments reported from the Committee on Public Lands, and laid on the Speaker's table, to an act (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to

Fort Smith and the Missouri river, approved February 9, 1853, and for other purposes.

The amendments were read.

Mr. ECKLEY. I desire to have the amendments acted on and the bill put upon its passage, and I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments were adopted, the bill, as amended, ordered to be engrossed and read a third time; and being engrossed, the bill was accordingly read the third time and passed.

Mr. ECKLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### REMOVAL OF CAUSES FROM STATE COURTS.

The next business in order on the Speaker's table was Senate bill No. 406, for the removal of causes in certain cases from State courts; which was read a first and second time.

Mr. GARFIELD. I move to refer that to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I hope not.

Mr. BOUTWELL. This bill has not been into the hands of the Judiciary Committee of the House, but I have taken pains to examine it and I do not see any objection to it. The reason for its passage is this: in many of the southern States persons who pretend that wrongs have been perpetrated upon them by citizens of States recently in rebellion, in order to obtain judgment against those citizens join a citizen of the State where the plaintiff resides with the citizen of another State, and the citizen of the other State is compelled to try his cause in the State courts of the State recently in rebellion, and is subject to their authority and will in a matter affecting his rights. Now, the object of the bill is and the result of it will be, as I understand, that a citizen of New York who may be joined by a plaintiff in South Carolina with a citizen of South Carolina for the purpose of compelling the New York man to try his cause in South Carolina may transfer the cause, so far as he is concerned, to the United States courts, leaving the defendant in South Carolina to make his defense in the courts of that State.

Mr. GARFIELD. I withdraw my motion to refer.

The bill was read, as follows:

That if in any suit already commenced, or that may hereafter be commenced, in any State court against an alien, or by a citizen of the State in which the suit is brought against a citizen of another State, and the matter in dispute exceeds the sum of \$500, exclusive of costs, to be made to appear to the satisfaction of the court, a citizen of the State in which the suit is brought is or shall be a defendant, and if the suit so far as relates to the alien defendant or to the defendant who is the citizen of a State other than that in which the suit is brought, is or has been instituted or prosecuted for the purpose of restraining or enjoining him, or if the suit is one in which there can be a final determination of the controversy, so far as it concerns him, without the presence of the other defendants as parties in the cause, then and in every such case the alien defendant, or the defendant who is a citizen of a State other than that in which the suit is brought, may, at any time before the trial or final hearing of the cause, file a petition for the removal of the cause as against him into the next circuit court of the United States to be held in the district where the suit is pending, and offer good and sufficient surety for his entering in such court, on the first day of its session, copies of said process against him, and of all pleadings, depositions, testimony, and other proceedings in said cause affecting or concerning him, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein; and it shall be thereupon the duty of the State court to accept the surety and proceed no further in the cause as against the defendant so applying for its removal; and any bail that may have been originally taken shall be discharged, and the said copies being entered as aforesaid in such court of the United States the cause shall there proceed in the same manner as if it had been brought there by original process against the defendant who shall have so filed a petition for its removal as above provided. And any attachment of the goods or estate of the defendant by the original process shall hold the goods or estate so attached to answer the final judgment, in the same manner as by the laws of such State they would have been held to answer final judgment had it been rendered by the court in which the suit commenced; and any injunction granted before the removal of the cause against the defendant applying for its removal shall continue in force until modified or dissolved by the United States court into which the cause shall be removed; and any bond of indemnity

or other obligation given by the plaintiff upon the issuing or granting of any attachment, writ of injunction, or other restraining process against the defendant petitioning for the removal of the cause, shall also continue in full force and may be prosecuted by the defendant and made available for his indemnity in case the attachment, injunction, or other restraining process be set aside or dissolved, or judgment be rendered in his favor, in the same manner and with the same force and effect as if such injunction, attachment, or restraining process had been granted, and such bond had been originally filed or given in the court to which the cause is removed. And such removal of the cause, as against the defendant petitioning therefor, into the United States court, shall not be deemed to prejudice or take away the right of the plaintiff to proceed at the same time with the suit in the State court as against the other defendants, if he shall desire to do so. And the copies of all pleadings filed or entered as aforesaid in the United States court by the defendant applying for the removal of the cause, shall have the same force and effect in every respect and for every purpose as the original pleadings would have had by the laws and practice of the courts of such State if the cause had remained in the State court.

Mr. TRIMBLE. I would inquire of the gentleman from Massachusetts if this bill is not broad enough in its provisions to carry from the State courts to the United States courts every cause between two citizens of a State where either one of them has a partner living in another State.

Mr. BOUTWELL. It does not affect the right of citizens defendant of the same State with the plaintiff. If the interest of the defendant who is not a citizen of the State in which the suit is brought cannot be separated distinctly from the interests of the defendant who is a citizen of the State in which the suit is brought, then the proceedings must go into the State courts; but if the interest of the defendant who is not a citizen of the State can be separated, then he has the right to have it separated.

Mr. TRIMBLE. It seems to me this bill is overturning the principles of law that have existed from the foundation of the Government.

Mr. BOUTWELL. It does not change the rights of citizens of the same State at all. The rights of the defendant who is a citizen of the same State must be adjudicated in the courts of the State. Only the rights of the defendant who is not a citizen of the same State can be adjudicated in the courts of the United States when they are capable, in the judgment of the United States court, of being separated, so that there can be an independent judgment upon them.

Mr. TRIMBLE. I understand the law now to be that a citizen of another State has a right to carry his cause from the State court to the United States court where he is either a plaintiff or defendant.

Mr. BOUTWELL. Not if he be joined as a codefendant with a citizen of the State in which the suit is brought.

Mr. TRIMBLE. If he is joined as a codefendant and is alike responsible as a codefendant, does not this bill carry the cause from the State court to the United States court?

Mr. BOUTWELL. Only so far as in the judgment of the court his rights can be separated and adjudicated as distinguished from the rights of his codefendant.

Mr. TRIMBLE. I fear that this bill goes further than that.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. BOUTWELL. I demand the previous question on the passage.

The previous question was seconded and the main question ordered.

Mr. TRIMBLE. I call for the yeas and nays on the passage.

The yeas and nays were ordered.

The question being taken on the passage of the bill, it was decided in the affirmative — yeas 80, nays 30, not voting 76; as follows:

YEAS—Messrs. Alley, Allison, Baker, Banks, Barker, Baker, Benjamin, Bidwell, Boutwell, Broomall, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Callom, Dawes, DeFrees, Donnelly, Driggs, Dumont,

Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James K. Hubbell, Julian, Kasson, Kelley, Koonitz, Kaykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McClure, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Price, Raymond, Rollins, Sawyer, Schenck, Scofield, Shel-labarger, Spalding, Stevens, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, and Wood-bridge—80.

**YAYS.**—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Eldridge, Finck, Glessbrenner, Harris, Hogan, Johnson, Kerr, Latham, Le Blond, Marshall, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Strouse, Taber, Nelson Taylor, Trimble, James F. Wilson, Windom, Winfield, and Wright—80.

**NOT VOTING.**—Messrs. Ames, Anderson, James M. Ashley, Baldwin, Beaman, Bingham, Blaine, Blow, Brandegee, Bundy, Chanler, Reader W. Clarke, Cook, Cooper, Culver, Darling, Davis, Dawson, Delano, Deming, Denison, Dixon, Dodge, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Asahel W. Hubbard, De-mas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Ingersoll, Jenckes, Jones, Kelso, Ketcham, Leffew, Longyear, Marvin, Maynard, McCullough, McIndoe, McKee, Moulton, Noell, Perham, Phelps, Pike, Plants, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Sitgreaves, Sloan, Smith, Starr, Stillwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Stephen F. Wilson—76.

So the bill was passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**DONOHUE, RYAN AND SECOR.**

The last business on the Speaker's table was Senate bill No. 141, for the relief of Donohue, Ryan & Secor; which was read a first and second time.

Mr. GARFIELD. I raise the point of order that this contains an appropriation.

The SPEAKER. The point being made, it must go to the Committee of the Whole.

Mr. WILSON, of Iowa. I think this ought to go to the Committee of Claims.

Mr. BIDWELL. It has been to the Committee of Claims.

The bill was accordingly referred to the Committee of the Whole.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred to the Committee of the Whole; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER stated as the next business in order the calling of committees for reports, as in the morning hour, commencing with the Committee on Military Affairs.

**LEWIS F. FIX.**

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution for the relief of Lewis Ferdinand Fix; which was read a first and second time.

The bill was read in full. It directs the proper accounting officer to pay to the claimant the pay and emoluments of lieutenant colonel of infantry from March 1, 1865, to July 29, 1865.

Mr. CONKLING. Does not this contain an appropriation?

The SPEAKER. It does not.

Mr. SCHENCK. It is accompanied by a report explaining the reasons, which I will have read if any one desires it. If not I will demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. SCOFIELD. I move that the House adjourn.

Mr. SCHENCK. Oh, no; allow the Military Committee twenty minutes.

Mr. SCOFIELD. I withdraw, with the understanding that the gentleman gets through in fifteen minutes.

#### BOUNTIES OF VETERAN SOLDIERS.

On motion of Mr. SCHENCK, the Committee on Military Affairs were discharged from the further consideration of bill of the House No. 622, to provide for computing the bounties of veteran soldiers, so as to protect the rights of such; and the same was laid on the table.

#### RAILROADS THROUGH MILITARY RESERVATIONS.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of the joint resolution of the House No. 183, concerning the right of way of railroad companies through military reservations, and for other purposes; and the same was laid on the table.

#### EDWARD QUILL.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of the petition of Edward Quill, an old soldier; and the same was laid on the table.

#### PAY DEPARTMENT OF THE ARMY.

On motion of Mr. SCHENCK, the Committee on Military Affairs were discharged from the further consideration of the bill of the House No. 128, concerning the pay department of the United States Army; and the same was laid on the table.

#### PETITIONS AND RESOLUTIONS TABLED.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of sundry petitions and resolutions that had been referred to them; and the same were laid on the table.

#### EAST TENNESSEE CLAIMS.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of House bill No. 686, to establish a commission for the settlement of claims against the Government of the United States held by loyal citizens of East Tennessee; and the same was referred to the Committee of Claims.

#### MICHIGAN MILITIA.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of the bill of the House No. 672, for the relief of certain companies of Michigan militia; and the same was referred to the Committee of Claims.

#### QUARTERMASTER'S DEPARTMENT.

On motion of Mr. SCHENCK, the Committee on Military Affairs were also discharged from the further consideration of the petition of messengers in the quartermaster's department for increase of pay; and the same was referred to the Committee of Ways and Means.

#### DRAFTED MEN.

Mr. ANCONA, from the Committee on Military Affairs, reported a bill for the relief of certain drafted men; which was read a first and second time.

Mr. WARD. Does not that bill contain an appropriation?

Mr. ANCONA. I propose to amend the bill by striking out the last proviso.

Mr. WARD. I ask the Chair to state whether this bill contains an appropriation.

The SPEAKER. The bill reads, "and there is hereby appropriated out of any money in the Treasury not otherwise appropriated." The bill does contain an appropriation.

Mr. WARD. Then I insist that, under the rule, the bill shall go to the Committee of the Whole.

The bill was accordingly referred to the Committee of the Whole.

Mr. WRIGHT moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN W. TAYLOR.

Mr. ANCONA, from the Committee on Military Affairs, reported a bill for the relief of John W. Taylor; which was read a first and second time.

The bill was read at length. It directs the proper accounting officers of the Government to pay to John W. Taylor, late sergeant of company F, twenty-seventh regiment Kentucky infantry, a sum equal to the pay of a sergeant from the 30th of June, 1863, to the 31st of January, 1864, in full of all claims for military services.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. ANCONA. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CONKLING. I move that the House now adjourn.

The question was taken; and, upon a division, there were—ayes 49, noes 48.

So the motion was agreed to; and accordingly (at ten minutes of ten o'clock p. m.) the House adjourned.

#### IN SENATE.

FRIDAY, July 27, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. DOOLITTLE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### REPORTS OF COMMITTEES.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred a communication from the Second Auditor of the Treasury communicating copies of accounts of persons charged with the disbursement of moneys, goods, or effects of any kind for the benefit of Indians from July 1, 1864, to June 30, 1865; a communication from the Secretary of the Interior, transmitting copies of the accounts of Superintendent Sells and Agents Snow and Dunn, of the southern superintendency, for the fourth quarter of 1865, with a copy of the report of the Commissioner of Indian Affairs upon the subject; and a communication of the Secretary of the Interior, transmitting accounts of the superintendent and agents having charge of the tribes of Chickasaw, Seminole, Wichita, and other Indians, for the third quarter of 1865, have directed me to report them back and ask to be discharged from their further consideration. They are very voluminous, and the committee do not recommend their publication, but report them back to go on the files in the office of the Secretary of the Senate.

The report was agreed to.

#### RELATIONS WITH THE BRITISH PROVINCES.

Mr. SUMNER, from the Committee on Foreign Relations, reported the following resolution; which was considered by unanimous consent and agreed to:

*Resolved*, That the President be requested, if in his opinion not incompatible with the public interests, to furnish to the Senate at the next session of Congress any information in his possession concerning the practicability of establishing equal reciprocal relations between the United States and the different British Provinces of North America, including the British possessions on the Pacific; and also concerning the actual condition of the question of the fisheries, with such recommendations as he may choose to make tending to the peaceful arrangement of these important matters.

#### CLAIMS OF MASSACHUSETTS AND MAINE.

Mr. SUMNER. I am also directed by the Committee on Foreign Relations, to whom were referred sundry petitions relative to a railway running from the State of Maine into the British Provinces, to report joint resolution (S. R. No. 143) respecting certain claims of Massachusetts and Maine.



The joint resolution was read and passed to the second reading.

Mr. SUMNER. This resolution merely provides for the auditing of those claims; it does not go beyond that; and I should like to have the action of the Senate upon it now.

Mr. WADE. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution lies over under the rule.

#### CONTINUATION OF BUSINESS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent and agreed to:

*Resolved*, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees when appointed at the next session.

#### PROTECTION OF THE REVENUE.

The Senate proceeded to consider its amendments to the bill (H. R. No. 780) to protect the revenue and for other purposes; and

On motion of Mr. FESSENDEN, it was

*Resolved*, That the Senate further insist upon its amendments to the said bill disagreed to by the House of Representatives and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CLARK, Mr. VAN WINKLE, and Mr. MORGAN.

#### REFUNDING OF LICENSE TAX.

Mr. FESSENDEN. There is a little bill, to which there is no objection, which was sent to the Committee on Finance, being a bill (H. R. No. 759) to authorize the refunding of certain taxes, which contains a very necessary amendment to the internal revenue law. I have not had a chance to consult the committee, but there is no objection to it, and it is necessary to pass it at once. I move, therefore, that the committee be discharged from its further consideration, and that it be taken up; or, if there is no objection, I will report it back from the Committee on Finance—I suppose they will agree to it—and ask that it be taken up and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that where the license tax imposed upon any wholesale dealer has been calculated upon the amount of such dealer's sales for the previous year, in accordance with the terms of the seventy-ninth section of an act approved June 30, 1864, and it shall be proved to the satisfaction of the Commissioner of Internal Revenue that the sales made under such license did not equal in amount the sales of such previous year, it shall be lawful for the Commissioner to refund to such wholesale dealer so much of the amount paid for the license as may be in excess of the proper tax chargeable upon the amount of sales actually made under the license during the year for which it was issued.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following

bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 810) amendatory of section thirteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865;

A bill (H. R. No. 812) for the relief of John W. Taylor; and

A joint resolution (H. R. No. 207) to pay Colonel Lewis F. Fix.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot;

A bill (H. R. No. 761) authorizing the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities;

A bill (H. R. No. 795) to authorize the entry and clearance of vessels at the port of Calais, Maine; and

A joint resolution (H. R. No. 164) for the relief of Fontaine T. Fox, jr.

#### ADMISSION OF NEBRASKA.

Mr. WADE. I move to take up the bill (S. No. 447) for the admission of the State of Nebraska into the Union.

Mr. SUMNER. I think it is not advisable to open that discussion to-day. There are but a few hours remaining to us of this session. I think we had better proceed with other business. The question involved in the admission of Nebraska is the very question that came up and was discussed so thoroughly with regard to Colorado. It occupied then, it will be remembered, many days, and we have not yet reached the conclusion of it. I think that we had better not begin on this question to-day. I hope we shall not take it up.

Mr. WADE. I hope it will be taken up, and as we have spent a third of the session in discussing this very question I hope Senators who have discussed it three or four times over before the Senate and said all that their ingenuity could invent against it will have the grace to believe that we remember their arguments and will act in reference to this question without a repetition of them. I think that by reason of the great discussion upon this subject in the fore part of the session we are the more ready and able to take it up understandingly now and go on with it. I hope we shall take it up, and not keep out a State applying to come into the Union any longer.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion of the Senator from Ohio?

Mr. SUMNER. Let us have the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 9; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Doolittle, Fessenden, Grimes, Howe, Johnson, Kirkwood, Lane, Morrill, Nye, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Wiley, Williams, and Yates—24.

NAYS—Messrs. Cowan, Davis, Edwards, Foster, Guthrie, Hendricks, Morgan, Norton, and Sumner—9.

ABSENT—Messrs. Brown, Buckalew, Clark, Cragin, Creswell, Dixon, Fowler, Harris, Henderson, Howard, McDougall, Nesmith, Poland, Riddle, Saulsbury, Wilson, and Wright—17.

So the motion to take up the bill was agreed to.

#### PRINTING OF PUBLIC DOCUMENTS.

Mr. ANTHONY. With the assent of the Senator from Ohio, now that he has his bill before the Senate, I wish to ask the unanimous consent of the Senate to take from the table the bill (H. R. No. 803) to further regulate the printing of public documents and the purchase of paper for the public printing. It is a bill that will give rise to no debate; it will save some hundred thousand dollars to the

Treasury; and it is important that it should pass.

Mr. WADE. Very well; go ahead.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time, there being another subject before the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Hereafter it is to be the duty of the Superintendent of Public Printing, in place of the reports of the Executive Departments ordered by the act of June 25, 1864, to cause to be printed and bound twenty-five hundred copies of the annual reports of the Executive Departments, with such accompanying documents as the heads of those Departments may respectively select, but not to exceed three hundred pages, for the use of such Departments respectively. Whenever papers relating to foreign affairs are communicated to Congress accompanying the annual message of the President, it is to be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, two thousand copies for the use of members of the Senate, four thousand copies for the use of the members of the House, and twenty-five hundred copies for the use of the State Department, in place of the numbers ordered by the act of June 25, 1864. In the publication of the report of the Secretary of the Navy, the detailed statement of offers for supplies and of the articles embraced in each class under contract is to be omitted, and in lieu thereof the Secretary of the Navy is to prepare a statement with his report and schedule embracing the offers by classes, indicating such as have been accepted.

It is to be the duty of the Superintendent of Public Printing, at the commencement of each session of Congress, to submit to the Joint Committee on Printing estimates of the quantity of paper of all descriptions, which will, in his opinion, be required for the execution of the public printing during the coming year. The Joint Committee on Printing is then to fix upon a standard of paper for the different descriptions of congressional and executive printing, and it is to be the duty of the Superintendent of Public Printing, under the direction of the Joint Committee on Printing, to advertise in only two newspapers in the cities of New York, Cincinnati, Boston, Philadelphia, Baltimore, and Washington, for sealed proposals to furnish the Government of the United States with paper of the quality and in the quantity specified in the advertisements; and it is to be the duty of the Superintendent to furnish samples of the standard papers adopted by the committee to applicants therefor. The sealed proposals are to be opened before and the award of contracts is to be made by the Joint Committee on Printing to the lowest and best bidder for the interests of the Government. The advertisement for sealed proposals for furnishing paper is to designate the minimum portion of each particular quality of paper required for either three months, six months, or one year, as the Joint Committee on Printing may determine; but when the minimum portion so specified exceeds in any case one thousand reams, the advertisement is to state that proposals will be received for one thousand reams or more. No proposals are to be considered by the Joint Committee on Printing unless accompanied by satisfactory evidence that the person or persons making the proposals are manufacturers of or dealers in the description of paper which they propose to furnish. In awarding contracts an equitable period of time for filling them is to be designated and allowed by the Joint Committee on Printing, without whose approval no contract is to be valid. It is to be the duty of the Superintendent of Public Printing to include in his annual report to Congress a detailed statement of all proposals made and contracts entered into for the purchase of paper.

It is to be the duty of the Superintendent of Public Printing to compare every lot of paper delivered by any contractor, with the standard

of quality, and also to see that it is of the weight contracted for, and to refuse to accept any paper from any contractor which does not conform to the standard of quality and is not of the stipulated weight. In case of a difference of opinion between the Superintendent and any contractor for the paper, with respect to its quality, the matter of difference is to be determined by the Joint Committee on Printing. In default of any contractor to comply with his contract in furnishing paper contracted for in proper time and of proper quality and weight, it is to be the duty of the Superintendent to report it to the Joint Committee on Printing, if Congress is in session, or to the Secretary of the Interior, if during a recess of Congress; and under the direction of the Joint Committee on Printing or of the Secretary of the Interior, as the case may be, he is to enter into a new contract with the lowest and best bidder for the interests of the Government, among those whose proposals were rejected at the last opening of bids, or advertise for new proposals under the regulations before established; and during the interval which may thus be created, he is, under the direction of the Joint Committee on Printing or of the Secretary of the Interior as provided, to purchase in open market at the lowest market price all such paper necessary for the public service. For any increase of cost to the Government in procuring a supply of paper for the use of the Government, the contractor or contractors in default, and his or their securities are to be charged with, and held responsible, and are to be prosecuted upon their bond by the Solicitor of the Treasury, in the name of the United States, in the circuit court of the United States for the district in which the defaulting contractor resides. To enable the Solicitor to do so, it is made the duty of the Superintendent of Public Printing to report to him the default on its happening, with a full statement of all the facts in the case. The Joint Committee on Printing, or, during the recess of Congress, the Secretary of the Interior, is authorized to empower the Superintendent of Public Printing to make purchases of paper, in open market, at the lowest market price, whenever in their opinion the quantity required is so small, or the want is so immediate, as not to justify advertisement for and award of contract therefor.

All laws or parts of laws, joint resolutions or parts of resolutions conflicting with the above provisions are repealed, and the Superintendent of Public Printing is not to print any greater number of the reports herein named unless otherwise directed by either House of Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 698) for the relief of Robert Baldwin—to the Committee on Public Lands.

A bill (H. R. No. 812) for the relief of John W. Taylor—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 206) in relation to the pensions of widows of revolutionary soldiers—to the Committee on Pensions.

A joint resolution (H. R. No. 207) for the relief of Colonel Lewis F. Fix—to the Committee on Military Affairs and the Militia.

#### NEUTRALITY LAWS.

The bill (H. R. No. 806) more effectually to preserve the neutrality relations of the United States was read twice by its title.

Mr. WADE. I hope that bill will be put on its passage by common consent.

Mr. SUMNER. I ask that it be referred to the Committee on Foreign Relations. It is a very important matter.

The PRESIDENT *pro tempore*. Objection being made to its present consideration, it will

be referred to the Committee on Foreign Relations.

#### AMENDMENT OF INTERNAL REVENUE LAW.

The bill (H. R. No. 810) amendatory of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865, was read twice by its title.

Mr. FESSENDEN. It is not necessary to refer that bill, but very necessary to pass it, and I ask for its immediate consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the thirteenth section of the internal revenue law of March 3, 1865, by striking out the words "without having first obtained a license so to do," and to insert in lieu thereof the words "without paying the special tax therefor."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ASSASSINATION REWARDS.

A bill (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward, was read twice by its title.

Mr. HOWARD. I move that that bill be postponed until the commencement of the next session of Congress.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it at this time.

Mr. TRUMBULL. I ask that it be referred and disposed of in the usual way.

Mr. WADE. Let it be referred. I cannot permit bills to be interposed and discussed while the bill for the admission of Nebraska is pending.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Military Affairs and the Militia if there be no objection.

Mr. HOWARD. I will withdraw my motion.

The PRESIDENT *pro tempore*. It will be referred to that committee.

#### ORDER OF BUSINESS.

Mr. HENDRICKS. I ask the Senator from Ohio to yield to me for a moment that I may move to postpone the bill which he has called up informally with a view of taking up a little resolution—House joint resolution No. 197.

Mr. WADE. I cannot consent to that now. The admission of a State into the Union is as important as anything else.

Mr. HENDRICKS. I do not think this will take any time.

Mr. WADE. I will not object to it unless it is going to be debated; if it is, I must object to it.

Mr. FESSENDEN. What is the resolution? Mr. HENDRICKS. A joint resolution authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln.

Mr. FESSENDEN. That will certainly give rise to debate.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent to proceed to the consideration of House joint resolution No. 197.

Mr. HENDRICKS. As the Senator from Maine says it will be debated and the Senator from Ohio cannot yield unless there is to be no debate, I will not press the matter now, but I shall call it up directly.

Mr. SHERMAN. In the distribution of the bounty offered for the capture of the assassins of the late President Lincoln there are several soldiers interested, one of whom called on me this morning. He is maimed and crippled and really in such a condition that he would move the humanity of any one. He is entitled under any award that may be made to a pretty large sum of money; and all he has got in the world

is the hope that as a matter of justice and honor we will act upon that bill. I think my colleague will give way for that purpose. It ought to be acted upon.

Mr. WADE. My bill wants to be acted upon also.

Mr. SHERMAN. But this is a bill in regard to the bounty offered for the capture of the assassins of Mr. Lincoln, and Colonel Conger, a wounded soldier, without a cent in the world, is entitled by any award that may be made to a considerable sum of money, and he is here anxiously awaiting the settlement of this matter. The subject has been thoroughly examined by the House of Representatives, and they have passed a bill which I should like to have taken up now.

Mr. WADE. I trust there will be time enough to pass both bills. This bill is now under consideration, and it ought not to take long, and then we can dispose of the other.

Mr. SHERMAN. I do not suppose this will take any time at all.

Mr. WADE. Let us pass this and then I will help you with that. That has passed the House and my bill has not.

The PRESIDENT *pro tempore*. The bill now before the Senate will be read.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 90) to suspend temporarily the collection of direct taxes within the State of West Virginia, with amendments, in which it requested the concurrence of the Senate.

#### COMPENSATION OF COLLECTORS.

At the suggestion of Mr. MORGAN, and by unanimous consent, the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes.

On motion of Mr. MORGAN, it was

*Resolved*, That the Senate disagree to the amendments of the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORGAN, Mr. MORRILL, and Mr. WILLEY.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had this day approved and signed the following acts and joint resolution:

An act (S. No. 179) in relation to the district courts of the United States in the States of California and Louisiana;

An act (S. No. 324) for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburgh;

An act (S. No. 424) to incorporate the Washington Temperance Society, of the city of Washington, District of Columbia; and

A joint resolution (S. No. 183) to change the place of holding the terms of the circuit court for the district of Virginia.

#### ADMISSION OF NEBRASKA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 447) for the admission of the State of Nebraska into the Union.

Mr. SUMNER. I should like to know from the chairman of the Committee on Territories what evidence the committee had before them with regard to the present condition of this Territory and its capacity to sustain a State government.

Mr. WADE. I do not desire to enter into a discussion—but I will say that the committee

had before them first the constitution of the State of Nebraska, which they examined and found a very liberal and a very good constitution, analogous to most of the constitutions of the States, indeed almost a copy of the constitutions of many of the western States. There is nothing in it to which any gentleman here would object except that clause which restricts the franchise to white persons. That question I do not propose to discuss, because no new light can possibly be thrown upon it. Those who are resolved that that shall be an objection to the admission of a State will, I suppose, remain of that opinion, whatever may be said. I defy any man to throw any new light on that subject; every one's mind is made up on it.

As to the Territory itself it is in a very excellent condition; the people are prosperous and happy, I believe; they have an excellent climate and soil. It is one of the best Territories in the Union.

Mr. SUMNER. How large a population?

Mr. WADE. I am assured by gentlemen who have been there and know all about it that the population cannot now be less than sixty thousand. I have a certificate from the Secretary of the Territory showing the number of votes given at the last election, which was on the ratification of the constitution; and the whole number of votes, as appears by the abstract of votes filed in the secretary's office, was 8,084. This is a very large Territory with a people scattered over a very large compass, so that they do not find it convenient to turn out and vote as they do in more thickly populated communities where the polls are not so far off and where the roads are facile and good. For that reason when you come to estimate the number of inhabitants from the number of voters in these western Territories a large allowance should be made on that account. I suppose, as a general thing, there are about six inhabitants to a voter, on the average. I am informed by the Delegate from Nebraska that there is no question that there were 1,500 voters in the Territory who did not appear at the polls. He has no doubt of that. From all the light I can get on the subject—and that is the judgment of all with whom I have conversed—there cannot be less than sixty thousand inhabitants there. The Territory is settling up with unprecedented rapidity; settlers are going in there very fast, as I am informed and believe. There are one hundred and fifty-five miles of railroad in it, of course giving great facilities for the occupation and settlement of the Territory; and the number of voters denotes a population as large as most of the Territories we have admitted as States.

I do not suppose that any extended argument need be made on this subject, because when a Territory is ripe for admission as a State, when the people think themselves capable of carrying on a State government, when they feel that they would like to have the control of their own affairs in their own hands, it has been the policy of the Government to grant them that privilege. I never knew more than one case, and that the case of Colorado, where Congress set themselves up as the guardians of a people who had deliberately made up their judgment that they had sufficient population and ability to carry on a State government. A Territory is always an incumbrance to the General Government; it is attended with a good deal of expense; and to relieve the General Government of that burden is a point of some importance; and certainly when the intelligent people of the United States residing in a Territory anywhere have deliberately made up their minds that they are wealthy enough and numerous enough to set up for themselves, their decision ought to be respected. It is like the case of a family. When younger members in good standing believe themselves capable of taking care of themselves, it is for the interest of the whole concern to permit them to do so. These people have formed a very good constitution; they are able to conduct their own affairs; and I have no doubt that they will be

one of the most prosperous States immediately if you pass this bill.

Now, sir, if I were to talk two hours I could throw no more light on the subject, and in view of the little time there is left to us I do not wish to talk. I will say no more, unless some gentleman desires to ask a question that I may or may not be prepared to answer.

Mr. JOHNSON. What was the majority for the constitution?

Mr. WADE. About one hundred and fifty, I think. I see no reason why Nebraska should not be admitted as a State.

Mr. SUMNER. I am very sorry to occupy the attention of the Senate even for one minute. I certainly, however, shall be very brief. The Senator from Ohio tells us that the majority of the people in favor of the State government was about one hundred and fifty. Sir, it is by such a slender, slim majority out of eight thousand voters that you are now called to invest this Territory with the powers and prerogatives of a State. I think the smallness of that majority is an argument against any action on your part; but if you go behind that small majority and look at the number of voters, it seems to me that the argument still increases, for the Senator tells us there were but eight thousand voters. Sir, the question is, will you invest those eight thousand voters with the same powers and prerogatives in this Chamber which are now enjoyed by New York and Pennsylvania and other States of this Union. I think the argument on that head is unanswerable. It would be unreasonable for you to invest them with those powers and prerogatives at this time.

But, sir, I am free to confess that with me the prevailing consideration is that this State does not present itself with a constitution republican in form, and on that question I challenge the deliberate judgment of my excellent friend, the Senator from Ohio, who is now trying to introduce this Territory into the Union as a State. I challenge that distinguished Senator to show that a constitution which on its face disqualifies citizens on account of color and disfranchises them can be republican in form. Sir, I say it is not a republican government, and I am sorry that my distinguished friend lends his countenance on this occasion to a government of such a character. I wish that my friend could lift himself to the argument that such a government cannot be republican in form, and must not be welcomed as such on this floor.

But I forbear entering into the argument. On other occasions, again and again, I have gone over the argument. Senators, I know, have made up their minds. Each must judge for himself. It is not without pain and trouble that I find that I am constrained to differ from valued friends and associates about me, with whom I am always proud to agree; but I cannot recognize a constitution like that as republican in form. Believing as I do, it is my duty to oppose the recognition of this Territory as a State just so long as I can. I hope, sir, that the motion of the Senator will not prevail.

Mr. HENDRICKS. Mr. President, I will at this time interpose a motion which I think ought to be acceptable to all Senators. I move the reference of this bill to the Committee on the Judiciary with instructions to report as to the population of the Territory and whether the constitution of the State has been adopted by a fair vote of the people. It is known, I presume, to all Senators that the validity of this election has been disputed; and that question ought to be settled before we admit the State. It is disputed by the local authorities, as I understand, or among the local authorities; it is disputed by the people of the Territory. This measure comes before us just at the close of the session when it is impossible to make this investigation. If Nebraska is entitled to admission as a State, it is not important that she be admitted now, for the reason that her Senators and Representatives could not participate in legislation except for a single day. The time for adjournment is fixed at twenty-three hours

from this time. If it were early in the session and it were important that she should be represented upon this floor, the question would be somewhat different; but as we adjourn to-morrow it is not important that she be admitted to-day, and no Senator, as I think, ought to ask the admission of a State when the integrity of the election itself is disputed. From what I have heard about it, I do not believe the election was a fair one. I am told that votes were rejected which ought to have been counted. I am told that in some localities votes were received that ought not to have been received. When this allegation was made in respect to the elections in Kansas it was thought proper to investigate the subject, to investigate it very thoroughly. There was no haste to bring in the State then by the Senator from Ohio over those averments. Now, sir, when the charge is made that the election has not been a fair one, the motion I make is a reasonable one that this bill and all the papers connected with it be referred to the Committee on the Judiciary with instructions to inquire into these two matters, the population of the Territory and the question whether the vote upon the adoption of the constitution was a fair one.

Mr. WADE. I hope that this motion will not prevail. It is a very extraordinary motion for any gentleman to make. This matter has been before one committee that I am bound to believe was competent to decide all there was involved; at all events competent enough to decide that there is no evidence to the contrary of their finding. It is very easy for any gentleman to oppose the admission of a State, and to get up and say there is something unfair about it. I never have heard of it. The gentleman says he has heard somewhere that there is some dispute about the votes here. There is nothing in the papers that indicates that. The Governor of the Territory says that the election was held, that the people voted upon this question, and he tells the number of votes they gave and the majority that was found in favor of the constitution, and he does not intimate anywhere what the gentleman has alluded to, that there was anything unfair about it, anything wrong about it, and I never heard it until now; but upon his mere statement that he has heard somewhere some vague rumor, he proposes that this State may be postponed and kept out of the Union *ad libitum*. He says it is not very important that they be admitted now because the session is near the close. Can the Senator tell me how soon an extra session will be called on some great occasion that may arise? Is it not well to have Senators all the year round, whether you are in session or not, ready to be called upon whenever the exigency may arise to call for their counsel? Who ever heard of such a motion as this, to postpone such a measure because a Senator has somewhere heard—he does not tell us where or how—that there was something unfair in the voting in this Territory, when here, under the seal of the officers of the government, we have the constitution, we have the votes, we have everything that enables us at any time to bring a State into the Union? I do not think it well to debate this any more, for I do not suppose on the bare motion of a Senator, without showing any reason, the bill will be referred to any committee.

In the next place, as for the Senator from Massachusetts, he challenges me to show that this constitution is republican in form. Well, sir, it is republican in form, but is not that kind of republicanism that I approve of. If I had my way about it nobody would be excluded from the franchise that was a male citizen of proper age, let his color be what it would. That would be the color of republicanism that I should like the best; but to deny that under the Constitution of the United States this constitution is republican in form is to deny that we have a republic at all, for when the Government was formed I believe there was not more than one State at all events that was republican in form unless this is republican in



form. It is republican in form and also in substance, for I do not suppose (and I am informed that there are not) that there are fifty colored persons in the whole Territory; but they ought to vote if there was but one. I grant you that. So it has been in the State from which I come, and in the States from which most of us come. They all have the right of suffrage, but their not having that right now ought not to be an impediment in the way of this whole people having anything to do with conducting their own affairs, nor does it conduce to bring near the time when everybody will consent that every person of proper age and proper mind shall be entitled to vote. It does not conduce to that end to postpone these measures in this way. I know full well that the Senate has voted for a constitutional amendment fixing forever the *status* of the southern States and all States not permitting colored people to vote except by the consent of their State, just as this is. It does not look to making that compulsory on them by the Government of the United States, but leaves it to the States to say who shall be their voters, giving them some inducement to do justice to all men. I know that inducement is having its effect and will very soon work out that problem which the Senator from Massachusetts is so desirous to solve now; and he is not more desirous nor eager for that time to come than I am. But, sir, it is all futile to say that when every new State has been admitted with a constitution in this particular like the one before us, we shall now declare that this State shall be kept at arm's ends because it has done just as every other State has done heretofore; for no new State has yet knocked at our doors with a constitution admitting colored people to the franchise—not one. Why make an exception of this? I want universal, impartial suffrage; I want a great many other things in this constitution that I do not see here, and I hope the time will come when they will be fixed according to my standard of what they ought to be; but then I am not their judge. They must judge of these matters for themselves. The State constitution is republican in form, but it is not as perfectly so, as far as suffrage is concerned, as I wish it was; but it is just as good as its neighbors are now.

The State of Massachusetts is a little forward on this subject. I am glad of it. New England, I believe, has generally got over this color-phobia, which is fast vanishing away everywhere. No; Connecticut has not; she stands as firmly as any State in the Union upon that discrimination. I am sorry for it, but I think she will outgrow it very soon.

But, however, I will not argue these old, dry questions over again. We all understand them, and it is in vain now at this time of day to make a discrimination against this State because she has done like every other State that has come into the Union, with a constitution precisely the same as every other had, and not at all different in this respect. Therefore I hope without further delay that it will be the judgment of the Senate that she should be admitted. Here are her Senators, gentlemen of the greatest reputation, able to represent her on this floor with ability and to the advantage of the people of the State, knocking at your doors, ready to take a part in the Government and all that interests them; and why should we keep them out? I know some gentlemen who are very eager apparently to keep this State out would be very willing to take in other States, more doubtful in character than this, with any constitution they might get up. I do not go on that principle. I feel a little impartial; but if there is any partiality on my mind it is for the State that has never erred, never made a misstep, which is all erect, up to the very high-water mark of modern improvements in government. Let her in; and if you have other States that are lagging behind, the moment you can make it safe for us that they shall be represented I am with you. But this State has never in her progress from a Territory to a

State been hostile to the glorious old flag of the country; she never raised an impious arm against the General Government; she comes here as a legitimate daughter of the Republic, now arrived at age and claiming her participation in the management of affairs, and I say let her in without further parley.

Mr. HENDRICKS. The Senator asks, when was a motion such as I have submitted made upon a mere rumor? I say such a motion was made just yesterday when the credentials of a Senator were laid upon the table. Senators stated that upon rumor they had heard that that Senator had occupied a position which excluded him from the Senate, and upon that rumor and statement the Senator himself, I believe, said that the credentials ought to go to the Judiciary Committee.

Mr. WADE. I said nothing about it one way or the other.

Mr. HENDRICKS. By a citizen of Nebraska I was told this morning that there were such frauds in this election that it was entitled to no respect from honorable men.

Mr. DOOLITTLE. Just at this point I would like to inquire of the Senator from Indiana or the Senator from Ohio, whether the election that took place on the adoption of the constitution was under the provisions of the enabling act while the enabling act was still in force or was at some voluntary election which took place afterward. I do not know what the fact is.

Mr. HENDRICKS. On the motion which I submitted I did not intend to discuss the merits at all except to present to the Senate the question that I thought ought to be investigated by a committee. Now, I understand the fact to be that this constitution never was adopted by a convention under the enabling act at all, but it is a constitution presented to the people by the Legislature of the Territory, and that it does not come here at all under the enabling act; but I did not choose to discuss that now.

I say that I have been told by a citizen of the Territory that there were frauds in the election. Senators will recollect that no one pretends that this constitution was adopted by any considerable majority, perhaps about one hundred. According to the papers it was about one hundred.

Mr. WADE. About one hundred. I have the certificate here.

Mr. HENDRICKS. Where thousands are voting either way, as the Senator says, a vote sufficient to indicate a population, as he thinks, of sixty thousand, where thousands are voting upon either side and there is but one hundred majority upon the grave question whether a State government shall be fastened upon the people with a constitution of a peculiar form, and the avowment is made by a citizen of the Territory and by the public journals of the country that that election is tainted with fraud, the Senator says that it ought not to be investigated; at least that the question has been before a committee competent to investigate it. I do not question that; but does the Senator say that he has investigated it? Does the Senator say that he has looked at all into that question? On the contrary, he says he has found no occasion to investigate it.

Mr. WADE. The first time I have ever heard there was any trouble about that election was from the Senator this morning, and he does not give us authority for it.

Mr. HENDRICKS. A Senator near by me says it is notorious. I have seen it in the newspapers, and this morning it was stated to me by a citizen of the State, quite as strong an avowment as was made yesterday when the Senate thought it proper to send the credentials of a Senator to a committee. Now, I submit, I believe that there were frauds in the election from what I am told. I have no doubt of it from what I have been told.

Mr. POMEROY. What election?

Mr. HENDRICKS. The election adopting the constitution. Now, here is one hundred

between the parties, a very small majority; and is it unreasonable to ask that that question be investigated?

I am perfectly willing to say that the Senator's own committee shall investigate it. I am not particular about that. All we want is a fair investigation; and I know if he undertook it, he would give it that sort of an investigation; but here at the close of the session, when there is no injury done to the State by that course, we ask simply that it be referred to a committee.

Mr. WADE. Mr. President, I have heard nothing yet but rumor, and that of the weakest character; and the Senator from Indiana tries to give point and weight to rumor in this matter because, he says, rumor was alluded to yesterday on the question of the reference of certain credentials, and he insinuates that I said something then about rumor. Sir, I made no speech on that subject, and I did not cast my vote in that case upon any mere rumor; nor did I understand the Senator from Maine, [Mr. FESSENDEN,] who spoke on that subject, and who probably stated the views of a majority, to proceed upon the mere idea of rumor. So far from it, I understood him to say distinctly that if there was only a rumor he would not proceed on it or ground any action upon it. He said that he was at one time prepared to vote against the reference of those credentials because the objection seemed to be based upon nothing but rumor; but he had been relieved of that by the fact that gentlemen who were the friends and advocates of the admission of that applicant, acting apparently as counsel by his side, admitted the fact that he had presided in a court hostile to the General Government, and had, of course, taken an oath to support a hostile government. That stood admitted; it was the basis of the argument of the friends of the gentleman applying for admission, and that being the case, I understood the Senator from Maine to insist that what was originally a mere rumor had become a part of the record by the admission of the advocate on the other side, and therefore he acted upon that admission. So, then, we did not act on rumors yesterday. We pay no more regard to them in our legislative proceedings than would a court in judicial proceedings.

Does the Senator suppose that he is to impeach the integrity of the people of a Territory upon the bare breath of scandal that he has heard from the mouths of men or from party newspapers? Do we act upon that here in Congress? I take it no Senator's mind is influenced by any such stuff. That is not the basis of our action. Now, what have we authentic? We have the certificate of the authorized officers of the Territory whose business it is to certify the facts to us, and there is not a word or a breath to impeach it. Who shall rise here and by his mere breath blow away these substantial, authentic documents by saying there are rumors of fraud? But, then, if there is not any fraud, it is said, the smallness of the majority is another great reason. I supposed that we were a Government of majorities; that when the majority had determined a question, that question was determined, whether it was important or otherwise. Sir, many of the most important questions that ever came before this nation, nay, sir, questions which have fixed the character of our institutions for ages, have been decided by one single vote. If we had only had one vote more on one occasion in the old Continental Congress we should have escaped entirely from this terrible controversy that we have had over the subject of black and white, slave or free. If New Jersey had been there, if one member from New Jersey had been there, who would have voted in the direction of freedom, we should have been saved much trouble. His bare absence, one vote, fixed the *status* of the Government and entailed upon us all the evils we have had. Will a Democrat rise here and tell me "You have got a majority of one hundred, but what is that on a great question?" Sir, the standing

of any of us on this floor would be determined by a much less vote than that. No question is so weighty in this nation, no question is so unimportant in this nation, but what it must be settled by a majority of even one. Why, then, tell me upon a great question "You must have a certain majority?" How great? It must be in proportion to the importance of the question!

Mr. HENDRICKS. I intimated no such thing. The argument I made shall stand exactly as I made it. I said that in the vote that was cast it is not pretended there was more than one hundred of a majority; and that when there is so small a majority and there is the avowment that there was fraud, it is proper to inquire into it. If there were majorities of thousands, or hundreds even, and the fraud was but trifling, as charged, then it would not be important to inquire into it; but where fraud is charged and the majority upon the adoption of the constitution is small, it ought to be investigated.

Mr. WADE. How plain a tale can put all this down. First of all, is there anybody from this State protesting against its adoption? Is there a single petition or protest against it? Is there any man certifying in an authentic form that there is anything wrong about the election? The representative of that people in the other House is anxious that the Territory shall be admitted as a State, and he speaks by authority for that people as their representative as the Senator speaks for the people of Indiana. We have the official certificates of the proper officers; and against all this a Senator rises and tells us that there are rumors and statements in newspapers that there is something unfair. I will not argue such a question before the Senate.

Mr. DOOLITTLE. I desire to ask the honorable Senator from Ohio one question, because I am entirely without information as to the facts: whether this election took place under the enabling act or whether it was a subsequent election after the enabling act had expired. I wish to know the fact.

Mr. WADE. The enabling act was passed in 1864 enabling the people of the Territory of Nebraska to assemble themselves together to form a State government; but there was no time fixed that I remember. Then their Legislature met and passed an act upon that subject, undoubtedly under the authority of the enabling act of Congress.

Mr. JOHNSON. Have you the act of the Territorial Legislature?

Mr. WADE. I have not got it here. It is in my committee-room. I remember that the enabling act was passed in 1864, about the same time that the Colorado act was passed. The people of Colorado met and voted against a State organization the first time; but the next time they met they voted in favor of it; and it was argued here that because of the first vote the enabling act was *functus officio*; but the reply was conclusive, as I thought, that by passing an enabling act authorizing the people of a Territory to form a State government we commit ourselves to receive them whenever they do accept the invitation and form a State government. Whenever they accept the conditions of the enabling act and present themselves for admission I see no reason why they should be excluded; and they may do it as well at one time as at another.

Mr. DOOLITTLE. If the honorable Senator will allow me, as I have now before me the enabling act of Nebraska, I will read the third section of it. That section of the act of Congress provides:

"That all persons qualified by law to vote for representatives to the General Assembly of said Territory shall be qualified to be elected; and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the Governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe."

What I desired to know was whether they did choose a convention, whether that conven-

tion submitted a constitution, and whether that constitution was voted upon by the people in pursuance of this act, or whether the Legislative Assembly of their own accord undertook to submit a constitution to the people. I wish to know the fact, for I confess I am ignorant as to it.

Mr. WADE. The enabling act authorized them to meet at such time as the Governor should prescribe, and form a constitution. I have a certificate of the Governor in these words:

EXECUTIVE OFFICE, OMAHA, July 3, 1866.

I hereby certify that at an election held in pursuance of an act passed by the Legislature of Nebraska, approved February 9, 1866, authorizing the people to vote for or against the adoption of a State constitution for the State of Nebraska, the vote for the constitution was 3,938, and the vote against the constitution was 3,839, being a majority of 100 votes in favor of the constitution.

Given under my hand and seal the 3d day of July, 1866. ALVIN SANDERS,  
Governor of Nebraska.

And this is countersigned by the secretary of the Territory.

Mr. DOOLITTLE. It seems from that certificate that the election was not held under the enabling act. The enabling act provided for the choosing of a convention under such rules as the Governor should prescribe. It did not provide that the Legislative Assembly of Nebraska should submit a constitution to the people, but that a convention chosen under the act of Congress should submit a constitution, and that election should determine the question whether the people adopted the constitution or not.

The difficulty in a case like this is that where a constitution is formed in this irregular way, without any authority of Congress, the election held is a mere voluntary affair altogether outside of the law; and if frauds are committed, if false voting is perpetrated, or if perjury is committed at the polls, no man can be punished anywhere than if it was a mere political meeting. It is like holding a caucus. It is more formal, to be sure, when they undertake to submit it under the authority of the Legislature of the Territory; but the honorable Senator from Ohio will not contend that any man could be convicted for perjury for swearing falsely at such an election; no man could be punished for filling the ballot-boxes improperly. And why? Because the Legislature of the Territory had no power to order any such election until they were first authorized by Congress to do so, because in Congress under the Constitution is the legislative power which controls this matter. It is not in the Territory, because we have not delegated to the Territory any such powers as that. In this point of view it is a material circumstance that the majority was only one hundred. With such a small majority at an election where there was no law to prevent frauds being perpetrated, how can we say and feel assured that the people of the Territory of Nebraska have shown that they want a State organization?

Mr. President, I was anxious to learn what the fact was on that subject, whether they had proceeded under the enabling act or whether they had proceeded under some voluntary act of the Legislative Assembly, and it seems they proceeded without the authority of the enabling act, under the voluntary act of the Assembly.

I suggest to the honorable Senator from Indiana—his motion is to refer this bill back to the Committee on the Judiciary to inquire—that he make a different motion. In reference to the admission of Territories as States into the Union, I never have known in the history of the Senate that such a question was ever referred to any other committee than the Committee on Territories; and, therefore, I hope the honorable Senator will change his motion. I do not believe it should be taken from the Committee on Territories to be sent to the Committee on the Judiciary, because the Committee on Territories have always had the consideration.

Mr. HENDRICKS. That is entirely satis-

factory to me, and I modify my motion in that way. I move to recommit the bill to the Committee on Territories.

Mr. WADE. There certainly is a kind of opposition made to the admission of this State that I did not contemplate, and as long as I have been on this Committee on Territories I never have known so many technicalities interposed to such a measure. What are the technical difficulties in the way of these people getting into the Union? Gentlemen have become very critical and very nice, and they scrutinize these proceedings very much as they would an indictment if a man was indicted for murder. They scrutinize it in the same way.

First we passed an enabling act whereby we left it in the discretion of the Governor of Nebraska to assemble the people there together, and to form a constitution at his discretion. They met. Now, what should he have done? They say he should not have assembled the Legislature at all; that was a bad way of doing the business. He brought the Legislature together. They prescribed the mode of taking the sense of the people upon this subject; and in their law they went on to provide the way and manner in which the people should vote upon the subject of the constitution. They made a constitution, they submitted it to the people, and the certificate shows that they voted upon it; the vote is given; and now all that can be said against it is that the vote was not as large as gentlemen think it ought to be upon an important subject; and they insinuate that this action was not under the enabling act. What is the presumption? We enabled them to go forward and make a constitution, authorizing the Governor to perform the business *ad libitum*, for we did not restrict him as to time, place, circumstance, or manner; we left all to him. He went on and he submitted the question to a vote. A constitution was made; it was submitted to the people by a vote; they adopted it; and yet it is said they did not act under the enabling act. The people had the constitution before them; it was duly published; everybody knew what it was; the election was held upon its adoption, and the Governor certifies to us the result of that election; and now for the technicality. Do not gentlemen know that States have been admitted into this Union without any enabling act? Was there any when Michigan came in? Have not gentlemen read the elaborate and able opinion of the Attorney General, Mr. Butler, upon that subject at the time, in which he came to the conclusion; and the President and Congress sustained him throughout, that an enabling act was not essential, that we might take a constitution that a people had made of their own will and in their own way, and if they had made a constitution that was satisfactory to them, Congress could approve of it as well after it was made as enable them to go forward and make it beforehand? It makes no difference, not but what this was made and designed to be made in accordance with our enabling act; but if it were otherwise here is a plain, fair constitution submitted to that people, the certificate of the Governor as to the votes they gave, and nothing except the ghost of a rumor to show that it was not fairly done; and now what shall we do? Shall we defeat the will of these people who have sent their Senators here to represent them by the assent and approval of the whole community that voted for their constitution? You hear no remonstrance, nothing from the Territory of Nebraska, but you hear it from Indiana. Indiana is afraid that the people of Nebraska are going to suffer somehow. The people of Nebraska are not apprehensive about that. Here are her Senators, able men; there is a Representative in the other House already, prompt, and eager to second the votes of the majority that ratified this constitution; and yet gentlemen from other States become the guardians of these people and think they have made some mistake there and ought not to have voted for their constitution, or it was somehow not submitted to them properly. They do not say so.

I do not wish to continue this talk about referring this bill back for us to investigate whether there is fraud in the election or not, upon no suspicion of any sort except that a gentleman says he has heard or read in some paper that there was some fraud. I hope we shall have a vote and I hope we shall admit the State.

Mr. POMEROY. Nebraska has been a Territory for twelve years. The organic act passed with the act organizing the Territory of Kansas, which is now a State. Nebraska was delayed a good while from the fact that the emigration to Nebraska was not equal to what it was to Kansas; and not until they commenced the construction of the Pacific railroad and a large impetus was given to emigration, and a large amount of property came there for taxation, did the people feel that they could consistently take upon themselves the duties and burdens of a State government; but early this year, although the enabling act was passed some years ago, they commenced, in the regular, ordinary way, to form a State constitution. I confess that I never heard a word about frauds in the election from any citizen of Nebraska, and I learn that there are no frauds charged in any of the papers excepting frauds charged upon those who tried to defeat the constitution.

Mr. DOOLITTLE. The honorable Senator will allow me, before he goes into the question of frauds in the election, to ask him a question of fact. He stated just now that the people of Nebraska proceeded under this act regularly to form a State constitution. I desire to get at the facts. I observe that the enabling act required that they should have a convention and that that convention should be held in 1864, and that on the second Tuesday of October, 1864, the constitution should be submitted for the ratification of the people. Did they do that or did they not?

Mr. POMEROY. I understand they did not.

Mr. DOOLITTLE. This act fixed that day for the election.

Mr. POMEROY. Since the Pacific railroad was located there they have believed they could institute a State government. Then they thought they could sustain a State government, and then, according to the spirit of the act, but not in the exact time fixed by it, they went on and formed this constitution.

Mr. DOOLITTLE. Did they hold a convention in 1864?

Mr. POMEROY. I am not certain.

Mr. DOOLITTLE. If they did, did they vote on the constitution?

Mr. POMEROY. I am not certain. I know there was no general sentiment among the people in favor of it until the last year or so; but since the adoption of the constitution the friends whom I have in Nebraska in great numbers have written and urged the acceptance of this constitution by the Government. Indeed, I do not know that there is a party there opposed to it. All that I have learned is that there were some men holding office, as there were in Colorado, who expected that their occupation would be gone if Nebraska could not be continued as a Territory, and they have kept up a little party, and there is a charge of fraud raised. Whether there is any truth in it or not I do not know, but it is traceable to those who were opposing the constitution, and I have not seen an insinuation of that sort against those who advocated the adoption of the constitution. I have been a citizen of a Territory long enough to know that men who get offices under the General Government that expire when the Territory becomes a State oppose a State government, and they will hold on to a territorial government as long as they possibly can, and they will get up a party and they will try to control the elections. They are the very men who control the elections, because they are in public office; they have some patronage and they have some money; and the very men who oppose the organization of a State government

are generally the appointees of the Administration, those who would be likely to lose their offices if the Territory became a State.

Now, I say that if any Territory has been well prepared and is worthy of admission into this Union as a State it is Nebraska. She did not go through all the discipline that my State went through; but she has had enough of it. She is ready to throw it off; she is ready to pass out from under this General Government of the United States into a national American government of her own. If there is anything the American people like, it is their own government. The General Government may be ever so good, the territorial government may be ever so kind, yet if it is not a government of the people it never satisfies them. This American idea runs through the hearts of our citizens everywhere in all the States. Put a dozen men down in a Territory and they will go to work and form a State government so as to have a government of their own. They will always want to get a government of their own. It is always a most offensive thing to have Governors appointed, judges appointed, officers to rule over them appointed from some distant State, generally from the East, who know as little about the West as if they had never been there, and yet they have gone down there and tried to administer government. The most unpopular and most unfortunate class of people that go into a new Territory are eastern men when they suddenly get an appointment and go West. The people want to throw off that kind of government and have a government of their own.

The people of Nebraska have proceeded, I say, in the spirit of the act; they have a reasonable amount of population; they are wealthy; they are willing to support a State government. I say it is time they did it.

Mr. HOWARD. Mr. President, one of the leading objections to the bill now before the Senate, insisted upon by the honorable Senator from Wisconsin is, that there was no law for holding the election under which the members of the convention that framed this Nebraska constitution were elected. I am not so sure about that. I understand the facts to be that by the enabling act of 1864 the inhabitants of Nebraska were authorized to form a State constitution and submit it to a general election to be held in October, 1864. Undoubtedly the legal efficacy of the act of 1864 expired from and after the second Tuesday in October of that year, because it was on that Tuesday that there was to be held an election to ratify the constitution in case the people should have formed one before that day. But, sir, the convention which was actually called, if I understand it rightly, was authorized to be called by a territorial statute. Was not that the case?

Mr. WADE. I have now learned exactly how the whole of it was.

Mr. HOWARD. I think if the Senator from Ohio will look at his certificate, he will see that the title of the territorial act is recited.

Mr. WADE. I can state now precisely how it was because I have learned it from one of the Senators; I could not get it all from the papers. The convention met under the enabling act, but they failed to form a constitution; the Legislature then met, passed a law referring directly to the enabling act and conforming to it, framed a constitution, and by that act submitted it to the people. That is the constitution that is before us. The people voted upon the constitution, and the result of their voting is certified by the Governor to us. That is all there is of it.

Mr. HENDRICKS. I wish to ask the Senator from Ohio whether the constitution was framed by a convention or by the Legislature.

Mr. HOWARD. I understand the Senator from Ohio to say that the constitution now presented to us was framed by the Territorial Legislature.

Mr. WADE. Yes, sir.

Mr. HOWARD. And afterward, in pursuance of a territorial statute, submitted to the voters of the Territory for ratification or rejection,

and there was no formal popular convention. I believe such to be the state of the case. I do not conceive that this is any objection. The whole proceeding for the formation of the State constitution took place under and by the authority of the Territorial Legislature; they prescribed the rules of proceeding; they submitted the instrument which was the work of their own hands, and a very wise and excellent one I believe, to the consideration of the people, and the people adopted it as their form of government by a respectable majority. I am not able exactly to deny the power of a territorial Legislature to pass an enabling act for the purpose of taking the sense of the people of the Territory upon the question of forming a State government. I have too high a precedent before me to dispute the validity of such legislation. The people of my State, while a Territory, through their Territorial Legislature, passed a similar enabling act, and in 1835 called a convention which framed a constitution of government which was afterward adopted by a vote of the people. I never heard it alleged there that this territorial statute was invalid, and that therefore if an elector at the polls had committed perjury he could not be punished for it under the subsequent State laws or under the territorial laws. Sir, I deny such a proposition. I insist that such an act of legislation by a territorial government calling an election and imposing penalties for the crime of perjury in voting upon such a question is a valid statute, and that the crime would be properly cognizable and punishable by the territorial court, or by the State court after the Territory should have changed its territorial condition and become a State; so that I do not admit that there is any validity whatever in the objection which is urged against this bill by the Senator from Wisconsin, that there was no legal sanction, no legal protection in the holding of the election for the ratification of the constitution. I think, sir, a voter who should swear falsely in getting in his vote under that territorial act would be justly, legally punishable. I have not any doubt of it, and I think you will find that the courts, if this question has ever been litigated there, will have held precisely in that way.

Mr. DOOLITTLE. If the honorable Senator will allow me to interrupt him for a moment, there are two facts in connection with this question which I have been authorized by a gentleman to state on his responsibility—Mr. J. L. Gibbs. One fact is this, and it is a fact which I did not know myself; perhaps other gentlemen of the Senate knew it by information: that in 1864, under the enabling act, a constitution was submitted to the people of Nebraska and voted down.

Mr. HOWARD. I believe that to have been the fact.

Mr. DOOLITTLE. And the further fact that on the present vote upon the State constitution there were two companies of soldiers in the State belonging to Iowa that happened to be upon service in Nebraska, who voted for Governor Stone in Iowa last fall, and who upon this vote in Nebraska voted on this constitutional question, and immediately on their being mustered out went to their homes in Iowa—men who were not residents of Nebraska at all. These are facts which he authorizes me to state and for which he says the affidavits of the captains of the companies can be given. And now, sir, my point is this: that where an election is held—

Mr. KIRKWOOD. I should be glad to know what Iowa regiment it is.

Mr. DOOLITTLE. Two companies.

Mr. KIRKWOOD. What Iowa regiment?

Mr. DOOLITTLE. I do not know the number of the regiment.

Mr. HOWARD. I yielded to the Senator from Wisconsin for an explanation, and not for debate.

Mr. DOOLITTLE. I simply say that it seems to me that where the election has been held, not under the enabling act but outside of the enabling act, and where such facts are



alleged, it ought certainly to be inquired into by the Committee on Territories.

Mr. HOWARD. I was speaking of the effect of the territorial statute under which the constitution of Nebraska was submitted for ratification by the people, and was endeavoring to show that the crime of perjury committed under that act would in all enlightened courts be held to be a legal crime, and was cognizable and punishable by the courts of the Territory. That was the point at which I was aiming when I was interrupted by the Senator from Wisconsin. He now tells us that frauds were actually committed at that election. Whether that be the case or not, it is not possible for me to say; I have received no information on the subject except such as is presented to-day by the honorable Senator from Wisconsin; but I have this to say in that respect: if there were any illegal votes cast at that election, whether by soldiers or other persons, undoubtedly the territorial statute made some provision by which that mischief might have been, or ought to have been, remedied. There must have been constituted in some way a tribunal by which the election returns were to be certified according to law. There must have been within the Territory somewhere a board of election required by the territorial statute to pass upon the question of the legality or illegality of any votes that were thrown at that election. Can the honorable Senator from Wisconsin say that this question was never raised before that election board? That board, and that alone, was authorized to pass upon this question; and if such a fraud were committed as that which he has represented to have been committed, and for which he seems willing to vouch, I ask him, why was not the question raised before the election board and a proper decision made according to the laws of the Territory and by judicial agents authorized to entertain and decide the question? We have a right to presume, in the absence of all proof to the contrary, that every such question has been passed on, settled, and decided finally by the board of election to whom the returns were made; and it seems to me entirely too late in the day for Congress to enter into a question of that kind which ought to have been decided, and was decided if it was of sufficient importance to come before the board of election, by that board.

Now, Mr. President, for aught that appears before us the election was fair, honest, and correct. On the one hand there were some 4,000 or 3,900 voters whose votes were thrown in favor of the constitution which was submitted to them, and a number less by about 100 were thrown against the constitution. There is a clear, undisputed majority out of about 8,000 voters in that Territory in favor of the ratification of the constitution and in favor of the admission of the Territory as a State of the Union. I have seen no case freer from legal doubt than this appears to be; and so far as I have seen, so far as I know, so far as the records and papers before us now tend to show, I know of no case that is freer from fraud and false voting than this seems to have been.

There is, undoubtedly, a departure from the rule prescribed by the enabling act of 1864. The people of the Territory for some reason or other did not adopt a constitution as contemplated by that act. So far as that statute is concerned, it may be entirely disregarded—disregarded for all other purposes except this: that in the opinion of Congress, in 1864 the time had come to give to the people of that Territory the privilege and faculty of forming a State government and of coming into the Union. This pledge we voluntarily gave them two years ago. They have substantially and faithfully responded to the invitation of Congress to form a State constitution, and I hope that we shall admit them. I hope that the condition of vassalage, that inconvenient territorial condition, of which every man who has resided in a Territory any length of time will have seen great reason to complain, will now be removed, and that this intelligent, this enterpris-

ing community of pioneers will be relieved from these inconveniences and admitted to a full and complete fellowship as one of the sister States of the Union. I dislike territorial governments; it is the most degrading, it is the most inconvenient, and it is the most corrupting and embarrassing of all governments upon the face of the earth.

Mr. WADE. I rise to correct some statements that have been made here, and the facts in regard to them show how improper it is in a court of justice or a legislative body to proceed upon mere rumor. Here is the secretary of the Territory right behind me; here are gentlemen who participated in the convention, and I am informed by them that no constitution was ever framed or submitted to the people until this one was.

Mr. DOOLITTLE. On that subject, perhaps, I ought to correct the statement that I made. I understood that in 1864 the people voted against the constitution. That is not so technically; but when the question of electing a convention was submitted to the people they elected delegates to the convention who when the convention assembled adjourned without framing a constitution, because the majority of them were against a State constitution. That is the precise fact.

Mr. WADE. That clears some of the brush away. I understand further that Mr. Gibbs, who has been quoted here, is a Utah man, who has not resided in the Territory of Nebraska for four years. Rumors thus derived are to be palmed off against the authentic doings of that people in a vain endeavor to defeat their deliberate action in framing a constitutional government. The idea is ridiculous and absurd. I never knew such a course resorted to before. What, sir, bring in here the chit-chat of men outside, who are perhaps interested in continuing in place public officers whose terms are about to expire if the will of that people be carried out, to gainsay the authentic doings of that people! If there was anything wrong in their proceedings, if there was any fraud in the voting, why was not the matter brought before the proper authorities there? They had their rules and regulations by which to test the question of fraud if any allegation of fraud was made. But the people there did not take it up; it is left to Mr. Gibbs, from Utah, to insinuate frauds in the election.

Mr. POMEROY. He says that these soldiers voted for Stone and then voted on this constitution. Stone's vote was last October, and this was in June. How they could have voted for Stone and upon this constitution at the same time, I do not see.

Mr. DOOLITTLE. It is as plain as the nose on a man's face. The laws of Iowa authorized their soldiers to vote; and the soldiers of Iowa, being in Nebraska, voted for Governor Stone, of Iowa, and when this question came up they voted on this constitution, and then, being mustered out, went right home to Iowa. These facts, Mr. Gibbs states, are sworn to by the captains of the companies.

Mr. POMEROY. Where are their affidavits?

Mr. HENDRICKS. We want an opportunity to present them; that is the object of the reference.

Mr. KIRKWOOD. I should like very much to know from the Senator from Wisconsin what Iowa troops those were. I feel very sure that Iowa had not a soldier in Nebraska last June when this vote was taken.

Mr. WADE. I suppose Mr. Gibbs, of Utah, knew more about it than you did. [Laughter.]

Mr. KIRKWOOD. I do not think there was an Iowa regiment or company there; and I should like to know what companies are alluded to.

Mr. DOOLITTLE. I cannot tell the name or number of the company or regiment; but I say that upon this statement of facts the question should be examined by the Committee on Territories. If the Senate appointed a committee to examine into the subject witnesses could be examined and the whole particulars given.

Mr. KIRKWOOD. I do not believe there was an Iowa regiment or company in Nebraska last June.

Mr. POMEROY. The seventh regiment of Iowa volunteers were out there last fall, but they were all mustered out over six months ago. That was the only Iowa regiment that was in Nebraska.

Mr. DOOLITTLE. Does the Senator from Kansas know when they were mustered out, precisely? Does he know where they were in Nebraska when they were mustered out—in what part of Nebraska?

Mr. POMEROY. My colleague, [Mr. Ross,] who is very familiar with the facts, says they were mustered out over six months ago.

Mr. KIRKWOOD. Long before this election.

Mr. WADE. The Governor of the State of Iowa ought to know something about the troops of that State; and I think his statement here is as authentic as that of Mr. Gibbs, of Utah, or anybody else. But where is the evidence that a soldier from Iowa or anywhere else voted at the polls? There is no such proof. Do the people of Nebraska complain that they were defrauded? Not a man of them. Why do they not contest it? Why do they leave gentlemen from Wisconsin and from Indiana to interfere in that of which they do not complain? Why did they send here certificates that the election was fair, when gentlemen here get Mr. Gibbs, from Utah, to say there was some fraud mixed up in it? The thing is so ridiculous that I do not feel warranted in arguing upon such stuff. Talk not to me about Gibbs and other men having said this, that, and the other. I know where they get it from; the expiring voices of those gentlemen who, if we do our duty and give effect to the will of that people, will lose their hold upon public office. Things from such sources are brought in and retailed here as authentic statements that need answering and want investigation before committees. What would you investigate? The people of Nebraska have made no complaint. If you refer it to our committee we shall have nothing to act upon, unless we take up what the Senator from Indiana says somebody told him, or he saw in a newspaper, or what Mr. Gibbs talked about. Now, every gentleman here knows, the authentic papers show, that this was a fair election. Here is a good constitution, republican in form, in the usual form, submitted to the people fairly, and by them deliberately ratified. The result is certified to us by the Governor; the representatives of that people say it is all fair and right. Nobody complains except the Senator from Indiana and the Senator from Wisconsin. I hope we shall take the vote and admit the State.

Mr. DOOLITTLE. Since I was on the floor before, I have learned more of the particulars of this matter from Captain Lowry, of the first Nebraska regiment. Companies I and F, of the first Nebraska regiment, were raised in Iowa, soldiers of Iowa, and were stationed at Fort Kearney, and on a commission from the State of Iowa, voted for Governor Stone at Fort Kearney last year. And these same soldiers of Iowa voted on this question of the adoption of the State constitution in Nebraska, and they were not mustered out of the service and paid until the 1st of July this year. These are the facts for which Captain Lowry, a captain of the regiment, vouches; and there is no doubt about the truth of them; and I hold myself responsible for the truth of them. And on these facts I insist that this Committee on Territories, or some other committee of this body, shall investigate the facts as to the validity of this election by which it is pretended that this constitution has been adopted by the people of Nebraska.

Mr. President, this whole election has been but a voluntary election; it was not under any legal authority at all. I know there is the form of a law passed by the Legislative Assembly of Nebraska; but that Legislative Assembly of Nebraska had no more power to authorize the formation of a constitution to be submitted to

the people of that Territory than the State of Iowa had to do the same thing for them, because their power is derived—I speak of it in a legal point of view—from the Congress of the United States under the enabling act.

But, Mr. President, I admit what the Senator from Ohio says, that if it was satisfactorily shown that the mass of the people, or a large portion of the people, or a decided majority of the people, were in favor of a constitution, and that they were sufficient in numbers to maintain a State government, I would not stand on a technicality for a moment; but when the question is to put a constitution upon them by what is called a majority of one hundred votes, when it is alleged, as I state upon the authority which I gave, that in voting on the adoption of this constitution these soldiers of Iowa were called in to vote upon it, I insist that it ought to be examined.

Mr. TRUMBULL. Will the Senator from Wisconsin allow me to inquire of him if he is informed what number of votes were cast by those parties, and which way they voted? Because if we go into an investigation it might be important to know whether their vote had any effect upon the result or not.

Mr. DOOLITTLE. I have had no time to go into all this detail. After I make one statement of facts in relation to it gentlemen ask me a question—what was done in that particular? How do I know when I was not there? I have had no time to go and hunt up witnesses.

Mr. TRUMBULL. Perhaps the Senator did not understand me.

Mr. DOOLITTLE. I suppose they voted for the constitution; but still I will not vouch for that until I get further information.

Mr. TRUMBULL. I asked if the Senator understood whether their vote would affect the result one way or the other. Has he any general understanding on that?

Mr. DOOLITTLE. I suppose it would; and yet I state to the Senator most frankly that I have not examined the case sufficiently to say. I will not vouch for that.

Mr. JOHNSON. Was there a regiment there?

Mr. DOOLITTLE. No; two companies of the first Nebraska regiment, raised in Iowa, consisting of Iowa troops, stationed at Fort Kearney, in Nebraska Territory, and they were not mustered out of the service until just the beginning of the present month. Last fall those same men voted for Stone as Governor of Iowa on a commission sent by the State of Iowa for the purpose of taking their votes; and when this constitution was submitted they voted on it in Nebraska, and are now mustered out and paid and have gone home to Iowa.

Mr. DAVIS. Mr. President, it seems to me that the matter of admitting a new State is one of a good deal of importance, and the question whether any new State should be admitted or not ought certainly to be investigated by a committee. There has been no such investigation in relation to the admission of Nebraska. The honorable Senator from Ohio, the chairman of the Committee on Territories, four days ago "asked, and by unanimous consent obtained, leave to bring in" a bill; "which was read twice, referred to the Committee on Territories, and ordered to be printed." I never heard that there was to be an application for the admission of Nebraska as a State into the Union until four days ago, when the honorable Senator from Ohio asked and obtained leave to bring in the bill now under consideration. It was referred to the Committee on Territories, of which committee I am a member. Since this reference that committee has never held a session that I have been informed of. The committee have never taken the subject under consideration. According to my understanding the committee has never been convened for the purpose of considering whether this State should be admitted into the Union or not. The day before yesterday my honorable friend, the chairman of the Committee on Territories, came to my seat and remarked to me that he wished to report a bill to admit

Nebraska as a State into the Union, and asked my consent that he should do so. Well, I told him that I would have no objection to his reporting the bill, but that I should not pledge myself to its support; on the contrary, for reasons that I assigned when the enabling act was passed, being then upon the Committee on Territories, I was opposed to the bill; but I had no objection to its being reported.

But, Mr. President, at that time I did not know that there was any difficulty in relation to the election. I supposed that it was all regular, that the election had been held in conformity to the law of Congress, and that it was free from fraud. I was not advised of any objection whatever to the admission of the State to arise on the passage of the bill now under consideration. If I had been of course I should have required the honorable Senator who is chairman of that committee to convene the committee for the purpose of taking the matter into consideration, and he, no doubt, would have done it very promptly. I have no question about that. He has acted very fairly, so far as I am concerned, in this matter; as much so as I could desire; but I think the facts revealed at this time show not only the importance but the necessity of an investigation of this whole subject by the Committee on Territories, or some other committee.

Mr. HENDRICKS. The Senator from Ohio himself said he had not heard of any of these things, and of course he did not think it necessary to investigate them.

Mr. WADE. I never heard a word about them until I heard it here in the Senate.

Mr. DAVIS. I have no doubt if the honorable Senator had heard it he would have convened the committee.

Mr. WADE. If I heard it in an authentic shape.

Mr. DAVIS. And he would not have asked me, I have no doubt, to give my informal consent to his reporting that bill against which there was such objection, he having knowledge of it. I have no idea he would have done that. Under the circumstances, I think the subject ought to be referred back to that committee, or that it ought to go to some other committee, to investigate the question whether Nebraska should now be admitted as a State into the Union or not.

Mr. KIRKWOOD. I wish to make a single remark in regard to this allegation about our Iowa soldiers voting in Nebraska. I was perfectly confident when the Senator from Wisconsin said before that two companies of an Iowa regiment had voted there that he was in error; because we had no Iowa regiment or part of a regiment in Nebraska at that time. It now turns out that the allegation is that certain men from Iowa forming companies in a Nebraska regiment voted there. In the commencement of the war the Iowa troops could not get into the field as fast as they wanted to, and there were some men who went from Iowa and entered the first Nebraska regiment, forming wholly or partially two companies. I do not know whether they were all made up of Iowa men or not. That was in 1861. The term of enlistment was for three years. All of those men who could have been in the first Nebraska regiment in June, 1866, must have been such of them as reenlisted as veterans. Now, counting that the whole of them originally were from Iowa, then deducting the number who died from disease, the number mustered out, the number killed in battle, and those who suffered from other casualties, and then the number of them that did not reenlist as veterans, and you may have some idea of the number of the original men enlisted in Iowa in 1861, remaining in 1866. I am satisfied it amounts to nothing on the vote.

Mr. BUCKALEW. I have seen a number of very strong statements in the newspapers regarding the recent election in Nebraska, but I have not examined them with care, and am not, therefore, able to state to the Senate the particular points made. I think, however, that one of the allegations made against the elec-

tion was that a number of unqualified Indians had voted. At all events, I was sufficiently impressed by seeing those statements in a number of newspapers, and repeated, to be convinced that the election held in that Territory required examination, required investigation; and I took it for granted that whenever the subject came up in the Senate, if it came up at all, we should have some definite information to enable us to form an opinion with regard to the fairness of the election and the consequent validity of the constitution alleged to have been adopted. But, sir, that election is recent, and this bill is brought in within four days of the end of the session without any previous notice or knowledge of members of Congress, of the people of the Territory, or of the people of the country; and now we are hurried to a vote upon it this morning without any information, without a possibility of any information except such as we can pick up of a fragmentary character during the progress of the discussion. The Senator from Ohio [Mr. WADE] seems to be unprovided with full information upon the subjects that are involved in this debate. He has a statement made by the secretary of the Territory and dated within a day or two, a certificate about the number of votes given at the election, a certificate given here in the city of Washington. Then you have a general certificate of the Governor of the Territory that a certain number of votes were cast on the constitution; and that is all the information we have. The Committee on Territories have never met and considered the subject; they have never made an investigation. In an informal manner there was an agreement among the members that the chairman might report this bill, and he brings it in here. These are the facts relating to the introduction of this measure, and there is a general impression upon the minds of members who have spoken in the debate that this election requires investigation, requires some examination. Yet, sir, strange to say, a motion to refer the subject to the Judiciary Committee, for the simple purpose of inquiring into it, is resisted, and resisted, too, when there is no practical objection to such a present disposition of the subject, because these members are not required here to assist us in the enactment of laws; their services will not be required during the vacation between the present and the next session of Congress; and unquestionably before that next session full and complete information can be obtained by the intelligent committee which we have organized for such purposes, and they can inform us promptly on our reassembling how the facts really stand, and we can then vote upon the question of admission and do justice to both the people of the Territory and to the people of the United States whom we represent.

It seems to me that the argument is decisive, is conclusive, in favor of the pending motion which has been submitted by the Senator from Indiana. But, sir, as it seems that the immediate admission of this Territory as a State is to be insisted upon, and we are to be driven to a determination upon the direct question, if the Senator from Ohio can attain his object, I will go on and submit some further remarks.

It seems by this recent certificate given at Washington by the secretary of the Territory, that at the election on the 2d of June of the present year the number of votes given for Representative in Congress from Nebraska, was 8,034. The vote on the constitution at the same time stood as follows: in favor of the constitution 8,938, against the constitution 3,833, showing an apparent majority of 100, and a total vote of 7,776.

How large a population in that Territory does that vote indicate? We may refer, upon this point, to the case of Colorado which was before us at the present session. In Colorado the vote in 1861 amounted to about 10,000, and that same year a census of the inhabitants of the Territory was taken showing the whole number to be 25,000. In the case, then, of Colorado, the population of the Territory was two and a half times as great as the number

of voters; when the vote was 10,000 the population was only 25,000.

Now, sir, we have in the case of Nebraska a total number of votes amounting to 8,000; yet it would be inaccurate to draw a strict analogy between these two cases, because in Colorado the population was made up of miners, and in Nebraska there is an agricultural population. Therefore you cannot make the same calculation; but suppose that you assume that there are five times as many inhabitants in the Territory as there were voters at this election, that would only give you a population of forty thousand for this Territory, and I take it for granted that that is the utmost extent to which you can carry the number. Judged by this vote, taken on the 2d of June, the number of inhabitants in the Territory of Nebraska cannot exceed forty thousand, and it is very possible that it may fall somewhat short of that, because we know the general rule to be that in new Territories and in new countries the relative population between males and females is different from what it is in settled communities.

Mr. YATES. Will the Senator allow me? I am informed by the secretary of the Territory that a census was taken in last March a year ago, and the population then was forty-one thousand, and that since that time the population has rapidly increased, so that it is now some sixty thousand. I am also informed by one of the United States judges of the Territory that that is the fact.

Mr. BUCKALEW. If there has been a recent census of the population in that Territory, it was proper, it was in fact required, that it should be produced here before us that we might judge of the fact of numbers. We cannot take verbal statements on a subject of this kind, but according to this statement the population was then only forty-one thousand; and we have nothing to guide us in coming to a conclusion that the population is now greater except the opinions of gentlemen who are no doubt somewhat influenced by their desire that we shall admit this State as a member of the Union. I remember that when the enabling act in the case of Colorado was passed we were told here that that Territory contained sixty thousand inhabitants and that it was rapidly increasing. I think the minimum was put at sixty thousand; it might be, it was said, considerably greater, but it was at least that. That was the representation under which we passed the enabling act to permit the people of Colorado to form for themselves a State constitution; and the Delegate from that Territory was quoted as the authority for that statement; and yet it appeared afterward, when we came to an ascertainment of the fact, that the population at that very time could not have exceeded thirty thousand and probably did not much exceed twenty thousand. Now, I have learned by my experience in the Senate to place very little dependence upon these vague, indefinite, general, sweeping, and nevertheless most positive statements about the number of people in a Territory. There is no safety in proceeding upon questions of this kind without a census or some other specific and legal ascertainment of the fact which we have not here. We have nothing except the statement that there was a census sixteen months ago which showed that the population was about forty thousand; nothing in the world beside that except mere opinions of gentlemen that the population has increased since. But the conclusion to be drawn from the number of votes polled in June of the present year is that the population remains about what it was when the alleged census was taken.

There is another consideration to be mentioned in this connection. Take the case of New Mexico. I believe as far back as 1860 the population was seventy thousand or upward; it has increased since that time, and we have recently accounts of mining interests growing up in that Territory. The last estimate I heard was that the population of New Mexico at this time amounts to between ninety

thousand and one hundred thousand, probably a population two or two and a half times as great as that of Nebraska; yet, sir, the Senator from Ohio does not introduce an enabling act for New Mexico; the Senator from Ohio does not propose that that Territory shall be admitted into this Union as a State. Is this equal treatment? You are to admit a Territory into the Union as a State with forty thousand or fifty thousand inhabitants, and you make no legal provision whatever for the admission of a Territory into the Union which contains probably ninety thousand. Is not this an odious policy? Is it not unequal? Will it not subject our legislation to just and severe criticism; to the imputation that we do not treat our Territories in the same manner, that we admit them on principles of partiality instead of principles of equal and even-handed justice? If there were no other consideration opposed to this measure, I should hesitate in voting for the admission of Nebraska as a State into the Union upon this distinct ground.

Mr. President, we are at a new point in our history upon the question of admitting States into the Union and we have also very troublesome questions upon the restoration of former and existing States of this Union. It is right that we should proceed with caution and with care; that we should examine carefully the ground upon which we stand, that we shall be certain that we adopt and act upon a policy which will exist in the future, which will continue, which will be permanent, and which will be salutary. And will not one rule of future action, and a proper rule of future action, be this: that a State shall not be admitted into the Union until it has an adequate number of inhabitants to authorize it to have one member in the House of Representatives under the ratio which may exist at the time? That rule has been frequently talked about. There seems to be a general assent that it would be a reasonable and a proper rule, that it would be salutary in its consequences, that it would prevent much of difficulty and debate in connection with the organization of Territories into States and their admission into the Union. According to the best information which we have here the Territory of Nebraska has less than one half the number of inhabitants necessary for a member of Congress. Even if you estimate that it has sixty thousand inhabitants, it has only one half the number requisite to elect a member in the House of Representatives, but according to the statistics which we have before us the population must be much less than that.

I conclude, then, by saying (I had no intention of addressing the Senate at such length) that I believe that upon the particular facts which pertain to this case, and also upon the principles of general policy which should obtain in the admission of States, Nebraska ought not now by our votes to be admitted as a State into this Union; but if we are to entertain this subject at all, if we are to proceed with it and to determine it upon its merits, independent of the considerations which I have suggested, nothing can be clearer than that we should have an investigation, that we should understand how the truth is, that we should not incur the peril of admitting a State into the Union when a majority of the qualified electors of that State have actually voted against it, that we should admit a State upon a return which is assailed, and assailed strongly, both in this Chamber and in the public press of the country. And let me say to the Senator from Ohio that upon questions of this kind in parliamentary proceedings we are not to require judicial evidence, we are not to demand specific proof to put us upon investigation. The old parliamentary rule is that common report is a sufficient ground for parliamentary action. We have that constantly quoted to us in the proceedings of the British Government, and it is a rule of good sense upon which all legislative bodies must proceed. When we are morally assured from statements made to us, whether by the press or by individuals, that an election which has been

held to organize a new State is of doubtful validity or of doubtful fairness, according to parliamentary practice and according to principles of reason we are bound to investigate, and we are not to wait here until there is a regular indictment drawn up and the names of witnesses given and the specific particulars of their evidence reduced to form, and all this produced here. That may be well enough in courts, but it is impossible in legislative bodies.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 793) to provide increased revenue from imported wool, and for other purposes, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, and for other purposes;

A bill (S. No. 334) to prevent the wearing of sheath knives by American seamen;

A bill (S. No. 406) for the removal of causes in certain cases from State courts; and

A joint resolution (S. R. No. 131) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore*. The Chair will take this occasion to lay before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of the 23d instant, a statement of fines, penalties, and forfeitures returned to the Treasury Department by the collector of the district of Vermont, and the surveyor of the port at Louisville, Kentucky. The document was ordered to lie on the table and be printed.

#### SENATOR FROM TENNESSEE.

Mr. POLAND. I rise, Mr. President, to a question of privilege. The Committee on the Judiciary, to whom were referred the credentials of Hon. David T. Patterson, Senator-elect from the State of Tennessee, with instructions to report whether Mr. Patterson is legally qualified to hold the office of United States Senator from that State, have had the same under consideration and submit a report, with a resolution accompanying it. I may say that in reference to the facts embraced in the report the committee are entirely unanimous. As to the conclusion, the legal result, there is some difference of opinion among the committee. I ask that the report be read and the resolution considered.

The PRESIDENT *pro tempore*. The report will be read if there be no objection.

Mr. WADE. I hope it will be printed. I do not care about its being read.

Mr. SUMNER. We want to hear it. It is very important.

The PRESIDENT *pro tempore*. The report will be read, no objection being made.

The Secretary read the report, as follows:

The Committee on the Judiciary, to whom were referred the credentials of Hon. David T. Patterson, Senator-elect from the State of Tennessee, with instructions to report whether said Patterson is legally qualified to hold the office of United States Senator from said State, have had the same under consideration, and respectfully report as follows:

The only question in relation to the qualifications of Mr. Patterson, or his right to hold his seat in the Senate, arises from the fact of his having held the office of circuit judge in the State of Tennessee after that State had passed an ordinance of secession and become a member of the confederacy.

Circuit judges in Tennessee are elected by the people of the several circuits, and hold their offices for the term of eight years.

Judge Patterson was elected judge in one of the circuits in Eastern Tennessee in May, 1861, and his term of office had not expired when the State passed the ordinance of secession. The constitution of the



State of Tennessee remained the same after the secession of the State as before, and there was no change made in the form of the State government, or in their judicial system. A large majority of the people of East Tennessee were ardently devoted to the Union, and deemed it very important for their interest and that of the Union cause that the civil offices in that section of the State should be filled with Union men.

Judge Patterson was a firm, avowed, and influential Union man, and he was urgently pressed by the Union men of that circuit to run as a candidate for reelection as circuit judge, and he finally, though reluctantly, consented to do so. The opposing candidate was an avowed secessionist, and the issue in the election was between Union and secession. The election was held in May, 1862, and Judge Patterson was elected over his rebel competitor by a large majority. At the same election most of the local offices in that section were filled by the election of Union men. At that time it was believed by the Union men of East Tennessee that they would soon be relieved from rebel military rule by the arrival of Union forces; and they desired also to retain the civil power in their own hands. In this expectation they were disappointed, and soon rebel bands were scattered through that region, and the Union people were subjected to great hardships and cruel oppression. When Judge Patterson was thus reelected judge, he did not suppose he would be commissioned by the Governor of the State, who was a secessionist; but after some considerable delay a commission was sent to him, with peremptory orders to take the oath. On the receipt of his commission and order to take the oath Judge Patterson delayed and hesitated, and consulted other leading Union men as to the proper course for him to take. They advised and urged him to take the oath; that he could thereby afford protection to some extent to Union men against acts of lawless violence on the part of the rebels, and that if he did not accept the office and take the oath the office would be filled by a rebel, and they would then be oppressed by the civil as well as the military power of the rebels. Judge Patterson yielded to their urgency and arguments, and went before a magistrate and took the oath which the Tennessee Legislature had prescribed, which, in substance, was that he would support the constitution of Tennessee and the constitution of the confederate States. Judge Patterson declared at the time to the magistrate that he owed no allegiance to the confederate government and that he did not consider that part of the oath as binding him at all. At this time there were rebel troops in the neighborhood, and Judge Patterson had good reason to believe that his refusal to take the oath would subject him to arrest and imprisonment, if not worse treatment; but we do not find that he was actuated at all by personal considerations, but acted solely upon the motive that would thereby afford some aid and protection to the Union people, and also prevent the office from falling into hands that would use it to oppress them.

East Tennessee at this time was in a very disturbed and distracted condition. The country was full of bands of armed rebels, and lawless violence held sway. Business was nearly suspended, and no civil business was done in the courts. Judge Patterson held a few terms of court in counties where he could organize grand juries of Union men, and in this way did something toward preserving peace and order in the community. No other business was done by him as judge after his election in 1862.

During all this time Judge Patterson was an open, avowed, and devoted adherent to the Union. He was in constant communication with the officers of the Federal troops nearest that vicinity, and obtained and furnished to them information as to the movements of the rebels. He aided in concealing Union men, and in facilitating their escape to the Union lines, when they generally entered the Union service. He aided the Union people and the Union cause in every way open to him, and too numerous for detail. By these means he became amenable to the hostility of the secessionists, and was subjected to great difficulty and danger. He was several times arrested and held for some time in custody. At times he was obliged to conceal himself for safety, and spend nights in out-buildings and in the woods to avoid their vengeance.

In September, 1863, the Federal troops reached Knoxville, and Judge Patterson succeeded in escaping with his family to that place, and did not return to his home until after the close of the rebellion.

As before stated, the constitution and election laws and judicial system of Tennessee remained the same after the secession of the State as before, and Judge Patterson was elected judge the last time under the same State constitution and laws as existed at his first election, and no law was enforced by him as judge except such as were in force before the secession of the State.

The committee are all satisfied that, during the entire rebellion, Judge Patterson was an earnest, firm, and devoted Union man, and suffered severely in support of his principles. In accepting the office of judge, and taking the official oath, he did not intend any hostility to the authority or Government of the United States, nor did he intend to acknowledge any allegiance to or any friendship for the confederate government, but acted throughout with a sincere desire to benefit and preserve the Union and the Government of the United States. He always denied the authority of the confederate government over him, and feels an entire willingness and ability to take the oath required upon his admission to a seat in the Senate. The committee recommend the following resolution:

*Resolved*, That Hon. David T. Patterson is duly qualified and entitled to hold a seat in the Senate of the United States as a Senator from the State of Tennessee.

Mr. SUMNER. Can that be considered to-day?

The PRESIDENT *pro tempore*. As a question of privilege the Chair thinks it can; it is before the Senate to be disposed of by a majority of the Senate.

Mr. TRUMBULL. It is proper, being upon this committee, that I should state that I have been unable to agree with the resolution which has been reported by the committee. The reading of the report was commenced before I came in; but I presume the facts are correctly stated. I am satisfied of the loyalty of Mr. Patterson, and of his having been a Union man during the troubles when he was within the rebel lines; but, sir, laws operate generally, and it will sometimes happen that in the operation of a law an individual case cannot be provided for. We have a statute which requires a certain oath to be taken. I will read what that oath is:

"I, A. B., do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

That is the oath prescribed by law that every person appointed to any office of honor, trust, or profit must take before entering upon the discharge of the duties of the office. According to the testimony before the Committee on the Judiciary, I see nothing in that oath that Mr. Patterson cannot subscribe to except those two lines, "that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States." Now, sir, what are the admitted facts? Mr. Patterson himself very frankly and openly states the facts. They are stated, I believe, in the report. The facts are admitted unquestionably to be these: after Tennessee had adopted an ordinance of secession, her Legislature having adopted it and submitted it to the people, and it having been ratified by a large popular vote, while that State was completely under the control of persons in hostility to the Government of the United States, when troops were being raised throughout the State, while the very portion of it in which Mr. Patterson resided was overrun by armed forces and persons were being conscripted into the rebel ranks, in 1862 an election for judge of the judicial circuit came on; Mr. Patterson became a candidate for judge, and he was elected. How was that election held? It was under the authority of that State, which had adopted an ordinance of secession in hostility to the United States. It matters not that the constitution of Tennessee had not been changed; its government had been subverted; the enemies of the country had taken possession of it. He was elected to this office. After being elected, a commission was sent to him by Governor Harris, notoriously known to the country as the head of the rebel government of Tennessee. He received that commission. He took the commission and went before an officer of the law, and there he subscribed the oath that he would support the constitution of the State of Tennessee and the constitution of the confederate States of America.

Now, sir, I cannot vote that he has not accepted an office under a government or a pretended government in hostility to the United States. That is what this resolution declares when it says that he is qualified to take this oath. Can you say that, Senators, on your oaths? I bring you, my fellow-Senators, to the witness stand and put you upon oath, and ask you under the solemnity of the oath you have taken, will you swear that he has not accepted an office under

a government in hostility to the United States? Can you swear that? As a juror, can you render that verdict?

But, sir, what further does the law say? "I have neither sought nor accepted nor attempted to exercise the functions of any office." It is admitted that he did exercise the functions of judge under that government of Tennessee, which was in hostility to the Government of the United States. You all know that. He held courts. He himself administered this same oath to divers persons that they would support the constitution of the confederate States of America. Now, does his motive alter the fact that Mr. Patterson did this? It alters the grade of Mr. Patterson's act so far as the morality of it is concerned; but does it alter the fact that he exercised authority under a government in hostility to the Government of the United States? There is the fact. He did do it. He did it for the purpose of protecting the loyal men. He was a loyal man himself. I concede all that, and I should be most happy to welcome Mr. Patterson as a Senator here, according to the testimony before the committee. I should be most happy to receive him as one of our associates in this body if there were no law on the subject; but the law is here. We are acting under that law. I think this is a matter that can be submitted only as to him as to his motives.

I agree to the statement of facts. I presume the facts are stated correctly, all that are stated. Perhaps all are not given in this report; but I cannot vote for the resolution. What is the effect of voting for the resolution? That notwithstanding a man has done the act, that is, has accepted an office, has exercised the duties of an office under a government in hostility to the United States, yet if in doing that his motive was good you may dispense with the law. Have you any such dispensing power? You may repeal the law. You may strike out of this oath that single sentence; and then there would be no difficulty in voting that Mr. Patterson was entitled to his seat. I should be willing to dispense with that requirement in such a case as this; but the law, as I said, operates by general rules, and while it is the law we must observe it.

It may be said that it is submitted to him to take this oath, and not to us. Suppose it is submitted to him to take this oath and not to us to take this oath, what do we propose to do? The Committee on the Judiciary, through my friend from Vermont, have reported a resolution in which they propose to vote in advance that, without his taking the oath, before he has taken it, he is entitled to be qualified. Now, suppose Mr. Patterson should refuse to take this oath; suppose he should say, "I cannot take this oath; you have voted that I am qualified, but having accepted this office, having exercised the duties of it, I cannot subscribe the oath;" what is your position? You are in the position of having voted that he could do that which he himself decides that he cannot. I do not say that he will so decide. He is of opinion that he can take this oath. Let that be left to him. I cannot say that he can take it. I confess that I do not see, under my view of the law and of the reading of it, how, if I had done what it is admitted was done in this case—there is no doubt about the facts—I could take the oath.

This is a very important question, let me say to Senators; this is the precedent you are setting. If you say to-day that a person who has admittedly accepted an office and exercised the duties of it under a government in hostility to the United States may, notwithstanding, swear that he has not done that and be admitted because his motive and object in doing it was not to injure the United States, but really to benefit them, how would you keep Alexander H. Stephens or anybody else from being admitted? Stephens just before the rebellion broke out made a speech in which he deprecated it? He may come here and say "I was vice president in the rebel confederacy; I acted for four years as vice president; I did all I could to uphold

it; I made speeches in favor of it," as we know that he did, in which he urged upon the southern people to unite together and fight the Union and establish their independence, that that was their only safety. Suppose he comes here and says, "I was really opposed to this thing, and I really did this for the purpose of protecting the Union." A queer way of doing it, it is true! In his case it would be very queer; but in the case under consideration testimony was submitted to the committee; we had the testimony of a witness before us, a colonel from Tennessee; and from the testimony which was submitted to us—and it was undisputed—I was satisfied that Mr. Patterson was a Union man at that time; that he wanted to preserve the Union; and that it was urged upon him to take the office for the purpose of protecting the Union men of that country, it being known that the majority of the people in that part of the State of Tennessee were Union people.

It is an embarrassing question; it is embarrassing to me, exceedingly so, I confess; and I have not seen very clearly how to dispose of the question. I confess that when a gentleman comes here who in fact in his heart has been a Union man all the time and has done what he could to protect Union men when he was in the midst of the secession country, when he exercised the duties of his office as far as he could for their protection, although he did exercise the duties of an office under the confederacy, although he himself administered the oath to support the confederacy to other persons, I feel strongly for him. But it seems to me if we receive such a person here in this way we do away with the oath and we bring into disrepute the very law which we have placed upon the statute-book; and I ask, have we authority to do that?

I submit the question, Mr. President, so far as I am concerned. I do not know that I shall say anything further in the case; and perhaps I should not have said this much if I had been able to agree to the majority report; and had it not been that we are in the very last of the session, when we are so overburdened with labors that I found it impracticable to do so, I should have written out my views and here presented them as the views of the minority of the committee in reference to this matter. As it is, not having been able to do that, I have endeavored briefly to present the view of it which occurs to me. If other Senators can see the case differently, if Mr. Patterson can be admitted to his seat, and they are satisfied and can see their way clear to vote that he is qualified under the circumstances, the fact of his being here will gratify me as much as any person, though I cannot myself see it in that light.

Mr. CLARK. I wish to inquire of the Senator from Illinois if it did not appear to his mind that the committee was quite satisfied that Mr. Patterson took the office and so far as he did hold it held it for the protection of the Union men and in hostility to the confederate government.

Mr. TRUMBULL. I was satisfied by the testimony before the committee that he did not use this office for the benefit of the confederate government, but rather that he accepted it at the instance of the Union men with a view of trying to protect them. I think the testimony shows that.

Mr. CLARK. There is no question, I think, about the facts. The great point to be ascertained is, whether this man is now and has been all along a Union man. I think there was not a doubt or a shadow of doubt in the mind of any person who heard him or who heard the testimony before the committee, that he had been throughout a Union man, not only a Union man, but such a Union man as would put some of us to shame that we should be admitted into the Senate because we were Union men and he should be put out. When I have laid on the ground by night, night after night, for my Unionism, I may claim something for it. When I have been arrested time and

again for my Unionism, I may claim something for it. When my house has been guarded night after night by rebels to prevent my escape or to prevent me going to the aid of the Union people, I may claim something for my Unionism. When I have established or aided to establish an underground railroad miles through the enemy's country and have piloted men through that country and aided them to go into the Union Army to fight rebellion, then I may claim something for my Unionism. And all this has this man done upon whose case we are now passing.

What is the objection to him? Simply this: that in 1854 he was elected a judge of the circuit court in Tennessee, when that State was loyal; he held that office all the time as a Union man until that State seceded, resisting rebellion, resisting secession in every way that he could, still remaining a Union man; and that afterward, when the term of his office expired, when the eight years were out, he was again elected, by whom? By the Union people of East Tennessee against the rebels, for the protection of the Union people. To protect them he consented to hold the office. And is such a man to be refused admission to the Senate because he risked himself, he risked his life, he risked his family, he risked his property for the protection of Union men, when after he was elected and took the office he did no one act that ever can be proved, or as anybody pretends, to aid the rebellion, but held the office in opposition to rebellion, in opposition to secession, in hostility to the confederacy, claiming that he held it under the old State government, true to the Union, and in no other way?

Mr. President, the object of the oath is to prevent rebels and secessionists from coming into the Senate, not to exclude Union men like the Senator-elect from Tennessee; and if he can take the oath, as I understand him to say he can, because he did not hold that office under the rebel government, never claimed so to hold it, always said he rejected their authority and held it under the old State government for the protection of the Union men, I, for one, say that he is entitled to his seat. I will let him settle that question. I will pass upon his acts, upon the testimony of his being a Union man; and if I find him to be a Union man, and he says, "I have been so far a Union man that I can cheerfully take the oath," I am willing to give my vote that he shall take his seat.

Mr. HOWARD. I ask for the reading of the resolution.

The Secretary read the resolution, as follows:

*Resolved*, That Hon. David T. Patterson is duly qualified and entitled to hold a seat in the Senate of the United States from the State of Tennessee.

Mr. HOWARD. I wish to say one word on this subject. The immediate question before us is, if I understand it, the adoption of the resolution which has just been read, which declares that this gentleman is duly qualified to act as a Senator of the United States from the State of Tennessee. Whether he is duly qualified must depend among other things upon this: whether he has ever "attempted to exercise the functions of any office, whatever, under any authority or pretended authority in hostility to the United States." It seems to me that there can be but one answer given to this question. It is in proof, if I understand the report properly, from the admissions of the applicant himself before the Judiciary Committee of this body, that after the State of Tennessee as a political community had passed a solemn ordinance of secession from the United States, after, as such community, she was engaged in a bloody rebellion against the United States, this gentleman was elected by a popular vote one of the circuit judges of the State of Tennessee; that a commission was made out for him by the Executive of the State and transmitted to him, and he was called upon to take an oath as one of the

qualifications to the exercising of the functions of that judgeship, that he would support the constitution of the State of Tennessee and also the constitution of the confederate States of America. It is very true the report alleges that when the commission was transmitted to him, it was accompanied by a peremptory order of the Executive of Tennessee upon him to take this oath at once. I have yet to learn what authority the Executive of any State in this Union has or ever had to transmit a "peremptory order" to a person elected to an office, requiring or constraining him in any way to take the oath of office. I ask the honorable gentleman from Vermont, who made this report, what was to be the penalty of an omission on the part of Judge Patterson to take the oath required.

Mr. POLAND. He would probably have been hung.

Mr. HOWARD. He would probably have been hung, says the honorable Senator. I will not accept "probably" in such a case as this. I desire to know whether there was any law on the statute-book of Tennessee or anything in its constitution requiring Judge Patterson or any other judge thus elected to take the oath of office. No, sir; I apprehend, indeed, I can assert with confidence, that there was no such law. The Governor of the State had no authority whatever to make such a "peremptory order;" and so far as the evidence is concerned here, so far as it goes, it does not show that he was in the slightest peril at that moment; it does not show that he was under any species of duress, either by threats or actual imprisonment or constraint of any kind whatever. For aught that appears before us he took that oath as willingly, as intelligently, and as understandingly as he ever took any oath in his life, as much so as when we take the oath to support the Constitution of the United States as members of this body.

Mr. CLARK. Permit me to say it did not so appear to the committee.

Mr. HOWARD. I ask the committee to state what was the danger under which he was laboring and what had he to stand in fear of.

Mr. CLARK. The rebel bayonets that were about him all the time.

Mr. HOWARD. Was there a military force of rebels there ready to enforce this pretended "peremptory order?"

Mr. CLARK. There was a rebel military force about him.

Mr. HOWARD. The committee say no such thing in their report. That is a most important item, let me say, if it be a fact that he was under the coercion of bayonets in case of a refusal. It is a most important fact to be stated in this report, and still the committee have omitted entirely to say anything about it.

But, sir, what I have said respecting the oath and the coercion has really nothing to do with the question now before the Senate. The resolution upon which we are called upon to vote declares that this gentleman is duly qualified to take his seat here. He was confessedly an officer of the State of Tennessee; Tennessee was a member of the rebel confederacy; it had its fifteen, its twenty, perhaps its thirty thousand men in the rebel ranks making war against the Government of the United States; it had its entire quota of representatives in the rebel congress; it had its two senators in the rebel congress; and to all intents and purposes the State of Tennessee was in hostility to the Government of the United States. Now, under what authority was it that this commission issued? Under the authority of Tennessee. Was it any other authority? No, sir; but the authority of Tennessee, and that authority alone, was the one under which he was required to act by that commission.

Mr. CLARK. If the Senator from Michigan will allow me at this time, as I find there may be a little objection to the form of the resolution, I will move to amend the committee's resolution.

Mr. HOWARD. I shall get through my

remarks in a moment, and then I shall be very happy to oblige the gentleman.

Mr. CLARK. Very well.

Mr. HOWARD. It was that authority, and that alone, under which he accepted this judicial commission and under which he acted as a judicial officer; and the oath required by the act of 1862 declares that he shall not be a civil officer of the United States or a Senator or a Representative in Congress unless it be true, and he shall swear to that truth, that he had not exercised the functions of any office whatever under any authority in hostility to the United States. With such a state of facts before me, facts completely undisputed and indisputable, how can I vote upon this resolution that this gentleman is duly qualified, according to the oath of 1862 and the Constitution of the United States, to take his seat as a member of this body? However great may be my regard for this gentleman—and I certainly admire his course and his conduct as a Union man, so far as I am acquainted with it—I cannot, I will not, vote a lie upon my oath in this Senate.

Now, sir, as to the applicant himself, I certainly entertain in regard to him none but the most kindly feelings. I wish the facts were otherwise than they are. I should be very happy indeed to give my vote for his admission here; but I never can do that until the statute which I have read from and which I regard as obligatory upon my conscience here, shall be so modified as to enable me to vote truthfully upon this proposition. We made the law. Let us not be the first to break it. Let us at least every hazard to ourselves personally, and at whatever inconvenience to this excellent gentleman who is now before us, set an example to the country for whom and over whom we are legislating, that we will be the first to obey the injunctions of the law.

Mr. CLARK. I move to amend the resolution of the committee by striking out all after the word "resolved" and inserting—

That Hon. David T. Patterson, upon taking the oath required by the Constitution and laws, be admitted to a seat in the Senate of the United States.

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the resolution as amended.

Mr. SUMNER. I call for the yeas and nays. Mr. TRUMBULL. There is one way, I think, in which we probably might vote unanimously upon this matter, and probably settle it in an hour; and that would be this: we have passed a constitutional amendment and submitted it to the people, in which is reserved to Congress the right, by a two-thirds vote, to dispense with the requirements made in that constitutional amendment. Now, I should be willing, acting in the spirit of that—

Mr. JOHNSON and others. That is not adopted.

Mr. TRUMBULL. We adopted it so far as Congress is concerned. I know it is not binding, and I did not mean to state it in that view; but I say, acting in the spirit of that, I would be willing—and I should think it would be much more agreeable to Mr. Patterson, though I do not know; I cannot speak for him—to adopt a joint resolution (I think we might adopt it unanimously, I trust we could,) declaring that these words, "I have neither sought, nor accepted, nor attempted, to exercise the functions of any office whatever under any authority or pretended authority hostile to the United States," be suspended in the case of Mr. Patterson, elected a Senator from the State of Tennessee to the Senate of the United States, so that he might take the rest of the oath and be sworn in. That would preserve the law, and would do violence to no one. I presume the Senate would pass it unanimously. I do not know how others feel.

Mr. JOHNSON. The only objection to that is that you cannot get it through. There is not the slightest chance of it.

Mr. TRUMBULL. I think we can.

Mr. JOHNSON. A single objection in the

other House would prevent its being considered.

Mr. POMEROY. Say that those words shall be omitted in taking the oath.

Mr. TRUMBULL. I was preparing a resolution that these words be omitted from the oath required in the case of Hon. David T. Patterson.

Mr. JOHNSON. Then it goes to the President.

Mr. NYE. I do not suppose he would veto it.

Mr. TRUMBULL. If both Houses pass it, I do not suppose there would be any hesitation in the President signing it. I make the suggestion whether that would not leave this case where we all desire. I desire as earnestly as the Senator from Maryland to see the gentleman from Tennessee, under the state of the case that was presented to the Committee on the Judiciary, admitted to his seat, but I cannot do it in violation of the law.

Mr. HENDERSON. I rise merely, not to take up the time of the Senate, but to concur in the suggestion made by the Senator from Illinois. I think it is the proper plan; and let us pass a resolution, now while the subject is up, and send it to the House of Representatives. Let us see if they will pass it anyhow; and if they do not then we can consider this matter again. We shall have lost nothing anyhow by taking an hour to consider it. I think we had better do that in order to relieve the Senator himself when he comes to take the oath. That is my opinion.

Mr. TRUMBULL. I have not the joint resolution quite prepared. If my suggestion meets the general view of the Senate the matter can be laid aside for a moment, and I will have the resolution prepared in five minutes.

#### THE METRIC SYSTEM.

Mr. SUMNER. I will ask the Senate, by unanimous consent, to take up three different bills which have come from the House of Representatives, which it is important should be acted upon, and with regard to which I think there will be no discussion. I move, first, to take up House bill No. 596.

Mr. NYE. We have got a subject now under consideration.

The PRESIDING OFFICER. The Senator from Massachusetts asks the unanimous consent of the Senate to lay aside the matter under discussion informally, and proceed to the consideration of the bill indicated by him.

Mr. CLARK. What is the object?

Mr. SUMNER. The metric system. These bills have been reported from the select committee on that subject.

Mr. CLARK. Let us proceed with the matter before us.

The PRESIDING OFFICER. It requires unanimous consent to entertain the motion, another subject being before the Senate. Is there any objection?

Mr. WADE. I believe we can now take a vote on the bill which was pending when this privileged question came up.

The PRESIDING OFFICER. Being objected to, the bill of the Senator from Massachusetts cannot be considered.

Mr. CONNESS. It will not take a moment.

Mr. WADE. Well; go ahead with it.

Mr. SUMNER. I desire, first, to take up House bill No. 596, then House joint resolution No. 140, and then House bill No. 597. These are three measures, all belonging to the same system, and have been carefully considered by the special committee of the Senate on the metric system of weights and measures.

Mr. WADE. If they give rise to debate I shall object.

Mr. SUMNER. There will be no debate.

Mr. CLARK. What has become of the resolution with regard to Mr. Patterson?

Mr. CONNESS. I understand that the Senator from Illinois is preparing the joint resolution and will offer it in a moment.

Mr. CLARK. I have no objection to its

being laid aside informally for the purpose indicated by the Senator from Massachusetts.

The PRESIDING OFFICER. There being no objection, it will be laid aside informally.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 596) to authorize the use of the metric system of weights and measures. It provides that from and after its passage it shall be lawful throughout the United States of America to employ the weights and measures of the metric system; and no contract or dealing or pleading in any court is to be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system. The tables in the annexed schedule are to be recognized in the constant action of contracts, and in all legal proceedings, as establishing, in terms of the weights and measures now in use in the United States, the equivalents of the weights and measures expressed therein in terms of the metric system; and the tables may be lawfully used for computing, determining, and expressing in customary weights and measures the weights and measures of the metric system.

#### MEASURES OF LENGTH.

<i>Metric denominations and values.</i>	<i>Equivalents in denominations in use.</i>
Myriameter, 10,000 meters.	6,2137 miles.
Kilometer, 1,000 meters.	0.62137 miles, or 3,280 feet and 10 inches.
Hectometer, 100 meters.	328 feet and 1 inch.
Decameter, 10 meters.	39.37 inches.
Meter, 1 meter.	39.37 inches.
Decimeter, 1-10 of a meter.	3.937 inches.
Centimeter, 1-100 of a meter.	0.3937 inches.
Millimeter, 1-1000 of a meter.	0.0394 inches.

#### MEASURES OF SURFACE.

<i>Metric denominations and values.</i>	<i>Equivalents in denominations in use.</i>
Hectare, 10,000 square meters.	2.471 acres.
Are.....100 square meters.	119.6 square yards.
Centare.....1 square meter.	1,550 square inches.

MEASURES OF CAPACITY.			
Metric denominations and values.		Equivalents in denominations in use.	
Names.	Number of liters.	Cubic measure.	Dry measure.
Kiloliter, or stere.	1,000	1 cubic meter.....	1.308 cubic yards.....
Hectoliter.....	100	1-10 of a cubic meter.....	2 bushels and 3.55 pecks.....
Decaliter.....	10	10 cubic decimeters.....	6.08 quarts.....
Liter.....	1	1 cubic decimeter.....	0.908 quarts.....
Deciliter.....	1-10	1-10 of a cubic decimeter.....	6.1022 cubic inches.....
Centiliter.....	1-100	10 cubic centimeters.....	0.6102 cubic inches.....
Milliliter.....	1-1000	1 cubic centimeter.....	0.061 cubic inches.....
			Liquid or wine measure.
			26.417 gallons.
			26.417 gallons.
			2.3417 gallons.
			1.0567 quarts.
			0.845 gills.
			0.338 fluid ounces.
			0.27 fluid drachms.



Names.	Metric denominations and values.	Weights.	Equivalent in denominations in use.
	Number of grams.	Weight of what quantity of water at maximum density.	
Millier, or Tonneau.	1,000,000	Tenbillionmeter.	2204.6 pounds.
Quintal.	100,000	1 hectoliter.	220.46 pounds.
Myriagram.	10,000	10 liters.	22.046 pounds.
Kilogram, or kilo.	1,000	1 liter.	2.2046 pounds.
Hectogram.	100	1 deciliter.	3.5274 ounces.
Decagram.	10	10 cubic centimeters.	0.3527 ounces.
Gram.	1	1 cubic centimeter.	15.432 grains.
Decigram.	1-10	1-10 of a cubic centimeter.	1.5432 grains.
Centigram.	1-100	1 cubic millimeter.	0.1543 grains.
Milligram.	1-1000	1 cubic millimeter.	0.0154 grains.

Mr. SUMNER. Mr. President, at another time I might be induced to go into this question at some length; but now, in these latter days of a weary session, and under these heats, I feel that I must be brief. And yet I could not pardon myself if I did not undertake, even at this time, to present a plain and simple account of the great change which is now proposed.

There is something captivating in the idea of one system of weights and measures, which shall be common to all the civilized world; so that, at least in this particular, the confusion of Babel may be overcome. Kindred to this is the idea of one system of money. And both of these ideas are, perhaps, the forerunners of that grander idea of one language for all the civilized world. Philosophy does not despair of the fulfillment of this aspiration at some distant day; but a common system of weights and measures and a common system of money are already within the sphere of actual legislation. The work has already begun, and it cannot cease until this great object is accomplished.

If the United States seem to come tardily into the circle of nations, recognizing a common system of weights and measures, I confess that I have pleasure in calling attention to the historic fact that, at a very early day, this important subject was commended to Congress. Washington in his message to the First Congress touched the key-note when he used the word "uniformity" in connection with this subject. "Uniformity," he said, "in the currency, weights, and measures of the United States is an object of great importance, and will, I am persuaded, be attended to." Then again in his message to the next Congress he went further in expressing a desire for a "standard at once invariable and universal." In these words he foreshadowed a system that should be common to the civilized world. It is for us now to recognize the standard which he thus sententiously described. All hail to a standard "invariable and universal."

I shall not occupy your time in developing the history of these efforts on the part of our Government. But I cannot forbear mentioning that Mr. Jefferson, while Secretary of State, made an elaborate report, in which he proposed to reduce "every branch to the same decimal ratio already established in coins, and thus bring the calculation of the principal affairs of life within the arithmetic of every man who can multiply and divide plain numbers." Here

is an essential element in that common system which we seek to establish. This was in 1790, while France was just beginning those efforts which ended at last in the establishment of the metric system. The subject was revived at different times in Congress without definite result. President Madison, in his annual message of 1816, called attention to it in the following words:

"The great utility of a standard fixed in its nature and founded on the easy rule of decimal proportions is sufficiently obvious. It led the Government at an early stage to preparatory steps for introducing it; and a completion of the work will be a just title to the public gratitude."

Out of this recommendation originated that call of the Senate which drew forth the masterly report of John Quincy Adams on the whole subject of weights and measures, where learning, philosophy, and prophetic aspiration vie with each other. After reviewing all that had appeared in the past, and subjecting it all to a careful examination, he says of the metric system of France, which was then only an experiment:

"This system approaches to the ideal perfection of uniformity applied to weights and measures, and whether destined to succeed or doomed to fail will shed unfading glory upon the age in which it was conceived and upon the nation by which its execution was attempted and has been in part achieved."

This was in 1821, when the metric system, already invented, was still struggling for adoption in France.

This brief sketch will show how from the beginning our Government has been looking to a system which shall be common to the civilized world. And now this aspiration seems about to be fulfilled. The bills before you, which have already passed the other House, if they become a law, will be the practical commencement of the "new order."

Before proceeding to explain the proposed system, consider for one moment the necessity of a change, as illustrated by an historic glimpse at weights and measures.

Language is, of course, coeval with man as a social being. Weights and measures are hardly less early in their origin. They are essential to the operations of society, and are naturally common to all who belong to the same social circle. At the beginning each people had a system of its own; but as nations gradually intermingle and distant places are brought together by the attractions of commerce, the system of one nation becomes inadequate to the necessities of the composite body. A common system becomes important, just in proportion to the community of interests among different nations. Next to the diversity of languages, the discordant systems of weights and measures attest the insulation of nations.

The earliest measures were naturally derived from the several parts of the human body. Such was the cubit, which was the distance between the elbow and the end of the middle finger, being about twenty-two inches. Such also, were the foot, the hand, the span, the nail, and the thumb. These measures were derived from nature, and they were to be found wherever a human being existed. But they partook of the uncertainty in the proportions of the human form. When Selden, in his *Table-Talk*, wittily likened equity, so far as it depended on the conscience of the chancellor, to a measure which was determined by the length of the chancellor's foot, he exposed not only the uncertainty of equity, but also the uncertainty of such a measure.

Even in Greece, where art prevailed in the most beautiful forms, the famous *stadium* was none the less uncertain. It was the distance that Hercules could run without taking breath, which, divided by 600, gave the Grecian foot.

Our own standards, derived from England, are of an equally fanciful character. The unit of length is the barleycorn, taken from the middle of the ear and well dried. Three of these in a straight line make an inch. The unit of weight is a grain of wheat taken, like the barleycorn, from the middle of the ear and well dried. Of these, thirty-two are equal to a pennyweight. Twenty pennyweights make an

ounce, and twelve ounces make a pound. The unit of capacity is derived from the weight of grains of wheat. Eight pounds of these make one gallon of wine measure.

Nor is the extreme vagueness and instability of these standards the only matter of surprise. There is no principle of science or convenience in the progression of the different series. Thus we have two pints to a quart, three scruples to a dram, four quarts to a gallon, five quarters to an ell, five and a half yards to a perch, six feet to a fathom, eight furlongs to a mile, twelve inches to a foot, sixteen ounces to a pound, twenty units to a score.

Then, as if the only ruling principle which governed the selection was variety, we have different measures bearing the same name, such as the wine pint and the dry pint, the ounce Troy and the ounce avoirdupois. Take these two last measures as illustrating the prevailing confusion. They both seem to come from France. The Troy weight is supposed to derive its name from the French town of Troyes, where a celebrated fair was once held. The term *avoirdupois* is French, and seems to have been part of a statute which declared how weights should be determined. But Troy and avoirdupois are different measures.

These measures, having constant differences, had accidental differences also, in different parts of England, and also in different parts of our own country. Even where the names are alike the measures are often unlike. In England the diversity was almost infinite, so that these same measures differed in different counties, and sometimes in different towns of the same county. Latterly in the United States the standard has been regulated by law, but the confusion from the measures still continues. The question naturally arises why such confusion has been allowed to continue so long without correction. The answer is easy. The triumphs of science are slow and gradual. Traditional prejudices must be overcome. Each nation is attached to its own imperfect system, as to its own language. Even though inferior to another system, it has the great advantage of being already known to the people that use it. To this constant impediment it is only proper to add the intrinsic difficulty of establishing a uniform system of weights and measures which shall satisfy the demands of civilization in scientific precision, in immediate practical applicability, and in nomenclature.

Take, for instance, the application of the decimal system, which seems at first sight simple and complete. It is unquestionably an immense improvement on the old confusion; but even here we encounter a difficulty in the circumstance, long since recognized by mathematicians, that our scale of decimal arithmetic is more the child of chance than of philosophy. It has been arbitrarily adopted simply because man has everywhere reckoned by his ten fingers. On this account it has been often called "natural." But on considering whether the number ten possesses any intrinsic excellence, convenience, or fitness as a ratio of progression, we shall be obliged to answer in the negative. It is the duplication of an odd number which can furnish, neither a square or a cube, and which cannot be halved without departing from the decimal scale. In this scale we seem to see always those early days when "wild in woods the noble savage ran," and for his arithmetic used his fingers or his toes. An octaval system, founded on the number eight, would have been better adapted to the divisions of material things. Among us the decimal system is adopted for money; but you all know that we are not able to carry it into rigid practice. Thus convenience, if not necessity, requires the half dollar, the quarter dollar, the half dime, and the three-cent piece. In fact, eight divisions to the dollar, as prevailed in Spain, are available in the business of life, more than the decimal division. The number eight is capable of an indefinite bisection. The progression beginning with 2 would proceed to 4, 8, 16, 32, 64, and so on.

The decimal scale is made easy of use by

the happy system of notation borrowed from the Hindoos, which might be applied equally well to an octaval scale. But, at this time, it would be vain to propose a change in the radix of the numerical scale. The number *ten* is the recognized starting point, and gives its name to the scale. It only remains for us at present to follow other nations in applying it to an improved system of weights and measures.

A system of weights and measures, born of philosophy rather than of chance, is what we now seek. To this end old systems must be abandoned. A chance system cannot be universal. Science is universal. Therefore, what is produced by science may find a home everywhere. If we consider the proper elements or characteristics of such a system we shall find at least three essential conditions. First, the new system must have in itself the assurance of unvarying stability, and, to this end, it should be derived from some standard in nature by which any errors creeping into the weights and measures from time or imperfect manufacture may be corrected. Secondly, the parts should be divided decimally, as nearly as practice will warrant, in conformity with our arithmetic. Thirdly, it should be of such a character as to disturb national prejudices as little as possible.

To a common observer the difficulties of finding an unvarying standard are not readily apparent; but philosophy shows that all things in nature are undergoing a constant change, so that there would seem to be no invariable magnitude, the same in all countries and in all times, as Cicero described the great principles of Natural Law, by which a lost standard on an inaccessible island might be reproduced with mathematical certainty. There is but one magnitude in nature, which, so far as we know, approximates to these requisites. I refer, of course, to the length of the pendulum, vibrating seconds, which in our latitude is about 39.1 inches. This length, however, varies in traveling from the equator to the pole, and it also varies slightly under different meridians and the same latitude; but the law of variation has been determined with considerable accuracy. One element in this variation is the difference of temperature. Mr. Jefferson, in his report on weights and measures, proposed that we should find our standard in the pendulum. At the same time the French Government, just struggling to throw off ancestral institutions, conceived the idea of a new system of weights and measures which, founded in science, should be common to the civilized world.

The French began not only by discarding all old systems, but also by discarding a measure derived from the pendulum. They conceived the idea of measuring an arc of the meridian of the earth, and finding a new unit in a subdivision of this immense span. At the same time the National Assembly invited the co-operation of other nations, so that the system should become universal. The work proceeded. An arc of the meridian, embracing upward of nine degrees of latitude, and extending from Dunkirk, in France, to the Mediterranean near Barcelona, in Spain, was measured with the most scientific care. Some of the most illustrious names in French science were engaged in it, of whom I may mention Mechain, Delambre, Biot, and Arago, the latter just beginning his great career. The work proceeded, notwithstanding domestic convulsion and foreign war. The reign of terror at home and invasion from abroad did not arrest it. Ten years elapsed before the measurements were completed, when again other nations were invited to coöperate in the establishment of the new system.

The unit of measure adopted was one ten millionth part of the distance between the equator and the pole thus measured. It received the name of *metre*, from the Greek, signifying *measure*. A bar of platinum was carefully prepared representing this length with all possible accuracy. This bar was deposited in the archives of France as the perpetual standard. Other bars have been copied from it and

distributed throughout France and in foreign countries.

There is something transcendental in the idea of this measurement of the earth in order to find a measure for daily life. It was an immense undertaking. But the conception seems to have been rather vast than practical. There is reason to believe, from later labors, that there was a serious error in the work. Thus the distance of 10,000,000 metres from the equator to the pole, established by the French observers, is too small by 935 yards, according to Bessel; by 1,410 yards, according to Puissant; and by 1,967 according to Chazallon. Sir John Herschell has also testified with the authority of his great name against the accuracy of this result. If there be an error, such as is supposed, then the meter ceases to be what it was originally called, one ten millionth part of the distance from the equator to the pole.

Even assuming that there is no error, and that the meter is precisely what it purports to be, yet it is not easy to see how the artificial standard can be corrected by a recurrence to the standard in nature. The massive work originally undertaken will not be repeated. The astronomers of France will not verify the accuracy of the bar of platinum which is the artificial standard, by another scientific enterprise, requiring years for its completion. Therefore, for all practical purposes the meter is really nothing else than a bar of platinum of a certain length preserved in the archives of France. It is not less arbitrary as a standard than the yard or foot, and it can be perpetuated in practice only by the distribution of exact copies of the original bar, which is the assumed meter.

I have entered into this explanation of the origin and character of the meter because I desire that the admirable system which is founded on it should be seen actually as it is. To my mind it gains nothing from the theory which presided at its origin. Its unit is not to be regarded as a certain portion of the distance between the equator and the pole, but as an artificial measure determined with peculiar care. Had the same or any other measure been selected, without any measurement of the earth, the metric system would not have been less beautiful or perfect.

Look now at the system. The meter, which is assumed to be one ten millionth part of the distance from the equator to the poles, is, in fact, 39½ inches or 39.37 inches in length. It is especially the unit of *length*, but it is also the unit from which all measures of weight and capacity, square or cubic, are derived. It is at once foundation-stone and cap-stone to the whole system. It is foundation-stone to all in the ascending series and cap-stone to all in the descending series.

The unit of *measures of surface* or land measures is the *are*, from the Latin *area*, and is the square of ten meters, or, in other words, a square of which each side is ten meters in length.

The unit of *solid measure* is the *stere*, from the Greek, and is the cube of a meter, or, in other words, a solid mass one meter long, one meter broad, and one meter high.

The unit of *liquid measure* is the *liter*, from the Greek, and is the cube of the tenth part of the meter, which is the *decimeter*, or, in other words, it is a vessel, where by interior measurement each side and the bottom are square *decimeters*.

The unit of weight is the *gram*, also derived from the Greek, and is the one thousandth part of the weight of a cubic liter of distilled water at its greatest density—this being just above the freezing point.

Such are the main elements of the metric system. But each of these has its multiple and its subdivisions. It is multiplied decimally upward and divided decimally downward. The multiples are derived from the Greek. Thus, *deca*, ten; *hecto*, hundred; *kilo*, thousand; and *myria*, ten thousand, prefixed to meter signify ten meters, one hundred meters, one thousand meters, and ten thousand meters. The subdivisions are derived from the Latin.

Thus *deci*, *centi*, *milli*, prefixed to meter, signify one tenth, one hundredth, and one thousandth of a meter. All this will appear in the following table:

Metric denominations and values.	Equivalents in denominations in use.
Myriameter, 10,000 meters.	6,2137 miles.
Kilometer, 1,000 meters.	.62137 mile, or 3,280 feet and 10 inches.
Hectometer, 100 meters.	328 feet and 1 inch.
Decameter, 10 meters.	39.37 inches.
METER, 1 meter.	39.37 inches.
Decimeter, 1-10 of a meter.	3.937 inches.
Centimeter, 1-100 of a meter.	.3937 inch.
Millimeter, 1-1000 of a meter.	.0394 inch.

These same prefixes may be applied in ascending and descending scales to the are, the liter, and the gram. Thus, for example, we have in the ascending scale, *decagram*, *hectogram*, *kilogram*, and *myriagram*; and in the descending scale, *decigram*, *centigram*, *milligram*.

In this brief space you behold the whole metric system of weights and measures. What a contrast to the anterior confusion! A boy at school can master the metric system in an afternoon. Months, if not years, are required to store away the perplexities, incongruities, and inconsistencies of the existing weights and measures; and then memory must often fail in reproducing them. The mystery of compound arithmetic is essential in the calculations which they require. All this is done away by the decimal progression, so that the first four rules of arithmetic are ample for the pupil.

If we look closely at the metric system we must confess its simplicity and symmetry. Like every creation of science, it is according to rule. Master the rule and you master the system. On this account it may be acquired by the young with comparative facility, and when once acquired it may be used with dispatch. Thus it becomes labor-saving and time-saving. I cannot hesitate to mention among its merits the nomenclature which it has adopted. A superficial criticism has objected to the Greek and Latin prefixes; but this forgets that a system intended for universal adoption must discard all local or national terms. The prefixes employed are equally intelligible in all countries. They are no more French than English or German. They are in their nature common or cosmopolitan. And in all countries they are equally suggestive in disclosing the denomination of the measure. They combine the peculiar advantages of a universal name and a definition. The name instantly suggests the measure with exquisite precision. If these words seem to be scholastic or pedantic you must bear this for the sake of their universality and defining power.

Unquestionably it is difficult for a generation to substitute a new system for that which it learned in childhood. Even in France the metric system was tardily adopted. Napoleon himself on one occasion, said impatiently to an engineer who answered his inquiry in meters—"What are meters? Tell me in *toises*." It was only in 1840 that the system was definitely required in the transaction of business. Since then it has been the legal system of France. Cloth is sold by the meter. Roods are measured by the kilometer. Meat is sold by the kilogram, or as it is familiarly abridged, by so many *kilos*.

It is generally admitted that the names are too long, although nobody has been able to suggest substitutes, unless we regard the various abridgments in that light. But no abridgment should be allowed to sacrifice that cosmopolitan character which belongs to the system. Thus in England a nomenclature has been proposed which would secure short names; but these names would be different in each language and would be entirely different from the French names. This is a mistake. The names in all languages should be identical, or so nearly alike as to be recognized at once. This may be accomplished by an abbreviated nomenclature.

For instance, we may say *met*, *ar*, *lit*, and *gram*; and, in describing the denomination, we may say in the ascending scale, *dec*, *hec*, *kil*, and in the descending scale *dec*, *cen*, and *mil*,

indicating respectively 10, 100, 1000, and 1-10, 1-100, and 1-1000. Compounding these words we should have, for example, *kilmet, killit, kilgram, and cenmet, centit, cengram*. These abbreviations might be substantially the same in all languages. They would preserve the characteristics of the unabridged terms, so that the simple mention of the measure, even in this abridged form, would disclose the proportion which it bears to its fellow-measures. Previous measures have been represented by monosyllables; as grain, dram, gross, ounce, pound, stone, ton. Where a word is often repeated in the hurry of business it is instinctively abridged. We shall not err if we profit by this experience, and seek to reduce the new nomenclature to its smallest proportions.

Twelve words are all that are required by this system. In learning these you learn all. There are the five words designating the different units of length, surface, solid capacity, liquid capacity, and weight. Then there are the seven prefixes, being four in the ascending scale, expressing multiples or augmentations of the meter or other units, derived from the Greek; and also three in the descending scale, expressing divisions or diminutions of the meter and other units, derived from the Latin. These twelve words contain the whole system.

In closing this chapter of the unquestionable advantages of the metric system, I must not forget that it is already the received system in the majority of countries. Thus it appeared at the Statistical Congress assembled at Berlin in 1863, that it was adopted partly or entirely in Austria, Baden, Bavaria, Belgium, France, Hamburg, Hanover, Hesse, Mecklenburg, the Netherlands, Parma, Portugal, Saxony, Sardinia, Spain, Switzerland, Tuscany, the Two Sicilies, and Wurtemberg. Since then Great Britain, by an act of Parliament, has added her name to this list. The first step is taken there by making the metric system *permissive*, as is now proposed in the bills before Congress. The example of Great Britain is of especial importance to us, since the commercial relations between the two countries render it essential that there should be a common system of weights and measures.

The adoption of the metric system by the United States will go far to complete that circle by which this great improvement will be assured to mankind. Here is a new element of civilization which will be felt in all the concerns of life at home and abroad. It will be hardly less important than the Arabic numerals, by which the operations of arithmetic are rendered common to all nations. It will help undo that primeval confusion of which the Tower of Babel was the representative.

As the first practical step to this great end I ask the Senate to give its sanction to the bills which have already passed the other House, and which I have reported from the special committee on the metric system. By these enactments the metric system will be presented to the American people, and will become an approved instrument of commerce. It will not be forced into use, but will be left for the present to its own intrinsic merits. Meanwhile it must be taught in schools. Our arithmetics must explain it. They who have already passed a certain period of life may not adopt it; but the rising generation will embrace it and ever afterwards number it among the choicest possessions of an advanced civilization.

Mr. CRESWELL. Does the bill make the use of the system compulsory?

Mr. SUMNER. Oh, no; it makes it permissive.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SUMNER. I now move to take up House joint resolution No. 140.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 140) to enable the Secretary of the Treasury to furnish to each State one set of the standard

weights and measures of the metric system. It directs the Secretary of the Treasury to furnish to each State, to be delivered to the Governor thereof, one set of the standard weights and measures of the metric system for the use of the States respectively.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SUMNER. I now ask to take up House bill No. 597.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 597) to authorize the use in post offices of weights of the denomination of grams. It directs the Postmaster General to furnish to the post offices exchanging mails with foreign countries, and to such other offices as he shall think expedient, postal balances denominated in grams of the metric system; and, until otherwise provided by law, one half ounce avoirdupois is to be deemed and taken for postal purposes as the equivalent of fifteen grams of the metric weights and so adopted in progression; and the rates of postage are to be applied accordingly.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### REPORTS FROM COMMITTEES.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 812) for the relief of John W. Taylor, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 207) to pay Colonel Lewis F. Fix, reported it without amendment.

#### SENATOR FROM TENNESSEE.

Mr. TRUMBULL. I have now prepared the joint resolution that I desire to submit; and as it ought to go over to the House at once, and I presume there will be no objection to it, I ask for its immediate consideration. As I have written it, I will read it with the permission of the Senate:

*Be it resolved, &c.,* That the words "that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States" in the oath required by the "act to prescribe an oath of office and for other purposes," approved July 2, 1862, be omitted from the oath required to be taken by Hon. David T. Patterson, a Senator-elect from the State of Tennessee.

Mr. HOWARD. I hope the Senate will adopt that amendment.

Mr. FESSENDEN. The phraseology might be mistaken. It ought to specify that this omission from the oath required to be taken is "in the case of."

Mr. TRUMBULL. The clerk can put in those words, "in the case of."

Mr. FESSENDEN. Those words ought to be put in so as to confine it to this particular case.

Mr. TRUMBULL. The Senator from Wisconsin [Mr. Howe] has presented the same subject in a little different form, which he prefers and to which I have no objection, and I will offer it in that shape. It is as follows:

*Be it resolved, &c.,* That Hon. David T. Patterson, a Senator-elect from the State of Tennessee, be admitted to his seat upon taking the usual oath to support the Constitution of the United States, and upon taking so much of the oath prescribed by the act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862, as is not included in the following words, to wit: "that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States."

The joint resolution (S. R. No. 144) in relation to the admission of Hon. David T. Patterson to a seat in the Senate was read three times.

Mr. WADE. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. KIRKWOOD. I desire to state that my colleague [Mr. GRIMES] is absent by reason of sickness to-day.

The question being taken by yeas and nays, resulted—yeas 35, nays 2; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Conness, Cowan, Creswell, Davis, Doolittle, Edmunds, Foster, Fowler, Guthrie, Harris, Henderson, Hendricks, Howe, Johnson, Kirkwood, Lane, Morgan, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Sherman, Stewart, Trumbull, Van Winkle, Wiley, Williams, Wilson, and Yates—35.

NAYS—Messrs. Chandler, and Wade—2.

ABSENT—Messrs. Brown, Cragin, Dixon, Fessenden, Grimes, Howard, McDougall, Morrill, Ross, Saulsbury, Sprague, Sumner, and Wright—13.

So the joint resolution was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had insisted upon its amendments to the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL HOOPER of Massachusetts, Mr. JOHN L. THOMAS of Maryland, and Mr. GLENNI W. SCOFIELD of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had passed a bill (H. R. No. 814) for the relief of the sufferers by the late fire at Portland, in which it requested the concurrence of the Senate.

#### ADMISSION OF NEBRASKA.

Mr. SHERMAN. The Senator from Michigan has withdrawn his objection to the passage of the bill for the distribution of the rewards to the captors of the assassins of Mr. Lincoln, and I hope my colleague will allow that bill to be taken up.

Mr. CRESWELL. I renew the objection.

Mr. WADE. I object to anything being done, unless it is in order to do it, until a vote is taken on the admission of Nebraska. The yeas and nays have been ordered, and let us vote upon it. I object to anything displacing it unless it is a privileged question, which I cannot resist.

The PRESIDING OFFICER. The bill (S. No. 447) for the admission of the State of Nebraska into the Union is before the Senate as in Committee of the Whole.

Mr. HENDRICKS. The pending question, I believe, is on my motion to recommit the bill with instructions.

The PRESIDING OFFICER. That is the pending question, and upon that question the yeas and nays have been requested, but not, as yet, ordered.

The yeas and nays were ordered.

Mr. WADE. This question is a question of recommitment, and every Senator who is in favor of the admission of Nebraska will vote against this motion.

Mr. HENDRICKS. This is a question to recommit with instructions to investigate the charge of fraud which has been pretty substantially proven here to-day. Those in favor of passing it, fraud or no fraud, adopting the analogy of the gentleman's address, will vote against the proposition to recommit.

Mr. NYE. I desire to say a single word before that question is taken. I pledge myself to be very brief. I disagree entirely with the honorable Senator from Indiana, who asserts with so much assurance that there has been presented here any evidence of fraud in this election. It is somewhat singular that the class of Senators who yesterday were so anxious to bring in a Senator from Tennessee for the reason that the State wanted representation, and who so loudly claimed that the accusation that the Senator then seeking immediate admission was unable to take oath, rested upon rumor, and rumor alone—and the Senator from Indiana was particularly severe upon that question—to-day, it being a different ox that hooks, assume that these rumors in regard to frauds in the election in Nebraska are well founded, and the Senator from Indiana tells us that the charges are well substantiated. Sir, I am at a loss to know why these objections are urged



here against the admission of these new States. I cannot understand why States that come here with virgin robes, States upon whose skirts hang none of the fumes or fragrance of rebellion, should be thus criticised, thus analyzed, thus animadverted upon, before they can be admitted into this Union.

Mr. COWAN. How old is she? She is not eighteen yet.

Mr. NYE. My friend from Pennsylvania inquires how old is she. She has not seen many years as yet, but she will improve in that respect. To-day while this nation is in travail with the birth of a State, my friends from Pennsylvania and Wisconsin and Indiana are trying to prevent it. Sir, this question of the admission of new States into this Union is not a new one by any means. It is as old as the original thirteen States; and no event in our history has been hailed with more joy and gladness than the birth of a new State and the setting of a new star in the galaxy of our Union.

Now, sir, the real objection—and I desire to state it in a few words—to the admission of this State is that she has been guilty of sending here loyal men, men who have borne the burden in the heat of the day of this rebellion, men who have been scarred in the conflict. The Senator from Pennsylvania [Mr. BUCKALEW] says they can be of no use here because we are within so few hours of an adjournment. Sir, who knows what hour there may be a call for an extra session of this Congress? Who knows but what upon the votes of these men may hang the destinies of this Republic? And yet we are gravely told by the complaisant and always quiet Senator from Pennsylvania that we are within so many hours of the close of the session with as much meekness, for which quality he is always famous, as though the close of this session was the end of this Republic. I expect that the great business of this Republic will roll on after this Senate has adjourned and after we are all dead.

But we are told by the Senator from Indiana that there are evidences of fraud. After he made his assertion I stepped back to the sofa behind me and talked with Judge Kellogg, who was the canvasser of these votes, and he says it was never claimed, and that by but one man, that more than nineteen soldiers voted; that only nineteen soldiers ever claimed to vote, and upon that there was contradictory testimony; and that the nineteen who did vote said they had taken up their residence in the Territory of Nebraska and were going to continue to reside there and do reside there. Where is the evidence of fraud? The Senator from Indiana says the majority is not large enough. Sir, a majority of one, under our institutions, is just as potent as a majority of one hundred thousand.

Mr. HENDRICKS. I do not like to interrupt a very elegant passage, but as the Senator is going off on to something that is very fine, I want to say to him that I did not say what he understands me to have said.

Mr. NYE. I understood the Senator to say distinctly (without any reference to fine passages) that this majority was very small, not large enough to be emphatic, in substance. Does the Senator deny that he said that?

Mr. HENDRICKS. If the Senator undertakes to answer an argument he should answer it exactly as it was stated. I said that the reported majority of one hundred ought not to control our action here when there is an avowal of fraud; that if the charge of fraud extended to a small vote and the majority reported was large, then it would be a different case.

Mr. NYE. I submit that I have done the Senator no wrong.

Mr. HENDRICKS. I did not say that a majority of one vote would not be sufficient if it was established.

Mr. NYE. I have done the Senator no wrong, but I accept his amendment. I say to him in reply that a majority of one hundred is no more evidence of fraud than a majority of ten thousand. The presumption is the other way. Now, sir, I noticed on the admission of

the State of Colorado, or the attempt to admit her, that these same arguments were used. We were told that the population was small and that they were not entitled even to a Representative. Sir, one thing should be borne in mind of Nebraska. To-day one of the most important works of this nation, which is progressing with wonderful rapidity, is peopling that State as Pennsylvania was never peopled; I mean in point of numbers and rapidity; and the great interest surrounding that great work, the Pacific railroad, requires at the hands of every one of us that protection which can only be given by State laws. I have had some experience both in a Territory and in a State, and as I said upon the question of admitting Colorado the laws of a Territory are insufficient to give protection in detail to the vast interests surrounding such a work.

Mr. President, the Democrats have learned to speak of Lincoln now with kindly words and express sentiments of deep sympathy at his taking off. The State which I have the honor in part to represent came into this Union under the very same law that Nebraska seeks to come in under now; she had in her constitution the same provision in regard to white voting that there is in this; and yet, sir, that great and good man hastened to admit her, and hailed her admission as an accession of some account in the then condition of the country. He not only admitted her but hastened to admit her by telegraph, and that State was in that way, and under the same law that this State seeks admission under, born into this Union and inaugurated. I should be recreant to the interests of others that had the same permission if I did not advocate the admission of Nebraska.

Now, sir, it is a well-known fact that the State of Nebraska, agricultural as she is stated to be by the Senator from Pennsylvania, [Mr. BUCKALEW], is filling up with wonderful rapidity; a great national work goes through her entire borders from one end of the State to the other; and while we are legislating and before the next session of Congress convenes, that work will have reached the borders of Nebraska and penetrated into Colorado.

Mr. President, I must confess my astonishment that gentlemen on the other side who are struggling by every means to bring into this Chamber States of questionable loyalty—no, sir, not States of questionable loyalty, but States whose disloyalty is as undoubted now as it was the day they were in arms—that men moved by the great democratic principles that they profess to be moved by, should attempt to keep out the new States that are knocking at our doors for admission. I said on the admission of Colorado that the necessities of this day demanded that there should be a row of States across this continent in order to protect the great works that are now being constructed. I repeat it now. It is the necessity of the hour; it is the necessity of the time; and he who studies closely the logic of the times will see that I am correct.

My friend from Massachusetts said that he regretted his friend from Ohio could not rise to the magnitude of this question. My friend from Massachusetts will excuse me for saying that I regret that he cannot rise to the magnitude and importance of this event. I regret that in his argument and in his action he cannot let go of that old anchorage of his, upon which he has rode out so many storms, and ride upon safer anchorage in a State regularly admitted into the Union, instead of an irregular, inefficient territorial organization. He says the word "white" is in this constitution. So it is. So it was in the constitution of the State of Nevada, and yet the lamented Lincoln hesitated not a moment to admit her. The Senator says that it is not republican. Upon that question I take issue with him. It may not be, in the fullest sense, republican; but it is republican in the sense in which every State since the original thirteen has been admitted into this Union.

Mr. EDMUNDS. Except Vermont.

Mr. NYE. I am willing to except Vermont.

She votes against the admission of all these States; and I am not certain but that if the original question was up on the admission of Vermont, more perplexing questions might arise. [Laughter.]

Mr. DOOLITTLE. If the honorable Senator will give way, I should like to move an executive session. It is necessary to have one. There are important nominations which should be referred to the appropriate committees.

Mr. NYE. I am not going to occupy more than a moment.

Mr. DOOLITTLE. If we can have a vote, I do not wish to interrupt the Senator.

Mr. NYE. The Senator from Wisconsin had all last night to himself to fix up executive matters. [Laughter.]

Mr. DOOLITTLE. Too much to myself, I admit; but it is necessary that this business should be attended to if we expect to adjourn to-day.

Mr. NYE. Sir, the necessities of the question under consideration are not overshadowed by the necessities of the appointment of any man to office. It is a question of whether a new State shall be born into this Union; and I submit that that question is far higher and greater than the question of who shall be postmaster at Chicopee or anywhere else. [Laughter.]

Now, Mr. President, any evil that could result from the word "white" has been cured to a great extent by the civil rights bill. That bill has clothed every man with citizenship; and I agree with what was said when that civil rights bill was under consideration by the Senator from Delaware, now absent, [Mr. SAULSBURY], that the judge was yet living who would declare under it that every born citizen of this country had a right to vote. I repeat it, sir, that when that civil rights bill was passed it did away with all quibbles upon this word "white," and the man who is clothed in the habiliments of citizenship will yet be declared by the highest judicial tribunal of this country entitled to cast his vote if we never legislate another bill about it.

Mr. EDMUNDS. Does the Senator mean in spite of this constitution, if it is adopted?

Mr. NYE. Yes, sir; I mean in spite of all constitutions.

Mr. EDMUNDS. You are in favor, then, of admitting a State with a constitution which is unconstitutional in itself, if I may use such an expression.

Mr. NYE. Does that follow?

Mr. EDMUNDS. I say it does.

Mr. NYE. I think it does not. I do not so understand it, with all respect for the legal hair-splitting of my distinguished friend. Let me say in answer to the gentleman, who seems to sit down so satisfied with his inquiry to me, that the constitution of the State of Nevada provides that United States Senators shall be elected on a certain day and in a certain manner in the State of Nevada. Yesterday a bill was passed through both Houses of Congress prescribing the manner in which United States Senators shall be elected in all the States. Will the Senator from Vermont tell me whether that law will prevail in Nevada or the provision of the State constitution?

Mr. EDMUNDS. I will tell the Senator with great satisfaction. The Constitution of the United States confers express power upon this Congress to override all State constitutions and laws by an express grant of power on that very point. Therefore anything contained in the constitution of Nevada or any other State does not touch the question when we come to act upon it. I think that is perfectly plain to anybody.

Mr. NYE. I thank the Senator for his very truthful admission—I knew it before he told me—that the laws of Congress override State constitutions and laws.

Mr. EDMUNDS. The Constitution.

Mr. NYE. Certainly. I concede to that; and so I concede and assert the other thing, that when the Supreme Court of the United States declares under the Constitution that every citizen is clothed with the right of the ballot, that

overrides your State laws and constitutions; and I should like to see the Senator split upon that. [Laughter.]

Mr. EDMUNDS. That is not the rock on which I have split.

Mr. NYE. Now, Mr. President, if Senators around me had left me alone, I should have been through long ago; but my conscientious friend from Massachusetts, I am terribly afraid, mistakes twinges of dyspepsia for constitutional scruples. [Laughter.]

Mr. SUMNER. I never had the dyspepsia in my life.

Mr. NYE. I am glad to hear it; it is some other disease then. [Laughter.] This word "white" is the nightmare of his mind; but even his own State—a State that I honor and respect—does not let all the black people vote, nor all the white people either. It requires them to be able to read and write. My friend, being so learned, thinks that the standard of manhood. Sir, to all this squeamishness I object *in toto*. I can well account for the opposition coming from the other side. They do not want two Republican Senators here. If Nebraska had sent two of a different color, they would have viewed this case altogether differently. My friend from Wisconsin [Mr. DOOLITTLE] would not have made a labored argument against the admission of Nebraska if she had sent here two Senators to support "my policy." Sir, these doubts and these objections that are raised rest upon two things that I do not acknowledge. The one on the other side rests in a political idea, not a principle; the one on this side from a conscientious scrupulousness that ought not to exist. It would take the magnifying power of the strongest microscope on earth to scrape up a conscience so fine as should scruple on this question.

Mr. President, I insist upon it that this vote shall not be postponed, but that it shall be taken now. Every man who desires to broaden the base of this Republic, to set new stars in the national galaxy, youthful, vigorous, that have come through this war purged in the very fires of purification, should vote to admit these States; and I will say to my Democratic friends on the other side that just as fast as they will bring men here with loyal principles, backed by a loyal constituency, I will vote to take back the rebellious States though their sins be as red as scarlet.

Mr. SUMNER. It seems to me that the proposition of the Senator from Indiana is entirely reasonable. He has given us a glimpse of at least a possible fraud in the votes by which this Territory undertook to change itself into a State, and the excellent chairman of our committee, when interrogated on the subject, had no positive information which he could give in reply. Under the circumstances, therefore, I think we ought to send this again to the committee that the committee may give us the information which the chairman was not able to give.

But there is one point in this matter to which I have not heard attention called, and on which I should like light from the chairman of the committee. I do not understand how the constitution of Nebraska comes before us now. Has it been communicated to us by any message of the President? Has the President invited our consideration of this question? It will be remembered that the question of Colorado came before us on a special message from the President transmitting the constitution and inviting for it the consideration of Congress.

Mr. BUCKALEW. If the Senator will permit me to interrupt him—

Mr. SUMNER. Certainly; I should like to have information on that point.

Mr. BUCKALEW. The President also communicated officially information in connection with his message. He gave us the particulars of the proceeding and explained how the constitution came to be adopted.

Mr. SUMNER. In the case of Colorado?

Mr. BUCKALEW. Yes, sir.

Mr. SUMNER. But we have no information from the Executive in the case of Nebraska. It is on that that I make my appeal to the chairman of the committee. We all know that the case of Colorado was initiated in this body on a special message of the President communicating to us the constitution and also setting forth the circumstances attending the adoption of the constitution. From that we expressly learned how the constitution was adopted. We saw the flaw in the proceedings. We had them all before us; and it was then that the Senate entered into a consideration of them. Now, we had no such information with regard to Nebraska. I should like to know how these papers come before us. What evidence have we on this subject? Certainly there is none that has been laid before us officially. The chairman of the committee may have papers in his drawer. He may have received by the mail communications possibly from the Governor or from other persons; but there has been no official communication made to the Senate on the subject. There is nothing official on which to base these proceedings; and yet, in the absence of anything of that nature, we are asked to drive post-haste this bill through the Senate in this last day of the session, when the honorable chairman himself is not possessed of all the information with reference to the character of this election.

There is another circumstance which, it seems to me, is an unanswerable argument for the reference of this question to a committee. I wish a committee—it may be that of the Senator from Ohio—but I wish a committee to take this whole subject into most careful consideration, to look into this question of fraud, to report to us positively the number of votes cast, the majority, and the circumstances attending the election, and otherwise to give us official information on the whole subject. At present we have no official information. All this, it seems to me, is an unanswerable argument for the reference.

Mr. WADE. I do not wish to prolong this discussion, because I know very well where all the opposition comes from, and I know very well why it comes from the quarter that it does. The Senator from Massachusetts has a certain one idea that covers the whole ground. He says the papers are not official. I will not say that the Senator is not honest in the opposition that he makes to this measure. All the opposition that he really has to it is because they put the word "white" in their constitution. If they had not done that the papers might have been official or unofficial and he would have been as strong an advocate for it as I am; but that being his real objection, he runs around into the circuit of imagination to see if he cannot drum up something as a make-weight against the admission of this State. He says we have not sufficient information; there is some terrible mystery brooding over it. Sir, I never expect to have the information that will enable me to answer all that the imagination of the enemies of this measure can conjure up. You have nothing impeaching these proceedings—not the first thing.

Mr. SUMNER. Mr. Gibbs.

Mr. WADE. Mr. Gibbs has been to see me since he was spoken of, and he tells me he has ever been the strongest advocate for the admission of this State, and he says he told the Senator from Wisconsin, who averred so affirmatively, and pledged his honor for the affirmation, that he only stated what he did say upon hearsay; that he was not a party to it at all; that he only picked it up as other gentlemen pick up their rumors; and the Senator from Wisconsin pledged his honor upon that! That man was not sought by me, but he sought me and gave information that I could go on and detail to the Senate; and yet I am challenged upon it and upon all the stuff that gentlemen can conjure up here in opposition to this measure.

We are not informed, says the Senator from Massachusetts. What are we not informed of?

I have no information about what gentlemen's imaginations may conjure up with regard to fraud. I aver there is no proof of any fraud, not even a reasonable suspicion of fraud; and the man who would disparage the character of a dog upon the information or the rumors that are invoked here would not be worthy to sit in a judgment seat anywhere. What do you base it on? You say there is no information about this. What information to the contrary do you suppose you have? Tell me where you will get it. Why do you want to send to a committee the mere breath of man, that may be blown away? and the men seek me to blow it away. I do not know who they are. You pledge your honor that the facts that you state are facts, and then your witness sends for me to tell me that he picked them up himself from rumor, and that he is the advocate of the admission of the State, and believes it to be all right. Sir, that is the sort of stuff that I have had to combat here, that has been invoked to overcome the testimony which has been regarded in the whole history of this Government as all-sufficient for the admission of a State: the certified facts of the officers of the Government in charge of these records; and that is to be blown away, not by the people of Nebraska, for I challenge, in my turn, the gentlemen to come forward and say that any man who has any interest in this question ever alleged a single word in opposition to what I seek, the admission of this State. No, sir; your rumors come from the outside, and they are poured into the ears of gentlemen from other States, who volunteer here to be the guardians of the people of Nebraska. They have not asked you to be their guardians. No man stands here from Nebraska to oppose this measure; but the opposition comes from distant Indiana and from Wisconsin and some other places that the Nebraska people never heard of, and these rumors are dug up to prevent our doing what a majority there want to have done. That is all the substance there is in all that you have said. Why, then, should it be sent again before a committee? Sir, it is a mere figment of the imagination, the stuff that dreams are made of, and nothing else.

Mr. DOOLITTLE. The Senator from Ohio, in his present remarks and in his remarks on a former occasion, seemed to speak of the gentleman upon whose authority I made my statement as if he were a gentleman from Utah. The Senator is entirely mistaken.

Mr. WADE. His name was Gibbs, was it not?

Mr. DOOLITTLE. His name was Gibbs. He has lived in Nebraska since 1854. He was Speaker of the House in Nebraska in 1857. It is true he was appointed marshal of the Territory of Utah by Mr. Lincoln, but his term has expired, and he has returned and now resides in Nebraska, at Nebraska City, and knows all about the facts; and I say to the honorable Senator that he is a reliable gentleman.

Mr. WADE. I am not impeaching Mr. Gibbs at all. I believe he told me the truth when he said that the people of Nebraska were in favor of this measure, and that he had also been an advocate for it himself, and was now. He told me so to-day. He hunted me out to tell me so. I did not know him before. You invoke him as a witness against this admission, that it is all tainted with fraud, and you pledge your honor that the facts you state are facts, when he says to me that he picked them up from other sources!

Mr. DOOLITTLE. The gentleman for whom I pledged my honor was a captain of one of the companies of the first Nebraska regiment, who stated to me that two of the companies of that regiment were raised in Iowa, and the soldiers of those companies voted in favor of this constitution while they were in the Territory of Nebraska; that those same soldiers voted, on a commission from Iowa, for Governor Stone at Fort Kearney, in Nebraska; that subsequent to this voting they have been mustered out and have gone home to Iowa where they reside. I

say that for his statement, stated to me upon his own knowledge, I do vouch for his honor as a man and a soldier.

Mr. WADE. I am not going to impeach the honor of any gentleman's testimony as introduced here, because I know nothing of him. I only know that I am treading in an illegitimate path when I even attempt to repel before this enlightened Senate such insinuations. I know this Senate is composed of legal gentlemen who know how much weight to attach to these rumors, coming generally from sources interested or without any authority at all. I know you will attach no importance to them, and I feel that I am trespassing upon the indulgence of the Senate while I stand here to repel such charges. I know there is not a Senator here who will act upon the mere insinuation that there is fraud.

But the Senator from Massachusetts, says that the documents to which I appealed are all illegitimate because they do not come through that most loved source of his, the President of the United States. If they had only come through that pure fountain, he would have been satisfied in a moment; he never would have got up from his seat nor raised his voice; but he says, why on earth, if this thing is pure and legitimate, did it not come from the President of the United States? Then I would have been satisfied. Sir, pure as he is, he had no business with this matter at all. They sent to the chairman of the Committee on Territories a certified transcript of their proceedings and I presented it to the Senate, and the Senate referred it to our committee. Is not that authentic? Do you want the President to back it?

Mr. SUMNER. I would rather have your backing than his.

Mr. WADE. Well, sir, you have my backing, but you dispute that. Now, sir, I have said enough. The people of Nebraska do not ask nor need the counsel of gentlemen from other States. With all the power in their hands to detect fraud, with all the power to protest before this body that they are not satisfied with the votes cast, not a single man from Nebraska has made his protest upon this record.

Mr. DOOLITTLE. Upon this point, which the Senator has so often repeated, that I am volunteering to be the counsel of the people of Nebraska, I have only to say that I stand here as a Senator representing one of the States of the United States, and I suppose that the United States and all the States have an interest in the question as to whom we admit into the Union, and whether we shall admit additional representatives into this Chamber to take part in our deliberations. We have just as much interest in the question as they have, and I have a right to speak as a Senator upon it.

Mr. POMEROY, (to Mr. WADE.) Let us vote.

Mr. FESSENDEN, (in his seat.) WADE has made five speeches on this subject already.

Mr. WADE. Well, sir, I have been challenged with five hundred as groundless as they are numerous. I have not grumbled at other people, and I have not occupied one hour in this Senate where other gentlemen have occupied days. I have had strong convictions upon a great many questions that have passed through here on the records and been voted upon, and I have waited to hear the intelligent arguments of gentlemen a great while when I have had strong convictions that those arguments, perhaps, were not as well founded as they ought to be, but I generally contented myself with voting, as the Senator from Maine knows. I am very rarely provoked or moved to do anything more than attest my sense of any question by the vote that I give; but on this question I have been met from all sides with the merest rumors and figments of the imagination thrown in here against the stubborn facts that have been sent to us as the foundation of our action, and I would have been recreant to the people of Nebraska if I had not stood forth to vindicate their character against this imputation of fraud without evidence. The

people of Nebraska ask no such advocacy as the Senator from Wisconsin has offered, and I therefore say that the gentleman is a volunteer, because this is partly at least a mere local question; and although he has a right to vote upon it and a right to argue it, he has no right to bring in mere rumors unsupported by fact in order to postpone these people from participating in this Government when it is their interest to do so. Now, sir, I do hope that we shall have a vote.

Several SENATORS. Question! question!

Mr. WILSON. If Senators are ready to vote I will not insist upon it; but, otherwise, I want to take up a little Army resolution that should be acted upon at once.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana to recommit the bill to the Committee on Territories, with instructions to inquire into the number of the population of the Territory and the fairness of the vote adopting the constitution.

The question being taken by yeas and nays, resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Sumner, Van Winkle, and Wilson—18.

NAYS—Messrs. Anthony, Chandler, Conness, Creswell, Fowler, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Nye, Pomeroy, Ross, Sherman, Sprague, Stewart, Trumbull, Wade, Willey, Williams, and Yates—22.

ABSENT—Messrs. Brown, Clark, Cragin, Dixon, Grimes, Morrill, Poland, Ramsey, Saulsbury, and Wright—10.

So the motion was not agreed to.

Mr. SUMNER. I send an amendment to the Chair to come in at the end of the bill.

Mr. WILSON. I ask unanimous consent to take up a little resolution in regard to the Army, which it is important should pass. I do not see any prospect of getting rid of this question, and I have been waiting for two hours to call up the resolution.

Mr. WADE. I object.

The PRESIDING OFFICER. Objection being made the resolution cannot be entertained. The question is on the amendment of the Senator from Massachusetts, [Mr. SUMNER,] which will be read.

The Secretary read the amendment, which was to add at the end of section two the following proviso:

*Provided, That this act shall not take effect except upon the fundamental condition that within the State there shall be no denial of the elective franchise or of any other right on account of color or race; but all persons shall be equal before the law; and the people of the Territory shall by a majority of the voters therein, at such place and under such regulations as shall be prescribed by the Governor thereof, declare their assent to this fundamental condition; and the Governor shall transmit to the President of the United States an authentic statement of such assent whenever the same shall be given, upon the receipt whereof, he shall, by proclamation, announce the fact; whereupon, without any further proceedings on the part of Congress, this act shall take effect.*

Mr. SUMNER called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 5, nays 34; as follows:

YEAS—Messrs. Edmunds, Fessenden, Morgan, Poland, and Sumner—5.

NAYS—Messrs. Anthony, Buckalew, Chandler, Conness, Creswell, Davis, Doolittle, Foster, Guthrie, Harris, Henderson, Hendricks, Howard, Johnson, Kirkwood, Lane, McDougall, Nesmith, Norton, Nye, Pomeroy, Ramsey, Riddle, Ross, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, and Yates—34.

ABSENT—Messrs. Brown, Clark, Cowan, Cragin, Dixon, Fowler, Grimes, Howe, Morrill, Saulsbury, and Wright—11.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. SUMNER. Let us have the yeas and nays on the final passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 18; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Creswell, Fowler, Henderson, Howard, Howe, Kirkwood, Lane, Nye, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—24.

NAYS—Messrs. Buckalew, Cowan, Davis, Doo-

little, Edmunds, Fessenden, Foster, Guthrie, Harris, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, and Sumner—18.

ABSENT—Messrs. Brown, Clark, Cragin, Dixon, Grimes, Morrill, Saulsbury, and Wright—8.

So the bill was passed.

#### RELIEF OF PORTLAND SUFFERERS.

The bill (H. R. No. 814) for the relief of the sufferers by the late fire at Portland, was read twice by its title.

Mr. FESSENDEN. I should like to have that bill taken up and acted upon now. It is very short, and I presume there will be no objection to it.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that all goods, wares, and merchandise, which may be sent from places without the limits of the United States as gratuitous contributions to the relief of the sufferers by the fire which occurred at Portland, Maine, July 4, 1866, shall, when imported at the port of Portland, and consigned to the proper authority for distribution, be admitted free of duty. It also provides that there shall be allowed and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials actually used in buildings erected on the ground burned over by the fire, a drawback of the imported duties paid on them, if the materials shall be imported at the port of Portland during the term of one year from and after July 5, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DUTY ON IMPORTED WOOL.

The bill (H. R. No. 793) to provide increased revenue from imported wool, and for other purposes, was read twice by its title.

The PRESIDING OFFICER. The bill will be referred to the Committee on Finance.

Mr. HOWE and others. Let it lie upon the table.

The PRESIDING OFFICER. It will be laid on the table if there be no objection.

#### STATUE OF ABRAHAM LINCOLN.

Mr. HENDRICKS. I move to take up House joint resolution No 197. It is a little matter that will take no time.

Mr. FESSENDEN. What is that?

Mr. HENDRICKS. The title of it is "A joint resolution authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln."

Mr. FESSENDEN. As this is the last day of the session, and we shall probably have to stay here all night, I hope we shall have a recess, and the time has now arrived for that purpose.

Mr. SUMNER. I hope the resolution named by the Senator from Indiana will not be taken up.

Mr. WILSON. I wish to call up a resolution in regard to the Army, and have it passed.

Mr. HENDRICKS. My motion is to take up House joint resolution No. 197.

Mr. WILSON. I hope that will not be done.

Mr. FESSENDEN. That is undoubtedly a matter that will be pretty thoroughly debated, and if gentlemen are willing to stay here and lose their dinners in order to debate it, very well.

Mr. SUMNER. I hope it will not be taken up. Can the motion be in order?

The PRESIDING OFFICER. The motion is in order.

Mr. SUMNER. I will ask if it has been referred to a committee.

The PRESIDING OFFICER. The Chair is advised that it has not been.

Mr. CONNESS. I hope the Senate will decide the question by a vote. They can do it in that way as well as in any other.

Mr. WILSON. I move to amend the motion of the Senator from Indiana so as to take up a resolution relating to the Army.

The PRESIDING OFFICER. That motion is not in order. The motion is not to postpone pending business to proceed to the consideration of the resolution, and therefore the motion



of the Senator from Massachusetts is not in order, in the opinion of the Chair. The question is on the motion of the Senator from Indiana.

The motion was agreed to; there being, on a division—ayes 20, noes 7.

# RECESS.

Mr. FESSENDEN. I move that the Senate take a recess until half past seven o'clock.

Mr. DOOLITTLE. I ask the Senator to allow me to have an executive session for about five minutes, so that the messages that have been received can be referred to the appropriate committees, and then this will come up in order.

Mr. FESSENDEN. Very well.

Mr. DOOLITTLE. I make that motion.

The PRESIDING OFFICER. The question is on the motion to proceed to the consideration of executive business.

The motion was not agreed to—ayes nine, noes not counted.

Mr. FESSENDEN. I now renew my motion to take a recess until half past seven o'clock.

The question being put, there were, on a division—ayes 18, noes 17; and the Presiding Officer declared the motion agreed to.

Mr. CRESWELL. I call for the yeas and nays.

Mr. FESSENDEN. You cannot have the yeas and nays after the vote is declared.

Mr. TRUMBULL. They were called for in time, if the Senator insists upon it.

Mr. CRESWELL. I call for the yeas and nays.

Mr. FESSENDEN. The vote had been declared.

The PRESIDING OFFICER. The Chair thinks it is in order for the Senator to call for the yeas and nays if he chooses to do so, but the vote had been declared. Does the Senator ask for the yeas and nays?

Mr. CRESWELL. I do.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Anthony, Doolittle, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wilcox, and Wilson—23.

NAYS—Messrs. Buckalew, Chandler, Conness, Cresswell, Davis, Hendricks, McDougall, Nesmith, Norton, Nye, Poland, Riddle, Ross, Stewart, Wade, Williams, and Yates—17.

ABSENT—Messrs. Brown, Clark, Cowan, Cragin, Dixon, Grimes, Johnson, Morrill, Saulsbury, and Wright—10.

So the motion was agreed to; and the Senate accordingly took a recess until half past seven o'clock p. m.

# EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

## PROMOTION OF WOUNDED NAVAL OFFICERS.

Mr. ANTHONY. The chairman of the Committee on Naval Affairs [Mr. GRIMES] has been obliged to leave on account of illness, and he has asked me to report back for him from that committee, and to call up House bill No. 667, to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes, which I am sure will meet the assent of every Senator. I ask for its present consideration.

Mr. CONNESS. There is unfinished business.

Mr. ANTHONY. This will take but a moment. There will be no objection to it.

Mr. CONNESS. With the understanding that the unfinished business shall lie over informally, I will not object.

Mr. ANTHONY. That is all I ask; that it be laid aside informally to take up this bill.

The PRESIDENT *pro tempore*. The unfinished business will be laid aside by common consent instead of losing its place, if there be no objection. The question is on the motion of the Senator from Rhode Island.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to

consider House bill No. 667. It provides that the provision of section four of the act to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862, requiring that no officer in the naval service shall be promoted to a higher grade upon the active list until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea, shall not be construed to apply to and exclude from the promotion to which he would otherwise be regularly entitled any officer in whose case such medical board shall report that his physical disqualification was occasioned by wounds received in the line of his duty, and that such wounds do not incapacitate him for other duties in the grade to which he shall be promoted. The rate of pay of officers of the Navy on the retired list and not on duty nor retired on furlough pay, in cases where such rate of pay has not heretofore been fixed by law, is to be one-half of the pay to which such officers would be entitled if on duty at sea. The pay of clerks of navy-yards, of clerks to commandants of navy-yards, and of clerks to naval store-keepers is increased twenty-five per cent. upon their present salaries, from the commencement of the present fiscal year. The proper accounting officers of the Treasury are authorized in the settlement of the accounts of the disbursing officers of the Navy and Marine corps to allow, subject to the approval of the Secretary of the Navy, such credits for losses of property and funds as have occurred during the late rebellion and as shall occur hereafter, and which shall appear to them by such vouchers and testimony as they shall require to have been occasioned by accidental circumstances, or a condition of things over which the officers had no control and for which they are not justly responsible.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## PAPERS WITHDRAWN.

On motion of Mr. DAVIS, it was

Ordered, That Augustus Hubbell have leave to withdraw his petition and other papers from the files of the Senate.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a resolution extending the present session of Congress until half past four o'clock on Saturday, July 28, in which the concurrence of the Senate was requested.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes; and had agreed to other amendments of the Senate, with amendments, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. JAMES F. WILSON of Iowa, and Mr. F. C. LE BLOND, of Ohio, managers at the same on its part.

## CIVIL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, and the amendments of the House to the amendments of the Senate to the said bill; and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives and disagree to the amendments of the House to the amendments of the Senate to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conference on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed

Mr. SHERMAN, Mr. FESSENDEN, and Mr. JOHNSON managers on the part of the Senate.

## ROBERT BALDWIN.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the bill (H. R. No. 693) for the relief of Robert Baldwin, have directed me to report it back without amendment and recommend its passage.

Mr. HENDERSON. Do you ask for its present consideration?

Mr. POMEROY. I did not, but I will now do so.

Mr. WILSON. I have several reports and bills from the Committee on Military Affairs that I want a few minutes to act upon; and I would be very much obliged to the Senate if they would give me a few minutes now.

Mr. POMEROY. I should like to have unanimous consent to pass the bill I reported just now.

Mr. WILSON. I have got several measures which it is important to act upon.

Mr. POMEROY. The bill to which I refer merely proposes to issue a patent for a few land-warrants which were lost in the mail.

Mr. FESSENDEN. There are general bills which it is very important to pass before we adjourn, and we ought to devote our time to those.

Mr. HENDERSON, [to Mr. POMEROY.] Let it be passed over for a few moments.

Mr. POMEROY. I do this at the suggestion of the Senator from Missouri, who feels a deep interest in the bill. The land-warrants were lost in the mail, and it is merely proposed to allow patents to issue.

Mr. HENDERSON. I desired to call up the bill, as it is of some little importance to a constituent of mine, but if gentlemen desire it I have no objection to its going over.

The PRESIDENT *pro tempore*. The bill will be laid aside.

## DR. ALEXANDER DUNBAR.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar, to report it back without amendment; and I should like to have it put on its passage. It is important to act upon it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of War to contract, on such terms as in his discretion he may think fair and reasonable, with Dr. Alexander Dunbar, for the use by the Government of his alleged discovery of a mode of treatment of the diseases of the horse's foot, and for his services for one year in instructing the farriers of the Army in such treatment; the amount agreed upon to be paid out of the fund already appropriated for the purchase of horses or general support of the Army.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## COLORADO MILITIA CLAIMS.

Mr. WILSON. I am also directed by the Committee on Military Affairs and the Militia, to whom was referred House joint resolution No. 200, to report it back without amendment; and I ask that it be put upon its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865. The Secretary of War is authorized by the joint resolution to settle with the proper authorities of the Territory of Colorado, for the services of the first regiment of Colorado mounted militia, called into the service of the United States on the requisition of Colonel Thomas Moonlight, in the year 1865, and for the services of any other militia forces of the Territory which were employed in the service of the United States

on the call of the Governor of the Territory in the year 1864, allowing in such settlement all amounts paid by the Territory to the troops for pay, use of horses, clothing, and other proper allowances during the time when they were actually in service; and that he report the amount found to be justly due to the Territory on such account to Congress in December next.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### TRANSPORTATION TO MAIMED SOLDIERS.

Mr. WILSON. I wish now to call up the bill (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to furnish to discharged soldiers of the United States, who have been disabled in the service, as well as to those not yet discharged, transportation to and from their homes and the place where they may be required to go to obtain artificial limbs provided for them under authority of law.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### THIRTEENTH-COLORED HEAVY ARTILLERY.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 201) for the relief of the officers of the thirteenth regiment United States colored heavy artillery, to report it back and move that the committee be discharged from its further consideration, it having been incorporated into a general law.

The committee was discharged, and the joint resolution indefinitely postponed.

#### COLLECTORS OF CUSTOMS.

Mr. MORGAN. I desire to state that there is a vacancy on the committee of conference on the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes, in consequence of the absence of the Senator from Maine, [Mr. Morrill.] I move that the Chair supply the vacancy.

The motion was agreed to; and the President *pro tempore* appointed Mr. Howe.

#### UNITED STATES ARMY.

Mr. WILSON. I now move to take up Senate joint resolution No. 142.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 142) respecting the Army of the United States. It declares all laws and parts of laws enacted since the 4th of July, 1861, increasing, reorganizing, or creating regiments, staff corps, or other organizations of the regular Army, or in any way affecting the number, rank, pay, or emoluments of the general, field, staff, and line officers and enlisted men, to be in full force and effect, and so to remain until otherwise provided by law.

Mr. HOWARD. I wish to inquire of the Senator from Massachusetts what effect this brief but very important measure will have upon the pay and emoluments of officers. The purport of it is to continue in full force all the laws that have been passed by Congress since July, 1861, up to the present time.

Mr. WILSON. All the laws that are now in force. Of course it does not refer to those that have been repealed or modified.

Mr. HOWARD. My inquiry has direct reference to the pay of the officers of the Army. Has not that pay from time to time been altered in amount?

Mr. WILSON. If we had a law that paid them so much, and then passed a law fixing another price, of course the last one is the rule and not the other. This resolution refers to all existing laws. Those old laws are not existing laws.

Mr. HOWARD. Of course every subsequent act that is inconsistent with the previous act repeals or modifies the previous act. I am well aware of that. What, then, is the necessity of this enactment?

Mr. WILSON. I will tell the Senator what the necessity is.

Mr. HOWARD. That is what I want to know.

Mr. WILSON. Every staff department, I think, of the Army goes to pieces, unless we have some legislation on the subject—the Army itself, the Bureau of Military Justice, the Engineer corps, &c. We passed several laws enlarging these departments of the Army, to expire at the close of the war; and what we wish to do now is simply to preserve the Army just as it is in case we can have no general legislation, to preserve the body of the Army and the laws now in force until the next session of Congress.

Mr. CONNESS. The Army bill failing.

Mr. WILSON. If we pass the Army bill this will not be necessary; but if not, we want to take care of what we have got, and we must do it.

Mr. HOWARD. I am perfectly satisfied with that explanation, and it was that explanation that I desired.

Mr. HOWE. I wish to suggest to the chairman of the Military Committee that his resolution, as he has drawn it, may have a much more extended operation than he explains as being desirable. It does not simply continue in force existing laws, but it gives force to all the laws, if I understand the reading of it, that we have enacted since 1861—all laws and parts of laws, whether they have been repealed heretofore or not.

Mr. WILSON. No. The resolution is simply this: all laws passed since the 4th of July, 1861, that are now in force are to be continued for a few months longer, until otherwise ordered.

Mr. KIRKWOOD. The words "now in force" are not in the resolution.

Mr. WILSON. If that is so I have no objection to putting them in.

Mr. TRUMBULL. It is very manifest that if the Senator from Massachusetts intends what he says he has got here a resolution that is very much broader. During the war we vested the President with very large authority; we increased the staff of the general officers very largely. Now, what is this resolution?

That all laws and parts of laws enacted since the 4th day of July, 1861, increasing, reorganizing, or creating regiments, staff corps, or other organizations of the regular Army, or in any way affecting the number, rank, pay, or emoluments of the general, field, staff, and line officers, and enlisted men of the same, be, and the same are hereby, declared to be in full force and effect, and so to remain until otherwise provided by law.

It reenacts every law passed since 1861. It reenacts the laws authorizing the calling out of hundreds of thousands of men. It is not a provision that the laws now in force shall be continued; it is a provision reviving all the acts that have been repealed. Certainly such a proposition as this ought not to pass.

Mr. CONNESS. The insertion of three or four words will correct it.

Mr. TRUMBULL. I should like to know if this joint resolution which we are amending here in the Senate has been considered in committee.

Mr. WILSON. Yes, sir, it has been examined by the members of the committee.

Mr. TRUMBULL. Certainly such a resolution as this reenacts every act that has been passed during the whole of this war in relation to the Army; and I should like to know if the Senate of the United States is prepared to do that.

Mr. CONNESS. In the fourth line of the resolution, after "1861," I move to insert the words "and now in force;" so that it will read:

That all laws and parts of laws enacted since the 4th day of July, 1861, and now in force, increasing, reorganizing, or creating regiments, &c.

Mr. TRUMBULL. If that amendment be inserted the laws which have expired or been

repealed will not be reenacted, I suppose; but still this is a very unsafe way of legislating. It seems to me it would be a great deal better to state the laws, whatever they are, that should be continued in force; and if the Senator from Massachusetts cannot do that, then we are passing a law without knowing what we are doing. Now, I appeal to Senators, do you understand what you are reenacting?

Mr. LANE. I think I do.

Mr. TRUMBULL. The members of the Military Committee may; I do not. I should like, then, to inquire if under this resolution the authority now continues for the President of the United States to establish military courts and military commissions, and the authority to create new regiments, to reorganize the Army, to create staff corps. This is all specified here:

All laws and parts of laws enacted since the 4th day of July, 1861, increasing, reorganizing, or creating regiments, &c.

What laws have we had increasing regiments since 1861? I do not know what they are.

Mr. WILSON. We are now legislating, not for volunteers, but for the regular Army. These laws apply only to the regular Army.

Mr. TRUMBULL. Then say so. The resolution does not say so.

Mr. WILSON. The Senator is mistaken. We are legislating about the regular Army, and not for the volunteers.

Mr. LANE. Certainly it does say the regular Army.

Mr. TRUMBULL. No, sir, it does not say "the regular Army." There is nothing of that kind in the resolution. It applies to the volunteers, and everything else.

Mr. WILSON. The Senator is greatly mistaken.

Mr. TRUMBULL. Let us read it. There is no use in disputing about words. The resolution is before me, and I propose to read it. [After a pause.] On reading it through, I see in the sixth line that it is limited to the "organizations of the regular Army." Those words escaped me as I first cast my eye over the resolution. Then it does not apply to the volunteer organizations, and, of course, is not so extensive as I supposed it might be; but still I do not know what the effect of it will be.

Mr. WILSON. The Senate have passed a bill covering every part of our Army, the staff, and everything else, and which corrects all this legislation, and puts it all right; but it has not passed the House of Representatives. If the Senate would like to pass that bill in lieu of the House bill, and send it to the House again—we have already passed it twice—I should be very glad to do it, and let us see whether they will take it in lieu of this. In that bill everything is set forth, every department, staff—

Mr. TRUMBULL. That is the bill for the reorganization of the Army, I understand?

Mr. WILSON. Yes, sir. We have not succeeded in passing it. This resolution is gotten up to keep the Army from going to pieces; for as soon as peace is declared, nearly every staff corps of the Army is changed by law. We legislated during the war increasing the staff corps, and providing for other matters pertaining to the Army, until the war was over. Peace has not been officially declared, and therefore they are held together; but it is important to pass this resolution. With two or three little amendments that I have, and which are absolutely necessary, I should like to have the resolution passed.

Mr. HARRIS. I desire to say a word about this resolution. It is quite evident that the Senator from Illinois did not know what he was speaking about, and he got himself unnecessarily alarmed about an imaginary difficulty. Now, the fact is that by several acts of Congress the Army has been greatly enlarged during the war. Nine regiments of infantry have been added to it, a regiment of artillery, and a regiment of cavalry. The provision of law is that these regiments shall cease to exist at the termination of the war.

Mr. HOWE. I ask the Senator if he is not mistaken on that very point.

Mr. HARRIS. Certainly not.

Mr. HOWE. My recollection is different.

Mr. HARRIS. Certainly not. Unless there is some legislation the Army will go to pieces at the end of the war; it will be broken up. Now, we have failed to pass an Army bill. A committee of conference laboring at that matter have reported that they are unable to agree. We are about to adjourn. If we do adjourn these nine regiments of infantry, the regiment of artillery, the regiment of cavalry, and the staff corps must be discharged at the end of the war. I suppose it is to terminate very soon. The object of this resolution—and with the little amendment proposed by the Senator from California that object is accomplished—is to continue the existing laws in relation to the Army until we can meet again and pass an Army bill. That will be effected, undoubtedly, by this resolution.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California to insert in line four the words "and now in force."

The amendment was agreed to.

Mr. WILSON. I move further to amend the resolution by adding the following as additional sections:

SEC. 2. *And be it further resolved*, That there shall be added to the Army four regiments of cavalry, two of which shall be composed of colored men, having the same organization as is now provided by law for cavalry regiments. And the original vacancies in the grades of first and second lieutenant shall be filled by selection from among the officers and soldiers of volunteers; and two thirds of the original vacancies in each of the grades above that of first lieutenant shall be filled by selection from among the officers of volunteers, and one third from officers of the regular Army, all of whom shall have served two years in the field during the war and have been distinguished for capacity and good conduct. And the President is hereby authorized to enlist and employ in the Territories and Indian country a force of Indians not to exceed one thousand to act as scouts, who shall receive the pay and allowances of cavalry soldiers, and be discharged whenever the necessity for their further employment is abated, or at the discretion of the department commander.

SEC. 3. *And be it further resolved*, That section three of the act approved February 20, 1863, authorizing the appointment of a Solicitor of the War Department be, and the same is hereby, repealed, and the Provost Marshal General's office and bureau shall be continued only so long as the Secretary of War shall deem necessary, not exceeding thirty days after the passage of this resolution.

SEC. 4. *And be it further resolved*, That the third section of the act entitled "An act making appropriations for the support of the Army for the year ending 30th of June, 1866," shall continue in force for one year from the passage of this resolution: *Provided*, That no officer who is furnished with quarters in kind shall be entitled to receive the increased commutation of rations hereby authorized.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PROTECTION OF THE REVENUE.

Mr. CLARK. I submit the following report from the second committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, and I ask that it may be acted upon now, so that it may go to the House and the matter be closed:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the second, third, fourth, fifth, and sixth amendments of the Senate, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with an amendment as follows: in line nine, page 1, of the engrossed bill, strike out "\$250" and insert in lieu thereof "three dollars," and the Senate agree to the same.

That the Senate recede from their seventh amendment and agree to the ninth section of the bill with the following amendments: in line two of said section strike out the word "imported," and in the same line, after the word "merchandise," insert the following words: "hereafter imported," and at the end of said ninth section add the following words: "Provided further, That nothing herein contained shall

apply to long-combing or carpet wools, costing twelve cents or less per pound, unless the charges so added shall carry the cost above twelve cents per pound, in which case one cent per pound duty shall be added," and the House agree to the same.

That the Senate recede from their eighth amendment.

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same with amendments as follows: in line two of said amendment strike out the words "and directed;" and in line three, after the words "collection in" insert the words "any of," and the Senate agree to the same.

DANIEL CLARK,

P. G. VAN WINKLE,

E. D. MORGAN,

Managers on the part of the Senate.

J. K. MOOREHEAD,

JUSTIN S. MORRILL,

C. DELANO,

Managers on the part of the House.

The committee recommend that the text of the bill be amended by striking out the word "first," in line one, page 1 of said bill, and inserting in lieu thereof the word "tenth."

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference just read.

The report was concurred in.

The PRESIDENT *pro tempore*. That closes the question upon the disagreeing votes of the two Houses, but the committee recommend a change in the text of the bill. The proposed change will be read.

The Secretary read as follows:

The committee recommend that the text of the bill be amended by striking out the word "first," in line one, page 1 of said bill, and inserting in lieu thereof the word "tenth."

Mr. JOHNSON. How will that change it?

Mr. CLARK. The effect of that is merely to put off the operation of the law until the 10th instead of the 1st. We have got so near the 1st that the committee thought we had better put it off a little longer.

The PRESIDENT *pro tempore*. The question is on thus amending the text of the bill. Is there any objection to this change? It requires the unanimous consent of the Senate, in the opinion of the Chair, to make the change in the text of the bill. No objection being made, it will be understood as the unanimous will of the Senate that that alteration be made in the text of the bill.

#### STATUE OF ABRAHAM LINCOLN.

Mr. WILSON. I desire now to take up—

Mr. CONNESS. I hope the Senator will now allow me to call up the unfinished business. It will occupy but a moment.

Mr. WILSON. Very well.

Mr. CONNESS. I call for the unfinished business which was laid over informally.

The PRESIDENT *pro tempore*. The Senator from California calls for the unfinished business which was laid aside by common consent, and it must be taken up unless common consent is still given to its being laid aside. The unfinished business is before the Senate, being the joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln.

Mr. SUMNER. Before that is taken up, I wish, with the consent of the Senator, that I might be allowed to put a joint resolution on its passage.

Mr. CONNESS. This will only occupy a moment.

Mr. SUMNER. It will be debated.

Mr. CONNESS. Not if you do not debate it.

Mr. SUMNER. It must be debated.

Mr. CONNESS. Will you debate it?

Mr. SUMNER. I shall debate it.

Mr. CONNESS. Let the Senator debate it now. I shall not give way in that case.

Mr. SUMNER. I merely wish to put a joint resolution upon its passage that will take no time.

Mr. CONNESS. That is asking too much.

Mr. CHANDLER. I ask my friend from California to give way for a moment to allow me to call up—

Mr. CONNESS. I cannot give way to the Senator, after having refused another Senator.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abra-

ham Lincoln, is before the Senate as in Committee of the Whole, and will be read.

The Secretary read it, as follows:

*Resolved, &c.* That the Secretary of the Interior be, and he hereby is, authorized and directed to contract with Miss Vinnie Ream for a life-size model and statue of the late President Abraham Lincoln, to be executed by her at a price not exceeding \$10,000; one half payable on completion of the model in plaster, and the remaining half on completion of the statue in marble to his acceptance.

Mr. LANE. I move to postpone the further consideration of this resolution for the purpose of taking up the pension bills that have passed the House of Representatives. I think it quite as important to provide for the widows and orphans of our dead heroes as it is to provide for a statue of President Lincoln. Under proper circumstances I might vote for this appropriation; but I cannot consent to have it taken up, so far as my vote is concerned, to the exclusion of the bills that have already passed the House granting pensions to the widows and orphans of our dead soldiers.

Mr. CONNESS. This is a House resolution.

Mr. LANE. The bills I desire to have taken up are House bills.

Mr. CONNESS. There is time enough to pass those bills. I hope we shall get a vote on this resolution as we have now got it up.

Mr. EDMUNDS. Mr. President, there are on your table half a dozen or more bills from the House of Representatives, some of which I have personal knowledge about, providing for pensions to the widows and orphans of your deceased officers and soldiers, where it is known that those widows and orphans are in absolute want, suffering for the common necessities of life; and the question now is, whether we shall jeopardize the passage of such bills, the passage of which we owe as a matter of justice and duty as high as any that can be imposed on man, to provide for a work of art. What is the immense necessity of hurrying this against all other things? I do hope that the Senate will return to its reason long enough to do justice before it provides for the gratification of its tastes.

Mr. CONNESS. We can have a vote on this resolution while this question is being discussed. It will not stand in the way of the pension bills.

Mr. FESSENDEN. It will be discussed very considerably before you pass it.

Mr. SUMNER. I am for pensions for those who have suffered for our country. Let us go forward and do justice to them before we undertake to appropriate \$10,000 for a statue. I should say that if the appropriation was for a known work of art; but it is not proposed now to pay for any known work of art. We are to commission an unknown artist, of possible merit, but who has given no assurance that she can produce a work worthy of so large a sum as it is proposed to appropriate. However, I shall not now, at this stage of the question, discuss it in that aspect. If the question is proceeded with, I shall have something further to say; but I hope that the Senate will proceed with the consideration of pension bills.

Mr. TRUMBULL. I dislike to see the antagonism of the Senators from Vermont and Massachusetts to this measure placed in what seems to me so unfair a light. They appeal to the Senate not to lay aside the pension bills for the benefit of the soldiers to consider a work of art. Nobody proposes to do it; but what is proposed to be done? The Senator from Massachusetts threatens to lay aside the pension bills by making speeches on this subject. The question is, will the Senator from Vermont and the Senator from Massachusetts allow us to take a vote on this resolution? If they had done so, it would have been disposed of long ago; but the Senator from Massachusetts threatens that he will make speeches—for what? To delay the soldier from getting his pension.

Mr. SUMNER. No.

Mr. TRUMBULL. Then let the Senator forbear and let us act. Vote down the proposition, if you choose. We could have voted a dozen times while these two Senators have been



appealing to the Senate not to delay the soldiers' claims in order to press this matter. In other words, they say to the Senate, "Unless you take up the bills that we desire to have taken up we will postpone soldiers and everybody else by making speeches." That is all there is of it.

Mr. EDMUNDS. We might have passed two or three pension bills while we have been listening to the sweet eloquence of the Senator from Illinois. Now he is desirous of taking a vote. I have not attempted or threatened to occupy any time on the measure which he has so much at heart—this statute; but the Senator from Illinois is desirous of taking a vote to see which of these two measures shall first be proceeded with. I propose to give him the opportunity, and on this motion to proceed with the pension bills I ask for the yeas and nays.

Mr. CONNESS. All right; let us have the yeas and nays, and I hope that the Senators, if they fail in this vote, will allow us to go on and do business.

The PRESIDENT *pro tempore*. It is moved to postpone the present and all prior orders and proceed to the consideration of the pension bills named by the Senator from Indiana, and on this question the yeas and nays are demanded.

Mr. POMEROY. He did not name any particular bills.

The yeas and nays were ordered.

Mr. CONNESS. As this is to be regarded as a test vote, I hope the resolution will not be postponed.

The question being taken by yeas and nays, resulted—yeas 19, nays 18, as follows:

YEAS—Messrs. Buckalew, Clark, Edmunds, Fessenden, Guthrie, Harris, Henderson, Howard, Johnson, Kirkwood, Lane, Morgan, Riddle, Sherman, Sprague, Sumner, Van Winkle, Willey, and Wilson—19.

NAYS—Messrs. Chandler, Conness, Cowan, Creswell, Davis, Doolittle, Foster, Fowler, Howe, Nesmith, Norton, Nye, Poland, Pomeroy, Ross, Stewart, Trumbull, and Williams—18.

ABSENT—Messrs. Anthony, Brown, Cragin, Dixon, Grimes, Hendricks, McDougall, Morrill, Ramsey, Saulsbury, Wade, Wright, and Yates—13.

So the motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 597) to authorize the use in post offices of weights of the denomination of grams;

A bill (H. R. No. 759) to authorize the refunding of certain taxes;

A bill (H. R. No. 809) to further regulate the printing of public documents, and the purchase of paper for the public printing;

A bill (H. R. No. 810) amendatory of section thirteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865;

A bill (H. R. No. 814) for the relief of the sufferers by the late fire at Portland; and

A joint resolution (H. R. No. 140) to enable the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system.

#### CAIRO AND FULTON RAILROAD.

Mr. POMEROY. Before proceeding with the pension bills, I desire to call up the amendments of the House of Representatives to a Senate bill which now lies on the desk, with a view of concurring in those amendments.

There being no objection, the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 223) to extend the provisions of an act granting the right of way, and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth

of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes.

The Secretary read the amendments, as follows:

Add to section one:  
*Provided*, That all mineral lands within the limits of this grant and the grant made in section two of this act are hereby reserved to the United States: *And provided further*, That all property and troops of the United States shall at all times be transported over said railroad and branches at the cost, charge, and expense of the company or corporation owning or operating said road and branches, respectively, when so required by the Government of the United States.

In section two, line eight, strike out the words "selected" and "ten" and insert in lieu thereof the words "granted" and "five."

In the same section, line fifteen, page 2, strike out all after the word "railroad" to the end of the section and insert the following:

*And provided further*, That the lands embraced in the grant, and the grant revived by section one of this act, shall be disposed of only as follows: whenever proof shall be furnished satisfactory to the Secretary of the Interior that any section of ten consecutive miles of said road and branches is completed in a good, substantial, and workmanlike manner as a first-class railroad, the said Secretary of the Interior shall issue patents for all the lands granted as aforesaid, not exceeding ten sections per mile situate opposite to and within the limits of twenty miles of the section of said road and branches thus completed; and when like proof shall be furnished that another section of ten miles of said road in said States or of the said branches, respectively, connecting with the preceding section, is completed, as aforesaid, the Secretary of the Interior shall issue patents in like manner as in case of the first completed sections; and so on from time to time until the whole is completed as herein provided, when the Secretary of the Interior shall issue patents for all the remaining lands herein granted, not exceeding the aggregate amount provided for, and located as required by sections one and two of this act: *And provided further*, That if one section of twenty miles of each of said railroads and branches shall not be fully constructed and completed as a first-class railroad within three years from the time this act becomes a law, and at least one section of twenty miles on each of said roads and branches in each year thereafter, and the whole of said roads and branches within ten years from the time this act shall take effect, then, in either of said cases, all the lands granted or the grant of which is revived or extended by this act, and which at the time shall be unpatented to or for the benefit of the road or company making or suffering such failure, shall revert to the United States.

Add at the end of section three, the following:  
*Provided further*, That the provisions of this act, so far as the same relate to the Memphis and Little Rock, and the Little Rock and Fort Smith branches of said road shall not take effect until the Secretary of the Interior shall make and file a certificate in his office and the office of the secretary of state of Arkansas, stating that the companies or corporations claiming the benefit of this act in behalf of said branches have reorganized their boards of directors in a lawful manner, and after such reorganization that they have respectively rescinded all acts, resolutions, or other proceedings transferring the lands, rights, or privileges of such corporations or companies to any convention, State, or authority recognizing, acting in concert with, or under the authority of the late so-called confederate States of America.

The amendments were concurred in.

#### BUSINESS OF THE JUDICIARY COMMITTEE.

Mr. TRUMBULL. Before going on with the pension bills, I will ask the permission of the Senate to give me about fifteen minutes of its time to get rid of some bills belonging to the Committee on the Judiciary. I hope the Senate will allow me to do that. They are all House bills. I have had no opportunity to report them. If the Senator from Indiana will allow me to go on now, I will give way in fifteen minutes.

Mr. LANE. I have but a very few pension bills that I want to pass now, and I cannot give way to anything else.

Mr. TRUMBULL. The Senator has got the floor; and as he will not yield I trust that I shall be able to bring up these bills after he has concluded.

#### WARD B. BURNETT.

Mr. LANE. I move that the Senate proceed to the consideration of the bill for the relief of Ward B. Burnett, which is accompanied by a report.

The motion was agreed to; and the bill (S. No. 418) for the relief of Ward B. Burnett was read the second time and considered as in Committee of the Whole. It directs that there be paid to Ward B. Burnett the sum of \$540,

being the balance of pension to which he was entitled, at the rate of fifteen dollars per month, from the 4th of March, 1863, to the 4th of March, 1866, and which was improperly retained from him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### FRANCIS COLGEN.

Mr. LANE. I move that the Senate proceed to the consideration of House bill No. 794.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 794) for the relief of Francis Colgen. The Secretary of the Interior is directed by the bill to place the name of Francis Colgen, late a private in company B, twelfth regiment Wisconsin volunteers, upon the pension-rolls of the United States, at the same rate that is allowed to soldiers or seamen who have lost the sight of both eyes in the military or naval service of the United States, subject to the biennial examination prescribed in the general pension laws, to commence on the 15th of January, 1863, the date of his discharge from the service.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MARION M. BUXTON.

Mr. LANE. I move that the Senate proceed to the consideration of the bill (H. R. No. 800) for the relief of Marion M. Buxton.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to direct the Secretary of the Interior to place the name of Marion M. Buxton, widow of James H. Buxton, late an ensign in the United States Navy, on the pension-rolls, at the rate prescribed by law for officers of his rank; the pension to be paid out of the naval pension fund. In case of her death or remarriage the pension is to go to the minor child or children of James H. Buxton, subject to the limitations and restrictions of the pension laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DANIEL LUCAS.

Mr. LANE. I move that the Senate proceed to the consideration of House bill No. 797.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 797) granting a pension to Daniel Lucas. The Secretary of the Interior is directed by the bill to place the name of Daniel Lucas, of Plymouth, Massachusetts, formerly a private of company E, third United States infantry, on the roll of invalid pensions, and pay to him monthly such a sum as he may be entitled to under the limitations and restrictions regulating the payment of pensions.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### QUINCY A. MAY.

Mr. LANE. I move that the Senate proceed to the consideration of the bill (H. R. No. 798) for the relief of Quincy A. May.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Interior to place the name of Quincy A. May, of company H, eighty-third regiment of Illinois volunteers, on the list of pensioners, and pay or cause to be paid to him the sum of eight dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WILLIAM CROSWELL.

On motion of Mr. LANE, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 354) for the relief of William Croswell.

The amendment was to add at the end of the bill the words, "to be paid out of the naval pension fund."

Mr. LANE. I move that the Senate concur in that amendment.

The motion was agreed to.

• CHARLES M. POTT.

Mr. VAN WINKLE. There is one more pension bill. I move that the Senate proceed to the consideration of House joint resolution No. 194.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars per month. It directs the Secretary of the Interior to pay or cause to be paid to Charles M. Pott, late of company K, one hundred and seventy-ninth Pennsylvania militia, now on the pension-roll, the same pension provided for persons having lost one hand in the military service of the United States, as provided in section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the time, and passed.

#### INDIAN RELATIONS.

Mr. DOOLITTLE. The Committee on Indian Affairs have directed me to report a resolution, and as it will take but a moment to explain it, I ask that it be put on its passage at the present time.

Mr. TRUMBULL. I object.

Mr. DOOLITTLE. I hope the Senator from Illinois will not object. He cannot understand the object of the resolution.

Mr. TRUMBULL. I shall object. I have stood here day after day and have not been able to make a report from the Committee on the Judiciary during the whole of this week.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks leave to make a report. He reports a resolution from the Committee on Indian Affairs, and asks its present consideration. Objection being made the resolution lies over.

#### COLONEL H. C. DE AHNA.

Mr. SPRAGUE. I move that the Senate proceed to the consideration of House joint resolution No. 150.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 150) to provide for payment of the claim of Colonel H. C. De Ahna for military services.

Mr. HOWARD. I believe this resolution has been before the Committee on Military Affairs, but I am not very well acquainted with it, and I beg to inquire of the honorable Senator from Rhode Island what the grounds of this claim are.

Mr. SPRAGUE. Simply that this officer has been in the service of the United States and has never been mustered out and has not received the pay to which he was entitled. He has exercised all the duties and responsibilities of a soldier; and this is a compromise with him in relation to the amount that he shall receive; for really, as the case stands, if he is not paid the year's salary that is proposed by this resolution, the Government might be liable to pay him up to the present moment, although he has really been in the service of the United States for some time.

Mr. HOWARD. What was his rank?

Mr. SPRAGUE. A colonel of infantry. He was regularly in the service and received pay as such and was under orders as such.

Mr. HOWARD. Where was he mustered in?

Mr. SPRAGUE. His services were in the western country, in St. Louis and elsewhere.

Mr. HOWARD. I do not profess to know much about the merits of this case; but I had rather formed an opinion that there was no great merit in the claim, and I shall therefore vote against it.

Mr. HENDERSON. I have no objection to the latter part of the resolution, which proposes to muster this person out of the service of the United States. I never knew he was in the service. I should like to inquire of the Senator from Rhode Island how it was that this gentleman, if he was properly and regularly mustered into the service, did not draw his pay, or if he did not draw it, how is it that he does not now draw it without an act of Congress? If there is any defect in the muster, as is sometimes the case, the party who is improperly mustered in will be refused his pay by the paymaster; but I do not understand from the Senator that that is the case here. Hence I should like to know upon what ground it is based. Is it an imperfect muster in, or in what manner does it arise?

Mr. SPRAGUE. It is a very long story. The committee of the House have published a report of eight or ten pages in relation to this case. It is simply this: Colonel De Ahna was sent to the Western department, commanded at that time by General Frémont, with a view of organizing a regiment, under a commission from Governor Morton, of the State of Indiana. He exercised those duties and received his pay for a year; but in consequence of some disobedience or supposed disobedience of orders and troubles growing out of his connection with that department, he was tried by a court-martial and sentenced to be dismissed from the service. He appealed from that decision to the General-in-Chief, then General Scott, at the War Department. That sentence was reversed, and he was ordered to report to the Western department and to be assigned to the position from which he had been removed. On his arrival at the department of the West he was informed that the name of his regiment had been changed and he could not be assigned to his command. He then returned to the Department at Washington and received an order to report and to be assigned to the regiment, however it was named, or whoever was in command of it. On his reporting again to the Western department he was informed that that regiment had been mustered out of the service. He then requested permission to report himself to Washington to be assigned to active service. The President of the United States then nominated him for the position of brigadier general in the Army; but in consequence of there being already in service many brigadiers over and above the number provided by law, he was, with a large number of others, dropped, or the Senate refused to confirm him. In both cases the Senate refused to confirm him because of the action of the military department of the West. I have examined this case myself. I was somewhat of the same opinion with the Senator from Michigan for some time; but the more I have investigated it, the more I am convinced of the policy and propriety of the claim being allowed.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MRS. MARY PHELPS.

Mr. NESMITH. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri, to report it back without amendment, and to ask for its present consideration.

Mr. TRUMBULL. I object.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered at the present time.

Mr. TRUMBULL. Am I entitled to the floor?

Mr. WILSON. Let us have that resolution read so that we may know what it is.

Mr. TRUMBULL. I object to it, no matter what it is. I shall object to all business out of order until I can get a vote of the Senate to know whether an opportunity will be afforded to the committee of which I am the chairman to make a report of its business and to bring some bills before the Senate. I make the motion that fifteen minutes be assigned to the Com-

mittee on the Judiciary, commencing at nine o'clock, to dispose of its business, and I wish to get a vote upon it. If the Senate shall vote it down, I shall have discharged my duty.

Mr. NESMITH. Will the Senator from Illinois permit me to state a fact to him in regard to this resolution?

Mr. TRUMBULL. If I give way now I might be unable to get the floor again.

The PRESIDENT *pro tempore*. The Senator from Illinois declines to give way, and is entitled to the floor and must not be interrupted.

#### BUSINESS OF JUDICIARY COMMITTEE.

Mr. TRUMBULL. I move that fifteen minutes be allowed to the Committee on the Judiciary, commencing at nine o'clock. I have been unable to obtain the floor to make a report from my committee for a week. I can only get the floor in opposition to something else, or to object. Now, having the floor, I wish the Senate to decide whether they will consider those bills. It is wholly immaterial to me. They are bills of public importance; they are House bills; and they ought to be passed. If the Senate will allow me fifteen minutes, commencing at nine o'clock—

Mr. JOHNSON. Make the motion, and I have no doubt the Senate will agree to it.

Mr. TRUMBULL. I make that motion, that fifteen minutes, commencing at nine o'clock, be allowed to the Committee on the Judiciary to make reports and dispose of the business of the committee.

The motion was agreed to.

#### MRS. MARY PHELPS.

Mr. NESMITH. I now ask that the Senate proceed to consider the resolution which I reported a moment since from the Committee on Military Affairs. I do not think it will occupy five minutes.

Mr. TRUMBULL. I have no objection to that. My objection before was merely to give me an opportunity to dispose of the business of my committee.

Mr. NESMITH. I now call up the joint resolution that I have named.

The PRESIDENT *pro tempore*. It requires unanimous consent of the Senate to consider it at this time.

There being no objection, the joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri, was considered as in Committee of the Whole. It directs that there be paid to Mrs. Mary Phelps, of Missouri, the sum of \$20,000, to reimburse her for expenditures made by her in raising and equipping troops for the United States in the late rebellion, and also for her expenditures made in behalf of the soldiers of the Union wounded in battle and of the orphan children of soldiers of the Union.

Mr. NESMITH. I am admonished that I have but five minutes prior to the time we are to commence on the business of the Committee on the Judiciary in which to state the facts connected with this case. I will state them as briefly as possible. Mrs. Mary Phelps is the wife of John S. Phelps, residing in southwestern Missouri, near Springfield. She was the guardian angel who took care of the wounded and the dead who were killed in the battle of Wilson's Creek. She not only recovered and buried the body of General Lyon, but buried the bodies of others who fell in that terrible conflict. She took care of the wounded soldiers at her own expense and expended her own fortune in that charitable work. She gathered up the orphan children of the soldiers of southwestern Missouri who fell in that terrible conflict. She has expended every dollar that she has been able to raise in support of these wards of the Government. She has now fifty of them on her hands. She has spent a greater amount of money in support of the children and in the expenses of attending to the sick and wounded soldiers who were the survivors of that battle than she now asks of this Congress; and I appeal to the magnanimity, the generosity, the sense of justice of every mem-

ber of the Senate to make this slight appropriation to reimburse her. I will not occupy the time of the Senate in reading the immense mass of testimony which I have on this subject and the great number of letters and petitions of Union soldiers and officers in favor of it.

Mr. JOHNSON. Have you examined it?

Mr. NESMITH. I have examined the papers very fully.

The resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 138) to increase and fix the military peace establishment of the United States, had further insisted upon its disagreement to the amendments of the Senate to the amendments of the House of Representatives to the said bill, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN F. FARNSWORTH of Illinois, Mr. NELSON TAYLOR of New York, and Mr. F. E. WOODBRIDGE of Vermont, managers at the same on its part.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN A. KASSON of Iowa, Mr. SAMUEL J. RANDALL of Pennsylvania, and Mr. HENRY J. RAYMOND of New York, managers at the same on its part.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 632) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York; and

A bill (H. R. No. 815) supplemental to the act to appropriate money for postal services.

CHIPPWEAS, OTTAWAS, AND POTTAWATOMIES.

Mr. WADE. I move that the Senate proceed to the consideration of House joint resolution No. 197.

Mr. DOOLITTLE. The Senator from Illinois having charge of matters from the Judiciary Committee thought it was his duty to object when I moved the consideration of a certain joint resolution some time ago; but as the Senate has fixed a time for his business so that he is satisfied he can have the floor, he is willing to waive his objection and let that resolution come up now. I will simply state that it is to settle a long controversy upon terms that have been agreed upon between the Indians in Michigan and the Indians in Kansas; it is to pay from the funds of the Pottawatomie Indians \$39,000 to the Indians in Michigan. The reading of the resolution will show exactly what it is.

Mr. CHANDLER. I hope the resolution referred to by the Senator from Wisconsin will be allowed to pass. I have had the question on my hands for ten years, and I hope it will be settled.

Mr. DOOLITTLE. This resolution settles a long and troublesome controversy.

Mr. WADE. I withdraw my motion and hope gentlemen will be generous enough to give me the floor afterward.

Mr. DOOLITTLE. I move to take up House joint resolution No. 199.

Mr. CHANDLER. We can pass it in a minute.

The PRESIDENT *pro tempore*. The joint resolution having been reported to-day, it requires unanimous consent to consider it at this time.

By unanimous consent, the joint resolution (H. R. No. 199) for the relief of certain Chippewa, Ottawa, and Pottawatomie Indians, was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians of Michigan, in pursuance of an agreement and compromise made with the Pottawatomie nation of Indians, so named and designated by the treaty of 1846 with the United States, the sum of \$39,000, in full of all claims in favor of the Michigan Indians, either against the United States or that nation of Indians, past, present, or future, arising out of any treaty made with them or any band or confederation thereof, and the annuity now paid to them is to be restored and paid to the nation for the future. The \$39,000 is to be paid out of funds of the Indians, now held in trust by the United States for the nation, drawing interest at the rate of five per cent. The payment is to be made *per capita* direct to heads of families, adults, and guardians of minors, as is now required by law in reference to annuities, by the proper agent of the Government.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### JUDICIARY COMMITTEE BUSINESS.

Several SENATORS addressed the Chair.

The PRESIDENT *pro tempore*. The time having arrived when by a vote of the Senate fifteen minutes are to be devoted to business of the Committee on the Judiciary, the Chair recognizes the Senator from Illinois.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a bill (H. R. No. 643) to alter the place for holding the circuit court of the United States for the Rhode Island district, have instructed me to report it back and recommend its passage.

The PRESIDENT *pro tempore*. The bill will go upon the Calendar.

#### SUBSISTENCE CLAIMS IN TENNESSEE.

Mr. TRUMBULL. I am directed by the same committee, to whom was referred the joint resolution (H. R. No. 195) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of Tennessee, to report it back and recommend its passage; and I ask that it be considered at this time.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CIRCUIT COURT COMMISSIONERS.

Mr. TRUMBULL. The same committee, to whom was referred the bill (H. R. No. 32) to extend the jurisdiction of commissioners of the circuit courts of the United States, have instructed me to report it back with a recommendation that it pass. I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole. It provides that the commissioners who now are, or hereafter may be, appointed by the circuit courts of the United States to take acknowledgments of bail and affidavits, and also to take depositions in civil causes, shall and may exercise all the powers that any justice of the peace may exercise under and in virtue of the seventh section of the act passed the 20th of July, 1790, entitled "An act for the government and regulation of seamen in the merchant service."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### COURT AT ERIE.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania. Besides the terms of the district court of the United States directed by law to be held at Pittsburgh and at

Williamsport, for the western district of Pennsylvania, the judge of the western district is to hold two terms in every year at the city of Erie, which shall commence the first Monday of July and January in each and every year, beginning in the July or January which shall first immediately follow the passage of the act, and to be continued and adjourned from time to time, as the court may deem expedient, for the dispatch of business. In addition to the compensation allowed by law to the judge, he is to be paid the sum of \$300 for his additional expenses and services.

The Committee on the Judiciary proposed to amend the bill by striking out the words "and that in addition to the compensation allowed by law to the said judge he shall be paid the sum of \$300 for his additional expenses and services."

Mr. COWAN. I hope that amendment will not be agreed to. I think the compensation of \$300 to the judge for holding that additional court ought to be allowed. He has to travel a hundred miles to do it, and it is certainly a very meagre allowance. I think there is nothing improper in allowing him the \$300 additional.

Mr. TRUMBULL. The judge undoubtedly ought to be paid \$300 more salary than he is, but it would be an innovation to introduce this mode of paying him. We do not pay the other judges for traveling. Besides, the committee have reported a bill increasing the salaries of all the judges, and we had better leave this question to be settled on that bill. I think we had better not introduce the system of paying judges mileage or traveling expenses. I agree that this judge ought to have additional pay, whether he goes to Erie or not. I think the Senator had better acquiesce in the report of the committee and let us pass the bill in that shape.

Mr. COWAN. I am sensible of the mischief to which the honorable Senator alludes; but I think the only way of avoiding a greater is to allow, at least until the salary is raised, this amount for the additional expense this bill involves.

Mr. TRUMBULL. You had better let it go.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

#### WRIT OF HABEAS CORPUS.

Mr. TRUMBULL. I am directed by the Committee on the Judiciary to report back House bill No. 605, and to ask for its present consideration.

By unanimous consent, the bill (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789, was considered as in Committee of the Whole. It provides that the several courts of the United States, and the several justices and judges of such courts, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States. The person so restrained of his or her liberty may apply to either of the United States justices or judges for a writ of *habeas corpus*, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the justice or judge to whom the application shall be made shall forthwith award a writ of *habeas corpus*, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the Constitution or laws of the United States. The writ shall be directed to the person in whose custody the party is detained, who shall make return of the writ and bring the party before the judge who granted it, and certify the true



cause of the detention of such person within three days thereafter, unless such person be detained beyond the distance of twenty miles, and if beyond the distance of twenty miles and not above one hundred miles, then within ten days, and if beyond the distance of one hundred miles, then within twenty days. Upon the return of the writ of *habeas corpus* a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning shall request a longer time. The petitioner may deny any of the material facts set forth in the return, or may allege any fact to show that the detention is in contravention of the Constitution or laws of the United States, which allegations or denials are to be made on oath. The return may be amended by leave of the court or judge before or after it is filed, as also may all suggestions made against it, that thereby the material facts may be ascertained. The court or judge is to proceed in a summary way to determine the facts of the case, by hearing testimony and the arguments of the parties interested; and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the Constitution or laws of the United States, he or she shall forthwith be discharged and set at liberty. If any person or persons to whom the writ may be directed shall refuse to obey it, or shall neglect or refuse to make return, or shall make a false return thereto, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall, on conviction before any court of competent jurisdiction, be punished by fine not exceeding \$1,000, and by imprisonment not exceeding one year, or by either, according to the nature and aggravation of the case. From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which the cause is heard, and from the judgment of the circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus* return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default of such, as the judge hearing the cause may prescribe; and pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against such person so alleged to be restrained of his or her liberty in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus*, shall be deemed null and void.

A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision is against their validity, or where is drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity, or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of or commission held or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, may be reexamined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regula-

tions, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution, or remand the same to an inferior court.

This act is not to apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to its passage.

Mr. DAVIS. This is a very important bill; and it is a very late hour of the session to pass it. From the reading of it at the Clerk's table, I observe some provisions in it which I think very doubtful policy; and it may lead to injustice. As I gather the contents of the bill as it was read, there is a provision to prevent a person that has been discharged by a United States court upon a writ of *habeas corpus* from being taken again by the authority of the State courts or State laws; and the latter part of the bill suspends its operation against persons held by the military authorities of the United States, if I gathered the meaning of it aright. Now, sir, I believe that where a party has made his petition for a writ of *habeas corpus* and has been discharged in pursuance of the provisions of the *habeas corpus* act there is very greatly more danger of oppression by rearrest by the military authorities of the country than by the authorities of the States. I am not satisfied that the provisions against rearrest by the State authorities are not altogether too stringent; and I have no belief whatever that such immunity as is given to the military authorities by that bill from having persons taken under military arrest delivered from their custody, and their aggression by a writ of *habeas corpus*, is not altogether to that extent subversive of the constitutional liberties of the citizen.

I am sorry that I did not know the contents of this bill before by general consent and acquiescence it was agreed by the Senate to be taken up. I never would have given my sanction to such a hurried consideration of a measure so important and that is to bear so vitally upon the rights and the liberties of the people. From the way that the bill set out in its first section I had believed and hoped that it was a wise, liberal, and just provision to secure to the people of the United States their constitutional rights and liberties, but I am not satisfied that it was not an ingenious device for the purpose of making further and more effectual and grievous encroachments upon those rights and liberties. I do hope that the Senate will not pass the bill without giving further time and opportunity for its consideration. I therefore move that the bill be postponed until the first day of the next session of Congress.

Mr. TRUMBULL. It is difficult to reply to the Senator from Kentucky, because I do not know that he makes any specific objection to any particular provision of the bill. It is a House bill; it was not prepared in the Senate; we considered the bill, and I am sorry that the Senator from Maryland [Mr. JOHNSON] is not here; he examined it in committee, and is in favor of its passage. The last clause of the bill which is so obnoxious to the Senator from Kentucky, I think, is not objectionable. I will read that last clause again:

This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense.

Of course it would not do to take out of the control of the military the strictly military cases, whether in time of war or peace. It would not do to take a man liable to trial by court-martial away from that jurisdiction by a *habeas corpus*. That is all that is meant by this; and I supposed there could be no objection to that on the part of the Senator from Kentucky. His objection probably is that the military have been usurping authority that

does not belong to them. I suppose that is likely the objection he would have; but this is a bill of a general character and applying to persons held in custody of the military authorities charged with a military offense.

Mr. NESMITH. Would that provision apply to any person except those in the military service?

Mr. TRUMBULL. That is all.

Mr. DAVIS. I should have no objection to it if that was the construction.

Mr. TRUMBULL. The provision is:

This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to the passage of this act.

It was not intended to interfere with any of those cases, such as that of Davis held in military custody now. The object of this bill is not to interfere at all with any existing condition of persons held in confinement in consequence of the rebellion.

Mr. NESMITH. Is there any objection to an amendment expressly limiting it?

Mr. TRUMBULL. I should have no objection; but I will state to the Senator from Kentucky, which he is probably aware of, that the *habeas corpus* act of 1789, to which this bill is an amendment, confines the jurisdiction of the United States courts in issuing writs of *habeas corpus* to persons who are held under United States laws. Now, a person might be held under a State law in violation of the Constitution and laws of the United States, and he ought to have in such a case the benefit of the writ, and we agree that he ought to have recourse to United States courts to show that he was illegally imprisoned in violation of the Constitution or laws of the United States.

I did not think there would be any objection to the bill. I received a note from one of the members of the Judiciary Committee of the House of Representatives requesting me to have the bill acted upon. It was examined by the members of the Judiciary Committee of the Senate. You will find it on your files. It is House bill No. 605. I do not think there is any just objection to it. I certainly should not wish to have it passed if there was. I think we examined it with sufficient care to have detected anything improper in it. It is a bill in aid of the rights of the people.

Mr. COWAN. I should like to ask the Senator whether the second section is drawn on the same principle as the twenty-fifth section of the judiciary act of 1789.

Mr. TRUMBULL. It is a little broader than the judiciary act. It is of a similar character.

Mr. COWAN. I am afraid that it is rather too broad. I refer to the clause giving the Supreme Court jurisdiction over "a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity, or where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of such their validity."

Mr. TRUMBULL. I submit to the Senator from Pennsylvania whether, if the decision was against a right claimed under a treaty or statute or authority exercised under the Government of the United States, it would not be proper that that matter should go to the Supreme Court of the United States.

Mr. COWAN. As the law now stands, I think it is right. If you make it broader you open doors so that everybody can come into the Supreme Court. That is why I asked the question. The language of the old act is right because that has had a construction, and I think it opens the door wide enough.

Mr. DAVIS. If I understand the bill according to its letter, it is simply to legalize the course that has been pursued by the military authorities during the late war, and that has

been to denominate anything a "military offense" which they chose to give that name to.

Mr. President, according to my reading of the Constitution a civilian cannot commit a military offense at all, and a civilian cannot be subjected to trial by any military tribunal without a flagrant and most dangerous infraction upon the Constitution. Now, Mr. President, according to the verbiage of this act anything which may be called a military offense is so to be treated by the courts that are authorized to issue writs of *habeas corpus*.

Mr. TRUMBULL. If the Senator from Kentucky will give way, I will say that if there is any sort of opposition to this bill I shall not press it now. I think it is a bill required by the public service; but if he is apprehensive that there is anything wrong in the bill, I will not press it to a vote this evening. I suppose it would be for the court to decide whether it was a military offense or not. I suppose that would be a judicial question.

Mr. DAVIS. I do not know that.

Mr. TRUMBULL. I apprehend there is nothing in any supposed objection of the Senator, but if he insists on his opposition let the bill go over.

Mr. DAVIS. I much prefer that that course should be taken.

Mr. TRUMBULL. I will not resist the motion. I do not want to take up the time of the Senate. The Senator moves that it be postponed.

Mr. DAVIS. I make the motion that it be postponed until December next.

Mr. HENDERSON. I rise to express the hope that the Senator from Illinois will permit the bill to lie over. It is an important measure, and we scarcely have time to consider a measure of this character now.

The motion to postpone until the next session was agreed to.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. Moore, his Secretary, announced that the President of the United States had approved and signed, on the 27th instant, the following bills and joint resolutions:

A bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast;

A bill (S. No. 214) to incorporate the General Hospital of the District of Columbia;

A bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin;

A joint resolution (S. R. No. 86) to provide for the publication of the Official History of the Rebellion; and

A joint resolution (S. R. No. 117) for the relief of Charles M. Blake.

#### MILITARY PEACE ESTABLISHMENT.

On motion of Mr. WILSON, the Senate proceeded to consider its amendment to the amendment of the House of Representatives to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, disagreed to by the House, and

On motion of Mr. WILSON, it was

*Resolved*, That the Senate further insist upon its amendments to the amendments of the House of Representatives to the said bill disagreed to by the House, and agree to the farther conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WILSON, Mr. HARRIS, and Mr. NESMITH.

#### DEFICIENCIES IN APPROPRIATIONS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, disagreed to by the House, and

On motion of Mr. FESSENDEN, it was

*Resolved*, That the Senate insist upon its amend-

ments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FESSENDEN, Mr. HENDERSON, and Mr. BUCKALEW.

#### HOUSE BILLS.

The PRESIDENT *pro tempore*. With the permission of the Senate the Chair will present two bills which are on the table, from the House of Representatives, for the purpose of reference.

The bill (H. R. No. 815) supplemental to the act to appropriate money for postal services was read twice by its title.

Mr. CONNESS. That bill need not be referred. I hope it will lie over for the present, subject to be called up.

The PRESIDENT *pro tempore*. That course will be pursued.

The bill (H. R. No. 632) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York, was read the first time by its title.

Mr. DAVIS. Is that bill regularly before the Senate?

The PRESIDENT *pro tempore*. It is regularly here; it comes from the House of Representatives.

Mr. DAVIS. Is it regularly before the Senate upon any question?

The PRESIDENT *pro tempore*. Only for formal reading; and it can have but one reading each day if there be objection.

Mr. CRESWELL. I object to the second reading of the bill.

The PRESIDENT *pro tempore*. The second reading of the bill is objected to; it is laid aside.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the second committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 780) to protect the revenue, and for other purposes, and had unanimously agreed to the change in the text of the bill as proposed by the committee.

#### STATUE OF ABRAHAM LINCOLN.

Mr. WADE. I move to take up the joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln.

Mr. SUMNER. I hope that will not be taken up.

Several SENATORS. Oh, let us vote.

Mr. SUMNER. Senators say, "Oh, let us vote." The question is about giving away \$10,000.

Mr. CONNESS. Taking it up is not giving money away, I hope.

Mr. SUMNER. The question is, I say, about giving away \$10,000; that is the proposition involved in this joint resolution.

Mr. CONNESS. For a statue.

Mr. SUMNER. The Senator says "for a statue"—an impossible statue, I say; one which cannot be made. However, I am not going to say anything on the merits now; that will come at another time if the resolution is taken up. I ask for the yeas and nays on the question of taking up.

The yeas and nays were ordered.

Mr. McDUGALL. I am somewhat surprised to hear the Senator from Massachusetts, who professes to be not merely an amateur but a connoisseur in art and an admirer of beautiful things and a person understanding them well, object to a proposition of this kind. Massachusetts has done much in the way of the encouragement of art in our country, and we are grateful to her for it. We are all informed that the person who makes this proposition to us is an artist; she has evinced her skill. Now, I say it is the business of a Government to

adorn and beautify its public halls, to commemorate its great public men. I have had occasion to observe that as regards this particular thing she has produced the only true representative of the man, I having been more conversant with him, perhaps, than any one on this floor, showing her superior skill in art and natural genius; and I think that the Senator from Massachusetts, coming from the Athens of this Republic, "the hub of the universe," should make no objection to this proposition.

The question being taken by yeas and nays, resulted—yeas 26, nays 8; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Conness, Cowan, Creswell, Doolittle, Foster, Guthrie, Howe, Johnson, Lane, McDougall, Nesmith, Norton, Nye, Poland, Pomeroy, Ross, Sprague, Stewart, Trumbull, Wade, Williams, Wilson, and Yates—26.

NAYS—Messrs. Davis, Edmunds, Henderson, Howard, Kirkwood, Morgan, Riddle, and Sumner—8.

ABSENT—Messrs. Brown, Clark, Cragin, Dixon, Fessenden, Fowler, Grimes, Harris, Hendricks, Morrill, Ramsey, Saulsbury, Sherman, Van Winkle, Willoy, and Wright—16.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln.

Mr. SUMNER. Some evenings ago, sir, I made an attempt to secure an appropriation of \$10,000 in behalf of worthy public servants in one of the Departments of this Government. In presenting that case it was my duty to exhibit something of their necessities. I showed you how this money was needed to enable them to meet the expenses of living, which, as we all know, have been constantly increasing, while the value of money has been decreasing. I showed you also that they had earned this money by the work they had done. After ample discussion, running over several evenings, the Senate chose to vote down that proposition and refused to appropriate \$10,000 to be distributed among public servants who, as I insisted, had earned it by faithful labor. In refusing it you acted on a sentiment of economy. It was urged that at this time the Treasury was so much drawn upon that we could not make or should not be justified in making any such appropriation, and that if it was made, then we should be obliged to make it in other cases, and there would be no end to the drain upon the Treasury. You all remember the argument on that occasion, and also the result. The proposition was voted down.

Now, sir, a proposition is brought forward to appropriate that identical sum of \$10,000 to be applied to the production of a work of art. I speak of it now in the most general way. If there was any assurance that the work in question could be worthy of so large a sum, if there was any reason to imagine that the favorite who is to be the beneficiary under this resolution, was really competent to execute such a work, still, at this time and under circumstances by which we are surrounded, I might well object to its passage simply on reasons of economy; surely this argument is not out of place. I present as my first objection to this proposition the consideration of economy. Do not, sir, wastefully, inconsiderately, heedlessly give away so large a sum of money. If you are in the mood of appropriation on this scale, select some of those public servants who have been discharging their laborious duties on an inadequate compensation, and bestow it upon them. Be just before you are generous. Do that rather than become at this hour patrons of art. I hope that I do not treat this question too gravely. You treated the proposition to augment the compensation of public servants in the State Department very gravely. I but follow your example.

But, sir, there is another aspect of this question to which you will pardon me if I allude. I enter upon it with great reluctance. I am unwilling to utter a word that would bear hard upon any one, least of all upon a youthful artist where sex imposes reserve, if not on her part, at least on mine; but when a proposition

like this is brought forward I am bound to meet it frankly.

Each Senator of course must act on his own judgment and the evidence before him. Each must be responsible to his own conscience for the vote that he gives. Now, sir, with the little knowledge that I have of such things, with the small opportunities that I have enjoyed of observing works of art, and with the moderate acquaintance that I have enjoyed with artists, I am bound to express my opinion that this candidate is not competent to produce the work which you propose to order. You might as well place her on the staff of General Grant, or put General Grant aside and place her on horseback in his stead. She cannot do it. She might as well contract to furnish an epic poem, or the draft of a bankrupt bill. I am pained to be constrained to say what I do, but when you press this to a vote you leave me no alternative. Admit that she may make a statue, she cannot make one that you will be justified in placing in this national Capitol. Promise is not performance, but what she has done thus far comes under the first head rather than the latter. Surely this edifice, so beautiful and interesting, should not be opened to the experiments of untried talent. Only the finished artists should be invited to its ornamentation.

Sir, I doubt if you consider enough the character of this edifice in which we are now assembled. Possessing the advantage of an incomparable situation, it is one of the first-class structures in the world. Surrounded by an amphitheater of hill, with the Potomac at its feet, it resembles the capitol in Rome, surrounded by the Alban hills, with the Tiber at its feet. But the situation is grander than that of the Roman capitol. The edifice itself is worthy of the situation. It has beauty of form and sublimity in proportions, even if it lacks originality in conception. In itself it is a work of art. It ought not to receive in the way of ornamentation anything which is not a work of art. Unhappily this rule has not always prevailed, or there would not be so few pictures and marbles about us worthy of the place they occupy. But bad pictures and ordinary marbles should warn us against adding to their number.

Pardon me if I call your attention for one moment to the few works of art in the Capitol which we might care to preserve. Beginning with the Vice President's room, which is nearest to us, we find an excellent and finished portrait of Washington by Peale. This is much less known than the familiar portrait by Stuart, but it is well worthy to be cherished. I never enter the room where it is without feeling its presence. Traversing the corridors, we find ourselves in the spacious Rotunda, where are four pictures by Trumbull, truly historic in character, in which the great scenes they portray live again before us. These pictures have a merit of their own which will always justify for them the place they now occupy. Mr. Randolph, with an ignorant levity, once characterized that which represents the signing of the Declaration of Independence as a "shin-piece." He should have known that there is probably no picture, having so many portraits, less obnoxious to such a gibe. If these pictures do not belong to the highest forms of art, they can never fail to be regarded with interest by the patriot citizen, if not by the artist. There is one other picture in the Rotunda which is not without merit; I refer to the Landing of the Pilgrims by Weir, where there is a certain beauty of color and a religious sentiment; but this picture has always seemed to me too exaggerated to be natural. Passing from the Rotunda to the Hall of the House of Representatives we stand before a picture, which, as a work of art, is perhaps the choicest of all in the Capitol. It is the portrait of La Fayette, by that consummate artist, who was one of the glories of France, Ary Scheffer. He sympathized with our institutions; and this portrait of the early friend of our country was a present from the artist to the people of the United States. Few who look at it by the side of the

Speaker's chair are aware that it is the production of the rare genius which gave to art the *Christus Consolator* and the *Francesca da Rimini*.

If we turn from painting to sculpture, we shall find further reason for caution. The lesson is taught especially by that work of the Italian Persico in the front of the Capitol, called by him Columbus, who is represented with a globe in his hand, but sometimes called by others, "a man rolling nine-pins." Near to this is a remarkable group by Greenough, where the early settler is struggling with the savage, while opposite in the yard is the statue of Washington by the same artist, which has found little favor because it is nude, but which shows a great mastery of art. There also are the works of Crawford—the alto-relievo which fills the pediment over the great door of the Senate Chamber, and the statue of Liberty which looks down from the top of the dome—attesting a genius that must always command admiration. There are other statues in the building by a living artist. Then there are the bronze doors by Rogers, on which he labored long and well. They belong to a class of which there are only a few specimens in the world, and I have sometimes thought they might vie with those famous doors at Florence, which Michael Angelo said were worthy to be the doors of Paradise. Our artist has represented the whole life of Columbus in bronze, while the portraits of contemporary princes, and of the authors who have illustrated the life of the great discoverer add to the completeness of this work of art.

Now, sir, the doors of this Capitol are to open again for the reception of a work of art. It is to be a statue of our martyred President. He deserves a statue, and it should be here in Washington. But you cannot expect to have even of him more than one statue here in Washington. Such a repetition or reduplication would be out of place. It would be too much. There is one statue of Washington. There is also a statue of Jefferson. I refer to the bronze statue in front of the Executive Mansion by the French sculptor David. There is also one statue of Jackson. It is now proposed to add a statue of Lincoln. I suppose you do not contemplate two statues or three statues, but only one statue. Who now shall make that statue which shall find a place in the national Capitol? Surely whoever undertakes that work must be of ripe genius, with ample knowledge of art and of unquestioned capacity—the whole informed and inspired by a prevailing sympathy with the subject and the cause for which he lived and died. Are you satisfied that this youthful candidate, without ripeness of genius or ample knowledge of art or unquestioned capacity, and not so situated as to feel the inspiration of his life and character, should receive this remarkable trust? She has never made a statue in her life. Shall she experiment on the historic dead and place her experiment under this dome? I am unwilling. When the statue of that beloved President is set up here, where we shall look upon it daily, I wish it to be a work of art in truth and reality, where the living features shall be preserved animated by the living soul, so that we shall all hail it as the man immortal by his life, now doubly immortal through art. Anything short of this, even if it finds a transient resting-place here, will be removed whenever a correct taste asserts its just prerogatives.

Therefore, sir, for the sake of economy, that you may not heedlessly lavish the national treasure; for the sake of this Capitol, itself a work of art, that it may not have anything in the way of ornamental which is not a work of art; for the sake of our martyred President, whose statue should be by a finished artist; and for the sake of art throughout the whole country, that we may not set a bad example, I ask you not to pass this resolution. When I speak for art generally I open a tempting theme, but I forbear. Suffice it to say that art throughout the whole country must suffer if Congress crowns with its patronage anything which is not truly artistic. By such patronage

you will discourage where you ought to encourage.

Mr. President, I make these remarks with sincere reluctance. I am pained to feel obliged to make them, but such an appropriation as this, engineered so vigorously, and having in its support such a concerted strength, must be met plainly and directly. Do not condemn the frankness which you compel. If you wish to bestow a charity or a gift, do it openly, without pretense of any patronage of art or homage to a deceased President. Bring forward your resolution appropriating \$10,000 to this youthful candidate. This I can deal with. I can listen to your argument for charity, and I can assure you that I shall never be insensible to it. But when you propose to pay this large sum for a work of art to be placed in the national Capitol in memory of the illustrious dead, I am obliged to consider the character of the artist you select. I wish it were otherwise, but I cannot help it.

Mr. NESMITH. Mr. President, if this was a mere matter of research I should be very much inclined to defer to the judgment of the Senator from Massachusetts, but as it is not, and as it requires no great learning, no particular devotion to reading to discover what is an exact imitation of nature, I claim that my judgment on such a subject is as good as his own. My mind has never been perverted by the extensive reading which the Senator from Massachusetts has had, or by that vast amount of lore in which he is so accomplished, but I claim to be equally as good a judge as he is of any mere matter of art which is an imitation of a natural object.

The first objection that the Senator from Massachusetts presented to this appropriation was on the ground of economy. Sir, it is the first time I ever knew that Senator seized with a costiveness of economy. [Laughter.] It was only last night that we listened to his long diatribes here when four different times he called for the yeas and nays upon excessive appropriations to those who are already overpaid, and now he talks about the squandering of the public funds. Sir, there are no public servants in this country but those who are already overpaid, and he objects to this young artist—this young scion of the West, from the same land from which Lincoln came—a young person who manifests intuitive genius, and who is able to copy the works of nature without having perused the immense tomes and the grand volumes of which the Senator may boast—a person who was born and raised in the wilds of the West, and who is able to copy its great works.

Sir, the Senator might have raised the same objection to Mr. Lincoln, that he was not qualified for the Presidency because his reading had not been as extensive as that of the Senator, or because he had lived among rude and uncultivated society. I claim for this young lady, sprung from a poor family, struggling with misfortune and adversity, that she has developed such natural genius that her talents in this direction should be fostered and cultivated in preference to our giving this work to any foreigner. The Senator from Massachusetts has pandered so long to European aristocracy that he cannot speak of anything that originates in America with common respect. He even refers to our bronze doors which were cast in Munich, and to everything else of foreign production, and he gives no credit to native genius. What did he not speak of Powers? Why did he not speak of our great American artists? Why is he constantly referring us to Europe?

If this young lady and the works which she has produced had been brought to his notice by some near-sighted, frog-eating Frenchman, with a pair of green spectacles on his nose, the Senator would have said that she was deserving of commendation. If she could have spoken three or four different languages that nobody else could have understood, or, perhaps, that neither she nor the Senator could understand, he would vote her \$50,000. [Laughter.] He is a great patron of art, but not a patron of domestic



art. He is a patron of foreign art; he is a patron of those who copy and ape European aristocracy, and he does not propose to patronize or encourage the genius which grows up in our own great country, particularly in the wilds of the West.

Here is a young girl of poor parentage, struggling with misfortune, her father a mere clerk in a Department here; and by a casualty, on being introduced into a studio, she manifests great taste and great powers of art, and in the short experience which she has had she has developed wonderful powers in that line. But the Senator from Massachusetts, with all his learning and all his foreign tastes, is unable to appreciate anything of that sort.

Sir, I venture to predict that this young lady will rise to an eminence in the arts, that her works will yet decorate this Capitol, notwithstanding the opposition of the Senator from Massachusetts, who, when she has achieved success, will be among the first to sing paeans to her praise, and I was about to say that his children—but I will take that back, as he has none to speak of, [laughter]—would be among those who would praise her works and would cast a mantle over the proceedings of their recreant father who had refused to recognize native genius and native art. But, sir, as the Senator has remained a bachelor so long, that is a contingency which is not at all likely to occur. [Laughter.]

I say, then, there is nothing in the objection on the score of economy. This young lady deserves to be encouraged. I venture to say that the works she has already produced, which are on exhibition in this Capitol, and particularly the bust of Mr. Lincoln, are unequalled. I challenge the Senator from Massachusetts to produce one of the foreign artists, of whom he boasts so much, who can produce the equal of that bust. I do not pretend to enter into any competition with the Senator from Massachusetts on the subject of books, but when it comes to matters of natural taste and to forming a judgment in regard to the imitations of natural objects, I assume that my judgment is equal to his. I can tell the height of a mountain, the length of a river, or the meanderings of a trail as well as he can, and I say that my judgment upon those subjects is equal to his. I deprecate his panegyrics upon foreign artists in derogation of those raised in our own country, and particularly those of the great West.

Mr. SUMNER. Where have I said anything in praise of a foreign artist in depreciation of the artists of our own country? I have alluded with praise to the artists of our own country.

Mr. NESMITH. I heard nothing of that. I heard the Senator speak with particular reference to that door which was cast in Munich.

Mr. SUMNER. Which is by a western artist, Mr. Rogers, reared in the West. I give him praise for what he has done.

Mr. NESMITH. It was not cast in the West; it was cast in a foreign country, at Munich. Why could not that door have been made in the United States? I ask the Senator that question. Why should it be necessary to go to a foreign country, even if we produced the genius to mold the door, to produce the model from which it was cast? Why was it necessary to send an order to a foreign country for the production of the door itself? In mechanics and in the arts we are as far advanced as the countries of Europe, and I apprehend there is no reason, except it be the desire to gratify a morbid taste, why we should go to the old countries for these things. I appeal to Senators on this floor, to those who have natural taste, to those who have an eye for beauty, as I admit the Senator from Massachusetts has not, to support this young lady in her efforts to produce what will be a magnificent statue of Mr. Lincoln.

Mr. McDOUGALL. Mr. President, I dislike much the term "charity" that is used by the Senator from Massachusetts. It is a word of offense when spoken on such an occasion and about such business—offense to the person who is the subject of our business. This is not

charity. It has been the custom of all cultivated States, from old antiquity, through the middle ages, and to the present day, to cultivate high art illustrating their own people and institutions, and to encourage their own home artists. Where high genius is found, it has been the office of great States to cultivate the development of that genius. Did it not require the wealth and power of princes to develop the genius of Michael Angelo, and Titian, and Guido? It was so in past times; it has been so in our time; and we have undertaken to maintain the policy of a great State and to cultivate art, among other things. The Emperor of Russia gets the first artist there is in Europe to paint his battle-fields and takes him up to St. Petersburg. The Emperor of France competes with him. All the States of Europe pursue the same policy; and for what? To illustrate their national history and their national qualities; and they have particularly encouraged historical paintings; indeed, a great picture is a history; so is a great statue a history.

It is the policy of this Government, a great Government, to cultivate the same talents in our own country. I am confident that this young lady possesses genius. She has exhibited it. Her bust of Mr. Lincoln is the only one that does justice to him. There are plenty of them about; we have seen hundreds of them, but hers is the only one that has reproduced Mr. Lincoln as he lived. She has had the genius to do it; and it requires genius to do it; and young genius is just as good as old genius, and sometimes a little better. I believe Napoleon was a genius when he was young; Alexander died when he was young; and a great many other people accomplished great results when they were boys and girls. Pitt when a mere boy, twenty-four years of age, was Prime Minister of England. The idea that because a person is young and has not attended the schools of Germany and France he or she is not fitted for a work of this kind is a false notion. On yonder wall [pointing in the direction of the painting of the storming of Chapultepec on the wall leading to the gentlemen's gallery] is a picture painted by a man who never took a lesson in drawing, who never took a lesson in penciling. He sat alongside of me as a boy at school on the banks of the North river; and he is now acknowledged to be the best battle painter there is in the world.

Several Senators. Who is he?

Mr. McDOUGALL. James Walker, the best battle painter now living, who painted the storming of Chapultepec on yonder wall. Though he never had a drawing-lesson, he drew and painted admirably when he was a boy. These things come by the force of innate consciousness and by the power of giving expression to that innate consciousness. This young lady is undoubtedly a lady of marked genius; and she has proved, so far as the bust is concerned, that she has produced the best likeness of Lincoln of any person that has attempted it. I have the right to say so, because I was perhaps better acquainted with Mr. Lincoln in his life-time than any gentleman on this floor; he was a companion of mine many years ago, with whom I was long familiar. I have not been satisfied with any attempt to reproduce his features till I saw the bust produced by this lady. She has achieved a success, showing that she has true genius; and if she is young, the better for her. In five years more she will be as great a genius as she ever will be, no matter how long she may live. "Whom the gods love die young."

Mr. CONNESS. There are one or two aspects of this case as presented by the honorable Senator from Massachusetts that I do not feel like letting pass without remark. When this subject was called up heretofore in the Senate that Senator rose in his place and offered, not what is regarded as legitimate parliamentary opposition, but he joined in a cry to consider the pension bills. "Consider the pension bills; do not turn your backs to the widows and orphans of this war and vote away

the public money for nothing." "Consider the pension bills," said the Senator. Well, Mr. President, the pension bills have been considered, and the measure is called up again, and the Senator, the great Senator from Massachusetts, rises in his place and begins an opposition to this measure by arraigning the Senate; arraigning me and every other Senator here. How, sir? He reminds us that last evening and the evening before he presented an application here in behalf of worthy public servants and that we refused to make the appropriation, and that the appropriation that he asked for was equal in amount to the appropriation that we were now about to make in the most wasteful manner. Now, Mr. President, the English of all this is, that the Senator from Massachusetts, in his capacity of chairman of the Committee on Foreign Relations, has endeavored to ingraft upon both appropriation bills, the miscellaneous appropriation bill, and then upon the deficiency bill, a proposition to pay the clerks in the State Department an extra sum for their services and we refused to agree to it. The Senator did not state truly—he will pardon me for using that word—why the Senate refused to accept his proposition. It was because the proposition was sought to be ingrafted upon the appropriation bills, and because Senators could not—no matter how they might concede that the clerical force of the State Department deserved an increase of compensation—vote it without at the same time accepting a like proposition for the clerical force of the War Department, of the Navy Department, and of the Treasury Department. Why, sir, a committee of clerks from the War Department came here and called upon me within the last two days half of whom were on crutches. Their appeal was hard to be resisted. If a bill should be introduced into Congress to provide additional compensation for those men I should vote for it with the greatest possible pleasure, but we could not ingraft it upon appropriation bills. The Senators having charge of those bills reminded us again and again that to load them down was to destroy and lose them; and this was the reason why the Senator's proposition was not received by the Senate, which in candor the Senator should have stated.

But he passes from that argument of the Senate to a very elegant presentation of art, and he makes that picture look really beautiful and elegant in our view; for what purpose? For the cruel purpose of making a contrast with this young lady who comes before us that we may patronize her; for the purpose of denouncing this appropriation as being made to an unworthy person, to one not an artist, as a charity. Sir, the great Senator did himself but little credit, in my opinion; when he arraigned this poor girl before this great forum and denounced this measure as an act of charity. If it were so, his great heart should have called upon him to have covered it with his mantle, and not uncovered it here in this public presence. It was not becoming, in my humble judgment.

Again, Mr. President, the Senator should concede something to his colleagues in this body. No member of this body, I apprehend, is more proud than I am when I can agree with the Senator and support him in his views and measures; and I am very happy to say on this occasion that I generally can agree with the Senator; but the Senator owes in return for those agreements, in comity, that we shall not be arraigned here by him and accused of a spirit of wastefulness simply because we cannot agree with the Senator. Mr. President, why should he denounce in advance and condemn this girl because she asks that her efforts in art shall be patronized? How does he know that she cannot produce a statue? How can he tell? The money to be spent had better be thrown away if so, and the Senator have waited before he pronounced his great condemnation against the early and difficult efforts of one endeavoring to rise and progress in so difficult a path.

We were reminded by the Senator that we had better be just before we are generous. Well, Mr. President, it is well to be just. Justice is a great attribute; and so is generosity. I fear that in the name of justice all of us enact our greatest cruelties. I fear it is so. I can say for myself that whenever I am enabled to take a retrospective glance at my life and look down the path that I have come by, there is nothing along it that shines out to me so beautifully as the little generous acts that my recollection enables me to see as having been done. I would not blot them out if I were called upon, as between them and all the other acts of my life.

We are here acting in a public capacity. We each, I apprehend, endeavor to do our duty. I believe we do it; but I would not exchange, as I said before, those little acts that the world forgets, that ourselves forget (as we should very often mostly) for all else put together. And my idea of the great Senator from Massachusetts (by which name I am very proud to call him and which is so well deserved) is that he is never so great as when he rises and speaks in behalf of generosity, of humanity, when he exhibits to us the intellect and the affections in that happy commingling that is the sweetest and the most beautiful rule of human life and action.

Mr. YATES. Mr. President, I think about the best thing we could do would be to proceed to the vote upon this question. I will remark, however, that I am not liable to the objection which the Senator from Massachusetts offers to the advocates of this bill. I have stood by him from first to last and voted for his proposition repeatedly to increase the salaries of the clerks of the State Department and of the clerks of the various Departments of the Government; but is the fact that that measure has failed a reason why we should not do justice to another measure?

Sir, I am here to say that I shall vote for this proposition with the most delightful pleasure. I think I knew Mr. Lincoln as well as any member of the Senate; I remember his features well; and I think that the artist whose claims are now before the Senate has had as fine a conception, and in the bust she has made has given an exact likeness of Mr. Lincoln. I have known her a long time. I was introduced to her by friends from her home in the far West. I know her high character as a young lady; but not only that, she is a young lady of extraordinary merit. In a very short time, in a very few years, she has established a reputation known to us all. She has taken the busts and likenesses of Senators and Representatives and has succeeded with most admirable effect; and when I consider her extraordinary merit, when I consider that she is a young artist, that she is an American artist, and that she has displayed remarkable genius, I almost feel that the Senator from Massachusetts is a barbarian [laughter] of the highest order in attacking this young lady.

Mr. President, I believe that she will succeed in this work and that she will establish a reputation for herself; and as I believe it is our duty to preserve the features of the great benefactors of our country, I do hope that we shall pass this measure and pass it cheerfully.

Mr. McDOUGALL. I rise to correct a mistake which I made a short time ago. The Senator from Illinois [Mr. YATES] was quite as conversant with the late President, if not more so than myself, and is as good a judge of the perfection of the work done by this young lady artist.

Mr. HOWARD. Mr. President, this is not a question whether the clerks in the State Department shall be paid an additional compensation; nor is it a question of the generosity of the Government of the United States. The question of generosity does not arise at all. There is no doubt that there is a disposition on the part of the Senate, and probably will be on the part of the House, to order the making of a statue of President Lincoln.

Mr. WADE. It has already passed the House.

Mr. HOWARD. I think such a measure will meet the entire concurrence of the American people, certainly of that portion of them who are loyal and who have been loyal, and especially that numerous and magnificent party who elected him to office and who sustained him through his arduous and difficult Administration. If we are to have a statue of Mr. Lincoln—and surely no President since Washington is more deserving of that honor—it becomes a mere matter of business, a simple business transaction, as to whom we shall employ to execute the work. Shall we seek out and employ an artist who is known to possess high talent, one in whom we have confidence, and as to the result of whose labors there is no doubt and no risk; or shall we, as prudent business men, intrust this task to a person who is not known as a high and distinguished artist and who we have not much reason to suppose will or ever can become eminent as a sculptor? It is simply, as I said before, a question of business. If it were for you or me to contract for the making of a statue for a deceased friend, what should we do, supposing we had the means for the execution of one worthy of our friend? Should we take any such risk as gentlemen urge us to take upon this occasion? Should we not be sure to apply to and employ a person who was undoubtedly competent to execute the task. Sir, we should. We should run no risk whatever, if we could avoid it; and that is precisely this case. I know, perhaps, as much of the ability of the young lady to whom it is proposed to give this job as most members of this body. I have met her frequently, as other members of this body have done, and surely she has shown no lack of that peculiar talent known commonly as "lobbying" in pressing forward her enterprise and bringing it to the attention of Senators. I have seen her models of Mr. Lincoln; I have seen and examined the one, especially, to which reference is most frequently had; and although I do not pretend to be a connoisseur in this kind of art, I am prepared to say that I never was satisfied with that model. To me it is monotonous and without meaning and without spirit. I may be entirely mistaken on account of my want of skill and judgment in such matters; but according to my ideas the model is an imperfect model, failing in expression, failing in life, failing in very many qualities which I should expect in a first-rate model.

Now, sir, I am willing to vote the sum of \$10,000 for the purpose of securing a good statue of Abraham Lincoln; but I am not willing to vote that sum or any other sum to this person and take the risk of an entire failure in the end. If this country in its history has ever produced a statesman, and a great man deserving to be memorialized in its annals, not only upon the page of history but in the works of art, it is Abraham Lincoln. And, sir, it is our duty, if we undertake to carry forward this work and secure a statue of that great man, to do it in the best manner possible, and to employ the most skillful artist in our own country or even abroad, if it shall turn out upon inquiry that we have not an artist of competency among ourselves; and I expect, I confess, having in view the youth and inexperience of Miss Ream, and I will go further, and say, having in view her sex, I shall expect a complete failure in the execution of this work. I would as soon think of a lady writing the Iliad of Homer; I should as soon think of placing at the head of an army a woman for the conduct of a great campaign.

Mr. COWAN. They have done both.

Mr. HOWARD. It has not been their general history.

Mr. McDOUGALL. They have done it.

Mr. HOWARD. No, sir. I would as soon expect from the pen of a woman the Paradise Lost or any other great work of genius which has honored our race.

Mr. McDOUGALL. Did you ever read the Fragments of Sappho?

Mr. HOWARD. I have read the Fragments of Sappho.

Mr. McDOUGALL. What do you say about that?

Mr. HOWARD. That certainly does not prove that Sappho was capable of writing Homer's Iliad.

Mr. McDOUGALL. She exceeds Homer in many respects.

Mr. HOWARD. In many respects—in erotic expressions she certainly exceeds Homer. Whether the proposed work in the present case would have a similar merit I cannot say.

But, sir, without trifling on the subject, and without meaning to say a word in disparagement of this young lady, whom I suppose to be a young lady of genius, I insist that we are taking a great risk in intrusting the execution of this work to her. Let us employ a Powers, let us employ somebody from whom we have a right to expect, from what he has already done, a complete and creditable execution of a statue of Lincoln and not turn it into the hands of a person who, after the exercise of all her genius and all her powers, may miserably fail in the end and we be ashamed of the appropriation which we are about to make.

Mr. EDMUNDS. I see on looking at the resolution that it, by accident no doubt, fails to provide that the model for which the first \$5,000 is to be paid shall be completed to the acceptance of any official, as the statue is required to be, and therefore I move to amend by inserting after the word "placed" in the eighth line, the words "to his acceptance," so that the completion of the plaster model shall be to the acceptance of the Secretary of the Interior upon which the \$5,000 is to be paid, just as the completion of the marble statue is to be to his acceptance.

Mr. WADE. I hope not.

Mr. CONNESS. I hope the amendment will not be adopted. It is proposed to go into the market and make a bargain.

Mr. EDMUNDS. I shall be glad to have gentlemen state frankly whether they intend to pay this \$5,000 for a mere experiment, whether it be successful or satisfactory to the Secretary of the Interior or not. I have understood from the course of this debate that this young lady is entitled to be trusted and to be contracted with, in the language of the resolution, as a person of established reputation, whose reputation justifies there being intrusted to her this important work which engages all our reputation and is to be put on exhibition as being produced through our instrumentality. Now, if it be intended that this is to be merely an experiment, and is frankly so said, then we shall understand it. If, on the contrary, it be what it purports to be, the arrangement of a business transaction by contract with this young lady, then it is just to her as well as to us to provide that this model shall be completed to the satisfaction of the party who is to contract with her.

Mr. TRUMBULL. I trust the amendment will not be adopted, and I think it ought not to be adopted. If I was drafting the resolution I should not put in these words. It will be seen by reading the resolution that it provides that a contract shall be made with this lady "for a life-size model and statue of the late President, Abraham Lincoln, to be executed by her at a price not exceeding \$10,000; one half payable on completion of the model in plaster, and the remaining half on completion of the statue in marble to his acceptance." It is intended, I suppose, by the Congress of the United States, if they pass this resolution, that she shall be paid at any rate \$5,000 for the effort. I suppose that is intended. It is not expected that she is to go on and devote her time for years, perhaps, to preparing this for nothing. Congress has that confidence in directing the contract to be made with her, from the knowledge they have of her talent, to agree that they will pay \$5,000 for making this effort, and if she completes it to the satisfaction of the Secretary of the Interior she is

to have ten thousand. I do not presume that it is the intention of Congress, certainly it is not mine, to require her to go on and make this statue and run the hazard of being paid or not. She can do that without coming to Congress. What is the object of coming to Congress at all? Let her proceed and make a statue and give her time to it for years at her own expense; if it is one that pleases us we will buy it afterward. I think it would be mockery to pass a resolution of that kind. I trust the Senator from Vermont will not insist upon any such amendment.

Besides, the resolution has passed the House of Representatives; we have certainly spent time enough upon it; there is manifestly a disposition in the Senate to pass it, and I trust we will come to a vote and dispose of this matter and let us then pass to some other business which we must do; the hours are now few between this and the time of adjournment. I think the amendment ought not to be adopted.

Mr. EDMUNDS. We shall come to a vote when fair and just debate is finished upon this resolution, and probably not before. The Senator from Illinois states, with the frankness which is characteristic of him, and which I thank him for, that he does not intend that this shall be other than a mere gratuitous experiment so far as the model goes.

Mr. TRUMBULL. I stated no such thing, without meaning to contradict the Senator rudely. I did not say that I intended it should be nothing more than an experiment. I said that the Congress, in authorizing a contract to be made with this lady, had sufficient evidence from the knowledge they had of her ability to be willing to pay that much for her services in preparing this model, and if she makes it to the satisfaction of the Secretary of the Interior, when the whole work is done, we pay the whole of it. That is what I stated.

Mr. EDMUNDS. If the gentleman is through with his interpolation I will go on. The language which the Senator used was "to pay her for the effort." I called "effort" "experiment." The difference is not worth occupying much of our fast-running sands of time to discuss; and, as I said before, he states with frankness that this \$5,000 for the model is not to depend on whether that model is fit to be set up anywhere or not; but the very language which the honorable Senator used with frankness and fairness—and I hope he will not get heated about it this night—was "to pay her for the effort;" and he says it never was heard of, or words to that effect, that we should interpolate into a contract such a clause as this which I have suggested. Do we contract for the building of our navies, for any of the works of art that are found in the Rotunda, or elsewhere about this Capitol, except providing that some public officer shall be the party who shall judge as to the fair completion of the contract within its fair spirit so as to entitle the contractor to his recompense? I think not. I will not occupy time in discussing that question—as to whether the works which we contract for or authorize our servants to contract for are to be thrown upon us without the judgment of anybody in deciding whether they are fitly performed or are not. Now, sir, the issue is fairly presented, whether it is the intention of this Congress to pay \$5,000 for this mere experiment or whether this artist is willing to take the risk upon her side of completing the model to the satisfaction of the Secretary of the Interior in order to entitle her to the compensation for it. I therefore insist upon the amendment which I have offered.

Mr. McDOUGALL. There should be but little question about this in the choice of artists when the three Senators from Illinois concur in their judgment. I see the Senator from Illinois there, [Mr. TRUMBULL,] and one here, [Mr. YATES,] and I am from Illinois myself, the companions of the deceased President for long years, well qualified to judge as to how he has been developed in the model that has been exhibited. That any artist should be

called upon or required to go and manipulate and labor six months without a promise of recompense would be something unheard of. Twenty-five thousand dollars we voted last session for a picture to Powell. He is to paint a picture, and all the limitation is that the design is controlled by a committee. When he paints his picture he is entitled to his money. Would a young man go and dare employ a year or two or three years of his labor upon a particular work without the assurance of exact compensation? A Government cannot afford to ask that; and to ask it would be an outrage.

Mr. CONNESS. Mr. President—

Mr. WADE. Let us have a vote.

Mr. CONNESS. The Senator will excuse me while I refer to the resolution authorizing Powell to make a painting.

Mr. WADE. We do not care anything about Powell now.

Mr. CONNESS. Excuse me now, if you please. Last year Congress passed a joint resolution in these words:

"That the Joint Committee on the Library be, and they are hereby, directed to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory; the particular subject of the painting to be agreed on by the committee and the artist: *Provided*, That the entire expense of said picture shall not exceed the sum of \$25,000, and \$2,000 shall be paid to said William H. Powell in advance, to enable him to prepare for the work, the remainder of said installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up."

There was no such condition in that case as is now proposed, and I apprehend there never was in any such resolution.

Mr. HOWE. I will say that we have recently made a contract with Dr. Stone to execute a statue of Alexander Hamilton in marble. We pay him one fourth in advance, one fourth, I think, when the model is completed in plaster, one fourth when it is completed in Europe, and the balance when it is delivered at the Capitol.

Mr. SUMNER. I think this amendment had better be adopted. It is only a reasonable precaution in a case like the present. The Senator from Wisconsin alluded to a contract with Mr. Stone. He is a sculptor whose works are at the very doors of the Senate Chamber. The committee who employed him must have been perfectly aware of his character. When they entered into a contract with him, there was no element of chance; they knew precisely what they were contracting for; but in the present case there is nothing but chance, if there be not the certainty of failure.

Mr. CONNESS. How was it in the case of Mr. Powell?

Mr. SUMNER. I am speaking of the present case. One at a time, if you please. The person that you now propose to contract with, notoriously has never made a statue. All who have the most moderate acquaintance with art know that it is one thing to make a bust, and quite another thing to make a statue. One may make a bust, and yet be entirely unable to make a statue; just as one may write a poem in the corner of a newspaper, and not be able to produce an epic. A statue is one of the highest forms of art. There have been very few artists competent to make a statue. There is as yet but one instance that I can recall of a woman successful in such an undertaking. But the eminent person to whom I refer had shown a peculiar genius early in life, had enjoyed peculiar opportunities of culture, and had vindicated her title as artist before she attempted this difficult task. Conversing, as I often have, with sculptors, I remember how they always dwell upon the difficulty of such a work. It is no small labor to set a man on his legs, with proper drapery and accessories, in stone or in bronze. Not many have been able to do it, and all these have had in advance experience in art. Now, there is no such experience here. This candidate is notoriously without it. There is no reason to suppose that she can succeed. Therefore, the Senator from Vermont [Mr. EDMUNDS] is wise when he pro-

poses that before the nation pays \$5,000 on account, it shall have some assurance that the work is not absolutely a failure. Voltaire was in the habit of exclaiming, in a coarse Italian saying, that "a woman cannot produce a tragedy." You have already seen that. I do not venture on the remark that a woman cannot produce a statue; but I am sure that, in the present case, you ought to take every reasonable precaution.

Sir, I did not intend when I rose to say anything except directly upon the proposition of the Senator from Vermont, but as I am on the floor perhaps I may be pardoned if I advert for one moment—

Mr. HOWE. Will the Senator allow me to ask him one question for information?

Mr. SUMNER. Certainly.

Mr. HOWE. It is whether he supposes that by the examination of a plaster model he could get any assurance that the work in marble would be satisfactory.

Mr. SUMNER. Obviously, for the chief work of the artist is in the model. When this is finished the work is more than half done. What remains requires mechanical skill rather than genius. In Italy, where there are accomplished workmen in marble, the artist leaves his model in their hands, contenting himself with a few finishing touches. Sometimes he does not touch the marble.

I was about to say, when interrupted, that I hoped to be pardoned if I adverted for one moment to the onslaught which has been made upon what I have already said in this debate. I do not understand it. I do not know why Senators have given such rein to the passion for personality. I made no criticism on any Senator and no allusion, even, to any Senator. I addressed myself directly to the question and endeavored to treat it with all the reserve consistent with a proper frankness. Senators, one after another, have attacked me personally. The Senator from Oregon [Mr. NESMITH] seemed to riot in this business. The Senator from California, [Mr. CONNESS,] from whom I had reason to expect something better, caught the spirit of the other Pacific Senator. Sir, there was nothing in what I said to justify such an attack. But I will not proceed in the comments which their speeches invite. I turn away from them. There was, however, one remark of the Senator from Oregon to which I will refer. He complained that I was unwilling to patronize native art, and that I had dwelt on the productions of foreign artists.

I am at a loss for the motive of this singular misrepresentation. Let the Senator quote a sentence or a word which fell from me in disparagement of native art. He cannot. I know the art of my country too well and think of it with too much of patriotic pride. I alluded to only one foreign artist, and he was that sympathetic and gifted Frenchman who has endowed the Capitol with the portrait of Lafayette. The other artists that I praised were all of my own country. There was Peale, of Philadelphia, to whom we are indebted for the portrait of Washington. There was Trumbull, the companion of Washington, and one of his military staff, who, on coming out of the war of independence, gave himself to painting and produced these works which I pronounced the chief ornament of the Rotunda. There also was Greenough, the earliest American sculptor, and, until Story took the chisel, unquestionably the most accomplished of all in the list of American sculptors. He was a scholar, versed in the languages of antiquity and modern times, who studied the art which he practiced in the literature of every tongue. Of him I never fail to speak in praise. There was Crawford, an American sculptor, born in New York, and my own intimate personal friend, whose early triumphs I witnessed and enjoyed. He was a true genius; versatile, fertile, bold. His short life was crowned by the honors of his profession, and he was hailed at home and abroad as a great sculptor. How can I speak of him except with admiration



and personal attachment. I alluded also to Rogers, an American artist from the West; yes, sir, from the West—

Mr. HOWARD. Who was educated in Michigan.

Mr. SUMNER. And, as the Senator says, educated in Michigan, who has given to this Capitol and to his country those bronze doors, which I did not hesitate to compare with the immortal work of Ghiberti in the Baptistery of Florence. These, sir, were the artists to whom I referred, and such was the spirit in which I spoke. How, then, can any Senator undertake to say that I had praised foreign artists at the expense of the artists of my own country? The remark, permit me to say, is absolutely without foundation.

It is because I would not have the art of my own country suffer, and because I would have its honors follow merit, that I oppose the largess you propose. If you really wish to rear a statue of our martyred President, select one of the acknowledged sculptors of your own country. Do not go to a foreigner, and do not go to the unknown. There are sculptors born among us and already famous. Take one of them. There is Powers, an artist of rarest skill with the chisel; of exquisite finish; perhaps with less of variety and versatility than some other artists; perhaps with less of originality, but having in himself many and peculiar characteristics as a remarkable artist. Summon him to the work. He has been tried. In making a contract with him you know in advance that you will have a statue not unworthy of the appropriation you are about to make, or of the place where it is to stand.

There also is another sculptor of our country, whom I should name first of all if I were called to express freely my unbiased choice; I mean Story. He is the son of the great jurist, and began life with his father's mantle resting upon him. His works of jurisprudence are quoted daily in your courts. He is also a man of letters. His contributions to literature and poetry are in your libraries. To these he now adds unquestioned triumphs as a sculptor. In the great Exhibition of Europe his Cleopatra and his Saul have been recognized as equal to the best of our time, and, in the opinion of many, as better than the best. He brings to sculpture not only the genius of an artist, but scholarship, literature, study, and talent of every kind. Summon him to the work. Let his name be associated with the Capitol by a statue which I am sure will be an honor to our country.

I might mention other sculptors of our country. My friend who sits beside me, the distinguished Senator from New York, [Mr. MORGAN,] very properly reminds me of the sculptor who has done so much honor to his own State. Palmer has a beautiful genius, which he has cultivated for many years with sedulous care. He has experience. The seal of success has been set upon his works. Let him make your statue. There is still another artist, whose home is New York, whom I would not forget; I refer to Brown, the author of the equestrian statue of Washington in New York. Of all the equestrian statues in our country that is incomparably the best. It need not shrink from comparison with equestrian statues in the Old World. The talent that could seat the great chief so easily in that bronze saddle ought to find a welcome in this Capitol. There are yet other sculptors that I might name; but I confine my enumeration to those who have done something more than give promise of excellence. And now you turn from all this native talent, which has done so much and become so famous, to offer a difficult and honorable duty to an untried person, whose friends can claim for her nothing more than the promise of such excellence in sculpture as is consistent with the condition of her sex. Sir, I will not say anything more.

Mr. COWAN. I have come to the conclusion to vote for this resolution, and I have also come to the conclusion that this young lady, whoever she may be, is unquestionably a per-

son of great genius; it may not be exactly in the line of sculpture, but certainly she is in that of agitation. She is occupying the talents of the honorable Senator from Massachusetts, the honorable Senator from Vermont, the honorable Senator from Michigan, the honorable Senators from California, the honorable Senator from Oregon, the honorable Senator from Illinois, and several others, and has shaken and agitated this Chamber to its very center. Certainly it is no ordinary girl that can do this. [Laughter.]

I shall vote for this resolution, Mr. President, because I understand that this little child of genius has struggled up amid poverty and difficulty to this great result through the medium of her statuary. I must confess I do not know much about statuary myself. Modern statuary, I think, would be about as well made by the tailor and the shoemaker, all except the head, as by anybody else. [Laughter.] Ancient nude statuary required an exact knowledge of anatomy and of the human form in the natural state. How it is proposed to have this statue of Mr. Lincoln I am not advised. Whether it is to be draped with a Roman toga, or with a white jacket and black coat and blue pantaloons, I do not know. [Laughter.]

Mr. WADE. Perhaps with a cannon ball in his hand.

Mr. COWAN. Perhaps so. And I may here remark, in regard to that group which has been criticised, that I think that is the largest Columbus and the smallest globe I ever saw in juxtaposition. [Laughter.] The squaw is a lusty-looking wench. I do not know whether it is a good representation of a squaw or not, for I never saw many of them. In regard to the other group, I should like to ask my friend from Massachusetts if he ever saw so large a stump grow out of the belly of a dog as is there represented. [Laughter.]

Now, I think this young lady has given evidence of remarkable genius and remarkable perseverance in the way of her particular calling; and the best evidence this Congress has of it is the extraordinary excitement which she creates among the connoisseurs here. I am for patronizing native genius. I do not want any more Paradise Losts sold for five guineas. I do not want the Iliads of Homer to go down again to posterity without anybody knowing who made them, and having six or seven cities competing for the honor of giving birth to the author. If the statuary of the Capitol is in bad taste let us improve it; and I do not know any other way than to employ this young lady, who manifests such extraordinary ability, to try her hand upon it; and I am rather inclined to think, from the few specimens I have seen of her work, that she will do it. She has not made a very handsome bust of Mr. Lincoln, but that was not her fault; it was Mr. Lincoln's, because he was not a very handsome man. [Laughter.] He was a great and good man; but she could not be expected to make an Adonis of him; and I am rather inclined to think, after all, that that is the fault which has been attributed to her bust of Mr. Lincoln. My honorable friend from Michigan, in whose classic taste I have great confidence, and of whose classic learning I am assured, says that it lacks life and spirit. I think I may appeal to my honorable friend from Illinois [Mr. YATES] and my friend from California, [Mr. McDOUGALL,] who will say that that is the very height of art in this young female artist in making these busts, because it was a remarkable fact that, of all the men living who perhaps had more humor in him than any one else, Mr. Lincoln was a man of the saddest face on earth. If it be true that she caught that peculiar expression of the man and put it into the bust, and his friends recognize that as a characteristic of that particular bust, that is the highest evidence of her genius.

Therefore, Mr. President, I have come to the conclusion to vote for this resolution; and I do it from the considerations which I have mentioned; and I think they will justify me in it. I have the highest respect for the opin-

ions of my friend from Massachusetts [Mr. SUMNER] upon all classical subjects, and particularly upon those which relate to most of the fine arts; but in statuary I propose to follow the lead of my honorable friend from Ohio, [Mr. WADE,] who I think is infinitely superior. [Laughter.] I have always done so, and as it was a good lead I have come to the conclusion to follow it all the way through.

Mr. EDMUNDS. I think it due to the Senator from California [Mr. CONNESS] that I should explain to him the fact that there is no parallel whatever between the case cited by him in the joint resolution of last year and the one now under consideration. That is what may be called an open order. It is not to be a painting which is to have fidelity to any specific truth, or to be a representation of any specific person or thing. We only appeal to the genius of the artist to produce that of which his genius is capable and nothing more—an illustration which is created in his brain representing an event in history. In this instance we appeal to fidelity to truth, to an exact representation of a recent person; and we ask, therefore, for a work which shall not only be true to art, but which shall be true to the truth of history and to the truth of personality in every particular. No statue of Lincoln ought ever to have a place in this Capitol that does not represent him as he was. I do not say that this young lady cannot form that; that is not the question; but I do say that the experience and knowledge and taste of the Senator from California ought to have taught him not to cite as a precedent for this resolution and against my amendment, the fact that at some previous time we have given an open order to an artist to produce a purely ideal work. That is all I have to say.

Mr. DOOLITTLE. With the amendment proposed by the Senator from Vermont, it seems to me no one ought to object to the passage of this resolution.

Several SENATORS. We do not want the amendment.

Mr. DOOLITTLE. I am in favor of the amendment.

Mr. CONNESS. We do not want to send the resolution back to the House.

Several SENATORS. No amendment; let us vote.

Mr. DOOLITTLE. Senators speak with surprise of my favoring the amendment. The amendment is simply this: that when the genius of this young artist shall have produced the model, so that the Secretary of the Interior can see it, then he can determine whether to go on and have the statue made or not. That is the sensible mode of disposing of this matter. I feel as much interest in this young artist as any Senator on this floor. I desire to encourage her. She is a child of Wisconsin, born in the State of Wisconsin. This amendment gives her an opportunity to produce the model, and then in case it is produced to the satisfaction of the Secretary of the Interior the order will be made for the work. That is the sensible way of dealing with this question.

Mr. DAVIS. I have not the pleasure of any acquaintance with this young artist; but I have seen some specimens of her work, I will say of her genius. I do not profess to be a connoisseur in works of sculpture or any of the fine arts; but it has been my fortune to see some of the earlier works of some of the most celebrated American artists in the line of sculpture, and I think that the specimens which this young lady has given us evidence about as high gifts and as much genius in that line as any I have seen. This young lady has presented her specimens of art to the observation of the Senate and of Congress. She has fairly exhibited to them what she can produce in that line; and it is for Congress to take her upon trust, after having seen what she can achieve in this way, to the extent I think of \$5,000 for the model. I was indisposed at first to vote for this resolution; but I am satisfied from the discussion that I ought to do it. I am satisfied that she has given sufficient evidence as an artist of high endowment and genius in this respect to

authorize us to do it. In addition to that I am impelled by the universal claims of womanhood to do so in consideration of the manner in which she has been assailed on the present occasion; and impelled by these considerations I shall give a hearty and a cordial support to the measure.

Mr. HOWARD. I desire to have the pending amendment reported.

The Secretary read the amendment, which was in line eight, after the word "plaster" to insert "to his acceptance;" so that the resolution will read:

That the Secretary of the Interior be, and he hereby is, authorized and directed to contract with Miss Vinnie Ream for a life-size model and statue of the late President, Abraham Lincoln, to be executed by her at a price not exceeding \$10,000; one half payable on completion of the model in plaster to his acceptance, and the remaining half on completion of the statue in marble to his acceptance.

Mr. HOWARD. I hope that amendment will be adopted. I desire Senators to recollect one thing connected with this matter, and it is a very plain one: It is this: this artist, whatever may be her genius or want of genius, has never made a marble statue. Where is the member of this body that can deny that statement? Shall we employ an artist to perform such a work as this—a statue which we are expected to put in the Capitol, one worthy of its great subject and of the nation itself—who has never even made a statue? In the common transactions of life, in ordinary business, what would such a step as this be called? I will not characterize it further than merely to state the fact. I cannot vote for a measure like this to employ an artist who has had absolutely no experience in making statues.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. SUMNER. I think we had better have the yeas and nays on this question. Let us see who are going to give the money away.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. SPRAGUE (when his name was called) said: I have paired off with the Senator from Oregon, [Mr. NESMITH,] who is necessarily engaged on a committee of conference. Otherwise I should vote for the amendment and against the resolution, and he would vote against the amendment and for the resolution.

The result was announced—yeas 7, nays 22; as follows:

YEAS—Messrs. Doolittle, Edmunds, Howard, Kirkwood, Morgan, Ramsey, and Sumner—7.

NAYS—Messrs. Chandler, Clark, Conness, Cowan, Cresswell, Davis, Foster, Guthrie, Howe, Lane, McDougall, Norton, Nye, Poland, Pomeroy, Riddle, Ross, Stewart, Trumbull, Wade, Williams, and Yates—22.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cragin, Dixon, Fessenden, Fowler, Grimes, Harris, Henderson, Hendricks, Johnson, Morrill, Nesmith, Saulsbury, Sherman, Sprague, Van Winkle, Willey, Wilson, and Wright—21.

So the amendment was rejected.

Mr. DOOLITTLE. It is very evident that a majority of the Senate are determined to pass this resolution, and there is no use in making further opposition to it. Let us come to a vote upon it. ["Vote!" "Vote!"] After that I want to move an executive session.

Mr. SUMNER. Move it now.

Mr. DOOLITTLE. No, I will not do it now. The Senate evidently want to come to a vote on this question, and I will not interfere. ["Question!" "Question!"]

The PRESIDENT *pro tempore*. The Chair will put the question as soon as debate terminates.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. HOWARD and Mr. SUMNER called for the yeas and nays on the passage of the resolution, and they were ordered; and being taken, resulted—yeas 23, nays 9; as follows:

YEAS—Messrs. Chandler, Conness, Cowan, Cresswell, Davis, Doolittle, Foster, Fowler, Guthrie, Howe, Johnson, McDougall, Nesmith, Norton, Nye, Poland, Pomeroy, Ross, Stewart, Trumbull, Wade, Williams, and Yates—23.

NAYS—Messrs. Edmunds, Howard, Kirkwood,

Lane, Morgan, Sprague, Sumner, Van Winkle, and Willey—9.

ABSENT—Messrs. Anthony, Brown, Buckalew, Clark, Cragin, Dixon, Fessenden, Grimes, Harris, Henderson, Hendricks, Morrill, Ramsey, Riddle, Saulsbury, Sherman, Wilson, and Wright—18.

So the joint resolution was passed.

#### ASSASSINATION REWARDS.

Mr. DOOLITTLE. I now move an executive session.

Mr. SPRAGUE. I hope the Senator will allow me to make a report.

Mr. DOOLITTLE. I will yield for that purpose, if my motion will be considered as pending.

Mr. SPRAGUE. I am instructed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward, to report it back without amendment, and recommend its passage; and I hope that the Senate will proceed to its consideration at once.

Mr. HOWARD. I hope we shall take that bill into present consideration.

Mr. TRUMBULL. There are objections to that bill, I understand.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Is there any objection to the present consideration of the bill just reported by the Senator from Rhode Island?

Mr. EDMUNDS. I object.

The PRESIDING OFFICER. Objection being made, it cannot be considered at the present time.

#### PROVISIONAL COURT IN LOUISIANA.

Mr. POLAND. I ask the Senate to take up House bill No. 468, which has been reported from the Committee on the Judiciary without any amendment, and will take but a moment. There will be no objection to it.

Mr. DOOLITTLE. This is all subject to my motion for an executive session, I presume. If that bill will take but a moment while the galleries are being cleared, I will not object; but I want to have an order now for an executive session, and then Senators can pass these little matters.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin to proceed to the consideration of executive business.

Mr. SUMNER. I hope we may be allowed to act on one or two little bills.

Mr. POLAND. The bill I desire to take up will not interfere with the executive session.

Mr. DOOLITTLE. I make the motion for an executive session. It is necessary that certain papers be referred. After we go into executive session, the doors can be considered open from time to time to consider these other matters, and in that way we can dispose of much of this business that must be done and at the same time go on with the executive business.

Mr. CHANDLER. The Senator from Vermont [Mr. EDMUNDS] has withdrawn his objection, as I understand, to the consideration of House bill No. 801, just reported by the Senator from Rhode Island.

The PRESIDING OFFICER. The motion before the Senate is to proceed to the consideration of executive business.

Mr. CHANDLER. I hope that will be withdrawn for me.

Mr. DOOLITTLE. There is objection to that award bill.

Mr. POLAND. I believe I had the floor on moving to take up House bill No. 468.

The PRESIDING OFFICER. The Chair understands that the motion for an executive session was made while the President *pro tempore* was in the Chair.

Mr. POLAND. I think no motion was made.

The PRESIDING OFFICER. The Chair understood the motion was pending when the President *pro tempore* called the present occupant to the Chair. If that be not the case, the Senator from Vermont is entitled to the Chair.

Mr. POLAND. The Senator from Wisconsin gave notice that he would make the motion. I hope this bill will be taken up. We could have passed it in half the time that has been taken in discussing the order of business.

The PRESIDING OFFICER. The Senator from Vermont having the floor, unless he yielded it to the Senator from Wisconsin, the Senator from Wisconsin could not make the motion to proceed to the consideration of executive business.

Mr. CLARK. He made the motion before the Senator from Rhode Island [Mr. SPRAGUE] made his report.

Mr. DOOLITTLE. I made the motion for an executive session; and by unanimous consent, while the galleries were being cleared, preliminary to final action, some one asked permission to take up a little bill, and it was done informally, but subject, as I supposed, to the motion I had made.

The PRESIDING OFFICER. If such be the state of facts, the motion of the Senator from Wisconsin is in order. It is moved that the Senate proceed to the consideration of executive business.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant-at-Arms will clear the galleries and close the doors.

Mr. POLAND. While the galleries are being cleared, I ask that the doors may be considered open in order to take up the bill I have named.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 468) to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana. It proposes to transfer all suits, causes, prosecutions, and proceedings in the United States provisional court for the State of Louisiana, with its records to the United States district court for the eastern district of Louisiana; and all suits, causes, prosecutions, and proceedings so transferred are to be proceeded with in that court and tried and determined, and process and judgment issued and executed therein in the same manner and with like effect as if they had been commenced originally in the district court; but any suit or proceeding so transferred, of which the circuit court could take jurisdiction under the laws of the United States is, in like manner to be heard and determined in the circuit court.

In case suits or proceedings are pending in the provisional court which could not have been instituted in the circuit or district court, the record is to remain in the district court without further action therein. All judgments, orders, decrees, and decisions of the United States provisional court for the State of Louisiana, relating to the causes transferred to the district court of the eastern district of Louisiana, or to the circuit court held in the district, are at once to become the judgments, orders, decrees, and decisions of the district court, or the circuit court, unless they are inconsistent with the rules and proceedings thereof; and may be enforced, pleaded, and proved, as the judgments, orders, decrees, or decisions of the district court or the circuit court.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### COLONEL LEWIS F. FIX.

Mr. SPRAGUE. I hope that by general consent the doors will be considered open and that the Senate may proceed to the consideration of the joint resolution (H. R. No. 297) for the relief of Colonel Lewis F. Fix. It is a very small matter, but it is very important to him that it should pass.

Mr. DOOLITTLE. Let the executive mes-

sages be read and referred, and then I will consent.

Mr. SPRAGUE. It will take but a moment.

Mr. DOOLITTLE. Very well; I will not object.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EXECUTIVE SESSION.

Mr. DOOLITTLE. Now I insist on the executive session.

The Senate (at twelve o'clock and twenty minutes) proceeded to the consideration of executive business; and the doors were reopened at twenty minutes before two o'clock a. m., Saturday, July 28.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes; and

A bill (S. No. 354) for the relief of William Crosswell.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 816) for the relief of Rebecca J. Sheppard, was read twice by its title and referred to the Committee on Claims.

#### COLLECTORS OF CUSTOMS.

Mr. MORGAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on Senate bill No. 400, to fix the compensation of certain collectors of customs, and for other purposes, recommend that the Senate recede from their disagreement to the amendments of the House and agree to the same, with an amendment, as follows:

Strike out, including the words inserted by the House, all after the words "deputy collector," in line nine, page 2 of the bill, down to and including the word "customs," in the fourteenth line, same page, and insert in lieu thereof the following: "at the ports of New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, and to each of the general appraisers of local customs of Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$3,000 per annum. To each of the deputy naval officers and the deputy surveyors at New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$2,500; and to each of the custom-house weighers at the ports of New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$2,000 per annum, out of the appropriation for expenses of collecting the revenue from customs: *Provided*, That the additional compensation of twenty-five per cent., as now provided by law, shall be continued to officers, as aforesaid, at the port of San Francisco;" and the House agree to the same.

E. D. MORGAN,  
TIMOTHY O. HOWE,  
WILLIAM T. WILLEY,  
*Managers on the part of the Senate.*  
SAMUEL HOOPER,  
JOHN L. THOMAS,  
GLENNI W. SCOFIELD,  
*Managers on the part of the House.*

The report was concurred in.

#### DEFICIENCIES IN APPROPRIATIONS.

Mr. FESSENDEN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 791) being "An act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate, numbered six, eight, eleven, twenty, twenty-one, and thirty, and agree to the same.

That the Senate recede from their amendments numbered sixteen and twenty-six.

That the House recede from their disagreement to the amendment of the Senate numbered seventeen, and agree to the same with amendments as follows: insert in the second line of said amendment, after the word "expenses," the word "actually," and in the sixth and seventh lines of said amendment strike out the words "twenty-five" and insert in lieu thereof the word "ten."

That the House recede from their disagreement to the twenty-seventh amendment of the Senate, and agree to the same with an amendment as follows: strike out all after the word "dollars," in line four, to the end of the section.

That the Senate recede from their disagreement to the amendment of the House to the amendment of the Senate numbered twenty-eight, and agree to the same.

W. P. FESSENDEN,  
J. B. HENDERSON,  
C. R. BUCKALEW,  
*Managers on the part of the Senate.*  
JOHN A. KASSON,  
H. J. RAYMOND,  
SAMUEL J. RANDALL,  
*Managers on the part of the House.*

Mr. CONNESS. I hope the Senator will give us some statement of the points.

Mr. FESSENDEN. I can do that by taking up the bill and examining it.

Mr. CONNESS. A brief statement is all I desire.

Mr. FESSENDEN. I suppose there is no information wanted in regard to the amendments to which the House agree. We recede from our sixteenth amendment, which was an appropriation of \$40,000 to pay the indebtedness for the Indian service in the State of Oregon and Territory of Washington. We recede from the twenty-sixth amendment, which was an appropriation of \$600 for compensation to a clerk engaged in the sale of internal revenue stamps in California. We recede from the twenty-eighth amendment, which related to the payment of sums due to marshals and others for taking the census in the South. The twenty-seventh amendment is arranged so as to meet the provision of the bill in regard to allowances to our clerks, &c.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following Senate bills without amendment:

A bill (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

A bill (S. No. 353) for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians; and

A bill (S. No. 447) for the admission of the State of Nebraska into the Union.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN. I present a report from the committee of conference on the civil or miscellaneous appropriation bill.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 6, 7, 11, 12, 13, 16, 19, 32, 33, 48, 49, and 55, and agree to the same.

That the Senate recede from their amendments numbered 4, 14, 15, 17, 24, 25, 34, 35, 37, 38, 39, 40, 41, 42, 43, and 44.

That the Senate agree to the amendment of the House to the eighth amendment of the Senate.

That the Senate agree to the amendment of the House to the ninth amendment of the Senate.

That the House recede from their amendment to the twenty-sixth amendment of the Senate, and agree to the same.

That the Senate agree to the amendment of the House to the thirtieth amendment of the Senate.

That the House recede from their amendment to the fifty-second amendment of the Senate and agree to the same.

That the House recede from their disagreement to the fifty-third amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "And *provided* further, That the pay of the Speaker shall be \$8,000 per annum."

That the House recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out the words following: "for the continuation of the work on the north portico of the Patent Office building, \$50,000;" and also recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out as follows: on page 7, line eight, from the word "for" down to and including the word "dollars" in line fourteen, with an amendment as follows: insert last clause strike out the words "one hundred" and insert in lieu thereof the word "fifty," and the Senate agree to the same, and also to so much of the amendment of the House to the said twenty-second amendment as proposes to strike out all after the word "dollars," in line two, on page 7, down to and including the word "necessary," in line eight on the same page.

That the House recede from its amendment to the Senate amendment numbered fifty-four, and agree to the same, with an amendment as follows: in line two, after the word "clerks," insert "committee clerks;" in line three, after the words "messengers and," insert "all;" in same line, after the word "Senate," insert "and House of Representatives, and to the Globe and official reporters of each House, and the stenographer of the House, and to the Capitol police, and the three superintendents of public gardens and their clerks and assistants."

JOHN SHERMAN,  
W. P. FESSENDEN,  
REVERDY JOHNSON,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
F. C. LE BLOND,  
*Managers on the part of the House.*

Mr. SHERMAN. As a matter of course, from the mere reading of the skeleton report Senators will not understand what has been done, but I desire to state what has been done with the amendments.

The Senate recede from the amendment with regard to the alteration of the Senate Chamber; the House were decidedly against it. The Senate recede from the appropriation of a million and a half for the levees in Louisiana, Mississippi, and Arkansas, the House having by a very decided vote committed themselves against it, and the conferees on the part of the House being decidedly opposed to it. The Senate also recede from some minor amendments.

The House recede from their disagreement to the amendment in regard to Dr. Baxter's report, and adopt it. They have also agreed to the action of the Senate as to certain light-houses and some Indian treaties. They have also agreed to the St. Paul custom-house, but the amount is reduced to \$50,000. The amendment increasing the pay of midshipmen by allowing them a ration per day is concurred in.

In regard to the question of the compensation of members, I may say that the House took us by surprise. The vote of the House was so very decided against that amendment to-day that I supposed nothing was left for us but to abandon the amendment, which the Senate conferees were prepared to do, but the House conferees receded from their disagreement, and therefore the amendment was concurred in and it stands in the bill just as we sent it to the House. There was no action on that question on the part of the conferees of the Senate except simply to obey the action of the Senate. The House conferees relieved us from all trouble on that point.

The Senate amendment proposing an allowance of twenty per cent. to the employes of the Senate was amended so as to include the employes of the House of Representatives in the same percentage, and the provisions inserted by the House in the deficiency bill on that subject were as a matter of course abandoned, so that the employes of the House and Senate each get twenty per cent. additional. It is extended also to the reporters of the Globe in both Houses.

Mr. EDMUNDS. Does it include the Capitol police?

Mr. SUMNER. And the clerks of the committees?

Mr. SHERMAN. Yes, all the employes.

Mr. DOOLITTLE. And the reporters also in our House as well as in the other?

Mr. SHERMAN. Yes sir. The House



recede from the proposed increase of compensation to the clerks, &c., in the Departments.

As for the bounty bill tacked on by the House, —the only remaining question that I have not mentioned—the House recede from that and the bill stands without any provision on that subject.

I have now, I believe, stated pretty much all the points involved.

Mr. WADE. I cannot consent that this bill shall go out in the shape it is in. That the bounty to the soldiers shall be entirely stricken off and that our own compensation shall be increased will be a reproach to this Congress that we cannot stand. Here was this great army looking to us for some relief, for some equalization of their bounties; and when they see that we had under consideration in one bill a proposition to make them some compensation and also a proposition to increase our own pay, and that the result is that we totally abandon them while we nearly double our own salary, the result among the people will be to sink the party that has done it.

Mr. JOHNSON. Both parties have done it.

Mr. WADE. Both parties have done it; but we are in the majority, and are justly responsible and will be held responsible for all that is done.

Mr. SHERMAN. Let me say to my colleague that the Senate conferees felt just as keenly as he can, or as any one can, that position; and we were prepared and went into the conference-room prepared to abandon the amendment in regard to our pay. I stated before distinctly, as I wished the whole matter perfectly understood, that we proposed to abandon it, but the House conferees left us no ground to stand upon. They withdrew their disagreement, and that was the end of the contest, though it so happened that a majority of the House conferees had voted against the increase of compensation in the House.

Mr. McDOUGALL. Allow me to ask the Senator from Ohio whether a committee of conference representing the Senate is not bound to stand by the Senate's vote in favor of what they have done.

Mr. SHERMAN. I have already stated that we could not do otherwise than as we have done; but after conversation with many Senators who had voted for this increase of compensation, in view of the large vote in the House against it, we should have been justified in withdrawing the proposition; but the House conferees would not allow us to do so.

Mr. DAVIS. I think the House conferees behaved much better in relation to that point than the Senate conferees did. [Laughter.]

Mr. WADE. I am not investigating the conduct of the committee of conference. They no doubt have done all they could, and as well as they knew how to do it; but looking at this bill, taking the two propositions to which I have called attention in juxtaposition, the result is so invidious that no man can defend this action, no man can go out among the people to discuss political questions and look an honest congregation in the face and say he stands by the proceedings on this bill. I should like to receive this money, as well as anybody else; and I would do almost anything that was honest to get money; but I cannot do it in this way. We must in some way get rid of the position in which we are now placed. We must at all events give up our own increase of pay, which will be some consolation to the soldiers; but if we double or nearly double our own pay while we refuse to do anything to equalize the soldiers' bounties, I fear that it will be the last of us, and it ought to be.

Mr. YATES. I concur entirely with the Senator from Ohio, [Mr. WADE.] This course in relation to the equalization of bounties will be astounding to the country. From the Northwest I have information by numerous letters that the effect will be to overwhelm the party which commits itself to such a course. I speak not of the proposed increase in the pay of members; I think that is right. I can stand by that as an independent proposition; but if we fail

to equalize bounties the effect will be to reduce our majority in the next Congress, and reduce it so materially that we shall not have the power. That is my honest conviction; and if we act in this way, I believe we ought not to have the power. I think the equalization of bounties is demanded; it is an act of justice to the soldiers; and I do hope that Congress will not adjourn till an equalization is secured. I would be in favor of extending the time of adjournment in order that we might give consideration to that matter. I feel sure that in the north-western States we cannot sustain ourselves upon any such proposition as that now presented to the Senate.

Mr. STEWART. As to the matter of congressional salaries I can speak without the slightest embarrassment, because by the amendment on that subject my compensation is reduced about \$2,000 a year by cutting down the mileage. I think the bill ought to pass, and I do not think anybody will complain of this Congress for paying themselves \$5,000 a year. I do not think any man is fit to be in Congress who cannot earn that amount elsewhere. I believe the people are willing to pay and desirous to pay what it costs an economical man to live. If you pay less than that you must necessarily have here one of two classes of men; you must either have men in Congress who are willing to become dependent upon others, which will destroy their usefulness, or you must have rich men. You must reserve these places for the rich or give them to the unworthy. There are many of our best men who cannot afford to spend their time here unless they get enough to support them. The people do not want men of moderate means excluded from Congress. They are willing that members of Congress shall have what it costs them to live here.

As to the bounty question, I have simply this to say: the country should know that the finances are not in such a condition that we can equalize the bounties this year without disarranging the whole system. The Secretary of the Treasury has so assured me. Besides, we have not yet had a bill that did equalize the bounties. It has not been matured. There is plenty of time in the future for such a measure. I believe it is better to give what we have to give away in the shape of increased pensions to those who have been wounded. That is more immediately necessary. I do not think any great harm will come from a failure to pass a bounty bill at this session. The soldiers will not distrust the Union party that has endeavored to do so much for them, and is willing to do all that the finances of the country will permit, and is anxious to accomplish the grand result as early as possible. They will not distrust the Union party, but will trust it, believing that justice will ultimately be done as soon as the finances will permit. The benefit of an equalization of bounties goes to well men; men who can get along; can manage to live, at any rate, until we meet next year, when justice will be done. We have not been able to obtain sufficient facts upon which to adjust the bounties so that every man shall be served alike; and rather than have a crude measure passed, I believe the people would prefer to wait until we prepare a thorough and complete bill and do full justice.

Mr. WILSON. I am decidedly opposed to concurring in this report. I believe that there are six or seven hundred thousand men who enlisted from the 19th of April, 1861, to the 17th of October, 1863, who received a bounty of \$100, and no more, who think the Government ought to equalize their bounties with those of others, or at least give them some additional compensation. They believed so in the field when they saw new recruits come into service by their side with seven or eight hundred dollars bounty. These veterans who enlisted from the loftiest motives, and who were to receive the small pittance of \$100, believed the country would do them justice. It was so understood in the Army, so talked of among officers. And now I believe that by this Congress, or over this Congress, the equalization or the increase

of bounties will be carried. I am opposed to concurring in this report without making an effort to secure to the men who enlisted for a bounty of \$100 some consideration. I believe it to be right. I believe it to be highly expedient.

Now, sir, a word in regard to the increase of our own compensation. I voted for it. I voted for it because I thought in itself it was right. I think so now. I have been here twelve years, and if I should die to-night I would not leave enough to buy me a pine coffin. I believe this increase is right in itself, and ought to be made. But I cannot vote to increase the compensation of members of Congress and at the same time vote to strike off the bounties which the House has put upon the bill for our veteran soldiers. I do not believe it to be wise or expedient to do so.

I am somewhat surprised at the statement made here to-night that a portion of the conference committee representing the Senate were ready to strike off the increase of compensation of members of Congress, and that portion of the committee representing a House which had unanimously, with only three exceptions, voted against this increase, insisted upon keeping it in the bill. That is a strange mode of proceeding; it is a discreditable mode of proceeding, and the country will so pronounce it.

Mr. McDOUGALL. Mr. President—

Mr. WILSON. I do not wish to be interrupted.

Mr. McDOUGALL. I rise to a question of order. I submit that it is not in order for a gentleman here to comment upon the proceedings of the other House.

Mr. WILSON. I do not wish to say anything that is out of order.

The PRESIDING OFFICER. (Mr. ANTHONY.) The Chair apprehends that remarks reflecting on the other House are not in order.

Mr. WILSON. Sir, if I have made any such remarks, I withdraw them. I do not wish to say anything out of order; but my opinion of such action remains unchanged.

Mr. HENDERSON. I should like to ask the Senator a question. Does he desire to reduce in the next Congress the number of Union men?

Mr. WILSON. No, sir, I do not; just the contrary; but I think I see the Treasury Department of the Government, although there are \$200,000,000 in the Treasury, using all its power and influence to defeat any bounty bill, and I notice that the new friends and allies of the Secretary of the Treasury are meeting in every county and congressional district and wherever they can assemble together, and denouncing Congress for not equalizing bounties. I see these things; I know their effect; I wish to put Congress right now. When the storm comes, if it shall come, I do not mean that any one shall say that I did not do all in my power to avert it. It is plain to my mind that at any rate if we defeat any bounty bill we should not give increased compensation to any of the employés of this Government or to ourselves. Let the country understand, let the men who fought our battles understand, that it was the condition of the Treasury which would not permit us to increase our own compensation or the compensation of our employés, or to pay them any additional bounty. There would be reason and justice in that, and as I have no doubt of the patriotism of the soldiers of the country, I believe they would look at things as they are. If anybody supposes that if the defenders of the country see us increase our own compensation and the compensation of the employés of this Government while we do nothing for them, it will have no effect in this country, he is very much mistaken. Justice to the men who enlisted from the 19th of April, 1861, to the 17th of October, 1863, for the bounty of \$100 and no more, demands that we should give them at least an additional bounty of \$100. Refuse to concur in this report which rejects the Senate bill for the equalization of bounties put on it by the vote of the House, appoint another committee, and then the mat-

ter may be adjusted by the adoption of a plan I have provided and placed in the hands of a member of the House.

Mr. FESSENDEN. The ground upon which the honorable Senator from Massachusetts opposes the acceptance of this report is to me a little singular. It is that in two cases the decision of the conference has been in accordance with the votes of the Senate. The Senate voted by a very decided majority, aided by the Senator's own vote, to increase the compensation of members of Congress. The Senate voted by an almost equally decided vote not to pass the bounty measure which he offered as an amendment to this bill. The committee of conference now report on both those points precisely what the Senate wished, judging by their votes, and now the Senator says he cannot vote for the conference report.

Mr. SHERMAN. And he voted for this bill on its passage.

Mr. FESSENDEN. Yes, he voted for the bill on its passage through the Senate in just the shape in both these respects that it is now. The Senator's position looks to me a little singular; he places himself in an odd kind of attitude. I have been in the habit of thinking that when a man had his own way he ought to be satisfied.

Mr. WILSON. I have not had it.

Mr. FESSENDEN. The Senate has had its own way in both instances; the decision of the conference committee is exactly in accordance with the votes of the Senate. The Senate conferees were under orders to accomplish these very results, if we could. They have both been accomplished in accordance with very decided votes of the Senate; and now gentlemen say "We cannot agree to the acceptance of the report." I think the committee of conference have a right to claim the support of the majority of the Senate, by whose orders they acted and in accordance with whose wishes the report has been drawn up and submitted.

With regard to these matters I did not intend and do not think it desirable to have any dispute. I have often said what was my rule of action: if I made a mistake in the transaction of business I generally kept it to myself as long as I could and let other people find it out; when they found it out it would be time enough for me to defend myself and to explain why I did what I did, or to apologize for it. But the honorable Senator from Ohio [Mr. WADE] and the honorable Senator from Massachusetts, [Mr. WILSON,] as good politicians, excellent party men, having the good of all at heart, think it advisable to notify the country that there has been a very great mistake and to call upon the country to visit it upon them and their friends by turning them out of office! I think they might just as well have waited a little while, at any rate. I believe it is the substance of an old Arabian maxim that I have seen somewhere, "If your friend commits a fault, cover it with your mantle." But the doctrine of my two friends seems to be in regard to their friends in the Senate and in Congress, if they commit an error blazon it to the world, make the most of it, and invite everybody to punish them accordingly. It is most admirable sense, admirable management! Now, sir, I think as the thing was done and it cannot be helped—

Mr. WILSON. It is not done.

Mr. FESSENDEN. Then it might have been opposed in different terms, in my judgment. I do not agree with the Senators. I think that the passage of the bounty bill at this session would have been most decidedly an error, and a gross one, for two or three reasons. In the first place, no such bill was devised until the last moment, when we had no time to consider it, and then it was sprung upon an appropriation bill. Again, no bill has been devised that was in any way an equalization or could have been made an equalization of bounties that would not have created as much dissatisfaction and as much grumbling through the country as it would create satisfaction. None has been devised in either

House. Another thing: the one that was rejected by the Senate, and which the House adopted as an amendment to this bill, is one that would take out of the Treasury certainly not less than \$350,000,000.

Mr. WILSON. Oh, no; I know better.

Mr. FESSENDEN. The Senator does not know better. Very good calculators and very good judges place it higher.

Mr. WILSON. General Brice estimated it at \$250,000,000 and Mr. Brodhead about the same.

Mr. FESSENDEN. But that is a great deal too much to take out of the Treasury in the present state of things.

Mr. SHERMAN. It is not there to take.

Mr. FESSENDEN. We should have to borrow the money and increase our national debt. If the thing is to be done it should be accurately done, carefully done, done upon correct principles, those that will be satisfactory after it is done, and not a helter-skelter, higgledy-piggledy arrangement that no one can understand the effect of, except that it does not equalize anything.

That is one reason why I think no such measure should be adopted, at this session at least. Besides, I think that before any such great measure is adopted somebody else should be heard from besides those interested in it, the soldiers themselves. I think that nothing will be lost by inquiring of our constituents—and when I say "our constituents," I do not mean the soldiers alone, but I mean all our constituents—and finding out what public opinion really is on this subject. My own notion is that public opinion is not so decided as gentlemen suppose, when you get out of the influence of those who have been soldiers themselves; and I do not look upon it as a matter of principle that with the present heavy national debt upon us we should increase it by this large amount for this purpose, without very great deliberation and without an understanding of what we are doing, and unless it be in answer to a very decided call of the people, and not of mere soldiers' and sailors' conventions held for the purpose of accomplishing the object.

Another reason in my mind is, that it is not the payment of a debt. All our debts in that direction have been paid; it is strictly a bounty, a gift, nothing more nor less, and as a gift it will amount to the very large sum stated. Not being a debt to be paid, but being a gift, a very serious question arises whether it would be a sensible or even a popular measure after it was done. You may give to the soldiers \$100 apiece if you please, make them a present of that much; it lasts but a few days, they have the pleasure it confers for a short time; but the taxation endures for years and years; and it would not be long in my judgment before those who were instrumental in thus enlarging the debt would be held to quite as severe an account as will now be those who refuse to make this gift; and there is time to make it hereafter if the people call for it and will sustain it. These are my opinions, and I express them in answer to what has been said in regard to the effect of a defeat of a measure of this kind.

I did not vote for the increase of our own pay, for the simple reason that, in my judgment, it was better to defer action upon that subject; but a majority of the Senate overruled me. I agree most fully that the compensation of members of Congress, considering their position, considering their expenses, considering what they have to do from year to year, and what they have to bear, is the most miserable compensation paid to any officers of the Government or any persons connected with it that I know of. I have felt it for years. I have borne it because I chose to bear it. There are others, perhaps, not so well able to bear it as I am. The Senate decided that it was proper to increase the compensation. It is not for me to quarrel with the decision of the Senate on that or any other subject. In this committee of conference I represented the Senate. I was disposed and ready to carry out the decision of the Senate; but still I believed that under the circumstances

that might as well be deferred, and feeling that the Senate was content that it should be deferred to another session of Congress, I was disposed to let it go out of the bill, although it would have been a stretch of power in the committee of conference, perhaps, that might have been remarked upon. If there had been a collision between the House and the Senate on that point, as one must yield, we thought it advisable that the Senate should yield; but as the chairman of the committee [Mr. SHERMAN] has stated, the question did not arise whether we ought to yield or whether we could yield. That was not allowed to us from the course taken by the representatives of the other House in the conference. All we had to do was to represent the Senate, and being able to obtain the carrying out of the views of the Senate on these two points, we did so. There is the simple state of the fact.

Now, sir, I have great confidence in the judgment of the people. I am not afraid of their decision. I never have been. The same outcry was raised when our compensation was somewhat increased about ten years ago. But there was no real complaint made of it except in some papers that wanted to make party capital out of it. The people were perfectly satisfied with it; and I think they will be satisfied now when they come to reflect and know that there is not a member of this Congress living in this city who can support himself, or begin to support himself, at the expenses here, upon what he receives for compensation. That is the fact. It is the fact with regard to myself; and although I was willing to bear it longer, to continue the present inadequate compensation might be very great injustice to others who have not, perhaps, the same ability to bear it that I have—great injustice, perhaps, to my friend from Massachusetts himself. I am perfectly willing to leave that matter to the people, in the full confidence that the people of this country, knowing what their public servants are and what they do will judge them leniently and kindly.

With regard to the other question, there is a difference of opinion; it involves hundreds of millions; it must necessarily throw a greatly increased burden on the Treasury, not in payment of a debt, not to support persons in the rendering of services in the present or in the future, but to pay for past services which have been settled fully according to law, by a gift, a bounty. Well, sir, if that is justly due, the time will come when it will be paid, and paid, as I said before, under a proper bill and one that does really equalize the bounties. I am not afraid to meet the judgment of the people on both questions.

Mr. McDOUGALL. It is a year or two since I expressed my judgment to the Senate in regard to this question of bounty. I then affirmed what I desire now to reaffirm, that it is the obligation of every citizen of this Republic, poor or rich, to render his service in war when it is called for. I do not know why the poor man, "the publican and the sinner," should do more battle than the rich man who lives in a palace. It is my opinion, and has been always, that the great men of a State, the public men of a State, the men of large possessions, the men of large wealth should be at the front of armies. It was so at Marathon; it was so at Plataea; it was so in the old Roman times. We have adopted a miserable, false, and cowardly policy whereby we allow a person, who is under obligation to go, because he has something to maintain in the front of battle, to hire, for a trifling thing, a man to take his place. From the first I have opposed that policy; I have said "Every man demanded for the service, to his place; no bounties." I have said there should be no differences between the individuals who constitute the nation; the rich must fight as well as the poor; and therefore no bounties, no substitutes. So have I always said; so I now say.

Our present experience enables us to recognize the fact that our policy was wrong. We came into our late war without experience; we

traveled through it ignorantly; that is, most of us ignorantly, and particularly so the persons intrusted with administration; consequently they did not understand the policies that underlie the incorporation of the elements of war among a people. Otherwise this would not have been a war of four years; twelve months would have sufficed; and we should not have lost hundreds of thousands of men. We have wandered far away from the true philosophy of the conducting of the elements of warlike organization.

But, sir, I do not care to discuss this question. I care simply to throw out some things that are truths, which should be recorded because they are exact truths, and belong to the history and belong to the records of the nation.

Mr. EDMUNDS. I beg leave to say a word, as I represent a small number of the soldiers of the Union—very small, it is true, because of those whom Vermont sent to the war more fell in battle than from any other State except the gallant State of Kansas, as the official records show; but still enough have returned to influence in a certain degree public sentiment, and to represent to us fairly, probably, what the real sentiments of the soldiers are. Now, so far as my knowledge goes, and I am informed by other Senators that it concurs with theirs, the real soldier, above all other things, loves justice and fair play. He does not want a bounty which is taken out of the pocket of some other soldier to pay him; he does not want a bounty, well and hale and strong himself, to crown the honor that he has gained in warfare, while the widow of any brother soldier, or his orphan, or while any brother wounded soldier is pining for the necessities of life. He does not want the Government's money under any such circumstances. He does not want the money of the Government while men who have not been in the service, but have been in the troubled sections of the country, and who have been crucified on account of their love to the old flag are still unprovided for in every respect whatever.

That, sir, so far as my knowledge goes, is the sentiment which fills the bosom of the true soldier. How many, I should be glad to have the Senator from Massachusetts tell me, of those seven hundred thousand that he parades before us have petitioned either House of Congress for this bounty? Is it one in a thousand? Is it one in ten thousand?

Mr. WILSON. Yes.

Mr. EDMUNDS. Possibly. Call it one in ten thousand then.

Mr. WILSON. We have thousands of petitions.

Mr. EDMUNDS. How authentic they are we do not know. Who are the agents; who are the speculators; who are the politicians—because the category would be incomplete without them—that are pressing this scheme, and through what means is it that the result is to be obtained? There have been brought upon us bill after bill upon this subject which had to all appearance an origin (if I may say so with all respect to the Senator from Massachusetts) in some military grab-bag, without form or comeliness, not providing in one of them at all for those who have perished or have been lost in anywise to their ability to serve themselves or to be useful to the country, from disease; another which, while it professes to equalize bounties, says to the man who reenlisted in 1863 or 1864, and served his country through, "You must take out of your pocket a part of the bounty which we paid to you, and pay it to your brother in the same regiment who did not reenlist but went home, as an act of equalization, as an act of justice." It does not deserve the name, Mr. President. Then when you turn to the soldier as a citizen, as a tax-payer, as a member of the great body of the community, you say to the soldier of an eastern State, "You shall receive nothing of this bounty," as the House bill provided he should not, "but you shall pay out of your treasure and the accumulations of your earnings to the soldier of some western State that has not been provided for."

I believe the soldiers of the western States, gallant and just men as they are, would scorn to take money raised in such a way, because it is unjust and unequal.

I do not want to be told that I am opposed to the soldier and am not willing to do justice to him, because these crude and unperfected and unjust and unequal schemes are forced upon us on an appropriation bill at the last moment of the session, and gentlemen with high words for the benefit of their party tell us that we are to lose votes because we are not providing for the soldier! It is not statesmanship; it is not justice; it ought not to prevail.

Mr. WILSON. I desire to say a word or two in response to the remarks made by the Senator from Vermont.

Mr. DOOLITTLE. Will the honorable Senator permit me to introduce a joint resolution containing two sections? It is evident that we cannot do anything in regard to bounties on this bill; but possibly we may pass this joint resolution which I desire to introduce. I send it to the desk to be read.

The Secretary read the proposed resolution. It proposes to direct the Commissioner of the General Land Office and the Commissioner of Pensions, under the direction of the Secretary of the Interior, to prepare and submit to Congress at the next session a bill to equalize the bounties paid to the soldiers of the United States by the Federal Government by issuing to them land-warrants, with power to locate them upon the reserved alternate sections along the line of the various railroad grants through the public domain. It also proposes to authorize the heads of the several Departments to submit to Congress at the next session bills for the reorganization of their clerks and employes and for a proper adjustment of their salaries; and to grant from the first Monday of December last to the 4th of March next twenty per cent. additional to their respective salaries to those clerks and employes who are heads of families.

Mr. FESSENDEN. Let that lie over until to-morrow. I want to have this bill settled to-night; it has got to be enrolled.

Mr. DOOLITTLE. We cannot do anything with the bounty business on this bill.

The PRESIDING OFFICER. The resolution cannot be received, objection being made. The question is on agreeing to the report of the committee of conference on House bill No. 737.

Mr. WILSON. I think there was something in the tone of the Senator from Vermont that neither he nor I have a right to assume in this body. He is pleased to characterize the bill reported by the Committee on Military Affairs of the Senate as a crude measure; and what is his criticism upon it? Why, this one single thing, easily corrected: that if a man left the service of the country on account of sickness he could not have his bounty beyond the time he served, while the man who left the service on account of wounds that were clear and palpable to anybody could receive his bounty as though he had served out his entire enlistment. That is all there is in the Senator's criticism.

Sir, permit me to say that this bill was drawn with great care, that it was put into the hands of four or five men connected with the Government in the War and in the Navy Departments, and I say here to-day that it was a perfect equalization as far as the Federal Government is concerned; and there is not a single section of that bill that is not clear and plain to the comprehension of all men who understand how business is done in those offices—in the War, Navy, and Treasury Departments, and what we intend to accomplish. I do not measure myself with the Senator from Vermont in regard to a knowledge of public opinion, although I have lived quite as long as that Senator, and looked in the faces of quite as many thousand men as himself. He may be right in this matter; I hope he is; but according to my poor comprehension, there is not a press in the country hostile to the measures of Congress—and there are many presses

that are hostile both to the measures and to the men, whether that hostility comes from one cause or another—that will not from the day this Congress adjourns till we meet again hold up before the country, and thereby endeavor to affect the public judgment, the fact that this Congress increases the compensation of its employes and its own and casts out entirely all measures to give bounty to the soldiers.

Mr. FESSENDEN. We have not given any bounty to ourselves, have we?

Mr. WILSON. No; but we have given increased compensation.

Mr. HENDERSON. One Senator is reduced \$2,000.

Mr. WILSON. And his mileage ought to have been reduced long ago.

Mr. HENDERSON. Do you call that an increase?

Mr. WILSON. It is an increase generally. Some of the Pacific members do not get an increase, and I think, considering how long they have enjoyed the great privilege of the mileage, they ought to bear it well. I want this matter corrected now before we part. Then let this bill go to another conference committee and let the committee strike our increased compensation out of it or put a bounty provision into it.

Mr. FESSENDEN. We cannot do either.

Mr. WILSON. I do not agree with the Senator from Maine. I know we can put a bounty provision into it, and I hope we shall do so yet. I look to the House. If I could do no better I would take the House bill, which is an unequal measure, because it professes to be an equalization of bounties when it departs from the equal basis of calculation—the bounties paid by the Federal Government—and undertakes to deduct what was paid by the States and the local authorities. There is no equalization in that. Instead of eight and a third dollars a month, which is a perfect and absolute equalization on the part of the Federal Government, being the basis, it must be at least twenty dollars a month, and you would have to pay proportionately.

But, sir, I would rather take that than get nothing. It would not cost fifty millions altogether. I have been accused of acting improperly because I tried to get the measure put on this appropriation bill. I tried day after day to get up the bounty bill as a separate measure; I had it made a special order on three several occasions. After my amendment was voted down to this very bill I tried to get up the House bounty bill with the view of offering an amendment to it which would give to every soldier who enlisted for \$100 bounty and no more, which includes the men enlisted from April, 1861, to October 17, 1863, an additional \$100. About eleven hundred thousand men thus enlisted, and to those of them who complied with the law and the regulations of the Department and have received their \$100 I would give another \$100, not as an equalization but as an adjustment on the ground of equity. That would take from sixty-five to seventy millions; there is no mistaking what that would take.

I shall vote against concurrence in this report in the hope that the bill will go back to this or some other committee, and that this matter will be changed; and if the Senate does not do it, I confidently hope the House will. Reject this report; send it to the same or another committee, and let the committee modify the Senate amendment put on the bill by the House by the amendment I have prepared, and which I intend to move as an amendment to the House bill if I can get it up, and I intend to ask the Senate to do so as soon as this report is acted upon.

This amendment provides—

That to each and every soldier who enlisted into the Army of the United States from the 15th day of April, 1861, to the 17th of October, 1863, for a period of not less than two years, and has been honorably discharged therefrom, and who has received, or is entitled to receive, from the United States, under existing laws, a bounty of \$100, and no more, shall be



paid an additional bounty of \$100, and any such soldier enlisted for not less than two years, who has been honorably discharged on account of wounds received in the line of duty, and the widow or heirs of any such soldier who died in the service of the United States, shall be paid the additional bounty hereby authorized: *Provided*, That any soldier who has bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any other act of Congress, shall not be entitled to receive any additional bounty whatever; and when application is made by any soldier for said bounty he shall be required, under the pains and penalties of perjury, to make oath or affirmation of his identity, and that he has not so bartered, sold, assigned, transferred, exchanged, loaned, or given away either his discharge papers or any interest in any bounty as aforesaid, and no claim for such bounty shall be entertained by the Paymaster General or other accounting or disbursing officer, except upon receipt of the claimant's discharge papers, accompanied by the statement under oath, as by this section provided.

*Sec. 2. And be it further enacted*, That in the payment of the additional bounty herein provided for, it shall be the duty of the Paymaster General, under such rules and regulations as may be prescribed by the Secretary of War, to cause to be examined the accounts of each and every soldier who makes application therefor, and if found entitled thereto, payment shall be made in bonds of the United States payable after twenty years with interest at five per cent. per annum, said bonds to be prepared by the Secretary of the Treasury.

*Sec. 3. And be it further enacted*, That in the reception, examination, settlement, and payment of claims for said additional bounty due the widows or heirs of deceased soldiers, the accounting officers of the Treasury shall be governed by the restrictions prescribed for the Paymaster General by the Secretary of War, and the payment shall be made in like manner, under the direction of the Secretary of the Treasury.

This plan will do something for the six or seven hundred thousand veterans who enlisted the first two and a half years of the war for the small bounty of \$100, the noble men who bore the brunt of the fight. I commend it to the committee of conference if the report shall not be accepted and it goes to a committee. If the House rejects the report, and I am assured that it will do so by a large majority, this plan of mine will be presented to the committee as a modification of the amendment adopted by the House, and I am not without hope that it will be agreed to by the committee of conference and sustained by both Houses of Congress.

Mr. SHERMAN. We have now debated this question one hour, when there is not a single provision in this bill as it stands that was not in it when it passed the Senate by a unanimous vote. The very propositions about which this contest has been made were settled in the same way in the bill as it then stood and as it was voted for by the Senator from Massachusetts.

Mr. WILSON. That is very true; but I understand that the House were to put on the bounty bill as they have done.

Mr. SHERMAN. They proposed to put on the bounty bill; but in the conference they withdrew that, so that the bill now stands precisely as it stood when it passed the Senate; and yet you are debating about it? Is it not a strange spectacle? The House may have a controversy about it; but we passed this bill in the very words in which it now stands, unanimously. We settled both the disputed propositions by decided votes. The Senate conferees simply stood by the action of the Senate, and succeeded in maintaining that action by the House withdrawing all their counter-propositions. Now, the very bill that passed the Senate unanimously after debate is brought back here, and you talk about rejecting it because the House conferees withdrew from our consideration their amendments and agreed to the bill as we passed it. How ridiculous an aspect that is for the Senate! It seems to me we ought to end this matter at once and send the bill to the House.

Mr. WADE. I have no disposition to find fault with what the Senate or what Congress has done on this subject. I know they are very difficult questions of adjustment, and I have as much confidence in the justice of the people as other gentlemen have; and when I spoke of the way the people would view this, I did it because I know that the people will judge us as they ought to do, on the principles of justice and right, as between man and man. I

am afraid of their judgment on this proceeding, because I know they will judge it honestly and properly. The Senator from Maine told us that the people had not moved upon this subject, or words to that effect; that the soldiers had asked nothing at our hands.

Mr. FESSENDEN. I did not say the soldiers.

Mr. WADE. I do not understand it to be so. I can scarcely take up a paper in which I do not find that the soldiers of the late army are gathering themselves together in conventions, and forming leagues for the purpose of endeavoring to induce the Government to do them some measure of justice and equality for the services they have rendered. It is very true we did not contract that we would equalize the bounties; but as we progressed along with this war under circumstances of such great inequality as to the compensation the soldiers received, they could not fail to know, as everybody saw, that the justice of the people would somehow rectify the inequality, and do them some measure of justice. They did talk of it then; they expected that we would do something to rectify these evils; they expect it now, and they have moved, and are moving, everywhere upon this subject; and it is all vain and idle for us to shut our eyes to the fact that the people are moving upon this subject, and taking it into the most solemn and serious consideration. The brave men who have gone forth and encountered the perils and hardships of war are just men, lovers of their country; but they have as keen a sense of justice and equality in the compensation that the Government ought to bestow upon them for the service they have rendered as anybody else; and they know as the thing stands now that it is not equal or right between them. And when we see this great army moving on this subject, and see that it has no effect upon Congress, I know well enough what will be the result. I know what course partisans and politicians will pursue, and how they will proceed.

Sir, if our principles are right and worth preserving, we must take the means that common reason and prudence dictate to preserve those principles; and you cannot preserve them in the face of this great army, dispersed all over this country, burning under a sense of injustice and want of sympathy on the part of the Congress that ought to be and that they had reason to believe was their especial friend. Turn your back coldly on them by increasing the compensation of all other kind of employés and it will not answer to tell them that your Treasury is short; they naturally will ask, if that were so, how is it that you are enabled to compensate yourselves; how did you come to enhance the salaries of all other Government employés, but the moment you turned toward the soldier you had nothing in your Treasury to bestow upon him? Sir, that will not do. Upon such arguments as that we cannot hold our position. I feel sure of it, and I judge by the great principles of human nature. These men are just men; they demand nothing of us that we cannot do, nothing that is unreasonable; but it will not do to tell them that you have no sympathy for them and nothing to bestow upon them, when you have everything to bestow upon yourselves and other employés whose labors were easy, whose burdens were light, in comparison with the perils and hazards they have encountered.

Mr. President, I am admonished that it is late, and I will not detain the Senate, for I am bringing forth no new light on this subject, but I feel keenly that we must do something if we can do it, and we must not hurry away by some sudden impulse until we have taken time to consider this great subject in all its bearings and see if we cannot do something. I will not take further time now.

Mr. YATES. I do not want to consume time, but my heart and my soul are in this matter. I do not approve of all of the doctrine of the honorable Senator from Maine, that when we make mistakes we must wait for our enemies to discover them before we acknowledge

them. That is not my doctrine; and especially if we discover that we have made mistakes while we have yet time to correct them, I think it is our duty to correct them. It is not too late to correct this mistake at this time. I know as a matter of fact that soldiers' leagues and soldiers' conventions are being formed in every part of this country now to denounce the action of Congress because they do not do justice to the soldier. I know that there is a party, and the President is at the head of that party, which is appealing to the prejudices of the soldiers and saying that we, the great Republican Union party of the country were willing to call out soldiers, were willing to inaugurate this war, were willing to expose them to the perils of war, but now when the war is over, when they have fought the battles and achieved the victory, we are not the men to stand up and to pay them. I know it is said that it will be mercenary in the soldier to suppose that he should receive pay for his services beyond his contract with the Government. Allow me to ask if it is mercenary for us to add \$2,000 to our compensation for serving the country in a civil capacity? Will we receive that, and then say that it will be mercenary in the soldier who had to incur all the hardships and dangers and difficulties of war to receive a small additional pittance? I wish to say for myself that in the providence of God and by the kindness of the people I have by my proclamations called out two hundred and fifty thousand soldiers to this war. By my attention to them, whether deserved or undeserved, I have in my State the proud title of "the soldiers' friend." They went out at the call of their country, they abandoned their business, they sundered their domestic ties, they fought for three years, they trudged through mud and rain and snow, they scaled the heights, and thousands and hundreds of thousands now sleep in unmarked graves upon the banks of the Mississippi, the Cumberland, and the Tennessee, in Shiloh's woods, upon the cloud-involved summits of Lookout mountain, in the sands of the ocean shore, and there they will sleep until the day of resurrection; but, sir, there is the living soldier, there is the wounded soldier, there is the man who lost his arm as he scaled the heights of Donelson, or his eye in the thickets of the Wilderness. He appeals to this Government to stand by him, and especially those soldiers who have borne the brunt and burden of the battle, the three years' men who went first without pay for love of country, with no glittering bribes or bounties before them, who took upon themselves this battle, and who saved this country, who rescued the life of the nation.

I will detain the Senate but a moment longer; I will curtail the remarks I intended to make, but I do wish to say one thing, that when I voted to increase the pay of members of Congress I did it because I believed it was right to increase their pay; when I voted to increase the pay of the clerks with my friend from Massachusetts [Mr. SUMNER] I believed it was right; but, sir, it never entered my mind that it was in the conceptions of the present Congress not to equalize the bounties of soldiers. I occupy precisely the same position that my friend from Massachusetts [Mr. WILSON] does; and I never should have cast my vote for the increase of my own pay, however much I need it—and I need it very much—without at the same time extending corresponding remuneration to those who have done so much for us and who deserve so much at our hands.

Mr. DOOLITTLE. I hope we shall have the question.

Mr. FESSENDEN. Do not make a speech, then.

Mr. DOOLITTLE. I shall make no speech about it. The Senator from Maine will understand that I am just as anxious to get to a vote as he is himself. I say let us come to a vote on this question and immediately, for I desire to take up for consideration the resolution I submitted authorizing the Commissioner of the General Land Office and the Commissioner of Pensions to prepare a bill to be sub-

mitted to the next Congress by which we can equalize these bounties and pay them in lands and allow the soldiers to select them on the alternate sections on the land grants. We have got land, but we have got no money in the Treasury.

Mr. JOHNSON. Let us take the vote.

Mr. DOOLITTLE. Very well; let us take the vote.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the report of the committee of conference which has been read?

Mr. WILSON and Mr. LANE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 14; as follows:

YEAS—Messrs. Buckalew, Conness, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Henderson, Howard, Johnson, McDougall, Morgan, Norton, Poland, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Stewart, Sumner, Van Winkle, and Williams—25.

NAYS—Messrs. Anthony, Chandler, Creswell, Harris, Howe, Kirkwood, Lane, Nye, Ross, Trumbull, Wade, Willey, Wilson, and Yates—14.

ABSENT—Messrs. Brown, Clark, Cragin, Dixon, Fowler, Grimes, Hendricks, Morrill, Nesmith, Saulsbury, and Wright—11.

So the report was concurred in.

Mr. DOOLITTLE. I desire to give notice that I shall call up the resolution to which I have referred in the morning, with a view to have it go to the House, if the Senate will consent to its passage, in time to be acted upon at the present session.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes.

The message further announced that the House of Representatives had passed without amendment the bill (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia.

The message further announced that the House of Representatives had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special five per cent. income tax imposed thereby; and

A joint resolution (H. R. No. 208) in relation to the use of the Soldiers' and Sailors' Orphan Fair building in Washington.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 32) to extend the jurisdiction of commissioners of the circuit courts of the United States;

A bill (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes;

A bill (H. R. No. 780) to protect the revenue, and for other purposes;

A bill (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government;

A bill (H. R. No. 794) for the relief of Francis Colgan;

A bill (H. R. No. 797) granting a pension to Daniel Lucas;

A bill (H. R. No. 798) for the relief of Quincy A. May;

A bill (H. R. No. 800) for the relief of Maria M. Buxton;

A joint resolution (H. R. No. 150) to provide for payment of the claim of Colonel H. C. De Ahna for military services;

A joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars per month;

A joint resolution (H. R. No. 199) for the relief of certain Chippewa, Ottawa, and Potawatomie Indians;

A joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865;

A joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar;

A joint resolution (H. R. No. 195) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims, to the loyal citizens of Tennessee; and

A joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special five per cent. income tax imposed thereby, was read twice by its title and referred to the Committee on Finance; and the joint resolution (H. R. No. 208) for the erection of an equestrian statue in memory of Brevet Lieutenant General Winfield Scott, was read twice by its title and referred to the Committee on Military Affairs and the Militia.

#### ORDER OF BUSINESS.

Mr. WILSON. I move to take up House bill No. 602, to equalize the bounties of soldiers, sailors, and marines who served in the late war.

Mr. FESSENDEN. I hope not. We have a great deal of business that we must finish to-night, and it is perfectly manifest that we cannot pass a bounty bill at this session.

Mr. WILSON. I think we can.

Mr. POLAND. I move to take up a privileged question, the resolution reported by the Committee on the Judiciary in relation to the seat of Mr. Patterson, whose credentials were presented yesterday. I understand that the joint resolution which was passed and sent by us to the House has been laid on the table; so I suppose we shall have no official notice from the House of the disposition of it; and I therefore move to proceed to the consideration of the resolution reported by the Judiciary Committee.

Mr. CONNESS. I do not know how much privilege that question has; but I wish to state to the Senate that the Committee on Post Offices and Post Roads have made efforts to get the floor all day, to call the attention of the Senate to a post office appropriation bill which the House has passed, and which is here before us, and upon which action is necessary and demanded; otherwise, a large portion of the postal service will fail. It is very essential to take it up. It is an appropriation bill.

Mr. JOHNSON. There will be no debate on this, I imagine. It is a privileged question.

Mr. FESSENDEN. There are certain things that we must finish to-night, because we shall have no time to attend to them in the morning. We must finish the executive business.

Mr. CONNESS. This is an appropriation bill, and ought to be attended to.

Mr. FESSENDEN. I hope we shall finish that first, because it is absolutely essential.

Mr. CONNESS. I move to postpone all prior orders—

The PRESIDENT *pro tempore*. The motion of the Senator from Vermont, as a privileged question, the Chair is bound to entertain. It

is in the power of the Senate, of course, to dispose of it, but it is a privileged motion, and the Chair must entertain the motion.

Mr. POLAND. I do not apprehend that this question will take any time, or that anybody has any disposition to debate it. I suppose all was said upon it on either side that is desired to be said. The passage of the joint resolution to-day by an almost unanimous vote signified the sense of the Senate in relation to the propriety of receiving this gentleman as a member of the Senate.

Mr. TRUMBULL. A motion was made by the Senator from Massachusetts to proceed to the consideration of the bounty bill. That motion was not acted upon. The Senator from Vermont then rose and moved to take up the question of the right of a person to a seat. I submit to the Chair that that does not supersede the other motion. As I understand it, a privileged question simply authorizes a party, when no other motion is pending, to rise and submit the question. If the Senator from Massachusetts had called up his bounty bill and it was before the Senate, then the Senator from Vermont could perhaps make this motion; but it seems to me the Senator from Massachusetts was in order with his motion, and that the Chair is bound to entertain it, and until that motion is disposed of, motion after motion cannot be piled upon each other.

I do not know that it is proper to make any remarks in this connection; but I am exceedingly anxious that that subject should be taken up. As anxious as I am to get away from here, I have steadily voted in favor of doing something towards equalizing these bounties. The men who fought side by side and were paid differently by this Government have always expected that something was to be done to equalize the pay. Here was one man who went out in 1861 and fought all through the war and got \$100 bounty. Another man came in a year or two afterwards and fought by his side and received \$300 bounty from the Government. I never supposed that the bounty bill was to have the go-by in any such way. The Senator from Massachusetts made an effort to get it up late in the session, and then proposed it as an amendment on the appropriation bill, and it was defeated there. I do not antagonize the two questions that have been antagonized here to-night. They are entirely distinct. This is a measure that stands upon its own foundations; and I trust that if it is necessary to prolong the session until we consider the question fairly, it will be done. If a majority of the Senate will do nothing, if it is determined that nothing whatever shall be done, of course there is no use in staying here; but until a fair and honest effort is made, and that, too, without any excuse that we shall not get away, I think we should consider the question and deliberately dispose of it. In my judgment, something ought to be done and something can be done. It is not true that there is no money to pay this bounty. There is more than \$100,000,000 in the Treasury of the United States, and it has been there for a year. I rose simply as to that question of order, to inquire whether the Senator from Massachusetts was not in order in his motion.

The PRESIDENT *pro tempore*. The Senator from Massachusetts was in order in his motion, and the Chair entertained it. The Senator from Vermont then made his motion, which, in the opinion of the Chair, is a privileged question, inasmuch as it concerns the organization of the body. The motion of the Senator from Vermont, in the opinion of the Chair, takes precedence of the motion of the Senator from Massachusetts, and is first to be put. As to the illustration which the Senator from Illinois gives, that if the motion of the Senator from Massachusetts had been put and the bill was before the Senate, then the motion of the Senator from Vermont might be in order to displace it, in the opinion of the Chair, if it would displace the bill when up, *a fortiori* it would displace the motion to take it up when made.

Mr. FESSENDEN. Let us have a vote upon it, then.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

The motion was agreed to.

SENATOR FROM TENNESSEE.

The Senate accordingly resumed the consideration of the resolution reported from the Committee on the Judiciary which, as it had been amended, was as follows:

*Resolved*, That Hon. David T. Patterson, upon taking the oaths required by the Constitution and laws, be admitted to a seat in the Senate of the United States.

Mr. SUMNER. Let us have the yeas and nays on that.

The yeas and nays were ordered.

Mr. TRUMBULL. I regret that I cannot consistently vote for this resolution. I stated my views briefly when the question was up before, and will not take up any considerable time in repeating them now. But, sir, with this law upon the statute-book, I do not see how the Senate can vote that the applicant is entitled to his seat on taking the oath, when it appears before the Senate on the report of the committee that if he takes the oath he takes it in the teeth of the law. The law says that every person shall take an oath that he has not sought or held any office or exercised the functions of any office under any government, or pretended government, in hostility to the United States; and now, if we vote that the applicant can take his seat on taking that oath when the fact is patent before us that he did hold an office under a government in hostility to the United States, it seems to me it is saying that this oath amounts to nothing; you may as well repeal it. There is but one way in which we can preserve the law, maintain the sanctity of the law, and at the same time admit the applicant to his seat, upon the ground that although he held an office under the confederate government in hostility to the United States, he did it, not for the purpose of aiding that government, but for the purpose of serving Union men. The only way we can admit the applicant, in my judgment, upon that state of facts, is to relieve him from taking that portion of the oath; and I think that was the proper course which the Senate adopted to-day. Then you preserve the law; then you say to the people of this country that whenever a disloyal man comes here, he is not to be admitted; that Congress will insist upon the oath; that he shall not be permitted to take his seat simply because he is willing to take the oath; that Congress will regard the oath, and no man that cannot literally take it shall be admitted to a seat while that law stands upon the statute-book.

Then, if there is a case where a loyal man ought to be admitted, it is our duty to remove the statute, so that he may take his seat. We cannot go before the country and say to the people of this country "Here is a Union man; here is a man that has been persecuted for his loyalty; here is a man who lived in a portion of the country over which the rebels bore sway; who was hunted from his home; who succored Union men; who gave intelligence to the commanders of the Union armies; who comes now from a State that is entitled to representation according to the act of Congress, and presents himself and we turn him away." We cannot do that. What shall we say to the people of the country when they ask us why such a person was not admitted to his seat? Shall we say to them, "He is not admitted to his seat because there is a law of Congress that says he shall not be admitted to his seat except he swears a certain oath; and he did act inconsistent with that, and therefore is not admitted to his seat." What is the reply? "You make the laws; why did you not change that law so that justice and right could be done in the particular case?" It is the only way of escape.

But, sir, if the applicant is permitted to come in here and take the oath in the face of the facts before us, you say to the country that any man, no matter if his hands are steeped in

blood, may come here and take his seat if he will take the oath. Sir, if you do that, you may as well repeal your oath at once; you pay no regard to it; you place the decision as to whether a man shall take a seat here under the oath upon the man himself; and if the chief of the rebels is corrupt enough to come here and swear according to the act, upon such a construction, although the oath might be false in fact and in spirit, you will be compelled to receive him. You may as well remove the oath from your statute-book, if that is the construction that is to be put upon it. Unwilling as I am to do anything to deprive the applicant in this case of his seat here, I see but one way to allow him to take it, and that is, to do exactly what we have done, dispense with that portion of the oath in his particular case, which, in my judgment, as I view the matter from my stand-point, he cannot properly take.

Mr. WADE. I have reflected somewhat upon this subject, and I cannot exactly agree with the Senator from Illinois upon it. We have a law that we deliberately made, and which nothing less than both branches of Congress, together with the President, can annul. That law provides that no man who has been engaged in the rebellion or held any office under the confederacy and sworn allegiance to it—I do not repeat the exact words of it—shall be a member of Congress. There that law stands like a lion in the path. This man, as I understand the committee found, was a judge who took an oath to support the confederate government that was in hostility to that of the United States, and the duties of that office would inevitably compel him to do acts in furtherance of those rebel laws. Our committee pronounce a high eulogy upon him because he did take an oath that he would act as a judge and execute the laws of the confederacy, because they say his motives were good. Sir, it is all idle to give that construction to it. He violated the laws of the United States; he violated his duty as a citizen; he abandoned his allegiance to the Government of the United States; and whatever his motives may have been he was guilty of hostility to this Government.

Sir, what would his duty as a judge compel him to do? One of the first laws passed in the confederacy was that the property of all northern men in that country should be confiscated and passed over to the confederacy, and all debts that were owing from their people to northern men were to be confiscated and collected for the use of the confederacy; and that was about the first duty that this judge had to perform. Instead of enforcing a contract in favor of the man to whom the obligation was due, he sat there with an iron and rebel hand to compel the execution of it to a confederacy warring against his own Government. He, with his eyes open, took this responsibility upon himself. If this Judiciary Committee had gone down there with a lawful calling, acting in subordination to the laws of the Government under which they lived, they would have made themselves liable to this confederate government; it might be that in defending the flag of their country they would have committed treason to this confederacy and thereby forfeited their lives; and this judge upon the bench, if he were true to his rebel oath, would have been compelled to enforce those laws against them, even to the taking of their lives, because they were true to their own Government.

This man voluntarily placed himself in a position where to be true to his own Government he must be false to that confederacy which he had sworn allegiance to. He voluntarily placed himself in a condition where no honest man could act. I do not care what you say of his motives. If he acted up to the laws of that confederate government, at war with ours, he was at war with our Government and compelled to disregard all its laws and to enforce those rebel laws whose object was to put down the loyal Government. If he was true to our laws he was false to that oath that he had

taken. He could not serve God and Mammon, and he knew it when he took the confederate oath. No man can act as a judge under a rebel government and swear allegiance to it without committing an act of hostility and treason against his own Government. If he acted in subordination to their laws he was false to ours. If he was true to ours he was false to that to which he had sworn allegiance.

Sir, to pronounce a high eulogy upon a man who is a judge, a man of good capacity, a gentleman of character and learning, who voluntarily places himself in this position, and to say that he did so for the good of somebody, is a strange idea of a man's duty, I think. He places himself where he has to betray one side or the other. If he is true to the confederacy he is a traitor to our Government. If he is true to our Government he is false to that to which he has voluntarily sworn. You pronounce a eulogy over him for putting himself in this predicament, and say he did so because his object was to do good to the loyal men down there! In Heaven's name, what good could he do that would be for their benefit as a judge? For every loyal act that they performed there was a penalty that he would be bound to enforce in his court. How could he protect them? If he did protect them, he was a false judge; and when he took an oath to support their government, he was a false judge to do so to shield anybody.

Sir, I do not wish to judge him harshly, but he placed himself in that predicament; and when a man places himself in hostility to his Government and deliberately takes an oath to a government hostile to his allegiance, I think he is very well dealt by if you leave him in a private station. Let him be honored there, if you please; but for Heaven's sake do not pronounce any of your judicial eulogies upon him because he has got into that predicament, and say that he is entitled to a seat in the Senate of the United States, and that right over the law that you yourselves have passed, and that stands like a lion in your path. Sir, law-makers should not be law-breakers. Can you permit him, with that law standing in full force, to come in and swear? You cannot repeal that law. The Senate cannot repeal it. There it stands. How can a man of moral rectitude say that he will permit anybody to come and trample that law under foot before his eyes? How are you going to get him in here? You will endeavor to repeal that law of course. Everybody saw that it was necessary in order to clear his path into this Senate, that you should overcome that law. It could not be done in any other way. Failing in that, you now propose to let him in, law or no law. The law stands in full force, and yet the resolution is that he is entitled to take a seat here, notwithstanding the law to the contrary that you cannot repeal. Sir, there never was a proposition on earth more plain and palpable than that this man cannot come in here and take the oath without trampling the law under foot, with the approbation and consent of the Senate of the United States. I do not see how anybody can suppose that it can be done.

Mr. SPRAGUE. Did he take the pay?

Mr. WADE. I do not know whether he took the pay or not. It is immaterial whether he did or not. I have no doubt he did take rebel pay. He was entitled to it, for he was a judge on the bench sworn to maintain that government, sworn to defend its laws, sworn to enforce them against all loyal men. If loyal men did their duty, and he was a true judge to the confederacy, he would have to hang them. If they committed treason, and it would have been treason under their law for a man to do anything to levy war against that confederacy, he would be bound to hang them.

Mr. HOWE. He had not jurisdiction of such crimes as treason against the confederacy.

Mr. WADE. Well, other crimes; I do not care what you call them; assault and battery. If you had gone down there and violated any law of the confederacy in any way, he would have enforced the penalty against you, although



you were in the employment of the United States, obeying our laws, and performing your duty as a peaceable and just citizen. That was the predicament the man occupied; and then the Senate of the United States are to disregard the law that they themselves have made and permit him to come here and swear himself into this Senate right over your laws. It can be done; but, sir, it cannot be done by my vote.

Mr. BUCKALEW. Although it is an uncomfortable hour to speak, [four o'clock a. m.] and somewhat hazardous to follow so impressive a discourse as that to which we have just listened, I shall submit a few observations in vindication of the vote I shall give upon the pending proposition. There is an old saying which comes to us from high authority, the very highest authority that we acknowledge, which declares that "the letter killeth, but the spirit maketh alive."

Mr. WADE. Let the letter kill is all I ask.

Mr. BUCKALEW. The Senator from Ohio is for a "killing" construction, for a construction of the law which defeats the purpose for which the law was enacted, for a construction which every man of sense and understanding knows in his soul was never the contemplation of the men who framed the statute; and he says "let it kill." Well, sir, his whole speech was of that temper. It was all toned to the observation which he has made in response to me. His argument is false and his position untenable for the very reason that his construction kills and destroys the life of the statute.

Mr. President, we are told that there was once a law that no man should draw blood within the limits of the palace or within the limits of the court. Blackstone will tell you that that law was construed not to apply to a physician who drew blood from a person in order to save his life, in order to restore him to health, in order to preserve his existence. The statute was made against men of criminal intention who drew blood in violation of the laws of the country; and therefore, although under the strict letter of the law the physician who came with benevolence in his heart to rescue a victim from impending death and drew blood, came within the express letter and language of the statute, he was not held to be included in the enactment.

"Holding office under a government hostile to the United States." What does that mean when it comes to be applied to an individual, as in the present case, who has exercised the duties of a judicial position, or rather continued the exercise of them after his State had attempted, but attempted in vain, to sever her bond of connection with the Union? What does this holding of office under a hostile government mean? It means that the individual shall assist that government; that he shall give it the assistance of his influence, of his power, of his efforts, and shall exercise authority under it in aid of the hostile purpose. That is what that statute means; and although men may be entangled in the meshes of a technical argument, embarrassed by a strict construction of the language, instinctively nearly the whole of us emancipate ourselves from all these cobwebs of the brain, from all this folly of construction, when we come practically to act upon this question. Every one of us instinctively feels that this man was not a criminal, was not guilty, was not included within the intention of the legislative power when it hurled this statute against our enemies. Every one instinctively feels that it was not intended to embrace and to crush our friends, and especially those who in the enemy's country were true to us, who, under circumstances of extreme difficulty and embarrassment, saw the road of duty and trod it with faithfulness and with courage.

"Holding office under a government hostile to the United States" means holding it with an allegiance to that government. That is implied—holding it with the intention to assist that government in the hostile purpose against us, to assist in destroying our jurisdiction and

preventing its restoration within the hostile region. Why, are gentlemen to shut their eyes to all the merits of a question of this sort, to all those considerations which pertain to it, and, I may add, to settled rules of interpretation in such cases, and stand, as the Senator from Ohio stands, upon a "killing" expression of the law?

Mr. President, in connection with this point, which I shall not further elaborate, there is another which I will mention. The oath act of July, 1862, has been several times debated in this Senate. I enjoyed the advantage of hearing it discussed very thoroughly at the first session of the Thirty-Eighth Congress. I confess that my mind was never convinced upon the question of power involved, by which I mean that I never heard an argument in vindication of the power of imposing this oath of 1862 upon members of Congress which satisfied and convinced my judgment; but the nearest approach to it was produced by the speech of the late Judge Collamer, delivered in the debate to which I have alluded. He was too clear-headed a man to put the argument upon the ground upon which it has been ordinarily put. He was not willing to take upon himself the burden of insisting that we had the power of adding a qualification of office for Senators to those enumerated in the Constitution, which are, age, residence, and so on. His argument proceeded upon different premises, and from a different point of view. It was the only occasion on which I ever listened to that distinguished Senator, when he cast his whole power into a debate, where my mind did not follow him all the way to his conclusions.

Now, sir, what did he state? You will find his argument in the Globe. It is preserved to us; it can be referred to; and whether we agree to it, or dissent from it, we must say of that as of all other arguments from him, that it is instructive. He said that under the general power to pass criminal laws, this Government might provide that men engaged in the rebellion should never hold office under this Government, and might extend that prohibition to members of Congress; and then it might further provide an oath which would ascertain this guilt and inflict that deprivation of office, or apply the principle of exclusion, as has been attempted by the existing statute and rule of the Senate. He did not treat it as a question of a specific qualification for office to be added in enumeration to those mentioned in the Constitution, but simply as a penal result flowing from the statute which should declare the offense and provide the mode by which guilt should be ascertained. He argued also that trial by jury was not necessary before exclusion was enforced. But I need not go into that.

Now, sir, view this oath act of 1862 from the same point from which it was viewed by the ablest man who ever opened mouth in its vindication, and what is it? Simply and purely a criminal statute, and not one of official qualification. It is in this view a criminal statute and provides a mode by which guilt shall be ascertained, and ascertained out of the mouth of the offender himself. He is to pronounce his own condemnation. If he do not condemn himself by declining the oath when he is actually guilty there is another provision for the case. He is to be held guilty of perjury, and not only may he be ignominiously expelled by this body by its expulsive two-thirds power, but he may be sent into a criminal court and punished along with the vilest and most abandoned felons of the land.

Now, sir, considering this statute as a penal one, as was the one against drawing blood within the limits of the palace or court, mentioned by Blackstone, how much clearer and more necessary it becomes that the construction to be given to it shall be such as I have contended for; that when the claimant to a seat is obliged to condemn himself, if within the law, to exclude himself from a seat in this high place of power, and to go forth with the

brand of Cain upon him, that we construe this statute to apply only to men truly and really guilty and criminal, and withhold its application from those who are innocent, from those who have committed no crime and have intended the commission of no crime, whose souls are pure and spotless from the offense of treason; who, instead of assisting our enemies, have assisted us; who, instead of holding office under a hostile government in the true meaning and genuine sense of that expression in this penal law, have held office at the instance of our friends, for their protection and for the maintenance of our cause; and who, because they have done so, have been persecuted by our enemies, and have only been enabled to maintain their rights of person, of property, of reputation, of social enjoyment, and of all the comforts of which this life is capable, because we triumphed in the war and not our enemies. Had they triumphed, such individual would have been branded for life; nay, more, might have lost his dearest rights or sacrificed life itself.

What I ask, then, is that men shall construe this statute according to the laws of humanity and of sound reason, and according to accepted principles of interpretation; that they shall not construe it according to the rigid, technical, killing letter which has such charms for the Senator from Ohio, giving to his voice such emphasis and to his manner such warmth and earnestness. Perhaps it was more the Senator's tone than what he said that induced me to stand up to protest in the name of logic and of law against this perversion of logic and of law by which innocence, merit, patriotism, and patriotic service are to be punished instead of treason, crime, infamy, and guilt.

Mr. WILLIAMS. I have some difficulty about this question, and I wish to make one or two suggestions in regard to it; I shall not tax the patience of the Senate. It has been assumed in argument here that there is a law that disqualifies a man from taking a seat in the Senate of the United States who has held an office under the confederate government. If there is any such law I have never seen it. There is a law, as I understand, that requires a man to take a certain oath in order to qualify himself to become a member of this body. But if he is prepared and willing to take the oath, the question arises in my mind as to whether or not the Senate can question the truthfulness of that oath. When a person who has credentials appears here, presents those credentials, and says he is prepared to take the oath which the law requires, can the Senate then determine that he shall not take the oath upon the assumption that it would be false if taken by the person applying for the seat?

It is evident that this case is very important as a precedent. One of two things must follow: if a person who comes here as a Senator from the rebel States is allowed, upon taking this oath, to take his seat, then, of course, any man, no matter what may have been his history or his connection with this rebellion, if he is willing to take the oath, is entitled, if otherwise qualified, to take his seat in the Senate. We must assume that position or we must assume the other, that whenever a person comes here with his credentials, prepared to take the oath, the Senate may go back and investigate his antecedent history and determine from that history whether he has or has not been a rebel, and if he has been a rebel, then, notwithstanding he is willing to take the oath, the Senate must determine that he shall not take his seat.

Now, which precedent ought we to establish? If there is a law that authorizes the Senate to say that if a man has been a rebel he shall not be qualified to take his seat in this body, then, of course, that course is to be pursued, and whenever A, B, or C comes here from the southern States as a Senator-elect, his credentials are to be referred and a committee is to investigate the question as to whether he has or has not been a rebel. But if there is no law

that authorizes that sort of proceeding, then it seems to me that the examination as to his qualifications is confined to his age, his residence, citizenship—such qualifications as are mentioned in the Constitution.

I suppose that this resolution will be adopted, and I am inclined under the circumstances to vote for it; but it commits the Senate, as I understand, to the doctrine that whenever any man who comes here from the rebel States otherwise qualified is willing to take this oath, the Senate must allow him to take his seat, and then, perhaps, investigate his former history after he becomes a member of this body.

Mr. HOWE. I want to say a word about this subject. It is in the early part of the day, [five minutes of four o'clock a. m.,] and I take it, the Senate would like to hear a few remarks. [Laughter.]

When this Government was set up the people declared in their Constitution several things, one of which was that "the Senate of the United States shall be composed of two Senators from each State." That was very positive. Another was that "no person shall be a Senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen." I always supposed those two declarations conferred upon every State the right to have two Senators upon this floor, subject only to the conditions that they should send no man who was not thirty years of age, had not been nine years a citizen of the United States, and who was not a citizen of the State from which he was elected; that those were the only conditions attached to this right to have two Senators upon this floor. These were the only qualifications prescribed for Senators.

Now, Mr. President, Congress did enact in 1862 the law which has been repeatedly referred to. It says:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or emoluments thereof, take and subscribe the following oath or affirmation."

That statute does impose additional qualifications upon Senators or it does not. If it does require new qualifications for Senators which the Constitution does not require, then we have put ourselves in the category of demanding as a qualification that which your committee has reported will exclude an innocent, guiltless, loyal man from this Chamber. Your committee have reported that this Mr. Patterson once held an office in the State of Tennessee, while the government of that State was hostile to the Government of the United States; but they have reported that that was an innocent, guiltless act, not evidence of disloyalty, not evidence of crime. This law requires him to swear that he never has held an office under such a government. Now, if that is to be understood as a qualification for the office, that he shall not have held an office under any State government, then you have disqualified one who your committee says is an innocent, guiltless man, from taking a seat in the Senate.

I did not suppose you meant to add any qualifications to those which the Constitution requires. I believe it has been always understood that you could not add to them; but I did not suppose you intended to add to them. I supposed you meant simply to declare that you thought it expedient, before a man was admitted to a seat here, that he should be required to take this oath. Well, sir, whenever you admit a man to take an oath on any subject whatever, you know he may swear falsely as well as truly, and you anticipated when you enacted this law that some men might swear falsely in taking this oath and you prescribed the penalty. What was it? That he should be guilty of perjury if he did swear falsely, and on conviction, in addition to the penalties now prescribed for that offense, "he shall be

deprived of his office and rendered incapable forever after of holding any office or place under the United States." Now, is not that penalty enough?

Senators argue this matter as if there was danger, if we do not stand upon the exact letter of that law, and not only stand upon the exact letter of it, but see beforehand that the man who offered to take the oath could take it truly, of letting down the bars so as to fill up this Senate Chamber with rebels, red-handed men, murderers, criminals. There is not the slightest danger of it. Let Mr. Jefferson Davis, if he can be discharged from his present place of confinement, come here to-morrow under an election from Mississippi; let him come to your bar if he has the other qualifications; let him take this oath if he dare to take it. Your Senate Chamber is not full; but you have got a bad man in it, and your remedy for it, if you believe in your law, is simply to go to a magistrate here and enter a complaint against Mr. Davis for perjury, and he is arrested, and in due course of time he is tried, and in due course of judicial procedure he is convicted, and when convicted the judgment of the court goes that he submit to the ordinary pains and penalties of perjury, and that he be deprived of the office of Senator, and that he shall never hold any other office of any kind or description whatever.

Mr. HARRIS. Or we expel him.

Mr. HOWE. The judgment of the law makes it unnecessary for you to expel him. On conviction he shall submit to these penalties and be deprived of this office. Now, I do not see any danger of getting your Chamber full of rebels under this law, if you stand by it; but, on the contrary, it does seem to me to be a little harsh for you to say, first, that a man shall take an oath before he shall take a seat here in addition to the oath to support the Constitution of the United States, and that you shall say then that that is a qualification for office, and that you shall then enter into an investigation of the question whether he can take that oath truly or not; in other words, try him before he has sworn; and finding that he would be guilty if he did swear, say that he shall not take the oath at all; and really, actually, and literally impose upon him one of the heaviest penalties in that statute; that is, deprive him of his office. I think that is rather harsh. I would not like to do it. I do not see any state of necessity that drives us to it. I believe there is none.

Mr. POLAND. I believe when the report was brought in from the Judiciary Committee it was not ordered to be printed, and I desire that that order shall be entered.

The PRESIDENT *pro tempore*. The order to print the report will be entered if there be no objection.

Mr. POLAND. I do not intend to go into any argument of the question at this time. The facts that have been reported by the committee were agreed upon by all the members of the committee. Although there was some difference of opinion among the committee in reference to the proper resolution to be reported formally, the facts that are stated in that report were agreed to by every member of the committee. There was no dispute in reference to what the facts were. The vote of the Senate to-day on the joint resolution that was passed was a declaration on the part of the Senate that Mr. Patterson, who presents himself as a Senator here, is a fit and proper man to be a Senator. It is a mere question of form, it seems to me. If, in view of the facts that are reported and of the action of the Senate that has been taken upon it, Senators see fit to reject him, I certainly shall have no objection. It will be a matter for them to settle, not for me.

The question being taken by yeas and nays, resulted—yeas 21, nays 11; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Norton, Poland, Riddle, Sherman, Van Winkle, Wiley, and Williams—21.

NAYS—Messrs. Chandler, Creswell, Howard, Nye, Pomroy, Ramsey, Ross, Sumner, Trumbull, Wade, and Yates—11.

ABSENT—Messrs. Anthony, Brown, Clark, Conness, Cragin, Dixon, Fowler, Grimes, Hendricks, McDougall, Morgan, Morrill, Nesmith, Saulsbury, Sprague, Stewart, Wilson, and Wright—18.

So the resolution was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. N. P. BANKS of Massachusetts, and Mr. W. E. NIBLACK of Indiana, managers at the same on its part.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

A bill (S. No. 353) for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians;

A bill (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes; and

A bill (S. No. 447) for the admission of the State of Nebraska into the Union.

#### CIVIL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, disagreed to by the House of Representatives, and

On motion of Mr. SHERMAN, it was

*Resolved*, That the Senate further insist upon its amendments, and further disagree to the amendments of the House of Representatives to the amendments of the Senate to the said bill, and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the managers on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. HARRIS, and Mr. EDMUNDS.

#### POSTAL SERVICE.

On motion of Mr. CONNESS, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 815) supplemental to the act to appropriate money for postal services.

The bill proposes to appropriate \$486,525 for carrying the mail upon the post roads established by acts of Congress passed during the first session of the Thirty-Ninth Congress for the fiscal year ending June 30, 1867.

Mr. RAMSEY. There is a communication from the Postmaster General in explanation of that bill. If it is read it will satisfy everybody.

Mr. FESSENDEN. That is not necessary. The Post Office Committee have examined it, and say it is all right.

Mr. RAMSEY. Very well.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### MASSACHUSETTS AND MAINE CLAIMS.

Mr. SUMNER. I desire to take up a joint resolution (S. R. No. 143) respecting claims of Massachusetts and Maine, which I reported this morning from the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. It requires unanimous consent. The Chair hears no objection.

The joint resolution was read.

Mr. BUCKALEW. I objected to proceed.

ing to the consideration of that resolution, but the Chair did not hear me. I do not think it is a measure that we should pass at this stage of the session.

Mr. SUMNER. It was considered in committee carefully.

Mr. BUCKALEW. I know it was considered in committee about five minutes perhaps; but it was not investigated. I am inclined to the opinion that the principle of paying interest which it recognizes is one which has not been followed by the Government, and is a departure from our uniform practice. It seems that some bill passed at some stage in our history in relation to a claim of Maryland; and that is seized upon and pressed into the service obviously upon the face of this resolution, because it requires some support other than that derived from general principles.

Mr. SUMNER. Simply to apply the rule here; that is all. This resolution is merely to have these claims audited; that is all.

Mr. BUCKALEW. The claims date back to 1812 or 1815. How much they are, what is their nature, what equities are connected with them, we know nothing about, and we have not time now to investigate. I have never seen any papers in the case.

Mr. SUMNER. There were ample papers before the committee of which the Senator is a member; it was considered on three several days in that committee, and finally the committee came to the conclusion which is expressed in the resolution.

Mr. BUCKALEW. I presume the committee had about the information the Senate have; and that is the fact that the Senator from Massachusetts has convinced himself that this amount ought to be paid.

Mr. SUMNER. Not at all. I took comparatively little interest in it; others on the committee took more interest in it than I did. The Senator from Maine, who is now absent, [Mr. MORRILL,] took a deep interest in it.

Mr. BUCKALEW. It is against the practice of the Government to pay interest upon unascertained demands.

Mr. POMEROY. In my State we cannot get the Government to pay us the principal of what it owes us. The Government owes us for organizing troops and we cannot get the principal.

Mr. BUCKALEW. Unascertained, unsettled obligations of a Government, as a general rule, bear no interest. It seems to me like a pretty "smart" proceeding to hunt up some precedent, which may have been accidental or the result of peculiar circumstances, and to use that to pile upon the Government a quantity of interest on these old claims.

Mr. SUMNER. If the Senator perseveres in his objection of course I shall not press the resolution now.

Mr. BUCKALEW. I think it my duty to object.

#### EXECUTIVE SESSION.

On motion of Mr. FESSENDEN, the Senate (at fifteen minutes past four o'clock a. m.) proceeded to the consideration of executive business, and remained in executive session till half past four a. m., when the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the bill (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania.

The message further announced that the House of Representatives had agreed to the report of the second committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 138) to increase and fix the military peace establishment of the United States.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions;

which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania;

A bill (H. R. No. 468) to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana;

A bill (H. R. No. 596) to authorize the use of the metric system of weights and measures;

A joint resolution (H. R. No. 197) authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln; and

A joint resolution (H. R. No. 207) to pay Colonel Lewis F. Fix.

#### MILITARY PEACE ESTABLISHMENT.

Mr. WILSON, from the second committee of conference on Senate bill No. 138, submitted the following report:

The committee of conference upon the disagreeing votes of the two Houses of Congress upon the amendment of the Senate to the substitute of the House to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate, and agree to the same with the following amendments, namely:

Section one, line three, strike out "twelve" and insert "ten."

Section three, line three, strike out "six" and "three" and insert "four" and "two," line seventeen strike out "four of the companies from each regiment" and insert "any portion of the cavalry force."

Section four, line seven, strike out "five" and insert "four," line eight, after the word "men," insert "and four regiments, of ten companies each, to be raised and organized as hereinafter provided for, to be called the Veteran Reserve Corps." At the end of section four insert: "the Veteran Reserve corps shall be officered by appointment from any officers and soldiers of volunteers, or of the regular Army, who have been wounded in the line of their duty while serving in the Army of the United States in the late war, and who may yet be competent for garrison or other duty, to which that corps has heretofore been assigned."

Section six, line three, strike out "two" and insert "one," lines four and five strike out "one regiment company."

Insert at the end of section eight: "it shall be competent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, provided it shall be found on medical inspection that by such wounds they are not unfitted for garrison or other light duty; and such men when enlisted shall be assigned to service exclusively in the regiments of the Veteran Reserve corps." In the same section, after the word "years," in line three, insert "for cavalry, and three years for artillery and infantry."

Section seven, strike out all to the word "academy," inclusive, in line four, and in lieu thereof insert: "that fifteen bands, including the band at the Military Academy, may be retained or enlisted in the Army, with such organization as is now provided by law, to be assigned to brigades in time of war, and in time of peace to assembled brigades or to forts or posts at which the largest number of troops shall be ordinarily stationed; and the band at the Military Academy shall be placed on the same footing as other bands."

Section fourteen, line five, strike out "cavalry" and insert "infantry."

At the end of section thirteen insert: "but after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty; and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers."

Section seventeen, strike out all to the word "cavalry," in line sixteen, and in lieu thereof insert: "that the medical department of the Army shall hereafter consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; one chief medical purveyor and four assistant medical purveyors, with the rank, pay, and emoluments of lieutenant colonels of cavalry, who shall give the same bonds which are or may be required of assistant paymasters general of like grade, and shall, when not acting as purveyors, be assignable to duty as surgeons by the President; sixty surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and fifty assistant surgeons, with the rank, pay, and emoluments of first lieutenants of cavalry, for the first three years' service, and with the rank, pay, and emoluments of captains of cavalry after three years' service; and five medical store-keepers, with the same compensation as is now provided by law; and all the original vacancies in the grade of assistant surgeon shall be filled by selection by examination from among the persons who have served as staff or regimental surgeons or assistant surgeons of volunteers in the Army of the United States two years

during the late war; and persons who have served as assistant surgeons three years in the volunteer service shall be eligible for promotion to the grade of captain."

Section twenty-one, line nine, strike out "sixteen" and insert "thirteen."

Section twenty-four, strike out all after the word "act," in line sixteen, and insert, "shall be entitled in case of passing the examination, and being appointed or commissioned, to receive mileage from the place of his residence to the place of examination, or such portion of that distance as he may actually travel, the same as is paid to officers traveling under orders, but there shall be paid no other compensation."

Section twenty-seven, line seven, strike out "and directed" and "non-," line eight, strike out "other."

Section twenty-eight, after the word "States," in line six, insert "or of either of the States in insurrection."

At the end of section twenty-nine insert, "and officers of the regular Army who have also held commissions as officers of volunteers, or commanded volunteers, shall not on that account be held to be volunteers under the provisions of this act."

At the end of section thirty-five insert, "Provided, That no officer who is furnished with quarters in kind shall be entitled to receive the increased commutation of rations hereby authorized."

Section thirty-six, strike out all after the word "that," in the first line, to the word "and," inclusive, in the sixth line. In line nine, strike out "are" and insert "is."

Insert as a new section, No. 37: "That the Secretary of War be, and he is hereby, directed to have prepared, and to report to Congress at its next session, a code of regulations for the government of the Army and of the militia in actual service, which shall embrace all necessary orders and forms of a general character for the performance of all duties incumbent upon officers and men in the military service, including rules for the government of courts-martial; the existing regulations to remain in force until Congress shall have acted on said report."

HENRY WILSON,

IRA HARRIS,

Managers on the part of the Senate.

J. F. FARNSWORTH,

NELSON TAYLOR,

Managers on the part of the House.

Mr. HOWARD. I should like to hear some explanation of the report of this committee of conference.

Mr. WILSON. The Senate bill as passed by us, with very few modifications, is the bill as it now stands, the amendments being of very little account, excepting one on which we had the main controversy. The bill as passed by the Senate provided for six additional regiments of cavalry, making twelve regiments altogether. That is altered to four additional regiments; we give up two. We have the same number of artillery regiments and infantry regiments as the Senate bill provided. The forty-five infantry regiments are made up in this way: thirty-seven white regiments, composed of the ten old regiments and the twenty-seven battalions with ten companies added; then four regiments of colored troops, and four regiments of Veteran Reserves. This is our bill with a few slight amendments.

The report was concurred in.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business, and after fifteen minutes spent therein the doors were reopened at ten minutes before five o'clock a. m.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN, from the second committee on conference on the disagreeing votes of the two Houses on the bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1867, and for other purposes, reported that, after full and free conference, the committee were unable to agree.

Several SENATORS. What shall be done?

Mr. SHERMAN. There is but one point of difficulty. The Senate conferees proposed to recede from the amendment in regard to the pay of members, but found that that was not at all in the way; that could be laid out of view; the only difficulty is in regard to the question of bounties. The House insist upon some legislation being had in regard to the bounties, and their conferees submitted a proposition which we did not feel at liberty to accept. I will say that the proposition submitted is much more moderate and much more reasonable than any I have yet seen; but we considered that the action of the Senate did not leave us at liberty to accept it.



Mr. WILSON. I hope the Senator will have it read.

Mr. SHERMAN. I will state the substance of it. It provides that all soldiers enlisted after April 19, 1861, for a period of three years, and have been honorably discharged, and who have received or are entitled to receive under existing laws a bounty of \$100, shall be paid an additional bounty of \$100 each; and that any such soldier who enlisted for less than three years and has been honorably discharged on account of wounds received in the line of duty, and the widow and heirs of any such soldier who died in the service of the United States or of disease and wounds contracted while in the service and in the line of duty, shall be paid the additional bounty. All who have served three years under an enlistment for three years and been honorably discharged get \$100; where they have not served the three years under an enlistment for three years, but have been discharged on account of wounds or sickness incurred in the line of duty, they or their widows or heirs are to have \$100. In case the enlistment was for two years, as it seems to have been in some of the States, the bounty is fifty dollars. The conferees on the part of the House say they have made a careful estimate of the cost that this will involve, and it will amount to about sixty-five million dollars.

Mr. CONNESS. Is there any provision to prevent assignments?

Mr. SHERMAN. The same as in the other proposition.

Mr. WILLIAMS. Does this contain the same provision with respect to bounties heretofore received?

Mr. HOWE. Does it apply to soldiers enlisted after October 17, 1863?

Mr. SHERMAN. The other provisions are similar to those contained in the Senate bill about bartering, transferring, &c. It is, in brief, a bounty of \$100 for three years' men who got but \$100 bounty, and fifty dollars to two years' men. Those who got more than \$100 bounty, or are by law entitled to more than \$100, are excluded.

Mr. WILSON. I hope we shall agree to that proposition.

Mr. SHERMAN. The Senate may instruct the conferees.

Mr. JOHNSON. I should like to know from my friend, the chairman of the Committee on Finance, whether the Government can get on without the other appropriations in this bill.

Mr. FESSENDEN. My judgment is that the bill is not so necessary as that we should throw away \$65,000,000 to save it. Undoubtedly it contains many important provisions for the support of the Government, but I do not think their passage is of sufficient importance to authorize any gentleman who thinks this money ought not to be taken out of the Treasury to change his opinion. Each Senator must decide for himself.

Mr. TRUMBULL. I move that the committee of conference be instructed to agree to that proposition of the House.

Mr. DOOLITTLE. I would inquire whether it would not be better, in consideration of the situation of the Treasury and the finances, that either the whole or a part of this at least should be provided for in the shape of bounty land-warrants.

Mr. SHERMAN. We proposed that to the House conferees and they rejected it at once.

Mr. TRUMBULL. The proper motion, I suppose, would be to recommit the report to the committee with instructions to agree to that proposition.

Mr. WILSON. I desire simply to say a word in regard to this proposition. Under no possible circumstances can the amount under it go beyond sixty-six or sixty-seven millions. You know precisely the number of men included, and there is no trouble in telling how much money will be required. There is another thing about it; it cannot be paid under two years and a half or three years at best, so that it will not

take more than \$80,000,000 a year out of the Treasury.

Mr. HOWE. Is it to be paid in bonds?

Mr. SHERMAN. No; it is to be paid in money. I would never agree to issue bonds to the soldiers, for that would be a confession of insolvency.

Mr. EDMUNDS. I think we shall do an altogether wiser thing to adhere to the resolution which we have adhered to so far, not at this late moment to undertake by a sudden dash to adopt a proposition which is not even read to us, and which we cannot comprehend the details of or its application at this time. Now hearing it stated once and hearing it talked of, there are several objections (aside from the general one which has been submitted) which occur to me. They are objections to me; they may not be to others.

In the first place, like all the previous propositions, it does not provide for those soldiers who have been discharged from service on account of disease contracted in it, while the pension laws always do, and while this very proposition itself agrees to the principle of that by giving this bounty to the widows of those who actually died. All those soldiers are excluded. The most needy, the most deserving of any (except those who are totally disabled) are those who have been discharged from sickness contracted in the line of their duty, and from which a great many of them have never recovered, and who are more objects of pity and commiseration than any other class of soldiers whatever.

Mr. CONNESS. It is very easy to amend it in that respect.

Mr. EDMUNDS. I am speaking of the proposition as it is. In the next place it appears to me to be altogether unjust to shut out all that large class, the soldiers who, by the pressure of necessity or by the devices of sharpers, agents, and fraudulent or pretended friends, have been induced to assign their rights to bounty. In the pension laws we never do that, but on the contrary, we give to the soldier his pension and declare that the assignee shall have no part of it. I consider a provision of that description to be radically unjust. The soldier is easily imposed upon when he returns; an agent gets hold of him and gets an assignment. Now, we propose to prevent the agent from getting this bounty by declaring that the soldier shall not have it! We depart from the theory we have always pursued in providing for the soldiers by way of pensions.

I think it wrong in that respect, and I think it wrong, as I said before, in the respect that it gives to a soldier who served his three years and took the bounty which was then provided—and which would then buy as much flour or bread, almost, as the increased bounty given afterward, on account of the depreciation of the currency and the increase in the price of all the commodities used in life—an increase of \$100, while to his fellow-soldier who reenlisted from the same regiment it gives nothing; so that it is really now, when the facts come to be seen, a premium to the soldier who refused to reenlist and a discrimination against the one who did reenlist and fight it through. I do not want to occupy the time of the Senate, but I think it altogether unwise and unsafe to hastily dash at this proposition in this way.

Mr. WILSON. The veterans who reenlisted received \$400 bounty for reenlisting and had a year of their time given in. They enlisted in reality for six years and we gave back one year and \$500 bounty, whereas the men who served out their full time of three years got only \$100 bounty.

Mr. EDMUNDS. That is true.

Mr. FESSENDEN. I do not propose, as this matter is understood, to say anything about it in the way of argument. I have intimated my opinions in regard to it and what my vote will be. All I ask is that we may take the question by yeas and nays, as I desire to record my vote against the proposition.

The yeas and nays were ordered.

Mr. HENDERSON. When the bounty bill was up before I cast my vote for it, but under the instructions now proposed to be given to this committee of conference ten regiments of troops in my State will receive no bounty under it; men who did as valuable service as any men who enlisted during the war; men who enlisted in the State service in the spring of 1861, and in the fall of that year enlisted for three years or during the war, and served as United States troops up to the summer of 1865. In the spring of 1862 when I came here, supposing, as our military men there supposed, that there was some defect in the muster-in, I secured the adoption of an amendment on a bill which was passed by Congress, legalizing the muster-in of those troops. Still, under a decision of the Solicitor of the War Department they have been deprived of any bounty. At an early part of this session I introduced a measure to remedy that injustice, and had it referred to the Military Committee. They kept that bill until a few days ago when they reported it here along with the general bill increasing the bounties, or, as it is called, equalizing the bounties, thereby forcing me to vote for the proposition to give additional bounties to all other troops in order to get even a single bounty for those ten regiments of soldiers who, I repeat, did as valuable service as any men in this war, and who have never received any bounty. There are here certificates as to their conduct on the battle-field from every military commander in Missouri and in Arkansas under whom they served. Only about five hundred men of those regiments received any bounty, and the War Department say that was paid to them under a mistake, alleging improperly that they were State troops and not United States troops, although they were recognized as United States troops by act of Congress.

Under the proposed instructions the committee of conference can only allow bounty to those soldiers who have heretofore received a bounty of \$100, or are authorized to receive it by law. Under the construction of the War Department these men are not authorized to receive bounty, and therefore I am now required to vote to increase the bounty to other troops \$100 and to give nothing whatever to these ten regiments raised in my own State, who are just as much entitled to it as any troops that served during the war.

Mr. WILLIAMS. I ask the Senator whether if any classes are now omitted that may not be remedied by an amendment at the next session. If this bill be passed now, can we not amend it next year in any respect where it may be found defective?

Mr. HENDERSON. These troops were included in the bill of the Senator from Massachusetts, and the Committee on Military Affairs, after mature examination, reported that these troops should be included. If I am required to vote any bounty, I think I must insist upon giving it to these ten thousand men in my State. They certainly would look at me with wonder and astonishment if I had voted for giving \$200 to other soldiers and nothing to them. If I were to do that I should be ashamed to go before them again. I have not pressed the matter, because I did not suppose it was the feeling of Congress at the present session to increase the bounties. I confess that I have not shown much anxiety to increase the bounties; but now, at the close of the session, I am asked to ignore the services of these ten thousand men and to vote \$200 bounty to other soldiers, and to say they shall have nothing. If under any circumstances we are to pass any measure of this kind, we certainly should have a proposition that would include these men.

Mr. CONNESS. I simply rise to suggest that if this proposition be adopted by way of instruction to the committee of conference, it ought to be with the understanding that the committee shall have power to make some changes in it. For instance, the suggestion of the Senator from Vermont that it should

extend to crippled and disabled soldiers, is certainly correct.

Several SENATORS. It does.

Mr. CONNESS. I desire to leave some discretion to the committee.

The PRESIDENT *pro tempore*. The motion is that the report be recommitted to the committee of conference with instructions to accept the House proposition stated by the Senator from Ohio.

Mr. EDMUNDS. I move to amend the instructions, so that instead of those soldiers who have assigned their claims being prohibited from receiving bounty the committee shall report a provision that those soldiers shall have the bounty and no assignee shall be entitled to any part of it.

The amendment was rejected.

Mr. EDMUNDS. I will move one further amendment, and that is that the committee be instructed to endeavor to procure an agreement to extend this bounty to those soldiers who were discharged on account of disease contracted in the line of duty.

Several SENATORS. That is in.

Mr. EDMUNDS. I do not so understand it. It extends to the widows of those who died of disease contracted in the line of duty, but not to those men themselves if they are living. My object is to put them on the same footing here that they are put under the pension laws.

Mr. WILSON. I will simply say that not one in twenty of the men who were discharged from the Army on account of disease were ever injured by their service. During the first year and a half of the war almost any one could get off on that plea; a regiment would be brought into the field and before they ever looked an enemy in the face two or three hundred men would be discharged, and scarcely one of them have any permanent disease.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, [Mr. TRUMBULL.]

Mr. NYE. I desire to say that on this vote I am paired with the Senator from New York, [Mr. MORGAN.]

The question being taken by yeas and nays resulted—yeas 28, nays 5; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Cowan, Creswell, Davis, Doolittle, Guthrie, Harris, Howard, Howe, Johnson, Kirkwood, Lane, Norton, Pomeroy, Ramsey, Riddle, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—28.

NAYS—Messrs. Edmunds, Fessenden, Foster, Henderson, and Sumner—5.

ABSENT—Messrs. Anthony, Brown, Clark, Cragin, Dixon, Fowler, Grimes, Hendricks, McDougall, Morgan, Morrill, Nesmith, Nye, Poland, Saulsbury, Sprague, and Wright—17.

So the motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. DOOLITTLE, (at ten minutes past five o'clock a. m.) the Senate proceeded to the consideration of executive business, and remained in executive session till ten minutes before seven o'clock a. m., when the doors were reopened.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN. I am directed by the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 737) making appropriations for sundry civil expenses of Government for the year ending June 30, 1867, and for other purposes, to submit a report. I will state that this is precisely the report that was made before, except that in pursuance of the instructions of the Senate we have added the bounty proposition which was offered by the House and stated to the Senate before.

Several SENATORS. It need not be read.

Mr. SHERMAN. On this statement, perhaps the Senate will dispense with the reading of the report.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The reading of the report may

be dispensed with by unanimous consent. The Chair hears no objection.

The report was concurred in.

Several SENATORS. Let us take a recess.

Mr. SHERMAN. My impression is that we had better wait awhile to see what the House does with this report.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed without amendment the bill (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia; and

A bill (H. R. No. 815) supplemental to the act to appropriate money for postal services.

#### REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Elizabeth R. Smith, widow of Lieutenant R. H. Smith, United States third artillery, reported a bill (S. No. 451) for the relief of Mrs. Elizabeth R. Smith; which was read and passed to a second reading.

Mr. RAMSEY, from the Committee on Revolutionary Claims, to whom was referred the petition of Andrew Russell's heirs, submitted a report thereon; which was ordered to be printed.

#### EXECUTIVE SESSION.

On motion of Mr. DOOLITTLE, the Senate again proceeded to the consideration of executive business. At ten minutes past seven o'clock, a. m., (Saturday, July 28,) the doors were reopened, and the Senate adjourned to meet at nine o'clock a. m.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, July 27, 1866.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BORTON.

On motion of Mr. STEVENS, the reading of the Journal was dispensed with.

#### HORATIO STONE.

On motion of Mr. FARNSWORTH, the Committee on Appropriations were discharged from the further consideration of the petition of Horatio Stone, and the same was referred to the Committee on the Library.

#### WILLIAM B. COATES.

On motion of Mr. FARNSWORTH, the Committee on Appropriations were discharged from the further consideration of the petition of William B. Coates, and the same was referred to the Committee on Patents.

#### PACIFIC RAILROAD COMMITTEE CLERK.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be paid to J. H. Riley, who has been acting as clerk to the Committee on the Pacific railroad, compensation for thirty days at the same rate that is allowed to the clerk of the Committee on Mines and Mining.

Mr. PRICE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DIRECT TAX IN WEST VIRGINIA.

Mr. ALLISON, from the Committee of Ways and Means, reported back, with a substitute, Senate joint resolution No. 90, to suspend the collection of the direct tax within the State of West Virginia.

Mr. ALLISON. I will explain briefly the substitute which has been very carefully prepared at the Treasury Department. Its object is to divide the direct tax assessed in 1861 between the States of Virginia and West Virginia. I believe there is no objection to it on the part of the members from West Virginia.

The bill also provides for the repeal of that portion of the amendment to the direct tax law of 1862, which requires deeds for property sold at tax sales to be executed by the President of the United States, leaving the certificate of sale *prima facie* evidence of title, as under the original act of 1862. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The joint resolution, as amended, was then passed.

Mr. ALLISON. I move to amend the title so that it shall read "to provide for the ascertainment and apportionment of the proper quota of the direct tax of 1861 to the State of West Virginia, and for other purposes."

The amendment was agreed to.

#### COLLECTORS OF CUSTOMS.

Mr. HOOPER, of Massachusetts, from the Committee of Ways and Means, reported back, with amendments, Senate bill No. 400, to fix the compensation of certain collectors of customs, and for other purposes.

Mr. SCOTFIELD. I wish to inquire of the gentleman from Massachusetts [Mr. HOOPER] how much this bill increases the pay of the collectors of Boston, New York, and the other places named.

Mr. HOOPER, of Massachusetts. Not any. Mr. SCOTFIELD. How much does it increase the pay of appraisers?

Mr. HOOPER, of Massachusetts. It raises it from \$2,500 in some cases and \$2,000 in others to \$3,500.

Mr. ELIOT. Will the gentleman inform the House how many new ports of entry are created by this bill?

Mr. HOOPER, of Massachusetts. My impression is that only two are created, Corpus Christi and Brazos Santiago; perhaps only one, Corpus Christi.

Mr. ELIOT. I have to say that this matter has been before the Committee on Commerce, and this bill, it seems to me, ought properly to be referred to that committee before it is acted on by the House. So far as Corpus Christi, in the State of Texas, is concerned, an inquiry has been made and an examination been had before the Committee on Commerce; and we have come to the conclusion that the public interest do not require that there should be a port of entry created at this time at Corpus Christi. Of course I can have no personal feeling in the matter, and if the House shall see fit to create a port of entry at that place, the Committee on Commerce will have discharged their duty. Now, I would call the attention of the House to the fact that while it may be true that at some future day it will be necessary, for the purposes of commerce, there shall be a port of entry at Corpus Christi, in the judgment of the Committee on Commerce that time has not yet arrived. It is very well known that the creation for a new port of entry involves expenditures necessary to pay officers of the customs. And unless a case be made out beyond controversy, I think it would hardly be right for Congress to provide for the creation of additional ports of entry. There is no reason why at the present time any other expenses should be incurred than those incident to a port of delivery at Corpus Christi.

If the gentleman from Massachusetts [Mr. HOOPER] will yield I will move that that part of the bill be stricken out which creates a port of entry at Corpus Christi.

Mr. HOOPER, of Massachusetts. I cannot yield for that purpose.

Mr. ELIOT. Then I shall have to oppose the whole bill.

Mr. FARNSWORTH. I understand the gentleman from Massachusetts [Mr. Hooper] to say that this bill does not increase salaries.

Mr. HOOPER, of Massachusetts. It does not increase the salary at Boston.

Mr. FARNSWORTH. If a point of order will carry this bill to the Committee of the Whole I make that point of order.

The SPEAKER. It is too late now to make the point of order. The bill has been debated.

Mr. HOOPER, of Massachusetts. I desire to say, in reply to the remarks of my colleague, [Mr. Eliot], in reference to the port of Corpus Christi, that the Treasury Department have come to an entirely different conclusion from that to which he has arrived. The port of Corpus Christi has a very large and constantly increasing trade. Business there has been very much incommoded from the fact that there is no custom-house or port of entry within, I believe, one hundred and fifty miles, the nearest port of entry being, I think, at the mouth of the Rio Grande river. The merchandise entered at Corpus Christi is principally for the supply of the interior provinces of Mexico. A considerable portion of the river, forming a bend around, is within one hundred miles, or perhaps less, of Corpus Christi; so that the interior provinces of Mexico are much more readily reached from Corpus Christi than from the port of entry near the mouth of the Rio Grande.

The Senate committee have examined this subject carefully and have adopted the recommendation of the Treasury Department in favor of a port of entry at Corpus Christi. According to the information of the committee, one single house at that place does a business of over two million dollars annually in supplying the interior provinces of Mexico.

Mr. ELIOT. If my colleague will permit me, I desire to say that the same considerations which he has urged have been taken into account by the Committee on Commerce of this House. A careful examination has been given to the subject, and it has been found to be the fact that, whereas it may by and by be important for the public interests that there should be a port of entry at Corpus Christi, it is now important mainly on private account. There are, undoubtedly, strong private interests involved in the creation of a port of entry there at this time; and if the House is disposed to legislate for the benefit of those private interests it may be well enough to pass the bill in its present form. If my colleague will consent, I move that the provision with reference to a port of entry at Corpus Christi be stricken out.

Mr. RANDALL, of Pennsylvania. I desire to suggest that in the fourth section, in the provision with reference to deputy naval officers, there is an omission, doubtless unintentional, of Philadelphia.

Mr. MOORHEAD. I wish to ask my colleague [Mr. RANDALL] whether in this suggestion he is taking care of a constituent of mine, recently appointed to the collector's office in Philadelphia.

Mr. RANDALL, of Pennsylvania. I have nothing to do with the gentleman's constituents. I am seeking to legislate for the country, not for any party or district.

Mr. FARNSWORTH. As this bill appears to be a private affair among a few gentlemen, I will move, if it be in order, that it be laid on the table.

The SPEAKER. The gentleman from Massachusetts [Mr. Hooper] is entitled to the floor.

Mr. HOOPER, of Massachusetts. I ask that the amendments be read, and after that I shall demand the previous question.

The amendments were read, as follows:

After the words "San Francisco" insert the words "and of the appraisers at the ports of Boston, Philadelphia, and Baltimore."

After the words "per annum" insert the words "and the custom-house weighers at the ports of Boston, Philadelphia, and Baltimore, \$2,000 per annum."

Mr. HOOPER, of Massachusetts. By a bill reported from the Committee on Commerce

the pay of the appraisers and weighers at New York has been increased, the salary of the latter being raised to \$2,500. We propose by this bill to give the weighers at these principal ports \$2,000. I call the previous question.

The question was taken on the motion to lay upon the table; and it was disagreed to.

The previous question was seconded and the main question ordered.

The amendments of the Committee of Ways and Means were then adopted.

On ordering the bill as amended to a third reading the House divided; and there were—ayes 38, noes 36; no quorum voting.

Mr. HOOPER, of Massachusetts, demanded tellers.

Tellers were ordered; and Mr. HOOPER, of Massachusetts, and Mr. ELDRIDGE were appointed.

The House again divided; and the tellers reported—ayes 59, noes 34.

The SPEAKER voted in the affirmative to make a quorum.

So the bill was ordered to a third reading. The bill was accordingly read the third time.

Mr. HOOPER, of Massachusetts, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The House divided, and there were—ayes eleven, not one fifth of those present.

Mr. WILSON, of Iowa, demanded tellers on the yeas and nays.

The House divided; and the tellers reported—ayes twenty-three, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 51, nays 49, not voting 86; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Banks, Barker, Bergen, Bidwell, Bingham, Conkling, Dawes, Donnelly, Driggs, Eekley, Glossbrenner, Higby, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Jencks, Johnson, Kelley, Kerr, Kuykendall, Lathin, Latham, Maynard, McCullough, McRuer, Miller, Moorhead, Morrill, Myers, Niblack, Nicholson, O'Neill, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Spalding, Stevens, Strouse, Taber, Nathaniel G. Taylor, John L. Thomas, Thornton, Robert T. Van Horn, and Winfield—51.

NAYS—Messrs. Baker, Benjamin, Bromwell, Broomall, Cobb, Cullom, DeForest, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Aaron Harding, Abner C. Harding, Hayes, James R. Hubbard, Julian, Koontz, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, McClurg, Mercur, Perham, Phelps, Plants, Price, John H. Rice, Ritter, Sawyer, Seofield, Shanklin, Shellabarger, Stokes, Nelson Taylor, Trimble, Trowbridge, Van Aernam, Ward, Welker, Wentworth, Williams, James F. Wilson, Windom, and Wright—49.

NOT VOTING—Messrs. Ames, Ancona, Delos R. Ashley, James M. Ashley, Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyer, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cooper, Culver, Darling, Davis, Dawson, Delano, Deming, Denison, Dixon, Dodge, Dumont, Garfield, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hart, Henderson, Hill, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Ingersoll, Jones, Kasson, Kelso, Ketchum, Leffew, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Morris, Moulton, Newell, Noell, Orth, Paine, Patterson, Pike, Pomeroy, William H. Randall, Ross, Schenck, Sitgreaves, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Stephen F. Wilson, and Woodbridge—86.

So the bill was passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

Mr. BENJAMIN demanded the yeas and nays.

Mr. HOOPER, of Massachusetts, withdrew his motion.

#### HOUSE REPORTERS.

Mr. DAWES. I ask unanimous consent to offer a resolution in behalf of those who work the hardest of all the persons who work in this House, the Congressional Globe reporters, and to serve them as we have served all others:

*Resolved*, That there be paid out of the contingent

fund to each of the reporters employed in reporting the proceedings of the House the present session for the Congressional Globe an amount equal to the annual increase of compensation allowed during the present session to the assistant disbursing clerk.

There was no objection.

The resolution was then unanimously adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### PENSIONS.

Mr. TAYLOR, of Tennessee, by unanimous consent, introduced a bill to grant pensions to certain persons in East Tennessee; which was read a first and second time and referred to the Committee on Invalid Pensions.

#### CLERK TO SERGEANT-AT-ARMS.

Mr. ANDERSON submitted the following resolution; which was referred to the Committee of Accounts:

*Resolved*, That the temporary clerk in the office of the Sergeant-at-Arms be placed on the roll as a regular clerk in that office at the compensation he now receives.

#### AMERICAN CITIZENS IN EUROPE.

Mr. STROUSE. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of State be instructed to issue such orders and instructions to our ministers, chargés d'affaires, and consuls, as may be necessary for the protection of American citizens and American interests on the continent of Europe during the progress of the existing war between the empire of Austria, the kingdom of Italy, the kingdom of Prussia, and the States of the German Zollverein.

Mr. SPALDING. I object.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed House bill No. 791, to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had agreed to the amendment of the House to Senate joint resolution No. 131, for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

On motion of Mr. KASSON, the amendments of the Senate to the deficiency bill were referred to the Committee on Appropriations.

#### ENROLLED BILLS.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 795) to authorize the entry and clearance of vessels at the port of Calais, Maine;

An act (H. R. No. 761) authorizing the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities;

An act (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot; and

Joint resolution (H. R. No. 164) for the relief of Fontaine T. Fox., jr.

#### ENFORCEMENT OF THE RULES.

Mr. WENTWORTH. I rise to a question of privilege. I give notice that from and after one o'clock I shall call for the enforcement of the rule about outside persons occupying members' seats, and also the enforcement of all the rules of the House.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of War in reply to a resolution of the House of the 24th instant, requesting information in regard to the discharge of certain California volunteers stationed in the Territories; which was laid on the table and ordered to be printed.

Also a communication from the Secretary of War in reply to a resolution of the House of



June 4, transmitting the report of the Quartermaster General respecting railroad property in the possession of the Government on May 1, 1865; which was laid on the table and ordered to be printed.

#### AIR-LINE RAILROAD TO NEW YORK.

Mr. STEVENS. I call up the motion made on the 30th of May last to reconsider the vote by which House bill No. 632, to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York was recommitted to the select committee on air-line railroads to New York. I demand the previous question on the motion.

Mr. J. L. THOMAS. Will the gentleman allow a statement for one minute?

Mr. STEVENS. I will after the previous question is seconded.

Mr. J. L. THOMAS. Then I move to lay the motion to reconsider on the table.

On laying the motion on the table there were—ayes 84, noes 40.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken to lay on the table the motion to reconsider, it was decided in the negative—yeas 48, nays 56, not voting 82; as follows:

YEAS—Messrs. Alloy, Bergen, Boyer, Broomall, Daves, Defrees, Eldridge, Eliot, Finck, Aaron Harding, Harris, Hayes, Hogan, Chester D. Hubbard, James R. Hubbell, Johnson, Kasson, Kelley, Kerr, Latham, Le Blond, Maynard, McCullough, McKee, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Phelps, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Shanklin, Strouse, Taber, John L. Thomas, Thornton, Trimble, Whaley, Winfield, and Wright—48.

NAYS—Messrs. Allison, Anderson, Baker, Barker, Baxter, Benjamin, Bidwell, Bingham, Bromwell, Cobb, Conkling, Cullom, Donnelly, Driggs, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Spencer C. Harding, Higby, Hotchkiss, John H. Hubbard, Ingersoll, Julian, Ketcham, Kootz, Kaykendall, George V. Lawrence, William Lawrence, Lonn, Louch, McClurg, Mercer, Miller, Moorhead, Morrill, Perham, Plants, Price, Sawyer, Scofield, Shellabarger, Spaulding, Stevens, Stokes, Nelson Taylor, Van Arman, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Williams, James F. Wilson, and Stephen T. Wilson—56.

NOT VOTING—Messrs. Ames, Ancona, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Blaine, Blow, Boutwell, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cooper, Culver, Darling, Davis, Dawson, Delano, Deming, Denison, Dixon, Dodge, Dumont, Eckley, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Hart, Henderson, Hill, Holmes, Hooper, Asahel W. Hubbard, Denas Hubbard, Edwin N. Hubbard, Hubbard, Humphrey, Jenckes, Jones, Kelso, Ladin, Leftwich, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Morris, Moulton, Noell, Paine, Patterson, Pike, Pomroy, William H. Randall, Raymond, Schenck, Sitzes, Sloan, Smith, Starr, Stillwell, Nathaniel G. Taylor, Thayer, Francis Thomas, Townbridge, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Windom, and Woodbridge—82.

So the motion to reconsider was not laid on the table.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to—ayes 50, noes 44.

Mr. STEVENS. I call the previous question on the bill.

The bill was read at length.

Mr. RANDALL, of Pennsylvania. I want to make a motion to postpone the bill until the next session. I hope, therefore, the previous question will be voted down.

Mr. LATHAM. Will the gentleman from Pennsylvania yield for an amendment?

Mr. STEVENS. I will hear it read.

Mr. LATHAM. I move to amend by adding at the end of section two the following:

Provided, That the consent of the Legislatures of the several States through which said road may pass shall be obtained before this act shall go into effect.

Mr. STEVENS. The gentleman must excuse me; I do not hold to that doctrine at all.

Mr. JOHNSON. I suggest that the bill be amended so as to grant twenty miles on either side of the road. [Laughter.]

Mr. STEVENS. That would be a very good idea, if we could give it.

Mr. O'NEILL. I suggest an amendment by inserting a provision that the company be re-

quired to run a train of cars at eleven o'clock at night, so that we can have a night mail.

Mr. STEVENS. I have no kind of objection to that. Amend by providing that they shall run a train from Washington as late as eleven o'clock at night.

Mr. JOHNSON. How far?

Mr. WILSON, of Iowa. For Bladensburg. [Laughter.]

Mr. O'NEILL. A through train.

The previous question was seconded.

Mr. RANDALL, of Pennsylvania. On ordering the main question I desire the yeas and nays.

The yeas and nays were not ordered.

Mr. SCOTFIELD. I desire to offer an amendment by striking out the words "or lines."

Mr. STEVENS. I will agree that that amendment may be offered.

The main question was ordered on the bill and pending amendments.

Mr. STEVENS. I understand the gentleman from Maryland [Mr. J. L. THOMAS] desires to say a word on this subject: I do not mean to speak more than ten minutes myself, and I presume the gentleman from Maryland will not desire more than that.

Mr. J. L. THOMAS. I do not expect to discuss this bill at this late hour of the session. I understand that my colleague from the fourth district [Mr. F. THOMAS] made an agreement with the chairman of the committee that this bill was to be postponed during his absence. I am in receipt of a letter from my colleague this morning in which he states that his health is still so poor that it will be utterly impossible for him to return here during the present session of Congress. And I merely desired to make that statement to the House before the previous question was seconded so that the House might agree to postpone this matter until the next session of Congress.

My State, in connection with other States, has a great interest in this bill. But I am not well enough acquainted with either the provisions of the bill or the questions growing out of them to be able to discuss them intelligently. My colleague [Mr. F. THOMAS] who is a member of this air-line railroad committee, is well acquainted with this subject, and he was put upon that committee, as I understand, for the purpose of watching the interests of the State of Maryland in connection with this proposed road. As is well understood, my State is directly interested in the defeat of this bill. It is not so much because we do not desire any more railroads through our State, for that is not so. I believe the Legislature of Maryland would be willing to grant a charter to any road to go through our State and compete with the Baltimore and Ohio railroad. But we do not believe that Congress has the power to grant a charter to a railroad to pass over the soil of Maryland without first obtaining the consent of Maryland. And we believe, also, that by the passage of a bill of this kind, it would be the direct means of taking over sixty thousand dollars a year from the State treasury of Maryland.

Mr. WENTWORTH. How much?

Mr. J. L. THOMAS. Over sixty thousand dollars a year.

Mr. WENTWORTH. Have you a right to tax Illinois for that?

Mr. J. L. THOMAS. We have a right to tax freight or passengers coming over our soil; and I believe Illinois has the same right.

Mr. WENTWORTH. No, sir.

Mr. J. L. THOMAS. She may not exercise the right, but I believe she has it. That, however, is a constitutional question which can be determined in the courts, whether this bill is passed or not. I have said all that I desire to say. I merely wished to make this appeal to the House to postpone this bill until the next session. I will say to the gentleman from Illinois [Mr. WENTWORTH] that Illinois can well afford to collect no commutation tax off passengers who may go over her road, for she obtained what neither Maryland nor Pennsylvania ever got, land enough to build her roads.

We built our own roads, with our own money, and have never asked the Government for any assistance.

Mr. WENTWORTH. This is not so much a matter of dollars and cents with us; we only object to the fashion they have adopted of getting it. If they are poor there in Maryland and want to put their hands into our pockets, they may do so and take out whatever they please. But we have not a long time to live; this is but a transitory state of existence; at the best our lives are but short.

Mr. ROSS. I suppose the gentleman means political lives. [Laughter.]

Mr. WENTWORTH. I object to my colleague [Mr. ROSS] making sport at my expense in my time. [Laughter.]

Now, they claim the right in Maryland not only to regulate the price but the speed of their railroads. That is what we complain of. Now, I would ask the States between here and New York to state what they will take, how much they want to rob us of annually, and let us regulate the speed of these roads. I do not object to the price they charge, as some people do. But we claim the right to regulate the speed, and not have the cars stop at every little town along the road that they may see proper to build up for the benefit of their State. As to the right of Maryland to regulate the rate of speed and price of the roads in their State, it is very doubtful what Maryland has not undertaken to regulate within the last two or three years. She had the right, I believe, to take the State out of the Union; but she did not do it, and why? Because the men of my State would not allow her to do it.

Mr. J. L. THOMAS. Maryland did not go out because she did not want to go out.

Mr. WENTWORTH. Wait until the next election and see how that goes.

Mr. J. L. THOMAS. If we are beaten then it will be by rebels.

Mr. STEVENS. I have delayed this bill over two months to accommodate the distinguished gentleman from Maryland, [Mr. F. THOMAS.] When he went away the other day I told him that I would wait until the last moment before I called it up. Indeed I have waited so long that those who placed me in charge of this bill have reproached me with some collusion with those on the other side. I have delayed calling up the bill until the last moment, with the hope that the gentleman from Maryland [Mr. F. THOMAS] might be able to be here. I learned last night that he would not be here, and the time had come when I must either call the bill up or allow it to be lost. As to this States' rights notion, I have no respect for it. It has got us into mischief enough already. If the Constitution means anything it expressly declares that Congress shall have power to regulate commerce among the States. Now, we have monopolies enough between this city and New York. And one of the monopolies chartered by Maryland adds thirty cents to each fare for the benefit of the State. There is a monopoly beyond it. There is a monopoly in the Camden and Amboy railroad which makes every one bend to its will.

Now, sir, not only do they charge double what this bill provides, but a great deal more. And this bill provides for running in seven hours. It must be enforced or it will be forfeited. The bill provides they shall charge six dollars, and the cost now is eleven and twelve dollars.

Mr. WRIGHT. I beg pardon. It costs only \$8 25 for a through ticket on a train which goes in less than eleven hours.

Mr. STEVENS. They refuse to allow any connection between the Northern Central and the road between here and Baltimore. They refuse to allow them to check freight. They refuse to allow them to run a road from one end to the other of the city although the company built a road from Bolton station across to the other station. The city of Baltimore has refused to allow them to run their cars through on that line. Thus we are met in every way in reference to freight and passen-

gers. I do not propose to stand longer in the way of other business; and I send some letters to the Clerk's desk. They are sample bricks of this whole Babel.

The Clerk read as follows:

NATIONAL EXPRESS AND TRANSPORTATION COMPANY,  
OFFICE 134 BALTIMORE STREET,  
BALTIMORE, March 15, 1866.

DEAR SIR: In reply to yours of the 13th I have to say that more than a month since I made a written application to the officers of the Camden and Amboy Railway Company for facilities for doing our express and transportation business over their road, and in the meantime have repeatedly seen the president and other officers of the road and urged them verbally to give us such facilities.

In my last interview with the president he declined to entertain a proposition from us, and within the last three days I have received the inclosed notice from the secretary, which you will see amounts to a flat refusal to treat with us.

Please return me the secretary's letter.

Respectfully yours,

H. WARFIELD.

Superintendent Northern Division.

General J. H. WILSON, Superintendent Northern Department, Washington, D. C.

WASHINGTON, D. C., March 16, 1866.

SIR: I take the liberty of laying before you the following facts touching the matter of transportation between this city and New York, and therefore throwing some light on the questions involved in the application for an air-line railroad.

I believe it is urged by those opposed to the project just mentioned that the present line of railway via Philadelphia and Baltimore is sufficient for all purposes, and that therefore the charter asked for by the advocates of the "air-line" is unnecessary.

Within the last two months, as the manager of the National Express and Transportation Company in the northern States, I have had occasion to negotiate with the authorities of the Camden and Amboy railroad, the Philadelphia, Wilmington, and Baltimore road, and the Baltimore and Ohio road, for the purpose of obtaining the usual facilities enjoyed by other express companies in the transaction of their business. These negotiations have been mostly conducted for the company which I represent by Mr. H. Warfield, a business man of great experience. After the remark that the express business is quite as much a legitimate occupation as any other and therefore entitled to fair play on all hands, and particularly from public carriers, I beg to invite special attention to the fact that the Camden and Amboy Railroad Company up to the present time have denied the company which I represent any of the privileges granted to Adams' company, and that, too, in face of the fact that we have asked for nothing unusual, and have signified our willingness and ability to pay at the same rates required from others. I inclose herewith a letter from Mr. H. Warfield, superintendent of the northern division, a letter, marked "A," and also a copy of a letter from Mr. R. Stockton, secretary of the Camden and Amboy railroad, "B," from which it will be seen that the railroad positively decline to negotiate for an extension of their accommodations to express companies. Without annoying you with additional details or extraneous information touching the reason for declining to negotiate, it is fair to assume that they do so either because they have sold what they call the exclusive right to transact express business over their road to the Adams' Express Company and its branches, or that they have already taxed their road to its utmost in giving accommodations of this kind, and therefore are unable to do the business which we have intended to give them. In either case, an interest represented by \$10,000,000 in our company, and probably twice as much more in the other two companies alluded to in the copy of Mr. Stockton's note, is compelled to suffer because the Camden and Amboy railroad is either sold to a gigantic monopoly or overtaxed in its capacities. A condition of affairs in which either of these could be the case is certainly injurious to the business interests of the country, and afford ample reasons for the chartering and construction of another road between New York and Philadelphia at least.

Between Philadelphia and this place the case is slightly different, but still oppressive to the business interests of the company which I represent; but without going into any details, I will simply say that the officers of our company stand ready to testify and are desirous of being heard by the committee to which has been referred the matter of the "air-line road." Mr. Warfield's address is care of the National Express and Transportation Company, Baltimore, Maryland. I can be found at the headquarters of Lieutenant General Grant for a week.

Hoping that the statement above may receive due consideration, and that the legitimate pursuits of the country may be relieved of oppressive tribute to a line of railway now enjoying a monopoly of the carrying business between this point and the city of New York. I have the honor to remain, very respectfully, your obedient servant.

JAMES H. WILSON,

Late Major General Volunteers,

Superintendent Northern Department

National Express and Transportation Company.

Hon. T. STEVENS, M. C.

PRINCETON, NEW JERSEY, March 12, 1866.

SIR: The executive committee of the Camden and Amboy Railroad Company have considered your application and directed me to say that our connection with other railroads would require consultation with them before such arrangements could be agreed upon.

We have now three separate applications for three

new express companies over our route, but it is the opinion of this committee that it is not for the interest of the road to have any more expresslines on the road at present.

Respectfully, &c.,

R. W. STOCKTON,

Secretary.

H. WARFIELD, Superintendent National Express and Transportation Company.

A true copy: J. H. WILSON.

Mr. SHELLABARGER. I wish to make an inquiry of the gentleman from Pennsylvania in regard to a matter I have heard suggested again and again this morning as to the propriety of our passing this bill. It is this: the practical effect of the passage of this bill will be to create a valuable franchise, which will in the market command money, and the result will be that that franchise will be sold to the Baltimore and Ohio railroad, or such other bidder as may be found, and the probability is we will get no railroad, especially if this passes into the hands of the Baltimore and Ohio railroad. I desire the gentleman to state, that it may go to the country with the authority and force his statement will give, what is known of the prospect of this road being built. If it is passed by Congress—I know it will be passed, because Congress deems it has the right, as I have no doubt it has, to create this under the power to regulate commerce, and I doubt not the commerce of the country is clogged up for want of channels of communication. If we are really to have another channel the bill ought to pass. I ask the gentleman from Pennsylvania to state to the House what is known in regard to the certain completion of this road.

Mr. STEVENS. I will say that I do not suppose the Baltimore and Ohio Railroad Company propose to buy this road at all, for the president of that road and others have been nine times before the committee to prove that no such road was wanted by anybody. Two gentlemen of high standing and great wealth came before us. I required them to go to New York and consult with others there before I would move at all. They came back and assured me that \$10,000,000 could be raised in ten days after the passage of this bill, and that the charter if granted would not be sold to any other corporation; that these gentlemen in New York and Pennsylvania had determined that another road should be made, if they could get the privilege to make one, and that they had ready the money to make it, and from men there I know they have the money. Both of these gentlemen, men of high standing, assured me that the money was ready as soon as this bill was passed. And I take considerable reproach to myself for having allowed this bill to lay so long to accommodate the gentleman from Maryland, [Mr. F. THOMAS.]

Mr. SHELLABARGER. I would ask the gentleman from Pennsylvania [Mr. STEVENS] if he has any objection to putting into this bill a provision that this franchise shall not be transferred to the Baltimore and Ohio railroad, or any other corporation without the consent of Congress?

Mr. STEVENS. I have no objection.

Mr. GARFIELD. I agree to the propriety of such a provision, though I do not think that there is any danger of these parties parting with so valuable a privilege.

The SPEAKER. The House is acting under the operation of the previous question, and any amendment must be by unanimous consent.

Mr. J. L. THOMAS. I must object to the amendment.

Mr. STEVENS. Then I will see that it is put in by the Senate. I have only this further to say, that if there is this value in this franchise, why should the stockholders sell it at all? This is an attempt on the part of the people to get rid of these odious monopolies which have been grinding us to the earth for years. It is intended that this road shall carry passengers at one half the rate, and freight at less than one half what is now charged by the other roads. Iron ore and pig metal and everything of that kind will be brought to this city

at the rate of two cents per mile, while four cents and upward is now charged. I hope now the vote will be taken.

The first question was upon the amendment of Mr. O'NEILL, to insert the following:

And the said company shall run a through passenger train out of Washington every night as late as eleven o'clock, p. m.

The amendment was agreed to.

The next question was upon the amendment of Mr. SCOFIELD, to strike out of the second section the words "or lines."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time.

Mr. LATHAM. I ask for the reading of the engrossed bill.

The SPEAKER. The engrossed bill is not upon the Clerk's desk.

Mr. STEVENS. I move to reconsider the vote by which the bill was ordered to be engrossed, for the purpose of allowing the gentleman from Ohio [Mr. SHELLABARGER] to offer the amendment he indicated a few moments since.

The motion to reconsider was agreed to.

Mr. SHELLABARGER. I now move to amend the bill by adding thereto the following words:

SEC. — And be it further enacted, That it shall not be lawful for the said National Railway Company to sell or transfer, either directly or indirectly, any of the franchises created by this act, without the assent of Congress, to the Baltimore and Ohio Railroad Company, or to any other railroad company or party interested in the several existing railroad lines between the cities of Washington and New York.

The amendment was agreed to.

Mr. STEVENS. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill as amended was ordered to be engrossed and read a third time.

Mr. LATHAM. I call for the reading of the engrossed bill.

The SPEAKER. The engrossed copy is not here, and therefore the bill will go to the Speaker's table.

Mr. STEVENS. I ask to have entered a motion to reconsider the vote ordering the bill to be engrossed.

The motion was entered.

ASSASSINATION OF PRESIDENT LINCOLN.

Mr. BINGHAM obtained the floor but yielded to

Mr. BOUTWELL, who said: I am instructed by the Committee on the Judiciary to submit a report in regard to the complicity of Jefferson Davis and others in the assassination of President Lincoln. I move that the report be laid upon the table and printed, and upon that motion I call the previous question.

The previous question was seconded and the main question ordered.

Mr. WENTWORTH. I move that the friends of Mr. Davis on the committee have leave to submit a minority report.

Mr. WILSON, of Iowa. I move that five thousand extra copies of this report be printed.

The SPEAKER. That motion will be referred, under the law, to the Committee on Printing.

Mr. JOHNSON. If Jefferson Davis is to be prosecuted, we ought not, it seems to me, to publish this evidence to the world.

The previous question was seconded and the main question ordered, which was on ordering the printing of the report.

Mr. ELDRIDGE. I call for the reading of the report.

Several MEMBERS. We object.

The SPEAKER. It must be read unless the House suspend the rule which gives any member the right to call for the reading.

Mr. WILSON, of Iowa. I move to suspend that rule.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. ELDRIDGE. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

The motion to suspend the rule was agreed to. So the reading of the report was dispensed with.

The question being taken on ordering the printing of the report, it was decided in the affirmative.

Mr. BOUTWELL moved to reconsider the vote by which the report was ordered to be printed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOUTWELL. The committee have reported two resolutions; but under the circumstances in which I am placed in regard to the gentleman from Ohio, [Mr. BINGHAM,] he having yielded to me the floor, I will not ask a vote upon those resolutions at this time if there is any opposition to them.

Mr. ELDRIDGE. Let them be read for information. All the objection we make to any of these matters is because the gentleman from New Jersey [Mr. ROGERS] and others of the minority of that committee have had no opportunity to examine the testimony.

Mr. WENTWORTH. I renew my motion, that the minority of the committee have leave to present their report.

The SPEAKER. The Chair hears no objection, and leave is granted.

Mr. WILSON, of Iowa. In regard to this report, I will say, by the permission of the gentleman from Massachusetts, [Mr. BOUTWELL,] that this is not made as a final report in the case. It is rather a preliminary report; and the gentleman from New Jersey will have ample opportunity to examine all the evidence and prepare any statement of his views which he may deem it proper to present.

The SPEAKER. He has now the authority of the House to make a minority report.

The resolutions reported by the committee will be read, after which any gentleman can object to their consideration.

The Clerk read as follows:

*Resolved*, That there is no defect or insufficiency in the present state of the law to prevent or interfere with the trial of Jefferson Davis for the crime of treason or any other crime for which there may be probable ground for arraigning him before the tribunals of the country.

*Resolved further*, That it is the duty of the executive department of the Government to proceed with the investigation of the facts connected with the assassination of the late President, Abraham Lincoln, without unnecessary delay; that Jefferson Davis and others named in the proclamation of President Johnson of May 2, 1865, may be put upon trial and properly punished if guilty, or relieved from the charges against them if found to be innocent.

Mr. LE BLOND. It is very apparent that we must object to these resolutions. They refer to matters which properly belong to the courts.

Mr. BOUTWELL. Then let the resolutions go over.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had further insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 780) entitled "An act to protect the revenue, and for other purposes," had agreed to the further conference asked by the House, and had appointed, as conferees on the part of the Senate, Messrs. CLARK, VAN WINKLE, and MORGAN.

The message further announced that the Senate had passed, without amendment, House bills of the following titles:

An act (H. R. No. 809) to further regulate the printing of public documents and the purchase of paper for the public printing;

An act (H. R. No. 759) to authorize the refunding of certain taxes; and

An act (H. R. No. 810) amendatory of section thirteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 334) to prevent the wearing of sheath knives by American seamen;

An act (S. No. 406) for the removal of causes in certain cases from the State courts;

An act (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, and for other purposes; and

Joint resolution (S. R. No. 181) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

#### PENSIONERS DROPPED FROM THE ROLLS.

The SPEAKER, by unanimous consent, laid before the House a letter of the Secretary of the Interior, transmitting, in reply to a resolution of the House of May 22, a partial answer of the Commissioner of Pensions in regard to pensioners dropped from the pension-rolls under the act of Congress approved February 4, 1862; which was referred to the Committee on Invalid Pensions and ordered to be printed.

#### DUTY ON IMPORTED WOOL.

Mr. BINGHAM. I call up the motion to reconsider the vote by which the bill (H. R. No. 793) to provide increased revenue from imported wool, and for other purposes, was referred to the Committee of the Whole on the state of the Union.

The motion to reconsider was agreed to.

The question then recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union.

The motion was not agreed to.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. BINGHAM. I offer the following amendments:

In the tenth line of section two, strike out "forty," and insert "fifty;" so that the paragraph will read as follows:

On woolen cloths, woolen shawls, and all manufactures of wool of every description made wholly or in part of wool, not herein otherwise provided for, fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

In the same section strike out in the twentieth line the word "twenty-five" and insert "thirty;" strike out in the twenty-second line the word "thirty-five" and insert "forty;" in the twenty-third line strike out "forty" and insert "fifty;" so that the paragraph will read as follows:

On flannels, blankets, hats of wool, knit goods, bal-morals, woolen and worsted yarns, and all manufactures of every description, composed wholly or in part of worsted, the hair of the alpaca, goat, or other like animals, except such as are composed in part of wool, not otherwise provided for, valued at not exceeding forty cents per pound, twenty cents per pound; valued at above forty cents per pound and not exceeding sixty cents per pound, thirty cents per pound; valued at above sixty cents per pound and not exceeding eighty cents per pound, forty cents per pound; valued at above eighty cents per pound, fifty cents per pound, and, in addition thereto, upon all the above-named articles, thirty-five per cent. *ad valorem*.

In the same section strike out in the sixty-ninth line the word "twenty" and insert "twenty-eight;" so that the clause will read as follows:

On patent velvet and tapestry velvet carpets, printed on the warp or otherwise, forty cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on tapestry Brussels carpets, printed on the warp or otherwise, twenty-eight cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

Mr. Speaker, I now call the previous question on the bill and amendments.

Mr. WILSON, of Iowa. I desire to ask the gentleman what is the effect of these amendments.

Mr. BINGHAM. Nothing more nor less than putting the second section in a form precisely similar to the provisions on this subject already passed by this House.

Mr. WILSON, of Iowa. What is the duty on manufactured wool under this amendment?

Mr. BINGHAM. The same that we have already agreed on in this House.

Mr. GARFIELD. I would like to inquire whether the bill is not substantially the same as the section in reference to wool in the tariff bill which we passed.

Mr. BINGHAM. Exactly.

Mr. GARFIELD. I hope the House will pass it.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BINGHAM. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. HARDING, of Illinois. I ask that the bill be reported.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act, in lieu of the duties now imposed by law on the articles mentioned and embraced in this section, there shall be levied, collected, and paid on all unmanufactured wool, hair of the alpaca, goat, and other like animals, imported from foreign countries, the duties hereinafter provided. All wools, hair of the alpaca, goat, and other like animals, as aforesaid, shall be divided, for the purpose of fixing the duties to be charged thereon, into three classes, to wit:

#### CLASS 1.

Clothing wools: that is to say, merino, mestiza, metz, ormetis wools, or other wools of merino blood, immediate or remote; down clothing wools, and wools of like character with any of the preceding, including such as have been heretofore usually imported into the United States from Buenos Ayres, New Zealand, Australia, Cape of Good Hope, Russia, Great Britain, Canada, and elsewhere, and also including all wools not hereinafter described or designated in classes two and three.

#### CLASS 2.

Combing wools: that is to say, Leicester, Cotswold, Lincolnshire, down combing wools, Canada long wools, or other like combing wools of English blood, and usually known by the terms herein used; and also all hair of the alpaca, goat, and other like animals.

#### CLASS 3.

Carpet wools and other similar wools: such as Don-skoil, native South American, Cordova, Valparaiso, native Smyrna, and including all such wools of like character as have been usually imported into the United States from Turkey, Greece, Egypt, Syria, and elsewhere.

For the purpose of carrying into effect the classification herein provided, a sufficient number of distinctive samples of the various kinds of wool or hair embraced in each of the three classes above named, selected and prepared under the direction of the Secretary of the Treasury, and duly verified by him, (the standard samples being retained in the Treasury Department,) shall be deposited in the custom-houses and elsewhere, as he may direct, which samples shall be used by the proper officers of the customs to determine the classes above specified, to which all imported wools belong. And upon wools of the first class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall be thirty-two cents or less per pound, the duty shall be ten cents per pound, and, in addition thereto, eleven per cent. *ad valorem*; upon wools of the same class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed thirty-two cents per pound, the duty shall be twelve cents per pound, and, in addition thereto, ten per cent. *ad valorem*. Upon wools of the second class, and upon all hair of the alpaca, goat, and other like animals, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall be thirty-two cents or less per pound, the duty shall be ten cents per pound, and, in addition thereto, eleven per cent. *ad valorem*; upon wools of the same class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed thirty-two cents per pound, the duty shall be twelve cents per pound, and, in addition thereto, ten per cent. *ad valorem*. Upon wools of the third class the value whereof at the last port or place whence exported into the United States, excluding charges in such port, shall be twelve cents or less per pound, the duty shall be three cents per pound; upon wools of the same class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed twelve cents per pound, the duty shall be six cents per pound: *Provided*, That any wool of the sheep, or hair of the alpaca, goat, and other like animals, which shall be imported in any other than the ordinary condition as now and heretofore practiced, or which shall be changed in its character or condition for the purpose of evading the duty, or which shall be reduced in value by the admixture of dirt or any other foreign substance, shall be subject to pay twice the amount of duty to which it would otherwise be subjected, anything in this act to the contrary notwithstanding: *Provided further*, That when wool of different qualities is imported in the same bale, bag, or package, it shall be appraised by the appraiser, to determine the rate of duty to which it shall be subjected, at the average aggregate value of the contents of the bale, bag, or package; and when bales of different qualities are embraced in the same invoice at the



same price, whereby the average price shall be reduced more than ten per cent. below the value of the bale of the best quality, the value of the whole shall be appraised according to the value of the bale of the best quality; and no bale, bag, or package shall be liable to a less rate of duty in consequence of being invoiced with wool of lower value: *And provided further*, That the duty upon wool of the first class which shall be imported washed shall be twice the amount of duty to which it would be subjected if imported unwashed; and that the duty upon wool of all classes which shall be imported scoured shall be three times the amount of the duty to which it would be subjected if imported unwashed. On sheepskins and Angora goat skins, raw or unmanufactured, imported with the wool on, washed or unwashed, the duty shall be thirty per cent. *ad valorem*; and on woolen rags, shoddy, mungo, waste, and flocks, the duty shall be twelve cents per pound.

SEC. 2. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duties, that is to say:

On woolen cloths, woolen shawls, and all manufactures of wool of every description made wholly or in part of wool, not herein otherwise provided for, fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

On flannels, blankets, hats of wool, knit goods, balmorals, woolen and worsted yarns, and all manufactures of every description, composed wholly or in part of worsted, the hair of the alpaca, goat, or other like animals, except such as are composed in part of wool, not otherwise provided for, valued at not exceeding forty cents per pound, twenty cents per pound; valued at above forty cents per pound and not exceeding sixty cents per pound, thirty cents per pound; valued at above sixty cents per pound and not exceeding eighty cents per pound, forty cents per pound; valued at above eighty cents per pound, fifty cents per pound, and, in addition thereto, upon all the above-named articles, thirty-five per cent. *ad valorem*.

On endless belts or felts for paper or printing machines, twenty cents per pound and thirty-five per cent. *ad valorem*.

On bunting, twenty cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

On women's and children's dress goods and real or imitation Italian cloths, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other like animals, valued at not exceeding twenty cents the square yard, six cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at above twenty cents the square yard, eight cents per square yard, and, in addition thereto, forty per cent. *ad valorem*: *Provided*, That on all goods weighing four ounces and over per square yard, the duty shall be fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

On clothing ready made, and wearing apparel of every description, and balmoral skirts and skirting, and goods of similar description, or used for like purposes, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other like animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, except knit goods, fifty cents per pound, and, in addition thereto, forty per cent. *ad valorem*.

On weltings, beltings, bindings, braids, galloons, fringes, gimps, cords, and tassels, dress trimmings, head nets, buttons or barrel buttons, or buttons of other forms for tassels or ornaments, wrought by hand or braided by machinery, made of wool, worsted, or mohair, or of which wool, worsted, or mohair is a component material, unmixed with silk, fifty cents per pound, and, in addition thereto, fifty per cent. *ad valorem*.

On Aubusson and Axminster carpets, and carpets woven whole for rooms, fifty per cent. *ad valorem*; on Saxony, Wilton, and Tournay velvet carpets, wrought by the Jacquard machine, seventy cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on Brussels carpets wrought by the Jacquard machine, forty-four cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on patent velvet and tapestry velvet carpets, printed on the warp or otherwise, forty cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on tapestry Brussels carpets, printed on the warp or otherwise, twenty-eight cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on treble ingrain, three-ply, and worsted chain Venetian carpets, seventeen cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on yarn Venetian and two-ply ingrain carpets, twelve cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on druggets and bookings, printed, colored, or otherwise, twenty-five cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; on hump or jute carpeting, eight cents per square yard; on carpets and carpetings of wool, flax, or cotton, or parts of either, or other material not otherwise herein specified, forty per cent. *ad valorem*: *Provided*, That mats, rugs, screens, covers, hassocks, bed-sides, and other portions of carpets or carpeting shall be subjected to the rate of duty herein imposed on carpets or carpeting of like character or description, and that the duty on all other mats, (not exclusively of vegetable material,) screens, hassocks, and rugs, shall be forty-five per cent. *ad valorem*.

On oil-cloths for floors, stamped, painted, or printed, valued at fifty cents or less per square yard, thirty-five per cent. *ad valorem*; valued at over fifty cents per square yard, and on all other oil-cloth, (except

silk oil-cloth,) and on water-proof cloth, not otherwise provided for, forty-five per cent. *ad valorem*; on oil silk cloth, sixty per cent. *ad valorem*.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the main question was ordered. I want to have an opportunity to strike out the third section in reference to the lower grades of wool.

The motion was disagreed to.

The question recurred on the passage of the bill.

Mr. HARDING, of Kentucky, demanded the yeas and nays.

The yeas and nays were not ordered.

The House divided; and there were—ayes

58, noes 25; no quorum voting.

Mr. BINGHAM demanded tellers.

Tellers were ordered; and Mr. BINGHAM,

and Mr. HARDING of Kentucky, were appointed.

The House divided; and the tellers reported—ayes seventy-four, noes not counted.

So the bill was passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PORTLAND SUFFERERS.

Mr. LYNCH. I ask unanimous consent to introduce a bill for the relief of the sufferers by the fire at Portland, Maine.

The first section of the bill provides that all goods, wares, and merchandise which may be sent from places without the limits of the United States as gratuitous contributions to the relief of sufferers by the fire which occurred at Portland, Maine, July 4 and 5, 1866, shall, when imported at the port of Portland and consigned to the proper authorities for distribution, be admitted duty free.

The second section provides that there shall be allowed and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials actually used in buildings erected on the ground where said fire occurred, a drawback of the import duties paid on the same; provided, that said materials shall have been imported at the port of Portland during the term of one year from and after the 5th day of July, 1866.

Mr. ALLISON. I object to the bill unless the second section be stricken out.

Mr. LYNCH moved to suspend the rules.

The House divided; and there were—ayes thirty, noes not counted.

Mr. LYNCH demanded tellers.

Tellers were ordered; and Mr. LYNCH, and Mr. TAYLOR of Tennessee, were appointed.

The House again divided; and the tellers reported—ayes sixty-six, noes not counted.

So the rules were suspended.

The bill was received and read a first and second time.

Mr. WILSON, of Iowa. I ask the gentleman from Maine to let me move to strike out the second section.

Mr. LYNCH. The whole amount will be very small. The amount of goods imported will be of small consequence.

Mr. WILSON, of Iowa. What about the second section?

Mr. LYNCH. It provides for drawback on lumber. Up to March last there was no duty on lumber. I demand the previous question.

Mr. ALLISON. I move that the bill be laid on the table.

Mr. WILSON, of Iowa. Upon that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The question was then taken upon the motion to lay the bill on the table; and upon a division there were—ayes 36, noes 60.

So the bill was not laid on the table.

Mr. WILSON, of Iowa. I hope the previous question will not be seconded.

The House divided; and there were—ayes 26, noes 42.

Mr. WILSON, of Iowa, demanded tellers.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. LYNCH, were appointed.

The House was again divided; and the tellers reported—ayes fifty-four, noes not counted.

So the previous question was seconded.

The main question was then ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LYNCH demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. LYNCH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported back Senate amendments to House bill No. 737, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, recommending concurrence in some and non-concurrence in others.

First amendment:

Strike out the following:  
For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Second amendment:

After "one hundred" insert "fifty," so it will read:  
For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, \$150,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Third amendment:

Insert "grading and fencing grounds, &c.," so it will read:  
For completion of north wing of Treasury extension, grading and fencing grounds, &c., \$300,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Fourth amendment:

Add to the foregoing paragraph:  
*Provided*, That the building shall be constructed in accordance with the plan prescribed by the joint committee of Congress as exemplified in the construction of the south wing.

Mr. KASSON. That plan was changed in its application to the south wing. By inadvertence in the Senate the plan was perpetuated as to the new wing. The Senate is convinced that it made a mistake. The committee recommend non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

In line twelve, after the word "dollars," insert:  
For expenses of detecting and bringing to trial and punishment persons engaged in perpetrating frauds on the United States, to be disbursed under the direction of the Secretary of the Treasury, \$10,000.

The committee recommended concurrence.

The amendment was concurred in.

Sixth amendment:

On page 3, line two, after the word "dollars," insert:  
For the purpose of preparing for publication under the direction of the Secretary of War, and of printing at the Government Printing Office five thousand copies of the first volume of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General; and for the purpose of preparing for publication, under the direction of the Secretary of War, and of printing at the Government Printing Office five thousand copies of the Medical Statistics of the Provost Marshal General's Bureau, to be completed by Surgeon J. H. Baxter, \$30,000: *Provided*, That the editions of both publications thus ordered direct: *And provided further*, That the necessary engraving and lithographing for these publications may be executed under the direction of the Secretary of War without advertisement.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The seventh amendment of the Senate was on page 3, to strike out lines three, four, five,

and six, in which the committee recommended non-concurrence.

The amendment was non-concurred in.

Eighth amendment:

On page 3, line twelve, after the word "dollars," insert:

For the repairs of the custom-house and post office and the walks and fences adjoining the same, at Middletown, Connecticut, \$5,000, the same to be expended under the direction of the Secretary of the Treasury.

For the erection of a chapel in the Naval Academy grounds at Annapolis, Maryland, \$25,000; and the existing appropriation for the enlargement of the chapel is hereby repealed.

For reconstructing and repairing the levees on the Mississippi river, in the States of Mississippi, Louisiana, and Arkansas, \$1,500,000, to wit: \$595,000 in the State of Louisiana; \$555,000 in the State of Mississippi, and \$250,000 in the State of Arkansas, as nearly as may be with a proper regard to the efficiency of the repairs; said money to be expended under the direction of the Secretary of War, who shall at the next session of Congress make an accurate and detailed report to each House thereof, of the amount of money expended under this appropriation, the amount of work done, how and in what manner, where and by whom, the particular levees repaired or reconstructed, the rates paid for work and materials, the condition of the levees, the areas protected by such repairs or reconstruction, and what sum, if any, remains unexpended.

The committee recommended concurrence in the amendment with an amendment striking out the last clause thereof.

Mr. STEVENS. Non-concurrence.

Mr. KASSON. This amendment embraces three propositions. The first two the committee agreed to; the third, which is in regard to the improvement of the levees, they disagreed to.

The SPEAKER. The amendment consists of three propositions; first, the post office at Middletown; second, the chapel at Annapolis, and third, in regard to the levees. The committee recommend concurrence, with an amendment striking out all in regard to the levees.

Mr. KASSON. I wish to state to the House that I understand the action of the committee a little differently. If the question was to concur with the amendment the chairman will remember it must have failed. There is, I think, an error in the report. But whether there is an error or not, the question is presented to the House, and I shall be glad to have its attention for five minutes. In my opinion, the House ought to concur in the amendment of the Senate, which was reported to the Senate by a select committee, was fully debated and argued in the Senate at great length, and only five Senators in the whole body were found to oppose the proposition for the improvement of the lower Mississippi river.

The proposition is to appropriate \$1,500,000 for the immediate necessary repairs of the levees of the Mississippi river in the States of Arkansas, Louisiana, and Mississippi, and the reasons for it I will briefly state. There are many (about thirty-one) thousand square miles of the best cotton and sugar lands in the United States that have been formerly reclaimed from overflow and used for the cultivation of cotton. By reason of the great inundations that have occurred during and since the war, some of the crevasses of the levees have been caused by the rebel forces and others by the Union armies, during the military occupation of the country, these valuable lands of unequalled fertility are rapidly coming under the dominion of the canebrakes of the South. Unless something is speedily done they will be rendered useless for years to come. Not only will the farms be rendered incapable of cultivation, but the laborers of the South, the freedmen, to the number of hundreds of thousands, will be without employment there unless the improvement is made, and you will have to continue to vote your millions for their support. With this improvement you will not only cultivate the habit of labor, but you will provide the means for paying them for the service which they perform; and in addition to that you can produce out of these lands, as the report of the select committee indicates, at least two million five hundred thousand bales of cotton annually, which, with an internal revenue tax of three cents per pound will pay

some thirty millions of the internal revenue of the United States annually.

The necessity for immediate action is this: if the appropriation is not made at this time you will not be able to employ your labor during the coming winter to effect the repairs, and you will lose the entire next year's crop. With the addition of that next year's crop we can make the balance of exchange between this country and Europe decidedly in our favor. Without that crop our embarrassments may still continue. With the cotton tax you not only replace this money in the Treasury, but you more than double, you treble or quadruple, the amount expended out of the proceeds of the crop. I have made a very brief statement and I now desire to get a vote upon it as soon as may be.

Mr. KELLEY. Will the gentleman yield?

Mr. KASSON. Certainly.

Mr. KELLEY. I hope the decision of the committee to non-concur in this amendment will be sustained. Prior to the establishment of what was called the confederate government the planters of the region in question maintained their own levees and took care of their own lands, as we drain our marshes, maintain our dikes and embankments, and fence and work our farms in the North. Under the confederate government they imposed the duty of maintaining the levees or dikes upon the public treasury. The levees were destroyed while the owners of the lands they protected were waging war upon our Government, and now the attempt is made by this amendment of the Senate to saddle upon the people of the country the cost of repairing the damages of war and neglect. I cannot consent to tax my constituents in order to reward rebels whose lands are broad baronies. Sir, the Union people of the Gulf States do not wish us to do it, and in order that there may be no question of this assertion I ask the Clerk to read from the New Orleans Tribune of the 20th an article entitled "The Mississippi Levee Swindle."

The Clerk proceeded to read, as follows:

"THE MISSISSIPPI LEVEE SWINDLE.—We sincerely hope Congress will not make an appropriation to repair the levees along the Mississippi river. No greater attempt to swindle the loyal people of the country has ever been witnessed than that now attempted by a number of leading rebels at Washington to have Uncle Sam to improve their plantations and protect them from inundation.

"According to natural law and the provisions of the Louisiana statutes, ditches, canals, levees, &c., necessary for the drainage or protection of plantations are to be made by and at the expense of the planters themselves. This has always been the case until the coming into power of the late rebel Legislature, when the taxes paid by the people of the whole State were squandered on levees of plantations in but a small portion of the State. The people of New Orleans and other parishes pay heavily enough for their own levees; and it was a gross outrage to take their moneys to build the levees of rebel planters elsewhere. It was by such shameful means that the State became bankrupt.

"The planters abandoned their homes, neglected their levees, and went into the rebellion against their Government. They pronounced Congress a rump. They pass new slave codes. They oppress, imprison, and murder Union men, and set themselves up in defiance of the Government of the United States. They are still waging a war against the Union. Yet in the true character of a bogus 'chivalry' they petition Congress to build their levees. We hope Congress will do no such thing. The breakings of the levees is owing to the neglect of planters who went into the rebellion. These very planters were formerly very adverse to the making of internal improvements by the General Government. They have not yet recanted their State-right heresies. They deserve no aid from the loyal people.

"The truth is, the oligarchy is bankrupt and about to sell out. This levee scheme is the last effort of the rebel planters to hold their heads 'above water.'

"Let Congress give them an appropriation and the oligarchy will again thrive. Let Congress refuse, and these rebels who now declare that they will not sell a foot of land to a Yankee or a negro, will be ruined, as they deserve to be, and then their plantations will be sold out. Union men, new men of energy and patriotism, but of small means, will then have some chance. The large plantations will then be divided into small farms, in the northern style, and every poor loyal man will have an opportunity to purchase. It is of the utmost importance to the loyal millions that Congress should refuse the unjust appropriation demanded by the Gibsons, Claibornes, and other notorious rebels from this State. Not a loyal paper of this State indorses their wicked demands. Not a loyal man in Louisiana wishes their success. Let Congress study this subject carefully. Let it stand by the poor

down-trodden Union people. Let it beware how it gives aid and comfort to our enemies and new life to the expiring oligarchy. Congress owes it to its friends in this State to refuse its sanction to this swindling scheme, by which the money of the United States Government is to be expended in enriching its enemies and tightening the bonds which already hang so heavily on the Union men. Let Congress do nothing and the oligarchy is dead."

Mr. KELLEY. I now ask the reading of a brief paragraph from another Louisiana paper, the organ of the owners of the levees, the people who are now applying for this relief. It is from the New Orleans Times of the 20th of the present month, the date of the Tribune from which the article has just been read.

The Clerk read as follows:

"Let the radicals, STEVENS, SUMNER, *et id omne genus*, repent of their misdeeds, and we will forgive the past and shake hands with them. But let them, repent as speedily as possible for the day of their salvation draws to a close. If they neglect the present opportunity, and especially if they should resort to their usual practice of endeavoring to thwart the efforts of the friends of the Constitution, who desire to restore the Union to its integrity and to promote a spirit of reconciliation among all parties, we cannot answer for the consequences."

Mr. KELLEY. I hope we shall not give these people \$1,500,000, with which to replenish their cartridge-boxes. If they mean to have another war let them wage it with their own means, and not ours.

Mr. KASSON. In answer to what has been read from the New Orleans Tribune, I wish to have read what the New York Tribune says on the subject. It is as follows:

"SOUTHERN LEVEES.—The extraordinary floods of this season have proved fearfully destructive in the Southwest. Louisiana, west of the Mississippi and south of the Red river, has been mainly under water, perhaps still is; while eastward of the Mississippi, the rich valley of the Yazoo, with its tributaries, embracing three million five hundred thousand acres of the most productive cotton land in the world, is in good part so flooded as to be scarcely habitable. This is partly owing to the floods; partly to the natural wasting and caving in of the banks during the last three or four years of war, which rendered proper attention to them impossible; and partly to their being cut from time to time in the prosecution of hostilities. It is probable that not less than ten million acres of the richest portions of the Southwest, capable of producing a bale (four hundred pounds) of cotton to the acre, have thus been so flooded that they for this year can at best barely subsist their scattered, wasted inhabitants, instead of adding, as they might, some fifty million dollars to the exportable produce of the country.

"The inhabitants of the Yazoo valley have, therefore, appealed to Congress for aid. They are not represented in either House; they are utterly without capital, or the means of obtaining it; but they want to go to work and enrich their country; and they will, if they can be protected against the devastating floods which they are wholly unable to shut out.

"Congress having decided to put a duty of five cents per pound on raw cotton, must, if only for the Treasury's sake, endeavor to stimulate and expand the cotton culture. Had \$5,000,000 been seasonably expended on the levees of the Mississippi, Yazoo, and Red rivers, not less than double the amount would have been added to the revenue from this year's product of cotton alone; and the good thus effected would have endured and borne fruit for years, much of it forever. Assuming that the cotton tax will have to be borne for five years, \$5,000,000 expended on levees this year, and \$1,000,000 per annum for the next four—\$9,000,000 in all—would return to the Treasury not less than \$50,000,000, beside adding immensely to the development and expansion of our national wealth.

"We beg Congress not to adjourn without considering and acting on this subject. Grant that it is too late to effect anything this year; if not acted on now it will be too late to provide protection for the industry of next year. But if Congress should now act we may be certain of a very large extension of planted surface next year, and at least double crops on all the richest cotton and sugar lands of the prolific Southwest."

This is the sentiment not only of the New York Tribune. Almost all the New York papers, as well as the Chicago papers, the Cincinnati papers, the Chronicle of this city—in fact, all the radical leading organs in the country have urged this measure upon us as a duty which we owe to the financial and agricultural interests of the country. They point to the fact, which must be obvious to every reflecting mind, that this is not a measure for the benefit of the rebels in the sense in which it is spoken of. Where will these people get the implements with which this work will be done? In Massachusetts or Pennsylvania. Where will they get the skilled labor for the construction of these levees? Where they have always pro-

cured such labor—from the Ohio and upper Mississippi rivers. Where will they get the pork and the flour to sustain the laborers? On the banks of the upper Mississippi and its tributaries. And I tell gentlemen that when any question in regard to that great river is up, whether it concerns a locality at the mouth of that river or at the head of the river, it becomes men interested in the great Mediterranean valley to stand by the interests of that river.

Let these levees be broken down or swept away, and the mouths of the Mississippi river will soon become blocked up more fearfully than they have been by the alluvial deposits which have been accumulating year by year. Competent engineers have advocated projects for straightening the current of the Mississippi, to increase its velocity, and thus keep its entrances clear. Yet we are now told that we must allow this river to spread over miles each side of its proper bed, inundating a vast country capable of adding hundreds of millions annually to the wealth of the country. If those levees were rebuilt, the proprietors who now cannot sell their lands at a dollar per acre, would be able to cultivate those lands and make them highly productive, contributing largely to the wealth of the nation.

If gentlemen still indulging the war spirit want to hang rebels let them hang them by the rules of law and justice; if they want to starve rebels let them enact it upon the statute-book that they shall be starved. But when we are legislating here for the great interests of the country, let us legislate like statesmen, not placing dependence upon newspaper articles which are dishonorable to the country from which they come, for they are in disregard of what every man knows to be the best interests of that country. I ask gentlemen not to disregard the fact that by the rebuilding of these levees we shall increase the production of cotton, thereby diminishing its cost to us who consume it, reducing largely the present high prices of cotton goods, as well as increasing largely our internal revenue.

Mr. STEVENS. If we all indulge in such platitudes as my friend has we will never get through this bill during this session.

Mr. KASSON. Did the gentleman say latitudes or platitudes?

Mr. STEVENS. Platitudes. I hope nothing will come up again so near the heart of my friend in the interest of the rebels. This, in my judgment, is a most shameful attempt on the part of the enemies of the country. Of this General Claiborne who comes here I have nothing to say. I asked him whether he was a rebel and in the rebel army and he said that he was but that he was now willing to submit. Not one of these States has yet made its peace with the Union. Not one of these States is represented here, not one of them has a Representative which can in its name rise on this floor and speak in behalf of its interests. They have to look abroad for men to act for them as attorneys. Shall we grant this when we refuse to pay our own honest debts? Shall we grant this when the respectable chairman of the Committee of Claims refuses to pay an old woman whose house was burned down, because we have no money? Let them build their own levees. Let them raise their own cotton. I would not be in favor of hanging them, but I do not think I should interfere if the Lord should choose to drown them out. [Laughter.]

Mr. SCOFIELD. I ask my colleague whether the difference is not while those who are opposed to him are for *damming* the Mississippi he is for *damning* the rebels. [Renewed laughter.]

Mr. STEVENS. I am not for hanging them, but God forbid I should give them a reward for having cost us so many hundreds of millions of money and so many hundreds of thousands of lives! I see no symptom of repentance except when they come here asking us for an appropriation of millions of dollars. I do not see why we should grant it when we persistently refuse to compensate our own citizens whose houses have been burned or plundered by these

very rebels. When loyal citizens come here for remuneration they are told we cannot afford it at this time, that we have no money. Sir, I cannot endure the idea of paying this money when we refuse the just demands of our own citizens. I demand the previous question.

Mr. BANKS. I ask the gentleman from Pennsylvania to yield to me for a few moments.

Mr. STEVENS. I will yield the floor to the gentleman if he will renew the demand for the previous question.

Mr. BANKS. I will give it back to him again so that he may renew the demand.

Mr. STEVENS. I yield the floor to the gentleman only on condition that he shall demand the previous question.

Mr. GARFIELD. I hope the previous question will not be seconded until I shall have an opportunity of saying a word.

Mr. BANKS. Mr. Speaker, I said the other day, in some remarks on this subject, that I believed ultimately it would be the duty of the United States to assist in the management of the Mississippi river, and I am still of that opinion. I refer to it because it is necessary to qualify what I have to say to-day in reference to this particular measure. I believe the people of Louisiana deserve that assistance, and there is no man in this country who will more readily and heartily assist them in that way when the time shall arrive. But, sir, I am against this measure for reasons which I will proceed briefly to state. We had, a couple of months since, several intelligent gentlemen from New Orleans, who asked assistance of the Government to open the mouth of the Mississippi river. They said it was so shoaled that large vessels could not get from the river into the Gulf of Mexico. Gentlemen now come from Louisiana and ask us to dike the Mississippi river. Thus we have a proposition, in the first instance, to excavate its mouth so ships can get out; and then, in the second instance, that the banks shall be leveed so the water shall be retained in the bed of the stream. The reason of this is that the management of the Mississippi river is upon a false principle; and it never can be safely managed nor controlled for the benefit of the people of that country until the system is changed. It is against nature. Nature has clearly indicated a plan for the management of the Mississippi. It has made outlets to the right and to the left for the surplus water of that great stream, navigable for so many thousand miles, to flow out into the Gulf. In our part of the country the rivers flow in, the small rivers create the large, but in the lower Mississippi the rivers flow out. In the first instance it is an arrangement of nature for the purpose of creating rivers; and in the second it is one of the methods adopted by nature for the purpose of preserving rivers.

Now, sir, the management of the Mississippi river absolutely requires that the present system of levees shall be in a degree abandoned, and that the system of nature shall be in a degree restored. Between the Gulf of Mexico and the northern boundary of Tennessee there are from fifty to one hundred of these bayous and rivers, the natural outlets of the Mississippi river necessary to the preservation of this country. From the system which has been adopted there, all these bayous and rivers have been closed by the drift-wood that comes down from above. The consequence is that the stream of the Mississippi rises, and levees are built to contain the volume of water in the bed of the river and thereby protect the country from an overflow. Now, sir, these rivers and bayous must be again opened, and that will in a great degree let off the surplus water and relieve the country and the Government of the United States, if you please, from the expense and danger attending the present system. I endeavored to open these bayous myself two or three years ago. And the very men who are here now asking for an appropriation of money by the Government of the United States to maintain the levees, represent others who shot the soldiers and burned the steamers engaged in that work whenever they could find an opportunity to do so.

I touch upon another part of the subject. The effect of these levees is constantly to lift up the bed of the stream. And as a consequence the levees have to be made higher and higher from year to year. And the effect of raising the bed of the stream—being closed—the natural outlets for the surplus water, is to throw a considerable part of the sediment that comes from twenty thousand miles of navigable waters into the mouth of the river. There it meets the returning flood of the Gulf of Mexico, which sweeps back the sediment brought down by the stream, and it is deposited in the mouth of the river, which is constantly shoaling, until the navigation is rendered so difficult that the vessels of the United States sometimes are compelled to lay there two or three weeks. That is altogether in consequence of the levee system. And whenever that system shall be abandoned or changed, and the natural outlets of the river opened, then this sediment at the mouth of the river will be deposited elsewhere, and that difficulty at least will be removed.

There is one other trouble in regard to the management of this river to which I will allude. There is now in Louisiana a servile population that is not yet in possession of the rights that it demands, and which in time it must have. It is a population upon which the country is dependent for its labor. I fully and honestly believe that the present condition of things cannot long continue without the resistance of that population to the people in authority there at the present time. And I cannot entertain any doubt whatever, from my own conviction, that whenever resistance shall come that population will have the sympathy if not the support of the great mass of the people of the United States. Now suppose this work completed, in what condition do you find that country? The river is maintained in its bed by levees, and lifted above the face of the country. Every year the river is more elevated and the country comparatively lower. It runs as it were on the ridge of a hill. A single man in a single hour of a night can open them, deluge the whole country and destroy property and life there. That is the fact in this case, and it is one that must be considered.

And that brings me to another question, more important than all else. I feel an affection and an interest for the people of Louisiana as strong as that for my own native Commonwealth. There is no man in this country who would be more willing than I am to give them every assistance, either by means of the power or the treasure of the Government of the United States; but I ask that the provision of the Constitution which requires the establishment of a republican form of government shall be first complied with before they demand or request assistance from us.

I will not go into a disquisition upon the question of what constitutes a republican government. But I will say briefly that one of the requisites of a republican government, in my belief, is that it shall be in harmony with the sentiment of the people of the United States. And while I say, as I have said before and will say hereafter, that the people of Louisiana have no interest hostile to the Government of the United States, and will be, I believe, in their hearts, when they are left to their own opinions and their own conduct, loyal to its interests and to its institutions, yet I comprehend perfectly well that the power of that country is now in the hands of men who have interests hostile to the Government, and who in their hearts are not loyal to its principles or its institutions. Had it been left to the people of the State of Louisiana we should have had none of these troubles that now affect us politically or economically. But the power is in the hands of men who have very recently been engaged in a most determined effort to destroy this Government.

And while I disagree with the gentleman from Iowa, [Mr. KASSON,] who suggests hanging these men; or with the gentleman from Pennsylvania, [Mr. STEVENS,] who suggests imprisoning, or with another gentleman who



suggests drowning them, I will say this, that I am against giving them the power to control and destroy this Government. And we are asked to appropriate for the benefit of these men, not merely \$1,500,000, but at least \$25,000,000, for if we begin this work we must go on with it. And if we appropriate \$1,500,000 for the management and control of the waters of the Mississippi, we will be giving that amount to the enemies of this country, to be expended not so much for controlling the river as for controlling the opinions of that section of the country. I am against it.

But when the time shall have come that they have formed a government in harmony with the spirit and principles of the Government and people of the United States, I will be the first and the most urgent to advocate aiding them from the Treasury and by the power of the Government. They have an opportunity to do so now. There are organizations yet remaining in that State by which it can be immediately put into harmonious connection with the Government of the country, and instead of seeking here for an expenditure of the money of the Treasury for their lands, they would be working to make their government what it should be, and then I know that every member of this House would be willing to give to them all that will be necessary for their prosperity.

Mr. STEVENS. I now call for the previous question.

The previous question was seconded and the main question ordered; which was first upon agreeing to the amendment recommended by the Committee on Appropriations to the amendment of the Senate, namely, strike out from the amendment of the Senate the following:

For reconstructing and repairing the levees on the Mississippi river, in the States of Louisiana, Mississippi, and Arkansas, \$1,500,000, to wit: \$985,000 in the State of Louisiana, \$655,000 in the State of Mississippi, and \$230,000 in the State of Arkansas, as nearly as may be with a proper regard to the efficiency of the repair; said money to be expended under the direction of the Secretary of War, who shall, at the next session of Congress, make an accurate and detailed report to each House thereof of the amount of money expended under this appropriation, the amount of work done, how and in what manner, where and by whom, the particular levees repaired or reconstructed, the rates paid for work and material, the condition of the levees, the areas protected by such repairs or reconstruction, and what sums, if any, remain unexpended.

The amendment was agreed to.

The amendment of the Senate, as amended, was concurred in.

Mr. STEVENS. I now move that the remainder of the amendments of the Senate be considered, as in Committee of the Whole, under the five-minute rule.

The motion was agreed to.

Ninth amendment:

Insert the following:

To provide for the survey of the Isthmus of Darien, under the direction of the War Department, with a view to the construction of a ship-canal in accordance with the report of the Superintendent of the Naval Observatory to the Navy Department, \$40,000.

To enable the Secretary of the Treasury to collect reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, and which information shall be reported to Congress at its next session, \$15,000.

The Committee on Appropriations recommended concurrence, with an amendment, to strike out the words "at its next session \$15,000," and insert "\$10,000."

The amendment to the amendment was agreed to.

The amendment of the Senate, as amended, was concurred in.

Tenth amendment:

Insert the following:

For compensation to the consul at Quebec, in Canada, \$1,500.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Eleventh amendment:

Insert the following:

For the erection of a light-house at Beaver Bay, on Lake Superior, \$15,000: *Provided*, The Light-House Board of the Treasury Department, after due exami-

nation, shall deem that a light-house at that point is necessary.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twelfth amendment:

Insert the following:

For light-house at South Haven, in the State of Michigan, \$6,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Thirteenth amendment:

Strike out lines twenty-five, twenty-six, and twenty-seven.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Fourteenth amendment:

On page 11, to strike out lines one and two.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Fifteenth amendment:

Insert the following:

For pavement in part in front of the War and Navy Departments, to be replaced with stone flagging, \$13,000.

For improvements in the Senate wing of the Capitol, proposed in the report of the joint select committee of the two Houses upon the improvement of the Halls of Congress, made at the last session, and approved and recommended at the present session by the select committee upon the ventilation and sanitary condition of the Senate wing of the Capitol, the sum of \$117,685 25. And the said improvement shall be made and executed under the management and direction of Charles F. Anderson, as architect and superintendent, upon plans with specifications and details, to be submitted and to be approved by Dr. Thomas Antisell. And all necessary contracts for work and materials shall be made by the Commissioner of Public Buildings with the concurrence of the architect; and all accounts and expenditures for said improvements shall be examined and certified to the Secretary of the Treasury for payment by said Commissioner. The compensation of said architect and superintendent shall be at the rate heretofore paid to the superintending architect of the Capitol extension, payable quarterly out of the foregoing appropriation, commencing from and after the passage of this act.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Sixteenth amendment:

On page 12 strike out lines sixteen, seventeen, and eighteen.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Seventeenth amendment:

On page 13 strike out lines nine and ten.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Eighteenth amendment:

On page 13 strike out all after the word "avenue," in line eleven, to the end of line twelve, and insert "five."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Nineteenth amendment:

On page 13 strike out lines nineteen and twenty.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twentieth amendment:

On page 13, strike out line twenty-three.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-first amendment:

On page 14, strike out line thirteen.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-second amendment:

On page 14, after line seventeen, insert the following:

For watchman for Franklin square, \$600.

For the compensation of eight extra clerks in the

office of Indian Affairs, under the acts of August 5, 1854, March 3, 1855, and March 3, 1863, for the fiscal year ending June 30, 1867, \$11,200.

For the continuation of the work upon the north portico of the Patent Office building, \$50,000.

For additional contingent expenses of the Northeast Executive building, or the building occupied by the Secretary of State, including extra watchmen and laborers, \$6,000.

For salaries of commissioners under an act to provide for the revision and consolidation of the statute laws of the United States, approved June 27, 1863, and for clerical services, and other incidental expenses, the printing to be done by the Government Printing Office, \$25,000.

To enable the superintendent of Indian affairs for California to collect information and testimony in regard to the claim of George McDougal for beef furnished Indians in the lower part of California in the year 1852, \$500, or so much thereof as may be necessary.

For the purchase of a site and the erection of a building at St. Paul, Minnesota, for a custom-house, post office, the accommodation of the Federal courts, and other necessary Government purposes, the same to be expended under the direction of the Secretary of the Treasury, \$100,000.

For the payment of temporary clerks of the first class in the office of the Commissioner of Pensions, under the direction of the Secretary of the Interior, for the fiscal year ending June 30, 1867, \$25,000.

To enable the Secretary of the Interior, at his discretion, to rent such rooms in the vicinity of the Department for the use of the Pension Office as may be deemed necessary for the transaction of the business of that office, \$3,000.

The Committee on Appropriations recommended concurrence, with an amendment striking out the following paragraphs:

For the continuation of the work upon the north portico of the Patent Office building, \$50,000.

To enable the superintendent of Indian affairs for California to collect information and testimony in regard to the claim of George McDougal for beef furnished Indians in the lower part of California in the year 1852, \$500, or so much thereof as may be necessary.

For the purchase of a site and the erection of a building at St. Paul, Minnesota, for a custom-house, post office, the accommodation of the Federal courts, and other necessary Government purposes, the same to be expended under the direction of the Secretary of the Treasury, \$100,000.

The amendment recommended by the Committee on Appropriations was agreed to.

The Senate amendment, as amended, was concurred in.

Twenty-third amendment:

On page 114, line twenty, insert:

For payment in part for the purchase of sites and the erection of school-houses in the county of Washington, in the District of Columbia, payable to the board of commissioners of primary schools of said county, the sum of \$10,000.

For support of the Columbia Hospital for Women and Lying-in Association, \$10,000.

To enable the Secretary of the Treasury to pay the persons employed by the Committees for the District of Columbia of the two Houses of Congress under the provisions of joint resolution approved June 18, 1864, entitled "A resolution to provide for the revision of the laws of the District of Columbia," the compensation provided in said resolution, \$2,000, or so much thereof as may be necessary for that purpose.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-fourth amendment:

On page 17, line twenty-five, after the word "dollars," insert the following:

That no portion of said sum shall be expended until the alteration of said building is submitted to the architect of the Capitol extension, and he shall certify it is well adapted to the purpose contemplated, and that its cost will not exceed \$60,000; and the said sum of \$30,000 shall only be paid in installments as an equal amount derived from other sources shall be expended on said building, and if the said hospital company accept this appropriation it shall be held as an agreement on their part that the building is forever to be considered and held dedicated to the relief of sick and indigent persons without distinction as to creed or color, and shall remain under the care of the Sisters of Charity as incorporated under the act entitled "An act to incorporate Providence Hospital of the city of Washington, District of Columbia," approved April 8, 1864: *Provided*, That if the said property should ever be sold or diverted from the uses expressed in the act of Congress entitled "An act to incorporate Providence Hospital in the city of Washington, District of Columbia," approved April 8, 1864, then the sum of \$30,000 shall first be paid out of the proceeds thereof into the United States Treasury to reimburse the sum hereby appropriated.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fifth amendment:

On page 17, line twenty-five, strike out all after the word "dollars" to the end of line six on page 18.

The words proposed to be stricken out are as follows:

Providence Hospital, District of Columbia: For the purpose of aiding in the erection of an additional building to the Providence Hospital, in the city of Washington, \$30,000: *Provided*, That if the said property should ever be sold or diverted from the uses expressed in the act of Congress entitled "An act to incorporate Providence Hospital, of the city of Washington, District of Columbia," approved April 8, 1864, then the sum of \$30,000 shall be first paid out of the proceeds thereof into the United States Treasury to reimburse the sum hereby appropriated.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-sixth amendment:

On page 18, after line six, insert the following: For the National Association for the relief of destitute colored women and children, incorporated under an act of Congress approved February 14, 1863, \$5,000, to be expended under the direction of the officers of the association.

To enable the Commissioner of Public Buildings to reimburse the corporation of Washington for expenses incurred in improving streets and avenues passing through and by property of the General Government, under the third section of an act entitled "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820, \$47,245 81.

The Committee on Appropriations recommended concurrence, with an amendment striking out the first paragraph in regard to the National Association.

The amendment was agreed to; and, as amended, the amendment of the Senate was concurred in.

Twenty-seventh amendment:

On page 18, strike out the following: For contingent fund for Joint Committee on the Library, \$5,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

On page 18, after line fourteen, insert as follows: For additional appropriation to be expended under the direction of the Joint Committee on the Library to decorate the Capitol with such works of art as may be ordered and approved by said committee, as provided by act approved August 18, 1856, \$5,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-ninth amendment:

Insert after the word "dollars" at the end of the sentence in line five hundred and twenty-three, page 22, making an appropriation for the erection of a fire-proof brick building for the Treasury Department, the following:

*Provided*, That the Secretary of the Treasury be, and he hereby is, authorized to remove and sell at auction or otherwise, any portion of the presses, machinery, and apparatus employed in the Treasury building, which, from the diminution of the volume of business or otherwise, he may from time to time find to be no longer required.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

The thirtieth amendment was merely verbal, making a word plural instead of singular; and was concurred in.

Thirty-first amendment:

Insert the following: For compensation of surveyor general of Nevada, \$3,000.

For compensation of the clerks in his office, \$5,000. For office rent, messengers, furniture, books, fuel, stationery, and incidental expenses of office, \$3,000.

On page 2, line twenty-six, after the word "dollars," insert:

For compensation of the surveyor general of Montana, \$3,000.

For compensation of clerks in his office, \$5,000. For office rent, messengers, furniture, books, fuel, stationery, and incidental expenses of office, \$3,000.

The committee recommended concurrence in this amendment.

The amendment was concurred in.

Thirty-second amendment:

Add "and fifty," on page 21, line twenty, after the word "hundred."

The amendment was non-concurred in in accordance with the recommendation of the committee.

Thirty-third amendment:

On page 21, line twenty-two, insert as follows: Appropriations required for fulfilling treaty stipulations with the Seminole nation of Indians, under

treaty of March 21, 1866, for the fiscal year ending June 30, 1867:

For this amount, to be paid under the direction of the Secretary of the Interior, to enable the Seminoles to occupy, restore, and improve their farms, as per third article treaty of March 21, 1866, \$30,000.

For the purchase of agricultural implements, seeds, corn, and other stock, as per third article treaty of March 21, 1866, \$20,000.

For the erection of a mill as per third article treaty of March 21, 1866, \$15,000.

Interest on \$50,000 from the date of the ratification of the treaty, at the rate of five per cent per annum, to be paid annually, for the support of schools, as per third article treaty of March 21, 1866, for the fiscal year ending June 30, 1867.

Interest on \$20,000 from the date of the ratification of the treaty, at the rate of five per cent per annum, to be paid annually for the support of the Seminole government, as per third article treaty of March 21, 1866, for the fiscal year ending June 30, 1867.

For this amount to be expended for subsisting the Seminole Indians as per third article treaty of March 21, 1866, \$40,362.

For this amount, or so much thereof as may be necessary, to pay the losses that may be awarded under the provisions of article four of treaty of March 21, 1866, as per third article of said treaty, \$50,000.

For this amount, or so much thereof as may be necessary, to pay the expenses of a board of commissioners, to be appointed by the Secretary of the Interior, to investigate the losses of the loyal Seminole Indians, as per fourth article treaty of March 21, 1866, \$720.

For the erection of agency buildings, as per sixth article of treaty of March 21, 1866, \$10,000.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause a census of each tribe to be taken, as per first clause seventh article treaty of March 21, 1866, \$2,500.

For transportation of such articles as may be purchased under the direction of the Secretary of the Interior for the Seminole Indians, under treaty of March 21, 1866, for the fiscal year ending June 30, 1867, or so much thereof as may be necessary, \$12,000.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The thirty-fourth amendment was on page 21, line twenty-seven, to strike out "\$1,800;" and insert "\$2,500;" which was non-concurred in in accordance with the recommendation of the committee.

The thirty-fifth amendment was on page 22, line fourteen, to strike out "\$900" and insert "\$1,095;" which was non-concurred in in accordance with the recommendation of the committee.

The thirty-sixth amendment was on page 22, line twenty-one, to strike out "nine" and insert "twelve;" which was concurred in in accordance with the recommendation of the committee.

The amendments numbered thirty-seven to forty-four inclusive, all being changes in figures, were non-concurred in according to the recommendation of the committee.

Forty-fifth amendment:

On page 22, after line ten, insert: That so much of any moneys in the Treasury known as the commutation fund as may be necessary be, and the same is hereby, appropriated for the payment to loyal persons claiming service or labor from colored volunteers or drafted men, the amounts heretofore or hereafter to be awarded them under the provisions of section twenty-four of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, for each person so claimed to be held to service or labor, who has enlisted or been drafted into the military service of the United States; but such payment shall in no case be made to any person except upon satisfactory proof that the claimant has firmly and faithfully maintained his or her adherence and allegiance to the Government of the United States by defending its cause against the government and forces of these so-called confederate States of America, in all suitable and practicable ways, and according to his or her ability and opportunity: *Provided*, That no money shall be paid under the foregoing provision until the final report of the commissioners under the act aforesaid shall have been made of all of the claims embraced under the twenty-fourth section of the said act.

The committee recommended concurrence.

The amendment was concurred in.

The forty-sixth amendment was on page 23, to strike out after the word "dollars," in line twenty-one, to the word "be" in line twenty-six; which was concurred in according to the recommendation of the committee.

The forty-seventh amendment was on page 25, to strike out lines three to seven inclusive, which was concurred in according to the recommendation of the committee.

Forty-eighth amendment:

Add the following as an additional section: *Sec. — And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to dispose of the property saved from the rebel steamer Florida, and distribute the proceeds thereof as other prize money is required by law to be distributed.

The committee recommended non-concurrence.

The amendment was non-concurred in.

Forty-ninth amendment:

Add the following: *Sec. — And be it further enacted*, That midshipmen and acting midshipmen in the Navy of the United States shall be entitled to one ration, or commutation therefor.

The committee recommended non-concurrence in this amendment.

The amendment was non-concurred in.

Fiftieth amendment:

Add the following: *And be it further enacted*, That so much of the act approved March 3, 1863, entitled "An act making appropriations for sundry civil expenses of the Government, for the year ending June 30, 1864, and for the year ending the 30th of June, 1863, and for other purposes," as appropriates \$3,750 for a minister resident in Greece, be, and the same is hereby, repealed.

The committee recommended concurrence.

The amendment was concurred in.

Fifty-first amendment:

Add the following: *Sec. — And be it further enacted*, That there is hereby appropriated for payment of traveling expenses of members of the first regiment of Michigan cavalry from the place in Utah Territory where they were mustered out of service in 1861 to the place of their enrollment, a sum sufficient to allow to each member \$325, deducting therefrom the amount paid to each for commutation of travel, pay, and subsistence by the Government when thus mustered out, and that the accounts be settled and paid under the direction of the Secretary of War.

The committee recommended non-concurrence.

Mr. TROWBRIDGE. I trust the House will not follow the recommendation of the committee on this subject, and I will state the reasons why it should not. This regiment of cavalry was one of the first raised in the State during the war. It went through the regular term of service and reenlisted as a veteran regiment. After the surrender of the rebel army this regiment, for some cause, was sent to Utah when their term of service was within about two months of expiration. After having been retained in the service a little more than a year longer than their term of enlistment would have held them, they were informed in March last, by a mustering officer, that if they would consent to be mustered out there, at Salt Lake City, they might do so, and they should receive commutation for transportation home, but if they did not thus consent they would be retained in the service an indefinite length of time. All but seventy-nine, I think, of the regiment assented to the arrangement, were accordingly mustered out and received commutation, the men naturally supposing that the commutation would equal or nearly equal at least their expenses home. But when they came to ascertain the ratio at which commutation is estimated, they found it only furnished them about one third the necessary means to get home. Many of them, however, struggled home spending their own money, but some of them are to-day, according to my last information, at Salt Lake City, for want of the means to get home to their families and friends. Some of these are my own constituents and their families need their support.

I claim that it was a palpable wrong to compel these men to make their election either to be mustered out there or to remain in the service long after their term had expired. The proposition of the Senate is simply to pay them the actual cost of getting home, and it seems to me so plainly just that I do not feel any further necessity of urging it, except to say, without disparaging any other regiment, that this first regiment of Michigan cavalry was one of the best that ever entered the service. At the terrible battle of Gettysburg they made what was pronounced by all military men one of the most magnificent charges ever made by cavalry, absolutely defeating a flank movement

of the enemy which was being prosecuted to success. The men have felt that it was a hardship to be thus retained in service longer than their term, and especially to be mustered out away off on the frontier, compelling them each to spend, as they have spent, about two hundred dollars of their own money to get home. It is a plain injustice. This proposition is simply to pay these men what it has cost them to get home.

Mr. WRIGHT. Does the gentleman mean to say that he thinks it is the duty of Congress to pay \$350,000 for transporting a regiment from Utah to their homes?

Mr. TROWBRIDGE. The duty of the Government is always to return the regiment to the point where it was mustered in.

Mr. WRIGHT. Yes; but not at such a cost. It is too much.

Mr. STEVENS. This was a matter in reference to which we had no information from any of the Departments. I have no doubt that the gentleman from Michigan [Mr. TROWBRIDGE] states exactly what he believes to be true—

Mr. TROWBRIDGE. The gentleman will allow me to say that the facts which I have stated are proved by evidence which I have here, comprising a statement of the Governor of Michigan and affidavits of a large number of the officers and men.

Mr. STEVENS. If the gentleman had only asked us to concur in the statement that this is a most gallant regiment, we should have done it with great pleasure, because we are all convinced of that fact. But here is a case of a regiment mustered out at their own choice. They chose to be mustered out. Now, sir, there are thousands and tens of thousands of men who have been mustered out away from their homes. And are we to appropriate money to all of them in this way? At any rate the committee thought it right that the matter should be sent to a committee of conference, who could examine all the facts deliberately. I trust that we shall not vote money away in this loose manner.

Mr. DRIGGS. Mr. Speaker, I desire to say that I attach no blame to the House for not allowing this claim in the first instance, for the papers in the case were not in a complete and satisfactory form. Indeed, I did not know that the question had gone to the committee. I will state, however, that before the Senate committee evidence was presented substantiating all that has been stated by my colleague. It seems to me but just that Congress should pay the actual traveling expenses of this regiment from that distant point where they were discharged without being furnished with any adequate transportation. I hope that the House will not concur in the amendment made by our committee, but will stand by the action of the Senate and pay this money to the gallant regiment.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendment of the House to the bill (S. No. 400) to fix the compensation of certain collectors of customs and for other purposes; and asked a conference with the House on the question.

#### CIVIL APPROPRIATION BILL—AGAIN.

Mr. HOTCHKISS. Mr. Speaker, it has been suggested by the chairman of the Committee on Appropriations that these men were mustered at such a distance from their homes by their own choice. Now, it should not be overlooked that at that time they had served a year beyond their term of enlistment; and I think it pardonable in them that, after serving that length of time beyond their enlistment, they should wish to go home. They were taken this distance by the Government, where the Government ought not to have taken them after their term of service had expired.

#### COMPENSATION OF COLLECTORS.

The SPEAKER stated that the Senate asked

for a committee of conference on the disagreeing votes on Senate bill No. 400, to fix the compensation of certain collectors of customs, and for other purposes.

Mr. HOOVER, of Massachusetts, moved that the House insist on its amendments, and agree to the conference asked for.

The motion was agreed to.

#### MISCELLANEOUS APPROPRIATIONS—AGAIN.

The SPEAKER stated the question was on concurring in the amendment of the Senate.

The House divided, and there were—ayes 52, noes 42.

So the amendment was concurred in.

Mr. TROWBRIDGE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### Fifty-second amendment:

Insert the following as a new section:  
*And be it further enacted*, That the provisions of the act to carry into effect the treaties between the United States and China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes, approved June 22, 1860, shall extend to Egypt; and the consul general at Alexandria shall have the power provided by section twenty-two of such act for the consul general or consul residing at the capital of a country where there is no minister.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Fifty-third amendment:

Insert the following as a new section:  
*And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present session of Congress; and, in addition thereto, mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives.

The Committee on Appropriations recommended non-concurrence.

Mr. STEVENS demanded the previous question.

Mr. WENTWORTH. I want to say a word. [Cries of "No!" "No!"] It is a matter that affects me personally. [Cries of "Order!"]

The previous question was seconded.

Mr. WENTWORTH and Mr. SCOFIELD demanded the yeas and nays on ordering the main question.

The yeas and nays were not ordered.

Mr. SCOFIELD demanded tellers.

Tellers were not ordered.

The main question was then ordered.

Mr. WENTWORTH demanded the yeas and nays on the motion to concur.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 3, nays 114, not voting 79; as follows:

YEAS—Messrs. Cooper, Jenckes, and Samuel J. Randall—3.

NAYS—Messrs. Alley, Allison, Ancona, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bergen, Bidwell, Bingham, Boutwell, Boyer, Broomall, Sidney Clarke, Cobb, Conkling, Cullom, Dawes, Deftres, Delano, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Hart, Hayes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Johnson, Julian, Kasson, Kelley, Ketcham, Koonz, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Loan, Lynch, Marshall, Marston, Maynard, McClurg, McCullough, Mercer, Miller, Morrill, Morris, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Radford, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Spaulding, Stevens, Stokes, Storer, Taber, Nelson Taylor, John L. Thomas, Thornton, Trumble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Wright—114.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Brewell, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawson, Deming, Denison, Dodge, Garfield, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Higby, Hill, Ho-

gan, Holmes, Aschel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Jones, Kellogg, Kerr, Kuykendall, Longyear, Marvin, McIndoe, McKee, McKuer, Moorhead, Mouton, Noel, Phelps, Pike, Pomeroy, William H. Randall, Rogers, Schenck, Sitgreaves, Sloan, Smith, Starr, Stillwell, Nathaniel C. Taylor, Thayer, Francis Thomas, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Woodbridge—79.

So the amendment was non-concurred in.

During the vote,

Mr. JOHNSON said: Mr. Speaker, I voted under a misapprehension of the question; and in order that there may be no misunderstanding upon the subject I declare that I am in favor of increased compensation, so as to enable poor men to come to Congress. I vote "no," so that the section may go to a committee of conference, and the Presiding Officers of the two Houses may be provided for.

Several MEMBERS, for the reason assigned by the gentleman from Pennsylvania, [Mr. JOHNSON,] changed their votes from the affirmative to the negative.

Mr. BIDWELL stated that his colleague, Mr. McRUER, who was absent on account of illness, if present, would have voted in the negative.

The vote was then announced as above recorded.

Mr. WENTWORTH moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### Fifty-fourth amendment:

Insert as follows:

*And be it further enacted*, That there be allowed and paid to the officers, clerks, messengers, and employees of the Senate, and to the Librarian, assistant Librarian, messengers, and other employees of the Congressional Library, an addition of twenty per cent. on their present pay, to commence with the present Congress; and the amount necessary to pay this allowance is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommended concurrence with an amendment, adding the following to the amendment of the Senate:

And to enable the Clerk of the House of Representatives to execute the resolutions of the House of the present session, to regulate the compensation of its officers, clerks, clerks of committees, messengers, and other employees, including the payment of the same increased rate of compensation fixed by resolution of the House of June 25, 1866, to those clerks, committee clerks, messengers, and employees of the House (not including the stenographer of the House) not provided for in said resolution, but which is hereby authorized, and also to the Capitol police, such sum as may be required be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

*And be it further enacted*, That there shall be paid to Department officers appointed under heads of Departments, and to all chief clerks, principal clerks, and clerks of the first, second, third, and fourth classes, who shall be in the service of either of the Executive Departments or bureaus of the Government at Washington, including the foreman and clerks in the Government Printing Office, on the day of the approval of this act, and who shall also have been in such service for not less than six months prior thereto, an amount equal to twenty per cent. respectively on the amount of regular salary affixed to their respective appointments: *Provided*, That in adjusting and paying the same there shall be deducted the sum which shall have been paid to the beneficiaries since the 1st day of July, 1865, out of any sum appropriated by Congress for extra allowance to officers and clerks in any Department; and only the deficiency, if any, in such cases shall be allowed and paid to such beneficiaries: *And provided further*, That when any such salary shall have been increased since July 1, 1865, such increase shall be deducted from the amount hereby allowed; and the sum requisite to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WILSON, of Iowa. I desire to submit an amendment to the amendment of the Committee on Appropriations. I noticed from the reading of their amendment that the clerks in the Agricultural Department are not included. I presume that is an oversight of the committee.

Mr. KASSON. They are included in the amendment of the committee. It says expressly "of the Departments and bureaus."

Mr. WILSON, of Iowa. The Agricultural Department is not an Executive Department, nor is it a bureau in any Executive Department. The statute describes certain Executive Departments, but that is not one of them. I move



to amend the amendment so as to include the Agricultural Department clerks and employes.

Mr. RADFORD. I desire to inquire of the gentleman from Iowa, [Mr. KASSON,] whether the employes of the book-folding room are included in the amendment of the Committee on Appropriations.

Mr. KASSON. They are embraced under the head of "employes of the House." I now call the previous question on the amendment.

The previous question was seconded and the main question ordered.

The amendment of Mr. WILSON, of Iowa, to the amendment of the Committee on Appropriations was agreed to.

The amendment of the committee, as amended, was agreed to; and the amendment of the Senate, as amended, was then concurred in.

Fifty-fifth amendment:

Insert the following:

The sum of \$8,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated for the preservation of the harbor of Provincetown, Massachusetts, the same to be expended under the supervision of a commission or board of officers to be appointed by the Secretary of War.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Mr. STEVENS. In pursuance of the instructions of the House, I am directed by the Committee on Appropriations to move the amendment which I send to the Clerk's desk to the last amendment of the Senate concurred in by the House.

The amendment was read, as follows:

SEC. — *And be it further enacted*, That instead of any grant of land or other bounty there shall be allowed and paid to each and every soldier, sailor, and marine who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been or may hereafter be honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served, between the 12th day of April, 1861, and the 19th day of April, 1865. And in the case of any such soldier, sailor, or marine, discharged from the service on account of wounds received in battle, or while engaged in the line of his duty, the said allowance of bounty shall be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine, while in the service, or in case of his death after the discharge and before the end of his term of enlistment, if discharged on account of being wounded, as provided, the allowance and payment shall be made to his widow if she has not been remarried, or if there be no widow, then to the minor child or children of the deceased who may be under sixteen years of age.

SEC. — *And be it further enacted*, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws, by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

SEC. — *And be it further enacted*, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request, prior to the 9th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and who did actually enlist or accept promotion or was so transferred; "nor to any one who was discharged on his own application or request, prior to the 9th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and who did actually enlist or accept promotion or was so transferred;" so that the section will read:

SEC. — *And be it further enacted*, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment. And no bounty shall be paid to any soldier, sailor, or marine, discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

SEC. — *And be it further enacted*, That whenever

application shall be made by any claimant, through any attorney or agent, the post office of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent, that he has not charged, nor agreed for, and will not accept more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

SEC. — *And be it further enacted*, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

SEC. — *And be it further enacted*, That in case the payments shall be made in the form of a check, order, or draft, upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

SEC. — *And be it further enacted*, That it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barter, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

SEC. — *And be it further enacted*, That no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines shall be made in the same manner as now provided by law.

Mr. STEVENS. I now yield to the gentleman from New York, [Mr. CONKLING,] who desires to move an amendment to the amendment of the Committee on Appropriations.

Mr. CONKLING. I move to amend the amendment of the Committee on Appropriations by striking out the second section of the amendment, as follows:

SEC. — *And be it further enacted*, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid or payable under existing laws, by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

Also amend the third section of the amendment by striking out the words "nor to any one who was discharged on his own application or request, prior to the 9th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and who did actually enlist or accept promotion or was so transferred;" so that the section will read:

SEC. — *And be it further enacted*, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment. And no bounty shall be paid to any soldier, sailor, or marine, discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

The question was upon the amendment of Mr. CONKLING to the amendment reported by the Committee on Appropriations.

Mr. SCHENCK. I rise to a question of order. I do not know whether there is anything in it, but I will submit it to the Chair.

The House instructed the Committee on Appropriations to add to this civil appropriation bill the bounty bill as it passed the House after full discussion and consideration. The committee, in accordance with those instructions, have added that bill by way of amendment. I now raise the point of order that it is not competent to vary from that by proceeding to amend what the House has ordered to be put into the bill. The order of the House to the Committee on Appropriations, to put the bounty bill on this appropriation bill, is the same as if the House had put it on by direct vote. It is therefore not competent to strike out any portion of that which the House has inserted.

The SPEAKER. The instructions of the House to the Committee on Appropriations were to report back the bounty bill in the position of an amendment to this bill, the same as though it had been an amendment of the Senate, being still open to amendment the same as the Senate amendment, with this exception: the bounty bill amendment, occupying necessarily the place of an amendment to a Senate amendment, is open to amendment only in one degree. The bounty bill and the Senate amendments were all referred to the Committee on Appropriations; if the one cannot be amended when reported back to the House neither can the other.

Mr. STEVENS. The gentleman from Missouri [Mr. BENJAMIN] desires to offer an amendment. I will yield to him for that purpose, and then I will call the previous question.

Mr. BENJAMIN. I move to further amend the third section of the amendment of the Committee on Appropriations by adding thereto the following:

*Provided*, That troops known as home guards, or other volunteer troops organized for local service, which are now excluded from bounties by the rulings of the War Department or under the terms of their enlistment, shall not participate in the bounties provided by this act or any part thereof; but this exclusion shall not apply to those voluntarily legalized as mustered into the three years' service of the United States under an act making an appropriation for completing the defenses of Washington, and for other purposes, approved February 13, 1862.

The SPEAKER. There is already pending an amendment to an amendment. No further amendment is in order except by unanimous consent.

Mr. JOHNSON. I must object to the amendment of the gentleman from Missouri [Mr. BENJAMIN] unless the Pennsylvania militia are included.

Mr. STEVENS. I now call the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, House bills and a joint resolution of the following titles:

A bill (H. R. No. 597) to authorize the use of the metric system of weights and measures;

A bill (H. R. No. 597) to authorize the use in the post offices of weights of the denomination of grams; and

A joint resolution (H. R. No. 140) to authorize the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system.

CIVIL APPROPRIATION BILL—AGAIN.

The pending question was upon the amendment of Mr. CONKLING to the amendment of the Committee on Appropriations, upon which, the previous question having been seconded, Mr. STEVENS was entitled to the floor.

Mr. STEVENS. I yield to the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. If I can get the attention of the House a few moments, I will endeavor to state in a very few words the object of my amendment. I shall not begin by pretending at great length the regard I have for the soldiers and sailors of the Republic. I assume, for this purpose, that all men and all

parties are sincerely willing to do everything that can be done, and to strain a point always in the interest of the soldiers and seamen who have fought in the late war.

This amendment is ostensibly for the purpose of equalizing bounties, but unless the amendment which I have offered shall prevail I submit to the House that it will do anything but equalize bounties. The gentleman from Ohio, [Mr. SCHENCK,] in making his point of order, if I understood him aright, said that this amendment, in the form of a bill, had once been fully considered and adopted by this House. If an opportunity had ever been afforded to consider this bill fully in this House, I doubt whether I should now be called upon to propose this amendment. But in the absence of all deliberation in the House we were brought, under the operation of the previous question, to a vote upon the bill, which, among other things, involves the incongruities which I shall endeavor to point out.

This bill involves an expenditure of from eighty to one hundred and fifty million dollars, according to an estimate made by a gentleman who assures me that he has looked at the record with great care, and upon whom we are all accustomed to rely in such matters. Now, sir, as to the operation of this bill. I trust I may be allowed to speak of the State of New York, because that State is an example of the manner in which the measure will operate upon the eastern and New England States generally. It will cost the State of New York \$20,000,000 to pay the tax imposed by this bill; and my belief is that the soldiers of that State will not receive, under the bill, \$500,000; nor do I believe that they will receive even \$100,000, all told. Why? Because in the State of New York and in most of the New England States, almost from the outset of the rebellion—from a period, at all events, as early as the year 1862—bounties were paid by the State, by counties, by municipal corporations, and by voluntary associations; and these bounties are to be deducted altogether in estimating the additional bounty to be paid under this bill. Thus the House will see—I am still speaking of the State of New York as an example of all these eastern States—that while the tax for the payment of these bounties is to be uniform, as it must be, that State will be virtually excluded altogether from participating in the benefits of the bill. Is that right? If the State of New York, if the New England States had been unpatriotic, if they had been laggard or regally in supporting the war, a measure which would thus punish these States might be defended or excused. But on the contrary, we are to be punished because we came forward with our bounties at the outset of the rebellion and gave not only men but money in excess for the purpose of sustaining the war.

I may say that in my own district in the year 1862—I well remember the circumstances—under one single call twenty-four and three fourths per cent., one quarter of the entire assessed valuation of the taxable property, went to pay the bounties of soldiers and to provide for their families. This was under the call for three hundred thousand men. One quarter of the substance of the people, as it stood on the tax-book, went to pay these bounties. Ought we to be punished for that? Ought New York to be punished because with munificent hand she paid her soldiers and made provision for the families of those who first stepped forward as volunteers and went into the ranks? I think not, sir. Yet the effect of this proposition will be to impose upon States situated as New York is their quota of this tax, while their soldiers will be excluded from participating in the proceeds.

I may be told that the soldiers of New York have already received the bounty proposed by this measure for others, and that therefore they should not receive bounty again. Granting this for the sake of argument, will any gentleman explain to me how it is equitable that New York, New England, and Pennsylvania, hav-

ing once paid these bounties, should now be compelled to submit to taxation to pay the same bounties over again to the soldiers of other States—States that in the beginning withheld this measure of munificence? But, sir, there is a latter branch of my amendment which proposes to strike out that provision of the bill which excludes from its benefits all those who ever asked to be discharged from the service. Look for one moment at the effect of that amendment.

When Richmond fell, when Petersburg fell, when the parapets of Fort Fisher were held after a hand to hand fight, the struggles went on very largely by eastern troops, it so happened by men raised in the eastern States, but the most of them, the war being virtually over, before the 9th of April, 1865, signified their desire *en masse* by regiments to be discharged from the service. Under the bill as it stands now all these regiments, the one hundred and seventeenth New York regiment for example, the first regiment that mounted the parapets of Fort Fisher, cut to pieces as it were, more than decimated, almost blotted out by that fight, when the question was put to them, would you like to be mustered out? they said certainly, the war being over, they would like to return home. These men are distinguished against and excluded by this bill because they were mustered out of the service after they had requested to be mustered out, such request being anterior to the 9th day of April, 1865.

If we are to do something for the soldiers in equalizing bounties, let it be done with impartial hand. Let the soldiers East and West participate in it. If it is to be sectional and confined to those of a particular portion of the country, then let us have some contrivance by which the admeasurement of taxes may also be confined to the same locality.

Mr. STEVENS. I yield the floor for five minutes to the gentleman from Ohio.

Mr. SCHENCK. I know how impatient the House is at this late hour of the session of discussion on any subject; and if this could have been permitted to come to a vote without discussion, I should not have troubled the House. I desire briefly to defend the bounty bill of the House as ordered to be attached to the bill now before the House as being an equal measure, eminently so. In the first place, it takes in no soldiers, though it is general in its terms, except those of 1861 and 1862. Those who came in after 1862 received large local bounties and will not come in under the provisions of this bill. Some, in 1862, received small local bounties of from seventy-five to one hundred dollars. Those, so far, will be subjected to deduction; but as a general rule, the soldiers to be benefited by this bill are principally the soldiers of 1861 and 1862—the early part of 1862.

What does the Government say to them? The Government, in the first place, does not recognize this bounty as a debt in any sense. The pay was the compensation of the soldier; but it does recognize the granting of bounty as an act of something more than charity, an act of generous justice to the men who have done good service. And when about to perform that act of generous justice the Government may be represented as calling all its children round who have been in the war and saying "We cannot equalize you; that is impracticable, but we will go as near it as possible. We propose every man who has gone into the service shall have eight and a half per month during the war." It says to every man coming round the Government personified for this purpose, "How much have you received from any source? What have you received from your State? What have you received from your county? What have you received from any volunteer association? If that is not more than eight and a half per month we will add to it. Those who have received more cannot complain if we do not when they have more than we propose to give others." The Government says to each one, "Our desire is that

you shall have at the rate of \$100 per year provided you have not already had it from any source whatever; if you have not we will make it up to you."

Then, again, the gentleman objects to another provision of the bill, and moves to amend it, and yet permits it to go as an amendment to the appropriation bill as directed by the House. It is that the generous donation of the Government of \$8 33 per month should be deducted, or withheld rather, from those who asked to be discharged from the service not on account of wounds or disability, prior to the conclusion of the war. It seems to me to have been manifestly just, in saying to the soldiers, "We propose to give this to you for the time you have actually served," that this should be added: "We will give it to every one of you who held on till the end of the war, and did not voluntarily leave the service except on account of wounds or disability, or against your own will. If you left it because you were mustered out, then it is withheld; if you left it because of wounds, then it is not; but if you asked to be discharged voluntarily, before the termination of the war, while hostilities still continued, then we do not think it a hardship to withhold that which would equalize your pay."

I know the bill does not make all equal. It is impossible. But it comes nearer to it than any other proposition. The Government should ascertain how much each one has had and endeavor as far as practicable to put all on the same footing. And then when you take into consideration further that it relieves the States from the trouble they otherwise would have, it is a great point gained. If the Government of the United States undertakes to equalize bounties in this way and does not take into account the local bounties, what then? As soon as the soldiers have obtained what equalization they can from the Government of the United States you will find them all turning back to the several States, comparing their relative local bounties, and asking for equalization there.

[Here the hammer fell.]

Mr. STEVENS. I shall now ask the question to be taken, and shall not yield to anybody else.

The question being taken on the amendment of Mr. CONKLING, there were—ayes 41, noes 51.

Mr. CONKLING. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 61, nays 64, not voting 71; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Banks, Barker, Baxter, Bergen, Bidwell, Boutwell, Boyer, Broomall, Sidney Clarke, Cobb, Conkling, Dixon, Eliot, Glossbrenner, Hart, Higby, Holmes, Hotchkiss, John H. Hubbard, Johnson, Julian, Kelley, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Lynch, Marston, Moreau, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Paine, Perham, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Taber, Nelson Taylor, John L. Thomas, Van Aernam, Ward, Stephen F. Wilson, Windom, Winfield, and Woodbridge—61.

NAYS—Messrs. Anderson, Baker, Benjamin, Bingham, Cooper, Cullom, DeForest, Driggs, Dumont, Eckley, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Garfield, Aaron Harding, Abner C. Harding, Harris, Hayes, Hogan, Chester D. Hubbard, Ingersoll, Kasson, Kerr, Latham, Le Blond, Leitch, Marshall, Maynard, McClurg, Niblack, Nicholson, Orth, Phelps, Plants, Price, Ritter, Ross, Schenck, Shanklin, Spalding, Stokes, Nathaniel G. Taylor, Thornton, Trimble, Trowbridge, Robert T. Van Horn, Welker, Wentworth, Whaley, Williams, and James F. Wilson—54.

NOT VOTING—Messrs. Ames, Delos B. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bromwell, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dodge, Donnelly, Goodyear, Grider, Grinnell, Griswold, Hale, Henderson, Hill, Hooper, Asahel W. Hubbard, De-mas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Humphrey, Jenckes, Jones, Kelso, Loan, Longyear, Marvin, McCullough, McIndoe, McKee, McKuer, Moulton, Noell, Patterson, Pike, Pomeroy, William H. Randall, Rogers, Sitgreaves, Sloan, Smith, Starr, Stevens, Stilwell, Strouse, Thayer, Francis Thomas, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Wright—71.

So the amendment to the amendment was agreed to.

Mr. CONKLING moved to reconsider the vote by which the amendment to the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BENJAMIN. I ask unanimous consent to propose the following as an amendment to the amendment:

*Provided*, That troops known as "home guards," or other volunteer troops, organized for local service, which are now excluded from bounties by the rulings of the War Department or under the terms of their enlistment, shall not participate in the bounties provided by this act or any part thereof; but this exclusion shall not apply to those volunteers legalized as mustered into the three-year service of the United States under an act making an appropriation for completing the defenses of Washington, and for other purposes, approved February 13, 1862.

Mr. JOHNSON. I object.

The question recurred on concurring in the amendment as amended; and being taken, there were—ayes 63, noes 33.

Mr. HARDING, of Kentucky. I demand the yeas and nays.

The yeas and nays were ordered.

The roll-call having commenced,

Mr. STEVENS said: I ask unanimous consent that the morning session of to-day be extended until this bill shall be disposed of.

Mr. WENTWORTH. I object.

Mr. STEVENS. There will not be time to complete the call and order a committee of conference before the recess.

Mr. HARDING, of Kentucky. I move to reconsider the vote by which the yeas and nays were ordered.

The motion to reconsider was agreed to.

Mr. HARDING, of Kentucky. I now withdraw the demand for the yeas and nays.

The amendment, as amended, was then concurred in.

Mr. CONKLING moved to reconsider the vote by which the amendment, as amended, was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS moved to reconsider the votes by which the amendments were severally concurred or non-concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEVENS. I now move that the House insist upon its disagreement to the several amendments, and ask for a committee of conference.

The motion was agreed to.

#### AIR-LINE RAILROAD—AGAIN.

Mr. STEVENS. I rise to a privileged question. I call up the motion to reconsider the vote by which House bill No. 632, to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York was ordered to be engrossed.

Mr. ALLEY. I move that the House adjourn.

The motion was disagreed to.

Mr. STEVENS. I withdraw the motion to reconsider.

The bill had previously been ordered to be engrossed and read a third time; and being now engrossed, was accordingly read the third time.

Mr. STEVENS. I demand the previous question on the passage.

Mr. J. L. THOMAS. I move to lay it on the table.

Mr. LE BLOND. I hope the gentleman will withdraw his motion and let us have a vote directly on the passage of the bill.

Mr. J. L. THOMAS. I insist upon my motion.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays.

The yeas and nays were not ordered.

The question being taken on laying the bill on the table, it was disagreed to.

The previous question was seconded and the main question ordered.

#### ARMY BILL.

Mr. SCHENCK. I rise to make a privileged report from the committee of conference on the disagreeing votes of the two Houses on the Army bill:

The committee of conference on the disagreeing votes of the two Houses upon the amendment of the Senate to the substitute of the House for the Senate bill No. 138 to increase and fix the military peace establishment of the United States respectfully report that after full and free conference they have failed to agree, and therefore ask to be discharged.

ROBERT C. SCHENCK,

HALBERT B. PAINE,

SYDENHAM E. ANCONA,

*Managers on the part of the House.*

The committee was accordingly discharged.

Mr. SCHENCK. I ask permission, on behalf of the gentleman from Wisconsin [Mr. PAINE] and myself, to make a statement. We met the conferees on the part of the Senate, and agreed to take up, as the basis of our action, the Senate amendment or substitute for the House substitute or amended bill; that is, the Senate's last form of a bill upon this subject. We found very soon that there was a material difference between us upon two or three leading points relating specially to what should be the general aggregate force of the Army. The House and Senate have approached each other nearly in the actual number of regiments. The House provided for sixty-one and the Senate for sixty-two regiments. The Senate had provided for twelve regiments of cavalry, and the House for six. The Senate converted the nine old large regiments of infantry into twenty-seven. The House converted them into twenty-two. The House took the two hundred and sixteen companies, added four companies, and made twenty-two regiments. The Senate took each battalion, added two companies to it, and made twenty-seven regiments. The Senate has provided for five additional regiments of infantry. It refused any provision for a Veteran Reserve corps, or any provision by which men wounded or disabled in the service, either the volunteer or regular, could be retained in the Army. The Senate allowed but three colored regiments.

All these things were discussed pro and con. The House conferees advanced from point to point, and at length (although they knew they were going against the sense of the House) agreed in regard to the Veteran Reserve corps, to give up one half, making the corps consist of five regiments. They agreed to drop three regiments of the colored infantry, coming down from eight to five. This was upon the condition that, having agreed to raise the cavalry from six regiments to ten, two of those cavalry regiments should be colored. This the Senate conferees agreed to. They insisted under these circumstances on having thirty-two regular white infantry regiments, made up of the old regiments. Proposition after proposition was made; and it may not be improper to state that at one time the House conferees were entirely satisfied that the whole question was settled by an agreement with them on the part of a majority of the Senate conferees. What they proposed to agree to ultimately as the most that they would concede was thirty-two regiments of infantry, to be made up of the old infantry regiments; ten regiments of cavalry, two to be colored; leaving the artillery (which both were agreed upon) at five regiments; and cutting down the Veteran Reserve corps to five regiments, (one half of what the House had insisted upon;) and the colored infantry to five.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] will yield for a moment. The Chair desires to suggest that, as this is probably the last day of the session, the taking of the recess, fixed at half past four o'clock p. m., be postponed till such time as the House sees proper to adjourn till the evening session.

There was no objection, and it was so ordered.

Mr. SCHENCK. We went on until we reached that point where we thought there was an agreement, and where we still think there was an agreement. But one of the conferees

on the part of the Senate, having been absent, returned and succeeded possibly in winning over one of the two who agreed with us. Thus the whole matter again fell. What we offered them was this: that instead of having sixty-one regiments, as the Senate proposed we would consent to cut the whole Army down to only fifty-seven regiments, and that we would take what we understood to have been once agreed to—five regiments of artillery; ten of cavalry; two to be colored; thirty-two regiments of infantry, instead of thirty-seven, or, as the Senate had it, forty-two; a Veteran Reserve corps of only five regiments, and five regiments of colored infantry. In addition to this there were disputes about a great number of details, but we went over the bill again and again and found that we were able to agree upon these various matters of detail substantially.

Now, sir, I come to what we have to propose. Congress cannot, without great detriment to the public service, adjourn without making some provision in regard to the Army. Gentlemen are aware that the Army now consists of numbers that may be expanded to some forty-three thousand, including nine regiments of three battalions each; but all these regiments are, in accordance with the requirements of the present law, about to be disbanded.

Along with this is a regiment of artillery, which in like manner was raised for the war, and must also be disbanded if nothing be done by this Congress. The result of that will be, it will bring down the Army to the old limits of from seventeen to twenty thousand men. Those in charge of the military affairs of the country, including the Secretary of War and the General commanding-in-chief, are of the opinion it would be perfect madness to undertake to manage the military affairs of the country if we are now to be remitted to the old Army, losing even the nine large new regiments of infantry and the regiment of artillery in the regular Army raised for the war.

I am for one decidedly of the same opinion. What we have to propose now to this House, rather than let the whole subject fall through, I have already stated. Two of the conferees did not have an opportunity to confer with the other conferee, the gentleman from Pennsylvania, [Mr. ANCONA.] We propose to bring forward a bill which will accept all of the details as agreed between the Senate and House conferees to put the Army, with its regiments, as I have explained, at the lowest point to which the conferees, under any circumstances, were authorized to go. This will bring them down to fifty-seven instead of sixty-seven, as the House had it, or sixty-two, as the Senate had it. It will give up one half what was provided in regard to the Veteran Reserve corps, and so on.

Mr. WARD. Has the gentleman any assurance the Senate will accept this new bill?

Mr. SCHENCK. I have not.

Mr. WARD. Then why not have a new committee of conference that will agree on something?

Mr. SCHENCK. This is only taking the lowest rates which the Senate and House conferees have already once distinctly agreed to.

Mr. WARD. But it will not give us any bill.

Mr. SCHENCK. It will give us a bill more promptly than in any other way. It will put this question, whether they are willing to take a bill framed on their own basis instead of a bill sent from the House.

Mr. FARNSWORTH. I ask, with the gentleman from New York, why we should not have another committee of conference to adjust the disagreeing votes between the two Houses.

Mr. SCHENCK. We have now agreed to all the suggestions of the Senate conferees.

Mr. FARNSWORTH. In a matter so difficult and important why should we not have another committee of conference?

Mr. SCHENCK. For the reason they finally fell back upon the ground so far as the con-



fees here were concerned that they would not agree to anything for wounded officers or soldiers. In other words, they would make no provision for the Veteran Reserve corps except—

Mr. WARD. Mr. Speaker, is it in order to move for another committee of conference?

The SPEAKER. It would be if the gentleman had the floor.

Mr. SCHENCK. I know my colleagues on the conference committee will agree with me, from the disposition manifested, and from what was done, this is a nearer approach to the matter than any we can adopt, and more likely to result in something practical being done. Sir, it is not necessary to go into details in reference to the conference, but perhaps I have gone too far already. It was our conviction the proposition I now make is the most feasible plan to arrive at any conclusion. I now move to suspend the rules to enable this bill, prepared with great care in accordance with what was done by General PAINE and myself, to be introduced and put on its passage.

Mr. WARD. My object is to have some bill adopted.

Mr. SCHENCK. I ask my colleague on the committee [Mr. PAINE] whether he does not understand we are more likely to get a bill in this than in any other way. I will not detain the House one moment longer than to have my colleague express his opinion on this subject for the benefit of the House.

Mr. HARDING, of Kentucky. Is that in order?

The SPEAKER. Does the House consent?

Mr. HARDING, of Kentucky. I object.

Mr. WARD. Is my motion in order?

The SPEAKER. Not pending the motion to suspend the rules.

The House divided; and there were—ayes 52, noes 44.

So (two thirds not voting in the affirmative) the rules were not suspended.

Mr. WARD. I now move that the House still further insist upon its disagreement to the amendments of the Senate to the House substitute for the Army bill, and ask for another committee of conference.

The motion was agreed to.

Mr. WARD moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed, without amendment, House bill No. 814, for the relief of the sufferers by fire at Portland.

#### ADJOURNMENT OF CONGRESS.

Mr. STEVENS. I learn that it will be impossible for us to finish up all our necessary business by the time, to-morrow noon, fixed for the adjournment of this Congress, and that unless the session is extended we shall lose several important bills in consequence of there not being time in which to prepare them and submit them to the President for his approval and signature. I therefore submit the following resolution for action at this time:

*Resolved by the House of Representatives, (the Senate concurring,) That the present session of Congress be, and hereby is, extended until Saturday, the 28th instant, at five o'clock p. m.*

Mr. DRIGGS. I move to amend the resolution so as to extend the session to two o'clock p. m. of Monday next.

Mr. STEVENS. My own judgment is in favor of Monday; but I find such a determination on the part of members to go home that I fear it will be impossible to keep a quorum here till Monday.

Mr. SCOTFIELD. I would suggest to my colleague [Mr. STEVENS] that he had better withdraw the resolution for the present. He can offer it again to-morrow morning if it shall then be found necessary.

Mr. STEVENS. I think we better act upon it now.

Mr. FINCK. I would suggest to the gentleman from Pennsylvania [Mr. STEVENS] that he better let this matter go over until to-morrow morning at eleven o'clock. We will then know whether we shall need to have the session extended or not.

Mr. STEVENS. It is important that the question should be settled now in order that we may know what arrangements to make. I see several members on the wing now, hovering about as if ready to fly away. I will modify the resolution so as to extend the session to half past four o'clock to-morrow afternoon.

Mr. DRIGGS. At the request of friends, I will withdraw my amendment.

Mr. STEVENS. I now call the previous question.

The previous question was seconded and the main question ordered.

The question was upon agreeing to the resolution of Mr. STEVENS, as modified; and being taken, upon a division there were—ayes 65, noes 38.

So the resolution was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

On motion of Mr. SCOTFIELD, the House (at twenty minutes to five o'clock p. m.) took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The hour of half past seven o'clock p. m. having arrived, the House resumed its session.

#### SELECT COMMITTEE ON CIVIL SERVICE.

Mr. JENCKES, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the select committee on the civil service of the United States, heretofore authorized by a resolution of this House, be continued during the second or subsequent session of the Thirty-Ninth Congress, and that it may continue to exercise the powers conferred by said resolution.*

#### WYANDOTTE MISSION CHURCH.

Mr. PRICE. I move that the Committee of the Whole be discharged from the further consideration of Senate bill No. 353, for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians.

Mr. CULLOM objected, but subsequently withdrew his objection.

Mr. FINCK renewed the objection.

Mr. PRICE. Then, I move to suspend the rules for that purpose.

The SPEAKER. That motion is not now in order. The House is now acting under the previous question, which was ordered before the recess, upon the bill of the House (No. 632), to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York; and until that bill is disposed of no other business is in order except by unanimous consent.

#### ASSASSINATION OF PRESIDENT LINCOLN.

Mr. LAFLIN, by unanimous consent, reported from the Committee on Printing the following resolution:

*Resolved, That there be printed for the use of this House, ten thousand copies of the report of the Judiciary Committee upon the alleged complicity of Jefferson Davis in the assassination of President Lincoln.*

Mr. RANDALL, of Pennsylvania. I move to amend the resolution so that it shall include an equal number of the minority report when made.

Mr. TAYLOR, of New York. I would suggest that they be ordered to be printed together, if the minority report is submitted in time to be printed with the majority report.

Mr. RANDALL, of Pennsylvania. I will modify my amendment to that effect.

The amendment, as modified, was agreed to. The resolution, as amended, was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PROVOST MARSHAL'S BUREAU.

Mr. LAFLIN, by unanimous consent, reported from the Committee on Printing the following resolution:

*Resolved, That there be printed two thousand extra copies of the report of the committee appointed to investigate the provost marshal and his bureau, for the use of the committee, and five hundred for the use of the House.*

Mr. ANCONA. I think those numbers should be reversed.

Mr. LAFLIN. I will remark that this has been customary in regard to reports of this character. The members of the committee are more particularly interested in the report than are the other members of the House. However, if objection is made to the distribution proposed by the resolution I am willing to modify it so as to make it fifteen hundred for the use of the committee and fifteen hundred for the use of the House.

Mr. HARRIS. I move to lay the resolution on the table.

Mr. LAFLIN. If the gentleman will withdraw that motion I will modify the resolution so as to make it five hundred for the committee and two thousand for the House.

Mr. HARRIS. I will withdraw the motion for that purpose.

Mr. LAFLIN. I modify the resolution so as to make it provide five hundred copies for the use of the committee and two thousand for the use of the House.

The resolution, as modified, was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### POSTAL SERVICE APPROPRIATION.

Mr. ALLEY. I ask unanimous consent of the House to introduce a supplemental appropriation bill for the Post Office Department, which has been rendered necessary by the great number of post routes which have been established by the action of this Congress. I have the consent of the chairman of the Committee on Appropriations [Mr. STEVENS] to introduce it at this time, and I ask that it may be considered and passed at once.

No objection was made.

Mr. ALLEY accordingly introduced a bill for an act supplemental to the act to appropriate money for the postal service; which was read a first and second time.

The bill was read at length. It appropriates the sum of \$486,525 for carrying the mail upon the post routes established by act of Congress passed during the first session of the Thirty-Ninth Congress for the fiscal year ending June 30, 1867.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### MEMPHIS RIOTS.

Mr. WILSON, of Iowa. I ask unanimous consent to submit a motion instructing the Committee on Printing to report back within one hour the resolution referred to them providing for the printing of the reports of the committee appointed to investigate the late Memphis riots, with such recommendation or modification, if any, as they may deem proper to report.

Mr. SHANKLIN. I object.

#### WATCHMEN IN CAPITOL ROTUNDA.

Mr. DRIGGS. I ask unanimous consent to introduce, for consideration at the present time, the following joint resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the watchmen in the Rotunda of the Capitol be*

allowed the same pay as is allowed to the Capitol police, to take effect the 1st day of January, 1866.

Mr. KASSON. I object.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 597) to authorize the use in post offices of weights of the denomination of grams;

An act (H. R. No. 759) to authorize the refunding of certain taxes;

An act (H. R. No. 809) to further regulate the printing of public documents and the purchase of paper for public printing;

An act (H. R. No. 810) amendatory of section thirteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865;

An act (H. R. No. 814) for the relief of sufferers by fire at Portland; and

Joint resolution (H. R. No. 140) to enable the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system.

#### AIR-LINE RAILROAD—AGAIN.

Mr. STEVENS. I now call for the consideration of the regular order of business.

The House accordingly resumed the consideration of House bill No. 632, to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York; upon which the previous question had been seconded and the main question ordered.

The question was upon the passage of the bill.

Mr. BERGEN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 59, nays 44, not voting 83; as follows:

YEAS—Messrs. Allison, Anderson, Baker, Barker, Baxter, Bidwell, Bingham, Bromwell, Sidney Clarke, Cobb, Conkling, Cullom, DeGreys, Delano, Briggs, Dumont, Farnsworth, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hotchkiss, John H. Hubbard, James R. Hubbell, Ingersoll, Jencks, Julia V. Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, McClurg, Mercur, Miller, Moorhead, Morrill, Morris, Paine, Perham, Plants, Sawyer, Shellabarger, Spalding, Stevens, Stokes, Nathaniel G. Taylor, Trowbridge, Van Aernam, Burt Van Horn, Ward, Williams, James F. Wilson, and Stephen F. Wilson—59.

NAYS—Messrs. Alley, Ancona, Bergen, Boutwell, Broomall, Cooper, Eldridge, Eliot, Finck, Glossbrenner, Harris, Hogan, Chester D. Hubbard, Kasson, Kelley, Kerr, Latham, Le Blond, Leftwich, Marshall, Maynard, McCullough, Myers, Price, Radford, Nicholson, O'Neill, Orth, Phelps, Rice, John H. Rice, Rogers, Rollins, Ross, Shanklin, Taber, Nelson Taylor, John L. Thomas, Thornton, Trimble, and Winfield—44.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Benjamin, Blaine, Blow, Boyer, Brandegee, Buckland, Bundy, Chandler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Eckley, Eggleston, Farquhar, Ferry, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Hooper, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Johnson, Jones, Kelso, Longyear, Marston, Marvin, McIndoe, McKee, McRuer, Moulton, Noell, Patterson, Pike, Pomeroy, William H. Randall, Raymond, Ritter, Schenck, Scofield, Sitgreaves, Sloan, Smith, Starr, Stilwell, Strouse, Thayer, Francis Thomas, Upson, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Windom, Woodbridge, and Wright—83.

So the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### DEFICIENCY APPROPRIATION BILL.

Mr. KASSON, from the Committee on Appropriations, reported back Senate amendments to the bill (H. R. No. 791) entitled "An act to supply deficiencies in the appro-

priations for the service of the fiscal year ending June 30, 1866, and for other purposes."

The amendments of the Senate were read, as follows:

#### First amendment:

On page 2, line four, after the word "extension" insert "namely."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Second amendment:

On page 3, at the end of line six, insert the following:

*Provided*, That from and after June 30, 1866, the regular compensation of the female folders in the dead letter office shall be at the rate of fifty dollars per month.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Third amendment:

On page 3, strike out lines fourteen and fifteen, as follows:

For additional compensation to the Assistant Attorney General, \$500.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Fourth amendment:

On page 3, strike out lines sixteen and seventeen, as follows:

For amount required for salaries of clerks, \$2,800.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Fifth amendment:

On page 3, strike out lines eighteen and nineteen, as follows:

For temporary clerks, additional compensation to clerks, &c., \$10,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Sixth amendment:

On page 3, strike out lines twenty and twenty-one, as follows:

For contingent expenses, \$3,500.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Seventh amendment:

On page 4, strike out lines fourteen and fifteen, as follows:

Salary of the deputy solicitor of the Court of Claims.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Eighth amendment:

On page 4, strike out lines sixteen, seventeen, and eighteen, as follows:

The salary of the assistant solicitor of the Court of Claims shall be the same as that of the solicitor of said court.

The Committee on Appropriations recommended concurrence.

Mr. KASSON. This amendment is simply a verbal change, to correct an error in enrolling the bill, the proper title of the officer being "deputy solicitor," instead of "assistant solicitor." The amendment does not increase at all the pay which this officer has heretofore received.

The amendment was concurred in.

#### Ninth amendment:

On page 4, after the word "court" in line eighteen, insert the following:

The compensation of the deputy solicitor of the Court of Claims shall be, from and after June 30, 1866, \$3,500, payable quarterly, out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Tenth amendment:

On page 5, in line one, insert "five" after "fifty," so as to read "fifty-five dollars."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Eleventh amendment:

On page 6, after line twenty-three, insert the following:

To complete the repairing and furnishing of the President's House, \$29,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

#### Twelfth amendment:

On page 7, in lines twelve and thirteen, strike out these words:

That the Secretary of the Treasury is hereby authorized.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Thirteenth amendment:

On page 7, strike out, in lines nineteen and twenty, the words "and that the sum of."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Fourteenth amendment:

On page 7, in line twenty, after "of" insert "under the direction of the Secretary of the Treasury."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Fifteenth amendment:

On page 7, strike out after "dollars," in line twenty, the following:

Is hereby appropriated for said alteration and repairs, payable out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Sixteenth amendment:

Page 8, after line thirteen, insert:  
For this amount, or so much thereof as may be necessary to pay the indebtedness incurred for the Indian service in the State of Oregon and the Territory of Washington, in the years 1860, 1861, and 1862, \$40,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

#### Seventeenth amendment:

Page 9, after line four, insert:  
To enable the Secretary of the Interior to pay the reasonable costs and expenses actually paid or incurred by the delegates of the southern Cherokees in coming to and going from Washington, and during their stay in and about, during the negotiation upon the formation of treaties of peace and amity with the Indian tribes, a sum not exceeding \$25,000: *Provided*, That said sum shall be refunded to the Treasury from the proceeds of the sales of the Cherokee neutral lands in Kansas.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

#### Eighteenth amendment:

Page 9, line twelve, strike out "seven" at the beginning of the line and insert "six."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Nineteenth amendment:

Page 9, line twelve, after the word "of" strike out "\$4,870 45" and insert "\$374 65;" so it will read:

SEC. 2. *And be it further enacted*, That for increased compensation of the chief justice and associate justices of the supreme court of the District of Columbia, authorized by the second section of the act of June 1, 1866, from the 1st day of June, 1866, to the 30th day of June, 1867, the sum of \$374 65 is hereby appropriated.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

#### Twentieth amendment:

Strike out the following:  
SEC. 3. *And be it further enacted*, That such sum as may be required to enable the Clerk of the House of Representatives to execute the resolutions of the House of the present session, directing the payment of increased and additional compensation to officers, clerks, messengers, and others in the employ of the House of Representatives, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

#### Twenty-first amendment:

Strike out the following:  
SEC. 4. *And be it further enacted*, That the words "one year," in the proviso regulating the distribution of a certain fund among the clerks and employees of the Treasury Department who had served therein one year prior to July 1, 1866, in the act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June

30, 1867, and for other purposes, approved July 23, 1866, are hereby changed to six months, and the same shall be construed accordingly.

The Committee on Appropriations recommended non-concurrence.

The amendment was concurred in.

Twenty-second amendment:

Page 10, line eleven, strike out after the word "to" down to and including the word "to" in line fourteen, and insert so as to make the section read:

To enable the Secretary of the Interior to quiet the titles of, &c.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-third amendment:

Page 11, line twenty-six, after "police" insert "and two policemen at the Executive Mansion."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-fourth amendment:

Page 11, line twenty-seven, after "allow" insert "by law."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-fifth amendment:

Page 12, after line two, insert:  
And be it further enacted, That the following sums be appropriated out of any money in the Treasury not otherwise appropriated, namely.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-sixth amendment:

Page 12, after line ten, insert:  
To supply a deficiency in the appropriation for compensation to a clerk engaged in the sale of internal revenue stamps in the office of the Assistant Treasurer at San Francisco, \$900.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-seventh amendment:

Add at the end of the bill as follows:  
For contingent expenses of the Senate, namely, for additional messengers during the session, \$5,000. Such messengers and other employes and the clerks of committees whose compensation has not been otherwise increased at this session of Congress shall receive twenty per cent. in addition to the compensation heretofore allowed, commencing the second Monday in December, 1865.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-eighth amendment:

Add as follows:  
And be it further enacted, That the Secretary of War be directed to cause estimates to be made for the erection of a suitable fire-proof building for the War Department in Washington, stating the location and price of the land, and plans and cost of necessary buildings, to be reported at the next session of Congress.

[For deficiency in the payment of balances due for taking the census of 1860, \$230,360 21: Provided, That no portion of this sum shall be paid to any marshal or other person who has taken part in the rebellion against the United States.]

The committee recommended concurrence in the amendment with an amendment striking out the part in brackets.

The amendment of the committee was agreed to and the amendment of the Senate, as amended, was concurred in.

Twenty-ninth amendment:

Add as follows:  
And be it further enacted, That section four of the act entitled "An act to provide for the payment of horses and other property lost or destroyed in the service of the United States," approved March 3, 1849, be amended by striking out all after the enacting clause and in lieu thereof inserting the words "that said Auditor shall in all cases transmit his adjustment with all the papers relating thereto to the Second Comptroller for his revision and decision thereon, the same in all respects as is provided in the act of September 2, 1859."

The committee recommended concurrence.

The amendment was concurred in.

Thirtieth and last amendment:

Add as follows:  
And be it further enacted, That the sum of \$5,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated to defray the expenses of continuing the index to Senate list of private claims down to the present Congress, in pursuance of the order of the Senate dated March 16, 1860.

The committee recommended non-concurrence.

The amendment was non-concurred in.

Mr. KASSON moved to reconsider the votes by which the amendments of the Senate were severally concurred or non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KASSON. I move that the House insist upon its disagreement to the several amendments and ask for a committee of conference.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed an act (S. No. 447) for the admission of the State of Nebraska, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed a joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865.

Also, a joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar.

Also, an act (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government.

Also, an act (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes.

Also, that the Senate had unanimously agreed to the change in the text recommended by the committee of conference in the act (H. R. No. 780) to protect the revenue, and for other purposes.

A further message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate further insisted upon its amendment to the amendment of the House to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, agreed to the further committee of conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. WILSON, HARRIS, and NESMITH conferees on the part of the Senate.

Also, that the Senate insisted upon its amendments to the bill (H. R. No. 791) to supply deficiencies in the appropriations for the fiscal year ending June 30, 1867, disagreed to the amendments of the House to its amendments to the said bill, agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereto, and had appointed Messrs. FESSENDEN, HENDERSON, and BUCKALEW conferees on the part of the Senate.

#### MEMPHIS RIOT.

Mr. WILSON, of Iowa. I move to suspend the rules in order that I may make a motion that the Committee on Printing be instructed to report back to the House within an hour the resolution providing for the printing of the report of the committee on the Memphis riot.

Mr. LE BLOND. Is that motion debatable? THE SPEAKER. It is not.

Mr. LE BLOND. I hope the motion will not prevail, because the committee itself has determined not to report, as I understand.

Mr. WILSON, of Iowa. The committee is equally divided on the subject.

Mr. LE BLOND. I do not know how they stand, but I know the very motion now made carries with it the presumption that the committee have come to the conclusion not to report.

Mr. WILSON, of Iowa. It is too late in the session to debate it.

The question being taken on the motion to suspend the rules, there were—ayes 66, noes 21.

Mr. FINCK. I demand the yeas and nays. The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 81, nays 33, not voting 72; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Sidney Clarke, Cobb, Conkling, Deftrees, Delano, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Ketcham, Koontz, George V. Lawrence, William Lawrence, Leftwich, Loan, Lynch, Marston, Maynard, McClurg, Mercer, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Stevens, Stokes, John L. Thomas, Burt Van Horn, Ward, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—81.

NAYS—Messrs. Ancona, Bergen, Boyer, Cooper, Eldridge, Finck, Glossbrenner, Harris, Hogan, Johnson, Kerr, Kuykendall, Le Blond, Marshall, McCullough, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Whaley, and Winfield—33.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culom, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Jones, Kelso, Laffin, Latham, Longyear, Marvin, McIndoe, McKee, McKee, Moulton, Noell, Perham, Pike, Pomeroy, William H. Randall, John H. Rice, Stigreeves, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Windom, Woodbridge, and Wright—72.

So (two thirds voting in the affirmative) the rules were suspended;

Mr. WILSON, of Iowa. I now move that the Committee on Printing be instructed to report immediately the resolution relating to printing the report of the Memphis riot, and on that I demand the previous question.

Mr. LE BLOND. I wish to offer as an amendment the following:

That the select committee on the Memphis riots be, and the same is hereby, directed to report to this House the amount of money drawn from the contingent fund of the House to pay the expenses of said committee.

Mr. WILSON, of Iowa. I do not yield.

Mr. LE BLOND. I would like to know how much it has cost. I did not suppose the gentleman would allow it.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 78, nays 28, not voting 70; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Broomall, Sidney Clarke, Cobb, Conkling, Culom, Deftrees, Driggs, Dumont, Eckley, Eliot, Ferry, Garfield, Abner C. Harding, Hayes, Higby, Holmes, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Jenckes, Julian, Kasson, Kelley, Ketcham, Koontz, George V. Lawrence, William Lawrence, Leftwich, Loan, Lynch, Marston, Maynard, McClurg, Mercer, Miller, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Spaulding, Stokes, Nathaniel G. Taylor, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—78.

NAYS—Messrs. Ancona, Bergen, Boyer, Cooper, Eldridge, Finck, Glossbrenner, Harris, Hogan, Johnson, Kerr, Kuykendall, Le Blond, Marshall, McCullough, Niblack, Nicholson, Phelps, Samuel J. Randall, Ritter, Ross, Shanklin, Strouse, Taber, Nelson Taylor, Thornton, Trimble, and Winfield—28.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Bromwell, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Eggleston, Farnsworth, Farquhar, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Hart, Henderson, Hill, Hooper, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Ingersoll, Jones, Kelso, Laffin, Latham, Longyear, Marvin, McIndoe, McKee, McKee, Moorhead, Moulton, Noell, Pike, Pomeroy, Radford, William H. Randall, Rogers, Scofield, Shellabarger, Stigreeves, Sloan, Smith, Starr, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas,



Upson, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Woodbridge, and Wright—70.

So the motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. LAFLIN. With the consent of the House, before reporting the resolution which the Committee on Printing has just been instructed to report, I desire to make an explanation. There has been no intention on the part of the committee to show any contempt for any resolution referred to it by the House. There are now but two members of the committee present. The other member, the gentleman from West Virginia, [Mr. LATHAM,] and myself have been unable to agree upon a report in this case. I have been willing at any time to bring the question before the House, even by agreeing to an adverse report, but the gentleman from West Virginia has been unwilling to assent to that proposition. It is due to him to say that I believe he has been influenced by the very best motives. It will be borne in mind that on all questions that have been taken in reference to this neither the gentleman nor myself have voted, we having paired off with each other.

I will say still further that when this resolution was sent to the committee, it was found that there was a large amount of testimony, and in regard to a large portion of it it was not apparent to either of us that there was the same necessity for a large issue of it as there was prior to the reestablishment of Federal relations with the State of Tennessee. But I was willing, inasmuch as the House had passed the resolution, that the matter should be submitted to the House in some form for its judgment. The House, after passing the resolution, having very kindly granted to the committee the privilege of amending it so as better to meet their different views, I am now prepared to submit a resolution. Let me state that while the original resolution calls for the printing of ten thousand copies of the report with the testimony, the committee have agreed, under the instructions of the House, to report in favor of printing one thousand copies; and while the original resolution calls for the printing of fifty thousand copies of the report without the evidence, the committee have agreed in favor of printing ten thousand.

Mr. ELDRIDGE. I desire to inquire of the gentleman whether he has made any estimate of the cost per copy of printing this report, whether it will not cost somewhere in the neighborhood of two dollars or two dollars and fifty cents per copy.

Mr. LAFLIN. In answer to that question I will state that without covers it is probable the printing of the report, with the evidence, will cost somewhere about seventy-five cents per copy; with covers it will cost about one dollar per copy. The report itself, without the evidence, will cost about twenty-five cents per copy.

Mr. ELDRIDGE. I have understood that it will cost at least two dollars per copy.

Mr. LAFLIN. That is an entire mistake. The gentleman will bear in mind that the Agricultural Report does not cost anything like that amount. It must be remembered that this work has already been printed by order of the House, and all the expense involved in furnishing extra copies is the price of the paper, the press-work, and the binding.

Mr. ELDRIDGE. Is not the cost of the Agricultural Report very much reduced in consequence of the very large number which we print; and should we print but ten or fifteen thousand copies of this report, will it not cost, in fact, at least two dollars per copy?

Mr. LAFLIN. I can state, for the information of the gentleman and of the House, that, so far as regards the expense per copy of these extra copies, it makes no difference whether we print ten thousand or fifty thou-

sand or one hundred thousand, because the composition has already been done in order to print the fifteen hundred and fifty copies provided for by law.

Mr. ELDRIDGE. The gentleman has a very different idea on this subject from his colleague on the committee.

Mr. LAFLIN. Mr. Speaker, I now yield five minutes of my time to the gentleman from Kentucky, [Mr. SHANKLIN,] and I will then yield five minutes to the gentleman from Pennsylvania, [Mr. BROOMALL.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its amendments disagreed to by the House to the bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867; and for other purposes; had agreed to the conference asked by the House, and had appointed as conferees on the part of the Senate Messrs. SHERMAN, FESSENDEN, and JOHNSON.

#### REPORT ON MEMPHIS RIOTS—AGAIN.

Mr. SHANKLIN. Mr. Speaker, it might be supposed, inasmuch as I was a member of the committee that made this report, that I have some knowledge of what the majority report contains; but I am under the necessity of stating to this House that I have never seen, and never had an opportunity of seeing, the majority report in this case. The honorable chairman of that committee [Mr. WASHBURN, of Illinois,] has never thought proper, at any time since the committee was appointed, to call the committee together for the purpose of consultation. On last Friday the gentleman from Pennsylvania, [Mr. BROOMALL,] a member of the committee, inquired of me, as a member of it, whether I had my minority report ready. I told him that I had. I inquired whether the majority report was ready to be presented. He said it was nearly so; that the chairman was sick and unable to give further attention to the subject, and that the report had been delivered over to him to make such corrections as he might think proper, after which it would be presented. It was agreed between the gentleman from Pennsylvania and myself that on last Monday morning, at nine o'clock, we should meet at the committee-room for the purpose of comparing the majority report with the minority report. He was to have the opportunity to see the minority report and I was to have the opportunity to see the majority report. Under this agreement between my friend from Pennsylvania and myself, I met him at the committee-room at the hour appointed. When I arrived he was there. I had my report, which I had prepared and ready to submit to him, but he informed me that the majority report had not yet been sent to him, but that it would be forthcoming during the day. He said that he would send for it. It was not forthcoming that day nor even the next day. I understood the gentleman that it would be forthcoming soon and that I should have an opportunity to see it. On the next evening I was notified by the gentleman from Pennsylvania that the report would not be forthcoming until it was offered in the House. I had no opportunity to see the report. The privilege of examining the majority report was denied to me and my concurrence in that report was refused.

Mr. Speaker, there is one fact of which I am satisfied. If that report presents any matter peculiar or different from ordinary riots or mobs I am satisfied that gentlemen must have drawn upon their imaginations and not upon the testimony. Whatever that report contains, whether it is matter of public interest or not, I am unable to say. I have never seen it or been permitted to read it. My minority report I insist is entirely based upon facts. It has been subject to the inspection of any member of the committee at any time they thought proper. It is more than can be said, I am sorry to say, for the report of the majority.

The SPEAKER. The gentleman's time has expired, and the floor is now assigned to the gentleman from Pennsylvania for five minutes.

Mr. BROOMALL. Mr. Speaker, I have only one thing to say in answer to the complaint of the gentleman from Kentucky that the committee has not met him to consult about the report. It is within the knowledge of the members of the House there has been no time, since the return of the committee from Memphis when the three members have been present in the House, in consequence of one or two or even the three of them having been ill probably from the climate of Memphis and the incessant labor imposed upon them in taking testimony. Now, the report was prepared by the gentleman from Illinois, [Mr. WASHBURN,] the chairman of the committee. I myself conferred with the gentleman from Kentucky with respect to the report. I also conferred with the gentleman from Illinois. If they do not agree with one another it is no fault of mine. With regard to what the gentleman has said that we have drawn from our imaginations if we say this matter differs from ordinary mobs or riots, I will say one word. Why, sir, there was no riot in Memphis, notwithstanding the terms of the resolution which was referred to us. There was no riot, and it is an abuse of language to say so when the civil authorities of a city of sixty thousand inhabitants conspired together to murder in open day unoffending citizens of the United States. I say it is an abuse of language to call that a riot. It was a massacre. It was a massacre by the very persons who are asking now to be allowed to participate in the government of the country. Why, sir, in those terrible three days in Memphis there were forty-eight murders committed upon unoffending American citizens by the civil authorities of the city. The very recorder of the city headed the mob, the very last one in the world who should have been guilty of such a thing.

Mr. SHANKLIN. I ask the gentleman to yield to me.

Mr. BROOMALL. The gentleman has had his five minutes, and I can yield to no one.

There were besides five cases of rape upon helpless and unoffending women under circumstances that the gentleman himself united with us in saying ought not to be put in the testimony. It was too revolting and too horrible to be repeated anywhere. In those terrible three days there were deeds committed within that city, by the civil authorities of the city, which would have made the famous "cities of the plain" blush for the very insignificance of their iniquity. Yet these horrible massacres, these murders, these rapes and robberies are called a mere mob and riot. It will not do, sir.

Mr. Speaker, there ought to be printed at least the number of reports mentioned in the resolution which was referred to the Committee on Printing; and I ask the chairman of the committee [Mr. LAFLIN] to allow me to make the motion to double each of the numbers contained in his report.

This subject does possess some political and public significance. The great question now before the country is whether the people of the eleven States lately in rebellion are yet in a fit condition to be intrusted with a share in the government of the country. The *animus* and the spirit of the people enter into the inquiry. The details of this report and testimony go to that very spirit and that very *animus* of the leading people of the city of Memphis. I do not wonder that the gentleman from Kentucky [Mr. SHANKLIN] likes to shield his friends. I do not wonder that peculiar means have been used—I do not refer to the amiable gentleman, the chairman of the Committee on Printing, [Mr. LAFLIN]—to prevent this report from getting before the country at all.

Mr. SHANKLIN. I would ask my colleague [Mr. BROOMALL] whether the proof does not establish clearly and conclusively the fact that the mass of the men engaged in these outrages against the helpless colored people of the city of Memphis were registered voters under the

franchise law of Tennessee which was passed by what is known as the Radical party of that State.

Mr. BROOMALL. I can only say in answer to the gentleman that I can well understand that the very worst of the friends of gentlemen upon the other side would swear themselves in under the franchise law. It is very possible that there are men among those who vote in Tennessee who are worse than the average of those who are excluded; I do not know how that is. But I would remind the gentleman [Mr. SHANKLIN] that the recorder of the city of Memphis, the leader of the mob, the man who urged them on to commit these foul deeds, is the vice president of the Johnson club of Memphis. And now I have only to add that if the gentleman complains that he has not been allowed to sign our report, I will agree that he shall have an opportunity to append his name to it.

Mr. LAFLIN. I entertain the very highest respect for the gentleman from Pennsylvania, [Mr. BROOMALL,] and there is no man in this House whom I would be more willing to accommodate than him. But I am satisfied from what I have observed of the tone and temper of this House that an amendment of the kind he proposes would meet with its acceptance.

Mr. BROOMALL. Try it.

Mr. WENTWORTH. Yes, try it.

Mr. LAFLIN. Without desiring to be at all rude or discourteous, I must decline his amendment. I now call the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 53, noes 41.

Before the result of the vote was announced, Mr. BROOMALL called for tellers.

Tellers were ordered; and Messrs. BROOMALL and SHANKLIN were appointed.

The House again divided; and the tellers reported—ayes sixty-three, noes not counted.

So the previous question was seconded and the main question ordered, which was upon agreeing to the amendment reported by the Committee on Printing to the original resolution referred to them.

The original resolution was as follows:

*Resolved*, That ten thousand copies extra of the reports and evidence of the select committee on the Memphis riots, and fifty thousand copies of said reports without the evidence, be printed.

The amendment of the Committee on Printing was to substitute as follows:

That one thousand copies extra of the reports and evidence of the select committee on the Memphis riots, and ten thousand copies of said reports without the evidence, be printed.

The question was taken upon the amendment, and upon a division there were—ayes sixty, noes not counted.

So the amendment was agreed to.

The question was upon agreeing to the resolution as amended.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were not ordered.

The resolution, as amended, was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REBECCA J. SHEPPARD.

Mr. GARFIELD, from the Committee of Ways and Means, reported back a bill for the relief of Rebecca J. Sheppard.

The bill was read at length. It authorizes the Secretary of the Treasury to issue a new bond for \$100, with coupons from May 1, 1865, to Rebecca J. Sheppard, of Philadelphia, in the place of a coupon bond for a like amount, No. 29,697, fourth series, loan of February 25, 1864, the same having been destroyed by fire.

Mr. GARFIELD. I think no member of this House will object to this bill. It is for the benefit of a poor lady whose house was burned, with all she possessed, including \$300 in bonds, \$200 being railroad bonds, and \$100 in five-twenties, United States bonds. So well satisfied was the railroad company that the railroad

bonds had actually been destroyed by the fire that it issued to her new bonds. And it is now proposed to authorize the Secretary of the Treasury to issue a new United States bond to her for the one that was destroyed by the same fire.

Mr. WRIGHT. I would ask the gentleman from Ohio [Mr. GARFIELD] what security the Government would have in case the old bond should be recovered.

Mr. GARFIELD. If the gentleman desires, I will amend the bill by adding that the old bond, No. 29,697, &c., shall never be paid, if recovered.

Mr. KASSON. Why not say, "upon satisfactory proof of the loss of the original?"

Mr. GARFIELD. I have no objection to that.

Mr. DELANO. I hope the gentleman will not ask us to pass this bill without first putting in it a provision for the ordinary security of the Government. No bill of the kind has ever been passed without such a provision.

Mr. GARFIELD. The gentleman is mistaken; it has been done repeatedly.

Mr. DELANO. Then the bill has been stolen through Congress.

Mr. O'NEILL. There is no objection to the amendment suggested by the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. I move to amend by inserting the words "upon her giving bond of indemnity to the satisfaction of the Secretary of the Treasury against the outstanding bond."

Mr. GARFIELD. I have no objection to that.

The amendment was agreed to.

Mr. SHELLABARGER. Early in this session I introduced and had referred to the Committee of Ways and Means a resolution of inquiry into the expediency of providing by law for this class of cases. And I then called the attention of my colleague [Mr. GARFIELD] to the case of a poor man whose bonds had become so mutilated that they could not be paid, although enough was left to indicate the numbers and denominations of the bonds, which were all the property the poor man had. I would inquire of the gentleman why the Committee of Ways and Means have not provided by a general law for such cases as that.

Mr. GARFIELD. The Committee of Ways and Means were of opinion, and have so determined, that it would be unwise to make a general law on the subject, for fear there might be fraud practiced under it. The law as it now stands provides that when bonds are mutilated, and parts are left to prove the numbers, the Secretary of the Treasury may re-issue bonds in their place. The committee concluded that each case not covered by that law should be left to stand upon its own merits before Congress.

Mr. SHELLABARGER. Does the gentleman mean that the Treasury will now re-issue bonds in cases like that to which I have referred?

Mr. GARFIELD. Certainly they will, for I have had it done myself.

Mr. SHELLABARGER. Well, I have been told that they will not.

Mr. GARFIELD. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and it was accordingly read the third time and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### VENTILATION OF THE HALL OF THE HOUSE.

Mr. RAYMOND, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That a select committee of five members be appointed, to report to this House at its next session what alteration can or should be made in this Hall to provide for its better ventilation, and for the more prompt dispatch of business.

Mr. RAYMOND moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EDUCATION FOR THE ARMY.

Mr. SCHENCK, by unanimous consent, introduced a bill to establish a system of education for the Army of the United States, and to provide that all promotions therein shall be from the ranks; which was read a first and second time, ordered to be printed, and its further consideration postponed until the second Monday in December next.

Mr. ROSS moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TEMPORARY MAIL BOYS.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Postmaster of this House is hereby authorized to retain in employment the three temporary mail boys during the vacation of Congress.

Mr. INGERSOLL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PROTECTION OF THE REVENUE.

Mr. MOORHEAD submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 780) to protect the revenue, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the second, third, fourth, fifth, and sixth amendments of the Senate, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate and agree to the same, with an amendment, as follows: in line nine, page 1, of the engrossed bill, strike out "\$2 50" and insert in lieu thereof "three dollars;" and that the Senate agree to the same.

That the Senate recede from their seventh amendment and agree to the ninth section of the bill, with the following amendment: in line two of said section strike out the word "imported;" and in the same line, after the word "merchandise," insert the words "hereafter imported;" and at the end of the ninth section add the following words: "And provided further, That nothing herein contained shall apply to long-combing or carpet wools costing twelve cents or less per pound, unless the charges so added shall carry the cost above twelve cents per pound, in which case one cent per pound duty shall be added;" and that the House agree to the same.

That the Senate recede from their eighth amendment.

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same with amendments as follows: in line two of said amendment, strike out the words "and directed;" and in line three, after the words "collection in," insert the words "any of;" and that the Senate agree to the same.

The committee recommend that the text of the bill be amended by striking out the word "first" in line one, page 1, of said bill, and inserting in lieu thereof the word "tenth."

P. G. VAN WINKLE,

E. D. MORGAN,

Managers on the part of the Senate.

JAMES K. MOORHEAD,

JUSTIN S. MORRILL,

C. DELANO,

Managers on the part of the House.

Mr. MOORHEAD. Mr. Speaker, this report is nearly the same which was presented before on this bill, with the exception of the ninth section, which, according to the former report, was stricken out. It will be seen that the ninth section is now retained in a modified form. This appeared to be satisfactory to both parties. I now call the previous question on the adoption of the report.

Mr. ALLISON. Mr. Speaker—

Mr. MOORHEAD. I cannot yield to any one.

Mr. WENTWORTH. I ask that the ninth section be read as proposed to be amended by the committee of conference.

The SPEAKER. If there be no objection it will be read.

Mr. WRIGHT. I object.

Mr. WENTWORTH. Has not any member

the right to call for the reading of that upon which he is required to vote?

The SPEAKER. It was decided in the Thirty-Fourth Congress, by Mr. Speaker BANKS, that, the House having before it the report of a committee of conference, no member had the right to demand the reading of the original bill; and that decision was sustained by a majority of the House.

Mr. ALLISON. I hope that the gentleman from Pennsylvania [Mr. MOORHEAD] will give us some explanation of this matter.

Mr. MOORHEAD. I must insist on the previous question.

Mr. ALLISON. If the gentleman from Pennsylvania will give us no explanation of the report I must move to lay it upon the table, because I do not know what it is. This is too important a matter to take everything for granted.

Mr. WENTWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 68, not voting 75; as follows:

YEAS—Messrs. Alley, Allison, Baker, Benjamin, Cobb, Cooper, Doffrees, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hogan, Ingersoll, Kasson, Kerr, Kuykendall, Lettwith, Marshall, Niblack, Nicholson, Price, Radford, Alexander H. Rice, Rogers, Ross, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Wentworth, and Winfield—33.

NAYS—Messrs. Ancona, Delos R. Ashley, Banks, Baxter, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Conkling, Cullom, Delano, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Julian, Kelley, Ketcham, Koontz, Latham, George V. Lawrence, William Lawrence, Loan, Marston, Maynard, McClurg, Mercut, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Phelps, Plants, Samuel J. Randall, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Spalding, Stokes, Strouse, Nathaniel G. Taylor, John L. Thomas, Van Aernam, Burt Van Horn, Ward, Welker, and Whaley—68.

NOT VOTING—Messrs. Ames, Anderson, James M. Ashley, Baldwin, Barker, Beaman, Bergen, Blaine, Blow, Boyer, Brandegee, Buckland, Bundy, Chandler, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Ferry, Goodyear, Grider, Grinnell, Griswold, Hale, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburt, Humphrey, Jenckes, Johnson, Jones, Kelso, Ladin, Le Blond, Longyear, Lynch, Marvin, McCullough, McIndoe, McKee, McRuer, Moulton, Noell, Patterson, Pike, Pomeroy, William H. Randall, Raymond, Ritter, Schenck, Shanklin, Sitgreaves, Sloan, Smith, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Trowbridge, Unson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Wright—75.

So the House refused to lay the report on the table.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. MOORHEAD moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HON. DAVID T. PATTERSON.

The SPEAKER stated the regular order to be the consideration of the business on the Speaker's table.

The first business on the Speaker's table was Senate joint resolution No. 144, in relation to the admission of Hon. David T. Patterson to a seat in the Senate; which was read a first and second time.

Mr. MAYNARD. I ask the Clerk to read the resolution.

The resolution was read. It provides for the admission of Hon. David T. Patterson, a Senator-elect from Tennessee, to a seat upon taking the usual oath to support the Constitution of the United States, and so much of the act prescribing an oath of office, and for other purposes, approved July 2, 1862, as shall not include the following words: "I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States."

Mr. MAYNARD. I would like to be informed whether the report of the Senate Judiciary Committee is on the Clerk's table.

The SPEAKER. It is here informally.

Mr. MAYNARD. I ask that it be read as a part of my remarks.

The Clerk read as follows:

The Committee on the Judiciary, to whom were referred the credentials of Hon. David T. Patterson, Senator-elect from the State of Tennessee, with instructions to report whether said Patterson is legally qualified to hold the office of United States Senator from said State, have had the same under consideration, and respectfully report as follows:

The only question in relation to the qualifications of Mr. Patterson, or his right to hold his seat in the Senate, arises from the fact of his having held the office of circuit judge in the State of Tennessee after that State had passed an ordinance of secession and become a member of the confederacy.

Circuit judges in Tennessee are elected by the people of the several circuits, and hold their offices for the term of eight years.

Judge Patterson was elected judge in one of the circuits in eastern Tennessee in May, 1854, and his term of office had not expired when the State passed the ordinance of secession. The constitution of the State of Tennessee remained the same after the secession of the State as before, and there was no change made in the form of the State government, or in their judicial system. A large majority of the people of East Tennessee were ardently devoted to the Union, and deemed it very important for their interest and that of the Union cause that the civil offices in that section of the State should be filled with Union men.

Judge Patterson was a firm, avowed, and influential Union man, and he was urgently pressed by the Union men of that circuit to run as a candidate for reelection as circuit judge, and he finally, though reluctantly, consented to do so. The opposing candidate was an avowed secessionist, and the issue in the election was between Union and secession. The election was held in May, 1862, and Judge Patterson was elected over his rebel competitor by a large majority. At the same election most of the local offices in that section were filled by the election of Union men. At that time it was believed by the Union men of East Tennessee that they would soon be relieved from rebel military rule by the arrival of Union forces; and they desired also to retain the civil power in their own hands. In this expectation they were disappointed, and soon rebel bands were scattered through that region, and the Union people were subjected to great hardships and cruel oppression. When Judge Patterson was thus reflected judge, he did not suppose he would be commissioned by the Governor of the State, who was a secessionist; but after some considerable delay a commission was sent to him, with peremptory orders to take the oath. On the receipt of his commission and order to take the oath Judge Patterson delayed and hesitated, and consulted other leading Union men as to the proper course for him to take. They advised and urged him to take the oath; that he could thereby afford protection to some extent to Union men against acts of lawless violence on the part of the rebels, and that if he did not accept the office and take the oath the office would be filled by a rebel, and they would then be oppressed by the civil as well as the military power of the rebels. Judge Patterson yielded to their urgency and arguments, and went before a magistrate and took the oath which the Tennessee Legislature had prescribed, which, in substance, was that he would support the constitution of Tennessee and the constitution of the confederate States. Judge Patterson declared at the time to the magistrate that he owed no allegiance to the confederate government and that he did not consider that part of the oath as binding him at all. At this time there were rebel troops in the neighborhood, and Judge Patterson had good reason to believe that his refusal to take the oath would subject him to arrest and imprisonment, if not worse treatment; but we do not find that he was actuated at all by personal considerations, but acted solely upon the motive that he could thereby afford some aid and protection to the Union people, and also prevent the office from falling into hands that would use it to oppress them.

East Tennessee at this time was in a very disturbed and distracted condition. The country was full of bands of armed rebels, and lawless violence held sway. Business was nearly suspended, and no civil business was done in the courts. Judge Patterson held a few terms of court in counties where he could organize grand juries of Union men, and in this way did something toward preserving peace and order in the community. No other business was done by him, as judge, after his election in 1862.

During all this time Judge Patterson was an open, avowed, and devoted adherent to the Union. He was in constant communication with the officers of the Federal troops nearest that vicinity, and obtained and furnished to them information as to the movements of the rebels. He aided in concealing Union men, and in facilitating their escape to the Union lines, when they generally entered the Union service. He aided the Union people and the Union cause in every way open to him, and too numerous for detail. By these means he became amenable to the hostility of the secessionists, and was subjected to great difficulty and danger. He was several times arrested and held for some time in custody. At times he was obliged to conceal himself for safety, and spend nights in out buildings and in the woods to avoid their vengeance.

In September, 1863, the Federal troops reached Knoxville, and Judge Patterson succeeded in escaping with his family to that place, and did not return to his home until after the close of the rebellion.

As before stated, the constitution and election laws and judicial system of Tennessee remained the same

after the secession of the State as before, and Judge Patterson was elected judge the last time under the same State constitution and laws as existed at his first election, and no law was enforced by him as judge except such as were in force before the secession of the State.

The committee are all satisfied that, during the entire rebellion, Judge Patterson was an earnest, firm, and devoted Union man, and suffered severely in support of his principles. In accepting the office of judge, and taking the official oath, he did not intend any hostility to the authority or Government of the United States, nor did he intend to acknowledge any allegiance to or any friendship for, the confederate government, but acted throughout with a sincere desire to benefit and preserve the Union and the Government of the United States. He always denied the authority of the confederate government over him, and feels an entire willingness and ability to take the oath required upon his admission to a seat in the Senate. The committee recommend the following resolution:

Resolved, That Hon. David T. Patterson is duly qualified and entitled to hold a seat in the Senate of the United States as a Senator from the State of Tennessee.

Mr. MAYNARD. Mr. Speaker, a friend has just asked me, privately, the question whether, if I did not live in Tennessee, I would be in favor of this joint resolution. Not having had time to make a reply privately, I will state here, publicly, if I had not lived in Tennessee it would have been impossible for me so to have understood the facts and the general merits of the case as to have seen it in the same light and with the same clearness of vision that I seem to myself to see it now. The transactions of the last few years in many portions of our country, and particularly in that portion where these occurrences took place, have been such that they could be appreciated only by being made matter of personal consciousness. Very early in the struggle it was ascertained that a very large proportion, more, probably, than three fourths of the people of that portion of Tennessee known as East Tennessee, embracing thirty-one counties, with a white population of two hundred and seventy thousand and a black population, free and slave, of thirty thousand, making a total population of three hundred thousand, were determined adherents to the Government of the United States. That fact was ascertained by the ballot-box and in various ways which I will not now take time to explain.

The earnest struggle on the part of the secessionists, as they were called at that time, was by force or by fraud to get hold of the machinery of the Government. By having the means of enacting the usual forms of law and the ordinary agencies for giving them practical effect, they would thereby gain a great moral advantage among a population that had long been accustomed to reverence and respect the laws of the land. Of course the Union people were equally determined to prevent their getting the control of the offices. They could do it only by force or by fraud. Several of the important offices were filled by rebels. We had four judicial circuits, with four circuit judges. The circuit court in our State being the court of general jurisdiction, civil and criminal. Two of these circuit judges were rebels and two of them were Union men. Of the latter Judge Patterson was one. He had been on the bench ever since 1854, stood high in the confidence of the people and of the profession. His term of office expired in 1862. The rebel military power was then in possession of the county. War had been going on something like twelve months, long enough to demonstrate to the Union people the advantage of having the offices filled by their own men, and especially offices so important as that of judge. In due course of events the election came round, and at the instance of Union men Judge Patterson became a candidate and was reelected to the office. The circumstances of his election have been detailed very fully and at length in the report just read.

I left East Tennessee on the 1st of August, 1861, having been elected to the Thirty-Seventh Congress. I left Judge Patterson there as a well known and universally recognized loyal Union man. From his high official position as well as his personal character and his family relations he had necessarily a wide and com-



manding influence. I returned to East Tennessee in October, 1863, shortly after our troops had taken possession under the command of General Burnside. I found him there a determined loyal man, and he remained such until the downfall of the rebellion. What occurred in the interval of my absence I cannot speak of from personal knowledge, but his acts were of public notoriety, and as such I can confirm in general terms what is stated in the Senate committee's report. He comes to the Senate upon this state of facts. The joint resolution now before us for action proposes to relieve him from a certain provision of what is called the test oath, or more properly the official oath enacted in 1862 for Federal officers, which requires that the officer shall swear, "I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States." If I may be pardoned for violating a well-known rule of this body, which forbids a reference to what passes in the other wing of the Capitol, I will respectfully suggest that the facts stated in that report do not prevent the applicant from taking the oath with a clear conscience. The action of the Senate, however, in order to relieve him from any imputation that might possibly be thrown out by giving a different construction to the oath, has resulted in the joint resolution before us.

It will be observed that it is not predicated upon the fact that Judge Patterson, when entering upon his second judicial term, took an oath to support the southern confederacy. If there was anything in that to embarrass him, he is not relieved by this joint resolution. All that it proposes to do is to relieve him from the disqualifications occasioned by his holding the office of judge. The construction that I have always given to this part of the oath—and I have had occasion to discuss it in various places, at various times—is this: not that an office was held, but that it was held "in hostility to the United States," constitutes the disqualification.

Mr. LOAN. Will the gentleman allow me to ask whether the taking of the oath to support the constitution of the so-called confederate States of America is not so expressed in the joint resolution?

Mr. MAYNARD. I do not think this joint resolution makes any reference to the taking of the oath. It simply relieves him from swearing that he held no office.

Mr. LOAN. Is it not so expressed in the joint resolution and report of the committee that has been read?

Mr. MAYNARD. The gentleman will bear in mind that this joint resolution does not relieve Judge Patterson from any supposed disqualification by reason of taking that oath. It only relieves him from the disqualification that may arise from the fact that he held office, and, as I was about to remark, it seems to me that the disqualifying fact is not having held office, but having held it "in hostility to the United States." Now, I might suppose the case—and it is not difficult to do so—of a man who has been sent inside of the enemy's lines as a spy. In order the better to accomplish his purpose he might become a rebel soldier, and take the oath as such. He might be appointed to some office, high or low, and exercise the functions of that office, not "in hostility," but in friendship to the United States, and "in hostility" to the confederacy. Such was the case in this instance.

Mr. LYNCH. I would ask the gentleman if the confederate government was not hostile to the United States.

Mr. MAYNARD. The term confederate "government" is one that I have never used. I have never recognized the authority of the southern confederacy as a "government." Certainly, however, the southern confederacy, call it by whatever name you please, was directly in hostility to the Government of the United States.

Mr. LYNCH. I call the gentleman's atten-

tion to that part of the oath which this joint resolution proposes to relieve Judge Patterson from taking.

"I have never sought or accepted or attempted to exercise the functions of any office whatever under any authority or pretended authority hostile to the United States."

Mr. MAYNARD. The gentleman does not read the language precisely as it stands in the statute. It is not "hostile to" but "in hostility to." The difference between the construction he intimates and mine is as to what the words "in hostility to the United States" qualify. I maintain that they do not qualify the word "authority," but the words expressing the action, thus:

"I have neither sought nor accepted nor attempted to exercise the functions of any office 'in hostility to the United States.'"

Mr. LYNCH. "Under any authority."

Mr. MAYNARD. The language is "under any authority, or pretended authority," and the words "in hostility to the United States," are to be taken to qualify the action of the party and not the "authority." But in this instance the oath is entirely out of the question. In the case of Judge Patterson, though it might be said in one sense that a man seeks office when he consents to be a candidate, yet he did not in any just and proper and true sense seek it. It was thrust upon him by I had almost said, the moral duress of the loyal Union men of that part of the country; of his district. They had by this time learned the importance of having the office in the hands of a friend. They had the numerical power at the ballot-box, and they determined to use it for their own protection by electing a friend. Judge Patterson had already stood their friend, and they insisted upon his retaining the position. If nothing else, he could negatively protect them by keeping the office out of rebel hands, that could use it for the oppression of the Unionists. And in fact this was about all he was able to do, as I understand very little business was transacted in his court during the rebel sway; and after the occupation of East Tennessee by General Burnside, he remained within our lines, and, I think, never held his courts again. His is not the case, only too common in parts of the south, of a professed Union man succumbing to the power of treason, under the miserable plea that he must go with his section. Nor is it the case, also quite too common, of one who, despairing of the Union cause, made haste to give in his adhesion to what he considered successful treason. Nor yet of one, too greedy of the honors and emoluments of office, was willing to accept it from any quarter. He made no concessions to the cause of treason. He never lowered his flag. Always was he known and recognized as hostile to the enemies of his country. More than once was he in arrest by them. A suit is now pending to recover damages of leading rebels for procuring his arrest. A letter from the rebel secretary Benjamin, (which I regret is not at hand,) after a cruel order respecting some men executed for bridge burning, devotes a postscript especially to him. And in no way could he have demonstrated more practical hostility to the rebel cause than by withholding from the rebels this office. It was this, and a hope that he would refuse to receive and qualify under the commission from the rebel governor Harris, and thus vacate the office, that made them urge the commission upon him, as is stated in the report of the committee. Not even in appearance, or by pretense, did he favor the rebellion; nor was his attitude even equivocal. His loyalty was outspoken and beyond dispute in the darkest hour; so I learn.

Mr. BOUTWELL. Mr. Speaker, I wish to ask the gentleman from Tennessee whether there was not a provision of the oath which all officers under the rebel government took especially abjuring all allegiance to the Government of the United States. Did they not expressly swear to support the constitution of the so-called confederate States? And are we to understand from the gentleman from Ten-

nessee that the fact, if it be a fact, that Judge Patterson took that oath, with a mental determination at the time not to do that which the oath required him to do, puts us under an obligation to absolve him specially from the test oath which is required by the laws of this country to be taken by all persons who accept office under the Government of the United States?

Mr. MAYNARD. I will answer both branches of the gentleman's question. As to the precise form of the oath known as the "confederate" oath—the oath to support the constitution of the confederate States, or the "secesh" oath, or the "rebel" oath, or whatever term was used by our people—I am unable to speak with that definiteness and precision with which on an occasion of this kind I ought to speak, because I never, so far as I at this moment remember, saw a copy of the oath in writing. I have a general impression that it was simply an oath in the usual form to support the constitution of the "confederate" States instead of the United States.

Now, sir, let me say, in reply to another branch of the question, that this joint resolution does not propose to relieve Judge Patterson from any supposed disqualification arising from the taking of that oath. It is accepting the office that constitutes the supposed disqualification. If there is anything in his having taken the oath that disqualifies him it will remain after this joint resolution shall be passed, just as now. I was proceeding, however, to state that Judge Patterson's holding the office was not done in "hostility to the Government of the United States," but was an act of known, understood, and recognized hostility to the southern confederacy. So, then, it seems to me that the oath could have been taken with a safe conscience, even without any legislation of this sort. The Senate, as I understand, are almost unanimously of the opinion that nothing which has occurred during the last five years disqualifies Judge Patterson from holding the office of Senator of the United States to which he has been elected. He is willing and offers to take the oath as it stands, believing he can do so with a safe conscience. Still they have thought it better, more expedient, wiser, to relieve him from the ordinary requirement of taking that portion of the oath, that the law is better maintained in this way than by permitting him to take the oath in its present form and thus be subject to criticism arising from an opposite construction of the terms of it. It seems to me that as a matter of comity we should concur in the decision at which the Senate have arrived. The matter is one peculiarly their own. They have examined it, decided it, and very unanimously. Their decision requires a change in the law as applied to this particular case, not that they propose to abrogate the law so as to impair its force; but on the contrary, they would magnify it and make it more honorable by formally and solemnly relaxing it in favor of a case to which it was never meant to apply.

That Judge Patterson has been loyal, not merely passively loyal, but actively, a determined and loyal citizen of the United States from the beginning all through the war, is a fact which I do not hesitate here most solemnly to declare and affirm. I know there are very few men in the United States as little inclined to resist the law or any provision of it to favor persons who have been engaged in this rebellion at any time or in any way as I am. I am not speaking in defense of one who has been engaged in rebellion. I am not speaking in behalf of treason or traitors. I am speaking in behalf of a man whom I know to have been as loyal to this Government as I am, however we may have differed upon many questions which have arisen heretofore and are now before the country, or however we may differ in regard to questions likely to arise hereafter. I am speaking in vindication of a loyal, honest man, and not in defense of a disloyal and dishonest traitor.

Mr. Speaker, we cannot fully trust our judgment to make an *ex post facto* decision of what

would have been expedient or wise or right, all things considered, under the cruel and horrible surroundings of the rebellion. Men environed by rebel bayonets in the hands of a power that recognized no such thing as justice or injustice, no standard of right and wrong—a power made up of irresponsible and terrible despots—are not in the best frame of mind to judge what is in all respects expedient or wise.

Mr. SCOTFIELD. The gentleman will allow me to inquire whether it was this unjust and irresponsible power that Mr. Patterson swore he would support when he entered upon the duties of that office.

Mr. MAYNARD. I have already stated, and I ask the attention of the House to it, the question is not as to any disqualification, or supposed disqualification, from the oath taken, but *quo animo* he accepted office in those distressing times.

Mr. TRIMBLE. I ask the gentleman to yield to me in order that I may put a question to him.

Mr. MAYNARD. Certainly.

Mr. TRIMBLE. I ask the gentleman from Tennessee whether or not the constitution of Tennessee had been changed at all when Judge Patterson took that oath; and whether the oath was not the same which had previously been taken with the exception of the substitution of confederate States for the United States.

Mr. MAYNARD. The State constitution required that every officer of every kind in the State should, in addition to other oaths, take an oath to support the Constitution of the United States. I think I use the language precisely. My recollection is that the rebels changed that feature in the constitution so as to require them to take an oath to support the constitution of the "confederate" States.

Mr. SHELLABARGER. He took an oath to support the rebel government in addition to his other oaths?

Mr. MAYNARD. I suppose the oath he took was an oath to support the constitution of the confederate States. I see Judge Patterson is present in the Hall and he intimates that I am correct. The oath was, "I swear I will support the constitution of the confederate States of America." I think that was the form required.

Mr. SCOTFIELD. Does the gentleman mean to say that he took that oath and then violated it; that he swore upon the Holy Evangelists that he would support the confederate States and then violated it?

Mr. WRIGHT. I rise to a point of order. I make the point that all discussion in regard to this oath that was taken is irrelevant and improper.

The SPEAKER. The Chair overrules the point of order.

Mr. WRIGHT. The Senate have sent us for our decision the question in relation to the admission of Judge Patterson to a seat in the Senate. He is a good Union man. Now shall we deny him that which he asks?

The SPEAKER. The Chair overrules the point of order, for it is in reference to this oath the subject is now pending before the House.

Mr. WRIGHT. Very well, sir; I suppose the decision is all right. [Laughter.]

Mr. MAYNARD. In reply to the question propounded by the gentleman from Pennsylvania, I will reiterate that this joint resolution does not propose to relieve Judge Patterson from any disqualification from having taken the oath under these circumstances, if it constitutes any disqualification.

I will say, Mr. Speaker, that our Union men, as a question of casuistry, differed in their view of this subject. There were loyal men, and when I say loyal men I mean it—I use terms in their best-understood meaning and do not intend in any manner to palter with words in a double sense—men who went for the Government through thick and thin, high winds or low winds. I say, then, there were Union men who, as a question of casuistry, thought they might take that oath and disregard it whenever they thought proper to do so, disregard it en-

tirely without offense to their conscience. There were other men who took a different view and refused under any and all circumstances, proscription, imprisonment, and everything else, to take the oath to support the confederacy. Among these were high officials in the State. Our present Governor was one of the latter class. When imprisoned he was told that he would be released if he would take the oath, and he steadily refused to do so. The secretary of state, also well known to the country as a thorough and unequivocal Union man, when in the power of rebels was required by them to take the oath, and was told by them if he did not they would imprison him indefinitely, and he accordingly took it. He belonged to the former class. The two classes were pretty numerous. I am not aware that either was offended by the course of the other. As I have said, the situation was severe and distressing, and honest men acted as their judgment dictated. The Union men trusted each other implicitly, and their differences were not made cause of reproach.

I do not know what Judge Patterson's feelings were. I suppose when he concluded to take the position he resolved to go through with all formalities attendant on it. Let me illustrate his situation by referring to an office purely military, the office of conscript agent, an office established for the collecting together and reporting of all persons of military age within the bounds of the official district. The Union men were desirous that one of their own number should be put into this office, not for the purpose of getting men into the rebel army but for the purpose of keeping them out; not "in hostility to the United States" but "in hostility to the confederacy;" not to aid the rebellion but to aid the Government. Should it be insisted that this was a holding of office within the meaning of the law such as to constitute a disqualification? I protest against any such construction as contrary to the purpose and meaning of the statute. So the Senate evidently think. This office, held by Judge Patterson, under the circumstances, is no disqualification. A Union, radically Union, Legislature have elected him to the Senate. It is not proposed to modify the oath in behalf of one who has been tainted with rebellion. Nobody proposes that. I certainly do not. Anything else but that. The object is to relieve from possible hardship a friend, at the same time we exercise increased rigor to the enemies of the country, to admit them by a side door into the citadel while we barricade the main entrance more securely against the other. Such was the evident purpose of the Senate. And while I might have thought it better to have admitted the Senator in the usual form, they have judged differently, and, as a matter of comity toward the other House, let us concur.

Mr. BROMWELL. Will the gentleman allow me to ask him a question?

Mr. MAYNARD. Certainly.

Mr. BROMWELL. I would ask the gentleman this question: if, as he says, this oath taken to support the confederate government shall go for nothing by reason of any mental reservation whatever, or that it is not considered binding in law on the conscience of the person taking the oath, does not that lay the foundation for any person who regards the test oath as unconstitutional, to walk into this Hall and take it without hesitation, upon the ground that it possesses no binding force upon his conscience?

Mr. MAYNARD. I will answer in a general way, that I think it does not. I could give at length my reasons for my opinion, but will not do so, because I see that the hour to which I am entitled is nearly exhausted. I have promised to yield ten minutes of my time to the gentleman from Ohio, [Mr. SHELLABARGER,] and I now do so.

Mr. SHELLABARGER. Mr. Speaker, since I heard the report and joint resolution sent us from the Senate, I have felt myself unwilling to enter upon any extended consideration of the merits of the joint resolution. I

wish, however, in the ten minutes allowed me by the kindness of my friend from Tennessee [Mr. MAYNARD] to say a few words in regard to the legal aspect of the question as now presented to us. It is a question, let me assure members of this House, which in its reach and effect it will be difficult for the best minds in our body fully now to take in and realize. I regret on all accounts that it has come to us under circumstances like those which now surround us, and at a time like this. But I will not stop to dwell upon that view of the question. Permit me, however, to allude to one or two legal points which are involved in this matter. It is said that we may safely pass this joint resolution because the person who has presented his credentials in the body at the other end of the Capitol has been loyal; and that that fact is to control and dispose of the question in this House. Now, sir, it does seem to me that there is a fallacy involved in that idea which a very slight analysis will enable us to detect.

Sir, if there is anything that has been conceded by everybody all through this controversy upon the subject of reconstruction, it is that while the two Houses of Congress, as the political branch of the Government of the United States, may and must judge of the existence of the constituency to be represented; and of the status of the States, and must decide when there is a constituency that can elect a Representative at all, and when there is a State that sustains proper constitutional relations to the Federal Government; while it is conceded that there are matters that belong to Congress as the political part of the Government, everybody has conceded all through this controversy that all questions of the election, returns, and qualifications of its members belong solely and alone to each separate branch of Congress by itself; and therefore this House can judge to no extent and in no degree of any question connected with the qualification of Judge Patterson to take a seat in the American Senate.

Hence it is that what has been said so candidly and fairly by my friend from Tennessee [Mr. MAYNARD] has not reached the real question in this case. It is not a question of loyalty or want of loyalty on the part of Judge Patterson. It is not a question as to whether he took or did not take a certain oath.

Sir, the question which is presented to the American House of Representatives with startling emphasis, and under startling circumstances, is whether we shall let down the law to suit a case that is presented; not a case in fact, but a case in law. It is whether we shall so change the law as that a man may take a seat in the American Congress although he cannot swear that he has not held office under the rebel government. Sir, disguise it as you may, change terms as you may, talk as you will, here to-night you have already got square up to the question whether the House of Representatives shall so let down the law as that even Jefferson Davis can take a seat in the American Senate. Sir, that is the question; you cannot evade it, you cannot avoid it.

The Senate has sent us a proposition asking us to say that a law of the land shall be so changed by a joint resolution of Congress that a man may be permitted to come into the Senate or into the House of Representatives who is unable to swear that he has not held office under the rebel government. That is the question which you are called upon now to decide. The question of the loyalty or the disloyalty of the gentleman from Tennessee (Mr. Patterson) has nothing at all to do with it.

Pause, my fellow-members of the House of Representatives, I entreat you, pause here upon the terrible brink at which you have arrived, and over which you look to-night. Take this step, and there is no retreat. Take this step, adopt this joint resolution, and you will have indicated your willingness to permit the man who has furnished the brains for the rebellion, who has held an office, high or low, under the rebel government to come here and assume the responsibility of an American legislator. And you are asked to do this when scarcely a moon

has waned since you passed, so far as the American Congress had to do with it; a provision so amending the Constitution of the United States as that no man who has held any office under the rebel government shall ever be competent, except by a two-third vote of both Houses of Congress, to take a position of the kind to which we are invited to admit Judge Patterson to-night. My fellow-members of the House of Representatives, we are asked to turn squarely around upon that for which we have congratulated ourselves, upon that for which the country has congratulated us; that is, the having taken a step right, mighty, and sublime in the endeavor to hold and retain the Government in the hands and control of loyal men.

It is for these reasons that I could not, nay I would not, until my dying day, vote for a joint resolution that proposes now so to let down the law as that those whose hands are yet red and dripping with the blood of loyal men, and who furnished to this mighty and godless rebellion its brains, who held its offices, shall be permitted under a joint resolution of the Congress of the United States to step into the high places of power under the American Government which they tried but failed to destroy.

Mr. MAYNARD. I will now yield the remainder of my time to my colleague, [Mr. TAYLOR.]

Mr. TAYLOR, of Tennessee. Mr. Speaker, it is fit and proper; I think, that I should make a statement in reference to the distinguished gentleman upon whose case this body is now sitting, because he is my constituent; he lives in my district, the district which I have the honor to represent upon this floor. It is my happiness to have known him, not only through the bloody scenes which have occurred during the last five years, but for long years before. And I take pleasure in saying here to-night in all sincerity to my fellow-members in this House, that so far as my personal knowledge extends, there is not in this House, there is not within the limits of these United States to-night a man who can present a clearer record of devotion to the country we all love, of pure, unwavering, unmitigated loyalty to the Government than David T. Patterson. Ay, sir, such was his devotion to the cause, such was his loyalty to the Government, such was his fellow-feeling with those who loved their Government, that he was willing for their sake—not for the sake of the bloody-handed rebels, of whom my friend from Ohio [Mr. SHELLABARGER] speaks; not for the sake of advancing the interests of the cause that was opposed to his country and to your country; but for the cause of his compatriots in Tennessee he was willing to be a judge, to occupy an office of responsibility and trust, and to have the lives and reputation and property of the people in his keeping. I am not speaking at random; I know whereof I am speaking.

In 1854 Mr. Patterson was elected judge of the circuit for the term of eight years. In 1860, when the coming war began to loom up in the political horizon; when it became evident that we were to be plunged into a civil war, Judge Patterson, to my personal knowledge, had a strong inclination to resign his position as judge of the circuit court; but the Union people of his circuit, of whom I was one, besought him, for their sake and for the country's sake, to continue to hold his position as judge. He consented to their entreaty, and held the position of judge until the expiration of his term in 1862. He then disclosed to me the fact that he desired to retire to private life; that he did not intend to be a candidate for reelection, for he did not desire to continue to hold that position under such embarrassing circumstances as then surrounded us. The country was then full of rebel soldiers and they were in the full tide of successful rebellion in Tennessee. Be it remembered, sir, that East Tennessee, at that time and all the time from the beginning of the war, through all its changing and horrid scenes, was true to the country—true in prosperity and true in adversity.

The SPEAKER. The gentleman's five minutes have expired.

Mr. TAYLOR, of Tennessee. May I ask the consent of the House to speak five minutes longer?

The SPEAKER. Is there any objection to granting to the gentleman from Tennessee five minutes more?

There was no objection.

Mr. TAYLOR, of Tennessee. These people, as I was remarking, were true to the Union. And what is the best evidence of that truth? In February, 1861, when the question of secession was first proposed to the people of Tennessee through the ballot-box, what was the answer of the State of Tennessee? Sixty-four thousand against rebellion and for the Union. What proportion of those was found in East Tennessee. About thirty thousand votes in a vote of about forty-two thousand. Thirty thousand votes were given for the Union in East Tennessee.

In June, 1861, the question was again propounded by the Legislature. Then the direct issue was separation or no separation. In the mean time our country was filled with armed and organized rebels; and when that election came, the loyal voters in some parts of East Tennessee had to pass to the ballot-box between rows of rebel bayonets. In the mean time secession had prevailed in Virginia; it had prevailed in North Carolina, in South Carolina, in Georgia, Alabama, and the other southern States; and middle and western Tennessee had been swept into the whirlpool of rebellion. The storm had gathered all around our little mountain land of East Tennessee with her thirty-one counties. We were deserted by our friends on all hands. Mountains stood like impassable barriers between us and the flag of our country; for it must be remembered that the Government of the United States, owing us protection, had abdicated in fact and left us to whatever power might choose to domineer over us.

Under these circumstances East Tennessee, deserted by her friends, abandoned by the Government of the United States, surrounded by rebel bayonets, her citizens threatened with expatriation, threatened with confiscation, threatened with death at every step if they did not yield allegiance to the confederacy, East Tennessee, in the midst of these circumstances, stood as firmly based and anchored in her loyalty as were her everlasting hills upon their granite foundations. Her people wavered not; they trembled not; but, sir, they marched right up between rows of rebel bayonets and deposited thirty-four thousand votes against separation to about seven thousand for it. This was the spirit of East Tennessee in 1861, and it was the spirit which she carried with her throughout the whole struggle. Sir, I would like to review, if time permitted, the thrilling history of East Tennessee during this war. I trust that before this Congress ends I shall have the privilege of doing justice to as noble, as gallant, as loyal, as patriotic a people as breathes the air of these United States.

Who was it, sir, that held East Tennessee fast anchored in her loyalty? Among the rest was the distinguished gentleman whose case you have now on trial here to-night. He was one of the leaders in the Union movement. He presided in our circuit court. He had the ear and the confidence of the Union people. He was traveling from county to county. He was in communication with all the loyal people. He it was who, in conjunction with others, laid the train for that underground railroad over which more than twenty thousand loyal East Tennesseans passed, between sunset and sunrise, with their knapsacks on their backs, with their feet bleeding, through the pathless forest and over the craggy summits of our loftiest mountains, their way lighted by the pale glimmer of the stars or the light of the moon.

I know Judge Patterson would have remained out of office in 1862, when his term had expired, had it not been for the importunate demands of the people of his circuit. I know

what I say when I say this. I was one of the first who received the announcement from his own lips that he could not without hazard to his own life serve as a Union judge again. I insisted, with my Union fellow-citizens, that he should retain his office. Although there was a rebel candidate opposing him, doing all he could to secure his election, Judge Patterson, without running for the office, was elected by a majority of four thousand by the Union people against the rebels.

Now, why did he hold the office? It was simply in defense of the Government of the United States. He held it for the purpose of protecting the loyal people of Tennessee. Are, then, his very virtues to be brought up in judgment against him in this House? Is he to be punished for holding the position to which his people assigned him, that he might protect them against the rebels? Surely if our people are disposed to reward merit, if our people are disposed to do justice to those who were willing to go through fire and toil for the honor of the country and for the honor of our loyal people, the Senate of the United States and this House will not place their foot upon and trample down a true patriot who risked his life and all that he had for the honor of that flag under which you, Mr. Speaker, now sit.

Mr. MAYNARD. I will say that it is necessary, in consequence of the late period of the session, this discussion should be soon brought to a close. I have no disposition to prevent reasonable debate, but I should like to have some understanding as to when the vote will be taken.

Mr. CONKLING. I do not think that any understanding is necessary further than that this debate shall be kept within reasonable limits.

Mr. MAYNARD. Will the gentleman say twelve o'clock to-night?

Mr. CONKLING. I think the vote ought to be taken long before that.

Mr. MAYNARD. Say quarter past eleven.

Mr. CONKLING. There is no necessity of having any understanding upon the subject at this time.

The SPEAKER. The discussion can go on, and if the previous question be not called the gentleman from Tennessee may rise whenever he may think proper to close the debate.

Mr. CONKLING. I believe I now have the floor, and I yield with a great deal of pleasure to my friend from Tennessee, [Mr. STOKES.]

Mr. STOKES. I regret very much, sir, this question has been forced upon this House, but inasmuch as it is now here, and I have had no agency in bringing it here, I deem it is due to myself, due to Judge Patterson, due to this House, due to the loyal people of Tennessee, that I should express my views without fear or favor.

I desire, in the first place, to state that this question is not as to whether Judge Patterson shall be admitted as a member of the Senate or not. That, sir, is not the question involved in the resolution which comes from the Senate. The question involved in that resolution is, will this House repeal the decision that has been ingrafted upon our statute-book?

I desire to state my feelings are those of kindness toward Judge Patterson. I do not controvert his Unionism. I do not controvert his sincerity. I do not controvert his ability. I do not pretend to say that he would not make a good Senator. Not at all; but that is not the issue. I shall refrain from uttering a word in regard to his claim to the floor of the Senate, as to his merits or demerits. Coming as I do from Tennessee, I only desire to state my position on this question.

On the night of the 22d of February last I delivered a speech in Nashville, Tennessee, and there and then declared if admitted as a member of this House I would freeze to my seat before I would vote to repeal the test oath. [Long-continued applause on the floor and in the galleries.] I have made the same declaration in many speeches since then. I have uttered the same thing on this floor privately



to every member with whom I have had the pleasure of conversing. Sir, I regard the test oath passed by the United States Congress as the salvation of the Union men of the South as well as of the North. I regard it as sacred as the flaming sword which the Creator placed in the tree of life to guard it, forbidding any one from partaking of the fruit thereof who was not pure in heart. Sir, this is no light question. Repeal the test oath and you permit men to come into Congress and take seats who have taken an oath to the confederate government and who have aided and assisted in carrying out its administration and laws. That is what we are now asked to do. Look back to the 14th of August, 1861, the memorable day of the proclamation issued by Jefferson Davis ordering every man within the lines of the confederacy who still held allegiance to the Federal Government to leave within forty-eight hours. That order compelled many to seek for hiding-places who could not take the oath of allegiance to the confederate government. When the rebel authorities said to our noble Governor of Tennessee, "We will throw wide open the prison doors and let you out if you will swear allegiance to our government," what was his reply? "You may sever my head from my body, but I will never take the oath to the confederate government." [Applause.]

Mr. FINCK. I rise to a question of order. Is it in order to allow this cheering in the House?

The SPEAKER. It is not; the Chair must insist that gentlemen shall obey the rules of the House.

Mr. STOKES. Sir, I cannot vote for this resolution. I am committed against it, and besides I do not think it ought to pass. This House ought not to repeal or modify any part of the test oath, and the failure to pass this resolution does not prevent Judge Patterson from taking his seat in the Senate by any means. This House can vote down the resolution and maintain the test oath, and yet if Judge Patterson can conscientiously take the oath the Senate will admit him. But it has been said that this resolution was proposed in order to preserve the law, to keep it intact. I cannot see it in that light; I do not understand it in that way. But pass this resolution and every man who comes from the South, whether he has held a judicial, legislative, or executive office, or has been an officer in the rebel army, can appeal to the precedent adopted by the House of Representatives on the 27th of July, 1866, and your test oath will not be worth a straw. Whenever you abate one jot or tittle from that oath it is gone. It is now the shield and protection of loyal men in Tennessee. Repeal it here and they will be forced to repeal it in Tennessee, and then where will the loyal men stand? Where will the Union people be?

Mr. WRIGHT. Where will you be?

Mr. STOKES. Where I have always been.

Mr. WRIGHT. Where you were when you wrote that letter?

The SPEAKER. The gentleman from New Jersey is out of order.

Mr. ELDRIDGE. Will the gentleman from Tennessee yield?

Mr. STOKES. Yes, sir.

Mr. ELDRIDGE. I desire to inquire if the letter, a copy of which I hold in my hand, purporting to have been written by him, is genuine. I will send it to the Clerk's desk and have it read, with the gentleman's permission.

Mr. WENTWORTH. I object.

Mr. FINCK. Are you afraid of it?

Mr. ELDRIDGE. I hope the gentleman will not object. If it is not a genuine letter I desire to know the fact; if it is genuine I desire the gentleman to explain it.

Mr. STOKES. I have no objection to its being read. I am responsible for all I have said or done.

Mr. WENTWORTH. I object to it; the gentleman is not on trial.

Mr. JOHNSON. He will very soon be on trial.

Mr. STOKES. I will allow the letter to be read.

The Clerk read as follows:

LIBERTY, May 10, 1861.

DEAR SIR: I have just learned from a friend that there is some gross misrepresentation going the rounds in your section in regard to my position in this trying crisis, and for the benefit of yourself and others I write this.

I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law, and for the subjugation of the South. I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion, and all forced measures, believing that it was better to recognize the independence of the "southern confederacy" than to attempt to coerce them back.

I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come. I have been, and am now, for standing by the border slave States, for they are to be the great sufferers during the conflict. I am opposed to being tacked on to the southern confederacy at present, (except as a military league.) But when peace is restored, if the two nations cannot live in peace, let all the fifteen slave States elect delegates, meet in convention, frame their constitution, and submit it to the people for their ratification.

The South ought to be a unit during the war by all means. I had announced myself as a candidate for reelection, but on seeing Lincoln's proclamation for troops, abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed, I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful.

Hoping to hear from you soon, I remain yours truly,

WILLIAM B. STOKES.

Mr. JOHN DUNCAN, *McMinnville, Tennessee.*

Mr. ELDRIDGE. I wish to know if that is a genuine letter.

Mr. STOKES. Yes, sir; it is.

Mr. ELDRIDGE. I understand the gentleman to say that he would freeze in his chair before he would vote to modify the test oath. I would like to know how he can take the oath in the face of that letter, and whether it would not be best, in order that he may avoid doing violence to his conscience, for us to modify the oath somewhat so as to allow him now, loyal as I believe he is, to retain his seat in the House of Representatives. [Applause in the gallery.]

The SPEAKER. This disorder proceeds from the galleries. The assistant doorkeepers will, on the repetition of any disorder, remove the disorderly persons.

Mr. FINCK. It is on the wrong side.

Mr. ELDRIDGE. I am satisfied to have order enforced, although I am sure we have spoken to the Chair on the subject several times heretofore.

The SPEAKER. The gentleman from Wisconsin has never raised a question of order of this kind but the Chair has promptly responded.

Mr. ELDRIDGE. The Chair has said that he was unable to restrain laughter.

The SPEAKER. It is impossible for any presiding officer to restrain members from laughing. If the gentleman had ever occupied the Speaker's chair he would have found it so. But other manifestations of disorder he can restrain.

Mr. WRIGHT. I can vouch for that, for when I made a motion the Speaker himself laughed. [Laughter.]

The SPEAKER. There is nothing more common than to see "laughter" in the published debates of the British Parliament.

Mr. ELDRIDGE. I hope we shall never in that respect act like members of Parliament. [Laughter.]

Mr. STOKES. The letter has been read and I must say I am obliged to my friend from Wisconsin, who introduced it. He wishes to know how I can come here and take the oath now. The House will hear me out on this matter, and then we will compare records—my record with that of the gentleman from Wisconsin or of anybody else.

In 1850, just after the passage of the compromise measures, a convention of Democrats

was held at the South, with Yancey at their head. It was avowedly a disunion convention. Soon after the meeting of that convention, which was in October, the Legislature of the State of Tennessee, of which I was a member, met. The question came up of union or disunion, and I recorded my vote on the side of the Union.

In 1855, a similar question sprang up in the Legislature, and I again planted myself on the side of the Union, both in my votes and speeches. In 1859, I was elected from the fourth district to the Congress of the United States. I will say nothing in regard to my record while here for it easily may be obtained by reference to the Journals of this House. You remember, sir, as well as others on this floor, when the question was asked me, would I not agree in any case to a dissolution of the Union, that my reply was "Never, sir, never!"

That Congress passed off and the 4th of March came. You remember, sir, we heard the valedictories of southern seceding Democrats. You remember after they had delivered their valedictories in this House, they packed up their duds and left. I then returned to my home, and on my way, on the night of the 6th of March, in Nashville, I declared in a speech I would rather have a Government without property than property and no Government. There were hisses in the crowd. I repeated it. I repeated that I would rather have a Government and no property than property and no Government. I said, "You can construe that to be abolitionism, Lincolnism, or any other ism you may choose." I told them they would utter the same thing when they had been subdued. On my return home I made speeches at Cookeville, Gainesboro', Thynn's Lick, and at a great many other places, up to the 25th day of April, 1861. The Legislature was called together by the Governor. They convened, and as I have repeatedly said, from the 25th of April up to the 11th or 12th of the May following, I was on the stump. Kentucky occupied a neutral position. Union men of our State issued their address. Almost every leading man in Middle and Western Tennessee had lowered his flag. I remained in that part not knowing where to go or where to strike, and during that time the letter, bearing date the 10th of May, was written in my office. While I admit there are things in it which are wrong, still there is not a letter in favor of secession, not a word in favor of separation.

Mr. ELDRIDGE. Will the gentleman allow me to interrupt him? I do not want to disturb him, but I should like to know whether there is not something in that letter about forming a league with the confederate States.

Mr. STOKES. I understand it perfectly well, and I will make the gentleman understand it before I get done.

Mr. ELDRIDGE. Did you not say that you voluntarily enrolled yourself there?

The SPEAKER. Does the gentleman from Tennessee yield the floor?

Mr. STOKES. I decline to yield any further. Before that letter was written companies had been organized and were in camp with the distinct understanding they were to fight under the flag and were not to go out of the Union. The honest boys of the mountains enlisted and went into the Army with that understanding. I did, with a few Union men, form a league, but the seceding Democrats came in and seeing that it was a trick against them they broke it into pieces. That letter was written on the 10th of May. I do not deny it. A portion of it is correct and a portion of it is wrong. On the 11th day of May, before the ink was scarcely dry, gentlemen returning from Nashville brought the ordinance of separation. The moment I saw that I said to my friends, "We are sold; you see there is no neutrality; but we are men and are now compelled to occupy our rightful position."

Mr. Speaker, on the passage of the ordinance of secession I took my position firmly and at once. I made a list of appointments, and spoke against separation and secession up to

the day of the election, on the 8th of June. I met Judge Ridley, Rev. J. B. McFerrin, and others. My friends will bear me out that but few men moved forward and worked against secession as I did. The 8th of June came, and I voted against secession and separation. I remained quietly at home, and when the election came on in November, others, like myself, voted against the ratification of the constitution.

February came, and the rebel troops came. They were in the country. Fishing Creek fight took place. In March, General Buell arrived, with his blue-coats, at Nashville. When that occurred, I worked my way through. I did not go there to eat the rations of the soldiers. I did not go there to lie around the camp. I did not go there and subject myself to be called a camp follower. The President of the United States first commissioned me as a major, and then as a colonel in the Army. I raised a regiment of cavalry, of twelve hundred men. I will not speak of the acts of that regiment. It is of record, whether good or bad. It is indelible, and cannot be wiped out. I served in the Federal Army about three years and a few days over. I can stand here and say I never, during the whole three years, disobeyed an order of my superior. I went where I was ordered. I took whatever place I was ordered. I held it when I was ordered.

During the canvass for Lincoln and Johnson I was placed on the ticket as one of the electors. I made the canvass in 1865. The rebel sympathizers were then all against me, while the loyal Union men were in my favor.

Mr. WRIGHT. I rise to a question of order. I think the remarks of the gentleman from Tennessee are not germane to the subject under consideration. [Laughter.] We are looking after the resolution for the admission of Judge Patterson to a seat in the Senate.

Mr. STOKES. I do not yield to the gentleman for a speech.

The SPEAKER. The Chair sustains the point of order. The gentleman from Tennessee has been drawn from the regular course of his remarks by a letter which the gentleman from Wisconsin sent up to the Clerk's desk and caused to be read.

Mr. ELDRIDGE. What I desired to call the attention of the gentleman to was not in regard to his record since that time, for I believe I admitted in putting the question that I had no doubt of his attachment to the Government; but I understood him to say he would sit here until he froze in his chair before he would vote to modify that test oath.

Mr. FARQUHAR. I call the gentleman to order.

Mr. ELDRIDGE. What is the question of order?

The SPEAKER. The gentleman from New Jersey makes the point of order that the discussion must be confined to the resolution pending before the House, and the gentleman from Wisconsin is clearly out of order.

Mr. ROSS. Cannot the gentleman from Tennessee have an opportunity to explain in reference to his enlisting in the southern army?

Mr. STOKES. I hope the House will indulge me for one moment. This matter has been drawn into this debate by the members on the other side who now make the point of order against me. I thought I had a right to make the proper explanation when, as I understood, the gentleman asked me whether I was satisfied with having taken the oath or not. It is my desire the House shall know everything. I want nothing concealed. I thought it was the correct way to give my political record, so that the House might judge whether I ever did take the oath or not.

The SPEAKER. It was all perfectly in order until the point was raised against the gentleman. The gentleman from Tennessee will now proceed with his remarks.

Mr. ELDRIDGE. I appeal to the gentleman from Tennessee to yield to me for a moment.

Mr. STOKES. With much respect for the

gentleman from Wisconsin, I now decline to yield the floor. He can take the floor when I have concluded.

Mr. Speaker, I desire to put myself right before this House, for the rebel newspapers and journals have been publishing that letter at least once in every two weeks. It is the only thing they have to go on. It was printed during the canvass and I met it there. I met it before the loyal people of my own district. I have met it everywhere in the West, and everywhere I have been sustained by the people. It is brought here as the last chance, and I think with a success as small as that which it has received heretofore.

The SPEAKER. The Chair must remind the gentleman from Tennessee [Mr. STOKES] that under the point of order raised by the gentleman from New Jersey [Mr. WRIGHT] his remarks must be confined to the subject before the House, which is the joint resolution from the Senate.

Mr. STOKES. I presumed it was in order for me to repeat what I have said, that I would freeze to my seat before I would vote to repeal or modify the test oath. I hope that is in order.

The SPEAKER. That is in order.

Mr. STOKES. I repeat it again, and I swear before the eternal God, keep out whom it may, I will never vote to repeal or to modify that oath in any one particular.

It is not the man or his status and qualifications upon which we are called to pass judgment. It is an invitation to us to change and modify the test oath, which is our guard and protection in the South. Repeat that test oath to-night, and it will not be long ere you will hear the cry come up from the loyal men of Tennessee, almost without a dissenting voice, that Congress has taken from them their property and their support, and subjected them to the mercy of the rebels and their sympathizers. Sir, whom do you find opposed to this test oath? Where do you find the opposition to it? Do you find it in the truly Union papers? Can any man upon this floor show me a solitary Union paper in the country that advocates the repeal of the test oath? No, sir. Then who complains of it? It is this faction who are opposing it, and they alone.

I feel that I am justified in voting against this joint resolution. I do so from no ill-will or ill-feeling toward the gentleman involved here. But I do it in the honest discharge of my duty to my constituents and to the loyal men of the entire South. Duty compels me to vote against it. In conclusion, let me appeal to the Union men of this House, to the Union party in this House, not to pass this joint resolution. You have the control of the Government in your hands. In the name of the Union, loyal people of the South, and particularly of my own State, I ask you to keep this test oath upon your statute-book as the flaming sword to guard, shield, and protect the loyal men of the South. If you give way, if you repeal or modify the test oath, you will strike a blow at the Union men of the South from which they cannot recover. They look to you for protection and for aid. If you fail to stand by them it will be your fault; if they are compelled to yield to their enemies you will be responsible to the Union party of the South for the result. As has been already said to-night, the Union men of Tennessee have already suffered too much to be willing again to be ruled, controlled, and tyrannized over by the rebels and their sympathizers. For one, I am for keeping the Government in the hands of loyal men, of Union men.

Mr. Speaker, this is a subject of vast importance and magnitude. Let this House pass this joint resolution and woe will come unto the country.

Mr. CONKLING. Mr. Speaker, I should be recreant to candor were I to attempt to conceal my amazement at the scene now passing before us. Only eight short days ago and eleven States were silent and absent here, because they had participated in guilty rebellion, and

because they were not in fit condition to share in the government and control of this country. Seven short days ago we found one of these States with loyalty so far retrieved, one State so far void of present offenses, that the ban was withdrawn from her and she again placed upon an equal footing with the most favored States in the Union. The doors were instantly thrown open to her Senators and Representatives, the whole case was disposed of, and the nation approved the act. Tennessee was restored to her birth-right, her representatives were invested with every immunity and privilege of the representatives from New York or Pennsylvania, and on the same terms. Was not this enough? No one asked for more. Nothing further could be granted. Nothing further would have been accepted could it have been offered. Here the matter should have rested. Here it should have been left forever undisturbed. But no; before one week has made its round we are called upon to stultify ourselves, to wound the interests of the nation, to surrender the position held by the loyal people of the country almost unanimously, and the exigency is that a particular citizen of Tennessee seeks to effect his entrance to the Senate of the United States without being qualified like every other man who is permitted to enter there.

You, sir, who sit in the chair, and every other member of this House, at the threshold took an oath which every man must take before he can cross that threshold. Why? Because the public good requires it; so it has been inscribed on the statute-book. Yet in the fast flying hours of the closing night of this eight months' session, we are suddenly appealed to to give up this safeguard, to cleave down this statute, or to allow it to be trampled under foot. And there seems danger that the appeal may be listened to. How far have we drifted from our moorings when this can be true?

We met here in December, divided by many differences, but there was one ground common to all. There was one ground upon which every man in the nation, who pretended to be loyal, asserted that he stood. What was this common sentiment? It was that the Government must be preserved from its admitted enemies; that the destinies of the nation should never be yielded up to men whose hands and faces are dripping with the blood of murder. Upon that platform we all stood.

Some, not all, insisted upon indemnity for the past; some, not all, insisted upon security for the future; but all insisted that the public debt should be inviolate forever. And all protested that the power to legislate or to prevent legislation should never be given to those who would wring taxes from our people or take money from the Treasury to pay the debts contracted by rebels for the ruin of their country. All admitted that to insure these two ends the seats in this House and in the Senate must be occupied only by those true to the genius and faithful to the mission of this Government. I say we differed as to the means, as to the conditions, as to the safeguards which were necessary. The great majority of men deemed the "test oath" alone entirely inadequate. They said, "If you could always maintain and enforce the provision that no man should sit in Congress who could not truly take the oath, there would be some safety," but they argued, that after southern representatives had been admitted, the oath might be repealed, or that men might take it dishonestly and evade it. The only question was whether the "test oath" was enough—who dared to say it was too much? Who ventured to argue that we should be safe with less? Who, I mean, that holds the creed of the Union party?

The President of the United States, though he leads the sentiment which antagonizes the position held by the Union majorities in Congress, has never in public utterance intimated that we could safely remove this last impediment from the path of those seeking seats here or in the Senate. On the contrary, the President has relied on the "test oath" as one of the corner-stones of his argument.

With all the sway of his great place, and with all the emphasis he has employed, he has insisted throughout that the existence of the test oath made it safe for each House to admit those who could take it. He has said that, without looking to the constituency, we ought to admit men regularly elected who could qualify by taking the oath. Has not this been the President's position? Has he not defined loyal men to be those who could take the oath which you took, Mr. Speaker, which I took, and which all must take who would enter upon any office, as it stands on the page of the statute?

Mr. LAWRENCE, of Ohio. And approved by President Lincoln.

Mr. CONKLING. Yes; approved by President Lincoln, and approved, as James Madison said of another statute, by the universal acquiescence of the American people. The President has said the "test oath," and men who have denounced Congress, if they pretended to be loyal, have said the "test oath" was the magic barrier, the elixir of life, the all-sufficient lion in the path of disloyalty; and that while we maintained the test oath the Republic could take no harm from admitting representatives from States lately in rebellion. Some of us believed this and some did not. Some feared that the test oath, if we trusted to it alone, would lead to the paradox of a constituency having the nominal right of representation while being itself disloyal, and compelled to exercise that right by choosing a loyal man who would not truly reflect the sentiments of his constituents, or else that disloyal constituents would choose those who did reflect their sentiments at heart, but who were dishonest enough to take the oath notwithstanding. Some feared that the oath would be no shield against men, disloyal in fact, who, upon some question of "casuistry"—I borrow the phrase—would manage to take it, and who, having thereby seated themselves in the House or in the Senate, could never be ousted except by the vote of an impossible two thirds. But the test oath was the outpost; it was a point beyond debatable propositions; and no man was found to deny that the oath should be preserved as the barrier between us and disloyalty; no man, except those who were willing to relinquish the entire position in which loyalty consists.

But now, sir, in spite of all this, what do we find? In the very first instance in which this safeguard was needed, the first in which it was to be relied upon, it is proposed that we shall throw it away and destroy it utterly, not for Mr. Patterson alone, but for all those who would come here. If the oath cannot stand against Mr. Patterson it cannot stand against one of those who, reckoning all the fifteen former slave States, are to cast ninety-four or ninety-six votes in this House, if Representatives are to be admitted without waiting for the ratification of the amendment of the Constitution changing the rule of apportionment and representation. The southern members will then number almost one half of this entire body, and they will find enough here in sympathy with them, if they are to be men who cannot by an oath purge themselves of treason, to ring the knell of the day during which the public credit is to be preserved, during which the public faith is to be kept inviolate, during which repudiation is to be spurned and driven from these Halls.

Sir, I say it is amazing; I say this whole scene to-night is a sad commentary, a picture sorrowful to be gazed upon by the people of this country, and justly sorrowful to none so much as to those who have argued and believed that we would have been safe heretofore in admitting even the most regenerated, the most redeemed, the most disinherited of the rebellious States.

I have nothing of personal feeling, by way of unkindness, in regard to the individual whose name and representative position is at stake. But we have heard a statement made in his behalf, which as his advocate I should never make, certainly not as a part of the argument to sustain the case presented to this House.

We are told in the first place that he took an oath to support the southern confederacy. What does this mean? It means that, holding up his hand in the presence of that God before whom traitors and loyal men must alike appear, he solemnly pledged himself to support that conglomeration of pirates, murderers, and thieves, whose hiding-place was Richmond. And an argument has been made upon the question whether this was a hostile act, whether it was within the meaning of the oath we have all taken. We all swear that we have not done any act "to support any authority hostile to the United States." The person in question it seems took an oath to support the enemies of the United States, but it is said he did not feel hostile himself. Are we quibbling upon technicalities, or playing with words like children with playthings? More than this; he accepted an official commission, and discharged the duties and exercised the prerogatives of a high officer, under this so-called confederation. And then is added what as his advocate I should not have added, that when he took the oath he did there was casuistry and mental reservation in the act—that he did not mean to be bound by it at the time. I ask the lawyers of this House, I ask all the members of this House, whether that creates a distinction favorable to the case. What was that reservation? That the oath to support usurped power was unconstitutional? Ay, sir, so it was, and in that sense was it obligatory upon one man who took it within the so-called confederacy? Certainly not. And yet we have put upon our statute-book, and we stand before the people to-day upon the idea that he who with an oath upon his lips solemnly dedicated himself to the service of that confederacy, took the last and most irretrievable step of rebel allegiance. Does a mental reservation in the taking of an oath change the obligation which that oath imposes? If it be an oath established by usurpation, its origin goes in some form to the question of its force. But is the efficacy of an oath measured or affected by the mental reservation of him who takes it? Does it reflect honor upon a man who takes an oath that he does so intending at the time, by a reservation kept within his own bosom, to decide afterward upon circumstances as they arise how far it is obligatory upon him? Nay, more than that; what is the attitude of him who takes an oath, actually intending at the time he takes it to reject its obligation and to trample it under foot? Such an act, if it be justifiable, implies a right of an individual judgment, which, as has been said, may be exercised in taking the test oath itself. Men have said that oath, too, was unconstitutional; and such men may come here and take it with a reservation, secretly resolved at the time, to trample that, too, under their feet. And the argument in ethics, in morals, and in law, is as strong in the last case as in the first. Can such doctrine be tolerated for a moment?

Sir, I have nothing in the world personally against the man concerned. But I view with as much feeling as my friend from Ohio [Mr. SHELLABARGER] the proposition that is presented to us. We are asked to drive a plowshare over the very foundation of our position, to break down and destroy the bulwark by which we may secure the results of a great war, and a great history, by which we may preserve from defilement this place, where alone in our organism the people never lose their supremacy except by the recreancy of their representatives; a bulwark without which we may not save our Government from disintegration and disgrace. If we do this act, it will be a precedent which will carry fatality in its train. From Jefferson Davis to the meanest tool of despotism and treason, every rebel may come here, and we shall have no reason to assign against his admission except the arbitrary reason of numbers. Every man of them may come and lay his hand upon this joint resolution and say: "There is my title, as valid as that of any other man to a seat in either House of Congress, if I can only find a constituency to elect me."

For one I enter my solemn protest against it. I utter my warning against this first attempt to let down the standard of loyalty. Let us not stain our hands with this; it is the Senate's matter solely. The Senate has passed it; upon the Senate be the responsibility. The Senate has absolute power over the admission or rejection of Mr. Patterson, and there is no reason for our dividing with the Senate the responsibility of its exercise. I hope this House will keep aloof, and I move to lay the joint resolution on the table.

Mr. ELDRIDGE. The understanding with us here was, that when the gentleman from New York [Mr. CONKLING] concluded his remarks the gentleman from Tennessee [Mr. MAYNARD] would be again recognized.

The SPEAKER. The Chair would have again recognized the gentlemen from Tennessee if he had desired the floor if the motion to lay the joint resolution on the table had not been made; but the gentleman from Tennessee had had the floor for an hour, for himself and those to whom he yielded, and the gentleman from New York [Mr. CONKLING] took the floor in his own right.

The question was upon laying the joint resolution on the table.

Mr. LYNCH. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 31, not voting 67; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Brownell, Broomall, Sidney Clarke, Cobb, Conkling, Cullom, Deftrees, Driggs, Dumont, Eekley, Eggleston, Eliot, Farnsworth, Farguhar, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jencks, Julian, Kelley, Ketcham, Koontz, Lafflin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, McClurg, Mercur, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seefeldt, Shellabarger, Spalding, Stevens, Stokes, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Stephen F. Wilson—88.

NAYS—Messrs. Ancona, Bergen, Boyer, Cooper, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Johnson, Kerr, Leftwich, Marshall, Maynard, McCullough, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Ross, Shanklin, Tabor, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Winfield, and Wright—31.

NOT VOTING—Messrs. Ames, Delos B. Ashley, James M. Ashley, Baldwin, Bonham, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Goodyear, Gridley, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Asahel W. Hubbard, De-mas Hubbard, Edwin N. Hubbard, Hubbard, LeBlond, Longear, Marvin, McIndoe, McKee, McKuer, Moulton, Noell, Pike, Pomroy, Rogers, Sitgreaves, Sloan, Smith, Starr, Stillwell, Strouse, Thayer, Francis Thomas, Upton, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Windom, and Woodbridge—67.

So the joint resolution was laid on the table.

Mr. CONKLING moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes;

An act (S. No. 354) for the relief of William Crosswell; and

An act (H. R. No. 596) to authorize the use of the metric system of weights and measures.



## MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that that body had passed House joint resolution No. 197, authorizing a contract with Miss Vinnie Ream for a statue of Abraham Lincoln, without amendment.

## FENIANS.

Mr. DELANO. I ask unanimous consent of the House to introduce the following resolution:

Whereas this House has been informed that certain peaceable and law-abiding citizens, while assembled at and within the building recently erected in this city for the benefit of orphans of deceased soldiers and sailors of the United States, situate on the corner of Seventh street and Pennsylvania avenue, have been illegally and improperly dispersed by the mayor of this city for the alleged reason that they belonged to a Fenian organization, and thus prevented from exercising their rights and privileges as citizens of the United States; Therefore

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That said citizens are hereby authorized, whenever permitted so to do by the Speaker of this House or the President of the Senate, to use and to occupy said building for the purpose of holding public meetings for every proper and lawful purpose, and particularly in reference to the liberation of Ireland.

Mr. BANKS. I ask the gentleman to yield to me.

Mr. DELANO. Certainly.

Mr. BANKS. I know nothing of the circumstances to which the resolution refers. The Senate and House appropriated this building and the materials of which it is composed to the lady managers of the late fair. Some gentleman of the House having thought that it might be occupied for purposes of a doubtful character, and inasmuch as the resolution passed by Congress require the lady managers should use this building for purposes which in their judgment should tend to the furtherance of the main object of the association, that is to say, for the benefit of the orphans of the soldiers and sailors of the United States, I say it was thought if used for political meetings or for gift lotteries it might lead to the question of the repeal of the resolution, and therefore it was suggested to the lady managers that they ought to be careful not to grant the use of the building except for the purpose mentioned in the resolution. It is quite possible that the parties interfered with in the occupation of the hall were interfered with because they had not the authority of the lady managers. I desire to say this much, although I have no knowledge of the circumstances of this particular case.

Mr. DELANO. That all may be. This resolution proposes no censure, but simply to refer to the Speaker of the House and President of the Senate the power to grant the use of this building for the purposes referred to in the resolution on all suitable and proper occasions. It seems to me eminently proper the resolution should pass, so that if persons desire to hold a meeting there the Speaker of this House or the President of the Senate, if it be deemed proper, can give them the use of the building for that purpose.

Mr. BANKS. There is no objection to that. Mr. ELDRIDGE. Does not the resolution in fact reflect upon the mayor? Is there any charge against him?

Mr. DELANO. I do not think there is any improper reflection on the mayor, or any reflection at all.

Mr. SCHENCK. I would inquire if this resolution is based upon what is understood to be the facts, and whether my colleague is informed as to that meeting being in any way riotous or disorderly, so as to justify the proceeding against it.

Mr. DELANO. On the contrary, I understand it was the reverse, that it was in every way quiet and orderly.

Mr. SCHENCK. Does my colleague understand on what pretense the mayor interfered?

Mr. DELANO. I do not know distinctly on what pretense, whether it was for the reasons given by the gentleman from Massachusetts

[Mr. BANKS] or on account of objections to the purpose of the meeting, but I wish to remove all those reasons and confer upon the Speaker of the House and President of the Senate power to grant the use of the building on all proper occasions.

Mr. WRIGHT. I rise to a question of order. We have already parted with all control of the property and given it to the managers of the Soldiers' and Sailors' Orphan Home. We are *functus officio*, the power has gone from us, and any proposition of this kind would be unjust to that institution—an imputation upon their honor and integrity.

The SPEAKER. The point of order is a speech to some extent. The Chair overrules it on the ground that the House of Representatives, the Senate concurring, has a right to modify the grant it has made, and this is a modification.

The previous question was seconded and the main question ordered.

Mr. BERGEN moved (at twelve o'clock) that the House adjourn.

The motion was disagreed to.

The question was taken on the resolution; and it was agreed to.

Mr. DELANO moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## COLLECTORS OF CUSTOMS.

Mr. HOOPER, of Massachusetts, from the committee of conference in relation to the bill to fix the compensation of certain collectors of customs, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on Senate bill No. 400, to fix the compensation of certain collectors of customs, and for other purposes, recommend that the Senate recede from their disagreement to the amendments of the House and agree to the same, with an amendment, as follows:

Strike out, including the words inserted by the House, all after the words "deputy collector," in line nine, page 2 of the bill, down to and including the word "customs," in the fourteenth line, same page, and insert in lieu thereof the following:

At the ports of New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, and to each of the general appraisers of local customs at Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$3,000 per annum. To each of the deputy naval officers and the deputy surveyors at New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$2,500; and to each of the custom-house weighers at the ports of New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, \$2,000 per annum, out of the appropriation for expenses of collecting the revenue from customs: *Provided*, That the additional compensation of twenty-five per cent., as now provided by law, shall be continued to officers, as aforesaid, at the port of San Francisco; and the House agree to the same.

E. D. MORGAN,  
TIMOTHY O. HOWE,  
WILLIAM T. WILLEY,  
*Managers on the part of the Senate.*  
SAMUEL HOOPER,  
JOHN L. THOMAS,  
GLENNI W. SCOFIELD,  
*Managers on the part of the House.*

The report of the committee of conference was agreed to.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## CLERK TO SERGEANT-AT-ARMS.

Mr. ROLLINS, from the Committee of Accounts, reported back the following resolution; which was read, considered, and agreed to:

*Resolved*, That the temporary clerk in the office of the Sergeant-at-Arms be placed upon the roll as a regular clerk in that office at the compensation now received.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## JOHN RIDGWAY.

On motion of Mr. ROSS, by unanimous consent, the Committee on Naval Affairs was dis-

charged from the further consideration of the memorial of John Ridgway, and the same was laid on the table.

## WYANDOTTE INDIANS.

Mr. PRICE. I ask leave to discharge the Committee of the Whole from the further consideration of Senate bill No. 353, for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians.

Mr. BERGEN. I object.

Mr. PRICE. I move to suspend the rules for the purpose of considering this bill.

The motion was agreed to; two thirds voting in the affirmative.

The bill was read. It refunds to the trustees and stewards of the Wyandotte and Quindaro Mission Methodist Episcopal church, for the destruction of their building, \$4,680, to be applied to rebuilding the said building and inclosing the grave-yard.

Mr. PRICE. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## RIGHTS OF THE PEOPLE IN THE DISTRICT.

Mr. LAWRENCE, of Ohio, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to report, as soon as practicable, whether the rights of the people peaceably to assemble and consult for their own good has been interfered with in the city of Washington, and if so, by whom, and what legislation is necessary to protect the people in the enjoyment of all their rights, including the right to discuss the condition of Ireland and the duties of American citizens in relation thereto.

## CLERK OF THE SUPREME COURT.

Mr. WILSON, of Iowa. I ask leave to report on the Committee on the Judiciary Senate bill No. 43, to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia.

No objection being made, the bill was taken up and considered, ordered to be read a third time, and was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## COMMUTATION OF DRAFTED MEN.

Mr. SCHENCK. Yesterday there was a report made by my colleague on the Committee on Military Affairs [Mr. ANCONA] in relation to the repayment in certain cases of commutation money to those from whom it had been improperly taken. I am sure that the House did not understand it when they made objection which sent it to the Committee of the Whole. The Committee on Military Affairs investigated the matter thoroughly, corresponded with the War Department and had the papers before them, and they found that there were some few cases, not exceeding altogether thirty or forty in the whole United States, that came within the provisions of this bill, and these were drafts that took place under the same form, but more than once within the year, and yet commutation was paid. There are a dozen cases or more, perhaps, in the district represented by the gentleman from Pennsylvania, [Mr. KOONTZ.] There are more cases in two or three districts in Pennsylvania than in all the rest of the country, and it would not take a large sum to pay back all this money admitted to have been wrongfully paid over to the United States. I speak advisedly, for the committee had the facts all before them, with full reports and explanations from the Provost Marshal General's office. I move, therefore, to dis-

charge the Committee of the Whole on the state of the Union from the further consideration of the bill, that it may be considered in the House at the present time.

Mr. WARD. If I can be permitted to move the reference of the bill to the Committee of Claims, I will not object.

Mr. SCHENCK. I have no objection to the gentleman's making the motion, but I hope it will not prevail.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill.

The SPEAKER. The Chair is just informed by the clerks that the bill, having been ordered to be printed, is now in the Government Printing Office.

Mr. SCHENCK. I move, then, that the further consideration of the bill be postponed till to-morrow immediately after the reading of the Journal.

The motion was agreed to.

#### ASSASSINATION OF PRESIDENT LINCOLN.

Mr. BOUTWELL. I move that the rules be suspended, and that the House now proceed to the consideration of the resolutions reported by the Judiciary Committee relative to the complicity of Jefferson Davis in the assassination of President Lincoln.

The SPEAKER. The clerks state that the resolutions, with the report of the committee, are at the Government Printing Office.

Mr. BOUTWELL. Then I must withdraw my motion.

G. C. BESTOR AND G. W. M'CORD.

Mr. HOGAN. I ask unanimous consent to introduce the following joint resolution:

*Be it resolved by the Senate and House of Representatives, &c., That the Secretary of the Navy be directed to organize a board of not less than three persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery Shiloh, built by George C. Bestor, and Ellah, built by Charles W. McCord, at St. Louis, Missouri, in the years 1863, 1864, and 1865, cost the contractors over and above the contract price, and allowances for extra work; and report the same to the House at its next session.*

Mr. COBB. I object.

Mr. RICE, of Maine. I insist on the regular order.

The House, agreeably to order, proceeded to the consideration of business on the Speaker's table.

#### DISTRICT COURT AT ERIE, PENNSYLVANIA.

The first business on the Speaker's table was Senate amendment to the bill (H. R. No. 62) entitled "An act directing a district court to be held at the city of Erie, in the State of Pennsylvania."

The amendment of the Senate was read, as follows:

Strike out after the word "thereof," in line fourteen, the following:

And that, in addition to the compensation allowed by law to the said judge, he shall be paid the sum of \$300 for his additional expenses and services.

The amendment was concurred in.

Mr. SCOTFIELD moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADMISSION OF NEBRASKA.

The next business on the Speaker's table was the bill (S. No. 447) entitled "An act for the admission of the State of Nebraska into the Union;" which was read a first and second time.

Mr. RICE, of Maine. I wish to enter a motion to refer this bill, and I ask that it be reported in full.

The bill was read at length. It provides, in the first section, that the constitution and State government which the people of Nebraska have formed for themselves be accepted, ratified, and confirmed, and that the said State of Nebraska be declared to be one of the United States of America, and be admitted into the Union upon an equal footing with the original States in all respects whatsoever. The second

section declares that the State of Nebraska shall be entitled to all the rights, privileges, grants, and immunities, and be subject to all the conditions and restrictions of an act providing for the admission of the State, approved April 19, 1864.

Mr. RICE, of Maine. I wish to submit a brief explanation in reference to this bill, and I will premise by expressing my regret that a measure of such importance as this should come before us at this very late period of the session, when it cannot be considered by the appropriate committee of this House, and when we shall be obliged to dispose of it without that consideration which the magnitude of the subject renders desirable. It will be recollected by members of the House that in April, 1864, the Congress of the United States passed an enabling act, in the usual form, authorizing the people of Nebraska to form a State government. A convention was called and assembled, but it adjourned without taking any action upon the constitution. Afterward the Legislature met and formed a constitution, which was submitted to the people and ratified by their votes. This, in brief, is the state of the facts.

Now, sir, I learn from information in which I place full confidence that the Territory of Nebraska contains to-day sixty thousand inhabitants. We all know that it has a very desirable climate and a rich soil, capable of supporting a very large population; that the Pacific railroad is being built through the Territory; and that the tide of emigration is flowing there with great rapidity. It will very soon be absolutely requisite that the Territory shall have a State government. Inasmuch, then, as Congress has already invited her to come into the Union, and as she has substantially complied with all the requirements we have imposed upon her, I think that in good faith she should be permitted now to enter the Union with the constitution which her people have ratified. I concede that the constitution which she presents is not in form such as I would desire it to be; and but for the fact that we have invited her to come in with such a constitution as she has formed, I would vote against her admission to-day. This constitution contains a provision excluding the colored people of the Territory from the exercise of the right of suffrage. I think the time has gone by when the Congress of the United States should give its countenance to a feature so anti-republican as that. Although, as I understand, Nebraska contains to-day not more than one hundred colored people, those one hundred are entitled to all the rights of citizens and to equality with the whites before the law. But I desire members of the House to bear in mind that this objectionable feature—for objectionable it must be to every gentleman on this side of the House—was permitted by the original enabling act; that the people of Nebraska have done all that we required them to do in this respect—

Mr. STEVENS. I desire to ask the gentleman a question. When did the people of Nebraska form their constitution?

Mr. RICE, of Maine. In February last.

Mr. STEVENS. That was long after we had decided the question about suffrage.

Mr. RICE, of Maine. I regret exceedingly that the people of Nebraska have not advanced to the position that they will not discriminate against any people on account of race or color. But I believe that, in consideration of the condition of the Territory at the present time; in consideration of the fact that it at present stands greatly in need of suitable public buildings for the purposes of government; in view of the fact that the last Congress refused to do in this respect for the Territory what I think justice required, I believe that we should now admit the Territory into the Union. Sir, I believe in the policy of admitting new States as fast as they can be properly formed, and as soon as the people are in a condition to govern themselves.

Mr. BROMWELL. I desire to ask the gentleman whether the United States has ever suf-

fered any injury from the admission of a Territory too soon, or whether that is likely ever to occur.

Mr. RICE, of Maine. I think that injury may come to the people of a Territory by not permitting them to come into the Union at the proper time. I believe that when we deny to the people of a Territory the means of enforcing its laws and protecting its citizens we ought to concede to them a State government, so that they may have the means of doing this for themselves. I now yield to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Will the gentleman yield to allow me to offer an amendment?

Mr. RICE, of Maine. I will hear the amendment read.

Mr. KELLEY. I ask the Clerk to read the amendment I send to his desk, and which I desire to offer to this bill.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

That the people of Nebraska having formed for themselves a State government, which, except in the fact that it excludes a portion of the citizens from the enjoyment of political rights on account of race or color, is republican in form, it shall be the duty of the President of the United States, on the receipt of due proof that the people of Nebraska have so modified their State constitution as to admit all the male citizens thereof over twenty-one years of age, except Indians untaxed, and unnaturalized foreigners, to equal rights of suffrage, to issue his proclamation declaring that such State of Nebraska shall be thenceforward entitled to all the rights and immunities, and subject to all the conditions and restrictions of an act to enable the people of Nebraska to form a constitution of State government, and for the admission of said State into the Union on an equal footing with the original States, approved April 19, 1864.

Mr. RICE, of Maine. I must decline to withdraw my motion to recommit to receive this amendment.

Mr. KELLEY. Permit me to make a remark or two. I proposed to offer this amendment in order that the constitution of Nebraska might be brought into harmony with the established policy of this Congress. We are now at the close of the session. I would suggest that if this bill be referred to the Committee on Territories or to the Judiciary Committee the people of Nebraska can come here at the next session with a constitution in harmony with the policy of this Congress in regard to the Territories, in harmony with the sublime doctrine to which this Congress has committed itself, that all men, not being aliens or Indians untaxed in the Territories, shall enjoy equal political rights and can then be admitted as a State. No harm can come to the people of Nebraska if they are not admitted for the next four months; no great advantages can accrue from having them admitted now. And if the gentleman from Maine [Mr. RICE] will permit no amendment, and will consent to no motion to refer, I hope the bill will be voted down.

Mr. RICE, of Maine. I believe if I should entertain the motion of the gentleman from Pennsylvania [Mr. KELLEY] it would be the means of killing this bill. I must therefore decline to withdraw the motion to recommit for that purpose. But I now withdraw the motion to recommit and call the previous question.

Mr. BERGEN called for tellers upon seconding the call for the previous question.

Tellers were ordered; and Mr. BERGEN, and Mr. RICE of Maine, were appointed.

The House divided; and the tellers reported—yeas 59, noes 51.

So the call for the previous question was seconded.

Mr. KELLEY. I call for the yeas and nays upon ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 52, not voting 72; as follows:

YEAS—Messrs. Anderson, Delos B. Ashley, Baker, Banks, Barker, Benjamin, Bidwell, Bingham, Bromwell, Sidney Clarke, Cobb, Cullom, Defrees, Delano, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Hart, Hayes, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Ketcham, Koontz, Kuykendall, Ladin, Latham, George V. Lawrence, William Law-

rence, Meaur, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Patterson, Plants, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Spalding, Stokes, John L. Thomas, Burt Van Horn, Robert T. Van Horn, Welker, Wentworth, Whaley, and Stephen F. Wilson—62.

**YAYS**—Messrs. Alley, Allison, Ancona, Baxter, Bergen, Boutwell, Boyer, Broomall, Cook, Cooper, Driggs, Eldridge Eliot, Finck, Garfield, Glossbrenner, Abner C. Harding, Harris, Higby, Hogan, Jenekes, Johnson, Julian, Kelley, Le Blond, Leftwich, Loan, Lynch, Marshall, Maynard, McCullough, Morrill, Niblack, Nicholson, Paine, Perham, Phelps, Price, Radford, Ritter, Ross, Shanklin, Stevens, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Van Aernam, Williams, Winfield, and Wright—52.

**NOT VOTING**—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Conkling, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Jones, Kasson, Kelso, Kerr, Longyear, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Moulton, Noell, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Rogers, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Windom, and Woodbridge—72.

So the main question was ordered.

**Mr. FARQUHAR.** I desire to state that **Mr. TROWBRIDGE** is compelled to be absent from the Hall in the discharge of his duties upon the Committee on Enrolled Bills.

The bill was then read a third time.

**Mr. RICE, of Maine.** I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

**Mr. STEVENS.** I move to lay the bill on the table.

The motion to lay the bill on the table was not agreed to.

The question recurred upon the passage of the bill.

**Mr. STEVENS.** Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 52, not voting 72; as follows:

**YEAS**—Messrs. Anderson, Delos R. Ashley, Baker, Banks, Barker, Benjamin, Bidwell, Bingham, Bromwell, Cobb, Conkling, Cullom, DeFrees, Delano, Dumont, Ekeley, Eggleston, Farnsworth, Farquhar, Ferry, Hart, Hayes, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Ketchum, Koontz, Kuykendall, Lathin, Latham, George V. Lawrence, William Lawrence, Meaur, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Patterson, Plants, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Spalding, Stokes, John L. Thomas, Burt Van Horn, Robert T. Van Horn, Welker, Wentworth, Whaley, and Stephen F. Wilson—62.

**NAYS**—Messrs. Alley, Allison, Ancona, Baxter, Bergen, Boutwell, Boyer, Broomall, Cooper, Driggs, Eldridge, Eliot, Finck, Garfield, Glossbrenner, Abner C. Harding, Harris, Higby, Hogan, Jenekes, Johnson, Julian, Kelley, Le Blond, Leftwich, Loan, Lynch, Marshall, Maynard, McCullough, Morrill, Niblack, Nicholson, Paine, Perham, Phelps, Price, Radford, Ritter, Ross, Shanklin, Stevens, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Van Aernam, Williams, Winfield, and Wright—52.

**NOT VOTING**—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Jones, Kasson, Kelso, Kerr, Longyear, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Moulton, Noell, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Rogers, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Windom, and Woodbridge—72.

So the bill was passed.

**Mr. RICE, of Maine,** moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**WARD B. BURNETT.**

The next business on the Speaker's table was the bill (S. No. 418) entitled "An act for the relief of Ward B. Burnett;" which was read a first and second time.

The bill provides that there be paid to Ward

**B. Burnett** \$540, being the balance of a pension to which he was entitled, at the rate of fifteen dollars per month, from March 4, 1863, to March 4, 1866, and which was improperly retained from him.

**Mr. TAYLOR, of New York.** I move that this bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

**Mr. ELDRIDGE** moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**MESSAGE FROM THE SENATE.**

A message from the Senate, by **Mr. FORNEY**, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 400) to fix the compensation of certain collectors of the customs, and for other purposes.

**ARMY OF THE UNITED STATES.**

The next and last business on the Speaker's table was a joint resolution (S. No. 142) respecting the Army of the United States; which was read a first and second time.

The joint resolution was read at length. By the first section it is provided that all laws and parts of laws enacted since the 4th day of July, 1861, increasing, reorganizing, or creating regiments, staff corps, or other organizations of the regular Army, or in any way affecting the number, rank, pay, or emoluments of the general, field, staff, and line officers, and enlisted men of the same, be declared to be in full force and effect, and so to remain until otherwise provided by law.

The second section provides that there shall be added to the Army four regiments of cavalry, two of which shall be composed of colored men, having the same organization as is now provided by law for cavalry regiments, and the original vacancies in the grades of first and second lieutenant shall be filled by selection from among the officers and soldiers of volunteers; and two thirds of the original vacancies in each of the grades above that of first lieutenant shall be filled by selection from among the officers of volunteers; and one third from officers of the regular Army; all of whom shall have served two years in the field during the war, and have been distinguished for capacity and good conduct. The President is authorized to enlist and employ in the Territories and Indian country a force of Indians, not to exceed one thousand, to act as scouts, who are to receive the pay and allowances of cavalry soldiers, and to be discharged whenever the necessity for their further employment is abated, or at the discretion of the department commanders.

The third section proposes to repeal the third section of an act approved February 20, 1863, authorizing the appointment of a solicitor to the War Department. It also provides that the Provost Marshal General's office and bureau shall be continued only so long as the Secretary of War shall deem necessary, not exceeding thirty days after the passage of this resolution.

The fourth section provides that the third section of an act entitled "An act making appropriations for the support of the Army for the year ending 30th June, 1866," shall continue in force for one year from the passage of this joint resolution, provided that no officer furnished with quarters in kind shall be entitled to receive the increased commutation of rations authorized by the resolution.

**Mr. SCHENCK.** I propose to move that this joint resolution be laid on the table. I will merely state that it is the means adopted by the Senate to get around refusing to agree to a bill which would favor the volunteers. This is designed to make provision for the gentlemen already in office, and it affirms a vast amount of legislation for their benefit. I do not propose to discuss the matter at all. Another committee of conference has been ap-

pointed, and, I understand, has agreed upon an Army bill. This is to avoid the enactment of an Army bill, which, I think, the Senate really does not want, unless it happen to be of a kind that suits it and is not agreeable to the wishes of the House. Before making the motion to lay this joint resolution on the table, I will yield to my colleague, [Mr. GARFIELD.]

**Mr. GARFIELD.** Mr. Speaker, I have, during the past two weeks, considered, from time to time, somewhat carefully, the condition of our Army; and there is one fact which I wish to state to the House for its consideration.

The proposition contained in the first section of this joint resolution is that all laws and parts of laws relating to the regular Army, which have been enacted since 1861, shall be continued in full force. Now, if that Army with its present organization is to be continued, I desire to call the attention of the House to some of the consequences. With the assistance of some gentlemen thoroughly acquainted with the roster of the Army, I have gone over the Army Register, classifying some of the officers whose names we find there. We have only noted such persons as are well known. As to a large number, we did not know in what class to put them. But there are in the regular Army of the United States fifty-two officers above the grade of captain, who have distinguished themselves in the field—officers known to me and to those who with me have looked over this list. There are also fifty-two who have seen only a little service; and there are forty-three who have never been in the field at all during the war—men now holding rank above the rank of captain. And below these there are sixteen men who during the war have won their stars as major generals on the field, and twenty-three who have won their stars as brigadier generals on the field; and under such legislation as is here proposed, these will go back into the service to be commanded by colonels and lieutenant colonels who never saw a hostile battalion, and who were never in the field at all. Why, sir, if the present Army organization were to continue, I could point out regular regiments of infantry now in our Army, the colonel of which, if he should call up the regiment for dress parade would call up before him as captains six major generals and brigadier generals. These would have to come up and salute the colonel as their superior officer.

Thus it will be seen that by the legislation proposed in this joint resolution these men who won on the battle-field their rank of general in the Army would be commanded by colonels, lieutenant colonels, and majors who never smelt powder, nor were within the reach of hostile guns during the war. It appears to me, sir, that there is no duty more imperatively pressing upon Congress than that of reorganizing the Army, so as to do away with the abuses which must exist under our present laws and to make merit the rule of promotion and superiority. If the system now existing is to continue, we shall lose the very bone and muscle and sinew of our Army. Sir, there are now hundreds of men who have won distinction in the volunteer service, who are now desirous of entering our Army, and who would make it one of the most splendid armies that ever trod the earth; but if we pass no Army bill at this session, these men must wait for some months, and in all probability they will go into other business, so that hereafter there will be fewer men of a desirable class seeking to enter the service, and the old officers of the regular Army will have the field all to themselves.

Now, it appears to me that the whole policy and management of our legislation thus far has been to pass no Army bill, to authorize no reorganization of the Army until all the aspiring young men who have won distinction for themselves in the volunteer service have become disgusted with waiting and again entered into the other avocations of life, and for my own part I wish we would continue the session until next winter, so that we might get an Army organized in a thorough-going manner from the



splendid material from which it is in our power now to select. I think there is not a man who has won distinction in the Army but is now appealing to Congress that he may be taken care of in the proposed reorganization. "The men who have never won distinction in the field of course have long since retired into civil life. I hope this bill may go to the table until we compel this Congress to do justice by the soldier and give us such an Army as we ought to have.

Mr. SCHENCK. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to lay on the table was agreed to.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### NAVIGATION OF NEWARK BAY, ETC.

Mr. WRIGHT. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of the Navy be requested to appoint a suitable officer, whose duty it shall be to proceed to Newark, in the State of New Jersey, and examine into the condition of the navigation of Newark bay and the navigation of the mouths of the Passaic and Hackensack rivers, and whether the same needs improvement, and report the result of such examination to this House on the first Monday in December next.

Mr. BINGHAM. I object.

Mr. WRIGHT. I move to suspend the rules.

The rules were suspended, and the resolution was accordingly received.

The House divided on the adoption of the resolution; and there were—ayes 46, noes 46.

The SPEAKER voted in the affirmative.

So the resolution was adopted.

Mr. WRIGHT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLERK TO COMMITTEE ON COMMERCE, ETC.

Mr. BROOMALL. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the compensation of the clerk of the Committee on Commerce be fixed at the same rate as that of the clerk of the Committee on Public Lands, to commence on the first day of the present session of Congress, December 4, 1865.

Mr. WARD. What is the amount?

Mr. BROOMALL. Eighteen hundred dollars a year.

Mr. WILSON, of Iowa. I object, unless it makes the compensation of the clerk to the Judiciary Committee the same.

Mr. BROOMALL. I have no objection to the amendment being considered as having been offered. I now demand the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

Mr. ROSS moved that the resolution, as amended, be laid upon the table.

The House divided; and there were—ayes 52, noes 20.

Mr. BROOMALL demanded tellers.

Tellers were ordered; and Mr. BROOMALL and Mr. Ross were appointed.

The House again divided; and the tellers reported—ayes 64, noes 34.

So the resolution was laid upon the table.

#### MECHANICAL ESTABLISHMENTS.

Mr. BANKS. I ask unanimous consent to introduce a joint resolution concerning the superintendence of the mechanical establishments of the United States.

Mr. WILSON, of Iowa. I object.

Mr. BANKS. I move to suspend the rules.

Mr. ANCONA. I suggest there will be no objection if the joint resolution be referred to the Committee on Military Affairs. It is an old question and is entitled to serious consideration.

Mr. BANKS. I withdraw my motion and move that the joint resolution be referred to the Committee on Military Affairs.

The joint resolution was received, read a first and second time, and referred to the Committee on Military Affairs.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. HIGBY (at one o'clock and thirty-five minutes a. m.) moved that the House adjourn.

The SPEAKER. If the House should adjourn without acting upon the reports of the committees of conference on the Army bill and the civil appropriation bills, those bills will probably be lost.

Mr. KASSON. Allow me to say that we have already agreed upon a report from one of the conference committees; it is now being acted upon in the Senate, and will probably be here in five minutes.

Mr. HIGBY. I withdraw the motion.

Mr. LAWRENCE, of Ohio. If we adjourn to meet at ten o'clock will that enable us to finish the business?

The SPEAKER. If any one of the conference reports should be voted down there would hardly be time for another before the time fixed for final adjournment.

#### WYANDOTTE INDIANS.

Mr. ROSS. I move that the Committee of the Whole be discharged from the further consideration of Senate bill No. 432, for the relief of the Wyandotte tribe of Indians.

Mr. CONKLING. I object.

Mr. ROSS. I move to suspend the rules.

The motion was disagreed to, two thirds not voting in the affirmative.

#### COLUMBIA RIVER AND SALT LAKE RAILROAD.

Mr. LAWRENCE, of Ohio. There is a bill pending in the House (House bill No. 679) to aid in the construction of a railroad and telegraph line from the Columbia river to Salt Lake. The member from Oregon [Mr. HENDERSON] made a motion to reconsider the vote by which it was recommitted. I now call up that motion on his behalf.

The SPEAKER. This bill was recommitted on the 19th of June to the Committee on the Pacific Railroad, and a motion to reconsider was entered by the gentleman from Oregon [Mr. HENDERSON] the next day. Any gentleman can call it up.

Mr. LAWRENCE, of Ohio. The gentleman from Oregon requested me to take charge of the bill and ask the attention of the House to it at the earliest practicable moment. I move that the rule be suspended which requires the bill to be read.

The SPEAKER. It is rather a novel motion, and yet that rule can be suspended by a two-thirds vote.

The question being taken on the motion to suspend the rule, there were—ayes 69, noes 30.

Mr. HOOPER, of Massachusetts. I demand tellers.

Tellers were refused.

So the rule was suspended.

Mr. WILSON, of Iowa. I move to lay the motion to reconsider on the table.

The motion was agreed to—ayes 70, noes 25.

#### CLERK IN THE FOLDING-ROOM.

Mr. WINFIELD. I ask unanimous consent to offer the following resolution:

Mr. LAWRENCE, of Ohio. I object.

Mr. WINFIELD. I move to suspend the rules for the purpose of offering the following:

*Resolved*, That the compensation of T. M. Kelling, clerk in the folding-room, be made equal to that of the book-keeper in the folding-room, to commence with the present Congress, until otherwise ordered.

Mr. SCHENCK. If the rules are suspended will the gentleman permit me to offer the following?

*Resolved*, That the pages of this House be put on the same footing as to compensation as members of the Cabinet.

[Laughter.]

The motion to suspend the rules was not

agreed to, two thirds not voting in the affirmative.

#### STEAMER KEARSARGE.

Mr. RICE, of Maine, from the Committee on Naval Affairs, asked unanimous consent to consider a bill to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama.

Several MEMBERS objected.

Mr. RICE, of Maine. I move to suspend the rules.

The motion was disagreed to; two thirds not voting in the affirmative.

#### MINERAL WATERS IN DISTRICT OF COLUMBIA.

Mr. McCULLOUGH, from the Committee for the District of Columbia, moved to suspend the rules for the purpose of taking up Senate bill No. 265, to protect the manufacture of mineral waters in the District of Columbia, and for other purposes.

Mr. DRIGGS. That is to protect a trademark, and I hope it will pass.

The motion to suspend the rules was disagreed to—ayes 45, noes 49.

#### SOLDIERS' INCOME TAX.

Mr. ANCONA. I ask unanimous consent to report from the Committee on Military Affairs, House joint resolution No. 155, to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States, who have been honorably discharged, so as to relieve them from the further payment of a special five per cent. income tax imposed thereby.

No objection being made the bill was taken up and read.

Mr. ANCONA. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ANCONA moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 791, to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes.

#### ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 780) to protect the revenue, and for other purposes;

An act (H. R. No. 667) to prevent officers of the Navy from being deprived of their regular promotion on account of wounds received in battle, and for other purposes;

A joint resolution (H. R. No. 150) to provide for the payment of the claim of Colonel H. C. De Ahna for military service;

An act (H. R. No. 32) to extend the jurisdiction of commissioners of the circuit court of the United States;

A joint resolution (H. R. No. 200) authorizing the Secretary of War to settle with the Territory of Colorado for the militia of said Territory employed in the service of the United States in the years 1864 and 1865;

A joint resolution (H. R. No. 194) authorizing the Secretary of the Interior to pay Charles M. Pott a pension of fifteen dollars per month;

A joint resolution (H. R. No. 199) for the relief of certain Chippewa, Ottawa, and Pottawatomie Indians;

An act (H. R. No. 792) to authorize the Secretary of War to furnish transportation to discharged soldiers to whom artificial limbs are furnished by the Government;

A joint resolution (H. R. No. 203) authorizing the Secretary of War to contract with Dr. Alexander Dunbar;

An act (H. R. No. 794) for the relief of Francis Colgen;

An act (H. R. No. 797) granting a pension to Daniel Lucas;

An act (H. R. No. 798) for the relief of Quincy A. May;

An act (H. R. No. 800) for the relief of Marion M. Buxton;

A joint resolution (H. R. No. 195) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims, to loyal citizens of Tennessee; and

A joint resolution (H. R. No. 204) to reimburse Mrs. Mary Phelps, of Missouri.

#### DEFICIENCY BILL.

Mr. KASSON, from the committee of conference on the disagreeing votes of the two Houses on the deficiency bill, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 791) being an act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered six, eight, eleven, twenty, twenty-one, and thirty, and agree to the same.

That the Senate recede from their amendments numbered sixteen and twenty-six.

That the House recede from their disagreement to the amendment of the Senate numbered seventeen and agree to the same with amendments as follows: insert in the second line of said amendment after the word "expenses" the word "actually;" and in the sixth and seventh lines of said amendment strike out the words "twenty-five" and insert in lieu thereof the word "ten."

That the House recede from their disagreement to the twenty-seventh amendment of the Senate and agree to the same with an amendment as follows: strike out all after the word "dollars" in line four to the end of the section.

That the Senate recede from their disagreement to the amendment of the House to the amendment of the Senate numbered twenty-eight, and agree to the same.

W. P. FESSENDEN,

J. B. HENDERSON,

C. B. BUCKALEV,

Managers on the part of the Senate.

JOHN A. KASSON,

H. J. RAYMOND,

S. J. RANDALL,

Managers on the part of the House.

Mr. WENTWORTH. I would like to inquire whether there is in this report anything which increases our own pay or withholds bounties from the soldiers.

Mr. KASSON. No, sir; it has no relation to either of those subjects. The only two important items, so far as I remember, were two amendments of the Senate, disagreed to by the House, one appropriating \$40,000 in satisfaction of old war claims in Oregon; the other appropriating some two hundred and thirty thousand dollars for the pay of the marshals and other persons engaged in taking the census in the southern States, the accounts for which have been adjusted, and which the Senate proposed should be paid so far as the claimants might show themselves to be loyal. The House having disagreed to both those amendments, the Senate has receded. I know of no other important amendment.

The report of the committee of conference was agreed to.

Mr. KASSON moved to reconsider the vote by which the report of the committee was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLORED SCHOOLS IN THE DISTRICT.

Mr. INGERSOLL. I move that the House proceed to the consideration of the bill (S. No. 247) entitled "An act donating certain lots in

the city of Washington for schools for colored children in the District of Columbia."

There being no objection, the bill was taken from the Speaker's table and read a first and second time. It proposes to authorize and require the Commissioner of Public Buildings to grant and convey to the trustees of colored schools for the cities of Washington and Georgetown, in the District of Columbia, for the sole use of the colored children in the District, all the right, title, and interest of the United States in and to lots numbered one, two, and eighteen, in square nine hundred and eighty-five, in the city of Washington, the lots having been designated and set apart by the Secretary of the Interior to be used for colored schools. Whenever the lots shall be converted to other uses they are to revert to the United States.

Mr. RADFORD. What is the size of these lots?

Mr. INGERSOLL. They are ordinary sized lots.

The bill was ordered to a third reading, read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAUL S. FORBES.

Mr. KELLEY. I ask unanimous consent to report back from the Committee on Naval Affairs, for consideration at the present time, joint resolution (S. R. No. 99) for the relief of Paul S. Forbes under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho.

Mr. RANDALL, of Pennsylvania. I object.

Mr. KELLEY. I move to suspend the rules that I may report the bill.

The motion was not agreed to.

#### ELECTION OF INTERNAL REVENUE OFFICERS.

Mr. BROOMALL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting an amendment to the Constitution of the United States permitting Congress to provide by law for the election of assessors and collectors of internal revenue by the people.

Mr. BINGHAM, Mr. STROUSE, and others objected.

Mr. BROOMALL. I move to suspend the rules to allow the introduction of the resolution.

The motion was not agreed to.

#### SOLDIERS OF THE WAR OF 1812.

Mr. PERHAM. I ask unanimous consent of the House to report back from the Committee on Invalid Pensions the bill introduced by myself in reference to the soldiers of the war of 1812.

Mr. ALLEY. I object.

Mr. PERHAM. I move to suspend the rules.

Mr. INGERSOLL. I demand the yeas and nays.

The yeas and nays were not ordered.

The House refused to suspend the rules.

#### APPOINTMENT OF CABINET MINISTERS.

Mr. JOHNSON. I ask unanimous consent of the House to submit the following preamble and resolution:

Whereas the Constitution of the United States makes it the sworn duty of the President to take care that the laws be faithfully executed; and whereas this duty cannot be performed by him in person, but by officers appointed for that purpose, for the faithful performance of whose duties he is justly responsible: Therefore,

*Resolved*, That it is the right of the President, as the chief Executive of the nation, to have for his Cabinet ministers such persons only as may command his confidence; and that it is also equally his right to commit the execution of the laws to such persons under him as he may deem most suitable and efficient for the performance of their respective duties.

Mr. PRICE. I object.

Mr. WILSON, of Iowa. Is the word cotton in the resolution?

Mr. JOHNSON. No; or wool either. I move to suspend the rules in order that I may introduce the proposition.

The House divided; and there were—ayes thirty, noes not counted.

So (two thirds not voting in the affirmative) the rules were not suspended.

#### MISS CLARA BARTON.

Mr. WARD. I ask unanimous consent of the House to introduce the following resolution:

*Resolved by the Senate and House of Representatives in Congress assembled*, That the franking privilege be conferred upon Miss Clara Barton, for the period of two years from the date of the passage of this resolution.

Mr. TRIMBLE. I object.

Mr. WARD. I move to suspend the rules. The rules were not suspended.

#### FIREMAN.

Mr. WRIGHT. I have a resolution I desire to offer. While almost all of the employes of this Capitol have had their compensation increased, growing out of the changed condition of affairs in the country, the fireman under the old Hall of the House of Representatives has been left out in the cold. [Laughter.] I ask that we shall warm him as well as the others; and I hope there will be no objection to the following resolution:

*Resolved*, That the fireman employed under the old Hall of the House of Representatives shall be entitled to the same increase of pay that has been allowed to the other employes of this House.

Mr. MAYNARD. Is he paid out of the contingent fund?

The SPEAKER. The Chair supposes he will be paid if there is contingent fund enough.

There was no objection.

Mr. ROSS. I move to amend by adding the following:

That all increase of compensation allowed to the employes of the House during this session of Congress be, and the same is hereby, rescinded.

The SPEAKER. That is not germane to the pending resolution.

Mr. WRIGHT demanded the previous question.

Mr. ROSS moved that the resolution be laid upon the table.

The House divided; and there were—ayes 41, noes 40; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Mr. WRIGHT and Mr. ROSS.

Mr. JOHNSON. I move that the tellers be allowed to employ clerks, for neither one of them can count a hundred. [Great laughter.]

The House again divided; and the tellers reported—ayes 105, noes 65. [Laughter.]

Mr. ELDRIDGE. Is that a quorum?

The SPEAKER. The Chair is of the opinion that it is a quorum.

So the resolution was laid upon the table.

#### TAX ON BANK CIRCULATION.

Mr. STEVENS. I ask unanimous consent to introduce a joint resolution that the tax imposed upon notes of State banks or State banking institutions, by the act entitled "An act to amend an act to provide internal revenue," approved March 3, 1865, shall be suspended for one year.

Mr. WILSON, of Iowa. I object.

#### MORNING HOUR.

Mr. BENJAMIN. Has the morning hour commenced.

The SPEAKER. It has, and reports are now in order of a private nature, commencing with the Committee on Patents.

#### BERRY AND HIGGINS.

Mr. RICE, from the Committee on Public Buildings and Grounds, reported back House bill No. 108, for the relief of Berry & Higgins, with a recommendation that it do pass.

Mr. LAWRENCE, of Ohio. I move that it be referred to the Committee of Claims.

Mr. RICE, of Maine. It has been already thoroughly investigated. It relates to the construction of the Patent Office building, and refers the whole subject for adjustment to the Secretary of the Interior. The facts are that after the contract was made a portico was added

to the former plan, so that it became much more expensive. And these gentlemen, in consequence of the failure in 1861 of the appropriation to continue the work on this building, were subjected to a very great expense afterward in reopening the quarries that had become filled up and replacing machinery that had become injured or destroyed.

Mr. WILSON, of Iowa. What is the amount of the claim?

Mr. RICE, of Maine. I cannot tell; but the whole matter is referred to the Secretary of the Interior. I ask the Clerk to read a letter from Mr. Walter, the architect of the building.

The Clerk read as follows:

WASHINGTON, D. C., April 18, 1866.

Sir: I have the honor to acknowledge the receipt of your letter of the 9th instant, in which you desire me to communicate to you the circumstances under which Messrs. Berry & Higgins recommenced work in 1864 on the north wing of the Patent Office building; and what was said as to the prices they should be paid for the marble and granite; also whether I understood the work upon the portico of this wing to be included in the original contract, and whether the contract price was, in my judgment, a fair compensation, taking into consideration the high price of labor, &c.

In reply to these interrogatories, I have to state that the original contract for the marble and the marble-work of the north wing of the Patent Office building was made with Mr. John F. Connelly on the 1st day of April, 1857, and that it was not contemplated at that time to erect any portico at all on the north front. This is manifest by the omission of any allusion in the contract to such an appendage, as well as by the fact that Congress did not authorize it until long after the contract in question was made. These facts settle the question most decidedly that the north portico was not included in the original agreement.

On the 16th day of December, 1861, Mr. Connelly transferred his contract, by legal and proper documents, and with the official sanction of the Government, by the Secretary of the Interior, to Messrs. Berry & Higgins. Copies of this transfer with all the documents, including the original contract, are on file in the Department.

No progress having been made on the aforesaid north portico at the breaking out of the rebellion, the work was suspended until the 26th day of August, 1864, when, in pursuance of orders from the Secretary of the Interior, I directed the aforesaid contractors, Messrs. Berry & Higgins, to proceed with the work. On the receipt of this order they called upon me and stated, very emphatically, that they could not execute the north portico at the prices paid to Provost, Winton & Co. for the east and west porticoes, the details of which, it was understood, were to govern the architecture of that on the north. The reasons they gave for the conclusions they had thus arrived at were, that the quarries were abandoned and filled with mud and water; the railways, hoisting apparatus, and machinery were destroyed; that everything would have to be commenced anew, and that a fearful rise had taken place in the prices of labor, machinery, and transportation. I told them that inasmuch as the north portico formed no part of their agreement, they would not be held to the prices paid in former times on the eastern and western porticoes, and I urged upon them the necessity of reopening the quarries without delay, and of proceeding vigorously with the work, at the same time stating to them that the facts of the case would warrant me, as the superintendent of the building, in awarding them a fair and equitable compensation for their labor. In all these suggestions I had the sanction of the Secretary of the Interior, and we felt not only assured that this was the best arrangement we could make under the circumstances, but we considered ourselves fortunate in inducing contractors of so much ability and energy as Messrs. Berry & Higgins to undertake to reopen these quarries, put up the necessary machinery, and deliver the stone at such prices as we might subsequently decide, on the part of the Government, were right and proper. And I now have to say that, in view of all the knowledge that the subsequent progress of the work has developed, I am of the opinion that the cost of the material for the north portico is fully double of that which was delivered for the east and west porticoes, and were it left to me to decide I would award them one hundred per cent. advance on the prices of the aforesaid porticoes, the erection of which took place many years ago, and at a time when the quarries were in full operation, and quarry labor and expenses were one hundred per cent. less than they now are.

As it regards the workmanship of the aforesaid north portico, I am of the opinion that the same schedule of prices should prevail as governed the payments on the east and west porticoes, with the addition of sixty per cent. to all the items, that being the average increase in the prices of the labor of marble-masons since the aforesaid eastern and western porticoes were erected. This would have been my award had the power of fixing these prices remained with me.

In most cases, where a contract is entered into for a certain work, the contractor takes the risk of a rise or a fall of prices, but in the present instance there is no contract to which the contractors may be held, so far, at least, as it regards the portico in question. It therefore devolves upon the Government to mete out justice, which can best be done by adding to prices formerly paid for similar work and materials whatever advance a general change of values may have made apparent.

These remarks and conclusions apply as well to the granite and the granite-work of the aforesaid north portico as they do to the marble, excepting only that the cost of procuring the granite was not enhanced beyond the ordinary rise in the cost of quarrying and transportation. I am therefore of the opinion that an addition of sixty per cent. to the prices paid for the granite and the granite-work of the east and west porticoes would form a proper schedule of prices for the northern portico.

I have the honor to remain, sir, very respectfully,  
yours,  
THOMAS U. WALTER,  
Late Architect United States Capitol Extension, &c.  
Hon. JOHN H. RICE, Chairman of Committee on Public Buildings and Grounds, House of Representatives.

Mr. RICE, of Maine. I also have a letter here from the former Secretary of the Interior, Mr. Usher, in which he concurs fully in the facts stated here, that a new contract was in fact entered into by which they were to have fair compensation allowed them for these additional services; and the present architect of the public buildings, Mr. Clark, concurs in the same opinion. This whole matter is to be left to the Secretary of the Interior for adjustment. I understand the present Secretary of the Interior has resigned; I do not know who may be the next Secretary of the Interior. But with Mr. Harlan I should certainly have felt the fullest confidence that the whole matter would have been adjusted on principles of right and equity.

Mr. PRICE. I would inquire if this bill provides for an examination merely, or for settlement and payment of the claim.

Mr. RICE, of Maine. For a settlement by the Secretary of the Interior.

Mr. PRICE. I wish to amend by making it that the Secretary of the Interior shall examine and report to Congress at its next session.

Mr. RICE, of Maine. I prefer not to do that.

Mr. DELANO. I desire to know of the gentleman from Maine [Mr. RICE] whether he himself has examined this question, and whether from that examination he is prepared to recommend the passage of this joint resolution.

Mr. RICE, of Maine. The committee of which I am a member have carefully examined the matter, and unanimously recommend the passage of this joint resolution. In addition to the quarries becoming filled with water, and the engines and railways becoming decayed, there was held back by the contract some twelve thousand dollars as security. Therefore they felt that they could not abandon their contract, as they would have liked to do in consequence of the increase of the labor. The former Secretary of the Interior made a new contract for the marble-work for the Capitol extension, without any direct authority of law, for an amount very much larger than it is proposed to pay to these gentlemen.

Mr. PRICE. I must object to this joint resolution because it opens the door without any kind of restriction; and when we come back here at the next session we may discover that many thousands of dollars have been paid out for which no person is responsible.

Mr. WILSON, of Iowa. As the gentleman from Maine [Mr. RICE] states that the committee of which he is the chairman have thoroughly investigated this matter, I would ask him how much these persons claim of the Government.

Mr. RICE, of Maine. They claim sixty per cent.

Mr. WILSON, of Iowa. How much is that?

Mr. RICE, of Maine. We cannot tell, for the work is still going on.

Mr. WILSON, of Iowa. Have these parties never stated the aggregate amount of their claim?

Mr. RICE, of Maine. They have not, for it is impossible for them to state it.

Mr. WILSON, of Iowa. Is this increase of sixty per cent. to run through the entire contract until the work is completed?

Mr. RICE, of Maine. That is to be left to the Secretary of the Interior.

Mr. WILSON, of Iowa. I am not willing to leave that to the Secretary of the Interior or to any other officer of the Government.

Mr. DELANO. If the gentleman from Maine [Mr. RICE] will allow me, I will say that I am satisfied this claim needs a more thorough examination and a more mature deliberation than it is possible for this House to give it tonight. I am sure, from what I have heard and know of the case, that if we act upon it to-night we will be doing injustice to the Government. And with the permission of the gentleman from Maine I will move to refer this joint resolution to the Committee of the Whole on the Private Calendar. I think it is due to ourselves that a question involving so much money should have some examination. It is now nearly three o'clock in the morning, and we should not be called upon to vote for a claim which will take we do not know how much money out of the Treasury.

Mr. RICE, of Maine. I will yield to allow that motion to be made, although I think it is doing great injustice to these parties. And I do not see why a report from the Committee on Public Buildings and Grounds should not be received with as much respect as reports from other committees.

Mr. PRICE. I do not desire to treat the committee with any disrespect. But the chairman of the committee cannot state how much money this is to take, and therefore I am not now prepared to vote upon it.

Mr. DELANO. I now move that this joint resolution be referred to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

Mr. DELANO moved to reconsider the vote by which the joint resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HENRY S. DAVIS.

Mr. RICE, of Maine, from the Committee on Public Buildings and Grounds, reported a bill for the relief of Henry S. Davis; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

PUBLISHING LAWS OF DAKOTA.

Mr. RICE, of Maine. I ask leave to report from the Committee on Territories a bill to provide for the publication of the laws of Dakota Territory.

Mr. CONKLING. Let the bill be read.

The bill was read at length. It authorizes the secretary of the Territory of Dakota to expend a sum of money not exceeding \$3,000 out of the amount now on hand and saved out of the appropriations heretofore made for the support of the government in said Territory, for the purpose of publishing the laws enacted at the last session of the Legislature of the Territory of Dakota.

Mr. BURLEIGH. Let me say a word of explanation. This bill does not ask for the appropriation of a dollar of the public money. The Legislature of Dakota passed a joint resolution asking to be allowed to expend a sum of money for this purpose that has been saved out of moneys heretofore appropriated. A bill for this purpose was drawn up and referred to a committee, but the member of the committee who was put in charge of it went away and the bill could not be found. I drew up another bill, which was referred to the Committee on Territories, who acted favorably upon it; but a member of the committee has carried that bill away with him. I have now drawn up another bill, providing that the secretary of the Territory may be allowed to expend a sum not exceeding \$3,000, of money that has been saved out of appropriations heretofore made, for the purpose of publishing the new code, for the New York code, which was adopted by the Legislature of Dakota last winter.

Mr. CONKLING. I have this suggestion to make to the gentleman from Dakota, [Mr. BURLEIGH:] we are constantly improving our code in New York, and it will be a great deal better and more valuable next winter than it is now.



Mr. BURLEIGH. But the Legislature has already adopted the code.

Mr. LAWRENCE, of Ohio. I object to the introduction of this bill.

#### OREGON AND WASHINGTON WAR CLAIMS.

On motion of Mr. DELANO, the Committee of Claims were discharged from the further consideration of the memorial of citizens of Washington Territory in relation to Oregon and Washington Territory war claims.

GEORGE W. LANE.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief George W. Lane; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

TIMOTHY LEYDEN.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Timothy Leyden; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

JOHNSON A. DAWSON.

Mr. DELANO, from the Committee of Claims, also reported a bill for the relief of Johnson A. Dawson, of Mount Sterling, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

EDWARD BLANCHARD.

Mr. DELANO, from the Committee of Claims, also reported a bill for the relief of Edward Blanchard; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

HENRY RUDD.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Henry Rudd, of Henry county, Iowa; which was read a first and second time.

Mr. RANDALL, of Pennsylvania. I make the point of order that this is an appropriation bill, and must go to the Committee of the Whole.

The SPEAKER. This is an appropriation bill.

Mr. DELANO. I hope my friend from Pennsylvania will withdraw that point. This is a very meritorious claim.

Mr. RANDALL, of Pennsylvania. I will waive the point for the present and permit the bill to be read.

The bill was read. It provides that the Secretary of the Treasury be authorized and directed to pay to Henry Rudd, of Henry county, Iowa, \$9,150, in full for all losses and compensation to him for horses purchased and delivered under a contract with the Government.

Mr. RANDALL, of Pennsylvania. I insist on my point of order. This is not the time to pass bills for the relief of contractors.

The bill was referred to the Committee of the Whole on the Private Calendar and ordered to be printed.

NORMAN HALL.

Mr. DELANO, from the Committee of Claims, reported back the bill (H. R. No. 463) entitled "An act for the relief of Norman Hall;" which was referred to the Committee of the Whole on the Private Calendar and ordered to be printed.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

An act (S. No. 353) for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians;

An act (S. No. 447) for the admission of the State of Nebraska into the Union; and

An act (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes.

#### GOLDSMITH BROTHERS.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Goldsmith brothers; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ABBY GREEN.

Mr. DELANO, from the Committee of Claims, reported back a joint resolution (S. R. No. 112) for the relief of Mrs. Abby Green; which was referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

#### PROPERTY FOR MILITARY PURPOSES.

Mr. DELANO, from the Committee of Claims, reported back a bill (H. R. No. 666) entitled "An act authorizing the Secretary of War to purchase certain property for military purposes;" which was referred to the Committee of the Whole on the Private Calendar and, with the accompanying report, ordered to be printed.

#### SENATE DEBATES, FIRST CONGRESS.

Mr. HAYES, from the Committee on the Library, submitted an adverse report upon a resolution relative to purchasing copies of a proposed publication of debates in the first Senate of the United States, from a journal of Hon. William Maclay; which was laid on the table.

#### RAILROADS AND TELEGRAPHS IN KANSAS.

Mr. DRIGGS, from the Committee on Public Lands, reported back the bill (S. No. 320) entitled "An act to amend an act entitled 'An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State,' approved March 3, 1863;" which was ordered to be laid upon the Speaker's table till the next session.

#### UNITED STATES FENCING, ETC., COMPANY.

Mr. COBB, from the Committee for the District of Columbia, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 735) entitled "An act to incorporate the United States Fencing, Ditching, Draining, and Land-Reclaiming Company. The bill was read.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes between the two Houses on the civil appropriation bill.

#### CIVIL APPROPRIATION BILL.

Mr. STEVENS submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 6, 7, 11, 12, 13, 16, 19, 22, 33, 48, 49, and 55, and agree to the same.

That the Senate recede from their amendments numbered 4, 14, 15, 17, 24, 25, 34, 35, 37, 38, 39, 40, 41, 42, 43, and 44.

That the Senate agree to the amendment of the House to the eighth amendment of the Senate.

That the Senate agree to the amendment of the House to the ninth amendment of the Senate.

That the House recede from their amendment to the twenty-sixth amendment of the Senate, and agree to the same.

That the Senate agree to the amendment of the House to the thirtieth amendment of the Senate.

That the House recede from their amendment to the fifty-second amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the fifty-third amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "And pro-

vided further, That the pay of the Speaker shall be \$8,000 per annum."

That the House recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out the words following: "for the continuation of the work on the north portion of the Patent Office building, \$50,000;" and also recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out as follows: on page 7, line eight, from the word "for" down to and including the word "dollars" in line fourteen, with an amendment as follows: in said last clause strike out the words "one hundred" and insert in lieu thereof the word "fifty;" and the Senate agree to the same, and also to so much of the amendment of the House to the said twenty-second amendment as proposes to strike out all after the word "dollars," in line two, on page 7, down to and including the word "necessary," in line eight on the same page.

That the House recede from its amendment to the Senate amendment numbered fifty-four, and agree to the same, with an amendment as follows: in line two, after the word "clerks," insert "committee clerks;" in line three, after the words "messengers and," insert "all;" in same line, after the word "Senate," insert "and House of Representatives, and to the Globe and official reporters of each House, and the stenographer of the House, and to the Capitol police, and the three superintendents of public gardens and their clerks and assistants."

JOSEPH STEWART,  
W. FESSENDEN,  
REVERDY JOHNSON,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
F. C. LE BLOND,  
*Managers on the part of the House.*

Mr. WILSON, of Iowa. It will be observed that my name is not attached to that report. I declined to sign it, and I wish briefly to assign the reasons why I refused to do so. In the first place, the committee refused to agree to any equalization of the bounties of the soldiers; and in the second place, it retained the provision in relation to the increase of the pay of Senators and members of the House of Representatives. I was opposed to retaining that provision and in favor of some arrangement by which the bounty question should be settled during this session of Congress. It was for this reason I refused to sign the report, and I hope that it will not be adopted.

Mr. STEVENS. I will be as brief as the gentleman from Iowa. The committee found itself with a large bill embracing appropriations for many millions. It was found from the unequivocal declarations of Senators, as my friend will admit, that the Senate would not possibly agree to any bounty bill. In this the gentleman will bear me out.

Mr. WILSON, of Iowa. That was the position taken by the conference on the part of the Senate. I desire to test the sense of the House on the report, and that the House should declare some provision should be embodied for the equalization of bounties.

Mr. STEVENS. They gave us distinctly to understand that had been tried over and over again in the Senate, and they feared if it were retained in the bill, the bill must fail. We did not think it was our duty to let the bill fail. Now, with regard to the other item. It was introduced by the Senate. It reduces the mileage from forty cents to twenty cents a mile. We found upon calculation that the present bill slightly increases the aggregate amount. We believed that none of us were overpaid, and that the loss to our constituents would be very small. I demand the previous question.

The previous question was seconded.

The House divided on ordering the main question; and there were—ayes fifty-four, noes not counted.

Mr. WILSON, of Iowa demanded tellers.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. STEVENS, were appointed.

The House again divided; and the tellers reported—ayes 27, noes 20.

So the main question was ordered to be now put.

Mr. WILSON, of Iowa, demanded the yeas and nays on the adoption of the report.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 14, nays 101, not voting 71; as follows:

YEAS—Messrs. Bergen, Cooper, Harris, Hogan, Jencks, Johnson, Latham, Le Blond, Lettwich, Moorhead, Nicholson, Spalding, Stevens, and Strouse—14.

**NAYS**—Messrs. Alley, Allison, Ancona, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Boyer, Bromwell, Broomall, Sidney Clarke, Cobb, Conkling, Culom, Defrees, Delano, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hotchkiss, Chester D. Hubbard, James K. Hubbell, Ingersoll, Julian, Kasson, Kelley, Kerr, Ketcham, Koonz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marston, McClurg, McCullough, Mercer, Morrill, Morris, Myers, Newell, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Price, Radford, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Stokes, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Thornton, Trimble, Van Aernum, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Winfield, and Wright—101.

**NOT VOTING**—Messrs. Ames, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Brandegee, Buckland, Bundy, Chandler, Reader W. Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Eckley, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Hooper, Asabel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Longyear, Marvin, Maynard, McIndoe, McKee, McRuer, Moulton, Noell, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Rogers, Sitgreaves, Sloan, Smith, Starr, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Windom, and Woodbridge—71.

So the report was rejected.

Mr. WENTWORTH moved to reconsider the vote by which the House disagreed to the report of the conference committee; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I move that the House do further insist upon its disagreement to the Senate's amendments, and ask for another committee of conference.

Mr. ELDRIDGE. Is it not in order to move to lay the bill on the table?

The SPEAKER. It is.

Mr. ELDRIDGE. I move to lay it on the table; and on that I call the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the negative—yeas 12, nays 96, not voting 68; as follows:

**YEAS**—Messrs. Eldridge, Harris, Hogan, Johnson, LeBlond, Leftwich, Niblack, Nicholson, Ross, Shanklin, Strouse, and Trimble—12.

**NAYS**—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bergen, Bingham, Boutwell, Boyer, Bromwell, Broomall, Cobb, Conkling, Cooper, Culom, Defrees, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hotchkiss, Chester D. Hubbard, James K. Hubbell, Ingersoll, Jencks, Julian, Kasson, Kelley, Kerr, Ketcham, Koonz, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marston, McClurg, Mercer, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Price, Radford, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Stokes, Taber, Nathaniel G. Taylor, John L. Thomas, Thornton, Van Aernum, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Winfield—96.

**NOT VOTING**—Messrs. Alley, Ames, James M. Ashley, Baldwin, Beaman, Bidwell, Blaine, Blow, Brandegee, Buckland, Bundy, Chandler, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Henderson, Hill, Hooper, Asabel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Humphreys, Jones, Kelso, Longyear, Marvin, Maynard, McCullough, McIndoe, McKee, McRuer, Moulton, Noell, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Sitgreaves, Sloan, Smith, Spalding, Starr, Stilwell, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Windom, Woodbridge, and Wright—68.

So the bill was not laid on the table.

Mr. FARNSWORTH. I desire to offer some instructions to the committee.

Mr. WILSON, of Iowa. I will hear the proposition.

Mr. FARNSWORTH. I move the following instructions:

That the committee be instructed to insist upon a provision which shall secure \$100 additional bounty to those soldiers who served during the first years of the war long enough to entitle them to the \$100 bounty under the laws and orders then existing.

Mr. GARFIELD. While I think that is very proper, I am sure the Senate would not enter into any conference if the committee of the House should go there trammelled by any instructions. There have been repeated refusals to go into a conference on the ground that it would not be a free conference where one of the parties was hampered by instructions.

Mr. FARNSWORTH. During my recollection this practice has prevailed to a considerable extent. I have known several instances of it.

The SPEAKER. The Senate made the point at the last Congress that it was not a free conference.

Mr. WILSON, of Iowa. I cannot yield to allow that.

The previous question was seconded and the main question ordered; and under the operation thereof the motion that the House insist and ask for another committee of conference was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER appointed as the new committee of conference, Messrs. WILSON of Iowa, BANKS, and NIBLACK.

#### ARMY BILL.

Mr. FARNSWORTH, from the committee of conference on the disagreeing votes of the two Houses on the Army bill, submitted the following report:

The committee of conference upon the disagreeing votes of the two Houses of Congress upon the amendment of the Senate to the substitute of the House to the bill (S. No. 138) to increase and fix the military peace establishment of the United States, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate, and agree to the same with the following amendments, namely:

Section one, line three, strike out "twelve" and insert "ten."

Section three, line three, strike out "six" and "three" and insert "four" and "two;" line seventeen strike out "four of the companies from each regiment" and insert "any portion of the cavalry force."

Section four, line seven, strike out "five" and insert "four;" line eight, after the word "men," insert "and four regiments, of ten companies each, to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps." At the end of section four insert: "The Veteran Reserve corps shall be officered by appointment from any officers and soldiers of volunteers, or of the regular Army, who have been wounded in the line of their duty while serving in the Army of the United States in the late war, and who may yet be competent for garrison or other duty, to which that corps has heretofore been assigned."

Section six, line three, strike out "two" and insert "one;" lines four and five strike out "one regimental company."

Insert at the end of section eight: "It shall be competent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, provided it shall be found on medical inspection that by such wounds they are not unfitted for garrison or other light duty; and such men when enlisted shall be assigned to service exclusively in the regiments of the Veteran Reserve corps." In the same section, after the word "years," in line three, insert "for cavalry, and three years for artillery and infantry."

Section seven, strike out all to the word "academy," inclusive, in line four, and in lieu thereof insert: "that fifteen bands, including the band at the Military Academy, may be retained or enlisted in the Army, with such organization as is now provided by law, to be assigned to brigades in time of war, and in time of peace to assembled brigades or to forts or posts at which the largest number of troops shall be ordinarily stationed; and the band at the Military Academy shall be placed on the same footing as other bands."

Section fourteen, line five, strike out "cavalry" and insert "infantry."

At the end of section thirteen insert: "but after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty; and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers."

Section seventeen, strike out all to the word "cavalry," in line sixteen, and in lieu thereof insert: "that the medical department of the Army shall hereafter consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; one chief medical purveyor and four assistant medical purvey-

ors, with the rank, pay, and emoluments of lieutenant colonels of cavalry, who shall give the same bonds which are or may be required of assistant paymasters general of like grade, and shall, when not acting as purveyors, be assignable to duty as surgeons by the President; sixty surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and fifty assistant surgeons, with the rank, pay, and emoluments of first lieutenants of cavalry, for the first three years' service, and with the rank, pay, and emoluments of captains of cavalry after three years' service; and five medical store-keepers, with the same compensation as is now provided by law; and all the original vacancies in the grade of assistant surgeon shall be filled by selection by examination from among the persons who have served as staff or regimental surgeons or assistant surgeons of volunteers in the Army of the United States two years during the late war; and persons who have served as assistant surgeons three years in the volunteer service shall be eligible for promotion to the grade of captain."

Section twenty-one, line nine, strike out "sixteen" and insert "thirteen."

Section twenty-four, strike out all after the word "act," in line sixteen, and insert, "shall be entitled in case of passing the examination, and being appointed or commissioned, to receive mileage from the place of his residence to the place of examination, or such portion of that distance as he may actually travel, the same as is paid to officers traveling under orders, but there shall be paid no other compensation."

Section twenty-seven, line seven, strike out "and directed" and "non-," line eight, strike out "other."

Section twenty-eight, after the word "States," in line six, insert "or of either of the States in insurrection."

At the end of section twenty-nine insert, "and officers of the regular Army who have also held commissions as officers of volunteers, or commanded volunteers, shall not on that account be held to be volunteers under the provisions of this act."

At the end of section thirty-five insert, "Provided, That no officer who is furnished with quarters in kind shall be entitled to receive the increased commutation of rations hereby authorized."

Section thirty-six, strike out all after the word "that," in the first line, to the word "and," inclusive, in the sixth line. In line nine, strike out "are" and insert "is."

Insert as a new section, No. 37: "that the Secretary of War be, and he is hereby, directed to have prepared, and to report to Congress at its next session, a code of regulations for the government of the Army and of the militia in actual service, which shall embrace all necessary orders and forms of a general character for the performance of all duties incumbent upon officers and men in the military service, including rules for the government of courts-martial; the existing regulations to remain in force until Congress shall have acted on said report."

HENRY WILSON,

IRA HARRIS,

Managers on the part of the Senate.

J. F. FARNSWORTH,

NELSON TAYLOR,

Managers on the part of the House.

Mr. FARNSWORTH. I will explain this matter if members will give me their attention. With two or three exceptions this is the House bill substantially. The bill as reported by the committee of conference provides for forty-five regiments of infantry, ten regiments of cavalry, and five of artillery, making in all sixty regiments for the military establishment. The forty-five regiments of infantry are composed of ten old regiments with their present organization, twenty-seven regiments to be formed from the battalions now existing by adding two new companies to each battalion, four colored regiments and four Veteran Reserve regiments. One principal ground of contest between us and the Senate has been with reference to the Veteran Reserve corps. The House bill provided for ten Veteran Reserve regiments; the Senate bill for none. The Senate was very loath to concede anything in this regard. All I can say is, the best we could do was to get the committee on the part of the Senate to join with us in recommending four regiments of Veteran Reserves. The House bill provides for five regiments of colored troops; we have cut it down to four. The Senate bill provided for twelve regiments of cavalry; six now being in existence and six to be raised, three of the latter to be colored, and three white. We have come down to ten regiments of cavalry, four new ones to be raised, two of which are to be colored, with the provision that any portion of the cavalry force may be drilled, armed, and equipped as foot soldiers, at the discretion of the President. With reference to the officers of the Veteran Reserve corps they are placed on the same footing as other disabled officers, no better, no worse. In officering these four regiments other dis-

abled officers of other regiments stand on the same footing with them and have the same chance of being appointed. The officers of colored troops are declared by this bill to be officers of volunteers so as to place them on an equal footing with other officers. The Senate concurred in the House provision in reference to the organization of the medical and quartermaster's departments. The House bill provided that enlistments should be for three years; the Senate for five. I should have been very glad myself if the House had provided differently. I prefer that the enlistments should be for five years; I think three years is entirely too short a time. But in deference to the expressed wish of the House we insisted upon that provision being retained, compromising, however, with the Senate by providing that recruits for the cavalry regiments should be enlisted for five years. It is much easier to obtain recruits for cavalry service than for infantry and artillery; and it is much more important that they should be enlisted for a longer period in order that the men should be thoroughly drilled and fitted for service. The Senate bill provided that each regiment should be entitled to a band of music; the House bill provided that only fifteen bands should be allowed in the whole military establishment, and the Senate conceded that to us. I believe these are the only points that the House will take any interest in.

I will only say, in conclusion, that this was the very best we could do, and, under the circumstances, the committee on the part of the House thought it best to recommend the passage of the bill. It is very important that a bill should be passed. It is recommended and strongly insisted upon by General Grant, and by all the officers of the Army. I am satisfied if this is not adopted we shall lose the Army bill. I think it is a very fair bill. We retain the provision in reference to officering the new regiments, by which all the vacancies below the grade of captain are to be filled by officers and men who have served with the volunteers. Under the law as it now exists with reference to the Veteran Reserve corps, a man who has been disabled by wounds may be appointed an officer of a regular regiment. An officer who has lost an arm—as many of our most worthy officers have, who are still in the service—may still, under the present law, be appointed to a command in any regiment of the regular service. So that the necessity for enlarging the volunteer corps on that account is not so great. The argument on the part of the Senate against the Veteran Reserve corps is this: that we shall get into the service a large number of officers who are incapacitated bodily for the performance of efficient service, and who will be, in consequence, retired in a short time; that under the law as it now exists they will be placed upon the retired list, with large pay. There is considerable force in this argument.

But, sir, I will not occupy the time of the House. Unless some gentleman desires to say something on the subject I will call the previous question.

Mr. FARQUHAR. I simply desire to ask the gentleman from Illinois if there is any change in this bill in regard to the maximum number of companies.

Mr. FARNSWORTH. No, sir; that remains the same.

Mr. SCHENCK. Mr. Speaker, I desire to say, in all candor, that the result of this conference is better than I expected. The gentleman who has made the report has certainly stated fairly the fact that in most of the details of the bill the views of the House prevail, and that in various sections following that which provides for the aggregate force of the Army, the bill corresponds in a good degree, and indeed I might say almost exactly, with the bill which this morning my colleague upon the committee [Mr. PAINE] and myself desired to submit to the House as a compromise.

The only point as to which there has been a material difference between the two Houses, and in regard to which the House, by this re-

port, has made a considerable concession to the Senate, is with reference to the Veteran Reserve corps. As gentlemen of the House are aware, the House has shown throughout a determination to insist upon some provision for wounded officers and men who are still capable of military duty. Hence, on each occasion when we have adopted a bill, we have provided for ten regiments, to be called the Veteran Reserve corps, to be made up of wounded or disabled men from all branches of the service, and to be officered by wounded or disabled officers. By this compromise the Veteran Reserve corps is cut down to four regiments. But then it must be remembered that while we give up four regiments of colored infantry, we gain, upon the last bill passed by the House, two regiments of colored cavalry. Two out of the four regiments of cavalry are to be colored.

There is another material concession to the Senate in allowing the conversion of the present nine large regiments of infantry, organized at the beginning of the war, into thirty-seven regiments, by adding two companies to each battalion. It is for the House to determine whether these changes are so material as to warrant the rejection of the report of the committee of conference, which would doubtless result in our having no Army bill whatever. I repeat that so far as concerns the minor details—and although minor they are not unimportant, for they relate to the advantages to be given to the volunteer forces—the views of the House have been maintained successfully by the last committee of conference, according to what had been agreed upon by the first committee of conference in those particulars. I will not, for one, oppose the adoption of this report.

Mr. GARFIELD. Mr. Speaker, I think the House may congratulate itself on the success of this conference, and that the committee may congratulate itself on the very happy result which it has achieved in this struggle. I have looked through this bill with a great deal of care, and as the result of that examination I must say that I hope the House will adopt the report of the conference committee; for I am sure it is very much better than we had any reason to hope for, considering the results of the last attempt at a conference with the Senate.

Mr. SCHENCK. I desire to add one word more. We found in conference with the Senate they were just as determined to have not one single regiment as a Veteran Reserve corps as the House was to have ten. Some compromise, therefore, had to be made. The only question was whether we would come down to four, when in the morning they were willing to give us five. They abandoned their own ground.

Mr. PAINE. I hold in my hand a document on which I made accurate notes of the agreements of the morning. In looking through the second conference report, I find there are only three points in which the report differs from the report to which the third conference agreed to subscribe. We were willing to agree to everything except the provisions relating to the number of ordinary infantry regiments and the number of the colored troops and of the Veteran Reserve corps. The difference is not enough to warrant the rejection of this report, and I hope it will be adopted.

Mr. FARNSWORTH demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. FARNSWORTH moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body further insisted on its amendments to the civil appropriation bill disagreed to by the House and agreed to the further conference asked for, and had appointed Mr. SHERMAN, Mr. HARRIS,

and Mr. EDMUNDS as managers of such conference on its part.

#### ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania;

An act (H. R. No. 468) to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana;

Joint resolution (H. R. No. 197) authorizing a contract with Vinnie Beam for a statue of Abraham Lincoln; and

Joint resolution (H. R. No. 207) to pay Colonel Lewis F. Fix.

Mr. DRIGGS (at quarter past four o'clock, a. m.) moved that the House do now adjourn.

Mr. GARFIELD. I understand that the points of disagreement between the two Houses on the pending bills promise soon to be adjusted, and I hope the gentleman will not insist on the motion to adjourn.

Mr. DRIGGS. I withdraw the motion.

#### REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. FARQUHAR. I ask unanimous consent to submit the following resolution:

*Resolved*, That a select committee of three members of the House be appointed and instructed to inquire into the expediency of an early removal of the seat of the Government of the United States to some eligible point on the west bank of the Mississippi, and the appropriation of the present Capitol, and other public buildings, when vacated, as the National Homes for disabled officers, soldiers, and sailors, their widows and orphan children; and that they report to the next session of this Congress.

Mr. WENTWORTH. Strike out "west bank of the Mississippi" and insert "south shore of Lake Michigan."

Mr. PERHAM. I object.

Mr. FARQUHAR. I move to suspend the rules.

The rules were not suspended.

#### MEXICO.

Mr. FARNSWORTH. I ask unanimous consent to introduce the following resolution:

*Resolved*, That it is the duty of the Government to demand the withdrawal of all foreign troops from the republic of Mexico so as to leave the citizens thereof free to govern themselves.

Mr. ELDRIDGE. What Government is it?

Mr. FARNSWORTH. It is to leave them to construct a government of their own. I move to suspend the rules.

The rules were not suspended.

#### FENCING AND DITCHING COMPANY.

The Clerk then concluded the reading of House bill No. 735, to incorporate the United States Fencing, Ditching, Draining, and Land-Reclaiming Company which had previously been suspended.

Mr. CONKLING. I would like to know how it is that the Committee for the District of Columbia comes to report a bill which seems to have dominion of the air, certainly of the earth, and not of the District of Columbia in any sense whatever that I can discover.

Mr. COBB. Presuming that the inquiry of the gentleman from New York [Mr. CONKLING] is made in good faith, I will answer it by stating that this is not one of those bills that contain a roving commission; but it is confined to the District of Columbia. The object of this bill is to enable the inventor of a certain ditching-machine to organize a company for the purpose of selling them.

Mr. PRICE. Is it an excavator or a mole ditcher?

Mr. COBB. Not being myself versed in the science I cannot tell.

Mr. PRICE. There is a great deal of difference between an excavator for ditching and a mole ditcher.

Mr. COBB. I will state to the gentleman that the main business to which it is expected this machine will be put is to assist in building



some of the numerous railroads that he has been instrumental in having chartered this session.

Mr. PRICE. That is the reason why I asked the question. I do not want these railroads spoiled by a bad kind of ditcher being employed on them.

Mr. LATHAM. I would inquire of the gentleman from Wisconsin [Mr. COBB] if it is intended that the "pioneer ditcher of California" shall run the machine here provided for? [Laughter.]

Mr. COBB. "The pioneer ditcher" is not interested in this institution, so far as I know. The question was upon agreeing to the substitute reported by the committee; and being taken, it was agreed to.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. CONKLING. I move to lay the bill on the table.

The question was taken; and upon a division there were—ayes forty-nine, noes not counted. So the bill was laid on the table.

Mr. CONKLING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NORMAN WIARD.

Mr. MARSTON, from the Committee on Military Affairs, reported a bill for the relief of Norman Wiard; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment House bill No. 815, being an act supplemental to the act to appropriate money for postal services.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 179) in relation to the district courts of the United States in the States of California and Louisiana;

An act (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia;

An act (S. No. 324) for the relief of John Hastings, late surveyor and depositary of public moneys at Pittsburg;

An act (S. No. 424) to incorporate the Washington Temperance Society of the city of Washington, District of Columbia; and

Joint resolution (S. R. No. 133) to change the place of holding the terms of the circuit court of the district of West Virginia.

#### NATIONAL BUREAU OF INSURANCE.

On motion of Mr. MOORHEAD, the Committee of Ways and Means were discharged from the further consideration of House bill No. 675, for the creation of a national Bureau of Insurance, and to provide for funding the indebtedness of the United States; and the same was laid on the table.

#### NATIONAL ACCIDENT INSURANCE COMPANY.

Mr. MERCUR, from the Committee for the District of Columbia, reported back Senate bill No. 290, to incorporate the National Life and Accident Insurance Company of the District of Columbia; which was referred to the Committee of the Whole on the Private Calendar and ordered to be printed.

#### ENVELOPE, PAPER, AND STAMP COMPANY.

Mr. MERCUR, from the Committee for the District of Columbia, also reported back House bill No. 95, to incorporate the National Union Envelope, Paper, and Stamp Company of Washington, with a recommendation that the same do pass.

Mr. CULLOM moved to lay the bill upon the table.

The motion was agreed to.

Mr. CULLOM moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MANUFACTURE OF MINERAL WATER.

Mr. NICHOLSON. I am requested by the gentleman from Maryland [Mr. McCULLOUGH] to report back, from the Committee for the District of Columbia, Senate bill No. 265, to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes, with a recommendation that the same do pass.

No objection was made.

Mr. ELDRIDGE. I move that the further consideration of the bill be postponed until the second Tuesday in December next, after the morning hour.

The motion was agreed to.

Mr. ELDRIDGE subsequently moved to reconsider the vote by which the bill was postponed.

The motion to reconsider was entered on the Journal.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 815) supplemental to the act to appropriate money for postal services.

#### EVIDENCE OF MARRIAGES IN THE DISTRICT.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back Senate bill No. 185, to preserve evidence of marriages in the District of Columbia, with a recommendation that the same do pass.

The bill was read at length.

Mr. CONKLING. I notice from the reading of the bill that the certificate of the functionary performing marriage is to be conclusive evidence of the facts therein stated. I think that is too broad a provision, where so many important interests relating to property may be affected. I move to amend by striking out the word "conclusive," and inserting in lieu thereof the word "presumptive."

Mr. INGERSOLL. I have no objection to that.

The amendment was agreed to.

The question was upon the third reading of the bill as amended.

Mr. INGERSOLL. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time.

Mr. INGERSOLL. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The question was then taken upon the passage of the bill; and upon a division there were—ayes 32, noes 24; no quorum voting.

Mr. WENTWORTH. I move a call of the House.

The question was taken; and upon a division there were—ayes 9, noes 45.

So the motion was not agreed to.

Mr. BERGEN (at five minutes of five o'clock a. m.) moved that the House adjourn.

The motion was not agreed to.

The question again recurred upon the passage of the bill to preserve the evidence of marriages in the District of Columbia, upon which no quorum had voted.

The question was again taken; and upon a division there were—ayes 38, noes 27; no quorum voting.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 36, nays 63, not voting 87; as follows:

YEAS.—Messrs. Alley, Ancona, Anderson, Baxter, Benjamin, Bromwell, Cobb, Deftrees, Eggleston, Farnsworth, Hart, Hayes, Higby, Chester D. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Kuykendall, Latham, Leftwich, Mercer, Miller, Morris, Myers, Newell, Nicholson, Orth, Paine, Patterson, Ross, Sawyer, Van Aernam, Ward, Welker, Stephen F. Wilson, and Winfield—36.

NAYS.—Messrs. Allison, Baker, Barker, Bergen, Bidwell, Bingham, Boutwell, Boyer, Broomall, Sidney Clarke, Conkling, Cullom, Delano, Eldridge, Eliot, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Abner C. Harding, Hogan, Holmes, Hotchkiss, Johnson, Julian, Kasson, Kelley, Kerr, Ketcham, Koontz, Ladin, George V. Lawrence, William Lawrence, Le Blond, Marshall, Maynard, McCullough, Morrill, O'Neill, Perham, Phelps, Plants, Price, Alexander H. Rice, John H. Rice, Ritter, Schenck, Shanklin, Stokes, Strouse, Tabor, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Thornton, Trimble, Burt Van Horn, Robert T. Van Horn, Wentworth, Whaley, Williams, and Wright—63.

NOT VOTING.—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Cooper, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Henderson, Hill, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburt, Humphrey, Jones, Kelso, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Moorhead, Moulton, Niblack, Noel, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Rogers, Rollins, Scofield, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Windom, and Woodbridge—87.

So the bill was rejected.

Mr. CONKLING moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MANUFACTURERS OF MINERAL WATER.

Mr. ELDRIDGE. I move to reconsider the vote by which the bill (S. No. 265) entitled "An act to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes," was postponed until next December.

Mr. PRICE. I move that the motion to reconsider be laid on the table.

The motion of Mr. PRICE was not agreed to. The question recurring on the motion of Mr. ELDRIDGE.

Mr. INGERSOLL called the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurring on the motion to postpone the bill till next December,

Mr. ELDRIDGE withdrew the motion.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### COLORS MUTUAL BUILDING ASSOCIATION.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back the bill (H. R. No. 383) entitled "An act to incorporate the Colored Mutual Building Association of the city of Washington," with a recommendation that it pass.

The question being on ordering the bill to be engrossed for a third reading, the bill was read.

Mr. BOUTWELL. I desire to ask the gentleman from Illinois [Mr. INGERSOLL] what he expects these corporators to do under this act.

Mr. INGERSOLL. They are all men of color, who desire to be incorporated for the purpose of erecting buildings, which they may lease to their poorer brethren at cheap rates.

Mr. BOUTWELL. The gentleman from Illinois must know that there is nothing in this bill which indicates the object for which the corporation is to be created. The bill simply proposes to create a corporation to hold and

speculate in real estate. I move that the bill be laid on the table.

On the motion of Mr. BOUTWELL there were—ayes 50, noes 10; no quorum voting.

Mr. INGERSOLL. With the consent of the House, I will move that the bill be recommitted.

There being no objection, the motion was agreed to.

G. C. BESTOR AND C. W. McCORD.

Mr. HOGAN. I ask unanimous consent to introduce the following joint resolution:

*Resolved by the Senate and House of Representatives, &c.* That the Secretary of the Navy be directed to organize a board of not less than three persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery Shiloh, built by George G. Bestor, and the Utah, built by Charles W. McCord, at St. Louis, Missouri, in the years 1863, 1864, and 1865, cost the contractors over and above the contract price and allowances for extra work, and report the same to Congress at its next session.

Mr. GARFIELD. I object.

Mr. HOGAN. I really think there ought to be no objection to this proposition; and I will move to suspend the rules that I may introduce it. I first, however, desire to state the facts of the case. These gentlemen made a contract with the Government to build two gunboats. They were to be low draught iron-clads. While the vessels were in process of construction, and when the contractors were able to go on with the work, having not only the means but the workmen, the Government changed the plan entirely, so as to make the vessels sea-going vessels. The Government proposed to pay these men for the extra work that was to be done. But in the mean time the tide of war turned to Missouri, and these gentlemen in employing their workmen were compelled to muster them into the United States service as militia. They were obliged to pay extra prices for the labor of these workmen, and were precluded from having as much work from them as was desirable and proper.

All that these contractors now desire is that they may get their case before the Navy Department. The Secretary of the Navy informs them that he has no authority to act in the matter unless there be a law or joint resolution passed by Congress authorizing him to adjudicate their accounts. This is the whole case. The proposition is simply to appoint a commission who shall report the facts, to be submitted to Congress by the Secretary of the Navy at the next session. We can then take action upon the subject, if we deem it proper. The simple object of this proposition is to give these gentlemen an opportunity to present their case before the Secretary of the Navy. I hope gentlemen will not object to the resolution.

Mr. BOUTWELL. I desire to ask the gentleman from Missouri [Mr. HOGAN] whether, if the statement contained in the resolution be true, the Secretary of the Navy has not the power to make a proper allowance to these contractors; or whether, if he has not such power, these parties cannot go into the Court of Claims and get redress under the laws as they now exist.

Mr. HOGAN. I suppose that they could go into the Court of Claims; but, sir, propositions similar to this have been made in the Senate in regard to gunboats built in the eastern States; and when eastern builders of gunboats are permitted to bring their accounts before the Secretary of the Navy for investigation, I do not see why our western men should be compelled to carry their cases before the Court of Claims rather than have them presented to the Secretary of the Navy at once. The proposition simply is that the facts shall be reported at the next session of Congress.

Mr. GARFIELD. As I have objected to the introduction of this resolution, I wish to state my reason for doing so.

Sir, since I have been in Congress I have observed that it has grown to be a custom that whenever a party has had a contract with the Government which has turned out unfavorably to himself, he immediately comes to Congress and asks the payment of a large amount addi-

tional upon his contract. But, whenever a contractor makes a profitable contract, and realizes a large amount of money we never hear of any proposition that he shall refund to the United States Government any part of the amount which he has realized. It seems to me that we are creating, by our action in Congress, a very bad system, under which all the losses are on the side of the Government, and none of the profits. I think, sir, that if parties with their eyes wide open have made fair contracts with the Government they should not be allowed by Congress anything additional upon their original contracts. If they do extra work they should, as a matter of course, be paid for it; but I think that we should not be called on in cases of contracts with the Government to pay anything beyond what the Government has agreed to pay. This proposed investigation into the facts is, of course, intended only as the basis of a claim to be hereafter urged for extra compensation; and for this reason I have objected.

Mr. HOTCHKISS. I desire to suggest to the gentleman from Missouri [Mr. HOGAN] that, in the first place, the Secretary of the Navy, under our present laws, has full authority to settle with these contractors for any extra work which they may have performed. In the second place, if on account of unforeseen circumstances—a great increase in the price of labor or materials, or any thing of that kind—the contract which these men made has proved to be a hard contract, from which they ought to be relieved, this commission to be appointed by the Secretary of the Navy can give Congress very little aid in the settlement of this case. Claims of this sort must properly go before the Committee of Claims of each House of Congress, and meet their approval before being acted on. The commission heretofore appointed by the Secretary of the Navy in reference to the iron-clads has been a positive injury to the claimants, because that commission presents the cases upon a basis on which Congress cannot consider them. Thus an obstacle is thrown in the way of the claimants. The commission combines the cases of the claimants together. It does not discriminate one case from another. It groups them all together in one general measure, and says that all the contractors must have a certain percentage additional on their contracts. Now, in point of fact, one man may have made money while another has lost; and therefore each case should be considered separately and on its own merits. Yet, by the action of this commission, the different cases are all put in one omnibus bill. I have no wish to interpose the slightest objection to any proposition of the gentleman from Missouri which may tend to assist contractors who have really suffered loss in consequence of what they have done for the Government; but I do not believe this proposition will be of any service to the men for whose benefit it is intended.

Mr. HOGAN. Mr. Speaker, what we desire to accomplish by this proposition is that this case may come here as an isolated measure standing solely upon its own merits. We do not seek to put it into an omnibus bill. These two vessels were built at the same yard by different parties.

Mr. RICE, of Massachusetts. Mr. Speaker, it seems to me that this measure ought not to pass. There are a great many contracts of a character similar to this that have been taken and executed by parties in all sections of the country; and I do not know what authority any commission to be appointed by the Secretary of the Navy would have to go to a private establishment and investigate its books and its means of doing work, with a view to ascertaining the actual cost of the work; so as to determine what additional amount should be paid upon the contract. If this proceeding were authorized in any one case and were practicable, I see no reason why it should not be done in all other cases, and Congress would certainly have a large amount of business on its hands if it should undertake to appoint a separate

commission to examine every case where a contract has been made during the war for the building of ships or furnishing materials of war, and the contractor claims to have suffered loss. The appointment of a commission to go out to St. Louis and make this investigation would be attended with a great deal of expense.

Now, sir, the Secretary of the Navy takes the position that it is not within his power to make extra compensation for work that has been given out by contract. He refers all these contractors to Congress, and says that when he has carried out the terms of a contract he has exhausted all his power in the premises; that if the contractors desire to receive anything more on account of their contracts they must apply to Congress for relief. Now, sir, I see no reason why these parties should not come here and present their claims in this way. Let them present their petitions; and let those petitions be referred to the appropriate committee, the Committee of Claims. Before that committee the parties will have an opportunity to state all the facts bearing upon the case. It seems to me it would be altogether improper and impracticable to adopt this proposition; and if it could be carried out it would be attended with very great expense, for which I think there is no justification.

Mr. HOGAN. Mr. Speaker, I think that gentlemen are somewhat mistaken in reference to the objects contemplated by this proposition. The claimants in this case expect to bring this matter before the Committee of Claims at the next session. All that they wish is that the matter shall be so presented, through the Navy Department, as that the Committee of Claims may have before it the proper materials for a correct judgment. The reason why these parties have not been included in other bills which have been presented to cover claims of this sort—in the "omnibus bill," if I may so call it, which has been passed by the Senate and is now before the Committee of Claims of this House—is that in consequence of the very low stage of water in the Mississippi river when these vessels were finished, according to the new plan which the Department required, the vessels could not be got out safely to the place where they were to be received. Hence the parties had not an opportunity to present their case in time before the action of the commission heretofore appointed by the Department to investigate matters of this kind.

I think that if this commission were appointed to investigate the facts, the examination would perhaps facilitate the final settlement of the matter by the Committee of Claims at the next session. That is the only object I have in view in asking at this time the adoption of this resolution—simply that the matter may be fairly brought before the Committee of Claims through the action of the Navy Department.

The motion of Mr. HOGAN to suspend the rules for the purpose of introducing the joint resolution was not agreed to.

Mr. HOGAN. I move that the resolution be referred to the Committee of Claims.

The motion was agreed to.

WASHINGTON CITY CANAL.

Mr. INGERSOLL, from the Committee for the District of Columbia, submitted an adverse report upon the bill (H. R. No. 502) to authorize a special tax for the purpose of improving the Washington city canal; which was laid on the table.

MAJOR J. W. JACOBS.

Mr. INGERSOLL. I am directed by the Committee for the District of Columbia to move that the committee be discharged from the further consideration of the petition of Major J. W. Jacobs, and that the same be referred to the Committee of Claims.

The motion was agreed to.

MICHAEL MASH.

Mr. INGERSOLL. I am directed by the same committee to move that the committee

be discharged from the further consideration of the petition of Michael Mash, and that the same be referred to the Committee of Claims.

The motion was agreed to.

#### RAILROADS IN MISSISSIPPI.

Mr. SHELLABARGER. I ask unanimous consent to introduce a bill to revive and continue in force the provisions of an act granting public lands, in alternate sections, in the State of Mississippi, to aid in the construction of railroads in said State, and for other purposes, approved August 11, 1856. I desire to state that this bill was handed to me by an officer of a southern railroad. Personally I know nothing of its merits. It was handed to me some time ago, but I have not had an opportunity heretofore to introduce it.

There being no objection, the bill was read a first and second time and referred to the Committee on Public Lands.

#### ASSASSINATION OF PRESIDENT LINCOLN.

Mr. BOUTWELL. I move to suspend the rules for the purpose of considering at this time the resolutions reported by the Judiciary Committee relative to the alleged complicity of Jefferson Davis and others in the assassination of President Lincoln.

The motion was agreed to.

The resolutions were read, as follows:

*Resolved*, That there is no defect or insufficiency in the present state of the law to prevent or interfere with the trial of Jefferson Davis for the crime of treason or any other crime for which there may be probable ground for arraigning him before the tribunals of the country.

*Resolved further*, That it is the duty of the executive department of the Government to proceed with the investigation of the facts connected with the assassination of the late President, Abraham Lincoln, without unnecessary delay, that Jefferson Davis and others named in the proclamation of President Johnson of May 2, 1865, may be put upon trial and properly punished if guilty, or relieved from the charges against them if found to be innocent.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the resolutions were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NORMAN WIARD.

Mr. SCHENCK. I move that by unanimous consent the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill for the relief of Norman Wiard, that the House may proceed to its consideration at the present time.

Mr. CONKLING. I object.

Mr. GARFIELD. I hope that the gentleman from New York [Mr. CONKLING] will not persist in his objection. This matter was before the House at the last Congress, but was not acted on. I think that if gentlemen will listen to the reading of the bill they will make no objection to it. In my judgment, very few bills so meritorious as this have come before this House. I appeal to the gentleman from New York to withdraw his objection.

Mr. CONKLING. I do not know of anything more meritorious than the consistency with which this House, during the last thirty-six hours, has avoided acting upon private bills of this sort. It is too late to take them up and consider them properly. I make this remark regardless of the merits of any individual cases. I have no reason to doubt the gentleman's statement that this is a meritorious bill; but it should be considered at a proper season; and I think that six o'clock in the morning of the day of final adjournment, when the House is awaiting the report of a committee of conference, is not the proper time for acting upon a bill involving so much money as I understand this does. I must therefore insist upon my objection.

#### REPORT ON MEMPHIS RIOTS.

Mr. SHANKLIN. Mr. Speaker, I rise to a privileged question. The order of the House

in reference to the printing of the reports on the disturbances at Memphis was, as I understand, that the majority and minority reports should be printed together. It appears, however, that this order has not been obeyed; for I have here a copy of the majority report, printed alone, unaccompanied by the minority report. I move that the order of the House be executed.

The SPEAKER. As to the extra copies ordered to-day, the order was that the majority and minority reports should be printed together. The Chair does not recollect what was the order as to the printing of the regular number.

Mr. SHANKLIN. That was the order of the House on the adoption of the first motion to print.

The SPEAKER. The Chair will direct that the order of the House, whatever it may have been, be executed.

Mr. LE BLOND. I would like to know by what authority the Public Printer, when this House orders that a majority and minority report shall be printed together, sends into this House the majority report alone, excluding the minority report. This is the second occasion when, the House having ordered the printing of the majority and minority reports together, the majority report has been printed alone, excluding the minority report. If I can ascertain whose duty it is to see that the orders of this House are executed in good faith, I am ready to introduce a resolution of censure against that officer.

Mr. BROOMALL. In reference to this copy of the majority report printed alone, I desire to ask the gentleman whether he knows where and by whom it was printed—whether he knows that it was printed by the Public Printer.

Mr. LE BLOND. Well, Mr. Speaker, that is a very singular question.

The SPEAKER. It is the essential question. If the report was printed at a private office, of course this is not a privileged question.

Mr. LE BLOND. Of course it is not. But, sir, who ever heard of any private establishment printing a report ordered by this House, and bringing it in here?

The SPEAKER. If the gentleman will send up the report upon which he founds his remarks, the Speaker will rule upon it.

Mr. LE BLOND. I will do so with pleasure.

The SPEAKER. (examining the document.) This is the print of the Public Printing Office; but it appears to be simply a proof-sheet folded, a number of the pages being blank, as the paper is printed only on one side.

Mr. LE BLOND. It is very remarkable that we should have the proof-sheet of the majority report only.

The SPEAKER. The minority report probably is to be set up after the majority report.

Mr. LE BLOND. It is to be hoped it will be.

The SPEAKER. When any gentleman presents the report of the majority, regularly issued and printed separately, the Chair will rule upon the question. This is not the regular issue of the report, but is evidently only a proof-sheet. The Chair has not examined the Journal to ascertain whether the reports were originally ordered to be printed together. If they were, and if the order be not carried out, the Chair will rule that it is a matter for investigation by the House.

Mr. BROOMALL. If the gentleman from Ohio [Mr. LE BLOND] had taken the trouble to ask me in reference to this matter, I think I could have saved him a great deal of uneasiness. It happens that I sent this morning to the Public Printer for fifteen copies (I think that was the number) of this report for my own use. When they were brought to me I found what the Speaker has stated, that they were made up of proof-sheets, showing that the report was not yet ready to be issued.

The SPEAKER. The Chair would ask the gentleman from Kentucky, [Mr. SHANKLIN,] who prepared the minority report, whether he has sent for the proof of his report.

Mr. SHANKLIN. I have not.

The SPEAKER. Probably if the gentleman sends for it he will obtain it.

Mr. SHANKLIN. The copy of the majority report which I had was furnished to me by the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. At the gentleman's request.

#### POST ROAD BRIDGES.

Mr. HOGAN, by unanimous consent, introduced a bill to repeal the second section of an act to authorize the construction of certain bridges, and to establish them as post roads; which was read a first and second time and referred to the Committee on the Post Office and Post Roads.

#### NORMAN WIARD.

Mr. BINGHAM. I move to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill for the relief of Norman Wiard.

Mr. RANDALL, of Pennsylvania. I object.

Mr. BINGHAM. This is a just claim, and ought to be passed. It has been fully considered by the Committee on Military Affairs, and met with their entire approval. It provides for the payment to Mr. Wiard of the balance of money due him for money expended in furnishing two steamers to the Government, and which were delivered at Hilton Head. The whole amount of money has been expended for the use of the Government; and, as I understand, this claimant is now suffering for the want of that which has justly been found due him.

Mr. RANDALL, of Pennsylvania. There is not a quorum present, and this not the time to pass a bill of this character.

Mr. BINGHAM. I move to suspend the rule in order that the Committee of the Whole House may be discharged from the further consideration of the bill.

The rules were suspended.

The bill appropriates the sum of \$25,511 12 to pay the claim of Norman Wiard for the delivery of steamers at Hilton Head.

Mr. BINGHAM. I demand the previous question.

Mr. WARD. I ask that the report of the committee be read.

Mr. BINGHAM. There is no report.

Mr. SCHENCK. There is a report in preparation in the hands of the gentleman from New Hampshire, [Mr. MARSTON.] I will, with the permission of the House, say one word. If there ever was a fair claim against the Government I believe this to be one, a case in which the gentleman named in the bill has suffered to the amount of thousands of dollars by no wrong of his own, but because he has been unable to get a settlement from the Government which is justly his due. It has been thoroughly considered. Cart loads of paper have been sent from the quartermaster's department, in which there was the highest testimony of the claim. He contracted for two steamers. He offered them to the Government at \$90,000 apiece. They jewed him down to \$80,000 apiece. They were vessels of light draught. They then kept him waiting. He then agreed if the Government would pay \$50,000 apiece on the steamers leaving New York he would deliver the steamers at Fortress Monroe, which was provided in the original understanding to be the place at which they were to be delivered. They never paid the \$50,000 at once, I think, but made partial payments afterward. Instead of delivering the vessels at Fortress Monroe, he was compelled to deliver them at Hilton Head; and before they arrived there one of them was beached, causing him great loss in various ways. They were the vessels by which James Island was captured. He has only received a partial payment, and the committee report this balance to be due him.

Mr. GARFIELD. I hope my colleague will yield to me.

Mr. SCHENCK. Certainly.

Mr. STROUSE. I wish to ask the gentle-



man from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, whether he knows the fact in this case to be true.

Mr. SCHENCK. They all appear by the papers in the case. I state them as chairman of the Committee on Military Affairs. The committee fully examined the whole matter and found this amount of money to be due this man, and recommended it should be paid to him.

Mr. STROUSE. That is all we want to know. I believe this man ought to be paid, and shall vote for the bill.

Mr. HIGBY. Why has this claim been sent to the Committee on Military Affairs and the claims of all other naval contractors sent to the Committee of Claims?

Mr. SCHENCK. I never knew anything about this claim until the memorial was sent to the Committee on Military Affairs.

Mr. GARFIELD. I can answer one part of the question of the gentleman from California. This Mr. Wiard had been connected in the most interesting way, before this contract, with the War Department, by his improvements and inventions in fire-arms. Every steel gun fired in the late war against the rebels, with the exception of a few from England, were those invented and manufactured by himself. He invented what is known as the Wiard gun, and he has gone on spending money in improving it. His relation to the War Department arose in that way. His subsequent arrangement was in consequence of his known skill as a machinist and inventor. He has been connected with some of the most interesting features of the war as an inventor. I think there are not many claims which demand more rapid rendition of justice than this one.

Mr. WARD. I do protest against passing claims of this character at this time.

Mr. INGERSOLL. If the claim is just, it is good to pay it at any time.

Mr. WARD. Has this ever been investigated by the Committee of Claims, or has it only been before the Committee on Military Affairs, and does it stand exclusively before the House on the recommendation of the Committee on Military Affairs?

Mr. BINGHAM. I believe it has been before the Committee on Military Affairs exclusively.

Mr. HIGBY. I want justice done, but I want it done equally to all claimants. As fair claims as ever came before this House have been objected to and referred to the Committee of the Whole. When all other claimants are denied I cannot see the justice of singling out one particular claim and granting it favors not accorded to all other claims. A resolution came here which had been fully considered by a committee, and instead of being taken up and acted on it was sent to the Committee of the Whole House. I refer to the case of the Camanche, where the Government took the machinery out of the vessel and put it into another vessel on account of the exigencies of the times. Justice should be done equally in all cases.

Mr. SCHENCK. As I said before, this memorial came to the Committee on Military Affairs. The claim of Mr. Wiard was sent to the Committee on Military Affairs because I suppose that was deemed to be the appropriate committee. It has been ordinarily the habit of the Committee on Military Affairs to send purely private claims, seeming to have nothing special to do with matters connected with the War Department or the Army, to the Committee of Claims. When a claim comes to us arising out of military affairs we feel bound to take charge of it. This was one of that character. We did not ask to be discharged from its further consideration, but took it up and were at great pains to ascertain all the facts from the quartermaster's department and the War Department. We did all that we could do in order to arrive at a just conclusion. The War Department sent us an enormous quantity of documents. They were all examined by the committee, but more particularly by the gen-

tleman from New Hampshire, [Mr. MARSTON,] and we came to the conclusion if there ever was a just claim for an unpaid balance this was one. The committee accordingly reported this bill to pay him what is justly due, not a cent of which he has received. I suppose a great deal of wrong has been done in withholding the sanction of the House in other cases, but that ought not to induce us to do wrong here.

Mr. HIGBY. I will not do injustice in this case, because justice has not been done in reference to the claims of gentlemen equally meritorious, whose bills have been killed because it was alleged there were only thirty-six hours of the session left, and we had no time to consider them. I have no spite, no revenge to satisfy, but I only wanted to say that there were other cases as just as this one which had received no favor. If this be a just claim I shall cheerfully vote for it.

Mr. MAYNARD. If the facts are correctly stated by the gentleman from Ohio it seems to me the War Department ought to have paid it.

Mr. SCHENCK. It has only been denied on some mere technical ground, and the intervention of Congress is necessary to enable this man to get the money which all must admit to be due him.

Mr. BINGHAM demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. Members are sleeping upon sofas and in chairs and all around the Hall, and I would like to know whether they are to be counted in making up a quorum. [Laughter.]

The SPEAKER. They are all present and are all entitled to vote when waked up. [Renewed laughter.]

Mr. BINGHAM. My demand for the yeas and nays was on the passage and not on the engrossment of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was then taken on the passage of the bill; and there were—yeas 67, nays 25, not voting 94; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Delos R. Ashley, Barker, Baxter, Benjamin, Bingham, Boutwell, Boyer, Bronwell, Broomall, Sidney Clarke, Conkling, Driggs, Eggleston, Eliot, Ferry, Garfield, Glessbrenner, Harris, Hart, Hayes, Higby, Hogan, Holmes, Chester D. Hubbard, James R. Hubbard, Ingersoll, Jencks, Julian, Kelley, Kerr, Kuykendall, Laffin, Latham, George V. Lawrence, Le Blond, Lynch, Marston, Maynard, McClurg, McCullough, Miller, Moorhead, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Schenck, Shellabarger, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Thornton, Robert T. Van Horn, Whaley, and Williams—67.

NAYS—Messrs. Baker, Bidwell, Cobb, Cullom, Deftrees, Eldridge, Farquhar, Johnson, Ketchum, Koontz, William Lawrence, Leftwich, Marshall, Mercer, Morris, Phelps, Price, John H. Rice, Ritter, Ross, Sawyer, Trimble, Van Aernam, Ward, and Wright—25.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Banks, Beaman, Bergen, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Cooper, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Eckley, Farnsworth, Finck, Good-year, Grider, Grinnell, Griswold, Hale, Aaron Harding, Abner C. Harding, Henderson, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Jones, Kasson, Kelso, Loan, Longyear, Marvin, McIndoe, McKee, McRuer, Morrill, Moulton, Niblack, Noel, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Scofield, Shanklin, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—94.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. LAURIE.

Mr. ORTH. Mr. Speaker, I desire to make a statement to the House, if I can get its attention for a few moments, in order to make an effort in behalf of a most worthy lady of this city. I refer to the case of Mrs. Laurie. Her bill has passed the Senate after having been thoroughly investigated. It gives her some two thousand seven hundred dollars for the use of her house and lot by the military. While it was in the use of the Government she was compelled to rent property for her own use in the city of Georgetown. Her property suffered great dilapidation from the military.

Mr. HARDING, of Illinois. Has the gentleman any personal knowledge of the property alleged to have been injured?

Mr. ORTH. I have, and I will state what that personal knowledge is.

Mr. LAWRENCE, of Ohio. I object to the whole thing.

Mr. ORTH. I move to suspend the rules so that the Committee of the Whole House may be discharged from the further consideration of the bill for the relief of Mrs. Laurie.

The House divided; and there were—yeas 32, nays 16; no quorum voting.

Mr. ANCONA. I insist on a further count. The SPEAKER, under the rule, ordered tellers; and appointed Mr. ORTH and Mr. ANCONA.

The House again divided; and the tellers reported—yeas 50, nays 47.

So (two thirds not voting in the affirmative) the rules were not suspended.

BALMER AND WEBBER.

Mr. HOGAN. I ask the unanimous consent of the House that the Committee of the Whole be discharged from the further consideration of the bill for the relief of Balmer & Webber. With the consent of the House I will make a brief statement of what it is.

Mr. LAWRENCE, of Ohio. I object to everything of this kind during the remainder of this session.

Mr. HOGAN. It is a claim for payment for musical instruments furnished by order of General Frémont when he came to command the army of Missouri. There were ten regiments from Iowa, Illinois, Missouri, and I think one from Indiana. General Frémont ordered that these regiments should be furnished with brass instruments.

Mr. LAWRENCE, of Ohio. I object to anything that will get up any more bills to take money out of the Treasury.

Mr. RICE, of Massachusetts, (at seven o'clock a. m.) moved that the House take a recess until ten o'clock.

Mr. GARFIELD. I hope not. I understand that the committee of conference are ready to make their report on the civil appropriation bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had agreed to the report of the committee of conference on the civil appropriation bill.

CIVIL APPROPRIATION BILL.

Mr. BANKS. I present the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 6, 7, 11, 12, 13, 16, 19, 32, 33, 43, 49, and 55.

That the Senate recede from their amendments numbered 4, 14, 15, 17, 24, 25, 34, 35, 37, 38, 39, 40, 41, 42, 43, and 44.

That the Senate agree to the amendment of the House to the eighth amendment of the Senate.

That the Senate agree to the amendment of the House to the ninth amendment of the Senate.

That the House recede from their amendment to the twenty-sixth amendment of the Senate, and agree to the same.

That the Senate agree to the amendment of the House to the thirtieth amendment of the Senate.

That the House recede from their disagreement to

the fifty-third amendment of the Senate, and agree to the same with an amendment as follows: at the end of said amendment add the following: "And provided further, That the pay of the Speaker shall be \$3,000 per annum."

That the House recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out the words following: "for the continuation of the work upon the north portico of the Patent Office building, \$50,000." And also recede from so much of their amendment to the twenty-second amendment of the Senate as proposes to strike out as follows: on page 7, line eight, from the word "for" down to and including the word "dollars," in line fourteen, with an amendment as follows to said last clause: in line thirteen of said clause strike out the words "one hundred" and insert in lieu thereof the word "fifty." And that the Senate agree to so much of the amendment of the House to the said twenty-second amendment of the Senate as proposes to strike out all after the word "dollars," in line two, on page 7, down to and including the word "necessary," in line eight on the same page.

That the House recede from their amendment to the fifty-second amendment of the Senate, and agree to the same with amendments as follows: at the end of said amendment add the following:

SEC. 1. *And be it further enacted,* That each and every soldier who enlisted into the Army of the United States after the 19th day of April, 1861, for a period of not less than three years, and having served his time of enlistment, has been honorably discharged, and who has received or is entitled to receive from the United States under existing laws a bounty of \$100, and no more, and any such soldier entitled for not less than three years who has been honorably discharged on account of wounds received in the line of duty, and the widow, minor children, or parents, in the order named, of any such soldier who died in the service of the United States or of disease or wounds contracted while in the service and in the line of duty, shall be paid the additional bounty of \$100 hereby authorized.

SEC. 2. *And be it further enacted,* That to each and every soldier who enlisted into the Army of the United States after the 19th day of April, A. D. 1861, for a period of not less than two years, and who is not included in the foregoing section, and who has been honorably discharged, after serving two years, and who has received, or is entitled to receive, from the United States, under existing laws, a bounty of \$100, and no more, shall be paid an additional bounty of fifty dollars, and any such soldier enlisted for not less than two years, who has been honorably discharged on account of wounds received in the line of duty, and the widow, minor children, or parents, in the order named, of any such soldier who died in the service of the United States, or of disease or wounds contracted while in the service and in the line of duty, shall be paid the additional bounty of fifty dollars hereby authorized: *Provided,* That any soldier who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any other act of Congress, shall not be entitled to receive any additional bounty whatever; and when application is made by any soldier for said bounty, he shall be required, under the pains and penalties of perjury, to make oath or affirmation of his identity, and that he has not so bartered, sold, assigned, transferred, exchanged, loaned, or given away either his discharge papers or any interest in any bounty as aforesaid, and no claim for such bounty shall be entertained by the Paymaster General or other accounting or disbursing officer, except upon receipt of the claimant's discharge papers, accompanied by the statement under oath, as by this section provided.

SEC. 3. *And be it further enacted,* That in the payment of the additional bounty herein provided for, it shall be the duty of the Paymaster General, under such rules and regulations as may be prescribed by the Secretary of War, to cause to be examined the accounts of each and every soldier who makes application therefor, and if found entitled thereto, shall pay said bounty.

SEC. 4. *And be it further enacted,* That in the reception, examination, settlement, and payment of claims for said additional bounty due the widows or heirs of deceased soldiers, the accounting officers of the Treasury shall be governed by the restrictions prescribed for the Paymaster General by the Secretary of War, and the payment shall be made in like manner, under the direction of the Secretary of the Treasury.

That the House recede from their amendments to the Senate amendment No. 54, and agree to the same with amendments as follows: in line two, after the word "clerks," insert "committee clerks." In line three, after the words "messengers and," insert "all." In same line, after the word "Senate," insert "and House of Representatives, and to the Globe and official reporters of each House, and the stenographer of the House, and to the Capitol police, and the three superintendents of the public gardens, their clerks and assistants."

JOHN SHERMAN,  
GEORGE F. EDMUNDS,  
IRA HARRIS,

*Managers on the part of the Senate.*

N. P. BANKS.

WILLIAM E. NIBLACK,

*Managers on the part of the House.*

Mr. LAWRENCE, of Ohio. I ask for a separate vote on the different propositions.

The SPEAKER. That is not in order, as the report of a committee of conference must be adopted or rejected as a whole.

Mr. BANKS. If there is to be any question

of order upon the propositions contained in the report, it ought to be made now.

Mr. LAWRENCE, of Ohio. I make the point of order that there must be a separate vote taken on the propositions.

The SPEAKER. That is impossible; it has never been known in reference to reports of committees of conference.

Mr. LAWRENCE, of Ohio. Can it not be done by a motion?

The SPEAKER. It cannot.

Mr. BROOMALL. Can the gentleman from Massachusetts tell us what the increased cost to the Treasury will be from the additional compensation of members of Congress?

Mr. BANKS. It was my purpose to state what I knew about this bill, and when I have made my statement I desire to move the previous question. I do not intend to defend the report by argument, but to leave it to the House.

Mr. HARDING, of Illinois. I desire to know if it is a laudable exercise of capacity to place us in the condition of voting either to increase our salaries or of voting against equalizing the bounties. I have no respect for capacity exercised in that manner.

Mr. RANDALL, of Pennsylvania. I call the gentleman to order.

The SPEAKER. That remark is in violation of the rules.

Mr. HARDING, of Illinois. Take my words down, and let us see.

The SPEAKER. The gentleman from Illinois states that he has no respect for capacity exercised in this manner, which places the House in the dilemma of voting either for raising the pay of members or of voting against the equalization of bounties. It is the order of the House that this subject should be considered by the conference committee. The Senate sent to the House an amendment increasing the pay of members. That was referred to the committee of conference. The House sent a resolution in regard to bounties. That was sent to the committee of conference. That committee were instructed to reconcile, if possible, the disagreement between the two Houses. The Chair is compelled to say this in vindication of the conference committee.

Mr. MORRILL. I ask the gentleman from Massachusetts if he has ever known a committee of conference where there has been such a decisive vote as has been taken in this House—120 to 4—against a proposition, bring in a report in favor of it.

Mr. BANKS. I will answer the gentleman by making a statement. The report is signed by but two members of the committee. I was appointed upon the committee late in the session of this day, without any previous knowledge of the subject. The committee on the part of the House insisted upon the recognition of the bounty for the soldiers as a *sine qua non*. The Senate committee was not authorized to accept it, but reported to the Senate and asked for instructions. They received instructions, in pursuance of which they assented to the demand of the House on the question of bounty, and the result is the provision which is embraced in this report, and which I think is entirely satisfactory to the friends of the bounty. I believe it is carefully drawn and will be found to be as just as any simple proposition can be to the soldiers and to the Government.

The second proposition relates to the compensation of members. These two were the only matters upon which the committee deliberated. It was not until the very last moment, certainly within forty-five minutes, that I was called upon to decide, not upon this question merely, but upon the question whether there should be an agreement on the part of the two committees on this subject, and my difficulty was increased from the fact that the House had been waiting a very long time and that the hour for the close of the session was near at hand. I felt constrained to yield my judgment to the wishes of the committee with which I was in conference.

I ought to say that the committee of the Sen-

ate did not deem as a *sine qua non* the passage of this proposition in regard to salaries, but they expressed the strongest belief that any other proposition than the two coupled together would be unsatisfactory to the Senate, and they had supposed from what had transpired between the two committees and what had been stated to the Senate, that the House would accede to the provision in regard to the salaries. At the last moment I was called upon to decide. It was left for me to say whether I would leave the committee-room and report an entire disagreement on this question or assent to the proposition. Thereupon I took the responsibility of assenting to the Senate's proposition. Had the affair been in my management at the commencement of the conference I should not have reported it. Being called upon to decide it the last moment, I thought it my duty to report it, and I have signed, with my colleague on the other side, [Mr. NIBLACK,] this report. The chairman of the committee [Mr. WILSON, of Iowa,] has not signed it.

Mr. WILSON, of Iowa. Will the gentleman yield?

Mr. BANKS. I want to move the previous question, but I will listen to my colleague on the committee.

Mr. WILSON, of Iowa. I wish merely to state that as one of the members of the committee I opposed from the beginning the Senate amendment increasing the salaries. As regards the provision in relation to bounties, though it is not as complete as I desire, still I think it is really better than we had reason to expect from the Senate. But it is because of my opposition to the increase of salaries that I withheld my signature to the report.

Mr. BANKS. I feel it my duty to say that had I understood from the chairman of the committee at the commencement of our deliberations that such was his determination, I never should have made the report; or, at all events, it would have been different from what it is. But the Senate committee expressed a feeling that it would be dealing with them somewhat in bad faith if they were compelled at the last moment to forego this provision, and therefore we reported it, leaving it for the House to accept or reject it.

Mr. NIBLACK. Will the gentleman yield a moment?

Mr. BANKS. Yes, sir.

Mr. NIBLACK. The gentleman from Massachusetts feels somewhat embarrassed in this matter. The report does not meet my entire approbation. But this question of salaries was brought to the attention of the House by the action of the Senate, and it has got before the country; and I must say that I have heard enough to convince me that it was the intention of the present Congress to increase the salaries of members before the 4th of March next. In that view I thought we might as well test the question now as at any time. As to the bounty question, the proposition does not come up to my views, but as a compromise I accept it. And as a compromise I consented to the entire report, believing it would be better to pass the bill in its present shape if we intended to pass the bill at all.

Mr. BANKS. I understood the opinion of the gentleman from Indiana [Mr. NIBLACK] at the first to be precisely as now expressed. I do not intend to enter into any debate.

Mr. CONKLING. I wish to inquire, as a matter of fact, whether, in order to come to a report which might be presented to the House, the managers on the part of the House found it necessary to agree to this provision for the increase of salaries.

Mr. BANKS. At the last moment I felt it my duty, against my judgment under other circumstances, to report this to the House for its action. I now move the previous question.

Mr. LAWRENCE, of Ohio. Will the gentleman yield?

Mr. BANKS. I decline.

The previous question was seconded—ayes 69, noes 31.

On ordering the main question,

Mr. LAWRENCE, of Ohio, demanded tellers. Tellers were ordered; and the Speaker appointed Messrs. LAWRENCE of Ohio, and NIBLACK.

The House divided; and the tellers reported—ayes 76, noes 25.

So the main question was ordered.

Mr. PHELPS. I demand the yeas and nays on agreeing to the report.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 51, nays 50, not voting 85; as follows:

YEAS—Messrs. Anderson, Banks, Barker, Benjamin, Bergen, Sidney Clarke, Cullom, Driggs, Eckley, Eldridge, Farnsworth, Farquhar, Ferry, Glossbrenner, Higby, Hogan, Holmes, Hotchkiss, Chester D. Hubbard, Ingersoll, Jencks, Johnson, Kelley, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Marston, Maynard, McClurg, McCullough, Miller, Moorhead, Myers, Newell, Niblack, Nicholson, O'Neill, Patterson, Samuel J. Randall, Alexander H. Rice, John H. Rice, Scheuck, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thornton, Burt Van Horn, Robert T. Van Horn, and Whaley—51.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Baxter, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Cobb, Conkling, Deffrees, Eggleston, Eliot, Finck, Garfield, Abner C. Harding, Hart, Hayes, James R. Hubbard, Kasson, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Lynch, Mercur, Morrill, Morris, Orth, Paine, Perham, Phelps, Plants, Price, Ritter, Ross, Sawyer, Shanklin, Shellabarger, Stokes, Taber, John L. Thomas, Trimble, Van Aernam, Welker, James F. Wilson, Stephen F. Wilson, and Wright—50.

NOT VOTING—Messrs. Alley, Ames, Ancona, James M. Ashley, Baldwin, Beaman, Blaine, Blow, Boyer, Brandegee, Buckland, Bundy, Chandler, Reader W. Clarke, Cook, Cooper, Culver, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Dumont, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Henderson, Hill, Hooper, Ashael W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Hulburd, Humphrey, Jones, Julian, Kelo, Loan, Longyear, Marshall, Marvin, McIndoe, McKee, McKuer, Moulton, Neill, Pike, Pomeroy, Radford, William H. Randall, Raymond, Rogers, Rollins, Scofield, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, Windom, Winfield, and Woodbridge—85.

So the report of the committee of conference was agreed to.

During the roll-call,

Mr. HUBBARD, of West Virginia, said: I cannot get what I want for the soldier, and so I will take what I can get. I change my vote to "ay."

Mr. DRIGGS. I hope the gentlemen who are in favor of bounties to the soldiers; but who are loath to vote to increase their own salaries, will contribute the surplus of their salaries to the soldiers.

Mr. BERGEN. On account of the soldiers, I change my vote to "ay."

Mr. O'NEILL. I vote "ay," so that we may get a bounty bill. I am opposed to raising the compensation of members.

Mr. FERRY. I rise to express the embarrassment in which the report of the committee of conference upon the disagreeing votes of the two Houses places me in determining my vote upon the question. Steadily and invariably I have voted against increase of pay to members of Congress, because I am opposed to any increase in the present condition of our finances. Three times, upon this very proposition, has my vote been recorded against it. Now it appears coupled with the increase of bounty to our gallant soldiers, which I heartily favor, but which I cannot vote for without also voting for the increase of congressional pay. The Senate insists upon this increase at the peril of increase of bounty to our soldiers. There is no alternative but to vote for both or vote against both. It is unfair to be compelled to meet a proposition which is approved with one not approved, in one inseparable act. But the dilemma is unavoidable and the issue must be met. From what I observe I am satisfied the vote upon the question will be a very close one. It may be that the adoption of the report may hang upon a single vote. Duty to brave men who have periled life for the Republic rises above the expediency to which I unwillingly commit myself by the change of action I now propose to follow. It is bounty or no bounty to the soldiers that must now be considered. Let me here reply to the

proffered suggestion, that members need not be so sensitive about voting themselves adequate pay, for their surplus can be contributed to the soldiers, that that suggestion shall reconcile my action. It shall not go unheeded. My vote shall be fortified by acts. I therefore ask to change my vote, and will hold myself answerable to the benefit of soldiers to the extent of such surplus. I now vote "ay."

Mr. CULLOM. For the purpose of securing the soldiers' bounty I vote "ay."

The result having been announced as above recorded,

Mr. VAN HORN, of Missouri, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. LE BLOND. I move that the House adjourn.

The SPEAKER. The state of business is such that the House may now adjourn to meet again at eleven o'clock. If the Senate is not able to finish its business by twelve o'clock I understand it will reciprocate the request of the House for an extension of the session till four and a half o'clock.

The motion to adjourn was accordingly agreed to; and thereupon (at seven o'clock and fifty minutes a. m.) the House adjourned.

#### MEMORIAL.

The following memorial was presented under the rule and referred to the appropriate committee:

By Mr. BANKS: The memorial of 200 prominent and influential citizens of Louisiana, for the aid of the Government of the United States in repairing the levees of the Mississippi.

#### IN SENATE.

SATURDAY, July 28, 1866.

The Senate met at nine o'clock a. m.

On motion by Mr. RAMSEY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### CERTIFICATES OF NEW JERSEY SOLDIERS.

Mr. RAMSEY. There is a joint resolution on the table from the House of Representatives which I hope will be disposed of now. It is a small matter, for the transmission through the mails of certificates to soldiers of good conduct by the authorities of New Jersey. It is House joint resolution No. 193.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 193) authorizing the transmission through the mails, free of postage, of certain certificates, by the adjutant general of New Jersey. It authorizes the adjutant general of New Jersey to transmit through the mails, free of postage, certain certificates of thanks awarded by the Legislature to the soldiers of that State, under such regulations as the Postmaster General may direct.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PITTSBURG AND CLEVELAND RAILROAD.

Mr. EDMUNDS. I move to proceed to the consideration of House bill No. 537.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. No. 537) to promote the construction of a line of railroad from Pittsburg, Pennsylvania, to Cleveland, Ohio; which had been reported adversely from the Committee on Commerce.

Mr. EDMUNDS. I move that the further consideration of the bill be indefinitely postponed.

The motion was agreed to.

#### RECESS.

Mr. FESSENDEN. I move that the Senate take a recess until ten o'clock.

The motion was agreed to.

The Senate reassembled at ten o'clock a. m.

SEWARD A. FOOT.

Mr. HENDERSON. The Committee to Audit and Control the Contingent Expenses of

the Senate, to whom was referred a resolution for the payment of Seward A. Foot for services as clerk of a committee, have directed me to report it back to the Senate without amendment, and with a recommendation that it pass. We find that the money is due to him, but cannot be paid without a resolution. I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the resolution, as follows:

*Resolved*, That there be paid out of the contingent fund of the Senate, to Seward A. Foot, the sum of \$180 in full for services as clerk of a committee.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the second conference committee on the amendments to the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes.

The message also announced that the House of Representatives had passed a bill (H. R. No. 818) for the relief of Norman Wiard, in which it requested the concurrence of the Senate.

#### ROBERT BALDWIN.

Mr. HENDERSON. There is a little bill on the table which a member of the House asks me to call up. It is a House bill. It was referred to the Committee on Public Lands and reported back by them favorably yesterday morning. It is House bill No. 693. I hope the Senate will consider it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 693) for the relief of Robert Baldwin. The preamble recites that on the 5th of December, 1849, Robert Baldwin located at the land office at Milan, in the State of Missouri, three military bounty land-warrants, issued under the act of 1847, each for one hundred and sixty acres, numbered 2,847, 26,801, and 40,263, and received from the register duplicate certificates of location, and that those warrants were lost from the mail in their transmission from the land office to Washington, and have not since been heard from; and the bill, therefore, directs the Secretary of the Interior to cause patents for the lands entered under those warrants to be issued to Robert Baldwin upon his surrendering to the Commissioner the duplicate certificates of location.

Mr. FESSENDEN. Is there a report in that case? If there is, I should like to hear it read.

Mr. HENDERSON. There is a report accompanying the bill from the House of Representatives which can be read. It is very short.

The Secretary read the following report:

The Committee on Public Lands, to whom was referred the bill for the relief of Robert Baldwin, beg leave to report the following facts:

That on the 5th of December, 1849, the said Baldwin located three land-warrants, each for one hundred and sixty acres, on the land mentioned in the bill, surrendering the warrants and receiving from the register duplicate certificates of entry. The warrants were lost in the mail while in transit from the land office at Milan, Missouri, to the General Land Office, since which they have never been heard from. The Commissioner of the General Land Office refuses to issue patents for the land without special authority from Congress; and satisfied that it is but justice to the party, the warrants having been lost while in possession of the Government, and that no loss can possibly result therefrom, the committee report back the bill and recommend its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DUTY ON IMPORTED WOOL.

Mr. WADE. I move that the Senate now proceed to the consideration of House bill No. 793.

Mr. FESSENDEN. Let us hear the title of the bill.



The SECRETARY. "A bill to provide increased revenue from imported wool, and for other purposes."

Mr. FESSENDEN. I hope that bill will not be taken up for consideration. It would be, in my judgment, manifestly improper to take it up at this period of the session.

Mr. JOHNSON. Has it been referred?

Mr. FESSENDEN. No, sir. I will state the facts with regard to it. The bill came into the Senate yesterday or the day before yesterday, I do not know which; and the Presiding Officer stated that it would be referred to the Committee on Finance. The Senator from Wisconsin [Mr. Howe] moved that it be laid upon the table, without moving that it be reprinted, and prevented its being referred. It has not been referred to our committee or any committee; it has not been examined by the Senate at all, and has not been printed so that we might see it, but it laid on the table and has not been called up till now, when we are within two hours of the time of adjournment. It is a bill of some eight or ten pages, a tariff bill; and now within two hours of the time of adjournment, after being up all night, exhausted as we are and utterly unable to comprehend the bill by its terms in a reading at the desk, we are called upon to take it up for action. I have glanced my eye over it, but I am unable from a casual glance to say what it contains, except that I believe, as is said by the honorable Senator from Ohio, it is confined exclusively to wool and woollens. It is said that it is taken from the tariff bill that was laid over by the Senate. How that is I do not know. No Senator has examined it; no committee has examined it. It covers but one single interest under the tariff bill, and that is the woolen interest, leaving out all others. Now, sir, if we are to have a tariff bill let us have one that unites all interests, and not a bill picking out one interest that may be of consequence to some particular section of the country and leaving all others unprovided for, especially at this time, when we are certainly not in a fit state to give it any consideration and cannot know anything about it. I hope it will not be taken up. I think it would be very wrong.

Mr. WADE. I am very sorry to hear an objection coming from that quarter as to the sectional operation of this tariff bill.

Mr. FESSENDEN. I said nothing about its being sectional at all.

Mr. WADE. You said it only affected certain sections.

Mr. FESSENDEN. I said it only affected certain interests.

Mr. WADE. Now, sir, this bill, I am told, and have no doubt, by gentlemen that have compared it and know all about it, is a literal transcript from the other tariff bill on the subject of wools and woollens.

Mr. FESSENDEN. Does the Senator know that?

Mr. WADE. I am telling you how I know it. I have not compared it myself; but I am so told by gentlemen who, I have every reason to believe, tell me the truth. I have run my eye over it, as I did over the other bill. It reads to me like the other bill, and I have no doubt it is the same thing. Now, sir, this is about the only attempt that has been made at any time to protect the agricultural interest of the Northwest and other sections. That interest has become an immense interest in all the northwestern part of the country; and this bill undoubtedly would be of the highest importance and greatest advantage to the wool-growers of that region of the country; and thus, in my judgment, it would enhance the interests of every other part of the country; for I never argue these questions as sectional ones; I do not believe they are. I am not one of those who talk about New England having particular benefits in this way. I am glad that they have, and I always aid, so far as I can, in it.

Mr. POMEROY. I desire to make an appeal to the Senator from Ohio and the Senate. We are to adjourn at twelve o'clock, and if

this bill is going to excite discussion, a few speeches upon it will consume the whole time remaining, and there are a few bills that can be disposed of by unanimous consent, which everybody is willing should pass. I am in favor of the measure which the Senator from Ohio has charge of; I do not know whether I am in favor of that particular bill or not; but if it is going to be discussed and opposed, we shall lose that and a number of small bills to which there is no objection.

Mr. WADE. I am not going to argue at length, especially on the question of taking it up. I know, as the gentleman says, we have not a great length of time, although, in another sense, we have all the time there is, if we see fit to occupy ourselves with it. There is no absolute necessity of our adjourning at a moment's warning. If there are any interests to be protected by our staying a little after twelve o'clock, the House has passed a resolution extending the session until four and a half o'clock, and we can concur in that, which would give us ample time to pass this bill. I have no doubt that it would be of the highest benefit to the whole country, and especially to that part of the country from which I and many others come. I was in hopes that it would be permitted to pass without any particular objection. I know very well that anybody can defeat this bill if he sees fit to do so. It depends upon the view gentlemen take upon it. It is no time for me to argue it. I know that it is in the power of anybody to defeat it by his mere *ipse dixit* if he chooses. I think it would be very ungenerous to do it and very detrimental to the interests of the country. The House has taken great pains to get up the bill with a view to do some degree of justice to the people on this subject. That is all I have to say about it. I leave it in the hands of the Senate to do as they please.

Mr. SPRAGUE. I desire to appeal to the Senator from Ohio to let this measure be laid aside in order to permit me to take up House bill No. 801, providing for the distribution of the rewards for the captors of the assassins of Mr. Lincoln and Mr. Seward. I trust that the Senator will allow that measure to be taken up. It affects nearly five hundred soldiers, giving them small amounts. The subject has undergone the revision of the Judge Advocate General, of the Assistant Adjutant General of the Army, of a committee of the House of Representatives, and of the House of Representatives. The bill to which I refer has passed the House and been reported regularly from the committee of the Senate, who have examined it as critically and as attentively as they could, and it seems to me to be the wisest award that could be made. I hope, therefore, that the Senator will permit it to be taken up.

Mr. SUMNER. I agree with the Senator from Rhode Island. I think we ought not to let that bill be hung up during our vacation. Let us dispose of it now.

Mr. HOWARD. I think so, too.

Mr. WADE. The question is on taking up this bill. Let us decide one thing at a time.

The PRESIDENT *pro tempore*. The Chair will put the question as soon as an opportunity offers.

Mr. HENDERSON. I must express some little astonishment at the proposition of the Senator from Ohio to take up a bill of this importance and act upon it within an hour and three quarters of the close of this session. Certainly it is a very ungracious thing to vote against a proposition of this sort, especially where one is representing a constituency interested in it. I have no doubt that something ought to be done on this subject; but when the tariff bill was before us the other day we concluded to postpone it until December, with a view of taking up the whole subject then and disposing of it as it ought to be disposed of; to let the Finance Committee examine it, scrutinize it as it deserves to be, and report to us a bill that will take care of the interests of the people in every section of the country. After having done that, I must express some little

astonishment that a bill singling out one particular interest should be brought forward and Congress should be asked to take that one interest into consideration during the last few hours of the session. It is not a sectional interest. New England is interested in it. Vermont is, perhaps, one of the largest wool-growing States of the Union. I know that Ohio is interested in it. I know that Wisconsin is interested in it. I know that my own State is interested. But, sir, I do not think the people who are deeply interested in the growth of wool will expect us within two hours of the close of the session to mature a measure of this importance; and I do hope that Senators will not press a measure of such vast importance upon our consideration at this hour. It ought to be carefully examined by a committee and reported to this body. Now, sir, when you have secured this one interest I should like to know, when other interests are taken up next winter, how those interests can expect anything more than simple stern justice at the hands of this particular interest that has already been protected. I think it is better to take them up altogether and consider them. I cannot understand this bill. It has not been printed, as I understand. It is a bill of ten pages, which has not been printed, and it is expected that we shall act upon a tariff measure on a mere reading at the Secretary's desk. Why, sir, such a thing is unheard of. It cannot be expected of Senators that we shall consider it.

Mr. HOWE. Of course the Senator from Missouri is entirely right in saying it would be impossible for us to mature a bill upon a question as important as this in an hour and three quarters. The advantage of this measure is that it was matured more than twelve months ago, has been pending, has been reported by two committees, passed one House, twice been reported by the Finance Committee in this body, as I understand. ["Oh, no."] This is the same bill precisely, as I understand.

Mr. WILSON and Mr. HENDERSON. They did not report it.

Mr. HOWE. They reported the tariff bill, did they not?

Mr. HENDERSON. Never that I heard of.

Mr. HOWE. It was postponed, then, before it was considered.

Mr. FESSENDEN. This bill was brought in and read at the desk, and the Presiding Officer said it would be referred to the Committee on Finance; but the gentleman himself said "No, let it lie on the table." It never went before the committee and they have not seen it.

Mr. HOWE. I know this identical bill in this shape never went to your committee; but this is, as I understand, copied from the tariff bill.

Mr. FESSENDEN. So some people say, but we do not know anything about it. It is no way to legislate upon what somebody says. There is no member of the Senate who has read it.

Mr. HOWE. I suppose that can be made certain in a very short time. I did not understand that any Senator here wanted the bill referred to the Finance Committee. I did not hear any request for a reference.

Mr. FESSENDEN. That is the ordinary course, but the Senator objected and had it laid on the table. I supposed he would have it taken up again and referred.

Mr. HOWE. That is the ordinary but not the invariable course.

Mr. FESSENDEN. Always. I never knew of a tariff bill, large or small, that was not referred.

Mr. HOWE. I cannot recall an instance myself; but a bill of this kind affecting only one subject, and that a subject which has been before the country so long as this has, and discussed so extensively and widely as this has, I suppose might very well be made an exception of, inasmuch as nobody asked to have it referred. The Presiding Officer did remark, as is usual, that the bill would be referred to the Finance Committee; and supposing the Com-

mittee on Finance did not care to consider it, I thought it was just as well that it should lie on the table until we could take it up. This I understood to be the fact; that it is a transcript of the provision on this subject which passed the House in the tariff bill and came to the Senate some time ago. I understand that that measure was matured upon consultation with those most familiar with it and most deeply interested in it, the manufacturers and the growers of wool.

Mr. FESSENDEN. And the consumers.

Mr. HOWE. How far the consumers have been consulted I do not know; but we understand, in reference to this interest, that they represent the consumers also.

Mr. POMEROY. I hope Senators will let us take up some bill. If we occupy the whole time with debating the question of whether we shall take up this bill we shall not take up any.

Mr. HOWE. I am not going to take up the time of the Senate. I hope, under these circumstances, that the Senate will act on this bill.

Mr. WADE. It is objected that it is very uncertain what the provisions of this bill are and where it originated, and a great deal of mystery is cast over it. Sir, there is nothing in that. You passed bills to-day that you never read; that you know nothing about. There is that military bill which not a Senator here, except the gentleman who reported it, knows anything about. You took his word for it; and so it is with most of the proceedings of the Senate at this time. These important bills come in here, and we rely upon the information given us by some two or three gentlemen who are on a committee of conference; we know nothing about them; and we are very safe in taking their word, for they never deceive us about it. Mr. BINGHAM, a gentleman who is perfectly competent to deal with this subject, a very prudent man, carefully transcribed this bill from the other bill, and informs us that this is just as it was in the other bill that you are all acquainted with. We know as much about it as we do of anything else. You may give it the go-by if you will; but I trust the Senate will consider it.

Mr. HOWE. Allow me to suggest that the rules require this bill to be read at length, and any Senator can take the tariff bill which was before us some time ago, while this bill is being read, and ascertain while it is being read whether it is a transcript of the other bill or not.

Mr. FESSENDEN. The honorable Senator from Ohio says that we know as much about this bill as we do about anything else.

Mr. WADE. About the military bill.

Mr. FESSENDEN. "About anything else" was the closing remark.

Mr. WADE. Very well; have it so.

Mr. FESSENDEN. All I have to say is, that that remark unquestionably is true, as applied to himself, but I will thank him not to apply it to me. Now, sir, what is the argument of the gentleman? A tariff bill containing some eight or ten pages, not taken from any particular place in the tariff bill that was under discussion, if it is taken from it at all, because matters in relation to wool and woollens were scattered all through the length and breadth of that bill, comes in here on the last day but one before the close of the session, with all these provisions in it. It is laid on the table; it is not referred to a committee; and it is called up an hour and a half before the time fixed for the adjournment, after we have been up all night acting upon the business of this session, and the demand is made that all other business, to which there is no objection, must stop, if there is any other business, that this may be taken up and discussed; and on what authority? There is not a man in this body who pretends that he has read the bill or knows what is in it. The gentlemen themselves who are in favor of taking it up and passing it do not pretend that they know what is in it or that they have read it; and yet the Senate of the United States is now called upon to pass an

important tariff bill containing all these provisions, many of them intricate provisions, at this time. I have cast my eye over them. Many of them I cannot understand at all, and are entirely new in relation to this matter, not such as we have had before us. But we are asked, on the information that Mr. BINGHAM, a member of the House, considers it the same bill, to act upon that sort of information, and pass an important bill within an hour and a half of the close of the session.

Mr. HOWARD. I was about to suggest to my friend from Maine that we will not take up the bill about which he is speaking, and I beg that we may take a vote upon the motion, so that we may afterward take up the bill distributing the rewards among the captors of Booth and the other assassins.

Mr. FESSENDEN. Very well.

Mr. WADE. Give us a vote upon it. I object to its being laid aside without a vote.

Mr. WILLIAMS. It is argued that this bill ought to be taken up at this time because it is a copy of some portions of the tariff bill. That tariff bill has never been read in the Senate, never been considered in the Senate, and never any part of it approved by the Senate. It never went to the Committee on Finance. Just as quick as it was brought in from the House a motion was made to postpone it until December next, and it was so postponed. I never examined it I know. It is no argument to say this is copied from that bill unless the argument is conclusive that because the House has passed a bill the Senate must pass it.

Mr. EDMUNDS. The Senator from Maine said that no Senator in this body had read this bill. I must correct him as to that fact. I have read it myself carefully, because it interests my constituents. I do not claim from that that the Senate ought to take my say-so as to what it contains; but the bill has been of sufficient interest to me to cause me to study it, so that, so far as my means of action go, I am perfectly ready and willing to pass it. I only mention this to correct the Senator as a matter of fact, but not as asking the Senate to act on my information.

Mr. FESSENDEN. I was mistaken in my recollection as to the tariff bill when it first came in here. Before it was referred to the Committee on Finance, before any motion was made to refer it, a motion was made to postpone it to the next session of Congress, and it never came to the Committee on Finance of this body, and has never been examined in that committee. We do not know what is in it. We have had no chance to examine any part of it; and everybody conceded, a great many members of the House conceded and hoped that the Committee on Finance would examine it and correct its many errors before it was suffered to pass this body. The argument in favor of taking up this bill is that it is copied *verbatim* from that bill which we never saw!

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. Oh, no; let us pass the bill about the assassination awards first.

Mr. CONNESS. We will not remain long in executive session.

Mr. FESSENDEN. You had better withdraw that motion, and let us take a vote on this question.

Mr. CONNESS. If you will come to a vote, I will.

Mr. WADE. Let us have a vote on it.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. HOWE. I just want to correct—

Mr. CONNESS. I renew my motion.

The PRESIDENT *pro tempore*. There is no occasion to renew it. It is already made.

Mr. HOWE. I want to correct the Senator from Maine, and I want to ask him—

The PRESIDENT *pro tempore*. The question before the Senate is, Shall the Senate now proceed to the consideration of executive business?

Mr. FESSENDEN. That is withdrawn.

The PRESIDENT *pro tempore*. It is not withdrawn.

Mr. CONNESS. I do not want to withdraw it if this question is to be further discussed; but if we can come to a vote I will withdraw it. Everybody knows whether he is willing to take this bill up or not.

Mr. SPRAGUE. I move to lay the pending motion on the table.

The PRESIDENT *pro tempore*. It is not before the Senate in a way to be laid on the table. The motion before the Senate is the motion of the Senator from California, to proceed to the consideration of executive business.

Mr. CONNESS. I withdraw it if the Senate will come to a vote.

Mr. SPRAGUE. I now renew my motion. Mr. HOWE. I will give way to a motion to lay on the table.

Mr. TRUMBULL. The bill is not up. How can it be laid on the table?

Mr. SHERMAN. As a question of parliamentary law any member has a right to move to lay a pending motion on the table, and there is no exception to that except a motion to adjourn or to go into executive session.

The PRESIDENT *pro tempore*. That was the opinion of the Chair which was given some days since, although with some hesitation, and the Chair will continue to follow that decision. The motion of the Senator from Rhode Island is to lay the pending motion, which is the motion of the Senator from Ohio to proceed to the consideration of House bill No. 793, on the table. The motion is not debatable.

Mr. WADE. Let us have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. ANTHONY. I beg leave to say that while I presume I am in favor of this bill, I shall vote to lay the motion on the table from the utter impossibility of considering it at this time.

Mr. DAVIS. I am in favor of laying this motion on the table, but I think the motion to do so is utterly unparliamentary, and I shall therefore vote against it.

The question being taken by yeas and nays, resulted—yeas 22, nays 11; as follows:

YEAS—Messrs. Anthony, Buckalew, Conness, Creswell, Doolittle, Fessenden, Foster, Guthrie, Harris, Henderson, Howard, Johnson, Lane, McDougall, Morgan, Nesmith, Sprague, Sumner, Van Winkle, Willey, Williams, and Wilson—22.

NAYS—Messrs. Chandler, Davis, Edmunds, Howe, Pomeroy, Ramsey, Ross, Sherman, Trumbull, Wade, and Yates—11.

ABSENT—Messrs. Brown, Clark, Cowan, Cragin, Dixon, Fowler, Grimes, Hendricks, Kirkwood, Morrill, Norton, Nye, Poland, Riddle, Saulsbury, Stewart, and Wright—17.

So the motion was agreed to.

NORMAN WIARD.

The bill (H. R. No. 818) for the relief of Norman Wiard was read twice by its title.

Mr. WADE. I ask the Senate to put that bill upon its passage now. Mr. Wiard is a gentleman, as is well known to most Senators, who has made great sacrifices on the subject of guns and in his inventions, and very useful ones in the Navy, which have been of great advantage to the country. The Government now owe him a large debt and he is suffering for the want of it. He is a bankrupt and used up. The House, in consideration of the great merits of this man, for what he had done, passed this bill, in a hurry to be sure; but it is perfectly just, and, as I believe, does not contain a tenth part of the amount that is justly due him. I hope that the Senate will consider it at once. They may think it is sudden, and they may say they want time to consider it further; and if they do I shall not deny that the request is reasonable enough; but I believe that Mr. Wiard is suffering very much for some portion of the very large debt that is undoubtedly due him, and I hope at this late period of the session this House bill will be suffered to pass. That is all I have to say about it.

Mr. SPRAGUE. I must object to its present consideration.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered.

## ASSASSINATION REWARDS.

Mr. SPRAGUE. I now renew the motion to take up House bill No. 801.

Mr. CONNESS. Has not that bill been reported to-day?

Mr. SPRAGUE. No, sir; yesterday.

Mr. CONNESS. Did it not come from the House to-day?

Mr. WILSON. No, sir; yesterday.

The PRESIDENT *pro tempore*. The title of the bill will be read.

The SECRETARY. A bill authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward.

Mr. CONNESS. Is not one objection sufficient to arrest the consideration of that bill to-day?

The PRESIDENT *pro tempore*. It is not, in the opinion of the Chair.

Mr. CONNESS. When did it come into the Senate?

Mr. HOWARD. It came here yesterday, and was referred to the Committee on Military Affairs, and has been reported back from that committee.

Mr. CONNESS. Was it not reported back to-day?

Mr. HOWARD. No, sir; yesterday.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CONNESS. I submit to the Chair whether this is not the same day on which that bill was reported. There has been no adjournment.

The PRESIDENT *pro tempore*. It is not the same, in the recollection of the Chair.

Mr. CONNESS. There has been no adjournment. I submit the question as a question of order to the Chair.

The PRESIDENT *pro tempore*. The Chair is advised that it came from the House on the 27th of July.

Mr. TRUMBULL. I submit that, according to our days, the 27th of July does not expire, unless there be an adjournment, until noon of the 28th. On the 3d of March we continue in session until twelve o'clock on the 4th, and it has been so settled by the practice of the Government, unless there is an adjournment. We have had no adjournment, and the Journal will show that all the business we are now doing is done on the 27th. I think that is the way the Journals have always been kept, unless there is an adjournment.

Mr. McDUGALL. If that be so I should like to understand it definitely. It is a strange thing to me if our adjournment stands on the 27th.

Mr. TRUMBULL. Certainly. It is always so on the 3d of March. The 3d of March reaches to twelve o'clock on the 4th. The session of to-day does not begin until twelve o'clock. That is the standing rule of the Senate.

Mr. POMEROY. The Clerk corrected the Journal. The Senator from Maine moved that the Senate take a recess this morning until nine o'clock, but the Journal was corrected, so that it reads that the Senate adjourned at seven o'clock to meet at nine o'clock to-day; so that this is the next day.

Mr. FESSENDEN. My motion was to take a recess from seven until nine o'clock.

Mr. HOWARD. I should like to know what is before the Senate. Will the Chair decide the question of order?

Mr. POMEROY. I was in the chair, and the motion of the Senator from Maine was corrected so as to make it an adjournment instead of a recess, because it seemed to be necessary, as we had agreed to adjourn on to-day, that we should have a session to-day.

Mr. FESSENDEN. The record stands corrected then, does it?

Mr. POMEROY. The Journal is correct.

Mr. FESSENDEN. Very well.

Mr. TRUMBULL. The question as to when the day ends was settled by a decision under Fillmore's administration.

The PRESIDENT *pro tempore*. The bill before the Senate will be read.

Mr. FESSENDEN. Before that is done I ask permission to make a report.

The PRESIDENT *pro tempore*. The Chair will receive it, if there be no objection.

## SOLDIERS' INCOME TAX.

Mr. FESSENDEN. I found in the room of the Committee on Finance a joint resolution, which was sent there yesterday, entitled a joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special five per cent. income tax imposed thereby. We have had no time to examine it, and I ask leave to report it back and it may lie on the table, unless gentlemen, in consideration of their love for the soldiers, appeal to us to take it up.

The PRESIDENT *pro tempore*. It will lie on the table, no objection being made.

Mr. WADE. I move that we proceed to the consideration of that bill.

Mr. SPRAGUE. The award bill is before the Senate.

Mr. WADE. Let us pass this bill exempting pensions from taxation.

Mr. SPRAGUE. This is far more important.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered at the present time.

## ASSASSINATION REWARDS.

The Senate, as in Committee of the Whole, resumed the consideration of House bill No. 801, authorizing the payment of the rewards offered by the President of the United States, &c.

The PRESIDENT *pro tempore*. The reading of the bill will be proceeded with.

Mr. HOWE. I will submit a motion which I suppose is in order without the reading of the bill, and that is, to postpone the further consideration of the bill until the first Monday in December next. That motion is in order, I believe.

The PRESIDENT *pro tempore*. It is in order.

Mr. SHERMAN. This bill provides for the distribution of a sum of money which was promised by the Government of the United States to the captors of the murderers of Abraham Lincoln and also to the captors of Jefferson Davis. The money is acknowledged to be due, and it is due to soldiers every one of whom spent days and nights of faithful labor in earning this reward promised by the Government. The award has been made by the concurrence of the legislative and military authorities after the most critical examination that was ever made of any claim. The bill was passed by the House of Representatives after a full debate; and now for us to deny these men this justice, it seems to me, is very harsh treatment. I have seen within two days some of these soldiers about the galleries, who have been waiting here for this little sum of money; in some cases only \$250, in some cases \$150. One of those soldiers bears two wounds upon his body; he is pale and emaciated; he has not got five dollars in his pocket; and yet his brain and activity captured Booth; and he is now here awaiting the action of this body on this claim. I do not believe there is on the Calendar a more meritorious claim to a more deserving set of persons, or a claim as just and well founded as this. I hope that the Senate, as the last act of this session, will do justice to this class of people. All the bene-

ficiaries except one, and that is Mr. Baker, are men who are poor and need this money, and delay is very harsh and severe treatment to them. Many of them are soldiers of Ohio, Michigan, and Indiana; the great body of them, I believe, from the State of Michigan. It seems to me but an act of justice, and I hope the Senate will pass the bill. The great bulk of the bill consists simply of the names of soldiers and the amounts set opposite their names. The bill is not a very long one with the exception of the list of names, which nobody can desire to have read unless it be for the mere consumption of time.

Mr. HOWARD. I really hope that the Senate will not postpone this bill, but that they will take it up and pass it. I think simple justice requires that we should proceed with it and distribute the rewards which have been honestly earned by these officers and soldiers, so that they may know what is theirs. There are many of them who are necessitous. I am well acquainted with the gentleman to whom the Senator from Ohio refers. I know him to be a brave and honest and honorable officer. He is deserving of the money; he is now waiting for it; he is poor, languishing even now under the wounds he received in the service, needing this money to pay his honest debts and even to pay his fare to get out of the city. I hope the bill will not be postponed.

Mr. HOWE. I have no sort of objection to the amount of this award paid for the capture of Booth and his accomplices being distributed to-day or to-morrow or any other day. I have no interest in it and care nothing about it. I do not know but that that award has been carefully considered; I do not know but that it is just; but this bill distributes another sum of money awarded for the capture of Jefferson Davis.

Mr. SHERMAN. I was about to say to the Senator that the gentleman who made this report, Mr. DELANO, my colleague in the House, suggested to me that if there was any question about the distribution of the reward in regard to the capture of Jefferson Davis, that, which is the bulk of the bill, might be stricken out, if you could do it in time to send it back to the House to concur in the amendment, leaving that distribution to come up hereafter. The persons interested in that award are not here, but at a distance, while the others are soldiers employed about here and lying in wait for this money. If the Senator desires that course, I should be sorry for it, but still I am willing that he should make such an amendment.

Mr. HOWE. If that part of it can be stricken out, I have no objection to make to the passage of the residue of the bill.

Mr. JOHNSON. Move to strike it out.

Mr. SHERMAN. I have no objection.

Mr. HOWARD. Let it be stricken out.

Mr. HOWE. Very well; proceed with the bill and let that amendment be made.

The PRESIDENT *pro tempore*. The motion to postpone is withdrawn.

The Secretary proceeded to read the bill.

Mr. SHERMAN. I suggest that by unanimous consent the reading of the names be dispensed with.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection.

Mr. HOWE. Now, if the Clerk can report that part of the bill which refers to the capture of Mr. Davis I will submit a motion.

The SECRETARY. "For the capture of Jefferson Davis: to private Cornelius Carroll, \$166 76 7/8—"

Mr. HOWE. I move to amend the bill by striking out the words read and all succeeding, including the names of the soldiers who are to share in that award.

The PRESIDENT *pro tempore*. It is moved to amend the bill by striking out what will now be read.

Mr. JOHNSON. It is hardly necessary to read all the names. There are some two or three hundred of them.

The PRESIDENT *pro tempore*. It is moved that the bill be amended by striking out that



portion of it which provides for payments to the captors of Jefferson Davis.

Mr. SPRAGUE. I hope that amendment will not be made. This reward was offered by proclamation of the President of the United States, and the capture was made by three or four hundred men of the Army, and the award was made *pro rata*. It is a just claim against the Government of the United States. The reward was solemnly offered, and the award was properly and judiciously made, as I believe. I trust the bill will not be amended.

Mr. HOWE. I understood it was agreed that that should be struck out. I will simply say to the Senator from Rhode Island that I have examined the question very carefully myself, and I have the most thorough conviction that only a small portion of the parties who did capture Jefferson Davis share in this award. Two different bodies of men were employed in that arrest, a part of the fourth Michigan cavalry and a detachment of the first Wisconsin cavalry. Some six hundred men, as I believe, of the fourth Michigan cavalry were employed in the capture of Mr. Davis, and some hundred and odd men of the first Wisconsin cavalry. Now, of those who share in the award, the whole of the first Wisconsin cavalry is omitted, and about half of the Michigan cavalry. There are some very remarkable facts connected with this matter.

Mr. SHERMAN. I think there ought to be no controversy about that. The chairman of the House committee told me that in regard to the awards for the capture of Jefferson Davis, they took the report of the military commission on that subject, they had not the means of making a personal examination; but I will vote with the Senator to strike that out, if there be objection to it. Let the motion be put, and I think it will be agreed to. That is a controverted matter. I do not think it ought to embarrass the passage of the rest of the bill.

Mr. HOWARD. In the hope that the bill will pass, even with this clause stricken out, I shall vote for striking it out; but I beg to say at the same time that the claims of the Michigan soldiers and those of Wisconsin have been very fully and thoroughly examined by a military commission with a view to the distribution of the reward, and this bill is based entirely upon the finding of that commission. I suppose that they examined the whole subject fairly and candidly and equitably, and we have before us the result which is contained in the bill. But in order to save something at the present session, I am willing to have that portion of the bill stricken out, so that at the coming session of Congress we may call up the subject in relation to the captors of Jefferson Davis. I do not regard this vote as prejudicial in any way to the claims of these men, or as settling the question between the Michigan and Wisconsin soldiers in that behalf, but merely for the purpose of saving the rest of the bill.

Mr. McDUGALL. Without discussing the question as to the rewards for the capture of the assassins of the late President, who was my personal friend, I desire to remark that this whole subject has been trifled with. What was promised has not been performed; and men have been compelled to remain here dancing attendance upon the Government who were promised high favors for their achievements. I wish to express my sorrow and indignation at the want of prompt action on the part of the Government in doing what they had promised to do, and which they are bound to do, and which they are not doing now upon half of the measure.

The PRESIDENT *pro tempore*. The motion before the Senate is that that portion of the bill proposing a reward for the captors of Jefferson Davis be stricken out of the bill.

The motion to strike out was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. DAVIS. I should like some Senator to give the Senate some assurance that Abraham Lincoln's murderer was in fact killed. I have never seen myself any satisfactory evidence that Booth was killed.

Mr. HOWARD. In order to prove it demonstratively, perhaps we should be compelled to send for Boston Corbett, who shot him. I suppose the honorable Senator is speaking of Booth.

Mr. DAVIS. Yes.

Mr. JOHNSON. I submit to my friend from Kentucky that there are some things that we must take judicial notice of, just as well as that Julius Caesar is dead.

Mr. DAVIS. I would rather have better testimony of the fact. I want it proved that Booth was in that barn; I cannot conceive, if he was in the barn, why he was not taken alive and brought to this city alive. I have never seen anybody or the evidence of anybody that identified Booth after he is said to have been killed. Why so much secrecy about it? Why was not his body brought up publicly to Washington city and exposed to the gaze of the multitude, that it might be identified? It may be that he is dead; but there is a mystery and a most inexplicable mystery to my mind about the whole affair. He may come back some of these days and murder somebody else. [Laughter.]

I merely got up to make this suggestion. I supposed that some gentleman was in possession of facts going to show that Booth was identified. Identify Booth, and these men ought to have their reward, but I doubt whether this man Baker ought to have anything. I believe he was a much bigger villain than any man he was pursuing. I do not doubt that at all; and I believe he is just such a man as to get up now a story of the capture of Booth when Booth had not been overtaken at all. [Laughter.] If gentlemen will refer me to where I can get a narrative of facts to prove the identity of Booth, I will at my leisure read it with much interest. I want to be assured of the facts, not with a view to vote on this bill but with a view to the history of the transaction.

I do not see why, if Booth was in the barn, he should have been shot. He could have been captured just as well alive as dead. It would have been much more satisfactory to have brought him up here alive and to have inquired of him to reveal the whole transaction, to have implicated all who were guilty and to have exculpated all who were innocent. I do not see any reason why the matter had not taken that course. Bring his body up, carry it to the City Hall, expose it there to public gaze, let all who had seen him playing, all who associated with him on the stage or in the green room or at the taverns and other public places, have had access to his body to have identified it. That was the way, where \$100,000 was offered as a reward for capturing the man. I am certain I was as innocent of that murder as the child that is yet unborn; but I should have disliked to have \$100,000 offered for me as an accomplice in that murder; it would have caused me to be hung or shot just as certain as fate. [Laughter.]

Mr. CONNESS. That would be a big price. [Laughter.]

Mr. DAVIS. I have no doubt that the honorable Senator from California could have had me captured or shot for \$2 50 by some of his myrmidons. [Laughter.]

Mr. ANTHONY. I am happy to relieve my friend from Kentucky by informing him that a small part of the skeleton of Booth is in the anatomical museum of the Surgeon General.

Mr. JOHNSON. Who knows that?

Mr. ANTHONY. I do not know how it is identified, but it is certified to be that.

Mr. SPRAGUE. I hope we shall have the question.

The bill was passed.

On motion of Mr. SPRAGUE, the title was amended by striking out the words "Jefferson Davis and."

#### EXTENSION OF THE SESSION.

Mr. FESSENDEN. I move to take up the resolution which came from the House extending the time of adjournment. It will take some hours to finish the enrollment of bills.

The motion was agreed to; and the Senate proceeded to consider the following resolution, received yesterday from the House of Representatives:

*Resolved*, (the Senate concurring,) That the present session of Congress be, and hereby is, extended until Saturday, the 28th instant, at four and a half o'clock p. m.

Mr. FESSENDEN. I am notified by the Clerk of the House that the enrolling of the several bills that have been passed and comparing them, cannot possibly be got through with in less than from two and a half to three hours. In addition to that, there is a very large number of bills before the President, and some he cannot get for some hours: so that, in the opinion of the Clerk of the House, four and a half o'clock is the earliest hour which we can safely fix for an adjournment. I therefore move a concurrence in the resolution of the House.

The motion was agreed to.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had approved and signed the following acts and joint resolution:

An act (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York;

An act (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

An act (S. No. 334) to prevent the wearing of sheath knives by American seamen;

An act (S. No. 353) for the relief of the trustees and stewards of the Mission church of the Wyandotte Indians;

An act (S. No. 400) to fix the compensation of certain collectors of customs, and for other purposes;

An act (S. No. 406) for the removal of causes in certain cases from the State courts; and

A joint resolution (S. R. No. 131) for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

#### NEUTRALITY LAWS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 806, in regard to the neutrality laws.

The PRESIDENT *pro tempore*. The Chair is advised that there is no such bill on the table.

Mr. CHANDLER. The bill was referred to the Committee on Foreign Relations. I move that the committee be discharged from its further consideration and that it be taken up.

Mr. POMEROY. It cannot be considered to-day if there is any objection.

Mr. SUMNER. I do not know whether this motion is made in earnest.

Mr. CHANDLER. It is made in good faith, as I always act.

Mr. SUMNER. The Senator says it is made in good faith. Then I am obliged to say to the Senator that he cannot expect to pass that bill unless after a debate that must extend beyond our session.

Mr. CHANDLER. I am willing to extend the session long enough to give time to pass this bill. I want to pass it.

Mr. SUMNER. I dare say the Senator is willing to extend the time, but the Senate, I think, will not be willing. Others must be consulted besides the honorable Senator. I am not disposed to enter into this discussion now, unless it be necessary. I think it is hardly advisable for us to open it.

Mr. POMEROY. I hope we may pass some bills that can be done by unanimous consent.

Mr. SUMNER. I think that would be a more profitable employment of our time.

Mr. POMEROY. If the committee be discharged from the bill, one objection will throw it over.

Mr. CHANDLER. Oh, no; we excuse the

committee for the purpose of proceeding to the immediate consideration of the bill.

Mr. POMEROY. But it cannot be considered except by unanimous consent.

Mr. NYE. We can pass the bill.

Mr. CHANDLER. It is a very important bill, and I hope we shall pass it before we adjourn.

#### SENATOR FROM TENNESSEE.

Mr. JOHNSON. I rise to a privileged question. I move that Hon. David T. Patterson, Senator-elect from the State of Tennessee, be permitted to qualify according to the Constitution and laws.

The PRESIDENT *pro tempore*. The Senator-elect will come forward and take the oaths prescribed by the Constitution and laws.

Mr. PATTERSON stepped to the desk, and the prescribed oaths having been administered to him, he took his seat in the Senate.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 188) to increase and fix the military peace establishment of the United States;

A bill (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes; and

A bill (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes.

#### FENIAN MEETINGS.

Mr. WILSON. I report back from the Committee on Military Affairs and the Militia House joint resolution No. 208, and I ask for its present consideration.

By unanimous consent the joint resolution (H. R. No. 208) in relation to the use of the Soldiers' and Sailors' Orphans' Fair building in Washington was considered as in Committee of the Whole.

The resolution was read.

Mr. GUTHRIE. I move to lay the resolution on the table.

The motion was not agreed to.

Mr. CRESWELL. There is a preamble to the resolution reciting certain facts of which I am entirely ignorant. I ask if any gentleman here can certify that they are correctly recited.

Mr. CONNESS. It is all right.

Mr. CRESWELL. That is satisfactory.

The joint resolution was reported to the Senate.

Mr. JOHNSON. I ask that the resolution be read for information. I happened to be out for a moment and do not know what it is.

The Secretary read the resolution, as follows:

Whereas this House has been informed that certain peaceable and law-abiding citizens, while assembled at and within the building recently erected in this city for the benefit of orphans of deceased soldiers and sailors of the United States, situate on the corner of Seventh street and Pennsylvania avenue, have been illegally and improperly dispersed by the mayor of this city for the alleged reason that they belonged to a Fenian organization, and thus prevented from exercising their rights and privileges as citizens of the United States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said citizens are hereby authorized, whenever permitted so to do by the Speaker of this House or the President of the Senate, to use and to occupy said building for the purpose of holding public meetings for every proper and lawful purpose, and particularly in reference to the liberation of Ireland.

Mr. JOHNSON. This seems to me to be a singular resolution. It proposes to appropriate a public building of the Government for the meetings and discussions of those who are called Fenians, whose avowed purpose it is to make war upon England. You might as well give them the use of this Capitol for the same purpose. I think England will have good reason to complain of such conduct. Whether she acted toward us during our domestic troubles in a spirit consistent with absolute neutrality is one question. Whether, if she did not, we are

thereby justified in acting toward her in a like spirit is a question which, in my judgment, touches our national honor. I do not think that in the career of the United States their name has ever attained a higher eminence in the estimation of the world than because of the recent steps taken by the Executive to prevent outrages upon the possessions of England, outrages prohibited by laws coeval almost with the Government, emanating in the patriotic foresight of Washington, draughted by Hamilton, and afterward continued in 1813—laws which have eminently contributed to preserve the peace and maintain the true honor of the United States.

The only just influence which we can have upon the other nations of the world is in the example of our own free institutions, the moral influence consequent upon those institutions, the persuasive influence with which they appeal to the approval of mankind. But such influence will be very materially impaired, instead of promoted, if we suffer within our territorial limits any assemblage of men for the purpose of warring against a nation with which we are at peace, and a nation which now acknowledges, as we have recently seen, not only through the ministry which have just gone out of power, but through the ministry which have just been inducted into power, their admiration of the conduct of the United States; and an admiration expressed in such terms as satisfies me that the time is near approaching, if it is not now at hand, when England will wake up to her own default, if she was guilty of a default, as we think she was, in preserving her neutrality, and repair all the damages consequent upon that default.

The whole European world is now in a state of convulsion. When it is to end, how far it is to extend, we are unable now to tell; but in my judgment it is the true interest of the United States, because it is connected with the true honor of the United States, that we should abstain from doing or suffering to be done any act which shows that we are willing in any way to participate in the struggles. We have happily emerged from one of our own, not only unharmed in physical and moral strength, but (greatly to our happiness and good name) with both much enhanced; and here let us firmly stand. Those citizens who come from other nations to seek protection and happiness under our flag, owe it to duty, to the Government that has received and protected them, that they take no step inconsistent with the laws of the United States. Change the laws, if you think proper, but as long as they remain they should and will be vindicated by the whole power of the United States. What that power is the past four years have exhibited to an astonished world.

Our fearful strife is ended, and now our first and paramount duty, instead of pursuing a course which may involve us in difficulties with foreign nations, is to heal our own disorders, to conquer as rapidly as we can the prejudices which have arisen out of them, and to make ourselves what we were under the Administration of Washington and for many years afterward, brothers. A sacred duty this is, a duty which, fully performed, will challenge the admiration of the civilized world. Let us satisfy mankind that the peace of other nations shall not be endangered by any acts contrary to the obligations that our citizens owe to our Constitution and laws.

The language of the resolution before the Senate is that those who think proper, those who suppose—whether correctly or not, in my judgment, is immaterial—that they have suffered wrongs in their persons or in the persons of their ancestors which they ought to redress or avenge, may use a public building of ours to assemble in to inaugurate or advise such proceedings as they may think proper, looking to the attainment of that object. To authorize this by congressional action is to say to the world that here, within the limits of the United States, our laws are not considered as obligatory. England, with all her faults—and nobody is more

persuaded than I am that prior to the war of 1812 and after its termination, and recently during our domestic troubles, she has committed faults—England is the only constitutional Government now upon the face of the habitable globe, except our own, where personal liberty and personal rights are maintained. I would regard, therefore, with great distrust, under any circumstances, any effort to revolutionize a Government of that description; but I would especially regret that we, Senators of the United States, sworn to support our Constitution and the laws which have been passed in pursuance of it, should encourage assemblages of people, whether native or alien, whose avowed object is to violate the very laws which we are sworn to support.

Politicians who suppose or act as if they supposed that mere party is patriotism, who think or seem to think that temporary success is permanent fame, may lend themselves to encourage lawless proceedings, and may be found professing friendship for and alluring on an impulsive class who, smarting under the injustice they honestly believe has been done them and their ancestors in their native land, are tempted to violate our laws or disregard our national duty in order to obtain voters at a coming election; but such motives cannot, for they should not, influence statesmen. It is their almost sacred province to maintain against all sinister or misleading appliances the Constitution and laws of their country inviolate, to frown on all efforts in disregard of either, to prevent them, if that can be done, and enforce the laws, if that becomes necessary.

Honor is as essential to a nation as to an individual. Lost to either, the immediate result is character impaired, and if not soon vindicated and redeemed the consequence sooner or later is ruin.

Mr. NYE. I am a little at a loss to know why this resolution has aroused the ire of the distinguished Senator from Maryland, [Mr. JOHNSON.] It is simply a question whether citizens of this country shall have the right to assemble together for peaceful purposes within the boundaries of the capital of this nation. In the discussion of that question the distinguished Senator has seen fit to inform us what England is going to do in the future in regard to the wrongs she has done us in the past. I believe that the time of the Senate could not be better occupied in the few hours that remain than by taking up the House bill to amend the neutrality laws and passing it here. It presents, in all its features, just such a law as England has in regard to us. I am at a loss to know from what facts, past or present, the distinguished Senator draws the conclusion that England will be magnanimous and do unto us what she ought to do for the wrongs she has inflicted upon us. He must remember, I remember vividly, that not long ago at St. Albans, in Vermont, outrages were perpetrated by armed men who found protection under the British flag, and that British authorities refused to surrender them to us for punishment for the wrongs they had done. I remember that under the protection of the British Government, but a few months since, conspirators against the life of this nation plotted all manner of outrages upon our people, even to poisoning at the fountain the water we drink. When the English Government and the English laws were appealed to we obtained no redress.

Sir, in this matter the policy pursued by the mayor of this city is not the policy which has been pursued by this Government in regard to any nationality, and especially in regard to the struggles of the South American republics. Instead of the Senator from Maryland having any sympathy for the downtrodden Irish, his sympathy all goes out toward the strong, the defiant, I had almost said the impudent, spirit that England has manifested toward us. Sir, I sympathize with any people, white or black, that are struggling for freedom. The example of this country, its institutions, its attractive beauties, have almost depopulated Ireland; and her people, coming here and breathing the

air of this free Republic pant for the freedom and independence of their native land, so long ago wrested from them. Shall we defer to the wishes of England after the exhibition she made during our troubles, when her almost every workshop was busy with the labor of the mechanic fitting out and arming piratical ships to seize upon our merchantmen, and prey upon our commerce? The distinguished Senator from Maryland can see in all this nothing but good will and good intentions toward this Government on the part of England.

Sir, the fact is patent, and he that runs may read it, that England sought the overthrow of this Government, and was the ally of the confederacy and by no means the weakest one. And yet we are told that out of deference to England persons who have fled from her jurisdiction, who have kissed the last tear from off the cheeks of relatives in Erin and turned their backs upon the graves of their ancestors forever, shall not convene in this boasted land of freedom, shall not hold counsel together, shall not return even in memory to the traditions of the former glory of their native land! Away with such affectation! Upon what meat hath this mayor been feeding that he hath grown so great that he can wave his wand and every Irishman must at once hunt his hole? [Laughter.]

Fenianism is not as popular now on the other [Democratic] side as it was. These men begin to find that they have linked their political destinies to the wrong car. The Senator from Maryland justifies the mayor of this city in preventing these people meeting, and he says the law is as old as the District that the mayor should keep order. So it is; but what right had the mayor to assume that this would be a disorderly meeting? Who knew but that it was a meeting to indorse "my policy?" I presume that if it had been it would not have been considered disorderly or worthy of the interruption of the mayor. Sir, I insist that on this little remnant of the former ten miles square, the very hearthstone of this nation, the mayor or any other power shall not assume to say that a meeting is of a disorderly character till it manifests some evidence of it. The Irish had as good a right to convene here now as they had on the 22d of February last; and this meeting was far more orderly than that, and I presume the speaking was quite as good.

I hope this resolution will be passed and the mayor given to understand that, although he is mayor here, and mayor, too, by the voices of the very people whom he disbanded that night, he has no right to thwart or pervert the highest privilege granted to American citizens of peaceably assembling upon any and all occasions for the purpose of conferring together in regard to personal, individual, or collective rights. This outrage has been perpetrated; that cannot be helped; but its recurrence can be prevented, and I insist that it is the duty of Congress to say that right here in their faces such usurpation shall not be tolerated. My friend from Maryland having recently joined the Democratic party, is not fully versed in their traditions and history up to the present time; but heretofore Irishmen could be as thick around the Democracy as they pleased, and not create any alarm; but as soon as they begin to see, when they get nine days old and like young dogs get their eyes open, and think of leaving the Democracy, it is disorderly for them to convene.

It is the duty of this Congress to say that such an outrage shall not occur again. By a resolution of Congress we granted the materials out of which this building was put up for a humane public purpose. It has accomplished that purpose and it is to stand now for the gathering of all parties. If my friend from Maryland should want to speak there, no man would dare to say the meeting would be disorderly. I suppose the building will be kept up at least until after the coming gathering at Philadelphia, to be preserved for a ratification meeting, perhaps. My friend from Pennsylvania

[Mr. COWAN] would not like to have the mayor declare such a meeting disorderly; and the same measure that I would mete out to him I want meted out to any peaceful citizens who desire to congregate there.

There seems to be a great propensity in this District to lord it over somebody. Heretofore they have been able to gratify that spirit by lording it over the blacks. Now, the blacks being free they have taken another race in hand, and attempted to use their power to enslave the tongues and fetter the action of as noble and generous a race as ever breathed. The attempt will fail. Let them see that they cannot gag freedom of speech or liberty of thought.

I hope that the resolution will pass. I am sorry that it has incurred the displeasure and dislike of the distinguished Senator from Maryland. Above all other men in this body, I should have supposed he would be the warmest supporter of such a resolution. I know his great gushing heart must shrink from any such outrage as this; and when he arose I expected to hear him denounce it as it ought to be denounced; but instead of that, lo! he went on to sing pæans to the coming magnanimity of Great Britain. He tells us that we have just emerged from a great struggle. Yes, sir, and England made that struggle more fearful than the rebels themselves. I recommend that our Government make out its account of the millions we suffered at the hands of England and send the Senator as special minister to settle those accounts, he having the confidence he professes to have in Lord Derby. Why, sir, Lord Derby would be as insolent to him as the mayor was to the Fenians. England never did display toward this country one streak of magnanimity that she was not obliged to. We taught her the first lesson of respect to us in the Revolution; we gave her stripe for stripe in the war of 1812; she tried us twice; she does not want a contest with us again. The only way I submit is to clothe my friend from Maryland with full powers of negotiation, and when he has exhausted his arts of persuasion on Lord Derby we will say, "If you do not pay our bill we will make you," and that argument will prevail much quicker and be much more successful than all his arts of persuasion.

Mr. HOWE. Mr. President, I have been taken a little by surprise at the reception this resolution has met with. I thought it was a very harmless thing. I wish the Clerk would send it to me. It relates to the use of a certain public building in this city, in this District over which we have the exclusive right of legislation; a building that belongs to the Government of the United States, and is within the control of Congress; and the only disposition it proposes to make of that building in this District is this: "said citizens are hereby authorized, whenever permitted so to do by the Speaker of this House or the President of the Senate, to use and occupy said building." For what? "For any proper and lawful purpose, and particularly in reference to the liberation of Ireland." Upon what clause in this resolution is the indictment against it founded? Is it wrong to permit a public building to be used for holding public meetings? I take it not. Public buildings have been too often and too long appropriated to such uses to be now stigmatized for the same here or elsewhere. Is it founded upon the fact that these meetings are to be held for any proper and lawful purpose? I take it not. If public meetings can be held at all, most assuredly they can be held for proper and lawful purposes. But is it because they are to be held "in reference to the liberation of Ireland?" Is that the gist of the charge made against the resolution? Sir, I put the question to you and the Senate, is it improper or unlawful to hold a public meeting in a public building in the District of Columbia in reference to the liberation of Ireland? Since when was it that it became improper in this country to consider the question of freedom in Ireland or elsewhere? I thought there was one country in the world wherein the question of freedom might be fearlessly discussed and

debated, and I did fondly think that one country was the one over which still hang the stars and the stripes, and I continue to cherish that belief.

Sir, is the freedom of Ireland so odious a thing that it may not properly be considered by American citizens, either to the man born or born abroad? I know not myself why the freedom of Ireland should be more odious than the freedom of any other country. I know not myself what license an American citizen has to call freedom anywhere odious.

But if the freedom of Ireland were not a desirable thing in itself, are we bound by any law of right, or of courtesy even, to be so circumspect in reference to what we shall discuss here touching the real or the supposed interests of Great Britain as the Senator from Maryland [Mr. JOHNSON] seems to argue? Sir, those four black years when six millions of the American people stood in arms to overthrow the liberties of this country, was England so very circumspect as to what she should do and as to what she should say touching that great controversy? Did it happen to you, sir, did it happen to any Senator on this floor, to hear of any public building within the realm of Great Britain which was not open to the discussion of every question affecting the interests of that great rebellion with which we had to deal? Was there any public building subject to the control of the Government of England in which every sentiment calculated to cheer on that rebellion was not openly applauded to the echo? If there was such a building, I never heard of it.

Mr. President, it was said by the Senator from Maryland in the outset that by the discussion of such simple propositions as this before the Senate we were in danger of weakening the attachment of the American people to their own laws, that we are especially in danger of putting in peril what are known as the neutrality laws of this country, and the Senator from Maryland indulged himself in eulogy upon the achievements of the Administration in recently enforcing those laws. Mr. President, let me say a few words on that point. The Administration did enforce those laws. The Administration is not to be arraigned or condemned for the execution of any law upon your statute-book. For the simple work of executing your laws or enforcing them, this Administration and all Administrations are to be commended and not condemned. But, Mr. President, it does happen that the two parties to that controversy agree in one respect, that the two parties interested in the enforcement of those neutrality laws agree in two particulars. Great Britain says, by the mouths of her leading organs, that the Administration did more than could have been expected of it. The Administration was not bound to do more than to enforce the law of neutrality. That could naturally and reasonably have been expected of it. The London Times says that the Administration did more than could have been expected of it; and while they pour out upon the Administration that praise, the Fenians say that the Administration did a great deal more than they expected of it or had any reason to expect. Upon that point they are agreed, and upon that point I am inclined to think, from what I know, that both are right.

Let me call your attention to a very few incidents connected with that short struggle. I remember that on the 28th day of May—it was Wednesday, I believe—a telegraphic dispatch from Cleveland announced that two companies, I think—I am not sure about the force—two companies of Fenians left the city of Cleveland, in the State of Ohio, armed. That was on the 28th day of May. The country had been rife with rumors that a raid was contemplated on Canada; but the Government made no demonstration to check it. If a force did leave Cleveland for the purpose of invading Canada, that was a violation of our neutrality laws. The Government was notified through the public dispatches of that fact, but the Government did not lift a finger to interfere with



it. On the 1st of June the telegraph announced from Buffalo that large parties of Fenians armed were in that city, and that it was rumored an attack was to be made upon Canada that night. But the Government did not move to interfere with it. On the 2d of June the telegraph announced that a party of Fenians had invaded our neighboring Province, but so far as I learn the Government was quiet; at all events, the Government never uttered a word of caution or of admonition against these demonstrations. At the same time the telegraph informed the Government from every quarter of the Union that the Fenians were hurrying armed to the assault, but no word of admonition was addressed to them; the Government never said to them, "You must stand back."

An attack was made; I think on the 2d of June some fighting occurred; I forget the precise dates; but on the 2d or 3d of June we were told that General Meade was proceeding to the frontier and that the steamer Michigan was taking up its position in the Niagara river, and presently we began to learn that detachments of Fenians going to reinforce their brethren on the other side of the river were being arrested; but we heard no word of admonition from the Government itself, the central power.

The controversy went on, and small detachments, amounting, perhaps, to two or three thousand men, having gone across the river, the military force of the Government was deployed upon the boundary line, and all reinforcements were cut off. What then? Of course the small force that had crossed was crushed and dispersed at once. What then? They returned. What then? Your newspapers and your telegraphs were busy detailing to you the incidents of that short and considerable struggle; but it was not until the 7th of June, days after every vestige of the raid was crushed out, that the President of the United States issued his proclamation, telling the Fenians that they must keep the peace and obey the neutrality laws. It seems to me that that was a great deal too late to benefit either the Fenians or Great Britain. Our Army and our Navy had intercepted all reinforcements four days before that; the small detachment that had gone into Canada were utterly crushed; four days before that Fenianism was a mere phantasm; and I cannot, for my life, conceive what good the proclamation did either to Canada, to Great Britain, or to the Fenians. In that sense the London Times might well say that the Government of the United States had done more than could have been expected of it, because while it had uttered no admonition to warn the Fenians from moving on Canada, it had so employed the military force of the country as that Fenianism must be utterly harmless in Canada; and in that point of view the Fenians themselves may be entirely warranted in saying that the Government did a great deal more than they expected, because it did not only all it was required to do by law, but did it under such circumstances as to put them at disadvantage, while it gave no possible advantage to their opponents.

Mr. President, one word more. As to the merits of the Fenian movement I have only this to say: freedom must be as dear a thing in Ireland as in America or elsewhere; Ireland dislikes her union with Great Britain; I am not here to defend or to attack it; but I will say that if Ireland had a representation in the British Parliament proportionate to her population as our rebels had more than the representation which their population entitled them to in the Congress of the Republic, then I should think the effort of Ireland to break up that union was as unjustifiable as was the effort of our rebel States; but she has not that proportionate representation; to the extent that is denied, no man who loves equity and justice and fair dealing can fail to sympathize with Ireland and all who struggle for it. And whatever you may say of the Irish character, I want to say here in my place that I know of no people on God's earth who have given higher evidence of love of country than these very Fenians who, after

having abjured their native country as a place of residence because of the oppressions by which they were overborne there, still cling to it, their affections still cluster about it, and you saw them here, three thousand miles from the land of their birth, mustering for it, ready to do and to dare and to die for that country from which oppression drove them years ago. If you can find in the history of the present experience of the world a higher evidence of patriotic love than that, produce it; but till you do find it, give credit to the Irish character for one merit at least—that of patriotism.

Mr. McDOUGALL. Mr. President, it is a nice thing to use elegant words; it is convenient to use convenient words; it is popular to use popular words. All these things have been accomplished by the gentleman who has just taken his seat. Outside of the gentleman from Wisconsin and his companions, Ireland has long been understood. I venture to say that I know more of Ireland than he does. It is difficult for some to comprehend the complicated ideas of a nation. The people of Ireland are to-day a nation; they were a nation ages before the Government of England was established on its present basis. They were the first people who established an organized civilization in what is now known as the empire of Great Britain and Ireland. This fact is well known to all conversant with history. Ignorant people deny it, and ignorant Irishmen sometimes deny it themselves, but it is a fact nevertheless.

That there is a discord between the people of Great Britain and those of Ireland is a fact that all careful observers have noticed; a discord that must be continued; that can only be determined by the establishment of the right; by the sovereignty of Ireland as an independent Government, or by her acknowledgment by England as an independent kingdom, under partial subjection, perhaps, to a common rule. Her people cannot submit to the system under which they have been governed; and therefore they have been driven into far and distant lands; to our own land, if you please. There is no man who has read the tales of their ancient history, who has read the stories of their former fame, who has not wept as he has gone over the tale of savage tyranny imposed on them by Saxon and by Dane from across the sea. Would to God that they might even now, with what assistance they could procure, triumph and establish the Green Isle again as a little empire by itself, independent of Great Britain.

I am no Irishman; if I go to my antecedents I am a Scotchman; but the outrages that have been committed upon Ireland by England are beyond all the outrages that have been perpetrated in modern or middle ages, beginning seven hundred years ago and running down to the time of the Union which was secured by England by the unsparing use of English gold. So English gold is making this fight against Ireland now. It is easier for England to give a hundred thousand pounds (\$500,000) to save a fight, and to distribute another hundred thousand pounds among those who help her to achieve a bloodless victory. This is the way she wins her battles.

I wish that Ireland, the beautiful land of Hesperides of the old song, the great, the beautiful island of the western seas, might redeem herself into an independency; and I am for seeing it done, and it will have my full assistance whenever any reasonable proposition shall be made.

I will vote for this resolution to give the building contemplated for the discussions of Irishmen. There is more eloquence in an Irishman than there is in an Englishman, and more than there is in a Yankee anyhow, and more than you will find anywhere about unless you go to Kentucky, and perhaps the Philadelphia convention will bring the Kentuckians out. [Laughter.] This resolution only involves a question of sentiment, but I say let the Fenians have a full show and have a chance here to say what they think.

Mr. WILSON. I desire to have this question disposed of at the earliest possible moment. This resolution came to us from the House of Representatives, where it was introduced by a gentleman from the State of Ohio, distinguished for personal character and for great moderation—I refer to Mr. DELANO. When it came here and was referred to the Committee on Military Affairs, I sent for Mr. DELANO to learn the facts of the case. I learned that he had been waited upon by a deputation of gentlemen who were at this meeting which was broken up or threatened to be broken up in case it did not disperse. The House of Representatives based its action upon this information. So far as I am concerned, wherever I see any people struggling for the restoration of lost nationality or for the enlargement of their own individual rights, no matter to what race they belong, I give them my sympathy and bid them God speed.

In regard to the action of our Government with reference to the late movement in Canada, I do not suppose anybody expected that our Government could do otherwise than enforce its neutrality laws, but in doing that it should not act in an arbitrary manner or violate the rights of the citizen. I do not know that it did that, but it is charged by many of the people interested in that movement that the same action by our Government was pursued on the Canadian frontier that was pursued in the rebel States during the civil war. Whether that be so or not I do not know. So far as England is concerned I have not and never had any affection for her. I was never awed by her splendor or charmed by her power. During the four years of our war her influence was against us, and I must confess that when I saw her anxieties during the last few months I did not suffer any on that account. I hope, sir, that the Senate will pass the resolution as it came from the House of Representatives. I see no reason why it should not be passed. It certainly can do no harm.

Mr. GUTHRIE. Mr. President—

Mr. SUMNER. If the Senator will give way, I should like to move an executive session. There are certain messages that ought to be referred.

Mr. GUTHRIE. I yield the floor.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. WILSON. I hope my colleague will allow me to call up and put on its passage a little bill which lies on the table that is of a good deal of importance to many soldiers. I am sure no one will object to it.

Mr. SUMNER. Very well.

#### SPECIAL INCOME TAX OF 1864.

On motion of Mr. WILSON, and by unanimous consent, the joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special five per cent. income tax imposed thereby, was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

BESTOR AND McCORD.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 145) for the relief of George C. Bestor and Charles W. McCord. It provides for the organization by the Secretary of the Navy of a board of three competent persons to inquire into and determine how much the vessels of war *Shiloh*, built by George C. Bestor, and *Utah*, built by Charles W. McCord, and their machinery, cost the contractors over and above the contract price and allowance for extra work; and on the Secretary of the Navy approving the report of the board the amount found due is to be paid, not, however, exceeding twelve per cent. upon the contract price.

Mr. TRUMBULL. I ought to state, perhaps, that these parties are just like the other iron-clad contractors for whom we passed a bill, but their contracts were not completed in time for them to go before the board that sat last year on those claims. This resolution provides for an examination by a board, and if the board report favorably, and the Secretary of the Navy approves the report, the amount found due is to be paid, not, however, exceeding twelve per cent., as in the other cases.

The joint resolution was read three times and passed.

#### INTERNAL TAX ON PENSIONS.

Mr. YATES. I move to proceed to the consideration of House bill No. 787.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair understands that that bill has not been reported back from the Committee on Finance.

Mr. YATES. I hope it will be read at the desk. I suppose there will be no objection to it.

Mr. TRUMBULL. Move to discharge the committee from its further consideration.

Mr. YATES. I make that motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 787) exempting pensions from internal revenue tax. It authorizes any person receiving a pension from the United States to deduct, in addition to the \$600 now exempted, the amount of such pension in making a return of his or her income required under the internal revenue law.

Mr. GUTHRIE. This question was before the Finance Committee, and they considered it; but they did not deem it proper or wise to make the proposed change. We believed that the income tax laws should be left to stand as they are. If you begin making these exceptions, you will pare them down to nothing, and you will not obtain the necessary income to pay the interest on the public debt. I think the bill ought not to pass.

Mr. YATES. This bill only affects the lame, the disabled, the wounded, and the widows and orphans to whom we have given these pensions, and I do not think the Government ought, in justice, to ask them to pay a tax, and thus take back from them what the Government has already given to them. I ask for the yeas and nays on the passage of the resolution, if it is objected to.

Mr. FESSENDEN. I was not aware when the title of the bill was read what its character was. I believe it was referred to the Committee on Finance. We considered it in our committee, and I believe were unanimous in the opinion that it ought not to pass. In the first place, there is an exemption of \$600 in the law, and \$600 is a great deal more than the ordinary run of pensions. This bill, therefore, could only apply to officers of high grade in the Army. There is no need of any such law. It is a mere *ad captandum* affair. It is very rare that a pension amounts to \$600. All under that are exempt; the general law applies to them. If a pensioner happens to have property and that his pension brings up his income to over \$600, there is no reason in the world why he should be exempted on the surplus any more than any other citizen. We take it from everybody; we take it from all the officers in the public service, and all the clerks in the Departments. If we give \$100 as a bonus or gift to certain clerks in the Departments, five per cent. is taken out of it from day to day. Now, in addition to giving the pensions, if they happen to have property, why should we make pensioners a privileged class and excuse them from the payment of tax on what they have over and above the amount that is exempted by law? All the class of pensions that the Senator refers to are exempt already, because their pensions do not amount to the sum that is by law exempted. There is nothing in this bill except the word "pension" in reality. That is all the charm there is about it. There is no reason why we should select any portion

of the community and make them a privileged class to be exempted from the payment of taxes, because the pensioners proper pay none now, and probably never will be able to pay any. Therefore, on principle, as connected with the internal revenue, which it is very dangerous to break in upon, the Committee on Finance thought that, as the thing was useless in point of fact, it would be a dangerous precedent, and we had better avoid it.

Mr. YATES. I simply desire to save the Government from appearing to do an ungenerous thing, a mean thing toward the persons to whom it has granted a pension. It is but a small amount that is given to the soldier or to his widow or orphans, and if the Senator from Maine is correct, the tax will be nothing. The bill was passed in the House unanimously, and I think it would be a compliment to the soldiers to pass it.

The joint resolution was reported to the Senate without amendment; and on the question, "Shall the joint resolution be ordered to a third reading?"

Mr. YATES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 7, nays 20; as follows:

YEAS—Messrs. Conness, Pomeroy, Ramsey, Ross, Trumbull, Wade, and Yates—7.

NAYS—Messrs. Anthony, Buckalew, Davis, Dox- little, Fessenden, Guthrie, Henderson, Johnson, Morgan, Norton, Nye, Patterson, Poland, Riddle, Sherman, Sprague, Sumner, Willey, Williams, and Wilson—20.

ABSENT—Messrs. Brown, Chandler, Clark, Cowan, Cragin, Creswell, Dixon, Edmunds, Foster, Fowler, Grimes, Harris, Hendricks, Howard, Howe, Kirkwood, Lane, McDougall, Morrill, Nesmith, Saulsbury, Stewart, Van Winkle, and Wright—24.

So the bill was rejected.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had approved and signed the following bills:

An act (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith, and the Mississippi river, approved February 9, 1853, and for other purposes;

An act (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia;

An act (S. No. 354) for the relief of William Crosswell;

An act (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes; and

An act (S. No. 138) to increase and fix the military peace establishment of the United States.

#### NORMAN WIARD.

Mr. WADE. I wish to make another effort in favor of Norman Wiard, a bill for whose relief has come from the House. I presume the Senator from Rhode Island [Mr. SPRAGUE] will withdraw the objection that he had to the consideration of the bill. Mr. Wiard is a creditor of the Government. He built two light-draught steamers for them to operate on the rivers in the southern country, which were principally used at James Island. The Government purchased them of Mr. Wiard. They have never paid him a dollar of the expense to which he has been subjected. This has entirely broken him down and ruined him and left him almost bankrupt, without any form of relief. Two of the members of the Committee on Military Affairs in the House (Mr. SCHENCK and another member whose name I do not remember)—and I say this because we have not time to investigate this matter in the usual way—came to me and urged upon me, if it was possible, to have this bill passed. They say that the Military Committee of the House have considered it most carefully, and that the amount they have awarded him in the bill that passed the House is cer-

tainly his due and ought to be paid; and it would be a cruel thing and, to use their own language, an outrage upon him to withhold it longer. Under these circumstances, although I know nothing about it myself except what they state to me, I appeal to the Senate to let it pass. I have no doubt those gentlemen were perfectly competent to consider it and have considered it well; and I wish, for that reason, that it might be permitted to pass.

Mr. CONNESS. What amount does it call for, I should like to inquire of the Senator.

Mr. WADE. I have not read the bill even. I do not know how much it is.

Mr. FESSENDEN. Thirty-five thousand dollars.

Mr. WADE. On a careful investigation they say that is due. They were to pay \$50,000 on delivery to the Government, which they never paid, and I believe about \$100,000 in all. These gentlemen say, after the most careful consideration, that this sum is undoubtedly his due. I know it would be more satisfactory, if we had time, to allow our Military Committee to review their doings and come to the usual conclusion; but I think the case is a strong one, probably exceptional; and the poor man has got to go off without anything, although the Government is absolutely his debtor, unless you will let the bill pass in this way.

Mr. CONNESS. As I understand it the transactions of Norman Wiard have been principally, if not entirely, confined to the Navy Department or to naval gunnery, and experiments and inventions in connection therewith, and not with the War Department to such an extent, if any. If the chairman of the Committee on Naval Affairs were present he would be able to tell you all about this case. There is a great deal of it. Mr. Wiard has professed—

Mr. FESSENDEN. One objection carries it over.

Mr. CONNESS. I was explaining rather than objecting, because my purpose was to satisfy the Senator from Ohio that it is a case that ought to be examined. I would be willing to pay Mr. Wiard the last farthing due to him, but I cannot believe, and do not now believe, that the Government owes him a debt. He has professed at various times upon the most scientific principles to present improvements in gunnery, in the construction of heavy ordnance, and I believe the result has been that his experiments have not been successful, and consequently his contributions have not been accepted. There is a great deal in the case. He has published a great many illustrated works. They have been laid on our desks here for three or four years past. His discussions with the Navy Department were about as constant as those of Mr. Dickerson. I mean to run no comparison between them, because my object is not to condemn Mr. Wiard at all. I am not sufficiently informed to have an opinion in the case; but I have a decided opinion that it should be investigated and that it should not be voted upon blindly.

Mr. WADE. If that committee, which is a thorough-going committee to investigate, and very competent to do so, had gone it blind, I should not expect the Senate to adopt their proceedings. But this has nothing to do with gunnery. As they inform me, it is a contract for the purchase of two small war vessels to run up the rivers in the southern States, and they were most instrumental in some of the most successful enterprises we had. It is connected with nothing else, they tell me; it is an amount due upon this transaction. But if gentlemen will not believe them and want further time to investigate it, of course I can do no more.

Mr. CONNESS. It appears that Mr. Wiard is full of these inventions; but they are mostly abortive, I think.

Mr. GUTHRIE. I believe that the gentleman from Ohio has withdrawn his motion.

The PRESIDENT *pro tempore*. He did not submit any motion.

Mr. SUMNER. I will now insist on my motion for an executive session.

The PRESIDENT *pro tempore*. The Senator from Kentucky was recognized by the Chair, and is entitled to the floor.

#### ENTOMOLOGICAL COLLECTION.

Mr. GUTHRIE. I am directed by the Committee on Agriculture, to whom was referred the joint resolution (H. R. No. 198) authorizing the purchase of a certain collection of museum and the transfer of certain funds, therefore by the Commissioner of Agriculture, to report it back without amendment, and I desire to have it acted upon now.

There being no objection, the Senate, as in Committee of Whole, proceeded to consider the resolution. It authorizes the Commissioner of Agriculture to purchase of Townsend Glover, entomologist of the Department of Agriculture, his collection consisting of specimens of natural history, including modeled fruits, vegetables, fungi, reptilia; also glass cases of porcelain and other flowers, colored plates of insects, noxious and useful, mode of classification, and many other articles and specimens too numerous to mention, but more particularly specified in his communication, dated May 15, 1866, addressed to the chairman of the Committee on Agriculture of the House of Representatives; but the Commissioner is to find the same to be a valuable acquisition to the Department of Agriculture, and desirable at the price for which the same can be obtained, which is not to exceed the sum of \$10,000; and no purchase is to be made unless it shall be found that the sum required for the purchase can be spared from the appropriations made by Congress for the support of the Department of Agriculture for the fiscal year ending June 30, 1867, in which case the Commissioner is authorized to transfer the amount necessary from the appropriations, making due returns thereof to the Secretary of the Treasury.

Mr. FESSENDEN. I shall object to the consideration of that resolution. It has just been reported.

Mr. SHERMAN. The Senator from Kentucky has had it for some days in his possession, ready to report.

Mr. GUTHRIE. I have been trying to report it for two or three days, but I have always been unable to catch the eye of the Chair.

Mr. FESSENDEN. I suppose it can only be read once to-day.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator object?

Mr. FESSENDEN. Yes, sir.

Mr. SHERMAN. I move to discharge the Committee on Agriculture from the further consideration of the resolution.

Mr. FESSENDEN. I object to its consideration. The Senator from Kentucky asked leave to report it.

Mr. SHERMAN. Then I move that the committee be discharged from its further consideration. That will enable the Senate to consider it. I hope the Senate will agree to consider it and dispose of it now.

Mr. FESSENDEN. I think it a waste of the public money.

Mr. SHERMAN. I am willing to discuss it.

Mr. FESSENDEN. I interpose my objection.

Mr. SHERMAN. My motion to discharge the committee from its further consideration will get rid of that. That dispenses with the rules and brings the subject before the Senate.

The PRESIDING OFFICER. The Senator from Kentucky has reported this resolution from the committee. The committee are not in the possession of the resolution; the resolution is before the Senate. The report being made for the first time to-day, and objection being made to the consideration of the resolution, it cannot be acted on to-day.

#### THOMAS D. BURRALL.

Mr. STEWART. I should like to call up a bill to which there will be no objection. It is House bill No. 591, for the relief of Thomas D. Burrall. It is a little bill that has passed

the House of Representatives, and I would be very much accommodated if it were allowed to pass.

Mr. SUMNER. I have made a motion for an executive session.

Mr. STEWART. If the Senator will give way to allow this bill to be taken up, I shall be very much obliged to him. A friend of mine wrote to me specially to have it passed—an old friend who did me a service when I was a boy. I should like to get it up.

Mr. SUMNER. Is it a good bill?

Mr. STEWART. Yes, sir; a good bill, reported from the Committee on Patents.

The PRESIDING OFFICER. The Senate has been proceeding with business by unanimous consent. There is now, properly, another bill before the Senate. The Senator from Nevada can proceed only by unanimous consent. Is there any objection?

Mr. WILSON. I shall object to taking up any patent bills.

Mr. STEWART. Let it be read, and then see if you will object.

The PRESIDING OFFICER. Objection being made, it cannot be considered.

Mr. DOOLITTLE. The treaty with the Cherokees having been confirmed, I desire to call up a resolution which I submitted some time since, and which is on the table.

Mr. STEWART. I think there is no objection to my bill now.

The PRESIDING OFFICER. The Chair will again put the question: Is there any objection to the consideration of the bill named by the Senator from Nevada?

Mr. WILSON. Let it be read, and then objection can be interposed afterward.

The PRESIDING OFFICER. No objection being interposed, the bill is before the Senate and will be read.

The Secretary read it, as follows:

*Be it enacted, &c., That the letters-patent granted to Thomas D. Burrall on the 6th day of December, 1845, for improvements in corn-shellers, and which was extended by the Commissioner of Patents, and afterward surrendered and reissued, which reissue bears date the 10th day of October, 1855, and which will expire on the 6th day of December, 1866, be, and the same is hereby, extended for the term of seven years, commencing on the said 6th day of December, 1866, and ending on the 6th day of December, 1873, for the benefit of the said Burrall, his heirs, and legal representatives upon the conditions hereinafter set forth. And the Commissioner of Patents is hereby directed, upon the presentation of said patent, and the payment of the fees and charges provided by law, to extend said patent by making a certificate thereon, or upon a certified copy thereof, of such extension in the name of the said Thomas D. Burrall, if in his judgment, upon full hearing, the same should be granted. And the said Commissioner is hereby further directed to cause said extension, if perfected, to be entered on the record of the Patent Office. And the said patent so extended shall have the same effect as if originally granted for the term extending to the end of the term to which it is extended by this act: Provided, however, That said extended patent shall be open to legal inquiry and decision in the same manner as if issued under the general law relating to patents: And provided further, That all persons enjoying the lawful use of the improvements secured by said patent, and the purchaser of any machine so in use, may continue to use the same as if this act had not passed.*

Mr. FESSENDEN. When was that reported?

Mr. STEWART. Two or three weeks ago.

Mr. FESSENDEN. We do not want to pass any patent bills to-day.

The PRESIDING OFFICER. Another subject being before the Senate, it can only be proceeded with by unanimous consent.

Mr. FESSENDEN. I object.

#### INDIAN RELATIONS.

Mr. DOOLITTLE. I now call up the resolution I submitted some time since declaring simply the opinion of the Senate on the subject of our Indian relations, which I deem necessary to declare for its proper effect upon some of the Indian tribes. It will take but a moment.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved, That in the judgment of the Senate, from the relations existing between the United States and the various Indian tribes which by treaty they are bound to protect from domestic strife, the United States have the right, and it is their duty to intervene*

*to preserve the peace and good order of the same, and, whenever it may become necessary so to do, to separate hostile parties into distinct nations or tribes, and to cause a just division of territory, and to establish separate and exclusive jurisdictions.*

Mr. DOOLITTLE. I presume there is no objection to the resolution, and I ask that it be put on its passage.

The resolution was adopted.

#### OFFICE OF SURVEYOR GENERAL OF IOWA.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House bill No. 491.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 491) to remove the office of surveyor general of the States of Iowa and Wisconsin to Plattsmouth, Nebraska. It provides that it shall be the duty of the Secretary of the Interior, as soon after the passage of this act as may be, to cause the office of surveyor general of Iowa and Wisconsin to be removed to Plattsmouth, in the Territory of Nebraska, and to make the necessary provisions for immediate and effective operations, and when so removed the duties and jurisdiction of the surveyor general are to be co-extensive with the limits of the Territory of Nebraska, and include the States of Iowa and Wisconsin, and they are to constitute a surveying district.

Mr. WILLIAMS. I move to amend this bill in line ten by striking out the final "s" in the word "States," and in line eleven to strike out the words "and Wisconsin."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed and the bill to be read a third time. It was read the third time and passed.

On motion of Mr. WILLIAMS, the title of the bill was amended so as to read, "A bill to remove the office of surveyor general of the State of Iowa to Plattsmouth, Nebraska."

#### CREDENTIALS.

Mr. TRUMBULL presented the credentials of Hon. JAMES HARRIS, chosen by the Legislature of Iowa as a Senator from that State for the term commencing March 4, 1867; which were read and ordered to be filed.

#### CAPTAIN JAMES STARKEY.

Mr. NORTON. I am directed by the Committee on Claims, to whom was referred the bill (H. R. No. 660) for the relief of Captain James Starkey, to report it back with a recommendation that it pass, and to ask for its present consideration. It is a very short bill and will take but a moment.

The PRESIDING OFFICER. Is there any objection to the present consideration of the bill?

Mr. SUMNER. What is it?

Mr. RAMSEY. It is a small claim, only \$100.

Mr. FESSENDEN. Let us hear it read.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. FESSENDEN. I want to hear the bill read first, so that I may know whether to object or not.

The Secretary read the bill, which appropriates \$100 to pay to James Starkey, late captain of the St. Paul light cavalry, the amount by him paid to Richard Postel, for the loss of a horse, killed in a fight with Indians in 1857.

Mr. FESSENDEN. Is there any written report with the bill?

Mr. NORTON. There is a report accompanying the bill from the House.

Mr. FESSENDEN. Is it a House bill?

Mr. NORTON. Yes, sir.

Mr. FESSENDEN. Has it been passed upon by a committee here?

Mr. NORTON. Yes, sir; both here and in the other House.

Mr. FESSENDEN. What committee?

Mr. NORTON. The Committee on Claims of the Senate.



Mr. FESSENDEN. I will not object to its consideration. I should like to hear the report, however.

The PRESIDING OFFICER. There is no report.

Mr. FESSENDEN. Then I shall object.

Mr. RAMSEY. There is a report with the papers.

Mr. JOHNSON. Let it be read.

The Secretary proceeded to read the report, as follows:

The Committee on Indian Affairs, to whom was referred the petition of James Starkey, submit the following report—

Mr. FESSENDEN. I shall object to it. It did not go to the proper committee. It should have gone to the Committee on Claims and not the Committee on Indian Affairs. The Committee on Indian Affairs had no business with it.

Mr. NORTON. It was referred to the Committee on Indian Affairs in the House, but here it was sent to the Committee on Claims, and has been reported by them.

Mr. FESSENDEN. Then I withdraw my objection again. Let the report be read.

The Secretary continued the reading of the report, as follows:

The committee have examined the case and find the following state of facts: In August, 1857, certain bands of the Chippewa Indians committed some depredations upon the frontier settlements of Minnesota, and a serious outbreak was threatened. To quell the same and restore peace and order Hon. S. Medary, the then Governor of the Territory of Minnesota, ordered out the St. Paul light cavalry, of which James Starkey was captain. This company, under the command of the captain, at once marched to the frontier, and during a fight with the Indians the horse of Richard Postel, a private in said company, was shot and so wounded that it died. Captain Starkey, believing the Government liable to pay for the loss, paid Private Postel \$100 in full satisfaction of his claim, and took his receipt. It appears that the horse was worth a much larger sum. The accounts connected with the expedition, and growing out of the same, were afterward sent to the War Department, and most of them, except this, have since been paid. Postel has left the country, and his place of residence appears to be unknown. Under the circumstances, the committee believe the Government was liable to pay Postel the value of his horse, and as Captain Starkey has discharged that liability they can see no good reason why he should not be substituted to the rights of Postel and be repaid the \$100.

Mr. FESSENDEN. It strikes me that this is beginning a matter which, if begun, we do not know where it will end. This is really no claim on the Government at all, not the slightest in the world, and it has been so decided, and now Congress is called upon to pay this man because, without authority, he paid a claim which was not a claim against the Government.

Mr. RAMSEY. It is only \$100.

Mr. FESSENDEN. We have no more right to give away \$100 than \$100,000.

Mr. RAMSEY. He has been waiting for it for nine years.

Mr. FESSENDEN. It makes no difference about that.

The PRESIDING OFFICER. The bill cannot be proceeded with except by unanimous consent. Does the Senator object?

Mr. FESSENDEN. Yes, sir, I object.

#### EXECUTIVE SESSION.

Mr. SUMNER. Now I renew my motion for an executive session.

The motion was agreed to; and after spending one hour and twenty-five minutes in the consideration of executive business, the doors were reopened at twenty-five minutes past two o'clock.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 811) for the relief of certain drafted men, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 787) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1867, and for other purposes;

A bill (H. R. No. 693) for the relief of Robert Baldwin;

A bill (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of the assassins of the late Abraham Lincoln, and the Secretary of State, Hon. William H. Seward;

A joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution (No. 77) approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the farther payment of the special five per cent. income tax imposed thereby; and

A joint resolution (H. R. No. 193) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Jersey.

#### FENIAN MEETINGS.

Mr. FESSENDEN. I understand that the House have taken a recess giving the Speaker authority to call them together whenever it may be necessary as messages come in; and unless there is some further business to be transacted, I will make a similar motion here.

Mr. WADE. I desire to have the resolution in regard to the use of the fair building for Fenian meetings disposed of. Let us have a vote upon it.

The PRESIDING OFFICER. The resolution, which was laid aside to consider executive and other business, is now before the Senate.

The Senate resumed the consideration of the joint resolution (H. R. No. 208) in relation to the use of the Soldiers' and Sailors' Orphans' Fair building in Washington.

Mr. STEWART. I am glad that this resolution is offered, not so much for the particular purpose of giving the Fenians a hall, for I presume they can maintain a hall and hold a meeting without this; but after all that has occurred in the last five years on the part of England toward this Government, the unfriendly position she has assumed, taken in connection with the action of this Government toward the Irish people in enforcing the neutrality laws, I think it due to take some action in Congress as expressive of the sentiment of the nation, that we do have sympathy with the Irish rather than with Great Britain that has treated us so badly. I believe there is a warm sympathy on the part of every American in favor of the Irish people, in favor of that desire of liberty which is manifesting itself from year to year on the part of that people, and sympathy with their sufferings for the last two hundred years under the oppressions that have been brought upon them by Great Britain. I believe there is a sympathy in the United States and among all republicans in favor of them and their cause; but the vigorous enforcement at this time of our very severe neutrality laws, of which I am not here to complain, is liable to be misunderstood. Great Britain may come to the conclusion that we are in full sympathy with all her oppressive acts toward Ireland; and I believe that some resolution ought to pass Congress expressive of the proper sentiment of the American people.

I offered a resolution the other day, which I propose when this is disposed of to call up, calling upon the Government to use its good offices in favor of the release of those prisoners in Canada who were taken in the late Fenian raid. I think it no more than right that this Government should use its good offices for the release of those prisoners. They would not have been prisoners in Canada but for the action of this Government. If we had observed the same rules that Great Britain did, if we had administered the same neutrality laws as she did, there would have been no Fenian prisoners in Canada; the Canadians themselves would have been prisoners; that we all know. It was by the armies of the United States that they were enabled to make prisoners of those Fenians; we enforcing our

laws and taking from them the burden of defending their own territory. I believe it is not more than right, therefore, that we should now ask Great Britain to release them, and I offered a resolution for that purpose.

I hope this resolution will pass that I may have an opportunity of calling up the other resolution. I think a similar resolution has also passed the House, and perhaps we had better take up the House resolution. I believe this sentiment of the nation should be expressed, and Great Britain should understand it. I think it is wrong that we should stand in a false position before the world and that our sympathies and feelings should be misunderstood.

The PRESIDING OFFICER. The question is on ordering the resolution to a third reading.

Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 7; as follows:

YEAS—Messrs. Chandler, Conness, Cowan, Creswell, Fowler, Harris, Howard, Lane, Morgan, Nesmith, Norton, Nye, Pomeroy, Ross, Stewart, Wade, Wiley, Williams, Wilson, and Yates—20.

NAYS—Messrs. Anthony, Davis, Guthrie, Johnson, Patterson, Riddle, and Van Winkle—7.

ABSENT—Messrs. Brown, Buckalew, Clark, Cragin, Dixon, Doolittle, Edmunds, Fessenden, Foster, Grimes, Henderson, Hendricks, Howe, Kirkwood, McDougall, Morrill, Poland, Ramsey, Saulsbury, Sherman, Sumner, Sprague, Trumbull, and Wright—24.

The joint resolution was read the third time and passed.

#### DISBURSING AGENTS.

Mr. TRUMBULL. I move that the Committee on Finance be discharged from the further consideration of the bill (H. R. No. 612) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859."

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to amend the proviso to the seventeenth section of the act referred to, so as to read as follows:

And provided further, That where there is a collector at the place of location of any public work herein specified, the Secretary of the Treasury shall have power to appoint a disbursing agent for the payment of all moneys that are, or may be hereafter, appropriated for the construction of any such public work, with such compensation as he may deem equitable and just, and all laws and parts of laws in conflict with the provisions of this section be, and the same are hereby, repealed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUNISHMENT OF KIDNAPING.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire whether any further legislation is necessary to protect in their freedom persons escaping from involuntary service in Cuba or other foreign countries to the United States, and to provide for the punishment of any citizens of the United States who may in any manner aid or abet in the recapture, detention, or return of such persons, and that the committee be instructed to report by bill or otherwise.

#### COMMITTEE ON VENTILATION.

Mr. BUCKALEW. I offer this resolution:

Resolved, That the select committee on ventilation be continued for the next session.

I will simply say that that select committee expire with this session, and it is necessary that they should bestow attention to the hydration of the air in the Chamber. It does not lead to any expense.

The resolution was considered by unanimous consent and agreed to.

#### PERSONAL EXPLANATION.

Mr. DOOLITTLE. Mr. President, there being now no business before the Senate I rise to do what I have seldom done in this body—make a personal explanation. It will be remembered that my colleague some time ago thought proper to present to the Senate without notice from me—indeed, in my absence from my seat—certain resolutions of the Legislature of Wis-

consin, reflecting severely upon me as a member of this body, and instructing me to resign my seat.

These resolutions are in no manner addressed to the Senate. It can take no action upon them whatever. They are purely personal. Had my colleague done as I think I should have done, he would have given me notice of his intention to present them, or waited a reasonable time for me to be present. But, sir, I never stand upon small things. If he had not presented them I certainly should.

These resolutions are of such a character that it is due to the State of Wisconsin; due to the truth of history; due to the cause of republican liberty in which for many years I have been engaged; due to my character, the only legacy I have to leave to my children; and due to the members of the Legislature who voted for them, and to the Governor who approved them, that I should not allow them to pass in silence.

However reluctant a public man may be to speak of himself and for himself, however unbecoming it may be on ordinary occasions, these resolutions impose it upon me as an imperative duty, and I could not avoid it if I would.

I am therefore compelled to speak of myself and for myself to-day. I shall do so in all sincerity, frankly, earnestly, it may be without fear, without favor—"more in sorrow than in anger."

But the sorrow I feel is not for myself. It is rather for those who, in the hurry and excitement of the moment, without waiting to hear or to consider the reasons for my action, rushed to a conclusion under the tyranny of caucus dictation as unwarranted as it is unjust. And, sir, what are these charges against me?

1. Inconsistency, in having declared in the Senate, just after the passage of the civil rights bill in that body, that if I had been present I should have voted for it, and some weeks afterward, after a long discussion in the House, and after the veto of the President had come in, I refused to vote to pass that bill over the veto.

2. That I refused to obey legislative instructions.

3. That I have united with the President to oppose "measures to secure peace, liberty, and justice among all the people."

4. That I maintain the right of representation in "Congress of the southern people as the inhabitants of States."

5. That I maintain the Lincoln-Johnson policy of reconstruction.

6. That I have deserted the cause of human rights and republican government, and therefore it is my duty to resign my seat in this body.

I will answer these charges briefly, and in their order. And first, of this charge of inconsistency. Of all charges against a statesman this is the terror of small and sharp minds. To avoid criticism a public man may have a decent regard to the consistency of his record. But the statesman who, as questions arise, feels himself bound hand and foot by some previous vote or opinion, so that he cannot freely reconsider his opinion or change his vote, as his convictions of duty shall require, is a moral coward, a cringing slave, unworthy of his position, and unfit to represent the people of a great State.

But this inconsistency in voting, or what was the same thing, declaring that had I been present I would have voted for the civil rights bill upon its passage in the Senate, and then after some weeks of discussion and consideration in the House, and after the veto of the President, voting against passing it over the veto, if there be in that any inconsistency at all, it is more apparent than real. Voting for a bill on its passage is one thing. Voting for its passage over the veto of the President is another and a very different thing. A hundred reasons based upon principle or policy, or founded upon political considerations alone, might be given for refusing to pass a law over the President's

veto which do not apply to it upon its original passage. Then no human being can be so blind as not to see that it was of the greatest importance that this law, the object of which was to secure the freedom of those emancipated by the amendment to the Constitution, should be so framed as to receive the sanction of all three departments of the Government—of Congress, of the Executive, and of the Supreme Court.

This law had, it is true, received the sanction of Congress, but not of the President, who was to execute it; and whatever gentlemen may say in the heat of political excitement, it is very doubtful, to say the least, whether some of the provisions of the law will ever receive the sanction of the Supreme Court. Every mind free from passion and guided by reason alone, in so great a matter as this, must desire to harmonize all three departments of the Government. And that is precisely what I labored to accomplish—to frame a law which should enforce to the fullest extent this new amendment to the Constitution and secure to the freedmen every right which it gives, and so drawn as to receive the sanction of every department—legislative, executive, and judicial.

Sir, why did not these gentlemen in Wisconsin wait, before condemning me, to read the law which I proposed, and which cost me severe and careful study to frame, which I feel assured would have received the sanction of the judges of the Supreme Court and of the President, and which I know would have defended the freedman in every right the constitutional amendment gives or authorizes by the whole power of the Government?

Is it just, dignified, or becoming the Legislature or government of a great State like Wisconsin thus to condemn unheard one of its Senators? I read:

A bill to provide appropriate legislation to enforce article thirteen of the amendments to the Constitution abolishing slavery in the United States.

Whereas slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, has been abolished and prohibited by article thirteen of the amendments to the Constitution, lately ratified and adopted by the Legislatures of three fourths of all the States within this Union, which amendment is in the words following, namely:

#### "ARTICLE XIII.

"SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Therefore, Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons heretofore held to slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted under the laws of any State of the United States, or of any of the Territories thereof, are hereby declared to be free persons, and they and their descendants shall be, and remain forever, free from slavery or involuntary servitude, except in punishment for crime whereof the party shall have been duly convicted, anything in any law, statute, regulation, custom, or constitution of any State or Territory to the contrary notwithstanding.

SEC. 2. And be it further enacted, That all laws and customs having the force of law in any State or Territory heretofore or hereafter establishing, recognizing, maintaining, or regulating the right of property in slaves, or the relations of master and slave, are hereby declared to be abrogated and abolished.

SEC. 3. And be it further enacted, That any person who shall unlawfully and in violation of the said thirteen amendment to the Constitution, and of the provisions of this act, restrain or cause to be restrained of his or her liberty, with intent to subject, or cause to be subjected, or to hold or to cause to be held to service as a slave or involuntary servant any person, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 4. And be it further enacted, That any person who shall unlawfully, and in violation of the provisions of the said thirteen amendment to the Constitution, and the provisions of this act, restrain or cause to be restrained of his or her liberty, with intent to hold or cause to be held to service as a slave or involuntary servant, any person who has heretofore been held to slavery or involuntary servitude under the laws of any State or Territory, and has been emancipated by the said thirteen amendment to the Constitution, commonly called a freedman, shall, in addition to the pains and penalties provided in the last preceding section of this act, be liable to be prosecuted by the person injured, who shall be en-

titled to recover the sum of \$1,000, in addition to all damages sustained by such person, together with the costs of the prosecution; and in case any such freedman shall, as party to any suit or legal proceeding, civil or criminal, in the courts of the State or Territory where he may reside, be denied any right secured by article thirteen of amendments to the Constitution, he shall have a right to remove the said cause or proceeding into the district or circuit courts of the United States, which shall thereafter take cognizance of the same, under such rules as may from time to time be adopted by such court; and the said State courts thereupon shall have no power to proceed further in said cause or proceeding; and the said district or circuit courts shall also be empowered by writs of *mandamus* and prohibition to stay all further proceedings in the State courts, or under any judgment or decree of the same, until the same shall be finally determined in the courts of the United States; and the said district and circuit courts shall have power, by writs of *habeas corpus*, *mandamus*, prohibitions, and *certiorari*, or other writs or process, to take cognizance of the rights secured by said amendment to the Constitution to such freedman, and to adjudge, decree, and enforce what shall be right in the premises; anything in any law, statute, custom, or regulation in any State or Territory notwithstanding.

SEC. 5. And be it further enacted, That if any person shall kidnap or carry away any other person, whether negro, mulatto, or otherwise, with the intent that such other person shall be sold or carried into involuntary servitude or held as a slave; or if any person shall entice, persuade, or knowingly induce any other person to go on board any vessel or to any other place, with the intent that he or she shall be made or held as a slave or sent out of the country to be so made or held, or shall in any way knowingly aid in causing any other person to be held, sold, or carried away, to be held or sold as a slave, he or she shall be punished, on conviction thereof, by a fine of not less than \$500 nor more than \$5,000, or by imprisonment not exceeding five years, or by both of said punishments.

SEC. 6. And be it further enacted, That if the master or owners, or person having charge of any vessel, shall receive on board any other person, whether negro, mulatto, or otherwise, with the knowledge or intent that such person shall be carried from any State, Territory, or district of the United States, to a foreign country, State, or place, to be held or sold as a slave, or shall carry away from any State, Territory, or district of the United States any such person, with the intent that he or she shall be so held or sold as a slave, such master, owner, or other person offending shall be punished by a fine not exceeding \$5,000 nor less than \$500, or by imprisonment not exceeding five years, or by both of said punishments. And the vessel on board which said person was received to be carried away shall be forfeited to the United States.

SEC. 7. And be it further enacted, That the district courts of the United States, within their respective districts, shall have cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all civil causes under this act. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty: *Provided*, That nothing herein contained shall prevent any State or Territory from providing by law for the trial and punishment, in the courts of such State or Territory, of any person who may be adjudged under the laws thereof to be guilty of false imprisonment or kidnapping, or prevent any person from bringing a prosecution in such courts to recover damages sustained by him by reason of such false imprisonment or kidnapping, under the laws of such State or Territory.

SEC. 8. And be it further enacted, That the district attorneys, marshals, and deputy marshals of the United States, and the commissioners appointed by the circuit and territorial courts of the United States, in case any person heretofore held to slavery or involuntary servitude, commonly called a freedman, shall be restrained of his liberty by any person, with intent, in violation of the thirteen amendment to the Constitution and of the provisions of this act, to subject him to slavery or involuntary servitude, shall, at the expense of the United States, apply immediately for the writ of *habeas corpus* to bring such freedman before the proper court or officer, to the end that speedy justice may be done in the premises.

SEC. 9. And be it further enacted, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when executed to, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of \$1,000, to the use of the persons to whom the same is alleged to have been committed; and shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, and they may apply to the President of the United States, who is hereby authorized to employ such portion of the

militia, or of the land or naval forces of the United States as may be necessary to the execution of such warrants or other process in conformity with the provisions of this act; and said warrants shall run and be executed by said officers anywhere in the State or Territory within which they are issued.

Sec. 10. *And be it further enacted*, That any person who shall knowingly and willfully obstruct, hinder, or prevent any officer or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, or other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent its discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for either of said offenses, be subject to a fine not exceeding \$1,000, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which said offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States.

Sec. 11. *And be it further enacted*, That the district attorneys, the marshals, their deputies, and the clerks of the said district and territorial courts shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commissioner, he shall be entitled to fees as now allowed by law for similar services, not exceeding ten dollars in full for his services in any case, inclusive of all services incident to such arrest and examination; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States, on the certificate of the judge of the district within which the arrest is made that the same are reasonable in amount, and to be recoverable from the defendant as part of the judgment in case of conviction.

Sec. 12. *And be it further enacted*, That final decrees and judgments in all cases arising under the provisions of this act may be reexamined and reversed or affirmed in the Supreme Court, upon writ of error issued as now provided by law in other cases: *Provided*, That no such review shall be had except upon the certificate of the judge presiding upon the trial or hearing that the constitutionality of some law or proceeding under the authority of the United States or of this act has been drawn in question on such trial or hearing.

There is not a single right or remedy which the courts of the United States will hold to be constitutionally given to the freedmen under the civil rights bill which is not equally secured under this.

Again, sir, I deemed it to be my duty to the Union cause at that time, and to that party which claimed to represent it, and which I was struggling to save from suicide at the hands of its professed friends. Those considerations of public duty, and of the highest expediency, constrained me to vote against passing the civil rights bill over the veto.

I felt bound to make one more effort to save that irreparable breach between the majority of Congress and the administration of the national Union party, which I then foresaw was coming, which I did all I could to prevent, but which has now come.

For that reason alone, if I had no other, in my opinion, every true friend of the Union party should have approved and not condemned my course. At all events, my judgment was convinced that it was neither just nor wise to vote to pass that bill over the President's veto, and therefore I refused to do so.

As to the second charge, that I refused to obey legislative instructions I shall go into no explanation upon that subject. I have only this to say: that my duty and the oath require me to obey the Constitution of the United States. They do not require me to obey the changing opinions of any body of men who may be elected to the Legislature of Wisconsin during the term for which I was chosen. And, sir, in the present condition of the country I would be false to my highest convictions of duty to resign my place here or to surrender the position to which, in the providence of God, I have been assigned in this momentous period of our history. No, sir, no. How-

ever much the storm of political denunciation may rage around me, if God, the Almighty, give me health and strength I intend to remain here a sleepless sentinel at the post of duty, to warn my countrymen of their impending dangers, which, unless wise counsels prevail, threaten to overthrow their constitutional liberties, or, it may be, to plunge them into the horrors of another civil war, to be waged not upon the fields of the sunny South but among the people of the northern States.

For me to resign my place now would, I fear, bring upon my soul that crime, moral cowardice, of which I pray God I may never be guilty.

It is charged that I have united with the President to oppose "measures to secure peace, liberty, and justice among all the people." Certainly no man who knows me and knows President Johnson can think for one moment that he and I can have any such purpose. What has the President done or refused to do to give color to a charge like this?

He refused, it is true, to impose negro suffrage as a basis of reorganization of State governments in the southern States, and left that where it belongs—to the States themselves. That is the head and front of his offending.

In the speech of the Senator from Ohio, [Mr. WADE,] in reply to mine of the 17th of January, he most distinctly approved of Mr. Johnson's course, so far as he had gone. He admitted that he had carried out Mr. Lincoln's policy; that he had improved upon that policy; in short, that it was what he had not done, rather than what he had done, that he condemned. It was all summed up in a word—he had not imposed negro suffrage upon the southern States as one of the bases of reconstruction.

I repeat, sir, that was the head and front of the whole of his offending in the beginning. Both Senators from Massachusetts, and all the men whom they represent, responded warmly and earnestly to the Senator from Nevada [Mr. STEWART] when he proposed as the basis of reconstruction "universal suffrage and universal amnesty."

The Senators from Missouri accepted the same. And, Mr. President, what had I done to merit this condemnation? I will tell you, sir; it is a short tale and easily told. In Wisconsin last fall the Union party held a convention at Madison. I had the honor of being a member and chairman of the committee on resolutions, and made the report of the majority, which was unanimously adopted. A half crazy old gentleman, by the name of Paine, reported two minority resolutions, one in favor of negro suffrage in Wisconsin, and the other in favor of imposing negro suffrage upon the southern States as a condition precedent to the admission of their representatives. I opposed the adoption of these two resolutions into the creed of the Union party, and they were laid on the table by a large majority. For that opposition, and for that alone, unrelenting war was declared against me. This man Paine told the convention that my colleague declared himself in favor of those resolutions.

The editor of the Janesville Gazette says that my colleague called upon him and denounced the action of the convention under my lead as cowardly in laying those resolutions upon the table. There was immediately called at Janesville, Wisconsin, a bolting convention, for the purpose of denouncing the action of the Union convention in refusing to adopt those resolutions, and my colleague attended and made a speech. At this convention I was denounced in most unmeasured terms. For my course in resisting the interpolation of this new dogma into the Union party I have been most bitterly and persistently denounced by a partisan and unscrupulous press, from Boston to St. Paul, from that day to this. I have borne all this denunciation without once retorting upon my assailants.

My colleague has more than once during this session gone out of his way to assail my course in that connection. I have never assailed him; I shall not now. I have waited in patience,

knowing that truth in time would vindicate herself.

Mr. HOWE. Mr. President—  
Mr. DOOLITTLE. I prefer that my colleague should wait till I have finished. He can answer then.

Mr. HOWE. Very well.

Mr. DOOLITTLE. Now, Mr. President, have I waited in vain? Her vindication and triumph have come, and sooner than I expected. I have seen an utter abandonment by Congress, and even by the radicals in Congress of negro suffrage as a condition precedent to reconstruction at the South.

With an overwhelming majority—a majority of more than two thirds against the President—every Senator in this body, except Mr. SUMNER of Massachusetts and Mr. BROWN of Missouri, on Saturday, by a deliberate vote, surrendered negro suffrage as a condition of reconstruction; surrendered the point, the very point, of difference and of war on me, the ground, and only ground, of principle upon which this war was begun and has been waged by Congress upon the President. All the world knows that all else is but an after-thought—mere pretexts seized upon after the war was actually begun.

Yes, sir, I have seen every Senator in the majority except the two I have mentioned, and among them I have seen my colleague, and even the Senator from Ohio, [Mr. WADE,] and one of the Senators from Massachusetts, surrender negro suffrage as a condition precedent to reconstruction. And yet, sir, I do not question the motives of my colleague, nor charge his action as cowardly or inconsistent. He has, I doubt not, arrived at the conclusion that it was unwise to insist upon this thing longer; at least that before doing so again he had better wait until the next fall election. But I ask those men in Wisconsin who condemn me as abandoning the cause of liberty and republican government for refusing to insist upon negro suffrage, a thing which was abandoned when the struggle came, and Greek met Greek in the tug of war. If it be wise in my colleague and the Senator from Ohio to give it up now, after a long and final struggle which has resulted in open war between the majority in Congress and our Administration, was it not wisdom in me thus to foresee the evil and do my utmost to prevent it? Who does not know that if we had yielded in that convention and admitted the Paine resolutions into that platform there would have been no Republican majority in Wisconsin? There would have been a Democratic Governor and a Democratic Legislature. There would have been no tyrannical Republican caucus able to control a majority of the Legislature, and to denounce in such unjust terms either the President or myself.

As to the other charges, that I maintain that the southern people are the inhabitants of States, and as such, upon obedience to the laws and Constitution of the United States, are entitled to representation in Congress whenever they send Senators and Representatives properly elected and qualified under the Constitution and laws, I have said upon other occasions all I desire to say. My opinions are unchanged, and my conviction of their soundness remains unshaken. They are, in my opinion, based upon truth and justice, and they are born of God.

I will only add that this famous story of State suicide, that the southern States have become Territories, and should be organized and governed as such, have almost ceased to have advocates. It strutted its brief hour and has passed from the stage.

The position of my colleague, with which he began the session, to establish territorial governments for the southern States, is utterly abandoned. The truth is, they are not Territories and cannot be made such. They are States under the Constitution. The very amendment proposed to the Constitution, and for which he voted, admits them to be States capable of the highest acts of States



under the Constitution, namely, not only of governing themselves and making their own constitutions, but of taking part in amending the Constitution, and thus help to frame the fundamental law of all the States.

Sir, this abandonment of negro suffrage as a condition-precedent, and of this doctrine that the southern States are not States, but in the territorial condition, is either sincere or hypocritical. I am bound to think it is sincere, and yet there are some persons like Wendell Phillips who declare that it is abandoned only for the present, and for a purpose; to tide over the fall elections. In short, that it is both hypocritical and cowardly. But I do not say that. I think it is sincere. It is because, after a long and earnest struggle, gentlemen have come to the conclusion that the only wise and practical theory, the only possible adjustment after all, is substantially to adopt the Lincoln policy of restoration, improved as it has been by the logic of events under the Administration of his successor.

To submit an amendment to the Constitution of the United States to the ratification of the Legislature of a State, and at the same time to contend that there is no State to have a Legislature; to say that a Legislature which can ratify an amendment to the Constitution of the United States, and at the same time cannot elect Senators, is a monstrous absurdity. With all respect for others, I think if I should say that, my friends would say I had lost my reason.

Sir, I shall not pursue this subject further at this time. I have briefly answered these charges, and shall upon some other occasion be prepared, before the people of Wisconsin, to answer any further explanation which may be proper.

Mr. HOWE. Mr. President—

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 491) to remove the office of surveyor general of the State of Iowa to Plattsmouth, Nebraska;

A bill (H. R. No. 612) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1869;" and

A joint resolution (H. R. No. 208) in relation to the Soldiers' and Sailors' Orphans' Fair building in Washington.

#### RELIEF OF DRAFTED MEN.

Mr. WILSON. I desire to take up the bill (H. R. No. 811) for the relief of drafted men. I believe the Senator from Missouri is willing to withdraw his objection.

Mr. HENDERSON. I desire to hear the bill read.

The Secretary read the bill, which is to authorize the Secretary of War to refund the \$300 commutation money paid by persons drafted under the calls of February 1 and March 14, 1864, and who being again drafted within a year were held to service or required to furnish substitutes, and also to refund the \$300 commutation money in cases where it is satisfactorily proved that the person was entitled to a discharge from the obligation to render personal service.

Mr. HENDERSON. Let that bill lie over. I thought there was a limitation in it of \$25,000, but I find there is not.

The PRESIDENT *pro tempore*. The bill will be laid aside.

#### PERSONAL EXPLANATION.

Mr. HOWE. Mr. President, I should like to be informed what is the pending question.

The PRESIDING OFFICER. (Mr. POMEROY.) There is no pending question. The Senator from Wisconsin [Mr. DOOLITTLE] rose to a personal explanation and has proceeded with that view.

Mr. HOWE. Well, I suppose "what is sauce for the goose is sauce for the gander," and as my colleague has had the floor for a personal explanation, I can have the floor for a personal explanation. I regret that I was not here at the opening of this explanation for I imagine from the little I heard of it that I am somewhat interested in it, if not implicated by it. That my colleague should take this hour or any other in the calendar to make a personal explanation is entirely proper, and for that act I have not the slightest disposition, as I believe I have not the slightest occasion, to criticize him; but that he should take this very late hour in this very protracted session to make an attack upon me, I think is not so free from criticism. But after all I am not disposed to complain of that, for my political life has been so brief and so inconsiderable that I should be poorly off if I were not prepared to defend the little there is of it anywhere, at any time, and upon any notice, however brief. What my colleague has said in defense of himself I shall allow to pass with but very slight comment, if any. What he has said in my hearing touching myself, I must be ready now to make some observation upon.

And first—it was the first I heard of this criticism upon my own course—he presents me as having been not in fact, but as having been reported to be an advocate and an indorser of two resolutions which were offered by a very distinguished gentleman in the State of Wisconsin and submitted to the last State convention held by the Union party for their acceptance. I allude to the resolutions presented by General Paine. My colleague says that General Paine declared that I indorsed those resolutions and recommended them to the convention. That General Paine did not so say, of course I shall not avouch; I cannot be supposed to know what he said, for I was not there. What the fact is in regard to myself, I am supposed to know and can speak by authority on that point, and so speaking I say that General Paine certainly never had any authority to say that I ever proposed or suggested that the convention should take a position on the question of negro suffrage, except further than when appealed to for my own opinion I stated for myself, that as we had a law submitting to the people of the State for their approval or rejection the question of admitting the negroes in our State to the right of suffrage, I recommended that the convention should indorse that act, and I did distinctly say to all who paid me the compliment to consult me on the point that I thought that was as far as the convention ought to go; that the question whether the suffrage should be extended to the blacks in the rebellious States or any other State than Wisconsin, was not legitimately before us; that the other question was legitimately before us; that I believed it was right that suffrage should be extended to the negroes in our State. The Legislature had invited the vote of the people on that subject, and I thought the convention ought to take ground upon it on the one side or the other, and as I believed there was but one right side I did desire that the Union party should occupy that side, which was in favor of the suffrage. I did distinctly discourage, as I said before, all who consulted me on the point, against going further than that, against making precedents in the particular state of things in which we then found ourselves.

But, Mr. President, I should be doing injustice to myself and to my convictions, perhaps I should do some injustice to my colleague and to his convictions, if I did not say a word further, since I am arraigned upon the point, since I am charged in the indictment; if I did not take this opportunity to contest before the Senate and so much of the world as is now attending upon the sittings of the Senate, that I have never known an hour since I considered the question at all when I did not believe in my inmost heart that not only the highest and the truest justice, but the highest and truest policy, requires that the ballot shall be put

into the hands of every freeman for his own protection, be his race what it may, and his shade of color what it may.

I heard my colleague quote the Janesville Gazette; but before I pass to that I will not allow the designation that my colleague has given to General Paine, of Wisconsin, to pass without correction. He has taken occasion here in this body, to which General Paine, I suppose, is an entire stranger, to characterize him as a crazy man.

Mr. DOOLITTLE. "A half crazy old gentleman."

Mr. HOWE. "A half crazy old gentleman." Sir, he is a gentleman. So much truth there is in what my colleague affirms of him. He is somewhat aged; I think a little older than my colleague and myself, but not so much older that either of us can put on airs to his discomfiture; but as for his being a crazy man, that statement must be discounted upon full one hundred per cent., for he is not at all crazy. An honest, a more excellent, a more sincere man does not live anywhere than General Paine. So much for him.

Then my colleague quotes the Janesville Gazette to the effect that I had denounced the action of the last State convention as cowardly. Mr. President, I cannot plead to that indictment very well. I do not know whether the Janesville Gazette so quoted me or not. And that is not the only embarrassment I labor under. I do not just now know whether I did say so or not. Being upon the point I will take this occasion to say that I did think the action of the last State convention was not characterized by that courage which had characterized every step of the Union party up to that hour, and which I hoped would characterize every one of its steps until it should cease to exist; but I am not in the habit of charging cowardice upon individuals, and I do not think I ever charged cowardice upon that body.

Mr. President, my colleague next charges me with having on repeated occasions gone out of my way to assail his course in that convention. I think upon that charge I can venture to plead the general issue and go to trial upon short notice. I do not believe I ever spent a moment of my time or of my breath in assailing his course in that convention. I remember that in the very first remarks I ever made publicly in reference to that convention I did distinctly say to my friends that we had no time to spend in useless complaints about the course of my colleague. So I thought; so I felt; and I do not recollect nor do I believe I ever called in question his course in that convention publicly. I did regret his course in that convention most sincerely, and he knows it; and he knows that to him I first made that regret known. I do not know that he knows this fact that I am now about to state, but I know it, that but for the fact that I knew or was informed that my colleague was going to attend that convention for the purpose of giving the advice upon which the convention acted, I should not have been at Madison, where the convention was held, myself; but I did go there to see and to remonstrate with him. That purpose accomplished, I had no further connection with the convention.

But, Mr. President, my colleague was not content with charging me with the espousal of the doctrine of negro suffrage as a method for the cure of all political disorders in every part of the Union, but he charges me now with having surrendered that which he affects to tell the Senate was a cardinal principle with me. I fondly hope, sir, that my colleague is mistaken when he cherishes the idea that I have given up any cardinal principle or pet of mine, whether it be negro suffrage or otherwise. The acquaintance that he and I have had together should have taught him that I do not readily surrender cardinal theories or cardinal ideas. I do not know when I have surrendered one. But if I have, let me tell my colleague as I tell the Senate, that this is not one of them. I believe to-day that the ballot in the hands of all guiltless men is the best security for the public

peace and the best security for individual right and justice that law has ever devised. The world is six thousand years old. In every quarter and section of it you have tried to get along without doing justice, but wherever you tried it you have miserably failed. There is no other way given under heaven or among men whereby national life can be saved and secured but justice and equal rights. If you think there is, try it on for another six thousand years, and then tell me.

Mr. President, my colleague taunts me and the party with which I act that if we or those with whom I act in Wisconsin had been guided by our own feelings and convictions, if he had not beneficently and benignly stood over us, the guardian angel of the Union party in the State of Wisconsin, and saved us in spite of ourselves from the rocks on which we seemed determined to rush, we should have had no Union majority in the State of Wisconsin. That is an assertion; not exactly a prediction, because it does not relate to what is to take place hereafter; but it is an assertion relating to what has transpired heretofore, and the truth of which there are no present means of ascertaining, and so I must content myself with opposing my opinion to that of my colleague, and telling him that he is, in my judgment, terribly mistaken when he flatters himself that it was to his sage counsels that the Union party owes its control of the State of Wisconsin.

Again, Mr. President, my colleague tells me—and I thought he seemed rather to congratulate himself and to hug himself, so to speak, on the fact that the theory of State suicide has passed away forever. I should be glad to know that the fact of State suicide had passed away forever; but my colleague cannot demolish a theory by an assertion. I suppose the simple fact to which my colleague had reference was to that rather antiquated fact that a great while ago—I cannot just now tell how long ago, but in the early part of this session; it seems to me I was a much younger man then than I am now, though just as wise—I did propose to the Senate a joint resolution declaring it to be the duty of Congress to organize territorial governments for the communities between us and the Gulf which had destroyed or abdicated the government of American States. I suppose it is to the idea contained in that resolution that my colleague alludes when he refers to the theory of State suicide; and if that is so I think he is quite too early in congratulating himself that that theory has passed away forever. It is very true that the Senate and the House of Representatives have not acted upon that theory, but it is equally true that the President of the United States, whose steps my colleague follows exactly, and whose doctrines he espouses instantly and always here, has adopted that theory and has acted upon it.

The facts are undeniable, patent to the whole world, that every form of local government which has existed over every one of these communities from 1861 down to the present time has been treated by the President precisely as if it owed its life, as well as its authority and its vigor, to him. Whenever he saw fit to take that life he has seemed to suppose that he might take it; whenever he saw fit to clasp his hands tighter upon the throat of any one of those communities their breath must stop, and they could only breathe with his permission and only act by his consent. Thus it was that he not only, in the first instance, as I have before remarked, actually wiped out of existence with a single wave of his hand every vestige of local government which he found there when their armies surrendered, but it was thus and thus, alone, that he went on to rebuild governments after a model of his own, fashioned by his own wit—to rebuild governments in the place of those displaced. It was thus, and thus alone, that he has from time to time in every stage of their history, from the time their armies surrendered down to this moment, interfered and stopped the functions of each or every one of

the departments of those governments which he built himself and ought to warrant, whenever he thought proper to do so. One of two things is true, either he has handled those governments as territorial governments existing by virtue of Federal authority, and only Federal authority, wielded by the Executive and not by the Legislature, or he has been guilty of usurping the functions of State governments, such as no predecessor of his ever attempted, and such as no predecessor of his ever could attempt, and no successor of his ever can attempt without subjecting himself to the pains and penalties of impeachment.

Mr. President, I touch now upon a question which concerns not merely the existence of parties here to-day, but takes hold of the foundations upon which your Government rests. You must stand there. No President can go into a State and dissipate a Legislature without committing an act of revolution, and you know it. No President can go into a State and by his own word and his own authority depose even a justice of the peace without committing a revolutionary act, and you know it. If you concede that authority to this President or any other, you surrender every single right and prerogative of a State not merely to the nation as represented by its representatives, but to the nation represented in the person of a single individual as its Executive. Sir, if the Senate and the House of Representatives have ignored the theory of State suicide, the President is true to it.

I have occupied, sir, more of your time than I meant to do, and more than I think was absolutely necessary for a personal explanation. There is one other point that is not exactly in the character of a personal explanation; that is to say it does not tend to explain my personal conduct, though it may have some bearing on the personal conduct of my colleague. There is one comment of that kind that I feel called upon to make. Judging from the whole drift of the remarks made by my colleague after I came into the Senate—for, as I have said, I was not here when he began—I was led to the conclusion that it was the end and aim of his effort to convince somebody, if not himself, that he had been, after all, and all this time, acting in the interest of the Union party which sent him here, and acting for the protection and preservation of that party whose representatives in the State of Wisconsin asked him to leave here last winter. That that has not been the aim of my colleague, I cannot positively affirm; but if it has been, either he or his constituents in the State of Wisconsin have made a very great mistake. It is very certain that his constituents in Wisconsin, those tried and true men who sent him here—and I beg leave right here to say, by way of interpolation, and in the hearing of my colleague, just as true to-day as they ever were—have not understood him as acting in the interests and for the safety and security of the Union party; and it is equally certain that that other constituency in Wisconsin, who opposed his coming here, have made the very same mistake; for, by all the evidence they could give on any point in issue, they do testify that they conceive him, instead of being the saviour of the Union party, to be precisely the genius raised up in these evil times to destroy the Union party; and so they hail him with open public acclaim everywhere. Sir, who is mistaken upon this point? The patent fact is—I am not talking of the motive or sincerity of my colleague; I am not questioning that, and never have—that my colleague came here the accredited representative, the chosen agent of the Union party of Wisconsin, and here he met a majority of this body accredited by the same party in different States. I simply appeal to the personal knowledge of every man that surrounds me to know whether, for the last four or six months, my colleague has acted with that party, counselled with it, accorded with it, aided it, or done anything else in the wide world but to employ himself, so far as I can judge, to the utmost extent of his capabilities, in pulling it

down and utterly demolishing it. That is a question which his own personal observation will enable every Senator of any party on this floor to answer satisfactorily to himself, and, I think, satisfactorily to me.

Mr. President, I must say one thing more. I was impressed with the belief—I hope I do my colleague no injustice by the conviction—that he had allowed these resolutions to lie upon your table from the time they were presented until this time, while he was doing such work here as seemed to him fit and proper for him to do, whether in the interest of the Union party or of the State of Wisconsin or of the President of the United States, I shall not stop to discuss; but having allowed these resolutions to lie upon the table until this time without comment, it did seem to me as if he had sought this very late hour, when all work here is accomplished, when there is nothing more to be done in the sight of the President or of the Senate, to state his account and be prepared to meet his constituents. Whether that was his view or purpose or not I cannot definitely state till I have more carefully considered not merely what I did hear but what I did not hear of his remarks. If that was his view, I want to do one thing more and close.

My colleague and myself came here the representatives of the same party, and I am going back to Wisconsin believing that I myself am still the representative of that party, true to what I understand to be their convictions; and I want to say here to the Senate, for the encouragement of you all, that I believe in the State of Wisconsin there has been a more deliberate and more systematic effort to demoralize the party which sent my colleague and myself here than has been put forth in any State of the Union, but at the same time it is my proud satisfaction to believe that there is nowhere in the Union or upon the face of the earth a constituency that stand more solid, more compact, more resolute, more unflinching, more determined to adhere to the end, wherever that end may be or whenever it may come. This is the constituency which sent me here and to which I am about to return.

#### RELIEF OF DRAFTED MEN.

Mr. COWAN. I move now to take up the bill (H. R. No. 811) for the relief of certain drafted men. I think there is no objection to it.

Mr. CRESWELL. I believe one section of that bill provides that the claims paid under it shall be confined to those now on file in the War Department. I ask what number there are now on file in the War Department.

Mr. COWAN. I think about seventy, it is said.

Mr. WILSON. Yes, about seventy.

Mr. MORGAN. I do not think we know enough about that bill to consider it now.

The PRESIDENT *pro tempore*. Does the Senator from New York object to its consideration?

Mr. MORGAN. I do.

The PRESIDENT *pro tempore*. It will be laid aside.

#### BESTOR AND M'CORD.

Mr. TRUMBULL. I offer the following resolution:

*Resolved*, That the Secretary of the Navy be requested to organize a board of not less than three competent persons whose duty it shall be to inquire and determine how much the vessels-of-war *Shiloh*, built by George C. Bestor, and *Utah*, built by Charles W. McCord, at St. Louis, Missouri, during the years 1863, 1864, and 1865, and their machinery, cost said contractors over and above the contract price and allowances for extra work paid by the Government of the United States, and report the same to the Senate at its next session.

I introduced this morning a joint resolution on this subject which the Senate passed, but in the House it has been referred to a committee. I notice that the Senate passed a separate resolution similar to this last year; and I ask that this be passed so that the testimony can be taken.

Mr. HENDERSON. I remember that a resolution was passed just at the close of the

last session, and the consequence was a report by a board, and upon that report a bill was introduced appropriating, perhaps, \$2,000,000 to pay the iron-clad contractors. The only justification for that bill was the report of a board organized under a simple resolution of the Senate. I object to this resolution, and I hope the Senate will have nothing to do with it.

The *PRESIDENT pro tempore*. Objection being made, the resolution must go over.

Mr. TRUMBULL. I will state to the Senator that that resolution would have covered this case, and Mr. Bestor and Mr. McCord could have taken their testimony but for the fact that the action of the board was before they completed their contract. They only want an opportunity to take the testimony. I do not know that I shall vote for the claim eventually; I do not commit myself to that; I only desire to allow these parties to present their case.

Mr. HENDERSON. I object to the resolution. I wish to lay no foundation for another iron-clad bill at the next session of Congress by a resolution of this kind at the heel of the session.

The *PRESIDENT pro tempore*. Objection being made, the resolution cannot be considered.

#### MILITARY SERVICE ABROAD.

Mr. WILLEY submitted the following resolution; which was considered by unanimous consent and agreed to:

*Resolved*, That the President of the United States be requested, if not in his opinion deemed incompatible with the public interest, to transmit to the Senate copies of all correspondence not heretofore published, between the Government of the United States and the Governments of France and Prussia since the 4th of March, 1857, touching the claim to military service asserted by those Governments in reference to persons born in those countries and who have since become naturalized under the laws of the United States.

#### PREPARATIONS FOR ADJOURNMENT.

Mr. HARRIS (at fifteen minutes past four o'clock) submitted the following resolution; which was agreed to:

*Resolved*, That a committee consisting of two members be appointed on the part of the Senate, to join such committee as may be appointed on the part of the House of Representatives, to wait upon the President of the United States and inform him that unless he may have some further communication to make, the two Houses of Congress, having finished the business before them, are ready to adjourn.

The *PRESIDENT pro tempore* being authorized to appoint the committee, Messrs. HARRIS and NESMITH were appointed.

#### REV. C. B. BOYNTON.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed a joint resolution (H. R. No. 210) to authorize the payment of Rev. C. B. Boynton as Chaplain of the House of Representatives of the Thirty-Ninth Congress.

At the suggestion of Mr. SPRAGUE, the joint resolution was, by unanimous consent, read three times and passed.

Mr. McPHERSON presently returned and announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 210) to authorize the payment of Rev. C. B. Boynton as Chaplain of the House of Representatives of the Thirty-Ninth Congress; and it was signed by the President *pro tempore*.

#### REPORT OF COMMITTEE.

After a pause—

Mr. HARRIS. The committee on the part of the Senate who were charged with the duty of waiting upon the President and informing him that the Senate was ready to adjourn unless he had some further communication to make, have performed that service, and the President was pleased to say that he had no further communication to make.

#### THANKS TO THE PRESIDENT PRO TEMPORE.

The *PRESIDENT pro tempore* having vacated the chair,

Mr. BUCKALEW. Mr. Clerk, I offer the following resolution:

*Resolved*, That the thanks of the Senate be presented to Hon. J. A. FAYETTE S. FOSTER, President of the Senate *pro tempore*, for the dignified, impartial, and courteous manner in which he has presided over its deliberations during the present session.

The Chief Clerk put the question on the resolution, and it was unanimously adopted.

The *PRESIDENT pro tempore* took the chair and said:

SENATORS: I thank you heartily for this most gratifying token of your approbation. The duties with which I have been charged, though responsible, have been made pleasant and agreeable by your uniform support, by the courtesy and kindness manifested toward me by every member of the body. I shall cherish these associations in grateful remembrance as long as I live.

The time designated by the concurrent vote of the two Houses for the close of this session of Congress having now arrived, wishing you all a prosperous journey to your homes and families, I now declare the Senate adjourned without day.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 28, 1866.

The House met at eleven o'clock a. m.

The Chaplain, Rev. C. B. BOYNTON, made the following prayer:

Accept our thanks, O God, that in circumstances of peace and mercy Thou hast brought these men once more together on this the closing day of the session. We pray, O God, that this important chapter of American history may, through wisdom and grace granted unto them to-day, be worthily brought to a close. We thank Thee for all Thou hast enabled them during this session to do; for all that has been accomplished in the cause of right and freedom; for the benefits that have been conferred upon the masses of the people in this land, and for the encouragement that has been given to those in all other lands who are struggling to gain and establish their rights. O God, grant unto them that reward which is due. And now that they are about to separate when the duties of this day are over, O God, we pray that it may not be a final separation. We commend them all individually to the holy keeping of our God. Will the Lord guard them on their homeward journey from all the perils of the traveler, watch over all their interests, and may they meet their friends in peace and health. O God, guard in safety every family circle, and every dear home, that they may meet each other in peace, and feel that God has guarded and blessed them. We beseech Thee, O Lord, that they may all be spared to meet again when another session shall commence to celebrate a new triumph for the right, to perfect that which remains undone in bringing all the policy of the Government in accordance with the eternal principles of Thine own. Will God bless all the officers of the Government to-day. Bless the whole country. And when next a prayer shall be offered before Thee here, may we have still greater cause for thankfulness to God for all that He has done for the United States. We ask it in Jesus' name. Amen.

Mr. STEVENS. It is evident to all that the Journal of yesterday's session cannot have been made up by this time; I therefore move that the reading of the Journal of yesterday be dispensed with.

The motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 138) to increase and fix the military peace establishment of the United States;

An act (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes; and

An act (H. R. No. 791) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1866, and for other purposes.

#### MISCELLANEOUS BUSINESS.

The SPEAKER. The Chair is informed that the enrolling of the bills which were passed just before the adjournment this morning, and their examination and comparison by the Committee on Enrolled Bills cannot be completed in less than two and a half or three hours. The Senate have been informed of that fact, and they will probably agree to the request of the House to extend the session to half past four o'clock this afternoon.

Mr. MILLER asked and obtained leave to have printed with the debates a speech he had prepared upon the general political questions of the day. [The speech will be published in the Appendix.]

Mr. STEVENS. I had laid down to get some sleep when the vote was taken upon agreeing to the report of the last committee of conference upon the disagreeing votes of the two Houses upon the civil appropriation bill. I now ask leave to record my vote in the affirmative.

No objection was made, and leave was accordingly granted.

Mr. ROLLINS asked and obtained leave to record his vote in the negative upon the same bill.

Mr. SPALDING asked and obtained leave to record his vote in the affirmative upon the same bill.

Mr. WILLIAMS asked and obtained leave to record his vote in the affirmative upon the same bill.

#### DEATHS OF PRISONERS OF WAR.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House calling for a report of the number of deaths of Union and rebel soldiers while held as prisoners of war; which was laid on the table and ordered to be printed.

#### RECONSTRUCTION.

Mr. STEVENS. If it will prevent the doing anything worse, and the House will indulge me, I will make a few remarks on House bill No. 623, to enable the States lately in rebellion to regain their privileges in the Union, and which was under consideration when we were last in Committee of the Whole.

Mr. ELDRIDGE. I think I must object.

Mr. STEVENS. I will yield the floor whenever anything else comes up. I do not want any action whatever.

Mr. ELDRIDGE. I supposed the gentleman from Pennsylvania [Mr. STEVENS] would want some action by the House. I never knew him to make a speech without having some purpose in view.

Mr. CONKLING. Of course he has some purpose in view.

Mr. ELDRIDGE. I will not object, if there is to be no action.

Mr. STEVENS. Before making the remarks I have to submit, I desire to indicate some amendments that I wish to have made in the bill. And that they may be properly understood, I propose to include in my remarks the bill as I desire to have it read when perfected, and which will be as follows:

Whereas the eleven States which lately formed the government called the confederate States of America have forfeited all their rights under the Constitution, and can be reinstated in the same only through the action of Congress: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the eleven States lately in rebellion may form valid State governments in the following manner:

Sec. 2. *And be it further enacted*, That the State governments now existing *de facto* are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers are hereby recognized as such.

Sec. 3. *And be it further enacted*, That the President of the United States shall within six months, and as often thereafter as he shall deem proper, issue his proclamation directing conventions to be called



to form legitimate constitutions for the respective States. He shall direct an election to be held on a certain day to choose delegates to a convention, which shall meet at the time fixed by him at the capital of the State and form a State constitution, which shall be submitted to a vote of the people, and if ratified by a majority of the legal voters shall be declared to be the constitution of the State.

SEC. 4. *And be it further enacted,* That the persons who shall be entitled to vote at both of said elections shall be as follows: all male citizens above the age of twenty-one years, who have resided one year in said State, and ten days within the election district.

SEC. 5. *And be it further enacted,* That the word citizen, as used in this act, shall be construed to mean all persons (except Indians not taxed) born or duly naturalized in the United States. Any male citizen above the age of twenty-one years shall be eligible as delegate to said convention.

SEC. 6. *And be it further enacted,* That all persons who held office, either civil or military, under the government called the "confederate States of America," and who voluntarily swore allegiance to said government, are hereby declared to have forfeited their citizenship and to have renounced allegiance to the United States, and shall not be entitled to exercise the elective franchise or hold office until three years after they shall have filed their intention or desire to be reinvested with the rights of citizenship, and shall swear allegiance to the United States and renounce allegiance to all other governments or pretended governments; the said application to be filed and oath taken in the same courts that by law are authorized to naturalize foreigners.

SEC. 7. *And be it further enacted,* That no constitution shall be presented to or acted on by Congress which denies to any citizen any rights, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial, without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated or disregarded by any State, this act shall become void as to said State, and the State shall lose its right to be represented in Congress. There shall be three officers of election at each of the polls; two of them shall be called inspectors, who shall receive and deposit the votes in the box when undisputed. If any vote shall be challenged the other officer, to be called judge, shall decide the question if the inspectors disagree. The officers shall be chosen as follows: on the morning of the election, at the hour of nine o'clock, the legal voters present at the polls shall nominate three or more candidates, and proceed to elect by dividing into two or more bodies, according to the number of contesting parties. The majority shall elect. The officers thus chosen shall appoint two clerks, who shall truly record the votes when the votes are received, and the votes when counted by the officers aforesaid. Any fraud in conducting the election shall be deemed a misdemeanor, punishable by fine and imprisonment, at the discretion of the court.

SEC. 8. *And be it further enacted,* That whenever the foregoing conditions shall be complied with the citizens of said State may present said constitution to Congress, and if the same shall be approved by Congress said State shall be declared entitled to the rights, privileges, and immunities, and be subject to all the obligations and liabilities of a State within the Union. No Senator or Representative shall be admitted into either House of Congress until Congress shall have declared the State entitled thereto.

Notwithstanding surrounding discouragements, the exhortation, "Be not weary in well doing," encourages me to make one more—perhaps an expiring—effort to do something which shall be useful to my fellow-men; something to elevate and enlighten the poor, the oppressed, and the ignorant, in this great crisis of human affairs. I do not feel that this august body, this grand council of a nation of freemen, has done anything worthy of its glorious opportunity, worthy of its duty to the immortal beings whose destinies for good or evil, for happiness or woe, it holds in its hands; when I reflect with how few acts of justice, with how few wise enactments, most of us seem content to close our labors and disperse to the periphery of the nation in search of cool shades, purling trout streams, and to see our bulls and bees. I beg it to be understood I do not claim a right to speak this reproachfully or complainingly; especially when I consider my own life, too much of which has been spent in idleness or frivolous amusement, and find myself almost ready to yield before every man is secured equal rights and impartial privileges. I cannot avoid feeling humbled, I cannot escape the pangs of self-condemnation. Sir, is this to be the poor result of the labors of an assembly clothed with the sovereignty of the only real republic that ever existed, and which, from its position, its trials, and the inspired teachings of the fathers, ought to be wiser and juster than the Amphictyonic Council, or any other assembly, ancient or modern? Congress has certainly done some good legislation to aid the white man, if he choose, to protect the poor of all races and colors. But nothing has

been done to enable any but the white man to protect himself. How precarious and worthless is that protection which depends wholly on the will of others, and leaves one's self defenseless! In a peaceful, well-governed republic, the only protection consists in the right to participate in the government; to aid in the formation of organic and other laws; to have a voice in the election of officers, and to influence the legislation of the country. They must have the ballot or they will continue, virtually, to be slaves; they will be servants and tools of the rich. But give them political power and they will find friends who will recognize their manhood, because they will receive in return a boon which none but men could bestow. With less than this, it were a pity that their bonds were broken. A bondman may have some intellectual elevation. A freeman, deprived of every human right, is the most degraded of human beings.

This bill proposes to give the right of suffrage, in forming their State governments, to every man alike, without regard to race or color. When they form their constitution it leaves them free. This, it must be remembered, applies only to the rebel States. No one denies the right of Congress to fix the status and terms of admission of those States. No man of common sense and common honesty pretends that the present governments, of at least ten of them, have any elements or features of legitimate governments. Their old constitutions were utterly overthrown and have never been revived. Their present constitutions were not of their own choice, but were imposed upon them in the midst of arms, when the "laws were silent," by a military ruler playing the part of a mighty conqueror. Not one of their organic laws was ever submitted to the judgment of the people. We have passed a law giving the right of suffrage to all men in the Territories. Let us now authorize the outlawed States to become republican by freely forming their constitutions by the action of all their free men. If they then deprive any portion of the people of their equal rights, let them be content with their present exterior condition until they shall become fit to discharge the duties of true republicanism.

Thus will the elective franchise be properly bestowed on all within the rebel States. The loyal men will be protected. Now they are proscribed without regard to color. Reject this bill, and I see no way of ever giving equal rights to the South. Reflections like these have induced me to propose a direct vote (which I hope will be allowed) on the vital question which alone can give protection to the colored race and the loyal whites in the rebel States. Left as they now are without the protection of the ballot-box, overwhelming evidence shows that they are the mere serfs and will be the victims of their former masters. The objection to the insertion of such imperative provisions in an amendment to the Constitution does not exist to this bill. In the Constitution it would have operated equally in every State.

While that would have been just, it was not deemed possible. In many of the free States deep-seated prejudice, the offspring of ignorance and habit, obstructed the cause of justice. In copperhead States where justice to the colored race has no domicile, and in States nearly balanced, such reform was thought to be impracticable at present. Those States had done nothing to forfeit their rights and authorize the nation to impose such new conditions. Nor had the workings of our institutions shown such provisions to be absolutely necessary for the protection of that class or the safety of the country. The deprivation of the elective franchise to so few, though a great wrong, was not thought dangerous or intolerable. How different the condition of the rebel States! The concentration of the whole political power in the hands of a few tyrannical and disloyal men has shown itself dangerous to liberty and fidelity to the Government, and unless restrained must again soon produce bloody insurrections. Their right to dictate the terms of their parti-

cipation in national affairs all agree to have been forfeited, and whatever different theories are held, all concur in the main conclusion, whether Republicans, Copperheads, Apostates, or that unamiable hermaphrodite race called Conservatives; as the conditions of readjustment are to be fixed by the Government, none can deem it severe if we put the loyal freedman on an equal footing at the polls with the disloyal white man. If the wise management of the government of the country; if the protection of the loyal men in the rebel sections; if the election of patriotic Union men to the State and national offices requires the full enfranchisement of the colored race; if justice to all demands it, why shall we hesitate?

The only way in which Congress can grant such power by legislation is through enabling acts, as provided by this substitute. When these people become States Congress cannot either alter or amend their State institutions. A constitutional amendment can alone reach it. As Congress can dictate any mode of reconstruction which it deems best, it may pass enabling acts authorizing these outlawed districts to form republican State governments fit to partake in the government of the nation. In forming such governments Congress always fixes the qualifications of the electors. It has lately, as I have said, given the right of suffrage to the colored race in the Territories. This bill is intended to give the loyal colored men, as well as the loyal white men, a right to participate in the Government under which they are to live; it excludes none but the most guilty rebels; that is necessary in order to enable the loyal men to live in the land of their birth; otherwise the proud, persecuting rebels will exile them from their native land. Such is the united evidence of all the true men of the South.

When this is done we shall have done but partial justice to the descendants of an oppressed race. God may yet visit us with further punishments. Certainly we deserve it. Why have we not given them homesteads? Their rebel masters owe it to them. As all agree that Congress must restore the lost States, let it be done upon true principles. Republics must stand upon the basis of universal suffrage. Any departure from that is a departure from republicanism. Exclusion for crime does not violate the rule.

This bill treats the confederate States as every branch of our Government treats them. They are all under military surveillance. No statesman looks upon their present governments as anything but temporary, imposed by arbitrary power until the people could form free governments. It provides that within six months conventions shall be called of all the free male people of the States above the age of twenty-one years—with certain exceptions on account of crime—to form constitutions to be submitted to the judgment of the people. Upon the ratification of such constitutions they may be admitted into the Republic, provided, always, that such constitutions shall not violate the fundamental principles of republicanism by discriminating against any citizen or class of citizens in favor of any other under similar circumstances.

Now, sir, if there be any State that does not desire such organic law, let it remain in a state of pupillage until it shall have learned the elementary principles of justice and freedom.

All who choose to deal fairly by all men may thus be represented in this body in the next Congress. Those who do not choose to give equal rights to all men, will, with my consent, never enter this Hall except as Delegates.

A large class of the rebels under oath renounced their allegiance to the United States and swore allegiance to the confederate States of America. I consider such oaths void. But the subjects of it have no right so to treat it. This bill opens a door to enable them to absolve themselves from such oath without perjury. The time fixed is short enough. The loyal men should have some time to consolidate their government. I assure gentlemen that without such

provision the fate of the Union men in all the ten of the eleven States will be deplorable. I rejoice that Tennessee has provided against such horrors, and that she has a Governor with energy to enforce it. Those temporarily excluded from the elective franchise by the sixth section are excluded because they have committed the highest felony. They may thank the tender mercy of Congress that the punishment is so light. Had they been left to Andrew Johnson "as he was" they would have mounted the block or fled to foreign climes.

The balance of the bill provides for the admission of Tennessee, which deserves special favor as the birth-place or residence of one of the most extraordinary men in his time that has ever appeared on earth. I do not pretend that she is loyal. I believe this day that two thirds of her people are rank and cruel rebels. But her statesmen have been wise and vigilant enough to form a constitution which bridle licentious traitors and secures the State government to the true men. And she has an Executive fit to ride upon the whirlwind. I know that two thirds of the congressional districts will send us secessionists, which will greatly impair our two-third votes. But she has two or three men in her delegation who would have saved Sodom. In the Senate, at least, one man deserves the favor of Congress. Of the other I say nothing, as I know nothing, and I would not do injustice to one who has never done injury to me, or, as far as I know, to the country.

I have done in this matter what I deemed best for humanity. It may be thought I am showing too much anxiety on a question in which I can have no separate personal interest. I know it is easy to protect the interests of the rich and powerful; but it is a great labor to guard the rights of the poor and downtrodden; it is the eternal labor of Sisyphus forever to be renewed. I know how unprofitable is all such toil. But he who is in earnest does not heed these things. I know, too, what effect it has on personal popularity. But if I may be indulged in a little egotism, I will say that if there be anything for which I have entire indifference, perhaps I may say contempt, it is that public opinion which is founded on popular clamor.

In this, perhaps my final action on this great question, upon a careful review, I can see nothing in my political course, especially in regard to human freedom, which I could wish to have expunged or changed. I believe that we must all account hereafter for deeds done in the body, and that political deeds will be among those accounts. I desire to take to the bar of that final settlement the record which I shall this day make on the great question of human rights. While I am sure it will not make atonement for half my errors, I hope it will be some palliation.

Are there any who will venture to take the list, with their negative seal upon it, and will dare to unroll it before that stern Judge who is the Father of the immortal beings whom they have been trampling under foot, and whose souls they have been crushing out?

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the concurrent resolution of the House to extend the present session of Congress to half past four o'clock p. m. of this day.

The message further announced that the Senate had passed, with an amendment, House bill No. 801, authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and of the Secretary of State, Hon. William H. Seward; in which amendment the concurrence of the House was requested.

#### THANKS TO THE SPEAKER.

Mr. RAYMOND having been called to the Speaker's chair,  
Mr. RANDALL, of Pennsylvania, submitted

the following resolution, which was unanimously agreed to:

*Resolved*, That the thanks of the members of the House of Representatives are eminently due to Hon. SCHUYLER COLFAX, Speaker, for the dignified, impartial, and decorous manner in which, during the present session of Congress, he has discharged the duties of his position; and truthful recognition of such services is herewith given.

#### ASSASSINATION OF PRESIDENT LINCOLN.

Mr. ROGERS, in pursuance of permission previously given by the House, presented a report from the minority of the members of the Committee on the Judiciary, which had been ordered to be printed with the majority report if presented in time.

#### PAYMENT OF ASSASSINATION REWARDS.

On motion of Mr. DELANO, the amendment of the Senate to the bill of the House (No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis and the assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward, was taken from the Speaker's table, and the House proceeded to consider the same.

The amendment of the Senate was to strike out the list of awards for the capture of Jefferson Davis, as follows:

For the capture of Jefferson Davis:

Lieutenant Colonel B. D. Pritchard.....	\$10,000 00
Captain John C. Hathway.....	729 60
Captain Charles C. Hudson.....	729 60
First Lieutenant Lauren H. Ripley.....	555 88
First Lieutenant John A. Palmer.....	555 88
First Lieutenant Henry S. Boutell.....	555 88
First Lieutenant Herbert A. Bachus.....	555 88
First Lieutenant Silas J. Stauber.....	555 88
First Lieutenant Charles W. Fisk.....	555 88
First Lieutenant T. H. B. Hazelton.....	555 88
Second Lieutenant Hiram D. Treat.....	555 88
Second Lieutenant John Bennett.....	555 88
Second Lieutenant Chaucela M. Bickford.....	555 88
Second Lieutenant Lorenzo T. Southworth.....	555 88
Second Lieutenant Alfred B. Purinton.....	555 88
Second Lieutenant Leonard C. Remington.....	555 88
Second Lieutenant Samuel F. Murpley.....	555 88
Adjutant Julian G. Dickinson.....	666 10
Regimental Quartermaster Perry J. Davis.....	666 10
Regimental Commissary John S. Pugsley.....	666 10
Ass't Surg. J. A. Grooves, (98th Ill. m'd inf.).....	555 88
Sergeant Major Fitz E. Stevens.....	271 00
Hospital Steward Amos Knight.....	229 72
Commissary Sergeant Harlan P. Dunning.....	229 15
First Sergeant Othniel E. Gooding, Co. A.....	250 15
First Sergeant John W. Bradner, Co. B.....	250 15
First Sergeant John H. Shoemaker, Co. C.....	250 15
First Sergeant Edwin Hines, company E.....	250 15
First Sergeant Stanley L. Nichols, Co. F.....	250 15
First Sergeant Francis Maguire, Co. G.....	250 15
First Sergeant George Hall, company H.....	250 15
First Sergeant E. F. Price, company I.....	250 15
First Sergeant George Davenport, Co. K.....	250 15
First Sergeant Wesley D. Pond, Co. M.....	250 15
Sergeant B. Frank Gooding, company A.....	208 45
Sergeant Thomas Davis, company A.....	208 45
Sergeant George H. Simmons, company A.....	208 45
Sergeant Thomas Riley, company A.....	208 45
Sergeant George Miles, company A.....	208 45
Sergeant Rezin Wright, company A.....	208 45
Sergeant Wakeman L. Grant, company B.....	208 45
Sergeant Morris Brass, company B.....	208 45
Sergeant Abol A. Bralley, company B.....	208 45
Sergeant Simon Voght, company B.....	208 45
Sergeant Alondo E. Ford, company B.....	208 45
Sergeant Charles L. Leathers, company C.....	208 45
Sergeant Thomas D. Smead, company C.....	208 45
Sergeant Edward W. Parker, company D.....	208 45
Sergeant Robert W. Morris, company D.....	208 45
Sergeant David B. Green, company E.....	208 45
Sergeant William F. Babcock, company E.....	208 45
Sergeant George A. Bullard, company E.....	208 45
Sergeant Calhoun M. Burgh, company E.....	208 45
Sergeant Benjamin S. Vest.....	208 45
Sergeant John C. Correnton, company F.....	208 45
Sergeant Thomas Gorman, company F.....	208 45
Sergeant Howard A. Dickerson, Co. F.....	208 45
Sergeant John C. Nichols, company G.....	208 45
Sergeant Benjamin F. Archer, Co. G.....	208 45
Sergeant Jacob N. Trask, company G.....	208 45
Sergeant James T. Obrien, company G.....	208 45
Sergeant John Cavanaugh, company G.....	208 45
Sergeant Jeremiah P. Craig, company G.....	208 45
Sergeant William H. Palmater, Co. G.....	208 45
Sergeant Horace B. Warner, company H.....	208 45
Sergeant Solomon Wightman, Co. H.....	208 45
Sergeant Samuel Van Etten, company H.....	208 45
Sergeant Martin Horan, company H.....	208 45
Sergeant Daniel O'Crory, company H.....	208 45
Sergeant Emery A. Miller, company I.....	208 45
Sergeant Lester P. Bates, company I.....	208 45
Sergeant Ansel Adams, company K.....	208 45
Sergeant George R. Vantine, company K.....	208 45
Sergeant Andrew Snook, company K.....	208 45
Sergeant Joseph Hofmaster, company L.....	208 45
Sergeant John F. Beebe, company L.....	208 45
Sergeant Levi Tuttle, company L.....	208 45
Sergeant Gordon N. Kenyon, company L.....	208 45
Sergeant James H. Holdsworth, Co. L.....	208 45

Sergeant Benjamin K. Colf, company L.....	208 45
Sergeant Alonzo C. Burnham, company L.....	208 45
Sergeant Edwin Pearce, company M.....	208 45
Sergeant George W. Collins, company M.....	208 45
Sergeant Roland Osgood, company M.....	208 45
Sergeant James W. Argo, company M.....	208 45
Corporal Darwin Dunning, company A.....	187 61
Corporal William P. Smith, company A.....	187 61
Corporal Robert L. Reynolds, company A.....	187 61
Corporal Lyman J. Russell, company A.....	187 61
Corporal William Crow, company B.....	187 61
Corporal John P. Shurburn, company B.....	187 61
Corporal Chester Barber, company B.....	187 61
Corporal C. F. Parker, company B.....	187 61
Corporal Nelson B. Tuttle, company B.....	187 61
Corporal A. W. Kenney, company B.....	187 61
Corporal Baxter B. Bennett, company B.....	187 61
Corporal Abram Sebring, company C.....	187 61
Corporal Charles Burrell, company C.....	187 61
Corporal Reuben Palmerton, company C.....	187 61
Corporal David Q. Curry, company C.....	187 61
Corporal George M. Munger, company C.....	187 61
Corporal James Place, company D.....	187 61
Corporal Ephraim Truesdell, company D.....	187 61
Corporal William C. Stiff, company E.....	187 61
Corporal William H. Crittenden, Co. E.....	187 61
Corporal John Hines, company E.....	187 61
Corporal Dewitt C. Carr, company E.....	187 61
Corporal Charles W. Tyler, company E.....	187 61
Corporal James Peeler, company E.....	187 61
Corporal Dewitt C. Cobb, company F.....	187 61
Corporal Christian Boringer, company F.....	187 61
Corporal Adam Kiene, company F.....	187 61
Corporal William F. True, company F.....	187 61
Corporal H. Connor, company F.....	187 61
Corporal George W. Vansickle, company G.....	187 61
Corporal John Ballou, company G.....	187 61
Corporal George Myers, company G.....	187 61
Corporal Leander B. Shaw, company G.....	187 61
Corporal Benton D. Thurston, company H.....	187 61
Corporal William McCune, company H.....	187 61
Corporal Daniel P. Welton, company H.....	187 61
Corporal Charles Blackall, company H.....	187 61
Corporal Horace Heath, company H.....	187 61
Corporal William H. Conover, company H.....	187 61
Corporal Jerome B. Hath, company I.....	187 61
Corporal Martin V. Pomeroy, company I.....	187 61
Corporal Preston W. Brown, company I.....	187 61
Corporal Leander Van Kleek, company K.....	187 61
Corporal Robert Dey, company K.....	187 61
Corporal Josiah R. Lewis, company K.....	187 61
Corporal Alonzo Moe, company K.....	187 61
Corporal John Morrish, company K.....	187 61
Corporal Charles Cobb, company K.....	187 61
Corporal Charles F. Tubah, company L.....	187 61
Corporal Charles C. Marsh, company L.....	187 61
Corporal William Oliver, company L.....	187 61
Corporal William G. Rowe, company L.....	187 61
Corporal Henry Shanahan, company M.....	187 61
Corporal Simon Huff, company M.....	187 61
Corporal Samuel Wilson, company M.....	187 61
Corporal Elias M. Engling, company M.....	187 61
Corporal John E. Rankin, company M.....	187 61
Farrier Gurley B. Chase, company C.....	187 61
Farrier Watson S. Williams, company D.....	187 61
Farrier Hiram S. Youngs, company D.....	187 61
Farrier Orlando E. Carpenter, company E.....	187 61
Farrier Nathaniel Rix, company E.....	187 61
Farrier John C. Rapp, company F.....	187 61
Private Hiram Austin, company A.....	166 76
Private William Balon, company A.....	166 76
Private James B. Boyle, company A.....	166 76
Private Daniel C. Blinn, company A.....	166 76
Private John Baty, company A.....	166 76
Private Joseph Corbett, company A.....	166 76
Private Gilbert Coata, company A.....	166 76
Private James Fullerton, company A.....	166 76
Private Peter Gallagher, company A.....	166 76
Private Timothy Hill, company A.....	166 76
Private John L. Harlan, company A.....	166 76
Private Casper Knoble, company A.....	166 76
Private Josiah B. Moore, company A.....	166 76
Private Joseph Moore, company A.....	166 76
Private Philo Morse, company A.....	166 76
Private Joshua Moe, company A.....	166 76
Private Charles W. Nichols, company A.....	166 76
Private Henry Prevost, company A.....	166 76
Private John Rose, company A.....	166 76
Private Gilbert H. Haight, company A.....	166 76
Private Thurmon D. Knapp, company A.....	166 76
Private John W. Ward, company A.....	166 76
Private John Schweigart, company A.....	166 76
Private George Rinke, company A.....	166 76
Private Thomas Lennon, company A.....	166 76
Private Wells Sprague, company A.....	166 76
Private John Fleming, company A.....	166 76
Private Augustus Armstrong, company B.....	166 76
Private William Amidon, company B.....	166 76
Private Francis Busha, company B.....	166 76
Private Erastus W. Blair, company B.....	166 76
Private Albert N. Babcock, company B.....	166 76
Private Franklin A. Crim, company B.....	166 76
Private Andrew Cleary, (or Clara), Co. B.....	166 76
Private Stephen Gardner, company B.....	166 76
Private Willard Huffman, company B.....	166 76
Private George Jacobs, company B.....	166 76
Private John Nicholas, company B.....	166 76
Private Solomon Powell, company B.....	166 76
Private Jacob J. Powell, company B.....	166 76
Private J. J. Perry, company B.....	166 76
Private Patrick Ryan, company B.....	166 76
Private Alpheus F. Sheppard, company B.....	166 76
Private W. P. Steadman, company B.....	166 76
Private David B. Skinner, company B.....	166 76
Private John Trumbull, company B.....	166 76
Private William V. Wood, company B.....	166 76
Private Frank Wright, company B.....	166 76
Private Peter Williams, company B.....	166 76
Private Enoch Woodbridge, company B.....	166 76
Private Joseph Wilch, company B.....	166 76
Private Albert Raymond, company B.....	166 76
Private Lewis H. Wilcox, company B.....	166 76

Private Albert B. Bradley, company B..... 166 76  
 Private Jerome Rockwell, company C..... 166 76  
 Private Azro Blakslee, company C..... 166 76  
 Private James F. Bullard, company C..... 166 76  
 Private Simeon S. Cooper, company C..... 166 76  
 Private Gilbert H. Darling, company C..... 166 76  
 Private Egbert O. Dickinson, company C..... 166 76  
 Private David Dillon, company C..... 166 76  
 Private Franklin C. Leach, company C..... 166 76  
 Private James H. Lynch, company C..... 166 76  
 Private George N. McCarthy, company C..... 166 76  
 Private Benjamin McElroy, company C..... 166 76  
 Private Stephen B. Munsen, company C..... 166 76  
 Private Henry D. Murry, company C..... 166 76  
 Private George B. Reddiker, company C..... 166 76  
 Private Thomas Robb, company C..... 166 76  
 Private John Ruppert, company C..... 166 76  
 Private Ranslear Riggs, company C..... 166 76  
 Private Benjamin F. Sherman, company C..... 166 76  
 Private George I. Smith, company C..... 166 76  
 Private William J. Smith, company C..... 166 76  
 Private Harman Stephens, company C..... 166 76  
 Private Ira Stockwell, company C..... 166 76  
 Private Gabriel Swagart, company C..... 166 76  
 Private Emery Waurele, company C..... 166 76  
 Private Benson B. Withey, company C..... 166 76  
 Private George Worthy, company C..... 166 76  
 Private Jacob Bauers, company D..... 166 76  
 Private John Brown, company D..... 166 76  
 Private Columbus C. Cole, company D..... 166 76  
 Private Levi H. Hatch, company D..... 166 76  
 Private John A. Horrigan, company D..... 166 76  
 Private Thomas Hunter, company D..... 166 76  
 Private Horace C. Jenne, company D..... 166 76  
 Private Elisha Kelley, company D..... 166 76  
 Private Bart Judson, company D..... 166 76  
 Private George H. Mott, company D..... 166 76  
 Private W. H. Martin, company D..... 166 76  
 Private Barnabas A. Mosher, company D..... 166 76  
 Private Jacob E. Nnn, company D..... 166 76  
 Private Theodore Mero, company D..... 166 76  
 Private William Parker, company D..... 166 76  
 Private James Putman, company D..... 166 76  
 Private Franklin Sawyer, company D..... 166 76  
 Private Henry Stanford, company D..... 166 76  
 Private David A. Sisknor, company D..... 166 76  
 Private Francis B. Thompson, company D..... 166 76  
 Private Henry M. Wisnor, company D..... 166 76  
 Private Orin Wisnor, company D..... 166 76  
 Private Zebadec Wilcox, company D..... 166 76  
 Private James H. Collins, company D..... 166 76  
 Private John E. Dorr, company E..... 166 76  
 Private William F. Frazier, company E..... 166 76  
 Private John E. Brown, company E..... 166 76  
 Private John G. Brindle, company E..... 166 76  
 Private Seta Cochran, company E..... 166 76  
 Private Commodus Carrold, company E..... 166 76  
 Private Oscar Decker, company E..... 166 76  
 Private William F. Driesman, company E..... 166 76  
 Private George F. Dulwayne, company E..... 166 76  
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 Private Elisha B. Perkins, company M..... 166 76  
 Private Eugene M. Seeley, company M..... 166 76  
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Mr. DELANO. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. DELANO moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RETURN OF DRAFT COMMUTATION.

Mr. ANCONA called for the regular order of business.

The House accordingly resumed the consideration of House bill No. 811, for the relief of certain drafted men, which had been postponed to and made the special order for to-day immediately after the reading of the Journal.

The bill was read at length. The preamble sets forth that certain persons drafted into the military service of the United States, under the calls of the President of the United States of February 1, 1864, and March 14, 1864, paid the sum of \$300 each, that being the amount of commutation fixed for such service in the fifth section of the amendatory enrollment act of February 24, 1864; and the same persons were afterward again drafted under the call of December 19, 1864, or within less than one year of the previous draft, and before the filling up of all the quotas assigned under the two calls first named above, and were then required to enter the service or furnish substitutes; and the true intent and meaning of the fifth section of the amendatory act of February 24, 1864, being to exempt persons thus paying commutation until the quotas assigned under such calls were full, not exceeding one year, the Secretary of War is directed to refund the sum of \$300 so paid by persons for commutation who were afterward again drafted as above stated.

Mr. ANCONA. I move to amend by striking out these words:

*Provided, That this section shall apply only to claims received at the War Department prior the passage of this act.*

The amendment was agreed to.

Mr. ANCONA. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time and passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUBLICATION OF ACTS OF CONGRESS.

Mr. ANCONA introduced the following resolution; which was referred to the Committee on Printing under the law:

*Resolved, That there be printed for the use of this House ten thousand copies of the acts of the present session of Congress.*

#### PENITENTIARIES IN THE TERRITORIES.

Mr. RICE, of Maine, moved that the rules be suspended and the Committee of the Whole on the state of the Union discharged from the further consideration of the bill of the House (No. 715) setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota, for the purpose of having the same considered in the House.

The motion was agreed to.



The bill was read at length. It provides that the net proceeds of the internal revenue of the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota, for the fiscal years severally ending on June 30, 1866, June 30, 1867, and June 30, 1868, be set aside and appropriated for the purpose of erecting, under the direction of the Secretary of the Interior, penitentiary buildings in the several Territories, at such places therein as have been or may be designated by the Legislatures thereof and approved by the Secretary of the Interior, provided the moneys so set aside and appropriated in each of the Territories shall be devoted exclusively to the erection of a penitentiary in the Territory in which the same has been and shall be collected, and not in any other, and that the same shall not exceed in amount the sum of \$20,000 in the Territory of Washington, and \$40,000 in each of the Territories of Nebraska, Colorado, Idaho, Montana, Arizona, and Dakota.

Mr. RICE, of Maine. I have been unable to get this bill before this House at an earlier day for the reason that it was not reached upon the Calendar. It is a matter of very great importance to the Territories and to those who represent the Territories in this House, and it is exceedingly necessary that it should be passed. I trust there will be no objection to it. I call the previous question.

Mr. CHAVES. Will the gentleman from Maine [Mr. RICE] yield to allow me to move to amend by inserting "New Mexico" after "Colorado?"

Mr. RICE, of Maine. I cannot yield for that purpose at this stage of the session.

Mr. CHAVES. Will the gentleman allow me to say a few words?

Mr. RICE, of Maine. Certainly; I will yield to the gentleman from New Mexico [Mr. CHAVES] for five minutes.

Mr. CHAVES. There was an appropriation of \$60,000 made in 1861 by the Congress of the United States to complete the public buildings in the Territory of New Mexico. The condition of the appropriation was that the \$60,000 should finish the buildings. The buildings were started upon a grand scale; upon a grander scale, perhaps, than Congress intended. Still the Secretary of the Treasury must have approved the plans. The \$60,000 was not sufficient, though at the time the appropriation was made it was in gold, for there was no other legal money of the United States at the time the appropriation was made. Of course if that was not enough then in gold, it is not enough now in currency. Only about eight thousand dollars of the appropriation has been expended; the rest is still in the Treasury; and if the buildings are left in their present condition they will be a total loss to the Government of the United States; and the mere pittance of \$40,000 which I now ask to complete those public buildings is nothing at all compared with what should be given for such a purpose, if necessary. The gentleman from Illinois [Mr. ROSS] knows the condition in which those buildings are now.

It should be remembered also that the Territory of New Mexico was invaded by the confederate forces, and lost some two or three million dollars in consequence of that raid. Now, I appeal to the generosity and liberality of this House to allow sufficient money to build up these buildings for my people, who, though they came into this Union not willingly, but by the fortunes of war, and who are a people of foreign extraction, are and have been as loyal as any people in the world.

Mr. RICE, of Maine. Under my instructions from the committee, I cannot allow any amendment to be offered to this bill. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and it was accordingly read the third time and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the bill was passed; and also

moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

A bill (H. R. No. 639) for the relief of Robert Baldwin; and

A joint resolution (H. R. No. 193) authorizing the transmission through the mail free of postage of certain certificates by the adjutant general of the State of New Jersey.

#### COMMITTEE ON VENTILATION.

The SPEAKER announced the following as members of the committee on ventilation of the Hall of the House, authorized by a resolution of the House adopted on yesterday: Messrs. HENRY J. RAYMOND of New York, THADDEUS STEVENS of Pennsylvania, HENRY L. DAWES of Massachusetts, COLUMBUS DELANO of Ohio, and JOHN A. NICHOLSON of Delaware.

#### COMMITTEE TO CODIFY CUSTOMS LAWS.

The SPEAKER announced the appointment of Mr. JAMES A. GARFIELD, of Ohio, as the committee on the part of the House under the joint resolution of Congress authorizing the appointment of a joint committee of one member of each House of Congress to codify the laws relating to customs.

#### REISSUE OF PATENTS.

Mr. MYERS. I ask consent of the House that my colleague on the Committee on Patents [Mr. HUBBARD, of Connecticut,] be now allowed to make a report from the Committee on Patents, which, in consequence of being absent from his seat, he was not able to make last night when the committee was called.

No objection was made.

Mr. HUBBARD, of Connecticut, accordingly reported, from the Committee on Patents, a bill providing for the reissue of certain patents; which was read a first and second time.

The bill was read at length. It authorizes the Commissioner of Patents to receive applications from Richard A. Vervalen, Samuel Godfrey Reynolds, John L. White, and Horace L. Emery, respectively, for an extension of their respective patents, issued in 1852, and to hear and determine such applications upon their respective merits, the same as if the time for such applications had not elapsed; provided, however, that no person or persons who may have made use of the improvements specified in such patents, or any of them, since the time of the expiration of said patents respectively, shall be held liable to any person or persons whatever for such use.

Mr. HUBBARD, of Connecticut. I can explain this matter in about three minutes and a half. All these patents were issued in 1852, to run for the period of fourteen years. At the time they were issued the law was so that an application for the extension of a patent could be made at any time before sixty days prior to the expiration of the patent. These patentees, supposing they were governed by that law, made their application within the time specified by the law as it existed at the period when their patents were issued. When they came before the Commissioner of Patents they learned for the first time that in 1861 the law was changed, making the limit of time ninety days instead of sixty days. The law was changed without their knowledge, and now they come to Congress asking for relief from the consequences of this oversight on their part. They are not to blame for it. Indeed it may be a question whether in equity they had not a right to rely upon the law as it existed at the time they obtained their patents, and that the contract made with them by the Government would be carried out. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and it was accordingly read the third time and passed.

Mr. HUBBARD, of Connecticut, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUBLICATION OF BOUNTY LAW.

Mr. LYNCH submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That there be printed for the use of the House of Representatives ten thousand copies extra of the bill of the House No. 737, including the provision for equalizing bounties to soldiers, &c.

#### VOTE ON CIVIL APPROPRIATION BILL.

Mr. DELANO. I ask leave of the House to record my vote upon agreeing to the report of the second committee of conference on the civil appropriation bill. I desire to vote in the negative; I understand that will not affect the result.

Mr. SCOFIELD. I will not object if I am allowed the same privilege.

Mr. DELANO. I move that the rules be suspended, in order that I may record my vote.

The question was taken, and two thirds not voting in the affirmative the rules were not suspended.

Mr. DELANO. I will only say that had I been able to be here I should have voted in the negative.

Mr. SCOFIELD. I desire to state that I left the Hall at four o'clock this morning, after having voted against the report of the first committee of conference, with the understanding that the second committee of conference would not be likely to make a report for some hours. If I had been here when their report was acted upon I should have voted in the negative.

#### RECESS OF THE HOUSE.

Mr. MORRILL. I move that the House now take a recess, subject to the call of the Speaker.

Mr. JOHNSON. Would it not be better to take a recess until some definite time?

Mr. MORRILL. I will modify my motion so as to take a recess until two o'clock, subject to being previously called together by the Speaker.

Mr. CONKLING. I would inquire of the Chair to what hour, in his opinion, the House might safely take a recess.

The SPEAKER. The Chair is of the opinion that the House might safely take a recess until three o'clock. It will depend somewhat upon the action of the President in regard to the bills presented to him for his signature.

Mr. MORRILL. I will modify my motion to take a recess until two o'clock, and that the Speaker be authorized, in the mean time, to take the chair to receive messages from the Senate and the President, and to sign enrolled bills reported from the Committee on Enrolled Bills.

Mr. PRICE. I move to amend the motion of the gentleman from Vermont [Mr. MORRILL] by striking out "two o'clock" and inserting "three o'clock."

The amendment was agreed to.

The motion of Mr. MORRILL, as amended, was then agreed to.

And the House accordingly (at twelve o'clock m) took a recess until three o'clock p. m.

During the recess, the following messages from the Senate and reports from the Committee on Enrolled Bills were received:

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a joint resolution (H. R. No. 156) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further

payment of the special five per cent. income tax imposed thereby.

The message also announced that the Senate had passed a joint resolution (S. R. No. 145) for the relief of George C. Bestor and Charles W. McCord, in which the concurrence of the House was requested.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 693) for the relief of Robert Baldwin;

An act (H. R. No. 737) making appropriations for sundry civil expenses of the Government, for the year ending June 30, 1867, and for other purposes; and

Joint resolution (H. R. No. 193) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Jersey.

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had passed the bill (H. R. No. 491) entitled "An act to remove the office of surveyor general of the States of Iowa and Wisconsin to Plattsmouth, Nebraska," with amendments, in which the concurrence of the House was requested.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 801) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of the assassin of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward; and

Joint resolution (H. R. No. 155) to prevent the further enforcement of the joint resolution No. 77, approved July 4, 1864, against officers and soldiers of the United States, &c.

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment a bill and joint resolution of the following titles:

An act (H. R. No. 612) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859;" and

Joint resolution (H. R. No. 208) in relation to the use of the Soldiers' and Sailors' Orphans' Fair building in Washington.

The House reassembled at three o'clock.

#### LAND OFFICE IN NEBRASKA.

Senate amendments to the bill (H. R. No. 491) entitled "An act to remove the office of the surveyor general of the States of Iowa and Wisconsin to Plattsmouth, Nebraska," were taken from the Speaker's table and read, as follows:

In line eleven strike out the final "s" in the word "States."  
In lines eleven and twelve strike out "and Wisconsin."

The amendments were concurred in.

Mr. ALLISON moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

G. C. BESTOR AND C. W. McCORD.

The next business on the Speaker's table was joint resolution (S. No. 145) for the relief of George C. Bestor and Charles W. McCord; which was read a first and second time.

Mr. ALLISON. I move that this resolution be referred to the Committee of Claims.

Mr. FARNSWORTH. I hope that it will not be referred, but will be acted on now.

The joint resolution, which was read, proposes to direct the Secretary of the Navy to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war Shiloh, built by George C. Bestor, and the Ullah, built by Charles W. McCord, at St. Louis, Missouri, during the years 1863, 1864, and 1865, and their machinery, cost the contractors over and above the contract price and allowances for extra work paid by the Government of the United States, on account of the interference with and detention of said work by the Government, and to report the facts to the Secretary of the Navy. The joint resolution further proposes to authorize and instruct the Secretary of the Treasury to pay to Bestor and McCord respectively the amount reported by the board, not exceeding twelve per cent. upon the contract price of the work, provided that the Secretary of the Navy shall approve the report.

Mr. LAWRENCE, of Ohio. It seems to me that this resolution contains an appropriation, and should, under the rule, go to the Committee of the Whole. I make that objection.

The SPEAKER. The Chair thinks that it does not contain an appropriation, but will examine it.

Mr. LAWRENCE, of Ohio. If it is not an appropriation bill, then I move that it be referred to the Committee of Claims.

Mr. INGERSOLL. I hope that the gentleman from Ohio will not insist upon that motion. I happen to know something about this claim; and I beg gentlemen not to do injustice to these men. I know something of the history of this transaction. I know that these men have sunk every dollar they were worth in completing these gunboats for the Government. This joint resolution is really not for their benefit, but for the benefit of the workmen who built these gunboats, as it will enable the contractors to pay them. This is nothing but a measure of sheer justice.

Mr. LAWRENCE, of Ohio. I must insist on my motion to refer this resolution to the Committee of Claims. The gentleman from Illinois [Mr. INGERSOLL] says that he knows something of this claim. Mr. Speaker, it is very important that some of the rest of us should know something about it; and we cannot be properly informed unless the case be investigated by the appropriate committee of this House.

Mr. FARNSWORTH. It has been examined by the Committee on Claims in the Senate.

Mr. LAWRENCE, of Ohio. Mr. Speaker, we are not in the habit of passing bills in this House because they have been investigated by committees at the other end of the Capitol. We have our own committees for the examination of measures coming before us. When a committee of this House shall have examined the case the true state of the facts will be developed. Now, in the last moments of the session, it is no time for us to be passing bills, making large drafts upon the Treasury of the United States, and increasing the taxes of the people.

Mr. FARNSWORTH. The object of this resolution is that the claim of these parties may be investigated by a proper commission who shall make a report to the Secretary of the Navy. His approval is necessary before any money can be paid under the report of the commission. Knowing something of this case, I believe that the claim is an entirely meritorious one; and I hope the resolution will pass.

Mr. LAWRENCE, of Ohio. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was referred to the Committee of Claims.

Mr. ELDRIDGE moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REISSUE OF THE DUNDAS PATENT.

Mr. CULLOM. I ask unanimous consent to introduce the following joint resolution:

Whereas the papers in the matter of the application for reissue of the Dundas patent for a cultivator have been furnished and printed too late for consideration at the present session of Congress; Therefore, *Be it resolved by the Senate and House of Representatives, &c.* That the Secretary of the Interior be, and is hereby, directed to delay the action of the Patent Office, in the said matter, until Congress can, at a future time, devise some legislation to meet the recommendations of the Commissioner of Patents and the Secretary of the Interior in regard to the reissue of patents.

Mr. ELDRIDGE. I object.

Mr. CULLOM. I would like to make a statement in regard to this matter.

Mr. JENCKES. I object. The effort for the renewal of this patent is one of the greatest outrages upon the course of justice that has ever come within my knowledge.

Mr. CULLOM. I move to suspend the rules that I may introduce the resolution.

The motion was not agreed to.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled, a bill (H. R. No. 491) entitled "An act to remove the office of surveyor general of the State of Iowa to Plattsmouth, Nebraska;" when the Speaker signed the same.

#### PAY OF COMMITTEE CLERKS.

Mr. O'NEILL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the compensation of the clerks of the Committee on Commerce, the Committee on Military Affairs, and the Committee on the Post Office and Post Roads be fixed at the same rate as that of the clerk to the Committee on Public Lands, said compensation to commence with the present session of Congress.

Mr. CONKLING. I must object unless the amount is named. Let us know what it is.

Mr. O'NEILL. Eighteen hundred dollars per annum.

Several MEMBERS objected; and the resolution was not received.

#### PRINTING OF BOUNTY LAW.

Mr. LATHAM, from the Committee on Printing, submitted the following resolution:

*Resolved*, That there be printed for the use of the members of this House ten thousand extra copies of the act (H. R. No. 737) containing the provisions equalizing bounties for soldiers.

Mr. WILSON, of Iowa. I move to amend the resolution so as to provide for the printing of only so much of the act as relates to equalizing bounties.

Mr. LATHAM. I accept that amendment as a modification of my resolution.

Mr. INGERSOLL. I move to amend the resolution by striking out "ten" and inserting "twenty," so as to provide for printing twenty thousand copies.

Mr. LE BLOND. I do not see any necessity for printing these pamphlets. So much of the act as relates to bounties is embraced in a single section, and it will at once be published in every newspaper throughout the country. Hence there is no necessity that this House should order the printing of any copies.

Mr. ELDRIDGE. I desire to say only a word. We have expended considerable money in the business of printing, especially in printing the report and testimony in reference to the Memphis mob or riot. I do not know what the gentleman from Pennsylvania [Mr. BROOMALL] calls it—massacre, I think. I hope the House will not expend money in printing this matter. It is a most important thing to the soldiers themselves, and there is not a newspaper in the country that will not be delighted to publish it. It will be known in every section of the country long before we can have it printed and mailed to our constituents. I will not detain the House any longer.

Mr. INGERSOLL. I believe, myself, that this law in reference to the equalization of bounties of soldiers has such a general interest that every newspaper in the country will pub-

lish it; so there is no need of our entailing upon the Government this expense.

Mr. LATHAM demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. DEFREES moved that the resolution be laid upon the table.

The motion was agreed to.

Mr. ELDRIDGE moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RECESS.

Mr. SCOTFIELD (at ten minutes past three o'clock p. m.) moved that the House take a recess until four o'clock p. m., subject to be called together by the Speaker to receive messages from the President or the Senate or reports from the Committee on Enrolled Bills.

The motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

During the recess, a message from the President of the United States, by Mr. WILLIAM G. MOORE, one of his Secretaries, notified the House that he had approved and signed the civil appropriation bill; and further, that he returned without his approval an act erecting the Territory of Montana into a surveying district, and for other purposes, with his objections thereto.

#### ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following joint resolution; when the Speaker signed the same:

Joint resolution (H. R. No. 208) in relation to the use of the Soldiers' and Sailors' Orphan's Fair building in Washington.

#### AFTER THE RECESS.

Agreeably to order, the Speaker, at four o'clock p. m., again called the House to order.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. RANDALL, of Kentucky, leave was granted for the withdrawal from the files of the House of the papers in the case of Field & Clay.

On motion of Mr. BIDWELL, leave was granted for the withdrawal of the papers in the case of Jacob P. Leese.

#### THE MONTANA BILL VETOED.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I herewith return without my approval the bill entitled "An act erecting the Territory of Montana into a surveying district, and for other purposes."

The bill contains four sections, the first of which erects the Territory into a surveying district, and authorizes the appointment of a surveyor general; the second constitutes the Territory a land district; the third authorizes the appointment of a register and receiver for said district, and the fourth requires the surveyor general to "select and survey eighteen alternate odd sections of non-mineral timber lands within said district for the New York and Montana Iron Mining and Manufacturing Company, incorporated under the laws of the State of New York, which lands the said company shall have immediate possession of on the payment of \$1 25 per acre, and shall have a patent for the same whenever, within two years after their selection, they shall have furnished evidence, satisfactory to the Secretary of the Interior, that they have erected and have in operation on the said lands iron-works with a capacity for manufacturing fifteen hundred tons of iron per annum; provided that the said lands shall revert to the United States in case the above-mentioned iron-works be not erected

within the specified time, and provided that until the title to the said lands shall have been perfected, the timber shall not be cut off from more than one section of the said lands."

To confer the special privileges specified in this fourth section appears to be the chief object of the bill, the provisions of which are subject to some of the most important objections that induced me to return to the Senate with my disapproval the bill entitled "An act to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market." That bill authorized the same corporation to select and survey in the Territory of Montana, in square form, twenty-one sections of land, three of which might contain coal and iron ore, for which the minimum rate of \$1 25 per acre was to be paid. The present bill omits these sections of mineral lands, and directs the surveyor general to select and survey the timber lands; but it contains the objectionable feature of granting to a private mining and manufacturing corporation exclusive rights and privileges in the public domain which are by law denied to individuals. The first choice of timber land in the Territory is bestowed upon a corporation foreign to the Territory, and over which Congress has no control. The surveyor general of the district, a public officer who should have no connection with any purchase of public land, is made the agent of the corporation to select the land; the selections to be made in the absence of all competition; and over eleven thousand acres are bestowed at the lowest price of public lands. It is by no means certain that the substitution of alternate sections for the compact body of lands contemplated by the other bill is any less injurious to the public interest; for alternate sections stripped of timber are not likely to enhance the value of those reserved by the Government. Be this as it may, this bill bestows a large monopoly of public lands without adequate consideration; confers a right and privilege in quantity equivalent to seventy-two pre-emption rights; introduces a dangerous system of privileges to private trading corporations; and is an unjust discrimination in favor of traders and speculators against individual settlers and pioneers who are seeking homes and improving our western Territories. Such a departure from the long-established, wise, and just policy which has heretofore governed the disposition of the public funds cannot receive my sanction. The objections enumerated apply to the fourth section of the bill. The first, second, and third sections, providing for the appointment of a surveyor general, register, and receiver, are unobjectionable, if any necessity requires the creation of these offices and the additional expenses of a new surveying land district. But they appear in this instance to be only needed as a part of the machinery to enable the "New York and Montana Iron Mining and Manufacturing Company" to secure these privileges; for I am informed by the proper Department, in a communication hereto annexed, that there is no public necessity for a surveyor general, register, or receiver in Montana Territory, since it forms part of an existing surveying and land district, wherein the public business is, under present laws, transacted with adequate facility, so that the provisions of the first, second, and third sections would occasion needless expense to the General Government.

ANDREW JOHNSON.

WASHINGTON, D. C., July 28, 1866.

Mr. BINGHAM moved that the message be printed and referred to the Committee on Territories.

The motion was agreed to.

Mr. DRIGGS. I suggest that the House take a recess until twenty-five minutes past four o'clock p. m., unless sooner convened by the Speaker.

Mr. CONKLING. What is there now in order?

The SPEAKER. There are several bills which the President has not yet returned.

#### DETENTION OF MEMBERS.

Mr. ANCONA. I ask unanimous consent to submit the following resolution:

*Resolved*, That a select committee of twenty-one members be appointed to inquire as to the alleged abduction and detention of members from the sessions of the House while important measures were pending and being acted on and that they be empowered to send for persons and papers, have leave to sit during the recess and report to the Philadelphia convention on the 14th day of August next.

[Laughter.]

Mr. ALLISON. I object.

Mr. ANDERSON. Where was the gentleman from Chicago when the civil appropriation bill passed? [Laughter.]

Mr. STROUSE. The gentleman has no right to inquire about the private affairs of any member.

Mr. DRIGGS. I move that the House take a recess until twenty minutes past four o'clock p. m.

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. DRIGGS withdrew the motion.

#### COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. MORRILL. I now move the usual resolution, that a committee be appointed on the part of the House to join such committee as may be appointed on the part of the Senate, to wait on the President and inform him that the two Houses having concluded the business before them are ready to adjourn, unless he has some further communication to make to them.

The motion was agreed to; and Mr. MORRILL and Mr. FINCK were appointed as such committee on the part of the House.

#### RECONSTRUCTION.

Mr. ELDRIDGE. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the select committee on reconstruction on the part of this House be, and the same is hereby, discharged.

Objection was made.

#### PERSONAL EXPLANATION.

Mr. ANDERSON. I propose, by unanimous consent, that the member from Chicago shall have five minutes to explain where he was when the civil appropriation bill was passed. [Laughter.]

There was no objection, and the motion was agreed to.

Mr. WENTWORTH. Mr. Speaker, allow me to say that my remarks will cover more than five minutes, and I will write them out and put them in the Globe, with the consent of the House. [Renewed laughter.]

#### PAY OF THE CHAPLAIN.

Mr. STEVENS. By some strange construction of the Department they hold our appropriation for the Chaplain cannot be paid because we have not named him. I ask that a joint resolution be prepared to cure the defect, otherwise our worthy Chaplain will receive no compensation. I ask unanimous consent to introduce a joint resolution to authorize the payment of Rev. Charles B. Boynton, the Chaplain of the House of Representatives of the Thirty-Ninth Congress. It authorizes him to draw the amount heretofore appropriated.

Mr. LE BLOND. How is it about the Chaplain of the Senate?

Mr. STEVENS. There is no difficulty about the Chaplain of the Senate.

Objection was made.

Mr. STEVENS moved to suspend the rules.

The rules were suspended.

The joint resolution was introduced, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.



## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced the appointment by that body of a committee to wait on the President, in conjunction with a similar committee on the part of the House, and that Mr. HARRIS and Mr. FESSENDEN were appointed as such committee on its part.

Also, that the Senate had concurred in the passage of the House joint resolution (No. 210) authorizing the payment of Rev. C. B. Boynton, as Chaplain of the House of Representatives of the Thirty-Ninth Congress.

## ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (H. R. No. 210) authorizing the payment of Rev. C. B. Boynton, as Chaplain of the House of Representatives of the Thirty-Ninth Congress; when the Speaker signed the same.

## MESSAGE FROM THE PRESIDENT.

A message from the President, by WILLIAM G. MOORE, announced that the President had approved and signed joint resolution (H. R. No. 210) authorizing the payment of Rev. C.

B. Boynton as Chaplain of the House of Representatives in the Thirty-Ninth Congress.

## CLOSE OF BUSINESS.

Mr. MORRILL. The committee appointed to wait on the President and inform him that the business of the House was concluded, and to inquire whether he had any further communication to make, have waited upon him, and he has informed us that he has no further communication to make.

The SPEAKER. Gentlemen of the House of Representatives, I cannot speak the word that announces our separation until I thank you, with all the warm emotions of a grateful heart, for the unanimously adopted resolution you have placed on your Journal. Unusual as this is at the close of a first session of Congress, its value is thereby enhanced; and I prize it because I believe it is your sincere indorsement of my endeavors to administer the duties of this responsible and often trying position with an earnest impartiality. To maintain the just rights of a majority, to protect the even more necessary rights of a minority, and yet to hold the scales so fairly poised that every decision shall stand the test of reason and of parliamentary law, watched as a presiding offi-

cer always must be by scores of critical eyes, is never less than difficult. And he is fortunate who can impress the body over which he presides with the conviction that his constant aim has been to render justice to all.

Meeting here amid the frosts of early winter, and parting after such a prolonged session amid the torrid heats of summer, friendships have been formed which will brighten as year after year rolls away. Discussing some of the gravest questions ever submitted to a deliberative body in this land, the attrition of mind with mind, and the conflict of thought and action have left but few stings behind, and despite all differences of sentiment no Congress within my experience here has closed its session with more general good feeling among its members. We go back, as our institutions wisely prescribe, to submit to our constituents the issues which have divided us here, and to cheerfully abide by their verdict, as a court from which there is no rightful appeal. Wishing you all a safe journey to your homes, and a happy reunion with family and friends, I do now, in accordance with the concurrent resolution of both Houses, declare the first session of the House of Representatives of the Thirty-Ninth Congress adjourned *sine die*.

THE END.

# APPENDIX

TO

## THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

FIRST SESSION THIRTY-NINTH CONGRESS.

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BY F. & J. RIVES.

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CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1866.





# APPENDIX

## TO THE CONGRESSIONAL GLOBE.

39TH CONG....1ST SESS.

*Message of the President.*

SENATE & HO. OF REFS.

### MESSAGE OF THE PRESIDENT OF THE UNITED STATES.

*Fellow-Citizens of the Senate  
and House of Representatives:*

To express gratitude to God, in the name of the people, for the preservation of the United States, is my first duty in addressing you. Our thoughts next revert to the death of the late President by an act of parricidal treason. The grief of the nation is still fresh; it finds some solace in the consideration that he lived to enjoy the highest proof of its confidence by entering on the renewed term of the Chief Magistracy to which he had been elected; that he brought the civil war substantially to a close; that his loss was deplored in all parts of the Union; and that foreign nations have rendered justice to his memory. His removal cast upon me a heavier weight of cares than ever devolved upon any one of his predecessors. To fulfill my trust, I need the support and confidence of all who are associated with me in the various departments of Government, and the support and confidence of the people. There is but one way in which I can hope to gain their necessary aid; it is, to state with frankness the principles which guide my conduct, and their application to the present state of affairs, well aware that the efficiency of my labors will, in a great measure, depend on your and their undivided approbation.

The Union of the United States of America was intended by its authors to last as long as the States themselves shall last. "THE UNION SHALL BE PERPETUAL" are the words of the Confederation. "TO FORM A MORE PERFECT UNION," by an ordinance of the people of the United States, is the declared purpose of the Constitution. The hand of divine Providence was never more plainly visible in the affairs of men than in the framing and the adopting of that instrument. It is, beyond comparison, the greatest event in American history; and indeed is it not, of all events in modern times, the most pregnant with consequences for every people of the earth? The members of the Convention which prepared it, brought to their work the experience of the Confederation, of their several States, and of other republican Governments, old and new; but they needed and they obtained a wisdom superior to experience. And when for its validity it required the approval of a people that occupied a large part of a continent and acted separately in many distinct conventions, what is more wonderful than that, after earnest contention and long discussion, all feelings and all opinions were ultimately drawn in one way to its support?

The Constitution to which life was thus imparted contains within itself ample resources for its own preservation. It has power to enforce the laws, punish treason, and insure

domestic tranquillity. In case of the usurpation of the government of a State by one man, or an oligarchy, it becomes a duty of the United States to make good the guarantee to that State of a republican form of government, and so to maintain the homogeneousness of all. Does the lapse of time reveal defects? A simple mode of amendment is provided in the Constitution itself, so that its conditions can always be made to conform to the requirements of advancing civilization. No room is allowed even for the thought of a possibility of its coming to an end. And these powers of self-preservation have always been asserted in their complete integrity by every patriotic Chief Magistrate—by Jefferson and Jackson, not less than by Washington and Madison. The parting advice of the Father of his Country, while yet President, to the people of the United States, was, that "the free Constitution, which was the work of their hands, might be sacredly maintained;" and the inaugural words of President Jefferson held up "the preservation of the General Government, in its constitutional vigor, as the sheet anchor of our peace at home and safety abroad." The Constitution is the work of "the people of the United States," and it should be as indestructible as the people.

It is not strange that the framers of the Constitution, which had no model in the past, should not have fully comprehended the excellence of their own work. Fresh from a struggle against arbitrary power, many patriots suffered from harassing fears of an absorption of the State governments by the General Government, and many from a dread that the States would break away from their orbits. But the very greatness of our country should allay the apprehension of encroachments by the General Government. The subjects that come unquestionably within its jurisdiction are so numerous, that it must ever naturally refuse to be embarrassed by questions that lie beyond it. Were it otherwise, the Executive would sink beneath the burden; the channels of justice would be choked; legislation would be obstructed by excess; so that there is a greater temptation to exercise some of the functions of the General Government through the States than to trespass on their rightful sphere. "The absolute acquiescence in the decisions of the majority" was, at the beginning of the century, enforced by Jefferson "as the vital principle of republics," and the events of the last four years have established, we will hope forever, that there lies no appeal to force.

The maintenance of the Union brings with it "the support of the State governments in all their rights;" but it is not one of the rights of any State government to renounce its own place in the Union, or to nullify the laws of the Union. The largest liberty is to be maintained in the discussion of the acts of the Federal Government; but there is no appeal from its laws, except to the various branches of that

Government itself, or to the people, who grant to the members of the legislative and of the executive departments no tenure but a limited one, and in that manner always retain the powers of redress.

"The sovereignty of the States" is the language of the Confederacy, and not the language of the Constitution. The latter contains the emphatic words, "The Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Certainly the Government of the United States is a limited Government; and so is every State government a limited government. With us, this idea of limitation spreads through every form of administration, general, State, and municipal, and rests on the great distinguishing principle of the recognition of the rights of man. The ancient republics absorbed the individual in the State, prescribed his religion, and controlled his activity. The American system rests on the assertion of the equal right of every man to life, liberty, and the pursuit of happiness; to freedom of conscience, to the culture and exercise of all his faculties. As a consequence, the State government is limited, as to the General Government in the interests of union, as to the individual citizen in the interest of freedom.

States, with proper limitations of power, are essential to the existence of the Constitution of the United States. At the very commencement, when we assumed a place among the Powers of the earth, the Declaration of Independence was adopted by States; so also were the Articles of Confederation; and when "the people of the United States" ordained and established the Constitution, it was the assent of the States, one by one, which gave it vitality. In the event, too, of any amendment to the Constitution, the proposition of Congress needs the confirmation of States. Without States, one great branch of the legislative government would be wanting. And, if we look beyond the letter of the Constitution to the character of our country, its capacity for comprehending within its jurisdiction a vast continental empire is due to the system of States. The best security for the perpetual existence of the States is the "supreme authority" of the Constitution of the United States. The perpetuity of the Constitution brings with it the perpetuity of the States; their mutual relation makes us what we are, and in our political system their connection is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures, the States will endure; the destruction of the one is the

## SENATE &amp; HO. OF REPS.

## Message of the President.

39TH CONG....1ST SESS.

destruction of the other; the preservation of the one is the preservation of the other.

I have thus explained my views of the mutual relations of the Constitution and the States, because they unfold the principles on which I have sought to solve the momentous questions and overcome the appalling difficulties that met me at the very commencement of my administration. It has been my steadfast object to escape from the sway of momentary passions, and to derive a healing policy from the fundamental and unchanging principles of the Constitution.

I found the States suffering from the effects of a civil war. Resistance to the General Government appeared to have exhausted itself. The United States had recovered possession of their forts and arsenals; and their armies were in the occupation of every State which had attempted to secede. Whether the territory within the limits of those States should be held as conquered territory, under military authority emanating from the President as the head of the Army, was the first question that presented itself for decision.

Now, military governments, established for an indefinite period, would have offered no security for the early suppression of discontent; would have divided the people into the vanquishers and the vanquished; and would have envenomed hatred, rather than have restored affection. Once established, no precise limit to their continuance was conceivable. They would have occasioned an incalculable and exhausting expense. Peaceful emigration to and from that portion of the country is one of the best means that can be thought of for the restoration of harmony; and that emigration would have been prevented; for what emigrant from abroad, what industrious citizen at home, would place himself willingly under military rule? The chief persons who would have followed in the train of the Army would have been dependents on the General Government, or men who expected profit from the miseries of their erring fellow-citizens. The powers of patronage and rule which would have been exercised, under the President, over a vast and populous and naturally wealthy region, are greater than, unless under extreme necessity, I should be willing to intrust to any one man; they are such as, for myself, I could never, unless on occasions of great emergency, consent to exercise. The willful use of such powers, if continued through a period of years, would have endangered the purity of the general administration and the liberties of the States which remained loyal.

Besides, the policy of military rule over a conquered territory would have implied that the States whose inhabitants may have taken part in the rebellion had, by the act of those inhabitants, ceased to exist. But the true theory is, that all pretended acts of secession were, from the beginning, null and void. The States cannot commit treason, nor screen the individual citizens who may have committed treason, any more than they can make valid treaties or engage in lawful commerce with any foreign Power. The States attempting to secede placed themselves in a condition where their vitality was impaired, but not extinguished—their functions suspended, but not destroyed.

But if any State neglects or refuses to perform its offices, there is the more need that the General Government should maintain all its authority, and, as soon as practicable, resume the exercise of all its functions. On this principle I have acted, and have gradually and quietly, and by almost imperceptible steps, sought to restore the rightful energy of the General Government and of the States. To that end, provisional governors have been appointed for the States, conventions called, Governors elected, Legislatures assembled, and Senators and Representatives chosen to the Congress of the United States. At the same time the courts of the United States, as far as could be done, have been reopened, so

that the laws of the United States may be enforced through their agency. The blockade has been removed and the custom-houses reestablished in ports of entry, so that the revenue of the United States may be collected. The Post Office Department renews its ceaseless activity, and the General Government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post office renews the facilities of social intercourse and of business. And is it not happy for us all, that the restoration of each one of these functions of the General Government brings with it a blessing to the States over which they are extended? Is it not a sure promise of harmony and renewed attachment to the Union that, after all that has happened, the return of the General Government is known only as a beneficence?

I know very well that this policy is attended with some risk; that for its success it requires at least the acquiescence of the States which it concerns; that it implies an invitation to those States, by renewing their allegiance to the United States, to resume their functions as States of the Union. But it is a risk that must be taken; in the choice of difficulties, it is the smallest risk; and to diminish, and, if possible, to remove all danger, I have felt it incumbent on me to assert one other power of the General Government—the power of pardon. As no State can throw a defense over the crime of treason, the power of pardon is exclusively vested in the Executive Government of the United States. In exercising that power, I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war.

The next step which I have taken to restore the constitutional relations of the States has been an invitation to them to participate in the high office of amending the Constitution. Every patriot must wish for a general amnesty at the earliest epoch consistent with public safety. For this great end there is need of a concurrence of all opinions, and the spirit of mutual conciliation. All parties in the late terrible conflict must work together in harmony. It is not too much to ask, in the name of the whole people, that, on the one side, the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that, on the other, the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery forever within the limits of our country. So long as the adoption of this amendment is delayed, so long will doubt and jealousy and uncertainty prevail. This is the measure which will efface the sad memory of the past; this is the measure which will most certainly call population and capital and security to those parts of the Union that need them most. Indeed, it is not too much to ask of the States which are now resuming their places in the family of the Union to give this pledge of perpetual loyalty and peace. Until it is done, the past, however much we may desire it, will not be forgotten. The adoption of the amendment reunites us beyond all power of disruption. It heals the wound that is still imperfectly closed; it removes slavery, the element which has so long perplexed and divided the country; it makes of us once more a united people, renewed and strengthened, bound more than ever to mutual affection and support.

The amendment to the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby complete the work of

restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members.

The full assertion of the powers of the General Government requires the holding of circuit courts of the United States within the districts where their authority has been interrupted. In the present posture of our public affairs, strong objections have been urged to holding those courts in any of the States where the rebellion has existed; and it was ascertained, by inquiry, that the circuit court of the United States would not be held within the district of Virginia during the autumn or early winter, nor until Congress should have "an opportunity to consider and act on the whole subject." To your deliberations the restoration of this branch of the civil authority of the United States is therefore necessarily referred, with the hope that early provision will be made for the resumption of all its functions. It is manifest that treason, most flagrant in its character, has been committed. Persons who are charged with its commission should have fair and impartial trials in the highest civil tribunals of the country, in order that the Constitution and the laws may be fully vindicated; the truth clearly established and affirmed that treason is a crime, that traitors should be punished and the offense made infamous; and, at the same time, that the question may be judicially settled, finally and forever, that no State of its own will has the right to renounce its place in the Union.

The relations of the General Government toward the four million inhabitants whom the war has called into freedom have engaged my most serious consideration. On the propriety of attempting to make the freedmen electors by the proclamation of the Executive, I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise. During the period of the Confederacy, there continued to exist a very great diversity in the qualifications of electors in the several States; and even within a State a distinction of qualifications prevailed with regard to the officers who were to be chosen. The Constitution of the United States recognizes those diversities when it enjoins that, in the choice of members of the House of Representatives of the United States, "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." After the formation of the Constitution, it remained, as before, the uniform usage for each State to enlarge the body of its electors, according to its own judgment; and, under this system, one State after another has proceeded to increase the number of its electors, until now universal suffrage, or something very near it, is the general rule. So fixed was this reservation of power in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose—certainly never avowed the purpose—of disregarding it; and in the acts of Congress, during that period, nothing can be found which, during the continuance of hostilities, much less after their close, would have sanctioned any departure by the Executive from a policy which has so uniformly obtained. Moreover, a concession of the elective franchise to the freedmen, by act of the President of the United States, must have been extended to all colored men, wherever found, and so must have established a change of suffrage in the northern, middle, and western States, not less than in the south-

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ern and southwestern. Such an act would have created a new class of voters, and would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted.

On the other hand, every danger of conflict is avoided when the settlement of the question is referred to the several States. They can, each for itself, decide on the measure, and whether it is to be adopted at once and absolutely, or introduced gradually and with conditions. In my judgment, the freedmen, if they show patience and manly virtues, will sooner obtain a participation in the elective franchise through the States than through the General Government, even if it had power to intervene. When the tumult of emotions that have been raised by the suddenness of the social change shall have subsided, it may prove that they will receive the kindest usage from some of those on whom they have heretofore most closely depended.

But while I have no doubt that now, after the close of the war, it is not competent for the General Government to extend the elective franchise in the several States, it is equally clear that good faith requires the security of the freedmen in their liberty and their property, their right to labor, and their right to claim the just return of their labor. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife. We must equally avoid hasty assumptions of any natural impossibility for the two races to live side by side, in a state of mutual benefit and good-will. The experiment involves us in no inconsistency. Let us, then, go on and make that experiment in good faith, and not be too easily disheartened. The country is in need of labor, and the freedmen are in need of employment, culture, and protection. While their right of voluntary migration and expatriation is not to be questioned, I would not advise their forced removal and colonization. Let us rather encourage them to honorable and useful industry where it may be beneficial to themselves and to the country; and, instead of hasty anticipations of the certainty of failure, let there be nothing wanting to the fair trial of the experiment. The change in their condition is the substitution of labor by contract for the status of slavery. The freedman cannot fairly be accused of unwillingness to work, so long as a doubt remains about his freedom of choice in his pursuits, and the certainty of his recovering his stipulated wages. In this the interests of the employer and the employed coincide. The employer desires in his workmen spirit and alacrity, and these can be permanently secured in no other way. And if the one ought to be able to enforce the contract, so ought the other. The public interest will be best promoted, if the several States will provide adequate protection and remedies for the freedmen. Until this is in some way accomplished, there is no chance for the advantageous use of their labor; and the blame of ill-success will not rest on them.

I know that sincere philanthropy is earnest for the immediate realization of its remotest aims; but time is always an element in reform. It is one of the greatest acts on record to have brought four million people into freedom. The career of free industry must be fairly opened to them; and then their future prosperity and condition must, after all, rest mainly on themselves. If they fail, and so perish away, let us be careful that the failure shall not be attributable to any denial of justice. In all that relates to the destiny of the freedmen, we need not be too anxious to read the future; many incidents which, from a speculative point of view, might raise alarm, will quietly settle themselves.

Now that slavery is at an end or near its end, the greatness of its evil, in the point of view of public economy, becomes more and more ap-

parent. Slavery was essentially a monopoly of labor, and as such locked the States where it prevailed against the incoming of free industry. Where labor was the property of the capitalist, the white man was excluded from employment, or had but the second best chance of finding it; and the foreign emigrant turned away from the region where his condition would be so precarious. With the destruction of the monopoly, free labor will hasten from all parts of the civilized world to assist in developing various and immeasurable resources which have hitherto lain dormant. The eight or nine States nearest the Gulf of Mexico have a soil of exuberant fertility, a climate friendly to long life, and can sustain a denser population than is found as yet in any part of our country. And the future influx of population to them will be mainly from the North, or from the most cultivated nations in Europe. From the sufferings that have attended them during our late struggle, let us look away to the future, which is sure to be laden for them with greater prosperity than has ever before been known. The removal of the monopoly of slave labor is a pledge that those regions will be peopled by a numerous and enterprising population, which will vie with any in the Union in compactness, inventive genius, wealth, and industry.

Our Government springs from and was made for the people—not the people for the Government. To them it owes allegiance; from them it must derive its courage, strength, and wisdom. But, while the Government is thus bound to defer to the people, from whom it derives its existence, it should, from the very consideration of its origin, be strong in its power of resistance to the establishment of inequalities. Monopolies, perpetuities, and class legislation, are contrary to the genius of free government, and ought not to be allowed. Here, there is no room for favored classes or monopolies; the principle of our Government is that of equal laws and freedom of industry. Wherever monopoly attains a foothold, it is sure to be a source of danger, discord, and trouble. We shall but fulfill our duties as legislators by according "equal and exact justice to all men," special privileges to none. The Government is subordinate to the people; but, as the agent and representative of the people, it must be held superior to monopolies, which, in themselves, ought never to be granted, and which, where they exist, must be subordinate and yield to the Government.

The Constitution confers on Congress the right to regulate commerce among the several States. It is of the first necessity, for the maintenance of the Union, that that commerce should be free and unobstructed. No State can be justified in any device to tax the transit of travel and commerce between States. The position of many States is such that, if they were allowed to take advantage of it for purposes of local revenue, the commerce between States might be injuriously burdened, or even virtually prohibited. It is best, while the country is still young, and while the tendency to dangerous monopolies of this kind is still feeble, to use the power of Congress so as to prevent any selfish impediment to the free circulation of men and merchandise. A tax on travel and merchandise, in their transit, constitutes one of the worst forms of monopoly, and the evil is increased if coupled with a denial of the choice of route. When the vast extent of our country is considered, it is plain that every obstacle to the free circulation of commerce between the States ought to be sternly guarded against by appropriate legislation, within the limits of the Constitution.

The report of the Secretary of the Interior explains the condition of the public lands, the transactions of the Patent Office and the Pension Bureau, the management of our Indian affairs, the progress made in the construction of the Pacific railroad, and furnishes information in reference to matters of local interest in the District of Columbia. It also presents evidence

of the successful operation of the homestead act, under the provisions of which 1,160,533 acres of the public lands were entered during the last fiscal year—more than one fourth of the whole number of acres sold or otherwise disposed of during that period. It is estimated that the receipts derived from this source are sufficient to cover the expenses incident to the survey and disposal of the lands entered under this act, and that payments in cash to the extent of from forty to fifty per cent. will be made by settlers, who may thus at any time acquire title before the expiration of the period at which it would otherwise vest. The homestead policy was established only after long and earnest resistance; experience proves its wisdom. The lands, in the hands of industrious settlers, whose labor creates wealth and contributes to the public resources, are worth more to the United States than if they had been reserved as a solitude for future purchasers.

The lamentable events of the last four years, and the sacrifices made by the gallant men of our Army and Navy, have swelled the records of the Pension Bureau to an unprecedented extent. On the 30th day of June last, the total number of pensioners was 85,986, requiring for their annual pay, exclusive of expenses, the sum of \$8,023,445. The number of applications that have been allowed since that date will require a large increase of this amount for the next fiscal year. The means for the payment of the stipends due, under existing laws, to our disabled soldiers and sailors, and to the families of such as have perished in the service of the country, will no doubt be cheerfully and promptly granted. A grateful people will not hesitate to sanction any measures having for their object the relief of soldiers mutilated and families made fatherless in the efforts to preserve our national existence.

The report of the Postmaster General presents an encouraging exhibit of the operations of the Post Office Department during the year. The revenues of the past year from the loyal States alone exceeded the maximum annual receipts from all the States previous to the rebellion, in the sum of \$6,038,091; and the annual average increase of revenue during the last four years, compared with the revenues of the four years immediately preceding the rebellion, was \$3,533,845. The revenues of the last fiscal year amounted to \$14,556,158, and the expenditures to \$13,694,728, leaving a surplus of receipts over expenditures of \$861,430. Progress has been made in restoring the postal service in the southern States. The views presented by the Postmaster General against the policy of granting subsidies to ocean mail steamship lines upon established routes, and in favor of continuing the present system, which limits the compensation for ocean service to the postage earnings, are recommended to the careful consideration of Congress.

It appears, from the report of the Secretary of the Navy, that while, at the commencement of the present year, there were in commission 530 vessels of all classes and descriptions, armed with 3,000 guns and manned by 51,000 men, the number of vessels at present in commission is 117, with 830 guns and 12,128 men. By this prompt reduction of the naval forces the expenses of the Government have been largely diminished, and a number of vessels, purchased for naval purposes from the merchant marine, have been returned to the peaceful pursuits of commerce. Since the suppression of active hostilities our foreign squadrons have been reestablished, and consist of vessels much more efficient than those employed on similar service previous to the rebellion. The suggestion for the enlargement of the navy-yards, and especially for the establishment of one in fresh water for iron-clad vessels, is deserving of consideration, as is also the recommendation for a different location and more ample grounds for the Naval Academy.



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In the report of the Secretary of War, a general summary is given of the military campaigns of 1864 and 1865, ending in the suppression of armed resistance to the national authority in the insurgent States. The operations of the general administrative bureaus of the War Department during the past year are detailed, and an estimate made of the appropriations that will be required for military purposes in the fiscal year commencing the 1st day of July, 1866. The national military force on the 1st of May, 1865, numbered 1,000,516 men. It is proposed to reduce the military establishment to a peace footing, comprehending fifty thousand troops of all arms, organized so as to admit of an enlargement by filling up the ranks to eighty-two thousand six hundred, if the circumstances of the country should require an augmentation of the Army. The volunteer force has already been reduced by the discharge from service of over eight hundred thousand troops, and the Department is proceeding rapidly in the work of further reduction. The war estimates are reduced from \$516,240,131 to \$33,814,461; which amount, in the opinion of the Department, is adequate for a peace establishment. The measures of retrenchment in each bureau and branch of the service exhibit a diligent economy worthy of commendation. Reference is also made in the report to the necessity of providing for a uniform militia system, and to the propriety of making suitable provision for wounded and disabled officers and soldiers.

The revenue system of the country is a subject of vital interest to its honor and prosperity, and should command the earnest consideration of Congress. The Secretary of the Treasury will lay before you a full and detailed report of the receipts and disbursements of the last fiscal year, of the first quarter of the present fiscal year, of the probable receipts and expenditures for the other three quarters, and the estimates for the year following the 30th of June, 1866. I might content myself with a reference to that report, in which you will find all the information required for your deliberations and decision, but the paramount importance of the subject so presses itself on my own mind, that I cannot but lay before you my views of the measures which are required for the good character, and, I might almost say, for the existence of this people. The life of a republic lies certainly in the energy, virtue, and intelligence of its citizens; but it is equally true that a good revenue system is the life of an organized Government. I meet you at a time when the nation has voluntarily burdened itself with a debt unprecedented in our annals. Vast as is its amount, it fades away into nothing when compared with the countless blessings that will be conferred upon our country and upon man by the preservation of the nation's life. Now, on the first occasion of the meeting of Congress since the return of peace, it is of the utmost importance to inaugurate a just policy, which shall at once be put in motion, and which shall commend itself to those who come after us for its continuance. We must aim at nothing less than the complete effacement of the financial evils that necessarily followed a state of civil war. We must endeavor to apply the earliest remedy to the deranged state of the currency, and not shrink from devising a policy which, without being oppressive to the people, shall immediately begin to effect a reduction of the debt, and, if persisted in, discharge it fully within a definitely fixed number of years.

It is our first duty to prepare in earnest for our recovery from the ever-increasing evils of an irredeemable currency, without a sudden revulsion, and yet without untimely procrastination. For that end, we must, each in our respective positions, prepare the way. I hold it the duty of the Executive to insist upon frugality in the expenditures; and a sparing economy is itself a great national resource. Of the banks to which authority has been given to issue notes secured by bonds of the United States,

we may require the greatest moderation and prudence, and the law must be rigidly enforced when its limits are exceeded. We may, each one of us, counsel our active and enterprising countrymen to be constantly on their guard, to liquidate debts contracted in a paper currency, and, by conducting business as nearly as possible on a system of cash payments or short credits, to hold themselves prepared to return to the standard of gold and silver. To aid our fellow-citizens in the prudent management of their monetary affairs, the duty devolves on us to diminish by law the amount of paper money now in circulation. Five years ago the bank-note circulation of the country amounted to not much more than two hundred millions; now the circulation, bank and national, exceeds seven hundred millions. The simple statement of the fact recommends, more strongly than any words of mine could do, the necessity of our restraining this expansion. The gradual reduction of the currency is the only measure that can save the business of the country from disastrous calamities; and this can be almost imperceptibly accomplished by gradually funding the national circulation in securities that may be made redeemable at the pleasure of the Government.

Our debt is doubly secure—first in the actual wealth and still greater undeveloped resources of the country; and next in the character of our institutions. The most intelligent observers among political economists have not failed to remark, that the public debt of a country is safe in proportion as its people are free; that the debt of a republic is the safest of all. Our history confirms and establishes the theory, and is, I firmly believe, destined to give it a still more signal illustration. The secret of this superiority springs not merely from the fact that in a republic the national obligations are distributed more widely through countless numbers in all classes of society; it has its root in the character of our laws. Here all men contribute to the public welfare, and bear their fair share of the public burdens. During the war, under the impulses of patriotism, the men of the great body of the people, without regard to their own comparative want of wealth, thronged to our armies and filled our fleets of war, and held themselves ready to offer their lives for the public good. Now, in their turn, the property and income of the country should bear their just proportion of the burden of taxation, while in our impost system, through means of which increased vitality is incidentally imparted to all the industrial interests of the nation, the duties should be so adjusted as to fall most heavily on articles of luxury, leaving the necessities of life as free from taxation as the absolute wants of the Government, economically administered, will justify. No favored class should demand freedom from assessment, and the taxes should be so distributed as not to fall unduly on the poor, but rather on the accumulated wealth of the country. We should look at the national debt just as it is—not as a national blessing, but as a heavy burden on the industry of the country, to be discharged without unnecessary delay.

It is estimated by the Secretary of the Treasury that the expenditures for the fiscal year ending the 30th June, 1866, will exceed the receipts \$112,194,947. It is gratifying, however, to state that it is also estimated that the revenue for the year ending the 30th of June, 1867, will exceed the expenditures in the sum of \$111,682,818. This amount, or so much as may be deemed sufficient for the purpose, may be applied to the reduction of the public debt, which, on the 31st day of October, 1865, was \$2,740,854,750. Every reduction will diminish the total amount of interest to be paid, and so enlarge the means of still further reductions, until the whole shall be liquidated; and this, as will be seen from the estimates of the Secretary of the Treasury, may be accomplished by annual payments even within a period not ex-

ceeding thirty years. I have faith that we shall do all this within a reasonable time; that, as we have amazed the world by the suppression of a civil war which was thought to be beyond the control of any Government, so we shall equally show the superiority of our institutions by the prompt and faithful discharge of our national obligations.

The Department of Agriculture, under its present direction, is accomplishing much in developing and utilizing the vast agricultural capabilities of the country; and for information respecting the details of its management, reference is made to the annual report of the Commissioner.

I have dwelt thus fully on our domestic affairs because of their transcendent importance. Under any circumstances, our great extent of territory and variety of climate, producing almost everything that is necessary for the wants, and even the comforts of man, make us singularly independent of the varying policy of foreign Powers, and protect us against every temptation to "entangling alliances," while at the present moment the reestablishment of harmony, and the strength that comes from harmony, will be our best security against "nations who feel power and forget right." For myself, it has been and it will be my constant aim to promote peace and amity with all foreign nations and Powers; and I have every reason to believe that they all, without exception, are animated by the same disposition. Our relations with the Emperor of China, so recent in their origin, are most friendly. Our commerce with his dominions is receiving new developments; and it is very pleasing to find that the Government of that great empire manifests satisfaction with our policy, and reposes just confidence in the fairness which marks our intercourse. The unbroken harmony between the United States and the Emperor of Russia is receiving a new support from an enterprise designed to carry telegraphic lines across the continent of Asia, through his dominions, and so to connect us with all Europe by a new channel of intercourse. Our commerce with South America is about to receive encouragement by a direct line of mail steamships to the rising empire of Brazil. The distinguished party of men of science who have recently left our country to make a scientific exploration of the natural history and rivers and mountain ranges of that region, have received from the Emperor that generous welcome which was to have been expected from his constant friendship for the United States, and his well-known zeal in promoting the advancement of knowledge. A hope is entertained that our commerce with the rich and populous countries that border the Mediterranean sea may be largely increased. Nothing will be wanting, on the part of this Government, to extend the protection of our flag over the enterprise of our fellow-citizens. We receive from the Powers in that region assurances of good-will; and it is worthy of note that a special envoy has brought us messages of condolence on the death of our late Chief Magistrate from the Bey of Tunis, whose rule includes the old dominions of Carthage, on the African coast.

Our domestic contest, now happily ended, has left some traces in our relations with one at least of the great maritime Powers. The formal accordance of belligerent rights to the insurgent States was unprecedented, and has not been justified by the issue. But in the systems of neutrality pursued by the Powers which made that concession, there was a marked difference. The materials of war for the insurgent States were furnished, in a great measure, from the workshops of Great Britain; and British ships, manned by British subjects, and prepared for receiving British armaments, sallied from the ports of Great Britain to make war on American commerce, under the shelter of a commission from the insurgent States. These ships, having once escaped from British ports, ever afterward entered them in every part of the

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world, to refit, and so to renew their depredations. The consequences of this conduct were most disastrous to the States then in rebellion, increasing their desolation and misery by the prolongation of our civil contest. It had, moreover, the effect, to a great extent, to drive the American flag from the sea, and to transfer much of our shipping and our commerce to the very Power whose subjects had created the necessity for such a change. These events took place before I was called to the administration of the Government. The sincere desire for peace by which I am animated led me to approve the proposal, already made, to submit the questions which had thus arisen between the countries to arbitration. These questions are of such moment that they must have commanded the attention of the great Powers, and are so interwoven with the peace and interests of every one of them as to have insured an impartial decision. I regret to inform you that Great Britain declined the arbitrament, but, on the other hand, invited us to the formation of a joint commission to settle mutual claims between the two countries, from which those for the depredations before mentioned should be excluded. The proposition, in that very unsatisfactory form, has been declined.

The United States did not present the subject as an impeachment of the good faith of a Power which was professing the most friendly dispositions, but as involving questions of public law, of which the settlement is essential to the peace of nations; and, though pecuniary reparation to their injured citizens would have followed incidentally on a decision against Great Britain, such compensation was not their primary object. They had a higher motive, and it was in the interests of peace and justice to establish important principles of international law. The correspondence will be placed before you. The ground on which the British minister rests his justification is, substantially, that the municipal law of a nation, and the domestic interpretations of that law, are the measure of its duty as a neutral; and I feel bound to declare my opinion, before you and before the world, that that justification cannot be sustained before the tribunal of nations. At the same time I do not advise to any present attempt at redress by acts of legislation. For the future, friendship between the two countries must rest on the basis of mutual justice.

From the moment of the establishment of our free Constitution, the civilized world has been convulsed by revolutions in the interests of democracy or of monarchy; but through all those revolutions the United States have wisely and firmly refused to become propagandists of republicanism. It is the only government suited to our condition; but we have never sought to impose it on others; and we have consistently followed the advice of Washington to recommend it only by the careful preservation and prudent use of the blessing. During all the intervening period the policy of European Powers and of the United States has, on the whole, been harmonious. Twice, indeed, rumors of the invasion of some parts of America, in the interest of monarchy, have prevailed; twice my predecessors have had occasion to announce the views of this nation in respect to such interference. On both occasions the remonstrance of the United States was respected, from a deep conviction, on the part of European Governments, that the system of non-interference and mutual abstinence from propagandism was the true rule for the two hemispheres. Since those times we have advanced in wealth and power; but we retain the same purpose to leave the nations of Europe to choose their own dynasties and form their own systems of government. This consistent moderation may justly demand a corresponding moderation. We should regard it as a great calamity to ourselves, to the cause of good government, and to the peace of the world, should any European Power challenge the

American people, as it were, to the defense of republicanism against foreign interference. We cannot foresee and are unwilling to consider what opportunities might present themselves, what combinations might offer to protect ourselves against designs inimical to our form of government. The United States desire to act in the future as they have ever acted heretofore; they never will be driven from that course but by the aggression of European Powers; and we rely on the wisdom and justice of those Powers to respect the system of non-interference which has so long been sanctioned by time, and which, by its good results, has approved itself to both continents.

The correspondence between the United States and France, in reference to questions which have become subjects of discussion between the two Governments, will, at a proper time, be laid before Congress.

When, on the organization of our Government, under the Constitution, the President of the United States delivered his inaugural address to the two Houses of Congress, he said to them, and through them to the country and to mankind, that "the preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered as deeply, perhaps as finally, staked on the experiment intrusted to the American people." And the House of Representatives answered Washington by the voice of Madison: "We adore the invisible Hand which has led the American people, through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty." More than seventy-six years have glided away since these words were spoken; the United States have passed through severer trials than were foreseen; and now, at this new epoch in our existence as one nation, with our Union purified by sorrows, and strengthened by conflict, and established by the virtue of the people, the greatness of the occasion invites us once more to repeat, with solemnity, the pledges of our fathers to hold ourselves answerable before our fellow-men for the success of the republican form of government. Experience has proved its sufficiency in peace and in war; it has vindicated its authority through dangers, and afflictions, and sudden and terrible emergencies, which would have crushed any system that had been less firmly fixed in the heart of the people. At the inauguration of Washington the foreign relations of the country were few, and its trade was repressed by hostile regulations; now all the civilized nations of the globe welcome our commerce, and their Governments profess toward us amity. Then our country felt its way hesitatingly along an untrodden path, with States so little bound together by rapid means of communication as to be hardly known to one another, and with historic traditions extending over very few years; now intercourse between the States is swift and intimate; the experience of centuries has been crowded into a few generations, and has created an intense, indestructible nationality. Then our jurisdiction did not reach beyond the inconvenient boundaries of the territory which had achieved independence; now, through cessions of lands, first colonized by Spain and France, the country has acquired a more complex character, and has for its natural limits the chain of lakes, the Gulf of Mexico, and on the east and the west the two great oceans. Other nations were wasted by civil wars for ages before they could establish for themselves the necessary degree of unity; the latent conviction that our form of government is the best ever known to the world, has enabled us to emerge from civil war within four years; with a complete vindication of the constitutional authority of the General Government, and with our local liberties and State institutions unimpaired. The throngs of emigrants that crowd to our shores are witnesses of the confidence of all peoples in our performance. Here is the great land of free

labor, where industry is blessed with unexampled rewards, and the bread of the working-man is sweetened by the consciousness that the cause of the country "is his own cause, his own safety, his own dignity." Here every one enjoys the free use of his faculties and the choice of activity as a natural right. Here, under the combined influence of a fruitful soil, genial climes, and happy institutions, population has increased fifteen-fold within a century. Here, through the easy development of boundless resources, wealth has increased with twofold greater rapidity than numbers, so that we have become secure against the financial vicissitudes of other countries, and, alike in business and in opinion, are self-centered and truly independent. Here more and more care is given to provide education for every one born on our soil. Here religion, released from political connection with the civil government, refuses to subserve the craft of statesmen, and becomes, in its independence, the spiritual life of the people. Here toleration is extended to every opinion, in the quiet certainty that truth needs only a fair field to secure the victory. Here the human mind goes forth unshackled in the pursuit of science, to collect stores of knowledge and acquire an ever-increasing mastery over the forces of nature. Here the national domain is offered and held in millions of separate freeholds, so that our fellow-citizens, beyond the occupants of any other part of the earth, constitute in reality a people. Here exists the democratic form of government; and that form of government, by the confession of European statesmen, "gives a power of which no other form is capable, because it incorporates every man with the State, and arouses everything that belongs to the soul."

Where, in past history, does a parallel exist to the public happiness which is within the reach of the people of the United States? Where, in any part of the globe, can institutions be found so suited to their habits or so entitled to their love as their own free Constitution? Every one of them, then, in whatever part of the land he has his home, must wish its perpetuity. Who of them will not now acknowledge, in the words of Washington, that "every step by which the people of the United States have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency?" Who will not join with me in the prayer, that the invisible Hand which has led us through the clouds that gloomed around our path, will so guide us onward to a perfect restoration of fraternal affection, that we of this day may be able to transmit our great inheritance, of State governments in all their rights, of the General Government in its whole constitutional vigor, to our posterity, and they to theirs through countless generations?

ANDREW JOHNSON.

WASHINGTON, December 4, 1865.

## Report of the Secretary of War.

WAR DEPARTMENT,

WASHINGTON CITY, November 22, 1865.

MR. PRESIDENT: The military appropriations by the last Congress amounted to the sum of \$516,240,131 70. The military estimates for the next fiscal year, after careful revision, amount to \$33,814,461 83. The national military force on the 1st of May, 1865, numbered 1,000,516 men. It is proposed to reduce the military establishment to 50,000 troops, and over 800,000 have already been mustered out of service. What has occasioned this reduction of force and expenditure in the War Department, it is the purpose of this report to explain.

At the commencement of the last session of Congress much had been accomplished toward suppressing the rebellion and restoring Federal authority over the insurgent States. But the

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rebels still held Richmond as the capital of their so-called confederate government, and the semblance of State government existed in Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, and Texas, while a strong military force occupied a considerable portion of Arkansas and Louisiana. Their principal army, under its favorite commander, General Lee, defended with undaunted front impregnable positions around Petersburg and Richmond. Another army, under General Hood, was moving north, with purpose to invade Tennessee and Kentucky. West of the Mississippi, a large force, under General Kirby Smith, threatened Arkansas, Kansas, and Missouri. The chief sea-ports of the rebel States—Wilmington, Charleston, Savannah, and Mobile—were strongly garrisoned and fortified, and our blockading squadrons were unable to prevent trade and supplies reaching the enemy. Pirate steamers, built in foreign ports for rebel cruisers, armed, manned, equipped, and supplied by foreign capital, roamed the high seas, burning our ships and destroying our commerce. Marauders, hired by the rebel government and harbored on our northern frontier, were setting on foot piratical expeditions against our commerce on the lakes, planning to burn and plunder our towns and cities, and were plotting murder against the President and Vice President of the United States, in hopes of overthrowing our Government by anarchy. Faith in their final success and hope of open recognition by foreign Governments still animated leading traitors.

But now the approaching session of Congress will find the authority of the Federal Government effectually and peacefully exercised over the whole territory of the United States. All the armies heretofore arrayed against the national Government have laid down their arms, and surrendered as prisoners of war. Every hostile banner has been hauled down; the so-called confederate government is overthrown; its president is a prisoner in close custody, awaiting trial; while its vice president and three of its chief executive officers have been recently enlarged from prison by your clemency. All the ordinances, laws, and organizations created or existing under or by virtue of the so-called confederate government have been swept away, and, by your sanction, the people of the insurgent States have organized, or are busily engaged in organizing, State governments, in subordination to the Federal authority. In harmony with this new condition of affairs, the military force of the Federal Government has been reduced, large armies disbanded, and nearly a million of brave men, lately soldiers in arms, paid and honorably mustered out of service, have gone from camps, garrisons, and posts to their homes, and most of them are engaged already in the peaceful pursuits of civil life.

Among the causes which, under divine Providence, have brought about these wonderful results, successful military operations stand first in order.

A clear comprehension of these operations requires a brief glance at the military position just before the spring campaigns of 1864.

Notwithstanding the successful campaigns on the Mississippi in 1863, by the reduction of Vicksburg and Port Hudson, severed in twain the rebel territory and restored to us the navigation and commerce of the Mississippi, while the victory at Gettysburg drove back the rebel invaders from the northern States, yet the military strength of the rebels continued formidable. The army of Virginia, under General Lee, recovered from its disaster at Gettysburg, occupied its former lines in Virginia, protecting the rebel capital, and holding inactive and in check the army of the Potomac. Another large army, under General Bragg, reinforced by Longstreet's corps, threatened the reconquest of Tennessee. After the disastrous battle of Chickamauga, our army of the Cumberland, shut up and surrounded at Chattanooga, unable

to move by reason of the inclemency of the weather and impassable roads, was in extreme jeopardy.

At this discouraging juncture a change of military organization was made. The departments of the Ohio, the Tennessee, and the Cumberland were united in one military division, called the division of the Mississippi, under Major General Grant. Command of the army of the Cumberland was given to Major General George H. Thomas, relieving General Rosecrans. A winter campaign was immediately directed against Bragg's army. The battles of Wauhatchie, Lookout Mountain, Missionary Ridge, and Chattanooga opened our communications, and routed Bragg's army with heavy loss. The movement of Longstreet's corps against Knoxville, to recover East Tennessee, also proved a disastrous failure to the rebels, who were driven off and forced back to the mountains.

In the month of February, 1864, General Sherman's movement, with a large force, from Vicksburg, into the interior of the State of Alabama, as far as Meridian, inflicted heavy loss upon the enemy by the destruction of railroads and supplies, the capture of prisoners, and the escape of negroes and refugees. This operation demonstrated the capacity of an invading army to penetrate the rebel States and support itself on the country, and was the forerunner of the great movements in Georgia.

The arrangements for the spring campaigns of 1864 were made, on the part of the Government, to put forth its strength. In all the bureaus of the War Department supplies were provided on a scale of great magnitude, to meet any exigency that could be foreseen. The estimates were based upon an army organization of one million men. The States were called upon to strengthen the armies by volunteers; new drafts were ordered and put into execution throughout all the loyal States; vast supplies of arms, ammunition, clothing, subsistence, medical stores, and forage were provided and distributed in depots, to meet the wants of the troops wherever they might operate; horses, mules, wagons, railroad iron, locomotives and cars, bridge timber, telegraph cable and wire, and every material for transportation and communication of great armies under all conditions, were supplied. Congress, with unstinting hand, voted large appropriations for recruiting, paying, and supplying the troops. The office of Lieutenant General, to command all the armies, was created by law. Ulysses S. Grant was appointed to that rank by the President, and assumed command, as Lieutenant General, on the 17th day of March, 1864, from which time the operations of all the armies were under his direction.

The national forces engaged in the spring campaign of 1864 were organized as armies or distributed in military departments, as follows:

The army of the Potomac, commanded by Major General Meade, whose headquarters were on the north side of the Rapidan. This army was confronted by the rebel army of Northern Virginia, stationed on the south side of the Rapidan, under General Robert E. Lee.

The Ninth corps, under Major General Burnside, was, at the opening of the campaign, a distinct organization, but on the 24th day of May, 1864, it was incorporated into the army of the Potomac.

The army of the James was commanded by Major General Butler, whose headquarters were at Fortress Monroe.

The headquarters of the army of the Shenandoah, commanded by Major General Sigel, were at Winchester.

Three armies were united under Major General William T. Sherman, namely, the army of the Cumberland, Major General Thomas commanding; the army of the Tennessee, Major General McPherson commanding; and the army of the Ohio, Major General Schofield commanding. General Sherman's headquar-

ters were at Chattanooga. The effective strength of these three armies was nearly 100,000 men, and 254 guns, to wit:

Army of the Cumberland, Major General Thomas commanding:

Infantry.....	54,568
Artillery.....	2,377
Cavalry.....	3,823
Total.....	60,733
Number of guns.....	130

Army of the Tennessee, Major General McPherson commanding:

Infantry.....	22,437
Artillery.....	1,104
Cavalry.....	624
Total.....	24,465
Number of guns.....	96

Army of the Ohio, Major General Schofield commanding:

Infantry.....	11,183
Artillery.....	679
Cavalry.....	1,697
Total.....	13,559
Number of guns.....	28

Grand aggregate number of troops.....	98,797
Grand aggregate number of guns.....	254

About these figures were maintained during the campaign; the number of men joining from furlough and hospitals compensating for the loss in battle and from sickness.

In the department of Kentucky there was likewise a large active force, under command of Major General Burbridge, and also in East Tennessee, under Major General Stoneman. Adequate forces were reserved in the department of Washington, under Major General Augur, to protect the capital and the immense depots of military supplies at Washington and Alexandria, and also in the military department under Major General Lewis Wallace, to cover Baltimore and the important lines of supply and communication in that department. Besides the armies operating actively in the field, troops were assigned to garrison exposed and important strategic points, to guard hospitals, recruiting stations, prison camps, supply depots, railroad lines, and to defend border States and the northern frontier from rebel raids.

In the department of the South a force was operating against Charleston and in Florida, under General Gillmore.

West of the Mississippi the forces were under the respective departmental commanders. In the department of the Gulf, embracing Louisiana and Texas, Major General Banks had his headquarters at New Orleans. The department of Arkansas was in command of Major General Steele. Major General Curtis commanded the troops assigned for the department of Kansas and the Indian Territory. The troops in the department of Missouri were under command of Major General Rosecrans. The defense of the northwestern States and Territories against Indians, expeditions to check incursions and reduce hostile tribes, and to protect the overland route to California, employed a considerable force under Major General Pope, in the Northwest department, General Carleton in New Mexico and Arizona, and General Conner in the Indian Territory. The States and Territories on the Pacific coast required but a small force, under Major General McDowell.

The headquarters of the Lieutenant General commanding all the armies were with the army of the Potomac in the field.

Official reports show that on the 1st of May, 1864, the aggregate national military force of all arms, officers and men, was 970,710, to wit:

Available force present for duty.....	662,345
On detached service in the different military departments.....	109,348
In field hospitals or unfit for duty.....	41,266
In general hospitals or on sick leave at home.....	75,978
Absent on furlough or as prisoners of war.....	66,290
Absent without leave.....	15,433

Grand aggregate..... 970,710



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The aggregate available force present for duty May 1, 1864, was distributed in the different commands as follows:

Department of Washington.....	42,124
Army of the Potomac.....	120,380
Department of Virginia and North Carolina.....	59,139
Department of the South.....	18,165
Department of the Gulf.....	61,886
Department of Arkansas.....	23,666
Department of the Tennessee.....	74,174
Department of the Missouri.....	15,770
Department of the Northwest.....	5,295
Department of Kansas.....	4,798
Headquarters military division of the Mississippi.....	476
Department of the Cumberland.....	119,948
Department of the Ohio.....	35,416
Northern department.....	9,546
Department of West Virginia.....	30,782
Department of the East.....	2,828
Department of the Susquehanna.....	2,970
Middle department.....	5,627
Ninth Army corps.....	20,780
Department of New Mexico.....	3,454
Department of the Pacific.....	5,141
	<u>662,345</u>

Active military operations west of the Mississippi commenced in the month of March, 1864. The principal rebel forces beyond the Mississippi were concentrated under General Kirby Smith, at Shreveport, on the Red river. Against this force an expedition was undertaken by Major General Banks, with a large army from New Orleans, to be cooperated with by troops from the department of Arkansas, under General Steele, and from the division of the Mississippi, under General A. J. Smith, and also a large naval force under Admiral Porter. General Banks with his forces reached Alexandria about the 20th of March. Advancing thence toward Shreveport, a series of disasters commenced, that ended in the failure of the expedition with heavy loss of men and material. The cause of this failure is still a subject of discussion, not material to the present report. Although by this mishap the enemy was enabled to occupy the attention of a large force designed and that might have been employed in other fields, he was himself kept in check and hindered from taking part in the great campaigns east of the Mississippi.

The campaigns in Virginia opened on the 4th day of May. By simultaneous movements the army of the Potomac crossed the Rapidan, and City Point, on the south side of the James, was seized and occupied by General Butler. The crossing of the Rapidan was effected without resistance from the enemy. The movement against City Point took him by surprise. The army of the Potomac was directed at Lee's army, while the city of Richmond was the objective point of the army of the James.

Minute details of the subsequent campaigns are given in the accompanying reports of the Lieutenant General and other distinguished commanders, so that nothing more than a cursory view of the main results is here required.

The antagonist armies of Meade and Lee met in conflict near Mine Run on the 5th day of May. Forty-three days of desperate fighting or marching by day and night forced back the rebel army from the Rapidan to their intrenchments around Richmond, and carried the army of the Potomac to the south side of the James river. The strength of the enemy's force when the campaign opened, or the extent of his loss, is not known to this Department. Any inequality of numbers between Lee's army and the army of the Potomac was fully compensated by the advantage of position. Resolute purpose and desperate valor were exhibited on both sides. In the battles of the Wilderness, Spottsylvania Court-House, Jericho Ford, Hawe's Shop, and Cold Harbor, many brave soldiers and gallant officers perished. Among them were Brigadier General Wadsworth, Brigadier General Hays, and Major General Sedgwick. Lieutenant General Grant in his report observes:

"The battles of the Wilderness, Spottsylvania, North Anna, and Cold Harbor, bloody and terrible as they were on our side, were even more damaging to the enemy, and so crippled him as to make him wary ever after of taking the offensive. His losses in

men were probably not so great, owing to the fact that we were, save in the Wilderness, almost invariably the attacking party, and when he did attack it was in the open field."

Although expectations of destroying Lee's army, and the speedy capture of Richmond and Petersburg, were disappointed, and the enemy had found refuge behind impregnable fortifications, the campaign was still prosecuted with determined purpose toward the same object. While the rebel army was sheltered in his intrenchments the national forces were busy at work outside strengthening and advancing their position, breaking the communications of the enemy, cutting off and destroying his supplies, narrowing his limits, harassing him by raids, and occupying his attention to prevent detachments or reinforcements being sent to operate elsewhere.

Active operations were also going on in the valley of the Shenandoah. On the 1st of May an expedition, under Generals Crook and Averill, was sent out by General Sigel, which reached Wytheville and accomplished the destruction of much rebel property. General Sigel advanced, on the 8th day of May, with his force, from Winchester to New Market, where, met by the enemy under General Breckinridge, he was defeated and fell back to Cedar creek. General Hunter was then placed in command of the department. He marched with a strong force toward Staunton, and in a brilliant engagement at Piedmont defeated the enemy with severe loss. Advancing to Staunton, he was joined there by Crook and Averill, and moved against Lynchburg. Reinforcements from the enemy having arrived before him, General Hunter retired by way of the Kanawha. Meanwhile, in order to repair the losses of the army of the Potomac, the chief part of the force designed to guard the Middle department and the department of Washington, was called forward to the front. Taking advantage of this state of affairs, in the absence of General Hunter's command, the enemy made a large detachment from their army at Richmond, which, under General Early, moved down the Shenandoah valley, threatening Baltimore and Washington. Their advance was checked at Monocacy, where a severe engagement was fought by our troops under General Wallace, reinforced by a part of the Sixth corps under General Ricketts. After this battle the enemy continued to advance until they reached the intrenchments around Washington. Here they were met by troops from the army of the Potomac, consisting of the Sixth corps, under General Wright, a part of the Eighth corps, under General Gillmore, and a part of the Nineteenth corps, just arrived from New Orleans, under General Emory. By these troops the enemy were driven back from Washington, and retreated hastily to Virginia, pursued by our forces under General Wright.

On the 7th day of August, 1864, General Sheridan was placed in command of the military division comprising the department of Washington, the department of West Virginia, the department of the Susquehanna, and the Middle department. In two great battles, at the crossing of the Opequan on the 19th of September, and at Fisher's Hill on the 22d of September, the rebel army under Early was routed and driven from the valley with immense loss of prisoners, artillery, and stores. A desperate effort was made by the enemy to recover their position. Early was strongly reinforced, and on the morning of the 19th of October, in the absence of General Sheridan, his lines were surprised, his position turned, and his forces driven back in confusion. At the moment when a great disaster was impending, Sheridan appeared upon the field, the battle was restored, and a brilliant victory achieved. The routed forces of the enemy were pursued to Mount Jackson, where he arrived without an organized regiment of his army. All his artillery and thousands of prisoners fell into Sheridan's hands. These

successes closed military operations in the Shenandoah valley, and a rebel force appeared there no more during the war.

Major General William T. Sherman began the brilliant series of his campaigns early in May. The first objective point was Atlanta. To reach that city his armies must pass from the northern limit to the center of the great State of Georgia, forcing their way through mountain defiles and across great rivers, overcoming or turning formidable intrenched positions, defended by a strong, well-appointed, veteran army, commanded by an alert, cautious, and skillful general. The campaign opened on the 6th day of May, and on the 2d day of September the national forces entered Atlanta. This achievement is thus described in General Sherman's Field Order No. 68:

"On the 1st of May our armies were lying in garrison, seemingly quiet, from Knoxville to Huntsville, and our enemy lay behind his rocky-faced barrier at Dalton, proud, defiant, and exulting. He had had time since Christmas to recover from his discomfiture on the Mission Ridge, with his ranks filled, and a new commander-in-chief, and second to none in the confederacy in reputation for skill, sagacity, and extreme popularity. All at once our armies assumed life and action, and appeared before Dalton. Threatening Rocky Face, we threw ourselves upon Kennesaw, and the rebel army only escaped by the rapidity of its retreat, aided by the numerous roads with which he was familiar, and which were strange to us. Again he took post in Allatoona, but we gave him no rest, and, by our circuit toward Dallas and subsequent movement to Acworth, we gained the Allatoona Pass. Then followed the eventful battles about Kennesaw, and the escape of the enemy across the Chattahoochee river.

"The crossing of the Chattahoochee and the breaking of the Augusta road was most handsomely executed by us, and will be studied as an example in the art of war. At this stage of our game our enemies became dissatisfied with their old and skillful commander, and selected one more bold and rash. New tactics were adopted. Hood first boldly and rapidly, on the 20th of July, fell on our right at Peach Tree creek, and lost. Again, on the 22d, he struck our extreme left, and was severely punished; and finally, again, on the 28th, he repeated the attempt on our right, and that time must have become satisfied, for since that date he has remained on the defensive. We slowly and gradually drew our lines about Atlanta, feeling for the railroad which supplied the rebel army and made Atlanta a place of importance.

"We must concede to our enemy that he met these efforts patiently and skillfully, but at last he made the mistake we had waited for so long, and sent his cavalry to our rear far beyond the reach of recall. Instantly our cavalry was on his only remaining road, and we followed quickly with our principal army, and Atlanta fell into our possession as the fruit of well-concerted measures, backed by a brave and confident army."

For military reasons, stated in the report of the Lieutenant General, it was determined that Atlanta should be destroyed, and Sherman's armies push forward to Savannah or some other point on the Atlantic.

Shortly before the fall of Atlanta, General Johnston had been superseded in command of the rebel army by General Hood, who, adopting a different system from that pursued by his cautious predecessor, boldly assumed the offensive, with a view to force General Sherman from Georgia, by cutting off his communications, and invading Tennessee and Kentucky. Pursuant to this plan, Hood, by a rapid march, gained and broke up, at Big Shanty, the railroad that supplied Sherman's army, advanced to Dalton, and thence moved toward Tennessee. Hood was followed from Atlanta by General Sherman far enough north to cover his own purpose and assure him against Hood's interrupting the contemplated march to the sea-coast. Sherman turned back suddenly to Atlanta. That city, and all the railroads leading to it, were destroyed, and on the 15th of November the march commenced for Savannah. Advancing in three columns, and living upon the country, the capital of the State and other large towns were occupied without resistance. General Sherman's command, on the 10th of December, "closed in on the enemy's works which covered Savannah." Fort McAllister was gallantly carried by assault on the same day. The city of Savannah, strongly fortified, and garrisoned by a large force under General Hardie, was summoned, but surrender was refused. Preparations for assault were made, and in the night

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of the 20th of December, Hardie evacuated the city, and, with a large part of his garrison, escaped under cover of darkness. The United States troops entered the city early in the morning of the 21st of December. Immense quantities of arms, ammunition, ordnance, and military stores were captured, and the cotton that fell into our hands amounted in value to many million dollars.

While General Sherman's army was marching south from Atlanta to the sea-coast the rebel army under Hood, strongly reinforced, was moving north, threatening Tennessee. The task of encountering this formidable foe, and defending the border States from invasion, was intrusted to Major General George H. Thomas, who was ably assisted by his second in command, Major General Schofield. In his report General Thomas says:

"I found myself confronted by the army which, under General J. E. Johnston, had so skillfully resisted the advance of the whole active army of the military division of the Mississippi from Dalton to the Chattahoochee, reinforced by a well-equipped and enthusiastic cavalry command of over 12,000 men, led by one of the boldest and most successful cavalry commanders in the rebel army. My information from all sources confirmed the reported strength of Hood's army to be from forty to forty-five thousand infantry and from twelve to fifteen thousand cavalry. My effective force at this time consisted of the Fourth corps, about 12,000, under Major General D. S. Stanley; the Twenty-third corps, about 10,000, under Major General Schofield; Hatcher's division of cavalry, about 4,000; Croxton's brigade, 2,500; and Capron's brigade, of about 1,200. The balance of my force was distributed along the railroad, and posted at Murfreesboro', Stevenson, Bridgeport, Huntsville, Decatur, and Chattanooga, to keep open our communications and hold the posts above named, if attacked, until they could be reinforced, as up to this time it was impossible to determine which course Hood would take, advance on Nashville or turn toward Huntsville. Under these circumstances, it was manifestly best to act on the defensive until sufficiently reinforced to justify taking the offensive. On the 12th of November communication with General Sherman was severed, the last dispatch from him leaving Cartersville, Georgia, at twenty-five minutes past two o'clock p. m. on that date. He had started on his great expedition from Atlanta to the seaboard, leaving me to guard Tennessee, or to pursue the enemy if he followed the commanding general's column. It was, therefore, with considerable anxiety that we watched the force at Florence, to discover what course they would pursue with regard to General Sherman's movements, determining thereby whether the troops under my command, numbering less than half those under Hood, were to act on the defensive in Tennessee, or take the offensive in Alabama."

When the possibility of Hood following Sherman was over, General Thomas took measures to act on the defensive. Reinforcements of new regiments were hurried forward to him by the Governors of the western States. All troops fit for any military duty were collected and sent forward from the hospitals; absentees on leave were called in; the employés in the quartermaster's department were armed and organized for duty in the intrenchments, and two divisions of veteran infantry, under command of General A. J. Smith, that had been serving on the Red river, and afterward in Missouri, were pushed forward to General Thomas. By these means his forces were speedily swelled, when concentrated, to an army nearly as large as that of the enemy. The public property and garrisons were drawn in from exposed positions and points not required to be held, the fortifications of Nashville were strengthened, and every preparation was made for a struggle of no ordinary magnitude. Hood advanced to Columbia, where his attempt to cross Duck creek was checked for a while by General Schofield, who repulsed the enemy many times with heavy loss. Schofield's main force in front of Columbia was withdrawn on the night of the 29th of November, and a position taken at Franklin on the morning of the 30th. Here took place one of the most fierce and bloody battles of the war.

"The enemy," says General Thomas in his report, "followed closely after General Schofield's rear-guard in the retreat to Franklin, and upon coming up with the main force, formed rapidly and advanced to assault our works, repeating attack after attack during the entire afternoon, and as late as ten p. m. his efforts to break our lines were continued. General Schofield's position was excellently chosen, with both

flanks resting on the river, and his men firmly held their ground against an overwhelming enemy, who was repulsed in every assault along the whole line. Our loss, as given by General Schofield in his report, transmitted herewith, (and to which I respectfully refer,) is 189 killed, 1,033 wounded, and 1,104 missing, making an aggregate of 2,326. We captured and sent to Nashville 702 prisoners, including 1 general officer and 33 stands of colors. Major General D. S. Stanley, commanding Fourth corps, was severely wounded at Franklin while engaged in rallying a portion of his command which had been temporarily overpowered by an overwhelming attack of the enemy. At the time of the battle the enemy's loss was known to be severe, and was estimated at 5,000. The exact figures were only obtained, however, on the re-occupation of Franklin by our forces, after the battles of December 15 and 16, at Brentwood Hills, near Nashville, and are given as follows: buried upon the field, 1,750; disabled and placed in hospital at Franklin, 3,800; which, with the 702 prisoners already reported, makes an aggregate loss of 6,252, among whom were 6 general officers killed, 6 wounded, and 1 captured. The important results of this signal victory cannot be too highly appreciated; for it not only seriously checked the enemy's advance, and gave General Schofield time to remove his troops and all his property to Nashville, but it also caused deep depression among the men of Hood's army, making them doubly cautious in their subsequent movements."

On the night after the battle of Franklin, General Schofield, by the direction of General Thomas, fell back to Nashville, in front of which city, on the heights, a line of battle was formed by noon of the 1st of December. Hood's army appeared before Nashville on the 2d of December. The intense severity of the weather prevented operations for several days. Both armies were ice-bound for a week previous to the 14th of December, when the weather moderated, and General Thomas, having completed his preparations, issued orders for battle the ensuing day. At an early hour on the morning of the 15th of December, General Thomas moved against Hood's army. The battle was furiously contested until nightfall.

"The total result was the capture of 16 pieces of artillery and 1,200 prisoners, besides several hundred stand of small arms and about forty wagons. The enemy had been forced back at all points, with heavy loss, and our casualties were unusually light. The behavior of the troops was unsurpassed for steadiness and alacrity in every movement, and the original plan of battle, with but few alterations, was strictly adhered to. The whole command bivouacked in line of battle during the night on the ground occupied at dark, while preparations were made to renew the battle at an early hour on the morrow."

The battle was renewed on the 16th, at six o'clock in the morning. At three o'clock in the afternoon the enemy's strong position on Overton's Hill was assaulted by the Fourth corps.

"Immediately following the effort of the Fourth corps, Generals Smith's and Schofield's commands moved against the enemy's works in their respective fronts, carrying all before them, irreparably breaking his lines in a dozen places, and capturing all his artillery and thousands of prisoners, among the latter four general officers. Our loss was remarkably small, scarcely mentionable. All of the enemy that did escape were pursued over the tops of Brentwood or Harpeth Hills. General Wilson's cavalry dismounted, attacked the enemy simultaneously with Schofield and Smith, striking him in reverse, and gaining firm possession of Granny White Pike, cut off his retreat by that route. Wood's and Steedman's troops, hearing the shouts of victory coming from the right, rushed impetuously forward, renewing the assault on Overton's Hill, and although meeting a very heavy fire, the onset was irresistible, artillery and innumerable prisoners falling into our hands. The enemy, hopelessly broken, fled in confusion through the Brentwood Pass, the Fourth corps in a close pursuit, which was continued for several miles, when darkness closed the scene, and the troops rested from their labors. During the two days' operations there were 4,462 prisoners captured, including 287 officers of all grades from that of major general, 53 pieces of artillery, and thousands of small arms. The enemy abandoned on the field all of his dead and wounded."

At the battle of Nashville Hood's army, which at one time was considered the best drilled and most formidable rebel force set on foot during the war, disappeared as an army organization. Commanded successively by Bragg, Johnston, and Hood, many bloody fields proved the courage of the soldiers and the skill of its commanders. The shattered fragments of this army were pursued from Nashville to the Tennessee river by the main forces of General Thomas, and were followed and harassed for two hundred miles by detached commands. In his report General Thomas remarks:

"To Colonel Palmer and his command is accorded the credit of giving Hood's army the last blow of the

campaign, at a distance of over two hundred miles from where we first struck the enemy on the 15th of December, near Nashville."

What troops escaped from the pursuit were afterward united with other fragments of rebel forces under General Johnston, and finally laid down their arms to General Sherman at Raleigh.

While the events that have been mentioned were transpiring in the main armies, other military operations of less magnitude, but contributing to the general result by harassing and weakening the enemy, were in progress. A large rebel force, under John Morgan, invaded Kentucky, and was defeated by General Burbridge in a severe engagement at Cynthiana on the 12th day of June. John Morgan was surprised and killed, and his staff captured by General Gillem on the 4th day of September, 1864. In the month of November a rebel expedition, under Breckinridge, Duke, and Vaughn, was repulsed by General Ammen, and driven from East Tennessee. An expedition, under General Stoneman and General Burbridge, penetrated to Saltville, in southwestern Virginia, destroyed the works at that place, broke up the railroads, and inflicted great destruction upon the enemy's supplies and communications.

After the withdrawal of our troops from the Red river, a large rebel force advanced under Sterling Price into Kansas, and penetrated thence into the department of the Missouri. But they were at length driven back with heavy loss.

Other military operations, of greater or less magnitude, occurred during the year—some attended with disaster, some with brilliant success. Of the former class were Kilpatrick's raid against Richmond; the capture of Plymouth and its garrison, at the commencement of the year, by the rebels under Hoke; the defeat of the expedition from Memphis, under General Sturgis; the capture of Fort Pillow by Chalmers and Forrest; and Stoneman's expedition to Andersonville. On the other hand, the raids of Grierson from Memphis, in December, of Stoneman and Burbridge into Virginia, of Wilson into Alabama, inflicted sore distress upon the enemy, and brought the rebels to a solemn sense of the sufferings caused to themselves by the war they had undertaken against their Government.

At the commencement of the year 1865 all hearts were more anxious than ever to bring the war to a speedy close. Every preparation to that end was made by the Department, and by the military commanders in the field. Adequate appropriations were voted and new popular loans authorized by Congress. Further measures for recruiting the Army, prompted by experience, were enacted. A new draft for half a million men was put into prompt execution. The State Executives renewed their labors in calling for volunteers. The people responded to the demands of the occasion, and rapid recruitment began in all the States, and was at its height when Richmond fell. Troops were at that time being raised, organized, armed, and equipped as fast as they could be conveniently transported to the field. To the coming campaigns through the Carolinas and in Virginia all eyes looked for a speedy and decisive result that should end the war. The military position is thus stated by the Lieutenant General:

"In March, 1865, General Canby was moving an adequate force against Mobile and the army defending it, under General Dick Taylor; Thomas was pushing out two large and well-appointed cavalry expeditions—one from Middle Tennessee, under Brevet Major General Wilson, against the enemy's vital points in Alabama; the other from East Tennessee, under Major General Stoneman, toward Lynchburg—and assembling the remainder of his available forces, preparatory to offensive operations from East Tennessee. General Sheridan's cavalry was at White House; the armies of the Potomac and James were confronting the enemy under Lee in his defenses of Richmond and Petersburg; General Sherman, with his armies, reinforced by that of General Schofield, was at Goldsboro'; General Pope was making preparations for a spring campaign against the enemy under Kirby Smith and Price, west of the Mississippi; and General Hancock was concentrating a force in the vicinity of Winchester,

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Virginia, to guard against invasion, or to operate offensively, as might prove necessary."

Official reports show that on the 1st of March, 1865, the aggregate national military force of all arms, officers and men, was 965,591, to wit:

Available force present for duty.....	602,598
On detached service in the different military departments.....	132,538
In field hospitals or unfit for duty.....	35,628
In general hospitals or on sick leave at home.....	143,419
Absent on furlough or as prisoners of war.....	31,895
Absent without leave.....	19,683
Grand aggregate.....	965,591

This force was augmented on the 1st day of May, 1865, by enlistments, to the number of 1,000,516 of all arms, officers and men.

The aggregate available force present for duty on the 1st of March was distributed in the different commands as follows:

Army of the Potomac.....	103,273
Headquarters military division of the Mississippi.....	17
Department of the Cumberland.....	62,626
Department of the Tennessee.....	45,649
Left wing army of Georgia.....	31,644
Cavalry corps military division of the Mississippi.....	27,410
Headquarters military division of West Mississippi.....	24
Reserve brigades military division of West Mississippi.....	13,748
Department of the Gulf.....	35,625
Department of Arkansas.....	24,509
Department of the Mississippi.....	24,151
Sixteenth Army corps.....	14,395
Headquarters military division of the Missouri.....	12
Department of the Missouri.....	18,557
Department of the Northwest.....	4,781
Headquarters Middle military division.....	841
Cavalry forces Middle military division.....	12,980
Nineteenth Army corps.....	6,612
Middle department.....	2,089
Department of Washington.....	26,056
Department of West Virginia.....	15,517
Department of Pennsylvania.....	820
Department of the East.....	7,462
Department of Virginia.....	45,986
Department of North Carolina.....	34,945
Department of the South.....	11,510
Department of Kentucky.....	10,755
Northern department.....	11,229
Department of the Pacific.....	7,024
Department of New Mexico.....	2,501
Grand total.....	602,598

The active operations of 1865 began with the reduction of Fort Fisher, by a combined expedition of land and naval forces. The port of Wilmington, North Carolina, during the whole war, had been a principal point of foreign trade with the rebels. The advantage of its position defied the most rigorous blockade, and, after the fall of Savannah, it was the only gate through which foreign supplies could pass to the rebels. The strong works and garrison of Fort Fisher, at the mouth of Cape Fear river, were the main defense of Wilmington. On the 13th of December a force of about 6,500 men, under Major General Butler, started from Fortress Monroe to operate, in conjunction with a naval force under Admiral Porter, against Fort Fisher. General Butler effected a landing on the 25th of December, but reëmbarked on the 27th, and returned with his troops to Fortress Monroe. The Lieutenant General ordered the enterprise to be renewed by General Terry, who, on the 2d of January, was placed in command of the same troops, with a reinforcement that made the whole number about 8,000. On the morning of the 13th of January the troops were disembarked, under cover of a heavy and effective fire from the fleet. An assault was made in the afternoon of the 15th of January, and, after desperate hand-to-hand fighting for several hours, the works were carried, the enemy driven out, and about midnight the whole garrison, with its commander, General Whiting, surrendered. The fall of Fort Fisher carried with it the other defenses of Cape Fear river. Fort Caswell and the works on Smith's Island fell into our hands on the 16th and 17th. Fort Anderson on the 19th, and, General Schofield advancing, the enemy were driven from Wilmington on the 21st of February.

Early in the month of January Major General

Sherman, having refitted his army, entered upon his campaign from Savannah, through the States of South Carolina and North Carolina, the incidents of which are detailed in his accompanying report. Its result is thus stated in his special Field Order No. 76:

"Waiting at Savannah only long enough to fill our wagons, we again began a march, which, for peril, labor, and results, will compare with any ever made by an organized army. The floods of the Savannah, the swamps of the Combahee and Edisto, the 'high hills' and rocks of the Santee, the flat quagmires of the Pedee and Cape Fear rivers, were all passed in mid-winter, with its floods and rains, in the face of an accumulating enemy; and after the battles of Averysboro' and Bentonville, we once more came out of the wilderness to meet our friends at Goldsboro'. Even then we paused only long enough to get new clothing, to reload our wagons, and again pushed on to Raleigh and beyond, until we met our enemy suing for peace instead of war, and offering to submit to the injured laws of his and our country."

The operations in General Canby's military division also exercised an important influence at this juncture. After the disaster upon the Red river, a change of the military organization west of the Mississippi was made to meet the emergency. The departments of Arkansas and the Gulf, including Louisiana and Texas, were united in one military division, West Mississippi, under the command of Major General Canby. His efforts were directed to the organization and concentration of the forces and material within his division, and in measures to prevent the rebel troops west of the Mississippi from reinforcing the armies operating east of that river. In the month of July, Fort Gaines, Fort Powell, and Fort Morgan, constituting important defenses of Mobile bay, were reduced by a combined movement of land forces, under General Gordon Granger, detached by General Canby, and coöperating with a naval force under Admiral Farragut. Early in the spring of 1865, a large force, under Generals A. J. Smith, Gordon Granger, and F. Steele, was directed against the city of Mobile. The enemy were driven out of Spanish Fort by bombardment, Fort Blakely was taken by assault, and the city of Mobile was evacuated by the enemy on the 12th of April. The brilliance of these achievements has been overshadowed by the grander scale of operations in other quarters, but their skill and success are worthy of high admiration. After the fall of Savannah, Charleston, and Wilmington, the enemy had placed his last hopes on retaining a foothold in the cotton States at Mobile. It was strongly fortified and garrisoned, and orders were issued to hold it at every hazard.

In the latter part of February, General Sheridan, under direction of the Lieutenant General, moved from Winchester to Staunton, which place he captured on the 2d of March, taking prisoners, artillery, and military stores. He thence moved on Charlottesville, and destroyed the Richmond and Lynchburg railroad, and the bridges across the Rivanna river. Dividing his forces, one column moved to New Market and crossed the James River canal; the other column pushed toward Lynchburg, destroying the railroad to Amherst Court-House. These columns, reuniting, moved to the White House, on the Pamunkey, effecting great destruction of the canal on their route, and thence put themselves in communication with the forces around Richmond.

The month of March, 1865, opened the great campaign against Richmond and the rebel army that had so long defended the rebel capital.

Instructions were given by the Lieutenant General on the 24th of March for a general movement of the national forces around Richmond. It commenced on the morning of the 29th of March. Ten days' marching and fighting finished the campaign. Richmond, Petersburg, the army of Virginia, and its commander, were captured. Jefferson Davis and his so-called confederate government were fugitives or prisoners of war. Davis fled from Richmond in the afternoon of Sunday, the 2d day of April. The national forces occupied Petersburg and

entered Richmond Monday morning. Lee's army was pursued until it reached Appomattox Court-House, where, on Sunday, the 9th day of April, it laid down its arms on the terms prescribed by General Grant.

From this period the history of the war is but an enumeration of successive surrenders by rebel commanders. On the 26th day of April General Johnston surrendered his command to Major General Sherman, at Raleigh, North Carolina. General Howell Cobb, with twelve hundred militia and five generals, surrendered to General Wilson, at Macon, Georgia, on the 20th of April. General Dick Taylor, on the 14th of May, surrendered all the remaining rebel forces east of the Mississippi to General Canby. On the 11th of May, Jefferson Davis, disguised and in flight, was captured at Irwinesville, Georgia. On the 26th of May, General Kirby Smith surrendered his entire command west of the Mississippi to Major General Canby. With this surrender the organized rebel force disappeared from the territory of the United States.

The flag of the United States was lowered at Fort Sumter on the 14th of April, 1861, by Major Anderson, who, long besieged by overwhelming rebel forces, was compelled, with his small garrison, to evacuate the works. On the anniversary of that day, four years later, the rebel forces having been driven from Charleston, the national banner was planted again upon Fort Sumter, under the orders of the President, by the hands of General Anderson, with appropriate military and naval ceremonies, and a commemorative address delivered by Rev. Henry Ward Beecher.

Their victorious campaigns ended, the armies of the Tennessee and the Cumberland, and the army of the Potomac, marched through Richmond to the Federal capital, where they were reviewed by the President and the distinguished commanders under whom they had so long and so gallantly served in the field. After this national ceremony they and their fellow-soldiers in other commands, were paid, and, as rapidly as the condition of affairs would admit, were released from the military service of the country; and, returning to their homes in the several States, they were welcomed with the thanks and rejoicings of a grateful people.

One other event may properly be noticed in this report, as a part of the military history of the rebellion. While our armies, by their gallantry and courage and the skill of their commanders, were overcoming all resistance in the field to the national authority, a swift and sudden blow was aimed at the national existence, and at the life of the Commander-in-Chief of the Army and Navy, which, for atrocity in its circumstances, the cruel art that designed it, and the peril to which it exposed the Government, is unsurpassed in the history of nations. Shortly before the Richmond campaign opened, President Lincoln went to the headquarters of Lieutenant General Grant, where he remained until the capture of Petersburg and Richmond. After their occupation by our forces, he visited those cities, and returned to Washington on the evening of Sunday, the 9th day of April. The dispatch of the Lieutenant General, announcing General Lee's surrender, was communicated to him about eleven o'clock Sunday night. From that time until he was assassinated, his attention was earnestly directed to the restoration of peace and the reorganization of civil government in the insurgent States. In a public address to an assemblage that met at the Executive Mansion on the evening of Wednesday, the 12th of April, to congratulate him on the success of our arms, his views and some of his measures were explained. On the night of the following Friday the President was shot by an assassin, and expired at about seven o'clock on the morning of Saturday, the 15th of April. This assassination appeared to be part of a deliberate, comprehensive conspiracy to assassinate the President, Vice President, Secretary of State, Lieutenant General, and other officers of the Government, with a view



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to its disorganization. About the same hour of the President's murder, an effort was made to assassinate the Secretary of State, who was then confined to his bed by serious injuries, accidentally received a few days before. He and other members of his family were dangerously wounded. Some of the parties engaged in this conspiracy were tried, convicted, and executed; and others are still under sentence of imprisonment for life. The details are given in the report of the Judge Advocate General. The designs upon the Vice President and the Lieutenant General failed; and, upon the death of the President, the Vice President was sworn into office, and assumed the duties of President of the United States. These events were promptly communicated to the armies by general orders, and from thenceforth until the present time the Government has been administered by Andrew Johnson, as Chief Executive and Commander-in-Chief of the Army and Navy.

The destruction of the rebel military power opened the way to reestablish civil government in the insurgent States. From that period the functions of the military department became simply coöperative with other branches of the Federal Government.

Nashville, Tennessee, was the first capital of an insurgent State in which the Federal authority was reestablished. The rebel army was driven out on the 23d day of February, 1862, and that city occupied by the Union forces. On the 3d day of March, 1862, Andrew Johnson, then Senator in Congress from the State of Tennessee—the only Senator from an insurgent State who retained his seat in Congress—was appointed military governor of the State of Tennessee. He accepted the appointment, and promptly entered upon his duties, and continued to exercise them until his resignation on the 3d day of March, 1865. In all the vicissitudes of war his administration was directed to the establishment and maintenance of the Constitution and laws of the United States within and over the State of Tennessee. Without entering upon details, it is sufficient to remark that extension of civil authority kept pace with the reduction of the rebel power. The Federal courts were opened, and justice administered. Under his direction, against many discouragements and much opposition, great advance was made toward the full reestablishment of civil authority, and the restoration of the State to its practical relations to the Federal Government. He issued a proclamation on the 6th of January, 1864, for the election of township and county officers, justices of the peace, constables, trustees, sheriffs, clerks, registers, and tax collectors. In the month of May a convention was held at Knoxville, East Tennessee, to devise measures for restoring civil government in the State.

In the month of August another convention was called to meet at Nashville on the 5th of September, to reorganize the State. A full convention being prevented by the condition of military affairs, this body recommended that another convention, "elected by the loyal people," should assemble at an early day to revise the State constitution. The governor issued a proclamation on the 7th of September, announcing that he should proceed to appoint officers and establish tribunals "in all the counties and districts of the State whenever the people gave evidence of loyalty and a desire for civil government, and a willingness to sustain the officers and tribunals." A convention was called to meet on the 9th of January, 1865, at Nashville, to revise the State constitution. This convention met, amendments to the State constitution were adopted, slavery was abolished, and provision made for submitting the amendments to the people, and for holding elections. The amendments were ratified by popular vote. A Governor, Legislature, and members of Congress were subsequently (on the 4th of March) elected by the people. The Legislature assembled on the first Monday of April; the abolition of slavery

was enacted, Senators to Congress elected, and a State government was fully organized, and has since continued in action. This system of reorganization having been found practicable by actual experience, it was adopted by the President, with such modifications as he deemed proper, for all the insurgent States, and is now in course of execution.

The disposition exhibited after the surrender of their armies in all the insurgent States to submit to the national authority dispensed with the necessity of keeping large armies on foot, and indicated the degree to which the war power might be reduced. So much only of the national military force has been kept in each State as is needed to keep the peace, protect the public property, and enforce the laws.

It was apparent that by the surrender of General Lee and his army, the military power, on which alone the rebellion rested, was irretrievably broken, no doubt being entertained that Lee's surrender would be followed by that of Johnston, and perhaps by all other commanders of the insurgent forces. The attention of the Department was immediately directed to the following objects, and on the 13th of April, four days after Lee's surrender, public notice was given that orders would be speedily issued to carry them into effect, namely:

First. To stop all drafting and recruiting in the loyal States.

Second. To curtail purchases of arms, ammunition, quartermaster and commissary supplies, and reduce the expenses of the military establishment in the several branches.

Third. To reduce the number of general and staff officers to the actual necessities of the service.

Fourth. To remove all military restrictions upon trade and commerce, so far as might be consistent with the public safety.

These measures have been carried into effect from time to time, as the exigencies of the service would admit. It will be seen from the report of the Adjutant General that troops to the number of 800,963 have already been mustered, paid off, and disbanded. Further reduction is contemplated. Upon the discharge of troops the services of a great number of staff, field, and general officers were no longer required. Of these some have resigned, and others were honorably mustered out. No doubt in many instances it has been painful for gallant and accomplished officers to leave that service to which they have been accustomed, and where they have won honorable distinction. But it is to the credit of the volunteer service that they have recognized the obligation of the Government to reduce the military establishment with the occasion that called it into existence, and that their own wishes or interests have not been importunately urged against the necessities of the service.

The disposition of the Veteran Reserve corps presented some considerations of peculiar nature. It was the inclination of the Department to retain it in service until the meeting of Congress. But inquiry showed that a very small per cent. of enlisted men were content to remain in service. All who desired have therefore been discharged, and supernumerary officers mustered out.

Recruiting to fill the regular regiments has continued. Several thousand applications for commissions in the regular service are on file. These commissions, hitherto, have been conferred only by promotion from the ranks. But to secure the requisite number of competent officers, a board has been appointed to examine applicants and determine their relative merit. From the list selected by the board, and in the order of merit, appointments are to be made. Two years' actual service in the war is indispensable for appointment.

The establishment of a well-organized militia system is one of the most important subjects that will demand the attention of Congress. This subject has already received careful consideration, and it is believed that, after con-

ference with the appropriate committees, a practical system may be agreed upon.

Measures for the establishment of homes, and some provisions for the aid and relief of wounded and disabled soldiers, is also a subject that will commend itself strongly to every patriotic heart. Whether this duty, which the country owes to patriots who have suffered in the national defense, can best be performed by the national Government or administered by the respective State authorities, and whether relief can best be afforded by an increase of pension, or by establishing homes, are points on which opinions differ, and which can only be settled by the wisdom of Congress.

The Board of Visitors to the Military Academy at West Point, in June last, made an elaborate report, which is herewith submitted. They recommend a reorganization, and a number of measures which, in their opinion, will enhance the benefits of that national institution. To these the attention of Congress is respectfully invited, with the recommendation that the number of cadets be increased, as recommended, and that the superintendence of the institution be no longer confined to the Engineer Bureau. It is believed that the Military Academy is at present well conducted, and that their responsible duties are efficiently performed by the officers, professors, and instructors charged with the institution.

The war appropriations at the last session of Congress, as has been stated, amounted to the sum of \$516,240,131 70. The estimates for the next fiscal year, commencing June 30, 1866, are \$33,814,461 83.

These estimates are based upon a standing force of 50,000 men, so organized as to admit of an increase, without additional organizations, to 82,600 troops of all arms.

This estimate has been made after conference and careful consideration, and is believed to be adequate for any national exigency, if the country should be blessed with peace. The reduction of the national military force, in its rapidity and numbers, is without example, and if there be any alarm in the public mind because this reduction is made while grave questions at home and abroad are unsettled, a brief consideration of the subject will show that there is no cause for apprehension.

The force to be retained is small compared with that which was organized to subdue the rebellion. But the only reasons demanding greater force are—1, renewal of the insurrection; 2, a foreign war. For either or both emergencies the national resources remain ample. The chief demands for the war, as shown by our experience, are—1, troops; 2, arms and ammunition; 3, clothing; 4, transportation; and 5, subsistence supplies.

The troops disbanded were chiefly volunteers, who went to the field to uphold the system of free government established by their fathers, and which they mean to bequeath to their children. Their oils and sufferings, their marches, battles, and victories, have not diminished the value of that Government to them; so that any new rebellion would encounter equal or greater force for its reduction; and none can ever spring up with such advantages at the start, or be conducted with superior means, ability, or prospect of success. A foreign war would intensify the national feeling, and thousands, once misled, would rejoice to atone their error by rallying to the national flag. The question of time in which armies could be raised to quell insurrection or repel invasion is, therefore, the only question relating to troops. Our experience on this point is significant. When Lee's army surrendered, thousands of recruits were pouring in, and men were discharged from recruiting stations and rendezvous in every State. On several occasions, when troops were promptly needed to avert impending disaster, vigorous exertion brought them into the field from remote States, with incredible speed. Official reports show that after the disasters on the Peninsula, in 1862, over eighty thousand troops were en-

listed, organized, armed, equipped, and sent into the field in less than a month. Sixty thousand troops have repeatedly gone to the field within four weeks. And ninety thousand infantry were sent to the armies, from the five States of Ohio, Indiana, Illinois, Iowa, and Wisconsin, within twenty days.

When the rebellion commenced, the nation was a stranger to war. Officers had little experience, privates had none. But the present generation of men in this country are now veteran soldiers. For the battle, the march, or the siege, they are already trained. They are as much at home in the tented field as in the farm-house, the manufactory, or the shop. No time is required to train them; and the speed of the railroad and telegraph determines the time required to raise an army in the United States.

Second. As to arms and ammunition. The disbanded armies were allowed to take home their arms at a nominal price. Rust is not likely to gather on the musket or saber borne through the campaigns of 1864 and 1865. The Government retains in its arsenals more than a million of the best quality of arms and equipments. The artillery on hand tasks the Department for its means of storage. The manufacture of ammunition requires materials for which we have in some degree relied upon other countries, because they could be had cheaper. For this reason, and to guard against any mischance, three years' stock of material for ammunition has already been kept in store, and the supply on hand is ample for any war that can be waged against us by any nation.

Third. Clothing, transportation, and subsistence. After selling or distributing among freedmen and refugees all damaged or irregular clothing, the stock of clothing and material in the quartermasters' depots is sufficient for any armies that may be called into service. The water transports and rolling stock, mules, wagons and horses held by the Government were adequate to the movement and supply of larger forces, in less time, than had heretofore been known in war. The Government has disposed or is disposing of this transportation, but it remains in this country, and can answer any exigency.

Army subsistence is derived from the country in which military operations are carried on, or supplied from other markets. During the war this most vital branch of the service never failed. It answers to the demand, and is ever ready to meet the national call.

It is plain, therefore, that the abundance of our means for war enables the Government of the United States to reduce the standing force to a lower degree than any other nation. Unless war be actually raging, the military force can be brought within very narrow limits. However sudden the exigency calling for an exhibition of military power, it can be promptly met. With our education, habits, and experience, the nation, while in the midst of peace, is prepared for war.

The present military organization comprehends nineteen departments, embraced in five military divisions, as follows:

1. The department of the East, Major General Joseph Hooker to command, to embrace the New England States, New York, and New Jersey. Headquarters at New York city.

2. The Middle department, Major General W. S. Hancock to command, to embrace the States of West Virginia, Maryland, (excepting the counties of Montgomery, that part of Anne Arundel lying south of the Annapolis and Elk Ridge railroad, and excluding the city of Annapolis, Prince George's, Calvert, Charles, and St. Mary's,) the county of Loudoun, and the Shenandoah valley as far south as and including Rockingham county, in Virginia, the States of Delaware and Pennsylvania. Headquarters at Baltimore.

3. The department of Washington, Major General C. C. Augur to command, to embrace the District of Columbia, the counties of Mont-

gomery, that part of Anne Arundel lying south of the Annapolis and Elk Ridge railroad, and including the city of Annapolis, Prince George's, Calvert, Charles, and St. Mary's, in Maryland, and Alexandria and Fairfax counties, in Virginia. Headquarters at Washington.

4. The department of the Ohio, Major General E. O. C. Ord to command, to embrace the States of Ohio, Indiana, Illinois, Wisconsin, and Michigan. Headquarters at Detroit.

5. The department of the Tennessee, Major General George Stoneman to command, to embrace the State of Tennessee. Headquarters at Knoxville.

6. The department of Kentucky, Major General John M. Palmer to command, to embrace the State of Kentucky, and Jeffersonville and New Albany, in Indiana. Headquarters at Louisville.

7. The department of the Missouri, Major General John Pope to command, to embrace the States of Minnesota, Iowa, Missouri, and Kansas, and the Territories of Colorado, Utah, Nebraska, Dakota, New Mexico, and Montana. Headquarters at St. Louis.

8. The department of Virginia, Major General Alfred H. Terry to command, to embrace the State of Virginia, excepting Alexandria, Fairfax, and Loudoun counties, and the Shenandoah valley as far south as and including Rockingham county. Headquarters at Richmond.

9. The department of North Carolina, Major General J. M. Schofield to command, to embrace the State of North Carolina. Headquarters at Raleigh.

10. The department of South Carolina, Major General Daniel Sickles to command, to embrace the State of South Carolina. Headquarters at Charleston.

11. The department of Georgia, Major General James B. Steedman to command, to embrace the State of Georgia. Headquarters at Augusta.

12. The department of Florida, Major General John G. Foster to command, to embrace the State of Florida. Headquarters at Tallahassee.

13. The department of Mississippi, Major General Thomas J. Wood to command, to embrace the State of Mississippi. Headquarters at Vicksburg.

14. The department of Alabama, Major General C. R. Wood to command, to embrace the State of Alabama. Headquarters at Mobile.

15. The department of Louisiana, Major General E. B. S. Canby to command, to embrace the State of Louisiana. Headquarters at New Orleans.

16. The department of Texas, Major General H. G. Wright to command, to embrace the State of Texas. Headquarters at Galveston.

17. The department of Arkansas, Major General J. J. Reynolds to command, to embrace the State of Arkansas and the Indian Territory. Headquarters at Little Rock.

18. The department of the Columbia, Brigadier General F. Steele to command, to embrace the State of Oregon, and Territories of Washington and Idaho. Headquarters at Fort Vancouver.

19. The department of California, Major General Irvin McDowell to command, to embrace the States of California and Nevada, and Territories of New Mexico and Arizona. Headquarters at San Francisco.

1. The military division of the Atlantic, Major General George G. Meade to command, to embrace the department of the East, Middle department, department of Virginia, department of North Carolina, and department of South Carolina. Headquarters at Philadelphia.

2. The military division of the Mississippi, Major General W. T. Sherman to command, to embrace the department of the Ohio, department of the Missouri, and department of Arkansas. Headquarters at St. Louis.

3. The military division of the Gulf, Major General P. H. Sheridan to command, to em-

brace the department of Louisiana, department of Texas, and department of Florida. Headquarters at New Orleans.

4. The military division of the Tennessee, Major General G. H. Thomas to command, to embrace the department of the Tennessee, department of Kentucky, department of Georgia, department of Mississippi, and department of Alabama. Headquarters at Nashville.

5. The military division of the Pacific, Major General H. W. Halleck to command, to embrace the department of the Columbia and department of California. Headquarters at San Francisco.

Indian hostilities upon the plains and the overland routes to the Pacific coast have given much annoyance, required the employment of many troops, and occasioned great expense to the Military Department. Several Indian councils have been held during the past season, and large military expeditions sent out against hostile tribes and bands. What has been accomplished by treaty or by fighting will doubtless be exhibited in the official reports of the Indian campaigns, which have not yet reached the Department.

Disbanding the troops reduces at once the amount to be expended in some items of appropriation, but in others requires larger immediate expenditures. Upon their discharge the soldiers became entitled to all the installments of bounty which would have fallen due at later periods, and in many cases exceeding a year's pay. The transportation of large armies from the field, in southern States, to their remote homes in the West, or in eastern and northern States, made extraordinary drafts on the quartermaster's department, beyond what would be required for armies marching or encamped. The vast amount of live stock on hand requires forage until sales can be made. These are effected with the utmost diligence; but still this large item of expenditure continues through a large part of the fiscal year. The financial effects, therefore, of the reduction of the Army and retrenchment of expenditures can only operate to any great extent on the next fiscal year.

To accomplish the great object of promptly reducing the military expenditures, the following General Order was made by the Secretary of War on the 28th of April:

#### FOR REDUCING EXPENSES OF THE MILITARY ESTABLISHMENT.

*General Orders, No. 77.*

Ordered—I. That the chiefs of the respective bureaus of this Department proceed immediately to reduce the expenses of their respective departments to what is absolutely necessary, in view of an immediate reduction of the forces in the field and garrison, and the speedy termination of hostilities, and that they severally make out statements of the reduction they deem practicable.

II. That the Quartermaster General discharge all ocean transports not required to bring home troops in remote departments. All river and inland transportation will be discharged except that required for necessary supplies to troops in the field. Purchases of horses, mules, wagons, and other land transportation will be stopped; also purchases of forage, except what is required for immediate consumption. All purchases for railroad construction and transportation will also be stopped.

III. That the Commissary General of Subsistence stop the purchase of supplies in his department, except for such as may, with what is on hand, be required for forces in the field, to the 1st of June next.

IV. That the Chief of Ordnance stop all purchases of arms, ammunition, and materials therefor, and reduce the manufacturing of arms and ordnance stores in Government arsenals as rapidly as can be done without injury to the service.

V. That the Chief of Engineers stop work on all field fortifications and other works, except those for which specific appropriations have been made by Congress for completion, or that may be required for the proper protection of works in progress.

VI. That all volunteer soldiers (patients) in hospitals, except veteran volunteers, veterans of the First Army corps, (Hancock's,) and enlisted men of the Veteran Reserve corps, who require no further medical treatment, be honorably discharged from service, with immediate payment.

All officers and enlisted men who have been prisoners of war, and now on furlough, or at the parole camps, and all recruits in rendezvous, except those for the regular Army and the First Army corps, (Hancock's,) will likewise be honorably discharged.

Officers whose duty it is, under the regulations of

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the service, to make out rolls and other final papers connected with the discharge and payment of soldiers, are directed to make them out without delay, so that this order may be carried into effect immediately. Commanding generals of armies and departments will look to the prompt execution of this work.

VII. The Adjutant General of the Army will cause immediate returns to be made by all commanders in the field, garrisons, detachments, and posts, of their respective forces, with a view to their immediate reduction.

VIII. The Quartermaster's, Subsistence, Ordnance, Engineer, and Provost Marshal General's departments will reduce the number of clerks and employees to that absolutely required for closing the business of their respective departments, and will, without delay, report to the Secretary of War the number required of each class or grade.

The Surgeon General will make similar reductions of medical officers, nurses, and attendants in his bureau.

IX. The chiefs of the respective bureaus will immediately cause property returns to be made out of the public property in their charge, and a statement of the property in each that may be sold, upon advertisement and public sale, without prejudice to the service.

X. The Commissary of Prisoners will have rolls made out of the name, residence, time and place of capture, and occupation of all prisoners of war who will take the oath of allegiance to the United States, to the end that such as are disposed to become good and loyal citizens of the United States, and who are proper objects of executive clemency, may be released upon the terms that the President shall seem fit and consistent with public safety.

The administrative details of the Department during the great military operations that have been mentioned, and what has been done toward a reduction to a peace establishment, will appear in the reports of the respective chiefs of bureaus.

## ADJUTANT GENERAL'S REPORT.

From the report of the Adjutant General, it will be seen that the recruiting service of the regular Army is progressing favorably; the number of recruits enlisted for all arms, from October 31, 1864, to October 1, 1865, having been 19,555. The regiments comprising it have been distributed to stations, and their ranks are rapidly filling up, thus enabling the Department to relieve regiments of volunteer troops. The present authorized strength of the regular regiments is 952 officers and 41,819 enlisted men. This estimate is made on the basis of forty-two privates to a company, the number now allowed by law at all except frontier posts.

It is recommended in the report that the maximum standard be fixed at one hundred enlisted men to a company.

The Adjutant General recommends that provisions be made by law for enlisting one hundred boys, not under twelve years of age, as musicians, as was done before the laws of 1864 and 1865 prohibited the enlistment of minors under the age of sixteen years; that the laws by which one half of their pay, during the period of absence, is lost by officers absent with leave for more than thirty days in one year, except from wounds or sickness, be repealed; and that an act be passed providing for the enlistment of meritorious disabled soldiers as superintendents of the national cemeteries, numbering about forty, each to receive the pay and allowance of an ordnance sergeant.

Eight volumes of reports of battles, with maps and indexes, prepared under the resolution of Congress of May 19, 1864, have been completed and sent to the Government Printing Office. The publication of the greater part of the remaining reports is only deferred until the receipt of others not yet rendered, and which are required to preserve the chronological order observed in the preparation of the volumes already completed. The Register of volunteer officers called for by resolution of June 30, 1864, and embracing some 200,000 names, will be completed by the time Congress assembles.

The aggregate of volunteers, drafted men, and substitutes ordered to the field between the 1st of November, 1864, and 30th of April, 1865, was 202,117. The number of volunteers, drafted men, and militia mustered out and discharged within the same period was 61,000. In disbanding the forces no longer

same machinery of mustering officers and depots has been used as in recruiting. Regiments have been sent home as fast as they could be transported and paid, the officers being held responsible for the good behavior of the men. Instances have been rare of any disorders. Much credit is due to mustering officers, paymasters, and railroad companies, through whose efforts troops numbering in the aggregate 800,963 men, have been transported, mustered out, and paid.

On the 28th of April, 1865, it was ordered that returns be made of the volunteer forces in the field, with a view to their immediate reduction, and in connection with this order regulations were prepared and promulgated for their muster out and discharge. In executing this work, promptness and a proper protection of the interests of the Government and the troops were held in view; and among other measures necessary to its completion, rendezvous were established in the field, as well as in most of the States. At the field rendezvous all surplus property was taken possession of by the staff officers of the respective supply departments, and the muster-out rolls and other discharge papers prepared under the direction of corps commissaries of musters and their assistants. Corps and department commanders were instructed to see that the work was pushed with energy, using for that end the division and brigade commanders, with their respective staff officers, to superintend it. As soon as a regiment or other organization had its muster-out papers prepared, it was placed *en route* to its State for payment and final discharge. At the State rendezvous was located the chief mustering officer of the State, or one or more of his assistants, with paymasters, quartermasters, commissaries of subsistence, and ordnance officers, whose duties were with the payment and final discharge of the troops; their care while awaiting the same; the reception of the public property turned in by them, and their transportation to their homes after discharge.

By the foregoing arrangements the entire force of commissaries and assistant commissaries of musters for troops in the field have been made available for the work, in connection with the chief and other State mustering officers. The most experienced mustering officers and those most familiar with the regimental records were secured; the records from which the mustering-out data were to be obtained were readily accessible, and the loss of records, (so common through the neglect of regimental officers,) while the regiments were *en route* from the field to their States, was avoided. Regimental officers have been held to a strict accountability in preparing the records, and the interests of the enlisted men thus protected. Order and discipline have been maintained while the troops were *en route* to the States and after arrival therein. Troops have been comfortably cared for up to the moment they were paid off and ready to start for their homes. Dissatisfaction among them has been obviated and causes for complaint removed, and all public property has been easily secured and readily accounted for.

The arrangements for the care of discharged troops being completed, orders to muster out and discharge the forces from service were issued as follows:

April 29.—All recruits, drafted men, substitutes, and volunteers remaining at the several State depots.

May 4.—All patients in hospitals, except veteran volunteers and veterans of the First Army corps, (Hancock's.)

May 8.—All troops of the cavalry arm whose term of service would expire prior to October 1.

May 9.—All officers and enlisted men whose terms would expire prior to May 31, inclusive.

May 17.—All organizations of white troops in the army of the Potomac whose terms of

service would expire prior to September 30, inclusive.

May 18.—All organizations of white troops in Major General Sherman's command, whose terms of service would expire prior to September 30, inclusive.

May 29.—All artillery in the army of the Potomac, Ninth Army corps, army of Georgia, and army of the Tennessee.

May 29.—All organizations of white troops whose terms of service would expire prior to September 30, inclusive, in armies and departments, except departments of the East, New Mexico, Pacific, and Northern.

June 2.—All surplus light artillery; that only absolutely required by the necessities of the service in the respective armies and departments to be retained.

June 5.—All dismounted cavalry, all infantry in the Northern department and department of the East, and all cavalry in the department of the East.

June 16.—All troops in the department of the Pacific whose terms of service would expire prior to October 1.

June 17.—All enlisted men of the Veteran Reserve corps who would have been entitled to their discharge had they remained with their regiments.

June 28.—Eighteen thousand veterans (infantry) of the army of the Potomac; 15,000 of the army of the Tennessee, (then consisting of the remaining regiments of the army of Georgia and army of the Tennessee;) and 7,000 of the Middle military division.

June 30.—All surplus troops, except in the department of the Gulf, army of the Tennessee, Provisional corps army of the Potomac, and First Army corps. Strength of commands, for all arms, to be reduced to the minimum necessary to meet the requirements of the service.

July 1.—All remaining veteran regiments of the army of the Tennessee and Provisional corps army of the Potomac; (that corps was the remnant of the army of the Potomac.)

July 6.—The remainder of the army of the Tennessee.

July 7.—The remainder of the Provisional corps army of the Potomac.

July 21.—All cavalry in the department of Virginia except two regiments, all in the department of North Carolina except one regiment, and all in the Middle department except one regiment.

August 1.—All white troops, infantry, cavalry, and artillery, in the department of Texas, which, in the judgment of Major General Sheridan, could be dispensed with.

August 3.—The same order was extended to the department of Louisiana.

August 14.—Additional infantry and heavy artillery (white) in military departments, as follows: Virginia, 5,000; North Carolina, 8,000; Washington, 8,000; Mississippi, 2,000; Kentucky, 5,000; Middle, 6,000.

August 21.—Three thousand additional white troops in the department of Arkansas.

September 8.—All surplus troops in the department of Washington, so as to reduce that command to 6,000 officers and men of all arms.

September 8.—All organizations of colored troops which were enlisted in northern States.

October 9.—All the remaining forces (white) of the cavalry arm east of the Mississippi.

October 9.—All troops on the Pacific coast, as many as possible immediately; the remainder on the arrival of the last battalion of the fourteenth United States infantry.

October 10.—All troops in New Mexico; one regiment immediately, the remainder on the arrival of certain regular troops.

In addition to the foregoing, and from time to time, as the services of the troops could be dispensed with, sixty-eight regiments, seven companies, and six battalions were ordered mustered out.

The rapidity with which the work has been executed will be apparent from the fact that



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to August 7, 640,806 troops had been mustered out; August 22, 719,338; September 14, 741,107; October 15, 785,205; November 15, 800,963.

The command of Major General Sherman (army of the Tennessee and army of Georgia) and the army of the Potomac were first to complete their musters out entirely. Regiments commenced leaving General Sherman's command, then numbering, present and absent, 116,183 officers and men, from the rendezvous near Washington, on the 29th of May, and on the 1st of August the last one of the regiments mustered out left Louisville, Kentucky, to which point the command (after the musters out therefrom were partly completed,) was transferred, and the armies composing it merged into one, called the army of the Tennessee. The work of mustering out the troops was not continuous, it having been delayed by the transfer of the two armies from this city to Louisville and their subsequent consolidation.

Regiments commenced leaving the army of the Potomac (when numbering, including Ninth corps, 162,851 officers and men, present and absent) from the rendezvous near this city on the 29th of May, and about six weeks thereafter (July 19) the last regiment started for home. During the interval the work, like that from General Sherman's command, was not continuous, it being interrupted and delayed by the movement of the Sixth corps from Danville, Virginia, to Washington, and the consolidation, by orders of June 28, of the remaining portion of the army into a Provisional corps, numbering, present and absent, 22,699 officers and men.

Thus, for the two commands in question, and between the 29th of May and the 1st of August, (two months,) 279,034 officers and men, present and absent, were mustered out and placed *en route* to their homes. Including other armies and departments, the number was increased by August 7 (two months and seven days) to 640,806 officers and men.

From the foregoing it will be seen that the mass of the forces discharged were mustered out by September 14, or within two and a half months from the time the movements of troops homeward commenced. The average per month during that time is 296,442.

By reference to the report of the officer in charge of the bureau for the organization of colored troops, it will be seen that the increase in the number of these troops since his last annual report is 49,509, of which 4,244 were recruited in States in rebellion, and credited to the loyal States, under the provisions of the act of July 4, 1864. The whole number of colored men enlisted into the service of the United States during the rebellion was 178,975. The largest number in service was on the 15th of July, 1865, namely, 123,156. The loss during the war from all causes, except muster out, was 68,178. There have been 33,234 colored troops mustered out. The number remaining in service after existing orders for muster out shall have been executed will be 85,024. The number of applicants for commissions in colored troops amounted to 9,019, of which 3,790 were examined. Of this number 1,472 were rejected, and 2,318 received appointments. The number of soldiers discharged from regiments, &c., of white troops to accept appointments in organizations of colored troops, was 1,767. It is ascertained, from the reports of inspecting officers, that the *morale* of the organization is good.

## PROVOST MARSHAL GENERAL.

On the 1st day of November, 1864, the date to which the last annual report of the Provost Marshal General was brought up, the business of recruiting and the draft under the call of July 18, 1864, was in progress:

The number called for was.....	500,000
Reduced by credits on former calls.....	265,673
To be obtained.....	234,327

The whole number of voluntary enlistments under that call was 188,172, namely:

Volunteers, (white).....	146,392
Volunteers, (colored).....	15,961
Regulars.....	6,339
Seamen.....	17,606
Marine corps.....	1,874
Total.....	188,172

The whole number of drafted men and substitutes obtained under that call was 54,797, namely:

Number held to personal service.....	26,205
Number of substitutes for drafted men.....	28,502
54,707	
Number of substitutes for enrolled men.....	29,584
Total.....	84,291

Whole number obtained under the July call.....272,463

On the 19th of December, 1864, a call was made for 300,000 men.

Under this call the whole number of voluntary enlistments was 157,038:

Volunteers, (white).....	130,620
Volunteers, (colored).....	10,055
Regulars.....	6,958
Seamen.....	9,106
Marine corps.....	319
Total.....	157,038

The whole number of drafted men and substitutes under that call was 24,580:

Number held to personal service.....	12,566
Number of substitutes for drafted men.....	12,014
24,580	
Number of substitutes for enrolled men.....	12,997
Total.....	37,577

Whole number raised under December call was.....194,635

The suspension of active military operations occurred while the business of the draft, under this call, was in progress, and orders were issued on the 13th of April, 1865, to discontinue the business of recruiting and drafting; and on the next day all drafted men who had not been forwarded to general rendezvous were ordered to be discharged, and soon after all who had not been forwarded to the field were discharged by orders through the Adjutant General.

The aggregate quotas charged against the several States, under all calls made by the President of the United States, from the 15th day of April, 1861, to the 14th day of April, 1865, at which time drafting and recruiting ceased, were.....2,759,049

The terms of service varying from three months to three years, as shown in detail by the books of the Provost Marshal General's office.

The aggregate number of men credited on the several calls, and put into service of the United States in the Army, Navy, and Marine corps, during the above period, was.....2,656,553

Leaving a deficiency on all calls, when the war closed, of.....102,496

Which would have been obtained in full if recruiting and drafting had not been discontinued.

This number does not embrace the "emergency men" put into service during the summer of 1863, by the States of New York, New Jersey, and Pennsylvania, nor those furnished by the States of Ohio, Indiana, and Illinois, during the "Morgan raid," amounting in all to over 120,000 men, who served periods of about two or three weeks.

In estimating the number of troops called into service, it has been the rule of the Department to take into account the whole number of men mustered, without regard to the fact that the same persons may have been previously discharged, after having been accepted and credited on previous calls.

Under the different calls, volunteers have been accepted for various terms of service, namely, three, six, and nine months, and one, two, and three years respectively; and a large number of persons who had served under one call have subsequently enlisted under another.

Thus a portion of those who enlisted under the call, in April, 1861, for 75,000 three-months' men, again enlisted under succeeding call in July following for three years; others reentered the service for nine months, or for one or two years, and at the expiration of these periods again reënlisted for three years; and the entire "veteran volunteer" force consisted of those who, having served two years, reënlisted for three years more.

It will be observed, therefore, that a large portion of the number counted in filling calls has been furnished, first by the reënlistment of those in service, and, second, by those who have reentered the service after a discharge from a former enlistment under which they had been credited; that is, the different calls were filled by crediting each accepted enlistment, instead of limiting the credit to the actual number of persons who entered the service anew; and hence to determine the number of men actually entering the service for the first time, under the different calls, the number credited should be reduced in the same ratio that the enlistments of the same persons have been repeated. The extent of this reduction cannot be calculated at this time, or even estimated with sufficient accuracy to be useful.

It follows, therefore, that on account of a necessary repetition of credits, incident to enlistments, the tax upon the military basis of the country has been less than would appear by considering simply the number of men embraced in the different calls for troops, or the number of credits allowed upon these calls.

The amount of commutation money received from November 1, 1864, to November 1, 1865, was—

On account of draft and substitute fund..	\$317,150 00
On account of sick and wounded soldiers (from non-combatants, under section 17 of the act of February 24, 1864).....	340,987 53
Total.....	658,117 53

The total amount of "draft and substitute fund" received under the act approved March 3, 1865, is.....	\$25,902,029 00
The total amount expended.....	16,387,135 80

Balance remaining in Treasury to credit of this fund.....	9,514,893 45
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There are just claims still outstanding which have to be met from this fund.

The regiments of the Veteran Reserve corps have been performing garrison duty in Washington and its defensive works, at the various depots for recruits and drafted men, at the provost marshals' rendezvous, escorting recruits to the field, and more recently performing garrison duty at the several rendezvous for muster out of the volunteer forces.

Since the termination of active operations no transfers have been made to this corps, nor have any officers been appointed.

The amount expended from the appropriation for "collecting, drilling, and organizing volunteers," from November 1, 1864, to November 1, 1865, was \$1,422,281 73.

The balance of this appropriation remaining in the Treasury is \$12,163,386 09; and about half a million dollars is still in the hands of the disbursing officers, which is needed to pay outstanding accounts and expenses incurred in mustering out the volunteer forces of the United States.

As fast as the exigencies of the service permitted, the force employed has been reduced. The surgeons and commissioners of boards of enrollment in all the districts, 370 in number, have been discharged. The different districts have been consolidated, and but thirty-three provost marshals are now in the service, all of whom will be discharged as soon as their services can be dispensed with.

No appropriation of money will be required for the support of this bureau during the next fiscal year.

The full report of the operations of the Provost Marshal General's Bureau will contain

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much statistical and other valuable information, which will be submitted when completed.

## PAYMASTER GENERAL.

The Paymaster General reports that during the fiscal year ending June 30, 1865, \$7,839,225 47 were paid to the regular Army, while \$300,738,635 95 were paid to volunteers, and that the total disbursements since June 30, 1864, to the date of his report, amount in the aggregate to \$524,054,946 37. Payments amounting to \$270,000,000 have been made to about 800,000 mustered-out troops. The highest number of additional paymasters in service during the fiscal year was 447; the number now in service is 210. All the troops retained in service have been paid to June 30, 1865, and many organizations to August 31, 1865, and to all discharged troops in full to date of discharge.

The anticipated payments of bounties to soldiers, and three months' additional pay to officers mustered out that has fallen due by reason of muster out, amount to \$91,750,000.

The whole sum disbursed by the pay department since the commencement of the war, namely, from July 1, 1861, to July 1, 1865, amounts to \$1,029,239,000.

The total losses and defalcations during the same period, if nothing should be recovered, amount to the sum of \$541,000, and it is believed that not less than half of this amount will be recovered. The total expenses of disbursement, including all pay and allowances, commutation of quarters, fuel, and traveling expenses, for four years and four months, amount to \$6,429,600.

Thus it is seen that the costs of disbursement to armies in the field, and amid all the hazards of unexampled war, and including all losses and expenses, are less than three fourths of one per cent.

## COMMISSARY GENERAL OF SUBSISTENCE.

The subsistence stores required during the year for distribution to the armies in the field have, as during the earlier years of the war, been purchased in the principal markets of the northern States. The facilities and cost of transportation to the various points where they were required for issue, the relative prices of the different markets, and a due regard to the general commercial interests of the country, have governed the subsistence department in apportioning those purchases among the several market centers of the country. As New Orleans is gradually resuming a healthy commercial condition, a considerable portion of the supplies required for distribution from that point can be obtained in that market. Although the present general condition of the southern States is not such as to afford a large amount of supplies, still subsistence officers are able, in some parts of those States, to enter into contracts for the partial supply of the troops serving therein.

The principal purchasing officers have exhibited much ability in the performance of their duties, and great fidelity to the interests of the country. The principal commissaries immediately responsible for the subsistence of the several armies in the field have discharged the important and often difficult duties of receiving, protecting, and distributing the supplies forwarded to them with commendable efficiency and success. They have also, by great energy, been able to a considerable extent to subsidize the troops upon the resources of the country in which the armies were operating, or through which they were passing. It is believed that during the entire war no campaign, contemplated movement, or expedition, has failed on account of the inability of the subsistence department to meet its proper requirements, and that the troops, wherever stationed or operating, have, with rare exceptions, been supplied with rations in good and wholesome condition.

The muster out of a large part of the Army, consequent upon the sudden close of active military operations, unavoidably left on hand

in some of the depots an excessive supply of subsistence stores. These have been sent to other points where they were required. Surplus and damaged stores will be disposed of by sale. A sufficient quantity of hard bread and other articles has been kept from earlier sale with the view of meeting, in an economical manner, the wants of those people, white and colored, who, by the events of the war, have been reduced to a suffering condition.

Under orders of June 29, 1865, the whiskey ration was discontinued, and the sale of the supply on hand has already taken place at many points, and will soon be completed.

During the past year, as in previous years of the war, a very considerable income has been derived from the sale of the hides, tallow, and other parts of beef cattle not issuable as beef to the troops.

Prisoners of war, held at thirty-two forts, prison barracks, camps, and hospitals, have been well subsisted, having received a sufficient portion and variety of the ration to insure health, leaving in the hands of the several issuing commissaries, as "savings," that portion of the ration not deemed necessary for persons living in entire idleness. The pecuniary value of these "savings" has constituted a prison fund, available, under the instructions of the Commissary General of Prisoners, for the purchase of articles necessary for the prison barracks and hospitals, and for meeting other necessary expenses of the prisons. There has been transferred to the subsistence department a "savings" credit of the amount of \$1,507,859 01, and there remains yet to be transferred an amount not less than \$337,766 98, making a total amount of \$1,845,625 99.

Under section three of the act of July 4, 1864, 1,470 claims have been submitted, of which 50 have been approved for payment, and 418 disallowed; 650 are awaiting explanation, and 357 remain to be examined.

It is proposed to ascertain and exhibit, in a tabular form, the total quantity of each article of subsistence stores purchased for the use of the Army during each year of the war, from 1861 to 1865, inclusive. Such a statement, it is believed, would prove an interesting addition to the commercial statistics of the country.

The officers of the subsistence department, regular and volunteer, have, with but few exceptions, discharged their duties with fidelity and success.

## SURGEON GENERAL.

The Surgeon General reports that the receipts from all sources and available for the expenses of the medical department during the fiscal year ending June 30, 1865, were \$20,489,680 47. Disbursements during the year, \$19,828,499 23, leaving a balance in the Treasury on June 30, of \$1,161,181 24.

The ample provision for sick and wounded existing at the date of the last annual report was increased during the ensuing months until a maximum of 204 general hospitals, with a capacity of 136,894 beds, was reached.

Upon the termination of active military movements, immediate measures were taken to reduce the expenses of the medical department. Of the 201 general hospitals open on January 1, 1865, 171 have been discontinued. Three of the sea-going hospital transports have been discharged; the fourth is now constantly engaged in transfer of sick and wounded from southern ports to the general hospitals in New York harbor. All of the river hospital-boats have been turned over to the quartermaster's department, and but a single hospital train is retained in the Southwest. The vast amount of medicines and hospital supplies made surplus by the reduction of the Army has been carefully collected at prominent points, and is being disposed of at public auction, most of the articles bringing their full value, and in some instances their cost price.

Two hundred and fourteen surgeons and assistant surgeons of volunteers have been mus-

tered out, and of the 265 hospital chaplains appointed during the war 29 only are still in commission.

The returns of sick and wounded show that of white troops 1,057,423 cases have been treated in general hospitals alone, from 1861 to July 1, 1865, of which the rate of mortality was eight per cent. In nearly all sections of the country the health of the troops has been fully equal to that of preceding years, though military movements of unprecedented magnitude have been pushed to successful termination, without regard to seasons. An epidemic of yellow fever prevailed at Newbern, North Carolina, in the fall of 1864, and the released or exchanged prisoners arriving at Wilmington, North Carolina, from rebel prisons, suffered from an epidemic of typhoid fever. With these exceptions no serious epidemics have appeared, and it is interesting to note that quarantine regulations, strictly enforced by military authority, have proven, during the occupation of southern seaports and cities by our troops, to be an absolute protection against the importation of contagious or infectious diseases. In view of the apprehensions entertained in regard to the Asiatic cholera, now devastating the shores of the Mediterranean, this becomes a significant fact.

In addition to the alphabetical registers of dead, not yet fully completed, the records of the medical department contain thirty thousand special reports of the more important forms of surgical injuries, of diseases and operations. These reports, with statistical data, and a pathological collection numbering 7,630 specimens, furnish a mass of valuable information, which is being rapidly arranged and tabulated, as a medical and surgical history of the war, for the publication of the first volume of which an appropriation will be asked.

In this connection, and as illustrating more in detail the importance of this work, the Army Medical Museum assumes the highest value. By its array of indisputable facts, supported and enriched by full reports, it supplies instruction otherwise unattainable, and preserves for future application the dearly-bought experience of four years of war. Apart from its great usefulness, it is also an honorable record of the skill and services of those medical officers whose contributions constitute its value, and whose incentive to these self-imposed labors has been the desire to elevate their profession. A small appropriation has been asked to continue and extend this collection.

For recommendation of measures tending to the greater efficiency of the medical department, reference is made to the special report from the Surgeon General's office, which will be submitted to the appropriate congressional committees.

## QUARTERMASTER GENERAL.

The report of the Quartermaster General contains a statement of the operations and expenditures of the department under his control for the fiscal year ending 30th June, 1865. The principal movements of troops by the quartermaster's department during that time are described. They have been made promptly and with few accidents, and are striking illustrations of the improvements in the art of war which have been developed during the late contest.

The Twenty-third Army corps, after fighting at Nashville, in the midst of ice and snow, in December, 1864, was, on the conclusion of the campaign in the West, transferred from the valley of the Tennessee to the banks of the Potomac, moving by river and rail down the Tennessee, up the Ohio, across the snow-covered Alleghenies, a distance of 1,400 miles, and in the short space of eleven days was encamped on the banks of the Potomac, then blocked up with the ice of a most severe winter. Vessels were collected to meet this corps, the obstacles interposed by the ice were overcome, and early in February the troops composing it were fighting before Wilmington, on the coast of North Carolina.

The transfer of the Eleventh and Twelfth corps, under General Hooker, in 1863, from the Potomac to the Tennessee, is the only parallel to this movement. That was an almost unexampled operation at the time. General Hooker's command contained 23,000 men, and was accompanied by its artillery and trains, baggage and animals, and accomplished the distance from the Rapidan, in Virginia, to Stevenson, in Alabama, a distance of 1,192 miles, in seven days, crossing the Ohio river twice. The Twenty-third Army corps moved 15,000 strong.

Other important operations are described, among which are the supply of the army of Lieutenant General Grant before Richmond; of the army of General Sherman at Atlanta, preparatory to his march to Savannah; of the same army at the depots on the Atlantic, on his communicating with the coast, first at Savannah and afterward at Goldsboro', at both of which places depots were established, and his army reinforced and equipped with everything necessary to make successful campaigns.

The transfer of the Twenty-fifth Army corps, 25,000 strong, in the month of May, from the James to the coast of Texas, is fully described, and the extent and cost of the fleet used in this movement are set forth in full.

Transportation was promptly supplied from all parts of the South to their homes in the North, for the immense army which has been disbanded, and the organization of the department which has made it possible to meet these demands so promptly is believed to have been at least as perfect as that of any other nation.

The report gives tables of the quantities of the principal military supplies, clothing, forage, fuel, horses, mules, and wagons, which have been purchased, transported, and used during the fiscal year. It contains full statements of the vessels which have been in the service during that time upon the western rivers and upon the ocean and bays. Many of them have now been discharged from service or advertised for sale, orders for the reduction of the transport fleet having been given as soon as hostilities ceased.

The return of the armies from the South, the transportation of the discharged soldiers to their homes, the transfer of troops to Texas, the return of refugees expelled from the South by General Sherman, and of rebel prisoners released at the termination of the war, have, however, taxed the resources of the quartermaster's department heavily during the last spring and summer.

The transport service has been most satisfactorily performed. Upon the ocean a fleet of over 700 vessels has been constantly employed, with the reported loss by storm, by collision, and by fire, of only 3; one steamship was destroyed in each of these modes.

The repair of the railroads from Chattanooga to Atlanta by the military railroad branch of the quartermaster's department, under the charge of Brevet Brigadier General D. C. McCallum, was referred to in the last annual report. Upon the advance of General Sherman from Atlanta, he destroyed the railroad in his rear, blew up all the railroad buildings at Atlanta, sent back his surplus stores and all the railroad machinery which had to that time supplied his army. The stores and the railroad stock were safely withdrawn to Nashville, and after the dispersion of the army of Hood, which had broken the railroad in Georgia and Tennessee in its advance, the railroad construction corps again took the field, and reopened railroad communication with Chattanooga, Atlanta, and Decatur. After the fall of Macon and Augusta, it became necessary, in order to supply the army of Major General Wilson, to open railroad communication between Augusta and Atlanta, and Macon. This was successfully accomplished.

A division of the Construction corps, fully organized, under the command of Colonel Wright, with tools and equipments, was transferred, in December and January, from the

Tennessee to Savannah, by way of Baltimore. As General Sherman did not repair the railroads of Georgia and South Carolina, but marched northward, lightly equipped, living upon the supplies in his wagon trains, and by foraging upon the enemy, this division of the Construction corps was transferred to Beaufort, North Carolina, and after its fall, to Wilmington, where it repaired and restocked the railroads from these ports to Goldsboro' and to Raleigh. General Sherman's army was thus quickly provisioned, reclothed, reshoed, and equipped for a march to the James.

The surrender of the rebel armies and pacification of the southern States have enabled the quartermaster's department to return to their former possessors most of the railroads which have been in military possession during the war. The department, in transferring them to their boards of directors—reorganized upon a loyal footing—delivers up the roads and bridges in whatever condition they may be at the time of the transfer.

The great accumulation of railroad engines and cars upon the western military railroads is being disposed of to the railroads of the Southwest, which have suffered severely from the operations of both armies during the war. Under the orders of the Executive, this stock is being delivered to the companies, who are to pay for it within two years, at a valuation fixed by a board of officers and experts assembled by the Government.

The reconstruction of these roads and their successful operation are of great importance, not only to the districts in which they are located, but to the general commerce and prosperity of the country; and the liberal policy pursued toward them will react favorably upon the revenue and credit of the nation.

The agreement made early in the war with the railroad companies of the loyal States, fixing reduced rates of military transportation, remains in force, and has been extended to the railroads in the southern States since the termination of hostilities.

Full reports are given of the quantities of clothing and camp and garrison equipage furnished to our armies during the past year, and also during the war. The tables accompanying the Quartermaster General's report give information on these points, which shows in a favorable light the manufacturing power of the country.

The vast supplies of forage required for the armies have been promptly furnished and transported to the depots. While moving through the southern country the armies found ample quantities, and it was only when lying still in camp that they had any difficulty in supplying themselves.

During the year over 29,000,000 bushels of grain and 400,000 tons of hay have been provided by the depots of the quartermaster's department; 336,000 cords of wood and 832,000 tons of coal have also been supplied by the depots. Troops in the field have supplied themselves with fuel from the forests in which they have operated. The depots of the quartermaster's department have, during the war, furnished the Army with 23,000,000 bushels of corn, 78,000,000 bushels of oats, 93,000 bushels of barley, 1,500,000 tons of hay, 20,000 tons of straw, 550,000 cords of wood, and 1,600,000 tons of coal, all of which have been purchased, measured, transported, issued, and accounted for by its officers and agents. At the depot of Washington alone there have been issued during the year 4,500,000 bushels of corn, 29,000,000 bushels of oats, 490,000 tons of hay, 210,000 cords of wood, and 392,000 tons of coal.

The supply of horses and mules for the Army has been regular and sufficient. There were purchased during the fiscal year 141,632 cavalry horses; from September 1, 1864, to 30th June, 1865, 20,714 artillery horses; and from 1st July, 1864, to 30th June, 1865, 58,818 mules. Prices of horses varied during the year

from \$144 to \$185; of mules, from \$170 to \$195.

The reduction of the Army has enabled the quartermaster's department to dispense with large numbers of horses and mules, and to the 17th October the sales of animals are estimated to have produced \$7,000,000.

The teams and animals of the armies have, as during previous fiscal years, averaged about one wagon to twenty-four men in the field, and one horse or mule to every two men.

The burial records of the quartermaster's department, which do not include the names of those who fell in battle, and were buried immediately on the field by their comrades, show the interment in cemeteries of 116,148 persons, of whom 98,827 were loyal, 12,586 disloyal, and of whom 95,803 were whites and 20,345 colored persons.

The military cemeteries at Washington, Alexandria, Arlington, and Chattanooga have been carefully tended and decorated.

An officer, with material and men, to mark the graves of our brethren who fell victims to rebel barbarity at Andersonville, was dispatched from Washington as soon as the country was opened to us, and reports that he has inclosed the cemetery and marked the graves of 12,912 soldiers buried therein. Of these the captured records of the prison hospital enabled him to identify 12,461, and their names were recorded upon head-boards, painted white, and planted at the head of their graves. On 451 graves he was compelled to put the sad inscription, "*Unknown United States soldier.*" The list of these names is in course of publication. The names of those who have been interred in the military cemeteries of the District of Columbia and at Arlington have already been published and distributed to State authorities and public institutions, as well as to newspapers which publish official advertisements, so as to be made accessible to their friends.

The military organization of the operatives and agents of the quartermaster's department, referred to in the last annual report, was kept up until the close of the war. It did good service in the fortifications, at the attack on Washington in July, at the attack on Johnsonville in the fall, and bore a part in the battle of Nashville, on the 15th and 16th of December, 1864, which gave the final blow to the rebellion in the West. Upon the cessation of hostilities this organization was disbanded, its arms restored to the arsenal, and most of its members have returned to peaceful pursuits.

The employment of colored men in the quartermaster's department, in connection with the trains of the Army, as laborers at depots, and as pioneers of the troops of the western army, continued to the close of the war. In all these positions they have done good service, and materially contributed to the final victory which confirmed their freedom.

The great cost of transportation of supplies across the western plains and mountains to the depots and posts of the wilderness, and for the supply of troops operating against the Indians, is reported, and the Quartermaster General calls attention to the importance, in this view, of the vigorous prosecution of the work of the railroads to connect the Mississippi valley with the Pacific coast, as a military precaution, and a measure of economy, deserving the fostering care of the Government.

#### RETRENCHMENT IN THE QUARTERMASTER GENERAL'S BUREAU.

The Quartermaster General reports that immediately on the termination of active hostilities, under orders from the Secretary of War, he took measures to reduce expenditures; to discharge operatives and agents; to discharge chartered transports, and to sell those belonging to the United States not needed to bring home troops for muster out; to reduce the number of horses in reserve at the depot; to stop the purchase of horses and mules, and to sell those belonging to the troops disbanded;



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to cease making contracts and purchases of clothing and equipment; to stop the repair and construction of military railroads; to return all such railroads to their former owners, and to sell or dispose of the rolling stock and other material used thereon.

He reports sales of 128,840 horses and mules, for which the sum of \$7,500,000 was received.

Of 5,355 persons employed in the Cavalry bureau, three fourths have been discharged. Those still employed are engaged in receiving, caring for, and selling the animals turned in by the armies.

The purchase and manufacture of clothing, which during the past fiscal year had caused an expenditure of between eight and nine millions per month, has ceased entirely, and, by compromise with merchants, contracts for clothing and equipment, amounting to \$4,000,000, have been canceled.

Twenty-five hundred buildings, vacated, have been ordered for sale.

The sales of buildings, wagons, harness, tools, iron, and other like material, have realized thus far \$1,000,000.

Over 1,700 miles of military railroad, operated for the department by 23,700 workmen and agents, at a monthly cost of \$1,500,000, have been restored to their former owners, and the number of persons employed in completing the accounts, in taking care of and disposing of the railroad property not yet sold or transferred, has been reduced to less than five hundred, the rest having been discharged.

The rolling mill at Chattanooga, its product, and the scrap iron there collected, have been sold; the mill for \$175,000, the rolled iron for \$200,000, and the old iron for about \$100,000.

Eighty-three engines and one thousand and nine cars have been sold for \$1,500,000. Over two hundred locomotives and two thousand cars have been sold at appraised values, on credit, to the southern railroads.

Of five hundred and eighty-eight steamboats and other boats employed on the western rivers, all but eleven have been put out of commission. The sales of many of those owned by the United States have been effected. These sales are not yet concluded; they will produce about \$1,100,000.

Of the transport fleet upon the ocean on the 1st of January last, four hundred and sixty steamers and vessels of all kinds have been discharged or laid up for sale, and many of them have already been sold. The fleet has been reduced over one hundred thousand tons, and vessels are daily arriving at home ports to be discharged or sold. The monthly expenses of the transport fleet have been reduced \$1,814,180.

A million dollars has been received from the sales of vessels belonging to the department, which will be increased by future sales.

In all, 83,887 persons, employed on wages, had been discharged from the service of the quartermaster's department at the end of September, 1865, reducing its expenses per month \$4,086,098.

The sales of property of all kinds reported and recorded on the books of the Quartermaster General's office, from the 20th of April to the 8th of November, 1865, amount to \$13,357,345.

The cost of forage issued to the armies during the month of March last is estimated at \$3,294,000. In the month of September it is estimated at \$1,134,000, a reduction in monthly expenditure of \$2,160,000. The armies on the eastern coast have been supplied with forage purchased before the end of May last. No considerable purchases have been made in the East since that time. Purchases of forage since May have been confined to the supply of the troops in Georgia and upon the Gulf coast in Texas, and upon the western plains.

The consumption of coal in the month of March last was 90,685 tons, costing \$748,151. In September it had been reduced to 25,592 tons, costing \$204,736.

## CHIEF ENGINEER.

The report of the Chief Engineer of the Army gives the operations of the department under his charge, and the duties of the officers of the corps of Engineers. This corps consisted, on June 30, 1865, of eighty-five officers, the Military Academy, and five companies of engineer troops. Every member of the corps has been on duty uninterruptedly during the year. At the date of the report twelve officers, being generals in command of troops, were on detached service, and others were on staff duty, or detailed for service under the orders of the Light-House Board and the Department of the Interior, the remainder being on duty at the Military Academy, on sea-coast defenses, survey of the lakes, with the Engineer battalion, and as assistants to the Chief Engineer. The particular services rendered by these officers are recited in the narratives and other statements accompanying the report, and comprise the professional duties of the engineer, together with those of the various arms of the service to which the officers have been assigned. In general, every army and military expedition has had assigned to it officers of this corps. Their reports give the plans of attack and defense, as well as the outlines of the marches by the armies to which they were attached, and together constitute a comprehensive statement of the last year's operations of the armies.

The sea-coast defenses have progressed in proportion to the available means and the number of officers who could be assigned to this branch of duty. The efforts of the engineer department have been principally directed to constructions for mounting the guns of large caliber now essential in consequence of corresponding armaments in iron floating batteries. The permanent forts on the Gulf, since their repossession by the Government, have been repaired and put in a defensive condition. The available means of the department will suffice to accomplish all that is required at these works, and at those of the southern Atlantic coast, until plans are matured for modifications adapting them to the existing sea-coast armaments.

The Military Academy has continued to furnish a limited number of graduates for the subordinate grades of the Army, a number, however, which has not for years past sufficed to fill the vacancies, in the line and staff, occasioned by the casualties of the service. The Chief Engineer, in view of this fact, recommends an increase of the number of cadets; and, in order to economize in the expenses of the institution, proposes a mode of selecting candidates from nominees for each vacancy, that will, he thinks, with more certainty insure proficiency in studies and the military art by those aspiring to enter the service.

The survey of the northern lakes has progressed during the year as heretofore. The repairs and preservation of the harbors on the lakes and on the Atlantic have been prosecuted to the full extent of the resources of the department in officers and available funds. Success in this branch of engineering is attended with greater difficulties than are met in most others in which science and skill are called upon to promote the interests of the country. Heretofore the plans of improvement adopted have been directed to secure immediate results, and the source of the evil having been left to exercise its influence, has rendered constant repetitions of labor and expenditures necessary. The Chief Engineer is now calling upon the officers charged with works of this character for plans to arrest the cause of constant obstructions to commerce, and it is hoped that measures may be devised by which these improvements may be made to endure for a longer period, if not to become permanent in their nature.

The expenditures of the engineer department during the year amounted to \$5,479,420 23.

## ORDNANCE BUREAU.

The fiscal resources of the Ordnance Bureau

for the past year amounted to \$45,783,656 10, and the expenditures to \$43,112,581 27, leaving a balance of \$2,671,124 88 to the credit of disbursing officers, in the Government depositories, on June 30, 1865.

The estimates for the next year are for objects not confined to a state of war, but for such as are required to keep up a proper state of preparation, and to preserve the large and valuable munitions of war now on hand. On the termination of the war, measures were promptly taken to reduce the procurement of supplies, and to provide storage for the munitions returned to the arsenals from the armies, and captured from the enemy. Commodious fire-proof workshops are being erected at Allegheny, Watervliet, and Frankford arsenals, and it is contemplated to erect similar shops at Washington arsenal, for which there is an appropriation. These shops can be advantageously used for storage when their entire capacity for manufacturing purposes is not needed.

From the evident importance of arming the permanent fortifications as fast as they are built, the construction of cannon and carriages for this purpose, so far as existing appropriations warrant, has not been intermitted. It is contemplated to increase the capacity of manufacturing sea-coast carriages in proportion to the readiness of the forts to receive them, and to discontinue the fabrication of wooden carriages for field and siege guns, in favor of iron carriages, which experiments have shown are preferable for that service. Cast-iron smooth-bore cannon, of large caliber, as now made, are found to be entirely reliable; but not so the heavy rifled cannon, as heretofore made and tried. The failures, on trial, of the wrought-iron guns made by Mr. Horatio Ames, indicate that these guns cannot be relied upon, and that no more of them ought to be made for this department. Two experimental cast-iron eight-inch rifle guns have been made of the model and weight supposed to render them reliable for service. They are now undergoing extreme proof to test them thoroughly.

The manufacture of arms at the national armory was reduced at the conclusion of hostilities as rapidly as could be done with economy, and at present no new muskets are being made there. With a view to change the model of small-arms from muzzle-loaders to breech-loaders, extensive experiments have been made; but they have not yet resulted in the selection of a model of such decided excellence as to render its adoption for the service advisable. It is hoped that such a model may soon be found. A plan for altering the musket of the present pattern into efficient breech-loaders has been devised, and five thousand of them are being so altered for issue to troops for practical test. There are nearly one million of good Springfield muskets on hand, and upward of half a million of foreign and captured muskets. The latter will be sold whenever suitable prices can be obtained for them, and also other ordnance stores of a perishable nature, which are in excess of the wants of the service.

The necessity of providing a suitable depository for gunpowder, with proper magazines for its storage and preservation, which was stated in the last annual report, is again mentioned, and the requisite legislation is urged.

A partial provision for this object, as far as respects a supply for the Mississippi valley, has been made on the military reserve at Jefferson Barracks.

The Government has not yet acquired a title to the property on Rock Island, taken possession of under the act of July 19, 1864. It is important that this be done with as little delay as practicable. The importance of having full possession and control of Rock Island, including the adjacent islands, and the right of way, is stated in the report of the Chief of Ordnance, and additional legislation therefor, if necessary, is recommended.

Several of the southern arsenals have been reoccupied, and it is intended to reoccupy

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them all, except that at Fayetteville, North Carolina, which has been destroyed. The necessary measures have been taken for the preservation of the powder mill at Augusta, and the laboratory and unfinished armory at Macon, Georgia, which have been captured.

The number of permanent United States arsenals and armories is twenty-eight. The command and supervision of these, together with the inspection services required at the arsenals, the foundries, the powder mills, and other private establishments engaged in work for the Government, furnish constant employment for the whole number of ordnance officers (sixty-four) now authorized by law. The proper discharge of these essential duties requires that that number should be continued as part of the military peace establishment of the country.

The armies in the field have been amply and well supplied with arms and other ordnance stores, and the fortifications have had their armaments kept in order and strengthened and increased by additional guns of heavy caliber and great efficiency.

#### THE SIGNAL CORPS.

On the 1st of November, 1864, the Signal corps numbered 168 officers and 1,350 enlisted men, distributed in detachments among the armies in the field and the military departments. All that portion of the Signal corps on duty east of the Mississippi has been mustered out of service, the act of Congress under which the corps was organized having limited its organization to the duration of the rebellion. There now remain 9 officers and 37 enlisted men in the military division of the Mississippi, and 15 officers and 98 enlisted men in the military division of the Gulf. These detachments are operating with the troops on the plains, in Texas, and along the southwestern boundary.

The expenditures from appropriations for the signal service amounted to \$8,537.06 during the year ending September 30, 1865. The balance unexpended amounts to \$248,062.

#### MILITARY TELEGRAPH.

The telegraph has continued to be a most efficient and important instrument in military operations. Its officers have shown the same devotion and fidelity which have signalized their efforts during former years. There have been constructed during the year 3,246 miles of military telegraph; 8,323 miles have been in operation during the year, and at its termination 6,228 miles were still in use. The expenditure upon the military telegraph during the fiscal year was \$1,360,000; since the beginning of the war \$2,655,500. There have been constructed and operated in all during the war about 15,000 miles of military telegraph. Control has been assumed of the telegraphs of the late rebellious districts as fast as they fell into our hands, and arrangements are now made by which the lines are kept in repair by the stockholders, the United States being at the expense only of purely military lines and stations.

#### MILITARY PRISONERS AND PRISONERS OF WAR.

The report of the Commissioner of Exchanges exhibits the exchange transactions during the war, with statistical tables and other information respecting the condition and treatment of prisoners on each side.

Frequent inspections of military prisons have been made from time to time, and all military prisoners have been released, except such as were under sentence or awaiting trial for murder, arson, or other grave offenses. Clemency has been extended liberally as was deemed compatible with public security. All persons imprisoned for offenses against the draft laws have been released, and all deserters from the volunteer service. Since the surrender of Lee's army the danger to the national safety from combinations and conspiracies to aid the rebellion or resist the laws in the States not declared to be insurgent has passed away; it is therefore recommended that the proclamation sus-

pending the writ of *habeas corpus* in those States be revoked.

The Commissary General of Prisoners reports that between the 1st of January and the 20th of October, there were in our custody 98,802 prisoners of war. Of these 1,955 enlisted into the United States service. Sixty-three thousand four hundred and forty-two were released after the cessation of hostilities, and 33,127 were delivered in exchange. Besides these, 174,223 prisoners were surrendered in the different rebel armies, and were released on parole, namely:

Army of Northern Virginia, commanded by General R. E. Lee.....	27,805
Army of Tennessee and others, commanded by General J. E. Johnston.....	31,243
General Jeff. Thompson's army of Missouri.....	7,978
Miscellaneous paroles, department of Virginia.....	9,072
Paroled at Cumberland, Maryland, and other stations.....	9,377
Paroled by General McCook in Alabama and Florida.....	6,423
Army of the department of Alabama, Lieutenant General R. Taylor.....	42,293
Army of the trans-Mississippi department, General E. K. Smith.....	17,686
Paroled in the department of Washington.....	3,390
Paroled in Virginia, Tennessee, Georgia, Alabama, Louisiana, and Texas.....	13,922
Surrendered at Nashville and Chattanooga, Tennessee.....	5,020
Total.....	174,223

#### JUDGE ADVOCATE GENERAL.

In the Bureau of Military Justice, since March 2, 1865, there have been received, reviewed, and filed, 16,591 records of general courts-martial and military commissions, and 6,123 special reports have been made as to the regularity of proceedings, the pardon of military offenders, the remission or commutation of sentences, and upon the numerous miscellaneous subjects and questions referred for the opinion of the bureau, including also letters of instruction upon military law and practice to judge advocates, reviewing officers, &c. By comparing these details with those presented in March last, it will be perceived that the business of this bureau, especially as an advisory branch of the War Department, has not yet been diminished, or sensibly affected by the altered condition of public affairs.

The "Digest of Opinions of the Judge Advocate General," issued by the bureau in January last, having come into extensive use throughout the Army, has proved of considerable advantage to the service in contributing to establish a uniformity of decision and action in the administration of military justice. As the present edition of the work has been very nearly exhausted, it is proposed to prepare during the coming winter an enlarged edition, containing, in connection with those already published, a selection of the official opinions communicated by the Judge Advocate General during the present year.

The chief of the bureau expresses his satisfaction with the ability and efficiency with which the officers and clerks connected with it have performed their several duties, and, in view of the fact that the business of this branch of the public service will probably not be materially diminished for the next twelve months, is of the opinion that its present organization may well be continued by Congress.

#### FREEDMEN'S BUREAU.

By an act of the last session of Congress a new bureau in the War Department was created, called the Bureau of Freedmen, Refugees, and Abandoned Lands. Its object was to supply the immediate necessities of those whose condition was changed by hostilities, and were either escaping or escaped from slavery to obtain freedom, or were driven from their homes by the pressure of war, or the despotism of the rebellion. Its aid was designed for the needy of both races, white and black, and to administer as well aid from the Government and from charitable individuals and associations. No appropriation was made to carry this act into effect, but the condition of

the people in the insurgent States required prompt relief. The act of Congress authorized the assignment of military officers to duty in the bureau, and under this provision it was organized. Major General Howard was assigned to duty as Commissioner; other officers selected by him were assigned for agents and assistants, and an organized system of relief has gone into operation. The report of the Commissioner, which has not yet been furnished to the Department, will show the operation of the Freedmen's Bureau during a period of several months, and afford some means to judge what regulations are required. It is plain that some such organization is wanted in the insurgent States to relieve promptly great and pressing need arising from the war, and social disorganization resulting from the war. Proper provisions for the colored population whose condition has been changed by direct act of the Federal Government, to serve its own purposes in the conflict, is a solemn duty. More or less resistance to the performance of this duty is to be expected while any rebellious or hostile spirit remains, but the obligation to perform it cannot be evaded or thrust aside with national honor or safety. A numerous class of white persons who, without fault in themselves, are suffering want occasioned by the ravages of war, have also a just claim for relief. But while discharging these obligations to needy destitute white persons and the freed colored people, the utmost care must be observed to guard against establishing a national system of pauperism that might foster a horde of idle officials or dishonest agents, and engender vice, sloth, and improvidence among a large class of persons. To avoid this evil and insure strict supervision, it is urgently recommended, first, that all appropriations of money for the Freedmen's Bureau be made in specific terms, distinct from any other purpose; second, that the number of agents and employes, and their compensation, be fixed by law; third, that the duties and powers of the bureau, in respect to persons and property, be defined by law.

By the heads of the respective bureaus of the War Department and their staffs the Government has been served with a zeal and fidelity not surpassed by their brethren in the field. To them the honors and distinction of an admiring public have not been opened, but in their respective vocations they have toiled with a devotion, ability, and success for which they are entitled to national gratitude.

Beside the signal success vouchsafed to our arms, other causes contributed to overthrow the rebellion. Among the chief of these may be reckoned:

1. The steadfast adherence of the President to the measure of emancipating the slaves in the rebel States. Slavery was avowed by the leaders of the rebellion to be its corner-stone. By that system millions of people, constituting nearly the whole working population of the South, were employed in producing supplies on the plantation, in the workshops and manufactories, and wherever labor was required, thus enabling the white population to fill the rebel armies. The hopes of freedom, kindled by the emancipation proclamation, paralyzed the industrial power of the rebellion. Slaves seized their chances to escape, discontent and distrust were engendered, the hopes of the slave and the fears of the master, stimulated by the success of the Federal arms, shook each day more and more the fabric built on human slavery.

2. The resolute purpose of Congress to maintain the Federal Union at all hazards, manifested by its legislation, was an efficient cause of our success. Ample supplies appropriated for the Army and Navy, revenue laws for supplying the Treasury, careful revision and amendment of the laws for recruiting the Army and enforcing the draft, gave practical direction to the patriotic purpose of the people to maintain a national existence that should afford protection and respect by means of the Federal Union.

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3. Patriotic measures adopted by the Governors of loyal States, and the efficient aid they rendered the War Department in filling up the ranks of the Army and furnishing succor and relief to the sick and wounded, largely contributed to the national preservation. Of these measures one of the most important was the aid tendered by the Governors of Ohio, Indiana, Illinois, Iowa, Wisconsin, and Michigan in the opening of the campaign of 1864.

On the 21st day of April, 1864, Governors Brough, Morton, Yates, Stone, and Lewis made an offer to the President to the following effect:

That these States should furnish for the approaching campaign infantry troops—30,000 from Ohio, 20,000 from Indiana, the same number from Illinois, 10,000 from Iowa, and 5,000 from Wisconsin; the term of service to be one hundred days; the whole number to be furnished within twenty days; the troops to be armed, equipped, and transported as other troops, but no bounty to be paid, nor any credit on any draft, and the pending draft to go on until the State quota was filled.

After full consideration and conference with the Lieutenant General, this offer was accepted by President Lincoln. The State of Ohio organized within four weeks, and placed in the field, 35,646 officers and men, being 5,646 troops more than the stipulated quota. Other States, less able to meet the contingency, contributed with alacrity all that could be raised.

Although experience had shown that troops raised for a short term were more expensive and of less value than those raised for a longer period, these troops did important service in the campaign. They supplied garrisons and held posts for which experienced troops would have been required, and these were relieved so as to join the armies in the field. In several instances the three-months troops, at their own entreaty, were sent to the front, and displayed their gallantry in the hardest battles of the campaign.

4. The result of the presidential election of 1864 exerted an important influence upon the war. Intercepted letters and dispatches between the rebel leaders showed that their hopes of success rested greatly upon the presidential election. If the Union party prevailed, the prosecution of the war until the national authority should be restored appeared inevitable, and the rebel cause desperate. Even on the battle-field the influence of the election was felt. The overwhelming voice of the people at the presidential election encouraged the heroic daring of our own troops, and dismayed those who were fighting in a hopeless cause.

5. The faith of the people in the national success, as manifested by their support of the Government credit, also contributed much to the auspicious result. While thousands upon thousands of brave men filled the ranks of the Army, millions of money were required for the Treasury. These were furnished by the people, who advanced their money on Government securities, and freely staked their fortunes for the national defense.

Looking to the causes that have accomplished the national deliverance, there seems no room henceforth to doubt the stability of the Federal Union. These causes are permanent, and must always have an active existence. The majesty of national power has been exhibited in the courage and faith of our citizens, and the ignominy of rebellion is witnessed by the hopeless end of the great rebellion.

EDWIN M. STANTON.

Secretary of War.

## Report of the Secretary of the Navy.

NAVY DEPARTMENT,

December 4, 1865.

SIR: In my last annual report I presented to Congress and the country such description as the occasion seemed to require of the measures of administration by which our naval force had,

during the preceding four years, been created and organized, with an account of the method and manner in which it had been applied in arduous and unexampled forms of action for the suppression of the rebellion. The review then given of the principal operations and the brilliant achievements of our Navy closed with the memorable recovery of the harbor and the almost impregnable defenses of Mobile.

In this report, besides the exposition of the ordinary business of this Department, including the suggestions and recommendations deemed necessary for the proper regulation of the naval service in the present condition of the country, it will be my duty to complete the official record of the triumphs of the Navy in the final operations and closing scenes of the war, to indicate the new arrangement and organization of the several squadrons consequent upon the termination of the blockade and the cessation of active hostilities, to exhibit the vigilance and energy of our blockading and cruising service, as testified by the number and value of the captures made in the unrelaxing and successful efforts to cut off illicit commercial intercourse with rebel ports; and especially to exhibit the policy and measures of the Department in effecting at the earliest moment, in view of returning peace, a reduction of naval expenditures, while providing for the prompt reestablishment at any time of our great naval power in all its efficiency to meet the exigencies of any possible crisis in which its services may be invoked to maintain the rights or vindicate the honor of the country.

The demands upon the naval service, which for four years had been exacting, were relaxed upon the fall of Fort Fisher. That event, and the possession of Cape Fear river, closed all access to Wilmington, the port of rebel supplies, put an end to illicit traffic with the States in insurrection, and extinguished the last remnants of that broken commerce which foreign adventurers had, notwithstanding constant and severe losses, persisted in carrying on by breach of blockade. The capture of Wilmington was preliminary to the fall of Richmond and the surrender of the rebel armies, which were thenceforward deprived of supplies from abroad. It released at once a large portion of our naval force, and led to immediate measures for the reduction of our squadrons and the withdrawal of all vessels which could be dispensed with from the blockade. Such of them as were purchased and no longer required by the Government, have from time to time been sold to meet the demands of reviving commerce, which has rapidly expanded as the country became quieted and industry was resumed at the South. Trade and peaceful employment have led to the reopening of the avenues of commercial and social intercourse, and the steamers bought from the merchant service for war purposes have been to a great extent returned to their former pursuits.

## NORTH ATLANTIC SQUADRON—CAPTURE OF WILMINGTON AND ITS DEFENSES.

As early as 1862 the necessity of closing the port of Wilmington became a primary object with this Department, and was never relinquished; but without military aid and cooperation it could not be effected or even wisely attempted. In September, 1864, the Department had such assurances of military assistance as to feel warranted in entering upon the necessary preparations for assembling an adequate naval force to undertake and perform its part in accomplishing the work. In order that there should be no failure, the Department concentrated a sufficient force to insure success. To place that force under the command of the first officer in the Navy was a duty. Vice Admiral Farragut was therefore selected to conduct the enterprise, but impaired health, the result of exposure and unremitting exertions during two years of active labor and unceasing efforts in the Gulf, rendered it imprudent for that distinguished and energetic officer to enter upon this service. He had, moreover, important

work yet to be finished on the Gulf coast, where he was then operating, and was therefore, on his own request, excused from his new command. Rear Admiral Porter, who had shown great ability as the commander of the Mississippi squadron, and had identified himself with many of its most important achievements, was transferred to the command of the North Atlantic squadron, which embraced within its limits Cape Fear river and the port of Wilmington.

A fleet of naval vessels, surpassing in numbers and equipments any which had assembled during the war, was collected with dispatch at Hampton Roads. Various causes intervened to delay the movement, and it was not until the early part of December that the expedition departed for Beaufort, North Carolina, the place of rendezvous. Some further necessary preparations were there made, which, together with unfavorable weather and other incidents, delayed the attack until the 24th of December. On that day Rear Admiral Porter, with a bombarding force of thirty-seven vessels, five of which were iron-clads, and a reserved force of nineteen vessels, attacked the forts at the mouth of Cape Fear river, and silenced them in one hour and a quarter; but there being no troops to make an assault or attempt to possess them, nothing beyond the injury inflicted on the works and the garrison was accomplished by the bombardment. A renewed attack was made the succeeding day, but with scarcely better results. The fleet shelled the forts during the day and silenced them, but no assault was made, or attempted, by the troops which had been disembarked for that purpose.

Major General Butler, who commanded the cooperating force, after a reconnoissance, came to the conclusion that the place could not be carried by an assault. He therefore ordered a reembarkation, and informing Rear Admiral Porter of his intention, returned with his command to Hampton Roads. Immediate information of the failure of the expedition was forwarded to the Department by Rear Admiral Porter, who remained in the vicinity with his entire fleet, awaiting the needful military aid. Aware of the necessity of reducing these works, and of the great importance which the Department attached to closing the port of Wilmington, and confident that with adequate military cooperation the fort could be carried, he asked for such cooperation, and earnestly requested that the enterprise should not be abandoned. In this the Department and the President fully concurred. On the suggestion of the President, Lieutenant General Grant was advised of the confidence felt by Rear Admiral Porter that he could obtain complete success, provided he should be sufficiently sustained. Such military aid was therefore invited as would insure the fall of Fort Fisher.

A second military force was promptly detailed, composed of about 8,500 men, under the command of Major General A. H. Terry, and sent forward. This officer arrived off Fort Fisher on the 13th of January. Offensive operations were at once resumed by the naval force, and the troops were landed and intrenched themselves, while a portion of the fleet bombarded the works. These operations were continued throughout the 14th with an increased number of vessels. The 15th was the day decided upon for an assault. During the forenoon of that day forty-four vessels poured an incessant fire into the rebel forts. There was, besides, a force of fourteen vessels in reserve. At three p. m. the signal for the assault was made. Desperate fighting ensued, traverse after traverse was taken, and by ten p. m. the works were all carried, and the flag of the Union floated over them. Fourteen hundred sailors and marines were landed and participated in the direct assault.

Seventy-five guns, many of them superb rifle pieces, and 1,900 prisoners, were the immediate fruits and trophies of the victory; but the chief value and ultimate benefit of this grand achievement consisted in closing the main gate through which the insurgents had received supplies from



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abroad and sent their own products to foreign markets in exchange.

Light-draft steamers were immediately pushed over the bar and into the river, the channel of which was speedily buoyed, and the removal of torpedoes forthwith commenced. The rebels, witnessing the fall of Fort Fisher, at once evacuated and blew up Fort Caswell, destroyed Bald Head Fort and Fort Shaw, and abandoned Fort Campbell. Within twenty-four hours after the fall of Fort Fisher, the main defense of Cape Fear river, the entire chain of formidable works in the vicinity shared its fate, placing in our possession 168 guns of heavy caliber.

The heavier naval vessels being no longer needed in that quarter, were dispatched in different directions—some to James river and northern ports, others to the Gulf or the South Atlantic squadron. An ample force was retained, however, to support the small but brave army which had carried the traverses of Fort Fisher, and enable it, when reinforcements should arrive, to continue the movement on Wilmington.

Great caution was necessary in removing the torpedoes, always formidable in harbors and internal waters, and which have been more destructive to our naval vessels than all other means combined.

About the middle of February offensive operations were resumed in the direction of Wilmington, the vessels and the troops moving up the river in concert. Fort Anderson, an important work, was evacuated during the night of the 18th of February, General Schofield advancing upon this fort with 8,000 men, while the gunboats attacked it by water.

On the 21st the rebels were driven from Fort Strong, which left the way to Wilmington unobstructed, and on the 22d of February that city was evacuated. Two hundred and twelve guns were taken in the works from the entrance of Old river, including those near the city, and thus this great and brilliant achievement was completed.

#### SOUTH ATLANTIC SQUADRON—FALL OF CHARLESTON.

In November, 1864, the Department officially advised Rear Admiral Dahlgren that Major General Sherman had commenced his march from Atlanta to the sea-board, and that he might be expected to reach the Atlantic coast, in the vicinity of Savannah, about the middle of December. Rear Admiral Dahlgren was instructed to be prepared to cooperate with General Sherman, and furnish him any needed naval assistance which it might be in his power to render. Before these instructions reached him, Rear Admiral Dahlgren, who was thus not unprepared to hear of the movement of the army from Atlanta to the coast, had conferred with Major General Foster, then commanding the department of the South, and concerted with him plans to assist, so far as their joint forces would allow, in establishing communication with the advancing general. A combined expedition was at once organized for cutting the railroad communication between Charleston and Savannah, and otherwise engaging the attention of the insurgents in that quarter. Force was displayed at the most important points along the Carolina coast, and every available means adopted to aid in the success of the grand and novel military movement which was in progress through the heart of a hostile country.

General Sherman reached the vicinity of Savannah on the 12th of December, and communication between him and Rear Admiral Dahlgren was immediately established. The latter made the best possible disposition of the vessels then under his command, to assist the army in obtaining possession of Savannah. By the 18th of December the investment of that city, by the Navy on one side and the Army on the other, was accomplished. The garrison, however, succeeded in escaping across the river and effecting a retreat toward Charleston, leav-

ing General Sherman to occupy Savannah on the 21st of that month.

Early in January, Rear Admiral Dahlgren was engaged in assisting in the transfer of the right wing of the army to Beaufort, South Carolina, and in the course of General Sherman's march northward that officer and his army were aided by all needful naval demonstrations.

On the 12th and 13th of February a joint movement was made along the approaches from Bull's bay to Mount Pleasant, with a view of embarrassing the military commandant at Charleston, and blinding him as to the actual military design. No real or serious attack on Charleston was meditated. Only a diversion was contemplated at that moment. Other less extensive movements than that at Bull's bay were made about that period, full details of which will be found in the dispatches forming a part of the appendix to this report. They were intended simply to attract the attention of the rebels and aid General Sherman in accomplishing his great purpose of moving toward Richmond. Charleston was in the mean time vigilantly watched to detect the first indications of its abandonment by the rebels, which it was known must take place at an early day. The troops stationed thereabout were advanced, and the iron-clads were moved nearer to the rebel works. During the night of the 17th of February the batteries were ceaselessly employed, and the vessels in the harbor gave them watchful attention. The morning of the 18th revealed the fact that Charleston was evacuated. Thus, without a final struggle, the original seat of the rebellion, the most invulnerable and best-protected city on the coast, whose defenses had cost immense treasure and labor, was abandoned, and the emblem of unity and freedom was again reinstated upon the walls of Sumter.

The evacuation of Charleston was followed by that of Georgetown on the 23d of February, and on the 26th of that month the place itself was occupied by Rear Admiral Dahlgren.

#### WEST GULF SQUADRON—SURRENDER OF MOBILE AND THE REBEL FLEET.

When Vice Admiral Farragut left the West Gulf squadron in the later autumn of 1864, the command devolved on Commodore James S. Palmer, senior officer on the station. This officer continued operations until the arrival of Admiral Farragut's successor, Acting Rear Admiral Thatcher, who bears testimony to his subsequent efficiency and untiring services throughout the attack on the defenses of Mobile, and acknowledges also his indebtedness to Commodore Palmer for the admirable manner in which the vessels had been prepared for arduous service under that officer's supervision. The resumption of offensive operations against the city of Mobile, under the direction of Major General Canby, was not determined upon until early in January, when Acting Rear Admiral Thatcher, then recently appointed to the command of the West Gulf squadron, was ordered to proceed immediately to New Orleans, in order to cooperate with the military commander.

The force placed under Acting Rear Admiral Thatcher was increased by light-draft iron-clads detached from the Mississippi squadron for service in Mobile bay. A joint movement by land and water was arranged and carried into execution. Indications that the rebels were about to evacuate the city led to a naval reconnaissance in force to ascertain the facts, on the 11th of March, with five monitors, in as close proximity as the shallow water and obstructions would permit. This movement drew from the insurgents such a fire as to place beyond doubt that those defenses were still intact.

The troops were landed on the 21st of March on the left bank of Fisher's river, about seventeen miles from its junction with the bay, and advanced as rapidly as the condition of the road would permit, while the naval vessels shelled the woods and kept open communication by signals with General Canby for cooperation.

The rebels doubtless believed that the naval vessels were not able to cross the bar of Blakely river; and even if successful in crossing, that it was in their power to destroy the boats by their marsh batteries and the innumerable torpedoes with which the river was filled. They did succeed in sinking two of the monitors and four wooden gunboats at the entrance of Blakely river, by these submarine implements of destruction, although the river had been thoroughly dragged, and many torpedoes were removed before the vessels went over the bar. Beyond the sinking of these vessels and the loss of a few lives, no serious consequences attended the approach to and capture of Mobile.

The principal works of defense between the city and the fortresses which guarded the entrance to the bay, captured in August, 1864, by the fleet while commanded by Vice Admiral Farragut, were Fort Alexis and Spanish Fort. By the 3d of April these had been completely invested by the troops, and during the night of the 8th and morning of the 9th they were, after a short but severe bombardment, captured, and with them from one thousand six hundred to two thousand men, with sixteen heavy guns. With the key to Mobile thus secured, the other works of importance, batteries Tracy and Huger, were within easy reach, and on the evening of the 11th they were evacuated.

On the 12th the troops were conveyed to the west side of the city for the purpose of an attack, and the fleet gained a suitable position for performing its share of this work, but it was soon ascertained that the city was at the mercy of our arms, all the remaining defenses having been abandoned. A formal surrender was therefore demanded by General Granger and Acting Rear Admiral Thatcher, which was complied with and possession was taken of the city. The works which environed Mobile were of immense strength and extent. Nearly 400 guns were captured, some of them new and of the heaviest caliber.

The rebel army, on evacuating the city, retreated up the Tombigbee. Preparations to follow and capture them were far advanced, when, on the 4th of May, propositions were received from Commander Farrand, commanding the rebel naval forces in the waters of Alabama, to surrender all the vessels, officers, men, and property yet afloat and under blockade on the Tombigbee. The basis of the terms of surrender being the same as those of General Lee, were accepted. On the 10th of May the formal surrender took place, and the insurgent navy ceased to be an organization. Four vessels were surrendered, and 112 officers, 285 men, and 24 marines, were paroled and permitted to return to their homes.

Sabine Pass and Galveston, the only remaining rebel fortified points on the Gulf coast, soon capitulated. The forts at the first-named place were evacuated on the 23th of May, and the commandant of the defenses of Galveston gave assurances that there would be no opposition to the occupancy of that place by the Navy. On the 2d of June Galveston was surrendered, and the supremacy of the Government was once more established on the entire coast, from Maine to and including Texas.

#### REDUCTION OF THE NAVAL FORCE—THE SQUADRONS.

Immediately after the fall of Fort Fisher and the capture of Wilmington, measures were taken for the gradual reduction of the naval forces employed on the duties of blockade. The recovery of Charleston, Mobile, and Galveston justified a still further diminution, and as these events successively occurred, measures were promptly taken to reduce the squadrons and economize expenses. On the 24th of February letters were addressed to Admirals Porter, Dahlgren, Stribling, and Thatcher, informing them that the Department was of opinion that the fall of Fort Fisher and the possession of Charleston would enable the Department to reduce naval expenses. They

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were therefore directed to send North such purchased vessels as needed extensive repairs, and also any naval stores that were not required. A careful scrutiny of requisitions was enjoined before approval, and commanders of squadrons were informed that they would be expected to use every possible exertion and care to diminish the expenses of their respective commands.

About the 1st of May orders were issued to further reduce the squadrons in our domestic waters one half. Near the close of that month a further diminution was directed, so that the entire force retained in commission should not exceed one hundred vessels. In the early part of July another and still further reduction was made, leaving but thirty steamers, which, with receiving store-ships, composed the entire blockading squadrons on the Atlantic and the Gulf.

On the 31st of July the Potomac flotilla, which, under Commander F. A. Parker, had rendered active service, was disbanded.

The Mississippi squadron, comprising at one time about one hundred steamers, was gradually reduced, and on the 14th of August wholly discontinued. Acting Rear Admiral Lee was relieved, and Commodore Livingston, who had acquitted himself with energy at the Norfolk station, and subsequently at Cairo, was intrusted with the duty of disposing of the vessels and closing up the affairs of that squadron.

The reduction of the blockading force involved also a curtailment of the number of squadrons. In June, therefore, the North and South Atlantic squadrons were consolidated into one, known thereafter as the Atlantic squadron, commanded by acting Rear Admiral Radford, who, on the 28th of April, had succeeded Rear Admiral Porter in command of the North Atlantic squadron. Rear Admiral Dahlgren was detached from the command of the South Atlantic squadron, and hauled down his flag at Washington on the 12th day of July.

Acting Rear Admiral Radford, having been appointed commandant of the Washington navy-yard, was succeeded by Commodore Joseph Lanman in the command of the Atlantic squadron on the 10th of October.

The consolidation of the East Gulf squadron, commanded by Acting Rear Admiral Stribling, and the West Gulf squadron, under Acting Rear Admiral Thatcher, was also consummated, and thereafter this force was known as the Gulf squadron. Acting Rear Admiral Thatcher remained in command, and Acting Rear Admiral Stribling returned to Boston in July.

Besides the vessels composing the several squadrons, others are in commission in various capacities. The James Adger is stationed at Aspinwall; the Michigan is assigned to the northern lakes; the Sabine is employed as an apprentice ship; the De Soto is in the West Indies; the Massachusetts and South Carolina are still continued as supply ships for the squadrons on the coast; the Constitution, Macedonian, and several others are connected with the Naval Academy; and twenty vessels are used at the navy-yards as receiving ships and tenders; so that there are actually in commission at this time, at home and abroad, one hundred and seventeen vessels of all descriptions, which number, should the exigencies of the service permit, will be still further reduced.

In January, while Rear Admiral Porter was engaged before Wilmington, affairs on James river assumed such an attitude, involving the welfare and security of the Army by a demonstration on the part of the rebels with their armored rams from Richmond, that it was deemed important to send thither immediately an officer of ability and experience. Vice Admiral Farragut, then in Washington, was selected for this special duty, and on the 24th of that month proceeded to James river for that purpose. The threatening demonstration below Richmond was not long maintained, and the occasion having passed, Vice Admiral Farragut was relieved from this special service on the 2d of February.

A special squadron of vessels, consisting of

the Vanderbilt, Tuscarora, Powhatan, and the turreted iron-clad Monadnock, left Hampton Roads on the 2d of November, under the command of Commodore John Rodgers, destined to reinforce the squadron in the Pacific.

In withdrawing a large naval force from active service, in disposing of the vessels, in discharging or detaching to other duties their officers and crews, in making provision for a large surplus of ordnance ammunition and stores, great labor has of course devolved upon the Department and its bureaus. Some idea may be formed of the extent of that labor, from the fact that there were in the several blockading squadrons in January last, exclusive of other duty, 471 vessels and 2,455 guns. There are now but 29 vessels remaining on the coast, carrying 210 guns, inclusive of howitzers. Disposition has been made of all the others. Some of the vessels are laid up in ordinary, some, with their crews, are on foreign service, but many have been sold, and, with most of the men that were actively engaged in hostile operations, are now employed in peaceful occupation.

As soon as our domestic troubles were overcome, the duty of attending to our interests abroad prompted the reestablishing of the foreign squadrons which had been suspended. The European, the Brazil, and the East India squadrons have been organized anew upon an economical a scale as is consistent with their efficiency, the interests of commerce, and a proper regard for our position as a nation.

These squadrons, with another which is soon to be put in operation in the West Indies, and the Pacific squadron, which has never been discontinued, are considered sufficient for the encouragement and protection of our countrymen engaged in legitimate commercial pursuits, and for upholding our flag abroad.

Some modifications of the limit of the respective squadrons, and the substitution of steamers for sailing vessels, will infuse more vigor into the service, and it is designed that there shall hereafter be greater activity and vigilance in their operations. The number of vessels and crews on foreign service will not be greatly increased over those of former years, while the number of guns will be less; yet the superiority of steam over sails for naval war vessels, and the improvement and new patterns of ordnance, will hereafter give our force abroad greatly augmented efficiency and power.

The European squadron is commanded by Rear Admiral L. M. Goldsborough, and consists of the following vessels: the Colorado, Kearsarge, Ticonderoga, Frolic, Ino, and Guard, to which the Canadagua will shortly be added. The field of operation of this squadron, besides the coast of Europe and the Mediterranean, will comprise Madeira, the Canaries, and the African coast as far as St. Paul de Loando.

The Brazil squadron is commanded by Acting Rear Admiral S. W. Godon, who has ten vessels on that station, namely: the Susquehanna, Brooklyn, Juniata, Shamokin, Nipsic, Shawmut, Kansas, Wasp, Supply, and Onward. Besides the eastern coast of South America, this squadron will cruise on the coast of Africa from Cape Town to St. Paul de Loando.

The East India squadron consists at present of four vessels: the Hartford, Wyoming, Wachusett, and Relief. The Shenandoah will be shortly added to this number. This squadron is commanded by Acting Rear Admiral H. H. Bell, who sailed from New York in his flag-ship, the Hartford, in August, and has probably already reached his station.

The Pacific squadron remains in command of Acting Rear Admiral George F. Pearson, and comprises eleven vessels, namely: the Lancaster, Powhatan, Saranac, Suwanee, Mohongo, Wateree, Saginaw, St. Mary's, Cyane, Nyack, and Tuscarora, and two store-ships, the Fredonia and Farallones. Some vessels sent to the Pacific (including two of the iron-clads) will be laid up in the harbor of San Francisco, ready for any emergency that may arise.

The extensive limits of this squadron, embracing the whole western coast of North and South America, with the islands of the Pacific; the rapidly-increasing population of the States; and the growing and expanding commerce, and vast interests involved, render it advisable that the naval force of the Union should be largely reinforced in that quarter. Considerable addition to the number of vessels will therefore be made, and it is proposed at an early day to make a division of the squadron.

But few vessels, and they on merely temporary duty, have as yet been employed in the West Indies. The Connecticut, the Kansas, the De Soto, and nearly all the vessels which have been sent to the coast of Brazil, have visited some of the more important points, particularly in the island of St. Domingo, and given attention to American interests there. It is proposed to revive the West India squadron to cruise in those waters, where we have so large a trade, and where, owing to the proximity of the islands to our shores, it is essential that we should cultivate friendly relations. Commodore James S. Palmer has been designated to command the squadron, having for his flag-ship the Rhode Island. In addition to the De Soto, now on that station, it is proposed to send the Swatara, Monongahela, Florida, Augusta, Shamrock, Ashuelot, and Monocacy, making a squadron of nine vessels.

## THE NAVAL FORCE.

When hostilities against the Government were commenced in the spring of 1861, and the ports on our southern coast were ordered to be closed under the form of international blockade, instead of the municipal form of an embargo, the labor, embarrassments, and responsibilities suddenly and unexpectedly imposed upon this Department were immensely increased.

To create and organize a navy such as the order for the blockade required, would have been at any time an immense undertaking, but the task was vastly more onerous when the country, after a long interval of peace, was beginning to be rent by civil convulsions.

In this condition of affairs, with the Navy reduced during fifty years of peace to a low standard of efficiency, without experience or precedent to guide the application of modern inventions to war purposes, with restricted and wholly insufficient navy-yards for the construction and repair of vessels, and without any adequate establishment for the stupendous work before it, the Department was compelled to feel its way and press on its work at the very time when a duty was imposed upon it which a nation fully prepared and furnished with abundant ships and men and material would have found difficulty in performing. But the resources of the country were equal to the emergency. With only limited means at the command of the Department to begin with, the Navy became suddenly an immense power. An unrelaxing blockade was maintained for four years from the capes of the Chesapeake to the Rio Grande, while a flotilla of gunboats, protecting and aiding the Army in its movements, penetrated and patrolled our rivers, through an internal navigation almost continental, from the Potomac to the Mississippi.

After the capture of Forts Matheras and Clark, in August, 1861, port after port was wrested from the insurgents, until the flag of the Union was again restored in every harbor and along our entire coast, and the rebellion eventually wholly suppressed.

Coincident with these operations afloat, the Department had its attention also actively engaged in developing the ingenuity, skill, and resources of the country, in the construction of new classes of vessels, in the introduction of new descriptions of ordnance, torpedoes, and projectiles, in experiments in steam, and in the improvement of steam machinery. Although compelled to encounter opposition in all its forms, the Department has been unrelaxing

in its efforts, and in almost every instance has met with a generous response from Congress and the country.

Three hundred and twenty-two officers traitorously abandoned the service to which they had dedicated their lives, proved false to the flag which they had sworn to support, and to the Government which had confided in their honor and relied on their fidelity to sustain it in conflict and peril. The embarrassment caused by these desertions in the moment of trial was temporary. Better men from the merchant marine, educated, and vastly more efficient, promptly volunteered their services, in many instances at great pecuniary sacrifice, to fight the battles of the Union. About seven thousand five hundred of these gallant and generous spirits have, after examination, received appointments and been employed in the Navy. Schools were established to instruct and perfect them in the rudiments of gunnery and nautical routine, and it is due to them to say that they have acquitted themselves with credit and served with zeal and fidelity. The intercourse between these volunteer officers and the officers of the regular Navy has been productive of mutual good-will and respect. It will, I trust, lead to lasting personal friendships and insure enduring intimacy between the commercial and naval service. Most of the volunteer officers have received an honorable discharge and returned to their peaceful professional pursuits. I take this occasion to renew my annual suggestion, that some of the most distinguished of these heroic and loyal men, of admitted capability and merit, who have served the country so faithfully and so well, be added to the Navy after an examination by a board of officers appointed for that purpose. Such an addition to the Navy, of brave and intelligent representatives from the commercial marine, will be a fitting and honorable recognition of the services of a body of men who came gallantly forward in a period of national peril to sustain the cause of their country.

From 7,600 men in service at the commencement of the rebellion, the number was increased to 51,500 at its close. In addition to these the aggregate of artisans and laborers employed in the navy-yards was 16,880, instead of 3,844 previously in the pay of the Government. This is exclusive of those employed in the private ship-yards and establishments, under contracts, constituting an almost equal aggregate number. Two hundred and eight vessels have been commenced and most of them fitted for service during this period. A few of the larger ones will require still further time for completion. Only steamers, the propellers also having sailing power, have been built by the Government during my administration of the Department.

Since the 4th of March, 1861, 418 vessels have been purchased, of which 313 were steamers, at a cost of \$18,366,681 83, and of these there have been sold 340 vessels, for which the Government has received \$5,621,800 27.

#### THE CONDUCT OF THE BLOCKADE.

In order to guard the coast and enforce the blockade, the Department was under the necessity of breaking up and ordering home our foreign squadrons. This recall, rendered imperative by the necessities of the case, left our extensive commerce on distant seas unprotected. The great maritime Powers of Europe, as soon as they were aware of our domestic difficulty, hastened to recognize the rebels as belligerents, and proclaimed themselves neutral between the contending parties. The operations of this assumed neutrality were to deprive our national ships of the privileges which they had by national courtesy enjoyed, and while thus restricting and inflicting injury on our Government, the professed and proclaimed neutrality gave encouragement and strength to the rebels who were in insurrection and waging war upon the Union. Each of these European neutrals had treaties of amity, and was in friendly

official and commercial intercourse, with the Government of the United States, while with the rebels, who were without a recognized flag or nationality, they had neither treaties nor official relations. The United States had a navy which commanded respect, and a commerce that covered every sea, while the rebels had neither navy nor commerce to be affected by neutral exclusions and restrictions. Consequently this action of the neutral league operated, on the one hand, to injure and embarrass a friendly Government that was cultivating and practicing peaceful and friendly relations with every nation; and, on the other hand, to give countenance and encouragement to rebels engaged in a causeless insurrection to subvert the most beneficent Government on earth.

Virtually excluded from the ports of the great maritime Powers by this assumed neutrality, the difficulty of maintaining even a limited naval force abroad was greatly increased. The withdrawal of our squadrons left our unprotected commerce exposed to the depredations of semi-piratical cruisers, which were built, armed, manned, and sent out to plunder and destroy our merchantmen from the shores of neutral Europe. To these aggravated wrongs we were compelled, in the great emergency which existed, to submit, for under no circumstances would the Department relax the blockade, or permit its efficiency to be impaired.

The suppression of the rebellion enables us to reestablish squadrons abroad, and to display again the flag of the Union in foreign ports. Our men-of-war, released from the blockade, will soon be found in every sea, prepared to assert American rights and protect American interests.

European neutrality, now that the insurrection is suppressed, no longer denies to our national vessels those supplies and courtesies which were refused in the days of our misfortune. No rebel rover, built in neutral ports, remains to take alarm or feel apprehension on the appearance of the armed vessels of the Republic; and now that we have suppressed the insurrection, we may be permitted to receive hospitality and international comity from those neutral nations which during four years excluded our public ships, while they persistently insisted on elevating the rebels to be a distinct belligerent Power.

We had, in 1860, five squadrons on foreign stations, numbering thirty-one vessels, carrying 445 guns. At the present time we have on the several stations abroad thirty-six vessels, mounting 347 guns, and carrying 56 howitzers.

In time of peace our naval force should be actively employed in visiting every commercial port where American capital is employed, and there are few available points on the globe which American enterprise has not penetrated and reached. But commerce needs protection, and our squadrons and public vessels in commission must not be inactive. One or more of our naval vessels ought annually to display the flag of the Union in every port where our ships may trade. The commerce and the navy of a people have a common identity and are inseparable companions. Each is necessary for the other, and both are essential to national prosperity and strength. Wherever our merchantships may be employed, there should be within convenient proximity a naval force to protect them and make known our national power. Such are the energy and enterprise of our countrymen, that they will, now that the war has closed, compete for the trade and commerce of the world, provided the Government performs its duty in fostering and protecting their interests. Besides guarding the channels hitherto occupied and explored, it would be well that examinations be made for new avenues of trade. In connection with this subject, I would suggest the importance of a more thorough survey and exploration of the principal islands in the Pacific ocean, and that the Department have authority to carry this suggestion into effect.

Following the tracks of commerce, and vis-

iting every navigable portion of the globe, the intelligent officers of the Navy are capable, from their position and opportunities, of acquiring and communicating a vast amount of useful information, thereby benefiting commerce, and, by continual additions to the stores of knowledge, promoting the welfare of the country and of mankind.

There are circumstances which render it necessary that a commercial and naval people should have coaling stations and ports for supplies at one or more important points on those seas and oceans where there are important interests to be protected, or naval power is to be maintained. Steamers cannot carry the same amount of supplies as the sailing vessels of former days, and the coal, which is indispensable to their efficiency, must, particularly in time of war, be furnished or obtainable at brief intervals, and in the immediate vicinity of their cruising grounds. A prudent regard for our future interests and welfare would seem to dictate the expediency of securing some eligible locations for the purpose indicated.

#### REBEL CRUISERS.

Information reached the Department in May that the iron-clad ram Stonewall, a formidable vessel built in France, had arrived in Havana. This vessel had been conditionally sold to Denmark, but not proving satisfactory to that Government, she was purchased by the rebels. Some difficulty in procuring armament and a crew caused a temporary slight embarrassment in her movements, but she was soon met by the English steamer City of Richmond off the coast of France, and her armament, which was made in England, with supplies for a cruise and an English crew, were transferred to the Stonewall. She remained for a short time at Ferrol, where she was watched by the Niagara and Sacramento; and leaving that place, she did not reach Havana until after the downfall of the rebel organization. Like other rebel cruisers which had plundered our commerce, the Stonewall was without a port.

Acting Rear Admiral Godon, who had received orders to command on the Brazil station, and was on the point of sailing, was directed to proceed immediately, with a force hastily collected and placed under his command, in search of the Stonewall, which, it was understood, designed to appear on our coast. He sailed from Hampton Roads on the 16th of May, and arrived off Havana on the 28th, having in his command the Susquehanna, Chippewa, Monticello, Fahkee, and two turreted vessels, the Monadnock and Canonicus. Shortly after his arrival, the Stonewall was delivered over to the Spanish authorities by her commander, and our Government was advised that Spain would place her at the disposal of the United States. It being unnecessary for Acting Rear Admiral Godon to remain longer on this special duty, he left Havana June 6, returned to Hampton Roads on the 12th, and on the 21st proceeded, in pursuance to previous orders, to Brazil.

The English screw-steamer Sea King, built in Glasgow in 1863, early attracted the attention of our officials in England as one of the class of rovers which, like the Alabama, Florida, and Georgia, was destined to prey on American commerce. But the English authorities professed to be incapable of detecting anything wrong in this vessel, and she finally sailed from London on the 8th of October, 1864, with clearance for Bombay. On the following day the steamer Laurel sailed from Liverpool, with officers, men, and guns, and went to Madeira. The Sea King soon appeared off Madeira and signaled to the Laurel, when the two vessels went to a barren island in the vicinity, and on the 17th of October a transfer of officers, men, and guns took place; the name of the pirate was changed, and thenceforward became known as the Shenandoah. J. I. Waddell, a renegade American officer, assumed the command, and proceeded at once on a piratical cruise.

An official communication on the 18th of



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October informed the Department that the crew of the *Sea King*, as well as that of the *Laurel*, were all British subjects, that many of them belonged to the Royal Naval Reserve, and that some forty or fifty of the *Alabama's* men were among them.

Throughout the whole period of the rebellion these exhibitions of the manner in which the English authorities exercised neutrality were witnessed. On one occasion two persons secreted themselves on the United States steamer *Tuscarora*, at Queenstown, with a view, it was suspected, of entering our service, and the British Government was on that occasion greatly exercised lest some violation of neutrality or breach of the foreign enlistment act had taken place which would work harm to the rebels. A less anxious solicitude appears to have been entertained of breach of neutrality when whole crews were enlisted for the *Shenandoah* and other rebel piratical cruisers which sallied forth to plunder American commerce. Before leaving the Atlantic the *Shenandoah* succeeded in destroying several vessels, and was next heard of in Melbourne, Australia, where she was received and entertained with great hospitality and furnished with ample supplies and repairs for the long cruise upon which she was about to enter. On the 8th of February she is reported to have left Melbourne, and was next heard of in the North Pacific ocean and the sea of Okhotsk, where she attacked and captured twenty-nine unarmed whale ships, of which twenty-five were destroyed and four were bonded. Although notified by some of his victims that the rebel armies had surrendered and that the rebellion was suppressed, Waddell gave no heed to the intelligence, but continued his work of destruction until four months after the fall of Richmond, when he was advised by an English vessel that Lee was on parole and Davis a prisoner.

The English Government, in the exercise of all that neutral tenderness and care which it had manifested for the rebels from the beginning of the insurrection, when finally compelled to admit the extinguishment of the rebellion, made special reservation to protect the rebel piratical cruisers, and particularly the *Shenandoah*, which was an outlaw, without country or home other than England, after the prostration of the rebel organization. Warned by neutral England, whose subjects constituted almost her entire crew, that the organized insurrection was annihilated, the *Shenandoah* had no alternative but to seek again the shelter and protection of that neutral Power where she was built, and from which she was armed and manned. Under the name of *Sea King* she had cleared and sailed as an English vessel, with an English flag and an English crew, and as late as February she stood on the books at the Register's office of British shipping in her original name, and in the name of her original owners. Such may have been the case when the pirate was warned that he had not the pretext of a rebel organization to soften his crime, and that he was an outlaw. Of all her captures not one was ever sent in for adjudication, and I am not aware that she ever entered the port of any country but England. It was fitting, therefore, that she should return for refuge to the country of her origin.

The *Sea King*, *alias* the *Shenandoah*, entered the Mersey on the 6th of November, and her pirate captain, in a formal letter to the English minister, surrendered the vessel to the English Government.

## ENLARGEMENT OF THE NAVY-YARDS.

Our navy-yards are, all of them, of limited area, and wholly insufficient for our present Navy. Not one of them presents the full requisite conveniences and facilities for promptly fitting out in a rapid and efficient manner more than a single vessel at a time. Vessels which ought to be repaired in three months are often detained for a year, and officers ordered to their ships, which should be ready for sea, have been

kept waiting for months, at great expense to themselves and to the country, and to the injury of the service. There is not a public yard where an iron vessel can be constructed, an iron plate made, or whereshafting can be forged, or steam machinery manufactured, except on a moderate scale; nor, with the exception of Mare Island, in California, and Norfolk, have we a navy-yard with sufficient room to erect the necessary works for even present wants. England, besides her great public navy-yards, with which ours can bear no comparison, possesses even several private establishments, in each of which there are more mechanical appliances than are possessed by our whole country. Attention is invited to the interesting and instructive report of Chief Engineer J. W. King upon the dock-yards of England and France, communicated to Congress at its last session.

Any future wars in which we may be involved must be of a maritime character; and unless we make in due season adequate preparations, requiring no inconsiderable expenditure and time for their completion, the country will not escape mortification and reverses and serious disasters.

The most formidable iron-clads are those of the class of the *Passaconaway*. The turrets of these vessels, which are fifteen inches in thickness, and the machinery, which is of a power to drive them eleven knots an hour, is plain and of moderate size, and yet they cannot be constructed and sent to sea in three years. So it is of all work out of that ordinary routine for which our establishments, public and private, are exclusively designed. The immediate, indispensable, and truly economical remedy for all this disadvantage is to enlarge the navy-yards at Boston and New York, to complete the yard at Mare Island, on the Pacific, rebuild those of Norfolk and Pensacola, and sell the present restricted grounds at Philadelphia after establishing a yard of sufficient capacity at League Island, or some other proper location on the Delaware. With these extensions and improvements, and a proper establishment at some point upon the western waters, our naval position will be so strengthened as to constitute an additional safeguard against expense, and perhaps war.

I have omitted any recommendation in regard to the yard at Kittery, because there are serious objections to it as a naval station, on account of its proximity to the ocean, which renders public property there insecure. Should, it however, be decided to improve the station as a public ship-yard, the acquisition of Seavy's Island, as recommended by the chief of the Bureau of Yards and Docks, should be carried into effect. But the value of the island has been recently greatly enhanced and its acquisition rendered difficult in consequence of a road which passes through the yard, and a bridge connecting the island with the yard, which has been, in my opinion without due consideration, authorized by Congress. If the yard itself is not to be abandoned, the road and bridge should, in justice to the public interest, be discontinued, and Seavy's Island secured.

## CONSTRUCTION OF NAVAL VESSELS.

At the beginning of the rebellion the Department was without appropriate vessels for chase or blockade. Steamers of the *Colorado* class could enter no harbor south of Hampton Roads but Port Royal, and even those of the Hartford class could enter but few of the blockaded ports.

All the vessels constructed before the war possessed only moderate steam power, but had nearly full sailing qualities. Had the Department expended its energies at the commencement in efforts to construct vessels of magnitude for war purposes, with machinery capable of making fifteen knots per hour, as has been earnestly urged, we could scarcely have completed one such vessel before the date of the fall of Wilmington. The Department, without attempting impossibilities, directed its energies to accomplish what was practicable.

After procuring a supply of vessels for the blockade, by purchase and construction, the next pressing want was an iron-clad or armored ship, capable of operating in our waters and going in all weathers from port to port. On a public appeal to the mechanical ingenuity of our countrymen, this want was supplied by the *Monitor*, a turreted vessel, which, as soon as completed, vindicated its capability, and the model thus projected has been adopted and extensively copied abroad. This class of vessels stands as the undoubted and acknowledged best defense of our shores against any naval armament at present in existence. Different types of turreted vessels, all of them improvements in some respects on the original model, have been constructed. Several of the light-draft vessels of this class, drawing but eight feet of water, completed since the adjournment of Congress, have gone from Boston and other points to Philadelphia and Hampton Roads; and one has made a voyage to Charleston, South Carolina, where she is stationed, and performs with entire satisfaction all the duties required of her.

The double-enders, vessels originating in the peculiar necessities of this war—designed to run head or stern first—were intended for operations in the rivers, bayous, and inner waters that pervade our southern coast, where it was important to avoid the difficulty, delay, and risk of turning round in narrow channels or under fire.

When these arrangements had been made, and the vessels immediately required were well under way, so as not to be interfered with or delayed by additional work, the Department commenced the construction of a superior class of steamers of size and power sufficient to insure high speed. The most forward of these vessels could not be at sea until 1866. The delays and embarrassments which have been experienced demonstrate the importance, if not absolute necessity, of enlarging our principal yards, and the need of a suitable establishment for the construction of engines and heavy iron-work, such as the Department for three years has steadily urged upon the consideration of Congress.

## FACILITIES FOR REPAIRING NAVAL VESSELS.

The naval expenditures, which have been moderate for the work performed, are larger than they would otherwise have been, in consequence of the insufficient means and limited area of the several navy-yards. Without further provision in these respects the Government must always depend, in a great degree, on private establishments for much of its work. This is not objectionable, perhaps, in the construction of new hulls and engines. The experience of the last four years has taught us the value and importance of efficient and reliable private establishments to aid the Government in a great emergency. The promptness and energy exhibited at some of these establishments have been wonderful and of invaluable service. Until summoned to assist the Government in the great struggle that was upon us, the ability, power, and resources of these private establishments were not known or appreciated. They generally responded with zeal and vigor to the calls of the Department, and their ability will, in all future wars, give reliable strength to the country.

In constructing new vessels and machinery, the Government can always have the benefit of wholesome competition at private establishments. In making its contracts for new vessels and supervising their execution, the Department will be able to protect itself, but that cannot be the case as regards the constant and often extensive repairs required on vessels which have been in service. These cannot be made by contract, and opportunities for fraud and imposition in making repairs are so great that too many yield to them. Work is often slighted and imperfectly executed; disastrous delays intervene; sometimes the job will be skillfully nursed by more extended and elabo-

rate repairs than are necessary. The charge for materials and labor must of course be, to a considerable extent, at the discretion of those who make the repairs, and it is not surprising, perhaps, that they have frequently been exorbitant, notwithstanding all the vigilance and efforts that were exercised to protect the Government.

True economy would be promoted were the Government to have the necessary workshops and machinery to execute its own repairs in all cases. Almost all of the machinery and engines for the Navy have been constructed at private establishments, and they must continue to be so constructed until the Government shall conclude to change its policy. In the manufacture of heavy shafting and machinery for our naval vessels, which are to cruise for months, and often for years, abroad, it is important that we should have the most substantial workmanship and the best materials, so that the Government can safely rely on the strength and durability of its naval representatives, however remote from the country, and the officers and crews should be enabled to feel a sense of security, so far as human skill can impart it, in the floating homes which the Government may provide.

A failure in the motive power of a steamer, when on a cruise or far removed from establishments where the necessary repairs can be made, is a calamity against which every precaution should be taken.

#### LAYING UP OF THE IRON-CLADS.

The iron-clad vessels, so formidable in war, but unsuited for active service in peace, have been laid up, ready to be brought forward at any time for active duty should circumstances require. No provision having been made by Congress for a suitable dock-yard or station in fresh water, where alone iron vessels can remain and be preserved, and there being neither room nor accommodations for them at any of our present contracted yards, the Department was under the necessity, until Congress shall make provision, of selecting a suitable place for the purpose. Fresh water being an indispensable requisite for the preservation of this class of vessels, and an interior location from the sea-board being almost equally indispensable for the purpose of safety, I had no hesitation in selecting League Island as possessing these advantages in an eminent degree. The board of naval and scientific gentlemen appointed in 1862, in pursuance of an act of Congress passed on the suggestion of the Department, to select a site for a navy-yard for iron purposes, while entertaining different opinions as to the most eligible location for a navy-yard for general objects, were united in favor of League Island "so far as iron vessels are concerned." There is probably no site to be found in the country presenting so many circumstances in its favor for laying up our iron-clad fleet. Removed from the coast, and with fresh water, League Island combines the advantages of both security and preservation—indispensable requisites for vessels of this description.

Had Congress, three years since, authorized the removal of the navy-yard from its present contracted and wholly insufficient limits in Philadelphia to League Island, as recommended by the Department, other important economic advantages would have been attained. I cannot omit the opportunity of again advising the substitution of that site for the present circumscribed yard at Philadelphia, and securing this location, provided it can be obtained, for the Government. It must be borne in mind that, should Congress neglect to obtain it, the Government will be liable, at any moment, to be dispossessed, and compelled to remove its iron-clad fleet.

On the Mississippi river, where there is as yet no public navy-yard, the station at Mound City is retained, and the iron-clads belonging to the Mississippi squadron have there their headquarters. Several vessels of this class which were built at St. Louis and attached to the West

Gulf squadron, where they rendered good service, particularly in the bay of Mobile, have been laid up at Algiers, opposite New Orleans.

In this connection, I would respectfully invite attention to the report of a commission appointed under the joint resolution of Congress in June, 1864, to "select the most suitable site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries." Without intending to indicate any preference as to location, it is not to be doubted that in future wars the vessels, particularly those of iron, and the machinery and armature of our steamers, will, to some extent, be constructed in the valley of the Mississippi, where the material is so abundant. The experience of the past few years has demonstrated the capabilities of that section in producing naval vessels and machinery with rapidity.

The true policy of the Government with regard to our naval force in time of peace will be to keep our iron-clads laid up in fresh water, in perfect fighting order. Our largest steamships should remain in ordinary, distributed among the principal commercial cities, while there should be a force afloat sufficient to visit annually, if necessary, every navigable port on the globe where our trade exists.

#### HEALTHINESS OF IRON-CLADS.

Some interesting and extraordinary facts and statistics concerning the comparative healthiness of iron-clads and wooden vessels are given in the report of the chief of the Bureau of Medicine and Surgery. The monitor class of vessels, it is well known, have but a few inches of their hulls above the water-line, and in a heavy sea are entirely submerged. It has long been doubted whether, under such circumstances, it would be possible long to preserve the health of the men on board, and consequently to maintain the fighting material in a condition for effective service. It is gratifying, therefore, to know that an examination of the sick-reports, covering a period of over thirty months, shows that so far from being unhealthy, there was less sickness on board the monitor vessels than on the same number of wooden ships with an equal number of men, and in similarly exposed positions. The exemption from sickness upon the iron-clads in some instances is remarkable. There were on board the *Saugus*, from November 25, 1864, to April 1, 1865, a period of over four months, but four cases of sickness, (excluding accidental injuries,) and of these, two were diseases with which the patients had suffered for years. On the *Montauk*, for a period of one hundred and sixty-five days prior to the 29th of May, 1865, there was but one case of disease on board. Other vessels exhibit equally remarkable results, and the conclusion is reached that no wooden vessels in any squadron throughout the world can show an equal immunity from disease. The facts and tables presented are worthy of careful study.

#### NAVAL ACADEMY.

The number of midshipmen at the Naval Academy is 451. The present method of selecting candidates is, in many respects, objectionable. Of the enlisted boys, those who from choice betake themselves to the seas, and are nurtured in the Navy, only three are permitted annually to go to the Academy. Few of the multitude of boys who have inclination and aptitude for the naval service can obtain the important advantage of a public education. Of those who annually present themselves under the present system, one fifth fail to pass a satisfactory physical or mental examination. The same defects are more strikingly developed after admission. Nearly thirty-three per cent. fail the first year, and finally only about twenty-five per cent. of those who enter the Academy graduate. In consequence of this state of things, the great wants of the service in the junior grades of officers have been poorly supplied, for the Academy has only graduated a class averaging yearly about twenty-five members. A large portion of the money appropriated for

a naval education is thus wasted chiefly in consequence of the defective system of selecting the candidates.

The Board of Visitors, in 1864, instituted some searching inquiries to ascertain whether the requirements for entering the Academy were of too rigid a character, and became fully convinced that the failures were not attributable to that cause, but that many of the boys had neither the mental nor physical qualities to fit them for the naval service.

Competitive examination in each of the congressional districts, which shall be open to all boys, under proper regulations, has been suggested as a remedy. Such examination would probably establish the mental proficiency of the candidate, which, however, might be the result of premature development. The less accomplished scholar, whose powers may not be fully developed, might, nevertheless, possess a mental and physical organization better adapted to the service, which would make him a more eligible pupil and a better naval officer.

The Government should have in training for its naval officers boys of good mental capacity and the best physical development. These are not obtained under the present system. I have elsewhere suggested the expediency of appointing one half of the midshipmen from the enlisted apprentices, and the remainder from congressional districts, the selection to be made from those who possess both the physical and mental qualities that fit them for the position.

In dispensing with vessels propelled wholly by sails from the list of regular men-of-war, it has become necessary to instruct the future naval officer in the principles and practice of steam-engineery. A separate department, having this object in view, has been established at the Naval Academy, under the management and direction of Chief Engineer William W. Wood, assisted by eight others, who are charged with the duty of teaching the midshipmen, not only the theory of the steam-engine, but, as indicated in my last report, its actual manipulation. Sufficient experiments and progress have already been made in running the engines of the vessels attached to the Academy by the midshipmen to warrant the Department to persevere in its purpose of perfecting the education of the future line officers, by making them competent, in addition to their other requirements, to manage and work the engine.

The management of a man-of-war in a gale, on a lee shore, in a narrow harbor, or the splendid maneuvers of battle by sailing vessels, have hitherto been the highest and proudest duties of a thorough naval officer. The skillful disposition of the sails, which was the result of the best training of the old school, is no longer necessary, except as auxiliary to the new motive power which modern invention and science have introduced. The naval vessel is no longer dependent on the winds, nor is she at the mercy of currents; but the motive power which propels and controls her movements is subject to the mind and will of her commander, provided he is master of his profession in the future, as he has been in the past. To retain the prominence which skill and education gave him when seamanship was the most important accomplishment, the line officer must be qualified to guide and direct this new element or power. Unless he has these qualities, he will be dependent on the knowledge and skill of him who manipulates and directs the engine. To confine himself to seamanship, without the ability to manage the steam-engine, will result in his taking a secondary position, as compared with that which the accomplished naval officer formerly occupied.

For the full development and accomplishment of an object which can no longer be considered a doubtful experiment, the active co-operation of naval officers is required. When this change is effected, engineers will become the designers and constructors of engines and other marine works, and the superintendents of the mechanical employment which a navy propelled

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by steam has developed and may require. They will constitute, in reality, a highly educated and scientific corps, and the line officers will have added to their duties the practical management of the engines.

## LOCATION OF THE NAVAL ACADEMY.

The Naval Academy, which at the beginning of the rebellion was removed to Newport, Rhode Island, was, in conformity with the act of Congress, retransferred to Annapolis in September last. Commodore Blake, who was Superintendent in 1861, continued in charge of the School so long as it remained at Newport.

On the return of the School to Annapolis, Rear Admiral Porter was appointed Superintendent, and, under his immediate supervision, the academic buildings and grounds, which had been seriously impaired while occupied for military purposes, were prepared and made ready for the reception of the midshipmen and academic staff.

Many inconveniences attended the temporary sojourn at Newport; yet when the uncertain and unsettled state of affairs is taken into consideration, the selection of that place for the purpose required was perhaps fortunate.

The academic grounds belonging to the Government at Annapolis include only twenty-one acres, and are wholly insufficient for the School. Their situation in the heart of a city also subjects the youths to temptations, from which, at that period of life, it is desirable they should be removed. When the School was originally established at Fort Severn, the inconveniences and objections that now present themselves may not have been experienced; but, in the present and prospective condition of our naval power, the idea of permanently establishing a national institution of this character on these restricted grounds, where large expenditures must be made in public edifices and buildings and various improvements, cannot be seriously entertained by any who shall give the subject candid and deliberate consideration. There are over thirteen hundred acres connected with the Military Academy at West Point, and there should not be a less area for the Naval School.

In order that there may be suitable and appropriate accommodations at the Academy, much is to be done and a large expenditure of money is to be made. The School was originally designed for one hundred and eighty midshipmen, with the necessary officers, professors, and instructors; but the number has been increased, until there are now authorized by law five hundred and sixty-six midshipmen, with a corresponding increase of the academic staff. There are but ninety-six rooms in the present quarters of the midshipmen, and each room is intended for two occupants. The buildings are defective in many respects, and were originally hastily and imperfectly constructed.

Commodore Blake, the late intelligent Superintendent, in a carefully prepared statement, estimates the cost of the buildings and improvements which will be required at Annapolis, in order to make the institution acceptable and worthy of the country, at \$800,000. I do not question that this amount, and even a much larger sum, must be ultimately appropriated for the Academy; but it cannot be considered wise or expedient to make this investment within the narrow and confined area which the Government possesses at Annapolis. No amount of money which Congress may expend in buildings and improvements at that location will be satisfactory, and at no distant day a different and better site will be procured. This should not be delayed. True economy and the best interests of the Government prompt an immediate selection of the best position that can be obtained before any greater expense shall have been incurred in large and costly edifices and other substantial improvements.

The importance of procuring at the beginning, and before making further outlay, the best attainable location for the Academy, is worthy the serious attention of Congress.

There are several places on the shores of Chesapeake bay where ample grounds can be procured at moderate rates—places which combine all the required advantages, and which are relieved from the serious and insurmountable difficulties which attach to the present location. The Government can there possess itself of ample area, not only for permanent structures, but for such other arrangements as a national Naval Academy may require, which will be alike creditable and useful to the country, an honor to the Government, and as enduring as the Union itself. Instead of expending more money in attempts to improve the limited grounds now occupied, I would recommend a new site, one that shall embrace, if possible, an area of at least two thousand acres; which shall not be in the immediate neighborhood of any city, with its temptations; which shall have the requisites of healthfulness, accessibility, ample water front, and space for managing vessels and fleets of boats; good anchorage, with sufficient depth of water, and such proximity to the ocean as circumstances permit, yet inside the lines of permanent defense.

The views of Congress and of the country indicate, wisely in my opinion, a preference for this latitude, where a winter climate will allow out-door exercise on board school-ships aloft, boat-sailing, maneuvering vessels, and other nautical instruction, as a proper location for a Naval Academy. Some necessary preliminary inquiries have already been instituted with a view of ascertaining the most eligible locations on the Chesapeake, the result of which is that there are several sites which are in all essential respects preferable to that of Annapolis, and where ample grounds can be procured. I would therefore recommend that the Department be authorized to secure as soon as possible the refusal, at a reasonable price, of one or more eligible sites for a Naval Academy, embracing an area of not less than two thousand acres.

## PAY IN NAVY-YARDS.

In order to regulate the pay of workmen in the public service, always a difficult matter of adjustment, the laws of December 21, 1861, and of July 16, 1862, were enacted, directing that "the hours of labor and the rate of wages of the employés in the navy-yards shall conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy-yards, subject to the approval and revision of the Secretary of the Navy."

The operation of the rule thus sought to be established has been satisfactory neither to the men employed nor to the Government, but, on the contrary, an unceasing source of disturbance and discontent. Committees have been appointed bimonthly at each of the yards to ascertain the rates of wages paid to similar classes of workmen in private establishments, but it has been found difficult to obtain reliable data on this subject. Some parties decline to furnish the information sought, while others give imperfect statements. When, after inquiry and investigation, a scale is adopted, having in view the interests and rights of both the Government and the laborers, there is dissatisfaction, especially if in the fluctuation of the currency, or of supply and demand, there has been a reduction, and the workmen, by visiting the different private establishments, are enabled to procure from some of them certificates that higher wages are paid in some instances than the rates adopted at the yard. These certificates do not state the number or proportion of men employed at these high rates, or whether these prices are paid to all of that class in such establishment. If, on inquiry, it is ascertained that only one or two men of unusual capability receive these high prices, and that those authorized by the Government are fair average rates, the explanation fails to give satisfaction, for the evidence is produced that higher wages than those on the Government scale are paid in private establishments in the

vicinity. The impression that there is some unfairness is engendered, complaints and strikes follow or are threatened, vigilant officers who are faithful to the Government become obnoxious, and discontent prevails. I would, therefore, recommend that the acts referred to be repealed.

## NAVY-YARD ABUSES, ETC.

The lessons of experience will have been lost as regards the labor employed in the construction of our public ships, and the teachings of this war in a great measure thrown away, should we fail to make thorough and essential changes in the organization and management of our navy-yards. There has been undoubtedly a defective administration of the yards, and a want of proper responsibility pervades the whole system. Much that is wrong has its origin, without doubt, in the partisan character which has been fostered for years in those establishments, where thousands of workmen are employed. Men are often pressed for positions in the navy-yards, not so much for their mechanical skill, industry, and fidelity to the public service, as for supposed or anticipated partisan services in behalf of some active politician or party. Having obtained positions through such influences, the appointees themselves, in the selection of workmen, are governed by similar considerations. The navy-yards, by these means, became crowded with political partisans, many of whom, I apprehend, were not skillful mechanics, to the detriment of the public interests. When elections approach, a system of assessments appear to have been applied, by which the workmen were taxed by irresponsible committee-men for alleged party purposes. Thus the supervising officers took upon themselves, or had imposed upon them, the duty of tax-gatherers for electioneering objects. I understand that the amounts thus collected in navy-yards and elsewhere from Government officers and workmen have been large. How the money thus collected was applied or disposed of is uncertain, for it was without accountability. This evil has been confined to no party. I have, on its being brought in an authentic form to my notice, issued, under your direction, orders to prevent these party assessments and collections in the navy-yards. I have also introduced other regulations intended to check existing abuses. Whether legal prohibitions ought not to be instituted to prevent an evil so demoralizing and baneful is submitted for consideration.

A very considerable reduction in the number of master-workmen has been made, and changes have been introduced in regard to others which will, I am confident, have a salutary influence. Hereafter the several candidates for the position of master will be examined, and the appointments made without regard to locality.

Some improvements in the system of accounts have also been introduced, and will be still further extended.

## NAVY AGENTS.

The system of supplying the navy-yards under what is called "open purchase," by Navy agents has been discontinued, and paymasters have been ordered hereafter to make these purchases. The office of Navy agent was superfluous, and had become worse than useless. The system of purchasing on a percentage, limited in the amount which the agent should receive, led to corruption and abuse, which enriched those who chose to participate in such practices, demoralized those who held the office of Navy agent, tended to corrupt the subordinates in the navy-yards and those who furnished articles under these purchases, discouraged and drove away honest dealers, and finally led to attempts to cover the tracks of guilt by technicalities of law, which may perhaps arrest the arm of justice, but cannot suppress the righteous judgment of an honest public opinion.

To open to the light abuses sanctioned by time, and concealed and protected by those who



have profited and obtained wealth and influence through hidden mal-practices, is often a difficult as well as an ungracious task; but no officer who faithfully discharges his duty can be aware of misdeemeanors or crimes of this character, and fail to expose or not strive to correct them.

The most efficient remedy for this state of things within the power of the Department has been applied in the transfer of the few remaining agencies to paymasters who receive no percentage but perform their duties under the responsibility of their commissions, and may be subject to court-martial for delinquency, or summarily removed to other duty when the public interest may require it.

#### MILITARY AND NAVAL ASYLUM.

The act of March 3, 1865, "to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," should it ever go into effect, will be likely to operate injuriously to the naval service. It is not desirable that a military and naval asylum should be blended in one establishment. The tastes, pursuits, characteristics, and habits of the sailor and the soldier are so dissimilar that they will scarcely be made to harmonize, especially when age and infirmity are upon them. The experience and practice of all Governments admonish us that the asylums or homes for these two classes should be separate and distinct. The soldier would be satisfied with a location in the interior, but the sailor would wish to spend his declining years in view of the ocean and on its shores.

It would be better that the Army and Navy should each have its own asylum, and it is respectfully recommended that whatever funds may remain in the Treasury from fines or other causes specified in the fifth section of the act referred to, shall be set apart, not for one asylum, but for the two branches of the service. I would recommend that all fines, forfeitures, &c., derived from naval officers or seamen may inure to the benefit of the men of the Navy, irrespective of the asylum indicated in the act of last March, which is more appropriately adapted to the Army.

#### HOME FOR SAILORS.

At a period when the hearts of the people are filled with gratitude to our sailors for the services which they have rendered, the opportunity is fitting to propose, not only further provision for the disabled of the past, but also to provide against the casualties of the future. A home for sailors exclusively, with arrangements for such of them as have families, would, if practicable, be most satisfactory, doubtless, to this deserving, loyal, and heroic class.

If Congress shall sanction the removal of the Naval Academy to some more ample and suitable location, the grounds and buildings at Annapolis could, with but slight additional expense, be converted into a home for the sailors. For health, salubrity of climate, and vicinity to the water, the location is all that could be desired for such a purpose. While this measure would provide for those who may be disabled in the line of their duty, the Naval Asylum at Philadelphia will continue to receive the aged and infirm, who, through a long and faithful career, have earned a title to the home which receives them.

#### EDUCATING SEAMEN.

The man-of-war's man of the present day has all the noble and generous qualities of the sailor of former times, and has neither deteriorated in courage, in ability or skill in handling his guns, nor in devotion to his flag. He is not the seaman he was before the introduction of steam, but his qualities are of as high an order; and since the lash and intoxicating drinks have been expelled from the service, the *morale* and discipline of the man-of-war of these days is an improvement on the past.

In order that the progress of the age may enlighten the path of the sailor, it is important

that a thorough system of enlisting and instructing apprentices should be put in operation. The Government desires to obtain a sufficient number of the best boys in the country for apprentices, and to effect this the service must be made attractive. The assurance that a certain number of apprentices who are most capable and most deserving will be promoted annually would be found a strong incentive and inducement. Parents will be disposed to place only unmanageable boys in a service which subjects them to the life of a sailor and holds out no prospect of promotion. We shall struggle in vain to elevate or greatly ameliorate the future of the sailor, so long as the enlisted person is proscribed from advancement, and denied all hope of ever becoming a commissioned officer in the Navy.

There are now by law two appointments of midshipmen at the Naval Academy from each congressional district. It is recommended that hereafter there shall be but one appointed under the present system from each district, and that the other shall be taken from among the naval apprentices who have served two years on board of a practice-ship. The records of the two years' service will show which of the naval apprentices are most proficient, and the most deserving will have earned the privilege of being transferred to the Naval Academy, to be educated at the public expense for the higher duties of the profession.

The youths thus selected will be the most meritorious among several thousand, and a few years' experience will determine whether those thus selected are superior or inferior to those appointed from the districts under the present system.

The fact that the higher grades in the Navy will be open to enlisted boys, under a system which will elevate the most worthy to be commissioned or warrant officers, will attract to the Navy an abundance of the best boys who have aptitude for sea service.

This system will do away with improper favoritism which tends to demoralization, and recognizes the right of the enlisted apprentice to reach the highest honor, provided he proves himself worthy.

#### PROPERTY CAPTURED AND DESTROYED.

Naval men, while animated with the noblest feelings of patriotism, and ready to sacrifice their lives for their country whose integrity was imperiled, were impressed at first with the conviction that to them, professionally, the war would offer but limited opportunity, for the rebels were not a commercial people, nor addicted to maritime pursuits. No naval conflicts were anticipated, and it was supposed very few captures would be made, but the efforts of the insurgents, cut off from foreign supplies, and the attempts of unscrupulous foreign adventurers to violate the blockade, have rewarded naval vigilance and fidelity with a large number of prizes, many of them of great value. It is a gratifying circumstance that these prize captures have inured to the benefit of the naval service instead of privateers—differing in this respect from previous wars.

The number of vessels captured and sent to the courts for adjudication from May 1, 1861, to the close of the rebellion, is 1,151, of which there were: steamers, 210; schooners, 569; sloops, 139; ships, 13; brigs and brigantines, 29; barks, 25; yachts, 2; small boats, 139; rebel rams and iron-clads, 6; rebel gunboats, torpedo boats, and armed schooners and sloops, 10; class unknown, 7—making a total of 1,149. The numbers of vessels burned, wrecked, sunk, and otherwise destroyed during the same time were: steamers, 85; schooners, 114; sloops, 32; ships, 2; brigs, 2; barks, 4; small boats, 96; rebel rams, 5; rebel iron-clads, 4; rebel gunboats, torpedo boats, and armed schooners and sloops, 11—total, 355; making the whole number of vessels captured and destroyed 1,504. During the war of 1812 the naval vessels, of which there were 301 in

service at the close, made but 291 captures. There were 517 commissioned privateers, and their captures numbered 1,428. That war was with a nation having the greatest commerce on the globe. During the recent war we have had no privateers afloat, and the rebels had but a limited commerce from which the prizes of the Navy could be made. Nearly all the captures of value were vessels built in so-called neutral ports, and fitted out and freighted in the ports of a Government with which we had treaties and were on friendly terms, which had publicly pledged itself to a strict neutrality, and manifested its sincerity, so far as we were concerned, by withdrawing hospitality to our national vessels.

The gross proceeds of property captured since the blockade was instituted, and condemned as prize prior to the 1st of November, amount to \$21,829,543 98; costs and expenses, \$1,616,223 96; net proceeds for distribution, \$20,501,927 69. There are a number of important cases still before the courts, which will largely increase these amounts.

The value of the 1,149 captured vessels will not be less than \$24,500,000, and of the 355 vessels destroyed at least \$7,000,000, making a total valuation of not less than \$31,500,000, much of which was British property, engaged in unneutral commerce, and so justly captured and condemned.

#### NAVAL PENSION FUND.

The naval pension fund, at the present time, amounts to \$9,000,000, to which another million of dollars, at least, is to be added on the 1st of January next. There was received in July last, as interest, in currency, the sum of \$292,783 69. This fund is wholly derived from the Government's share in the proceeds of captured and condemned prize property; most of it was foreign capital, embarked in foreign bottoms to aid the insurgents. The income from this source will, if rightly husbanded, be ample to meet the requirements of the Government for the payment of naval pensions, without any tax upon the people.

#### PENSIONS.

On the 1st of November, 1865, the Navy pension roll was as follows:

931 invalids, with annual pensions amounting to.....	\$98,357 50
1,006 widows and orphans, annually receiving.....	179,942 60
2,027 persons, receiving the amount of.....	\$248,529 50

Being an increase during the year of 418 persons, receiving pensions amounting to \$58,870 40.

I again call attention to an unjust discrimination against pensioners who have lost both hands or feet, or both eyes, in the naval service. The act of July 4, 1864, gives increased pensions where such injuries accrue to those in the military service; but as the law is construed not to include persons in the naval service, it is believed that its operation is not what was intended by Congress. There are also several grades of naval officers for whom no provision is made, and it is suggested that the pension act should be revised with a view to include them.

#### INCREASE OF SALARIES.

The present compensation of our naval officers is insufficient for their support and for those necessary expenses which they are compelled to incur. Only a small portion of the life of a naval officer is spent at home with his family, and not an inconsiderable part of it is passed abroad on foreign stations, where, when in command, he is under the necessity of exercising a liberal hospitality in the interchange of those courtesies which promote friendly feelings and give character to the service and the country.

While giving their time and thoughts, and, if required, their lives to their country, these gallant men should not be harassed with apprehensions that their families are suffering and in want, in consequence of the limited pay which is granted them by their Government. The enhanced prices of the necessaries of life, which

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are felt by all who are dependent on salaries or a fixed income, have been painfully severe on our naval officers. Their case appeals with force to Congress, and, though always averse to unnecessary and unwise public expenditures, I have felt it my duty to present it for favorable consideration.

In this connection, I deem it proper also to renew the suggestions made in my last annual report, that, for the reasons then stated, and which still exist, the interest of the Government and the country requires that a more liberal remuneration should be paid to those who are charged with the arduous and important clerical duties of this Department. Their salaries at present do not correspond with those paid for similar services in private establishments, and are not sufficient to secure the right class of men for this work without entailing upon them sacrifices which they ought not to be required to make.

## EXPENSES AND ESTIMATES.

The policy of the Department has been to prosecute the war with energy and vigor, and to avoid at all times needless expenditure. In pursuance of this policy, as soon as the war approached its termination, prompt and efficient measures were adopted for reducing the Navy and the naval expenses. The results of these efforts are of a character which will be gratifying to the country, as they are to this Department.

The available resources for the fiscal year ending June 30, 1866, were.....\$140,001,125 99  
Expenditures during the same time..... 116,781,675 95

Appropriations not wanted, and carried to surplus fund..... 23,309,450 04  
900,450 39

Leaving a balance at the commencement of the present fiscal year of..... 22,408,990 65  
The appropriations for the current year are..... 119,882,928 75

Making the total available resources from appropriations for the fiscal year ending June 30, 1866.....\$142,291,919 40

This is exclusive of what has been and may be derived from the sale of vessels and other property which the close of the war has enabled the Department to dispose of.

The whole of this large amount will not be needed for disbursement during the year, and several of the bureaus will have balances sufficiently large to cover their expenditures for the succeeding fiscal year. The estimates for the year ending June 30, 1867, are as follows:

Pay of the Navy.....\$9,336,638 00  
Bounties to discharged seamen..... 800,000 00  
Equipment of vessels..... 1,000,000 00  
Navy-yards, pay of superintendents, &c. 7,185,536 00  
Navigation, Naval Academy, Observatory, &c..... 436,779 00  
Surgeons' necessities and hospitals..... 235,750 00  
Marine corps..... 1,757,754 50  
Contingent and miscellaneous..... 3,200,000 00  
Total.....\$23,982,457 50

This amount includes the sum of \$5,500,000 for the erection of barracks for the accommodation of seamen now quartered on board receiving ships; for the erection of additional dwelling-houses for officers in the several navy-yards, the purchase of land, and other improvements of a permanent character.

The total expenses of this Department, from the 4th of March, 1861, to the 30th of June, 1865, embracing a period of four years and four months, and covering not only the ordinary expenses of the Navy, but such as have arisen in the purchase, construction, and equipment of vessels, and in the maintenance of the large naval force required during the war, were \$311,170,960 68—an average annual expenditure of \$72,500,990 93. It is gratifying to note that the expenses of this Department since the commencement of the war have been but nine and three tenths per cent. of the expenditures of the Government during the same time.

## THE BUREAUS.

During the past year two of the chiefs of the bureaus connected with this Department have

died: Captain Percival Drayton, chief of the Bureau of Navigation, an accomplished and patriotic officer, who has been succeeded by Captain Thornton A. Jenkins; and Surgeon William Whelan, chief of the Bureau of Medicine and Surgery, whose scientific attainments were widely known and appreciated, who has been succeeded by Surgeon P. J. Horwitz.

You are respectfully referred to the reports of the several chiefs of bureaus, herewith transmitted, for the operations in detail of their respective departments. I can only allude to some of the principal topics suggested.

The chief of the Bureau of Yards and Docks calls attention to the necessity for increased accommodations at the navy-yards. Additions to their water-fronts, docks, store houses, &c., are required to meet the demands of the service. In connection with the Kittery yard, the purchase of Scavy's Island is recommended. At the Charlestown yard the purchase of an adjoining wharf and water privilege is advised. In connection with the Brooklyn yard, adjoining ground and water-front, known as the Ruggles property, is urgently needed, and an arrangement has been made under which it can be purchased. The Philadelphia yard has recently been extended, but is wholly insufficient. The Norfolk and Pensacola yards will require large appropriations to place them in a state of efficiency. Works for the increased manufacture of steam machinery are advised, and estimates are submitted for the erection in the yards of houses for the officers and barracks for the seamen now quartered on board receiving ships. A repeal of the law respecting the wages of workmen in navy-yards is recommended.

The chief of the Bureau of Construction and Repair states that there are 41 vessels intended for the permanent Navy in various stages of completion, none of which have been launched. The supply of seasoned ship-timber in the navy-yards is exhausted, and it is found difficult to procure some of the requisite pieces for the vessels in process of construction. It is recommended that a surplus of timber be now placed in the yards, with a view to its accumulating and being thoroughly seasoned, to meet any emergency that may hereafter arise, and also that arrangements be made at some suitable place for the construction of iron vessels.

The report of the chief of the Bureau of Equipment and Recruiting states that the fuel account of the Navy for the past two years is \$11,425,155. Three coal vessels have been captured by the rebels, and 21 coal vessels have, during the past two years, been either lost or destroyed. In view of increasing foreign squadrons, arrangements have been made and are being extended for coal depots abroad. The ropewalk has, during the last year, manufactured 2,204 tons of hemp into cordage. The propriety of establishing a manufactory of wire rope is suggested. The number of seamen enlisted in the Navy from the 4th of March, 1861, to the 1st of May, 1865, was 118,044.

The chief of the Bureau of Steam Engineering gives a detailed statement of the number, condition, and progress of the engines now under contract. A board of civilian experts, under the direction of the Department, are making experiments to test the relative efficiency of vertical and horizontal tubular boilers, the effect of different modes of managing fires, different rates of combustion, and all other matters entering into the practical and best methods of generating steam. Experiments are also being made to ascertain the relative economic efficiency of steam with different measures of expansion. The accommodations in the navy-yards for the repair and construction of steam machinery are insufficient for the wants of the service, and additional facilities are urgently required. The chief of the bureau recommends an increase of the pay and position of the Chief Engineer of the Navy. It is not sufficient to induce first-class ability to remain in the service.

The report of the chief of the Bureau of Ordnance calls attention to the large quantities of

ordnance and ordnance materials of all kinds which remain on hand, and, with the approval of the Department, recommends a general survey at the several yards and stations, in order that the unserviceable stores may be separated from the serviceable, and disposed of as may be judged best for the interests of the Government. The suggestions made in previous reports for the construction of magazines in the interior, away from our large cities, for the establishment of a gunnery ship, and for a well-organized practice ground, are again presented and urged as measures of paramount necessity. It is also recommended to institute a course of experiments with torpedoes, and establish a corps of operators for future service; and in order to avail ourselves of the results obtained abroad in the manufacture of cannon and small-arms, and their use in naval warfare, that officers of the Navy be detailed to visit Europe from time to time, and witness the experiments made at the foundries and arsenals. The results of the investigation made by a board of ordnance officers into the cause of the failure of the Parrott rifled guns during the naval bombardment of Fort Fisher are appended, and will be found highly interesting.

The chief of the Bureau of Navigation submits the usual reports of the Naval Observatory, Nautical Almanac, and the general administration of his department. Most of the nautical instruments, and many other articles of navigation supplies, turned in from vessels put out of commission since the close of the war, appear to be available for reissue with some repairs and adaptations. Allusion is made to the prospect, apparently improved, of yet being able to dispense with foreign bunting for American flags. The preparation of a "Danger Chart" of the Pacific ocean to facilitate navigation is in progress; and increased attention is recommended to the collection of hydrographic data in that important quarter, toward the construction of new charts and correcting old ones. And the importance of a hydrographic office in this connection, under the direction of the bureau, is strongly urged as a means now wanting of authoritatively promulgating discoveries, &c., in any way affecting the interests of navigation.

The chief of the Bureau of Provisions and Clothing details the measures taken upon the close of the rebellion for promptly reducing the expenses of his department, by discontinuing the purchase of supplies, and the closing of the depots in different sections of the country. The system adopted by the department in supplying the various blockading squadrons during the war with fresh provisions gave great satisfaction to officers and men, and added largely to the sanitary condition of the fleets. To meet the demands of foreign service, store-vessels, which are preferred to store-houses on shore, have been sent to the various headquarters of the squadrons. An increase in the corps of regular paymasters is urgently recommended, and additional accommodations for supplies in connection with, or near to, naval stations are needed.

The chief of the Bureau of Medicine and Surgery presents the usual tables showing the sanitary condition of the Navy. The number of persons under treatment during the year ending 31st December last was 73,555, of whom 1,373 died, and 2,671 were on the sick-list at the close of the year. The total number of deaths from October 1, 1864, to September 30, 1865, was 1,750, being a percentage of about .002 to the whole number of persons in service. The percentage of deaths to the whole number of cases treated is .018, or less than two per cent. During the progress of the war 1,406 persons were killed, 1,638 wounded, and 170 reported missing, making the total number of casualties in the naval service 3,220. But seventy-one persons have availed themselves of the provision of the act of Congress providing artificial limbs. The increased cost of living renders the monthly tax of twenty cents upon the salaries of officers and men inadequate to the support of naval hos-

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pitals, and unless some other means are devised, an appropriation by Congress will be required to meet the necessary expenses. A new laboratory building, at a cost of \$80,000, is recommended.

The colonel commandant of the Marine corps reports the order and discipline of the corps as alike creditable to officers and men. During the year the strength of the corps has not materially changed. Though now to a considerable extent employed in guard duty on shore, the greater part of the corps have during the year been actively engaged in the operations of the several squadrons bearing their part in the naval operations of the war.

## CONCLUSION.

In former reports, rendering an account of the administration of this Department since I entered upon its duties, it has given me pleasure to make known my obligations to the gentlemen who have been associated with me in the conduct of its business. Continued experience has deepened my sense of grateful obligation for their ability, faithfulness, and industry under circumstances which were often not only responsible but embarrassing, and I gladly avail myself of this opportunity to again express my acknowledgment for their support and assistance. In our arduous and vastly extended naval organization and action during the past four eventful years, and especially in the new forms of power which modern inventions have produced, and the new scenes of effort which this unparalleled war has called forth, in which they have been so severely tried and so triumphantly illustrated, an extraordinary opportunity has opened and an unexampled necessity has existed for an administration of the Navy Department at once judicious and efficient.

Under the pressure of such an exigency, I certainly do not claim, and cannot hope, to have always avoided mistakes; but I do sincerely trust that the brilliant and glorious naval record which shines along the line of momentous events during the whole of this period may be accepted as proof that the Department has been faithfully devoted to its duties, and that through its counsels and care the force of our Navy has, in the selection of officers to wield and work it, been and generally to a very fortunate extent confided to the best and fittest hands. In the conduct of our naval operations to put the right man in the right place has been the constant effort of the Department, and the recent history of the Navy bears witness, I think, that the effort has not been unsuccessful nor fruitless. It is my pleasing duty to add that the number of highly meritorious officers, eminent in all the requirements and accomplishments of their profession, which our Navy list presents, has not unfrequently embarrassed the Department in its difficult task of selection.

As peace is being restored among us, the country now puts off the formidable naval armor which it had assumed to vindicate upon a mighty scale that supremacy of the national law which is the very life of our Union. In the details of the policy and the measures by which our naval power is now brought down to the dimensions and distributed to the important operations of a peace establishment, the country will see with relief and gratitude a large and signal reduction of national expenditure. I need hardly say that this great object is kept constantly and carefully in view by this Department.

Such alleviation of the public burdens is the plain dictate of a wise policy. Yet true wisdom directs that this policy of retrenchment in the naval branch of the public service must not be carried too far. It is still wise—the wisest—economy to cherish the Navy, to husband its resources, to invite new supplies of youthful courage and skill to its service, to be amply supplied with all needful facilities and preparations for efficiency, and thus to hold

within prompt and easy reach its vast and salutary power for the national defense and self-vindication.

Let the Government still extend in judicious and moderate measure this fostering care to its Navy, and whenever the crisis shall arrive that our national rights or interests are imperiled, we may be assured that the Navy will again vindicate the claim which it has already so signally established to the admiration and gratitude of the country.

GIDEON WELLES,

Secretary of the Navy.

The President.

## Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,

December 4, 1865.

SIR: I have the honor to submit the following summary of the operations of the Department of the Interior during the past year, and of the present condition of the diversified and important public interests under its direction.

## LANDS.

It appears from the report of the Commissioner of the General Land Office that during the fiscal year ending June 30, 1865, public lands were disposed of as follows:

Acres sold for cash.....	557,212.53
Acres located with military warrants.....	348,660.00
Acres located with agricultural scrip.....	460,130.27
Acres selected under agricultural college grant.....	808,358.11
Acres approved to the States as swamp lands.....	571,429.24
Acres approved to the States for railroads.....	607,415.39
Acres taken under the homestead law.....	1,160,532.92
	4,513,738.46

During the quarter ending September 30, 1865, the aggregate quantity taken for the same purposes was..... 880,591.13

Making, during five quarters, the total number of acres..... 5,394,329.59

The cash receipts from sales, homestead, and location fees, for the same five quarters, ending September 30, 1865, were \$1,088,400 78.

The cash sales for the year ending June 30, 1865, amounted to \$748,427 25, an excess of \$70,420 04 over the sum received from the same source the previous year.

During the fiscal year ending June 30, 1865, 4,161,778 acres of public lands were surveyed. The aggregate quantity of surveyed public lands undisposed of September 30, 1865, was 132,285,035 acres.

Owing to the failure of the appropriation for that purpose at the last session of Congress, no contracts have been made for surveys during the current fiscal year, except where there were unexpended balances from previous years, or where the expense of survey was defrayed by private parties.

The act of September 4, 1841, and the supplemental act of March 3, 1843, confer upon actual settlers, upon certain specified conditions, the right to acquire by preemption surveyed public lands. Since that time the right has been, by various acts, extended to unsurveyed lands, but the period within which the claim must be preferred after settlement differs in the several States and Territories, although proof and payment must be made in all before the day prescribed by proclamation of the President for the sale of the body of lands within which the preemption claimant has settled. In some the claim of settlement must be filed within three months after the return of the approved plat or survey to the local land offices; in others within six months thereafter; in others within three months after the survey has been made in the field; and in some of the newer Territories there is no specific provision on this subject, but all laws of the United States, which are not locally inapplicable, are declared to be in force. The act of June 6, 1862, "establishing a land office in Colorado, and for other purposes," provides that when unsurveyed lands

are claimed by preemption, notice of the specified tract claimed shall be filed within six months after the survey has been made in the field, and that on failure to file such notice, or to pay for the tract claimed within twelve months from the filing of such notice, the parties claiming such land shall forfeit all their right therein. This act has been interpreted in some of the local offices as having exclusive application to the Territory of Colorado. This Department has not, upon appeal involving any contested right of preemption, decided whether the terms of the act are not sufficiently broad to make it applicable to all unsurveyed lands to which the preemption settler claims a right. Further legislation is, however, recommended to remove ambiguity and secure harmony in the enforcement of this beneficent policy in all the land States and Territories. No reason is perceived for various and somewhat conflicting laws on this subject in different localities. A few general provisions in regard to unsurveyed lands would suffice. The acts of 1841 and 1843 need no amendment. They regulate the right of preemption to such public lands as have been surveyed prior to the date of settlement.

The homestead law has been in operation since the 1st day of January, 1863. Large bodies of lands have been entered under its provisions. Five years' continued residence is necessary to the perfection of the title of a homestead settler, unless he prefers to purchase the lands at the minimum price, and obtain a patent. It is estimated that from forty to fifty per cent. of persons who have so claimed the privilege of the homestead law will prefer to make payment, and thus secure title before the expiration of the period when it would otherwise vest. The nominal sum paid by the homestead settler, and the fee which he pays to the local officers, are sufficient to cover the expense incident to the survey and the disposal of the land.

In the enactment of this law Congress was doubtless influenced by the conviction that the settlement and cultivation of the public lands were objects of greater importance to the nation than the increased revenue that might be derived from their sale; and future experience will, it is not doubted, attest the wisdom as well as the beneficence of this legislation.

I approve of the suggestion of the Commissioner of the General Land Office, that the law should prescribe a time within which an appeal should be taken from the decision of the local officers to the General Land Office, and from the latter to the Department.

It is a matter of the utmost importance to the settlers in Arizona and New Mexico that early provision should be made by law for the adjustment of Spanish and Mexican titles arising under existing treaties with the republic of Mexico. As the determination of disputed titles involves questions essentially judicial in their character, it seems to be proper that the tribunals of the United States should be charged with the performance of this duty, in conformity with legislative precedents in regard to claims in Louisiana and other States. A period should be prescribed for prosecuting a claim of title, and the decree of the court should determine not only the validity of the title, but also all incidental questions relating to the limits of the land claimed, which could not be properly determined by the Commissioner of the General Land Office in its survey and location on the earth's surface. In regard to cases heretofore confirmed, the confirmee should be required to have surveys made at his own expense, under the surveyor general, subject to the supervision of the Commissioner of the General Land Office, and the ultimate control of this Department; and where such claims are of loose and undefined extent, some limitation as to quantity should be imposed by law.

The Commissioner of the General Land Office has held that the United States, as the successor of Mexico, has the exclusive and paramount right to all such sites as may be indispensable



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for forts or other public uses, and this right will be enforced unless Congress shall otherwise order.

The organization of a Bureau of Mining was recommended in the last annual report of this Department, and the attention of Congress is again invited to the subject. All lands denominated mineral, which do not bear the precious metals, should be brought into market, and thus placed under the guardianship of private owners. In no other mode, it is believed, can the great forests of timber, the growth of centuries, and of vast value to the nation, be effectually preserved from waste. Individual proprietorship, it is conceded, would stimulate the development of coal-fields, petroleum, deposits of iron, lead, and of other gross metals and mineral formations. There can, therefore, be no sufficient reason for withholding such mineral lands from market. Congress has not legislated with a view to securing an income from the product of the precious metals from the public domain. It is estimated that two or three hundred thousand able-bodied men are engaged in such mining operations on the public lands without authority of law, who pay nothing to the Government for the privilege, or for the permanent possession of property worth, in many instances, millions to the claimant.

The existing financial condition of the nation obviously requires that all our national resources, and the product of every industrial pursuit should contribute to the payment of the national debt. The wisdom of Congress must decide whether the public interest would be better promoted by a sale in fee of those mineral lands, or by raising a revenue from their annual product. The impolicy of suffering them to remain in their present condition, without any species of legislation regulating or defining the rights of the parties in interest, must be apparent to all.

There are other questions of interest connected with the public lands, upon which I cannot dwell without extending this paper beyond allowable limits. For further details I refer to the excellent report of the Commissioner of the General Land Office. It contains interesting statistics and maps, and also presents practical views which merit favorable consideration.

## PENSIONS.

The act of February 27, 1865, made an annual allowance of \$300 for life to each of the five survivors of the Army of the Revolution. Four of these aged and venerable men lived to receive this token of the nation's gratitude. Two of them have since died. William Hutchings, of Penobscot, Hancock county, Maine, aged one hundred and one years, and Samuel Cook, of Clarendon, Orleans county, New York, aged ninety-nine years, are the only persons among the living known to the Department, who participated in the heroic struggle which achieved our national independence.

The names of 1,115 widows of revolutionary soldiers are inscribed on the pension rolls.

The right to a pension was confined, by the act of July 4, 1836, to those whose marriage with the deceased soldier took place before the close of his military service. It was subsequently extended, by the act of February 21, 1848, to those whose marriage took place prior to January 1, 1794, and by the act of July 29, 1848, to such as were married prior, and by the act of February 3, 1853, to those who were married subsequent, to January 1, 1800. Under the first-named law, there are four surviving claimants, under the second, one hundred and eight; under the third, seventy; and under the fourth, eight hundred and eighty, to five of whom pensions were allowed during the last fiscal year. The remaining widows of revolutionary soldiers receive their pension under special acts of Congress.

During the fiscal year ending June 30, 1865, the names of 14,962 Army invalid pensioners were, on the original application, added to the roll, and the number to whom the pension there-

before awarded was increased amounted to 366. The whole number admitted was 15,328, requiring an annual payment of \$1,220,785 90.

The aggregate number of claims of widows, or other dependent relatives of soldiers of the Army, (except revolutionary,) allowed during the same period, was 24,693; and the number of pensions of this class which were increased during the same period was 14, making a total of 24,707, and constituting an annual charge of \$2,574,179.

There was paid during the same year to Army invalids, revolutionary soldiers, widows, and other dependent relatives, including arrearages of pensions and expenses properly chargeable to the appropriation for revolutionary pensions, the sum of \$8,319,672 49. The total number of Army pensioners on the rolls at the close of the year ending June 30, 1865, was 84,130, requiring for the payment thereof, exclusive of expenses, an annual appropriation of \$7,792,772 51.

The number of Navy invalid pensions allowed on original applications during that fiscal year was 250, and there were 7 Navy invalids whose pensions were increased. Two hundred and sixty-six Navy pensions were awarded to widows or other dependent relatives of deceased officers, seamen, or marines. The aggregate amount paid to naval pensioners of all classes was \$205,480 62. At the close of the fiscal year there were on the Navy pension rolls 839 invalids, the amount of whose pensions was \$61,854 92, and 1,017 widows and other dependent relatives, requiring the sum of \$168,818. The total number of Navy pensioners at that date was 1,856, whose annual stipends amount to \$230,672 92. The total amount, therefore, required for the payment of pensions of all classes adjudicated and allowed up to the close of the last fiscal year, or conferred by special acts of Congress, is, exclusive of expenses, \$8,023,445 43.

The Navy pension fund, which had accumulated under the act of April 22, 1800, was exhausted many years since; and Congress, by the act of July 17, 1862, declared that all moneys accruing, or which had already accrued, to the United States from the sale of prizes should be, and remain forever, a fund for the payment of pensions to the officers, seamen, and marines who might be entitled to receive the same. If the fund should be insufficient for this purpose, the public faith was thereby pledged to make up the deficiency; if it should be more than sufficient, the surplus was to be applied for the making of further provision for the comfort of the officers, seamen, and marines. The act of July 1, 1864, provides for the investment in the registered securities of the United States of so much of the fund as is not required for the payment of naval pensions, that is, such pensions as by law are chargeable thereto. When the interest payable in coin upon such securities is collected, it is made the duty of the Secretary of the Navy to exchange the amount of such interest for so much of the legal currency of the United States as may be obtained therefor at the current rate of premium on gold. The interest, so converted, is to be deposited in the Treasury to the credit of the fund. The latter is made applicable, by the act of 1862, to the payment of the pensions of disabled officers, seamen, and marines, but not of the widows and other dependent relatives of such as have died of wounds received, or of disease contracted, in the service. The fund invested in gold-bearing registered bonds of the United States amounts to \$9,000,000, and there is on hand, subject to investment, or use if required, the sum of \$1,395,114 21. The annual interest upon the invested fund, if payable in paper currency, exceeds by one hundred per cent. the amount required for the payment of all naval pensions authorized by existing laws. No necessity exists, nor is any likely ever to occur, for the large and constantly increasing accumulation of this fund; but further legislative action is necessary to

subject it to the payment of all classes of Navy pensions.

Pension agencies were suspended in those parts of the country where the national authority was resisted and loyal State governments subverted during the rebellion. Pursuant to your orders such agencies are being resumed whenever required for the accommodation of restored pensioners, or of such as have been recently added to the rolls. Agents have been appointed at Richmond, Virginia; Nashville and Knoxville, Tennessee; Little Rock, Arkansas; and New Orleans, Louisiana. The act of February 4, 1862, prohibited the payment of a pension to any one who had taken, or might thereafter take, arms against the Government of the United States, "or who had in any manner encouraged the rebels or manifested a sympathy with their cause." Most of the acts, making appropriations for pensions within the last four years, contain a proviso that no portion of the money shall be paid to a disloyal person. The names of all pensioners residing during the rebellion in the parts of the country to which I have adverted, as well as a large number of disloyal pensioners residing in other parts of the Union, have been dropped from the rolls. All those of the former class forfeited their pensions from the date of the proclamation declaring the State in which they respectively resided to be in rebellion. Such of them as claim the benefit of the pension laws and a restoration to the rolls are required to make application, supported by due proof, in accordance with forms and instructions adopted for the adjudication of these special cases, and to take and subscribe the oath prescribed in your amnesty proclamation. The right to a pension inures and takes effect from the date of the completion of the proof establishing the right to such restoration.

The regulations governing the production of proof and the decision of cases in the Pension Bureau, were prepared by the Commissioner and approved by this Department. The rigid enforcement of them has been the subject of occasional complaint; but while it may work hardship in a few exceptional cases, it is, in my judgment, indispensable to the prevention of abuses and the rejection of unfounded and fraudulent demands. Every facility is extended for the presentation and establishment of claims, and they are determined with all the promptitude consistent with a due investigation of their merits.

The increasing number of pension applications requires that the appropriation for the next should largely exceed that made for the current fiscal year. Without regard to the amount they involve, our engagements to our gallant Army and Navy must be performed with scrupulous fidelity. Their sacrifices for an imperiled country have been blessed in the preservation of its unity, the maintenance of the just authority of the national Government, and the vindication of the principles of civil liberty which the fathers of the Republic bequeathed to their children.

For further information relating to this branch of the service, I respectfully refer to the able and elaborate report of the Commissioner of Pensions.

## INDIAN AFFAIRS.

The number of Indians residing within the jurisdiction of the United States does not probably exceed three hundred and fifty thousand, a large majority of whom maintained during the past year peaceful relations. Some of them have made gratifying progress in civilization, and manifested, during the late war, a steadfast loyalty to our flag worthy of emphatic commendation. Civilized and powerful tribes, however, residing within the Indian Territory, united early in the year 1861 with the Indians of the prairies immediately west and north, for hostile operations against the United States. In flagrant violation of treaties which had been observed by us with scrupulous good faith, and in the ab-

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sence of any just ground of complaint, these confederated Indians entered into an alliance with the rebel authorities and raised regiments in support of their cause. The organized troops fought side by side with rebel soldiers, and detached bands made frequent assaults on the neighboring white settlements, which were without adequate means of defense, and on the Indians who maintained friendly relations with this Government. This state of things continued until the surrender of the rebel forces west of the Mississippi. Hostilities were then suspended, and, at the request of the Indians, commissioners were sent to negotiate a treaty of peace. Such preliminary arrangements were made as, it is believed, will result in the abolition of slavery among them, the cession, within the Indian Territory, of lands for the settlement of the civilized Indians now residing on reservations elsewhere, and the ultimate establishment of civil government, subject to the supervision of the United States.

The perfidious conduct of the Indians in making unprovoked war upon us has been visited with the severest retribution. The country within the Indian Territory has been laid waste, vast amounts of property destroyed, and the inhabitants reduced from a prosperous condition to such extreme destitution that thousands of them must inevitably perish during the present winter unless timely provision be made by this Government for their relief.

Hostile relations, such as have existed for several generations, continue between many of the most fierce and warlike tribes of New Mexico and Arizona and the white inhabitants. A considerable military force is necessary for the protection of the latter and the maintenance of public order.

The Indians of the plains, who subsist chiefly on buffalo, follow them on their migration toward the north in the early part of the summer, and return in autumn, spreading over the western part of the State of Kansas and the Territories of Nebraska, Dakota, Montana, and Colorado. Influenced by the unfriendly Indians of the Southwest, and probably incited by rebel emissaries, they maintained active and vigorous hostilities. Our defenseless frontier settlements were harassed; the communication between the Mississippi valley and our possessions on the Pacific seriously interrupted; emigrant and Government trains assailed; property of great value destroyed, and men, women, and children barbarously murdered. It became the imperative duty of the Government to send military expeditions against these savages, which checked the commission of further outrages, and induced them to sue for peace. On the recommendations of the generals in command of our forces a commission, composed of officers of the Army and civilians, was sent to the upper Arkansas and the upper Missouri. Satisfactory treaties have been negotiated with a large number of these tribes. Some of them could not be reached on account of the lateness of the season, but it is believed that similar arrangements can be made with them during the early part of the approaching spring.

It is difficult to maintain peaceful relations with the Indians in Minnesota. The terrible massacre of the white inhabitants in the year 1862 is fresh in the memory of the country. The intense exasperation which followed led in that State to a policy, which has also prevailed to some extent in several of our organized Territories, inducing a personal predatory warfare between the frontier citizens, emigrants, and miners, and isolated bands of Indians belonging, in many instances, to tribes at peace with the Government. This awakens a spirit of retaliation, inciting atrocious acts of violence, which, oft repeated, result in irreparable disasters to both races.

The policy of the total destruction of the Indians has been openly advocated by gentlemen of high position, intelligence, and personal character; but no enlightened nation can adopt or sanction it without a forfeiture of its

self-respect and the respect of the civilized nations of the earth.

Financial considerations forbid the inauguration of such a policy. The attempted destruction of three hundred thousand of these people, accustomed to a nomadic life, subsisting upon the spontaneous productions of the earth, and familiar with the fastnesses of the mountains and the swamps of the plains, would involve an appalling sacrifice of the lives of our soldiers and frontier settlers, and the expenditure of untold treasure. It is estimated that the maintenance of each regiment of troops engaged against the Indians of the plains costs the Government \$2,000,000 per annum. All the military operations of last summer have not occasioned the immediate destruction of more than a few hundred Indian warriors. Such a policy is manifestly as impracticable as it is in violation of every dictate of humanity and Christian duty.

It is therefore recommended that stringent legislation be adopted for the punishment of violations of the rights of persons and property of members of Indian tribes who are at peace with the Government.

Sufficient appropriations should be made to supply the pressing wants of these wards of the Government, resulting from the encroaching settlements springing up in every organized Territory. The occupation of their hunting grounds and fisheries by agriculturists, and even of their mountain fastnesses by miners, has necessarily deprived the Indians of their accustomed means of support, and reduced them to extreme want. If the deficiency so occasioned should not be supplied, it is not to be expected that a savage people can be restrained from seeking, by violence, redress of what they conceive to be a grievous wrong.

That their growing wants thus caused may not become a perpetual burden, every reasonable effort should be made to induce the Indians to adopt agricultural and pastoral pursuits. It is recommended that Congress provide a civilization and educational fund, to be disbursed in such mode as to secure the coöperation and assistance of benevolent organizations, affording an opportunity for private citizens to dispense their charities to these impoverished children of the forest through the usual channels. It is believed that all the Christian churches would gladly occupy this missionary field, supplying a large per cent. of the means necessary for their instruction, and thus bring into contact with the Indian tribes a class of men and women whose lives conform to a higher standard of morals than that which is recognized as obligatory by too many of the present employés of the Government.

On taking charge of this Department on the 15th day of May last, the relations of officers respectively engaged in the military and civil departments in the Indian country were in an unsatisfactory condition. A supposed conflict of jurisdiction and a want of confidence in each other led to mutual criminations, whereby the success of military operations against hostile tribes and the execution of the policy of this Department were seriously impeded. Upon conferring with the War Department, it was informally agreed that the agents and officers under the control of the Secretary of the Interior should hold no intercourse, except through the military authorities, with tribes of Indians against whom hostile measures were in progress; and that the military authorities should refrain from interference with such agents and officers in their relations with all other tribes, except to afford the necessary aid for the enforcement of the regulations of this Department. This informal arrangement has been executed in good faith, producing, it is believed, a salutary effect on the bearing of the hostile tribes, and securing the desired harmony and efficient coöperation of those charged with this branch of the public service.

It is earnestly recommended that the super-

intendents, and also agents of a suitable grade, be empowered to act as civil magistrates within the limits of reservations where the tribal relations are maintained, and also on the plains remote from the jurisdiction of the civil authorities. The want of an acceptable and efficient provision for the administration of justice has been sensibly felt in cases arising between members of the tribes, or between Indians and the white men who have been permitted to reside among them. The extent of the jurisdiction and the mode of its exercise should be clearly defined by congressional enactment.

The Secretary of the Treasury holds certain stocks in trust for the Chickasaw national fund, which amount, as appears by his report of the 6th of December last, to the sum of \$1,316,281 31. Public securities and certificates of stock of the par value of \$3,053,592 15, constituting the trust fund of other Indian tribes, are deposited with the Secretary of the Interior. I am not aware of any good reason for a divided custody of these funds. It is suggested that Congress designate a depository for all the securities held by the United States in trust for the Indians.

Copious details in regard to each branch of the Indian service are furnished in the voluminous and well-considered report of the Commissioner of Indian Affairs. I respectfully refer to it for further information, and commend the various suggestions it contains to the favorable consideration of Congress.

#### PATENTS.

During the year ending September 30, 1865, there were received at the Patent Office 11,860 applications for patents, and 70 applications for an extension of patents. Six thousand two hundred and ninety-two patents (including reissues and designs) were issued, and 61 extensions granted. One thousand five hundred and thirty-eight caveats were filed. Seven hundred and forty-one applications allowed, but no patents issued thereon by reason of the non-payment of the final fee.

On the 1st day of October, 1864, there was a balance to the credit of the fund of \$56,117 39. The fees received for the succeeding twelve months amounted to \$316,987 27. The expenditures during the same period were \$262,445 47. Leaving a balance on the 1st day of October, 1865, of \$110,659 19.

The law provides that in interference cases, or where letters patent have been refused, an appeal lies from the decision of the primary examiner to the examiners in chief, and from their decision to the Commissioner of Patents. According to a judicial construction of existing laws, an appeal may be taken from the decision of the Commissioner to the chief justice, or one of the associate judges of the supreme court of this District. This procedure is unnecessarily circuitous and protracted, and should be abridged by an amendment of the law so as to allow an appeal from the decision of the primary examiner or the examiners in chief directly to the supreme court of the District of Columbia, if the party against whom it is rendered so elects.

The Commissioner of Patents is clothed with unrestrained discretionary power in all cases of application for the extension of patents. His decision, whether favorable or unfavorable, is final, and frequently involves private and public interests of enormous value. It is submitted for the consideration of Congress whether it is wise to lodge so large a power with a subordinate officer, without subjecting its exercise to the supervisory control of the head of the Department.

#### CENSUS.

Immediately after entering on the discharge of my official duties, my attention was directed to the condition of the work relating to the returns of the eighth census. Two quarto volumes had been published; one in March, 1864, entitled "Population," the other in March, 1865, entitled "Agriculture;" and materials had been

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compiled for a portion of the third volume. A preliminary report, purporting to present "a synopsis of the results" established by the census, had also been transmitted to Congress on the 21st day of May, 1862.

The entire appropriation of \$1,642,000 was exhausted, and liabilities, amounting to a considerable sum, had not been discharged. The liberal appropriation justified the general expectation that an authentic and faithful record of our population, condition, and resources, at the commencement of the decade, would be published at an early period after the completion of the census returns. The value of statistical matter derived from such records is materially impaired for practical uses by procrastinating its publication. This is especially true in a country rapidly increasing in the elements of material wealth, where all industrial pursuits are prosecuted with unexampled vigor and success.

The work on the census of 1860 had been unreasonably delayed, and the Department deemed the immediate and energetic prosecution of it of vital importance; but there was no fund specifically applicable to the purpose. The diminished business of the General Land Office, resulting from the condition of affairs in the southern States, had not required the appointment of the full number of clerks authorized by law; and some of those engaged upon the census were, with your approbation, transferred to that bureau. This placed them under the supervision of its efficient head, and rendered the services of the former superintending clerk of the census no longer necessary. I expressed to the Commissioner an anxious desire that the remaining volumes should be prepared for the press with all the promptitude consistent with a scrupulous regard to accuracy, and I am happy to say that it has been fully realized. The returns have been arranged and classified in the most careful and thorough manner, and the work has been advanced with a dispatch in striking contrast with its former tardy progress. The third volume, entitled "Manufactures," has been completed and printed. The fourth and last volume, embracing mortality, educational, and miscellaneous statistics, has been prepared for the public printer, and will be ready for distribution at an early day. The clerks were transferred to positions inferior in grade and remuneration to those they had previously held, as there were no other vacancies. I submit to Congress the propriety of making their pay equivalent to that which they formerly received, and of providing additional compensation for the Commissioner and the chief clerk of the General Land Office, in consideration of the increased duties and responsibilities which devolved upon them.

The expediency of providing means to enable this Department to lay before Congress annually a report on population, and the manufacturing and other material interests of the United States, is, in my opinion, worthy of the consideration of Congress.

## UNION PACIFIC RAILROAD.

The act approved July 1, 1862, to aid in the construction of a railroad from the Missouri river to the navigable waters of the Pacific, and subsequent legislation on this subject, with its hearty approval by the people, furnish a striking proof of the unconquerable determination of the nation and an unflinching faith in its ability to preserve its territorial integrity. Had it been deemed possible that our country could fall a prey to rebellion, and its dismembered parts become subjected to the control of separate and alien governments, the construction of such a work would never have been undertaken, and its execution would have been impracticable. Although, at the date of the enactment of these several laws, the resources of the nation were severely taxed, measures were adopted deemed adequate to induce capitalists to engage in the construction of this great thoroughfare, in the conviction that it would forever remain the

property of a united people. The energy displayed in its prosecution for two or three years did not, however, equal public expectation and the wishes of the Government. But during the past year, as will be seen from the report of Lieutenant Colonel Simpson, of the Engineer corps of the Army, detailed by your order to serve, under the instructions of the Secretary of the Interior, in supervising this and other kindred works, it has been progressing in a satisfactory manner, from Omaha, Kansas City, and Atchison, westward, and from Sacramento, California, eastward.

The amount of private capital already invested, the high personal character of the gentlemen connected with its prosecution, and the munificent subsidy of the Government, combine to give assurance that the whole will be completed within the period fixed by law, thus furnishing a continuous line of railway from the Atlantic to the Pacific.

Its effects, in promoting immigration, opening vast and rich regions of the continent to settlement, developing our inexhaustible national resources, and perpetuating the unity of the American people, will be more and more appreciated as it approaches completion.

The Union Pacific Railroad Company, incorporated under the congressional act above cited, reports by its president, under date of the 5th ultimo, that on the 19th of October last sixteen miles of track had been laid west from Omaha, and that arrangements had been made to prosecute the work at the rate of one half mile per day. The company has five locomotives and seventy cars on the road. Machine shops and station buildings of the most permanent character are in progress of construction, and will be finished in the course of the present month. The grading of the first hundred miles was, at that date, nearly ready for the superstructure, and that of the second hundred miles had been commenced. The first sixty miles of the track will be ready by the end of next month, and no doubt is entertained that the first hundred miles will be in operation by the 1st day of July next, in compliance with the requirements of law. The directors express the belief that an additional hundred miles will be in operation by the 1st day of July, 1867, and they are not without hope that they will, at that date, have constructed two hundred and fifty miles of road, and reached the one hundredth meridian, where the line of the eastern division, commonly called the Kansas branch, is to unite with it.

Several parties of engineers have been actively engaged; one in surveying the Spanish fork and the country west from Salt Lake to the valley of the Humboldt; another up the Cache de la Poudre to the Laramie river; and a third from the one hundredth meridian west. A fourth has been occupied in locating the second hundred miles of the road. Strenuous efforts have been made by the directors to press on the work with a dispatch commensurate with its acknowledged importance. The expenditures already amount to \$3,500,000, wholly derived from private contributions.

In this connection it may not be amiss to state that on the 12th of May last the company made application to substitute a new line for that adopted between Omaha and the crossing of the Elkhorn. It was deemed advisable, before determining which line offered the most "direct and practicable route," to order a thorough personal examination of both by a competent engineer, who was instructed to report on their relative advantages. The officer detailed by the Secretary of War at my request, as above mentioned, discharged this duty with fidelity and success. His report embraces the instructions of the Department, as well as the result of his careful examination, and the correspondence to which it gave rise.

The contemplated new location received your approval. Some time was in this way unavoidably consumed, and the company deemed it expedient to suspend active operations on that part of the road until the result of your final

action upon the application was officially communicated.

The Union Pacific Railroad Company, eastern division, has completed forty miles of the railway and telegraph line, extending from the mouth of the Kansas river to a point near Lawrence; and it had in October last four locomotives on the road, and was then expecting the arrival of another at Wyandotte. There were on the track three first-class passenger, forty-four freight, twenty-one box, one baggage, twelve hand cars, and two iron truck cars. The company has also contracted for four additional first-class passenger, two express and mail, and ten box freight cars, all to be delivered within a short period. The company reported on the 11th ultimo that an additional section of twenty miles had been completed, which is now in process of examination by commissioners, in the mode required by law. Surveys have been extended to the one hundredth meridian, a distance of about three hundred and eighty-one miles. There is also a party in the field making surveys of the Smoky Hill route, who are to extend their surveys to Denver City, about five hundred and eighty-one miles from the eastern terminus of the road.

The president of the Atchison branch of the Union Pacific railroad submitted a report bearing date the 15th ultimo. It represents that the bridges and masonry on the first section of twenty miles of the road are all completed, cross-ties prepared, the track being laid, and that this portion of the road is under contract, and will be finished by the 1st day of January next. It further represents that the bridges are constructed of the best materials, and that the buildings now in process of erection are of stone, roofed with corrugated iron; that the second section of twenty miles is also under contract, and will be completed on the 1st day of May next.

The commissioners appointed by your predecessor, under date September 8, 1864, reported upon thirty-one miles of the railway and telegraph line constructed by the Central Pacific Railroad Company of California. This part of the road, extending eastward from Sacramento city to a point near Newcastle, in Placer county, California, is completed and in daily use. Under date of the 17th July last, twelve additional miles of the road were reported to be in running order. On the 16th day of September last, the president of the company filed in the office of the surveyor general of California his affidavit, setting forth that the company had completed the grading and all the work required to prepare the railroad for the superstructure on the section of twenty miles lying next eastward of the town of Newcastle, at an expense of \$1,098,000. Five thousand laborers, it is alleged, are employed, and the company manifest the greatest vigor and activity in carrying on their operations.

On the 24th day of December last, the Sioux City and Pacific Railroad Company, a corporation organized under the laws of Iowa, was designated by the President of the United States for the purpose of constructing and operating a line of railroad and telegraph from Sioux City to such point on, and so as to connect with, the Iowa branch of the Union Pacific railroad, from Omaha, or the Union Pacific railroad, as the company might select. The president of the company, on the 15th of June last, submitted a map designating the general route of said road, but the Department is not advised that its construction has been commenced.

I cordially concur in the views expressed by my predecessor, in his last annual report, as to the propriety of securing, if practicable, the appointment of Government directors in each of the companies engaged in the construction of a branch or any part of the main line of this road. Such directors are now appointed for the company organized under the act of Congress, and with evident advantage to the public interests. The concurrent action of the States from which the companies derive their corporate power,



and the consent of the latter, may be necessary to accomplish the object; but Congress might with propriety initiate the requisite legislation on the part of the General Government.

The patents for land and the bonds provided for in the fourth and fifth sections of the original act are not to be issued on the completion of a section of the road, until the fact of its construction and equipment as a first-class railroad shall have been ascertained and declared in the mode prescribed. The words "*first-class railroad*" are, perhaps, as precise and definite as any other; but some difficulty may arise in the practical enforcement of the provision in which they occur. With a view to obviate the difficulty, and secure uniformity, I have invited the directors on the part of the Government, and the several boards of commissioners, to meet in this city on the 10th proximo, for the purpose of establishing a standard of excellence, to which the companies, in the construction and equipment of their respective roads, shall be required to conform.

The Northern Pacific Railroad Company, on the 11th of December, 1864, filed their acceptance of the provisions of the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route;" and under date of the 6th March last submitted their map designating the general direction of their road from a point on Lake Superior, in the State of Wisconsin, to a point on Puget sound, in Washington Territory. The records of the Department do not, however, show any further action by the company in the premises.

#### WAGON ROADS.

By an act approved March 3, 1865, Congress made appropriations for the construction of certain wagon roads in Montana, Dakota, Idaho, and Nebraska. I refer you to the report of Colonel Simpson for information as to the manner in which the appropriations have been expended, and the progress made in the construction of these highways.

#### WASHINGTON AQUEDUCT.

Congress, at its last session, made no provision for the Washington aqueduct. As the appropriation for the last fiscal year was nearly exhausted, I dispensed with the services of such of the employés as were not indispensable, and reserved the small balance for such repairs as might be required for the preservation of the work until the meeting of Congress. The engineer in charge is of opinion that the dam of solid stone masonry already commenced across the Maryland channel of the Potomac river, at the head of the conduit, is absolutely necessary to secure "an abundant and needful supply of good and wholesome water" during certain seasons of the year, and that it should be completed with the least possible delay. The temporary dams erected from time to time have repeatedly been carried away. Nothing, in his opinion, will effectually serve the purpose but a dam of the character indicated, and he urges its construction upon the grounds of economy as well as of necessity. He reports in favor of the completion of the connecting conduit at the receiving reservoir, the further excavation and deepening of the distributing reservoir; and also the construction of a sloped rubble wall, to prevent the washing of its interior slopes or water faces.

His suggestions are respectfully submitted for the consideration of Congress.

Lieutenant Colonel Simpson has been permanently assigned to duty in this Department. His services have been advantageously employed on the work connected with the construction of the Union Pacific railroad and branches, the Northern Pacific railroad, land-grant railroads, wagon roads, the aqueduct, and Capitol extension; all of which require the supervision of a competent and practical engineer. His report embraces a connected history of the inception and progress of the Union

Pacific railroad, compiled from public records and other authentic sources, and other valuable matter, with practical suggestions proper for the consideration of Congress.

Provision should be made for the clerical force rendered necessary by the increasing correspondence and duties relating to these important works, and other incidental expenses that must unavoidably be incurred, for which an estimate has been submitted.

#### CAPITOL AND LIBRARY EXTENSION, AND GOVERNMENT PRINTING OFFICE.

The report of the architect of the Capitol extension furnishes full information concerning the condition and progress of the work. Since the report of his predecessor, the eastern portico of the south wing, including the steps and carriage ways to the same, has been completed, with the exception of the caps of the cheek blocks, delayed for the want of marble of the requisite dimensions. One of these has been finished, and eleven pieces of marble for the others are now on the grounds.

The greater part of the marble work for the north portico has been prepared during the present season, and this portion of the work is now completed. Seventy-three blocks for cornice, architraves, &c., and nine monolithic columns have been prepared for the unfinished porticoes. Some years since the Government acceded to an interpretation of the contract, insisted on by the contractors, which allowed them to furnish marble of such dimensions as to require two pieces in the construction of each column. There is on hand material for eight columns of that description. The architect recommends that they be placed alternately with monolithic columns in the western porticoes.

Congress, at its last session, made no appropriation for this work, and the architect estimates that \$175,000 will be required to continue it during the present fiscal year, and \$200,000 for the fiscal year ending June 30, 1867.

Attention is invited to that part of the report which relates to the necessity of extending the central building and portico to the line of the porticoes of the wings, and of enlarging the Capitol grounds. The architect recommends that the plans prepared for these purposes by his predecessor be adopted and carried into effect.

The arrangements for lighting the new dome, by Gardner's electro-magnetic apparatus, are in progress. A further appropriation is necessary for the completion of the dome, which is now nearly finished, and to discharge existing liabilities for work already done upon it.

An act of last session authorized "an enlargement of the Library of Congress, so as to include in two wings, built fire-proof, the space at either end of the present Library." The then architect of the Capitol extension prepared the requisite plans and specifications for the work. Competition was invited by newspaper publication in several of the large cities of the Union, and a contract for the labor and materials awarded to a responsible party for the sum of \$146,000, being \$14,000 less than that appropriated by Congress. The work, although delayed by unforeseen causes, has been faithfully and successfully prosecuted, and its completion will not be long deferred. Additional expenditure must be incurred for the introduction of water into the Library, the cutting off and replacing the gas mains which supplied the building and passed through the wings which will be occupied by the Library, and other incidental alterations which were not anticipated and specified by the architect, but which, as the work progresses, are found to be necessary.

After a suspension of nearly four years, the work on the north portico of the Interior Department has been resumed under a contract made in the year 1857. The price of labor and materials during the intervening period had so largely increased as, in the opinion of the architect, to render the contract entirely unremunerative. I therefore gave the contractors

the option of abandoning the contract, or prosecuting the work at the rate it prescribes. An estimate has been submitted of the amount requisite to finish the portico, iron fence, and pavement.

The saloon of the north front of the Department has been appropriated for the use of the Patent Office, and fitted up with cases. They are designed for the exhibition and safe-keeping of models, and are of the most approved materials and workmanship. An appropriation is necessary to meet outstanding accounts and to complete the saloon.

The Government Printing Office has been enlarged and extended agreeably to an act of the last Congress making provision for that purpose, and for capacity and convenience is believed to be now unsurpassed by any similar establishment in the country.

#### DISTRICT AFFAIRS.

The power conferred on Congress of exclusive legislation for the District of Columbia, imposes the corresponding duty of making just and adequate provision for its welfare. Its local interests, so liable to be overlooked in the midst of subjects of more general and engrossing concern, fall to some extent within the province of this Department, and require a special allusion.

The annual report of the Commissioner of Public Buildings gives a detailed account of the expenditures authorized by Congress within this District. I have also received a communication from the mayor of the city of Washington, which I have directed to be printed. These papers present important facts and considerations which merit the attention of the legislative department.

The controlling object in the original design of this city was the accommodation of the public interests which it was anticipated would cluster about the capital of a great nation. Accordingly, only three thousand and sixteen of the seven thousand one hundred and thirty-four acres composing its entire area were surveyed into lots for sale to individuals. The remainder embraces streets, avenues of inordinate width, squares, circles, and public reservations. By the adoption of this design, it is manifest that it was not intended that the sparse population thus provided for should bear the burden of the entire cost of the local improvements, required more for the national convenience than for that of the permanent residents. At the last assessment the national Government owned real estate within the city limits to the value of \$28,121,631 45; a sum nearly equal to the estimated worth of all individual property in the city. At the usual rate of taxation this property would yield a revenue of \$210,912 23. The mayor suggests that such a tax, in connection with the present resources, would yield a revenue amply sufficient to support the municipal government, improve the streets and avenues, make proper provision for the indigent, and maintain a complete system of public schools.

In the year 1820 Congress provided that from the proceeds of the sale of public lots reimbursement should be made to the city of Washington of an equitable proportion of the expenses thereafter incurred in laying open, paving, and otherwise improving the streets and avenues adjacent to the public squares and reservations. I am informed that, since the passage of this act, 3,725 lots of this class have been sold, and the proceeds paid into the Treasury of the United States, while no reimbursement has been made to the city for the sum of \$37,410 61 paid for improvements properly chargeable to this fund. An appropriation should be made for refunding this amount and the interest which has accrued thereon. During the past summer and fall the improvement of streets adjacent to public property has rendered the Government liable to a considerable amount, and an additional sum will be needed to meet similar expenses which will probably be incurred during the next fiscal year. It is hoped that Congress will at an early date make provision to meet these liabilities.

## SENATE &amp; HO. OF REPS.

*Report of the Secretary of the Interior.*

39TH CONG....1ST SESS.

Several of the streets of Washington have been paved in a neat and substantial manner since the adjournment of Congress, and the municipal authorities are making like improvements upon other streets, which will add greatly both to their beauty and their utility as public thoroughfares. It is submitted that Congress should encourage this spirit by corresponding improvements upon the avenues. The Commissioner of Public Buildings refers to the dilapidated condition of the pavement on Pennsylvania avenue, and recommends that an appropriation be made by Congress for the substitution of either the Belgian or the Nicholson pavement throughout its length, and also for the opening and grading of such of the remaining avenues leading to the Capitol as remain closed. These avenues are under the exclusive control of Congress, and justice seems imperatively to require that the national Government should defray the expense of paving and keeping them in repair. If the burden of paving the avenues, as well as the streets, is to be thrown upon the owners of contiguous property, the mayor suggests that the law be so amended as to reduce the width of the carriage-ways, and that the intervening space between them and the pavement be flanked with a line of curbstones, sodded, and planted with ornamental shade trees.

I recommend that the law authorizing a local tax for sewerage be so amended as to enable the city to levy the same equitably upon all property benefited by such improvement. A general system of sewerage should at once be adopted by the city, the expense of which should be borne in part by the Government.

I invite the attention of Congress to the views of the mayor touching the locality occupied by the Center market. For a long time this space has been disfigured by dilapidated and unsightly sheds and stalls, called a "Market House." The city, in the belief that it was authorized to appropriate the ground, made efforts to replace these by a commodious building of correct architectural proportions, properly furnished for the public accommodation. Its erection had been commenced, but the work was suspended in compliance with the supposed requirements of a joint resolution, approved June 30, 1864, authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States. I commend the subject to your consideration, with a view to such legislation as the convenience of the city and the interests of the public require.

The mayor's communication also calls attention to the fact that the youths of the District are largely in excess of the accommodation which can be furnished them in the public schools. No doubt many of them are receiving education in private institutions; but it is feared that many are absolutely destitute of the means of instruction. All experience demonstrates that virtue and thrift are the natural results of education, while pauperism, vice, and crime are the legitimate fruits of ignorance; and that it is more economical to maintain schools as a preventive, than to support the pauperism and punish the crime that ignorance engenders. From the establishment of the national capital in the District of Columbia, the expenses incident to such support and punishment have been paid by the Government of the United States. It is worthy of serious consideration, therefore, whether a just proportion of the expense of the public schools in this District should not be provided for from the same source; and it is believed that Congress will thus be able to diminish the expenditures from the judiciary fund far more than they will be expected to augment the educational fund of this District. The propriety of this provision is still further shown by the consideration of the fact that a large proportion of the people of this District are in the service of the United States, on small salaries, and regard themselves as transient inhabitants. If possessed of property, it is generally located elsewhere, and the taxes levied upon it are applied to the support of the institutions of those lo-

calities, while their children live in this District, and, if educated in the public schools, swell the tax to be levied on the property of permanent citizens. The number of transient and non-tax-paying persons has been largely increased during the war by the ingress of multitudes of both white and colored people who have fled from its perils and desolations. Justice as well as economy demands that provision be made from the national Treasury for the education of the children of these classes.

The canal leading from the Potomac river, through the heart of the capital, to the Eastern branch, has been made the receptacle of the filth and offal from all the sewerage of the city. It has thus become a loathsome cess-pool, fruitful of disease, and inviting pestilence. The city authorities can exercise no legal control over it, as it is bordered almost exclusively by Government reservations. These are deteriorating in value on account of this constantly increasing and most insufferable nuisance. It is nearly useless for navigation, by reason of accumulations within it; and it should either be deepened and improved for the passage of shipping or at once abandoned as a canal. In the latter alternative, it should be diminished in width to suitable dimensions, arched over, and used exclusively as a main sewer. The proceeds of the land thus reclaimed, if brought into market, would defray a large proportion of the expense occasioned by the change. This nuisance lies almost at the threshold of the Capitol, the Executive Mansion, and other costly public edifices. If Congress should refuse to provide the requisite means for its improvement in the mode which I have suggested, exclusive authority over it should be conferred upon the city of Washington.

The report of the Commissioner of Public Buildings refers to the neglected condition of many of the triangular and circular public reservations. Instead of being abandoned to the public, they should be neatly and substantially inclosed, and planted with trees and shrubbery. The reservation on East Capitol street, between Eleventh and Thirteenth streets east, should be thus improved.

By the act approved May 25, 1832, the Commissioner of Public Buildings was authorized to purchase a tract of land surrounding a large and never-failing spring of the purest water, including the rights of individuals to its use, and to bring it in pipes, a distance of about two miles, to the Capitol, at a cost of \$40,000. From that spring comes the flow of water which fills the fountains directly east and west of the Capitol building, and also the flow of the hydrant in front of the arched entrance to the basement of the west front; and from it is supplied all the drinking-water used in the Capitol. If the use of this water is to be continued, so much of the land on which the spring is situated as belongs to the United States should be properly secured by a substantial fence.

## METROPOLITAN POLICE.

The board of police for this District, constituted by an act approved August 6, 1861, employed during the last fiscal year, as a permanent force, one superintendent, six detectives, ten sergeants, and one hundred and fifty patrolmen.

The detectives made seven hundred and seventeen arrests. Seven hundred and seven robberies were reported at the detective office. Property to the value of \$170,659 09 was reported as stolen; of which \$122,800 06 was recovered by the officers. Property valued at \$6,894 22 was turned over to the property clerk, while the value of that delivered to claimants was \$115,905 84, and that taken from prisoners and returned to them, \$4,942 15. These results indicate but a portion of the actual work performed. The services of detectives are often of great value in the prevention of crime by known offenders, who, on their arrival, are placed under a strict surveillance, or are taken into custody before they have an opportunity to accomplish their evil designs.

The members of the police constituting the sanitary company have been efficiently employed in the abatement of nuisances, and in the discharge of other duties specially assigned to them.

The whole number of arrests during the year was 26,478. Of the parties arrested, 18,567 were charged with offenses against the person, and the remainder with offenses against property. The following disposition was made of them, so far as the cases are reported: 1,377 committed to jail; 706 discharged on bail; 1,452 turned over to the military authorities; 7,984 dismissed; 1,932 committed to the work-house, and 828 released on security to keep the peace. Fines were imposed in 11,487 cases, amounting to \$61,943 92, and in 531 cases light punishments were inflicted. No report was received in 131 cases. Two thousand three hundred and twenty-one destitute persons were furnished with lodging, 114 lost children restored to their parents, and 154 sick or disabled persons assisted or taken to the hospital. The number of arrests during the year exceeds by 3,000 those made during any previous year; and the increase in the amount of fines imposed is nearly one hundred per cent. The actual expense to the cities of Washington and Georgetown, and to Washington county, of the present police system is about \$45,000. For further details I refer to the report of the board.

The utility of the police telegraph has been fully demonstrated during the past year. By its agency a large force can be speedily concentrated at any given point where an emergency requires its presence. Seven thousand eight hundred and thirty-three messages have been transmitted through the central office, and a large amount of correspondence conducted between the precinct stations. An appropriation sufficient to discharge the cost of its construction is respectfully recommended to Congress.

The force has been maintained, as far as practicable, at the maximum authorized by Congress; but it is believed to be unequal to the public necessities. Since its organization the population of the District has nearly doubled, and the increase of crime has been in still greater proportion. The board present facts and arguments which are, in my opinion, conclusive in favor of such an increase as will enable the police force to discharge with vigor and promptitude the duties required of them. It is hoped that Congress will adopt such measures in this regard as will insure within the District the maintenance of public order, the due execution of police regulations, and the adequate protection of the rights of person and property.

## JAIL, HOUSE OF REFUGE, AND PENITENTIARY.

It appears from the report of the warden that there were 227 prisoners in the jail of this District on the 1st day of November, embracing persons of each sex and of various ages. Some of them were convicted of minor offenses, punishable by fine and imprisonment; others were committed in default of bail, or were awaiting sentence in the criminal court. The inmates are occasionally more numerous. The building, although designed for one hundred prisoners, does not furnish accommodation for even that limited number, without neglecting the precautions which a due regard to their health and secure custody demands. The crowded state of the building and its very imperfect ventilation have a most injurious influence upon the sanitary condition of its inmates. This evil is enhanced by the want of a hospital department, to which the sick may be transferred from the impure atmosphere of the jail, and receive the benefit of fresh air, and the treatment which their situation imperatively demands. The building is so insecure that constant and vigilant attention, with the aid of a military force detailed by the War Department, is requisite to prevent the escape of prisoners, many of whom are desperate outlaws, charged with the commission of the most aggravated crimes. For want of a

workshop connected with the building, such of the inmates as have been convicted of petit misdemeanors are huddled together, without needful employment, a prey to the vices born of idleness. The tedious hours are beguiled by frivolous pastimes, or frittered away in reckless or profane conversation, so that it is to be feared that many, on being discharged, are prepared for a bolder career of crime.

During the past summer the cells have been increased in strength, and such an addition made to their number as the available space would permit. The sewerage and ventilation have been improved, and light introduced. Nevertheless the building remains a reproach to the Government, and a nuisance. Humanity and policy alike require that a suitable jail should be erected, and I cannot too earnestly invoke the early and favorable action of Congress on the subject. The propriety of increasing the salary of the warden is also respectfully submitted for consideration.

Congress, by the act approved March 3, 1865, made provision for the confinement of juveniles under the age of sixteen years thereafter convicted, by any court of the United States, of a crime whose penalty is imprisonment. Authority was given to the Secretary of the Interior to contract with the managers of houses of refuge for the imprisonment, subsistence, and proper employment of such convicted offenders. Soon after the passage of this act the Department entered into correspondence with the marshals of the United States, and other parties, on the subject. A contract was made with one such institution, and it could admit but an inconsiderable number of convicts, and declined to receive into custody any colored persons.

It was ascertained that an offender could not be received by some of these institutions if the term to which he had been sentenced expired during his minority, and that the regulations provide that he may be discharged at any time upon the order of the directors. The convict is sentenced by the Federal court for a specific term, and the act requires that he "shall be confined during the term of sentence." This is incompatible with the exercise of the discretionary authority conferred on nearly all of these institutions, by State legislation, to discharge him at an earlier period and to bind him by indentures of apprenticeship, or to prolong his detention until he gives satisfactory evidence of reformation. And doubts were entertained by the officers in charge of others, whether they were not prohibited by the terms of their organic laws from receiving offenders other than those convicted by the tribunals of the State in which they were located. From the best consideration I have been able to bestow on the subject, I am of opinion that State as well as Federal legislation is necessary to give full practical effect to the humane intentions evinced by Congress in the enactment of the law.

The motives which induced the action of Congress, appeal with equal force in favor of the erection of a house of refuge in this District. The confinement of the youthful convict in the penitentiary, where he is in communion with inveterate transgressors, has a most corrupting effect upon his modes of thought and principles of action, and, after suffering the penalty which the law imposes upon convicted guilt, he rarely returns to the path of virtue. Beneficent results attest the wisdom and humanity of providing an asylum for such convicts. In many instances they have been led astray by evil parental influences, or left in destitute orphanage, assailed on every side by temptation, and without a friend to encourage them by precept and virtuous example. A large discretion should be given to the managers of such an institution. They should be authorized to detain the offender until he attains his majority; or, should they deem it expedient, provide him, at an earlier period, with a home far removed from his old associations.

During his confinement he should be taught a useful trade, habits of industry, the rudiments of an education, and the lessons of morality and religion. Under the benignant influences which would thus surround them, many would doubtless be rescued from the ways of guilt and sorrow, and rendered, in after life, useful members of that society of which they once threatened to become the scourge and opprobrium.

Influenced by these considerations, I have encouraged an incorporated society of benevolent gentlemen to take the preliminary steps for the establishment of such an institution on the aqueduct farm, in this District. It is hoped that Congress may afford them the necessary assistance to secure this result.

The War Department has not yet surrendered the building in this city formerly used as a penitentiary. It is ill adapted to the purposes for which it was employed. This Department has heretofore invited the attention of Congress to the propriety of erecting a new building. The subject is again presented for such action as may be deemed expedient.

#### GOVERNMENT HOSPITAL FOR THE INSANE.

I invite the attention of Congress to the tenth annual report of the Board of Visitors, and the thirteenth annual report of the superintendent of construction, of the Government hospital for the insane.

These papers exhibit the condition of the institution during the past fiscal year, and present, in addition to statistical information, many valuable and highly instructive suggestions. The number of patients under treatment at the commencement of the year was 351, including 191 from the Army, 18 from the Navy, 2 from the Soldiers' Home, and 4 rebel prisoners. The number admitted during the year was 515, of whom 426 were from the Army, 10 from the Navy, 72 from civil life, 3 from the quartermaster's and subsistence departments, and 4 were rebel prisoners. The whole number under treatment during the year was 866, of whom 645 belonged to the military or naval service; 147 died; there were discharged as recovered, 348; as improved, 101; and as unimproved, 9.

Congress failed at its last session to make the required appropriation for the support of the hospital, and with your approbation I negotiated, for that purpose, a temporary loan. Attention is invited to the subject, as the money was obtained on most favorable terms from the First National Bank, to whose officers assurances were given that Congress would provide for its repayment at an early period of the approaching session.

The hospital was established for the treatment of the insane of this District, as well as of the Army, the Navy, and the revenue cutter service. It has, from its origin, been conducted in such manner as to merit and receive the uninterrupted confidence and patronage of Congress. Its success and usefulness are due in a great degree to the superintendent, who has been identified with its history, and who brings to its service professional attainments of the highest order, long experience, and unsurpassed fidelity in the discharge of his arduous and delicate duties. He has received the active coöperation of the Board of Visitors and of his subordinate officers. His salary was originally fixed at its present rate. The propriety of increasing it is presented for the consideration of Congress.

#### COLUMBIA INSTITUTE FOR THE DEAF AND DUMB.

The Columbia Institution for the Instruction of the Deaf and Dumb has furnished instruction to 85 deaf mutes since the 1st day of July, 1864. Pursuant to the provisions of an act of Congress approved February 23, 1865, the blind pupils, 7 in number, were transferred to the Maryland Institution for the Blind. The books, maps, and papers, especially designed for the instruction of such pupils, were delivered to that institution, for the use of the beneficiaries of the United States.

Indigent deaf and dumb persons of "teachable age" properly belonging to this District, and the deaf and dumb children of all persons in the naval or military service of the United States, while such persons are actually in such service, are received into the institution upon the order of the Secretary of the Interior. The annual charge of \$150 for each pupil so received has been paid, as provided by law. In addition to this outlay, appropriations have been made for salaries and contingent expenses, the purchase of grounds, the erection of buildings, the introduction of Potomac water, and other improvements. The directors, in their report, propose to relinquish the *per capita* charge for the Government pupils, and include the estimated amount thereof in the item for salaries and contingent expenses, which they desire may be increased to \$20,700. This sum, with the other items embraced in their estimate, will require for the next fiscal year an appropriation of \$71,940. During the current fiscal year the institution has received no aid from Congress, other than the sums paid for the maintenance of the pupils admitted by order of this Department, and the board ask that a clause appropriating \$55,445 87 be inserted in the deficiency bill.

Congress, by the act of April 8, 1864, authorized the Columbia Institution to confer degrees in the liberal arts and sciences on pupils of the institution, or others, who, by proficiency in learning, or other meritorious distinction, may be thereunto entitled. Pursuant to the presumed authority conferred by this act, the board has organized an advanced department, in addition to the primary school, where the elementary branches and the mechanic arts have been successfully taught. They designate it as "The National Deaf Mute College." A preparatory or intermediate class has also been formed, with a range of studies more thorough and efficient than in any other similar school in this country. It is designed to furnish their own pupils, and the graduates of the State institutions, with an opportunity of attaining the standard of proficiency requisite to an admission into the freshman class of the college.

Five students have entered upon their collegiate course. Eight are in the preparatory class, four of whom are residents of the District of Columbia. Attention is invited to the views of the directors on the subject. They propose to make the course of study in the college the full equivalent of that adopted in other colleges, and, as the number of their classes increases, to add to the number of professors, taking care that the corps of instructors shall come fully up to the average of college faculties in number, ability, and fitness.

The institution is authorized, by the fifth section of the organic act, to receive and instruct deaf and dumb persons from the States and Territories of the United States, upon such terms as may be agreed upon by themselves, their parents, guardians, or trustees, and the proper authorities of the institution. It is proposed to receive and instruct those who desire to enter the advanced classes and prosecute the preliminary studies which will fit them for a collegiate course, but who have been unable to make adequate preparation in consequence of the limited educational advantages in State institutions. It is suggested that cases have arisen, and will, doubtless, continue to present themselves, of worthy deaf mutes unable to pay the usual charges; and the directors conceive that they are authorized to remit, in whole or in part, such charges as circumstances seem to require. It was obviously not the intention of Congress to provide, at the national expense, for the instruction of this description of persons residing in the different States. The benefits of the institution, gratuitously conferred, are confined to the two classes first mentioned; and no portion of the fund appropriated by Congress for the salaries and incidental expenses should be diverted from its legitimate purposes and applied to the support



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of pupils belonging to neither of those classes. The expenses of all such, if not properly chargeable upon the fund furnished by voluntary private contributions, should be defrayed by themselves, or by the State or community to which they belong. The board disclaim the intention of competing or interfering with State institutions; but as the range of instruction in them is confined within narrow limits, an opinion is advanced in the report that "funds should be drawn from the national resources" for the support of an institution which will extend to these unfortunates facilities for cultivating the higher branches of learning. The appropriations asked for imply a conviction on the part of the directors that this opinion will be sanctioned and made effectual by appropriate legislation. It will be for Congress to determine whether an institution shall be maintained at the national metropolis, where the deaf mutes of the country may enjoy the opportunity of pursuing the classic and scientific studies which enter into the course of collegiate instruction.

The act of February 23, 1865, declares the corporate name of the institution. I have serious doubts whether it, or any department thereof, can rightfully assume the name of "The National Deaf Mute College" without authority from Congress.

It affords me pleasure to bear witness to the disinterested zeal with which the directors have labored to render the institution as useful in its practical workings as it is humane and generous in its conception. The vacancies in the board, occasioned by the lamented death of Mr. Edes, and of Mr. Mitchell, have been filled by the appointment of Mr. Chief Justice Chase and Benjamin B. French, Esq.

The board has been fortunate in securing the services of those charged with the academic and domestic departments. They have performed their duties with an intelligence and fidelity worthy of all praise.

## COURT-HOUSES.

This Department, on repeated occasions, has referred to the limited and precarious accommodations for holding the courts of the southern district of New York. The Government had a term of years in the property which those courts continue to occupy, but is liable to be soon dispossessed under the present temporary arrangement, and no other could be made after the expiration of the lease. It appears from the report made by this Department to the Senate of the United States on the 6th of December last, that on the 1st day of January of that year more cases were pending, and more had been instituted within the preceding twelve months, in that than in any other judicial district. The duty of the Government to furnish all proper facilities for the prompt transaction of the business of the courts, and the preservation of their archives and records, will not be questioned. The courts at Baltimore, Philadelphia, Boston, Cincinnati, Louisville, New Orleans, and various other points, are now held in buildings belonging to the Government, and no just reason exists why this policy should not be extended, and its benefits secured to the judges, officers, and litigating parties at the leading commercial city of the Union. There was a clause in the lease reserving to the United States the right of purchasing the property, at a stipulated sum, within a specified period, which has since elapsed, and I am not advised whether the proprietors are now willing to dispose of it on the same terms. I recommend that this Department be authorized to make, by purchase, permanent arrangements for the Federal courts in the city of New York, and that an appropriation be placed under its control for the purpose.

The eastern judicial district of New York was created at the last session of Congress. The Department has encountered serious difficulty in its attempts to secure suitable apartments in the city of Brooklyn for the accommodation of the courts. I strongly urge upon

Congress the consideration of the propriety of providing for the erection of a suitable building, portions of which may be appropriated to the district and circuit courts and their respective officers, and the remainder to the city post office and other needful public uses.

I am, very respectfully, your obedient servant,

JAMES HARLAN,  
Secretary of the Interior.

To the PRESIDENT.

## Report of the Secretary of the Treasury.

TREASURY DEPARTMENT,  
WASHINGTON, December 4, 1865.

In conformity with law, the Secretary of the Treasury has the honor to submit to Congress his annual report.

Next in importance to the great questions involved in the restoration of the Federal authority over the southern States, and the re-establishment of civil government therein under the Constitution, are the financial questions embracing—

The Currency;  
The Public Debt; and  
The Revenue;

all of which demand the early and careful attention of Congress.

In presenting these important subjects, with their various connections, the Secretary is painfully conscious of his own inability properly to discuss them, difficult as they are, and involving as they do the national honor and the pecuniary interests of thirty millions of people. He will, however, offer as clearly and definitely as he can his own views in relation to them, not doubting that Congress will sustain and carry out, by appropriate legislation, those that are approved by their superior wisdom, and reject those which are regarded as either impracticable or unsound.

The fact that means have been raised, without foreign loans, to meet the expenses of a protracted and very costly war, is evidence, not only of the great resources of the country, but of the wisdom of Congress in passing the necessary laws, and of the distinguished ability of the immediate predecessors of the present Secretary in administering them. It is hardly necessary to suggest, however, that the legislation which was proper and wise during the progress of hostilities may not be appropriate or even justifiable in a time of peace.

The right of Congress, at all times, to borrow money and to issue obligations for loans in such form as may be convenient, is unquestionable; but their authority to issue obligations for a circulating medium as money, and to make these obligations a legal tender, can only be found in the unwritten law which sanctions whatever the representatives of the people, whose duty it is to maintain the Government against its enemies, may consider in a great emergency necessary to be done. The present legal-tender acts were war measures, and while the repeal of those provisions which made the United States notes lawful money is not now recommended, the Secretary is of the opinion that they ought not to remain in force one day longer than shall be necessary to enable the people to prepare for a return to the constitutional currency. It is not supposed that it was the intention of Congress, by these acts, to introduce a standard of value, in times of peace, lower than the coin standard, much less to perpetuate the discredit which must attach to a great nation which dishonors its own obligations by unnecessarily keeping in circulation an irredeemable paper currency. It has not, in past times, been regarded as the province of Congress to furnish the people directly with money in any form. Their authority is "to coin money and fix the value thereof;" and, inasmuch as a mixed currency, consisting of paper and specie, has been found to be a commercial necessity, it would seem also to be their duty to provide, as has been done by the

national currency act, that this paper currency should be secured beyond any reasonable contingency. To go beyond this, however, and issue Government obligations, making them by statute a legal tender for all debts, public and private, is not believed to be, under ordinary circumstances, within the scope of their duties or constitutional powers.

The reasons which are sometimes urged in favor of United States notes as a permanent currency are, the saving of interest and their perfect safety and uniform value.

The objections to such a policy are, that the paper circulation of the country should be flexible, increasing and decreasing according to the requirements of legitimate business, while, if furnished by the Government, it would be quite likely to be governed by the necessities of the Treasury or the interests of parties, rather than the demands of commerce and trade. Besides, a permanent Government currency would be greatly in the way of public economy, and would give to the party in possession of the Government a power which it might be under strong temptations to use for other purposes than the public good—keeping the question of the currency constantly before the people as a political question, than which few things would be more injurious to business.

But the great and insuperable objection, as already stated, to the direct issue of notes by the Government, as a policy, is the fact that the Government of the United States is one of limited and defined powers, and that the authority to issue notes as money is neither expressly given to Congress by the Constitution, nor fairly to be inferred, except as a measure of necessity in a great national exigency. No consideration of a mere pecuniary character should induce an exercise by Congress of powers not clearly contemplated by the instrument upon which our political fabric was established. The Government, in the great contest which has been recently closed, has not sought to increase its own powers, nor to interfere with the rightful powers of the States. The questions decided by the war are, that the Union is indissoluble; that whatever is essentially opposed to it must be removed; that the Federal authority, within its proper sphere, is supreme; and that the validity of acts of Congress is not to be determined by the States, but by that tribunal which the complex character of the Government made a necessity. It is the crowning glory of the Constitution that this great war has been waged and closed without the powers of the Government being enlarged or its relations to the States being changed.

The issue of United States notes as lawful money was a measure expedient, doubtless, and necessary in the great emergency in which it was adopted, but this emergency no longer exists, and however desirable may be the saving of interest, and however satisfactory these notes may be as a circulating medium, these considerations will not, it is respectfully submitted, justify a departure from that strict construction of the Constitution given to it previous to the war by patriotic men of all parties, and which is essential to the equal and harmonious working of our peculiar institutions. The strength of the Government has been proved by the manner in which it has carried on the greatest war of modern times; it only remains, for the vindication of its excellence and the perfection of its triumphs, that all powers exercised for its preservation, but not expressly granted by the Constitution, be relinquished with the return of peace. While, therefore, the Secretary is of the opinion that the immediate repeal of the legal-tender provisions of the acts referred to would be unwise, as being likely to affect injuriously the legitimate business of the country, upon the prosperity of which depend the welfare of the people and the revenues which are necessary for the maintenance of the national credit, and unjust to the holders of the notes, he is of the opinion that not only these provisions, but the acts also, should be

regarded as only temporary, and that the work of retiring the notes which have been issued under them should be commenced without delay, and carefully and persistently continued until all are retired.

In speaking of the legal-tender acts, reference has only been made to those which authorized the issue of the United States notes. The interest-bearing notes which are a legal tender for their face value were intended to be a security rather than a circulating medium; and it would be neither injurious to the public, nor an act of bad faith to the holders, for Congress to declare that, after their maturity, they shall cease to be a legal tender, while such a declaration would aid the Government in its efforts to retire them, and is therefore recommended.

The rapidity with which the Government notes can be withdrawn will depend upon the ability of the Secretary to dispose of securities. The influence of funding upon the money market will sufficiently prevent their too rapid withdrawal. The Secretary, however, believes that a decided movement toward a contraction of the currency is not only a public necessity, but that it will speedily dissipate the apprehension which very generally exists, that the effect of such a policy must necessarily be to make money scarce and to diminish the prosperity of the country.

It is a well-established fact, which has not escaped the attention of all intelligent observers, that the demand for money increases (by reason of an advance of prices) with the supply, and that this demand is not unfrequently most pressing when the volume of currency is the largest and inflation has reached the culminating point. Money being an unprofitable article to hold, very little is withheld from active use, and in proportion to its increase prices advance; on the other hand, a reduction of it reduces prices, and as prices are reduced the demand for it falls off; so that, paradoxical as it may seem, a diminution of the currency may in fact increase the supply of it.

Nor need there be any apprehension that a reduction of the currency—unless it be a violent one—will injuriously affect real prosperity. Labor is the great source of national wealth, and industry invariably declines on an inflated currency. The value of money depends upon the manner in which it is used. If it stimulates productive industry, it is a benefit, and to the extent only to which it does this it is a benefit. If, on the other hand, it diminishes industry, and to the extent to which it diminishes it, it is an evil. Even in the form of the precious metals it may not prove to be wealth to a nation. The idea that a country is necessarily rich in proportion to the amount of gold or silver which it possesses, is a common and natural, but an erroneous one; while the opinion that real prosperity is advanced by an increase of paper money beyond what is absolutely needed as a medium for exchanges of real values, is so totally fallacious, that few sane men entertain it whose judgment is not clouded by the peculiar financial atmosphere which an inflation is so apt to produce.

An irredeemable paper currency may be a necessity, but it can scarcely fail, if long continued, to be a calamity to any people. Gold and silver are the only proper measure of value. They have been made so by the tacit agreement of nations, and are the necessary regulator of trade, the medium by which balances are settled between different countries and between sections of the same country. As a universal measure of value, they are a commercial necessity. The trade between different nations and between sections of the same country is carried on by an exchange of commodities, but is never equally balanced by them; and unless credits are being established, the movements of coin unerringly indicate on which side the balance exists.

If the United States buy of other nations—as they now and too generally do—more than they sell to them, it is evident that a balance is

thus created which must either be settled in coin or continued as a debt.

That balances between nations should be promptly paid is the dictate of wisdom, because by prompt payment the adverse current is checked before the debtor nation becomes seriously involved; while, on the other hand, if they are permitted to accumulate, they may, when the day of payment can no longer be deferred, prove not only disastrous to the debtor, but greatly disturb the business of the creditor nation. Even with the vast increase of gold and silver which has taken place within the last quarter of a century, the specie which is possessed by commercial nations is a very inconsiderable sum in comparison with their foreign and domestic property exchanges; and no nation can afford to continue a traffic which leaves it with a heavy debt to be paid in the precious metals, unless these metals are a part of its productions, and then only to the extent that they are productions. When there are no artificial obstacles in the way, and balances between nations are promptly settled, the flow of coin from one to the other produces but little embarrassment to the debtor nation. The nation that loses coin either diminishes its purchases, or, by a reduction of the prices of its commodities which the loss occasions, becomes a more inviting market than before, and by attracting purchasers, reverses the current and draws again to itself the coin of which it had been deprived.

All this is well understood, and if trade between nations were carried on by an exchange of products and a prompt payment of balances in specie, no nation would ever become indebted to another to an extent seriously to affect its prosperity.

All serious embarrassment growing out of commercial intercourse between the people of different nations results from failure in the prompt payment of balances, and the carrying forward of these balances by extensions of credits.

The trade between the different sections of the United States is subject to the same laws. If one section, in the course of trade, becomes a debtor to another, the balances must be carried in the form of debt, always expensive and generally dangerous to the debtor section, or settled with money. If the measure of value is a convertible currency, and trade and exchanges are left to the natural laws that govern them, settlements take place promptly and without embarrassment to business. The banks of the debtor section are drawn upon by their depositors and note-holders for coin or exchange. This return of notes and withdrawal of deposits, if considerable in amount, produce a contraction of discounts; and this contraction either checks overtrading or so reduces the price of products as to increase the demand for them until the current changes and the equilibrium is restored.

This brief statement of the well-known laws of trade not only illustrates the necessity of prompt payment of balances between the United States and foreign nations and between the different sections of the United States, but the necessity of having everywhere the same standard of value.

It is admitted that on a coin basis there will be periods of expansion. Times of the greatest expansion and speculation in the United States have been, indeed, when the banks were nominally paying specie. This was the case prior to the revulsions of 1837 and 1857, the expansion of credits having, in both instances, preceded suspension; but this does not militate against the theory just stated.

The great expansion of 1835 and 1836, ending with the terrible financial collapse of 1837, from the effects of which the country did not rally for years, was the consequence of excessive bank circulation and discounts, and an abuse of the credit system, stimulated in the first place by Government deposits with the State banks, and swelled by currency and credits until,

under the wild spirit of speculation which pervaded the country, labor and production decreased to such an extent that the country which should have been the great food-producing country of the world became an importer of bread-stuffs.

The balance of trade had been for a long time favorable to Europe and against the United States, and also in favor of the commercial cities of the sea-board and against the interior, but a vicious system of credits prevented the prompt settlement of balances. The importers established large credits abroad, by means of which they were enabled to give favorable terms to the jobbers. The jobbers, in turn, were thus, and by liberal accommodations from the banks, able to give "their own time" to country merchants, who, in turn, sold to their customers on an indefinite credit. It then seemed to be more reputable to borrow money than to earn it, and pleasanter, and apparently more profitable, to speculate than to work; and so the people ran headlong into debt, labor decreased, production fell off, and ruin followed.

The financial crisis of 1857 was the result of a similar cause, namely, the unhealthy extension of the various forms of credit. But, as in this case the evil had not been long at work, and productive industry had not been seriously diminished, the reaction, though sharp and destructive, was not general, nor were the embarrassments resulting from it protracted.

Now, in both these instances the expansions occurred while the business of the country was upon a specie basis, but it was only nominally so. A false system of credits had intervened, under which payments were deferred, and specie as a measure of value and a regulator of trade was practically ignored. Everything moved smoothly and apparently prosperously as long as credits could be established and continued, but as soon as payments were demanded and specie was in requisition, distrust commenced, and collapse ensued. In these instances the expansions preceded and contractions followed the suspensions, but it will be recollected that while the waves were rising specie ceased to be a regulator, by reason of a credit system which prevented the use of it.

The present inflation following the suspension of 1861, is the result of heavy expenditures by the Government in the prosecution of the war and the introduction of a new measure of value in the form of United States and Treasury notes as lawful money. The country, as a whole, notwithstanding the ravages of the war, and the draft which has been made upon labor, is, by its greatly developed resources, far in advance in real wealth of what it was in 1857, when the last severe financial crisis occurred. The people are now comparatively free from debt; the banks, with their secured circulation and large investments in Government securities, although not in an easy condition, and doubtless too much extended, are, it is believed, generally solvent; but the same causes are at work that produced the evils referred to. There is an immense volume of paper money in circulation—under the influence of which prices, already enormously high, are steadily advancing, and speculation is increasing—which must be contracted if similar disasters would be avoided.

If the war could have been prosecuted on a specie basis, there would doubtless have been a considerable advance in the prices of those articles which were in demand by the Government; but, inasmuch as in the condition of our political affairs extensive credits could not have been established in Europe, the tendency in this direction would have been kept within reasonable check by the outflow of coin to other nations, which would have been the natural result of the advancing prices in the United States. On a basis of paper money, for which there was no outlet, all articles needed for immediate use, of which it became the measure of value, felt and responded to the daily increase of the currency; so that rents and the prices of most

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articles for which there has been a demand, have been, with slight fluctuations, constantly advancing from the commencement of the war, and are higher now, with gold at forty-seven per cent. premium, than they were when it was at one hundred and eighty-five. Even those which were affected by the fall of gold upon the surrender of the confederate armies, or by the increased supply or diminished demand, are advancing again to former if not higher rates. The expansion has now reached such a point as to be absolutely oppressive to a large portion of the people, while at the same time it is diminishing labor, and is becoming subversive of good morals.

There are no indications of real and permanent prosperity in our large importations of foreign fabrics; in the heavy operations at our commercial marts; in the splendid fortunes reported to be made by skillful manipulations at the gold room or the stock board; no evidences of increasing wealth in the facts that railroads and steamboats are crowded with passengers, and hotels with guests; that cities are full to overflowing, and rents and the prices of the necessities of life, as well as luxuries, are daily advancing. All these things prove rather that a foreign debt is being created, that the number of non-producers is increasing, and that productive industry is being diminished. There is no fact more manifest than that the plethora of paper money is not only undermining the morals of the people by encouraging waste and extravagance, but is striking at the root of our material prosperity by diminishing labor. The evil is not at present beyond the control of legislation, but it is daily increasing, and, if not speedily checked, will, at no distant day, culminate in wide-spread disaster. The remedy, and the only remedy within the control of Congress is, in the opinion of the Secretary, to be found in the reduction of the currency.

The paper circulation of the United States, on the 31st of October last, was substantially as follows:

1. United States notes and fractional currency.....	\$454,218,038 20
2. Notes of the national banks.....	185,000,000 00
3. Notes of State banks, including outstanding issues of State banks converted into national banks.....	65,000,000 00
	<u>\$704,218,038 20</u>

The amount of notes furnished to the national banks up to and including the 31st of October, was a little over \$205,000,000, but it is estimated that \$20,000,000 of these had not then been put into circulation.

In addition to the United States notes, there were also outstanding \$82,536,900 five per cent. Treasury notes, and \$173,012,140 compound-interest notes, of which it would, doubtless, be safe to estimate that \$30,000,000 were in circulation as currency.

From this statement it appears that, without including seven and three-tenths notes, many of the small denominations of which were in circulation as money, and all of which tend in some measure to swell the inflation, the paper money of the country amounted, on the 31st of October, to the sum of \$734,218,038 20, which has been daily increased by the notes since furnished to the national banks, and is likely to be still further increased by those to which they are entitled, until the amount authorized by law (\$300,000,000) shall have been reached, subject to such reduction as may be made by the withdrawal of the notes of the State banks.

The following is a statement of the bank-note circulation of the country at various periods of highest and lowest issues prior to the war:

January, 1830.....	\$61,324,000
January, 1835.....	103,692,495
January, 1836.....	140,301,038
January, 1837.....	149,185,890
January, 1843.....	55,564,000
January, 1856.....	196,747,950
January, 1857.....	214,778,822
January, 1858.....	155,208,344
January, 1860.....	207,102,000

It will be noticed by this statement that the bank-note circulation of the United States increased from \$61,324,000 to \$149,185,890 between the 1st of January, 1830, and the 1st of January, 1837, in which latter year the great financial collapse took place; fell from \$149,185,890 in 1837, to \$58,564,000 in 1843, and rose to \$214,778,822 on the 1st of January, 1857, in which year the next severe crisis occurred; falling during that year to \$155,208,344, and rising to \$207,102,000 on the 1st of January, 1860.

The following is a statement of bank deposits and loans in the same years:

Years.	Deposits.	Loans.
January 1, 1830.....	\$55,560,000	\$200,451,000
January 1, 1835.....	83,081,000	365,163,000
January 1, 1836.....	115,104,000	457,506,000
January 1, 1837.....	127,397,000	525,115,000
January 1, 1843.....	56,108,000	254,544,000
January 1, 1856.....	212,706,000	634,183,000
January 1, 1857.....	230,351,000	684,456,000
January 1, 1858.....	185,932,000	585,165,000
January 1, 1860.....	253,902,000	691,915,000

On the 30th of September, the date of their last quarterly reports, the deposits and loans of the national banks (the Secretary has no reliable returns of these items from the few remaining State banks) were as follows:

Deposits, individual and Government.....	\$544,160,194
Loans.....	\$485,514,029

To which should be added—

Investments in United States bonds and other United States securities.....	427,731,600
	<u>\$913,045,629</u>

These figures are a history in themselves, exhibiting not only the past and present condition of the country, in matters of exceeding interest, but indicating unerringly the dangerous direction in which the financial current is sweeping.

On the 1st of January of the memorable year 1837, the bank-note circulation of the United States was \$149,185,890, the deposits were \$127,397,000, the loans \$525,115,000. In January, 1857, the year of the next great crisis, the circulation was \$214,778,822, the deposits were \$230,351,000, the loans \$684,456,000. There are no statistics to exhibit the amount of specie actually in circulation in those periods, but it would be a liberal estimate to put it at \$30,000,000 for 1837, and \$50,000,000 for 1857.

These were years of great inflation, the effects of which have been already referred to—the revulsion of 1837 not only producing great immediate embarrassment, but a prostration which continued until 1843, at the commencement of which year the bank-note circulation amounted only to \$58,564,000, deposits to \$56,108,000, loans \$254,544,000—flour having declined in New York from \$10 25 per barrel on the 1st of January, 1837, to \$4 69 on the 1st of January, 1843, and other articles in about the same proportion.

The reaction in 1857 was severe, but, for the reason before stated, less disastrous and protracted.

On the 30th of September last, the deposits of the national banks alone amounted to \$544,160,194; their loans—estimating their national securities as a loan to the Government—to \$913,045,629; both of which items must have been increased during the month of October; while on the 31st of that month the circulation, bank and national, had reached the startling amount of upward of \$700,000,000. Nothing beyond this statement is required to exhibit the present inflation or to explain the causes of the current and the advancing prices. If disaster followed the expansions of 1837 and 1857, what must be the consequences of the present expansion unless speedily checked and reduced!

It is undoubtedly true that trade is carried on much more largely for cash than was ever the case previous to 1861, and that there is a much greater proper demand for money than there would be if sales were made, as heretofore, on

credit. It is also true that there is a larger demand than formerly for money on the part of manufacturers for the payment of operatives. But, making the most liberal allowances for the increased wholesome demand arising from these causes and from the advance of the country in business and population, it is apparent from the foregoing statements, if the advance in prices did not establish the fact, that the circulating medium of the country is altogether excessive.

Before concluding his remarks upon this subject, it may be proper for the Secretary, even at the expense of repetition, to notice briefly some of the popular and plausible objections to a reduction of the currency:

First. That by reducing prices it would operate injuriously, if not disastrously, upon trade, and be quite likely to precipitate a financial crisis.

To this it may be replied, that prices of articles of indispensable necessity are already so high as to be severely oppressive to consumers, especially to persons of fixed and moderate incomes and to the poorer classes. Not only do the interests, but the absolute necessities of the masses require that the prices of articles needed for their use should decline.

Nor is there any reason to apprehend, by any policy that Congress may adopt, so rapid a reduction of prices as to produce very serious embarrassment to trade. The Government currency can only, to any considerable extent, be withdrawn by a sale of bonds, and the demand for bonds will be so affected by the state of the market that a rapid contraction will be difficult, if not impossible, even if it were desirable. There is more danger to be apprehended from the inability of the Government to reduce its circulation rapidly enough, than from a too rapid reduction of it. It is, in part, to prevent a financial crisis, that is certain to come without it, that the Secretary recommends contraction. Prices are daily advancing. The longer contraction is deferred, the greater must the fall eventually be, and the more serious will be its consequences. It is not expected that a return to specie payments will bring prices back to the standards of former years. The great increase of the precious metals and high taxes will prevent this; but this consideration makes it the more important that all improper and unnecessary influences in this direction should be removed.

Again, it is urged that a contraction of the currency would reduce the public revenues.

It is possible that this might be the immediate effect, but it would be temporary only. The public revenues depend upon the development of our national resources, upon our surplus productions; in other words, upon labor. The revenues derived from transactions based upon a false standard of value, or from interests that can only flourish in speculative times, are not those upon which reliance can be placed for maintaining the public credit. What a healthy and reliable business requires is a stable basis. This it cannot have as long as the country is afflicted with an inconvertible currency, the value of which, as well as the value of the vast property which is measured by it, is fluctuating and unreliable, and may be in no small degree controlled by speculative combinations.

It is also urged that the proposed policy would endanger the public credit, by preventing funding; and that it would compel the Government and the people, who are in debt, to pay in a dearer currency than that in which their debts were contracted.

The Secretary is unable to perceive any substantial ground for this objection. He cannot understand how the process of funding is likely to be aided by the continuance of prices on their present high level, or how the credit of the Government is to be restored by the perpetuation of an irredeemable currency, especially as that currency consists largely of its own notes. While it is hoped that early pro-



vision will be made for the commencement of the reduction of the national debt, an early payment of it is not anticipated. Nor is it understood that those who are apprehensive of the effects of contraction entertain the opinion that the present condition of things should be continued until any considerable portion of this debt shall be paid.

So far as individual indebtedness is regarded, it may be remarked; that the people of the United States, if not as free from debt as they were six months ago, are much less in debt than they have been in previous years, and altogether less than they will be when the inevitable day of payment comes around, if the volume of paper money is not curtailed. A financial policy which would prevent the creation of debts and stimulate the payment of those already existing, so far from being injurious, would be in the highest degree beneficial.

It is further urged that a reduction of the Government notes would embarrass the national banks, if it did not force many of them into liquidation.

To which it may be said, that it is better that the banks should be embarrassed now than bankrupted hereafter. Their business and their customers are now under their control. What will be their condition in these respects if the expansion continues and swells a year or two longer, it is not difficult to predict. While there has been no unhealthy expansion of credits in the United States for which the banks have not been largely responsible, there has been none by which they have not been ultimately the losers. Unless their sentiments are misunderstood by the Secretary, the conservative bankers of the country are quite unanimously in favor of a curtailment of the currency, with a view to an early return to specie payments.

Again, it is said that the excessive bank deposits have as much influence in creating and sustaining high prices as a superabundant currency. This is unquestionably true; but it is also true that excessive deposits are the effect of excessive currency, and that whenever the currency is reduced there will be, at least, a corresponding, if not a greater, reduction of deposits.

The last objection which will be noticed to the measure recommended is, that it would, by reducing the rate of foreign exchanges, reduce exports and increase imports.

It is doubtless true that a high rate of exchange did for a time increase the exportations of our productions, and diminish the importation of foreign articles, but this advantage was much more than counterbalanced by the largely increased expenses of the Government and of the people resulting from the very cause that produced the high rate of exchange. Besides, this apparent advantage no longer exists. The advance of prices in the United States, notwithstanding the continued high rate of European exchange, is now checking exports and inviting imports, and is creating a balance in favor of Europe that is likely to be the greatest obstacle in the way of an early resumption of specie payments. Nor must it be forgotten, that while the export of our productions was stimulated by the high rate of exchange, this very high rate of exchange enabled Europe to purchase them at exceedingly low prices.

Unless an unusual demand for our products is created in Europe by extraordinary causes, it will be ascertained, by reference to the proper tables, that our imports increase, and our exports diminish, under the influence of a redundant currency. But reference to figures is hardly necessary to substantiate this proposition. It is substantiated by the statement of it. A country in which high prices prevail is an inviting one for sellers, but an uninviting one for purchasers. Such a country is, unfortunately, the United States at the present time. In order, however, that there may be no misapprehension on this point, the attention of Congress is respectfully called to a clear and

interesting paper from Dr. Elder, Statistician of this Department, accompanying this report.

Every consideration, therefore, that has been brought to the mind of the Secretary, confirms the correctness of the views he has presented. If the business of the country rested upon a stable basis, or if credits could be kept from being still further increased, there would be less occasion for solicitude on this subject. But such is not the fact. Business is not in a healthy condition; it is speculative, feverish, uncertain. Every day that contraction is deferred increases the difficulty of preventing a financial collapse. Prices and credits will not remain as they are. The tide will either recede or advance; and it will not recede without the exercise of the controlling power of Congress.

The Secretary, therefore, respectfully but earnestly recommends—

First. That Congress declare that the compound-interest notes shall cease to be a legal tender from the day of their maturity.

Second. That the Secretary be authorized, in his discretion, to sell bonds of the United States, bearing interest at a rate not exceeding six per cent, and redeemable and payable at such periods as may be conducive to the interests of the Government, for the purpose of retiring not only compound-interest notes, but the United States notes.

It is the opinion of the Secretary, as has been already stated, that the process of contraction cannot be injuriously rapid; and that it will not be necessary to retire more than one hundred, or at most two hundred millions of United States notes, in addition to the compound notes, before the desired result will be attained. But neither the amount of reduction, nor the time that will be required to bring up the currency to the specie standard, can now be estimated with any degree of accuracy. The first thing to be done is to establish the policy of contraction. When this is effected, the Secretary believes that the business of the country will readily accommodate itself to the proposed change in the action of Government, and that specie payments may be restored without a shock to trade, and without a diminution of the public revenues or of productive industry.

At the close of a great war, which has been waged on both sides with a vigor and energy, and with an expenditure of money, without a precedent in history, the people of the United States are incumbered with a debt which requires the immediate and careful consideration of their representatives.

Since the commencement of the special session of 1861, the most important subject which has demanded and received the attention of Congress has been that of providing the means to prosecute the war; and the success of the Government in raising money is evidence of the wisdom of the measures devised for this purpose, as well as of the loyalty of the people and the resources of the country. No nation within the same period ever borrowed so largely, or with so much facility. It is now to be demonstrated that a republican Government can not only carry on a war on the most gigantic scale, and create a debt of immense magnitude, but can place this debt on a satisfactory basis, and meet every engagement with fidelity. The same wisdom which has been exhibited by the national councils in providing the means for preserving the national unity, will not be wanting in devising measures for establishing the national credit.

The maintenance of public faith is a national necessity. Nations do not and cannot safely accumulate moneys to be used at a future day, and exigencies are constantly occurring in which the richest and most powerful are under the necessity of borrowing. The millennial days, when nations shall beat their swords into plowshares, and their spears into pruning-hooks, and learn war no more, are yet, according to all existing indications, far in the future. Weak and

defaulting nations may maintain a nominally independent existence, but it will be by reason of the jealousies, rather than the forbearance of stronger Powers. No nation is absolutely safe which is not in a condition to defend itself; nor can it be in this condition, no matter how strong in other respects, without a well-established financial credit. Nations cannot, therefore, afford to be unfaithful to their pecuniary obligations. Credit to them, as to individuals, is money; and money is the war power of the age. But for the unfaltering confidence of the people of the loyal States in the good faith of the Government, the late rebellion would have been a success, and this great nation, so rapidly becoming again united and harmonious, would have been broken into weak and belligerent fragments.

But the public faith of the United States has higher considerations than these for its support. It rests not only upon the interests of the people, but upon their integrity and virtue. The debt of the United States has been created by the people in their successful struggle for undivided and indivisible nationality. It is not a debt imposed upon unwilling subjects by despotic authority, but one incurred by the people themselves for the preservation of their Government—by the preservation of which, those who have been leagued together for its overthrow are to be as really benefited as those who have been battling for its maintenance. As it is a debt voluntarily incurred for the common good, its burdens will be cheerfully borne by the people, who will not permit them to be permanent.

The public debt of the United States represents a portion of the accumulated wealth of the country. While it is a debt of the nation, it becomes the capital of the citizen. The means of the merchant, the manufacturer, and farmer, and also those of the workingman and the soldier, have been liberally invested in it; and it is an interesting fact—a practical evidence of the great resources of the country—that so large an amount of their wealth could be loaned by the people to the Government without embarrassing industrial pursuits. Notwithstanding more than two thousand million dollars of the means of the people of the United States have been thus loaned, no branch of useful industry has suffered by the investment. It is undoubtedly true that if the wealth which has been invested in United States securities could have been employed in agriculture, in commerce, in mining and manufactures; in opening farms and the better improvement of those already under cultivation, in building railroads and ships, in working the mines, and in increasing the variety and amount of our manufactures, the nation would have been far in advance of what it now is in material prosperity. But it is also true, that, notwithstanding the large investments by the people of the United States in the securities of their Government; notwithstanding, also, more than two million men, in the northern States alone, were, for longer or shorter periods, in the military service, and at least seven hundred thousand for a good part of the time the war continued were constantly under arms; and notwithstanding the immense waste of life, consequent upon operations so extensive and battles so sanguinary as characterized this memorable struggle, the larger part of the country has still, since 1860, progressed both in wealth and population. The loyal States have advanced in material prosperity in spite of the great drain that has been made upon them; and now that the war is closed, the Union is no longer in peril, and the men that made the armies on both sides so effective and formidable are to be again employed in profitable pursuits, the onward march of the country—even if a temporary reaction, as the result of the war and the redundancy of the currency, shall be experienced—will be decided and resistless.

The debt is large, but if kept at home, as it is desirable it should be, with a judicious sys-

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tom of taxation it need not be oppressive. It is, however, a debt. While it is capital to the holders of the securities, it is still a national debt, and an incumbrance upon the national estate. Neither its advantages nor its burdens are or can be shared or borne equally by the people. Its influences are anti-republican. It adds to the power of the Executive by increasing Federal patronage. It must be distasteful to the people because it fills the country with informers and tax-gatherers. It is dangerous to the public virtue, because it involves the collection and disbursement of vast sums of money, and renders rigid national economy almost impracticable. It is, in a word, a national burden, and the work of removing it—no matter how desirable it may be for individual investment—should not be long postponed.

As all true men desire to leave to their heirs unincumbered estates, so should it be the ambition of the people of the United States to relieve their descendants of this national mortgage. We need not be anxious that future generations shall share the burden with us. Wars are not at an end, and posterity will have enough to do to take care of the debts of their own creation.

Various plans have been suggested for the payment of the debt, but the Secretary sees no way of accomplishing it but by an increase of the national income beyond the national expenditures. In a matter of so great importance as this, experiments are out of place. The plain beaten path of experience is the only safe one to tread.

The first step to be taken is, to institute measures for funding the obligations that are soon to mature. The next is, to provide for raising, in a manner the least odious and oppressive to tax-payers, the revenues necessary to pay the interest on the debt, and a certain definite amount annually for the reduction of the principal. The Secretary respectfully suggests that on this subject the expression of Congress should be decided and emphatic. It is of the greatest importance, in the management of a matter of so surpassing interest, that the right start should be made. Nothing but revenue will sustain the national credit, and nothing less than a fixed policy for the reduction of the public debt will be likely to prevent its increase.

On the 31st day of October, 1865, since which time no material change has taken place, the public debt, without deducting funds in the Treasury, amounted to \$2,808,549,437 55, consisting of the following items:

Bonds, 10-40's, 5 per cent., due in 1904.....	\$172,770,100 00
Bonds, Pacific railroad, 6 per cent., due in 1895.....	1,258,000 00
Bonds, 5-20's, 6 per cent., due in 1882, 1884, and 1885.....	630,250,600 00
Bonds, 6 per cent., due in 1881.....	263,347,400 00
Bonds, 5 per cent., due in 1880.....	18,415,000 00
Bonds, 5 per cent., due in 1874.....	20,000,000 00
Bonds, 5 per cent., due in 1871.....	7,022,000 00
	1,144,072,100 00
Bonds, 6 per cent., due in 1868.....	\$8,908,341 80
Bonds, 6 per cent., due in 1867.....	9,415,250 00
Compound interest notes, due in 1867 and 1868.....	173,012,141 00
7-30 Treasury notes, due in 1867 and 1868.....	330,000,000 00
	1,021,335,732 80
Bonds, Texas indemnity, past due.....	760,000 00
Bonds, Treasury notes, &c., past due.....	613,920 09
	1,373,920 09
Temporary loan, ten days' notice.....	99,107,745 46
Certificates of indebtedness, due in 1866.....	55,905,000 00
Treasury notes, 5 percent., Dec. 1, 1863.....	32,536,901 00
	187,549,646 46
United States notes.....	428,160,569 00
Fractional currency.....	26,037,469 20
	454,218,038 20
	\$2,808,549,437 55

The following is a statement of receipts and

expenditures for the fiscal year ending June 30, 1865:

Balance in Treasury agreeable to warrants, July 1, 1864.....	\$96,739,905 73
Receipts from loans applicable to expenditures.....	\$364,863,499 17
Receipts from loans applied to payment of public debt.....	607,361,241 68
	1,472,224,740 85
Receipts from customs.....	84,928,260 60
Receipts from lands.....	996,553 31
Receipts from direct tax.....	1,200,573 03
Receipts from internal revenue.....	209,464,215 25
Receipts from miscellaneous sources.....	32,978,284 47
	329,567,886 66
	\$1,898,532,533 24

## EXPENDITURES.

Redemption of public debt.....	\$607,361,241 68
For the civil service.....	\$44,765,558 12
For pensions and Indians.....	14,258,575 88
For the War Department.....	1,031,323,360 79
For the Navy Department.....	122,567,776 12
For interest on public debt.....	77,397,712 00
	1,290,312,892 41
	\$1,897,674,224 09

Leaving a balance in the Treasury on the 1st day of July, 1865, of \$858,309 15.

The following statement exhibits the items of increase and decrease of the public debt for the fiscal year 1865:

Amount of public debt June 30, 1865.....	\$2,682,593,026 53
Amount of public debt June 30, 1864.....	1,740,630,489 49
Total increase.....	\$941,902,537 04

Which increase was caused as follows: by—

Bonds, 6 per cent., acts July 17, 1861.....	\$29,799,500 00
Bonds, 6 per cent., act February 25, 1862.....	4,000,000 00
Bonds, 6 per cent., act March 3, 1863.....	32,327,726 66
Bonds, 6 per cent., act June 30, 1864.....	91,789,000 00
	157,916,226 66
Bonds, 5 per cent., act March 3, 1864.....	99,432,350 00
Bonds, 6 per cent., acts July 1, 1862, and July 2, 1864, issued to Central Pacific Railroad Company, interest payable in lawful money.....	1,258,000 00
Treasury notes, 7-30, acts of June 30, 1864, and March 3, 1865, interest payable in lawful money.....	671,610,400 00
Compound interest notes, 6 per cent., act June 30, 1864.....	\$178,756,080 00
Temporary loan, 6 per cent., act July 11, 1862.....	17,386,869 96
	196,142,949 96
United States notes, acts February 25, 1862, July 11, 1862, and January 7, 1863.....	1,500,295 16
Fractional currency, act March 3, 1863.....	7,363,098 85
	1,135,232,320 63

Gross increase.....

From which deduct for payments—

Bonds, 6 per cent., act July 21, 1842.....	\$1,400 00
Treasury notes, 6 per cent., acts December 23, 1857, and March 2, 1861.....	158,800 00
Bonds, 5 per cent., act of September 9, 1850, (Texas indemnity).....	1,307,000 00
Treasury notes, 7-30, act July 17, 1861.....	30,212,300 00
Certificates of indebtedness, 6 per cent., act March 1, 1862.....	44,957,000 00
Treasury notes, 5 per cent., one and two year, act March 3, 1863.....	111,132,740 00
United States notes, act July 12, 1861, and February 12, 1862.....	308,396 25
Postal currency, act July 17, 1862.....	5,252,147 31
	193,329,783 59
Net increase.....	\$941,902,537 04

In the report of the Secretary for the year 1864, there was excluded from the public debt the sum of \$77,897,347 02, which amount had been paid out of the Treasury, but had not been reimbursed to the Treasurer by warrants, and was not reimbursed until after the commencement of the next fiscal year. This ex-

plains the difference between \$18,842,558 71, assumed in that report as the balance in the Treasury July 1, 1864, and \$96,739,905 73, the balance according to the warrant account, as above stated.

The following is a statement of the receipts and expenditures for the quarter ending September 30, 1865:

Balance in Treasury, agreeable to warrants, July 1, 1865.....	\$858,309 15
Receipts from loans applicable to expenditures.....	\$138,773,097 22
Receipts from loans applied to payment of public debt.....	138,409,163 35
	227,182,260 57
Receipts from customs.....	47,009,583 03
Receipts from lands.....	132,890 63
Receipts from direct tax.....	31,111 30
Receipts from internal revenue.....	96,618,885 65
Receipts from miscellaneous sources.....	18,893,729 94
	162,186,200 55
	440,226,770 27

## EXPENDITURES.

For the redemption of public debt.....	\$138,409,163 35
For the civil service.....	10,571,490 99
For pensions and Indians.....	6,024,241 86
For the War Department.....	165,369,237 32
For the Navy Department.....	16,520,669 81
For interest on the public debt.....	36,173,481 50
	373,068,254 83
Leaving a balance in the Treasury on the 1st day of October, 1865, of.....	\$67,158,515 44

The Secretary estimates that the receipts for the remaining three quarters of the year ending June 30, 1866, will be as follows:

Balance in Treasury October 1, 1865.....	\$67,158,515 44
Receipts from customs.....	\$100,000,000 00
Receipts from lands.....	500,000 00
Receipts from internal revenue.....	175,000,000 00
Receipts from miscellaneous sources.....	30,000,000 00
	305,500,000 00
	\$372,658,515 44

The expenditures, according to the estimates, will be:

For the civil service.....	\$32,994,052 38
For pensions and Indians.....	12,256,790 94
For the War Department.....	307,788,750 57
For the Navy Department.....	35,000,000 00
For interest on public debt.....	96,813,868 75
	484,853,462 64

Deficiency.....

The receipts for the year ending June 30, 1867, are estimated as follows:

From customs.....	\$100,000,000 00
From internal revenue.....	275,000,000 00
From lands.....	1,000,000 00
From miscellaneous sources.....	20,000,000 00
	396,000,000 00

The expenditures, according to the estimates, will be:

For the civil service.....	\$42,165,599 47
For pensions and Indians.....	17,690,640 23
For the War Department.....	39,017,416 18
For the Navy Department.....	43,982,457 50
For the interest on the public debt.....	141,542,068 50
	284,317,181 88

Leaving a surplus of estimated receipts over estimated expenditures, of.....

The debt of the United States was increased during the fiscal year ending June 30, 1865, \$941,902,537 04, and during the first quarter of the present fiscal year \$138,773,097 22. The Secretary has, however, the satisfaction of being able to state that during the months of September and October the public debt was diminished to the amount of about \$13,000,000.

If the expenditures for the remaining three quarters of the present fiscal year shall equal the estimates, there will be a deficiency, to be provided for by loans, of \$112,194,947 20, to which must be added \$32,586,901 for the five

per cent. Treasury notes, (part of the public debt,) which become due the present month, and are now being paid out of moneys in the Treasury, and all other payments which may be made on the public debt.

The heavy expenditures of the last fiscal year, and of the months of July and August of the present fiscal year, are the result of the gigantic scale on which the war was prosecuted during a portion of this period, and the payment of the officers and men mustered out of the service. The large estimates of the War Department for the rest of the year are for the payment of troops which are to remain in the service, and of those which are to be discharged, and for closing up existing balances.

The statement of the probable receipts and expenditures for the next fiscal year is, in the highest degree, satisfactory. According to estimates which are believed to be reliable, the receipts of that year will be sufficient to pay all current expenses of the Government, the interest on the public debt, and leave the handsome balance of \$111,682,818 12 to be applied toward the payment of the debt itself.

By the statement of the public debt on the 31st of October, it appears that, beside the compound-interest, the United States, and the fractional notes, the past-due debt amounted to \$1,873,920 09; the debt due in 1865 and 1866 to \$187,649,646 46; the debt due in 1867 and 1868 to \$848,323,591 80.

During the month of October about \$50,000,000 of the compound-interest notes were funded in 5-20 six per cent. bonds under the provisions of the act of March 3, 1865.

The Secretary would be gratified if the Treasury could at once be put in a condition to obviate the necessity of issuing any more certificates of indebtedness, or raising money by any kind of temporary loans; but he may, for a short period, be obliged to avail himself of any means now authorized by law for meeting current expenses and other proper demands upon the Treasury.

Of the debt falling due in 1867 and 1868, \$830,000,000 consist of 7 $\frac{1}{2}$  notes. It may be regarded as premature to fund any considerable amount of these notes within the next year; but in view of the fact that they are convertible into bonds only at the pleasure of the holders, it will be evidently prudent for Congress to authorize the Secretary, whenever it can be advantageously done, to fund them in advance of their maturity.

The Secretary has already recommended that he be authorized to sell bonds of the United States, bearing interest at a rate not exceeding six per cent., for the purpose of retiring Treasury notes and United States notes. He further recommends that he be authorized to sell, in his discretion, bonds of a similar character to meet any deficiency for the present fiscal year, to reduce the temporary loan by such an amount as he may deem advisable, to pay the certificates of indebtedness as they mature, and also to take up any portion of the debt maturing prior to 1869 that can be advantageously retired. It is not probable that it will be advisable, even if it could be done without pressing them upon the market, to sell a much larger amount of bonds within the present or the next fiscal year than will be necessary to meet any deficiency of the Treasury, to pay the past-due and maturing obligations of the Government, and a part of the temporary loan, and to retire an amount of the compound-interest notes and United States notes sufficient to bring back the business of the country to a healthier condition. But no harm can result from investing the Secretary with authority to dispose of bonds, if the condition of the market will justify it, in order to anticipate the payment of those obligations that must soon be provided for.

When the whole debt shall be put in such a form that the interest only can be demanded, until the Government shall be in a condition to pay the principal it can be easily managed. It is undeniably large, but the resources of the

country are even now ample to carry and gradually to reduce it; and with the labor question at the South settled on terms just to the employer and to the laborer, and with entire harmony between the different sections, it will be rapidly diminished, in burden and amount, by the growth of the country, without an increase of taxation.

The following estimate of the time which would be required to pay the national debt (if funded at five per cent. and at five and one half per cent.) by the payment of \$200,000,000 annually on the interest and principal, and also of the diminution of the burden of the debt by the increase of productions, may not be without interest to Congress and to tax-payers.

The national debt, deducting moneys in the Treasury, was, on the 31st of October, 1865, \$2,740,854,750. Without attempting a nice calculation of the amount it may reach when all our liabilities shall be accurately ascertained, it seems safe to estimate it, on the 1st of July, 1866, at \$3,000,000,000. The exact amount of existing indebtedness yet unsettled, and the further amount that may accrue in the interval, are not now capable of exact estimation, and the revenue of the same period can be only approximately calculated, but it will be safe to assume that the debt will not exceed the sum named.

The annual interest upon \$3,000,000,000, if funded at five and a half per cent. per annum, would be \$165,000,000, but if funded at five per cent. it would be \$150,000,000.

Now, if \$200,000,000 per annum should be applied, in half-yearly installments of \$100,000,000 each, in payment of the accruing interest and in reduction of the principal funded at the higher rate of five and a half per cent., the debt would be entirely paid in thirty-two and one eighth years. At five per cent. per annum, it would be extinguished, by the like application of \$100,000,000 every six months, in a little over twenty-eight years.

At the higher rate, the sum applied in the first year in reduction of the principal of the debt would be \$35,000,000; in the last or thirty-second year, when the interest would be diminished to a little over \$9,000,000, about \$191,000,000 of the uniform annual payment would go to the reduction of the principal.

On the assumption that the debt may be funded at five per cent., \$50,000,000 would be applicable to the reduction of the principal in the first year, and in the twenty-eighth or last year of the period—the interest falling to less than \$3,000,000—\$192,000,000 of the annual payment would go to the principal.

The annual interest accruing upon \$1,725,000,000 of the debt on the 31st of October last averages 6.62 per cent. A part of this sum is now due, another portion will be payable next year, and the balance will be due or payable, at the option of the Government, in 1867 and 1868. If these \$1,725,000,000 shall be funded or converted into five per cents by the year 1869, the average interest of the whole debt will be 5.195 per cent. In the year 1871, if the debt then maturing should be funded at the same rate, the average interest would be reduced to 5.15, and in 1881 to five per cent., excepting the bonds for \$50,000,000 to be advanced in aid of the Pacific railroad at six per cent., which will have thirty years to run from their respective dates. The interest of these bonds, added to the supposed five per cents, would, in 1881, make the average rate of the entire debt 5.03 per cent. until the whole should be discharged.

In these calculations of the average rate of interest upon the funded debt, the outstanding United States notes and fractional currency are not embraced. Whatever amount of these \$454,000,000 may eventually be funded at five per cent. per annum, will proportionally reduce the average rates of interest upon the whole debt.

By the terms and conditions of some portion of the debt, the interest on the whole cannot

be reduced to exactly five per cent., unless money may be borrowed, at some stage of the process, at a trifle below five per cent. A bonus of one tenth of one per cent., paid by the bidders for five per cent. loans, would more than cover the excess, the probability of which fully warrants the calculation submitted as to the payment of the total debt at this rate.

It must be observed, also, that the assumed principal of the debt in July, 1866, must undergo some diminution before the funding in 1867, 1868, and 1869 begins. If only \$100,000,000 shall be paid off in these three years, the principal, thus reduced to \$2,900,000,000, would be extinguished, by the process already stated, in twenty-nine years if funded at five and a half per cent.; and if at five per cent., in something less than twenty-seven years. And it is well worthy of attention that \$100,000,000 less principal, at the commencement of the process of payment, will save \$400,000,000, in round numbers, in the end, if the rate is five and a half per cent., and \$300,000,000 if five per cent.

The burden of a national debt is, of course, relative to the national resources, and these resources are not, strictly speaking, capital, but the current product of the capital and industry of the country. The annual product, however, is found to bear a certain ratio to capital, and this ratio may be conveniently and safely used in computing the probable resources which must in the future meet the national requirement for the payment of interest and extinguishment of the debt.

It has been estimated by one who has made this subject a study, that the products of agriculture, manufactures, mining, mechanic arts, commerce, fisheries, and forests, in the year 1850 were at 28.9 per cent. of the value of the real and personal property of the United States. A similar calculation makes the products of 1860 26.8 per cent. of the wealth of the country in that year, as fixed by the census returns. In the calculation submitted, the annual products of capital and industry are taken, for convenience, at twenty-five per cent. of the capital wealth of the country, and the capital of each decennial year of the thirty that our national debt may run before its extinguishment by the application of \$200,000,000 per annum to the payment of its principal and interest, is here estimated upon the basis of its amount and increase as given by the census of 1860. In the year 1860 the real and personal property of the Union was valued (slaves excluded) at \$14,183,000,000. Of this amount the States lately in insurrection held \$3,467,000,000, being an increase upon the like property in 1850 of 139.7 per cent. The property of the loyal States was valued at \$10,716,000,000, an increase of 126.6 per cent. over 1850; together averaging a decennial increase of 129.7 per cent.

Now, taking the increase of wealth in the loyal States in the ten years from 1850 to 1870 at 125 per cent., we have as their capital in 1870, \$24,111,000,000; and if we put the wealth of the other States at the same figure as in 1860, without allowing anything for increase, we have a capital, for 1870, of \$27,578,000,000. This sum gives us the product of the year at \$6,894,500,000, upon which a payment on the debt of \$200,000,000 is 2.9 per cent. If we add but 25 per cent. to the wealth of 1860 for the States lately in insurrection as their probable valuation in 1870, the charge of \$200,000,000 upon the products of that year will be 2.81 per cent. But allowing all that can be claimed in this respect, and taking the lowest estimate for 1870 as the basis for calculating the wealth and products of the year 1880, 125 per cent. increase in this period gives a capital of \$62,050,000,000, and a product of \$15,512,000,000, upon which sum a charge of \$200,000,000 falls to 1.29 per cent. In 1890, the wealth, estimated at an increase of only 100 per cent. upon that of 1880, gives the year's products at \$31,025,000,000, upon which \$200,000,000 amounts to only



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0.644 per cent., or less than two thirds of one per cent., and in the year 1900, the tax upon the products of the year would fall to 0.322 per cent., or less than one third of one per cent.

To this charge upon the resources of the country, if there be added \$140,000,000 in 1870 for all other expenditures, \$150,000,000 in 1880, \$160,000,000 in 1890, and \$170,000,000 in 1900, the estimated total expenditure will be 4.93 per cent. of the products of capital and industry in 1870, 2.26 per cent. in 1880, 1.17 per cent. in 1890, and barely seven tenths of one per cent. in 1900. Or, in general statement, the total estimated charges of the national Government for the payment of the debt in thirty years, and all other ordinary expenses, begin at less than five per cent. of the resources of the country, and end in seven tenths of one per cent.

These estimates, and the basis upon which they rest, are sustained by the result of English experience under a debt one third larger than ours, with ordinary and extraordinary expenses at least one half larger than ours are likely to reach, and borne through a period of much less wealth-producing power. The Government charges for all expenditures fifty years ago took one pound in six of the products of Great Britain, but these charges have now fallen to one pound in nine. We commence our national burdens with resources that, in the very first year, will be required to bear an aggregate of less than five per cent., or one dollar in twenty.

It is true that many circumstances may occur to prevent the accomplishment of these anticipated results; but the estimates have been made upon what are regarded as reliable data, and are well calculated to encourage Congress in levying taxes and the people in paying them.

After careful reflection, the Secretary concludes that no act of Congress (except for raising the necessary revenue) would be more acceptable to the people, or better calculated to strengthen the national credit, than one which should provide that \$200,000,000, commencing with the next fiscal year, shall be annually applied to the payment of the interest and principal of the national debt. The estimates for the next fiscal year indicate that a very much larger amount could be so applied without an increase of taxes.

Before concluding his remarks upon the national debt, the Secretary would suggest that the credit of the five-twenty bonds issued under the acts of February 25, 1862, and June 30, 1864, would be improved in Europe, and, consequently, their market value advanced at home, if Congress should declare that the principal, as well as the interest, of these bonds is to be paid in coin. The policy of the Government in regard to its funded debts is well understood in the United States, but the absence of a provision in these acts that the principal of the bonds issued under them should be paid in coin, while such a provision is contained in the act under which the ten-forties were issued, has created some apprehension in Europe that the five-twenty bonds might be called in at the expiration of five years, and paid in United States notes. Although it is not desirable that our securities should be held out of the United States, it is desirable that they should be of good credit in foreign markets on account of the influence which these markets exert upon our own. It is, therefore, important that all misapprehensions on these points should be removed by an explicit declaration of Congress that these bonds are to be paid in coin.

In view of the fact that the exemption of Government securities from State taxation is, by many persons, considered an unjust discrimination in their favor, efforts may be made to induce Congress to legislate upon the subject of their taxation. Of course, the existing exemption from State and municipal taxation of bonds and securities now outstanding will be scrupulously regarded. That exemption is a part of the contract under which the securities have been issued and the money loaned thereon

to the Government, and it would not only be unconstitutional, but a breach of the public faith of the nation, to disregard it. It would also, in the judgment of the Secretary, be unwise for Congress to grant to the States the power, which they will not possess unless conferred by express congressional enactment, of imposing local taxes upon securities of the United States which may be hereafter issued. Such taxation, in any form, would result in serious, if not fatal, embarrassment to the Government, and, instead of relieving, would eventually injure the great mass of the people, who are to bear their full proportion of the burden of the public debt. This is a subject in relation to which there should be no difference of opinion. Every taxpayer is personally interested in having the public debt placed at home, and at a low rate of interest, which cannot be done if the public securities are to be subject to local taxation. Taxes vary largely in different States, and in different counties and cities of the same State, and are everywhere so high that, unless protected against them, the bonds into which the present debt must be funded cannot be distributed among the people, except in some favored localities, unless they bear a rate of interest so high as to make the debt severely oppressive, and to render the prospect of its extinguishment well-nigh hopeless. Exempted from local taxation, the debt can, it is expected, be funded at an early day at five per cent.; if local taxation is allowed, no considerable portion of the debt which falls due within the next four years can be funded at home at less than eight per cent. The tax-payers of the United States cannot afford to have their burdens thus increased. It is also evident that the relief which local tax-payers would obtain from Government taxation, as the result of a low rate of interest on the national securities, would, at least, be as great as the increase of local taxes to which they would be subjected on account of the exemption of Government securities; while, if those securities should bear a rate of interest sufficient to secure their sale when subject to local taxes, few, if any of them, would long remain where those taxes could reach them. They would be rapidly transferred to other countries, into the hands of foreign capitalists, and thus at last the burden of paying a high rate of interest would be left upon the people of this country without compensation or alleviation.

The present system of internal revenue is one of the results of the war. It was framed under circumstances of pressing necessity, affording little opportunity for careful and accurate investigation of the sources of revenue. Its success, however, has exceeded the anticipations of its authors, and is a most honorable testimonial to their wisdom, and to the patriotism of the people who have so cheerfully submitted to its burdens.

With the restoration of peace, industry is returning again to its former channels, and a revision of the system now becomes important to accommodate it to the changed and changing condition of the country.

Every complicated system of taxation opens the way to mistakes, abuses, and deceptions. Temptations to dishonesty and fraud are placed before the revenue officers and the tax-payers, and both are often thereby demoralized. Honest men, who pay their taxes in full, are injured, if not ruined, by the ingenuity of those who successfully evade their share of the public burdens.

The multiplicity of objects at present subject to taxation is one of the most serious objections to the present system. Many of these yield little revenue, while its collection is troublesome to the collector, and irritating and offensive to the tax-payers. This multiplicity also involves as many temptations to fraud, and as many difficult questions for decision, as the objects from which large revenue is derived.

To impose taxes judiciously, so as to obtain revenue without repressing industry, is one of the highest and most difficult duties devolved

upon Congress. Taxation which in one year may be scarcely felt, may the next year be oppressive; and that which may not be burdensome to those who are well established in business may be fatal to those just commencing. Every branch of industry has its infancy, and ought to be encouraged by liberal legislation. Whatever of industry or enterprise is destroyed, by injudicious taxation or otherwise, is a damage to the national welfare.

Heavy taxation may drive capital from our shores, or prevent its employment in the manner most advantageous to the country, and thus prevent that demand for labor which is the best security for its proper reward.

The taxation which is now extremely productive may in a few years become unproductive, or engender a spirit of opposition and discontent which may endanger the national credit.

It is important, therefore, that our revenue system should be frequently and carefully revised, in order that it may be accommodated to the habits and character of the people, to the industry of the country, to labor and capital, to wages at home and wages abroad. It is also of the highest importance that there should be a careful adjustment of our internal to our external revenue system.

That views somewhat similar to these were entertained by Congress is indicated by the provision in the amendatory act of March 3, 1865, by which the Secretary of the Treasury was authorized to "appoint a commission, consisting of three persons, to inquire and report, at the earliest practicable moment, upon the subject of raising by taxation such revenue as may be necessary in order to supply the wants of the Government, having regard to and including the sources from which such revenue should be drawn, and the best and most efficient mode of raising the same."

This subject received the early attention of the Secretary, and under the authority of the act, after careful deliberation, a commission was organized, consisting of Messrs. David A. Wells, Stephen Colwell, and S. S. Hayes, representing, to a certain extent, different sections and interests, and also different political sentiments. The commission was fully organized in June, and has since then been actively engaged in the prosecution of its labors.

An investigation of the character of the revenue, contemplated by the act authorizing this commission, necessarily involves a careful and comprehensive inquiry into the condition of every industry, trade, or occupation in the country likely to be affected by the national revenue system, and, in the absence of nearly all previously compared and exact data, must necessarily be protracted and laborious. From a preliminary report made to the Secretary by the commission, he has reason to infer that enough has already been accomplished by them to indicate the value of an investigation like that in which they are now engaged, and to demonstrate the necessity of the accumulation of a correct and accurate knowledge, properly digested and presented, as a basis for our future revenue legislation.

The plan pursued by the commission has been, to take up, specifically, those sources of revenue which our own experience, and the experience of other countries, have indicated as likely to be most productive under taxation and most capable of sustaining its burdens. In pursuance of this plan, a large number of witnesses have been examined, and much valuable testimony put upon record.

It is understood to be the opinion of the commissioners that it would be inexpedient at once to make any radical and violent changes in the nature and working of the present revenue system, and that we should rather seek, through experience and study, to perfect the present system by degrees, so as to gradually adapt it to the industrial habits and fiscal capacity of the people. The Secretary is also informed by the commissioners that it seems certain to them that, without any increase in the rate of taxa-

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tion, but by the enactment of some modifications and amendments of the present law, coupled, possibly, even with some reduction in the rates, an increase of revenue from comparatively few sources to the extent of some fifty or sixty million dollars per annum over and above that now obtained, may be confidently relied on. If this should be the case, an early repeal of a multitude of small taxes which, from the inquisitorial character of their method of collection, have become extremely odious and objectionable, will be advisable.

Although the work of the commission has been thus far mainly directed to the sources likely to be most productive of revenue, the consideration of the subject of the administration of the law has not been omitted by them; and in this department it is believed that some valuable recommendations will be submitted for the consideration of Congress.

As a gratifying feature of their work, the commission report a most cheerful and prompt coöperation on the part of nearly all the representatives of the industrial interests of the country in the procurement of exact information, and a universal expression of ready acquiescence in any demands upon them which the future necessities of the Government may require, united, at the same time, with a request that the Government should, on its part, seek to equalize, so far as practicable, and fairly distribute, the apportionment of its requirements.

In view of the fact that the revision of the whole revenue system has been committed to this commission, the Secretary does not consider it proper for him to present his views upon this important subject in advance of their final report, which, it is hoped, will be made early in the session.

There are some subjects, however, presented in the report of the Commissioner of Internal Revenue which require the attention of Congress before the report of the commission is received, and in relation to which there should be early action.

In putting into operation the system of internal revenue in the recently rebellious States, it became necessary for the Secretary to decide whether or not an effort should be made to collect the taxes which accrued prior to the establishment of revenue offices therein. After giving the subject due consideration, the Secretary, in view of the facts that there were no Federal revenue officers to whom payment of taxes could be made, that the people (many of them involuntarily) had been subjected to heavy taxation by the government which was attempted to be established in opposition to that of the United States, and had been greatly exhausted by the ravages of war, issued a circular, under date of the 21st of June, declaring—

"That, without waiving in any degree the right of the Government in respect to taxes which had before that time accrued in the States and Territories in insurrection, or assuming to exonerate the tax-payer from his legal responsibility for such taxes, the Department did not deem it advisable to insist, at present, on their payment, so far as they were payable prior to the establishment of a collection district embracing a territory in which the tax-payer resided."

For substantially the same reasons that induced the Secretary to issue this circular, he deemed it to be his duty to suspend all further sales under the direct tax law. Tax commissioners, however, have been appointed for each State, and collections have been made, as far as it has been practicable to make them without sales of property. Some sales had, however, been previously made in many of the States, and large amounts of property had been purchased for the Government. In South Carolina, a portion of the lands thus purchased have since been sold under the eleventh section of the act of August, 1863.

During the war the laws in regard to stamps have been, of course, in the insurrectionary States, entirely disregarded; and, as a consequence, immense interests are thereby imperiled.

In view, therefore, of the recent and present

condition of the southern States, the Secretary recommends—

First. That the collection of internal revenue taxes which accrued before the establishment of revenue offices in the States recently in rebellion be indefinitely postponed.

Second. That the sales of property in those States, under the direct tax law, be suspended until the States shall have an opportunity of assuming (as was done by the loyal States) the payment of the tax assessed upon them.

Third. That all transactions in such States, which may be invalid by the non-use of stamps, be legalized as far as it is in the power of Congress to legalize them.

What action, if any, should be taken for the relief of persons in those States, whose property has been sold under the direct tax law, and is now held by the Government, it will be for Congress to determine. The Secretary is decidedly of the opinion that liberal legislation in regard to the taxes which accrued prior to the suppression of the rebellion will tend to promote harmony between the Government and the people of those States, will ultimately increase the public revenues, and vindicate the humane policy of the Government.

The Secretary is happy in being able to state that the affairs of the Bureau of Internal Revenue are being satisfactorily administered, and the working of the system throughout the country is being gradually improved.

For want of proper accommodations in the Treasury building the bureau has been removed to the large and commodious building on Fifteenth street, which has been secured, for such time as the Government may require its use, at an annual rent of \$23,000.

The reciprocity treaty with Great Britain will expire on the 17th of March next, and due notice of this fact has been given, by circulars, to the officers of customs on the northern frontiers.

There are grave doubts whether treaties of this character do not interfere with the legislative power of Congress, and especially with the constitutional power of the House of Representatives to originate revenue bills; and whether such treaties, if they yield anything not granted by our general revenue laws, are not in conflict with the spirit of the usual clause contained in most of our commercial treaties, to treat each nation on the same footing as the most favored nation, and not to grant, without an equivalent, any particular favor to one nation not conceded to another in respect to commerce and navigation.

It appears to be well established that the advantages of this treaty have not been mutual, but have been in favor of the Canadas. Our markets have been strong, extensive, and valuable; theirs have been weak, limited, and generally far less profitable to our citizens. The people of the Canadas and Provinces have been sellers and we buyers of the same productions for which we are often forced to seek a foreign market. It is questionable, in fact, whether any actual reciprocity, embracing many of the articles now in the treaty, can be maintained between the two countries. Even in regard to the fisheries, it is by no means certain that, instead of equivalents having been acquired under the treaty, more than equal advantages were not surrendered by it. But, whatever the facts may be, this subject, as well as that of intercommunication through rivers and lakes, and possibly canals and railroads, are proper subjects of negotiation, and their importance should secure early consideration.

It is certain that, in the arrangement of our complex system of revenue through the tariff and internal duties, the treaty has been the cause of no little embarrassment. The subject of the revenue should not be embarrassed by treaty stipulations, but Congress should be left to act upon it freely and independently. Any arrangement between the United States and the Canadas and Provinces, that may be considered mutually beneficial, can as readily be perfected and carried out by reciprocal legisla-

tion as by any other means. No complaint would then arise as to subsequent changes of laws, for each party would be free to act at all times according to its discretion.

However desirable stability may be, an irrepealable revenue law, even in ordinary times, is open to grave objections, and in any extraordinary crisis is likely to be pernicious. The people of the United States cannot consent to be taxed as producers while those outside of our boundaries, exempt from our burdens, shall be permitted, as competitors, to have free access to our markets. It is desirable to diminish the temptations now existing for smuggling, and if the course suggested, of mutual legislation, should be adopted, a revenue system, both internal and external, more in harmony with our own, might justly be anticipated from the action of our neighbors, by which this result would be most likely to be obtained.

The attention of Congress is again called to the importance of early and definite action upon the subject of our mineral lands, in which subject are involved questions not only of revenue, but social questions of a most interesting character.

Copartnership relations between the Government and miners will hardly be proposed, and a system of leasehold, (if it were within the constitutional authority of Congress to adopt it, and if it were consistent with the character and genius of our people,) after the lessons which have been taught of its practical results in the lead and copper districts, cannot, of course, be recommended.

After giving the subject as much examination as the constant pressure of official duties would permit, the Secretary has come to the conclusion that the best policy to be pursued with regard to these lands is the one which shall substitute an absolute title in fee for the indefinite possessory rights or claims now asserted by miners.

The right to obtain a "fee simple in the soil" would invite to the mineral districts men of character and enterprise; by creating homes, (which will not be found where title to property cannot be secured,) it would give permanency to the settlements, and, by the stimulus which ownership always produces, it would result in a thorough and regular development of the mines.

A bill for the subdivision and sale of the gold and silver lands of the United States was under consideration by the last Congress, to which attention is respectfully called. If the enactment of this bill should not be deemed expedient, and no satisfactory substitute can be reported for the sale of these lands to the highest bidder, on account of the possessory claims of miners, it will then be important that the policy of extending the principle of preemption to the mineral districts be considered. It is not material, perhaps, how the end shall be attained, but there can be no question that it is of the highest importance, in a financial and social point of view, that ownership of these lands, in limited quantities to each purchaser, should be within the reach of the people of the United States who may desire to explore and develop them.

In this connection, it may be advisable for Congress to consider whether the prosperity of the treasure-producing districts would not be increased, and the convenience of miners greatly promoted, by the establishment of an assay office in every mining district from which an annual production of gold and silver amounting to \$10,000,000 is actually obtained.

The attempts at smuggling, stimulated by the high rates of duties on imports, have engaged the attention of the Department, and such arrangements have been made for its detection and prevention as seemed to be required by the circumstances, and available for that purpose.

It is quite apparent, however, that, with our extensive sea-coasts and inland frontier, it is impracticable entirely to prevent illicit traffic,

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though checks at the most exposed points have, doubtless, been put to such practices.

In this connection, it may be remarked, that the revenue cutters are diligently and usefully employed in the preventive service, within cruising limits so defined as to leave no point of sea and Gulf coasts unvisited by an adequate force.

A similar arrangement will be extended to the lakes on the reopening of navigation, the cutters built for that destination not having been completed in time to be put in commission before its close.

The cutters are an important auxiliary to the regular customs authorities, in the collection and protection of the public revenue, by the examination of incoming vessels and their manifests of cargo; affording succor to vessels in distress; aiding in the enforcement of the regulations of harbor police, and otherwise preventing or detecting violations or evasions of law. A service of this description is unquestionably useful, if not indispensable, to the administration of the revenue system of a maritime and commercial country with such extensive sea, lake, and Gulf coasts as our own.

There are now in the service 27 steamers and 9 sailing vessels. Of the steamers, 7 are of the average tonnage of 850 tons, and draw nine feet of water. These large vessels were constructed during the progress of the late rebellion, and were designed for the combined purpose of a naval force and a revenue coast-guard. Their heavy armaments, large tonnage, and crews, however well fitted for such purposes, are not adapted for the revenue service in a time of peace. In consequence of their great draft of water, they must be used mainly as sea-going vessels, and are incapable of navigating the shallow waters of the coasts, and their tributaries, which afford the most favorable opportunities for contraband trade. Independently of these considerations, they are so constructed as to be unable to carry a supply of fuel for more than three, or possibly four days at the farthest.

It is recommended, therefore, that this Department be vested with authority to sell the vessels of this description, and expend the proceeds in the purchase of others of a different character and lighter draft, and, on that account, better fitted to accomplish the purposes of a preventive service, and which can be kept in commission at a cost more than one third less than those of the former class.

For example, the difference in the cost of running for twelve months the Mahoning, one of the first-named class, and the Nansemond, one of the latter class, is \$27,606. The Mahoning, with twelve tons of coal per diem, can make but eight knots per hour; while the Nansemond, with eight tons of coal per diem, will make twelve knots per hour. The Nansemond, drawing but six feet nine inches, is enabled to cruise in waters entirely inaccessible to the Mahoning.

To render the service effective and economical, cutters should be of light draft, manned by a small crew, and able to navigate the shoal waters and penetrate the inland bays, rivers, and creeks, with which our sea, lake, and Gulf coasts abound, but of sufficient tonnage to enable them to perform efficiently and safely the duties of a coast-guard at sea, and to furnish succor to vessels in distress; and at the same time to navigate the interior waters for the prevention of smuggling, and reach readily a port of refuge in the tempestuous weather prevailing at times along our coast, should they be forced to do so.

The working of the marine hospital system, as at present constituted, is not altogether satisfactory. The erection and repair of numerous expensive buildings, and the support of the establishments necessarily connected with their operations, have entailed upon the Government a yearly expense far beyond the amount contributed by the seamen, which has been met by large annual appropriations by Congress.

The act of July 16, 1798, by which the system

was created, and the rate of contribution fixed at twenty cents per month, confined the action of the Government to the simple expenditure, for the benefit of the seamen, of the amounts thus contributed by themselves, and contemplated laying no burden on the public Treasury. If it is deemed advisable to continue any system of relief, under control of the Government, it is respectfully suggested that the original intent of the law should be carried into effect, and the fund made self-sustaining. With this view, it will be necessary to increase the fund, and to make a material reduction in the expenses.

Experience has shown, and former Secretaries have at various times and with entire unanimity represented to Congress, that the system of public marine hospitals, maintained and managed by the Government, is the least economical method that has been devised for the administration of this fund, and affords the least comparative benefit to the seamen. The expenses of these establishments are large, independently of the number of seamen received in them. When the patients are numerous, the average rate of expense per man is not unreasonable; but where they are few, as at most of the public institutions, the expense *per capita* is very largely in excess of the cost of maintaining them under contract at private, State, or municipal institutions, where they would be better accommodated, at an expense exactly proportioned to the services rendered.

Mention may be made, in illustration, of one of these public hospitals, which is maintained at an annual expense of upward of \$4,000, and which accommodates an average of less than a single patient, at a daily cost *per capita* of more than \$14 50; while quite as satisfactory relief can be had under contract for about \$1 per day.

There are, moreover, several hospital buildings, erected at great cost, now lying idle, out of repair, and not available for their intended use. Some of these have never been occupied, and one, at least, is situated at a point remote from any port, and where relief is never demanded. Others now occupied are in a condition requiring large and immediate outlay to preserve them.

In view of these facts, it is strongly recommended that authority be conferred by law upon this Department to sell such hospitals as experience has shown are not needed, retaining only those situated at important ports where, by the course of commerce, demands for relief are likely to be most frequent and pressing, and where contracts on favorable terms cannot be procured with private or municipal institutions. The proceeds should either be returned into the Treasury in repayment of their cost, or invested for the benefit of the hospital fund.

In favor of the contract system it may be remarked, that it is in operation, most successfully, at New York, where demands for relief are far the heaviest; at Baltimore, Philadelphia, St. Louis, Louisville, and Cincinnati; and it is believed that quite as advantageous and satisfactory arrangements might be made at other ports where Government hospitals are now located. Even at ports where it may be deemed best to retain the ownership of the hospital buildings, it might be advisable to lease them to private or municipal hospitals, which would gladly receive the seamen on favorable terms. Such an arrangement was formerly in force at Charleston, South Carolina; much to the advantage of the patients and the fund.

Should these suggestions be adopted, and, at the same time, the rate of contribution fixed at thirty cents a month, instead of twenty as at present, the proceeds of the tax, thoroughly collected and economically administered, would be ample to meet every demand which a judicious discrimination in affording relief would make upon them; and the seamen would receive far more substantial and efficient benefit than under the present system.

As to the increased rate of contribution it may be said that the existing rate has stood unchanged, through all the fluctuations of prices and wages, since 1798; that it is quite disproportioned to the benefit derived by the seamen from the marine hospital system; and that persons of this class arc, as a general thing, otherwise free from Federal legislation. In this view, there can be no hardship or injustice in making the moderate increase suggested.

By the report of the Comptroller of the Currency, it appears that sixteen hundred and one banks had been, on the 31st of October last, organized under the national banking act. Of these, six hundred and seventy-nine were original organizations, and nine hundred and twenty-two conversions from State institutions.

The Comptroller recommends several amendments to the acts, which will arrest the attention of Congress.

The recommendation that the banks shall be compelled to redeem their notes at one of the three cities named is heartily indorsed. At some future day it may be advisable that redemptions shall be authorized at western and southern cities; but as long as exchange continues to be in favor of the sea-board, it is not expedient to permit banks to redeem at interior points. There are very few country banks or banks in the interior cities that do not keep their chief balances in either Boston, New York, or Philadelphia, there being a regular demand for exchange on these cities. Where the current of trade requires the bank to keep accounts for their own accommodation and that of their customers and the public, there should their redemptions be made. Notes that are par in either of these cities will very rarely be at a discount in any part of the United States, and will be as nearly of uniform value as is, perhaps, ever to be expected in a paper currency.

The Secretary is hopeful that the time is not far distant when redemptions will be something more than nominal. Experience and observation have taught him that frequent redemptions are essential to the solvency of banks of circulation. Nothing so well teaches a bank the necessity of keeping its loans in the hands of prompt customers, and its means under its own control, as the certainty of being frequently called upon to meet its own obligations. It is quite important that inexperienced bankers, under the national banking system, should learn that their notes are not money, but promises to pay it; and the sooner and the more effectively this lesson is impressed upon them, the better it will be for their stockholders and the system.

The national banking system was designed not only to furnish the people with a sound circulation, but one of uniform value; and this is not likely to be fully accomplished until the banks, by compulsion or their own voluntary act, keep their notes at par in the principal money markets of the country.

The establishment of the national banking system is one of the great compensations of the war; one of the great achievements of this remarkable period. In about two years and a half from the organization of the first national bank, the whole system of banking under State laws has been superseded, and the people of the United States have been furnished with a circulation bearing upon it the seal of the Treasury Department as a guarantee of its solvency. It only remains that this circulation shall be a redeemable circulation—redeemable not only at the counters of the banks, but at the commercial cities—to make the national banking system of almost inconceivable benefit to the country.

The present law limits the circulation of the national banks to \$300,000,000; and it is not probable, when the business of the country returns to a healthy basis, that a larger paper circulation than this will be required. Indeed, it is doubtful whether a larger bank-note circulation can be maintained on a specie basis. Should an increase, however, be necessary, it



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can be provided for hereafter. It is, perhaps, unfortunate that a greater restriction had not been placed upon the circulation of the large banks already organized, in view of the wants of the southern States. It is quite likely, however, that the anticipated withdrawal of a portion of the United States notes (not to speak of the effect of the restoration of specie payments) will so reduce the circulation of the northern banks as to afford to the South, under the present limitation of the law, all the paper currency which will be required in that quarter.

The act of March 3, 1865, authorized the Secretary to borrow any sums not exceeding \$600,000,000, and to issue therefor bonds or Treasury notes of the United States in such form as he might prescribe.

Under this act there was issued during the month of March \$70,000,000 of notes payable three years after date, and bearing an interest payable semi-annually in currency at the rate of seven and three tenths per cent. per annum, and convertible at maturity, at the pleasure of the holders, into five-twenty gold-bearing bonds.

Upon the capture of Richmond and the surrender of the confederate armies, it became apparent that there would be an early disbanding of the forces of the United States, consequently heavy requisitions from the War Department for transportation and payment of the Army, including bounties. As it was important that these requisitions should be promptly met, and especially important that not a soldier should remain in the service a single day for want of means to pay him, the Secretary perceived the necessity of realizing as speedily as possible the amount—\$580,000,000—still authorized to be borrowed under this act. The seven and three-tenths notes had proved to be a popular loan, and although a security on longer time and lower interest would have been more advantageous to the Government, the Secretary considered it advisable, under the circumstances, to continue to offer these notes to the public, and to avail himself, as his immediate predecessor had done, of the service of Jay Cooke, Esq., in the sale of them. The result was in the highest degree satisfactory. By the admirable skill and energy of the agent, and the hearty coöperation of the national banks, these notes were distributed in every part of the northern, and some parts of the southern States, and placed within the reach of every person desiring to invest in them. No loan ever offered in the United States, notwithstanding the large amount of Government securities previously taken by the people, was so promptly subscribed for as this. Before the 1st of August the entire amount of \$580,000,000 had been taken, and the Secretary had the unexpected satisfaction of being able, with the receipts from customs and internal revenue and a small increase of the temporary loan, to meet all the requisitions upon the Treasury.

On \$230,000,000 of these notes the Government has the option of paying the interest at the rate of six per cent., in coin, instead of seven and three tenths in currency. The Secretary thought it advisable to reserve this option, because he indulged the hope that before their maturity specie payments would be restored, and because six per cent. in coin is as high a rate of interest as the Government should pay on any of its obligations.

The receipts of coin have been, for some months past, so large that there have been constant accumulations beyond what has been required for the payment of the interest on the public debt. The Secretary has, therefore, deemed it to be his duty to sell, from time to time, a portion of the surplus for the purpose of supplying the wants of importers, and furnishing the means for meeting the demands upon the Treasury for currency. The sales have been conducted by the Assistant Treasurer in New York, in a manner entirely sat-

isfactory to the Department, and, it is believed, to the public. The sales, up to the 1st of November, amounted to \$27,993,216 11, and the premium to \$12,310,459 76, thus placing in the Treasury, for current use, the sum of \$40,303,675 87, without which there would have been a necessity for the further issue of interest-bearing notes.

The necessities of the Treasury have been such that a compliance with the requirements of the act of February 25, 1862, for the creation of a sinking fund has been impracticable. As long as it is necessary for the Government to borrow money, and to put its obligations upon the market for sale, the purchase of these obligations for the purpose of creating a sinking fund would hardly be judicious. After the expiration of the present year, the income of the Government will exceed its expenses; and it will then be practicable to carry into effect the provisions of the law. The Secretary is, however, of the opinion that the safe and simple way of sinking the national debt is to apply directly to its payment the excess of receipts over expenditures. He therefore respectfully recommends that so much of the act of February 25, 1862, as requires the application of coin to the purchase or payment of one per cent. of the entire debt of the United States, to be set apart as a sinking fund, be repealed.

By virtue of the authority conferred by the fifth section of the act of March 3, 1863, the Treasurer of the United States and the Assistant Treasurer in New York, have been instructed to receive deposits of coin and bullion, and to issue certificates therefor in denominations of not less than \$20.

Instructions were given for the issue of these certificates to promote the convenience of officers of customs, and of the Treasurer and Assistant Treasurers, and for the accommodation of the public. Other considerations also prompted the Secretary to avail himself of the authority referred to. It is expected that the credit of the Government will be strengthened by the coin which will be thus brought into the Treasury, and that the effect of the measure will be to facilitate to some extent a return to specie payments. If the experiment should be satisfactory in New York, it will be extended to other commercial cities.

For a full explanation of the condition of the mints and their operations during the past year, attention is requested to the report of the Director of the Mint at Philadelphia.

The total value of bullion deposited at the Mint and branches during the last fiscal year was \$32,248,754 97; of which \$31,065,349 74 was in gold, and \$1,183,405 23 in silver. Deducting the redeposits, there remain the actual deposits, amounting to \$27,982,849 00.

The coinage for the year was, in gold coin, \$25,107,217 50; gold bars, \$5,578,482 45; silver coin, \$636,308; silver bars, \$318,910 69; cents, including the two and three cent pieces, \$1,183,330; total coinage, \$32,819,248 64.

Of the bullion deposited, \$5,570,371 27 was received at the assay office in New York. Of the gold bars, \$4,947,809 21, and of silver bars, \$165,003 45 in value, were stamped at the same office.

At the branch mint in San Francisco the gold deposits were \$18,808,318 49, and the silver deposits and purchases \$540,299 20 in value. The value of the gold coined was \$18,670,840; of silver coined \$320,800; and of silver bars \$145,235 58. Total coinage \$19,144,875 58.

At the branch mint in Denver the total deposits were \$548,609 85, of which \$541,559 04 was in gold, and \$7,050 81 was in silver.

The survey of the coast, which is under the administrative direction of this Department, has been for the past year prosecuted with vigor. Under special assignments most of the field assistants have coöperated with the naval and military forces of the Government, and in that way important service was rendered quite up to the close of the war. Since the termination

of hostilities the regular operations of the survey have been pushed forward as rapidly as the available means would permit.

The national importance of this work was clearly evinced during the war, and now seems to be generally appreciated. It is therefore recommended that the necessary appropriations be made for the efficient continuance of the work.

The attention of Congress is called to the report of the Solicitor of the Treasury, which exhibits the satisfactory results of the litigation under his supervision; and also the condition of the measures adopted by him and the officers of the customs for the suppression of frauds upon the revenue.

Attention is also specially called to so much of his report as relates to the administration of the fund appropriated to defray the expenses of detecting and bringing to punishment counterfeiters of the securities and coin of the United States. The measures which have been adopted have been attended with important results, and such as to indicate the wisdom of Congress in creating the fund, and the expediency of continuing appropriations. The Solicitor has been requested to cause a thorough revision of the laws relating to counterfeiting to be made, and a bill to be prepared for the consideration of Congress, with a view to remedying defects in existing statutes.

Operations, under the several acts of Congress concerning commercial intercourse with the States declared to be in insurrection, the execution of which was confided to this Department, have been nearly brought to a close, partly by the restoration of peace and partly by executive proclamations. The provisions of those acts were carried out, as far as it was possible in the disturbed condition of the country, under the rules and regulations adopted by the Department, with the approval of the Executive, not only without cost to the Government, but in such manner as to add considerably to its revenues.

The regulations adopted in conformity with the requirements of the second section of the act of July 2, 1864, relative to abandoned lands, houses, and tenements, and freedmen, were, at the request of the military authorities, and from considerations of public policy, suspended by orders of August 11, 1864. Since then, from time to time, as it was ready to assume the charge of them, the duties appertaining to these subjects have been transferred to the Bureau of Refugees, Freedmen, and Abandoned Lands, according to the provisions of the act of Congress approved March 3, 1865.

By executive orders, all operations under sections eight and nine of the act approved July 2, 1864, authorizing the purchase, by agents of this Department, of the products of the insurrectionary districts, were closed, on the east of the Mississippi river on the 13th of June last, and west of it on the 24th of the same month. The accounts of the different purchasing agents have not been settled, but it is thought that the net profits of the Government, by these purchases, will amount to \$1,500,000.

Since the suspension of purchases by the Government the duties of the agents of this Department have been confined to securing the property (chiefly cotton) captured by our military forces in pursuance of the acts of March 12, 1862, and July 2, 1864, relative to captured and abandoned property. Up to the 31st of March last, there had been received at New York, Cincinnati, and St. Louis, the places designated for sales—including 38,319 bales obtained at Savannah, 4,151 bales at Charleston, and 2,331 at Mobile—about 30,000 bales.

The general rule under which agents have been acting since the surrender of the forces which had been waging war against the Government of the United States, is to collect and forward, as captured property, all cotton described upon the books and lists of the pretended confederate government, or which there was sufficient reason to believe was owned or

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controlled by it, and that which belonged to companies formed for the purpose of running the blockade, in support of, if not in direct cooperation with, the league which had been formed to overthrow the Government of the United States, leaving individual claimants of the property to their recourse before the Court of Claims, as provided by the third section of the act approved March 12, 1863. In the performance of their duties, the agents have had great difficulties to encounter, from the unwillingness of the planters to surrender the captured property in their possession, from extensive depredations upon it after it was collected, and from powerful combinations formed to prevent, under various pretexts, the property fairly captured from coming into the possession of the United States. In spite of all these obstacles, however, it is estimated, from the accounts already received, and from data furnished by the agents, that there will be secured to the Government not less than 125,000 bales of cotton, including the 80,000 bales already referred to. What part of the proceeds of this property will ultimately be retained by the Government will depend upon the success of the claimants before Congress and the courts. In collecting this cotton, there have been doubtless some instances of injustice to individuals, who may be entitled to the consideration of the Government; but the Secretary believes that the cotton which has been taken by the agents was rightfully seized, and that no equitable claims for the return of any considerable portion of it or the proceeds thereof can be presented.

It may be proper to add, in this connection, that many and grave charges of corruption and improper practices have been made against agents employed in this branch of the public service. These charges, however, have been mostly vague in their character, and after such investigation as the Secretary has been able to make, he has concluded that they have been generally instigated by malice or disappointed cupidity, and usually without substantial foundation.

A copy of the several rules and regulations alluded to, which have been put in force since the last session of Congress, is appended hereto as a part of this report.

The various public buildings under the control and management of the Treasury Department are in a favorable condition; and it is to be hoped that only limited appropriations will be necessary for the coming year. On account of the difficulty of providing accommodations for the State Department, it has not been deemed advisable to proceed with the construction of the north wing of the Treasury building during the present year. The granite for the extension has, however, been contracted for and is being prepared, so that during the next season the work can be vigorously prosecuted. The grounds between the Treasury Department and the Executive Mansion are being graded and arranged with as great a regard to convenience and beauty as is practicable, considering the unfavorable location of the edifice, and it cannot be doubted that the Treasury building, when fully completed, will compare favorably, in the simplicity, solidity, and beauty of its architectural appearance and proportions, with any structure in this country or in Europe.

The southern custom-houses are reported to be in a damaged and dilapidated condition, and an officer of the Department has been sent to inspect them, and report what expenditures are necessary to fit them for the transaction of the public business. The appropriations which will be necessary for the purpose of making the repairs needed will be duly indicated.

By the terms of the lease of the premises occupied as a custom-house in New York, the Government had the right, by giving three months' previous notice, to purchase the same at the expiration of the lease for \$1,000,000. As the property was regarded as being worth a much larger amount, and was needed for cus-

tom-house purposes, it was thought advisable that the Government should avail itself of the right to purchase. The property was therefore purchased for the sum named, and conveyed by proper deed to the United States.

The attention of Congress is earnestly called to the necessity of providing for the more adequate compensation of some of the officers connected with the Treasury Department. The salaries of those who are required to furnish bonds with heavy penalties, and who are custodians of large amounts of money, and of others occupying very important positions, are altogether inadequate to the responsibilities which they incur and the services which they render.

For example, the Treasurer, who received and disbursed last year about \$4,000,000,000, is paid a salary of \$5,000 per annum. The Assistant Treasurer in New York, who has in his custody from \$20,000,000 to \$40,000,000 in coin, and frequently as large an amount in currency, receiving and paying out in the course of the year more than \$2,000,000,000, receives \$6,000. The Assistant Treasurer in San Francisco receives \$4,500 in currency, which is an entirely inadequate salary in that State for an officer of character and ability, holding a position of so great responsibility. The Commissioner of Internal Revenue, holding an office which requires in its administration as much executive ability, and as high an order of talent, as any connected with the Treasury Department, receives only \$4,000; the Deputy Commissioner \$2,500. The custody of the vast amounts of Government securities printed and issued from the Treasury Department is imposed upon the chief of the first division of the Currency Bureau, who receives an annual compensation of only \$3,000. The Comptrollers of the Treasury, whose functions are of supreme importance in the safe transaction of the business of the Department, receive salaries which are no just compensation for that business ability and those legal attainments which are indispensable in the places they occupy. Many other officers might also be named whose compensation is entirely inadequate to their talent and services.

The Secretary is aware of the necessity of economy in the expenditure of the public moneys at the present time, but the Government, in order to secure the services of competent and faithful officers, must pay salaries equal to those which are paid by private corporations and individuals; and if such salaries are not paid, the result will inevitably be highly injurious to the public service, because incompetent, unfaithful, and irresponsible men will be allowed to fill offices requiring the highest capacity and most reliable integrity.

The duties devolved upon the officers named are too important to be intrusted to persons less able and reliable than those who now hold them; and it is very questionable if the services of such men can be retained without an increase of compensation. Expensive as living is in Washington and the other cities named at present, and is likely to be for some time to come, there is scarcely one of these officers who can support his family in a manner corresponding to his position, or even comfortably, on the salary which he receives.

It is not asked that there shall be an indiscriminate raising of salaries, but that provision be made for the payment of such salaries as may be necessary to secure the permanent services of the right men in the most important positions in this Department. Unless this shall be done, the Department will labor under serious embarrassment in the transaction of its vast business during the coming year.

In this connection the Secretary desires to advert to the disposition that has been made, by the appropriation of the last Congress, of the \$250,000 for compensation to temporary clerks and additional compensation to those permanently employed. Congress having declined to make any general and indiscriminate increase of the salaries of clerks, it was inferred that it

was intended that such portion of the appropriation in question as might not be required to pay salaries of temporary clerks, should be used carefully in increasing the compensation of those who were performing difficult and important duties, and whose services could not be dispensed with without injury to the Government. Upon making the examination necessary to a proper decision as to the use to be made of the fund, it was ascertained that there was no lack of clerks in the lower grades, but that there was a scarcity of those of the higher grades competent to perform important and responsible duties. It appeared that many clerks receiving the highest salary allowed by law, had resigned because they could obtain greater compensation elsewhere. The Treasurer's office had suffered largely in this manner, many of his most valuable clerks having left, to accept situations in banks and commercial establishments where they could obtain permanent employment and higher pay. There were indications, also, that many others would do the same unless additional compensation should be made to them.

Under these circumstances it was decided to use a part of the fund in slightly increasing the salaries of clerks of this description until the intention of Congress in relation to its disposition should be more clearly indicated. The amount of the fund already expended in this way is about \$25,000. If the disposition which has been thus made of it is not in accordance with the intention of Congress, it is, of course, competent for them to provide a different expenditure of it. The Secretary, however, deems it to be his duty to say that the interests of the service imperatively require that the salaries of clerks who are acting as heads of divisions, or are employed in duties requiring in their performance a high order of ability, as well as the salaries of the officers referred to, should be considerably increased. It would doubtless be a true economy to diminish the number of clerks, and to increase the compensation of those who may be retained.

For information in regard to the condition and operations of the various bureaus of this Department, reference is made to the accompanying reports of the proper officers, all of whom, with the Assistant Secretaries, merit the thanks of the country for the efficient manner in which they are discharging their onerous and responsible duties.

HUGH McCULLOCH,

Secretary of the Treasury.

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives.

## Report of the Postmaster General.

POST OFFICE DEPARTMENT,

November 15, 1865.

SIR: The revenues of this Department for the year ended June 30, 1865, were \$14,556,158 70, and the expenditures \$13,694,728 28, leaving a surplus of \$861,430 42.

The ratio of increase of revenue was seven-tenths per cent., and of the expenditure eight per cent., compared with previous year.

The portion of the revenues accumulated in depository and draft offices, under the supervision of the Finance office of this Department, was \$7,136,024 46; collected by the Auditor, \$2,329,855 08; and retained by postmasters for salaries and office expenses, \$5,090,279 16.

The estimated expenditures for the year ending June 30, 1867, are.....	\$18,678,000
The revenue estimated at 10 per cent. increase over last year.....	\$16,011,773
Add amount equal to 50 per cent. of the receipts of 1860 from States lately in rebellion.....	758,770
Appropriation for free matter.....	700,000
	17,470,543

Leaving a deficiency of..... \$1,207,457

For this deficiency no special appropriation will be required, as the standing appropriations

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for the last three years, under acts of March 3, 1847, and March 3, 1851, amounting to \$2,100,000, are unexpended. It will be necessary, however, to make special appropriations from the Treasury—

For steamship service between San Francisco, Japan, and China, for six months, from January 1 to June 30, 1867.....\$250,000

Also for steamship service between the United States and Brazil for eight months of the current year, commencing November 1..... 100,000  
And the whole of next year..... 150,000

\$500,000

The number of postage stamps issued during the year was 387,419,455, representing.....\$12,099,787 50  
Stamped envelopes, 25,040,425, representing..... 724,135 00  
Stamped wrappers, 1,165,750, representing..... 23,315 00

Making in all.....\$12,847,437 50

An increase of \$1,873,108 over the previous year. The amount sold was \$12,899,727 85, being \$1,623,138 27 more than the previous year.

The introduction of stamped envelopes bearing a request for the return to the writers of unclaimed letters has considerably increased the sale of envelopes, and is believed to have diminished the returns to the dead letter office.

Business cards are printed on envelopes without additional cost when ordered in quantities not less than one thousand for the same parties.

To encourage the purchase of *request envelopes*, the law should be changed so as to allow the return of such letters to the writers free of postage.

As stamped envelopes are canceled by use, and therefore safer against fraud than those with stamps attached, it is submitted whether the Postmaster General should not be authorized in his discretion to furnish them, as the separate stamps are now, without reference to the cost of manufacture.

New stamps have been adopted of the denominations of 5, 10, and 25 cents, for prepaying postage on packages of newspapers forwarded by publishers or news-dealers under the authority of law, whereby a revenue will be secured hitherto lost to the Department.

Under the act for the relief of postmasters who have been robbed by bodies of armed men, seventy-seven cases have been decided, and allowances made to the amount of \$4,207 75.

Appended hereto is a tabular statement, exhibiting the annual receipts and expenditures of this Department from January 1, 1831, to June 30, 1865. The results are as follows:

Aggregate receipts.....\$200,311,894 47  
Aggregate expenditures..... 244,748,881 59

Deficit.....\$44,436,987 12

Averaging as follows: receipts, \$5,806, 141 87 per annum; expenditures, \$7,094,170 48 per annum; deficit, \$1,288,028 61 per annum.

#### CONTRACTS.

The mail service in operation on 30th June, 1865, embraced 6,012 routes, of the aggregate length of 142,340 miles, costing \$6,246,884, (exclusive of compensation to route and other agents, amounting to \$556,602 75.)

Railroad, 23,401 miles, costing.....\$2,707,421  
Steamboat, 13,088 miles, costing..... 359,598  
Celerity, &c., 105,851 miles, costing..... 3,179,865

The aggregate miles of transportation were 57,993,494.

Railroad.....24,097,568  
Steamboat..... 2,444,696  
Celerity, &c..... 31,461,430

The cost, per mile, for transportation by railroad was 11½ cents; steamboat, 14½ cents; celerity, &c., 10 cents.

The increased length of routes was 3,163 miles; of transportation, 1,678,137 miles; and of cost, \$423,415. For other details of the contract service see appendix.

Until September 15, 1864, the service on the Lincoln and Portland route was performed by the California Stage Company, at the rate of \$90,000 per annum. Under proposals for continuing the service until 1866 and 1868 the only bidder was the same company, at \$250,000 per

annum, which, being regarded as excessive, was accepted only to June 30, 1865, for the purpose of again inviting competition. This was done by advertisement, dated October 12, 1864, under which the California Stage Company was again the only bidder, at \$300,000 per annum, which was declined. The service was, however, offered to the contractor for another year at the compensation of \$200,000 per annum, which was refused. Arrangements were then made with responsible parties to convey the mail at \$225,000 per annum to June 30, 1866; after which it is hoped the service will be performed at more reasonable rates.

The overland mail service from the Missouri river to California is performed under two contracts, one from Atchison to Salt Lake City, and the other from the latter place to Folsom City. On the western division the service has been performed with reasonable regularity, while on the eastern portion it has been more or less irregular, owing, as alleged by the contractors, to high water, bad roads, and hostilities of the Indians, disappointing the expectations of the Department as to the value of the service.

Railway post offices have been established on several leading railroads, and arrangements are in progress for their introduction on other lines. The result, so far, encourages the hope that the system, by accelerating the transmission of correspondence, and lessening the number of distributing offices, will be of permanent advantage to the postal interests of the country.

The work of preparing post-route maps, under the appropriation of the last Congress, is progressing favorably.

The net amount of fines imposed on contractors, and deductions made from their pay during the year, was \$56,443 37.

The number, description, and cost of mail bags, mail locks, and keys purchased, appear in a tabular statement annexed. The increased expenditure for bags, compared with previous years, was owing to the wants of the Army and the increase of free and printed matter.

The number of routes ordered into operation in States lately in rebellion is 241; their length 18,640 miles; and compensation \$721,940; a reduction, compared with former cost of service in these States, of \$881,109 per annum. This, however, results in part from the reduced service, which, if increased to the standard of frequency previous to the war, on the present rates of pay, the cost would be—

For railroad service \$550,053, instead of \$989,365 per annum.

For "star" service \$266,848, instead of \$320,025 per annum.

For steamboat service, which having been increased, estimated at former number of trips, is \$63,501, instead of \$293,668 per annum, making the aggregate pay *pro rata* for all the service \$880,402, instead of \$1,603,058 per annum; showing an aggregate decrease *pro rata* of \$722,056 per annum.

Proposals have been invited by advertisement for carrying mails in Virginia, West Virginia, North Carolina, South Carolina, and Florida, from January 1, 1866, to June 30, 1867.

Number of routes advertised..... 852  
Number for which proposals were received..... 517  
Number for which no proposals were received..... 335  
Number of proposals accepted 232, at an aggregate of..... \$102,714

Number of offers made by Department 235, at an aggregate of..... 123,250

Number of proposals suspended 50, being those of certain railroads and routes of doubtful utility.

Advertisements have been issued for carrying mails in Georgia, Alabama, Mississippi, Arkansas, Louisiana, and Texas, from July 1, 1866, to June 30, 1867.

Details explanatory of this branch of the service will be found in the appendix.

#### FOREIGN MAIL SERVICE.

The general results of the foreign service are as follows:

The aggregate postages, sea, inland, and for-

eign, upon the correspondence exchanged with foreign countries, amounted to \$1,819,928 56; of which amount \$1,449,530 76 accrued on the mails exchanged with Great Britain, France, Prussia, Bremen, Hamburg, and Belgium; \$275,197 06 on the mails exchanged with the British North American Provinces; and \$95,200 74 on the mails transmitted to and from the West Indies, Central and South America.

The amounts of United States postage, sea and inland, were:

On the correspondence exchanged with Great Britain and the continent of Europe.....\$570,156 81  
The British North American Provinces..... 162,485 28  
And on West Indies, Central and South American mails..... 95,200 74

\$827,842 83

The cost of the United States transatlantic service performed by steamships receiving the sea postage only was \$406,479 56. Of this amount \$213,330 23 was earned by the New York, Queenstown, and Liverpool (Dale) line; \$71,106 70 by the Canadian line; \$78,273 11 by the New York, Southampton, and Bremen; and \$47,769 52 by the New York, Southampton, and Hamburg lines, respectively.

The cost of the ocean transportation of mails to and from West India ports by United States steamers, receiving different rates of compensation within the limit of the postages, was \$50,863 90, being \$22,178 95 less than the total postages on the mails conveyed. And \$14,691 62 was paid for the sea and isthmus conveyance of the correspondence with Central and South America.

The excess of collections in this country over the postages collected abroad, upon the correspondence exchanged with Great Britain and the continent of Europe, was \$411,582 32, causing balances against this Department, on settlements of the quarterly accounts with the respective post departments, amounting to \$232,439 55.

Full particulars of the foreign service are stated in the appendix.

No progress has been made in the negotiations of postal conventions with European countries on the basis of the resolutions adopted at the Paris international postal conference, and referred to in the last report.

A convention with Venezuela, which adopts the principal recommendations of the Paris conference, and dispenses with postage accounts between the respective Departments, has been agreed upon, and executed on the part of the United States, and only awaits execution on the part of Venezuela.

The details of a convention with the United States of Colombia have been agreed upon, which, it is expected, will be concluded at an early day.

Additional articles to the United States and British postal convention have been executed, constituting Baltimore a new office of exchange on the side of the United States. A copy of these articles is annexed.

The service to Brazil, authorized by act of May 28, 1864, has been put into operation, the first steamship of the line having left New York with mails for Brazil on the 30th of October last.

The contract for the mail steamship service to Japan and China was awarded, on the 28th of August last, to the Pacific Mail Steamship Company, whose bid for the required service at the sum of \$500,000 for twelve round trips per annum, between San Francisco and Hong Kong, touching, on the outward and homeward passages, to land and receive mails, at the port of Honolulu, in the Sandwich Islands, and the port of Kanagawa, in Japan, was the only one received under the advertisement of this Department inviting proposals for the service. The company are to build four first-class sea-going steamships, of from three thousand five hundred to four thousand tons burden each,



## SENATE &amp; HO. OF REPS.

## Report of the Postmaster General.

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Government measurement, and commence the service on or before the 1st of January, 1867.

By existing law no provision is made for compensating sailing vessels conveying the mails to foreign ports. It is recommended that authority be given to the Postmaster General to allow such vessels so employed compensation not to exceed the sea postage.

Prior to June 1, 1857, three lines of American steamships were employed in transporting the mails to and from Europe, receiving subsidies under special acts of Congress amounting to \$1,208,000 per annum. The New York and Liverpool (Collins) line received an annual subsidy of \$858,000 for twenty-six round trips, the New York, Southampton, and Bremen line \$200,000, and the New York, Cowes, and Havre line \$150,000, for twelve round trips each per annum.

The contracts with the Bremen and Havre lines expired on the 1st of June, 1857, and were not renewed; but temporary contracts were made with the proprietors to continue the service on both routes for the United States postages on the mails conveyed, thus inaugurating a system of self-sustaining ocean mail service, subsequently adopted as the policy of the Government, by act of June 14, 1858, limiting the compensation to the sea and United States inland postage when the conveyance is by an American, and to the sea postage only when by a foreign vessel.

The service of the New York and Liverpool (Collins) line ceased in the month of February, 1858, since which time the mails have been carried between those ports for the postages.

In 1858 the average earnings per round trip of American steamships, receiving sea and inland postages, was \$7,125 between New York and Liverpool, \$8,621 between New York, Southampton, and Bremen, and \$7,491 between New York, Southampton, and Havre.

In 1859 American steamers received \$199,261, averaging \$7,663; and foreign steamers, employed as United States mail packets, \$125,349, averaging \$4,730 17 per trip.

In 1860 American steamers received \$228,149, averaging \$7,604; and foreign steamers \$147,085, averaging \$2,828 per trip.

In 1861 American steamers received \$157,174, averaging \$6,833; and foreign steamers \$235,713, averaging \$2,740 per trip.

In 1862 American steamers received \$33,509, averaging \$5,584; and foreign steamers \$285,884, averaging \$2,094 per trip.

In 1863 the entire transatlantic service was performed by foreign steamers, at the sea postages only, receiving \$332,184, an average of \$2,516 per trip.

In 1864 the earnings of foreign steamers were \$371,740, an average of \$2,795; and in 1865 \$405,479, an average of \$2,970 per trip.

During the rebellion American steamers engaged in the carrying trade between this country and Europe were withdrawn from service, resulting to the advantage of foreign lines which continued their regular voyages; and while the subsidies granted by Great Britain to the Cunard line, and by France to the line recently established between Havre and New York, materially aided those lines, it does not follow that they would not have been self-supporting, and even remunerative, without such aid; neither has this Department information warranting the conclusion that American lines would not have been sustained during the same period under the provisions of the existing law allowing the United States postage as compensation for the service.

The subject of subsidizing American lines to British ports may be presented to Congress at its approaching session. Although in the last report the policy was commended of granting incidental aid to certain classes of new routes, as of those to Brazil and China, no modification of the system, based upon the postage earnings, was proposed in favor of established routes.

The results of this system in regard to the service on new as well as old routes are encouraging. As to the new, several lines have been established since the close of the war, to which less than the postages have been allowed. As to the old, application has been made to resume service by American steamers between New York, Southampton, and Havre, for the sea and inland postage, as heretofore. Other lines to Great Britain are projected; one of which, between Baltimore and Liverpool, is in operation; and it is believed that our citizens directly interested in ocean steam navigation will establish lines at no distant time to all the important commercial ports of Europe.

It is urged, however, that there is no sufficient assurance of the permanency of such lines in view of the competing heavily-subsidized mail packets of Great Britain and France, unless like subsidies are given by this Government. While it would gratify our national pride to encourage the commercial enterprise of the country, through the agency of subsidies, in the establishment of steamship lines of the highest grade to all ports where foreign lines are or may be in operation, and which it cannot be doubted would contribute to the earlier development of the commercial interests of the particular routes covered by such lines, this Department is not prepared to recommend any departure from the established policy, not only because of the financial wants of the Government, but as well from the absence of any necessity for special legislation on behalf of the postal service.

During the past year \$405,479 was paid to foreign lines conveying the mails to and from Great Britain. If to this sum be added the United States inland postage, amounting (approximately) to \$166,677, the amount which would have been available as compensation to American steamers for the same service was \$570,156.

The argument in support of heavy subsidies as necessary to enable American lines to compete successfully with British steamers loses much of its force when it is remembered that the postage earnings of the British contract packets on the mails which they convey are retained by the Government and form a part of the revenues of the British post office. The British portion of the postage—sea and inland—upon the mails exchanged with this country alone by means of the Cunard line during the past year amounted (approximately) to \$456,000; if to this sum be added the postage on the mails conveyed to and from the North American colonies, of which this Department has no official data, but which must have been quite large, it will be found that the actual bonus paid to that line in excess of the postage earnings was small, although the nominal subsidy is £176,300.

It is also to be observed that Great Britain grants a subsidy to but a single line of steamships to the United States. If it was advisable for this Government to grant a like monopoly to any single line of American steamers, it could be paid, under the provisions of the existing law, a liberal mail compensation equal to any subsidy that Congress would be likely to grant. But were it practicable to satisfy the conflicting claims of our principal Atlantic cities by granting a monopoly to a single line of steamers sailing from any one port, the effect of such a measure would be to retard rather than advance the general commercial prosperity of the country; and as it would be injudicious to subsidize separate lines from each of our Atlantic ports because of the large expenditure it would involve, it is submitted whether our commercial interests are not best advanced by the present mode of encouraging competition in ocean steam navigation. At least, the wiser course will be to postpone additional grants, in aid of ocean steam lines, until the system based upon postage earnings has had a fair trial in time of peace and of greatly-increased activity in commercial affairs.

## APPOINTMENTS.

The number of post offices established on 30th June, 1865, including suspended offices in southern States, was 28,882; number subject to appointment by the President, 712; by the Postmaster General, 28,170.

New offices established during the year, 586; offices discontinued, 582; changes of names and sites, 200.

Appointments made to fill vacancies caused by—

Resignations.....	3,575
Removals.....	925
Deaths.....	220
Changes of names and sites.....	132
Establishment of new offices.....	586

Total appointments..... 5,447

Number of cases acted upon, 6,097.

The number of offices in the late disloyal States is 8,902, of which 1,061 were reopened on November 15, 1865.

Number of route agents, 387; aggregate compensation, \$229,522. Number of local agents, 51; aggregate compensation, \$30,949. Number of special agents, 33; aggregate compensation, \$82,790. Number of baggage-masters, 110; aggregate compensation, \$6,600. Number of postal railway clerks, 64; aggregate compensation, \$75,000.

The free-delivery system has been discontinued at 22 of the smaller offices, and is now in operation in 45 of the principal cities. The number of carriers employed was 757, at an aggregate compensation of \$448,664 51.

Full particulars of the operations of the Appointment office are shown in the appendix.

The attention of this Department has been again called to the subject of erecting a new post office building in the city of New York. The Chamber of Commerce of that city have recently adopted a series of resolutions recommending the measure, in which it is urged that the present building, as regards its dimensions, accessibility by the public, and accommodations in general, is inadequate for the proper management of the large and constantly increasing postal business centering at New York. The sanitary condition of the building and post office employes is also reported by the medical officer as bad, owing to the want of sufficient room to accommodate the clerical force employed, and the impossibility of obtaining proper ventilation. If the proposed improvement can be made upon terms just to the Government and the citizens of New York, this Department has no hesitation in commending the measure to the favor of Congress.

## DEAD LETTERS.

The number of dead letters received, examined, and disposed of, was 4,368,087, an increase of 859,262 over the previous year.

The number containing money, and remailed to owners, was 42,154, with inclosures amounting to \$244,373 97. Of these, 35,268, containing \$210,954 90, were delivered, leaving 6,886 undelivered, with inclosures of the value of \$33,419 07. The number containing sums less than one dollar was 16,709, amounting to \$4,647 23, of which 12,698, containing \$3,577 62, were delivered to the writers.

The number of registered letters and packages was 3,966.

The number of letters containing checks, bills of exchange, deeds, and other papers of value, was 15,304, with a nominal value of \$3,329,888, of which 13,746, containing \$3,246,149, were delivered, leaving unclaimed 1,558, of the value of \$83,739.

The number containing photographs, jewelry, and miscellaneous articles was 69,902. Of these, 41,600 were delivered, and 28,302 remain for disposal, or, being worthless, have been destroyed. The number of valuable letters sent out was 107,979; an increase of 38,792 over previous year.

There were returned to public offices, including franked letters, 28,677.

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## Report of the Postmaster General.

## SENATE &amp; HO. OF REPS.

The number containing stamps and articles of small value was 8,289; and of unpaid and misdirected letters 166,215.

The number of ordinary dead letters returned to the writers was 1,188,599, and the number not delivered was 297,304, being about twenty-three per cent. of the whole. Of those not delivered, less than four per cent. were refused by the writers.

The number of foreign letters returned was 167,449, and the number received from foreign countries was 88,861. For additional particulars see appendix.

In the last report the attention of Congress was called to the expediency of restoring pre-paid letters to the owners free of postage. The measure, is again commended, with the additional suggestion that letters be forwarded, at the request of the party addressed, from one post office to another without extra charge.

The number of letters conveyed in the mails during 1865 is estimated at 467,591,600. Of these, 4,368,087 were returned to the dead letter office, including 566,097 Army and Navy letters, the non-delivery of which was not chargeable to the postal service, they having passed beyond its control into the custody of the military and naval authorities. Deducting 1,156,401 letters returned to writers, or held as valuable, the total number lost or destroyed was 2,352,424, or one in every two hundred mailed for transmission and delivery. Fully three fourths of the letters returned as dead fail to reach the parties addressed through faults of the writers, so that the actual losses from irregularities of service and casualties, ordinary and incidental to the war, did not exceed one in every eight hundred of the estimated number intrusted to the mails.

The returns of dead letters from cities are largely in excess of proportions based upon population. To them special efforts have been directed to secure the most efficient service, and it is believed improvements in operation, chiefly that of free delivery, will diminish the number of undelivered letters at offices in densely populated districts.

The number of applications for missing letters was 8,664, an increase of 3,552 over previous year. A misapprehension prevails in regarding the dead letter office as a depository for the safe-keeping of undelivered letters, and not as the agent for their final disposal; to correct which the regulations are appended.

The amounts deposited in the Treasury under act of 3d of March last were—

On account of sales of waste paper.....	\$9,420 67
Unclaimed dead-letter money.....	7,722 70
	<u>\$17,143 37</u>

Less than twenty-five per cent. of advertised letters are delivered. In some of the larger offices the proportion does not exceed fifteen per cent. The payment of two cents for each letter advertised involves a yearly expenditure of about \$60,000 for letters returned as dead to the Department. Measures have been adopted to reduce the expense, and the advertising is now secured at one half the rate allowed by law. An obstacle to this economy is found in the law requiring the list of letters to be published in newspapers of largest circulation, which should be repealed, and the mode of advertising left to the discretion of the Postmaster General.

## POSTAL MONEY-ORDER SYSTEM.

The number of offices is 419, including those in the Pacific States and Territories, and some of the principal offices in the southern States. Orders have been issued for putting into operation fifty-five additional offices.

The number of money orders issued during the year was 74,277, of the value of.....	\$1,360,122 52
The number paid was 70,573, of the value of.....	\$1,291,792 22
Add amount repaid to purchasers.....	21,781 86
	<u>1,313,577 08</u>

Amount outstanding..... \$46,545 44

The number of duplicate orders was 422. Of these, 355 were issued to replace originals lost in the mails; 63 invalidated by age; and 3 by illegal indorsements.

The receipts were:

Fees on original orders.....	\$11,462 95
Fees on duplicate orders.....	71 95
Premium on exchange.....	1 50
	<u>11,536 40</u>

The expenditures were:

Commissions to postmasters.....	\$2,226 27
Clerk-hire.....	8,350 72
Books and stationery.....	5,225 00
Premiums on drafts.....	71 70
Miscellaneous, including furniture and fixtures.....	2,690 68
	<u>18,564 37</u>

Excess of expenditures..... \$7,047 97

This deficiency has been provided for by the appropriation of \$100,000 of May last, leaving unexpended \$92,952 03 applicable to any deficiency of the current year; and as the proceeds of the system will hardly equal the expenditures until it is more generally established, it is recommended that any balance remaining at the close of the present may be applied to the deficiency of the next fiscal year.

The maximum amount of money orders is \$30, which may be judiciously increased to \$50, and the restriction to sums not less than one dollar removed, retaining the present minimum fee.

Under the law, the owner of a lost certificate, to obtain a duplicate, must furnish a statement, under oath or affirmation, of its loss or destruction, and procure from the postmaster by whom it was payable a certificate that the order has not and will not be paid. These requirements work a hardship to the party, in that they compel him to pay the customary fee to the officer administering the oath, the cost of a revenue stamp affixed to that oath, and the payment of a second fee for the duplicate order. The loss of orders is seldom chargeable to any neglect of the owners, and postmasters should be authorized to administer oaths in cases of loss, and issue duplicate orders without charge.

The law would be further improved by extending the time within which the order may be paid to six months, the period now allowed, of ninety days, being too limited for the necessary correspondence between distant points.

Losses have occurred to the amount of \$645 by reason of the carelessness of remitters, the burning of steamers, and other causes, not chargeable to the system.

## MISCELLANEOUS.

It will be seen by reference to the accompanying report of the Auditor of the Treasury for this Department, to which the special attention of Congress is invited, that the estimated amount of claims of contractors and others residing in the southern States, chiefly those lately in insurrection, for services rendered previous to the rebellion, is not less than one million dollars. Many of these claims have been presented, but none paid, under a rule adopted early in the war, of not paying claims to parties known to be engaged in aiding the rebellion. The questions connected with this subject, applying alike to this and other executive branches of the Government, they are respectfully referred to the determination of Congress.

Balances were due from southern postmasters at the outbreak of the rebellion amounting to \$369,027 87, few of which have been paid. Means are being employed, through courts and other agencies, to collect the amounts due to the Government.

The closing of the war brought with it the necessity of restoring the postal service in the southern States. No time was lost in offering to the citizens of those States all the facilities which they were in condition to accept. Special agents were appointed to assist in the work of restoration. The provisional governors were notified of the readiness of the Department to appoint postmasters upon their recommendation. They were also advised of its desire to

put the mails on all the railroads within their respective States as soon as informed by them that the roads were ready to carry them, and the companies proper parties to intrust with their transportation. All applications for carrying the mails on land and water routes have been considered, and the service ordered at such rates of compensation as could be agreed upon.

Anticipating that the revenues from mail service in the South would be for some time considerably less than they were previous to the war, the necessity of reduced rates of compensation, and in many instances of reduced service, was obvious. This required new classifications of rates of payment to rail and water, and modifications of pay and service on land routes. Considerable reductions have been made in the maximum compensation to the first two classes of service, as the tables hereto appended exhibit. The reasonableness of these reductions has generally been appreciated by the contractors, and the mails are being transported by rail under contract till the expiration of the current fiscal year, and by water till the 30th of June, 1869.

Greater difficulties have been encountered on the land routes, although the maximum rates adjusted by the amount of service to be performed are equal to the average of compensation allowed previous to the rebellion, except on certain routes where the former pay was excessive, and has been reduced.

Although the service has been restored in each of the southern States, it is not so general as the Department has desired and the wants of the citizens require, because of the difficulty of procuring contractors and postmasters who can take the oath prescribed by the acts of July 2, 1862, and March 3, 1863, requiring uniform loyalty to the Government during the rebellion as the condition of holding office and for the conveying of the mails.

Appended hereto is a circular letter, addressed to the special agents of the Department, embodying the principles on which the postal service is being restored in the South.

The Post Office Department was established on the principle of defraying its expenses out of its revenues. Its financial history shows that its annual receipts have rarely equaled its expenditures. During the last year there was a surplus of revenue, a result the more gratifying because no part of the appropriation for franked matter has been drawn upon. But so favorable a result cannot be anticipated for the current year, in consequence of the expenditures incident to restoring the service in the southern States, which promise proportionately small receipts because of the confused condition of the commercial and industrial interests within those States. It is hoped, however, that this unhappy condition will be but temporary, and that under their improved auspices as free communities, their contributions to the postal revenue will soon exceed any in their past history.

Although, in view of the financial wants of the Government and the large demand for postal expenditures in the southern States, this Department could but deem unwise any present reduction of domestic postage, it appreciates the duty of the Government to lessen all postage rates to the minimum of not preventing the Department to support itself from its revenues, and it perceives no reason why, in a few years, with our rapidly increasing prosperity, aided by judicious legislation, a reduction may not be made to the maximum letter rate adopted by Great Britain with such beneficent results. Moreover, the hope is indulged that the experience of European Governments will concur with that of this, in favor of an early reduction of the present high rates of international postage, which are greatly disproportioned to the necessary cost of the intermediate land and ocean transportation, and serious obstacles to postal intercourse; commercial and social, between this country and all parts of Europe.

Among the many remarkable facts illustrat-

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ing the progress of the people of the loyal States during the rebellion, in almost every department of material development and social advancement, having no precedent in history, and confounding the predictions of all having little faith in the vitality of free institutions and the resources of a free people, that of the increase of postal correspondence, as shown by the postal revenues, is not the least interesting and suggestive. The maximum annual receipts of this Department previous to the rebellion from all the States, was \$8,518,067 40, which was exceeded in the sum of \$6,938,091 30 by the receipts of the last year from the loyal States alone. The revenues during the past four years amounted to \$46,458,022 97, an average of \$11,614,505 74 per annum. Compared with the receipts of the four years immediately preceding, which amounted to \$32,322,640 73, the annual average increase of revenue was \$3,533,845 56, which has not resulted from any considerable additions to the service, the ratio of receipts to expenditures having been larger than, with a few exceptions, at any previous period.

A proper regard to economy in administration, aided by larger contributions from all the States of the Union, will enable the Department to increase its usefulness from year to year in all of its legitimate functions. But it must not be overlooked that the ability to fully perform its mission as the postal agent of the Government is greatly impaired by the burdens imposed by the franking privilege, and expensive service upon routes established for other than postal purposes, the receipts from which are largely unremunerative. However much the establishment of these routes is to be commended for national objects, in which regard they command the approval of the country, it is not possible to see upon what principle they are wholly chargeable to the postal fund, which belongs to those by whom it has been contributed, and is pledged to meet the wants of the postal service.

The subjoined table illustrates the misapplication of the postal fund:

Routes.	Pay.	Receipts.	Excess of pay.
Salt Lake City to Folsom.....	\$385,000	\$23,934 44	\$726,605 56
Atholton to Salt Lake.....	365,000		
Kansas City to Santa Fe.....	35,743	6,536 57	29,206 43
Lincoln to Portland..	225,000	24,791 67	200,208 33
The Dalles to Salt Lake.....	186,000	5,660 77	180,339 23
Total.....	\$1,196,743	\$60,923 45	\$1,135,819 55

These are instructive facts, showing how largely the revenues of this Department are drawn upon for general objects of administration not properly chargeable to the postal fund. If to this be added the revenue which would accrue upon "free matter," charged with existing rates of postage, less the sum annually appropriated therefor, it is estimated that not less than \$2,000,000 per annum are lost to the Department, preventing an enlargement of mail accommodations to that extent in those States from which the postal revenues are mainly derived.

Respectfully submitted,

WILLIAM DENNISON,  
Postmaster General.

The PRESIDENT.

### Reconstruction.

### SPEECH OF HON. G. CLAY SMITH,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

January 19, 1866.

The House being in the Committee of the Whole on the state of the Union—

Mr. SMITH said:

Mr. CHAIRMAN: I am apprised of the interest felt by the American people upon the subject of what is known as the "reconstruction of the States lately in rebellion." It is well that so

much interest is felt, and that the country is fully alive to a proper settlement of those great questions upon which so much of our future peace and prosperity depends. "The price of liberty is eternal vigilance," was the wise and instructive sentiment of a great and good man of the Republic; and our liberties have been so nearly destroyed of late, requiring so much blood and treasure to maintain them, it well becomes us to act with caution, great deliberation, and "make haste slowly." We must, without crimination and recrimination, reason with one another, come to wise and just conclusions, if we can, that the greatest amount of happiness, freedom, and peace may be secured in all time to come to the greatest number of our people. The war is over; no more are armed forces marshaling the fields, contending in mortal combat, and increasing in blacker shades the sorrow and mourning of our homes; no more are we called upon to make heavy drafts upon the country to fill the armies of the nation; no more to make heavy appropriations of millions upon millions of dollars to carry on war. While it lasted, our countrymen rallied around the flag, and were willing to give all that the Republic might give; and future history will record in beautiful and everlasting words the sublime conduct of our citizen soldiers and our loyal men and women in that great struggle for liberty and human freedom. It was awful, severe, and sublimely terrific; the blood was made to grow cold in the veins as the lightning brought us tidings of the bloody and continuous battles of forty days and forty nights in the Wilderness; of Spotsylvania, Chancellorsville, Gettysburg, Shiloh, Donelson, Chickamauga, and a hundred more of equal desperation. The heart sickened and many grew weary, but we knew for what we were fighting, took courage, and went on. We whipped, we conquered; and to-day no armed rebel is in the field—no one to resist the enforcement of the law; the integrity or dignity of the Government.

Our tactics are now to be changed. We have done all we could with arms; the law, principle, justice, and right must command, and we must obey.

I will be pardoned for making allusion to a few familiar points so well known to this House and the country, but they are necessary to my purpose, and will be important in the process of my argument.

We denounced secession as a heresy, as unwarranted by the Constitution, or any idea entertained by those who made it, or assisted in the organization of the Government.

We believed in and declared the right of coercion; that is, the right to fight and whip and bring back to obedience that portion of the insurrectionary people of the rebellious States.

We believed that slavery was one of the great, indeed, the prime cause, of the rebellion, and that we had a right to remove that cause to prevent future irritation and trouble.

We believed that this was intended to be a free Government, and one Government, with supreme and national powers over all its subjects, State and individual, and that no small or indifferent portion of the people North or South had a right to undertake its overthrow or destruction. Hence, for this and the other questions I have suggested, we went to war.

If secession was a heresy, and there was no power under the Constitution for these States to withdraw from the Union and establish another and independent government, then the Government had a legal and moral right to do what I suggested in the second place, to coerce those who attempted the secession or withdrawal.

I hold to the position of the President, and one I have always maintained, that no State is, or ever has been, out of the Union. It was impossible, under the organization and ideas of the character of this Government, for such a thing as a withdrawal of States from the Union as was attempted by the eleven southern Com-

monwealths, to occur, and such an attempt was madness on their part, and could do nothing else than invite resistance on our part. They asserted, we denied the principle. A war of words and ideas for thirty years had been unsuccessful as to conclusion upon this subject, and required a war of four years with arms to settle it, and it has been settled we hope forever. It has been maintained by the one side that secession was wrong, that treason would be punished, and agreed and submitted to by the other.

There is no one, Mr. Chairman, who has a more perfect abhorrence of the crime of secession and treason, and the cruelties and wrongs of those engaged in the late rebellion, than myself. I cannot recur to what has passed without a shudder, and my heart is made to mourn when I look through the four years just past and bring to mind what our noble and daring soldiers bore on the field, in battle, in hospitals and prisons. My mind wanders through the vast regions of this country where the clanking of arms was so lately heard, and I see all around hundreds and thousands of new-made graves; by each one I would pause and drop a tear of sorrow and gratitude, and a prayer for the departed brave, and the loved ones left behind. I ask, why is all this misery, woe, and death? And everywhere, by the side of every grave, in sight of every prison, in full view of every gallows, and every place of death, the solemn and awful answer comes back to me, *there was no cause!* It was a cruel, wicked, and unholy war against the life of the Republic; and justice demands full and complete retribution, and the Government owes it to itself to be true to its departed patriots, and teach all men of the nation that treason is a crime and must be punished. I am not here to defend but to condemn those who brought on and prosecuted that unholy war. I am not now, however, called upon to be judge or juror in the case of any one man, or number of leading conspirators. It was my inclination and pleasure, during the war, to use my best efforts to suppress the rebellion, and while in Congress to vote for men and money to vigorously prosecute the war to a successful and peaceful termination. But, as I remarked a moment ago, the war is over; there is not an armed rebel in all the land; the armies of the rebellion have surrendered to the arms of the Union, and we have accomplished what we undertook to do, the overthrow of the rebellion and the prevention of a separate and independent southern confederacy. The opposition to the Government was large and powerful, composed of the greater proportion of the people in those eleven States; but, sir, I assert that there still remained, and are there now, a large number of good and loyal men who never of their own free choice abandoned their love of the Republic, or hated that flag the emblem of their and our liberties.

I hold to the doctrine that whatever number of citizens, whether large or small, in any one of those States, or all of them who had never given in to rebellion, and longed for the appearance of the flag of their country, were entitled to, ought to have had, and, thank God! did, receive after a long and desperate battle the protection of the Government, whereby they could reassert their freedom, their social, religious, and political rights under the Constitution.

These people lived in separate geographical territories called States, with municipal regulations conforming, however, in every particular to the national Constitution and laws; by force on the part of a portion of the inhabitants of these States the civil authority of the States was suspended as they related to or were controlled by the supreme law of the land. This suspension or interruption of national authority over these States for four years (during the war) has led some to the belief that they were out of the Union, and are out now, and not entitled to any of the rights of States as such in the Union. Why, sir, we declared they were in the Union, and that we intended to keep them in the Union.



We fought *four years* to keep them in the Union; and now that the war is over, and the jurisdiction of the national Constitution extends all over those States, and after so much sacrifice of blood and treasure, shall it be said, shall it be claimed by any truly loyal man that they are not in the Union, *States, and States* for all practical purposes—a part of the nation's life, body, and soul?

Secession being wrong, unwarrantable, and violative of the Constitution, it seems strange to me that any Union man, especially a public man, one who has been in Congress, with a record *all the way long, through five years past*, directly and positively opposed to the doctrine, should now be found maintaining the position. When I came into Congress from the field, December, 1863, I found but one man in this Hall, as I now remember, who in anywise favored the idea that the eleven southern States then in rebellion were a foreign power, an alien enemy, and out of the Union. That was the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] I see no difference in his position to day from that held by him in the fall of 1863. But strange, "passing strange" to me, there are others of that date, and those who were not members then, but now who seem to espouse his doctrine, and go hand in hand with him in the idea that these States are or were foreign powers, in war against the Government, and are now conquered provinces, and before they can get back into the Union must be remodeled, renovated, *made over*, and be admitted as new States, and not otherwise. I will, following the example of a distinguished gentleman on this floor, inquire, what is a State? That is, what is a State as considered and recognized by the American people, within their own jurisdiction, and a State as understood and commented upon by distinguished jurists and writers on international law?

The gentleman from Ohio [Mr. SHELLABARGER] quotes from Grotius these words:

"The law, especially that of nations, is in the State, as the soul is in that of the human body; for that [the soul] being taken away, it ceases to be a State."

Now, I ask if this great writer, in framing these words, or this idea, had in his mind the component parts of a nation, a Government, a State, or the *whole State, Government, and nation*? The words are true, and I adopt them, for they but too plainly meet my demands. The law, to the nation, the Government, the State, is precisely to that State, or nation, or Government just what the soul is to the human body. Destroy the soul, and the body dies. Destroy the law, the Constitution, and our Government, our nation, our State dies. But, I ask, have the Constitution or the laws been overthrown or destroyed? Not at all. The Republic, the nation, the Government, the State, the Constitution, the laws, still live and survive in that very region lately in rebellion in those component parts of the Government which we chose to denigrate States.

The same writer says upon this very subject, "A morbid body is still a body, and a State, though dreadfully diseased, is still a political being." As the human body may be greatly and painfully diseased, and still live, although requiring many years of care, of treatment, and expense to bring it up again to a perfect standard of health, vigor, and manhood, so may the body-politic, the State, be diseased and live, and again, by proper nurture and judicious legislation, be brought up to perfect political health, power, and prosperity. But, sir, if we were to accept the position of the gentleman from Ohio, [Mr. SHELLABARGER,] I will remind him that Grotius declares "a State, though it may commit some act of aggression or injustice, does not thereby lose its political capacity." The combinations of bad and lawless men, or communities, although they may overawe the remainder of the inhabitants, even the minority, do not become thereby a State, in that they effect the capacity of the State, by which all its political rights are forever destroyed, leaving them only

to be revived by the will and consent of the sovereign. Is it to be said or admitted at this late day that because a lawless, insurrectionary, and rebellious people, by force of arms, overran, took possession of, and controlled the civil affairs of these States for a while, that therefore they are out of the Union, and they are *as States* obliterated from the list of States making up this great national Union?

It is, I am sorry to say, Mr. Chairman, asserted that such is the fact, and that because of the very act of usurpation of power by the insurgents they cease to be entitled to just consideration or representation as States. Let us see, sir, if the rule holds good in fact and as to the recognized action of Congress during the war. North Carolina was overrun, her civil government changed by the rebels. South Carolina was occupied by armed force, resisting the laws and authority of the Government, and changed her civil government. Also Tennessee, the home of the President of the United States, and her laws and civil government were altered; and so with many other of the southern States. So, therefore, we must conclude that several States did so act as to become foreign Powers, and all their people belligerents and public enemies; and the overthrow of the rebellious armed forces, by which these things were done, does not alter their political or civil status in any way whatever from that occupied by them during the war.

Let us carry the example a little further, and see how the rule works. Kentucky was also overrun by a rebel army, and with the exception of two cities on the extreme northern border, the entire territory—her capital, towns, cities, forts, arsenals, and people—were under this *very force*, which held the eleven other States. A rebel governor was inaugurated at the capital of the State, a Legislature was convened in the State, and elected senators to the confederate congress; members were sent to the lower house of that congress, and all was done which they conceived necessary to make Kentucky one of their confederacy. Yet, sir, Kentucky has never been one moment without a representation in the Congress of the United States. Those acts of lawlessness were done contrary to the will of a large number of her citizens, and while they were compelled to submit, they *never consented*. Will it be said, therefore, that Kentucky stands in the relation of a rebellious State to the Government, and not entitled to civil and political rights as a State of the Union? I presume not. Yet I will remark that it was not the people of Kentucky who drove the rebels out of that State, by which she was enabled to resume her rightful authority, but it was the *army of the Union*, the men who were commissioned to go forward with their guns and swords and restore the peace and unity of the nation; the very same army which followed Grant to Richmond, and brought Lee and his soldiers to a surrender; the same army which followed Sherman in his "grand march to the sea," and brought back into the fold of the Union the other eleven States, just as they did Kentucky in the beginning of their march upon the frontier of the rebellion.

Likewise Missouri was overrun, and large portions of her territory were constantly in the possession of the enemy, and a rebel governor was using every effort to make her a part and parcel of the confederacy. Maryland and Pennsylvania also. And in Missouri, Kentucky, Maryland, and even Pennsylvania, were found hundreds and thousands of people who rejoiced at their coming and mourned with deepened sorrow at their unhappy departure. But, sir, these States did not become public enemies of the Republic, and yet there was a "multitude of people united together" in each State "by a common interest and common law, to which they submitted with one accord."

Now, then, shall we say that these States last mentioned are in the Union with all the rights and privileges belonging to any other State, and

these other States, which were in somewhat similar condition only differing as to time and number of people engaged against the Government, are not entitled also as States in the Union to privileges and rights which were guaranteed by the national Constitution? Congress will make a strange record if this question is not answered properly and to the effect that no State has ever been out of the Union and could get out in but one of two ways: first, I will say, by the consent of three fourths of the States, and secondly, by a successful revolution for separate independence.

I proceed further, sir, in maintenance of my position, to recite the manner in which these States got into the Union. And first to that of Kentucky, which was admitted by an act of Congress approved February 4, 1791, which declares that Kentucky "shall be received and admitted into this Union as a new and entire member of the United States of America," and by an act of February 25, 1791, was allowed two Representatives in Congress besides her two Senators. June 1, 1796, the following act was passed by Congress:

"Whereas by the acceptance of the deed of cession of the State of North Carolina, Congress are bound to lay out into one or more States the territory thereby ceded to the United States:

"Be it enacted, &c., That the whole of the territory ceded to the United States by the State of North Carolina shall be one State, and the same shall be declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee. That, until the next general census, the said State of Tennessee shall be entitled to one Representative in the House of Representatives of the United States; and in all respects, as far as they may be applicable, the laws of the United States shall extend to and have force in the State of Tennessee, in the same manner as if that State had originally been one of the United States."

The State of Louisiana was admitted as *one of the States* of the United States, with all the privileges and rights of the other States, by an act approved April 8, 1812. So I go on with Ohio, admitted November 29, 1802; Indiana, December 11, 1816; Mississippi, December 10, 1817; Illinois, December 3, 1818; Alabama, December 14, 1819; Maine, March 15, 1820; Missouri, August 10, 1821; Arkansas, June 15, 1836; Michigan, January 7, 1837; Florida, March 3, 1845; Texas, December 29, 1845; Iowa, December 28, 1846; Wisconsin, March 3, 1847; California, September 9, 1850; Minnesota, May 11, 1858; Oregon, February 14, 1859; Kansas, January 29, 1861; West Virginia, December 27, 1862, and Nevada at the last session of Congress.

There is an act for each one of these States similar in provisions to those I have already quoted. And *each and every one* of those laws are on your statute-book to-day untouched, not modified and not repealed. They are the law of the land, binding and absolutely compulsory so far as we or the people are concerned, and brand as false and utterly untenable the doctrine of State suicide or annihilation.

I assert and declare most positively the truthfulness of the position assumed by some, but denied and hooted at by others, "that once a State always a State;" and there is *no authority or power* which can prevent it being a State for all civil and political purposes, save in the two instances I before mentioned, by successful revolution or the consent of three fourths of the States.

In support of what I have here assumed, let me call your attention to the action of Congress in the West Virginia case. The Constitution expressly declares, article four, section three:

"New States may be admitted by the Congress into this Union, but no new State shall be formed or created within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress."

West Virginia was admitted, as I have observed, December 27, 1862. How and by what process?

The Wheeling convention, which met imme-

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diately after the ordinance of secession passed by the Richmond convention, adopted an ordinance August 20, 1861, providing for the formation of a new State out of a portion of the State of Virginia, and provided for the election of members of another convention to assemble, coming from those counties set apart to compose the new State, which met and adopted a constitution and other measures for the organization and establishment of the new State, which was approved by the people on the 3d day of May, 1862. An act of the Legislature of Virginia was passed May 13, 1862, consenting to the erection of a new State out of that portion of the State lying westward, including about half of the entire territory of the State; and an act was passed by Congress on the 13th day of December, 1862, providing for the admission of the State of West Virginia upon the amendment of the constitution prohibiting slavery, which was done, and by a proclamation of the President became a State of the Union on an equal footing with the other States. During the pendency of the act for the admission of this new State, a very interesting debate was held in this House. There were Representatives from both sections of the old State of Virginia. Those from Virginia, among the most prominent, Mr. Segar, opposed the separation and establishment of this new State; but he found his opponents on the other side, who out-battled him and succeeded in their purpose. The question was raised, and fully and ably discussed, that the requirements of the Constitution had not been fulfilled; that the war and the occupancy of the State of Virginia by a large and powerful rebel army had prevented the people of that State expressing a full and free opinion on the subject, and that the Legislature and conventions of Wheeling were not authorized to act. Upon this point allow me to read from the speech of my distinguished friend from Ohio, [Mr. BINGHAM.] Speaking of the ordinance of secession and the rights of the people under the Constitution in the State of Virginia as a member of the Union, he declared the ordinance void and of no effect, and said:

"Thank God! such is the wisdom, scope, and effect of the Federal Constitution, that though hand joins with hand to overthrow the rights of the loyal minority in a State, the humblest citizen who is true to his fealty is secure in his rights as a citizen of the Federal Republic under the guarantees of the Constitution, despite the conspiracy against him by the majority in his own State."

Mr. BINGHAM. I beg the gentleman from Kentucky [Mr. SMITH] to take notice, since he refers to that matter—for he seems to make some sort of issue with me—that I occupy precisely the position to-day that I did then; that is to say, that the act of secession or rebellion was absolutely void as against the Federal Government, absolutely void as against every loyal citizen; and therefore, in the language of Madison, which I cited and accepted that day, and which I cite and accept this day, a loyal minority, sufficient in numbers in the judgment of Congress to reorganize the disorganized State government, have the right of local civil magistracy therein, dependent, nevertheless, upon their reorganization of the State government. The point made that day was this: that the three hundred thousand loyal citizens of the State of Virginia did reorganize the State government of Virginia, and having done so, were in the rightful exercise of the legislative authority of the State of Virginia, and, in conformity with the Constitution of the United States, did assent to the erection of a new State in the State of Virginia. And I say now, if three hundred thousand loyal citizens in any of those rebel States shall reorganize a constitutional and republican State government to the satisfaction of Congress, I am prepared to recognize them and sustain them in that action.

Mr. SMITH. Mr. Chairman, I did not intend by any quotation I have made to misrepresent the position of the gentleman. I am not done with him yet, nor am I done with other gentlemen on this floor on this subject. But I will undertake to show before I get through,

from the records I have before me, that even the gentleman from Ohio, [Mr. BINGHAM,] together with other gentlemen on this floor, went far beyond the proclamation of the President, when he said that five thousand in a State might organize and establish it as a State, and that there was no admission in the Thirty-Seventh Congress, upon the part of any man or any set of men in this House, so far as I have been able to discover from the record, that any State of this Union was out of the Union; but it was conceded that they were all entitled to representation, even under the organization of a small, indefinite, infinitesimal majority.

Mr. BINGHAM. I have never said they were out of the Union to this hour.

Mr. SMITH. Then, if no State was out of the Union they are all in the Union—in the Union, subject to taxation, and if subject to taxation, entitled to representation in Congress.

But, to resume: what are the rights of a citizen in a State—a loyal citizen, to use the language of the gentleman? Why, sir, they are the rights of life, liberty, property, and the pursuit of happiness in his State as well as in the United States, together with the right of representation. Sir, Virginia was recognized as a State in 1862, while the war was raging, and all the State almost was in the possession of the rebels, and admitted the right of representation on this floor. Was Virginia a State then, and the loyal men entitled to their rights? And now, when the war is over, and no armed force in the field contesting the authority of the Government, it is no State, and her loyal people not entitled to their rights. Strange indeed, sir, if it should be so! No, sir, it is not so, I trust, for I "thank God the wisdom, scope, and effect of the Federal Constitution" is sufficient to overthrow and destroy the enemies of the Republic and preserve its friends.

Again, upon the subject of representation the gentleman from Ohio used the following language. When the case of Flanders and Hahn from Louisiana was up the same session of Congress, he said:

"I wish it understood that from the beginning of this argument to the end of it I have claimed that the loyal inhabitants in any organized State of the Union, even though a majority of its citizens be in insurrection against this Government, have a right to their just proportion of representation in Congress."

Sir, that is sound doctrine, good law, and pure patriotism. If it was true then, and induced him and a majority of the House to admit representation from Virginia and Louisiana, why, I ask, in all reason, patriotism, humanity, and justice is it not right now, just, reasonable, and patriotic?

Mr. BINGHAM. The gentleman will allow me to correct him upon one point. The gentleman labors under a very grave mistake in the remark he has just made, and I am surprised at it, for he has written out his remarks with care. He assumes here that I voted to admit Representatives from Louisiana. That is a gross mistake. I call the attention of the gentleman to the speech which I made on that occasion, in which I undertook to show to the House and tried to persuade the House that Louisiana could not be represented upon this floor. I do not know how the gentleman has fallen into the blunder, but such is the fact nevertheless. I urged at that time that Louisiana was not entitled to representation, for the reason that they had not organized a constitutional State government in Louisiana; and hence I said upon that occasion, as I repeat now, and as I have no doubt the majority of this House will say from the beginning to the end of this controversy, that when a sufficient number of loyal citizens in any State heretofore disorganized by rebellion, secession, and civil war shall reorganize a constitutional State government, of the sufficiency of which Congress will be the judge, such organization will be represented upon this floor according to their just right of representation, which in no case, under the Constitution, can be less than one member.

The difference in the case of Virginia was just this: that Congress, upon that occasion, necessarily passed upon the fact that a sufficient number of loyal persons in Virginia had reorganized a constitutional State government in the State of Virginia, and had assented, by a constitutional Legislature of that State, to the erection of a new State therein. I hope the gentleman understands my position now.

In this connection I will, with his permission, explain what he has quoted from my speech.

Mr. SMITH. Oh, no; I cannot yield further.

Mr. BINGHAM. Well, go on, and I will answer you when you get through.

Mr. SMITH. Mr. Chairman, if the doctrine was true in 1862, as has been asserted even to-day by the gentleman, and has been asserted by others upon this floor, that an organized government existed in Virginia at that time, while war was raging, while rebellion was rampant, and the whole country south was flooded with armed forces moving to and fro, I cannot see how gentlemen can reconcile it to themselves to deny that it is a State now.

The gentleman claims that the people when they have organized a State government are entitled to representation. I submit the question if all of these States lately in rebellion have not organized State governments, with Governors and Legislatures and judiciaries, and all the machinery of State governments, and do not present themselves to-day to the Congress of the United States as organized States in the Union, willing to conform to the Constitution and laws of the Union? The question of States in the Union, of State organizations, is a very different thing from admitting rebels and those who were engaged in war against the Government, to overthrow and destroy it. I may be able to go with the gentleman, and I dare say I shall go with him, on the point that none but good and true loyal men, none but men who are willing to defend the interests of the Government and perpetuate it, shall sit upon this floor and exercise the rights of legislators under the national Government; but I cannot go with him. I will not go with him, or any other man, or party of men, who undertake to assert the doctrine that was asserted by the rebels when they began, that the States had a right to go out of the Union and can only come back by reorganization under an act of Congress. There is no such idea in the Constitution.

At this point I desire to return for a moment to the gentleman from Ohio, [Mr. SHELLABARGER,] for I notice his vote is cast in the affirmative on the bill admitting the State of West Virginia, by which vote he committed himself irrevocably to the doctrine that these are States in the Union for practical, political, and governing purposes. His vote admitted in 1862 the validity and authority of both of the Wheeling conventions, the Legislatures of Virginia and West Virginia; and those very Legislatures were in session, and enacting laws, which he recognized, while a large majority of the people of old Virginia were in actual rebellion, and the Governor, Lieutenant Governor, judges, and most of the Richmond Legislature had taken an oath to support the confederate States of America. Did he not know then that a "State was a multitude of people," as he quotes from Burlamaqui, "united together by a common interest and common law, to which they submit with one accord?" Did he not know then that there was a rebel Legislature in Virginia, every one of whose members had renounced their allegiance to the United States and taken an oath to the rebel confederacy; that there was a rebel congress in the capital of that State, voting men and money to carry on war against the nation? Did he not know they were killing and starving our soldiers there, and were placing their infernal machines under and around their prisons? Did he not know then that they had sworn eternal vengeance and hatred against the life of the Republic? Was it not known to all the members of the Thirty-Seventh Congress, and those

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who voted for that bill and the admission of Representatives? Yes, Mr. Speaker, it was well known to all of them; but they knew another thing: that the State of Virginia was still there, in the Union, and had a loyal population who loved the country and its institutions; and they were the State, and entitled to be heard on this floor. Will these gentlemen contend they were right then and wrong now, or wrong then and right now? Then, as I have said, rebel Legislatures were in session in all these States—Virginia, Louisiana, Tennessee, and Arkansas—I know, sworn against the United States, and to maintain and uphold the confederacy. How is it now? There is no rebel Legislature in any of these States; that is, the members of these Legislatures all have sworn to support the Constitution of the United States, and have by formal acts of legislation repudiated the rebel government and everything connected with it. Hence the people, who were giving aid and comfort to the enemy in these States when this legislation was being done in Congress, have assumed now a different relation to the Government, while the loyal people—all who were there before are there now; and I assert from my convictions of right, my judgment of the law, and the precedent established, that these people are entitled to representation in Congress. At least, sir, we should admit, without a word, the principle; and if they do not send such men here to legislate for them as ought to and can take seats as members of this body, who will legislate for the good of the whole country, it is their fault, not ours.

But, sir, I am not done with the record yet. In that debate the present Speaker of the House, then holding a seat on the floor, assumed and maintained with ability the very position I am now humbly advocating. And the gentleman from Ohio [Mr. BINGHAM] was strong and loud in his protestations against the charges of usurpation of power and the tyrannical action in the separation of Virginia, as uttered by Mr. Segar from that State, and in reply to that gentleman used the following language:

"It is the first time I have ever heard a Representative upon this floor venture so far as to say that an act authorized by the Federal Constitution, and within the express reserved rights of the people of every State, is an act of tyranny. The gentleman says that in the convention that convened the Legislature of Virginia eleven of the counties within the proposed State were not represented. What of that? Does the gentleman mean to say that it makes invalid all that has been done under that convention? Let him remember, if he pleases, when he makes an argument of that sort, that that convention, which was an original act of sovereignty of the people themselves in Virginia, appointed the very Governor of Virginia under whose proclamation he ventured to become a candidate for a seat in this House, and under whose certificate he ventured to present himself here for admission. He cannot be allowed to blow hot and cold in this way upon a question of this sort. If the convention was invalid, then their appointment of a Governor was invalid, and his proclamation for the election under which the gentleman claimed his seat was also invalid. The election proclamation of Governor Peirpoint, if I recollect the record aright, was issued before the people of Virginia were permitted to speak by ballot on the question whether Governor Peirpoint should be their Executive or not. It was the act of the convention itself that appointed the Governor of Virginia, under whose proclamation the gentleman was elected—of that very convention which the gentleman from Virginia [Mr. Segar] stands here this day to repudiate.

"There was one other objection in the gentleman's argument, if it may be called an argument, which I desire to notice, and that was that there was not a sufficient number of votes given at the election to justify the House in concluding that this constitution is the act of the people. It is the first time, I may be permitted to say, that I have heard any man say that the neglect or refusal to vote of part of those duly qualified to vote invalidates an election which in other respects is legal. If that were so, then it would be impossible for the people in the State of Virginia, as long as these rebels choose to remain rebels, to reassert their rights. As to the way in which the minority may assert their rights against a majority of rebels I shall have something to say hereafter.

"If the gentleman honestly entertains the view of the subject which he has expressed, and to which I have just referred, that an election legally held is made invalid because the great majority of the voters choose not to attend and vote, then with what propriety did the gentleman come here from a district in which there are fifteen or twenty thousand voters, backed by the pitiful vote of only twenty-five citizens, and ask a seat upon this floor? [Laughter.] A man

capable of playing that role might be capable of betraying in his place after he is admitted the reserved rights of the people whom he represents."

The gentleman's speech makes about a column in the Globe, and in it he charged upon Mr. Segar that he was the only Representative permitted to take his seat here by the votes of twenty-five men, while there were twenty-five thousand in his district.

Now, sir, these men come here through the action of loyal Governors and loyal Legislatures, which have adopted the constitutional amendment, repudiated the rebel debt, and coincided in the whole policy of the national Government; and they come here by the vote of thousands and thousands of loyal voters electing them to seats in this Hall; and yet the gentleman, together with the gentleman from Pennsylvania, [Mr. STEVENS,] and his colleague, [Mr. SHELLBARGER,] says that these States are not entitled to representation, that these men are not to be admitted to seats upon this floor, that these people are not to be heard in the councils of the nation. You go ahead and collect taxes from them and hold them in perfect and complete subjugation so far as the Constitution and laws are concerned, and yet these men, no matter how loyal they may be, no matter how staunch they may have been in their support of the Government and in the discharge of all their duties to it, are to be considered as outsiders, and turned away and not permitted to raise their voices here in defense of the country. While members were sitting here in their armed-cushioned chairs, with a salary of \$3,000 a year, and retiring from this council Hall to their probably more comfortable rooms, with their still softer cushioned chairs and spring mattresses, and surrounded by all the comforts and luxuries that the country affords, Stokes, of Tennessee, with a sword by his side, was in that mountainous country defending the integrity, honor, and dignity of the nation, driving the rebels back, so that the honor and glory of the nation might be maintained. Yet he is regarded here as an "outsider," and not reckoned fit to be among our number. And Maynard, of Tennessee, was not permitted to sit by his own fireside with his wife and little children; the only solace he had was to wind his way over the mountains of Tennessee, seeking an asylum among the loyal people of this country, without money, without assistance, and without bread almost; always willing to defend the honor and dignity of the nation and the integrity of the Government. Yet he comes here to-day, having served two years during the war, and is called an "outsider," and must withdraw and not participate in the action of this Congress. He was actively laboring for the integrity of the Union while we were enjoying the luxuries of our own firesides, hearing no musket's fire, no cannon's roar, sleeping not upon the cold and damp ground, with nothing but the canopy of heaven to shelter them. Who is Hawkes? A man who left his native State and went into the armies of the Union, and after battling the best he could for his country was unfortunately taken prisoner and carried to Charleston, where he was exposed to the fire of our guns for sixty days and sixty nights to shield the rebels of that city from the punishment they deserved. Yet he, too, is to be regarded as an "outsider."

And who was Cooper? A man who stood up for the Union in his State during the rebellion; and when, in the spring of 1862, I was in that section of country in service, he was the only man I could refer to in Shelbyville as a reliable Union man. And who was Campbell? A commissioned brigadier general of the United States Army. All these men are "outsiders" here; and not only that, but every man who takes the position I have assumed is to be considered an outsider, a copperhead, a renegade, a latter-day-saint Democrat, because he chooses to defend the rights of the States lately in rebellion.

[Here the hammer fell.]

On motion of Mr. BAKER, leave was granted to Mr. SMITH to conclude his remarks on a subsequent day.

SATURDAY, January 27, 1866.

The House being again in Committee of the Whole on the state of the Union—

Mr. SMITH said:

Mr. CHAIRMAN: On the occasion when I last addressed the House on this subject, I was, when the hammer fell, undertaking to sustain the position which I had assumed in the outset of my remarks, that the doctrine which had been enunciated and maintained during the war by the Union party of the United States was that secession is a heresy; that it violates all the principles of the Constitution and the law upon which our Government had been established. In maintenance of that position, I recited the authority which became a part of the record of the Congress of the United States, running through the last four years. I quoted from distinguished members of this House, and from authorities outside of the House, to show that we, as a Union party, had sustained and prosecuted the war just closed for the express purpose of keeping the rebellious States in the Union as they were when the war began, and where they are as I claim to-day.

In taking this position, and in maintaining it earnestly, as I do, I do not compromise in the slightest degree any position heretofore assumed by the great Union party of America. If we admit by our legislation now that any one of the eleven States of the South whose people waged the war against the Government for its destruction has at any time been out of this Union, we, at this late day, and after the suppression of the rebellion, come up to and adopt the very doctrine which led to the rebellion. It was maintained in the Congress of the United States for thirty years, the great South Carolina champion taking the lead, that prior to the adoption of the Constitution the thirteen original States were independent sovereignties, outside of and independent of the Union; that the Union was made up of independent States, and that they had a right, whenever they chose, to withdraw their allegiance from the Government and resume their original sovereignty as independent States. That doctrine we denied. We resisted it by argument for thirty years in Congress and out of it. We maintained that the allegiance of every citizen throughout the country to his State was subordinate to his allegiance to the national Government. When the controversy became one of arms our people, by thousands, rallied for the maintenance of the great principle which they had before asserted, and resisted to its overthrow that pernicious doctrine which brought on the most calamitous war that the world ever witnessed.

I was proceeding to show, when I last had the floor on this subject, that the action of Congress in the admission of the State of West Virginia clearly proved, beyond the shadow of a doubt, that secession and rebellion, in their most formidable strength, could not destroy the State government of Virginia. The Legislature of that State, which was assembled, not in Richmond, the capital of the State, but in Wheeling, was recognized as the legitimate authority of the State of Virginia, and gave its consent to the withdrawal of those western counties and the formation of a new State; and thus West Virginia was admitted into the Union by the action of the Congress of the United States. Congress admitted, *ipso facto*, that neither Virginia nor any other State had ever been out of the Union.

In addition to that, this House, by the vote of a large number of its Union members, admitted as a Representative from Virginia a gentleman who had received only twenty-five votes from a district embracing twenty-five thousand voters. And the gentleman from Ohio, [Mr. BINGHAM,] from whom I have already quoted, declares that the men who sent these men here



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to represent them are the authorized power of the district and State to send this Representative, and should be recognized and are recognized as such. Mr. Lincoln asserted the same doctrine. He said:

"The people of Virginia have thus allowed the giant insurrection to make its nest within her borders; and this Government has no choice left but to deal with it *where* it finds it. And it has the less regret, as the loyal citizens have, in due form, claimed its protection. Those loyal citizens this Government is bound to recognize and protect as being Virginia."

There was the Chief Executive of the Union, nominated and elected by us; the great head of our party; not only elected by the Union party in 1860, but, on the doctrine enunciated in this proclamation and this message, went before the people again in 1864, and notwithstanding a combination of politicians to destroy him and put others in his place, the great American people rallied around him. The people stood by him because they were opposed to secession in every form; and he was more triumphantly elected to the presidential chair than any man since the days of Washington.

Mr. Lincoln went further on that subject. He said:

"Our States have neither more nor less power than that reserved to them in the Union by the Constitution—no one ever having been a State *out* of the Union."

Now, I submit, by what process of reasoning can gentlemen come to the conclusion that when war is waging, and while a vast majority of the people of a State are in insurrection against the Government; its Legislature in session; its Congress in session; its army in the field, and we having jurisdiction over a small portion of the territory—I ask how can we, with all that resistance, all that force trampling down the Constitution, the laws, and the authority of the Government, claim that the State was in the Union and could not go out; and yet, when the war is over; when there is not an armed rebel in the field anywhere in the broad land; when there is not a hand uplifted against the enforcement of the laws and the Constitution, it shall be claimed that these States are not within the Union, and not entitled to representation in Congress?

Now, on that point I shall call the attention of the House to the remarks of the distinguished gentleman from Ohio [Mr. SHELLABARGER] in regard to the constitutional power of the Government over the States. He claims that these States are not States in the Union for governmental purposes; but let us see. This very day, while I am addressing you, your Constitution is the supreme law of the land over all of them; it is regulating commerce among them; it requires Representatives and Senators (if they were here) to reside in their respective States; it is prohibiting the States from entering into treaties, alliances, or confederations, coining money, emitting bills of credit, making anything but gold and silver coin a tender for debt; passing any bill of attainder or *ex post facto* law, or law impairing the obligation of contracts; from taxing imports or exports without consent of Congress; from laying tonnage duty; from keeping troops or ships of war in time of peace; from entering into any compact with another State or foreign Power; from engaging in war unless invaded, or in imminent danger thereof; from refusing to give full faith to records, &c., of other States; from refusing to surrender fugitives from justice or labor; in requiring States to be tried in the courts of the United States; requiring all their officers to take an oath to support the Constitution; requiring them to pay State's proportion of direct taxes; in prohibiting either State from conferring any other emolument upon the President than his salary; in requiring them to furnish at command of the President their militia; and in subordinating their judges, constitutions, and laws, to the Constitution, laws, and treaties of the United States as "the supreme law of the land."

I have repeated almost word for word from

the speech of the gentleman from Ohio, [Mr. SHELLABARGER,] and I ask, over whom or what do these provisions of the Constitution operate? Certainly, sir, over States, and the people thereof, for the Constitution in the cases mentioned deals alone with States. There was a time, it was short, however, in the life of a nation, or even a man, that these powers of the national Constitution were suspended and inoperative. In many of the States but for a few months, a few weeks, in some of them nearly four years; but now perfect, complete, unobstructed, and unquestioned authority is granted to this instrument "as the supreme law of the land."

Now, more; they have gone further, and complied with the policies of the Government adopted since the rebellion began. Nearly all the States have remodeled their constitutions and abolished slavery; they have repudiated the rebel debt; the loyal men are rejoicing and clapping their hands in gratitude for their deliverance, while hundreds and thousands of those who were in the rebellion are seeking pardon and a restoration to citizenship under the flag and Constitution of the Union.

Mr. Lincoln went further, and in the proclamation of December 8, 1863, he specified the means on which restoration to peace might be had, and enumerating the States in rebellion, he asserted the power he had over these people to grant them pardons under certain conditions. If they are not States and have not violated the laws or Constitution of the United States, what authority has the executive department to issue proclamations of pardon to the various members of those communities? What power has he under the Constitution, or what authority has Congress under the Constitution of the United States, to compel them as States, by the appointment and confirmation of officers, to execute the judicial rights of the Government in those States, and to collect from them taxes and revenue for the defense of the Government?

Now, sir, in regard to the position of the rebels, I say that is a different and separate proposition. If you come to me and ask me what I would do with the rebels, I have an answer to give you. When you ask me whether a State has been out of the Union I answer as I have always answered, and as every gentleman on this floor has answered, with the exception of one or two, that they never have and never can get out of the Union except in two ways. One is by the consent of three fourths of the States of the Union; the other is by successful rebellion. When they have accomplished the one or the other of these then they are out—otherwise not. And we spent \$3,000,000,000 to keep them in. We gave five hundred thousand men to keep them in. We have lost a vast deal. We have spread the habiliments of mourning all over this land, and there is scarcely a hearth-stone in the land that is not mourning to-day because of the departure of some loved one, all to maintain the integrity of the Constitution, and to keep these States in the Union.

And are we now to admit as members of Congress those who have dyed their hands in the blood of their loyal countrymen? I answer no, emphatically no. I maintain that the rule for us to lay down as the just, the consistent, the true one—the rule by which we can stand, and by which the American people stand, and around which they will rally by thousands and millions, is, that no State has been out of this Union, but they are all in it; that the people whom you tax according to the Constitution are entitled to representation in Congress; but if they do not send the right kind of men, good men, loyal men, men who can do as we have done—stand before the altar of this House, and with uplifted hand swear before God and man that they have never done anything to overthrow and destroy this Government, send them back and let their people send another, and if he cannot take the oath, let them keep on sending men

until they give us one who can be properly qualified to sit in the great Legislature of the nation. Do you suppose that any Union man in this country by taking the position I have taken now, and that I have assumed all through the war—proving my faith by my works—taking the position that no State is out of the Union, that it ought not to go out, that the States that attempted to do so engaged in an unjust and unholy war—

Mr. BROOMALL. Will the gentleman allow me?

Mr. SMITH. As soon as I get through my sentence. Having witnessed so many scenes of blood and terror, can I ever vote for the admission of those who have been guilty of so much crime and wrong to take part in our legislation here? By no means, sir; for one, I cannot do it.

Mr. BROOMALL. I desire to ask the gentleman whether he means by the State the body-politic or the mere land; whether, when he says that no State has gone out of the Union, he means that the body-politic of the old State of South Carolina has not gone out.

Mr. SMITH. It is a very curious question whether a State is merely a geographical line or a piece of land—territory described as such. It cannot be a State without it has people in it. It must have land, water, wood, something to eat, cattle, horses, sheep, hogs, and everything that belongs to the agricultural department as well as the mechanical departments. It must have men and women in it. It must have an organization. It must have a Governor, a Legislature, a judiciary, to be a State. When it has got these, and is recognized by Congress, it is a State. And all these States have been thus reorganized and recognized by Congress. The statute is not repealed.

Mr. BROOMALL. Will the gentleman allow me to ask—

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Pennsylvania?

Mr. SMITH. If he is satisfied with the position that ground does not make a State.

Mr. BROOMALL. I am satisfied that the gentleman does not mean the organized body-politic, when he says a State is not out of the Union. Now, I ask him whether the reorganized body-politic now existing in South Carolina is the same that existed there six years ago; is a legitimate succession in any legal or civil point of view of the former one.

Mr. SMITH. I will answer the question with pleasure. I say that the reorganized body-politic in South Carolina to-day is not the one that was there in 1860, and so I answer that the reorganized State government of Kentucky to-day is not the one that was there in 1860. Because in 1860 we had a rebel Governor, and a rebel Legislature; in 1861 we had a Union Governor and a Union Legislature; in 1864 and 1865 we had a Union Governor and a very rebellious Legislature; and so the thing is changing. But in the State of South Carolina the State organization was suspended by the result of their insurrection, and their efforts to overthrow that government as it related for the time being to this Government. But there was always from the time the rebellion began an organization in that State against the Government; and after the rebellion was put down, and there being no loyal judges, legislators, or Governor, the President of the United States had a right, as was done by President Johnson, to appoint a military governor to exercise the functions of Governor until the people could resume the powers of government, and put to work the entire machinery.

Now, the people of South Carolina have established their State government; they have elected their Governor; they have elected their Legislature; they have them, and they have their judiciary. I am not defending rebels, but I wish to submit this question to my friend from Pennsylvania, and I hope he will answer it. I

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ask him if he has any authority, if he has any information, direct or indirect, that the State authorities of South Carolina have in anywise, at any time, under any condition, undertaken to interfere with or overthrow the Government, the Constitution, or laws of the United States? In other words, I ask you whether the State government of South Carolina is not to-day in perfect conformity to the laws and policies of the United States?

Mr. BROOMALL. I have not the means of answering that question; but I incline to think the State of South Carolina, or rather the present organization of South Carolina, will be found to be antagonistic to the Government when examined.

But I do not yet get an answer to my question; and that is upon what the present organization of South Carolina rests; whether it rests upon the mere proclamation of the President; whether it is the legitimate successor of the old one that did exist there, or a new creation; and if a new creation, how created, and by what authority, since I am not aware that Congress ever authorized a new creation of States within any part of the conquered territory.

Mr. SMITH. The gentleman seems indisposed to receive my answer, which I thought was very explicit. I say to him that the power by which South Carolina was reorganized emanated from the people; it was by the people there that this thing has been done, just as it has been done in the States of Tennessee and of Arkansas and Virginia and other States. It has gone back to the people, and the people have elected their Governor, their Legislature, and their representatives in the various branches of the State organization. Now, take the State of Tennessee for instance. What more can we ask than that State has done, so far as it relates to the General Government? I am not speaking of individual wrongs upon this man, or that man, or the other, but I am speaking of the State. She has elected one of the most unconditional Union men of the United States as her Governor. She has sent here the very best men she has in her State to represent her in Congress. She has a Legislature elected by her people who alone had the power to elect, all who were in the rebellion having been excluded except those who took the oath, having been conscripted and forced into the rebel army.

Now, when, how, and why are you to disregard that organization, and when is it to be said that she is a State in the Union? Gentlemen say you want guarantees. I put this proposition, and I want somebody to answer it, if they please, without interrupting me, when they come to speak: what guarantees can you put into the Constitution; what guarantees can you secure by law; what guarantees can you have in the form of statutes; I do not care how voluminous or how strong in words or terms? I do not care what provisions you put in the Constitution. But what power is there in this Government to prevent these people, or the people of New England, or the people of the middle States, from rebelling when they want to? We thought before that our Constitution was secure against rebellion; we thought the laws we had were sufficient to prevent rebellion; we were continually legislating to quiet the different sections of the country; but we had a rebellion; it came upon us, and the only way we suppressed it was by force. I care not what laws you put upon the statute-book; if they choose to rebel again they will do it, and the only way the Government can maintain itself will be by force, as it did in the past.

The right of revolution is an inherent right in the people; and whether they agree to-day to laws or not is a question for them to determine; and if they choose to rebel against them a year from this time they can do it; but it is within the power of the Government to prevent the rebellion, to put it down, to suppress it if they choose. Sir, I do not believe in the right of the people to revolt against the Government and undertake its overthrow until that Government

becomes oppressive. Our Government has never been oppressive; it has been the best and most beneficent in the world, and therefore our people rallied as one man to its defense. But still, while I say these things, I am for voting for whatever law is necessary to promote quiet and harmony throughout the country.

But, gentlemen, allow me to say one thing. The course to be pursued by a great people and its Legislature during a time of war may not be the best course to be pursued after that war is over. If there are those whom you think should be punished, should be held up as examples for their crimes, then, in the name of justice, of law, and of the injuries they have inflicted upon the people of this country, bring them to justice, hang them if need be, and I shall rejoice rather than weep over it. I have always believed, as I have reiterated in Congress time and time again, that treason should be made so obnoxious and terrible in the sight of the people of this country that all men will be slow to commit it again. Make your examples; I care not who they may be. But in regard to the great mass of the people from whom we must collect our revenues and taxes, with whom we must live, and with whom we must have our commercial and political and social relations, we must not go too far; we must not grind them down too much. And above all, we must remember that brave men never kick and abuse a fallen foe.

Mr. LYNCH. Will the gentleman allow me to ask him a question?

Mr. SMITH. Certainly.

Mr. LYNCH. I desire to ask the gentleman if I understand him to maintain that this rebellion has in nowise changed the relations of the States to the General Government, but it is simply a question between the Government and its citizens as citizens of the United States?

Mr. SMITH. I mean to say that the war did change most materially the relations of the States toward the Government of the United States. Their relations are now altogether changed, because before the war there were fifteen slave States, with statutes upon your statute-books requiring that fugitives from labor should be returned to the respective States and owners from which they had escaped. And your judiciary decided that it was the duty of the Government to see that those laws were executed. Now the relations of those States are changed in that four million people formerly slaves are now free. And the people lately engaged in rebellion have changed their relations toward the General Government in that they have committed treason, and they cannot regain their old political rights and privileges as citizens of the United States unless they receive, at the hands of those who have the power, a pardon for the offenses they have committed.

The relation of the States which were engaged in rebellion has been changed or suspended. But, as I remarked a moment ago, those States, through their people establishing new State governments, are still States in the Union, and have never been out of it.

Mr. LYNCH. If the gentleman will allow me, I will state that he does not seem to apprehend my question to him. I understand the gentleman to say now that these States are new States, thereby acknowledging that in effect their relations toward the General Government have been changed. Now I wish to ask him, conceding that these States are new States, and not, as was very well put by the gentleman from Pennsylvania, [Mr. BROOMALL,] the successors of the old States, who is to determine, what branch of the Government is to determine, the status of those nine States and the conditions upon which they may reënter the Union? If they are new States—

Mr. SMITH. I do not desire to hear an argument from the gentleman at this time.

Mr. LYNCH. The gentleman will pardon me. I have no desire to make an argument, but simply to ask the gentleman a question.

Mr. SMITH. The relations that Maryland, Delaware, Kentucky, and Missouri bear to the Government of the United States at this time are very different from what they were in 1860. They then bore the relations of slave States, and they were regarded and represented here as slave States, with certain rights under the Constitution and under the laws. The amendment of the Constitution abolishing slavery has been passed, but not with the consent of my State, Kentucky. She has persistently refused to do it. Yet she has had two hundred and twenty-five thousand slaves taken from her people by law. Who did that? Who made that radical change in the condition of the State of Kentucky? Was it the people of Kentucky? That State had an organized State government, and was never regarded out of the Union, however hostile some of her authorities may have been. Yet the strong arm of the Government, through the law, has changed her relation to the General Government.

And these other States have altered their relations to the General Government, first, by war; but they have resumed their relation by peace, and coming back into the Union and adopting the rules we have laid down for them.

But, in the few minutes I have remaining, I wish to be distinctly understood that, in my humble judgment, the great party to which I belong, and with which I would always wish to act, when I can do so consistently, is making one of the most important mistakes that a great party ever did make. I have no doubt that they are seeking to ingraft into their political creed something which will result in great injury to the Government, and which will expose it to more danger than any we have ever been exposed to heretofore.

You may speak of the rebellion as you choose, and I will consent to all that you may say. You may denounce all those who were engaged in it as bitterly as you please, and I will say "amen" to every word. You may exclude from participation in the Government those who have used their efforts to destroy, for so long a term as you please, and I shall not murmur. But I beg that the Union party, having the ascendancy in this House and this Government, as it has to-day, will not go too fast or too far, will not undertake to do too much. It is a wonderful spectacle in history, one which the world has never before seen, that in a country like ours, acknowledging and upholding slavery, four million people should have been emancipated, their shackles knocked off, and their freedom achieved within the short period of four years. It was a grand and a rapid stride, as I trust and believe, for the civilization of the world and for the extension of liberty to all men. I would maintain the freedom of these people here and everywhere to the extent of my humble ability. Nay, further, I would teach them to be intelligent, to be virtuous, to be Christian, to enjoy all the advantages of civilization. I would insure to them all their rights of property, liberty, and life. I would guaranty to them the rights enjoyed by any other man.

I do not believe in the doctrine that negroes should be witnesses only in cases where they alone are interested. I believe that the negro should be permitted to go into the courts to vindicate his honor, his integrity, his rights of property. But you must not ask me to go so far at this time as to declare that these negroes are all entitled to the right of suffrage, and that it should be extended to them universally throughout the United States. I say to members of this House, the negroes of the South do not to-day demand that of you; they do not ask you to give them the right of suffrage at this time, because they know the danger to which it would expose them. I am the friend of the negro race. I will do as much as any other man on this floor for the advancement of that race. I have already done a great deal more in this respect than many of those who are listening to me to-day. I affirm that the negroes them-

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selves are, with few exceptions, afraid of the future in reference to this question of universal suffrage.

You may amend the Constitution if you please, so as to bring this question of negro suffrage directly before the States, cutting off a part of their representation, if they will not allow the black man to vote; but by such attempts you but irritate and excite the two races, the one against the other. Having been born in the South, having been reared in the very midst of the system of slavery, I believe that the effort to bestow the right of suffrage upon the negroes throughout the country is not calculated to promote their advancement or secure their best interests. In my own State, I have never met more than two or three of these people who asked to be endowed with the right of suffrage. I received the other day a letter from a negro who in 1862 was my property; and in that letter he urges me to resist this effort because of the prejudice prevailing in this country against his race. It seems to me that justice and humanity to these people require that we should not force this thing too rapidly upon them and the country.

I go further, and reiterate the sentiment uttered by me at the last session of the Thirty-Eighth Congress, that I am utterly and entirely opposed to this doctrine of negro suffrage. I believe that God Almighty never intended that the white people and the black, two distinct and antagonistic races, should be copartners in the management of civil government. Whether the negroes have been in slavery or not, the same rule, in my judgment, equally applies. It is useless for man to attempt to accomplish what nature has determined shall not exist. Mexico is suffering to-day because of the wonderful amalgamation of different races among her people. Governments under which different and distinct races become commingled politically and socially cannot in the very nature of things endure.

Now, here is the plain proposition. I care not how humble or ignorant or poor a white man may be, when he settles in this country, with his family around him, every one of the same class of people recognizes the fact that at some future day the little child that totters at his knee may grow up to be fully the equal in social and political position of the wealthiest, the most exalted man in the land. It is a part of natural law. It was so intended by the Creator; and you can never bring any man who wishes to maintain himself as an Anglo-Saxon willing to consent to any such thing.

Now, what does voting do? It brings about most social relations, more than any other kind of intercourse in the world. A Representative must talk to his constituents; he must receive them in his house; he must receive them with open house and with politeness; he must do all these things. A constituent has the right to come into his house, and sit down in his parlor, and there talk about the business of state and all matters connected with the Government. As the Representative and constituent sit and talk over the affairs of state, the children of the Representative, playing around, would see this intercourse and hear all that was said. In that way there would be such a social relation as was never intended, and which I believe would be detrimental to the Government of the United States.

I say this as an argument to support my position against negro suffrage. I do not believe that it would be wise on the part of the American people at this time. What may be done in the future I am not able to say. What may be done twenty-five years from now I am unable to foresee.

But, Mr. Chairman, the inconsistency of gentlemen here is a fruitful fact. Men sit on this floor, largely in the majority, from the various States, who ask that universal suffrage shall be imposed on all that section of the country where slavery abounded and where the blacks are so large a part of the population, while, in their

own States, where they have only a few blacks, and those educated, they have persistently refused for twenty-seven years to grant to that class of their people the right of suffrage. The Pennsylvania Legislature, now in session, has just passed by one branch of its body a resolution instructing the Representatives in Congress for that State to vote for the bill granting universal suffrage in the District of Columbia. Why do not the people in Pennsylvania call a convention and so amend their constitution as to allow the twenty or thirty thousand educated negroes in that State the right to vote? They will not do it; not a bit of it. They will not do it in Illinois. They will not do it in Indiana. They will not do it in Ohio. They will not do it in any of those States; but when they come to us who have been as loyal as they have, who have manifested our loyalty as earnestly as any of them, they say it must be as a punishment on those who have been in the rebellion. If it alone affected those men I would not have anything to say; but while you punish fifty thousand men in Kentucky who were rebels you punish a larger number of the other side who never were rebels and never for one moment did anything against the United States.

If you wish to punish men in the South because they were rebels, why do you not go to New York, Pennsylvania, and even Massachusetts, and punish those men there who gave aid to the rebellion and prayed for the overthrow of the Government? It ought to be done. Legislation to be just ought to be equal.

I hear a great deal said in both branches of Congress about the condition of the negroes South and their inability to secure their own rights. I believe that to be true in part. I believe whatever legislation is necessary to give them their rights ought to be passed. I believe that this Congress would be derelict in its duty if we did not give that people whatever legislation is necessary for the purpose. If we did not we would be held responsible before God, who looks upon us every day. We would be held responsible in the future if we did not give them all the protection they ought to have.

But let me remind you that throughout that section there is a class for whom we have done nothing. They have not as yet received any sympathy upon this floor. There are white men and white women there who are poor, poorer than the negroes, who have been downtrodden and cruelly treated from the commencement of the war because of their love to the Government. There are those who lay hid in caves for weeks and months, and prayed for the return of the old flag; men who have risen and wept that they did not see the glorious folds of the old flag reflecting back the rays of the morning sun. Why should we not afford relief to these good Union men who are to be found in the valleys and mountains of the South? They were bowed down for four years and rejoiced gladly when the Union was restored.

Why, sir, go with me to Tennessee. I love to talk about it. When General Burnside went to the relief of Knoxville the roads were so bad that his teams could not follow him. He said he must give it up. "But, no," said the Union people in this mountain State, "protect us;" and they came like the people of old, with their corn and their meat and their bread in their laps and poured them down at the feet of your soldiers. And ten or fifteen thousand were fed around the city of Knoxville by these people, the poor, downtrodden and abused Union men and women, who, by this magnanimous act, left not a morsel in their houses to eat, their children crying piteously for bread. Who speaks for them? Who writes anonymous letters to Washington city for them? Who fills up the newspapers with letters from the South about these people? You find them in Alabama, in Louisiana, in Missouri, in this city, and everywhere. You find them everywhere, without arms, without legs, without eyes, without property, without a home, without bread and meat; and yet no sympathy goes out from the national heart in their behalf.

They go annually to their great cities of the dead, created so suddenly and so wickedly by a desolate war, and they water the sod that covers the noble brave with their tears. They go to those places where—

"On fame's eternal camping ground,  
Their silent tents are spread,  
And glory guards with solemn round  
The bivouac of the dead;"

and they pay their tribute of gratitude to the memory of those people for bringing back the days of peace. And yet what are we doing for them? Nothing. They send up their representatives here and say, "Will you let us have a voice in the national council? Will you allow the philanthropists and patriots who stood up for us, and wept for us and did all they could for us, to come and take a seat in Congress and assist in your legislation? Will you allow Taylor and Cooper and the rest of our friends who went to the North, and by their advocacy of the very principles we now advocate to-day, gave you success in elevating your Chief Magistrate to his place; will you allow them to come and take part in your councils and advise with you as to what is best to be done for their interests? Will you let the twenty-nine thousand men of Tennessee who shouldered their guns and marched to the front—who went where you dared not go—will you allow them a voice here as to what their rights are? Will you let a voice come up from the dead all over this land saying that these people have rights to be represented?" No, no. Why? Because, as the gentleman from Maine [Mr. LYNCH] remarked the other day, they were like Tray, in bad company. Sir, if that is the case, if we are all to be tested by that rule, there would not be many of us here to-day. For I presume there is not a district in the whole country that has not what you believe to be bad men—copperheads, so called, rebels at heart. Therefore, if these men by being in bad company are not entitled to seats, neither are you, and you ought in consistency to retire.

But strange things come over us. Some men say that revolutions never go backward; that this is a progressive age; and that we are to march on in our career. I, too, believe that revolutions never go backward. But my judgment is, that sometimes a party that has been successful as a revolutionary party, so called, may go so fast and so far that they themselves become the obnoxious revolutionists and do the wrong. There is the danger I apprehend. We have a great and good Union party in this country. There are differences of opinion between us upon some points; but is it not wise, is it not proper, that we should so legislate and so act that we keep that great party together? If you do keep it together; if you do legislate properly; if you do your duty, it will not, it cannot break or divide, while you will rejoice in the expression that revolutions never go backward.

But, gentlemen, you must remember that the longer you consult, the longer you trifle, the longer you disregard the sentiment of that loyal people, the greater the danger of making them enemies of the Government of the United States. Where are these men to go? Whom are they to look to? What must they do? "They are not in the Union"—"they are not out of the Union." Some of them are entitled to representation; some of them are not. What are you going to do? When are you going to let them in? When you have a guarantee, you say, that they will send good men here. They say, "We have no objections." But they may send bad men. Well, suppose fifteen years from now you say you will admit them. They then send good men. But who can say that they will not the very next year send bad men? You say you will fill up the country with emigrants, and create a large loyal population who will keep in Congress loyal men and not rebels. But they too may send bad men; indeed some of the loyal States have sent bad men to Congress, and they occupy seats around us.



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Basis of Representation—Mr. Johnson.

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## Basis of Representation.

## SPEECH OF HON. P. JOHNSON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1866,

On the proposition to amend the Constitution of the United States, apportioning representation and taxation.

Mr. JOHNSON. Mr. Speaker, if the masses of the Republican party are half as anxious to amend the Constitution as are their Representatives here, or, in other words, if they really believe that it needs half the amendment that has been proposed by their Representatives here, it would seem extremely difficult to reconcile that belief with the declarations so often repeated during the war that the South had rebelled against the best Government the world ever saw or that was ever devised by the wit of man.

If this multitude of propositions to amend the Constitution are the legitimate fruits of the nation's experience for three quarters of a century, and now come to us as the deliberate judgment of the American people, made up in the progress of nearly three generations, it would seem not at all strange that so large a portion of our countrymen at last rose in rebellion against a Government so defective in all its fundamental principles, and the great wonder would seem to be that the men and the party now proposing these amendments are the same that so lately and so loudly claimed to be the only true friends of the Constitution and the Union. And if our experience and judgment as a nation have not taught us that these amendments are necessary to remedy existing evils, I think it will be found very difficult to reconcile our proposed action herewith that sentiment of profound wisdom expressed in the Declaration of Independence, that

"Governments long established should not be changed for slight and transient causes."

The most of these propositions, if not all of them, emanate from the New England school of politics, which embraces all the doctrines of the now thoroughly abolitionized Republican party. Who can imagine the torture that these people must have suffered for many, many long years, galled as their necks must have all the time been with the Government of the fathers to them so unrepresentative in form?

We begin now to understand why Massachusetts so long ago proclaimed the doctrine of State secession and threatened its exercise for what they regarded as evils under our system of government; and now we begin to understand why in the late war with Old England, New Englanders sent up rockets and blue lights to apprise the enemy of an opportunity to capture them. They were tired of our, to them, imperfect form of Government, and were ready to cast it off for any other that might be thrown upon them. We hear a great deal said of the consummate folly, to use no harsher term, manifested by the people of the South in going as they did into rebellion against the vastly superior power of the North; but with these developments before us it is quite evident that their supremest folly consisted in their taking the lead in attempting to break up the Union. Had they but waited until another presidential election was over and the Republican party was hurled from power, as it surely would have been, they would have had the satisfaction of beholding these malcontents turning their backs upon the best Government the world ever saw, and then the traitors and patriots would have stood during the war as they stood before it, and in the reversed order in which they now stand.

But, sir, these propositions are not the suggestions of long experience, nor are they the result of a nation's deliberation. They are the contrivances of partisan politicians, who, finding themselves in possession of political power

not honestly obtained from the people by an open and candid declaration of principles, now avowed, fear that unless they can so alter and change our form of government under the pretext of amendment as to prevent it, the people will rise against them and hurl them to that oblivion so richly merited by any party that would in this enlightened age undertake to steal into power under false issues and hold it in defiance of their will.

In the first instance we have a batch of amendments, so called, which it is contended are necessary to make good the guarantee of the Constitution to the several States of governments republican in form. Some propose to enforce these provisions by constitutional amendment, adopted by three fourths of the States, while others propose to hold these States as Territories under military despots, and withhold from their people all the rights of self-government until they will consent to surrender a part of them to a foreign race. This is making good the guarantees of a republican form of government with a vengeance.

We laugh at the story of an Irishman who ran into the street brandishing his shillalah and declaring that he would have peace if he had to fight for it, while we say to the people of the several States South that unless they permit negroes to vote their governments will not be deemed republican in form, and we will hold them under military subjection forever.

The people of the South seem to fail entirely to appreciate that high-toned republican and liberal spirit which would dictate to them that they must either surrender the principles of self-government handed down to them by the fathers to an ignorant and dependent race or submit to the most despotic form of government known to the world, military satraps, provost marshals, alcaldes, and viceroys, with swarms of officeholders sent among them to eat out their substance and tax them without representation. Betwixt these evils the people of the South seem unwilling to choose.

The one proposition is to set up for them a race of false representatives and govern them accordingly; the other is to limit the class of persons who shall be represented to the white male adults, or voters, and this we are told is a just measure of punishment to this rebellious people for their political offenses. Formerly there was great complaint by the opponents of slavery against that clause of the Constitution which permitted five slaves to be counted in the basis of representation as equal to three free persons, white or black, North or South.

Against this provision of the Constitution there has been one continuous howl from the now abolitionized States. They forgot that in the formation of the Constitution the commerce and traffic of the northern States forced a continuance of the African slave trade upon the southern States until the year 1808, and that to induce the South to submit to this trade they gave them a slave representation in the Congress; and now that slavery is abolished and the three-fifths clause necessarily falls with the institution, it is proposed to take away from the entire negro population, now all free alike, all representation whatever, and thus deprive them of a freeman's right before they can be justly taxed.

It is true that the proposition is softened somewhat by the clause which relieves that class of population from being made a basis for the apportionment of direct taxes. This will make it more palatable to the white population, inasmuch as it relieves them of the great burden of that apportionment, as the Constitution now provides. But even this will not relieve the negroes from the payment of some portion of those very direct taxes, and these are by no means the only taxes that are levied in these times of high tariffs, now upon imports, and proposed to be extended to exports as well as imports.

Let us look, then, to the operation of this

proposed amendment in the southern States. We say to the present voters of the South, you must allow your votes to be neutralized by the negroes among you, or we will not allow those negroes to be represented here. These manumitted slaves may grow cotton, and we will tax their labor when they come to export its fruits, and deny them all representation. Who does this punish, or who become the sufferers under the operation of this proposed alteration of the Constitution? Surely not the white population, for they are created an aristocracy worse than the old oligarchy of which we used to hear so much. They are the only persons to be represented, and while they represent themselves they govern the opposite race as arbitrarily as any despotism in the world.

This effect in the North will be the same as in the South except as to its extent. I am not only the accredited Representative of the voters and white population of my district, but I am under the Constitution the Representative of the interests of all other persons inhabiting the district; the voters by their expressed wish and the rest by the wish that is to be implied by knowing their interest. The lady friends of the gentleman from New York, [Mr. Brooks,] complain that they are taxed without being permitted to represent themselves at the ballot-box. But what would they say if they were taxed and not represented at all? It must be borne in mind that persons can be represented without themselves being permitted to vote. The one is being represented, the other is representing one's self and others at the same time. Take the case of two families owning property of equal value; the one is composed of males and females, young and old, while the other is composed of an equal number of persons, but all voters. Both are taxed alike, because both are represented alike by the law-making power.

Is this not the same kind of taxation and representation for which our fathers fought the war of the Revolution? If the principle of representation as a basis of taxation was worth the long and fearful struggle of the Revolution, ought we not to hold it as too dear to be frittered away in the manner proposed? There seems to be an almost perfect oblivion among the friends of these various measures as to where the line should be drawn between the representatives and the represented. Human wisdom has never yet fixed upon any definite line of demarcation, as is attested by the various provisions in the constitutions of the several States relating to this subject. A certain class of persons must be set apart as the operators of the public will. All are passengers on board the ship of state, but all are not officers in command; yet all are protected by the flag at the mast-head.

How many hundreds and thousands of our constituents would like to be members of Congress; yet only one man out of the one hundred and thirty thousand population apportioned to a district can hold such office, and he is selected by a majority, or it may be a mere plurality, of twenty-five thousand voters. A faithful member of Congress represents the whole population of his district, male and female, black and white; and to represent them faithfully he must familiarize himself with all their varied interests and harmonize them as best he can with the interests of the whole country by the exercise of a sound discretion and a patriotic will. If he relies wholly upon the voters of his district for the expressed wish of his whole constituency he may err, but not unless the voters are unfaithful representatives of the population behind them. And this is not likely to happen, because men's wishes, when intelligibly made, are found to be with their interests. The vote of the husband is supposed to represent the interests of his wife, and so the father those of his children, and these aggregated make up the public weal, commonwealth, or *respublica*; and that Government which is founded and administered upon this principle is republican in

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## Amendment of the Constitution—Mr. Julian.

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form within the meaning of our Constitution. True, it may happen that these results will not always follow, and that while a Government may be republican in form it may not be wholly so in substance; yet this would be an exception that would prove the correctness of the general principle.

Now, let us turn again to the principles embraced in the proposed amendment and see how they square with those upon which our Government is founded. You propose to withdraw the whole colored population and substitute in lieu thereof only the white population of the District as the basis of representation. Let us apply this rule to the State of South Carolina, and, for the purposes of illustration, assume that the whole population of that State is equally divided between the races, white and black. Under the Constitution as it is members of Congress are apportioned to the whole population, and they are represented accordingly. This you change, and allow only the white population to form the basis of representation. Unless the voters of this class of persons extend the elective franchise to the negroes, one half of the entire population is at once proscribed from being represented. The ordinary ratio of voters is to the whole population as one is to five, and hence only one half of the whole population would be represented; and this is gravely proposed, so that the guarantee of the Constitution to that State of a government republican in form may be made good for all time to come. Are these voters, who are but one tenth of the population, and who are, by the express terms of this amendment, separated in interest from, and made wholly independent of, the other five tenths, regarded with their white constituency as the Commonwealth of South Carolina—the *res publica*? If not, then your amendment will force upon that State a government that is not republican in form. Is not this plucking up the tares to the entire destruction of the wheat?

And let me again remark, that the principle being the same for all the States, its application will be the same except as to the extent of the proscription. And as to the southern States, gentlemen say they have their remedy. Let them make their negroes voters and the rule will not operate so harshly upon them. Will they do it? And if not who will be the sufferers, they or the negroes? Were I a southern man, I am very free to say that I would do no such thing. I would sooner extend the elective franchise to all white male inhabitants, naturalized and unnaturalized, without either property or tax qualification, and by this means I would swell the basis of representation by inviting to those States the whole tide of European immigration.

By this means I would hold the poisoned chalice to the lips of those who would prepare it for and present it to me, and then we would have the northern States sheltering themselves behind the very same obnoxious remedy that they are trying to force upon those of the South. The consequences of this course are so inevitable that I am forced to the conclusion that gentlemen are either unconscious of what they are doing or that this is one of the means by which they intend to force negro suffrage upon the North as well as South, as it is—

*Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

What would be its effect in Pennsylvania? Take the fourteenth district, in which is the city of Harrisburg, and which, like all capital towns, has a large negro population. Unless the negroes were made voters that district would have to be enlarged to a greater area to embrace a sufficient population to entitle it to a member; and so the people of that district would be shorn of their representation here. And so of the Chester district, where a large Quaker population has drawn together a large population of negroes. The people of these and similar

districts would be compelled to either suffer in their representation or coin voters out of negro material.

Are gentlemen prepared to introduce so great an innovation upon the American system of self-government? Our fathers took their stand between an absolute democracy on the one hand and a class aristocracy on the other, and they did this by making our Government a representative democracy, having for its basis the whole population of the country consenting to be so governed.

I know not what others may do or prefer to do, but as for myself, the form of Government handed down to us by the fathers is good enough for me. As an American citizen I accept the inheritance in the form it is given, and acknowledge the patriotic obligation resting upon us all that we should not alter or change it in any material way, but transmit it to our posterity unimpaired, to be perpetuated forever.

Holding these views and being governed by these motives, I shall steadily oppose all amendments to the Constitution which tend to alter the fundamental principles upon which it is based. Rather than adopt these alterations as amendments I would enlarge the constitutional oath to be administered to all Federal officers so as to require them, like the President, to obligate themselves not only to support the Constitution of the United States, but to protect and defend it from all revolutionary reformers from within, as well as open and avowed enemies from without.

Sir, let me appeal to this House and to the country that this is not a proper period in our political history to make these great alterations. Let us be forewarned and admonished of the great danger that always attends hasty and inconsiderate legislation, and most especially that kind of legislation that becomes from its supreme and irrepealable character the fundamental law of the land. Changes are not always reforms, and this is no time to make experiments. Our fathers waited many years after the close of the war and their independence was acknowledged before they undertook to form a more perfect Union and Government, and the great growth and prosperity of our country bear everlasting witness to the wisdom of their course. Let the passions and the excitements that lashed the skies in one vast blaze of fury and frenzy have ample time to cool, so that whatever we may do will be done in a spirit of true patriotism and love for the whole country, and not in that miserable spirit of sectional and partisan interest, envy, jealousy, hatred, and revenge that seems to pervade these propositions to alter, by way of amendment, the very foundations upon which our American system of government is laid.

Let us do this, and our country will remain the pride and glory of our race, a home and an asylum for the oppressed of all lands, and our form of Government a model for the whole world. Let us do this, and our names will be held in grateful remembrance by generations yet unborn.

## Amendment of the Constitution.

SPEECH OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1866.

The House having under consideration the joint resolution reported by the committee on reconstruction for the amendment of the Constitution of the United States—

Mr. JULIAN said:

Mr. SPEAKER: Before this debate shall be concluded I desire to submit some observations which I deem important, and which I respectfully commend to the consideration of those who advocate the proposition reported by the joint committee of fifteen. How I shall finally cast

my vote on that proposition I cannot now certainly decide. I find difficulties in my path; and I shall feel much obliged to any gentleman who may be able and willing to clear them away, and thus, perhaps, assist others on this floor in reaching a just conclusion. I should regret exceedingly to separate myself from those with whom I habitually act here, by opposing the measure referred to, and I must not do so without recording my reasons; and these reasons, in so far as they possess weight, may serve as my protest against whatever is objectionable in that measure, should its modification be found impracticable, and I should finally give it my support as the best thing within our power.

Under the constitutional injunction upon the United States to guaranty a republican form of government to every State, I believe the power already exists in the nation to regulate the right of suffrage. It can only exercise this power through Congress; and Congress, of course, must decide what is a republican form of government, and when the national authority shall interpose against State action, for the purpose of executing the constitutional guarantee. No one will deny the authority of Congress to decide that if a State should disfranchise one third, one half, or two thirds of her citizens, such State would cease to be republican, and might be required to accept a different rule of suffrage. If Congress could intervene in such a case, it could obviously intervene in any other case in which it might deem it necessary or proper. It certainly might decide that the disfranchisement by a State of a whole race of people within her borders is inconsistent with a republican form of government, and in their behalf, and in the execution of its own authority and duty, restore them to their equal right with others to the franchise. It might decide, for example, that in North Carolina, where 631,000 citizens disfranchise 331,000, the government is not republican, and should be made so by extending the franchise. It might do the same in Virginia, where 719,000 citizens disfranchise 533,000; in Alabama, where 596,000 citizens disfranchise 437,000; in Georgia, where 591,000 citizens disfranchise 465,000; in Louisiana, where 357,000 citizens disfranchise 350,000; in Mississippi, where 353,000 citizens disfranchise 436,000; and in South Carolina, where only 291,000 citizens disfranchise 411,000. Can any man who reverences the Constitution deny either the authority or the duty of Congress to do all this in the execution of the guarantee named? Or if the 411,000 negroes in South Carolina were to organize a government, and disfranchise her 291,000 white citizens, would anybody doubt the authority of Congress to pronounce such government anti-republican, and secure the ballot equally to white and black citizens as the remedy? Or if a State should prescribe as a qualification for the ballot such an ownership of property, real or personal, as would disfranchise the great body of her people, could not Congress most undoubtedly interfere? So of an educational test, which might fix the standard of knowledge so high as to place the governing power in the hands of a select few. The power in all such cases is a reserved one in Congress, to be exercised according to its own judgment, with no accountability to any tribunal save the people; and without such power the nation would be at the mercy of as many oligarchies as there are States. *Nationality* would only be possible by the permission of the States.

The same authority, Mr. Speaker, is claimed by eminent jurists under the constitutional amendment abolishing slavery, and giving Congress the power, by "appropriate legislation," to "enforce" the provision. The word "appropriate" appeals to legislative discretion, and the word "enforce" implies such compulsory measures as Congress may deem "appropriate" for the purpose of ridding the country of every vestige of slavery, in form and in fact. "There can be no denial," said Chief Justice Parsons

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not long since, "that when this whole amendment shall be adopted Congress will have the constitutional power—be its exercise of this power wise or unwise—to rend slavery out from our whole country, root and branch, leaf and fruit, and guard effectually against its return in any form, or under any guise, or to any extent." The nation, in other words, having given freedom to four million people, can make that freedom a blessing by conferring it in substance, as well as in name. It not only can do this, but is sacredly bound to do it. The right to freedom carries with it the right of way to it, and that right of way is the ballot. Without it the freedom of these people is a delusion and a lie.

The freedmen of the South are not free, and cannot be, when left to the domination of their former masters, exasperated by their defeat in a war which outraged civilization by thus aiming to perpetuate their rule. I need not argue this proposition, because no man can dispute it without ignoring the most obvious principles of human nature, and closing his eyes to well-authenticated facts of recent occurrence in the island of Jamaica and in the States lately in revolt. Sir, every gentleman on this floor knows what a shadow and a mockery is the freedom thus far vouchsafed to the millions now declared free by the Constitution, and that to commit their fortunes to the tender mercies of white rebels would be like committing the lamb to the jaws of the wolf. But if I am right, then Congress could unquestionably place the ballot in the hands of the loyal freedmen, and thus arm them with the power of self-defense, and save them from a condition of pitiless serfdom, in comparison with which slavery in its old form would be a blessing. I ask gentlemen, therefore, to remember, that should every proposed amendment of the Constitution now before this House be voted down, we shall not, I think, be wholly without a remedy for the evil we are so anxious to cure. Instead of restricting representation to actual suffrage, we can extend suffrage to actual representation, which will be far better. It is true that the power of Congress to guaranty republican governments in the States through its intervention with the question of suffrage has not hitherto been exercised; but this certainly does not disprove the existence of such power, nor the expediency of its exercise now, under an additional and independent constitutional grant, and when a fit occasion for it has come through the madness of treason. It will not be forgotten that we have entered upon a new dispensation. Slavery sleeps in its bloody shroud. Its shaping hand, as we believe, will no longer mold our national policy at home or abroad. Its evil genius will no longer inspire our public men, and give law to the nation from the supreme bench; but in the noonday radiance of universal liberty the Government, I trust, in all its departments, will find its speedy deliverance from the trammels of the past. Such, at least, is my hope.

But, Mr. Speaker, I may be mistaken. We may not be able, at a single bound, to escape the benumbing influence of slavery. Our exodus from the long and sore bondage of the past may be tedious and toilsome. Our dwarfed manhood may require time and judicious tonics to restore its original vigor. I cannot feel at all confident in the opinion I have expressed, when I find so many distinguished gentlemen on this floor insisting that we are still bound by former interpretations of the Constitution, in the interest of slavery. I therefore favor a constitutional amendment which shall make certain that which may otherwise remain doubtful. But I do not see how I can consistently support the amendment reported by the joint committee, though I do not say that I will not. In the first place, it seems to me that it offends the moral sense of the country. It provides "that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation." Sir, what right has any State "to deny or abridge the

elective franchise on account of race or color?" To assent to such a proposition is to insult humanity and mock justice. It is, moreover, as absurd as to deny or abridge the franchise on account of the distance across the Atlantic or the height of the Alleghanies. Why not say, in the plain affirmative words of the amendment submitted by the gentleman from Massachusetts, [Mr. ELIOT,] that—

"The elective franchise shall not be denied or abridged in any State on account of race or color?"

The distinguished chairman of the joint committee concedes the right of a State under the Constitution to disfranchise its citizens for such cause, and so does my friend from New York, [Mr. CONKLING.] If they are right, then the very thing to be done is to amend the Constitution in that particular. Have we any authority to sacrifice the rights of a whole race in the South in order to save ourselves from the evils of unequal representation, and thus compound with injustice and oppression? Will the world justify us in protecting our own political rights and abridging the rights of white rebels at the expense of millions of freedmen who will thus be made the vicarious victims of our policy? Would that be an honest payment of the debt we religiously owe them? My friend from Ohio [Mr. BINGHAM] differs with his colleagues on the joint committee as to the right of a State to disfranchise her citizens, and defends the proposed amendment as a mere penalty designed to restrain the States from violating their constitutional duty.

Mr. BINGHAM. I do not admit and never have admitted that any State has a right to disfranchise any portion of the citizens of the United States, resident therein, entitled to vote for Representatives under the second section of the first article of the Constitution, except as a punishment for their own crimes. A citizen may forfeit his right by crime, and the State may enforce that forfeiture. I favor this amendment as a penalty in aid of the rights guaranteed by the Constitution as it now stands.

Mr. JULIAN. The gentleman misunderstands what I said. I have just stated what the gentleman from Ohio now affirms, that he defends the amendment reported by the committee as a mere penalty intended to restrain the States from striking down the rights of their citizens under the Constitution; but as we are now endeavoring to amend the Constitution, why incorporate in it a mere penalty against its violation, which at least seems to imply the right to violate it, if the penalty shall be accepted? Since the whole policy of the Government from its beginning has yielded the right of the southern States to disfranchise their people of color, why not provide a positive prohibition of such right? Mr. Madison declared it to be wrong "to admit in the Constitution the idea that there can be property in man." So I say it seems to me wrong to admit in this amendment the idea that the rights of the citizen can be taken away by reason of color or race, and that in perfecting the organic law of the nation we should avoid any phraseology which by any possibility would admit a construction so fatal to the fundamental principle of all free government. Why temporize by adopting halfway measures and a policy of indirection? The shortest distance between two given points is a straight line. Let us follow it, in so important a work as amending the Constitution. The advocates of the proposed amendment do not profess to be satisfied with it. They confess that it comes short of its purpose. They say they have another proposition in reserve which will cover the whole ground. Then why not bring it forward and let us meet it on its merits? Why yield any longer to the policy of compromise? Sir, remembering the mistakes of our fathers in the beginning, and the frightful legacy to their children which has been the result, let us be warned against any short-sighted and temporary expedients to-day. Let us bring ourselves face to face with the great demand of the nation upon us, and then appeal to the people to sanc-

tion a plain, unambiguous amendment of the Constitution, which we believe to be necessary for their future security.

But the advocates of this measure, while promising us a better, frankly tell us it is the best we can now hope to secure. They defend it on this ground, and insist that our present alternative is between its adoption, and the representation of four million loyal colored people in Congress by ex-rebels, who would utterly misrepresent their wishes and trample down their rights. To this several answers are obviously suggested.

In the first place, how do you know that the broad proposition I advocate will fail in Congress, or before the people? These are revolutionary days. Whole generations of common time are now crowded into the span of a few years. Life was never before so grand and blessed an opportunity. The man mistakes his reckoning, who judges either the present or the future by any political almanac of bygone years. Growth, development, progress, are the expressive watchwords of the hour. Who can remember the marvelous events of the past four years, necessitated by the late war, and then predict the failure of further measures, woven into the same fabric, and born of the same inevitable logic? It is only a few days since this nation, speaking through its Representatives on this floor, by a vote of 116 against 54, deliberately sanctioned the very policy I urge as an amendment to the Constitution of the United States. Sir, if that policy is right in this District, shall we decline to extend it over the districts lately in revolt where far stronger reasons plead for it? Shall we distrust the people, who have been so ready to second all radical measures during the war, and now speak with such emphasis on emerging, with newly anointed vision, from its terrible baptism of fire and blood? And besides, how do you know, Mr. Speaker, that even the proposition reported by the committee can prevail, either in Congress or in the States? It encounters, I know, a very considerable opposition here, and I sincerely hope it may be recommitted and amended. It may encounter a greater opposition in the States. Its indirect mode of reaching a desirable result, and its apparent recognition of the infernal heresy of State sovereignty, may seriously endanger, if not totally defeat, the proposition. Sir, I hope this suggestion will not be deemed unworthy of consideration. But the question, after all, is, what amendment of the Constitution, if any, is really demanded? If we can agree as to this, then we should submit it, trusting in God, in the people, and in the great educational forces now everywhere at work, that it will prevail. Should it fail for a season, it will triumph ultimately, and in the end repay all the cost of its delay. Neither constitutional amendments nor reforms in any other direction could make much headway, if no man should ever espouse them till the people are found prepared to accept them without opposition or dissent.

Again, Mr. Speaker, it should not be forgotten that the proposed amendment, should it prevail, must fail of its purpose till after the census of 1870. If I am not mistaken, there could be no new allotment of Representatives among the southern States prior to that time. If I am mistaken, and the Constitution will permit us to take another census whenever we choose, it will not make any practical difference, as no one proposes that measure, and if adopted the reapportionment under the new census could not take effect sooner than the time I have named. In all these intervening years, therefore, these rebel States must have their full representation under the existing basis, or else their Representatives must be kept out of Congress. If they should be admitted, prior to the passage of the amendment, there would be no coercive authority in the hands of the Executive or Congress to constrain any State to ratify the amendment, and it could not be ratified. If the southern Representatives should not be admitted, then the evils of unequal rep-



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resentation would be avoided, so long as they are kept out. The object of the amendment, therefore, namely, the reduction of rebel representation in Congress and the extension of suffrage to the whole people of the South, could not be secured before the year 1870, or 1872, if the next census shall be taken at the regular time; and then it would remain for the southern States to say whether they would give the ballot to the negroes, or still cling to that unchristian spirit of caste and lust of power which have so long been the higher law of the South. If I am correct in making these statements, much of the alleged practical significance of the proposed amendment is made to disappear, and we are thus the better prepared to demand the amendment, really necessary and effective, or else such congressional action as shall grant suffrage to the people of the South, irrespective of color. Should both these measures for the present be found impracticable, I do not see that any great interest of the country will suffer in consequence, while the regular march of events and the great tidal force of public opinion will at length open the way for such action, in some form, as shall be required by the national exigency.

Finally, Mr. Speaker, I deny that the rebels of the South, who are the rulers of the South, would grant the ballot to the negro if the proposed amendment were now in full force. They would not do it, because their love of domination, their contempt for free labor, and their scorn of an enslaved and downtrodden race are as intense as ever. They hate the negro now, not simply as the ally of the Yankee in foiling their treason, but as the author of all their misfortunes, who, having been villainously misused by them, is of course villainously despised. They hate him with a rancor that feeds unceasingly upon every memory of their humiliation and defeat. They confront him with a hatred so remorseless, withering, consuming, that it crops out to-day in every quarter of the South, in deeds of outrage, violence, and crime, which find no parallel even in the atrocities practiced in that section under the old codes of slavery, which were codes of murder and all minor crimes. Can any gentleman read the late report of General Schurz, and listen to the testimony of the great cloud of concurring witnesses whose voices are now filling the land, respecting the popular feeling in the South, and then believe that the rebel class will ever, under any inducements, voluntarily give equal political rights to the freedmen? The leaders of southern opinion openly declare that they would rather die than give the ballot to their former slaves. While it would give their section an increased representation in Congress, that representation would be secured by the votes of negroes, and abolitionists, whose darling purpose would be to Yankeeize and abolitionize the entire South, and put the old slave dynasty hopelessly under their feet. And the old slave dynasty understands this perfectly. They know that negro suffrage, by checking rebel rapacity and restoring order, and thus rendering emigration from the North and from Europe a safe and practicable thing, will reorganize the whole structure of society in their region, and thus doom their pride and sloth to a hopeless conflict with the energy and enterprise of free labor. Do you tell me that men are governed by their own interests, and that the ruling class in the South, finding no other way to serve those interests, will extend suffrage to the negroes? I answer, that long-cherished and traditional prejudices and passions are stronger than interest. It was always the true interest of the South to abolish her slavery, but she waged a horrid war to save and eternize it. She could always have increased her power in Congress by its abolition, but she loved her domination over the negro more than she loved political power. It was the interest of the northern States, long ago, to unite in checking the aggressions and the further spread of slavery in the Union, and thereby to hasten the

employment of peaceable measures in the South for its abandonment; but the northern States, on the contrary, became the allies of the slave breeders in fortifying and extending their rule on this continent. It was the interest of our first parents not to sin, but the devil proved too much for them. Sir, the argument of interest will not do. Passion is stronger than interest, because, being blind, it does not perceive the best good. Before I agree to intrust the freedmen to the interest of their old masters, I want to know that they understand what their interest is, and that they have so far outlived their prejudices that they will follow it. I think no gentleman on this floor can feel sure on these points. What we want, what the nation needs for its own salvation, is a constitutional amendment, or a law of Congress, which shall *guaranty* the ballot to the freedman of the South. This is not simply his equal political right as a citizen, but his natural right as a man. As I have argued on another occasion, a voice in the Government which deals with property, liberty, and life, is not a "privilege," but a *right*, and as natural, as indefeasible as the right to life itself. Government cannot rightfully withhold it, but is as sacredly bound to secure it to all men, regardless of race or color, as it is bound to secure other rights which are accorded to them by common consent as natural. In this view I am very glad to find myself sustained by some of the ablest men in this House. Our fathers affirmed, as a self-evident truth, that all men are endowed by their Creator with the right to life, liberty, and the pursuit of happiness; and that Governments are instituted among men to *secure* these rights, deriving their just powers from the consent of the governed. Sir, let us not shrink from the practical vindication of this truth. Let us recognize no such anomaly in our free system of government as a disfranchised citizen, innocent of crime, but prize the franchise as so sacred that a man without it shall everywhere, and of necessity, wear the brand of a convicted enemy of society. Let us not preach a mere lip-democracy, while we confess by our acts, our faith in the maxims of despotism. Let us not, with the warnings of the past before us, still continue to deny the very gospel of our political salvation, and arm the absolutists of the Old World with weapons fatal to every just theory of republicanism. Let us not make enemies and outlaws of four million people, among whom no traitor or sympathizer with treason has ever yet been found; who were eager to help us from the very beginning of our struggle, and as soon as we were ready gladly furnished nearly two hundred thousand soldiers to aid in saving the nation's life; and who, if allowed justice at our hands, will be found in the future, as they have been in the past, our effective auxiliaries and most faithful friends. Above all, let us remember, for our own sake as well as that of the colored race, that justice is omnipotent; that her demands must be met to the uttermost farthing, and cannot be slighted without offending the Most High; and that if, when our pathway is lighted up by the fires of a stupendous civil war, which the whole world interprets as the avenger of these wronged millions, we now turn a deaf ear to their cries, our guilt as a nation, and our retribution, will find no precedent in the annals of mankind.

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## SPEECH OF HON. JOHN L. THOMAS,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

January 31, 1866,

On the proposition to amend the Constitution of the United States, apportioning representation.

Mr. J. L. THOMAS. Mr. Speaker, the discussion of the propositions from the committee on reconstruction to amend the Constitution of the United States has developed such a va-

riety of opinion that it is with great difficulty we can estimate the value of either of them, or determine which one should receive our assent. That the altered condition of our country requires reform in our fundamental law, none but those on the other side of the House deny. That we have not only the power under the Constitution to alter and amend that instrument, but that it is our imperative duty to do so, all candid, patriotic men must admit.

To be sure it has been asserted that now is not the time, nor this body the proper medium, by and through which our organic law should be changed. It is insisted that we should wait till the States lately in rebellion are represented on this floor, so that they be heard and consulted as to what is agreeable to them to be put in the Constitution. Sir, I am afraid if we wait for the return of our "erring sisters," who departed from this House at a time and under circumstances not well calculated to legislate for the good of the Union, that we will find that but one constitutional amendment could have any chance of receiving their votes, and that one the repeal of section three article three of the Constitution.

Such reasons as these, Mr. Speaker, are but the special and dilatory pleadings of astute advocates, determined to resist all and any effort to reconstruct the rebel States on any principle save an unconditional surrender of all the great results flowing from this war.

For myself, I have too little faith in the professions of loyalty on the part of the leading men of the States lately in rebellion to be induced to put off till to-morrow that which reason and justice and a sound policy demands should be done to-day.

The fathers of the Republic and the founders of the Constitution had no conception at the time they formed that instrument that their children could become so wicked as, in the short space of three score years and ten, to fill the land with slaughter and blood in striving to tear down their handiwork. They made no provisions to meet the great changes that have been occasioned by this rebellion.

We find that even the First Congress, that met at the city of New York on the 4th of March, 1789, proposed twelve amendments to the Constitution, all of which were ratified by the States except the first and second proposed to them. We find that at the first session of the Third Congress another amendment was proposed, and at the first session of the Eighth Congress still another, all of which were ratified by the several States. So that it will be seen that so far from our proposed action being a "new thing," our predecessors, many of whom were members of the Convention that framed the Constitution, added to and altered as the times and the occasions demanded. If they had not have acted thus, some of the most valuable powers given to the Government, and some of the most precious retained by the States, would not this day be in existence.

Alexander Hamilton, in his introduction to the Federalist, makes this just reflection, which, I think, is peculiarly appropriate at this time:

"It has been frequently remarked that it has been reserved to the people of this country to decide by their conduct and example whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitution on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the period when that decision is to be made; and a wrong election of the part we shall act may in this view deserve to be considered as the general misfortune of mankind."

I am not of a nature inclined to indulge in gloomy forebodings, nor to think that "all is lost that is in danger." Nor am I at all gifted with an imagination that will allow me to picture "a land flowing with milk and honey" when I see before me nothing but sand and barrenness. Judging from the official accounts we have received from our southern borders, I cannot think that "peace yet reigns supreme," or that "grim-visaged war hath smoothed his wrinkled

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front," except in so far as the legions of Sherman and Grant would indicate by their having gone to their homes and rested from their labor. The war, to be sure, is over; but there is another battle yet to be fought. Our brave soldiers did not fail in meeting the demands of the country when they faced the cannon's mouth and braved death and starvation to preserve what we enjoy to-day, and we would be recreants and cowards were we to fail in comprehending the great results of this war, and not come up like men and patriots to meet the demands of the hour.

Judging the South by some people in my own State, I am inclined to believe that rebellion only "sleepeth" and is not dead. I have no unkind words for any man, and would rather forget the past than to recount it; but when I see men in my own State who, in the hours that tried true men's souls, proved faithless in their loyalty and used all of their influence to induce the people of my State to take up arms against the Government, men who have been incarcerated as traitors to their country, men who rejoiced at every Federal reverse and lamented at every Federal victory—when I see men like these, I say, arrogantly and imperiously demanding that they should participate in the affairs of the Government, and that Union men, who have stood the test of loyalty and have sacrificed friends and social ties and kindred for their country, should hand over what they have preserved to such as sought to destroy them, I begin to think it is time for "the watchmen on the towers of freedom" to keep a sharp eye and a steady hand on such as are beyond the Potomac.

As God knows my heart, I have no bitterness of feeling toward the people of the South. Some of the dearest kindred I have on earth are there, and buried beneath her soil sleep the remains of all that have gone of my flesh and blood. There is no one more desirous than I am that the enmities of this war should be forever buried, that its animosities should be forgotten, and that the people of these States should be bound together by the golden chains of love. No one will go further than I shall to accomplish it.

But, sir, I remember that I have a duty to perform to the future. What has happened once may happen again; and unless we of to-day make up our minds to so build up that which has been torn down, as that the causes that produced the rebellion shall be forever blotted out, and the active agents in them disqualified from hereafter participating in our national affairs, we will leave to our children the same legacy that our fathers left to us.

When these propositions were first submitted I was disinclined to vote for any of them, and especially when the distinguished chairman of the committee undertook, Joshua like, to stop the sun in his diurnal course, when he stated that these resolutions should be passed upon before the going down of the sun. But, sir, after I had examined the subject carefully, I became satisfied that the sooner they were disposed of the better for the peace and quiet of the whole country.

It appears to me, Mr. Speaker, that slavery having been abolished, the basis of representation, as fixed upon by the Constitution, is not only meaningless, but, if suffered to remain there, will work the grossest injustice, and result in permanent injury to the interests of our country hereafter. I cannot close my eyes to the fact that fifty-seven disloyal Representatives and twenty-two disloyal Senators are quite enough to "clog the wheels of Government," and be able in after time to produce a revolution, peaceful, it may be, but as disastrous to the loyal States as the war has been to the South.

That this clause was inserted in the interests of slavery is apparent by reference to the debates of the Convention that framed the Constitution, and more particularly by reference to the remarks of Charles C. Pinckney in the convention

of the State of South Carolina. He says, page 355 Elliot, volume three:

"As we have found it necessary to give very extensive powers to the Federal Government, both over the persons and estates of the citizens, we thought it right to draw one branch of the Legislature immediately from the people, and that both wealth and numbers should be considered in the representation. We were at a loss for some time for a rule to ascertain the proportionate wealth of the States. At last we thought that the productive labor of the inhabitants was the best rule for ascertaining their wealth. In conformity to this rule, joined to a spirit of concession, we determined that Representatives should be apportioned among the several States by adding to the whole number of free persons three fifths of the slaves. We thus obtained a representation for our property, and I confess I did not expect that we had conceded too much to the eastern States, when they allowed us a representation for a species of property which they have not among them.

"The numbers in the different States, according to the most accurate accounts we could obtain, were:

New Hampshire.....	102,000
Massachusetts.....	360,000
Rhode Island.....	58,000
Connecticut.....	202,000
New York.....	238,000
New Jersey.....	188,000
Pennsylvania.....	360,000
Delaware.....	37,000
Maryland (including three fifths of 80,000 negroes).....	218,000
Virginia (including three fifths of 280,000 negroes).....	420,000
North Carolina (including three fifths of 60,000 negroes).....	200,000
South Carolina (including three fifths of 80,000 negroes).....	150,000
Georgia (including three fifths of 20,000 negroes).....	90,000

It will be seen from this that the three-fifths rule was to represent the slave property, and nothing else. The slave property having now become changed by the constitutional amendment abolishing slavery, no State of this Union is any longer entitled to have a representation for what does not and cannot by the terms of the same Constitution have any existence.

This being the case, the question is now presented, what basis shall be proposed to the States for their ratification or rejection?

I always considered that representation according to population was the best and most certain way of apportionment. I see a great many difficulties in basing representation on voting population, unless you say at the same time that the qualification for electors shall be uniform in all the States, so as to prevent one State from manufacturing a class of voters that another State would refuse to have; and yet I do not see how this can be done unless you give the power to Congress to regulate by general law the qualification of voters for each State. This I am opposed to, for the reason that it would be depriving the States of one of their most precious rights, and at the same time give to Congress a power that would be dangerous in its application. To have representation based on voting population would be most unjust to such of the loyal border States as were compelled to ingraft clauses in their constitutions preventing such of its citizens as were engaged in rebellion against the Government from exercising the elective franchise. Maryland and Missouri are perhaps the only States that have laws to exclude this class of disloyal persons. Kentucky, I believe, had one, but repealed it; and the repeal of that law by Kentucky has been a warning to Union men in my State to let it remain as it is until rebels learn to breathe a spirit of loyalty to the Government. Strenuous efforts are now being made in my State to repeal that law; and public meetings have been held, bold and defiant resolutions passed, and petitions circulated and signed by all the rebels and rebel sympathizers in the State, asking the Legislature to restore them to their rights, which they say the Union men deprived them of.

Here is one of a number of the resolutions lately passed at a meeting of these men in Baltimore, which will show the kind of reasoning they resort to in demanding their rights:

"This convention, after having carefully deliberated, and having ascertained what enlightened public sentiment demands, now express their profound conviction that it is the duty of the Legislature, at its present session, to repeal the registration law passed in

March last, which has brought inquisitorial power, in its most odious and irresponsible form, to the fireside of our citizens; which compels every man to give evidence against himself, under oath, as to the utterance even of his private thoughts and sentiments within the sacred circle of his own family, and which, whether he confess or refuses to swear, equally declares him degraded; which offers a premium to perjury and corruption, and imposes penalties only upon the conscientious and the truthful.

"They further declare that the fourth section of the first article of the constitution relating to the qualification of voters, and prescribing a test oath for them, and the seventh section of the same article prescribing a retrospective test oath for all State officers, are repugnant to the spirit of the constitution of the United States and to our own declaration of rights, and that it is the duty of the present Legislature to pass an amendment of the constitution according to the terms of the eleventh article of that instrument, abrogating those odious and anti-republican provisions, and to submit that amendment to the people at the next general election for ratification. And, as a measure of immediate relief, this convention also declares that the Legislature ought to pass an act, in conformity to the provisions of the constitution, restoring to his full rights of citizenship every one who is deprived of this by the terms of the fourth section of the first article of the constitution."

Be it remembered, too, that some of these men are the descendants of the soldiers of the "old Maryland line," whose contemporaries passed laws to better secure the Government, and to prevent the men who refused to aid our revolutionary sires from participating in the affairs of Government.

Here is an act passed by the General Assembly of Maryland, October, 1777:

"Whereas in every State allegiance and protection are reciprocal, and no man is entitled to the one who refuses to yield to the other; and as every inhabitant of this State enjoys the protection and benefit of the government and laws thereof, and as it is reasonable that any person should give testimony of his attachment and fidelity to this State and the present government thereof as now established: Therefore,

"Be it enacted, &c., That every free male person within this State above eighteen years of age, unless a Quaker, &c., shall, on or before the 1st day of March, take, repeat, and subscribe the oath of fidelity and support to this State, contained in the act entitled 'An act to punish certain crimes,' &c."

The following is the oath referred to:

"I will be true and faithful to the State of Maryland, and will, to the utmost of my power, support, maintain, and defend the freedom and independence thereof, and the government as now established, against all open enemies and secret and traitorous conspiracies, and will use my utmost endeavors to disclose and make known to the Governor or some one of the judges or justices thereof all treasons or traitorous conspiracies, attempts or combinations against the State or the government thereof, which may come to my knowledge. So help me God."

And it will be found by reference to another section of the law that every person neglecting to take the oath was not only "mulct" in heavy damages, but forever disqualified from holding any office:

"SEC. 10. That every person neglecting shall, for and during life, in all public and county assessments, pay a tax twice the tax which, by such public and county assessments, shall be imposed upon every £100 worth of real or personal property within this State, and so *pro rata*, which said tax shall be paid, collected, and levied, &c."

"SEC. 17. That every person chargeable with the treble tax aforesaid shall be forever disabled and rendered incapable to practice the law, physic, or surgery, or the art of an apothecary, or to preach or teach the Gospel, or to teach in public or private schools, or to hold or exercise within this State any office of profit or trust, civil or military, or to vote at any election of electors or senators, or delegates to the House of Delegates, and, if any such person shall offend against this act in any of the particulars above specified, he shall, for every such offense, forfeit and pay £5 for every £100 of property he shall be deemed worth on the public assessment of all property within this State."

Thousands of these men were disfranchised after they had left a State that, thank God, was true to the Union, and had joined the enemies of the country, to fight your sons and brothers in maintaining the Union. Is it for such men as these, who desecrated the soil of Maryland at Antietam and at South Mountain, and who carried devastation and ruin in their track, despoiling our fields and despoiling our homes—is it for such men to dictate to the people of Maryland when and how and to what extent they shall be allowed to vote? Is it for the men familiarly known and commonly called the "rebel Legislature at Frederick," who for their direct complicity in rebellion were taken military pos-

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session of by the gentleman from Massachusetts, [Mr. BANKS,] and placed where their "bills of safety" and their "resolutions of sympathy" and their "protests" against arbitrary arrests could do the country no harm—is it for such as they to again influence the destinies of my State? Let others act as they may, for one I shall never consent that such men shall be enfranchised till the foundations of this Government have been so firmly established as that no man once tainted with treason can ever exert any influence in unsettling it.

But, sir, the most mortifying thing to me, as a Union man and a Marylander, is the fact that prominent men in my State—men who once held high positions in the Union ranks, and who have been honored by the loyal masses with their confidence—are found leagued with these rebels and rebel sympathizers in obtaining a repeal of the clause in our constitution disfranchising them on account of their disloyalty. To say that the Union people of Maryland hold in utter abhorrence such men is not to express half of the indignation that is felt at the unholy alliance they have made; and I venture to assert that these disfranchised rebels, who are now using them as their pliant tools, will, so soon as their work has been finished, cast them adrift as no longer worthy to associate with "southern chivalry." Prominent among these "constitutional reformers" is one who, failing to become the leader of the Union element, has sought for prominence among those who hate him as cordially as they love, or rather feign to admire, his treason to his party. They are dupes enough to believe that that gentleman can make their "calling and election sure." In a speech which he lately made to the "anti-registration convention" he thus discourses:

"The President of the United States has said that we must trust the people with their Government. [Applause.] That is the principle I go upon. And when we have got to the period when we cannot trust the people with their Government, there is an end of the nature of government. And he applies that to the southern States where the rebellion has been existing, and where all men, whether they concurred in the original policy of secession or were drawn into it by their sympathies with their brethren, have been or still are arrayed against the Government. He says to his fellow-citizens, 'You must trust those men with the management of their local governments and give them their share in the affairs of the General Government.' *A fortiori*, if this can be said of the southern rebellious States, it can be said of the State of Maryland. And yet, here in Maryland, by the process taken here, more than one half of her stalwart population are denied a share in the Government of the country. Everybody agrees that our troubles are over—General Grant, General Sherman, Governor Andrew, in a late message to the members of the General Assembly of Massachusetts. And let me tell you here that I have great respect for Governor Andrew. He is one of the sincere men of the country. He says that everybody in the South has upheld the sentiments of secession, but that it is a thing of the past. That is the sentiment of the men who have mingled in the war and the disinterested men who have looked on from a distance. Why, then, are our people here and there to be disfranchised? It is for the object of possessing political power [loud applause and hissing] in defiance of the political principle which underlies our whole form of Government; that the minority may rule the majority. And they have ulterior objects in view to perpetuate that rule. They do not anticipate that they can keep forever one half of the whole country, or one third of you, my fellow-citizens, from sharing all power in the Government; but they anticipate keeping it so long until they can force into the elements of political power the black race. [Long-continued applause, and cries of 'That's the ideal!']

"That is, to build power over you and over our fifteen southern States, until it is absolute that such elements are introduced into the future history of the country, to be managed by the Freedmen's Bureau, and absolutely controlling the balance of power of the whole of these fifteen States in which that institution has existed. You see that it is a very large scheme, conceived with very great skill, and by very adroit and ambitious men. A little while ago, having this conception of the matter, I felt it my duty to separate myself, in my political action, from the organized forces with whom I had been voting during the war, and to go to that party and help and aid it in bringing the country together—the Democratic party, [enthusiastic cheering:] the Democratic party, which it is charged by the opponents is to be restored to power if these southern States are to have their rights of franchise. If they had no higher motive for exerting themselves in behalf of the southern States, I go with them without regard to their motive, because that is our object, and I want to see it secured. The other side, acting upon the same

party interests, seek to keep those States out, because they apprehend they will be voted down. That made a great hurrah among my friends of the Union party in Maryland, that I should presume to have an opinion of my own, and to act upon it in regard to the existing circumstances. Some of the gentlemen with whom I had been associated, some of whom I had been instrumental in electing to Congress, reproached me with having left them and gone to the side of the Democratic party in New York. Well, what have they been doing? They have been voting with the Democrats in the House of Representatives. They have found, what I told them before, that this radical party, which predominates, and under the discipline of old Thad. Stevens, who drives them where he wills, has got the negro as the predominating element to the control of power. Mr. Phelps, and John L. Thomas, jr., and others, who represent the constituencies of Baltimore, have to vote with the Democrats all the time."

Now, sir, in so far as these remarks are applicable to myself, I can only say that this gentleman is the last man on earth that I am indebted to for the position I occupy in this House. On the contrary, it has been asserted that he was the friend of another gentleman who failed to get the nomination of my party. Neither am I aware of having "reproached him for going over to the side of the Democratic party." I never considered that his going over to the Democracy was of any moment, and I do not think his defection will carry along with it any consequences detrimental to the Union party.

As to my voting with the "Democrats all the time," it is not "according to the record." I have never voted for a Democrat in my life, and since I have had the honor to be a member of this body I have found my name recorded on the same side that they supported but once, and that was on the District suffrage bill. Had I the right to vote to-morrow, I would vote the same way and for the same reasons.

Sir, these men who left the State to engage in armed rebellion will find that the Union men of Maryland are not inclined to sell their hard-earned heritage for a mess of pottage. They will discover that there is loyalty enough in the State to prevent its surrender to its enemies, and that he whom they have chosen as their leader will be as successful in deluding the Union party to commit suicide as he was in persuading the people of New York to support John Van Buren & Co.

I hope, Mr. Speaker, I may be pardoned for thus alluding to the affairs of my State; but as the proposition of the gentleman from Ohio, [Mr. SCHENCK,] basing representation on voting population, would be unjust to the Union people of my State, and, in my opinion, aid directly the efforts now being made to enfranchise the rebellious portion of it, I thought it my duty to allude to it, and at the same time to defend myself from the efforts made by their leader to place me where I do not now, never have, and never expect to belong.

I have said, Mr. Speaker, that population was the most certain way of apportioning representation. I do not see how we can agree on any other plan. To base representation on wealth, or the amount of taxable property in a State, is not right in its theory or just in its practical workings. It would give large representation for wealthy cities, and do an injustice to agricultural districts; and the only feasible plan that has been proposed is the one reported from the committee on reconstruction.

This resolution has been supposed by some to be intended to force negro suffrage on the southern States. If I thought that this was either its intention or would be its effect, I would not support it. I am opposed to negro suffrage at this time, in any manner and any and everywhere, for the reasons fully stated by me in the debate on the District of Columbia bill. I have nothing to take from what I then said. From the language and intention of this proposed amendment, I am satisfied that no southern State will grant the suffrage to the negro. They cannot give a qualified suffrage to the negro for the reason that they make nothing in their increase of representation. They will not give them universal suffrage, because a majority of white men cannot be found in the

South willing to place them on the same political level. It leaves it to be settled by each of the States for themselves, and that without any interference by the General Government.

The effect of this amendment will be that the States lately in rebellion will lose ten Representatives in this House.

To illustrate this point more fully, I beg leave to add the following, from the remarks of the gentleman from Ohio, [Mr. LAWRENCE,] and which shows the gross inequalities that have existed all along, and will continue to exist, unless this amendment becomes a part of the organic law:

"In 1790 the ratio of representation was one Representative to every thirty-three thousand of the representative population. Now it is one Representative for every one hundred and twenty-seven thousand. On the 23d of May, 1850, the principle was established, for the first time, of limiting the number of Representatives, and thus relieving Congress of the necessity of fixing every ten years the number of members of which the House should consist. This law established the number of Representatives at two hundred and thirty-three, who were to be apportioned among the several States, respectively, by dividing the number of the representative population of the States by the number 233, and the product of this division was to be the ratio of representation. In the slave States three fifths of the slaves were added to the white class to preserve the balance of power. This law of May, 1850, was changed after the apportionment by another law, passed on March 4, 1862. This increased the number of Representatives to two hundred and forty-one, several of the States gaining one member by the change."

"This representation was apportioned among the several States having free and slave population thus:

States.	Representatives.	Free white population.	Slave population.
Alabama.....	6	526,431	435,080
Arkansas.....	3	324,191	111,115
California.....	3	323,177	-
Connecticut.....	4	451,520	-
Delaware.....	1	90,589	1,798
Florida.....	1	77,748	61,745
Georgia.....	7	591,588	462,198
Illinois.....	14	1,704,323	-
Indiana.....	11	1,339,000	-
Iowa.....	6	673,844	-
Kansas.....	1	106,579	2
Kentucky.....	9	919,517	225,483
Louisiana.....	5	357,629	331,726
Maine.....	5	626,952	-
Maryland.....	5	515,918	87,189
Massachusetts.....	10	1,221,464	-
Michigan.....	6	742,314	-
Minnesota.....	2	178,596	-
Mississippi.....	5	353,901	436,631
Missouri.....	9	1,063,509	114,931
New Hampshire.....	3	325,579	-
New Jersey.....	5	646,699	18
New York.....	31	3,831,730	-
North Carolina.....	7	631,100	331,059
Ohio.....	19	2,302,838	-
Oregon.....	1	52,387	-
Pennsylvania.....	24	2,849,266	-
Rhode Island.....	2	170,668	-
South Carolina.....	4	291,388	402,406
Tennessee.....	8	826,782	275,719
Texas.....	4	421,294	182,566
Vermont.....	3	314,389	-
Virginia.....	11	1,047,411	490,865
Wisconsin.....	6	774,710	-
Total.....	241	28,708,157	3,950,531

"The free colored population of the States in 1860 was 476,562, making a total of 31,194,905.

"From this it will be seen that New Hampshire, with a white population of 325,579, has but three Representatives, while Louisiana, with a white population of 357,629, had five. California, with a white population of 323,177, has but three Representatives, while Mississippi, with a similar population of 353,901, had five. In South Carolina, 72,847 white persons had one Representative, while the ratio of representation is one for 127,000 persons.

"Under this mode of apportionment the late slave States had eighteen Representatives by the census of 1860 more than their just share, if based on free population."

So much impressed were the Union men of Maryland of the preponderating influence in the slave counties of the State, that in 1864, when they abolished slavery, we made a new apportionment of representation, which was based exclusively upon the white population, just as it will hereafter be under this amendment in all the late slave States. We did this because we thought it would be unjust to allow the slave counties to have the same representation for their negroes as freedmen as under the old constitution they had for their slaves.



That this is so can be seen by reference to the third section of article three of the constitution of Maryland of 1850, where it says that representation shall be apportioned according to the population of each county, while in the new constitution of 1864, section four of article three provides "that the white population of the State shall constitute the basis of representation."

Under the old constitution the negroes, free and slave, were counted as population. Under the new constitution neither male nor female colored are counted, but the white population exclusively.

By the census of 1860 Maryland contained, as a portion of her population, thirty-nine thousand seven hundred and forty-six free colored males, and forty-four thousand three hundred and thirteen slave males, making in all eighty-four thousand and fifty-nine free colored males. The most of these are contained in what are known as the first and fifth congressional districts of the State, so that, conceding that Maryland would lose one Representative, the loss of that one would cause such a change in the reconstruction of the congressional districts as that the loyal element will be more evenly diffused where the formerly disloyal predominated.

But it is not at all likely that Maryland will lose any Representative, for, so soon as the people of the North find that we are in earnest in our endeavors to place our State on the firm foundations of right, her enterprise and her people will flood in upon us and fill up what may be temporarily occasioned by the operation of this amendment.

This amendment commends itself to my mind in another particular. By the amendment offered by the gentleman from Ohio, which bases Representatives on the number of male citizens who are allowed to vote in any State, it might have had the effect of forcing the repeal of the law referred to, because as disloyal people are not allowed to vote, neither would they have been counted in the representation.

By the provisions of the amendment of the committee it is only when "the franchise is denied or abridged on account of race or color that all persons of such race or color" are excluded from the basis. Now, we do not exclude such as took part in the rebellion on account of their race or color, but on account of their disloyalty, without regard to race or color, so that all such persons are still counted as a part of the basis just as though they voted.

In conclusion, Mr. Speaker, I desire to say that I am fully alive to the fact that the vote I am about to give will cause to be heaped upon me all the bitter venom and vile abuse of the secesh press of my city and State. I ask no favors from them and expect none. If I received their friendship I should begin to suspicion that I was not "acting in the strict line of my duty" in standing firm and true to the cause which I expose and which they oppose.

When I consented to run as the candidate of the Union men of my district for this body, I told them that if it became apparent to me that the professions of our southern brethren were not sincere, that they were trying to get back into the Union under false pretenses, that they had the rebel still ranking in their hearts, I would reserve to myself the right, while I took them by the hand, to stand true to my country.

Sir, I am convinced from what has transpired in Virginia and elsewhere, and even in my own State, that the only difference between the men who twelve months ago were defying the constituted authorities is, that then they had arms in their hands and armies in the field, now they have neither, but the disposition to have both; ay, sir, they have the determination to seize hold of the political power, and to use it if possible to punish those who have made them submit to the laws.

I have been too true in my devotion to my country in the past to consent that their un-

hallowed hands shall again be allowed to seize the helm of the "old ship of state." Four years of carnage and blood has taught me who the friends of the Republic are, and in their hands I hope it may remain.

I do not know, sir, whether my course in this matter will be indorsed by my constituents or my State. If it be, then I shall be gratified to know that the sentiments I have uttered have been the reflex of their loyal feeling. If such be not the case, I shall at least have the proud satisfaction of knowing that my course here to-day has been prompted by no other motive than a conscientious conviction of a duty I owed to my country and to posterity. I would rather retire from these Halls covered all over with the curses and anathemas of the whole people of my State, feeling that I had acted and voted in so reconstructing this Government as that hereafter no power exerted by the South can ever disturb the harmony of the Union, than to receive their praises and hallelujahs, knowing that I had yielded "one jot or tittle" of the full measure of the solemn responsibility expected of every loyal man.

### Basis of Representation.

### SPEECH OF HON. JOHN HOGAN,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

January 30, 1866,

On the proposition to amend the Constitution of the United States, apportioning representation and taxation.

Mr. HOGAN. Mr. Speaker, this session of Congress has now continued for nearly two months. We have just passed through a war the most terrible in history, one in which immense armies have been gathered and dreadful battles fought. To meet its vast expenditures taxes hitherto unknown in our country have been levied, and for the accomplishment of the great objects had in view the whole people have cheerfully responded to all the vast demands of their Government. Uncomplainingly they have acquiesced in all your measures of excise, tariffs, internal revenue, &c., your issuance of paper credits, and the consequent enhancement of all values, until even the wealthy of your land have found your numerous taxes requiring a full tithe of all their incomes to pay your demands, and the medium and poorer classes are almost absolutely unable to live under their exactions. Yet all these burdens the people of this country have cheerfully borne, feeling that the great object had in view, namely, the preservation of our glorious Constitution, and the Union formed under it, as an inheritance for them and their posterity forever, was worthy of the expenditure; and also because they believed the demands thus made upon them would be but temporary, would soon, with the close of the "war for the Union," cease, and although, from the magnitude of the operations, there would necessarily be a heavy increase of taxation for all time to come, yet there would be some amelioration of its burdens, and those least able to bear it would be freed in some sort from its onerous demands, and they with great propriety looked forward to this Congress, to this Union Congress, having so large a majority of those claiming to be, *par excellence*, the Union party, the friends of humanity, to do something to reduce the oppressive burdens.

But, sir, during these two months of our session they have looked in vain. There are in this country over twenty million white persons who have been paying the taxes and bearing these burdens of the Government, and the members of this House are their Representatives; and yet they seem to be wholly ignored, not thought of, and no measure for their relief brought forward in this House during all this session.

There are other questions of great and vital

interest to very many of the people, which grow legitimately out of the war in which we have been engaged, which demand the attention of this House. Look for a moment at the demands for pensions. Those who were their chief support now lie "beneath the clouds of the valley." Fathers, sons, husbands, fell in the deadly strife, leaving loved ones as dear to them as life, dependent now upon the cold charities of the world. They supposed when their last dying thoughts reverted to the loved ones at home that they would find support from the paternal Government for whose glory and flag and the perpetuation of whose unity they sacrificed life itself. And then, again, look at your multitudes of maimed and disabled and broken-down defenders who are found in all parts of your land suffering, and many of them begging from the passers-by a little pittance to aid in supporting their existence. What are you doing for these multitudes?

I have felt humiliated when, passing through the streets of our large cities, I have been stopped by a maimed veteran wearing the uniform of my country and bearing on his breast the badge of his corps, yet begging each passer-by for something to meet his daily demands. Yet we, the people's Representatives, have wasted precious time without apparently making any effort for relieving either of these most meritorious classes.

Then, again, there is another class that require some consideration. Multitudes of men entered the service of their country in the beginning of the war solely from patriotic motives, firmly believing that their services were required for the safety and perpetuity of their beloved country. They volunteered in its defense. They did not demand or even expect bounties; they left home and family and business and worldly prospects, cheerfully to endure the hardships of a soldier's life, to aid in saving their country from peril. They endured hardship as good soldiers, and for three years and more they labored for the accomplishment of the end they had in view at the beginning, the "preservation of the Union." Many of these men were subjected to very great privations at the early period of this strife, because there was no adequate provision then made by the Government for their equipment and sustenance, yet they bore it all, and went forth to battle for their flag. Many survivors of these early regiments now ask that the bounties and benefits conferred on those who, at a much later date and under more favorable auspices, entered the service of their country, be conferred on them. And, sir, do they ask too much? These were the men "who bore the burden in the heat of the day." But they are unheeded. Unfortunately for them they are only white men. They have no great sympathizing party so sustain their claims. They are not "the wards of the nation." Their interests are all identified with the white race, and in this country now that race is only fit to be taxed. And all these measures and interests are required to "bide their time," and stand without any consideration, while the great American Congress in both its branches attend to the more important and interesting and virtually absorbing subject of the better citizens, the African race, now just released from the fetters of slavery.

There is still another matter by some regarded as important—I mean the recuperation of the country from the waste and desolations of the war. The people of the United States have a right to expect that this Congress will devote itself to some effort at least to repair the waste of the past four years, in which millions of men were engaged in destroying. Sir, if this destruction has been confined chiefly to one section of the country, "if desolation, like a plowshare," has been driven all through the southern portion of the land; if from the Potomac to the Rio Grande farms and houses and agricultural implements have been burned and destroyed; still, that is a portion of our

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country; its losses are the losses of the American Union; its prosperity was once part of our prosperity; its wealth was part of our national wealth, and now its desolation is a portion of the loss of the country by the war, which as statesmen and patriots we should now labor to restore by every means in our power. I do not say that this war was not necessary, nor yet on the whole not beneficial in many ways to the country, but that now when it is happily over, when throughout the length and breadth of the land the people are rejoicing at once more beholding the dawn of peace, when strife has ceased and the burdens necessary to war heretofore cheerfully borne by the people may be expected to cease, the people expect their chosen Representatives to spring to the work of so modifying the existing systems of taxation as to render them less oppressive to the masses and more equitable in their adjustment.

These great questions, however, are required to sleep, pressed off until the session is far advanced, and no time be allowed for calm and proper deliberation, while we gravely, from day to day, discuss the question of suffrage in this District, and amendments to the Constitution for African elevation. I entreat gentlemen to think of the necessities of the country, and as there is no imperative necessity for making this so absorbing a question, that we defer it until we have nothing more important.

Sir, in the progress of this debate some strange things have been uttered and strange positions taken by gentlemen who favor these innovations. In their great zeal for the colored, they seem anxious to decry the white race, and would lead the world to infer that this country is indebted almost wholly to the colored soldiers for the suppression of the "great rebellion." Now, sir, these gentlemen cannot have thought much about the position they assume, or else in their zeal for the favorite they became blind to the merits of all the whites who came to the rescue and achieved successes before colored troops were even allowed to enter our armies in any form except as servants or teamsters.

It was not colored soldiers who fought at Carthage, or Wilson's creek, or New Madrid, or Island No. 10. They did not storm the strongholds at Fort Donelson; nor yet aid in the repulse at Shiloh; nor were they in the lead at Chickasaw bayou; nor did they capture Vicksburg nor Arkansas Post. They were not relied on to reclaim the Peninsula from Yorktown to Williamsburg, nor did they achieve glory at the Seven Pines. The truth is, all of those early victories were won by the indomitable courage of the white race alone, and in great part by the bravery of those soldiers of German birth whom the gentleman from Illinois [Mr. FARNSWORTH] seems to regard as inferior to his great favorite, the negro, and whom in his resolutions he characterizes as "ignorant foreigners who do not understand our language." Yet this very class of men were among the first to spring to arms as volunteers, not waiting either to be drafted or receive bounties, but plunged early into the fight in defense of the Union, especially in the West, and chiefly remained in the Army until the close of the war.

The gentlemen on the other side have no encomiums to bestow on this class; they are not especial favorites; they are only spoken of as "ignorant foreigners who do not understand our language;" they are to be put below the negro, because these latter are "native and to the manner born." And while the gentleman from Illinois decries the German and the Swiss and other continental Europeans of our armies as less intelligent and deserving than the native-born negro, other gentlemen assail the Irish as vastly below the negro in every particular.

Thus the fanaticism of the Republican party having made an idol of the African, determined to give him a monopoly of all good qualities;

and the more effectually to do so degrade the character, the intelligence, and the manhood of the foreign-born whites who in such numbers entered our armies and contributed so much by their bravery, skill, and intelligent endurance to insure victory to the arms of the Union.

But, sir, if we believe the assertions of the advocates of African enfranchisement in this Hall, we will almost be led to believe that the pusillanimous whites of this country, native and foreign, would have suffered this republican Government to have been broken up and our country ruined, had not the noble negro sprung patriotically to the rescue and saved our country for us.

Sir, I think this is all nonsense. I do not deny to the African race all the honor to which they are fairly entitled. I would not detract from them nor undervalue their services, but I do not see that they came as volunteers to the rescue of the Republic. In the early stages of negro enlistment they were generally incited by large prospective bounties and privileges offered by Massachusetts and other northern States to enlist, while in Kentucky and Missouri very many were literally captured and kidnapped into the Army; and finally, when the conscription system was adopted, they were compelled, like others, to serve in the Union armies. But long before any of these things happened nearly one million whites, native and foreign-born, had bared their bosoms to the deadly shot, the blood of thousands had been spilt, and multitudes had laid down their lives in the defense of the country which they loved, and left to their children a patriotic name. But they never supposed that in the Halls of Congress the time would come when they would be placed below the African and their self-sacrifice ignored for the purpose of negro elevation.

But, sir, it is not true that by your laws you have recognized even the equality of the African to the soldiers of the Caucasian race, even to those of foreign birth, much less the present contended for superiority of the former; for in the organization of negro troops you have required they shall be officered exclusively by whites; and I believe it is a truth, that in all this war no African has ever reached a higher elevation than a non-commissioned officer in your armies. Sir, this fact itself shows who those were upon whom the safety of the Republic, the maintenance of its integrity, devolved; and notwithstanding all the pathos of the advocates of the African race, all their assumptions, all their eulogiums, the people of all this country and of all the world know that it was the prowess and endurance of the white race that won this great victory. And notwithstanding the attempted degradation of the non-English-speaking portions of our armies by the gentleman from Illinois, or of the Irish by the other gentleman, all these have fully vindicated their martial bearing upon the battle-field, and have shown the world devotion to the cause of constitutional government by their persistent valor, which will challenge admiration for all time. And they have not only illustrated their capacity to fight, but also to lead and to command. They have attained high position, and their bravery and skill have caused their names to be inscribed as high on the tablet of fame as those born on the soil. The names of Mulligan and Corcoran, and multitudes of Irish heroes who fought and bled in this war, will live in "song and story," to illustrate the prowess of the sons of the "Emerald Isle," beside the name of Montgomery and others from the same land, who fought and fell in the earlier, I may say, all the wars of the Republic. And, sir, there are not wanting names of men who were chiefly "ignorant of our language," continental Europeans, like Osterhaus and many others, who like De Kalb and La Fayette and many other foreigners, vindicated our original independence. True, they were not the pets of fanatics. They had not employed scribes to write them up. They relied on their good right arm to vindicate

them, on their own innate bravery to illustrate their deeds, and it is inscribed in imperishable granite; and the numerous general and field officers which foreign nationalities among us have given to the Republic in this terrible struggle clearly prove the vast superiority of these races over the now petted "wards of the nation," of fanatics.

But there is one more point to which I desire to advert. The advocates of African enfranchisement are equally ardent in their advocacy of the disfranchisement of all the white race at the South. There is no term of commendation too exalted to be employed in behalf of the noble and devoted, unselfish, patriotic African race. Nor does our language, extensive as it is, furnish epithets of sufficient opprobrium to characterize the infamy of all the white people of the South. The bitterness displayed here toward those of our race unfortunately domiciled in the South is to me in exceedingly strange contrast with the honeyed words and more than affectionate phrases employed toward a different race, held in all the past as greatly inferior to our own in all particulars. And I, for one, have been led to inquire why this universal denunciation of the white and equally universal commendation of the black or African race; why the one is absolutely anathematized and the other almost deified; why these gentlemen can find nothing too good to bestow upon the one, nothing too bad to heap upon the other? And the general answer given in all the speeches of most of those occupying the last few weeks in the effort to secure universal suffrage, or rather male suffrage without regard to color, is, the blacks all were loyal, were our friends, the whites were all our enemies, all disloyal, and hence we should to them carry out the old Jewish rule, "Thou shalt hate thine enemy," and this hatred must be nourished, cultivated, perpetuated, everything must be done to foster it. And as the exaltation of the former servile race over our enemies will assuredly manifest most "hatred," we will take that course, and make our enemies "bite the dust."

Now, I am not prepared to admit these premises. All the blacks in the South were not "loyal;" were not our "friends," did not rush to "our rescue;" did not "fly to arms" for "our defense." Only some one hundred and eighty or one hundred and ninety thousand of all the Africans in the whole land were brought into the Army under all the appliances used, of bounties, impressments, conscriptions, fugitives from former owners and every other means, while there were more than two million white men engaged in the fight to put down the rebellion and give freedom to the slaves. But beside this there is another statement, which I am indebted to a major general in the Army for, and have seen stated by others, which is, that of the "white men" in the rebellious States, there were more voluntary enlistments in "the Union Army" than of all the colored people by every means brought into the same Army.

Now, if this statement is correct, and I have not seen it denied, how shall we account for the zeal of gentlemen for the African and their hatred of the Caucasian? The plea that the blacks have "saved this nation, and have secured for us our liberty," is all mere nonsense. Better might we assume that the two hundred thousand or more southerners who came into our Army saved it. But they did not; they only aided in the work, as did also the Africans. But surely if honor and gratitude are due the blacks for what they did in the struggle, more honor and much more gratitude are due to the southern whites who came to our assistance; for these latter came "voluntarily;" came because of the "Union" and its emblematic "flag." They encountered hazards of all kinds, endured privations and hardships untold, gave up all prospects of home, preferment, and pecuniary gain. They did not ask for bounties or freedom, but only for the privilege and honor of battling for their country and its unity; and

39TH CONG....1ST SESS.

*Basis of Representation—Mr. Hogan.*

HO. OF REPS.

now what is the reward proffered them for their toil and valor and suffering? Why, the majority of this House announced to them, "Go back to the land you deserted to come to our aid. We hate you and all your viper race. We intend to remit your States below the grade of Territories. We disfranchise all you whites and enfranchise the blacks, and sustain them in ruling over you, as in times past you have ruled over them." And, sir, to accomplish these purposes more effectually, this effort to amend the Constitution is to be pressed and the southern States held from participating in the legislation of Congress or having any interest in the business of the country.

Mr. Speaker, I am opposed to all this. I think it all wrong. I do not believe the Union is or has been dissolved, and so believing, my oath of office, as I conceive its nature, precludes me from following in the lead of gentlemen on the other side of this question.

I do not enter into the argument which has occupied so much of the time of this House, and the attention of gentlemen, as to what Grotius or any other learned publicist says about the law of nations, the powers of States, the relations of sovereigns, civil or uncivil wars, and all that. I am no lawyer, hence will not bring to bear on this question arguments derived from these sources. These are plain, matter-of-fact questions, and in a plain matter-of-fact way the people of this country will deal with them, and, in my judgment, the question of the people to-day is, who dissolved the Union; when was it dissolved? And to these questions the American people will bring their Representatives for an answer. And they will not take their ideas from these learned foreign authors, who knew nothing of such a Federal Republic as ours with a written Constitution in which the lines and rights of State and General Governments are so clearly defined, and which possesses in itself no power of dissolution except by general consent.

When and by whom was this Union of States dissolved? Gentlemen have talked about the southern States as being out of the Union, as being alien enemies, as conquered provinces, to be governed by the will of the conqueror, as subject to sequestration, confiscation, and every other evil which may be imposed upon them by this Congress.

Sir, I ask still, and again, when did these States get out of the Union? Was it when they attempted to secede? If they went out of the Union then, and they had the right to go, by what right did we go to war with them, and for what did we fight?

We have always acted on the doctrine that "governments are formed by the consent of the governed," and if the people of the southern States deemed it to their interest to "dissolve the tie" that bound them to us, and if, then, secession accomplished the dissolution, then surely we had no right to prevent them from going, much less to fight them back. But we did not believe they had the power thus to separate themselves from the Union. We acted on the assumption that the secession was a revolt, not of the masses of the people, but of some restless spirits, and hence the General Government, being by the organic law required to preserve all the States from "insurrection," came forth to suppress the revolt. The Government called upon the people to prevent the overthrow of the Union by the insurrection in the southern States. And they responded.

Sir, the Union was not dissolved by these ordinances, and the people resolved that it should not be so dissolved. The preservation of the Union was the great object of the war. For this more than two million men went forth into the deadly strife, for this hundreds of thousands offered up their lives as sacrifices upon the altar of patriotism. The Union, was their battle-cry. For its preservation they left families and fireside joys, and marched into the deadly breach; the Union, with its mem-

toes, with its glories, its heroes, its monuments, its triumphs, its troubles; the Union, with its early battles, its Bunker Hill and Yorktown, its Saratoga and the Cowpens, its Brandywine and Camden. The triumphs of its middle age were dear to all its sons. They sung of Lundy Lane and of New Orleans. They saw its armies triumph and its flag emblazoned with more than thirty stars. They saw its triumphs on the ocean also, and determined to maintain its territorial unity. For this Grant battled so perseveringly, and Sherman marched and fought, as only western men can march and fight, for the West is the child of the Republic, and its unity is to secure to the West its markets and its power. And when all the battles were fought, the insurrection put down, the forts reoccupied, the flag everywhere thrown to the breeze, its triumphant vindicators may now with propriety ask, who dissolved the Union? And I firmly believe, sir, that when these soldiers are by politicians informed the Union is dissolved, their answer will be it is not so.

And now, Mr. Speaker, what is the true situation of the country? The southern States have repealed their ordinances of secession, have declared their former slaves all free, have repudiated their debts created by the war; they have done all in their power to restore their States to their former condition in the Union. The President has looked to the restoration of these States with an anxiety characteristic of his patriotic devotion to the unity and glory of his whole country. He found society almost dissolved. By the cessation of strife, and dissolution of both the civil and military power of the rebellion, there was no government left in all that country. As Commander-in-Chief of the armies, he appointed military rulers, and then provisional governors. He then proceeded in the work of restoration, opened the ports to foreign commerce, set all the machinery of government to work; collected, through the agents of the law, internal taxes. Post offices have been opened and postal service restored, and but for the desolations and losses of war, a stranger would not know that there had ever arisen a question of the existence of the Union even in those States.

Still, the question recurs, is the Union dissolved, and how was it done? The President answers, I do not regard the Union dissolved. The rebellion failed, and its failure left the Union intact. Had it succeeded, then this dissolution would have been an accomplished fact; but the Union armies triumphed, and he is to-day the President of the whole United States, with none to dispute the authority vested in him by the people from the eastern boundary of Maine to the Rio Grande, and all its laws are enforced and its taxes collected. Lieutenant General Grant, who opened up the Mississippi and caused its waters to "flow unvexed to the sea," assures you that the Union is not dissolved. To prevent it he drew his sword, and did not sheathe it until the idea of dissolution had been driven from the southern mind; until its best army had surrendered; until its chosen and able leader had sued for peace, delivered up his sword, receiving a parole of honor, and agreeing not again to take up arms against the Union. Grant and his veteran and persevering legions maintained the Union and prevented its dissolution.

You ask Sherman, is the Union dissolved, did you fight to sever or to restore it? Who does not know his answer? When in a few most eloquent words our accomplished Speaker three days ago introduced to this House that modest soldier whose renown and glory fill the world, whose march has no parallel in either ancient or modern history, when cheer after cheer made this Hall ring, and every one felt pleased to shake the hand of the victorious soldier, was it because he had done much to dissolve the Union, he was thus received? And had the Speaker asked him if the Union was destroyed I fancy I hear his blunt, soldier-like reply, as in the fullness of his

soul he would exclaim, "The Union dissolved! No, thank God, it is not, cannot be dissolved while the memories of the past are cherished by the soldiers of the present; and the campaign of those who followed me and cheered me on was begun and continued to rescue our beloved Union from the impending danger of severance."

Ask the soldiers of every grade, of every army, what they fought for, what they endured so much for, what they submitted to all manner of toil, hardship, privation, and suffering for, and they will tell you in their triumphantly victorious notes, "To save the Union from overthrow, and, thank God, we were successful."

Who then says that the Union is dissolved? None but the so-called Union members of Congress, elected as Union men—they only proclaim dissolution.

I am a Democrat; and with all in this House who bear that honored name we proclaim, with Andrew Jackson and Andrew Johnson, "The Federal Union, it must be preserved," not only for the sake of our present population and our posterity, but as the beacon-light to guide all men to happiness.

Mr. Speaker, I have said that we had no right to go to war with the southern States only on the assumption that theirs was an insurrection, unsustained by the masses of the people. And this was evidently the idea entertained by the late President Lincoln, who first called forth the voluntary offering of the people to suppress this revolt against the authority of the Government. He says:

"It may well be questioned whether there is to-day a majority of legally qualified voters of any State, except, perhaps, South Carolina, in favor of disunion. There is much reason to believe that the Union men are the majority in many, if not in every other one, of the so-called seceded States."—*President Lincoln's Message of July 4, 1861.*

This I say was the assumption at that period, the war was for the suppression of the rebellion and protection of the Union and Union men. And subsequent developments in all the States demonstrated the existence of that Union element among the white inhabitants, manifesting itself, as in Tennessee, in furnishing scouts, giving accurate information, harboring deserters, raising armies for your aid, and doing all that could be expected of them to maintain their allegiance to the Union. Mr. Lincoln steadily maintained that whenever the armed power of the rebellion was broken, and the arms raised against the Union were laid down, that then the union of the States would be restored, the States resume their wonted functions, and harmony and unity again give vitality to all their functions, and we should be again in every acceptance of the words a "Union of States," which none could sever. And, Mr. Speaker, is it not desirable that this should be realized as early as possible?

I am opposed to all these proposed amendments to the Constitution, to all questions of enfranchisement of the African race among us, because I do not think this is an auspicious time to tamper with that almost sacred instrument, our fundamental law. We have just got through a bloody strife; passion doubtless was aroused, bad feelings engendered; let us wait calmly for awhile, curb our passions, and honestly, as patriots, seek more light before we attempt change. I believe this is not the time, for as we are only the servants of the people, not their masters, and as when we were elected these questions were not before the people, hence they have expressed no full and matured opinions on this most interesting question. We should therefore wait, consult the people, not attempt to forestall them, nor yet consult only with the few whom we may regard as friends, or, as they are familiarly called, "the leaders." This Constitution belongs to the people, the whole people. I deny the right of self-constituted leaders to dictate to the people on this grave question. Let us wait awhile, go before the people with it, let it be fully discussed on both sides, and then, if the people want these changes, let them



send men here instructed on the subject, and let their behests be obeyed. But surely no one will pretend that these questions in any way entered into the contests which eventuated in our election. And if this is so in reference to members of Congress, it is even more true in reference to the State Legislatures who will be called on to decide the question. My judgment, therefore, is these questions had better be deferred, at least until the next session of this Congress, and let us proceed to the important questions which more immediately concern the people of the country.

And these remarks apply to the twin question of African enfranchisement. Who, of all the members of this House, was elected on this issue? And yet this extraneous question absorbs all the time of the House. No sooner is one phase of this African question disposed of than another takes its place. Suffrage in this District is no sooner passed, after weeks of argument, than suffrage in the States is to be procured for the African by constitutional amendment, and as soon as we get through with this the African comes up again in the shape of a measure—which has already passed the Senate—to enlarge the powers of the Freedmen's Bureau. Thus we go, and all the anomalies of these separate measures claim our notice, but do not sufficiently attract attention.

For thirty years it has been steadily proclaimed that African slavery had reduced the enslaved to the very lowest grade of being. The enslavement of his body had, by consequence, almost obliterated his intellect. He could scarcely be called a man. That he might be rescued, he must be freed. He is freed. Presto, change! As soon as the chains fall he is no longer the brutalized being over whom, for thirty years, we have made the land to mourn; he is an American citizen, fully qualified and prepared to take upon himself the responsibilities of an elector, and qualified for all these important duties. Wonderful!

But yet more passing strange, another turn of the cards, and this noble African, of whom we heard so many eulogiums a few days ago, comes now before us as the "mere child," the "ward of the nation," who is to be followed by a guardian, in the shape of a high military officer, at heavy pay, to see that this now helpless being is secured in his contracts for labor and not defrauded out of his earnings. But yesterday his qualifications for a voter, and, indeed, his evident superiority to the "ignorant foreigner who did not understand our language," were eloquently proclaimed. A day before he by his prowess, his valor, his zeal in our behalf, had saved us a nation. He rescued us from fierce rebels, and baring his noble breast, received in lieu of us the deadly shaft, thus delivering our poor white race from overthrow. But now again he is placed under the watchful care of a new organization in the Government for his special benefit, "a Freedmen's Bureau," solely to look after him, help him to get employment, help him say how much a month he should work for, how he shall employ his time, and where he shall and where he shall not go; but over and above all this, he is to be educated, sent to school; he is to be fed by the public if he does not choose to work for his living; he is to get clothing from the overflowing Treasury of the nation; Government must find him a house and pay for a doctor when he is sick; and all this because he is a freedman of African descent. White soldiers, disabled in the service of the Union, unable to work, are left to beg upon the streets. What a fault for them to have been born white! Had they been colored Government would have had an agent to look after them.

And this nice little operation of the Freedmen's Bureau was estimated to cost the American people for this year (1866) nearly twelve million dollars. How much its cost is enlarged by enlarging and extending its operations I am not prepared to say. About forty years ago the

Administration of John Quincy Adams was turned out of power for expending for all purposes about thirteen million dollars a year. This year, (1866,) groaning under a debt the interest of which alone requires of the people in taxes all they are able to pay, the poor white taxpayer must have saddled on him, over and above, nearly or quite twelve million dollars to feed, clothe, and house the freedmen; whom gentlemen here tell us are really better qualified to vote and be freemen than many of the whites who have, through taxation, to contribute to their support.

I am no enemy of the African in our midst; I have always commiserated his condition; I have always been and am now his friend; but I tremble for him in view of the action of the new philanthropy. Many years will not elapse until he will be compelled to look to others for help and sympathy; but it may possibly be too late to save him from the fate of another race upon this continent, who had at one time philanthropic enthusiasts seeking apparent benefits for them, but now, thrown off and discarded, are turned out to die, or hunted down to be exterminated.

And now, Mr. Speaker, I close what I have to say. I am very solicitous for harmony among our family of States. I know great wrongs have been done. But this will not justify us in the perpetration of other wrongs. Southern people have tried to destroy our glorious charter; but they failed, and their effort will not justify us in doing what they were unable to do. Armies tried to dissolve our Union; I pray you let not an American Union Congress do that which others by the force of arms were unable to accomplish. Now, let us all encourage all the people to allay the bitterness of the recent strife, seek to restore harmony. Let Massachusetts reach out her arms to the South and help them now, as the South flew to the succor of Massachusetts "in the days that tried men's souls;" and while we exclaim—

"That mercy I to others show.  
That mercy show to me,"

let us try once more the influence of gentle means to restore our erring brethren; let our effort be to bring again to our beloved land union, harmony, fraternity, a rivalry only to promote the greatest happiness and secure the speediest restoration of general prosperity, and exemplify to the world that we are once more a happy, prosperous, and thoroughly united people, realizing more fully in fact than in any period of the past, that ours is indeed,

"A union of hearts and a union of hands,  
A union of States none shall sever;  
A union of lakes and a union of lands,  
And the flag of our Union forever."

#### Freedmen's Bureau—Restoration of the Rebel States.

#### SPEECH OF HON. J. A. GARFIELD, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,  
February 1, 1866.

The House having under consideration the bill to enlarge the powers of the Freedmen's Bureau—

MR. GARFIELD said:

MR. SPEAKER: The bill now before the House is one of a series of measures which it is the duty of this House to consider and act upon during the present session; and I shall, in the time allotted to me, take a wider range than the provisions of the bill itself would warrant, and discuss, in connection with it, the general question of the restoration of the States lately in rebellion. I shall try to examine the situation of national affairs resulting from the war; to determine, if possible, what ought to be done to bring the Republic back, by the surest, safest, and shortest path, to the full prosperity of liberty and peace. This is the result earnestly desired by every patriotic citizen. How to reach it is the great problem we are called upon to solve. On the

main points in the problem I believe there is far less difference of sentiment in this House than is generally supposed.

Men differ far more in theory than in practice. It would be easy to find ten men who perfectly agree in recommending a given course of action. It would be difficult to find ten who would give the same reasons for that recommendation. If the members of this House could lay aside their theories and abstract definitions, and deliberate on questions of practical legislation, many apparent differences would at once disappear. The words and phrases we use exert a powerful influence on the opinions we form and the action which results.

In inquiring into the legal status of the insurgent States we are met at the threshold by three distinct theories, each of which has its advocates in this House.

1. That these States are now and have never ceased to be in the Union with all their rights unimpaired.

2. That they are out of the Union in fact and in law; that by their acts of secession and rebellion they are reduced to the condition of Territories, and that it rests with Congress to determine whether they shall now or hereafter be admitted into the Union.

3. As held by the gentleman from New York [MR. RAYMOND] in his speech of day before yesterday, that whatever may have been the effect of the war upon them, "they have, under the President's guidance and action, resumed their functions of self-government in the Union," and we ought to accept them.

MR. SPEAKER, I am unable fully to agree with either of these propositions, and I shall endeavor to point out what seems to me the error which has led to their adoption. Two terms made use of in the debate on this subject seem to me to have caused much of the diversity of opinion. I allude to the word "State," and the phrase "in the Union."

The word "State," as it has been used by gentlemen in this discussion, has two meanings, as perfectly distinct as though different words had been used to express them. The confusion arising from applying the same word to two different and dissimilar objects has had very much to do with the diverse conclusions which gentlemen have reached. They have given us the definition of a "State" in the contemplation of public or international law, and have at once applied that definition, and the conclusions based upon it, to the States of the American Union and the effects of war upon them. Let us examine the two meanings of the word, and endeavor to keep them distinct in their application to the questions before us.

Phillimore, the great English publicist, says:

"For all the purposes of international law a State (*demos, civitas, volk*) may be defined to be a people permanently occupying a fixed territory, bound together by common laws, habits, and customs into one body-politic, exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace, and of entering into all international relations with the other communities of the globe."—*Phillimore's International Law*, vol. 1, sec. 65.

Substantially the same definition may be found in Grotius, book one, chapter one, section fourteen; in Burlamaqui, volume two, part one, chapter four, section nine; and in Vattel, book one, chapter one. The primary point of agreement in all these authorities is that in contemplation of international law a State is absolutely sovereign, acknowledging no superior on earth. In that sense the United States is a State, a sovereign State, just as Great Britain, France, and Russia are States.

But what is the meaning of the word State as applied to Ohio or Alabama? Is either of them a State in the sense of international law? They lack all the leading requisites of such a State. They are only the geographical subdivisions of a State; and though endowed by the people of the United States with the rights of local self-government, yet in all their external relations

their sovereignty is completely destroyed, being merged in the supreme Federal Government. (Halleck's International Law, section sixteen, page 71.)

Ohio cannot make war; cannot conclude peace; cannot make a treaty with any foreign Government, cannot even make a compact with her sister States; cannot regulate commerce; cannot coin money; and has no flag. These indispensable attributes of sovereignty the State of Ohio does not possess, nor does any other State of the Union. We call them States for want of a better name. We call them States because the original Thirteen had been so designated before the Constitution was formed; but that Constitution destroyed all the sovereignty which those States were ever supposed to possess in reference to external affairs.

I submit, Mr. Speaker, that the five great publicists, Grotius, Puffendorf, Bynkershoek, Burlamaqui, and Vattel, who have been so often quoted in this debate, and all of whom wrote more than a quarter of a century, and some nearly two centuries, before our Constitution was formed, can hardly be quoted as good authorities in regard to the nature and legal relationships of the component States of the American Union.

Even my colleague from the Columbus district, [Mr. SNELLABARGER,] in his very able discussion of this question, spoke as though a State of this Union was the same as a State in the sense of international law, with certain qualities added. I think he must admit that nearly all the leading attributes of such a State are taken from it when it becomes a State of the Union.

Several gentlemen, during this debate, have quoted the well known doctrine of international law, "that war annuls all existing compacts and treaties between belligerents;" and they have concluded, therefore, that our war has broken the Federal bond and dissolved the Union. This would be true, if the rebel States were States in the sense of international law—if our Government were not a sovereign nation, but only a league between sovereign States.

I oppose to this conclusion the unanswerable proposition that this is a nation; that the rebel States are not sovereign States, and therefore their failure to achieve independence was a failure to break the Federal bond—to dissolve the Union.

The word "State" which they discussed is no more applicable to Ohio than to Hamilton county. The States and counties of this Union are equally unknown to international law.

There is another expression to which I have referred, and which is used in an equally ambiguous manner. We have discussed the question here whether these insurgent States are in the Union. "In the Union!" What do we mean by the phrase? In one sense, every inch of soil we own is "in the Union." The Territory of Utah is in the Union. So is every Territory of the West in the Union; that is, under its authority, subject to its right of eminent domain. On the other hand, when some gentlemen say these States are "in the Union," they mean to include all their relations, all their rights and privileges, which is quite another thing. From this ambiguity in the use of terms have arisen most of the differences of opinion on this subject.

I would not be understood as saying that international law has nothing to do with the question before us. It has much to do with it. It furnished us with the rules of civilized nations in the conduct of war, the rights of belligerents, the treatment of prisoners, the rules of surrender, cartel, and parole. Guided by the precepts of international law, we are enabled to understand the rights and duties of neutral Powers and the legal results of successful war against domestic enemies and traitors. But when gentlemen quote the doctrines of international law in reference to sovereign nations, and apply them directly to the political status

of the States of this Union, they lead us into error.

In view of the peculiar character of our Government I ask, in what condition has the war left the rebel States? Did they accomplish their own destruction? Did they break the bonds which bound them to the Union? I answer, they would have done both these things, if anything short of successful revolution could do it. It was not, as some gentlemen hold, merely an insurrection of individuals. It was not, as most civil wars are, a war among the atoms, so to speak, flaming here and there, as fire breaks out in a hundred places in a city. It was a war of organized popular masses, or as the Supreme Court, borrowing the prophetic words of De Tocqueville, calls it, "a territorial civil war," in which we granted them belligerent rights, and claimed for ourselves both belligerent and sovereign rights. We could pursue them with war as enemies, or try them by criminal law as citizens, and hang them as condemned traitors.

I cannot agree with the distinguished gentleman from New York, [Mr. RAYMOND,] when he holds that we are to deal with the rebels only as individuals. They struck at the Union through every instrumentality within reach. Through personal service in the army, and individual contributions of money; through voluntary associations, to raise men and money; through popular mass meetings to inflame the passions and develop all the power of their people; through township, county, and city corporations; through State conventions which framed new constitutions in order the more perfectly to sever the bonds which held them to the Union; and, to make a more powerful and effectual instrument with which to establish their rebel sovereignty, through State Legislatures, by laws levying taxes for the purchase of arms, ammunition, and all the matériel of war, by resolutions denouncing the pains and penalties of treason against all citizens who refused to join their conspiracy; and finally, by a confederation of eleven States, consolidated into a central sovereign government *de facto*, which became the most absolute military despotism in modern history—a despotism which inundated with its deluge of tyranny all State guarantees, all municipal privileges, and assumed absolute control of all persons and property within the limits of its territory. There was not a conceivable calamity which could have befallen us as a nation that they did not attempt, with all their power and in every available way, to bring upon us. Individuals fought us as individuals, States as States fought us, and if a State can commit treason each of the sinful eleven committed it again and again. They utterly subverted the governments of their States, they broke every oath by which they had bound themselves to the Union, they let go their hold upon the Union and attempted to destroy it.

What was the tie that bound them to the Union? For example, what made Alabama a State of the Union? Read the history of that transaction. When she had formed a constitution for herself in obedience to the law of Congress, when Congress had approved that constitution as republican in form, the following act was passed by the Congress of the United States, approved by the President, December 14, 1819:

"Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the State of Alabama shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever."

Now, Alabama may violate a law of Congress, but she cannot annul it. She may break it, but she cannot make it void, except by successful revolution.

By another law of Congress, approved April 20, 1820, it was declared—

"That all the laws of the United States not locally inapplicable shall be extended to the State of Alabama, and shall have the same force and effect within the same as elsewhere in the United States."

Congress extended our judiciary system over

Alabama, dividing the State into judicial districts; and since that time, year by year, Congress has been covering Alabama with Federal legislation as with a net-work of steel. Has Alabama broken all these bonds? She has done all she could to break away from the Union, but she has not been able to destroy or render invalid one law of the Republic. Alabama let go of the Union, but the Union did not let go of Alabama. We have held her through four years of war, and we hold her still. When she tried to break the Federal bonds we called out millions of men in order that not one jot or tittle should pass from these laws, but that all should be fulfilled.

Let the stars of heaven illustrate our constellation of States. When God launched the planets upon their celestial pathway He bound them all by the resistless power of attraction to the central sun, around which they revolved in their appointed orbits. Each may be swept by storms, may be riven by lightnings, may be rocked by earthquakes, may be devastated by all the terrestrial forces and overwhelmed in ruin, but far away in the everlasting depths the sovereign sun holds the turbulent planet in its place. This earth may be overwhelmed until the high hills are covered by the sea; it may tremble with earthquakes miles below the soil, but it must still revolve in its appointed orbit. So Alabama may overwhelm all her municipal institutions in ruin, but she cannot annul the omnipotent decrees of the sovereign people of the Union. She must be held forever in her orbit of obedience and duty.

Mr. STEVENS. If the gentleman from Ohio [Mr. GARFIELD] will permit me, I will ask him a question. Some of the angels undertook to dethrone the Almighty, but they could not do it. And they were turned out of heaven because they were unable to break its laws. Are those devilish angels in or out of heaven? [Laughter.]

Mr. GARFIELD. I thank the gentleman from Pennsylvania [Mr. STEVENS] for his interruption. The angels that kept not their first estate! What was their fate? It was the Almighty who opened the shining gates of heaven and hurled them down to eternal ruin. They did not go without His permission and help. And if these States are out of the Union it must be because the sovereign people of the Republic hurled them out; because they pleased to let them go. I am glad the gentleman interrupted me; it happily illustrates my position.

I will not discuss what we might do with Alabama, but simply what was Alabama herself able to do, and what she was not able to do toward breaking up this Union. Two years ago, when I had the honor for the first time to address this House, the same question that is now before us was under discussion. I maintained then, as I hold to-day, that the rebel States are not, in any legitimate sense of the words, out of the Union. I then declared, as I declare now, that by their own act of treason and rebellion they had forfeited all their rights in the Union, but they had released themselves from none of their obligations. It rests with the people of the Republic to enforce the performance of these obligations, and, so soon as the national safety will permit, restore them to their rights.

I agree with my distinguished colleague, [Mr. BINGHAM,] that for Federal purposes the rebel States are in the Union, but if the expression be allowable they are out of the Union for State and municipal purposes.

Mr. BINGHAM. I beg to correct the gentleman. I never used the expression that they were "States out of the Union," but that, by reason of their rebellion, they had ceased to be States, for municipal purposes, in the Union.

Mr. GARFIELD. Of course I desire to quote my colleague correctly, for I agree with him, and quote him to strengthen my position, that the rebel States have not severed the Fed-

eral bond, but have utterly demolished their municipal governments.

Now, let us inquire how the surrender of the military power of the rebellion affected the legal condition of those States. When the rebellion collapsed, and the last armed man of the confederacy surrendered to our forces, I affirm that there was not in one of those States a single government that we did or could recognize. There was not in one of those States, from Governor down to constable, a single man whom we could recognize as authorized to exercise any official function whatever. They had formed governments alien and hostile to the Union. Not only had their officers taken no oaths to support the Constitution of the United States, but they had heaped oath upon oath to destroy it.

I go further. I hold that there were in those States no constitutions of any binding force and effect; none that we could recognize. A constitution, in this case, can mean nothing less than a constitution of government. A constitution must constitute something or it is no constitution. When we speak of the constitution of Alabama we mean the constitution of the government of Alabama. When the rebels surrendered there remained no constitution in Alabama, because there remained no government. Those States reverted into our hands by victorious war, with every municipal right and every municipal authority utterly and completely swept away. Whose duty was it to assume the control of them under such circumstances?

In the first instance it was the duty of the President of the United States. Congress was not then in session. Military resistance to the armies of the Union had ceased, and the laws of war pervaded every inch of the conquered territory. I appeal to the highest authorities in international law, as quoted by Halleck, chapter thirty-two, section one:

"The right of one belligerent to occupy and govern the territory of the enemy while in its military possession is one of the incidents of war, and flows directly from the right to conquer. We therefore do not look to the constitution or political institutions of the conqueror for authority to establish a government for the territory of the enemy in his possession, during its military occupation, nor for the rules by which the powers of such government are regulated and limited. Such authority and such rules are derived directly from the laws of war, as established by the usage of the world, and confirmed by the writings of publicists and the decisions of courts—in fine, from the law of nations. But when the conquest is made complete in whatsoever mode, the right to govern the acquired territory follows as the inevitable consequence of the right of acquisition, and the character, form, and powers of the government established over such conquered territory are determined by the constitution and laws of the State which acquires it, or with which it is incorporated. The government established over an enemy's territory during its military occupation may exercise all the powers given by the laws of war to the conqueror over the conquered, and is subject to all the restrictions which that code imposes. It is of little consequence whether such government be called a military or civil government; its character is the same, and the source of its authority the same; in either case it is a government imposed by the laws of war, and so far as it concerns the inhabitants of such territory, or the rest of the world, those laws alone determine the legality or illegality of its acts. But the conquering State may, of its own will, whether expressed in its constitution or in its laws, impose restrictions additional to those established by the usage of nations, conferring upon the inhabitants of the territory so occupied, privileges and rights to which they are not strictly entitled by the laws of war; and, if such government of military occupation violate these additional restrictions so imposed, it is accountable to the power which established it, but not to the rest of the world."

Again, chapter thirty-three, section sixteen, in applying the laws of war to our Government, he says:

"The President of the United States can make no treaty without the concurrence of two thirds of the Senate, and his authority over ceded territory, though derived from the law of nations, is limited by the Constitution and subordinate to the laws of Congress. It, however, is well settled by the Supreme Court that as constitutional Commander-in-Chief he is authorized to form a civil or military government for the conquered territory during the war, and that when such territory is ceded to the United States, as a conquest, the existing government so established does not cease as a matter of course or as a consequence of the restoration of peace; that, on the contrary, such government is rightfully continued after the peace and until Congress legislates otherwise; but that the President

may virtually dissolve this government by withdrawing the officers who administer it; provided he does not thereby neglect his constitutional obligation, 'to take care that the laws be faithfully executed.'

"So long as that government continues, with the express or implied sanction of the President, it represents the sovereignty of the United States, and has the legal authority to enforce and execute the laws which extend over such territory. Congress may at any time put an end to this government of the conquered territory, and organize a new one, or it may permit the people of such territory to form a constitution, and admit it as a new State into the Union."

It was decided by the Supreme Court of the United States, in reference to the Mexican war, that—

"On the conquest of a country the President may establish a provisional government, which may ordain laws and institute a judicial system, which will continue in force after the war and until modified by the direct legislation of Congress or by the territorial government established by its authority."—9 Howard, p. 615.

From these authorities and from the facts in the case it is evident:

1. That, by conquest, the United States obtained complete control of the rebel territory.
2. That every vestige of municipal authority in those States was, by secession, rebellion, and the conquest of the rebellion, utterly destroyed.
3. That the state of war did not terminate with the actual cessation of hostilities, but that under the laws of war it was the duty of the President, as Commander-in-Chief, to establish governments over the conquered people of the insurgent States, which governments, no matter what may be their form, are really military governments, deriving their sole power from the President.
4. That the governments thus established are valid while the state of war continues and until Congress acts in the case.
5. That it belongs exclusively to the legislative authority of the Government to determine the political status of the insurgent States, either by adopting the governments the President has established, or by permitting the people to form others, subject to the approval of Congress.

The President might have sent a major general or any other military officer to govern each one of the rebel States. But he chose to consult the people and allow them to adopt a form of government so nearly resembling civil government that they might the more easily come back to their places by and by. But it was none the less a military government for that reason. On any other ground the whole course of the President would have been an unwarrantable usurpation.

Now, holding first that the President had full authority in the matter, I ask, how long does his authority last? It is clearly settled by the authorities to which I have referred that his authority lasts until Congress speaks. So long as Congress is silent, the governments established by the President will remain.

It is now time, Mr. Speaker, that Congress should make its declaration of policy and principle in reference to these governments.

Let us not quarrel with the past. Let us not endanger the future because the President's policy in the past has not been all we could desire. In one important particular I wish it had been different. When he appealed to the people of the South to cooperate with him in establishing his military governments I greatly regret that he did not appeal to all the loyal people. I regret that he did not recognize the rights and consult the wishes of those loyal millions who were made free and made citizens also by the events of the war.

But let that pass. What he did he had a right to do; what remains to be done is for Congress and the President in their legislative capacity to determine. Our rights in this direction are as ample as the rights of conquest. What are they? I read from Woolsey, page 231, the latest utterance of public law, made with direct reference to our war:

"When an internal war breaks out the Government must determine whether the municipal or in-

ternational code, in whole or in part, shall be adopted. In general the relation of the parties ought to be nearly those of ordinary war which humanity demands, and will be, because otherwise the law of retaliation will be applied. Municipal law may be enforced with less evil in the way of pecuniary than of personal penalties; fines or confiscations may be efficacious in strengthening the Government and deterring from rebellion. If slaves, as among us, form a part of the property of the rebels, since slavery is local and the law of nations knows of no such thing, the advancing military power of the Government may set them free and use and protect them; and, indeed, if force overthrows the local laws on which slavery rests they become free of course. The same rules of war are required in such a war as in any other, the same ways of fighting, the same treatment of prisoners, of combatants, of non-combatants, and of private property by the army where it passes. So also natural justice demands the same veracity and faithfulness which are binding in the intercourse of all moral beings.

Nations thus treating rebels by no means concede thereby that they form a State, or that they are *de facto* such. There is a difference between belligerents and belligerent States which has been too much overlooked.

"When a war ends to the disadvantage of the insurgents, municipal law may clinch the nail which war has driven, may hang, after legal process, instead of shooting, and confiscate the whole instead of plundering a part. But a wise and civilized nation will exercise only so much of this legal vengeance as the interests of lasting peace imperiously demand."

These capacious powers are in our hands. How shall we use them? I agree with my friend from Connecticut [Mr. DEMING] that we need not apply the *strictissimum jus* to these conquered people. We should do nothing inconsistent with the spirit and genius of our institutions. We should do nothing for revenge, but everything for security; nothing for the past, everything for the present and the future. Indemnity for the past we can never obtain. The four hundred thousand graves in which sleep our fathers and brothers, murdered by rebellion, will keep their sacred trust till the angel of the resurrection bids the dead come forth. The tears, the sorrow, the unutterable anguish of broken hearts can never be atoned for. We turn from that sad but glorious past, and demand such securities for the future as can never be destroyed.

And first, we must recognize in all our action the stupendous facts of the war. In the very crisis of our fate God brought us face to face with the alarming truth that we must lose our own freedom or grant it to the slave. In the extremity of our distress we called upon the black man to help us save the Republic, and amid the very thunder of battle, we made a covenant with him, sealed both with his blood and ours, and witnessed by Jehovah, that when the nation was redeemed, he should be free and share with us the glories and blessings of freedom. In the solemn words of the great proclamation of emancipation, we not only declared the slaves forever free, but we pledged the faith of the nation "to maintain their freedom." mark the words, "to maintain their freedom." The Omnipotent witness will appear in judgment against us if we do not fulfill that covenant. Have we done it? Have we given freedom to the black man? What is freedom? Is it a mere negation; the bare privilege of not being chained, bought and sold, branded and scourged? If this be all, then freedom is a bitter mockery, a cruel delusion, and it may well be questioned whether slavery were not better.

But liberty is no negation. It is a substantive, tangible reality. It is the realization of those imperishable truths of the Declaration "that all men are created equal," that the sanction of all just government is "the consent of the governed." Can these truths be realized until each man has a right to be heard on all matters relating to himself?

Mr. Speaker, we did more than merely to break off the chains of the slaves. The abolition of slavery added four million citizens to the Republic. By the decision of the Supreme Court, by the decision of the Attorney General, by the decision of all the departments of our Government, those men made free are, by the act of freedom, made citizens. As another has said, they must be "four million disfranchised, disarmed, untaxed, landless, thriftless, non-



producing, non-consuming, degraded men, or four million land-holding, industrious, arms-bearing, and voting population. Choose between the two!"

If they are to be disfranchised, if they are to have no voice in determining the conditions under which they are to live and labor, what hope have they for the future? It will rest with their late masters, whose treason they aided to thwart, to determine whether negroes shall be permitted to hold property, to enjoy the benefits of education, to enforce contracts, to have access to the courts of justice—in short, to enjoy any of those rights which give vitality and value to freedom. Who can fail to foresee the ruin and misery that await this race to whom the vision of freedom has been presented only to be withdrawn, leaving them without even the aid which the master's selfish, commercial interest in their life and service formerly afforded them? Will these negroes, remembering the battle-fields on which nearly two hundred thousand of their number have so bravely fought, and many thousands have heroically died, submit to oppression as tamely and peaceably as in the days of slavery? Under such conditions there could be no peace, no security, no prosperity. The spirit of slavery is still among us; it must be utterly destroyed before we shall be safe.

I remember an incident in the history of the eastern church, as recorded by Gibbon, volume two, chapter twenty-eight, which illustrates the power which slavery has exercised among us. The Christians of that day under the lead of Theophilus undertook to destroy the heathen temples. Gibbon says:

"Theophilus proceeded to demolish the temple of Serapis without any other difficulties than those which he found in the weight and solidity of the materials, but these obstacles proved so insuperable that he was obliged to leave the foundations and to content himself with reducing the edifice itself to a heap of rubbish, a part of which was soon afterward cleared away to make room for a church, erected in honor of the Christian martyrs.

"The colossal statue of Serapis was involved in the ruin of his temple and religion. A great number of plates of different metals, artificially joined together, composed the majestic figure of the deity, who touched on either side the walls of the sanctuary. His aspect of Serapis, his sitting posture, and the scepter, which he bore in his left hand, were extremely similar to the ordinary representations of Jupiter. He was distinguished from Jupiter by the basket, or bushel, which was placed on his head, and by the emblematic monster which he held in his right hand, the head and body of a serpent branching into three tails, which were again terminated by the triple heads of a dog, a lion, and a wolf. It was confidently affirmed that if any impious hand should dare to violate the majesty of the god the heavens and earth would instantly return to their original chaos. An intrepid soldier, animated by zeal and armed with a weighty battle-axe ascended the ladder, and even the Christian multitude expected with some anxiety the event of the combat. He aimed a vigorous stroke against the cheek of Serapis; the cheek fell to the ground; the thunder was still silent, and both the heavens and the earth continued to preserve their accustomed order and tranquillity. The victorious soldier repeated his blows, the huge idol was overthrown and broken in pieces, and the limbs of Serapis were ignominiously dragged through the streets of Alexandria. His mangled carcass was burnt in the amphitheater amid the shouts of the populace, and many persons attributed their conversion to this discovery of the impotence of their tutelary deity."

So slavery sat in our national Capitol. Its huge bulk filled the temple of our liberty, touching it from side to side. Mr. Lincoln, on the 1st of January, 1863, struck it on the cheek, and the faithless and unbelieving among us expected to see the fabric of our institutions dissolve into chaos because their idol had fallen. He struck it again; Congress and the States repeated the blow, and its unsightly carcass lies rotting in our streets. The sun shines in the heavens brighter than before. Let us remove the carcass and leave not a vestige of the monster. We shall never have done that, until we have dared to come up to the spirit of the Pilgrim covenant of 1620, and declare that all men shall be consulted in regard to the disposition of their lives, liberty, and property. The Pilgrim fathers proceeded on the doctrine that every man was supposed to know best what he wanted, and had the right to a voice in the disposition of himself.

Is this Congress brave enough and virtuous enough to apply that principle to every citizen, whatever be the color of his skin? The spirit of our Government demands that there shall be no rigid, horizontal strata running across our political society, through which some classes of citizens may never pass up to the surface; but it shall be rather like the ocean where every drop can seek the surface and glisten in the sun. Until we are true enough and brave enough to declare that in this country the humblest, the lowest, the meanest of our citizens shall not be prevented from passing to the highest place he is worthy to attain, we shall never realize freedom in all its glorious meanings. I do not expect we can realize this result immediately. It may be impossible to realize it very soon; but let us keep our eyes fixed in that direction, and march toward that goal.

There is a second great fact which we must recognize, namely, that the seven million white men, lately in rebellion, now stand waiting to have their case adjudged—to have it determined what their status shall be in this Government. Shall they be held under military power; shall they be governed by deputies appointed by the Executive; or shall they again resume the functions of self-government in the Union—are some of the questions growing out of this second fact.

I will proceed to state, in a few words, what seems to me necessary for the practical settlement of this question. In view of the events of the war, and the peculiar and novel situation of the parties and interests concerned; in view of the powers conferred upon us by the Constitution and the laws of war; and in view of the solemn obligations which rest upon us to maintain the freedom, security, and peace of all the citizens of the Republic, I inquire, what practical measures can we adopt best calculated to reach the desired result? It appears to me, sir, that we should take action in regard to persons and in regard to States.

In reference to persons, we must see to it, that hereafter, personal liberty and personal rights are placed in the keeping of the nation; that the right to life, liberty, and property shall be guaranteed to the citizen in reality as they now are in the words of the Constitution, and no longer left to the caprice of mobs or the contingencies of local legislation. If our Constitution does not now afford all the powers necessary to that end, we must ask the people to add them. We must give full force and effect to the provision that "no citizen shall be deprived of life, liberty, or property without due process of law." We must make it as true in fact as it is in law, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." We must make American citizenship the shield that protects every citizen, on every foot of our soil. The bill now before the House is one of the means for reaching this desirable result.

What shall be done with the States lately in rebellion? How shall we discharge our duty toward them? I shall hail with joy the day when they shall all be again in their places, loyally obedient and fully represented by loyal men. Are they now entitled to admission? Are they worthy of so great confidence? To my mind, Mr. Speaker, the *prima facie* evidence is against them; the burden of proof rests on each of them to show whether they are fit again to enter the Federal circle in full communion of privileges. We are sitting as a general court of the nation. They are to appear at the bar of the Republic and show cause why they should be brought in. I say the burden of proof is upon their shoulders. When we knew them last they were hurling the lightnings of war against us; they were starving our prisoners of war in their dungeons; they were burning our towns; they were hating the Union above all things, and were bound by bloody oaths to destroy it. Thus stood the case when Congress adjourned ten months ago. They must give us proof, strong as Holy Writ, that they have

washed their hands and are worthy again to be trusted. No rumors of change will satisfy me. No Delphic oracle, telling beautiful tales of peace and restoration: no gentle declarations like those we hear from the other side of this Chamber, that the people of the South "have accepted the results of the war," will suffice. I know they have accepted the results of war—as Buckner accepted them at Fort Donelson; as Pemberton accepted them at Vicksburg; as Lee accepted them last April in Virginia.

I hasten to say, Mr. Speaker, that I do not expect seven million men to change their hearts—to love what they hated and hate what they loved—on the issue of a battle. Nor are we set up as a judge over their beliefs, their loves, or their hatreds. Our duty is to demand that before we admit them they shall give us sufficient assurance that, whatever they may think, believe, or wish, their actions in the future shall be such as loyal men can approve. What have they done to give us that assurance?

I hold in my hand, Mr. Speaker, a proclamation issued a few days since by Benjamin G. Humphreys, late a general in the rebel army, now the military governor of Mississippi, which will illustrate the spirit in which it is desired to administer the affairs of reorganized Mississippi. He says:

"Whereas section six of an act of the Legislature of the State of Mississippi, entitled 'An act authorizing the issuance of treasury notes as advance upon cotton, approved December 19, 1861,' provides that whenever the present blockade of the ports of the Confederate States shall be removed, which shall be determined by the proclamation of the Governor declaring the fact, 'the Governor shall, by said proclamation, require all persons to whom advances may have been made to deliver the number of bales of cotton upon which they have received an advance, in accordance with their respective receipts, within ninety days from the date of said proclamation;'

"Now, therefore, I, Benjamin G. Humphreys, Governor of the State of Mississippi, by virtue of the authority vested in me by the constitution and laws of said State, do hereby proclaim that the blockade of the ports of the Confederate States has been removed; and I do require all persons to whom advances have been made to deliver the number of bales of cotton upon which they have received an advance, in accordance with their respective receipts on file in the auditor's office, within ninety days from the date of this proclamation."

Now, what does that mean? That he recognizes as valid the acts of the Legislature of the late rebel State of Mississippi and of the Confederate States, and bases his proclamation thereon. This proclamation only reached us a few days ago. And yet there are members of this House who ask us to admit the Representatives of Mississippi at once.

Now, Mr. Speaker, in the neighboring State of Virginia a law has lately been passed which declares certain negroes vagrants, and provides that as a penalty they may be sold into slavery. Major General Terry, on the 24th of January, issued his military order nullifying that law. Is that a civil government in which the military authorities abrogate the laws? Are the men who make such laws worthy of our confidence? I say again, the case is against them, the burden of proof is on their shoulders. They must purge themselves before I can consent to let them in.

How stands the case in Tennessee, the least treasonable of all? In a letter addressed to yourself, Mr. Speaker, under date of January 15, 1866, after pleading for the admission of the delegation from that State, Governor Brownlow says:

"Standing upon a different footing altogether, it does not follow that if the Tennesseeans are admitted the Representatives from other States lately in rebellion must come in also. Not a man south of Tennessee should be admitted until those States manifest less of the spirit of rebellion, and elect a more loyal set of men, and men who can take the congressional test oath, which but few of those elected can do."

"If the removal of the Federal troops from Tennessee must necessarily follow upon the admission of our congressional delegation to their seats, why, then and in that case, the loyal men of Tennessee beg to be without Representatives in Congress. But our members can be admitted, and a military force retained sufficient to govern and control the rebellious. I tell you, and through you, all whom it may concern, that without a law to disfranchise rebels, and a force to carry out the provisions of that law, this State will pass into

the hands of the rebels, and a terrible state of affairs is bound to follow. Union men will be driven from the State, forced to sacrifice what they have, and seek homes elsewhere. And yet Tennessee is in a much better condition than any of the other revolted States, and affords a stronger loyal population.

"Those who suppose the South is 'reconstructed,' and that her people cheerfully accept the results of the war, are fearfully deceived. The whole South is full of the spirit of rebellion, and the people are growing more bitter and insolent every day. Rebel newspapers are springing up all over the South, and speaking out in terms of bitterness and reproach against the Government of the United States. These papers lead the people, and at the same time reflect their sentiments and feelings. Of the twenty-one papers in Tennessee fourteen are decidedly rebel, outspoken and undisguised, some of them pretending to acquiesce in the existing state of affairs. In all the vacancies occurring in our Legislature, even with our franchise law in force, rebels are invariably returned, and in some instances rebel officers, limping from wounds received in battle fighting against the United States forces; and yet I tell you that Tennessee is in a better condition than any other revolted State.

"Others will give you a more favorable account. I cannot in justice to myself and the truth. I think I know the southern people. I have lived fifty-eight years in the South of choice, and two at the North of necessity."

In view of these facts we await further proofs. But, sir, there is a duty laid upon us by the Constitution. That duty is declared in these words:

"The United States shall guaranty to every State in this Union a republican form of government."

What does that mean? Read the twenty-first and forty-third numbers of the Federalist, and you will understand what the fathers of the Constitution meant when they put that clause in our organic law. With wonderful foresight, amounting almost to prophecy, they appear to have foreseen just such a contingency as the one that has arisen. Madison said that an insurrection might arise too powerful to be suppressed by the local authorities, and Congress must have authority to put it down and to see that no usurping government shall be erected on the ruins of a State.

What is a republican form of government? When these States were admitted into the Union, there was not one of them in which one tenth of the citizens were disfranchised. I will read a few words from one of the ablest men that ever stood upon this floor, that man so untimely dead, so sadly and lately removed from among us, whose words were like flaming swords, and who was intellectually one of the greatest and most gallant of men—Henry Winter Davis. He is here describing the conditions of a republican Government, and after premising that at the formation of the Constitution all the States but three admitted free colored persons as citizens, he says: "In Virginia there was but one free colored man to thirty-six of the population; in South Carolina one to seventy-seven; in Georgia one to one hundred and twenty-eight," and so on; showing that there were not more than one tenth of the adult males in any State disfranchised. And now, says he, we are asked to recognize as republican such despotism as the following:

"In North Carolina 631,000 citizens will ostracize 331,000; in Virginia, 619,000 citizens will ostracize 533,000 citizens; in Alabama, 596,000 citizens will ostracize 465,000 citizens; in Louisiana, 357,000 citizens will ostracize 350,000 citizens; in Mississippi, 353,000 citizens will ostracize 436,000 citizens; in South Carolina, 291,000 citizens will ostracize 411,000 citizens."

We are asked to guaranty all these as republican governments! Gentlemen upon the other side of the House ask us to let such shameless despotisms as these be represented here as republican States. I venture to assert that a more monstrous proposition was never before made to an American Congress.

I am therefore in favor of the amendment to the Constitution that passed the other day to reform the basis of representation. I could have wished that it had been more thorough and searching in its terms. I took it as the best we could get; but I say here, before this House, that I will never, so long as I have any voice in political affairs, rest satisfied until the way is opened by which these citizens, so soon as they are worthy, shall be lifted to the full rights of citizenship. I will not be factious in my action here. If

I cannot to-day get all I desire, I will try again to-morrow, securing all that can be obtained to-day. But so long as I have any voice or vote here, they shall aid in giving the suffrage to every citizen qualified, by intelligence, to exercise it.

Mr. Speaker, I know of nothing more dangerous to a Republic than to put into its very midst four million people stripped of every attribute of citizenship, robbed of the right of representation, but bound to pay taxes to the Government. If they can endure it, we cannot. The murderer is to be pitied more than the murdered man; the robber more than the robbed. And we who defraud four million citizens of their rights are injuring ourselves vastly more than we are injuring the black man whom we rob.

[Here the hammer fell.]

Mr. KERR obtained the floor.

Mr. ASHLEY, of Ohio. I move that my colleague [Mr. GARFIELD] be allowed time to conclude his remarks.

No objection was made.

Mr. GARFIELD. I am very much obliged to the House for the courtesy they have extended to me. It is the first time I have ever had occasion to ask this indulgence.

I say that slavery, and the inequality of rights before the law which are now a part of our system, are more dangerous to us than to the black man whom it disfranchises. It is like a foreign substance in the body, a thorn in the flesh; it will wound and disease the body politic.

I remember that this question of suffrage caused one of the greatest civil wars in the history of Rome. Ninety years before Christ, when Rome was in the grandeur of its glory, just before the dawn of the Augustan age, twelve States of Italy to which the franchise was denied rose in rebellion against Rome. And after three years and ten months of bloody war they compelled Rome to make its first capitulation for three hundred years. For three hundred years the Roman eagle had been carried triumphantly over every battle-field. But when iron Rome, with all her grandeur and glory, met men who were fighting for the right of suffrage, she was compelled to succumb, and give the ballot to the twelve States to save herself from dissolution. Let us learn wisdom from that lesson and extend the suffrage to people who may one day bring us more disaster than foreign or domestic war has yet done.

I must refer for a moment to the proposition of my friend from Connecticut, [Mr. DEMING,] who asks us to imbed in the imperishable bulwarks of the Constitution an amendment that will forbid secession in the future. I want no such change of the Constitution. They never had by the Constitution the right to secede. If we have not settled that question by war it can never be settled by a court. That court of last resort is higher than any other tribunal. As the Governor of Ohio has so well said:

"These things have been decided in the dread court of last resort for peoples and nations. By as much as the shock of armed hosts is more grand than the intellectual tilt of lawyers, as the God of battles is a more awful judge than any earthly court, by so much does the dignity of this contest and the finality of this decision exceed that of any human tribunal."

"There are some things to which courts of law can add no sanction, and a nation's appeal to God when it seizes the sword is one of them. We may, when necessary, try individual traitors, and the people of the United States will appear as prosecutor, but not as defendant at the bar."

I care not what provision might be in the Constitution; if any States of this Union desire to rebel and break up the Union, and are able to do it, they will do it in spite of the Constitution. All I want, therefore, is so to amend our Constitution and administer our laws as shall secure liberty and loyalty among the citizens of the rebel States. I am not among those who believe that all men in the South are enemies in the eye of the law. Their property was "enemy's property," when it was transported and used contrary to the laws of the Government; but all are not therefore enemies of the Government. Judge Sprague, in the Amy Warwick

case, distinctly declared that they were only enemies in a technical sense, namely, in reference to property, and not in any other respect. Justice Nelson, in 1862, declared distinctly that men who resided within the limits of the rebellious States were not therefore to be considered as enemies.

Mr. STEVENS. Does not that decision refer to the question of criminality; that they are enemies in every sense except that of being criminals?

Mr. GARFIELD. The court distinctly declared that the question of their property being enemy's property depended upon the use made of it. If the attempt was made to take the property out in opposition to law, then it fell under the technical category of enemy's property, and not otherwise. I take it for granted that the farm of Andrew Johnson, in Tennessee, was never enemy's property. If he had undertaken to violate the revenue laws in his use of his property, it would have become "enemy's property." If the distinguished gentleman from East Tennessee (Mr. Maynard) had undertaken to violate the revenue laws his property would then have become "enemy's property."

I do not regard all these men as enemies of the country. I remember that the long range of mountains which reaches from West Virginia down to Georgia, and terminates in the sand-hills of Mississippi, stood like a promontory of rock in the fiery ruin with which the rebellion had involved the Republic. I remember that East Tennessee with its loyal thousands stood out like a rock in the sea of treason. I remember that thirty-five thousand brave men from Tennessee stood beside us to assist in putting down the rebellion. They are not enemies of the country, and never were; and it is cruelly wicked, by any fiction of the law, to call them enemies of the country. To those distinguished men of Tennessee—and I see some of them in this Hall whom I reverence as loyal and patriotic men—let me say that I am not dissatisfied with them; but I want them and their friends to show that there is behind them a loyal government; that a loyal State government has been organized, based on the will of loyal people, and that in that State districts of loyal constituents have sent loyal men here. Satisfy me that there is a loyal State, loyal by the will of its people, that there are districts of loyal constituents, and that they send loyal Representatives, and those Representatives shall at once have my vote in favor of their admission. But, as I said before, the burden of proof is on their shoulders. Let them present that proof, and I will vote affirmatively on the question of their admission, and rejoice that I am enabled to do so.

Mr. Speaker, let us learn a lesson from the dealing of God with the Jewish nation. When His chosen people, led by the pillar of cloud and fire, had crossed the Red sea and traversed the gloomy wilderness with its thundering Sinai, its bloody battles, disastrous defeats, and glorious victories; when near the end of their perilous pilgrimage they listened to the last words of blessing and warning from their great leader before he was buried with immortal honors by the angel of the Lord; when at last the victorious host, sadly joyful, stood on the banks of the Jordan, their enemies drowned in the sea or slain in the wilderness, they paused and made solemn preparation to pass over and possess the land of promise. By the command of God, given through Moses and enforced by his great successor, the ark of the covenant, containing the tables of the law and the sacred memorials of their pilgrimage, was borne by chosen men two thousand cubits in advance of the people. On the further shore stood Ebal and Gerizim, the mounts of cursing and blessing, from which, in the hearing of all the people, were pronounced the curses of God against injustice and disobedience, and His blessing upon justice and obedience. On the shore, between the mountains and in the midst of the

people, a monument was erected, and on it was written the words of the law, "to be a memorial unto the children of Israel forever and ever." Let us learn wisdom from this illustrious example. We have passed the Red sea of slaughter; our garments are yet wet with its crimson spray. We have crossed the fearful wilderness of war, and have left our four hundred thousand heroes to sleep beside the dead enemies of the Republic. We have heard the voice of God amid the thunders of battle commanding us to wash our hands of iniquity, to "proclaim liberty throughout all the land unto all the inhabitants thereof." When we spurned His counsels we were defeated, and the gulfs of ruin yawned before us. When we obeyed His voice, He gave us victory. And now at last, we have reached the confines of the wilderness. Before us is the land of promise, the land of hope, the land of peace, filled with possibilities of greatness and glory too vast for the grasp of the imagination. Are we worthy to enter it? On what condition may it be ours to enjoy and transmit to our children's children? Let us pause and make deliberate and solemn preparation. Let us, as Representatives of the people, whose servants we are, bear in advance the sacred ark of republican liberty, with its tables of the law inscribed with the "irreversible guarantees" of liberty. Let us here build a monument on which shall be written not only the curses of the law against treason, disloyalty, and oppression, but also an everlasting covenant of peace and blessing with loyalty, liberty, and obedience; and all the people will say, Amen.

#### Freedmen's Bureau.

#### SPEECH OF HON. L. H. ROUSSEAU,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1866.

The House having under consideration the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau—

Mr. ROUSSEAU said:

Mr. SPEAKER: Although I have had no reason to question the veracity of the gentleman either then or now, yet I think he will hereafter have reason to doubt the accuracy of his memory. But he got about as near the truth as people generally do concerning such matters, having exaggerated the fact only fourfold.

Now, sir, I do not propose to justify here any of the wrongs alleged by the gentleman from Pennsylvania [Mr. KELLEY] to have been committed in the State of Alabama. I do not seek to justify wrong of any sort. I know nothing about the instances of injustice cited by the gentleman. All that I will say is, that the data was exceedingly meager for any argument attempted to be founded upon it. I propose here to discuss the principles of this freedmen's bill. I am opposed to it; not in any partisan spirit nor from any prejudices, but because of the oppressions that such a law must lead to, and the injury that it must inevitably bring to the colored race.

This bill emanates from a party with which I have acted for the last four years. I am not a Republican; I was a Whig and am a Union man, and belong to the Union party, and I am sorry to say that the Union party and the Republican party are not always convertible terms, in my judgment. My reasons for this statement may appear as I proceed. I have acted with the Republican party in its measures to suppress the rebellion. I have given it a hearty support for the last four years. I have sustained it blindly, asking no questions, because I believed the Government of the United States was in the hands of that party, to be saved or lost. I was told at the outset of these difficulties that, representing the loyalty of the nation, that party undertook to suppress the rebellion, to restore the

authority of the United States, and reestablish the original status of States in all the dignity and rights which they had before the rebellion. It was said not only to southern men, but all over the United States, that they owed a paramount allegiance to the United States Government, and that no man could be released from such allegiance to the Federal Government. I subscribed to that doctrine. It is the doctrine of that man in whose principles I have believed, whose talents and eloquence we all admired. It was the doctrine of Henry Clay, of Kentucky, and not for one moment since our troubles began have I thought of doubting it, much less of abandoning it.

I believed, sir, that the Republican party in the outset of this war would save the Government. I had no doubt about it. I had no doubt that any party that represented the United States would save the Government. The rebellion is now suppressed. We have peace. I care not what gentlemen may say; but, sir, there is not in the whole United States of America one single armed rebel to-day. How, then, can gentlemen talk about existing war? The existing state of things in the country affords no excuse for the passage of a bill of this description, outrageous in all its features. It proposes to confer powers such as never were heard of as having been conferred by the Congress of the United States, either upon judicial officers or upon regularly-established courts; and here these powers are proposed to be conferred upon mere irresponsible agents, military subalterns, lieutenants, captains, and majors of the Army, [A VOICE. "And politicians,"] and, as suggested, politicians. May the Lord save us from them! I mean no disrespect to the politicians upon this floor, [laughter,] but of all military men, relieve me and the Army from the "military" man who wants to fill some petty office, for he only eats up rations that better and more serviceable men should have. [Laughter.]

I say, sir, that this bill is oppressive in all its features; and I wish to say to the House in justice to my own position, that I am for any and all measures, I do not care what they are, that are just and necessary to take care of these unfortunate people. There is not one of them, the poorest and meanest and humblest in the United States, in defense of whose rights, if I saw them assailed, I would not stake my life, and the poorer and humbler the quicker would I do it. I would protect that people in every proper way, but we do not need to protect them at the expense of the rights of other people. I draw no distinction between blacks and whites so far as the rights of person and property are concerned. We have distinctions that we cannot to-day get rid of, and we have others still that we do not want to abolish. But this bill sweeps all such distinctions pretty much away. I undertake to say that if the enforcement of this bill is placed in the hands of prejudiced men who go South with their minds made up upon this subject, made up in the way that the gentlemen from Pennsylvania [Messrs. STREVELS and KELLEY] would have them, insults and outrages that no community on earth could bear will be of daily and hourly occurrence.

You do not know, Mr. Speaker, gentlemen here do not know, what the loyal element in the South has to bear in matters of this sort. The Union cause in Kentucky has gone down; and why has it gone down? Why, from these abuses and oppressions which loyal men cannot defend and which the community cannot bear. I tell you, sir, that gentlemen in this House ought to look to these things and have at least a little respect and a little kindly feeling for men who have stood true to the Government in its trials. Take care of the negroes, in God's name, and I will help you, but do not place these extraordinary powers in the hands of a body of men who will oppress, insult, and outrage our people. What are those powers? I ask the Clerk to read the seventh and eighth sections of the bill.

The Clerk read, as follows:

SEC. 7. *And be it further enacted*, That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offense, than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

SEC. 8. *And be it further enacted*, That any person who, under color of any State or local law, ordinance, police, or other regulation, or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject or cause to be subjected any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe.

Mr. ROUSSEAU. Now, Mr. Speaker, these are very extraordinary powers for the Congress of the United States to confer. They are powers which the Constitution of the United States forbids in the provisions in regard to the judicial power, to trial by jury and the security to person and property from unreasonable search, and in various other provisions. But granting that Congress could confer these powers upon courts, which certainly it cannot do, I ask the members of the House, in view of their oaths to support the Constitution, if they can possibly confer these powers on the mere agents of the Freedmen's Bureau; lieutenants, if you please, and captains in the Army, or citizens, not of the proper locality, but gatherers of crumbs falling from the tables of politicians all over the country? I need not go into an argument to show how far this bill is unconstitutional. The whole bill, root and branch, is without warrant and against the organic law. At one blow it sweeps away the constitution and laws of Kentucky, courts, juries, justices of the peace, sheriffs, and everybody who denies to the negro the civil rights laid down in this bill; all these are liable to be arrested by the agents of this bureau and fined and imprisoned, not exceeding a fine of \$1,000 and imprisonment for one year. Our ministers of the gospel who refuse to solemnize marriages between whites and blacks, that they are sworn not to solemnize, may be arrested and taken before the agents of this bureau. Our justices of the peace, who will not allow negroes to testify in their courts, may be treated in the same way. A judge of any court while trying a cause may be taken from the bench and imprisoned for one year by the agents, the subalterns of the Freedmen's Bureau, and fined \$1,000.

Now, sir, I ask gentlemen here if they can vote for a bill of this sort? Can we not secure all the rights of the negroes without thus outraging the feelings of the people of the southern States, and also of the people of the northern States, in consequence of the condition of things which this bill would create? I think we are bad off if we cannot. Sir, this class legislation will prove injurious to the race it professes to shield and protect. You raise a spirit



of antagonism between the black race and the white race in our country, and the law-abiding will be powerless to control it. And if you get this feeling excited up to a certain point, and the whole of one race shall be thus arrayed against the other, you may send there all the armies you can raise, you may send soldiers into every county and every precinct in the States, but you will never be able to prevent violence and bloodshed there. When men become bent on mischief, as the operation of this bill will be sure to make them, you cannot raise force enough to prevent it. I do not state this by way of threat. I speak of it as a fact which we owe it to ourselves to consider.

This House does not know what has been the operation of this Freedmen's Bureau. I desire to accuse no man. I believe the head of the bureau in my section is a gentleman and a clever man, and wishes to do right. I may be allowed to name the gentleman to whom I allude; I mean General Fisk. But he is not always present to look after these things, and I do not know what he would do if he were present. Men whose minds are prejudiced on this subject are not to be trusted. We are not to be trusted; nobody is to be fully trusted. All of us require to be watched; and that is what I would have this bureau to do, to look after the interests of these people and to take care of them. But in doing that let us not destroy the liberties of the communities in which this race reside.

Now, I wish to state a fact that came within my own knowledge for the information of this House. In my town, the city of Louisville, the commercial metropolis of the State, we had a man placed at the head of the bureau there who had some queer notions, which men generally get who have a particular duty to perform, a duty involving prejudice, hate, and bitterness. He considered every man in the country who did not believe as he did to be his enemy, the enemy of the Government, and the enemy of the negro. What was the result of his course? He would arrest any man, no matter whom, the most inoffensive and the most loyal, on the *ex parte* statement of a negro. And when the man was brought into his presence, he would turn to the negro making the statement, and say "Brother," or "Sister," as it might happen, "what has this man been doing to you?" And then he would take the testimony of negroes against him, and sitting as a court, he would punish him by fine and imprisonment, or by a fine alone, ordering him to be imprisoned "unless the fine was paid." Now, these are things I have from the most reliable authority.

And I will mention another case. A man by the name of Blevins in my town came home one evening and found his wife engaged in some controversy and collision with a negro woman who had been her servant—not one who had belonged to her as her slave. He took part with his wife, as I think any gentleman ought to have done, whether his wife were right or wrong. The negro woman complained to this agent of the bureau, and a couple of negro soldiers were sent there to arrest him and his wife. And because one of his little girls had said something in the matter an order was also sent for her arrest. The man came to me, supposing that I might be able to assist him. I asked the post commander how it happened such things were allowed. He said, "This Freedmen's Bureau, it is said, is over us all; what can I do?" I replied, "If I commanded this post I would know who it was who ordered the military to arrest the people without my knowledge, and I would stop it. While I was commandant I would do my duty. If the authorities did not like it, they could send me away." Early the next morning I went to the commandant's headquarters and there I found Mr. Blevins and his wife and children seeking protection against the Freedmen's Bureau, acting on the complaint of the negro woman.

Now, sir, I told the agent of that bureau then

just what I thought and felt in reference to this matter. I said to him, "If you want to protect the freedmen of this community I am with you heart and soul; I will stand by you in all just measures; but if you intend to arrest white people on the *ex parte* statements of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty; and I think that you would do the same to a man who would treat you in that way, if you are the man I think you are, and the man you ought to be to fill your position here."

I tell you, sir, that no community of the United States can endure a system of this sort. Such have been the operations of this bureau under the old law. What will be its operations under this bill Heaven only knows. I cannot even imagine what a man may not assume the right to do under the provisions of this bill. If those who are to be appointed under this act should adopt the latitude of construction adopted by my venerable friend from Pennsylvania, [Mr. STEVENS,] if they carry out his notions in reference to the force of the Constitution and the effect of the rebellion, they can find a warrant for anything they may wish to do.

Mr. CHANLER. Mr. Speaker, I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state his point of order.

Mr. CHANLER. My point of order is that my colleague from New York [Mr. CONKLING] and the chairman of the Committee on Appropriations [Mr. STEVENS] are out of order in holding a conversation while the gentleman from Kentucky is addressing the House.

The SPEAKER *pro tempore*. The point of order is well taken. Gentlemen will resume their seats and not converse in an audible tone.

Mr. ROUSSEAU. It was no disturbance to me whatever. Are not such things customary here?

Mr. CONKLING. Before the gentleman from Kentucky resumes his speech, I beg his permission to make a remark.

Mr. ROUSSEAU. Certainly.

Mr. CONKLING. My colleague from some district—the seventh or the eighth, or somewhere there—has made a remark with the apparent purpose of conveying to the gentleman from Kentucky the impression that his speech was not listened to here, or that something was going on in derogation of that politeness due to the gentleman. I beg, therefore, to assure him that it was his speech which was the subject upon which a single remark was passing between gentlemen here. I submit to the gentleman who made this point of order with so much originality and genius, whether it was worth while to call the attention of the House to what was really a perfectly respectful proceeding to the gentleman from Kentucky.

Mr. ROUSSEAU. I am very much obliged to the gentleman for any portion of his attention. I do not expect to get the gentleman to vote with me on this bill, though I wish he would. I wish that he, a good, loyal man, would stand out with me for the right, as I have stood with him for the last four years. I wish that I could induce him and other gentlemen who will vote with him to look at this matter without prejudice. Remember, sir, that although I am not, properly speaking, a Republican, I am a Union man, good and true, as I believe; and I think that I am entitled to the gentleman's attention and his confidence when I state what I know as to the operations of this bureau.

Sir, as I remarked before, the judicial and other officers of Kentucky, if they refuse to violate their oaths in obedience to the behests of the agents of this bureau, may be arrested and punished by them, this bureau acting as an appellate court on all subjects, while appeals lie from it nowhere.

If you get on the cars with your wife and

daughter, and if there be a spare seat, and a drunken negro comes forward to take it, and you ask him if he pleases to move a little further off, and he takes a notion that he will not do it, and should report to the bureau that because he was a negro he was not allowed to take that seat, this Freedmen's Bureau may at once arrest you and your daughter, and fine and imprison both. I say this bill authorizes that thing, and I defy any one of its friends to successfully combat that position. If you go to a theater in a place where this Freedmen's Bureau is established, and, not because they are negroes, but because they are unfit and ignorant persons, they are told they have no right to go and take seats with your family, and you prevent it, the bureau may arrest and imprison you. If a judge decides that a negro cannot be sworn in a cause being tried in his court, under the laws of a State which he has sworn to administer, why, sir, before that decision is cold upon his lips they may arrest and take him off to the agent of the bureau and punish him as before stated.

Mr. Speaker, I ask members here, and especially the Union men of this House, to answer and tell me whether they would submit to such outrages? If they would not submit to them, will they then ask the Union men of the South, who have stood by the Government, to submit to them? If they do, all I have to say is that we cannot and will not submit to them.

But, sir, there is no necessity for these outrages. Laws should be provided ample in their character to protect that race if they are not now sufficient, and I think they are not. And, as I have already said, if these things do occur they will destroy all feeling of good will between the whites and the blacks in that country. I repeat, when ill feeling has thus been created all the armies you may raise cannot protect them.

Where now is the Freedmen's Bureau? Why did not its agents prevent the hangings and imprisonments of which the gentleman from Pennsylvania [Mr. KELLEY] has spoken? The Freedmen's Bureau is in Alabama, and the military are still there. No, sir, it cannot be done. So far as I understand the operations of the bureau, it lies around the towns in the State of Kentucky to harass and oppress, and by oppressions to put upon the loyal men of that State issues that they cannot carry; issues which they cannot defend. Let us first do right ourselves, and then we can demand that all others shall do it.

Mr. ELIOT. I only desire to inquire of the gentleman from Kentucky whether he has it in his power to state the name of any agent within the State of Kentucky who has had charge of matters under the bureau and who has exposed himself to this censure?

Mr. ROUSSEAU. Yes, sir. I never say anything that I am not willing to stand by. I will not come here and make such allusions to persons and refuse their names when called for by their friends. I refer to Colonel McCaleb, as one of the men connected with the Freedmen's Bureau in Kentucky, and he is the man whom I told that if he undertook to arrest me and my family as others had been arrested and punished I would kill him. And Captain Kennedy was another I referred to.

Mr. ELIOT. I ask the gentleman whether Mr. Kennedy was not appointed in Kentucky before the bureau took charge of affairs there?

Mr. ROUSSEAU. I do not know. Colonel McCaleb, who preceded him, received orders from General Fiske.

Mr. ELIOT. Is it not true that Mr. Kennedy was appointed by a gentleman who occupied the position of post commander?

Mr. ROUSSEAU. Yes, sir.

Mr. ELIOT. And is it not true that Mr. Kennedy was removed from his office within a few days after the bureau took charge under the present officer?

Mr. ROUSSEAU. I do not know how many days afterward; but I do know that he committed more outrages there than the people will be able to forget in thirty years.

39TH CONG....1ST SESS.

Freedmen's Bureau—Mr. Rousseau.

HO. OF REPS.

Mr. ELIOT. Is it not also true, on the removal of Mr. Kennedy, the gentleman himself was called upon by the assistant commissioner there to recommend a successor; and whether he did not recommend the gentleman who has ever since occupied that position?

Mr. ROUSSEAU. I was called on before his removal, and I did recommend Colonel W. P. Thomasson, who is a gentleman in every way unexceptionable, and who now fills that position.

Mr. ELIOT. Mr. Kennedy being out of the way, can the gentleman name any other gentleman connected with the Freedmen's Bureau against whom he complains?

Mr. ROUSSEAU. I have had no further acquaintance with them, and I am sorry that I have had any. [Laughter.]

Mr. ELIOT. That is all.

Mr. ROUSSEAU. Mr. Speaker, I wish now to call the attention of the House to a letter sent up here from Charleston. It emanates from one Reuben Tomlinson, one of those gentlemen, I suppose, who go down South for their own purposes, and are constantly writing back what they are doing, and taking great credit to themselves.

"CHARLESTON, S. C., October, 13, 1865.

"DEAR SIR: I am now endeavoring to start the schools in this city. There are in Charleston four public-school buildings: the Normal, St. Philip's street, Morris street, and Meeting street buildings. The Meeting street school is a small and very insignificant affair; the others are very fine houses. The old trustees have applied to be put in possession of them. This General Saxton has refused unless they will agree to give a fair share of them to the colored children. They refuse to do this. The Normal, Morris street, and Meeting street schools I have opened and they are already well filled with colored children. The white children, of course, do not attend."

There are four school-houses in Charleston, and this gentleman takes credit to himself for having taken possession of the whole of them and used them for the benefit of the colored people to the exclusion of the whites.

Mr. Speaker, when I was a boy, and in common with all other Kentucky boys was brought in company with negroes, we used to talk, as to any project, about having "a white man's chance." It seems to me that now a man may be very happy if he can get "a negro's chance." Here are four school-houses taken possession of, and unless they mix up white children with black, the white children can have no chance in these schools for instruction. And so it is wherever this Freedmen's Bureau operates.

Sir, what will be the result of all this? It will result in that state of feeling I have spoken of which Union men in my section of the country want to keep down.

Mr. Speaker, I am told that the Constitution and laws of the land are nothing just now because we are in a state of war. I do not care what may be said about the theory that a state of war may exist without any declaration of it or existing hostilities, but I say there is no such state of war among the people who are brethren and fellow-citizens of a common country as to justify these illegal interferences.

But, sir, four years ago we began resistance to the efforts of the rebels to put down this Government. We were told that this war was for the Union. But we are told now that the rebel States are out of the Union, and that all these laws may of right and must of necessity be passed, and that we must sweep away the constitution and laws of these States as this bill does. As I have already suggested, you may arrest the judges of Kentucky, not by warrant of law, but by order of a subaltern of this bureau, and deprive them of liberty. You may take away the liberty of any man, woman, or child without warrant of law, without affidavit, but upon the *ex parte* statement of any vagabond negro who strolls through the country.

And we are told that these States are not in the Union. Why, sir, how is this? Was there a soldier in the whole Army of the United States who fought in this war for the preservation of the Union who did not do so to save the Gov-

ernment of his country? And yet, when the war is at an end and the rebellion dead, we are told by the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Ohio [Mr. SHELLABARGER] that it does not matter in the least how the war might end, whether the rebellion was suppressed or not, the Union is at any rate dissolved; that our nationality is dead, but the consolation is afforded us that the Republican party still lives, and to keep it alive and in power the organic law must be amended.

Now, sir, as I before said, I have acted with that party and would act with it still. I want to stay with the loyal men of this country. But, sir, I find there are northern as well as southern secessionists, and they not only seek the same result but adopt pretty much the same reasoning on that subject. I am not willing to act with either, and I care not whether either or both are honest in the belief that secession could be or is accomplished. I do not value, in the least, honesty in treason.

They told me at the beginning of this war that Jefferson Davis and his co-traitors were honest in their belief that they could secede. I knew they could not. I knew there were but two ways in which they could secede; one was according to the law of the land, and the other was by force. You all say they could not do it by the law of the land; and I ask you if we did not put down the force by which they attempted to carry out their purpose? Sir, we southern men have fought our share in this war. We have gone through more trials than you know of. We have aided in bringing the war to a triumphant close, we have aided in gaining the victory upon which the life of the Government depended, and now, when we come here, those who profess extreme loyalty get up and coolly tell us to "Stand off; you are enemies of the country."

A few days ago my friend from Ohio on my right [Mr. DELANO] made a report, and he was complimented with much honeyed commendation, to use an old expression, by the gentleman from New York [Mr. CONKLING] for making that report, that the people down in the insurrectionary States were enemies to the Government, and that he could make no distinction between loyal and disloyal men in the southern States. I ask those gentlemen to-day, and I wish they were able to answer me, when the loyal men in the southern States became enemies to their country? Did they do so by the secession of these States, which all these gentlemen said was a nullity? Why, sir, upon the principle these gentlemen contend for, the southern man who, while defending the flag of his country in the face of the enemy, if he had left his wife and children behind him, they were enemies of the Government because they were left in the seceded States. I do not believe a word of all this. It cannot be true. We have cut ourselves loose; we have broken every tie that bound us to our people; brother has been against brother and father against son; and yet when we come to the legislative halls of the nation and ask for that protection which we think we are entitled to, we are told that we are enemies to the Government, and must wait the convenience of gentlemen for even a consideration of our claims.

Mr. CONKLING. Will the gentleman allow me a moment?

Mr. ROUSSEAU. I would rather go on.

Mr. CONKLING. As the gentleman has referred to me, I desire to set him right on a statement of fact.

Mr. ROUSSEAU. Excuse me, if you please. I would rather go on. I do not like to have my train of thought broken in upon.

Mr. CONKLING. The gentleman does not state correctly the position I took.

Mr. ROUSSEAU. Then I yield, of course.

Mr. CONKLING. I trust I shall not interfere with the gentleman's line of argument by saying that he quite misapprehends, and therefore quite misstates, the position which I took.

The remark which he refers to was a question I propounded to the gentleman from Ohio, [Mr. DELANO.]

Mr. ROUSSEAU. Perhaps I did. I will read it, and the House can see whether I did or not:

"Mr. CONKLING. I desire to ask the gentleman from Ohio a question. I wish to say that I listened with very great pleasure to the reading of the report made by the gentleman some days ago, and, having once examined this question, I agree with him, as I understand his report, and I feel for one under great obligation to him. I desire to ask him what is the difference, not as a matter of clemency and discretion, but as a matter of law, between a claim presented by a disloyal person and one presented by a loyal man, if both men were citizens of the country occupied and held by the enemy? I ask the question in the light of the decision of the court in the prize cases."

Mr. DELANO. I do not wish to interrupt the gentleman from Kentucky, but some time in the course of his remarks I desire him to allow me to explain what I meant by the language that I used in reply to the gentleman from New York, if he will give me the opportunity.

Mr. ROUSSEAU. I will do so; and meantime I will read the remarks of the gentleman in reply to the question of the gentleman from New York, [Mr. CONKLING.]. He said:

"There may be cases upon this point. But if there are I frankly say to the House that my industry has not brought them under my observation. And if he or any other gentleman knows of any such case I would be obliged to him to inform me. All the time I have been speaking in reference to this distinction between the claims of loyal and disloyal persons I have been speaking in reference to equity and not in reference to law, and I desire the House so to understand me. I have been considering the question in the light of benevolence and equity, rather than in the light of law and strict justice. I think the suggestion of the gentleman from New York [Mr. CONKLING] exceedingly pertinent, because it presents to those who see fit to take that view of the subject another reason for rejecting these claims."

"I will add further upon this point that it once occurred to me, while I had this report under consideration and preparation, that those who were brought into the rebellion by the sovereign power of their States—for I acknowledge the sovereignty of States to a limited extent—those who were carried into the rebellion by the sovereign action of their States, so far as they could act, thus being in a certain sense enemies, to whom for some purpose belligerent rights were accorded, must necessarily, upon principles of law, stand upon the same platform with those who caused the rebellion."

Now, Mr. Speaker, I am not going into a discussion of this question, whether the States lately in rebellion are out of the Union or not. Enough has been said about that on my side of the question and on the other side. I wish to state here one single position, and it is one that we have stood upon through the war, and one I expect to stand upon as long as I live, and which nobody shall drive me from, and that is, that every citizen of the United States owes paramount allegiance to the Federal Government, an allegiance that neither the States in one or another capacity, nor the people in any capacity, can release him from, and that this allegiance, when given heartily to the Government, entitles the citizen to all the protection that the Government can give him, and that no matter where or in what State he may be he is entitled to all the rights that belong to any and all other citizens.

That, sir, was the sensible ground that we occupied in the South. But after the war is over, a war waged for the salvation of the Government alone, we are told that these States are out of the Union. I say this war was waged for the salvation of the Government alone. In support of that assertion I will ask the Clerk to read the resolution adopted by this House the day after the battle of Bull Run. It is hardly necessary to refer to it; but I will ask the Clerk to read it.

The Clerk read, as follows:

"Resolved by the House of Representatives of the Congress of the United States, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or sub-

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jugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

Mr. ROUSSEAU. The day after the battle of Bull Run that resolution, as I understand, was adopted by this House. The nation then trembled for its safety, and no one could tell how this war would end. The people of the United States then wanted every loyal man to come up to the work, and show that he regarded his allegiance to the General Government as paramount to everything else. The country needed help then. And we in the South went forth on that platform, and we fought through this war upon it.

I shall not forget what occurred the day we heard of the result of the battle of Bull Run. I was then in camp "Joe Holt," with perhaps fifteen hundred enlisted soldiers, without a tent, without food, without money, and without credit. I remember the night on which the news of the battle of Bull Run was received in Louisville. The enemies of the Government held a meeting in that city, and a speech was made by a Mr. Symral, who afterward joined the rebellion. He congratulated the audience on the result of that battle, and said that "Our enemies have been beaten and driven from the field." Some one who happened to think of it, said, "What will now become of Rousseau's brigade?" And they almost stamped the house down in derision of what would become of the handful of men I had under my command.

But when this resolution of the House, introduced by Mr. Crittenden, so loved and honored by every Kentuckian, came out, it strengthened the southern men in the cause of their country. They told the people that this was not a war for subjugation, for degradation of the southern people, but a war for the preservation of the Government, and to restore the Federal authority all over the land.

Let me ask the gentleman if, at any time before the battle of Bull Run, or soon after it, when you were in want of men for your Army, they had been told that the Union was to be dissolved at any rate, whether we suppressed the rebellion or not, how many men South would have taken up arms to fight in such a cause? Not one, sir; not one. I would have laid down my life before I would have done it. I would not have turned against my own people in a mere sectional war, for I love my own section best. I would not join the North as a mere section in a war against my people. The war recently closed never was a war between the North and the South; it was the United States against its domestic enemies. Yet, sir, men who have stood true to the Government throughout all this contest, and have been duly and legally elected to seats here, are refused admission to this House as members. Not only that, sir, but I noticed the other day a degree of hesitancy on the part of gentlemen here to extend to these honorable and loyal men, coming here as Representatives, the mere right to sit on this floor till their cases shall be decided. And two days ago there was an absolute flat refusal to admit the Arkansas delegation to the privileges of this floor till their cases were determined.

Mr. Speaker, I wonder whether gentlemen, in casting that vote, knew that they were repulsing and closing their doors upon men in that Arkansas delegation who have fought in defense of the Government for three years. When members voted against the admission of Maynard and Leftwich and Campbell and Hawkins and Cooper and Stokes, I wonder whether they knew the important services which those men have rendered to the Government. Maynard you have had with you in times of your trepidation. When you wanted help you would take these men from the South, if they came here but half elected. They now come here wholly

elected, and, as I contend, fairly elected, and you reject them. Campbell, of Tennessee, was a colonel in the United States Army, and during the Mexican war led his regiment in the capture of the "Bishop's Palace" at Monterey. He has stood true to the Government up to this hour. How is it as to Cooper? Sir, a little over one year ago the terrible conflict between Thomas and Hood took place at Nashville. I, with my force, at Murfreesboro, was cut off from communication with my commander-in-chief; and on the 14th day of December, 1864, exactly one year prior to the day on which the vote was taken refusing him a seat in this House, Cooper slept in my tent to escape hanging by Hood's army, having been driven from his home by its approach. Leftwich has gone through a similar ordeal. Stokes was for weeks hiding out in the woods to keep from being hanged; and afterward he raised a regiment and fought bravely for his country. But now, when the war is over and the rebellion suppressed, these men come, and you tell them that they cannot be admitted upon this floor as Representatives of their State.

"Enemies!" Why sir, I ask my friend from Ohio [Mr. DELANO] when our enmity to the Government began.

Mr. DELANO. Will the gentleman allow me to ask him a question?

Mr. ROUSSEAU. In a moment.

Sir, my State seceded after a fashion. We had for a time a provisional governor. General Bragg, with his army, inaugurated a rebel governor in the capital of the State, and took the State out of the Union in a certain way. But, sir, will the gentleman tell me that this made me an enemy of the Government? Will he tell me that the man from Tennessee or Mississippi or Alabama who fought on the side of the Government throughout the war was an enemy because some of the disloyal citizens of his State claimed that they had carried the State out of the Union? Why, sir, when did our enmity begin? Did it begin at Shiloh, or Perryville, at Stone River, Chattanooga, or Donelson? Not a battle has been fought in the West, and not one in the East, without some southern blood enriching the soil, blood freely poured out for preserving the integrity of the Union.

I deny the whole doctrine. I utterly repudiate it. I look with utter scorn upon the doctrine that any mortal man can make me an enemy to my country in fact or in law. The doctrine is false in law, false in logic, and utterly false in fact.

The truth, sir, is that the war is over, and we have peace in the country. We have a different state of things. I am not disappointed except when I come into this Hall and hear the venerable gentleman from Pennsylvania [Mr. STEVENS] tell us that the organic law of the Union must be amended to keep the Republican party in power.

The SPEAKER. The gentleman's time has expired.

Mr. SHANKLIN obtained the floor.

Mr. ROUSSEAU. I have a little more to say.

Mr. SHANKLIN. I yield to my colleague to finish his remarks.

Mr. ELDRIDGE. I hope it will be understood it will not come out of the time of the gentleman from Kentucky, [Mr. SHANKLIN.] I hope the courtesy will be extended to the gentleman who has been speaking to finish his remarks.

The SPEAKER. The Chair will entertain any motion for an extension of time.

Mr. CONKLING. I will make that motion, with the understanding that gentlemen who have been alluded to and put in a position they do not occupy shall also have an opportunity to deny or modify what has been said in regard to them.

Mr. BANKS. I hope the gentleman from Kentucky will be allowed to finish his speech without any condition. It has been accorded

to us on this side, and ought to be accorded to him.

Mr. SMITH. That is right.

The SPEAKER stated, there being no objection, it would be ordered accordingly.

Mr. ROUSSEAU. I am much obliged for the courtesy, and I yield to the gentleman from Ohio [Mr. DELANO] for a word of explanation.

Mr. DELANO. Mr. Speaker, I have listened with pleasure to the remarks of the gentleman from Kentucky, [Mr. ROUSSEAU.] I have also heard with approbation portions of his speech. He has proceeded under a palpable and manifest misunderstanding of my opinion in reference to the condition of the States lately in rebellion. He regards me as concurring in the opinion that these States are out of the Union, or, to use the compact and forcible language of the gentleman from Pennsylvania, "dead," and seems to infer that I agree in the natural and inevitable consequences of that position. Some of these consequences I will allude to. If these States are dead, they are without law, except through military authority; and it is the duty of Congress at once to provide territorial governments for them or to recognize such governments as their people have set up and established. Without doing one or the other of these things, and granting that the States are dead and civil government entirely destroyed, these communities are in chaos, subject only to the law of power. Nothing can do me greater injustice than thus to interpret my remarks.

If hereafter I shall be fortunate enough to obtain the floor, I propose to place my views fully before the House and the country on this subject. At present, I will but say that I repudiate entirely, as groundless and unsustainable, the position that the States are "dead." They live, as integral parts of this Union. They are States for the purposes of local and State government; and to a certain extent are in actual harmonious relation with the other States forming the Federal Union. I hope soon to see each one fit for restoration and actually restored to all its privileges and relations under the Constitution of the United States. The time allowed for this explanation is too brief to go further into this subject at present.

While discussing the question of claims of citizens of the States lately in rebellion growing out of the destruction or appropriation of property by our Army and Navy during the war, I took occasion to place the refusal to pay a certain class of such claims on the ground that it was impossible to distinguish correctly between loyal and disloyal claimants. While enlarging upon this point, I was interrupted by the gentleman from New York [Mr. CONKLING] with this inquiry, whether in a legal view merely there was any difference between loyal and disloyal persons as to the legal liability of the Government, the gentleman from New York observing that he asked the question in view of the Supreme Court decision in what are termed the "prize cases." To this inquiry I replied substantially, that as matter of law, merely, I knew of no distinction; that the decision alluded to treated all the inhabitants of the rebel States in a certain sense as enemies, and hence I inferred that we might legally refuse to pay for all property taken or destroyed in suppressing the rebellion when owned by citizens of States in rebellion. In my report, however, I chose to put the refusal of Congress to pay for such property upon the ground of difficulty in distinguishing between the loyal and disloyal claimants rather than upon this rigid legal rule. The gentleman from Kentucky has proceeded upon the supposition that the term "enemy" in the prize cases was used by me as signifying an enemy to the Government, a public or foreign enemy. Nothing is more foreign to my meaning than such an interpretation. This will lead me to say that, so far as I have heard, the "prize cases" referred to, during the debates upon reconstruction, it seems to me that the law of those cases



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has been misapprehended and misapplied. I will, therefore, undertake briefly to explain the decision of the court in those cases as I understand it.

In the first place the court decides—

"That it is not necessary to constitute war that both parties should be acknowledged as independent nations or sovereign States. A war may exist where one of the belligerents claims sovereign rights as against the other."

This principle leads the court to say, in another place—

"That it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights."—*Prize Cases*, 673.

Hence, it follows that belligerent rights are granted by the party claiming to be sovereign to the party in insurrection, *pendente bellum*, in order to mitigate the cruelties and misery produced by the scourge of war. Wherefore, the court say in these cases—

"This being the case, it is very evident that the common laws of war—those maxims of humanity, moderation, and honor—ought to be observed by both parties in every civil war."—*Pages* 663, 667.

It is perfectly clear, therefore, that the granting of belligerent rights, the exchange of prisoners, the exchange of flags of truce, and all other acts of humanity in mitigation of the cruelties of war, which were exercised and approved by the United States, did not convert the insurgent States into a foreign nation nor constitute them foreign States which we are authorized to say have been subjugated.

Now in regard to the word "enemy" as used in these cases the court says:

"All persons residing within this territory whose property may be used to increase the revenue of the hostile power, are in this contest to be treated as enemies, though not foreigners."—*Page* 674.

And again:

"But in defining the meaning of enemy's property we will be led into error if we refer to Fleta or Lord Coke for their definition of the word enemy. It is a technical phrase, peculiar to prize courts, and depends upon principles of public policy as distinguished from the common law."

It is perfectly apparent from a careful examination of this case that the court applied the word enemy to the people of the States in rebellion in the limited and technical sense "peculiar to prize courts." That is, the property of all of the citizens of these States was subject to capture and condemnation during the war, because such property might increase the revenue of the hostile power, and because the United States Government had a right and was bound to put down this power; and by analogy the Army might, I suppose, destroy the property of all persons residing within the hostile jurisdiction; and to authorize such capture and such destruction these persons are to be treated as enemies, and for no other purpose whatever. Hence, as the court say, though enemies they are not foreigners, and that the term is technical and peculiar to prize courts, and must be distinguished from its common-law definition. Therefore the theory fabricated upon this decision, that the people of the southern States were converted into foreign enemies by the grant of belligerent rights during the war, or by subjecting their property to capture on the high seas and to condemnation, is shown to be baseless and without law or reason to support it, so far, at least, as the prize cases are concerned.

I trust the gentleman from Kentucky now understands in what sense I applied "enemy" to the inhabitants of the insurrectionary States. God forbid that I should call those noble, loyal men of the South, enemies. They have done more, suffered more, endured more than we of the North for the salvation of our common country. They are not enemies, therefore, in the common-law sense of the word, however they may have been treated during the war under the decisions of judges of the prize courts. On the contrary, they are friends; friends of liberty; friends of the Union; friends of the loyal people everywhere throughout the Union. And I shall always be proud of the privilege of tak-

ing these noble men by the hand and calling them my friends, as they have been the friends of my country.

It will be remembered, Mr. Speaker, that I offered, a few days since, a resolution granting to the members-elect from Arkansas the same courtesy that has been extended the members-elect from Tennessee. These gentlemen from Arkansas are loyal and have always been loyal. They can take and are now ready to take the oath required by this House; their State is reorganized and civil law is reestablished; peace and security exist there. One of these gentlemen I have known for twenty years, and can vouch for his loyalty and his honor, yet they were denied the privilege of coming into this Hall as citizens; not as members, but as private gentlemen.

Can we restore the Union by such a course as this? In regard to Tennessee I am ready to vote for the admission of her Representatives at once; vote that they shall sit here as Representatives, as members of this House; and I believe, sir, it is due to this House and the country that the members-elect from Tennessee and Arkansas should be admitted speedily.

Mr. STEVENS. May I make a suggestion? We are about to adjourn. There are two or three gentlemen who desire to speak, and there is but little time. I suggest, therefore, that we take a recess until half past seven o'clock and meet again for the same purpose.

Mr. ROUSSEAU. I desire to speak about five or ten minutes.

Mr. STEVENS. I mean after that.

Mr. SMITH. I object.

Mr. STEVENS. It is the gentleman's colleagues that desire to speak.

Mr. SMITH. I want my colleague to get through.

Mr. STEVENS. After he gets through, I mean.

Mr. SMITH. Let him get through.

Mr. STEVENS. You have a right to object if you choose.

Mr. CONKLING. By the courtesy of the gentleman from Kentucky I want to add a single word to the statement of the gentleman from Ohio, [Mr. DELANO,] and perhaps I can do it best by saying, in the beginning, that I disclaim and deny having expressed any such opinion as has been attributed to me by the gentleman from Kentucky, [Mr. ROUSSEAU.] I have, upon the particular point which was then under consideration, an opinion which I have held for some time, and as I have no concealments, I should be very ready to state it now if I were not occupying the floor by the courtesy of the gentleman from Kentucky. Passing that, I have only to say that, on the occasion to which he refers, expressing no opinion myself, intimating no opinion myself, I simply requested the chairman of the Committee of Claims to state to the House and to me what the law was, in his judgment, upon the point suggested. And I think that it is quite unwarranted for any gentleman to assume that I held the same opinion expressed by the chairman of the Committee of Claims, or an opinion different from him.

One word further, and only one. The question upon that occasion was totally foreign to the question the gentleman is discussing here; and I want to say that I have never expressed the opinion that any loyal man, wherever he might live, was the enemy of his country in any sense implied by the remarks of the gentleman from Kentucky. Far from it. Nor have I ever expressed an opinion upon the metaphysical question which gentlemen have been discussing, of the abstract *status* of these States. In my judgment, that question is destined to degenerate into a subordinate question for present purposes here. It may be a great question in rhetoric, it may be a great question in history, it may be a great question before the courts, and perhaps a great question of state-craft, although I do not believe it. For the purpose before the House, I consider the whole argu-

ment as to the particular *status*, in theory, of these States, from time to time, an abstraction, and destined, as I say, to degenerate into a subordinate question. I have expressed no opinion upon it, and I wish the gentleman from Kentucky [Mr. ROUSSEAU] to withdraw his intimation with regard to me.

Mr. ROUSSEAU. I have heard with great pleasure the explanations of the gentlemen as to the interpretation I placed upon their language, but I must still insist, with all kindness to them, that the record of that matter going to my people is to this effect and no other, that they are cut off from being heard here in reference to their claims, as I understand it. The gentleman from New York [Mr. CONKLING] put in a reason in that report, and suggested to my friend from Ohio [Mr. DELANO] that there was no distinction as to the claims referred to between a loyal man and a disloyal one, if they lived in a seceded State. That, however, is explained, and I am happy to hear both the gentlemen say that they will regard us as loyal, and that they do not want to make any distinction between us because we happened to be on one side of the Ohio river and others happened to be on the other. I am glad to have the explanation, and I thank the gentlemen for the kind feelings they have expressed toward the loyal element of the southern States.

Now, Mr. Speaker, a few more words and I have done. I was going on to say awhile ago that we had at the beginning of the war a well-defined platform upon which we stood; we had a distinctive object in view; we at the South had an object in view that we never, never lost sight of; and all the abuse and denunciation heaped upon us, the charges of being "abolitionists" and "Lincoln hirelings" and "Hesians," were not sufficient to move us. We stood true to the Government upon the platform which I have read here to-day. But now, when we have got through with the war, we come here and find gentlemen in this Hall, Union men, insisting that the Union shall be considered as broken up and that the southern States are either out of the Union or dead. And for what? Why, sir, that the Republican party may live! The gentleman from Pennsylvania [Mr. STEVENS] distinctly said a few days ago that we must amend the Constitution and either take away representation from the southern States or allow the colored population to vote, and then no alliance between men of the South and all the copperheads on the face of the earth could touch the Republican party! Sir, was it for this that we fought this war? Was it for this that we have endured all we of the South have gone through in struggling for the Union? They tell us now that the Union is lost, but they console us by telling us that the Republican party still lives! Was that what we fought for? Was it for that that we divided father against son, and brother against brother on the battle-field? I again ask, how many of the southern people would have fought and how many of the northern people would have fought on such an issue? Nobody, nobody, except perhaps the party itself, and I expect only their leaders would have done it. [A voice—"They never fight."] I have nothing to say about them. I have nothing to say against the Republican party. But I insist upon it that we ought not to have had one platform at the beginning of the war and another one at the end; that we ought not to have had one platform in the weakness of the nation and another one in its strength; that we ought not to have had one platform when the life of the nation was threatened and menaced, and another when its enemies are overthrown and the rebellion has gone down to its inglorious grave forever.

The right of secession was denied by all the Union men in the United States. All the loyal men in the United States denied that such a thing was legal; and now, when we have put down the force which was to accomplish the secession and maintain the acts that we said

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were nullities, still it is said that notwithstanding all this secession took place. I repeat to-day the question of the gentleman from New York, [Mr. RAYMOND,] and ask at what hour, on what day, by what act, or in what way these States ever seceded.

Sir, my venerable friend from Pennsylvania [Mr. STEVENS] and his doctrine upon this subject remind me of a doctor I once heard of, and I mean no offense to the gentleman when I say he was a quack doctor, and I mean no disrespect to the doctor. [Laughter.] He was visiting a patient one day who had the pleurisy, and when he was leaving, the patient asked him, as patients usually do, what he might eat. "Well," said he, "you may take a little rice, and tea and toast." After the doctor left the patient became very hungry, and it seemed to him he would die if he did not have some roast shoat. Finally he told his wife he must have roast shoat and she got him some, and accidentally he got better and was convalescent when the doctor came again. The doctor was surprised, and asked him how he came to be so well, and he told the doctor, "I thought I should die if I did not have some roast shoat, and my wife got me some, and I ate it and am better." The doctor took out his little memorandum book and wrote down, "roast shoat good for the pleurisy," and went his way. A few days after another of the doctor's patients had the pleurisy, and when the doctor had prescribed for him, he was asked, "What may I eat?" "Well," said he, "anything you like, but if you have a fancy for it, roast shoat is a very good thing." He went away, and a day or two after the man unfortunately died. The doctor came back and inquired how the patient was, and being informed of his death, said "Why, I thought he was getting better." "No," said the man's wife, "he would have roast shoat, and I gave it to him and it killed him." The doctor opened his book and where he had written "roast shoat good for the pleurisy," he added the word "sometimes." [Laughter.] And so it is here. It was declared in the beginning of the war that secession was impossible, but they now add, like the quack doctor, the word "sometimes."

Unfortunately the position that Jefferson Davis and his followers occupied, is now occupied by professed Union men on this floor. These gentlemen insist that the insurrectionary States are out of the Union, as Jefferson Davis has insisted for the last five years. Precisely when and how they got out of the Union these gentlemen do not say, but Davis does. He says they seceded by the action of the people in convention assembled; but long after that action, and even now, it was and is held to be a nullity by every gentleman on this floor, and every State in the Union now asserts the same thing, except, perhaps, one or two.

Taxes have been levied upon them as States in the Union by the Congress, these very gentlemen approving that action. In the apportionment bill their right to representation has been acknowledged, and in various other ways they have been recognized as being in the Union throughout the war; and I wish to know, sir, if these States are in the Union for the purposes of taxation and the bearing of burdens, but not for representation. Such seems to be the position occupied by the gentlemen, and to which the Union party are utterly opposed. The doctrine of the Union party, as I understand it, has been, and is, and will continue to be, that every loyal man, legally elected to the Congress by the people of an insurrectionary State has the right to take his seat and represent his people.

The rebellion being suppressed in the rebel States, the people of those States "return to the place and rights they had before." This is held and laid down by Puffendorf, who uses the following language in volume two, page 237:

"A whole nation when it hath, either by its own strength or by the assistance of friends and allies, shaken off an enemy's yoke, without doubt recovers its liberty and ancient state; and if any part of what they were before possessed of remains still in

the enemy's hands, they have just pretensions to attempt to recover it as long as a war is kept on foot and a peace is not concluded. But if a third Commonwealth rescue a nation by war that was overpowered and enslaved by enemies, in its own name and for its own advantage, the nation only changeth its master, but is as far from liberty as ever. And we may say the same of a part of any nation. But if a part of the people be recovered by the people they were sometime divided or torn from, or by their allies, they again incorporate with the old body and return to the place and rights they had before."

This is the patriotic and common-sense view of the matter, and during the war I never heard any other expressed.

The rebellion but caused a suspension, an interruption of the authority of the General Government in the rebellious States, not by actual secession, but by a refusal on the part of the State authorities to recognize their relations with the Government, and levying war against it.

By this action the people of those States, in the language of Puffendorf, were, "for some time," separated from the Government and people of the loyal States. But the separation was not a legal one, for it was against the paramount law of the land. Between loyal and disloyal men, two issues were thus presented. The rebels claimed the legal right to secede, to withdraw from the Union. Loyal men said "No! not at all; there is no such right;" and in the whole United States there was not one loyal man who did not deny the legal right to secede.

This was one issue. Then said the rebels, "We will maintain our asserted secession by force of arms."

"All right," said the loyal men, "we will try that issue;" and we went to war.

This was the other issue. As I before said, in one of these ways secession had to be accomplished, or not at all.

Whether the acts of secession of the insurrectionary States were legal or illegal, was a question of very little importance if the rebels could command the force to maintain them. It took over four years to decide this question, during which time we waged a bloody and desolating civil war, unknown before in the history of the world. That war is over, the rebellion is suppressed, and the Government of our fathers, thank God, is ours still, if we will have it. The acts of secession being void, and the rebellion suppressed, the suspension and interruption of the relations between those States and the General Government having ceased, what more was needed to give us the old condition of things? Why, that the government machinery of those States, under the General Government and within the Union, should be put in operation as of yore, and that the people there should obey the laws of the land, and send loyal men to the Congress of the United States to represent them. All this they have done, and it was for this only we have waged a four years' war. All that the loyal men of the nation have ever demanded has been obedience to the law; with the motives for such obedience we have nothing to do. It may be from love of the Government, or it may be from fear, or it may be prompted by a mercenary patriotism which robs the people while it pretends intense devotion to the Government. And with the latter sort of patriots; the country is filled, and the further you get from the seat of war and its dangers, from its desolation, suffering, and death, the more numerous they are.

They would barter blood at a cheap rate, so it is not their own, and fill their pockets, unheeding the groans and tears and destitution of the unfortunate victims of the war.

At the beginning of the rebellion and during the war we demanded that the rebels should lay down their arms and submit to a common Government, and we demanded nothing more. They contemptuously and persistently refused to do that, but by force of arms we have compelled them to do so.

And now, sir, after this war, in which there was unexampled ill-feeling, bitterness, and

hate, we find in little more than half a year undisturbed peace and an approach to harmony and returning amity that one year ago the most sanguine patriot did not hope for. The constitutions and laws of those States which the rebel officials, after committing treason, ran away and left behind them, have been taken up and put in use again by loyal men.

As this was all we asked during the war, shall we not accept this now that the war is over? Such was the wish and policy of that martyred patriot, Abraham Lincoln; time and again he called upon the people of the disloyal States to do that very thing. That was all he asked, and he spoke the voice of the nation. Why shall we demand more now?

If Mr. Lincoln were living to-day he would say that the return and submission of those people to their allegiance entitle them to representation in the councils of the nation, and to all the rights and dignity of States within the Union. The nation demands this, and that was the opinion and practice of the party in power during the war, as instanced in the cases of Andrew Johnson, Senator, and Horace Maynard, Representative, of Tennessee, as well as of others; and the Union party will not follow these gentlemen into the advocacy of the pestilent political heresy of secession, or the equally obnoxious one of expulsion of States from the Union. The Union party are opposed to the whole thing, and we will appeal to the constituents of these gentlemen, we will appeal to the loyal people of the nation, to occupy, and to force their Representatives to occupy, the patriotic ground upon which this war was begun, prosecuted, and triumphantly terminated; the ground occupied by Lincoln and Johnson while Mr. Lincoln lived, and the same held to-day by Andrew Johnson, "the Union, the Constitution, and the enforcement of the laws."

I know, Mr. Speaker, how this appeal will be responded to. Seven tenths of the people of the United States would come to-day to the support of the President in this policy, and all the politicians on earth cannot prevent it.

They want and will have a united, a harmonious, and a prosperous nation, and they will not permit one half the nation to rule and trample upon the other half on any pretext whatever. While the Union party holds to this position it will be triumphant, when it abandons it it will fail and ought to fail.

## Freedmen's Bureau.

## SPEECH OF HON. C. E. PHELPS,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1866.

The House having under consideration the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau—

Mr. CHANLER obtained the floor.

Mr. PHELPS. I ask the gentleman to yield to me for a few moments.

Mr. CHANLER. I yield to the gentleman from Maryland for fifteen minutes.

Mr. PHELPS. Mr. Speaker, the measure now under consideration belongs to that large class of questions intimately connected with the great subject of restoration of the States lately in rebellion; questions of greater moment have never engaged the attention of public men in this or in any country. In the consideration of questions of this character, we are not, in my judgment, to be trammelled by the ordinary routine of party politics, or coerced by the machinery of party discipline. And I propose in this case, as in all others of a similar character, to bring my own individual judgment to bear upon the merits of the pending proposition, paying all due respect to the opinions of abler and wiser men, without falling under the absolute control of any combination in or out of this Capitol.

Mr. Speaker, it ill becomes a Representative

in part of the State of Maryland, a State which became self-emancipated during the progress of this war, a State which abruptly and without compensation gave liberty to more than eighty thousand slaves, all of whom were valuable and tangible property to her citizens; I say it would ill become me, standing here as the Representative of such a State, to oppose the main principle upon which this bill is based. Not only so, sir, but it would not consist either with my own feelings or my own principles to deny the liberal, humane, beneficent idea which underlies the measure. I believe that these freedmen ought to be protected by the Government. I believe that they ought to be encouraged to labor and to earn their livelihood, as well as to learn; that they ought to be protected in their rights under contracts, and especially from the danger of being reduced by any process, direct or circuitous, to the condition of slavery from which we have rescued them. Four million slaves liberated, not for the sake of humanity, but by a stroke of policy, not for their sakes, but our own, are not now to be coolly dropped by a Government which will in that case have made so shrewd and cruel a use of them. I am therefore clear in the opinion that some legislation looking to the end proposed to be attained by this bill is, in general, expedient and necessary. That it is constitutional, I have as little doubt.

Congress is clothed with ample power over the subject by the second section of article thirteen of the Amendments to the Constitution of the United States. That legislation of the general scope and character embodied in the pending bill is "appropriate legislation" toward enforcing the total abolishment of slavery, is a proposition not requiring argument.

But, Mr. Speaker, while such legislation may be constitutional, expedient, and necessary, it may at the same time be overdone. In attempting it, we should not forget that we are traveling over new and dangerous ground. In endeavoring to remove an actual, or prevent a possible evil, we may establish a precedent for a worse. The limits of just protection may be exceeded. Features of profligate extravagance, or officious, minute, and aggravating intrusion into the details of social and domestic life may counterbalance all the advantages which otherwise would recommend such a measure to the support of every loyal man. Efforts have been made, and very ingeniously, by gentlemen opposed to the bill, to bring it within the last-named specification, by arguing from the language used in the seventh and eighth sections an inference of a design to control State laws in respect to the marriage relation. Such a construction is not warranted by the terms employed.

But it is, I think, more difficult to relieve the bill from the charge of extravagance. I particularly refer to the third section:

That the Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies, including medical stores and transportation, and afford such aid, medical or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children, under such rules and regulations as he may direct.

This provision seems designed not so much to encourage these people to work and earn their bread by the sweat of their brow as to depend upon the bounty of the Government for their support. This savors rather too strongly of agrarianism. It establishes a dangerous precedent, which may be used hereafter when from the teeming cities of the North may come up a cry for a pauper's bureau. Why not? Why should it not be granted? Why should not indigent white people likewise be boarded at the public expense in great national alms-houses? I can see no reason for a distinction, except that by the operation of the war these people were suddenly taken from the care of those whose interest as well as duty it had been to provide for them. They were thus thrown helpless and homeless, individually and in masses, upon

the hands of our military commanders as our armies moved through their territory. Our generals had either to issue rations or see them starve. They adopted, from humanity or from necessity, the plan of issuing supplies.

That policy was sanctioned in the original act of March 3, 1865, of which the pending bill is an extension. By that act, this arrangement was only to last during the war, and for one year thereafter. It was a temporary, provisional policy, forced upon the Government by the necessity of events, but limited to expire within a reasonable time after it was presumed the necessity should have been obviated. But I most seriously object to that feature of the third section which clothes with such undefined powers and unlimited means the executive officers named as almoners of national bounty. Under that section as it stands, with its vague and loose generalities, the whole mass of freedmen and refugees might be billeted upon the public Treasury. Sir, there are perhaps few of those people to whom the specious terms "destitute and suffering" might not in some of the various senses and shades of meaning of which the words are capable be held by zealous and sympathetic agents to apply. It is true, that the assistance contemplated is restricted to the "immediate and temporary shelter and supply" of the classes named. But vagrants and idlers may come again and again to the officers of the bureau, bringing with them their wives and children, and each time receive immediate and temporary supplies as for a new case of destitution and suffering.

Again, sir, we hear it seriously proposed, here and at the other wing of the Capitol, to make of these people an element of political power by extending to them the elective franchise. Some propose to accomplish this result by constitutional amendment. Others hold, with revolutionary and sublime audacity, that the powers of Congress are already ample, and should be exercised in that behalf. Others again, expect to accomplish the same result indirectly, and by indefinitely protracting the complete restoration of the eleven prodigal States, coerce them at last to accept negro suffrage as the final and indispensable condition of their purgation. Suppose, Mr. Speaker, that unfortunately for the peace and happiness of the country, and calamitously to the black race itself, the result aimed at and already accomplished in the District of Columbia so far as this House is concerned, namely, the establishment of the monstrous burlesque and parody of republicanism, presented in universal and unqualified negro suffrage, should be accomplished throughout the States designed for the operation of this bill. Suppose these freedmen and refugees to be not only "destitute and suffering," within the latitudinarian phraseology of the third section, but voters and "sovereigns" as well. Is this House willing, is the country willing, to intrust such an enormous and unlimited fund to the untrammelled discretion of any officers of the Government, to be used by partisans for partisan purposes? It is not to be presumed, you may say, that we will ever have a Secretary of War, a Commissioner or subordinates, capable of such monstrous profligacy. Very well; then do not yourselves corrupt them by placing this enormous temptation in their way. The possession of absolute power we are told "makes weak men wicked, and wicked men mad." Let us take care, and not make virtuous men weak to begin with, by burdening their innocence with such a plethora and glut of free quarters, free rations, and free passes, in the midst of a "destitute and suffering" population of voters.

But, Mr. Speaker, notwithstanding these objections, which I urge seriously and in good faith, not as an enemy, but as a friend of the freedmen, not as the foe of the Freedmen's Bureau, but as its advocate and well-wisher, and which I advance with a sincere hope that before the final vote is taken the gentleman from Mas-

sachusetts who now honors me with his attention [Mr. ELLIOT] may so amend the bill which he has reported as to obviate the most important difficulties which have been illustrated by the full discussion it has received; notwithstanding this, I have to repeat that the cardinal principle of the measure is one that I cordially approve. I believe that the black race in the South are left by the war in a state of pupillage. Sir, they are not in a condition to receive the sovereign prerogatives of American citizenship, and this bill practically recognizes that great truth, and builds upon it as upon a solid foundation. The very discrimination it makes between "destitute and suffering" negroes, and destitute and suffering white paupers, proceeds upon the distinction that, in the omitted case, civil rights and immunities are already sufficiently protected by the possession of political power, the absence of which in the case provided for necessitates governmental protection.

One word, with the permission of the gentleman from Massachusetts, [Mr. ELLIOT,] (in contravention somewhat of his point of order,) with respect to the proposition to amend the constitutional basis of representation, upon which my vote, together with his own, was recorded in the negative. During the single hour that that measure was before this House for its consideration I vainly sought the floor for a word of explanation, but was, like very many other gentlemen, summarily silenced by the operation of the previous question, moved by the gentleman from Pennsylvania who reported therewith, [Mr. STEVENS.] Such headlong and uncalled-for haste to change the fundamental law of the Republic, in fact to substitute a new corner-stone for the venerable one on which it had reposed so long, was a proceeding in itself that I could not conscientiously sanction by my vote.

It matters little to me what course others around me may think proper to take, I for one shall never vote to amend the Constitution of the United States without some opportunity to see with my own eyes and deliberately weigh with my own judgment the text itself, the *ipsissima verba*, of the proposed amendment. Sir, that instrument is the organic law of a Republic which I firmly believe is destined to expand until its citizens are numbered by hundreds of millions and its territorial limits are coextensive with the shores of the continent. I believe that in the providence of God centuries hence will find that immortal, blood-bought, blood-saved, blood-consecrated charter still the same grand monument of human wisdom and bulwark of human liberty that came down to us from revolutionary sires. And shall I vote to change that instrument in a vital point, in a point that involves the representation of the State whose interests have been in part confided to my care, with less ceremony and upon shorter notice than is usually required to consummate an alteration in the constitution of a social club or of a literary society? The proposed amendment, not laid upon the desks of members, not even printed, and only known to the body of the House as their ears caught its words from the Clerk's table! The proposition, as originally reported from the joint committee of the Senate and House by the gentleman from Pennsylvania [Mr. STEVENS] was in the following terms.

Joint resolution proposing to amend the Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:*

ARTICLE.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.



## HO. OF REPS.

## Freedmen's Bureau—Mr. Chanler.

39TH CONG....1ST SESS.

This resolution, it was originally intended, should be passed through the House upon the day of its introduction before the "going down of the sun," in the words of the gentleman who reported it, [Mr. STEVENS.] The House revolted at this precipitancy, and the discussion which ensued and the numerous substitutes which were presented by members friendly to a readjustment of the constitutional basis of representation, sufficiently proved the necessity for deliberation. After a week's debate the joint resolution was ordered to be recommitted, and on the next day it was again reported by the gentleman from Pennsylvania, [Mr. STEVENS,] with the remark that "the committee had merely omitted the words 'direct taxes,' leaving this for future amendment, as they did not wish to embarrass the subject." Merely omitted "direct taxes!" Why, that was just one half the subject-matter covered by the proposition, and made the resolution reported substantially and to all intents and purposes an entirely new measure.

I have made this statement, Mr. Speaker, in justice to myself and to those who sent me here and to place myself right upon the record. Since the war has changed the *status* of four million slaves, designated in the Constitution as "other persons," and credited with a fractional representation because of their *status*, the equilibrium of political power thus essentially disturbed, unquestionably, in my judgment, demands a revision and readjustment of the constitutional basis of representation. That readjustment I would have made as proposed by the gentleman from Pennsylvania, [Mr. BROOMALL,] whose amendment, if it had been submitted to a vote would, with a slight modification, have received mine. The proposition I refer to would have been as follows:

*Provided*, That whenever the elective franchise shall be denied by the constitution or laws of any State to any proportion of its male citizens over the age of twenty-one years on account of race, the same proportion of its population shall be excluded from its basis of representation.

But after all, Mr. Speaker, I am free to confess that I have not such faith in these constitutional amendments as the great specific for the national malady as many gentlemen entertain, for whose ability and patriotism I have the profoundest respect. The great constitutional amendment has been made—formulated by Congress, ratified by the States, but really made by the pen of Lincoln and the sword of Grant. The great constitutional convention has been held; its debates were awful; they were stormy and bloody; the speeches were deafening as thunder peals, and the votes were winged with death. Every man had a right to represent himself in that august primary convention of the people. Its results are as decisive as its proceedings were sublime. The great fact of the Government, the right of the majority to rule, the extinguishment of secession and slavery, these are the irreversible guarantees we have obtained, and these we shall retain forever.

## Freedmen's Bureau.

SPEECH OF HON. J. W. CHANLER,  
OF NEW YORK,IN THE HOUSE OF REPRESENTATIVES,  
February 3, 1866.

The House having under consideration the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau—

Mr. CHANLER said:

Mr. SPEAKER: A few days ago, in a discussion on the joint resolution relative to negro suffrage in the District of Columbia, I asserted that the black race were as dependent on the white race to-day as when first brought here from Africa. This bill is confirmation strong as Holy Writ of that asseption. Gentlemen on the other side of the question professed great astonishment at my assertion at that time. This bill shows them to be early converts to my opinion. Nothing could prove the utter de-

pendence of the negro race, as individuals and as a people, more conclusively than this measure and the history of the Freedmen's Bureau.

As far as this bureau may be charitable, just, and constitutional, I am willing it should do its work, but not one jot further. The amelioration of the condition of the negro race is as much my duty and as near my heart as it can be to any advocate of such a measure as this. I will not claim the pharisaical superiority and holiness assumed by the gentleman from Minnesota, [Mr. DONNELLY,] nor preach to the House in the clerical style and language of the gentleman from Massachusetts, [Mr. ELIOT.]

WHAT IS ESSENTIAL TO SALVATION, AND WHAT IS THE BASIS OF FANATICAL CHRISTIANITY.

Mr. DONNELLY, in the House of Representatives, February 1, 1866, said:

"It is a subject of congratulation that we have passed beyond those old and bitter days when revenge and intolerance were the guiding principles of Governments. As victors in the mighty struggle which has but lately terminated, and as the superiors of the South in enlightenment and Christianity, we can afford to be magnanimous to the greatest degree compatible with public safety. That alone should be the limit of our generosity, and beyond that we should not go a hair's breadth."

"Sir, I am ready to trust the South when we have reformed the South, and not till then. The South that made the rebellion, in the same temper in which she made it I never will trust." "Who can fail to see in this vast disproportion the cause of the rebellion? In the language of Henry Ward Beecher, 'As upon the coast you can trace the line between the dark and treacherous sea on the one hand, and the firm and trusty land on the other, by the row of light-houses, so you can mark between the deep and damnable wickedness of treason and the supernal luster of patriotism by the line of school-houses.'"

Mr. ELIOT, of Massachusetts, in the House of Representatives, January 30, 1866, said:

"Say not, my friends, this must not be, for truly it must be! Resist it not! Fight not against it, lest you, too, hear the voice as of old, 'Saul! Saul! why persecutest thou me? It is hard for thee to kick against the pricks.'"

I would say to these gentlemen in all courtesy that these comparisons and allusions to the Christian condition of the North and South are rebuked by the great Master of the Christian faith. The Pharisee stood afar off and prayed in a loud voice and thanked God that he was not as other men. He salted his prayer to God with much praise of himself and with zealous condemnation of others. The allusion to Saul, who persecuted Christ, comes with singular inappropriateness from a reputed member of a sect which denies the divinity of Christ in the Trinity. And when gentlemen avail themselves of scraps of old sermons to enforce political and partisan purposes, they are open to the charge of that blasphemy they so often lay to the doors of others. How much more appropriate would it have been had the honorable gentleman quoted Peter, who thrice denied his Lord, to curry favor with the mob and the servants in the ante-chamber of the high priest.

Sir, there are many good men in this country who justly look with doubt and suspicion upon the loud-mouthed quotations of Scripture by those who have abandoned the pulpit for the stump, and from being priests of the living God, become demagogues of a fanatical party, who make the spelling-book the worship of man, the persecution of the ignorant and oppressed, negro suffrage and degradation of the white race, essential unto salvation. The school-house they hold to be holier than the sanctuary of God; the Boston primer better than the Bible.

## MISREPRESENTATION.

Mr. JULIAN, of Indiana, in the House of Representatives, January 29, 1866, said:

"The rebels of the South" \* \* \* \* \* "hate the negro now not simply as the ally of the Yankee in foiling their treason, but as the author of all their misfortunes, who, having been villainously misused by them, is of course villainously despised. They hate him with a rancor that feeds unceasingly upon every memory of their humiliation and defeat. They confront him with a hatred so remorseless, withering, consuming, that it crops out to-day in every quarter of the South in deeds of outrage, violence, and crime, which find no parallel even in the atrocities practiced in that section under the old codes of slavery, which were codes of murder and all minor crimes."

Mr. SUMNER, at Worcester, Massachusetts, September 14, 1865, said:

"Such is their spirit. Grounding their arms, they now resort to other means. Cunning takes the place of war. As they precipitated themselves out of the Union, they now seek to precipitate themselves back. A 'wooden horse' is constructed, which is stuffed with hidden foes, and thus they seek to enter our Troy. Already the rattle of arms is heard, and ominous voices, as the treacherous engine is advanced; but beyond these sounds, there is the record of the past and the present. Who does not know that the South is full of spirits who have sworn undying hatred not only to the Union but to reason itself, and whose policy is a perpetual conspiracy against the principles of our Government? Painful proofs come to demonstrate the prevailing frenzy. The freedmen are trodden down, and the land is filled with tragedies. History stands aghast at the massacre of Glencoe in a retired Scotch valley, and our sympathies overflow at the murder of a solitary traveler by the merciless Indians; but these scenes are now repeated. The barbarism of slavery rages still. The lash and the bloodhound are at large. Life is of little value if it beats under a colored skin. Citizens in the national uniform are insulted, mutilated, murdered—especially if they are in command of colored troops. And these criminals, besmeared with patriot blood, and boiling with concentrated rage, now strive to envelope themselves in the immunities of State independence, with two special objects in view: first, that they may deal with the freedmen as they please, without any check from the national authority; and, secondly, that they may send a solid representation of more than eighty votes, pledged to southern pretensions, which, in combination with treacherous votes from the North, may reassert that ancient monopoly and masterdom under which the country suffered so long."

"And once more Erect the standard there of ancient night."

"Reading the proceedings of the convention in Mississippi, we seem again to hear the voice of Satan:

"To claim our just inheritance of old Whether by open war or covert guile, We now debate."

Mr. DONNELLY, in the House of Representatives, February 1, 1866, said:

"Now, what is the condition of the South in reference to all this?"

"I assert that it is such as would bring disgrace upon any despotism in Christendom."

"The great bulk of the people are rude, illiterate, semi-civilized; hence the rebellion; hence all the atrocious barbarities that accompanied it."

"The number of ignorant is indicated by the proportion unable to read and write; indicated, I say, but not fully shown, because, of the practically ignorant, of those who read neither books or newspapers, and are thus cut off from acquiring information through its ordinary channels, the proportion who have never learned their letters or to write their names may be small indeed."

"Repeat, the condition of the South in this respect would be shameful to any semi-civilized people, and is such as to render a republican government, resting on the intelligent judgment of the people, an impossibility."

"I appeal to the revelations of the census."

"My statistics do not include the former slaves, but the white people of the South and the few freed negroes found among them in 1860."

"In the first place I would quote the following very complete table, furnished me by the Census Bureau, and giving the total results upon this subject for the whole United States: [See table at the foot of opposite page.]

It appears from this table that the adult male white and free negro population of the United States, in 1860, or twenty years of age, who could not read and write, was but little short of half a million. In other words, that in the last presidential election, if the entire population of the United States had voted, half a million votes would have been cast by men who could not read and write."

"When we recollect that upon our presidential elections depend the great interests and the life of the country, and remotely the cause of all mankind, we may well stand appalled before this vast force of half a million ignorant men deciding the destinies of the world."

"But if we look exclusively at the southern States we find still greater cause for surprise and alarm."

"The following table shows the number of illiterate male whites in seven southern States; also the total vote of those States in 1860, and the vote given in each State in the same year for Breckinridge:

States.	No. of illiterate males over 20 years.	Total vote in 1860.	Vote for Breckinridge, 1860.
Delaware.....	2,838	16,099	7,387
Virginia.....	31,178	187,223	74,323
North Carolina.....	28,020	96,230	48,539
Tennessee.....	27,358	145,333	61,709
Alabama.....	14,517	90,357	48,831
Arkansas.....	9,579	54,053	28,732
Kentucky.....	28,742	146,216	53,143
Total.....	140,036	715,651	325,614

"If we examine this table, we find that in the seven States named the number of illiterate is about one fifth the total number of voters, and nearly one half the total vote for Breckinridge, the representative of disunion and secession.

"If, however, we add to each man entirely illiterate one other who, while able to read and write his name, derives no practical advantage from these mere rudiments of education in forming his opinions, we will find the total to be more than one third of the total vote and five sixths of the vote for Breckinridge.

The total number of illiterate in the southern States in 1860, over twenty years of age, exclusive of the then slaves, was 545,177. In these, with the comparatively ignorant associated with them, we see the upholders of the rebellion at the ballot-box and in the field. Without these it could never have been inaugurated, or if inaugurated could never have maintained itself for six months against the mighty levies of the Union.

"But it may be said these evils will correct themselves. The testimony is all the other way.

"From 1840 to 1860, a period of twenty years, the number of illiterate over twenty years rose from 549,693 to 1,218,311; in other words, an increase of considerably more than one hundred per cent!

"At the same ratio of growth it would be 2,674,472 in 1880; 5,823,700 in 1900; and in 1920 it would amount to the enormous total of 12,596,688.

"In other words, in fifty years from the taking of the next census, the illiterate in the United States over twenty years, exclusive of the freedmen, will be 12,500,000, four times the number with which the nation commenced its career, nearly one half the total white population in 1860, and representing a voting force one third greater than the total vote at the presidential election in 1860; that is to say, over 6,000,000 voters!

"Who will pretend that with such a mass of ignorance the Government could survive? It would be buried in the most disgraceful anarchy the world has ever seen.

"But, Mr. Speaker, even these appalling figures do not tell the whole story. These figures do not include the then slaves, now freedmen. We must add to the ignorant population of the South the 4,000,000 blacks just released from slavery.

"The figures would stand as follows:

NUMBER OF ILLITERATE.			
Year.	White.	Black.	Total.
1880.....	2,674,472	3,309,175	5,983,647
1900.....	5,823,700	4,765,212	10,588,912
1920.....	12,596,688	5,994,812	18,591,500

"So that in fifty years from the next census, a very short period in the life of a nation, when it is supposed that the total population will be 120,000,000, the illiterate will be one fifth of the entire number and nearly one third of the entire vote.

"I trust, then, that no gentleman will doubt the propriety of the amendment I have submitted. We are interfering in behalf of the negro; let us interfere to educate him. We thus strike out at one blow a large proportion of the ignorance of the South; we shame the whites into an effort to educate themselves, and we prepare thus both classes for the proper exercise of the right of suffrage.

"Nor shall it be said that the ignorance revealed by these statistics is an exotic, that it results from foreign immigration. While it is true that in the North a large proportion of the illiterate are from foreign lands, in the South the reverse is the case. In North Carolina, in 1860, the illiterate persons of native birth were 74,877, while those of foreign birth were but 100. In Alabama the illiterate of native birth were 37,302, while those of foreign birth were 2,663.

"The total number of illiterate foreigners in the United States in 1860 was 342,917; while, I am sorry to say, those born under our institutions, and unable at the age of twenty years to read and write, were 834,106.

Let us, however, set aside the foreign infusion altogether, and divide the illiterate according to the natural divisions of the country.

"The results are as follows:

Section.	No. illiterate of native birth.	Total population.
New England States.....	8,543	3,135,283
Middle States.....	93,533	7,571,101
Southern States.....	545,177	12,128,078
Western States, (Ohio, Indiana, Illinois, and Kansas).....	146,321	5,509,096
Northwestern States, (Michigan, Iowa, Minnesota, and Wisconsin).....	24,791	2,371,930
Pacific States.....	12,709	452,459

"A comparison of these figures leads to some surprising results. If, for instance, the ratio of the New England States held good, we should have less than 80,000 native-born illiterate persons in the United States instead of the 834,000 we now have. In other words, the illiterate native voters of the country would be less than 40,000, instead of being over 400,000!

"On the other hand, we find that the southern States have a population about equal to the middle and western States combined, while the number of illiterate in the former is 545,177, as against 241,834 in the latter; and this not including the vast number of illiterate freedmen in the South, who would make the disproportion still greater. So that the South outnumbers in illiterate the most unfavorable portions of the North more than two to one.

"As compared with the New England States the disproportion is still more striking. At the ratio of New England the southern States should have but 34,000 illiterate persons; as it is the number is 545,177.

"The whole United States, with a population of 27,000,000, contains 834,106 illiterate persons, and of these 545,177 are found in the southern States, with a population of 12,000,000. In other words, the entire populous North contains but 288,923, while the sparsely settled South contains 545,177."

Mr. Speaker, the malignant party spirit and sectional hate that runs through this whole statement needs no illustration. They illustrate themselves, as the trail of the snake and the stench of the pole-cat mark the way of the reptile and vermin.

If the southern people are so unfortunate, why persecute and slander them? If ignorant, why exclude them from the pale of Christianity? Christ was a Nazarene, despised, spit upon, and crucified. He kept company with Publicans and sinners, his disciples were the scum of Jewish society, the most illiterate, ignorant, poor, and degraded of all the subjects of the Roman Empire. Lazarus and the blind beggar would never have been accepted as fit Christians for follow-

[TABLE REFERRED TO ON PRECEDING PAGE.]

Persons over twenty years of age unable to read and write, eighth census, 1860.

STATES.	White.			Free Colored.			Native.	Foreign.	Total.	Per-centage.
	Male.	Female.	Total.	Male.	Female.	Total.				
Alabama.....	14,517	23,088	37,605	192	263	455	37,302	758	38,060	7.20
Arkansas.....	9,379	14,203	23,642	10	13	23	23,587	78	23,665	7.20
California.....	11,835	7,154	18,989	497	207	704	11,509	8,184	19,693	5.17
Connecticut.....	3,405	5,083	8,488	181	164	345	925	7,908	8,833	1.94
Delaware.....	2,838	3,823	6,661	3,056	3,452	6,508	11,503	1,666	13,169	12.00
Florida.....	2,378	2,963	5,341	48	72	120	5,150	311	5,461	6.94
Georgia.....	16,900	26,784	43,684	255	318	573	43,550	707	44,257	7.44
Illinois.....	24,786	33,251	58,037	632	695	1,327	39,748	19,616	59,364	3.46
Indiana.....	24,297	36,646	60,943	869	904	1,773	55,903	6,813	62,716	4.61
Iowa.....	7,806	11,976	19,782	92	77	169	12,903	7,048	19,951	2.66
Kansas.....	1,228	1,776	3,004	25	38	63	2,695	372	3,067	2.86
Kentucky.....	28,742	38,835	67,577	1,113	1,350	2,463	65,749	4,291	70,040	7.53
Louisiana.....	8,051	9,757	17,808	485	717	1,202	15,679	3,331	19,010	5.05
Maine.....	4,282	4,270	8,552	25	21	46	2,386	6,212	8,598	1.37
Maryland.....	7,200	8,529	15,719	9,904	11,795	21,699	33,780	3,728	37,518	6.25
Massachusetts.....	16,999	29,293	46,292	291	368	659	2,004	44,917	46,921	3.81
Michigan.....	8,596	8,845	17,441	558	486	1,044	8,170	10,815	18,985	2.47
Minnesota.....	2,382	2,369	4,751	6	6	12	1,055	3,708	4,763	2.77
Mississippi.....	6,256	9,270	15,526	50	60	110	15,136	390	15,526	4.40
Missouri.....	24,255	35,405	59,660	371	514	885	51,173	9,372	60,545	5.57
New Hampshire.....	2,023	2,660	4,683	15	19	34	1,093	3,624	4,717	1.45
New Jersey.....	8,436	10,840	19,276	1,720	2,035	3,805	12,937	10,144	23,081	3.43
New York.....	47,703	69,262	116,965	2,653	3,260	5,913	26,163	95,715	121,878	3.14
North Carolina.....	26,024	42,104	68,128	3,067	3,782	6,849	74,877	100	74,977	11.33
Ohio.....	23,297	35,345	58,642	2,995	3,191	6,186	48,015	16,813	64,828	2.77
Oregon.....	762	737	1,499	7	5	12	1,200	311	1,511	2.83
Pennsylvania.....	27,560	44,596	72,156	3,893	5,466	9,359	44,330	36,585	81,515	2.80
Rhode Island.....	2,057	3,795	5,852	119	141	260	1,202	4,910	6,112	3.50
South Carolina.....	5,811	8,981	14,792	633	783	1,416	15,792	416	16,208	5.34
Tennessee.....	27,358	43,001	70,359	743	952	1,695	69,262	2,792	72,054	8.64
Texas.....	8,514	9,900	18,414	25	37	62	11,832	6,644	18,476	4.38
Vermont.....	4,467	4,402	8,869	27	20	47	933	7,983	8,916	2.83
Virginia.....	31,178	42,877	74,055	5,489	6,908	12,397	83,300	3,152	86,452	7.82
Wisconsin.....	7,465	8,983	16,448	53	45	98	2,633	13,883	16,516	2.13
Total.....	448,847	339,863	1,088,710	40,099	48,214	88,313	834,106	342,917	1,177,023	-

TERRITORIES.			Native.	Foreign.	Total.	Per-centage.
	Male.	Female.				
Dakota.....	62	15	77	-	60	77
District of Columbia.....	1,258	2,248	3,506	1,151	2,224	6,681
Nebraska.....	317	304	621	6	13	634
Nevada.....	138	5	143	6	7	150
New Mexico.....	16,008	16,750	32,758	12	27	32,785
Utah.....	98	225	323	-	162	323
Washington.....	295	142	437	1	207	438
Total.....	18,176	19,689	37,865	1,176	2,247	41,288
	467,023	659,552	1,126,575	41,275	50,461	1,218,311

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ship with these "*illuminati*" and latter-day saints of fanaticism. Sir, the necessity of a representation of the people of the South was never more necessary or evident than at this time. Such wholesale misrepresentation of the South as discussion on this and similar bills has elicited is unbefitting in those who indulge in it, as it is unjust to the people of the North, who are desirous of sealing their great victories over the South with a generous forgetfulness of the past and with magnanimous trust in the honor of the people of the South for the future. The Union preserved, the people's wish made perpetual in the bonds of sympathy, honor, and mutual interest—tyranny and usurpation of extreme military and despotic powers by the General Government cannot effect this.

## MOTIVES AND PLANS OF THE REPUBLICAN PARTY.

Sir, the people of the North are not fairly represented by such sentiments as have been uttered in this debate and on kindred subjects.

Mr. JULIAN, in the House of Representatives, January 29, 1866, said:

"Let us not make enemies and outlaws of four million people, among whom no traitor or sympathizer with treason has ever yet been found; who were eager to help us from the very beginning of our struggle, and as soon as we were ready gladly furnished nearly two hundred thousand soldiers to aid in saving the nation's life; and who, if allowed just what our hands will be found in the future, as they have been in the past, our effective auxiliaries and most faithful friends."

Mr. DONNELLY, in the House of Representatives, February 1, 1866, said:

"There are certain measures upon which the dominant party seem agreed. They are:

"1. The amendment of the Constitution prohibiting the payment of any debt contracted in furtherance of the rebellion.

"2. The amendment to confine the basis of representation to those actually represented in Congress.

"3. The passage of the bill now under consideration, enlarging the powers of the Freedmen's Bureau."

Mr. BOUTWELL, in the House of Representatives, said, in urging the necessity of giving the right of suffrage to the negro, (extracts taken from National Anti-Slavery Standard of February 3, 1866:)

"I declare, after the gravest deliberation and the calmest reflection, and I say it with sorrow, looking upon the country, rent by opposite opinions on this question, that, without such a measure as I suggest for the southern States, this Government cannot outlast those who are now in the vigor of manhood. Why and how will it fail?

"It will fail and fall from the fact that by restoration without this all-essential guarantee we put into the hands of our enemies in the South two weapons, the blows of which we shall be powerless to parry. One is the assumption by the Government of a vast and overwhelming weight of indebtedness, to be followed by a foreign war. We see to-day how difficult it is to restrain and control the people of this country in their desire to take just vengeance for the wrongs inflicted upon them by England and France. Suppose the power of this Government was intrusted to the hands of the late slaveholders, the men recently engaged in rebellion. Does any man believe that they are restored to their right mind, that they will give an ardent support to the Government? All the testimony is that they are as alien and hostile to this Government as ever, and that they only seek an opportunity to strike a deadly blow.

"What will be said of us, not by Christian, but by heathen nations even, if, after accepting the blood and sacrifices of these men, we hurl them from us and allow them to be the victims of those who have tyrannized over them for centuries? I know of no crime that exceeds this; I know of none that is its parallel, and if this country is true to itself it will rise in the majesty of its strength and maintain a policy, here and every where, by which the rights of colored people shall be secured through their own power—in peace the ballot, in war the bayonet."

Mr. SUMNER, in his speech delivered at Worcester, Massachusetts, September 14, 1865, says also:

"Irreversible guarantees cannot be obtained by pardons. It is enough to state this proposition: for all must see at once that rights will be very uncertain if they have no protection except in the gratitude of a pardoned rebel. A jail-delivery is not a guarantee. Such a breaker would be impotent against the malignant sea. Without accepting absolutely the dogma of Cardinal Mazarin, that men are governed more through hope than through gratitude, it is clear that, until security is won, we cannot afford to part with any influence or agency through which control may be established. Mercy is a beautiful prerogative, exercised always with inexpressible delight; but on this account we must guard against its fascination, and not, in the generous luxury, imperil a whole com-

munity. This is very clear. A pardon is in form an act of grace, but in reality a letter of license. This is all."

And again:

"Therefore, I insist, do not put political trust in that man who has been engaged in warring upon his country. I do not ask his punishment. I would not be harsh. There is nothing humane which I would reject. Nothing in hate. Nothing in vengeance. Nothing in passion. I am for gentleness. I am for a velvet glove; but I wish the hand for awhile of iron."

## MOTIVES.

Poisoned springs, Mr. Speaker, are at once the curse of the victim who uses and of the wretch who defiles God's blessing. The motives of the men who cry war! war! when there is no war; who seek by slander and studied misrepresentation to keep alive the sectional rivalry and anger which a fierce civil strife very naturally may have created; or who seek to revive the causes of bitter and party feeling which gave rise to that civil strife now victoriously ended by this Government; or who, from personal hatred to the people of the South for real or imagined wrongs done to themselves, would enlist the bad passions of a whole nation in a policy which may punish the southern people, by fixing such tyrannical and degrading laws as this and the kindred measures put forward under the name of national guarantees; who, while quoting the Word of God, pass acts of the devil, are as the poisoned wells, which deal death in secret, and practice revenge in the temple of God.

Sir, so base had Italian revenge become in the dark ages that the Pope, vicegerent of God, at his installation drinks not the holy wine until the officiating priest has tasted the chalice. Sir, this spirit of sly and politic revenge is hostile to the spirit and character of a free people. "The gloved hand" which the Republican leader would use conceals a poisoned ring, such as wicked tyrants used to destroy those whom they seemed most to love. Away with this hypocrisy and pretense! Again declare open war, and call out the armies of the Republic to fight like brave and free men.

Cease poisoning the wells of our national life and the sacred chalice of Christian love. If you will be tyrants, at least be brave and honest, and do not claim to seek security for the nation while laboring for the perpetuity of the Republican party and the perpetration of personal revenge.

No free people looks calmly on the exercise of tyranny or of an unconstitutional power, even though administered by its own Government and in the name of its Representatives. The people of the North love liberty and cherish all the safeguards our fathers threw around it, as embodied in the Constitution. Such measures as this and such arguments as I have just quoted belong not to this age and people. They are foreign to the spirit of civil and religious liberty. They are feudal, inquisitorial, imperial. They belong to the councils of Herod and Caesar, and come not from the teachings of the divine Master. They spring from devilish hate. They rank with the accursed acts of the Pharisee who loosened Barabbas and scourged the Saviour. The thief upon the cross would have died unforgiven and doomed but for the forgiving spirit of the crucified God. Are they who thus preach hate and persecution, who try to keep alive the flame of civil war in the hearts of the people, fit representatives of the "Christian people of the North?" Out of their own mouths comes their self-condemnation. If they are not hypocrites, they are atheists; if not atheists, then demagogues, and traitors to that Union they have sworn to protect and preserve.

## HISTORY OF THE FREEDMEN'S BUREAU.

The first bill of this series was introduced, the gentleman from Massachusetts informs the House, in the Thirty-Seventh Congress, by himself, under the name of "Bureau of Emancipation." He admits that it was what he calls "novel legislation, without precedent in any nation." Very naturally the distinguished chair-

man of the committee who had charge of the bill, Judge White, of Indiana, did not succeed in reporting it for action by the House. The bill entitled "An act to establish a Bureau of Freedmen's Affairs" was reported from the Senate in the beginning of the Thirty-Eighth Congress; but delay and debate seem to have killed the measure. And finally a committee of conference of both Houses quarreled over the distribution of patronage, being unable to decide whether the War Department or Treasury Department should have the profits of the scheme. The consequence was, an independent bureau, with a head communicating directly with the President, and resting for its support upon the arm of the War Department. This bill was also defeated. Another conference committee was chosen, and a bill attaching the bureau to the War Department, and embracing refugees as well as freedmen in its terms, was agreed upon and approved March 3, 1865. "That bill is now the law."

When the bureau was first organized it was represented that it would be self-sustaining. That representation has proved untrue; and now large appropriations are called for to keep the bureau alive. A scheme introduced under the popular plea of economy is now costing the country from eleven to twenty-eight million dollars per annum, with untold expenses in the future. Now, sir, how did this bureau come to be so costly?

First, in supporting an army of idle negroes with food, homes, and all the comforts as well as necessities of life.

Secondly, by transporting them from point to point at the option of the ignorant and improvident negro who might choose to take a trip North, East, West, or South.

Third, by transporting a few white refugees and supplying them with temporary shelter and absolute necessities of life. Lands, houses, cattle, farm stock of every kind, farming implements, guns, powder, shot, libraries, household furniture, finery of every sort were distributed or allowed to the negro slave, while the poor white man was driven from his home and land, to which he had a right and title, that he might become a public pauper and live on the cold charity of the Government, or be transported away from the homestead which he was forced to surrender to the negro. Negroes were brought from distant sections of the country to squat on the lands of loyal white men and innocent minors, widows, and orphans who had nothing to do with the war. Now that the war is over the whites are left to take care of themselves, and the blacks are to receive the benefits of the bureau.

This present bill is to secure the protection of Government to the blacks exclusively, notwithstanding the apparent liberality of the measure to all colors and classes.

The character of the bill if not the prejudices of race would prevent the white man from degrading himself to the condition of a public pauper or modern serf of the soil dependent on the Government through the Secretary of War.

General Howard's report establishes the fact that the present bureau gave most of its aid exclusively to the negro freedmen. I insert the words of that report to show the practical effect of the bureau has been exclusively for the negro:

"Of Transportation.—As soon as the war closed, white refugees from every part of the South sought, immediately, to return to their former homes."

"As early as May 30, I made provision as follows: 'Loyal refugees who have been driven from their homes will, on their return, be protected from abuse, and the calamities of their situation relieved as far as possible. If destitute, they will be aided with transportation and food when deemed expedient while en transit, returning to their former homes.'

"This order was approved by the President, and my requisitions were honored by the quartermaster's department. In consequence of abuses it was found necessary, subsequently, to restrict the order to cases where humanity evidently demanded the transportation. About two thousand and eighty-five whites, men, women, and children, were transported from



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different portions of the northern States to the South. This work has now nearly ceased. The same principle applied to colored refugees. The total number transported, men, women, and children, is one thousand nine hundred and forty-six.

"The following table will give an idea of the issues, so far as reported, for the month of September:

*Consolidated monthly report of number of rations issued to refugees and freedmen (dependent) in the different districts and States respectively, for the month ending September 30, 1865.*

Districts.	No. rations issued to refugees.	No. rations issued to freedmen.	Total No. of rations issued.
North Carolina.....	420	136,930	137,350
Virginia*.....		275,887	275,887
District of Columbia.....	217	31,547	31,764
Texas*.....		35	35
Louisiana*.....		55,186	55,186
Missouri & Arkansas.....	309,456	101,766	471,222
Kentucky & Tennessee*.....		66,750	66,750
Mississippi.....	11,766	63,355	80,121
Georgia & S. Carolina.....	2,913	197,349	200,262
Alabama.....	45,771	36,295	82,066
Grand total.....	370,543	1,030,100	1,400,643

WAR DEPARTMENT,  
BUREAU OF REFUGEES, FREEDMEN,  
AND ABANDONED LANDS.

WASHINGTON, November 24, 1865.

SIR: In accordance with General Orders, No. 145, War Department, as follows:

[General Orders, No. 145.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, October 9, 1865.

Whereas certain tracts of land situated on the coast of South Carolina, Georgia, and Florida, at the time, for the most part vacant, were set apart by Major, General W. T. Sherman's Special Field Order, No. 15, for the benefit of refugees and freedmen that had been congregated by the operations of war, or had been left to take care of themselves by their former owners; and whereas an expectation was thereby created that they would be able to retain possession of said lands; and whereas a large number of the former owners are earnestly soliciting the restoration of the same, and promising to absorb the labor and care for the freedmen—

It is ordered, That Major General Howard, Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, proceed to the several above-named States; and endeavor to effect an arrangement mutually satisfactory to the freedmen and the land-owners, and make report. And in case a mutually satisfactory arrangement can be effected, he is duly empowered and directed to issue such orders as may become necessary, after a full and careful investigation of the interests of the parties concerned.

By order of the President of the United States:

E. D. TOWNSEND,  
Assistant Adjutant General.

I proceeded to Charleston, South Carolina, reaching there October 17. After conversing with General Saxton, assistant commissioner, and with the land-owners, I resolved to go to Edisto as soon as the people could be convened at some central point. Thursday, October 19, accompanied by several officers, and the representative of the Edisto planters, Mr. William Whaley, I met the freedmen at a large church on the island. The rumor had already reached the freedmen that I proposed to restore the lands, and evidences of dissatisfaction and sorrow were manifested from every part of the assembly. I explained what I believed to be the wishes of the President, as set forth in his interview with me just before leaving Washington, and as embodied in my instructions above recorded. The people chose a committee of three of their number, and to them I submitted the propositions to which the land-owners were willing to subscribe. The committee said that on no condition would the colored people be willing to work for their former owners under or worse as before; but, if they could rent the lands of them, they would consent in other respects to arrangements proposed. Some would work for wages, but the general feeling seemed to be that they ought to be allowed to rent the lands.

By a unanimous vote, it was agreed that the matter be left to my decision as to whether restoration should be made, and as to the conditions.

After careful consideration I deemed it advisable to take course as follows:

1. To constitute a board of supervisors, in which the Government, the planter, and the freedmen had each a representative, for the adjustment of contracts and cases of difficulty.

Each land-owner was required to sign an obligation, after which the order of restoration was to be issued. Here follow the order, obligation, and order of restoration referred to:

[Special Field Orders, No. 1.]

WAR DEPARTMENT,  
BUREAU OF REFUGEES, FREEDMEN,  
AND ABANDONED LANDS,  
CHARLESTON, S. C., October 9, 1865.

The agent of this bureau on Edisto Island will immediately take measures to constitute a board of supervisors for the island, to consist of himself and two other citizens, one to be selected by the land-owners or their agents, the second by the resident freedmen or their agents.

This board will aid in making contracts, and will adjudicate all difficulties that may arise between the whites and the freedmen, or among the freedmen themselves, extending only to offenses committed in which the penalty does not exceed imprisonment at hard labor for a period of one month, or a fine not to exceed \$100. All other cases of crime will be referred to competent civil or military authority.

Should a police force be deemed necessary by the board, the bureau agent will, as heretofore, make requisition upon the military authorities. Appeals from the decision of the board to the assistant commissioner or Commissioner of the bureau may be made.

Pursuant to instructions from the President:

O. O. HOWARD,

Major General, Commissioner.

A. P. KETCHUM,

Captain 128th U. S. C. T., and A. D. C.

I have the honor to submit this report for the consideration of yourself and the Executive, under whose express orders I was acting.

It is exceedingly difficult to reconcile the conflicting interests now arising with regard to lands that have been so long in the possession of the Government as those along the coast of South Carolina, Georgia, and Florida. I would recommend that the attention of Congress be called to the subject of this report at as early a day as possible, and that these lands, or a part of them, be purchased by the United States with a view to the rental and subsequent sale to the freedmen.

I have the honor to be, very respectfully, your obedient servant,

O. O. HOWARD,

Major General, Commissioner.

Hon. E. M. STANTON, Secretary of War.

From these extracts it will plainly be seen that black freedmen and not white refugees were the special care of the bureau.

The white refugees were few in number and received no land from the Government. The period during which they received aid by transportation ended with the date of the report, or was rapidly doing so. "The supervisors" appointed were not instructed to aid the poor whites of the South, of whose destitute condition we hear so much, and of whose ignorance and semi-barbarism gentlemen express such holy horror.

POOR WHITES.

Of the poor whites of the southern States, Mr. Speaker, the people of the whole Union have reason to be proud. From them as a class, if gentlemen will insist upon making that distinction, have sprung some of the noblest natures and brightest intellects this country has produced—Andrew Jackson, Crawford, Clay, Pettigrew; and Andrew Johnson, the present Chief Magistrate of this Union, has the proud distinction of having risen from the poorest of the poor whites to be the ruler of this Union. And, sir, much of his mercy, wisdom, and patriotism is to be traced to the sympathy he deeply feels for the poor white man of his own section, as well as for the poor and lowly of every section and every land or race.

But to continue with General Howard's report:

This bureau, as now established, has been used by land speculators, small traders, and mischievous persons of every sort and phase of fanaticism, to disturb the whole South and put obstacles in the way of the glorious work of reconstruction. General Howard says, in his report, now in my hand:

"My impression is, that many speculators, who desire to cheapen the lands, helped on these stories. The freedmen became suddenly very averse to making any contracts or agreement with the property-holders for the coming year. Even the correction of false reports does not always produce a willingness to enter into contracts. My agents have striven to disabuse the minds of the freedmen of impressions so detrimental to their interests, urging them to see places of support, and aiding them to get fair wages. My objection to the system I have been obliged to adopt has been its tendency to check individuality, not sufficiently encouraging self-dependency; but in process of time, as property shall change hands and the larger estates be broken up, the necessity for so generally applying contracts will be obviated. Meanwhile education, unhindered, will work wonders to stimulate

individual enterprise. The results of our present system of free labor will appear in my remarks upon each State, and more fully in the reports of the respective assistant commissioners."

The practical working of the scheme as a means of fixing the negro to any one place, system, or rate of wages was abortive. Idleness incurable, a rapacious longing and covetousness for the land on which they had squatted, without any capacity, skill, or will to work it for the general welfare, all appear in the frank and soldierly report of General Howard. He says:

"With regard to prices of labor, as I anticipated, experience has shown that it is better to leave them to be regulated by the demand.

"Minimum rates might serve to protect the freedmen in many cases, but in scarcely any place could he have exceeded those rates, after they were once established.

"By fixing prices for the able-bodied, it is impossible to discriminate sufficiently with regard to the difference of skill and ability among that class.

"Finding the plantation negroes inclined to leave their homes and go to the cities, villages, and military posts, with no good prospect of work or support, I deemed it best to have the agents at those places adopt a system like the ordinary intelligence office, and use every effort in their power to procure good places where they could find support, in whole or in part, for those who then came together.

"Industrial schools, established by benevolent associations, were encouraged to aid in the absorption of this class of refugees.

"Government farms, under charge of officers of the bureau, and those farms that had been set apart or allotted, according to the laws, have subserved the purpose of absorbing the surplus population.

Still, however, there were authentic complaints of idleness, for which no remedy seemed to exist. I directed that the vagrant laws of the respective States, so far as they applied to whites, be extended to freedmen; where this law authorized corporeal punishment, it was modified by the assistant commissioner.

"The wording of the law establishing this bureau gave rise to the idea that the lands of disloyal owners would be divided among the freedmen.

"Soldiers, colored and white, and others, at one time spread and doubtless magnified the same report, till the belief became quite prevalent in the interior of the southern States that the Government intended, at Christmas or New Year's, to effect this division."

SOUTHERN LETTERS.

Mr. Speaker, the honorable gentleman from Massachusetts has read to the House an extract from a letter given him by the Speaker, and written by a negro, asking for protection from Congress. Sir, in the same spirit of affording protection to all classes and colors of men who may need it, and from an earnest desire to lay before the country a reliable statement of the true condition of the South, I have collected from most trustworthy and honorable persons at the South, who know what they write to be true, and who, whatever may have been their political errors, now sincerely desire a restoration of the Union and its perpetuity to the latest period of recorded time. If I suppress the names of the writers, I will be willing to show the original letters and signatures to any gentleman who may ask me. The first letter is from a major general in the late rebel army, and for some time a prisoner in Fort Warren:

CAMDEN, SOUTH CAROLINA, January 26, 1866.

DEAR SIR: Your favor of the 24th ultimo only reached me this morning, and though perhaps too late for your purpose, I respond immediately to your inquiries. First let me say that I have always felt grateful for your sympathy and kindness to me when in prison, and your generous efforts to procure my release. The liberal sentiments of yourself and others at the North entirely revolutionized my feelings and opinions of your people, at least such of them as were not under the rule of a blind fanaticism, which, under the garb of virtue, seems to cover the most malignant purposes toward us. Before I knew by personal contact that the good people of your section were as just, generous, and pure as the good among ourselves, I did not distinguish between you, but held all responsible for the crimes of the worst class. I say "crimes," for so we regarded the acts of sectional hostility leveled at us. I also freely confess that my prejudices against the radicals themselves have somewhat diminished by discovering that they were capable as individuals of acts of personal kindness, while they sought to ruin us socially and civilly as a people. A friver interchange of social intercourse between the two peoples would have prevented that harsh judgment on both sides which resulted in the recent conflict, and perhaps led to a gradual, peaceful, and wise system of changes, which would have been best for all parties concerned, as far as we can see; but it is in vain that we mourn over the past. Let us turn to the consideration of the present and the future, which alone concerns our duty.

I returned home in August last, and found the negro civil and orderly, but idle and restless; no

\* No refugees reported.

more concerned about his future than the stalled ox, feeling perfectly secure of being fed and lodged by his former owner until January, and equally confident that then he would acquire equal rights, social, political, and proprietary, with the white man. Nay, since he only felt the power of the military, with its rigid police and localized judiciary, as a protection to him against the power and dominion of his former master, whose liberties alone it restrained, many were confident that the whites would be entirely deprived of all property and right, and that they would be the proprietors and rulers of the country. While the negro was intoxicated by these delusions, fostered as they were by the system of rule adopted over the country, and the misrepresentations made by many who were connected with it—though I am glad to say but in few instances by any in authority—the white man was correspondingly depressed. During the harvest season it became evident that unless these views were changed both races would be made victims; that famine, ruin, anarchy, and violence would ensue. Then there was a change of system. Negro troops were removed from the interior, officers who were doing mischief by their fanaticism were removed, the negro was told by those in authority that though they would be protected in the enjoyment of their emancipation from the dominion of man, yet that they, in common with all men, were yet under the imperious rule of the great law of labor; that they could acquire no property but by their own industry and economy; that the white man would be protected in his property; that to secure employment they must establish themselves in the confidence of the proprietors of the soil; that unless employed by them, they themselves must perish; that from their idleness the past year they would have but a pittance in hand at January; that in the whole State they had not made bread enough to feed the people for six months; that only the credit and the means of the planter could save them from starvation; that to secure any advantage from these, they must contract for another year; and that they could only hope for an improvement in their condition at the end of this year as a result of their own industry.

But little was said on the subject of political rights, but in the main they were encouraged to believe that in the future they might hope for the attainment of equal rights with the white man. At first it did not appear that these teachings had much effect. They still looked forward to a sort of millennial state at January, and many of our planters were utterly despairing up to the end of the year. In the last weeks of the year the crops were divided, when the negro learned the first lesson in the alphabet of self-dependence. The idler found that for every day lost from his work during the year he lost a corresponding part of his share of the crop; that on plantations where the hands had been industrious and steady in their labor they received fair remuneration, while on those where the negroes were idle they received little or nothing. Some were able to furnish their families with necessities and comforts, and even with the means of festivity and merriment at Christmas, while others had to face the future with nothing to meet its necessities. They realized, also, their responsibilities as heads of families. The laborer who had no family was furnished, if industrious, with a competence for a year, while the head of a family, equally industrious, with the same amount in hand, had to first provide for his dependents.

The negro is not much of a reasoning creature. In the language of one of our State judges of the olden time, "he never knew the agony of thought," until now; but these things set him to thinking. The result was that after two or three weeks of harmless but very foolish dissipation, most of them went back to their old employers and contracted for the present year. In nearly all cases of which I have heard, they are working with a will, a cheerfulness, and attention to the general interest of the place which was not surpassed under the old system. It is true, the owners of many plantations have refused to take any but the best, most intelligent, and industrious of his people. The idle and vicious were refused. These last have either been employed as laborers in other than agricultural employments, or are seeking day labor in the towns.

This discipline is teaching the negro another idea, that there is such a thing as character, and that it has a practical influence upon his welfare. There is growing out of these new ideas an appreciation of a fact which I have endeavored to impress upon both white and black—that their best interests are identical; that what is best for one is best for the other; that mutual confidence and good will are essentials to the well being of both. The tendency is in that direction, and, if let alone, by the end of the year there will no longer exist any general distrust between the races, but mutual confidence and kind feeling arising from a sense of mutual dependence.

The only apprehensions I feel are, first, from the continuance of the garrisons and the Freedmen's Bureau among us. The negro will not entirely trust the white man so long as he sees that we are not trusted by the Government to which he looks as his own and only protector and as a stern ruler of the white man. I do not mean to say that there is at present in this part of the State any improper exercise of authority by the military, but under the circumstances their presence alone engenders distrust on the part of the negro, and prevents his feeling his dependence upon the good will of the employer.

A second cause of apprehension I have arises from the presence and teaching of preachers and teachers among us who are entirely ignorant of the real feelings and true interests and character of both races, and bitterly hostile to the whites, and weakly sentimental on the negro. To this influence may be added the circulation of papers published here and at the North

which, under the guise of maintaining the Union and vindicating the rights of humanity, openly advocate the despoiling of the white to endow the black race, the disfranchisement of the white and the right of suffrage to the black, malign and traduce us, sow the seeds of distrust and prejudice, and even advocate an appeal to arms to assert what they call the rights of the blacks if they cannot otherwise be obtained.

The third and last cause of apprehension is involved in the question of the disposition of the island lands. For several years during the war they were occupied by the Federal armies. They were thickly peopled with slaves when first occupied, being among the best lands in the State. To these were added many thousands of absconding negroes from all parts of the State. They were treated with more consideration than whites would have been under the same circumstances, and by the end of the war had come to regard themselves as a favored class, the peculiar care of the Government, while they were taught to believe their former masters were very devils incarnate, who had justly forfeited not only property but life itself by their rebellion, which was a fit termination to the career of wretches whose hands and souls were stained with the crime of slavery.

Is it astonishing that now, when the white man here is conquered and completely under the heel of every soldier, white or black, these people set themselves at defiance, though armed with the President's pardon; that they should endeavor to inculcate the same spirit of defiance and disregard even of the authority of the Government upon all the negroes of the State? In some cases they have established a sort of military government of their own; established guards, and permit no white man to land on the island without the consent of the head man, in some cases defying the passport of the commander of the department. This will indicate to you the condition of the sea-coast of South Carolina and Georgia.

How can we do anything toward making the negro in the interior contented and happy, settled in his intentions and plans for the future, when he has before his eyes always this demoralizing example of his neighbors? If the lands of the sea-coast are turned over to the negroes how can we convince them that they have no right to those of the interior? Where is the line to be drawn? If we were only let alone, the negro would soon become a good citizen, industrious, happy, prosperous, peaceable, and orderly. His condition would constantly improve; prejudices on both sides would be removed, and we would have a peasantry of which any country might be proud. But so long as we are subject to interference between us a third party, who is here avowedly because we are not to be trusted to maintain the rights of these people, distrust will increase, dissensions arise, discontent, confusion, and despair involve both races in ruin. But the negro would be the victim unless the white man was forced by the power of the Government to yield the country to his African master. Just as you diminish the confidence of the proprietor in negro labor, just so far do you displace the negro by the white laborer.

It was formerly believed that the white man could not labor in the summer on the rivers and swamps of the South, but the experience of the war and the campaigns of the northern armies, and their labors in mid-summer in the most unhealthy regions, have reversed our theories upon this subject. Should negro labor fail this year by reason of their demoralization, next winter will bring to our doors thousands of foreigners to till the soil. Upon some of our plantations the negroes are offered one half the crop, finding their own food and clothing. Upon most of them the wages are fixed at a third, and they are found their provisions. Upon one of our large plantations here the wages are one third, the laborer being furnished with a house and garden, pasturage for a cow and calf, fire-wood, a peck of meal, and two and a half pounds of bacon per week. With industry the laborer's share of the crop will be in a good year from two to three bales of cotton and forty to fifty bushels of corn, besides peas, potatoes, fodder, &c., worth in current funds from three to four hundred dollars. With such inducements as these offered the German or Irish laborer how long would it take to supply the South with white labor? And what in that case would be the condition and destiny of the negro?

A great inducement to employ white labor instead of colored, is the necessity of referring all questions arising between the whites and blacks to a military one-man court for adjudication. Our civil courts are allowed to exercise jurisdiction over all cases between white men, and this gives a feeling of security in regard to those contracts which, under the present system, contracts with negroes cannot have. I think our people, as a general rule, greatly prefer the negro labor, because they are more accustomed to it, because it is a trained labor, and they know it will succeed if they can induce its faithful application; but this preference must give way before the insecurity attending it unless the Government will change its system and leave the white man and the negro face to face to work out their own destiny under the Constitution. As to the capacity of the negro for self-government you may form as good an idea as I. They are at present entirely ignorant of letters and wholly untaught in political science. If the next generation were trained and educated with a view to prepare them for the right of suffrage, I do not know that any one could say that they would not be almost as well qualified as the lowest class of foreigners after five years of residence here. Whether it would be desirable to extend the right of suffrage to either class in those States in which they would have a majority of two to one is a question which it is not worth while to answer. The negro is the most tractable and most easily governed of all the peoples of earth. He would always

be the prey of the designing in politics, and would never be capable of competing with the Caucasian in the race of intellect. For myself I would rather concede the right of suffrage to the negro, including all their children and women, than to continue under the absolute rule of those who now control the affairs of the country in Congress. I do not attribute any importance to political rights in comparison with civil rights, and would yield anything of the former to secure the latter. I am not afraid to compete with any one in the management of the negro vote if we are only left to ourselves. The employer at the South would control the votes of his laborers more perfectly than the mill-owners of Lowell; and capital here in matters of that sort would pull together at the same end of the rope.

I have thus hastily thrown out my views on this comprehensive subject, and conclude that there is nothing to fear for the future prosperity of white and black in the South if they are only let alone. In this view I am free to confess I differ from the great mass of our people. They are generally distrustful of the negro in his present condition. They doubt that he can ever be induced to work, and forget that his motives than those of force may develop even greater energy and activity. But they are becoming more hopeful and are generally disposed to give the system a fair trial.

As for the white man's disposition to obey the laws and submit to the authority of the United States, there can be but one opinion. All he asks is permission to live and enjoy the accumulations of his capital and labor, the security of his person, and the sanctity of his home. He wants peace—subject to these privileges he is willing to yield everything else. He has submitted, and now submits daily to every conceivable interference with the rights and liberties he once enjoyed. Men and ladies of the highest position now yield precedence in the highway to their former slaves without question, and gentlemen do not even resent the rude jostling of the negro or the soldier, yielding without remonstrance, even though his wife or daughter may be the object of the indignity. All this is not from personal fear or a craven spirit, but to avoid misconception and a further persecution of his country. Can there be higher evidence of his readiness to obey the rule to which he is subjected?

I know there is an impression prevailing that there is a spirit of lawlessness and violence still prevailing in the South, but it is founded on fallacy. In the district in which I live, since August I have heard of but one case of violence upon a single negro. Yet statistics of crimes against negroes are collected and arrayed against us. Every trial before the military and provost courts is returned and placed on file in Washington city, and are there examined by Mr. SUMNER and his friends. Coming as they do from all the South, they constitute the statistics of violence against four million people. In the aggregate they appear to be numerous, and are construed to indicate a universal disposition to defy the authority of the Government and laws. Take the statistics of crime committed in four millions of your own operatives, and see if they would not outnumber ours. There are ten thousand negroes in this district. During the last six months there has been no trial of a white man, except for a single act of violence against one of them. Can your statistics show a fairer record? Consider in this connection the fact that all police is in the hands of a people partial to the negro and prejudiced against us, and that there is a provost court always open, and you will then be able to give the argument its full force. I know, from being a member of the Legislature of this State, that there is nowhere in South Carolina one purpose or thought of disloyalty, and that our people are ready to do anything which men may honestly do to disarm the prejudices against them. And to prove their loyalty, the fixed opinion here is that the Government is supreme, and that he is a madman and a fool who would take issue with it.

The next letter is from a northern lady, who married at the South, and has labored zealously, bravely, and wisely to aid this Government in the noble work of peace and reconstruction. My personal experience of the skill, tact, and courage of this widow, struggling to preserve the patrimony of her orphan children from the rapacity of land thieves, water thieves, and thieves of every color and kind, enables me to assure the House that not one of them, had he been present, but would have felt that the negro was the master and favored child of fortune in comparison with this white woman, almost impoverished, in danger of violence, with the title to her children's estate in jeopardy, and without the means of securing the commonest necessities of life. The guerrillas robbed her of her farm stock, the negroes eat up her provisions and refused to work for a crop. The costly culture of rice, with miles of dikes and ditches, requires constant attention; the idle and ignorant negroes forced the carpenter to neglect the dikes' flood-gates and field works necessary to protect the land from inundation, and secure a crop for their own support for the coming year. The negro had been told by the preachers and Freedmen's Bureau people that the land be-

39TH CONG....1ST SESS.

Freedmen's Bureau—Mr. Chanler.

HO. OF REPS.

longed to them, and that the white men were to be driven from the State; that the Government would give the negro food, clothing, land, and money. Such, sir, are some of the practical workings of this bureau.

WHITE HOUSE, NEAR GEORGETOWN, S. C.,  
January 11, 1866.

DEAR SIR: Yours of 24th December reached me yesterday; there is no mail to Georgetown, nor no post office, which will explain the delay. You ask me to give an opinion relative to the present status of the black race in my neighborhood, with my personal experience as to their disposition to obey the laws regulating labor in the South.

Nothing can be more unsatisfactory to the true friends of the negro than his present attitude. A formidable combination exists to accept no contracts and do no work on the land. Accordingly up to this date not a sod has been turned or the slightest preparation made for planting the crop in March.

I cannot find out what it is the negroes are driving at, except it be to disgust and weary out the planters, so as to cause them to abandon their lands in despair. Early in December I offered to all my former slaves to hire them in a body for good wages and bacon, *i. e.*, six dollars a month to the men, eight pounds bacon, and one pound tobacco, equivalent to ten dollars. It was refused with contempt, and the declaration that they would never hire for money wages. So matters now stand—no prospect of getting in our lands or making crops while we are dependent on negro caprice. What is occurring now may logically be inferred as the course to be expected at every critical stage of planting and reaping. That they have secret advisers we know, and also in my own case I know that my negroes are willing to enter into an arrangement for part of the crop, but they dare not do so at present. I regard the Freedmen's Bureau as entirely responsible for the conduct the negroes are pursuing, and whatever public speeches they may make for buncombe, their secret agents hold very different language to the blacks, based on the conviction that Mr. SUMNER's policy must prevail, and all these lands be given to the negroes. As to any disposition to obey laws regulating labor, in no instance have the blacks shown any sense of responsibility to abide by their contracts—they simply ignore them. The United States authorities in Georgetown are acting with prudence and judgment, endeavoring to restore law and order, but the area is too vast and their numbers too limited to be as efficient as the exigencies of the case require. All men's eyes and hopes rest on white immigration as the only means of insuring persistent and willing labor. What is to become of the blacks if these plans are carried out I cannot tell; they desire to live as landed gentry, and to be consumers, not producers. This state of things, I fear, must have a violent ending. The blacks appear to be in that condition which may ripen into crime. Idleness is the root of all evil, and it will prove so here, I am sure. The races can only live side by side by both respecting and carrying out the laws. You ask as to the condition of the white race, and their disposition to obey the laws. The very scanty crops made this year will in most cases barely be sufficient for seed, leaving no portion for sale. Of course the planters are very much embarrassed, without capital or credit, and naturally very desponding, seeing the probability of another short crop, and eternal confusion and struggling again in 1866. They are singularly patient, and accept the situation quietly and heroically; in no instance have I seen or heard of the slightest indisposition to obey the law. Indeed why should there be. Mere policy would dictate that course, even if honor did not bind them to it. The most cordial relations exist between the troops in Georgetown and the militia; they have been acting together of late as guards and couriers, and the effect has been to efface all lines of difference and bring about the best understanding. I have given this very imperfect sketch to go as early as possible. The remedy for all these ills may be found in inducing the negro to work—in nothing else.

The next letter is from a son of the Protestant Episcopal bishop of South Carolina. He has a large experience in the treatment of negroes:

CAMDEN, SOUTH CAROLINA, January 5, 1866.

DEAR SIR: Your letter of the 24th ultimo has just been received, and I hasten to reply and give you such information as I am able on the points suggested.

The present and future of the black race is a subject that has been exercising us greatly, and a problem that we have not yet been able to solve. The negro is remarkable for two things: his docility and his disinclination to labor of any kind. I think the ability to do nothing is more fully developed in him than in any living animal. Our experience of the past year is not encouraging for the future. It has been impossible to induce him to labor efficiently, and I know of but one or two instances in which they have not violated their contracts, either by refusal to work or by unauthorized absence; the consequence of which is that now, at the beginning of the year, it is estimated that there are not more than provisions enough in the State to supply the inhabitants for six months. On my father-in-law's plantation, where there are three hundred negroes, little or no cotton was made, and not corn enough to supply the plantation for the year to come. Their thieving propensities, too, have increased with the increased facilities for stealing, and a large proportion of the stock has been killed by them. Too alarming an extent have such depredations been car-

ried, that it has been found necessary to keep the hogs and cattle constantly under guard. And this plantation has been, perhaps, one of the most orderly and best conducted in this neighborhood. It was found also very difficult to induce them to harvest the crop after it was made, and thousands of bushels of grain have been left to rot in the fields. What I have stated is not the experience of one man, but the concurrent testimony of all the planters of the State. At this time the planters are endeavoring to make arrangements for the year; but the freedmen almost universally refuse to contract, or require such terms as are impossible to be acceded to. I have heard them in many instances say "that they had provisions enough to go on for some time, and that they positively would not work for any man." And the impression generally is that they will idle away their time and do nothing as long as their supplies last, (they have just received their proportion of last year's crop,) and will only go to work when necessity forces them to it. They have an inordinate desire to own land, or at least to plant for themselves, and applications are constantly made to the planter to rent land. This cannot be done, however, as no security can be given for the payment of the rent, and experience does not warrant the idea that the negro will work diligently and industriously even for himself. And again, he has not the means of planting for himself, neither provisions for the year, nor utensils nor animals with which to plant.

This is a gloomy picture; and I must confess that to my mind our future is anything but bright. Still, I do not regard the experience of last year altogether conclusive. I do not know that we can take it as a criterion for the future. The negroes last year were highly elated by their new-born freedom. Their minds were inflamed by the ignorant soldiery constituting the garrisons throughout the country, and by fanatical newspapers circulated among them merely for political purposes, entirely misrepresenting the condition of things, and inducing them to believe that the lands and property of the whites were to be divided among them; thus begetting the idea that freedom consisted only in exemption from labor, and not that it is the privilege to vote for themselves and to enjoy the fruits of their labor. Still, notwithstanding all this, they have conducted themselves with commendable propriety, indicating no disposition to violence, and indolence and thieving being their chief faults, which I hope in time may be overcome, when the evil influences which have been exercised upon them shall have passed away.

Those who have been apparently most zealous for the welfare of the negro have in truth been his worst enemy. His best friend will be found to be the old master, who has lived with him, understands him, and is willing to raise him as much as possible from his present condition of ignorance and degradation. The intelligent mind of the South sees no way of making available for useful purposes this large proportion of our population without elevating him by means of education. The planters are all anxious to give the system of freed labor a fair and earnest trial for another year, but few are sanguine as to its results. The greatest difficulty in the way is the impoverished condition of the country. If the negro will work at all, it will be when he is paid weekly or daily wages, and his lost time constantly deducted, thus bringing before him the result of his indolence. But the fewest possible number of men in the State are able to do this, and the only resource left to them is to give a share of the crop. This is too remote an inducement to procure from them constant and patient labor, and up to this time I have not heard of a single plantation on which they have contracted to remain.

The utter prostration and destitute condition of the country show clearly how earnestly, and with what an honest purpose the southern people enlisted in the disastrous war from which they have just emerged, and with the same earnestness and honesty have they taken upon themselves renewed obligations to the national Government. I think it a remarkable fact, and one proving how law-abiding and order-loving are the people of this State, that after a war of four years, after the disbanding of large armies, with only military law to restrain, and that to be enforced by a mere nominal garrison in each district, we have not heard of a single case of highway robbery, and very seldom of personal violence of any kind. And an individual may travel through the most thinly inhabited portion of our State in perfect security. Rest assured, sir, that the people of this State have accepted with all sincerity the condition of things, and as they were true to the last to principles which they had long cherished, and deemed of vital importance to their welfare, so will they be true to a Government which has so far acted toward them with moderation, discretion, and wisdom. Their earnest desire is once more to be admitted into the councils of the nation, and to have a voice in the enactment of such laws as may be necessary for their future security, and for the restoration of their beloved country from the utter desolation and ruin that now exists. The integrity of the Union will never again be threatened by the southern States. Of this the North can require no greater security than is afforded in their entire helplessness and prostration, from which they will not recover for generations to come. The bone of contention has been taken away. Slavery is dead forever, and could not be restored if desired. The earnest endeavor of this State will be to elevate the social condition of the negro, and by a full, fair, and honest experiment to decide the question, whether he can be governed by reason, as he has been by coercion, and he made a useful member of society. To this end our Legislature has passed a code of laws giving them almost every privilege of the white man. That of suffrage they are not yet ready for, nor are the body of

the people yet willing to accord it to them. The northern peoples should not insist upon our giving up at once our prejudices while they adhere to theirs. Time, the great softener of all things, may produce great changes, and the negro may be found capable of taking a much higher position in the social scale than that which is now accorded to him; but my firm conviction is that he must go down before the relentless energy of the Anglo-Saxon. I send you some papers containing the code above mentioned. I hope sincerely that you may prove successful in putting down fanaticism and prejudice, and in effecting the restoration of our members once more to the Halls of Congress.

With high regard and esteem, yours, respectfully,  
J. M. DAVIS.

Hon. J. W. CHANLER.

COLLECTOR'S OFFICE INTERNAL REVENUE,  
THIRD DISTRICT OF SOUTH CAROLINA,  
COLUMBIA, S. C., January 15, 1866.

DEAR SIR: In reply to your letter of inquiry as to the condition of the negroes in this section, and their disposition to work and obey the laws, &c., I would say that as a general thing the negroes are orderly and well behaved, but do not show much disposition to work. Their idea of freedom seems to be the privilege of doing nothing. They are only mindful of to-day and do not think of to-morrow. The idea had got very current among them that lands were to be distributed among them by the Government. They feel disappointed about this. I find, however, that a great many are offering now to go to work who before refused, and I think were it not for the evil effects produced by the mischievous agents of the Freedmen's Bureau, that the negroes would soon all see the folly of attempting to get along without work. This bureau has caused a great deal of mischief by its course. It has inculcated erroneous ideas of the views of the Government into the minds of the negroes, and the agents have in a great many instances spoken one way to the whites and another to the negroes. This has made them lose the confidence of both, and much evil has resulted from it. As to the disposition of the whites, there is no doubt but that it is far better than anybody could ever have anticipated. General Grant has given a true and correct account of the exact state of things. There is a general, not only acquiescence, but active desire on the part of all to cooperate with the Government in wiping out the past and working together for the future. I feel perfectly convinced that the admission of the southern Representatives would be the inauguration of a new era of prosperity. You of the North who have not been down here to witness the actual state of things can have a very poor conception of the general prostrate condition of this section and the actual state of destitution that almost all are in. Families who counted their income by thousands, now are almost in a state of starvation. I believe that in this place not less than six or eight common street carts are driven by gentlemen who before the war owned property valued at \$250,000, and who now support their families on from one dollar to one dollar and fifty cents per day, which they get for a load of wood or other hauling. What makes it worse, all are in this condition or almost so; there are none with means to help the others.

Yours, very truly,  
JAMES GIBBES,  
Collector Third District of South Carolina.  
JOHN W. CHANLER.

The last letter I shall present to the House is from the late presiding officer of the Senate of South Carolina, now a judge on the bench of the highest court of that State:

SUMTER, SOUTH CAROLINA, January 4, 1866.

DEAR SIR: Your letter of the 24th ultimo did not reach me until yesterday.

The subject-matter on which you desire information is full of difficulty and surrounded by so many conflicting views that it is not an easy task to arrive at an opinion which one would accept as just and true.

During the whole war the slave population demeaned themselves in a quiet and peaceful manner. Though our male citizens were absent in the army, and the large majority of whites at home were women and children, still they exhibited no indication of antagonism, or even restlessness. They worked with spirit although they knew that the products of their labor, in large proportions, contributed to the support of the confederate army. They went cheerfully to the sea-coast to aid in the erection of batteries and fortifications, and [though] in close proximity to the Federal forces, with available opportunity of escape, it was a rare thing that one failed to return to his home on the expiration of his term of service. With the entry, however, of the Federal forces during the war, a change appeared to "come over the spirit of their dreams," and wherever the United States military appeared, even only marching through the country, not only did they, to a great extent, perceive and appreciate the new influence, but in numbers they abandoned their old homes and associations, and in many instances their children, to follow their new fortunes, as they supposed, led by their deliverers, carrying with them all the spoils on which they could lay their hands, even if confined to them in a trustful capacity. Many who had better understanding, and more sense than the others, remained, saying that if they were to be free they would prefer to be at their old homes, and near their masters, who they thought would befriend and aid them. Those, however, who did remain, from the moment that of active wrong, still were sullen, impertinent, and altogether idle. After the authorities compelled them to contract for plantation work for the last year, on really good terms to



them, they were so regardless of orders and instructions that all obedience was at an end, and the result was that, although they had a direct interest in the crop, but little, comparatively, was made. In many instances the ink was scarcely dry on the contract before its terms were violated, and no kindly advice, or threat of punishment by the provost court, could induce them to the pursuance of a course which was demanded, as well by the engagements which they had in writing assumed, as by a sense of their own benefit and welfare. Employers were generally yielding and quiescent, for various reasons, and forbore to trouble the authorities with complaints which were apparently not of much consequence in themselves, but when considered in relation to their influence on the crops, were serious and important. They had been told by the soldiers, and had heard reported from speeches of persons in high authority, that they were to have lands given to them, and this idea of sudden acquisition of property for which they had not toiled seemed to be almost the only one which absorbed all their consideration. Things thus continued until nearly the close of the year. Wrapped up in this conceit of soon possessing lands, they declined making contracts for the coming year, and appeared to prefer contracting with any one rather than with their former masters—though not inclined to contract at all—under the idea, I suppose, that they would not be regarded as really free unless they left the service of their former owners.

At the incoming of the new year, although they became satisfied that they were not to get land from the Government, they still appeared to be chary of contracting, and are now wandering about from place to place, with no settled views, hoping that something better may "turn up" for them. Of course there are, here and there, exceptions to the class thus referred to. In some instances you may find them reasonable, and disposed to do that which is right, and to make such provisions for their families as would be dictated to them by a proper sense of duty.

Whether in the South crops can be raised by voluntary labor of the colored people is an experiment which remains to be tested; and it will take more than a year to solve it. The delirium which possesses the freedmen, induced by their sudden freedom, must pass away, and must be succeeded by the sober second thought of cool and uninfamed judgment. These people have always had some one to think for and to take care of them; to guard them against the cold of winter and the heat of summer; to supply them not only with food and clothing, but with medical attendance, and to teach them, in fact, how to take care of themselves. My apprehension (I trust not well founded) is that they will not work during the present year, even if they make engagements; for it appears, beyond doubt, that they cannot be impressed with any regard as to the observance of a contract, even after they assume it. When this is the case, what can you expect as the result of labor, when that labor can only be secured and compelled through the medium of a contract, which one of the parties thereto holds in utter disregard? Education may do something, but the fruits of this culture can only be made apparent in time to come. In the interim, what is to become of the tree? It must live, and nothing can be looked to for its preservation but its proper culture and training by the white man, under the kind aid of Providence. To this end I feel satisfied that our whole people will contribute, inspired by the duty which they have assumed in their renewed obligation to our common country, the United States. I do not mean to say that here and there you may not find a stubborn spirit who cannot recognize things as they are, and who, smarting under the sudden loss of his property, can only appreciate, by being taught, the duty which he owes to this new class of society, the freedmen. These instances, I am glad to say, are rare.

Our people, as a mass, I am gratified to acknowledge, are not only resolved, but ardently so, to yield a perfect obedience to the proper authority of the United States. Whatever wrongs they supposed they suffered, they trusted to the arbitrament of the sword. If it is a bitter umpire, it is, however, a decisive one. As such they feel and recognize it. The award has been against them, and they accept the new condition of things not only as a necessity, but as the terms of a conquest, to which they acceded. They have thus pledged their honor "to stand the hazard of the die," and to that honor they will be true. I regard the people of this State as disposed, to as full an extent as are those of New York or Ohio, to yield a ready acquiescence to the authority of the General Government. Our futures are now one, and so must be, and are, our hopes. Our efforts will be to contribute all in our power to the permanent happiness and prosperity of our common country.

Hon. J. W. CHANLER.

We have from these letters a statement of the white man as to the condition of things at the South. The practical working of the Freedmen's Bureau is there impartially and honestly given. The honorable gentleman from Kentucky [Mr. ROUSSEAU] in his argument to-day against this bill confirms, from personal experience, all that has been stated through these letters.

Now, sir, it seems to be a proper question for the philanthropic element of this House to ask who are the downtrodden sufferers in the southern States. Are the poor whites or the poor negroes most in need of charity, protection, and

support by the General Government? Time, common sense, and the development of truth will remove the difficulties and dangers which now balk the work of reconstruction. I have confidence in the President of this Union, and in the honest patriotism of the masses, North and South. Had I not such confidence the future of this country would to my mind be a sad one. Sickly sentimentality and pseudo-philanthropy will never restore harmony, sympathy, and friendly intercourse between the different sections of the country. As a specimen of the course pursued by some of the United States officers in charge of the Freedmen's Bureau, I insert the following, taken from the Boston Commonwealth, February 3, 1866. The only public schools of Charleston formerly used for the poor white children have been taken possession of by the Freedmen's Bureau for the black children. With that explanation the address of the brave general will be more fully appreciated:

"FAREWELL TO GENERAL SAXTON.—The colored people of Charleston and vicinity gave General Saxton a very touching instance of their love and appreciation on the occasion of his leaving that department. Resolutions were passed and several articles of table use, in silver, presented, purchased from their voluntary contributions. The children of the colored schools added a copy of the Bible, a prayer and hymn book, and a photographic album. Addresses were made by Rev. J. C. Gibbs, Samuel Dickinson, formerly a slave, a Mr. Coffin, and General Saxton. The school children sang several appropriate hymns. The general's address was as follows:

"My friends—Men and women of Charleston—Children of the public schools—Fellow-citizens of the United States of America: I thank you for this beautiful and unexpected testimonial of your affection. I know how ill you could afford it, and therefore it is a thousand times more precious to me than would be those gifts which the rich, out of their abundance, give to successful heroes. I have heard how those little school children dropped in their mits, all that they had, to give me a parting gift of affection; and while it pains me to take aught from them, still, remembering that it is more blessed to give than to receive, I feel proud and happy to be the recipient of this gift, which I shall treasure always; and, when my work on earth is ended, if worthy to receive it, it may be the brightest jewel in my crown.

"In the four years I have spent in South Carolina, I can truly say that I have tried to be faithful to the defenseless ones committed in so large a measure to my keeping. God in His infinite wisdom only knows how I have fulfilled my trust. I accept this beautiful testimonial as the verdict of your approval.

"In saying a last good-bye, I have only to ask you to overlook my errors and short-comings, and to give me your blessing and your prayers. We all have our trials, even in this day-dawn of liberty, when the whole horizon seems lighted up with bright hopes for freedom. But we must strive to bear them bravely, so that if we have the cross we may be fit to wear the crown of glory. I have no words to express my feelings to-night. I can only say I thank you, and bid you a last good-bye."

#### CHARACTER OF THIS BUREAU.

The present bill is a step further in the direction of usurpation and unlawfulness which gave rise to the original bill of the Thirty-Seventh Congress. The original bill was limited and sectional, the creature of a war policy, and by a reason-consistency put under the control of the Secretary of War. That necessity has ceased with the war. This bureau is now to become a land office for the sale and renting of public lands, for regulating labor, and controlling, or rather excluding, foreign immigration. It will spread its net over the whole Union to catch the unwary or intimidate the cautious laborer who may wish to settle on the public lands. It will strike at the root of our national wealth and political economy by interfering with the question of wages and labor in every State where it may be established. It has failed to be a benefit to either white or black man or to meet the expectations of its friends in any valuable degree of usefulness. It is not only not self-supporting but wasteful, and promotes dishonesty and monopolizes land speculation.

#### OBJECTIONS.

There are many objections to this bill already fully presented and urged by strong arguments by the members who have preceded me. I have not heard all the arguments advanced, but so far as my knowledge of the debate goes the objections to the bill have not been met by the friends of the measure.

From my own point of view, I object to the

bill as unnecessary, unconstitutional. It usurps powers fatal to representative government; it is partisan in its character; it interferes with legitimate trade; checks and diverts immigration by special legislation; it strikes at State limits and State sovereignty; it seeks to control the relation of labor and wages to the injury of white labor throughout the Union; it will control the sale and rent of lands by executive interference; it overrides State laws regulating property and protecting vested rights; it establishes an unconstitutional, unwarranted court of judicature of doubtful powers and of a dangerous precedent; it overrides civil government by military dominion; it destroys the muniments of common law, and violates the express provisions of the Constitution, which secures to every citizen a fair and impartial trial by jury; it makes the negro a slave again to the local commissioner, who has an arbitrary power over the most sacred rights of person and property; it is made to regulate the interests of the people of the South who are not represented here in the manner to which they are entitled under the Declaration of Independence and the provisions of the Constitution, which assert the inalienable right of the governed to be represented in the administration of Government; it is exclusive in its character, surrendering lands, and providing homes, clothing, and food for the black man alone, at the expense of the white laborer, who has to earn his wages, land, and support by the sweat of his brow; it promotes idleness, the parent of every vice and crime; it is not philanthropic, but partisan, sectional, and subversive of all the principles of well-ordered society; it establishes a class distinction fatal to the dignity of labor, through the local land agents, who can become the petty chiefs of the ignorant and docile negro subjected to their control; it stirs up the natural antipathies between the races, should any white men so far degrade themselves by accepting the condition of temporary serfdom established by this bill; it entails great and unnecessary expense on the Government at a time when the strictest economy should be the practice of the Government more than at any other period, in face of the immense national debt.

The bill does not meet the requirements of the freedmen. Three million acres set aside for the purpose of this bureau would settle three hundred and seventy-five thousand persons out of four and a half millions, or about one person in twelve of the whole number. If these four and a half millions are consolidated in one body it is practical colonization, and should be left to the same laws which regulate the migration of the white race. If the black race are to be scattered over different portions of the States named in the bill at the will of the local agents, the conflict in every relation of life must spring up between the white and black settlers, against the fatal consequences of which the bill will be no protection. Nor can any amendment to the bill protect the refugee, whom it would invite to struggle single-handed against a "sea of troubles."

The bill is too indefinite as to time, and leaves the culture of cotton, which is one of the main sources of national wealth, without security and without any certain prospect of improvement. In one word, while the bill proposes to regulate labor by stringent provision, it practically throws labor in the southern States into greater agitation than it has ever before known. It disturbs the relations which free, intelligent labor has always established for itself. The bill protects ignorant black labor against a fair competition with the white immigrant.

I will endeavor to present the objections to this bill more in detail, section by section, even at the risk of repetition.

#### AN ACT TO ENLARGE POWERS OF FREEDMEN'S BUREAU.

Section one strikes down State limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3,

1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all parts of the United States, and the President may divide the section of country containing such refugees and freedmen into districts, each containing one or more States, not to exceed twelve in number, and by and with the advice and consent of the Senate, appoint an assistant commissioner for each of said districts, who shall give like bond, receive the compensation, and perform the duties prescribed by this act and the act to which this is an amendment; or said bureau may, in the discretion of the President, be placed under a Commissioner and assistant commissioners, to be detailed from the Army, in which event each officer so assigned to duty shall serve without increase of pay or allowances.

Section two will establish military dominion in place of State governments.

SEC. 2. *And be it further enacted*, That the Commissioner, with the approval of the President, and when the same shall be necessary for the operations of the bureau, may divide each district into a number of sub-districts, not to exceed the number of counties or parishes in such district, and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, shall serve without additional compensation or allowance, and if a citizen or enlisted man, shall receive a salary of not less than \$500 nor more than \$1,200 annually, according to the services rendered, in full compensation for such services; and such agent shall, before entering on the duties of his office, take the oath prescribed in the first section of the act to which this is an amendment. And the Commissioner may, when the same shall be necessary, assign to each assistant commissioner not exceeding three clerks, and to each of said agents one clerk, at an annual salary not exceeding \$1,000 each, provided suitable clerks cannot be detailed from the Army. And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act or the act to which this is additional.

Section three will keep up a vast and expensive commissary department in time of peace, laying useless burdens on our over-taxed people, interfering with legitimate trade, and establishing a monopoly of the provision market of all domestic stuffs and of implements of agriculture.

SEC. 3. *And be it further enacted*, That the Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies, including medical stores and transportation, and afford such aid, medical or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children, under such rules and regulations as he may direct.

SEC. 4. *And be it further enacted*, That the President is hereby authorized to reserve from sale or from settlement under the homestead or preemption laws, and to set apart for the use of freedmen and loyal refugees, male or female, unoccupied public lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas; not exceeding in all three million acres of good land; and the Commissioner, under the direction of the President, shall cause the same from time to time to be allotted and assigned in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who shall be protected in the use and enjoyment thereof, for such term of time and at such annual rent as may be agreed on between the Commissioner and said refugee and freedman. The rental shall be based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe. At the end of such term or sooner, if the Commissioner shall assent thereto, the occupant of any parcels so assigned, their heirs and assigns, may purchase the land and receive a title thereto from the United States in fee, upon paying therefor the value of the land, ascertained as aforesaid.

It proposes to found a negro State and organize a war of races, in which the General Government is pledged to defend the black race at the cost of the white man's blood and money. While the bill is too indefinite to protect or to be just to the individual governed, it gives arbitrary power to the Commissioner greater and more dangerous than that exercised by the slaveholder or the overseer. It allows the Commissioner to control the rate of rents of land throughout the district and State, which is fatal to fair trade, and can easily be used to hinder white immigration. Practically, the monopoly of the land of the States where this bureau shall operate will be in the hands of the Commissioner or his friends, who professedly and by the very nature of this bureau, will give the preference to black freedmen over loyal white immigrants. Now, who are loyal refugees alluded to in this bill? How does this bill extend the benefits of this bureau to them? What rights are secured to them by its provisions? Gen-

eral Howard's report clearly states the fact that this bureau is for the black and not for the white man. It does not even provide for the black man who was free before the President's proclamation. By the policy of this bill the white citizen has been debarred of his preëemptive right to the Government lands, so clearly fixed in the course pursued toward the Indian tribes.

SEC. 5. *And be it further enacted*, That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant, by the owner, satisfactory to the Commissioner of the Freedmen's Bureau: *Provided*, That whenever the owners of lands occupied under General Sherman's field order shall be entitled to restoration of said lands the Commissioner is hereby authorized, upon the agreement, and with the written consent of said occupants—

said occupants under General Sherman's special field order—

to procure other lands for them by rent or purchase, or to set apart for them out of the public lands assigned for that purpose in section four of this bill, forty acres each, upon the terms and conditions named in said section.

General Sherman's field order No. 15 comprehends those lands situate on the sea-coast of South Carolina south of Charleston, and the abandoned rice fields for thirty miles from the sea. The rice fields have been restored under circular No. 15 from the bureau, and a great part of Edisto, James, Johns, and Wadmalaw Islands have been restored under orders from General Howard, that vacant plantations, and those with only a few freedmen, should be restored at once, the freedmen being provided for elsewhere—say one half of the above islands. Hilton Head, Port Royal, and St. Helena, are, according to the opinion of Attorney General Speed, under the direct tax act, and not within the purview of the order, and not under the control of the bureau, and never were. So then, so far as South Carolina is concerned—and the territory is smaller in the other States—the land in question is only a moiety of Edisto, Wadmalaw, Johns, and James Islands:

Edisto containing about.....	Acres.
The others, say, Wadmalaw.....	30,000
Johns and James Islands.....	30,000
	40,000
One half to be restored at once under existing orders.....	100,000
Leaving as in question in the whole territory,	50,000

On Edisto at a very late investigation there were not more than 2,000 freedmen on that island, of which sixty-seven had certificates, making 2,680 acres. From the same on James, Johns, and Wadmalaw, there were not more than one hundred certificates, 4,000 acres, making a total on all the islands of 6,680 acres. The islands can more than absorb the labor on it: in fact there is no danger, if the negroes will contract, but what there will be plenty of work for them. General Sherman intended his order as a temporary resting-place for persons who were following his camp, and not to make grants of these lands. Under the confiscation act of Congress the President was empowered to pardon as well as under the Constitution.

WASHINGTON, February 2, 1866.

SIR: I have the honor to acknowledge the receipt of your letter of February 1, and, in compliance with your request, I inclose herewith a copy of field order No. 15, of 1865, with this brief history of the origin and reasons for making it:

Hon. E. M. Stanton, Secretary of War, came to Savannah soon after its occupation by the forces under my command, and conferred freely with me as to the best method to provide for the vast number of negroes who had followed the army from the interior of Georgia, as also of those who had already congregated on the island near Hilton Head, and were still coming into our lines. We agreed perfectly that the young and able-bodied men should be enlisted as soldiers, or employed by the quartermaster in the necessary work of unloading ships and for other army purposes; but this left on our hands the old and feeble, the women and children, who had necessarily to be fed by the United States.

Mr. Stanton summoned a large number of the old

negroes, mostly preachers, with whom he held a long conference, of which he took down notes. After this conference he was satisfied that the negroes could, with some little aid from us, by means of the abandoned plantations on the sea islands and along the navigable rivers, take care of themselves. He requested me to draw up a plan that would be uniform and practicable. I made the rough draft, and we went over it very carefully. Mr. Stanton making many changes, and the present orders No. 15 resulted and were made public.

I knew, of course, we could not convey the title to land, and merely provided possessory titles to be good so long as war and our military power lasted. I merely aimed to make provisions for the negroes who were absolutely dependent on us, leaving the value of their possession to be determined by after events or legislation. At that time, January, 1865, it will be remembered that the tone of the people of the South was very defiant, and no one could tell when the period of war would cease; therefore I did not contemplate that event as being so near at hand.

I am, with great respect, your obedient servant,  
W. T. SHERMAN, Major General.  
To ANDREW JOHNSON, President of the United States.

It is evident from the above that possession in a legal sense never was given by General Sherman's order. It was a temporary arrangement, made in time of war, for the purpose of disposing of the large mass of negro slaves who were living on the army rations and obstructing military movements.

There is no possession requiring any process of law to oust except it be as trespassers.

SEC. 6. *And be it further enacted*, That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for such purposes. And no payments shall be made for lands purchased under this section, except for asylums and schools, from any moneys not specifically appropriated therefor. And the Commissioner shall cause such lands, from time to time to be valued, allotted, assigned, and sold in manner and form provided in the fourth section of this act at a price not less than the cost thereof to the United States.

Another monopoly: the bill by this section tends to control all sale of lands within those districts, and practically prevents purchases by any party not in the bureau or within the influence of its policy.

SEC. 7. *And be it further enacted*, That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police or other regulations, custom or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties for the commission of any act or offense than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against—

Overrides the State laws regulating property; establishes an unconstitutional court of doubtful jurisdiction and of dangerous powers; disturbs the even course of justice by the strong arm of executive interference and military usurpation.

This gives the bureau the character of an inquisition to inspect, reform, amend, or abolish the whole judicial codes of every State in the Union.

SEC. 8. *And be it further enacted*, That any person who, under color of any State or local law, ordinance, police, or other regulation, or custom, shall in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or

## HO. OF REPS.

## Freedmen's Bureau—Mr. Chandler.

39TH CONG....1ST SESS.

offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of, and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States through the War Department shall prescribe. The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

Destroys the muniments of common law and violates the express provisions of the Constitution, which secures to every citizen a fair and impartial trial by jury.

SEC. 9. *And be it further enacted*, That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

A suggestion as an additional section—a new suit of clothes with brass buttons, stamped with the letters of the alphabet, so that each negro who runs may read and enlighten.

## MONOPOLY OF SOUTHERN LAND.

To the people of the district which I have the honor to represent on this floor the establishing of anything like monopoly is in the highest degree offensive and oppressive. A large majority of my constituents earn their bread by the sweat of their brow; all of them are working men, in the large sense of the word, and an idler is not tolerated or respected among them. Many of them are of foreign birth, and without any means of competing with the United States Government in a control of the sale and rental of public lands in the South or anywhere.

It is clearly my duty, as it is my pleasure, to protect them openly and fearlessly against the injustice of this plan of monopoly, and, if possible, preserve to them all their privileges as citizens against the unfair administration of the laws enacted by this Congress in favor exclusively of the negro.

Mr. Speaker, the eye of capital has much speculation in it just now as it squints toward the fat lands of the South. There are many well-ordered schemes on foot to secure the control of the ancient dominion of old King Cotton. The lords of shoddy have exhausted the field of battle and now look for other ampler verge and scope for their operations. Yesterday it was the fashion to make contracts, to-day it is the proper thing to make constitutions, which may clear the way for these patriots, whose cry now is, "To-morrow to fresh woods and pastures new." The President in his message has given the people a timely hint of the future plans and enterprise of capitalists when he says:

"Our Governments springs from and was made for the people—not the people for the Government. To them it owes allegiance; from them it must derive its courage, strength, and wisdom. But, while the Government is thus bound to defer to the people, from whom it derives its existence, it should, from the very consideration of its origin, be strong in its power of resistance to the establishment of inequalities. Monopolies, perpetuities, and class legislation are contrary to the genius of free government, and ought not to be allowed. Here, there is no room for favored classes or monopolies; the principle of our Government is that of equal laws and freedom of industry. Where ever monopoly attains a foothold, it is sure to be a source of danger, discord, and trouble. We shall but fulfill our duties as legislators by according 'equal and exact justice to all men,' special privileges to none. The Government is subordinate to the people; but, as the agent and representative of the people, it must be held superior to monopolies, which, in themselves, exist never to be granted, and which, where they exist, must be subordinate and yield to the Government."

Mr. Speaker, let us hope that this House will sustain the President in his patriotic and constitutional course in thus protecting the laboring classes and the whole people against the interested acts of a few.

That these plans are now beginning to take shape, I infer from the documents which I quote to the House:

"General William L. Burt, late of Governor Andrew's staff, has started on a tour through the South, with a view to aid the operations of the American Land Company."—*Commonwealth*, February 3, 1866.

## United States Mutual Protection Company,

(For encouraging Settlements in the Southern States.)

CAPITAL STOCK, \$500,000.

10,000 Shares of \$50 Each.

## President.

Hon. ALEXANDER W. RANDALL, First Assistant Postmaster General.

## Vice President.

Hon. S. C. POMEROY, United States Senator, Kansas.

## Secretary.

Dr. JOHN TRIMBLE, Treasury Department, Washington.

## Treasurer.

Gen. JOHN R. ELVANS, Washington, D. C.

## General Stock Agent.

Col. CHASE A. STEVENS, Washington, D. C.

Office of General Agency, No. 273 F street, Washington, D. C.  
Office for New England States, —.

The design of the "United States Mutual Protection Company" is the occupation, by loyal citizens of the northern States, of desirable plantations in the various southern States lately in rebellion, thereby infusing into them a healthy and loyal element, and, at the same time, promoting the pecuniary interests of the patriotic men who shall be instrumental in effecting this work.

Assurances of the approval of the objects of this company have been received from the different Executive Departments of the Government, including the Bureau of Refugees, Freedmen, &c., and such effective aid in carrying them out as they can lawfully furnish; and nothing remains to secure the complete success of the enterprise but the hearty cooperation of the loyal citizens of the northern States.

C. A. STEVENS, General Agent.

Office, 273 F street, Washington, D. C.

## LAND MONOPOLY.

Now, sir, the question of vital importance in all this discussion is, whether in the repopulation and restoration of the South the labor is to be white or black.

I will here read an extract from the speech of the gentleman from Minnesota, [Mr. DONNELLY,] delivered on February 1:

"Immigration moves only in the direction of prosperity. The amount of immigration to a country is a fair indication of the number of advantages it enjoys. If you hand the South over to themselves; if you permit the oppression of the freedman; if you permit the reestablishment of slavery under a new name, you will shut off immigration as effectually as it was shut off in the old days of slavery. The northern man would not be welcome there. The European would not go there to labor in competition with a wretched and degraded race."

I am in favor of white workmen, and oppose this Freedmen's Bureau bill because it makes an unjust discrimination against them. I wish to lay all the facts of the case before the country, and to let the labor of the country know what capital is about. Fair play to all sides and hands off is all the white man wants of his Government; competition, skill, and pluck will do the rest.

## United States Mutual Protection Homestead Company.

Repopulation of the South; the great industrial question of the age; facts and figures.

Beyond a doubt the most important question ever presented to the civilized world is, how the industrial condition of the southern States, lately the theater of a sanguinary war, can be reestablished upon a firm and prosperous basis.

The interest in this question is not confined to those States or to the United States. It extends to every civilized nation, and to every town, hamlet, and individual of those nations. Inasmuch as the supply of cotton, tobacco, rice, sugar, and molasses depends upon their successful cultivation in those States, and as the price of these productions depends upon the quantity produced, every individual, as such, who wears cotton fabrics or consumes these productions has a deep personal interest in this question. The consumer of cotton fabrics is now compelled to pay exorbitant prices over what he paid in 1860, because cotton is now worth from forty cents to one dollar and fifty cents per pound, while in 1860 the same article was worth only from six to twenty cents, and the reason of the high price of cotton is to be found in the fact that since 1860, when the product of that year in those States amounted to over five million bales, the amount produced has been nominal; and so of all other productions of those States; and yet

their capability to produce the crop of 1860 is not diminished, except in the disorganization of their industrial system. The economists of the North, who have paid but little attention to this question, will be astonished at the immense productions of those States in 1860, as shown by the eighth census reports.

## Alabama.

Alabama had under cultivation 6,385,724 acres of land, and produced:

Cotton, bales.....	989,955
Corn, bushels.....	33,226,282
Sweet potatoes, bushels.....	5,439,917
Live stock, value.....	\$43,411,711
Slaughtered animals, value.....	\$10,000,000
Butter, pounds.....	6,028,478

## Georgia.

Georgia has 8,062,758 acres of cultivated lands.

Cotton, bales.....	702,840
Corn, bushels.....	30,776,238
Sweet potatoes, bushels.....	6,508,541
Live stock, value.....	\$38,372,734

Of land purchased of the Government by individuals, not under cultivation, it had 13,587,732 acres.

## Florida.

Acres cultivated.....	654,213
Acres uncultivated (purchased).....	2,266,035
Cotton, bales.....	65,753
Corn, bushels.....	2,834,391
Sweet potatoes, bushels.....	1,129,759
Live stock, value.....	\$5,553,356

## South Carolina.

Acres cultivated.....	4,573,060
Cotton, bales.....	353,412
Corn, bushels.....	15,065,606
Sweet potatoes, bushels.....	4,175,688
Live stock, value.....	\$23,934,463

## Texas.

Acres under cultivation.....	2,650,781
Acres uncultivated.....	22,693,247
Cotton, bales.....	431,463
Corn, bushels.....	16,500,702
Sweet potatoes, bushels.....	1,129,759
Live stock, value.....	\$42,825,447

## Louisiana.

Acres under cultivation.....	2,707,108
Acres uncultivated.....	6,291,468
Cotton, bales.....	777,738
Corn, bushels.....	16,853,788
Sweet potatoes, bushels.....	2,066,981
Live stock, value.....	\$24,546,940

## Mississippi.

Acres under cultivation.....	5,065,755
Acres uncultivated.....	10,773,929
Cotton, bales.....	1,202,507
Corn, bushels.....	29,037,692
Sweet potatoes, bushels.....	4,563,873
Live stock, value.....	\$41,891,692

## Arkansas.

Acres under cultivation.....	1,983,313
Acres uncultivated.....	7,590,393
Cotton, bales.....	307,338
Corn, bushels.....	17,823,583
Live stock, value.....	\$22,096,977

While Louisiana alone produced 221,761 hogheads of sugar, and 13,439,772 gallons of molasses.

The cash value of purchased lands in these States in 1860 was:

Alabama.....	\$175,824,622
Georgia.....	157,072,803
Florida.....	16,435,727
South Carolina.....	139,652,508
Texas.....	88,101,320
Louisiana.....	204,789,662
Mississippi.....	190,769,367
Arkansas.....	91,649,773

The cash value of negro slave property in the same States in 1860 was:

	Slaves.	Value.
Alabama.....	435,080	\$215,540,000
Georgia.....	462,198	230,689,000
Florida.....	61,745	30,872,500
South Carolina.....	402,406	201,203,000
Texas.....	182,566	91,283,000
Louisiana.....	331,726	165,863,000
Mississippi.....	326,631	218,315,500
Arkansas.....	111,115	55,517,500

The great question now is to provide for these States an efficient industrial system, to take the place of the one we have destroyed—to provide an industrial system which shall produce the amount of cotton, tobacco, rice, sugar, and molasses raised in 1860, for the want of which a universal cry of distress ascends from the nations and all people. The cotton crop of the South in 1860 was 5,385,897 bales, while the entire crop of this year will be overestimated at 1,000,000 bales.

In 1860 the  
Tobacco crop was, pounds.....434,183,561  
Sugar, hogheads.....234,382  
Cane molasses, gallons.....14,563,563  
Sorghum molasses, gallons.....6,681,185  
Rice, pounds.....187,167,662

Not one fifth of this amount will be produced this year; and when it is considered that the cultivation of these products has been almost entirely abandoned for the last four years, the importance of immediate action upon this question cannot be overestimated.



A wise policy, inaugurated at once by the capitalists of the North and by the land-owners of the South, will reproduce the crop of 1860 in three years. At the expiration of President Johnson's Administration, in 1869, this immense wealth, destroyed during the four years of war, may be restored and the wants of the world again supplied. The people of the South have taken the initiative by offering to sell their lands at nominal prices, or lease their cultivated lands at reasonable rates for a term of years. They invite, in good faith, northern and foreign emigration. Let northern capitalists and the northern people respond with like liberality, and the reestablishment of a healthy industrial condition will result in a prosperity unequalled in the history of any country.

This industrial question of the South is also very intimately connected with the currency and finances of the country. Of the 5,386,897 bales of cotton produced in 1860, not over 1,500,000 bales were consumed in this country, leaving for exportation 3,886,897, which, at ten cents per pound, furnished \$155,475,880 to supply the place of specie in our foreign exchange, and which, if produced this year, at the present prices, say forty cents per pound, would supply the place of \$621,903,520 of specie which now goes to pay for importations.

The balance of trade must be paid in specie, unless paid in cotton which is to Europe the same as specie; and if that additional amount of specie could be retained at home it would tend greatly to strengthen the paper currency of the Government, and probably avoid altogether the much-dreaded financial crisis.

Of the 22,443,897 acres of cultivated lands in the above-mentioned States, probably not over one half has been cultivated this year, and cannot be cultivated for years to come without the aid of capital and labor. To be drawn from beyond their limits. From reliable information, it is fair to conclude that at least five million acres of these lands are now subject to purchase or lease, with the right of purchase at from five to twenty dollars per acre; the rent from two to five dollars per acre. As an incipient step toward attaining this most desirable result of reestablishing the industrial system of these States, and in contemplation of rendering efficient aid, a temporary organization was made of gentlemen, principally in this city, in August last, forming a company under the name of "The United States Mutual Protection Company for Encouraging Settlements in the Southern States," of which Hon. Alexander W. Randall, First Assistant Postmaster General, was elected President, Dr. John Trimble, Secretary, John R. Elvans, Esq., Treasurer, having a general office at 273 F street, Washington, D. C.; C. A. Stevens, Esq., general agent. The object of this organization was to combine such influences as would tend to bring together the land-holders of the South and the capitalists and labor of the North. This company have issued and widely circulated two circulars, of some fifteen pages each, setting forth the objects of the organization and the advantages resulting both to the land-owners of the South and the capital and labor of the North, and it has further been widely circulated by the press all over the North.

The company has already many applications from southern land-owners for tenants, and some five hundred families are ready to move South in the month of January next. There is a universal interest through the North in this enterprise, as it affords protection and the prospect of an easy and rapid accumulation of wealth.

It is contemplated by the company to make settlements of fifty families in a location, thereby securing mutual protection, schools, and religious worship. The company further contemplate securing a charter from Congress at an early day in the present session, with a capital of \$3,000,000, and a large number of the most prominent capitalists in New York, Boston, and Chicago have intimated their desire to participate in this corporation. It is the intention, after a permanent organization shall be effected, to make advances of means to parties owning plantations, and who are not at present able to cultivate their lands without assistance, as well as to assist persons of small means from the North who are desirous of settling South. A number of large land-owners and men of influence from various parts of the southern States are also ready to unite in the company, and make common cause in this great work of reanimating the industrial interest of their beautiful but unfortunate southern land.

It will be observed in this advertisement of the United States Mutual Protection Homestead Company, special attention is drawn to the period of time at which the President's Administration ceases.

I need not dwell on the plain principles of political economy which give the control of the wealth to that country or section which has the largest exports at command; nor to the evident advantage to the cotton-spinners of this country to have the mastery of the cotton-growing section and the labor of that section. In my opinion, this Freedmen's Bureau bill tends to the monopoly of the producing lands of the South, as well as to control the labor which may be introduced or maintained on those lands. The effort of the gentleman from Massachusetts [Mr. Elliot] to push through this House a bill for excluding from registration many hundred thousand tons of American shipping, in the in-

terest of New England alone, is a fair type of what the whole country has to look for from that quarter.

So far as these schemes tend to develop the national resources, national harmony, and national greatness, consistently with the welfare of the people, first the white race and then all others, I am not opposed to them. But so far as they are mere monopolies, I denounce them as dangerous and unpatriotic.

Sir, with one more reference to the President's message in relation to this and all kindred measures, I close my remarks.

This bureau is eminently a military bureau. I have given its history; and the absorption of this bureau by the War Department fixes its character and future control.

#### MILITARY CHARACTER.

The President in his recent message draws attention to another important feature in the matter of reconstruction, namely, emigration:

"I found the States suffering from the effects of a civil war. Resistance to the General Government appeared to have exhausted itself. The United States had recovered possession of their forts and arsenals; and their armies were in the occupation of every State which had attempted to secede. Whether the territory within the limits of those States should be held as conquered territory, under military authority emanating from the President as the head of the Army, was the first question that presented itself for decision.

"Now, military governments, established for an indefinite period, would have offered no security for the early suppression of discontent; would have divided the people into the vanquishers and the vanquished; and would have envenomed hatred, rather than have restored affection. Once established, no precise limit to their continuance was conceivable. They would have occasioned an incalculable and exhausting expense. Peaceful emigration to and from that portion of the country is one of the best means that can be thought of for the restoration of harmony, and that emigration would have been prevented; for what emigrant from abroad, what industrious citizen at home, would place himself willingly under military rule?"

Now, sir, the words of the President are words of wisdom and of truth on this subject.

Our people are not willing to live under military rule.

This bureau is under military rule. It proposes to perpetuate and strengthen itself by the present bill.

It founds an "*imperium in imperio*" to protect black labor against white labor.

It excludes the foreign immigrant from the lands given to the native-born negro.

It subjects the white native-born citizen to the ignominy of surrendering his patrimony, his self-respect, and his right to labor into the hands of negroes, idle, ignorant, and misled by fanatic, selfish speculators. We have heard a great deal from the political wiseacres on this floor who follow the lead of the executive member from Pennsylvania, [Mr. STEVENS,] and we have also heard the report of Generals Howard and Sherman on the same subjects. Now I will add an extract from General Grant's report on the condition of the South and leave the verdict to the people:

"Conversations on the subject, however, with officers connected with the bureau lead me to think that in some of the States its affairs have not been conducted with good judgment or economy, and that the belief, widely spread among the freedmen of the southern States, that the lands of their former owners will, at least in part, be divided among them, has come from the agents of this bureau. This belief is seriously interfering with the willingness of the freedmen to make contracts for the coming year."

\* \* \* "The effect of the belief in division of lands is idleness and accumulation in camps, towns, and cities. In such cases I think it will be found that vice and disease will tend to the extermination or great reduction of the colored race. It cannot be expected that the opinions held by men at the South for years can be changed in a day, and therefore the freedmen require for a few years not only laws to protect them, but the fostering care of those who will give them good counsel and on whom they can rely."

Now, Mr. Speaker, I am in favor of some sort of bureau for the negro, who is a foreigner and a ward of our Government just as the Indian tribes have, to regulate their relations with this Government.

There is no necessity of a special military bureau of this character at this time. The necessity for it ceased with the war. I insert here references to the valuable work of Story on the

Constitution and Curtis's History of the Constitution in relation to the treatment and policy of our Government toward Indian tribes, rather as a suggestion to the honorable chairman of the committee who has charge of this bill, without much hope that it will be accepted as a hint for a change of his policy in this matter.

The preemptive right in the soil is in the white race. The sovereignty of this Government springs from and belongs to the white race exclusively. The negro race, freed from slavery, have become the wards of the Government, and are to be treated in their relations to us by a system similar to that established by the Government in its intercourse with the Indian tribes. For the policy of the United States Government toward Indian tribes, see Story's Commentaries on the Constitution, volume two, pages 540-542, and Curtis's History of the Constitution, volume two, pages 325-367.

On the question of the preemptive right of the United States to Indian lands being a barrier to protect the Indian, see United States Statutes-at-Large, volume one, page 138, section four, chapter thirty-four.

#### Reconstruction.

### SPEECH OF HON. C. DELANO, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 10, 1866,

On the political condition of the States lately in rebellion.

Mr. DELANO said:

Mr. SPEAKER: I propose to examine the following question: what is the political condition of the States lately in rebellion?

Four years and more of war has produced great changes in the social condition of the insurrectionary States, and has materially affected the political relations heretofore existing between them and other States of the Union. These mighty changes cast upon us the momentous question which I propose to consider. The importance of this question has never been equaled by any subject presented to an American Congress since the formation of our Government. In my opinion, upon its proper solution depends not only the peace and prosperity, but the existence of our country. Differences of opinion in regard to the condition of these States and as to the best manner of restoring them to their normal condition in the Union, must be expected. These differences are not merely natural, but necessary. Our forefathers in forming this Government, and in framing the great fundamental law for its control, encountered like differences of sentiment in regard to the great organic law which they had undertaken to make; but with a proper respect for the judgment of each other, and in a spirit of concession and conciliation, they entered upon their work, and accomplished it harmoniously. Let a like spirit animate this Congress. Let a proper appreciation for honest differences among each other, or between ourselves and other departments of this Government, prevail. Let us all be forbearing toward those from whom we ask a like exercise of charity, and I sincerely believe we shall be able to adjust the great measures before us, for the best interest and with the approbation of our common constituents, in such a manner as to make solid the foundations of our Government. Thus the present threatening clouds will pass away, and universal peace and harmony be restored.

I propose to analyze the condition of public opinion upon this question as it seems to present itself in this House.

First, there is a class of persons who insist that the insurrectionary States are not only in the Union, but that they are States in the fullest sense of the term, having a right to demand representation on this floor. I do not know whether this class is willing to admit Representatives still seething in treason and rebel-

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lion, whose hands are red with the blood of our slaughtered countrymen, who are yet unwilling to yield submissively to the great decisions of the war; but whether or not they are so willing I do not belong to this class of politicians. I believe these States are in the Union and that they possess the right of local and domestic legislation; that their proper relation with other States has been so interrupted and changed as to deprive them of the absolute right to demand the admission of members to this floor without conditions and proper qualifications for membership.

Secondly, it is insisted by another class that these States are dead, in the condition of conquered provinces, subject to be governed by Congress in all respects as any other Territory. I have no faith in this theory. I do not believe the States have been destroyed, nor that they may be held as conquered Territories, and I propose to lay before this House and the country, briefly as possible, my reasons for opposing this theory.

The distinguished gentleman from Pennsylvania, [Mr. STEVENS,] in opening the debate upon this subject, announced the startling proposition that these States are dead! It was put forth, manifestly, as the theory which was to guide the majority of this House in their deliberations and legislation in the important questions of reconstruction. The sagacity and influence of the honorable gentleman who made this announcement are acknowledged and felt in this House and throughout the country. His capacity to understand the remote consequences of any position he assumes, and to trace those consequences to their full extent and influence no one appreciates more fully than myself. I was, therefore, naturally and necessarily alarmed to see this proposition coming from an acknowledged leader of the House at the opening of this debate, under circumstances justifying the apprehension that it was to guide and lead this House to its final conclusion upon the subject.

I make these observations to justify myself in giving so much attention, as I shall give, in these remarks, to what has been said by the gentleman from Pennsylvania. That I may do the gentleman no injustice, I make the following quotations from his speech of December 18, 1865. Of the States lately in rebellion, he says:

"They have torn their constitutional States into atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves; dead States cannot restore their own existence as it was."

Then, referring to the Constitution, he quotes from the third section of the fourth article the following:

"New States may be admitted by the Congress into this Union."

And proceeds thus:

"In my judgment this is the controlling provision in this case. Unless the law of nations is a dead letter, the late war between the two acknowledged belligerents severed their original compact, and broke all the ties which bound them together. The future condition of the conquered people depends upon the will of the conquerors. They must come in as new States, or remain as conquered provinces."

In another place in the same speech he says: "To prove that they are and for four years have been out of the Union for all legal purposes, and being now conquered, subject to the absolute disposal of Congress, I will suggest a few ideas and adduce a few authorities."

The learned gentleman then proceeds to show that the confederate States, during the war, were an independent belligerent, and were so acknowledged by the United States and by Europe, and were, therefore, precisely in the condition of a foreign nation with whom we were at war; citing, in support of this position, several writers on the law of nations and the decisions of the Supreme Court of the United States. Further references seem needless to show the position of the gentleman on this subject.

The gentleman from Pennsylvania was soon followed by my honorable colleague [Mr. SHELLABARGER]

in an able and elaborate speech which appears to sustain, substantially, the same views. That I may do my colleague no injustice, I will quote a passage from his speech, showing that he considers the insurgent States as having lost the rights and powers of government, and that the United States may and ought to assume and exercise these lost powers. Here, I may remark that I might quote many other passages to the same effect, but the one I am about to produce seems sufficient.

My colleague asks, what is before Congress? And answers it thus:

"It is, under our Constitution, possible to, and the late rebellion did in fact so, overthrow and usurp in the insurrectionary States the loyal State governments as that during such usurpation, such States and their people ceased to have any of the rights and powers of government as States of this Union. And this loss of the rights and powers of government was such that the United States may and ought to assume and exercise local powers of the lost State governments."

Mr. SHELLABARGER. Mr. Speaker, I certainly would not interrupt my colleague but for the remark that he made prefatory to that one in which he introduced an allusion to myself. That prefatory remark compels me either to arise for the purpose of explanation or else to acquiesce in what is a mistaken interpretation of what I said.

Now, had he completed the sentence, a part of which he read, he would have found that in attributing to me the position which I understood him to attribute to me, he does me unintended injustice. I will complete the sentence, only adding that which is material for the explanation that I desire now to make. I must read the whole sentence so as to introduce and give the effect of the part omitted. It reads:

"It is under our Constitution possible to, and the late rebellion did in fact so, overthrow and usurp in the insurrectionary States the loyal State governments as that, during such usurpation, such States and their people ceased to have any of the rights or powers of government as States of this Union."

Notice that I say "during such usurpation"—

"and this loss of the rights and powers of government was such that the United States may and ought to assume and exercise local powers of the lost State governments, and may control the readmission of such States to their powers of government in this Union."

Now, here is the part of the sentence to which I desire to call attention—

"subject to and in accordance with the obligation to guaranty to each State a republican form of government."

Now, sir, my proposition is that it was the governing capacity or property alone that was overthrown, and that that state of things has intervened and occurred to make it the duty of the Government of the United States, not to hold these people as conquered Territories, but to restore to them republican governments, and that we cannot hold them, therefore, as conquered Territories, but that that holding is subject to that guarantee to which I alluded in the last part of the sentence. I know my distinguished colleague will do me the justice to give me the benefit of the last and important part of the sentence.

Mr. DELANO. Now, Mr. Speaker, before noticing the gentleman's remarks any further, I will ask him—because that will settle the question without attempting to interpret what he has said heretofore—whether he believes that Congress has a right, under any provision of the Constitution, to exercise power over these States as Territories, or, in his own language, "to exercise local powers of the lost State governments" under the present state of facts, and as things now exist? This question, if answered directly, will bring the gentleman to an issue, and I shall understand him.

Mr. SHELLABARGER. Mr. Speaker, I reply to the gentleman's inquiry by saying that I do hold, as I stated in that sentence, that there has occurred in the rebel States that state of things in which they have lost their "practical relations to the Government of the United States," if I may be permitted to adopt the language of our late and lamented President.

I care not whether you call that being in the Union or out of the Union.

There is no need of our falling out here about mere dialectics.

My proposition is that, where a loyal State government by rebellion has been utterly swept away, there does revert to the United States during that hiatus in the State government (if you will pardon the expression) such amount of local control over the States as will enable the United States to render effectual the provision of the guarantee clause of the Constitution, and such as will enable the United States first, to take care of the people during that interim, and next, and as speedily as practicable, to restore and reestablish a local State government, republican in form, within the State, which was never destroyed, and cannot be until the Constitution is overthrown.

Mr. DELANO. I thought, Mr. Speaker, that I did not misunderstand my colleague; I still think so.

Once had an acquaintance, the president of a railroad company, of whom it was said that he had a peculiar faculty of deciding against those whom he wanted to decide against by "letting them down easy." Adopting that illustration, I feel that my friend does come to the very consequences of the gentleman from Pennsylvania; although I admit he does not step off the precipice into the abyss by one single leap, but, as he explains himself here to-day, he "comes down easy."

He is, then, in favor of this Congress exercising local powers of legislation for these States. He does believe (and that is the whole theory of his speech) that the powers of these States are overthrown and lost. If he is correct, then the gentleman from Pennsylvania is right, and the States as political organizations are "dead." They are without law, and chaos reigns, until Congress shall establish law for them.

This places them in the power of Congress, subject to be governed as Territories and insidiously opens the door to rule and govern, confiscate and destroy, as effectually as the gentleman from Pennsylvania can desire.

Mr. SHELLABARGER. May I ask my colleague a single question?

Mr. DELANO. Certainly.

Mr. SHELLABARGER. I am permitted, Mr. Speaker, through the courtesy of my most excellent colleague, to ask him a question, for which privilege I am obliged to him.

I wish to ask the gentleman whether he holds that in that very condition of things, which by sad history we know has existed in those States, during which loyal State governments have not in fact been in existence, the United States can exercise no control locally for the purposes of protecting the loyal people there and restoring State governments as soon as possible?

Mr. DELANO. If the gentleman will be patient I shall answer this question fully, it being one of the questions I propose to examine during my remarks. That I may not seem to evade it, however, I will say here, while passing, that in their present condition I do not believe they are so destitute of the powers of government as to authorize the United States to "exercise local powers of the lost State governments," as my colleague expresses it.

This theory of dead States was rested by the gentleman from Pennsylvania upon the proposition that during the war we granted to the States in rebellion belligerent rights; that we thereby acknowledged them to be foreign territory and a foreign Power, whereby we subjected them to the laws of conquest; that, having conquered them, they are now held as provinces, subject to our will and pleasure. No respectable author upon the law of nations maintains the doctrine that the acknowledgment of belligerent rights during a civil war converts the insurgents into a foreign nation. Vattel says, page 424:

"When a party is formed in a State who no longer obey the sovereign, and are possessed of sufficient

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strength to oppose him; or when in a republic the nation is divided into two opposite factions, and both sides take up arms, this is called civil war."

"The sovereign, indeed, never fails to bestow the appellation of rebels on all such of his subjects as openly resist him; but when the latter have acquired sufficient strength to give him effectual opposition, and oblige him to carry on the war according to the established rules, he must necessarily submit to the use of the term civil war."

On page 425 he further observes:

"This being the case, it is very evident that the common laws of war, those maxims of humanity, moderation, and honor already detailed in this work, ought to be observed by both parties in every civil war."

Following this argument, the Supreme Court of the United States, in the prize cases, says:

"The laws of war, as established among nations, have their foundation in reason, and all tend to mitigate the cruelties and misery produced by the scourge of war; hence the parties to a civil war usually concede to each other belligerent rights; they exchange prisoners, and adopt other courtesies and rules common to public or national wars."

Further authorities are needless to show that granting belligerent rights to the insurgents did not convert them into a foreign nation, nor their territory into foreign States. The insurrection was gigantic, requiring great numbers and large means to subdue it. Its duration and vicissitudes during its progress required flags of truce, exchange of prisoners, and "other courtesies and rules common to national wars." To this extent the rebels were treated as a belligerent Power, and to this extent only. They were thus treated because humanity and the law of nations demanded it, in mitigation of the cruelties and evils produced by the scourge of war. Our extensive coast bordering the States in insurrection would have furnished the insurgents a foreign intercourse so valuable in sustaining the rebellion had it not been subjected to a blockade as to render such a measure for the time being a necessity. Is it legitimate, then, to conclude that these necessary measures dictated by humanity, and resorted to in obedience to the laws of nations in order to mitigate the cruelties of the insurrection and shorten its duration, converted the insurgent territory into a foreign nation? Clearly not. This process of reasoning has been answered by the following inquiry, if correct, what becomes of the right and power of the Government to punish treason? For traitors are transformed into foreign foes, and the treason of insurgents is converted into legitimate war of an alien enemy by this rapid logic of belligerent rights.

Seeing the gentleman thus hard pressed, my esteemed colleague, [Mr. SHELLABARGER,] imitating Achilles when the Greeks were in distress, comes into the conflict, if not with new armor, at least with new arguments, and suggests that the Supreme Court has decided that "it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights," and he proceeds to assert as conclusions from the decision of the Supreme Court, first, that the rebel States acted as States in organizing the rebellion; secondly, that all their citizens were thereby made enemies; thirdly, that though enemies they did not become foreign States, so that when we take them back we must pay their debts; fourthly, that the United States may exercise over these people both belligerent and sovereign rights. Before referring to what my colleague said on this point, I call the attention of the House to the following additional remarks of the court in the prize cases, from which he has quoted:

"All persons residing within this territory are to be treated as enemies, though not foreigners."

"But in defining the meaning of the term 'enemies' property, we will be led into error if we refer to *Flota* or *Lord Coke*. It is a technical phrase, peculiar to prize courts, and depends upon principles of public policy as distinguished from the common law."—*Prize Cases*, 674.

Thus it will appear, by the authorities introduced by my colleague in order to relieve the gentleman from Pennsylvania from the difficulty growing out of his assertion that the insurgent district had become a foreign nation, that the revolting States did not convert their

people into foreign enemies, in the common-law definition of the term, and hence by their overthrow we do not inherit their debts. My proposition is therefore established that the granting of belligerent rights as an act of humanity did not place the parties at war in the same relations as nations foreign to each other. Thus are torn up, root and branch, the premises and the conclusions of the gentleman from Pennsylvania. And thus also is established the power of the United States to grant belligerent rights and maintain sovereign authority, whereby she was enabled to crush the insurrection, to save the Union, to guaranty republican governments in the insurgent States, and prevent these States from becoming foreign territory with alien enemies as inhabitants.

The fearful consequences resulting from this theory that the States are dead must not be overlooked. Several months ago I heard the key-note of this policy coming from the gentleman from Pennsylvania, in a speech delivered in Lancaster county. It was then proposed, according to my recollection, to confiscate the property of the late confederate States, and dispose of it, in part for the payment of the public debt, in part for the settlement of the emancipated blacks, and in part to increase the pensions of those who suffered in the late war. I was shocked at this scheme of universal confiscation, and felt as if America would lose her reputation before the nations of the earth if we should adopt it. It rests on the theory of "dead States and conquered provinces." I have a profound respect for the ability and the patriotism of the gentleman from Pennsylvania, and I will not say that it is his purpose to push his theory to all the terrible consequences which appear to me to be its natural and inevitable fruits. Should it be carried to this terrible extent, I can imagine nothing which this Congress has the power to do that would be fraught with so much danger to the country or be likely to bring so much reproach upon our good name. Why, sir, the Duke of Alva executed the decrees of a bigoted and brutal master while ruling in the Netherlands, and thus carried misery and suffering among an oppressed and downtrodden people. But this gigantic scheme of plunder, if carried out to its full extent, as I understand it, would far outstrip the desolation and ravage caused by the cruelties which I have referred to, and would make the ghost of the noble Duke blush at his own timidity and confess that he was not a plunderer fit to provide for the reconstruction of the rebel States of America! Crossing the English Channel and contemplating Cromwell's famous settlement of Ireland, you behold an extensive scale of plunder and devastation which shocks the sense of justice and fires with indignation the bosom of every honest and philanthropic man; and yet, Mr. Speaker, all that fearful ravage fades into insignificance before the scheme proposed for our adoption in these States lately in rebellion. You say they are dead! And already, I fear, you have excited the appetite of that class of creation who desire to feed on their remains. They hear the watchword and swell the chorus, "dead States and conquered provinces." There are birds of prey which wing their way through the blue sky seeking the remains of something dead. There are quadrupeds who delight to feast their appetites on the carcasses of the dead, and if you solemnly declare the annihilation of these States, rendering it necessary to govern them by your own action, the new patronage thereby created, the innumerable appointments to governorships, judgeships, and other profitable places for the gratification of ambition and avarice, will, I fear, fill the land with political cormorants eager to satisfy their appetites on the remains of dead States. I cannot therefore sanction this policy. If I stand solitary and alone, I will never, no never, sanction it. I will not attempt to govern these States on the ground that they have lost "their local powers."

Mr. STEVENS said he was absent from the Hall when the gentleman made allusion to him, and he wished now to observe that he never held the doctrine that the southern States were dead, but had argued that it made no difference whether they were in or out of the Union as to the question of reconstruction. He held that these States were organized, but organized under another Government besides our own, but still States. The gentleman mistook his position as to confiscation. He did not advocate a general sweep, but that the lands of a large number of the rebels ought to be confiscated, in order to meet the expenses incurred by putting down the rebellion and to increase the pensions of soldiers.

Mr. DELANO. My recollection is that the gentleman, in his speech at Lancaster, said that four thousand millions of money might be made out of confiscation, and the money distributed in the way stated. But I am now glad to know that the gentleman has abandoned, if he ever held to, the theory of "dead States and conquered provinces," and that he rejects the policy of a "general sweep" in confiscation. If we must have any confiscation, the less we have the better shall I be pleased. It is a relief to learn that a "general sweep" is not demanded.

In the course of my argument, hereafter, I will endeavor to define what a State is, as we understand it in the United States, not what it is as defined by Vattel or Grotius or other writers on the law of nations; for, in my judgment, there is a material difference though not an entire dissimilarity in the cases. Then, sir, I will endeavor to show that the late insurrection devolved upon the General Government the duty of preserving the State governments in the insurrectionary districts. I will further attempt to show that the Federal Government accepted this duty and has performed it, thus fulfilling her constitutional engagement.

Then, sir, I will insist that the legislation of Congress, the acts of the Executive, and of the Executive Departments, under the laws of Congress, have uniformly, from the commencement to the close of the war, recognized the conflict as a war to save the States, not to destroy them. And I will attempt to prove that these acts of recognition are final and conclusive in favor of the existence of the States, according to the decision of the Supreme Court of the United States, in the case of *Luther vs. Borden*, 7 Howard.

#### WHAT IS A STATE?

In our complex system, and while speaking of a member of the Federal Union, I will venture to define it thus: a political organization, proceeding from the people, having a written constitution defining its powers, created for the purpose of establishing law and order within certain fixed territorial limits, and having also a fixed and constitutional relation with other like States, whereby the Federal Union is established.

Here, mark it, the State appears in a twofold capacity. First, as a political organization for local government. Second, as an integral part of that greater Government, the United States, which was created by our fathers in order to "establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty." Each of these qualities or characteristics ought to be kept prominently before our minds in this discussion, because they must each be dealt with, each having been brought under the influence of the insurrection. We shall see, I think, that one of these qualities or characteristics may be assailed, and may suffer without necessarily destroying the existence of the other; because it is a rule of humanity, pervading all Christian civilization, that destruction shall stop when the necessity for it ceases.

Having thus defined a State, and attempted, very briefly, to exhibit its twofold nature, I ask



what duty, if any, did the late insurrection devolve upon the Federal Government?

WHAT WAS THE DUTY OF THE UNITED STATES AFTER THE INSURRECTION COMMENCED?

The fourth section of the fourth article of the Constitution of the United States provides that—

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion," &c.

It is proposed by the gentleman from Pennsylvania, under this clause, to find authority for governing "dead States," now no longer States, but Territories. Nothing to my mind seems more illogical, not to say absurd. If dead, they are not States, and have no governments to be guarantied. If Territories, held by conquest, at the will and mercy (forgive the word) of the conqueror, and you desire to convert them into States, then observe the third section of the fourth article, and you will find explicit and undoubted authority to proceed—

"New States may be admitted by the Congress into the Union."

Very slight attention to the history of the fourth section of the fourth article will, I think, sustain my view of the section. The framers of the Constitution intended to guard against the return of any State to an aristocratical, monarchical, or any other form of government not republican. They also designed to guard the States against invasion and domestic violence.

When it is remembered that at the close of the Revolution there were not wanting persons who thought republics insecure, unstable, and liable to degenerate into anarchy, it may be seen at a glance why the wisdom of those great men who devised our Constitution made it the duty of the Federal Government to guaranty, to secure, to each State a "republican form of government." All the States were interested in having each State rest upon republican principles. Mr. Madison, in the forty-third number of the *Federalist*, while explaining this clause, holds the following language:

"In a confederacy founded on republican principles, and composed of republican members, the superintending Government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of Government under which the compact was entered into should be substantially maintained."

Pursuing this subject, in the same letter, Mr. Madison says:

"Where else could the remedy be deposited than where it is deposited by the Constitution?"

And then, after answering some objections that might be urged against giving the General Government this right and power of guaranty, he uses the following language, which indicates that his mind was inspired with a vision of the emergencies and calamities through which the nation has passed. He says:

"If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign Powers?"

Upon this clause in the Constitution guarantying to each State a republican form of government I am willing to rest all the powers exercised by the United States in crushing the late insurrection. The confederate States had, prior to the rebellion, governments republican in form. These governments had been recognized by the General Government and they had received the sanction of the people. The insurrection sought to change these governments in their relations to the Union and to consolidate the insurgent States into a confederacy resting upon an aristocracy, odious in principle, repugnant to liberty, and shocking to humanity! It was the duty of the Federal Government to resist, and, if possible, to prevent the consummation of this nefarious, anti-republican scheme. She accepted this duty. She accepted it in behalf of the loyal and non-

revolting States; but more than this, she accepted it in behalf of the loyal minorities that still remained in the insurgent States. The parent Government was not deaf to the cry of this minority, nor could she be, so long as she acknowledged the great duty imposed by the Constitution. I am not without authority on this point, which, in certain quarters, commands more respect than it does from me. I therefore refer to the one hundred and twenty-ninth section of volume one, Bishop's *Criminal Law*, which says:

"When for any reason, as for instance when a State has passed what is termed in these days an ordinance of secession, there ceases to be within the State a government under the Constitution of the United States, the 'guarantee' mentioned in this section of the Constitution attaches, and the 'United States' becomes obligated to give the State a republican form of government."

This opinion fully supports my construction of the clause in the Constitution under consideration, and hence I have quoted it, because I agree that it is right, except in so far as it asserts that by an ordinance of secession "there ceases to be a government within the State under the Constitution of the United States." This assertion is a fallacy, and I doubt if there can be found a lawyer in this House who will attempt to sustain it. Can an illegal and void ordinance carry a State out of the Union? And what if this ordinance be followed by the organization of another government within such State? This new government is illegal, unconstitutional, and void, and the simple duty of the General Government in such cases is to sustain and guaranty the old, the legal, the republican government previously existing and constitutionally created. Why, sir, there were once two conflicting governments in Rhode Island—the Dorr government, and the old and legal government, or one created under and by the old charter government, and the United States, recognizing her power and duty under the Constitution, interposed, and guarantied the rightful and legal government of Rhode Island; and this was done by the act of the President of the United States, who, acting under powers conferred on him by an act of Congress, dated February 28, 1795, recognized the constitutional government, and took measures to call out the militia to support the lawful authority of the State.

This act of the President was held by the Supreme Court as settling the question, which was the lawful government in the State; and thus was fulfilled, in that case, by the United States, the duty of guarantying to Rhode Island her rightful government. I may refer to this case again before closing, to exhibit its bearing upon another branch of the subject.

I have already shown that Mr. Bishop admits the duty of the United States to guaranty to each State a republican form of government. Now, let us follow him a little further, and observe, understandingly, what he says. In section one hundred and thirty-two, volume one, he remarks:

"Except, therefore, for the clause guarantying republican governments to the States, the United States might, if it chose, after a State has committed what is called an act of secession." \* \* \* "Legislate for it forever to the exclusion of any subsequent State legislation. But the clause under consideration provides that the United States shall guaranty to the State a republican form of government. Therefore, as soon as the guarantee is executed, the right of legislation which the United States received from the defunct State government flows out to the new State government."

All this I find, sir, in Bishop, side by side with the passages from this author referred to by my honorable and learned colleague, [Mr. SHELLABARGER.] Here, sir, I find my theory fully sustained. First, that when the States seceded and set up new governments it was the constitutional duty of the United States to put down the insurrection, restore the rightful authority, and thus guaranty their republican governments. This the Federal Government has done. She has fully completed the work, thanks to our skillful generals and our brave volun-

teers; and whatever may have been the condition of the insurgent States during the rebellion, now that it is crushed and the guarantee performed, according to Mr. Bishop the right of legislation which the United States received from the defunct States during the insurrection flows into the new State governments. There, sir, it remains, reanimating, energizing that which had been suspended, not destroyed. There let it remain, giving power, authority, supremacy, within constitutional limits, until the sunlight, as well as the gentle dews and genial rains, shall cease to warm and render fruitful our mother earth.

I must again refer to Mr. Madison to show what might and ought to be done under this clause of the Constitution in behalf of minorities when efforts shall be made to destroy lawful State governments. He was answering supposed objections to the clause under consideration. See No. 43 of the *Federalist*. He said:

"At first view, it might seem not to square with the republican theory to suppose either that a majority have not the right or that a minority will have the force to subvert a government. But theoretic reasoning in this, as in most other cases, must be qualified by the lessons of practice. Why may not illicit combinations be formed as well by a majority of a State, especially a small State, as by a majority of a county or a district of the same State? And if the authority of the State ought, in the latter case, to protect the local magistracy, ought not the Federal authority in the former to support the State authority?"

And the author adds these significant words, that deserve to be remembered:

"Besides, there are certain parts of the State constitutions which are so interwoven with the Federal Constitution that a violent blow cannot be given to the one without communicating the wound to the other."

It is clear that when the lawful State governments are assailed the duty of the United States is to interpose, and thus perform her obligation set down in the Constitution to "guaranty" to each State a republican form of government. She may interpose to put down a small rebellion, a local sedition about whisky in Pennsylvania, or she may interpose in behalf of a small minority, and against a wide-spread, gigantic combination and conspiracy which, expanding in its proportions, spreads treason into half the Union and evokes an insurrection which, embracing half the States, threatens with alarming danger the nation's life, and calls for war, distinct, open war, to crush it. In either case the object is the same—to guaranty to each State its true republican government.

DID THE UNITED STATES ACCEPT THE DUTY OF GUARANTYING THE STATE GOVERNMENTS IN THE INSURRECTIONARY DISTRICT, AND HAS SHE PERFORMED IT?

The entire action of the Government is an affirmative answer to this question. But there is one prominent and important fact standing out in such bold relief in behalf of this proposition that I am compelled to direct the attention of the committee to it for a moment.

On the 22d of July, 1861, the House of Representatives adopted what is called the Crittenden resolution. This resolution declared—

"That the present deplorable war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

This resolution passed the House by the unusual majority of one hundred and twenty-two against two; and two days later the same resolution, offered in the Senate by the now President of the United States, passed that body by a vote of thirty against five. This resolution is the solemn assertion of the United States, by both branches of its Legislature, that the war was prosecuted, not to oppress, not to conquer, nor to subjugate, nor to overthrow, nor to

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interfere with the rights of the States, but to defend, maintain, and preserve the Union with all the dignity, equality, and rights of the several States.

Mr. Speaker, can anything be clearer than the truth of my proposition? Did not Congress hereby and herein declare that we accepted the war in order to make good the duty of guaranteeing the State governments with all their dignity, equality, and rights unimpaired? Was this resolution a deliberate falsehood? Was it a solemn farce? Was it a legislative lie? Or was it a high and national manifesto to the world and to the insurgent people as to the purpose, object, and end for which the nation engaged in war? I shall blush for my country if she now renounces her solemn opinion; thus expressed, and crucifies State institutions which she undertook to save. I observe, sir, with no little astonishment that my honorable colleague [Mr. SHELLABARGER] voted for this resolution. I will not pursue this proposition, but will apply, for a moment, principles to facts.

The seceding States passed ordinances of secession. These were null. They formed new political organizations, which not being recognized by the United States were illegal and void. Then they rose to arms and submitted the issue to the God of battles.

The Federal Government, recognizing her rightful power and assuming her constitutional duty, accepted the challenge, girded on her armor, and went out in behalf of laws, constitutions, and the downtrodden minority in the insurgent States. The result of this fearful, long, and bloody arbitration is before the world. It is now history. And, sir, what is the verdict of history thus written in blood? It is that the Union is saved; that the States are saved; and that we are to-day, as we ever have been, one, one nation, unsevered, undivided. This verdict, sir, has been vouchsafed us as a people by the power and mercy of Him who holds the stars in His palm, and who causes the wind to blow where it listeth. This verdict has been sealed by the blood of three hundred thousand martyrs for liberty. It has been prayed for by many mothers whose last son has been given to secure this blessing, and by many widows whose cheeks were furrowed by tears while offering up the prayer.

And shall we now, sir, deny the result? Is the flag of our country to be desecrated by taking from its folds eleven stars? I pray God, the breezes of heaven may never, never unfurl before my eyes the banner of my country with a single emblem of entire and perfect unity wanting upon its folds.

Pause, then, and consider well before you say that any State is dead, and is no longer an integral part of this Union. It is a terrible conclusion, and dangerous to reach. It leads to fearful consequences.

Sir, if the authors of this theory do not contemplate these harsh results, certain it is, if we adopt their reasoning, we start upon a road that leads to the end I have pictured, and then, I fear, it will be too late to interrupt our course.

Mr. ASHLEY, of Ohio. I desire to ask the gentleman a question, with his permission.

Mr. DELANO. The gentleman may propound his question. I will not say whether I will answer it or not.

Mr. ASHLEY, of Ohio. My colleague has defined very clearly what he conceives to be a State. He admits the right of the majority of the people in each State to change its form of government, and also the right and duty of the national Government to guaranty to each State a republican form of government. I wish to know whether he intends us to understand that when our armies marched into the South, we were, on the fall of the rebellion, to maintain the governments we found established by the people in each of said States, which were not, as I conceive, constitutional State governments; or were we to maintain the old governments, which the people by their own act had abolished?

Mr. DELANO. Mr. Speaker, I do not claim to be a very clear-headed man; I do not make any such pretension. But if I have been so muddy as to lead anybody to believe that I was arguing that this Government should guaranty the authorities that the rebellion set up in the States, I am very sorry for my ignorance and for my incapacity to express myself. I was trying to show that the United States Government was bound to guaranty, as the Constitution requires, the old governments which had been admitted to be republican in form; that the Government went out there to take off this cursed incubus of secession, to lift it from the minorities, to allow those loyal minorities to rise up and become the power of the country, under the old governments and the old constitutions.

Mr. SPALDING. Will my colleague allow me to ask him a question?

Mr. DELANO. I will yield for a question.

Mr. SPALDING. My colleague has quoted Bishop. I would ask him if he has seen an essay by this same Mr. Bishop, recently published in the papers, and called "The Right Way?"

Mr. DELANO. I think that sometimes he is in the wrong way.

Mr. SPALDING. Has my colleague seen that essay?

Mr. DELANO. I have seen it, but do not read it always. As for Mr. Bishop, I think a great deal of him as a criminal lawyer. As a constitutional lawyer I do not think so much of him. I have quoted him only because he has been referred to by others as authority.

Mr. ASHLEY, of Ohio. I would like to ask my colleague another question.

Mr. DELANO. Very well.

Mr. ASHLEY, of Ohio. If these eleven States had merely changed their form of governments, according to the prescribed rules of their constitutions, in such a way as to amount to practical secession, and the great body of the people had acquiesced in that change without making war upon the nation, how, under his theory, are we to guaranty the minority a republican form of government in said States, if the minority do not petition for it?

Mr. DELANO. If the rebellion had succeeded?

Mr. ASHLEY, of Ohio. No, sir; if they had not fired a gun.

Mr. DELANO. I do not know that I understand the gentleman.

Mr. ASHLEY, of Ohio. If the majority of the people in the eleven rebel States had, in pursuance of their organic State law, changed the forms of their State government, and the great body of the people had acquiesced in that change, and no war had been made by them, no gun fired, how, under the theory of my colleague, could the Government guaranty to those States a republican form of government?

Mr. DELANO. If they had attempted such a thing as that without war, it would have been the duty of the national Government to do just what they have done in this instance; not to recognize those illegal acts, but to guaranty the old governments, as they did in the case of the State of Rhode Island. That would have been our duty, as I understand it.

Mr. ASHLEY, of Ohio. But if there is no minority petitioning for redress, no one claiming the existence of a constitutional State government and the interference of the national Government for their protection, under his theory, how is a republican form of government to be guaranteed, how is the authority of this nation to be maintained over its own territory?

Mr. DELANO. The House will see that I have no time in my hour to discuss mere abstractions, mere hypothetical cases, that never had an existence. I am now endeavoring to deal with facts as they are, with things as they have transpired, and not with hypothetical cases, cases which have not arisen. And in

answer to my friend from Ohio [Mr. ASHLEY] he will allow me to quote the text, "Sufficient unto the day is the evil thereof."

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I move that the time of my colleague be extended for fifteen minutes, or until he concludes his remarks.

No objection was made.

Mr. DELANO. I tender my sincere thanks to the House for this extension of my time, and for its courtesy to me.

WHAT HAS CONGRESS AND THE EXECUTIVE DONE DURING THE PROGRESS OF THE REBELLION TOWARD RECOGNIZING THE INSURGENTS AS STATES?

Here, allow me to ask, when did the rebelling State expire? I should be glad to learn when the vital spark became extinct, so that the attending physician might say "Dead!" Prepare for the funeral; henceforth we have Territories! At what time, sir? If the hour of the day has not been noted, pray give me the month or the year of their departure to the tomb of Territories.

I find, sir, by reference to your statutes, that on the 5th of August, 1861, Congress assessed a direct tax of \$20,000,000 annually upon the land of the United States, and apportioned the payment to the seceding States, as follows:

Virginia.....	\$937,550 66½
North Carolina.....	576,194 66
South Carolina.....	363,570 66
Georgia.....	584,367 33
Alabama.....	529,313 33
Mississippi.....	413,084 66
Louisiana.....	385,886 66
Tennessee.....	669,498 00
Arkansas.....	261,886 00
Florida.....	77,522 66
Texas.....	355,166 66

Total.....\$5,154,541 28½

By the ninth section of this act the President was authorized to divide each State into convenient collection districts. The fifty-third section provides that each State may collect and pay its quota in its own way. The forty-sixth section provides that if any State therein named, after assuming to pay its proportion of such tax, shall fail to do so, the Secretary of the Treasury may proceed to collect the same under certain rules and regulations.

Again, sir, by an act of Congress approved June 30, 1864, about one year, sir, before the total overthrow and destruction of the insurrection, this act of 1861 is recognized, the first annual assessment is enforced; but further assessments are suspended until another law, demanding the same, is enacted.

Yet, again, by the act of July 1, 1862, to provide internal revenue, the President is authorized to divide the States respectively into collection districts, and to appoint revenue officers for the same. And, acting under this law, the President has proceeded, and as I understand is now proceeding, to collect revenue in these States, treating them as States under your legislation and by your authority. And, sir, as if to leave no room for doubt, this act of July 1, 1862, was amended but still left so as to regard the insurgent States as States, by an act passed March 7, 1864. Has Congress, indeed, power to decide this question? Then she has decided it by a series of unbroken, uninterrupted legislative recognition of the eleven confederate States, so called, as real, legitimate, existing States in the Union.

I ask my learned colleague to review his theory of "destroyed States," or, in his milder language, of States that have "lost their powers." He is too sound a lawyer and too candid, also, in view of all these facts, to assert the death and destruction of eleven members of this Union.

But, Mr. Speaker, the evidence does not close here in reference to the recognition of these States as members of the Union, as States in the Union. By an act of Congress, passed April 20, 1818, provision is made for the publication of the laws of the United States, and for other purposes. The second section of the

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act referred to provides that when the State Department shall have been officially notified that any amendment which heretofore has been or hereafter may be proposed to the Constitution has been adopted, according to the provisions of that instrument—

"It shall be the duty of the Secretary of State, forthwith, to cause the said amendment to be published," specifying the States by which the same may have been adopted, and that the same has become valid."

Now, sir, I ask the members of this House, what duty is here devolved upon the State Department? Is it not to determine when the amendment is ratified, and by whom ratified? Must he not, does he not, necessarily, by the powers conferred upon him, recognize as States in the Union those members of the confederacy whose ratification is relied upon as adopting the amendment in conformity to the provisions of the Constitution?

In the case in 7 Howard, before referred to, it is said that when Congress empowered the President to call out the militia to suppress insurrection, it thereby authorized him to decide which was the rightful government, and that his decision recognizing one or the other of two conflicting governments was conclusive. How, then, can it be denied that here is a power conferred upon the State Department to recognize these governments in the States where, for a time, government was simply suppressed, not destroyed; where it was obstructed in its functions, not overthrown in its existence? And now, that the power suppressing it is removed, removed, too, by the General Government in the discharge of her great constitutional duty, the State governments rise again, and their powers are resumed; and as they become once more potential they speak, and among the first utterances are words which delight every patriot and philanthropist, for they say that "neither slavery nor involuntary servitude shall longer exist except for crime." These noble words, officially declared, spoken in a sovereign manner and as a sovereign State should speak, are heard, officially heard, and the seal of emancipation and universal liberty is fixed.

Mr. Speaker, I trust we have no dead States, no conquered Territories, but that all are living powers, sovereign within their respective spheres but obedient hereafter and forever to that higher and greater sovereign, the Union, whose love embraces all her children, whose heart is so large and whose arm so strong that she can cherish, defend, or punish. In order that there be left no room for doubt as to the power of Congress to recognize these rebel States as States, and to confer such power on the President or Secretary of State, I here refer to the case of *Luther vs. Borden*, 7 Howard's Reports, where, while discussing the fourth section of the fourth article of the Constitution, Chief Justice Taney says:

"Under this article" \* \* \* "it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not."

Then, referring to the clause relating to domestic violence, the Chief Justice adds:

"So, too, as relates to the clause in the above mentioned article of the Constitution providing for cases of domestic violence. It rested with Congress to determine the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and, no doubt, wisely; and by the act of February 28, 1795, provided that 'in case of an insurrection in any State against the government thereof it shall be lawful for the President of the United States to call forth such numbers of the militia of any State or States as may be applied for as he may judge sufficient to suppress the insurrection.' By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President." \* \* \* "If there is an armed conflict," \* \* \* "it is a case of domestic violence, and one of the parties

must be in insurrection against the lawful Government. And the President must of necessity decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed on him by Congress."

Thus the court came to the very clear, logical, and satisfactory opinion that the action of the President, under the act of Congress before mentioned, by which the government of Rhode Island, adverse to the Dorr government, so called, was recognized, was a final and conclusive decision in favor of that government, and such a decision as could not be reviewed or reversed by any authority whatever.

What, sir, is so much needed at this hour as to rebuild and reanimate the desolate South? Her towns in ruins! her fields lying waste! her resources destroyed! her labor paralyzed! She needs peace, rest, and the fostering arm of a friendly Federal Government. Much, I know, she has sinned, and much, too much, of error and wickedness, at least of anger and bitterness, yet remains. But time, patience, charity, and forbearance will soon bring her to see, I trust, that justice toward her emancipated blacks and loyalty to the Union are necessary to happiness and prosperity in the future. We must develop the resources of the South. Her cotton crop of five million bales, in 1860, is estimated at one million for the next year, and her sugar crop in similar proportions. We need, sir, and we must have, a productive, prosperous South, for it will strengthen our finances, give stability to our public credit, aid us in paying our national debt and sustaining our national faith. Hence, I repudiate all theories that tend to keep down her industry, her resources, and her hopes.

Mr. Speaker, I do not often reason from my fears, but during this debate our fears have been appealed to in order to influence our judgment; and this has been done by the gentleman from Pennsylvania, [Mr. STEVENS.] He presumes that a return of members from the late confederate States will place the power of this House in the hands of copperheads. Then he imagines repudiation of the national debt, assumption of the rebel debt, &c. Sir, I have no toleration for those who have persistently opposed the Government these long years of strife, sacrifice, and danger. I am not here, to-day, to assert their cause. God forbid! I am considering questions which may, when settled, have a lasting influence upon the destinies of my country. I will not turn aside from my honest judgment upon this question to strike an enemy or to reward a friend. But, sir, let me suggest an argument for the fears of the gentleman from Pennsylvania, if, indeed, "his name is liable to fear." Suppose you establish, so far as this House can settle the question, that the insurgent States are dead and are to be governed indefinitely as Territories. Do you expect a united Republican party upon that decision? If you do, your hopes are as delusive "as the baseless fabric of a vision." You will find, sir, a united South, a united "copperhead" party, and a divided Union party. You will go into the next presidential canvass, possibly, in this condition. And it requires no great stretch of imagination to see by the united southern vote and a divided northern vote that a presidential candidate of the so-called Democratic party may have a majority of the Electoral College, counting the Territories, the eleven seceding States. What follows, sir? You deny the right of these southern Territories to vote, but they assert their right to do so; and take care that the majority in some of the northern States does not also assert it. And then comes a strife for the executive chair. How will it end? In civil war again; more blood, more graves! More widows, more taxation! More anarchy, more dead States! God only knows where, or in what, such a conflict might end. Such a result is precisely what the dissatisfied alienated people of your Territories may desire if treated with cruelty and injustice, and, although I do not predict it, yet I see in an ultra

and extravagant treatment of this question, danger of such a result.

Mr. Speaker, those who have followed the thread of my remarks, will have observed that I claim the war to have been waged on the part of the United States for the purpose of saving the States as political organizations. Hence, during the entire conflict, the Government, by her acts of legislation, by her presidential proclamations, by her acts of executive administration, has treated the insurgents as States; and thus has been fulfilled the duty of guarantying to the people a republican form of government where revolt and anarchy for a time existed. The insurrection being subdued, order returns; and, under the advice of the Executive, the people have submitted to a new state of things, resulting from the war, by amending their former constitutions so as to conform to universal emancipation. These things having been accomplished, the States resume their natural functions, so far as they are within the first branch of my definition of an American State. That is, sir, they establish law and order within their prescribed territorial limits, they exercise local powers of their State governments. Immediately their connection with the General Government is in part resumed; and certain relations naturally and necessarily spring into life by your acts of Congress between these partially restored States and the United States?

What are these relations? Why, sir, your post-office laws, your courts of justice, your whole revenue system is now in full and complete force, and generally in active operation over and in these States as States. And these things have been done; Sir, they are the necessary and direct fruits of the laws passed by Congress. By denying to them now the capacity of States, we reverse our whole history; we repeal our past policy; and really, sir, we subject ourselves to deserved reproach for insincerity and injustice, if not for cruelty and inhumanity.

What, then, remains to be done? The admission of these States to a representation in Congress, it seems to me, is about all that remains to a perfect restoration of the Union. Now, sir, no one will deny, who reflects calmly and speaks candidly, that the perfect restoration of these States to their natural condition, so that once more it may be truly said that every planet in our political system revolves in its proper orbit, is a consummation to be desired by all. We shall never be what we should be until this end is reached. But, sir, desirable as it is, we must not rush to its attainment with mad zeal and unadvised haste. That which remains to be done, in my view of this subject, is exclusively with Congress—placed there by the Constitution. Are we bound to admit here to membership, without conditions, without inquiry, whomsoever and whatsoever is sent here by one of these States that has, of her own accord, for four years, withdrawn her representation and denied her connection with the Federal Government? Clearly not, sir. And is there any absurdity in the idea of a legitimate State in the Union and yet having no representation in Congress? I am not able to see any. Ohio may withdraw her representation here and refuse to send another for years. Is she thereby a dead State? Would such an act deprive her of her own constitution and laws, rob her of a Legislature for domestic purposes, or prevent her, as a State, from the operation of all proper Federal legislation? Clearly not.

Hence, when one of these States comes back and asks admission to this floor for her Representatives, I do not ask myself, is this a Territory? because I think I have power to say to this State, by your own act you severed this relation; you did it without cause, and during your absence, and while you have been endeavoring to destroy this Union, great changes have occurred, and I shall require of you two things before I shall vote to restore you to representation here. First, you must send loyal



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Representatives and show your obedience to the Constitution and laws. And secondly, some proper assurance that in your capacity as a State for local and domestic purposes you will conform to those great principles of justice which lie at the basis of our Government, and which require that all men shall be secure in their lives, their liberties, and in their pursuit of happiness. I am now, sir, speaking of principles secured to all, because I feel that the results of this war have cast upon this nation a great duty toward the emancipated race; and humanity requires of us the performance of this duty—not rashly, nor in a spirit of revenge under the impulse of past injuries, but under that higher and nobler feeling which calls for justice to all men.

## PLAN FOR REORGANIZATION.

Resting upon the principles which I have attempted to sustain during these remarks, I propose to inquire, is any State now ready to have her representation admitted into this Congress, and thus become fully restored to her natural position and relations in the Union? I answer yes, Tennessee; loyal, long-suffering, but ever-faithful Tennessee. She has, by her legislation, guaranteed to the emancipated race every right enjoyed by the white man except the right of suffrage. The right to testify in courts, to sue and be sued, to marry, to acquire and convey property, have, as I understand, been secured to the black race. She has disfranchised rebels who sought to overthrow the Government. She has sent here, as Representatives, loyal men who are ready to take the oath required before admission. These men, I understand, have, during the rebellion, either been refugees from their homes, to avoid death at the hands of traitors, or they have been fighting in the Union armies for the life of the nation. Some of them bear honorable scars from wounds in battle, while defending our common country.

Mr. Speaker, let this House consider these things. Let it be remembered how nobly Tennessee has struggled to preserve the heritage of a free people. Do not forget—for this nation will not—how gloriously Tennessee has acted during these long years of desolating war. She has, in her geographical position, stood upon the frontier of rebellion. There, sir, she has remained, faithful, brave, and loyal to the last. Beset with foes from within and without, she stood, like a wall of granite, between the insurgent and loyal States, receiving and hurling back the bloody surges of rebellion.

And that noble son of Tennessee, the President of the United States, who has endured more, suffered more than it is in the power of man to express, whose conduct during this fearful struggle has been the theme of praise from every loyal tongue in the Union, shall he be longer regarded as an alien and a foreigner?

Shall we not, sir, in view of all these things, open the doors of the Union and receive with joy and thanksgiving, back to the family mansion, these men from Tennessee? I hope so, and I think so, for, sir, it seems to me that justice as well as the voice of the country demands it. Let it be done, and let it be done quickly. Thus we shall give an example to the other States, particularly, of our desire to commence the work of rebuilding and readjusting this Government.

In my judgment, Arkansas is likewise prepared to be received, and we can safely bid her Representatives welcome. This much accomplished, we could safely delay the other States for a more complete preparation, keeping there all the military power necessary to preserve order. I would further provide, by all necessary legislation within constitutional limits, for the security and protection of the colored race.

Thus we shall say to the other States, come; come and be welcome; but before you come submit to the laws and obey them cheerfully; provide for the emancipated race, and do it

willingly. Elect and return loyal men as Representatives—men who desire to support and who will not betray their country. Come to us as Tennessee comes, with loyal hearts, determined to obey the laws, and our arms are open to receive you. On this basis, sir, we can restore in due time our native land to the glorious position which of right belongs to her.

I believe that a calm, resolute, and patriotic effort on this basis will soon bring all parts of this great empire into harmonious and prosperous relations. Then, sir, we shall have set out anew upon the great mission of civilization that the Almighty has commissioned us to undertake. Our progress in physical, moral, and intellectual development will be accelerated beyond all past history in any part of the world. We shall become an example of the beneficence and power of self-government that will be felt and acknowledged by all civilized peoples on the globe; and if we prudently adhere to the maxim of our fathers, and do not attempt to propagate our institutions except as their excellence shall commend them to a voluntary adoption by other nations, we shall do such a work on earth as no nation has ever accomplished before, leaving for the world a history that will light the pathway to those who come after us seeking to realize the blessings of liberty.

## Apportionment of Representation.

SPEECH OF HON. GEO. H. WILLIAMS,  
OF OREGON,

IN THE SENATE OF THE UNITED STATES,

February 15, 1866.

The Senate, as in Committee of the Whole, having under consideration the joint resolution (H. R. No. 51) proposing an amendment to the Constitution of the United States—

Mr. WILLIAMS said:

Mr. PRESIDENT: Much discussion has taken place here and elsewhere as to the legal condition of the States lately in rebellion, which I shall call for the sake of brevity, if for no other purpose, rebel States; and I propose at this time, with the indulgence of the Senate, to submit some views which I entertain upon that subject, to which I shall add some suggestions as to the proposed constitutional amendments. I have no written speech to read, and I shall not therefore aspire to beauty of expression or elegance of style, but hope that any defects of that kind which may appear in what I have to say will be made up by the practical nature and aptitude of my remarks.

I have the honor to be one of the so-called committee on reconstruction, and I presume, therefore, it will not be proper for me to discuss to any considerable extent the condition in fact of the rebel States; but I suppose I shall be safe in following the example of the experienced Senator from Maryland, [Mr. JOHNSON,] who is also on that committee, and confine what I have to say chiefly to the legal aspects of the question.

Philosophers and statesmen, so far as I am acquainted with their writings, find it necessary before they begin their essays or arguments to define the terms which they propose to use, so that as they proceed they can understand each other and arrive at an intelligible, if not a satisfactory, conclusion. No little confusion, in my judgment, has grown out of this discussion by the use of terms and expressions which are intended but do not describe the existing state of things with sufficient clearness and certainty. When Senators affirm that the rebel States are in the Union, that expression does not exactly describe their condition; for the State of New York is no more than a State in the Union, and everybody recognizes a wide difference between the condition of the State of New York and the condition of the rebel States. When Senators affirm that the States are out of the Union, they use an expression that is

true of Canada and Mexico, but when applied to the rebel States it cannot and does not mean what it does when applied to the countries that I have just named. To be a State within this Union, to use the exact language of the Constitution of the United States and adopt its meaning, not only implies the existence of a State, but it necessarily implies the existence of certain relations between that State and the General Government. Rhode Island, in 1790, two years or more after the Constitution of the United States was formed and had gone into operation, was a State as much as it is today; but it was not a State within this Union, for the relations had not then been established between Rhode Island and the Federal Government which are necessary to constitute a State in the Union. Growing out of these relations are certain rights, some of which appertain to the General Government, and some of which appertain to the States, and when any State of this Union violently and forcibly disrupts those relations, it divests itself of the rights which depend upon those relations for their existence. To the preservation of these relations peace is a necessity. They were made in peace. They were intended to be supported and maintained by peaceable means and measures, and when a war occurs between a State and the General Government, a state of things is necessarily produced which is inconsistent with the existence, or at any rate with the operation, of those relations.

I make no distinction between a State and the people of a State. What is a State but an aggregation of individuals within certain boundaries, organized into a political body? When many or few persons assail the authority of the United States in a disorderly and tumultuous manner they constitute a riot, an unlawful assembly, or an insurrection, but when the majority of a State, coercing the minority, adopt the State organization, and, acting through that State organization, rebel, there is war between that State and the Federal Government. I say that there is no practical difference between a State and the people of a State, because a State is simply the political designation of certain people within a geographical division of the country. Can a State be anything else than it is made to be by the people? What are the laws of a State but the expressions of the popular will? What is a State organization but an invention to ascertain, to express, and to execute the will of the people, or a majority of the people? Take the State of South Carolina, for instance, and I shall refer to that State for example in what I have to say. Suppose all the people in that State were or are rebels, can the State, in the nature of things, be anything else than a rebel State? Go into that State and you find a man and he proves to be a traitor; you find another man, and he proves to be a traitor, and so you go through the entire State and find all the people traitors; but when this mass of treason is organized into what is called a State, then it is claimed by some that loyalty is begotten, that the creature entirely under the control of the creator is not what the creator desires it to be. I do not say, Mr. President, as a matter of fact, that all the people in the State of South Carolina are traitors, but I do say that a majority of the people of that State, compelling the minority to submit, did seize upon the State organization and convert it into an embodiment of their views and wishes, so that it became in point of fact the mere incorporation of the individual traitors in that State.

Sir, there is political treason as well as legal treason; and political treason, it seems to me, is quite as dangerous to the country as legal treason, because it is distinguished by no definite shape or form. Political treason can give shapes to Proteus and colors to the chameleon. When Satan, as I have read, was defeated in his attempt upon the throne of the Most High, he and his followers were hurled over the battlements of heaven upon the blazing plain below,

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and there he assembled around him his discomfited hosts and besought them to accomplish "by guile and fraud what force effected not." I express no opinion upon the subject, but is it not possible that the conspirators who brought this country to the brink of ruin by the late rebellion, and who have been restored to their former places of power and influence by an unlimited exercise of the pardoning power, may be now contriving and conspiring, as did their great prototype, to accomplish by "guile and fraud what force effected not?" Has the Government, I ask, no power to protect itself against treason unless it comes in the panoply of arms? Is it true that treason is not as much to be dreaded and feared when it approaches the Government as did the arch deceiver our frail mother in the garden, with soft and gentle words, as when it comes with all the pomp and circumstance of war? Is the arch enemy of mankind less to be feared because sometimes he finds it necessary in the prosecution of his wicked purposes to disguise his true character and appear as an angel of light?

Mr. President, when Senators affirm that these rebel States are States in this Union, I make no issue with them upon that allegation; I do not traverse the averment and say that these States are out of the Union; but when Senators deduce from what they have said the conclusion that these States are entitled to all the rights and privileges of States within this Union, I controvert that conclusion. I deny that these rebel States are entitled to all the rights and privileges of States within this Union. To say that a State is within the Union is of little consequence; to say that a State is out of the Union is of little consequence; but to say that the rebel States are or are not entitled to the rights and privileges of States within this Union is a practical question. That is the question now pressing upon Congress for decision. That is the precise issue before the country. Let us try and eliminate, if we can, the truth from that issue.

Mr. STEWART. Will the Senator allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. STEWART. Taking the Senator's rule that these States are not in the Union, or are not entitled to all the rights of States, I should like him to make it a little more specific, and I ask him if he thinks Tennessee is in the Union and entitled to be represented?

Mr. WILLIAMS. I ask the Senator to be patient and hear what I have to say. It is impossible for me to embrace the discussion of all questions within five minutes. I will endeavor to answer the gentleman's inquiry before I conclude, as I shall probably refer particularly to the State of Tennessee.

I propose, Mr. President, in the first place to notice an argument that is always employed to maintain the proposition that these States are within this Union, or that they are States entitled to all the rights and privileges of States within this Union. It is argued by gentlemen who advocate this doctrine that the ordinances of secession were unconstitutional and void, and therefore did not affect the relation of the rebel States with the General Government, and they remain as States within this Union. This logic is plausible, but it leaves out of view one important and decisive fact. Admitting that these ordinances of secession were void in law, that is, that a court upon a question made would pronounce them unconstitutional and void, it is nevertheless true that they were operative. Every lawyer is familiar with the doctrine that a statute may be unconstitutional and at the same time it may be operative, and it may produce all the practical effects that it would if there was no doubt whatever as to its validity. Take as an illustration the law that was passed making United States Treasury notes legal tender. When that law was before Congress the opinion was expressed that it was unconstitutional. That opinion may be correct; it may eventually be so decided by the Supreme Court

of the United States. But I ask, even if that decision is ultimately made, has not this law sustained the financial credit of the country through the late struggle to the same extent and with the same effect as though there had been no question as to its constitutionality? When the law organizing the Freedmen's Bureau was before this body the other day it was pronounced by eminent Senators here to be an unconstitutional act. Suppose they are correct in that opinion, but this law goes into operation, and everybody acquiesces in its validity for three years or five years, and it is then repealed; will not that law during the time of its operation have accomplished all that it would if no question had been made as to its validity?

Now, sir, these ordinances of secession may not absolutely have dissolved the legal relations between the States and the General Government, but they produced a practical dissolution. Take, to illustrate, a case where a husband and wife quarrel and separate; their home is abandoned, their family broken up, their children scattered, and reduced to indigence and want, all concerned are humiliated and disgraced; still, in law, the man and the woman are as much husband and wife as they ever were, but the practical effect of their separation is just as disastrous as though the legal relation was severed at the time their personal association ceased.

I say, then, as to these ordinances of secession, that they were contrary to the Constitution and were without right in law, but they were practically operative in the rebel States because they were received and accepted by the people upon whom they were intended immediately to operate, and as to those people they had the power and effect of valid ordinances.

Sir, are we to assume in the view of the history of the last four years that these ordinances of secession were mere nonentities? Pursuant to these ordinances State governments were organized in eleven States; they combining and confederating together organized a confederate government, and that confederate government for four years, with more than a million bayonets, sustained its existence and carried on a war that made this nation tremble from its center to its circumference. Is it true, then, that these ordinances were mere nothings? Is it true that with all our mighty armaments of war we were simply nullifying what in themselves were perfect nullities? I suppose it is well known to every Senator that there is a doctrine in the law which recognizes a distinction between a *de facto* officer or Government and a *de jure* officer or Government. Acts of a *de facto* officer or of a *de facto* Government are regarded as valid although they may not legally originate or exist. These governments, whatever may be said as to the question of right, were *de facto* governments, and I do not concur in the opinion that was expressed the other day by the honorable Senator from Michigan [Mr. HOWARD] that a man who was compelled by one of these governments to bear arms against the United States was guilty of treason. I say that if any man under one of these *de facto* governments, in order to save his own life, was compelled to bear arms against the Federal Government, he was guiltless of treason in that act, and there is no tribunal in my judgment in Christendom that would punish him for crime under such circumstances. Acts derive their criminality or their moral character from the intent with which they are committed. Homicide may be murder or it may be justifiable, depending upon the intent of the person who commits the act, and certainly if there be no intent to commit the crime of treason no man can be justly punished for a necessary or involuntary commission of the act.

Let us suppose that under one of these rebel governments, in 1862, a law was passed providing that conveyances of land should be valid

without any witnesses, when the law of the State prior to that time was that two witnesses should be necessary to the validity of a deed. Suppose under that law a man conveyed his land to another, and received an equivalent therefor, I ask, notwithstanding this law was passed by a rebel Legislature and the conveyance made under it, if all respectable courts would not hold and recognize that as a valid conveyance, one by which the title was transferred from the grantor to the grantee?

Suppose, to illustrate still further, that the people of the United States should elect a man President who was only thirty years of age, when the Constitution requires that he shall be thirty-five years old; that would clearly be an unconstitutional election; but suppose he should enter upon and continue in the discharge of the duties of the office until the expiration of his term, I ask if the acts of that Administration would not possess the same validity that they would if the President had possessed the qualifications required by the Constitution?

I accept this position with all its legal consequences; and I say that as to persons who were living in those States and who have suffered from the calamities of the late war, without respect to their private feelings or predilections, they must share the fortunes of the governments under which they lived. When a man went into the State of Virginia to live, he took that State as a man takes his wife, "for better or for worse;" he took that State with all its blessings and advantages in a time of peace, and he took it with all its disadvantages and evils in a time of war. Although I do not say that there is not some case growing out of the ravages of war in the rebel States constituting a claim against the United States which can be recognized, I say that I have never yet heard of or seen a claim of that kind that I would consent to allow; and I put my objection upon the ground that the people residing in the rebel States during the war were *de facto* the subjects of a foreign Power, and though they are to be commiserated for their misfortunes, they are not to be indemnified by the people of the loyal States for their losses. I think the people who sustained the war for the Union have expended blood and treasure enough without paying for the injuries they were compelled to inflict upon the citizens of the rebel States in order to put down the rebellion.

I know it is sometimes said that these positions will make it necessary for the Federal Government to assume the debts of the rebel States; but I answer to that, in the first place, that the Government has the power to refuse to pay them, and that is sufficient. In the second place, I do not believe that any precedent can be found where a community having rebelled against a Government, and is defeated and subdued, that the parent Government, without any treaty or negotiation, is bound to assume, or has assumed, the debts created by the defeated community in its attempted rebellion. And in the third place, while those acts that were executed may generally stand, the contracts that were made to aid the rebellion are executory and void and cannot be enforced because they were made for an illegal consideration.

Another argument that is urged, and has been repeated in the Senate, is that these States had no right to secede, and therefore they did not secede; and the Senator from Nevada [Mr. STEWART] the other day put the proposition in this form: they (referring to the rebel States) said that they wanted to secede; we said they should not secede; the question was submitted to the arbitrament of war and decided in our favor. Now, with due deference to the Senator, I think he did not accurately state the issue in the war. The question was not as to whether these States had or had not seceded, but the question was whether or not they had a right to secede. South Carolina made her ordinance of secession, organized her State government, and committed the overt act of secession. But

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the Federal Government denied the right of that State to secede, and the question before the country and in the war was not as to what had or had not been done, but as to the rightfulness of the position assumed by South Carolina and her confederates.

Numerous and forcible illustrations will occur to the mind of every Senator to prove the fallacy of this argument to which I now refer. Acts may be rightful or they may be wrongful. Booth had no right to assassinate the President of the United States, but he did it. England had no right to allow privateers to be fitted out in her ports to prey upon our commerce, but she did it. France had no right to thrust Maximilian into Mexico and support him there with French bayonets, but she did it. Russia, Austria, and Prussia had no right to trample down and divide Poland, but they did it. And so I say that these rebel States had no right to secede, but they did it, wantonly, wickedly, wrongfully did it.

Suppose that a man wrongfully takes possession of my house and I bring a suit to eject him, while the proceedings are pending in court and from the time he entered until the writ of restitution is served upon him, I ask if he is not as much in possession of that house as though he was rightfully there? Treason took possession of these rebel States, and from the time that the ordinances of secession were set up and the rebel governments were organized, the power and authority of the United States were expelled, and by the absolute possession and control of rebel authority these States were practically seceded from the Union.

All the analogies of the law sustain this position. If the Constitution be a compact, assume claim it to be, then when the State of South Carolina has wantonly and wickedly violated that compact, can she claim under it the rights and privileges which she would otherwise have derived from it? Two men make a contract, and one wantonly violates the contract, can he claim the rights he otherwise could claim under that contract? Suppose a legislative assembly passes a law conferring certain rights and imposing certain duties and obligations upon an individual, can he repudiate the duties and obligations and claim the rights under the law? Could the State of South Carolina, trampling the Constitution of the United States under her sacrilegious feet and contemning and defying the authority of the Federal Government, at the same time *uno flatu* claim all the advantages and benefits which she ever enjoyed under that Constitution as one of the States of this Union?

When a forfeiture occurs rights are not annihilated, but they are transferred from one party to another; and I maintain that the rights which these rebel States had under the Constitution prior to the rebellion by that rebellion became forfeited and passed into the hands of the Federal Government, and in my judgment they are to-day in the hands of the Congress of the United States. Many elaborate speeches have been made here to controvert this position, and two to which I will particularly refer, one made by the honorable Senator from Wisconsin [Mr. DOOLITTLE] and the other by the honorable Senator from Maryland, [Mr. JOHNSON], have been pronounced by those who concur in them as wholly unanswerable. I do not presume that I am able to answer those speeches, but I am certainly able to examine and I hope to do them justice. It was argued by those gentlemen that President Lincoln had said and done certain things and that President Johnson had said and done certain other things, and that the sayings and doings of these two Presidents amounted to a recognition of these States and proved that they were States within the Union, entitled to the rights and privileges of such States. Another argument was that Congress, by its legislation from time to time during the rebellion, had recognized these States as within this Union; and therefore they were not only within this Union, but were standing at our doors with a

perfect right as loyal States to be represented here, and Congress had no other power or jurisdiction over the great question of reconstruction but to pass upon the personal qualifications of the men who may be seeking to represent these States in the national Legislature.

I will pass over for the present the argument derived from the acts and sayings of the Presidents, but will notice here the argument derived from congressional legislation; and, with due deference to those gentlemen who made the argument, it seems to me that they omitted to take a distinction at that point which must be recognized in order to arrive at a correct conclusion. The acts of legislation which they cite were nothing but expressions of power on the part of the Federal Government over these States; and that power was exercised and could be exercised without any acknowledgment on the part of Congress that these States possessed any rights as States of the Union. No man has ever contended, so far as I know, no matter how radical or extreme he may have been, that these States were ever beyond the jurisdiction of Congress, or that there ever was a time since the rebellion when Congress had not ample power to make such laws for them as in its judgment the circumstances of the country required.

Reference was made to the apportionment and the tax law. The apportionment law was simply an exercise of power on the part of Congress. It was intended for the future, and it was made with a view that at no distant day, and before another apportionment could be made under a new census, these States would be restored to the Union, and then there would be a law to operate and take effect within those States. So with the tax law. Taxation was levied upon these States as upon others. Congress had power to levy taxes; and certainly because these States were in rebellion, that was no reason why they should be exempted from the burdens that were imposed upon other States. Congress during this rebellion was legislating for these States, not in the way of levying taxes or making apportionments alone, but Congress was exerting unlimited power for the destruction of the property and the lives of persons within these States, in order to subdue the rebellion. Any argument derived from the exercise of power on the part of Congress over the rebel States during the rebellion proves nothing to the point, for the question is not as to whether Congress had power or jurisdiction over those States, but the question is as to the rights of the States. Power on the part of the General Government is one thing; right on the part of the State is another and different thing. Federal power may exist and State rights be destroyed; rights of the States may depend upon the existence of Federal power for their protection, but the exercise of Federal power over a State in rebellion recognizes nothing but the necessity which demands its exercise.

Authority was produced from the legislation of Congress to show that Congress had maintained its right to legislate for these States, but no precedent, no authority, was cited to show that Congress had expressed any opinion, or, in any way otherwise than by asserting its power, recognized the rights of these States during or since the rebellion. The argument derived from the legislation referred to is certainly fallacious, for if it proves anything it proves that the day the apportionment or tax bill was passed the rebel States had the right of representation in Congress. If the enactment of those laws proves that those States have that right at this time it proves that they have had that right ever since the laws were enacted. But, sir, I propose to refer to an authority to show what view the Senate of the United States has taken of the rights of these States. Bear in mind, now, that all the authorities cited by Senators to whom I have referred were as to the power of Congress, but I desire to show a decision by the Senate as to the rights of rebel States, and I refer for that

purpose to a proposition which was offered by the honorable Senator from Missouri, [Mr. BROWN] to be found on page 3449 of part four of the Congressional Globe, for the first session of the Thirty-Eighth Congress. I will first read the bill, and then the vote of the Senate upon it. The bill of the Senator from Missouri was in these words:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby, declared to be incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress until said insurrection in said State is suppressed or abandoned and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same."

Here is a bill which declares that these rebel States are incapable of choosing electors for President or of choosing Senators and Representatives in Congress until a given time. That time is not when hostilities have ceased, when the rebel armies have been disbanded, but they are to be incapable of exercising any of these rights until the Congress of the United States has passed a law declaring the rebellion at an end and authorizing the President to make proclamation of that fact.

Mr. WADE. When was that offered?

Mr. WILLIAMS. July 1, 1864. I wish to refer now to the vote upon that bill, which will be found on page 3461 of the same volume of the Globe. I will read the vote. The yeas and nays upon the passage of that bill in the Senate were as follows:

"YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Hale, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—28."

"NAYS—Messrs. Davis, Powell, and Saulsbury—3."

The honorable Senator from Wisconsin and the honorable Senator from Maryland have made elaborate arguments in the Senate to show that these States have always been in the Union and are entitled to the rights and privileges of the States within the Union, and that Congress has no jurisdiction over the subject of reconstruction except to pass upon the qualifications of the persons who propose to represent those States. The record which I have just exhibited to the Senate shows that these honorable Senators at that time were of opinion, and so declared by their votes, that these States were incapable of choosing electors for President or choosing Senators or Representatives in Congress, and that that right did not accrue to them when hostilities had ceased, as is now claimed, but when Congress should decide that the rebellion was at an end. Does not that bill clearly assume that the control of this question is in Congress. I humbly submit that so far as the acts of Senators at one time will answer what they say at another, this record, this vote, is a complete refutation of the arguments that have been adduced by them to prove that these States have all the time been in the Union, entitled to the rights and privileges of States within this Union.

This is one branch of the argument; another is derived from the policy of President Lincoln and of President Johnson. No man will go further in paying respect to the memory of Abraham Lincoln than I will. I admired him for his greatness and his goodness, for he was great as he was good. But I am not one of those who give up my opinion because some man who happens to hold a higher office than I do differs from me. I do not believe anything to be true, simply because some man, fifty or one hundred years ago, or at any other antecedent time, said it was true, when the blazing light of day around me contradicts its truth and the trumpet-tongued facts of experience are pouring their constant refutation into my ears.



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President Lincoln changed his opinion while he was President of the United States. Once he said that to issue an emancipation proclamation would be like issuing a bull against the comet; but when the subsequent developments of the war satisfied him that it was a necessity, he then issued that memorable proclamation which has made his name conspicuous in the history of human freedom and given him a high rank in the company of the immortals. I do not admit that President Lincoln's policy proves that the position which I occupy is incorrect; but on the contrary I maintain that there is no man, I care not how great his ingenuity may be, who can reconcile the policy of President Lincoln with a recognition of these States as entitled to all the rights and privileges of States within this Union. When he made his proclamation authorizing one tenth of the voters of a State to hold a convention and organize a State government, did he not in that proclamation ignore the existence of any prior State organization and even the right of a rebel State to govern itself at that time or to be represented in the Congress of the United States? Suppose that President Lincoln had issued a proclamation to the State of New York providing that one tenth of the loyal voters of that State might hold a convention and reorganize a State government, would not that proclamation have been regarded as the freak of an insane man? It seems to me that if we avoid the play upon words as to whether these States are in or out of the Union, no one can fail to conclude that President Lincoln was of the opinion, judging from the acts of his Administration, that these States, whatever their precise legal status might be, had forfeited their rights as States within this Union.

President Johnson is said to follow in the footsteps of his illustrious predecessor on this question. President Johnson says, I acknowledge that these States are in the Union, and I do not controvert that position; but I say, and defy contradiction, that President Johnson, from the beginning of his Administration to this very day, has recognized these States as having forfeited, or in some way lost, the rights and privileges of States within this Union. When he appointed provisional governors for the rebel States he recognized the want of any government there. He assumed that there was no government in those States; that those States were, to use the language of the honorable Senator from Massachusetts, a clean slate on which he could commence the organization of new governments. Could President Johnson have appointed a provisional governor for the State of New York? Who will contend that he could? If not, why not? New York is a State within this Union, entitled to the rights and privileges of a State; but South Carolina, though she may be within the jurisdiction of the Federal Government, and so in the Union, is not entitled to the rights and privileges of the loyal State of New York.

President Johnson not only appointed provisional governors, but authorized conventions to form constitutions; declared what persons should vote at elections, what should be the qualifications of electors, what the constitutions when formed should contain; and so, from beginning to end, the only law in the reorganization of these States has been the will of the President. I am not complaining of what he has done, but I say that he has assumed from the beginning that these States were without the rights and privileges of States within the Union; that they were disorganized masses of people; and that everything, from the foundation up, was to be *de novo* a new dispensation, to be substituted for the old that existed prior to or during the time of the rebellion.

I think, therefore, that the argument which is derived from the acts of President Lincoln and of President Johnson does not prove what those Senators claim. They prove, if they prove anything at all, that these States as States be-

came *functi officio*, and have not yet become able to resume their rights and privileges as States within the Union. I wish it distinctly understood that I do not refer to these acts to censure or condemn them, although I confess that I have some misgivings as to the power of the President to organize civil governments as Commander-in-Chief of the Army. I refer to these acts to show that they do not prove what those who use them claim that they do; but, on the contrary, they prove that these States, whatever may be said about their being in the Union, have not been regarded as entitled to the rights and privileges of other States. Assuming that Congress is equal in power to the Executive, I argue that Congress may do all that the President has done as to these rebel States. I mean to insist that the acts of the Executive have not excluded the jurisdiction of Congress over this question, and that Congress is not estopped by any proclamation or any telegraphic dispatch from the President, or anything done in pursuance thereof, from exercising its power and control over this great question of reconstruction. I insist that Congress is not reduced to the poor and pitiful position of meeting the Representatives of these rebel States at the door of the Capitol with no power but to respectfully inquire if they possess the personal qualifications for a seat in the Senate or in the House of Representatives.

Mr. President, much denunciation has been heaped upon Congress for hesitating about the immediate recognition of the rebel States, and I must say that in my opinion there is too much impatience everywhere upon that subject. Time has a work to do in this business which cannot be wrought out by other means. Time has an office to perform which no human expedient or device can perform in its place. Time will cicatrize the wounds that the war has made. Time will assuage the anguish of the broken-hearted and the bereaved. Time will soften the asperities and passions that have grown out of the late fearful conflict. Give time a chance to do its work. Give us time. I confess that in this matter I do need time—time to look at and consider and determine as to the wisdom, the expediency, or the justice of any proposed policy.

Let it be borne in mind, Mr. President, that in this business of reconstruction we are not engaged upon any temporary arrangement. This is not the expedient of a day. This work which we now perform is to endure. It is to bless or to curse the country for all coming time; and while we discuss the proclamations of Presidents and devise ways and means to meet the present emergency, coming generations beckon to us with their shadowy hands to look at and think of them.

Sir, it is surprising that these States have not resumed their former position in less than one year from the time they were engaged in efforts to demolish and destroy this Government? After the last British flag went down in the Revolution, notwithstanding our fathers were bound together by every tie that could bind men who were fighting in a common and a holy cause, more than seven years expired before the formation of this Union was completed. But now great impatience is displayed and many harsh epithets are hurled at Congress because within less than one year from the time these men were struggling through fields of carnage to put an end to the existence of this nation; because before the smoke of the battle has cleared away, and while their hands are yet red with the warm blood of our defenders, they are not sitting in these high seats of power and controlling the destinies of a Government which they hate and have tried to destroy. When we consider that it took these conspirators more than thirty years to concoct this infernal rebellion, and that they were for four years fighting with the desperation of madmen to accomplish their fiendish work, is it to be marveled at that six months or a year or more should pass by before these

identical men are taken into the national bosom, lacerated and torn by their blows, and recognized as equals in a political brotherhood?

I have spoken, Mr. President, of the necessity of time in this business of reconstruction; that it is not desirable or safe to make too much haste, but that it is due to the magnitude of the subject that we should proceed with deliberation. Caution is the parent of safety, and in doing what we may not be able to undo if wrong it is necessary to be extremely cautious. It is more than an error to err now. To be careless or reckless at this time is to be criminal.

I desire here to apply what I have said as to the necessity of time to a proposition that has been introduced by the honorable Senator from Massachusetts as a substitute for the resolution to amend the Constitution reported by the committee on reconstruction.

Sir, I listened with profound admiration to the speech which the Senator delivered in favor of the proposed substitute. It was worthy of the subject, worthy of the occasion, worthy of the author, and when those who heard it shall be forgotten, the echoes of its lofty and majestic periods will linger and repeat themselves among the corridors of history. I cordially endorse the prevailing sentiment of that speech. I believe that the founders of this Republic intended that all freemen should participate in the political and civil rights of the country. I think the distinction which they made was not between white men and black men—that distinction is of modern origin; but the distinction which they made was between freemen and slaves.

But, sir, is the proposition of the honorable Senator from Massachusetts practicable at this time? I do not give it as my opinion, but it is an incontrovertible fact that a very large majority of the people of the United States deny the constitutional power of Congress to enact such a law. Pass that law at this session, and it becomes an issue in the next political campaign, and those who sustain it and pass it here will be committed to its support, and those who oppose it will strive to elect men in favor of its repeal. A majority of this Congress may believe in the constitutionality and expediency of such legislation, but another Congress, if a majority should happen to sympathize with the honorable Senator from Kentucky, would abrogate the law, and so the political rights of millions of people would be as varying as the capricious fortunes of the political parties of the country.

Adopt that proposition, and it will follow as a matter of course that the doors of Congress will be thrown open at once to the Representatives of the rebel States, and is there any reason to suppose that the rebel element which is now predominant in those States would not control that vote, so as to make its entire representation in Congress a representation possibly antagonistical to the peace and the perpetuity of this Union? I say frankly that I conceive it to be of more consequence, not only to the future interests, but to the life of this nation, that the rebel States should have a limited representation in Congress until the great questions growing out of the late war are adjusted, or in a sure process of adjustment, than that the negroes anywhere should immediately vote.

Sir, although there is question about it, it seems to me there can be little doubt that at this particular time the negroes of the rebel States are unfit to exercise the elective franchise. I have recently conversed with two officers of the Federal Army from Texas, who told me that there, in the interior and agricultural portions of that State, the negroes do not yet know that they are free; and one of the officers told me that he personally communicated to several negroes for the first time the fact of their freedom. Emancipation may be known in the towns and cities throughout the South, but the probabilities are that in the agricultural por-

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tions of that country the negroes have no knowledge that they are free, or only vague conceptions of their rights and duties as freemen. Sir, give these men a little time, give them a chance to learn that they are free, give them a chance to acquire some knowledge of their rights as freemen; give them a chance to learn that they are independent and can act for themselves, give them a chance to divest themselves of that feeling of entire dependence for subsistence and the sustenance of their families upon the land-holders of the South to which they have been so long accustomed; give them a little time to shake the manacles off of their minds that have just been stricken from their hands, and I will go with the honorable Senator from Massachusetts to give them the right of suffrage; and I will here express the hope that the day is not far distant when every man born upon American soil within the pale of civilization may defend his manhood and his rights as a freeman by that most effective ballot which—

“Executes the freeman’s will  
As lightning does the will of God.”

I suppose that I might as well, as I have alluded to this question of constitutional amendments, refer to the proposed substitute offered by the honorable Senator from Missouri, [Mr. HENDERSON.] I confess that I was somewhat surprised the other day to hear the honorable Senator characterize the amendment which had been reported from the committee of fifteen after two or three weeks’ deliberation, and after it had passed the other House by a majority of more than two thirds, as stuff and nonsense, and say that the substitute which he proposed was sufficient in the place of all constitutional amendments or congressional legislation in reference to former slaves. I will not assail the amendment proposed by the honorable Senator in the same manner in which he attacked the report of the committee, but I will remark that the constitutional amendment which he offers as a substitute allows a State to make any discrimination that is not founded upon race or color. New York State, under that constitutional amendment, might exclude every man born in Europe from the right of suffrage or from representation, and any discrimination could be founded upon nativity, intelligence, condition, circumstances, sex, and upon anything and everything, provided that it is not upon color or race; and to adopt that amendment at this time and in this form would seem to give countenance to the charge so often made, that we are more willing to make laws and constitutional amendments for black than for white men.

I object to this constitutional amendment of the Senator from Missouri because it allows all the Indians in the States of the Union to vote. Sir, the bloodthirsty and murderous Sioux of Minnesota, the Cayuses and the Walla Walla and the Snakes, that banditti of the desert, in Oregon, and the Digger Indians of California, are all made voters by the Senator’s constitutional amendment, and invested with that high prerogative of American citizenship. Does the honorable Senator suppose that the State of Minnesota, or the State of Oregon, or the State of California would submit from choice to this degradation, if not danger of political association?

Mr. HENDERSON. I hope that the Senator will permit me to suggest, just at this point, that he is clearly mistaken in the statement that he now makes. I thought that he did me great injustice a moment ago, but I did not choose to interfere. Now, certainly he does me great injustice in supposing that I have offered an amendment which would force California, Minnesota, and other States to permit Indians to vote. As I understand, California provides in her constitution to-day that a man to vote must be a citizen of the United States; nearly all the States so provide. A man to vote in the Senator’s State must be a citizen of the United States.

The other day we declared that certain persons were citizens of the United States; but he knows perfectly well that all Indians not taxed were excluded by that bill which we propose to pass; and unless the Indians referred to are separated from the tribal authority, unless they have become indeed citizens of the State and of the United States by virtue of the law which we propose now to pass, they cannot vote under this constitutional amendment. The States need not say that they exclude the Indians in consequence of the fact that they are of a different race or color, but they may simply say that no man shall vote unless he is a citizen of the United States, and that surely will exclude every Indian to whom the Senator refers. He is certainly doing me very great injustice.

Mr. WILLIAMS. Mr. President, this is a constitutional amendment, and is to endure. The law to which the gentleman refers, in the first place is not a law; it has passed the Senate but has not yet passed the House of Representatives; but if this constitutional amendment is adopted by Congress and ratified by the States taking the law as it now stands, I say it will make the wild and untamed savages of the wilderness and the desert voters in the United States.

Mr. HENDERSON. These Indians are not now citizens, and if that law is passed or repealed they would still not be citizens. They never were citizens, and no matter what our legislation is here, any State of the Union that wants to prevent her Indians from voting can do so. The Senator certainly must see the proposition.

Mr. WILLIAMS. I may misunderstand this proposed amendment, but it declares that no State shall make any discrimination on account of race or color. Now, if the State of Oregon provides that Indians within that State shall not vote it would be a discrimination on account of race.

Mr. HENDERSON. But the Senator does not understand me. I see now clearly he does not. Suppose that Oregon declares that no man shall vote unless he be a citizen of the United States, will that not exclude all the Indians in his State that he speaks of, because they are not now citizens, they are not proposed to be declared citizens by the law which we are proposing to pass, they never have been citizens, and whether we pass this law or not they will not be. Therefore Oregon need say nothing in regard to color or race, but simply say that no man who is not a citizen of the United States shall vote. That is the law of Oregon to-day; hence all the Indians he speaks of are excluded.

Mr. WILLIAMS. Citizenship in the United States, as I understand it, depends upon the will of Congress; and if the views the honorable Senator expressed the other day when he favored making all these Indians citizens should obtain in Congress, then it would follow that under this constitutional amendment they would be voters.

Mr. HENDERSON. Permit me to ask the Senator whether, if an Indian separates himself from the tribal authority, and the State taxes him, he does not believe that Indian ought to vote?

Mr. WILLIAMS. I do, and that was the position I took the other day, but the honorable Senator took the position that no such distinction should be made, as I understood him.

Mr. HENDERSON. Surely not. The Senator misunderstood me. I did not propose, unless the Indian separated himself from his tribal authority, that he should ever be a citizen of the United States.

Mr. WILLIAMS. If all these explanations and annotations of the honorable Senator could accompany this proposed amendment throughout the United States, he might be able to satisfy the people that it does not mean what it says; but it is as broad and as comprehensive

as the English language can make it, and it is intended to prevent any State from making discrimination between white men, Indians, negroes, or persons of any color or of any race.

I pass, however, from that objection, and I insist that the fatal and conclusive objection to the proposed substitute of the Senator from Missouri is that it cannot be adopted. All the impassioned declamation and all the vehement assertions of the honorable Senator do not change or affect the evidence before our eyes that the people of these United States are not prepared to surrender to Congress the absolute right to determine as to the qualifications of voters in the respective States, or to adopt the proposition that all persons, without distinction of race or color, shall enjoy political rights and privileges equal to those now possessed by the white people of the country. Sir, some of the States have lately spoken upon that subject. Wisconsin and Connecticut, northern, loyal, and republican States, have recently declared that they would not allow the negroes within their own borders political rights; and is it probable that of the thirty-six States more than six, at the most, would at this time adopt the constitutional amendment proposed by the gentleman?

He says that he is right, and therefore his constitutional amendment should be adopted by Congress as a substitute for the one reported by the committee. If it be always expedient it is not always practicable to do exactly right. Slavery before the rebellion was as wrong and as wicked as it ever was. It was just as right to abolish slavery in 1860 as it was in 1865. But suppose before the rebellion occurred some one had made a proposition here to submit to the several States an amendment to the Constitution abolishing slavery, would there have been the ghost of a chance for its adoption? Would not the people of the country have laughed such a proposition to scorn, and would not the honorable Senator himself have joined heartily in that laugh? He could have gone before the people, as he may now, and say “this is right,” but that would have availed nothing, for the supposed interests, to say nothing of the prejudices, of the people would have scoffed at the argument. Congress cannot by its legislation compel the people to adopt that to which the public sentiment of the country is generally opposed. The time had not then come for the adoption of the constitutional amendment abolishing slavery. It was necessary that the events of the war should educate the public mind and prepare the people for its adoption; and now, as the war has just closed, it is necessary that events should be allowed to educate the public mind before this constitutional amendment can be adopted, if it can ever be adopted, and it is not sufficient to justify us, in submitting a proposition to amend the Constitution to the people, simply to say that in our judgment it is right. Many things are right, but it may not be expedient to try to do them without any delay. It is no doubt right that the United States should claim of Great Britain reparation for the damages done to our commerce by her privateers during the late war; but would it be expedient for Congress to involve this country under existing circumstances in war to enforce that claim? To put down the rebellion was no doubt right, but suppose some madcap colonel had hurled a thousand of our heroes upon the bayonets of ten thousand rebels and caused them all to be slaughtered, would that colonel have been justified in his conduct by saying, “I was right, and therefore it was not necessary to exercise any judgment as to the ways or means to secure that right.” Are men to discard all reason, judgment, and foresight as to the means to accomplish a given end?

Suppose the honorable Senator wanted to go to New York. He has expressed great contempt here for any indirect way of attaining an object. He has a right to go to New York. Suppose that the direct route is obstructed by

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high water in the Susquehanna so that it cannot be crossed, but he can go to New York by a more circuitous route, would it be the part of wisdom for the distinguished Senator to rush along over the direct route into the Susquehanna and drown himself, or would it be more advisable for him to go a little way round and accomplish the object he had in view?

I object, then, to the proposed amendment because it will avail us nothing. Put it before the country and commit the Union party to it, the amendment will be defeated and the Union party overwhelmed in its support—and the control of this Government would pass into the hands of men who have more or less sympathized with the rebellion; and I say that it is of more consequence, in my judgment, that the control of this Government should remain in the hands of the men who stood up for the Union during the late war than that any constitutional amendment should be adopted by which the right of suffrage should be extended to any person or persons not now enjoying it.

I ask the honorable Senator how his proposed amendment is to be executed? The Constitution will declare that there shall be no discrimination on account of race or color if his amendment be adopted. Suppose the State of New York still retains its present constitutional provision providing that negroes shall have property worth \$250 to be qualified to vote. What are you going to do about it? Will Congress make war upon the State of New York to enforce the constitutional provision? What is the remedy to the voter who is rejected? He may have the right of course to sue the judge and test the validity of the law; and it may be, at the end of a law suit, decided that he had a right to vote; but would that be of any avail to him after the law suit was ended? Besides, the decision would only apply to the individual case, and the State might still persist in the exclusion of persons on account of color or race. In that respect the proposed amendment of the committee has the great merit of executing itself. There is no escape from it. It is to be observed that the Senator's amendment is a mere limitation upon the power of the State; it does not operate directly upon individuals.

Another proposition has been submitted by the honorable Senator from Wisconsin, [Mr. DOOLITTLE], as a substitute for the report of the committee, providing that Representatives shall be apportioned according to the white male electors above twenty-one years of age in the several States. I ask those who favor that proposition if it is necessary to strike out of political existence all the women in the United States and all persons under twenty-one years of age in order to reach the condition of the lately emancipated negroes? Adopt that substitute and you at once declare that more than one half of the white people of these United States shall be deprived of any right of representation in Congress for the purpose of providing for the negroes in the southern States. That violates the fundamental principle adopted by our fathers when they framed the Constitution, and it seems to me that it would be great injustice to adopt such a constitutional provision. Many good objections have been stated and urged to it. I will not repeat them; but it would operate unfairly, as it seems to me, because those States where the males exceed the females would have an undue proportion of the representation in Congress.

Moreover, that amendment undertakes to fix the qualification of voters in the several States by declaring forever that no person shall ever vote in any State, under any circumstances, unless he be a man over twenty-one years of age. Is it necessary in an amendment to the Constitution so to enact in order to meet the exigency that has grown out of the late convulsion in the country? for we all acknowledge that the primary object of all these amendments is to provide for the new state of things that has arisen out of the abolition of slavery.

Some Senators object to any constitutional amendments. Sir, lately a constitutional amendment was adopted by the people abolishing slavery, and that constitutional amendment has created a new state of things in the United States. It has abolished a vast amount of property; it has overturned an aristocratic and powerful system; it has restored millions of people who were slaves to their rights as freemen, and changed the whole aspect and condition of things in the lately rebellious States; and it is reasonable, therefore, that some change in the Constitution should be made to meet the circumstances that have grown out of this revolution in the political and social system of the South.

Mr. HENDERSON. If the Senator will permit me, I should like to ask him a question here. He says, as to the proposition of the Senator from Wisconsin to base representation on voters, that it is very unjust to exclude women and the minors in the northern States who can be permitted to vote by their respective Legislatures or by the people in the formation of their constitutions. I should like to ask him, if that be unjust, how he makes it just that the negroes who cultivate the soil in the southern States, and who are loyal men and have been loyal men, shall be excluded from representation, for he says it is more desirable that they be excluded, a great deal more, than that the negroes shall vote.

Mr. WILLIAMS. I am not surprised that the Senator is very much troubled about the rights of women—

Mr. HENDERSON. I only quoted the language of the Senator. He said that it would be very unjust to exclude the women from representation. I only quoted his own language.

Mr. WILLIAMS. I desire to say that the constitutional amendment proposed by the honorable Senator from Wisconsin positively and absolutely strikes women and minors out of political existence, while the proposition reported by the committee does no such thing, but provides, according to the principles incorporated into the Constitution by its framers, that the States shall regulate this matter, and if they do not regulate it according to the dictates of humanity and justice, they shall be punished. The gentleman assumes that the amendment reported by the committee is equivalent, in its operation upon the negroes, to the proposition proposed by the honorable Senator from Wisconsin in its operation upon women and children; but in that he mistakes, for this proposition of the committee is intended to induce the States to confer the right of suffrage and representation upon black people by declaring that if they do not do that the States shall be without representation to that extent in the Congress of the United States.

I wish to say a word upon the amendment proposed by the Senator from Massachusetts—and amendment has been piled upon amendment, Pelion upon Ossa, until it is very difficult to determine exactly what is the question before the Senate; but the honorable Senator from Massachusetts proposes to amend the committee's resolution by declaring that persons of color, if States decline to allow them the right of suffrage, and so they become excluded from representation, shall be exempted from all taxation of every nature and description. I ask if that would be fair or just. Take the State of Maryland, if you please. There institutions of government are provided, courts are established, and the law is administered; public institutions of various kinds are founded and maintained, roads and bridges are constructed, all by taxation upon the people; and the negroes in that State enjoy to a greater or less extent the benefit of those institutions, and therefore they ought to pay a reasonable proportion of taxes for the blessings and benefits they enjoy from these public expenditures and institutions, though they may not be directly represented in Congress. Direct taxes are to be apportioned among the several States, and the constitutional amendment proposed by the

committee proposes simply to deprive those persons who are disfranchised in the State of the right of representation; but when Congress imposes a direct tax upon a State it operates equally upon all the persons in that State, and if the State is represented, the Representatives chosen by white people are as much interested in defeating any unjust taxation as would be the Representatives directly chosen by black people. Negroes without votes would be just as well protected from direct taxes in Congress as white people with votes, but the power of the State would be reduced by subtracting the blacks from the basis of representation. I may be mistaken, but it is my opinion that the declaration which was quoted from Mr. Otis by the honorable Senator from Massachusetts, "that taxation without representation is tyranny," and which was made to have great weight in the discussion, did not mean that every individual who was taxed in a community should be represented; but at that time the colonies were without representation in the Parliament of Great Britain, and Parliament was imposing taxes upon the colonies. I had supposed the meaning of that expression to be that it was tyranny for one Government to tax a State or a community or a colony without allowing that State, community, or colony representation in the Government imposing the tax. I never understood that our fathers intended to say that any Government that did not allow every man, woman, and child within its jurisdiction, whose property was taxed, a right of representation, was a tyranny.

Mr. President, the committee of fifteen have proposed an amendment to the Constitution, which has been ably supported by the honorable chairman of the committee, [Mr. FESSENDEN.] I do not propose to travel over the same ground, but I am free to say that one object I have in supporting that resolution is to deprive the rebel States while the rebel element predominates there, as it must and will for some time whether you give suffrage to the black man or not, of as much power in Congress as the Constitution and circumstances of the country demand and allow, so that the men who have saved the Union can provide lasting securities for the future integrity, honor, and peace of the nation. I also advocate the amendment proposed by the committee because it provides eventually that the negroes of the southern States, after they have learned what it is to be free, and not to be "like dumb cattle driven," may come to the enjoyment of the elective franchise. And I believe that if this constitutional amendment is adopted and put before the people, and the requisite number of States ratify it, in the southern States a party will spring up at once to advocate the extension of the elective franchise to the blacks. They will argue, "If you do this you increase the power of the State in the Federal Congress;" and that party, in my judgment, will grow and become stronger until it obtains the ascendancy, and after negroes are to some extent educated and elevated the elective franchise will be conferred upon them by the action of the States themselves.

Pass the amendment proposed by the Senator from Missouri, or the proposed law submitted by the Senator from Massachusetts, make it operative in the rebel States at once, and you make a line of demarkation between the white and black races; white men will constitute one political party and the negroes will constitute another; and I think it is desirable for the sake of both races that some system shall be adopted that will divide and not consolidate the white men against the black, or the black men against the white. The honorable Senator from Missouri declared yesterday that the adoption of the proposed law offered by the Senator from Massachusetts would produce a war of races in the southern States. I do not accord with that view of the subject; I believe if that law was passed to-day it would tend to build up the rebel element in the South, because the negroes



at this time are poor, homeless, destitute, and dependent. They must look to the landholders for employment and for a livelihood for themselves and their families, and although they did aid the Union cause in the late war, because they expected freedom, which was to them a promised land flowing with milk and honey, I doubt very much whether these same negroes would decline to vote as their employer might indicate if they were put to the choice of doing that or being turned adrift upon the world to beg or steal or starve. I wish to say, too, for the committee's amendment, that while it is better adapted than any other to the present exigencies of the country, it adheres to two principles of the Constitution most highly prized by the fathers of the Republic, to wit, apportionment of representation according to population and the right of the States to regulate the elective franchise. The proposed substitutes launch us upon an ocean of untried experiment.

Mr. President, passing from the consideration of these constitutional amendments, allow me to make a few remarks upon one or two other topics. Much has been said here about the President's policy, and it is pressed upon the Senate as a necessity that Congress should adopt that policy. I do not know that I exactly understand what that policy is, but presume that it means generally pardon to all the men who have been in rebellion with few exceptions; the extension of the elective franchise to all those who will take the amnesty oath; the organization of State governments under the proclamations of the President; and the immediate restoration of those States to the Union by allowing them their Senators and Representatives at this time in Congress. Giving the President great credit for upright and patriotic motives in the adoption of this policy, I must be allowed—and I hope I do not violate any rule of propriety—to venture the opinion that in one respect he has made a mistake, and that is in the almost unlimited exercise of the pardoning power toward the men who conducted the late rebellion. I am anxious, and have been anxious, to coöperate with the President in the work of reconstructing this Union. I have been and am his friend. I was as active as I could be in my humble sphere to procure his nomination for Vice President upon the Union ticket. Many years ago I admired him when in the South he fought the gallant and glorious battle of the downtrodden poor against the landholding and aristocratic classes, and the measure of my admiration for him was full when I saw him stand unshaken in his fidelity to the Union in that black sea of falsehood and treachery and perjury by which he was surrounded in the State of Tennessee. I do not now advocate any substitute for the policy which he has proposed. I do not attack or assail that policy. I am not yet prepared to express any definite opinion as to the best policy to be pursued; but I desire to say, and I shall insist upon it, that the action of the President, whatever it may be, does not exclude the power of Congress to regulate the recognition or admission of the rebel States. I believe, with the light I now have, that the true policy would have been to have kept these States under strictly military governments till Congress could have convened. Congress could then have provided for the reorganization of these States according to law. Provision could then have been made for the exclusion of rebels from power and for the ascendancy of loyal men. Time could have been given for things to settle. Is it surprising that men who, for four years, have been hunting each other from mountain to swamp and back again, and trying to cut each other's throats, should not at once coalesce into political unity? There may be no blaze now, but I am apprehensive that the fire is not extinguished. The nation, no more than an individual, can take coals of fire into its bosom and not be burned.

Charges have been made and repeated upon this floor, that the Union party was disposed to keep these States in their present condition from selfish or party purposes. Is there any foundation for that imputation? Look at what transpired when the rebel armies were dispersed, when it was announced throughout the country that the great and bloody conspiracy against the life of the nation had failed. Everywhere the people of the loyal States were thrown into a blaze of excited joy, and the chief source of their gratification was the anticipated speedy restoration to the Union of the discordant and belligerent States. I make no question that some change has come over the public sentiment in this respect. What has occasioned that change? Why do the pulsations of the public heart that then bounded with joy now, like the beating of muffled drums, give sign of disappointment and sorrow? Is it because the northern people desire to protract the present state of things? Did they sacrifice their sons and their fathers and their brothers, and pour out their treasure and blood like water, to perpetuate a division, or was their object to secure a return of these States to a newly consolidated Union? Sir, when you consider what has been done, what acts of magnanimity and generosity have been extended to these undeserving and guilty people; when you consider the surprisingly liberal terms of surrender proposed by General Grant, the too generous terms offered by General Sherman; when you remember the words of Abraham Lincoln, "with malice toward none, with charity for all," which were caught up by the sympathies of the people and made a nation's voice; when you consider that pardons have been scattered by President Johnson through the camps of treason "like flower-seeds by the far winds blown;" when you consider all these acts of magnanimity and mercy and kindness on the part of the people of the United States who put down this rebellion, and then look at the manner in which these acts have been received, is it to be wondered at that doubts and fears and sorrowful misgivings to some extent have seized upon the public mind? I know that there are exceptions to what I am about to say, but, sir, "tis true, and pity 'tis 'tis true," that generally these acts, instead of being received with feelings of respect or expressions of gratitude, have been received with feelings of hatred and malice, and expressions of contempt and defiance. I know that history teaches that acts of magnanimity on the part of the conqueror toward the conquered will tend to conciliate and make peace; but it seems, sometimes, as though history was at fault as to these people, and as though there was nothing that would touch their hearts or their actions but the irresistible power of the Federal Government, the gleam of its flashing swords, and the glitter of its conquering bayonets.

Sir, I do not wish to say anything harsh or unkind of these people. I desire that they should be restored as soon as they can be with safety to the country. I should rejoice to see them coming back penitent and reformed like the prodigal son, and the nation going out to take them into its arms, saying, as did the father of old, "The lost is found and the dead is alive again." I will say, in answer to the question asked me about Tennessee, that I am inclined to the opinion that under the circumstances it would be advisable to try the experiment of speedy admission with that State. I have very little faith in theories. Opinions are as diverse among men as are the faces of those who express them. But here an experiment can be made. Tennessee is a State in which there are loyal men, in which there are rebels, and in which there are negroes. Let that State resume its position in the Union, and let the experiment there be tried as to whether rebels are disposed or not to acquiesce in the authority of the Federal Government, and accede to the loyal men the right to control; and also as to whether or

not the white people there will treat their negroes in their new condition according to the dictates of humanity and justice. Try that experiment. Experiment is better than theory. That will prove whether what is said about these rebels is true or not; and if it should turn out that they maintain, after our recognition of the State, the same spirit which they displayed during the rebellion, then, sir, I am for crushing out that spirit by force, if necessary, or giving it time enough in which to die; and I give notice now that whatever I may do as to Tennessee will not bind me as to any other of the rebel States. Conditions of recognition may be necessary for all the rebel States.

Much complaint has been made here as to the course of Congress toward the rebel States, and considerable of it has emanated from the distinguished Senators from Kentucky; and while I wish to be entirely respectful, but with the view of showing in what spirit these complaints are made, I desire to say that it has been announced on this floor by one of the honorable Senators from Kentucky [Mr. DAVIS], in effect, that slavery had always existed in the cotton and sugar-growing States of this country, and always would exist, no matter what the constitutional amendments or the legislation of Congress may be upon that subject. And I respectfully call the attention of the Senate to the fact that the first man in Congress since the rebellion who has undertaken to influence its legislation by a threat of dissolution, is the distinguished Senator from Kentucky, [Mr. GUTHRIE], who reported in the Chicago convention the resolution that the war for the Union was a failure. That disgraceful declaration was trampled under foot by the loyal people of the North, while the confederacy, whose success it was intended to acknowledge, was trampled by our soldiers into the bloody mire of the battle-field. He said that the enactment of the Freedmen's Bureau bill would be a dissolution of the Union, and we could not help it. Sir, we can help it, and we will help it. Is not the terrible experience of the last four years sufficient to satisfy the Senator?

Mr. GUTHRIE. Will the Senator allow me to explain?

Mr. WILLIAMS. Certainly.

Mr. GUTHRIE. The Senator has fallen into error, and like many other Senators misunderstood what I said on that subject. I said that by the passage of the Freedmen's Bureau bill and the bill No. 61, and the other measures that were on foot, you gentlemen would accomplish or bring about what the rebellion had not done, a dissolution of the Union. It was an expression of apprehension as to the effect of your measures, which I had a right to express. It was no threat.

I am sorry the gentleman has gone back to the Chicago convention. The expression in the resolution reported there was that the Administration had failed hitherto, or during the war, to bring about a restoration of the Union by war; not that the war was a failure, but only that there had been a failure up to that time to restore the Union.

Mr. WILLIAMS. I do not desire to do the honorable Senator any injustice, but my attention was called to this matter yesterday by seeing in a Richmond newspaper reference made to his remark, and the paper seemed to regard that expression as some kind of authority, and alleged that if the President signed the bill organizing the Freedmen's Bureau it would greatly tend to fulfill the prediction of the Senator, and dissolve the Union. Sir, it is in vain to talk about dissolution. Let the man who dare, strike a blow at the integrity of the Union and ten hundred thousand war-worn veterans, fresh from the fields of their fame and glory, would spring to its defense. Sir, one blast upon the bugle-horn of Grant, or Sherman, or Sheridan, would make every guilty traitor in this land turn pale and tremble. [Applause in the galleries.]

## SENATE.

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The PRESIDING OFFICER, (Mr. HENDRICKS.) Order!

Mr. WILLIAMS. Sir, it is worse than idle to intimate that dissolution can ever occur. To admit the possibility of such a thing here is to profane the sanctuary of a nation's hope and trust, and I want to say to that Senator what I should think he would know by this time, that secession in any shape or form is dead, and damned, and buried beyond the power or the hope of resurrection. [Applause in the galleries.]

The PRESIDING OFFICER. Order!

Mr. WILLIAMS. Mr. President, I have taxed the patience of the Senate too long. I will now conclude. I have to say that the way before us is not as clear as I wish it was, but the day is not so dark or the obstacles so insurmountable as they seemed to be when the fate of the nation hung in the doubtful scale of war. Patriotism, firmness, and union then, among Union men, rescued the nation from the hands of the spoilers and saved it, and if the same spirit controls now in the councils of the nation that governed our soldiers in the field, their triumph will be crowned by our success. Sir, this nation is to live and not die. God has written it among the shining decrees of destiny. Inspired by this hope and animated by this faith, we will take this country through all its present troubles and perils to the promised land of perfect unity and peace, where freedom, equality, and justice, the triune and tutelar deity of the American Republic, will rule with righteousness a nation "whose walls shall be salvation, and whose gates praise."

## Apportionment of Representation.

## SPEECH OF HON. RICHARD YATES,

OF ILLINOIS,

IN THE SENATE OF THE UNITED STATES,

February 19, 1866.

The Senate having under consideration the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States—

Mr. YATES said:

Mr. PRESIDENT: I send to the desk to be read Senate bill No. 106, which I introduced on the 29th January last, and in favor of which I propose to speak to-day.

The Secretary read the following bill:

A bill to protect citizens of the United States in their civil and political rights.

Whereas the Constitution of the United States abolishes slavery in all the States and Territories of the United States, whereby all constitutions, laws, or regulations of any State or Territory in aid of slavery or growing out of the same are null and void; and whereas, by virtue of said abolition of slavery, all men in all the States and Territories are citizens, entitled to all the rights and privileges of citizens, subject only to the legal disabilities applicable to white persons; and whereas, also, it is expressly provided that Congress shall have power to enforce by appropriate legislation the aforesaid power abolishing slavery, which cannot be done without protecting all citizens against all restrictions, penalties, or deprivations of right resulting from slavery, and securing to them all their civil and political rights, including the elective franchise: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That no State or Territory of the United States shall, by any constitution, law, or other regulation whatever, heretofore in force or hereafter to be adopted, make or enforce, or in any manner recognize any distinction between citizens of the United States or of any State or Territory on account of race or color or condition, and that hereafter all citizens, without distinction of race, color, or condition, shall be protected in the full and equal enjoyment and exercise of all their civil and political rights, including the right of suffrage.

Mr. YATES. I confess, sir, to some embarrassment in addressing the Senate at this time, and the greater because I know that the positions which I assume will be different from those of honorable Senators for whose opinions I have very great respect, and to whom it would seem becoming that one so humble as myself should defer. But, sir, the opinions which I have seem to me very important; and it appears

to me that I cannot discharge my duty as a representative of the State which I have the honor in part to represent on this floor without expressing them. In doing so, it is with the conviction that this question, as was remarked by the distinguished Senator from Indiana [Mr. HENDRICKS] the other day, is the gravest which has ever been discussed by the American Senate. The duty of this Congress, it seems to me, is one of tremendous responsibility. Our action ought not only to be effectual, but it ought to be timely and final. A mistake now will be fatal. Delays breed danger. We ought to do to-day what it will be too late to do to-morrow. It will not do to receive the rebellious States into full fellowship in the Union now, because they are not fit to come in. It will not do to keep them out, for it is dangerous to keep them out too long. We desire a restored Union. In union there is strength; but in union there is weakness if the parts, like oil and water, will not coalesce. A rope of sand will not hold together. We should aim to do what Mr. Lincoln almost always did, the right thing at the right time, in the right way, and at the right place. It should be our aim as legislators to legislate, not for a part of the country only, but for the whole country, upon principles that will stand the test of time by standing the test of impartiality, of equality, of justice, and righteousness.

And, sir, if this Congress having the power, as I believe it clearly has, by a general law to restore, through harmonious adjustment, the rebellious States, instead of fearlessly and promptly exercising that power, waits for some constitutional amendment which cannot be adopted, or which if adopted is not founded on correct principles, we shall be recreant to our duty, and we shall incur and deserve to incur the reproach of the nation and of mankind.

In discussing the bill which I have had the honor to introduce, I shall not attempt to controvert any of the principles which have been entertained heretofore by either the Republican Union party or the Democratic party so far as the jurisdiction of the States over the question of slavery was concerned under the Constitution of the United States; nor shall I controvert the proposition that the States have the power under the second section of the first article of the Constitution to regulate the qualifications of the electors in the States. I shall attempt to show, on the other hand, that by the amendment to the Constitution abolishing slavery, Congress already has the power by a general law to do all that is proposed to be done by the various amendments which have been submitted to both Houses of Congress. If we shall fail, having that power, to exercise it, then by reason of the long and dangerous delay which will occur, and by reason of the almost criminal omission on the part of Congress to exercise its plain constitutional duty, this Government is in danger of passing into the hands of a party whose action and sympathies have been opposed to the prosecution of the war for the suppression of the rebellion, who voted our glorious war a miserable failure at the expiration of four years of brilliant service, who opposed the proclamation of emancipation, who opposed the amendment abolishing slavery in all the States and Territories in the United States, who to-morrow, if they had the power, would repeat your test oaths, who would pardon Jeff. Davis, who at this very session of Congress are upon the record in opposition to the protection of the rights of the freedmen, and who stand ready now to receive in the Senate and House of Representatives Senators and Representatives-elect fresh from secession State Legislatures and from battle-fields where their hands were imbrued in the blood of our loyal countrymen.

This is the aspect of affairs as it seems to me to-day. There is only one way of salvation for the country. Your amendments to the Constitution of the United States cannot be adopted. If we have not the power now under the Constitution of the United States to secure full free-

dom, then, sir, we shall not have it, and there is no salvation whatever for the country. Let not freedom die in the house and by the hands of her friends.

Mr. President, the work of reconstructing a Government, of restoring rebellious States to their former condition, is a more difficult work than building up a new Government. The statesmanship which attempts to restore rebellious and shattered States to their former relations to the Government must encounter prejudices growing out of local State governments, State regulations, the conventionalities and usages of society, judicial decisions, the conflicts of Federal and State authority, and all the numerous and divergent opinions of men with regard to the fundamental rights of the citizen and the mode of securing those rights and administering the Government.

The work of our fathers, though one of sublime magnitude, as herculean as it was grand, yet was an exceedingly simple one. Though its fundamental object, to carry out their principles by the machinery of well-adjusted and regulated government, required the picked men of the world, whom God in His kind providence furnished the nation, yet the object they had in view was exceedingly plain, simple, and easy to be understood. What was that object? To establish freedom, to secure equality to all men, to secure the right of the majority to rule; or, to use the language of the present President of the United States, "to secure exact justice to all men; special privileges to none." Who will deny that these were the objects for which the Revolution was fought, and for which the Declaration of Independence was made?

These being the objects of our fathers, I do not deny that when they came to form a Government they encountered an institution which was hostile to the principle which they attempted to establish. I do not deny that in an evil hour of compromise, for the sake of concord among the States and to secure the adoption of the Constitution, they most reluctantly recognized the institution of slavery in the Constitution of the United States, as is proven by the fact that representation was denied to the colored man in the slave States except through the white electors, and the other clause of the Constitution which permitted the forcible arrest of the fugitive slave and his return to his master. But it was from no fault of the principles of our fathers that our national troubles sprang up; it was from a departure from their principles in the respect to which I have alluded. Slavery, which they supposed to be so small an element, which they supposed to be temporary in its character, which they in their hearts believed the States themselves would very soon abolish, grew from a few persons to millions in number, and the institution became so profitable and so cherished that the leaders of the South finally planted themselves upon it as the very basis and corner-stone of society and government. Two systems of government and civil society existed in the country, two systems of labor, both supported by great and powerful interests and energies, warring, jarring, antagonistic, belligerent, each striving for supremacy. Slavery, in fact, through adroit politicians, became the balance of power, and, wielded and for a time shaped and controlled the policy and legislation of the country. Slavery became almost the Government of the country, and no important question could be discussed in the country except by its relative bearing upon the institution of slavery. It doomed to ignorance, prostitution, and crime nearly four million people, appropriated the proceeds of their labor, enforced ignorance upon them by severe penalties against education, and secured obedience by the lash, the revolver, and the bloodhound. The slaveholder, rioting in wealth from the bended back and shrill agonies of the crouching slave, became arrogant and aristocratic, and learned not only to believe in African slavery, but boldly to denounce free society as a failure,

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and hence the condition of the poor white man of the South became scarcely more tolerable than that of the slaves themselves.

But, sir, I will not follow this history, the fierce, domineering, bullying spirit of slavery in our national Capitol, its attempt to establish itself by force upon Kansas, &c., but simply say that its front became so brazen, and its aims and demands were at such hostile variance with our free institutions, that it became evident that the two systems of freedom and slavery could not exist in the same land. And when Abraham Lincoln, the great emancipator, came before the American people to define and to assert the great proposition that this nation could not remain half slave and half free, when the slaveholders saw that the power was departing from them by the admission into the Union of new free States, when they saw that they could no longer rely upon full coöperation from their northern sympathizers, and a resolute spirit in the northern States to resist the further encroachment of slavery, then they waxed wroth, and in the pride and insolence which the system had engendered they drew the sword and struck at the life of the nation. It was under such circumstances as these that the rebel States raised the banner of revolt, ordained themselves out of the Union, fired upon our flag, and forced us into that self-defensive war which, thank God and our brave Army, resulted in the total extermination of the monster slavery, and planted our flag wherever traitor hands had pulled it down.

What was this war about? "State rights." It was a question whether the Constitution and laws of the United States were to be the supreme law of the land, or whether State sovereignty, as it was termed, was to be the supreme law. It was whether a State, at its mere pleasure and volition, had a right to secede from the Union and to establish a separate and independent government. It was State rights, which we now see resuscitated, creeping up again, and peering out from manifestoes in high quarters, and interpolated, in my humble judgment, without any proper connection, into funeral orations. "State rights," which says if Congress attempts to assert its power Kentucky will go out of the Union. "State rights," which the honorable Senator from Maryland says, if Congress attempts to regulate the qualification of electors in the States, they will claim the right to resist the act even to the point of revolution. Let me here say by way of parenthesis, God forbid we should have any more revolution; but, sir, I am here to say—not in the language of threatening, but speaking for the State which I represent, covered all over with glory as she is, having sent two hundred and fifty thousand of her brave volunteers to the field to put down the late rebellion—should traitor hands again fire on the flag, she is just as ready now as she was then to send five hundred thousand more men to crush out the fell spirit of rebellion and disunion. [Great applause in the galleries.]

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The interruption has been so frequent of late in the gallery that the Chair feels called upon to enforce the order of the Senate and to direct that the galleries be cleared. The Sergeant-at-Arms will clear the gallery on the right of the Chair.

The Sergeant-at-Arms proceeded to execute the orders of the Presiding Officer.

Mr. GUTHRIE. I think the applause was an inadvertence on the part of the galleries, and I would be very glad if the Chair, on reconsideration, would reverse its order. I will almost pledge myself for the galleries that the disturbance will not be repeated.

Mr. HOWARD. I hope so, too.

The PRESIDING OFFICER. The Chair will submit the question to the Senate whether the order to clear the galleries shall be reversed or not.

The question being put, the order was reversed.

The PRESIDING OFFICER. The Chair understood the suggestion of the Senator from Kentucky to be that the order made by the Chair be reversed with the express understanding that if there is any repetition of the disturbance in the galleries the order will hereafter be strictly enforced.

Mr. GUTHRIE. That is my understanding, and I hope it will never take place again.

The PRESIDING OFFICER. The Chair, therefore, under the direction of the Senate, will withdraw the order to clear the galleries, with that understanding.

Mr. YATES. Yes, sir, "State rights" is again the bugle note! "State rights," as though one refractory child in a family had the right to control not only all his brothers and sisters, but the father from whom he derived being and support. I had in the simplicity of my heart supposed that "State rights," being the issue of the war, had been decided. I had supposed that we had established the proposition that there is a living Federal Government and a Congress of the United States. I do not mean a consolidated Government, but a central Federal Government which, while it allows the States the exercise of all their appropriate functions as local State governments, can hold the States well poised in their appropriate spheres, can secure the enforcement of the constitutional guarantees of republican government, the rights and immunities of citizens in the several States, and carry out all the objects provided for in the preamble of the Constitution, "provide for the common defense," "promote the general welfare," "establish justice," and "secure the blessings of liberty to ourselves and to our posterity."

Is it to be pretended now that we are to leave to thirty-six States the determination of the fundamental question of citizenship? Can it be expected that the local politicians of the States will adjust upon a right basis the relations of the freedmen? Why shall we throw this bone of contention again into the States to breed a new and dangerous agitation? If we leave these questions to an outside power, to the Congress of the United States, who exercises its power according to the Constitution and under the Constitution, even if it confers suffrage upon the freedman, all will submit and rejoice in the end. They are even now prepared to surrender these questions upon the ground of the late conquest of the Government. But if we leave them to the States, then we have no security for the citizen; we cannot have uniformity of legislation; if we give up to the States the power to decide the fundamental question of citizenship upon which the life of the Government depends, then we must expect wrangling and distinctions of classes, which may result in a war quite as bloody and as fatal as that which recently has shrouded our land in the weeds of sorrow.

Let us not commit the fearful error of our fathers by a departure from the organic principles of justice and equal rights, and sow the seeds of a future conflict of races, of future war and permanent disunion.

Mr. President, while I do not agree with all the propositions contained in the able and masterly speech of the Senator from Wisconsin. [Mr. DOOLITTLE,] yet I do agree with him in one proposition, and that is, that these States are not out of the Union. That was what we were fighting about. They appealed to the sword. They threw all they had and all they were into the contest, and they lost, and these States are still in the Union, and by the blessing of Almighty God they shall ever stay in this Union.

But I agree with our late President that this is a most pernicious abstraction. I presume that the difference between gentlemen on this question results from impressions that the legislation of Congress for their reorganization depends upon their status in this regard. It is not so at all. To illustrate: both the Senators from Wisconsin, [Messrs. DOOLIT-

TLE and HOWE,] while they disagree so widely on the question whether the States are in the Union, yet they sufficiently agree on all the questions which we are practically to consider. They both agree upon the proposition that to Congress is left the question of reopening our doors to the admission of Senators and Representatives from the rebel States. They both agree upon the other vital question, that these States are not to be permitted to resume their practical relation with the Union until they by their conduct show that they are willing to give an unfeigned and heartfelt allegiance to the Union, or that they are willing to come into the Union upon terms which shall forever settle this question, and upon such a basis as will prevent the recurrence of another war, and secure, if not indemnity for the past, at least security for the future. But, sir, we can accommodate both of these gentlemen without any trouble whatever. The States are in the Union in law; they are out of the Union in fact. So far as any legislation that we propose to apply to them to preserve our territorial integrity and submission to the laws is concerned, they are in the Union, and yet we may regard the rebellious population as out of the Union for all purposes of representation until they comply with such just requirements as we may impose for securing protection to loyal men and punishment to criminals. The case is anomalous; national self-preservation is the paramount law of our action. We have not treated them either as States in full fellowship, nor entirely as States without government.

It is simply a question of fact whether they are in a condition to be restored to all their rights in the Union or not. Upon that question I am sorry to disagree with my friend from Wisconsin, now in the chair, [Mr. DOOLITTLE,] I have regarded him as a statesman; I still so regard him; and since my acquaintance with him I have feelings for him warmer than admiration. But I cannot account for the delusion—I will take back that term, and say that he is vastly and lamentably at fault when he is willing to open our doors wide to the readmission of the rebellious States into full fellowship into the Union with their present hostile feelings to the United States without further guarantees on their part or protective legislation upon our part. Why, sir, look at the facts that boldly and defiantly stand out upon the record of southern disloyalty, and stare us like ghastly specters in the face. We see the Governor of Alabama appointing two rebel Senators judges of the supreme court but recently. We know that the only passport to southern office, to the Legislature and to Congress, is fidelity in the rebel army and in the rebel cause. We know there is a bitter and unrelenting hostility toward the freedmen who have been emancipated by the constitutional amendment, as is proven by the orders of General Terry in Virginia, General Sickles in South Carolina, General Thomas in Mississippi, and by the general order of General Grant, interposing the strong arm of military authority to prohibit oppressive discriminations against the freedmen in those States. They are as defiant in their dangerous dogma of State sovereignty as when the war began. They are clamoring for the payment of the rebel debt. They are opposing the payment of the debt incurred by the United States. They are demanding compensation for their slaves. They treat our test oath as a nullity. They jeer our glorious flag. They caricature our institutions in their theaters and public assemblages; and in their hearts they curse the day they were made to submit to the authority of the Union.

Mr. President, does that honorable Senator propose that these States shall be received into this Union, that the rebels shall be allowed to go to the polls and exercise the right of suffrage, while the loyal men who have bared their breasts to the storm of battle in obedience to the call of Abraham Lincoln, and with his promise that they should be maintained in their freedom



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—yes, “maintained,” that’s the word—while they are disfranchised? While the tragedies of the cruel war, traitorously provoked, are fresh in our memories and the blood of our countrymen cries to us from the ground, is my friend from Wisconsin willing to turn over the government of those States to secessionists and rebels, to the virtual exclusion and disfranchisement of the brave Union men who have borne aloft our flag amid the storm and thunder of battle? Sir, until that promise of Abraham Lincoln is redeemed, that the freedmen shall be “maintained in their freedom,” is made good to those men who wore the United States uniform, those men who rallied under the glorious folds of our old flag by the side of our brave boys and mingled their warm blood in the same current with theirs upon many a gory battle-field; those men who flashed two hundred thousand bayonets in the face of Jefferson Davis and traitors, I will never consent that those States be received into full brotherhood in the Union. They shall be vouchsafed at least every right which the rebels themselves shall enjoy.

And I appeal to you, Mr. President, I appeal to Senators, by the bloody memories of the war; by the tears of the soldier’s widow and the soldier’s orphan boy; by the sufferings and miseries and death of those brave men who in obedience to God went forth to fight the battles of the country, and whose bones now lie in unmarked graves upon southern soil; by the grand solemnities which surround the murder and memory of Abraham Lincoln; by the love we bear our country, for which they fought and fell; and by all our hopes for lasting peace and permanent Union, that now, having the power, we will plant the pillars of the Government upon the granite foundations of God’s eternal justice and upon the undying principles of individual and universal human liberty.

While I speak thus, I say to the Senator from Wisconsin [Mr. DOOLITTLE] that I will be as prompt as he whenever they by their conduct evince the proper spirit; whenever they show that they renounce their old ideas of allegiance to the South alone, and will give unfeigned, heartfelt allegiance to the Government, and will present to us constitutions republican in form and laws equal and impartial to all, I will join that Senator and hail the auspicious day when as of yore, on the land and the sea, and over all the States reunited, high over all, shall float the star-spangled banner.

Sir, there is one basis upon which these difficulties can be settled, and only one, and that is to return to the fundamental principles which were aimed to be established by our fathers, and to give rights to those men whom in an evil hour they most reluctantly disfranchised. Vain is the hope of the statesman, however high he may be, who expects that we can settle these questions upon any other basis than upon the basis of the principles laid down in the Declaration of Independence. If this Congress does not adopt it, the next Congress will. There is (I say it with deference in this great presence) only one salvation. If you do not seize the splendid opportunity, the next Congress will. All your amendments must fail. They lack the motive power. They are like a watch with all its machinery beautifully adapted, but without the mainspring. They are without the motive power, that living element of republican Governments, the popular will; and without that they cannot be adopted. Is it reasonable to suppose that even all the free States will adopt the amendment which has been reported by the honorable chairman of the committee on reconstruction? I simply submit the proposition, and know the answer of every gentleman. Is it reasonable to suppose that the slave States will either consent to curtail their representation one half, or that they will confer the right of franchise upon the freedmen? And in the mean time are we to keep up a standing army or Freedmen’s Bureau, with thousands of officials, to hold them

in subjection to the Government? I do not say now that I may or may not vote for any of these amendments. It is not material to my proposition whether I do or not. I may vote for them in view of the one thousandth chance that they may pass. I consider the whole of them imperfect, and as postponing the period of restoration to a day far too remote for the future security and peace of the country. It is entirely immaterial so far as the position I take is concerned, for I contend that Congress has the power now as fully and as completely in every respect as it could be given to them by any amendment to the Constitution, by general law, under the recent amendment, to secure the reorganization of the Government upon the basis of justice and equality.

I believe it was the distinguished Senator from Massachusetts [Mr. WILSON] who said that he did not expect to wait until there was a change of heart in the southern people. I agree with him, and more than that, I say that if we wait until the southern people shall learn to love the Yankees and to hate slavery and to love the Government by whose strong arm and chastening rod they have been whipped into obedience, the time will be long, and I fear so far in the future that in the meantime our long and dangerous delay and our omission to use the power we already clearly have might result in a calamitous change of parties and in the restoration of the rebellious States in a condition quite as objectionable as when they first rebelled with all the chances and probabilities of a future war and final separation.

I hope that Congress will not attempt the impossible task of making the South love the Union, but what I do hope, and what is reasonable to hope, is that we shall remove forever the causes which have divided us, and settle all differences upon principles which will prevent any cause of quarrel or division in the future, and lay the foundation for perpetual peace and union, and which can only be done upon the principle of equality to all, and removing all distinctions of class, race, color, or any previous condition growing out of the institution of slavery.

Sir, by the bill which I presented I nail the colors of universal suffrage to the masthead—not in South Carolina or Georgia or Kentucky, but I meet the vital issue of the hour, and proclaim that under the Constitution as amended it is not only our right but our duty to extend the suffrage to every American citizen in every State, and to all the country subject to the jurisdiction of the United States.

I also wish, by way of prelude to my argument, to remark that the questions at issue are fundamental; they are organic, and we can arrive at no correct conclusions without investigating all the rights—natural, civil, and political—to which every American citizen is entitled.

It involves the settlement of several questions.

What is slavery?

What is freedom?

Who is a citizen?

Who makes, or how does a person become a citizen?

What are the rights of a citizen?

How are the rights of a citizen secured to him?

These questions are asked not in reference to citizenship in some foreign Government, not in reference to the common law, but in reference to the United States of America, where we have founded a Government upon the basis of equal laws and universal liberty. All these questions I shall not answer in detail, but all will be embraced in the positions I shall assume. I will only remark generally that in the United States, on account of the democratic features thereof, all the terms I have used have a distinctive national meaning, applicable to our nation alone. For instance, Webster, in

giving the various definitions to the word “citizen,” defines that in the United States a citizen means “a person, native or naturalized, who has the privilege of exercising the elective franchise, or the qualifications which enable him to vote for others and to purchase and hold real estate.” While I admit that in law others than voters may be citizens, in this country no man considers himself a full citizen till he has the right to vote. The minor does not consider himself free, “his own man,” until he can vote. So of the foreigner; and by universal consent the ballot is recognized as the badge of the American citizen.

Since I introduced my bill, the honorable Senator from Massachusetts [Mr. SUMNER] has introduced a bill in which he founds the right to secure universal suffrage to all freemen in the rebellious States upon that clause of the Constitution which “guaranties to every State a republican government,” and I understand him to found his argument upon the idea that before the adoption of the amendment to the Constitution, Congress had power to enforce the provisions of that guarantee in every State in the Union. I am sorry to disagree with the honorable gentleman, for the reason I have already stated, that under the late Constitution of the United States, as I understand it, our fathers in an evil hour compromised, and recognized the existence of slavery, and that under a decision of the Supreme Court of the United States it was decided that a man who was a slave, or who was the descendant of a slave, or who was liable to be bought and sold, or who was excluded from the society of our fathers at the time the Constitution was adopted, was not a citizen, and therefore under that decision the States had the power to exclude black persons from the exercise of the right of suffrage. The Senator from Massachusetts is right, however, in presenting that clause as part of his argument, because under the amendment abolishing slavery no State constitution can be republican in form which disfranchises any citizen of the United States. The bill of the distinguished Senator is objectionable because it is partial and operates only upon the rebellious States.

All, however, turns upon the simple proposition contained in the bill which I have offered, the guarantee to all citizens of their rights under the recent amendment to the Constitution.

Then, sir, I come to the only proposition which is feasible, and which, if not adopted by this Congress, will be by the next. I say this with deference to others.

The recent amendment abolishes slavery in all the States and Territories of the United States; not in South Carolina or Georgia alone, but in Illinois and every other State, and by that amendment, as I understand the distinguished Senator from Kentucky [Mr. GERRARD] to admit—and I honor and thank him for the admission—all constitutions, laws, and civil regulations in support of slavery as a matter of course fall to the ground. Congress by this amendment attempted, what? It undertook to secure freedom to four millions of our people who had formerly been in bondage; and how? It has been asked, if slavery is already abolished and all laws and institutions growing out of slavery fall to the ground, why pass a law by Congress to enforce that provision of the Constitution? I will tell you why. Because a law is necessary by the very terms of the second clause of the amendment to give effect and operation to the clause abolishing slavery. “Congress shall have power,” to do what? “To enforce;” enforce what? Enforce the foregoing clause of the Constitution abolishing slavery. How shall it enforce it? By legislation. What sort of legislation? By “appropriate legislation.” How “appropriate?” By legislation appropriate to the end in view. What is the end in view? It is the freedom of these four million human beings, who have been emancipated into the people of the United States. My distinguished colleague asked the question,

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is it possible that we will set four million human beings free in the United States and will not guaranty to them the protection of their civil rights? I extend the question, and I ask, shall we set four million human beings free in the United States and not extend to them their political rights? But it is said the right to vote is a mere political right. At the hazard of being a little tedious I shall attempt to show that civil and political rights, according to the construction of the courts, are entirely synonymous. Wendell's Blackstone, volume one, page 123, says:

"And, therefore, the principal view of human law is, or ought always to be, to explain, protect, and enforce such rights as are absolute, which in themselves are few and simple; and then such rights as are relative, which arising from a variety of connections will be far more numerous and more complicated."

Does any Senator on this floor say that there is not the same duty to secure the relative or political rights to the citizen that there is to secure him in the enjoyment of his natural rights? The reason why it is made the first duty to secure to a man his natural rights is because they are first simply in order. First, natural rights from the necessity of the case, and then the relative rights, which are more numerous, are to be secured; not that one is more important than the other, no more than in the orders of the Senate petitions are to be considered as more important than the consideration of bills because they are first introduced. They are alike equally important, and it is as much the duty of the Government to secure the political rights as it is the civil rights. On page 125, Blackstone says:

"But every man when he enters into society gives up a part of his natural liberty as the part of so valuable a purchase, and in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish."

What is a civil right? It is such a limitation or extension of the natural right as is conferred by statute. That makes it a civil regulation; that makes it a civil law; that makes it a civil right. For instance, every man in a state of nature has a right to acquire, hold, and dispose of property, but when the Legislature interposes and by law says that he shall convey it by deed, or that the first deed recorded shall be evidence of title, that is a civil regulation.

Now, let me ask you whether in a state of nature, when men have organized themselves into a community, is it not the natural right of every man to have a voice in the affairs of that community? Is not that a natural right? If he confers that right upon representatives or upon somebody else to administer, and a law is passed declaring that he shall give expression to that voice by the ballot, then it becomes both a civil and political regulation at the same time. Sir, go back to the days of our colonial history, and in all our colonial assemblages, where our forefathers met to discuss the affairs pertaining to the colonies; where they fired their hearts for the great Revolution in which they were soon to be engaged, how did they decide all matters of controversy? By a show of hands. Each man raising his hand voted whether or not the measure for taxation or for public improvement or for educational purposes or for any other purpose should be adopted. When it is proposed that he shall exercise that voice by a statutory provision establishing a ballot, does it become any less a natural right? Is it any less a civil right? It is a natural, civil, and political right.

But again, to show that this is a distinction without a difference, I refer you to Blackstone, on the same page, wherein he says:

"Political, therefore, or civil liberty, which is that of a member of society, is no other than natural liberty so far restrained by human laws (and no further) as is necessary and expedient for the general advantage of the public."

The meaning of that is, that civil and political liberty are synonymous terms. Blackstone applies the same definition to both. I hope I

shall be pardoned, now if I refer to a decision of the Supreme Court which is conclusive upon that point. I quote from Judge Daniels, one of the assenting judges in the Dred Scott decision. He says in 19 Howard, page 476:

"Hence it follows necessarily, that a slave, the *peculium* or property of a master, and possessing within himself no civil nor political rights or capacities, cannot be a citizen. For who, it may be asked, is a citizen? What do the character and *status* of citizen import? Without fear of contradiction, it does not import the condition of being private property, the subject of individual power and ownership. Upon a principle of etymology alone, the term citizen, as derived from *civitas*, conveys the ideas of connection or identification with the State or Government, and a participation of its functions. But beyond this, there is not, it is believed, to be found, in the theories of writers on government or in any actual experiment heretofore tried, an exposition of the term citizen which has not been understood as conferring the actual possession and enjoyment or the perfect right of acquisition and enjoyment of an entire equality of privileges, civil and political."

He declares it to be not only his own opinion, but that it is the universal opinion of all legal writers upon the question, that by the term citizen is meant one who is entitled to both civil and political rights.

The object of the constitutional amendment was to secure freedom to the slave and to those who have suffered from the institution of slavery. It will not be pretended that Congress ever meant to set four million slaves free, to emancipate them into freedom, and at the same time leave them without the civil and political rights which attach to the free citizen. And hence, sir, the Senate at this session have passed the bill introduced by my colleague [Mr. TRUMBULL] to protect all persons in the United States in their civil rights, and also to provide courts and laws with adequate penalties for the violation of those rights. It provides that "the inhabitants, of every race and color, without any regard to the previous condition of slavery," shall have the same "right to make and enforce contracts, to sue and be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property; and to full and equal benefit of all laws and proceedings for the security of person and property." Here, sir, I contend, we have fully established the principle, and upon the same principle have full right and constitutional power to pass the bill which I have proposed, protecting the inhabitants, of every race and color, without regard to any previous condition of slavery, in all their civil and political rights, including the right of suffrage.

The Dred Scott decision is referred to, to show that the negroes are not citizens; but that decision was made under the Constitution of the United States before this amendment was adopted. That decision, overturning, as it did, the whole line of judicial authority, and abhorrent to the civilization and Christianity of the age in which we live, went so far as to say that the negro at the period of the adoption of the Constitution had no rights which a white man was bound to respect, and to lay down the doctrine that slavery could go into all the Territories of the United States, independent of popular sovereignty, of the will of the people, or of the Constitution of the United States. But, sir, that decision is wiped out; it has gone down to a kindred doom with the institution which it was intended it should perpetuate; and I now quote from the decision itself to show that under the existing state of affairs, under the constitutional amendment, the freedmen are citizens by the irresistible deductions and inferences from the Dred Scott decision itself. In the celebrated case of Dred Scott vs. Sanford, which is reported in 19 Howard, page 404, is the following language; I read from the opinion of Chief Justice Taney:

"The words, 'people of the United States' and 'citizens' are synonymous terms and mean the same thing. They both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people and are constituent members of this sovereignty."

Now, sir, if that was the case, why was Dred Scott not a citizen? We shall find out. The decision then proceeds to state why negroes were not included as a portion of the people and constituent members of the sovereignty:

"Because they were at that time considered as a subordinate and inferior class of beings who had been subjugated by the dominant race, and whether emancipated or not, yet remained subject to their authority, and had no right or privileges but such as those who held the power and the Government might choose to grant them."

Is not the inference irresistible that if by any subsequent amendment of the Constitution they became a part of the people, they would be citizens and entitled to the same rights and privileges with all the other citizens of the United States? The decision goes on to quote the words of the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal," &c. The Chief Justice then proceeds to comment on that clause, as follows:

"The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this Declaration; for if the language, as understood at that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation."

And now what shall be said of us at this day, when they are clearly included in the terms of the Constitution, and by special clauses therein are made free people, if we fail to carry out the full spirit and fair interpretation of the Constitution of the United States with regard to this long oppressed race of our fellow-citizens? Will we not be utterly and flagrantly inconsistent if now, by the very terms of the Constitution, we are required to treat them as people and as citizens, and we fail to do so?

Mr. SAULSBURY. While the honorable Senator is on this point, will he allow me to put a question to him?

Mr. YATES. Certainly.

Mr. SAULSBURY. Under the registering law of the State of Maryland more than one half of the former voters of that State are excluded from the right of suffrage, although they have never been convicted of any crime. Many of the most prominent citizens of the State, who have never been convicted of crime, or suspected by any fair-minded man of having been guilty of crime, are excluded from the right of voting. Are those men, more than one half the former voters of the State, who are now excluded from voting in that State, citizens, or are they not?

Mr. YATES. I will answer that question in the course of my remarks, and will only make the statement now, that neither any State in this Union, nor the Congress of the United States, has power under the Constitution or under the decision of the Supreme Court to deprive a citizen of the prerogative of the elective franchise. That is the position I assume. I have but just now read from the decision of the Supreme Court, by Chief Justice Taney himself, to show that the "people" of the United States were the "citizens" of the United States. Who made the Constitution of the United States? "We the people" "do ordain and establish this Constitution." Did the Constitution make the people of the United States? No, sir. The moment a man is a freeman, by any law, by any constitution in the United States, that man becomes one of the body-politic. He passes into the body of the sovereignty, as it is termed by the decision of the Supreme Court. He is one of the people. He is one of the citizens of the United States of America; and as I shall presently show, no State, nor Congress, except by constitutional amendment, has any right whatever to deprive a citizen entirely of the right of suffrage.

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I will read further from the same decision. This decision goes on to say, on page 426 of the same volume:

"No one, we presume, supposes that any change in public opinion or feeling in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted."

"If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended, but while it remains unaltered, it must be construed now as it was understood at the time of its adoption."

But it has been altered; the negro is no longer regarded as a slave or belonging to a subject race, but as the gentleman from Maryland, [Mr. JOHNSON,] even, admits, he is a man, and susceptible of the highest cultivation.

It is in the light of this new estimate of the freedman that we are to consider the provisions for his emancipation now in the Constitution, and to confer upon him the full and equal enjoyment of all his rights. Sir, I do not believe our fathers had any such low estimate as was attributed to them in that decision, but that they did most reluctantly compromise for reasons before stated. I vindicate them from the black stain implied by any construction which would go to show that they meant "all men" except the negro "are created equal."

I said, I did not believe the framers of the Declaration meant to exclude any particular class or race of men, when they declared all men equal. Sir, facts are stubborn things, and no logic, not even of the most astute and profound lawyer, can destroy the force of any important fact. It is a stern, stubborn, historical fact that at the time of the adoption of the Constitution the freedmen, inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, were not only citizens of those States but possessed the franchise of electors on equal terms with the other citizens, and, sir, were not only included in the body of the people of the United States by whom the Constitution was made, but voted on the question of its adoption. Is it not strange that the framers meant to say that they were not included in the Declaration of Independence who were suffered to vote whether or not the Constitution should be ordained and established?

There is another stubborn fact which goes to show that the fathers did not design to make the distinction in favor of white men only, and that fact is this, that while the Articles of Confederation were under the consideration of Congress, on the 23d June, 1778, the delegates from South Carolina moved to amend the fourth of the fundamental Articles of the Confederation, which reads as follows:

"The free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of the free citizens of the several States."

They moved to amend this fourth article by inserting after the word "free," and before the word "inhabitants," the word "white;" so that the privileges and immunities of general citizenship would be secured only to white persons. Only two States voted for it, while eight voted against it, and the vote of one State was divided, and the language of the article remained unchanged and went into the Constitution of the United States without any restriction to white persons.

But whether or not the fathers meant to exclude free colored persons, the decision in the Dred Scott case was made under the Constitution before the recent amendment, and the court, in the following emphatic language, leaves the inference irresistible that the decision would be different in case of an amendment of that instrument.

I quote from 19 Howard, page 426:

"No one, we presume, supposes that any change in public opinion or feeling in relation to this unfortunate race in the civilized nations of Europe, or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their

favor than they were intended to bear when the instrument was framed and adopted."

"If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, it must be construed now as it was understood at the time of its adoption."

The meaning of this, sir, was that a slave or a descendant of a slave could not be a citizen under the Constitution as originally adopted, and that it must be so construed until the Constitution is altered. It has been altered, and conforms to public opinion of the present day, which demands the recognition of the manhood of the negro.

And there is not a word in that whole decision which, under the Constitution as altered, does not go to support the proposition that the freedman, under the amendment, stands upon the same footing of civil and political equality with the white man; subject to the same statutory disabilities, and entitled to all the rights and privileges of the white man.

Now, sir, I come to the point to which the Senator from Delaware has referred, and according to the decision relied upon especially by that Senator, the decision in the Dred Scott case, I here take the position that Congress has no power to make a citizen, except to naturalize a foreigner, or to make him a citizen by naturalization; nor has a State any such right.

Mr. SAULSBURY. Had the State of Maryland the right to enact that law? That is my question.

Mr. YATES. The State of Maryland cannot exclude any man in the United States who has in himself the inherent rights, the God-given rights of manhood and freedom. Maryland cannot do it, and Illinois cannot do it, and all the power of the Congress of the United States cannot do it, except by an amendment to the Constitution conferring upon Congress that power.

I refer next to the same decision upon the question of the rights of citizens in the several States. I admit that according to this decision every State had a right to exclude an African citizen, and the constitution of that State or the law of that State was not anti-republican in its form; but when a man becomes a citizen of the United States he cannot be excluded by any State. I read from the same decision, page 423 of the same volume, where you will see that Chief Justice Taney was trying to show that all these State laws would be unconstitutional if the negro was a citizen, that he could come into the State in spite of the power of the constitution of the State and claim the rights of a citizen, and the Chief Justice goes on to show what would be the consequences of such a construction:

"If persons of the African race are citizens of a State and of the United States they would be entitled to all of these privileges and immunities in every State, and the State could not restrict them; for they would hold these privileges and immunities under the paramount authority of the Federal Government, and its courts would be bound to enforce them, the constitution and laws of the State to the contrary notwithstanding. And if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation, and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him. This is evidently not the construction or meaning of the clause in question. It guarantees rights to the citizen, and the State cannot withhold them."

If the Senator from Maine [Mr. FESSENDEN] were now in his seat I would show him where the penalty is for such a law as I propose. Whenever a law in any State is unconstitutional the courts are bound to enforce the Constitution. There is the penalty. We can receive them or not receive their members-elect of Congress or members of the State Legislature. There is penalty again. And now, if such legislation is not absolutely necessary, yet it is highly expedient that at least a declaratory law should be passed so that uniform construction and uniform obedience and submission to the Constitution may be secured from all the States.

Now, sir, I come to the other proposition,

and it is equally clear, that neither Congress nor a State make a citizen, except that Congress may naturalize foreigners, and is founded on good sense and reason. I read now from page 419, Chief Justice Taney's decision:

"The Constitution upon its adoption obviously took from the States all power by any subsequent legislation to introduce as a citizen into the political family of the United States any one, no matter where he was born, or what might be his character or condition; and it gave to Congress the power to confer this character upon those only who were born outside of the dominions of the United States."

The decision goes on to say that therefore no law of Congress or of any State can deprive a citizen of his rights.

Sir, there was one view upon which this decision did deprive the freedman of the right to vote. What was that? It was upon the same view that a woman is deprived of the right to vote. What was that? Because he could not come to the support of and defend the Government; and I have the decision of the Supreme Court here, which is irresistible on that point. If a man can come to the support and defense of the Government, he is necessarily one of the body-politic and one of the people of the United States. I dwell upon these points at some length knowing that they are tedious, but I am making them not only for the Senate but for the country, for it is the reflex influence of our great constituency on Congress to which I look for the passage of the bill I propose. In the same volume, page 415, the Chief Justice cites the case of New Hampshire to show that the negroes were not citizens under the Constitution of the United States, and gives as a reason that they were not enrolled in the militia of the United States. Let us see what he says:

"The alien is excluded, because, being born in a foreign country, he cannot be a member of the community until he is naturalized; but why are the African race, born in the State, not permitted to share in one of the highest duties of the citizen? The answer is obvious. He is not, by the institutions and laws of the State, numbered among its people. He forms no part of the sovereignty of the State, and is not therefore called on to uphold and defend it."

The moment the United States of America permitted the name of the freedman to be enrolled on that list of immortal names who bore the banner of the Republic in triumph, and planted its victorious folds upon the battlements of the enemy, this Government, by the proclamation of Abraham Lincoln, declaring that his freedom should be maintained, and by its pledge made to the civilized world, said that he should be not only a citizen in war but a citizen in peace. I know that we are met on every hand by the argument that women are excluded from the right of suffrage. The answer to that is very easy and very plain. I am not proposing to amend the Constitution of the United States; and there is no power in the Constitution to confer the right of suffrage upon a woman. According to the spirit of the decision to which I have referred, and by the universal consent of mankind, she is not a part of the body-politic so as to exercise the right of suffrage. Now, if these gallant gentlemen are so anxious to confer suffrage on the ladies, and have them mingle in the broils of parties and elections, let them bring in an amendment, and I am not sure that I will not vote for it.

When it is asked why may she not vote since she is often a tax-payer, I answer that there are restrictions which are inevitable. Minority is such a restriction. Woman is excluded by the inevitable proprieties of the case. The ballot is in politics what the bayonet is in war. Those only who wield the sword are, by the universal consent of both ancient and modern civilization, supposed capable of wielding the ballot. We should most certainly violate the proprieties of humanity were we to compel the softer sex to take part in the bloody work of physical warfare. And yet, sir, to thrust woman into the arena of political strife is quite as abhorrent, and would be quite as destructive of her womanly qualities, as to compel her to take part in the shock of arms.



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The only exception to the rule of ancient times, that woman should not bear arms, is to be found in traditions regarding the Amazons. They are represented a very warlike race of women as having deprived themselves of the right breast, that they might be the better able to wield the weapons of warfare. Would my friend from Missouri [Mr. HENDERSON] permit such an act of barbarity in the case of the elegant and majestic ladies of his State, so remarkable for their beauty and so irresistible in the fascination of their womanly charms? I know what his answer would be. Well, would he do what is worse, have her do morally what the Amazons did physically, by thrusting her into the strifes and stern conflicts of politics and elections, part with those softer, more delicate, more lovable qualities, which constitute her the ornament of society, and which, as Edmund Burke says, "inspire in man the highest and noblest passions of human life?" I am not proposing to amend the Constitution of the United States. If any of the gentlemen who propose to amend the Constitution wish to display their gallantry, let them propose to amend it in this respect. There are some reasons which are applicable to them which are not applicable to the male portion of the people. They do not bear all the burdens of the Government; do not work the roads; they do not fight in the Army.

I come, then, to the question, how is a citizen of the United States made? How does a man become a citizen of the United States? Those who were citizens of the United States at the adoption of the Constitution were the people. "We, the people, do ordain and establish this Constitution." The words "people" and "citizen" are synonymous, as I have shown. Now, sir, I show that by the amendment to the Constitution of the United States the former slave has become a freeman; his disability is removed; he is no longer one of a subject race; he cannot be bought and sold; he steps from his condition of slavery into the family of freedom, becomes one of the body-politic, and is one of the sovereign people. And, sir, if no State can make him a citizen, and if the Congress of the United States cannot make him a citizen, except through an alteration of the Constitution so as to confer upon Congress the power, then he never can be a citizen except through the operation of the recent amendment, and he and his descendants forever must be deprived of this great right of franchise. Sir, they are citizens, or they are slaves. They are subjects, or they are sovereigns. This is exclusively a white man's Government, or it is a Government for all men.

What, then, is the objection to passing the bill for which I contend? It is evident that you cannot confer freedom upon the slave without exercising your power under the Constitution. If you go before the people with constitutional amendments they will be voted down in the slave States and in some of the free States. The result will be that the people, determined to do justice to this class of men, will find the power where it properly belongs, in the constitutional amendment securing to them freedom, and in the subsequent clause which makes it the duty of Congress to enforce by appropriate legislation the prohibition of slavery and to secure full freedom, civil and political, to all citizens.

Why will we not manfully meet the issue, and exercise the power we already have, and by a general law of Congress enforce the provision of the Constitution in all the States alike—in Illinois and Tennessee, in Maine and in South Carolina? I deny the conclusion of the Senator from Missouri that there is reason to believe the Supreme Court, even under the hard ruling of the Dred Scott case, would decide the law unconstitutional.

What court, after the Dred Scott decision, will again incur the infamy of all history by such a decision as this would be against justice and

the enlightened convictions of the wise and good everywhere?

I know what the politician's objection is. The politician's objection is, "Why take this out of the hands of the people of the States?" Sir, we do not take it out of the hands of the people of the States. The people of the States have by the Constitution conferred the power upon us; they have placed the responsibility upon us; and they will brand us with moral cowardice if, waiting to pass amendments which never can be adopted, we fail to exercise the power which we clearly have.

I like the amendment of the Senator from Missouri, [Mr. HENDERSON,] but it can never be adopted. But I am opposed to it because we have already the power in the Constitution to do the same thing. Is there any statesman here who dares rise in his place and say that we have the right to secure to the freedman all his civil rights, to give him the right to enforce contracts, to testify and be a party to suits, to acquire, hold, and dispose of property, but cannot secure him in his most essential right, the right by which he protects himself in the enjoyment of all his civil rights, of his person, of his family, his life, and his reputation? I say, sir, that you cannot abolish slavery, you cannot secure freedom to the slave unless, by appropriate legislation, you pass a bill to give him that freedom in all the States and Territories of the United States.

Sir, let gentlemen come forward and meet the issue like men. Let them come forward and do what they have by the Constitution the clear power to do, and that is a *sine qua non* in order to carry into effect the constitutional prohibition of slavery. As for me, I would rather face the music and meet the responsibility like a man and send to the people of the State of Illinois the boon of universal suffrage and of a full and complete emancipation than meet the taunt of northern demagogues that I would force suffrage upon North Carolina and Tennessee and Delaware while I had not the courage to prescribe it for our own free States. Sir, it will be the crime of the century if now, having the power, as we clearly have, we lack the nerve to do the work that is given us to do.

Let me say to my Republican friends, you are too late. You have gone too far to recede now. Four million people, one seventh of your whole population, you have set free. Will you start back appalled at the enchantment your own wand has called up? The sequences of your own teachings are upon you. As for me, I start not back appalled when universal suffrage confronts me. When the bloody ghost of slavery rises, I say, "Shake your gory locks at me; I did it." I accept the situation. I fight not against the logic of events or the decrees of Providence. I expected it, sir, and I meet it half way. I am for universal suffrage. I bid it "all hail!" "all hail!"

Four million people set free! What will protect them? The ballot. What alone will give us a peaceful and harmonious South? The ballot to all. What will quench the fires of discord, give us back all the States, a restored Union, and make us one people? The ballot, and that alone. Is there no other way? None other under the sun. There is no other salvation.

Senators, go to the country with it. Write it upon the sky. Inscribe it upon your banners, and hang them on the outer walls. It is the flaming symbol of victory. Sir, tell me not that "the people will vote us down on this proposition." Address that argument to cowards. "With the free and the brave it avails nothing." You give the white rebel the right to tax the loyal freedman, and to impose whatever burdens he pleases upon him, and you call that freedom.

Liberty without equality is no boon. Talk not to me of civil without political emancipation! It is the technical pleading of the lawyer: it is not the enlarged view of the states-

man. If a man has no vote for the men and the measures which tax himself, his family and his property and all which determine his reputation, that man is still a slave. You say that the citizen may have all his rights, to testify in courts, to enforce contracts, to acquire and dispose of property; but he shall not have his most essential right, the right to vote, because, you say, the right to vote is not a natural or a civil right, but a political right. Suppose that is true: what of it? It is a distinction without a difference. It is a special plea, and too narrow for statesmanship. The only way to give effect to your constitutional amendment—the only practical way—is to exercise the power which you have to secure every right, natural, civil, political, to all the people.

I here positively deny that we can give effect to the constitutional amendment giving freedom to the slave, and yet debar him of the only weapon with which he can protect himself in that freedom. Emancipation, in the light of our Government, means not only the breaking of the chains of slavery, not only destroying the *status* of the slave, but it means conferring upon him every right which every American citizen enjoys. The legislation which secures the ballot is the only "appropriate" legislation. Your Freedmen's Bureaus are well enough as a temporary measure; but if you will give the freedman the ballot, he needs no such law. Give him equality in fact, the law will follow. The laws as they are for all other persons will be all he needs. Give him the ballot, and he will become an identified element in society, and the politicians who now jeer and deride him, who point to his infirmities, will pander to him, and he will become self-sustaining.

Sir, the ballot will finish the negro question; it will settle everything connected with this question. Give the freedman the ballot, and we need no Freedmen's Bureau, we need no military régime, we need no vast expenditures, we need no standing army. The ballot will be his standing army. The ballot is the cheap and impregnable fortress of liberty. I may be pardoned for quoting the oft-quoted stanza:

"There is a weapon surer yet  
And better than the bayonet:  
A weapon that comes down as still  
As snow-flakes fall upon the sod,  
And executes a freeman's will  
As lightning does the will of God;  
A weapon that no bolts nor locks  
Can bar—it is the ballot-box."

The ballot will lead the freedman over the Red sea of our troubles. It will be the brazen serpent, upon which he can look and live. It will be his pillar of cloud by day and his pillar of fire by night. It will lead him to Pisgah's shining height, and across Jordan's stormy waves, to Canaan's fair and happy land. Sir, the ballot is the freedman's Moses. So far as man is concerned, I might say that Mr. Lincoln was the Moses of the freedman; but whoever shall be the truest friend of human freedom, whoever shall write his name highest upon the horizon of public vision as the friend of human liberty, that man—and I hope it may be the present President of the United States—will be the Joshua to lead the people into the land of deliverance.

Mr. President, there is one clause of the Constitution which I confess, when I commenced examining the Constitution to find this power in favor of equality, seemed to me an objection to the exercise of power which I have proposed, and that is this clause in section two, article one:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

If there was any force in that provision of the Constitution before the present amendment was adopted, there is none now. If the States could exclude an elector or any citizen from the right of suffrage before the adoption of the amendment, they cannot do so now, and why? Because the amendment being the last

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clause inserted in the Constitution, repeals every former clause in conflict with it. It is the subsequent organic act of the people, and by the adoption of this amendment every freedman becomes one of the people, a citizen of the United States, and no Legislature has any power to disfranchise him. It has the right to regulate the qualifications of whom? Of electors; of those men who have a right to vote; of those men who do vote. It can restrict them by certain limitations and qualifications. But does the word "regulate" imply a power to destroy, or does it mean to preserve? The word "regulate" means to make rules. Its derivation is from the Latin word *regula*, a rule. It is to prescribe qualifications for the citizens, for those who are entitled to vote, but there is no power whatever to destroy the rights of a citizen or to disfranchise a citizen; and though the freedman might have been disfranchised before the amendment, because not then a citizen, he is now a citizen by the operation of the amendment, and there is no power in the State to disfranchise him.

Mr. Clay, when he contended that Congress, under the power in the Constitution "to regulate commerce" among the several States, "had the right and the power to build up commerce, to establish lines of steamers between this country and foreign countries, and to build railroads between the several States," never claimed that under that power "to regulate commerce" Congress had a right to destroy commerce. And there was one universal opinion among the Democratic party that the word "regulate" simply meant to prescribe the rules and regulations by which commerce already in existence should be carried on. This clause means that the States shall determine, not who shall vote, but when, how, and where the electors shall vote, and that it may determine the time and place and manner in which they shall vote, and impose restrictions, not disfranchisement.

I can make this question plain to any one. I ask the Senator from Oregon whether the Legislature of the State of Oregon can ever disfranchise him—can ever deprive him of his God-given right of suffrage? I ask the Senator from Minnesota whether there is any power in that State to deprive me of the right of franchise if I remove there? Is there any power to deprive any of my descendants of that right? Is there any power to deprive any of the people of the United States of that right? If the power exists, and it can exclude me, may it not exclude one half or three fourths of the people, and leave the governing power in the hands of an oligarchy?

I ask you whether the State of South Carolina can have a provision that no Yankee shall vote in that State? If they could, they would adopt it with a will and a vengeance. Can any State in this Union decide that no German shall exercise the right of suffrage? I very much doubt the constitutionality of the law of Massachusetts, which says that the German shall not vote until he can read the English language, because that may amount to a virtual disfranchisement of some. I can say that it would be a very inexpedient law anyhow, for some of the best voting that is done in this country is pure unadulterated German. Suppose that Brigham Young should organize a sort of *imperium in imperio* in Utah, and after that State was admitted into the Union the Legislature should decide that none but disciples of the Mormon faith should vote, or, as all tests of religion are excluded by the Constitution, suppose that State were to decide that no man who had not two wives should be allowed the right of suffrage, would it not be the duty of Congress to interfere and protect the right of the citizens who may go into that State?

I will ask another question. Suppose, as has often been the case, a white man is declared a slave and he becomes free, is there any power in the State of Maine or any other State in this Union

to disfranchise him, to take away from him entirely the right of suffrage? You will answer, no. Well, sir, does the tinge of complexion alter the inalienable, the intrinsic, the inherent, the God-given rights of the American citizen? I admit that the States may prescribe qualifications, not to destroy but to preserve the elective franchise of the freeman. There may be registry laws to protect the purity of the ballot and to prevent frauds; the minor under twenty-one years of age may be excluded. In the very nature of things there must be a period of majority affixed to infancy; but do you deprive that minor of the right to vote altogether? No, sir. "*Dormitur aliquando jus, moritur nunquam*"—"the right may sleep, but it dies never."

But there is another point in this article one, section two, to which I desire to call attention. Observe that the clause reads:

"The House of Representatives," &c., "shall be chosen every second year by the people of the several States."

Now, who are the people of the several States? Are they not the whole people? If there are any people in the several States not included in this clause, who are they? But Judge Taney says that people and citizens are synonymous. And it has been universally understood that the people of the States means all male citizens thereof over twenty-one years of age. There is no limitation in the words of the Constitution, and there can have been none, if by the people that formed the Constitution was meant the whole people of all the States, granting the exception as to the subject race, as above, according to the Dred Scott decision. But that exception no longer existing, then the words "people of the several States" must and do mean the whole people thereof, minors and women excepted.

Mr. President, I had intended, in the course of these remarks, to present my views against that class of legislation which is designed to secure what is called intelligent suffrage. I shall not now argue the point, but will merely say that I am unalterably opposed to any legislation whatever which shall determine the rights of the citizen by any test of wealth, intelligence, birth, or rank. I wish to say to my Republican Union friends that whenever they admit that principle, the test of intelligence, they admit away their argument. If we prescribe intelligence for the negro and not for the white man, it is unequal, it is class legislation. That is not the shibboleth of equality of rights for all, which you have been crying. Well, if we apply it to all who cannot read or write, we exclude a large portion of our fellow-citizens who have always since the foundation of the Government, for eighty-five years past, exercised the right of suffrage, and exercised it well. Why now exclude them? Why, to reach the case of the poor freeman, and in order to inflict a tyrannous and barbarous restriction upon him, exclude those who for eighty-five years have exercised the right of suffrage, and exercised it well? Sir, such a proposition as that cannot obtain five votes in any western Legislature. The party which commits itself to an exclusion of those men, who for eighty-five years have exercised this inestimable right of freemen, is already doomed, and ought to be doomed forever.

I am not opposed to intelligence. I believe that intelligence and virtue are the rock-bound foundations of our national prosperity and our national perpetuity. But if the success of our institutions depends more upon the one than the other—and I think they are inseparable for this purpose—it depends more on virtue. The poor loyal slave of the South was more religious and more loyal than his slave-master, and almost as intelligent, perhaps, as the mass of the whites themselves. While I believe it might possibly be safe for the country to permit all to vote, I do not think it would be safe for the country to exclude either class altogether, or any large class of the people.

I believe in the foundation theories of our Government, that there is more intelligence and more virtue in all the people than in any part of the people. That is the doctrine for which I contend. I contend that the strong common sense of the populace of America is a safe element in this Government.

The ballot is the greatest educator. Let a man have an interest in the Government, a voice as to the men and measures by which his taxes, his property, his life, and his reputation shall be determined, and there will be a stimulus to education for that man.

As the elective franchise has been extended in this country we have seen education become more universal. Look throughout all our northern States at our schools and colleges, our academies of learning, our associations; the pulpit, the press, and the numerous agencies for the promotion of intelligence, all the inevitable offspring of our free institutions. Here is the high training which inspires the eloquence of the senate, the wisdom of the cabinet, the address of the diplomatist, and which has developed and brought to light that intelligent and energetic mind which has elevated the character and contributed to the prosperity of the country. It is the ballot which is the stimulus to improvement, which fires the heart of youthful ambition, which stimulates honorable aspiration, which penetrates the thick shades of the forest, and takes the poor rail-splitter by the hand and points him to the shining height of human achievement, or which goes into the log hut of the tailor boy and opens to him the avenue to the presidential mansion.

There will be risk, it is said, in so much ignorance in the body of electors. Has there not always been risk? Will there not always be risk in every democratic Government? Has not Europe poured annually her millions into our borders, some of whom cannot read or write, and some of whom cannot speak our language? Have any of these Senators who propose to prescribe a qualification of intelligence ever thought of amending the naturalization laws, so as to require from foreigners that they should read and write?

Sir, the masses may err, but it is not to their interest to err. If they do err, they are always ready to correct the mistakes which passion and prejudice have brought upon them. But how is it with an aristocracy? Look at this mournful illustration; look at the rebellion of the educated slave oligarchy of the South; look at the devastations of the bloody war which resulted from that rebellion. History, upon many a dark and bloody page, gives sad and mournful evidence that the limitation of the powers of Government to the educated oligarchy or to an individual has resulted in wicked machinations against the welfare of the people, in the decay of empire, in bloody wars, leaving fearful devastations in the track of time.

Why, sir, I will say that there has been in all time no usurpation, no conspiracy against the rights of the freemen, except upon the specious plea of superior intelligence in the usurper or conspirators. We shall have to risk something. So we shall, sir, and we must trust that one ignorant force will counterpoise another in the future as it has in the past.

But, sir, if we prescribe intelligence as a guide, what grade of intelligence shall we have? When we propose to say that a man who can barely read and write shall vote, suppose I move to amend your proposition, adding that the man who understands English grammar and the ground rules of arithmetic alone shall vote; suppose I move to amend by saying that he shall have a liberal common-school education; suppose I move to amend by saying that he shall have graduated with academic honors. Sir, that is the argument *ad absurdum*. The only safe rule is to extend the franchise to all, that all the virtue, all the intelligence, all the practical common sense, all the wisdom, and all the learning of all the people shall be em-

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played in the administration of the affairs of the Government. I admit that there are restrictions which, as I have said, are inevitable; they must be continued, and must be made applicable to all. They are the mere regulation of the suffrage.

I was never a "Native American," although much of the foreign vote was cast against the old Whig party to which I belonged; but I am like the noble old Senator from Ohio [Mr. WADE] when he said, "I am willing to give to every man every right that I possess," and if by meritorious endeavor, if by playing well my part, if by developing any moral and intellectual faculties, I can attain to a higher position of eminence than he, then give me credit for it; but to what praise am I entitled if my superior fortune is the result of exclusive privileges which I deny to my unfortunate fellow-citizens?

I wish it distinctly understood that in all I have said here I am no one-idea man. I never had "negro on the brain." [Laughter.] I always fight with the people and for the people. I never belonged to the Wendell Phillips or Gerritt Smith party. I do not say this from want of respect for them, for they were noble pioneers in the cause of human liberty; but I am for the black man, not as a black man; I am for the white man, not as a white man, but I am for man irrespective of race or color; I am for God's humanity here, elsewhere, and everywhere.

Sir, Mr. Lincoln never said so beautiful a thing in all his life, according to my judgment, as when he said, "In giving freedom to the slave we assure freedom to the free." If we would preserve freedom for ourselves and our posterity, let us see to it that all are free, that there are no warring, wrangling, discordant races or classes out of which is to grow a future conflict of races, future war, and final disunion.

My distinguished friend on my left, [Mr. DAVIS,] the compeer of Mr. Clay and Mr. Crittenden, for whom I have such high respect, quoted from numerous authors to show that the freedmen belonged to an inferior race, to which I refer for this reason: if the Senator from Kentucky, the loyal and patriotic Senator from Kentucky, through the prejudices of education, can, with almost barbarous cruelty, parade, in long array, authorities from historians to show that the negro is an inferior race and not entitled to equal privileges with the white man, what may we not expect from the southern rebels whom negro valor has chastised, and whose secession principles negro votes shall yet vote down?

Mr. Lincoln made another beautiful remark in his letter to Governor Hahn. He said:

"In some trying time the vote of the black man may serve to keep the jewel of liberty in the family of freedom."

Sir, the time may arrive when the southern slaveholders and their northern sympathizers may come so near having the control of the Government, that the loyal black vote may be the balance of power and cast the scale in favor of Union and liberty.

If universal suffrage is wrong, our Government is wrong. I am willing to conform to the principles of my Government wherever they may lead. If it turns out, as I fondly hope it may not, that our fathers were wrong, and that our people are incapable of self-government, and that a wealthy few, an intelligent few, or a single monarch ought to govern them, I cannot help it, but that is not the principle for which I am fighting. I am fighting to carry out to its legitimate conclusion, to its logical sequence, what I believe to be the decree of Almighty God, that all men are created equal.

Gentlemen ask me "if I will go before the people of Illinois with such a proposition as this." Ay, indeed, and welcome it. I have no fear of the result. Through the clouds of the present I see the brightness of the future. There is, deep seated in the hearts of the American people everywhere, the firm conviction that this negro question, however unpalatable its

discussion may be, will never be settled until it is adjusted upon the principle of justice and equality.

Sir, I can see now plainly the beginning of the end. I now see the apotheosis of that living principle which fled the persecutions of the Old World; which sought a home amidst the sterile rocks of New England; which remonstrated against taxation without representation; which exhibited its opposition to class legislation upon the bloody field of Bunker Hill, and which finally culminated in the greatest and most majestic and dominant idea of the world—the Declaration of American Independence.

Sir, I am a man of the people; twenty-five years of public service make me believe that I understand something of the temper and disposition of the people; and I am here to-day to say that it is my conscientious conviction that if every Senator on this floor and every Representative in the other House and the President of the United States should with united voices attempt to oppose this grand consummation of universal equality, they will fail. It is too late for that. You may go to the head waters of the Mississippi and turn off the little rivulets, but you cannot go to the mouth, after it has collected its waters from a thousand rivers and with accumulated volume is pouring its foaming waters into the Gulf, and say, "Thus far shalt thou go, and no further."

Politicians may choose their course; they may become frightened at the radical march of events; they may throw pebbles into the mighty current of popular opinion. But the grand old river of progress, of liberty and humanity, and God's eternal justice, will roll on. Gentlemen may erect altars to conservatism; but they will go down to that vortex into which so many compromisers, Union savers, and conservatives have already gone—"that bourne whence no political adventurer ever returns." Sir, I care not who the man may be, though he be a Senator upon the floor or the President of the United States, however high his title or proud his name, if he is false to human freedom "the places which know him now shall soon know him no more forever!"

I remember well what the noble old Senator from Ohio [Mr. WADE] said in his speech: how he was threatened with the anathemas of public vengeance when he was in a slim and hated minority; but, thank God, he still lives to look on the graves of his political opponents and revilers. Having fought the fight, having kept the faith, and come up through great tribulation, he is not here to surrender the citadel of liberty to a few guerrilla bands and the raw recruits who are wasting their ineffectual fires upon the fortifications which have withstood unshaken the roar and thunder of the whole pro-slavery army. I, sir, though a younger man, have a similar experience. I stood side by side with the noble Lincoln in every phase of these questions. I have fought the fight and lived to enjoy the delightful pleasure of telling the last Legislature of my State to sweep with a speedy, resistless hand the black laws from our code. And they did it. They did not alter, modify, or amend them, but they eviscerated them, body and soul, from the statute-book, and scattered their black and blood-stained leaves upon the simoom of popular indignation.

Sir, what made Abraham Lincoln President of the United States? I know he was good, very good; he was great, very great, in all those qualities which constitute the statesman; but it was his persistent advocacy of the doctrines of the Declaration of American Independence, in his debates with Stephen A. Douglas, in his speeches at the Cooper Institute in New York, in Connecticut, and in Kansas; it was his clear definition of the principles of human freedom; it was those God-inspired words—

"This Union cannot permanently endure half slave and half free; the Union will not be dissolved, but the house will cease to be divided"—

it was this which riveted the attention of the nation, and made him President of the United States. And why, sir? Because, despite the prejudices of education, which we all have, despite centuries of wrong and oppression, there is somewhere, away down in the depths of the human soul—and that soul is deeper than oceans; it is like infinite space and has no boundaries—there is somewhere in the unfathomable depths of the human soul the love of liberty and the hatred of oppression. That chord Lincoln struck, and thus made himself President and his name immortal. Why are you Senators here from every northern State? Is it because you are able men? But you are not the only able men in your States. There are men distinguished for great ability and illustrious service in your States. You are here, because you have been true to truth, to justice, to liberty, and to equal laws.

It is too late to change the tide of human progress. The enlightened convictions of the masses, wrought by the thorough discussions of thirty years, and consecrated by the baptism of precious blood, cannot now be changed. The hand of a higher power than man's is in this revolution, and it will not move backward. It is of no use to fight against destiny. God, not man, created men equal. Deep laid in the solid foundations of God's eternal throne, the principle of equality is established, indestructible and immortal.

My way to settle our national troubles is to punish some traitors, not for the sake of vengeance, but for the sake of example. There ought to be some example made in order to inculcate the idea that treason is a crime in this country, and that it will be punished. I would then extend pardon to all the rebel masses; I would withhold it from the leaders of the rebellion. I would confer upon the freedmen, made free by the Constitution and laws of the land, universal suffrage.

Mr. President, as I said in a speech on the 4th day of July last—and I wish to repeat it here now, to show that these are no new-formed opinions—I say again:

"This is the genius of our Government. I am willing to trust the people; and I believe that our Government, founded upon the will of all, protected by the power of all, and maintaining the rights of all, will survive the storms of civil and external convulsion, and growing in grandeur and power, will become one of the mightiest nations on the face of the earth. Therefore I am opposed to slavery and secession, for an undivided Union, for universal freedom, and universal suffrage."

Senators, sixty centuries of the past are looking down upon you. All the centuries of the future are calling upon you. Liberty, struggling amid the rise and wrecks of empires in the past, and yet to struggle for life in all the nations of the world, conjures you to seize this great opportunity which the providence of Almighty God has placed in your hands to bless the world and make your names immortal, to carry to a full and triumphant consummation the great work begun by your fathers, and thus lay permanently, solidly, and immovably the capstone upon the pyramid of human liberty.

#### Apportionment of Representation.

SPEECH OF HON. J. B. HENDERSON,  
OF MISSOURI,

IN THE SENATE OF THE UNITED STATES,

February 13, 1866.

The Senate, as in Committee of the Whole, having under consideration the joint resolution (H. R. No. 51) proposing an amendment to the Constitution of the United States—

Mr. HENDERSON said:

Mr. President: I shall certainly have to ask the pardon of the Senate on this occasion for attempting to speak on a question of so much importance without the preparation that it is entitled to; but I feel, in regard to the constitutional amendments now pending before the body, that if we do anything at all we ought



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to act speedily. It is not well to postpone action upon this matter for a great length of time. A large number, I believe twenty-two, of the State Legislatures are now in session, and if we are seriously in earnest about amending the Constitution of the United States we ought to send the amendment out to those State Legislatures as early as we can.

I believe it was Sir Jacob Astley who, just after the last battle between Charles and the Parliament, when he fell into the hands of the Parliament troops as a prisoner, remarked to the commanders of the Parliament forces—Cromwell and his party—"Now, gentlemen, you have the game in your own hands, and can act as you choose unless you fall out among yourselves." I have thought during this session of Congress that we were likely to get into a condition similar to that immediately succeeding the overthrow of the troops of Charles. Our present condition is bad enough—not worse perhaps, than two years ago, but bad enough to accept the plainest talk.

I said I have made no preparation, or scarcely any whatever, for the remarks I intend to submit. Perhaps it is better that I have made none, for when gentlemen write what they have to say they sometimes are quite, guarded, so careful as not to express what they feel. I hope on this occasion that I shall say exactly what I do feel, regardless of the consequences, intending, however, to be disrespectful to no one. What is said may not be connected. It may want in succinctness of statement, in logical sequence, and offend the delicate ear of the finished scholar. It may require patience to listen, and possibly not be listened to, but, struggling against all difficulties, I shall stagger on to the end.

I do not know in what particular political classification I may be ranked. Nor does it matter. I think I know something of the condition of the country; and I believe I know somewhat of the things necessary to remedy the difficulties now upon us. However, about that I may be mistaken; and I have some reason to doubt, since the honorable Senator from Illinois [Mr. TRUMBULL]—I regret he is not now in his seat—took occasion, a few days since, to compare me with old Dr. Townsend, of sarsaparilla notoriety. I have since been discussing in my own mind whether the old doctor was not at last something more than a quack; whether he was not as good physician as many others who assume a little more dignity, and pass as the most eminent men with far less merit. Perhaps I sometimes express opinions with too much zeal. It is to be regretted if in the expression of views I wound the feelings of anybody. Nothing of the sort is intended. I said I did not know to what classification I may be assigned. I do not know whether I am to be termed a Radical, a Conservative, or a Democrat. I am willing to occupy any designation to which the expression of views, honestly entertained, may assign me. Those views may not accord entirely with the views of any of the leading parties.

Speaking of parties, Mr. President, I see that in a conversation which the President of the United States had with some gentlemen from Virginia a day or two ago, he gave expression to sentiments indicating most clearly that he entertains fears of some real or imaginary extreme party in the loyal States. I take it that he means the radical party as now known. That party may be dangerous, but it is not so bad as the President seems to think. Its instincts are generally good. Its dangers rest chiefly in timid minds. Let me preface what I may say with the remark that honestly and sincerely, since the present Executive took his seat as President of the United States after the death of our lamented Lincoln, I have supported his Administration. I did not concur in some points of his reconstruction policy, but trusting in his fidelity and better means of information I was willing to waive all differences and give him an

earnest support. My object and purpose have been to restore, if possible, and at the earliest day practicable, the Union of these States. He seemed to aim at the same end. It may be remembered, if Senators take any interest in the little I do or say on any subject here, that on the 24th of last February I advocated the admission of the Louisiana and Arkansas Senators, not that I believed Mr. Lincoln had authority to do much that was done preparatory to the election of those Senators, not that I believed the military authorities possessed the power to do many things they did preparatory to that election, but I waived the want of formality and was willing to accept them as the representatives of loyal organizations. The war was then flagrant, and it was our policy, I thought, to segregate the loyal from the disloyal. It was deemed best to encourage Union men to create and rally around State organizations as the most efficient agency for suppressing rebellion in the respective States. My hope was that the President had assurances that true and genuine loyalty would enter into the governments of the States to be reorganized under his proclamation; that the rebel element would abstain from participation in restoring civil relations, to break which they had waged four years of bloody and savage war.

The Senator from Ohio, [Mr. WADE,] some days since—and I now refer to it in all kindness—said that Mr. Johnson's proposition for the restoration of these States was far preferable to the plan of Mr. Lincoln, but he was opposed to both. I care nothing about plans, Mr. President. It is best to look to results. I will not wrangle with the Senator about the relative merit of the two plans. He should remember, however, that those men who participated in the reorganization of Louisiana and Arkansas were Union men. They of necessity were Union men; because the war was then going on, and none other than bold and earnest Union men dared participate in the reorganization of those States while confederate soldiers were yet under arms—

Mr. WADE. I believe the Senator has not exactly got my words. I think I did not say "preferable." I think that I said he went much further in requiring guarantees than Mr. Lincoln had done; and I do not know but that that might be considered preferable.

Mr. HENDERSON. I did not design to misstate the position of the Senator from Ohio. It matters not what may be the merit of the two plans. If the circumstances be considered, Lincoln's plan was preferable, for the circumstances were then such that none but loyal men would participate. Under Johnson's plan the circumstances were such that disloyal men could and did participate.

Mr. WADE. If the Senator will oppose them, that is all I ask. [Laughter.]

Mr. HENDERSON. I said nothing about opposing them nor accepting them. The question raised by the Senator was one of comparative merit between the plans. The plans might have been substantially the same, and yet the results be essentially different. As vegetation is varied by climate, so are the consequences of human action varied by surrounding circumstances. Congress was not obliged to accept Mr. Lincoln's plan. It could accept or reject. It has the same discretion with Mr. Johnson's plan. If accepting the organizations would tend to restore Union and harmony they ought to be accepted. If those organizations are in rebel hands their recognition must complicate our troubles.

The men who presented themselves here at the last session of Congress, under the Lincoln plan, were elected by Union men in their respective States. Do we not know perfectly well that no confederate soldier took part in the reorganization of the State governments of Louisiana and Arkansas? Do we not know that rebel soldiers would have broken up those organizations if they could? Do we not know

that almost every man in those States who segregated himself from the rebel army because of his Unionism did participate in their reorganization?

Mr. Lincoln, it is true, prescribed an oath as a condition of the amnesty which he offered; Mr. Johnson prescribed a similar oath; but look at the change of circumstances. When was Louisiana reorganized? During the pendency of hostilities. When was Arkansas reorganized? In the midst of rebellion, when rebels had the highest hopes of success. Those men who were secessionists were opposed to the reorganization, and constituted the party of opposition. Those who advocated restoration were men tried in the fires of war and the persecutions of political hatred. But last spring the confederate armies surrendered, and the war was over. Lee's army surrendered in the early part of April, just before Lincoln's death; Johnston's army surrendered about the 19th of April, and Kirby Smith's army sometime near the middle of May. On the 29th of May Mr. Johnson issued his proclamation of amnesty. I will read a portion of that proclamation in order to show exactly what condition of affairs, legally and in fact, followed its issuance.

The President's object, of course, was to begin the work of restoration. He sought a basis to begin on, and honestly, no doubt, sought a loyal basis. He so says in his late message. He evidently designed that all men receiving the benefit of his pardon might, if they chose, participate in reorganizing the respective State governments. He thought they would be loyal. In other words, they who were pardoned, regardless of their former crimes in the great drama of rebellion, and regardless of their present feelings toward the General Government, were to become participants in the work of recreating loyal State governments. The President says:

"To the end, therefore, that the authority of the Government of the United States may be restored, and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have, directly or indirectly, participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property except as to slaves and except in cases where legal proceedings under the laws of the United States providing for the confiscation of property of persons engaged in rebellion have been instituted; but upon the condition, nevertheless, that every such person shall take and subscribe the following oath, (or affirmation,) and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:

"I, ———, do solemnly swear, (or affirm,) in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God."

It will be observed that the oath is entirely prospective. It did not propose to purge the conscience on the subject of voluntary and premeditated treason, to draw a line of distinction between the rebel officer and the unwilling conscript soldier. It asked only future obedience to the Constitution, which stern necessity had already enforced. It asked only a recognition of freedom to the slave, a fact already established without the aid of rebel oaths.

Senators will remember that there were various exceptions, numbering fourteen different classes, named in this proclamation. The Constitution of the United States gives to the President the power to grant reprieves and pardons, but it may be considered, I submit, by Senators who are familiar with the common law on the subject of pardon, and I presume all are, whether the President of the United States would have had any authority to issue this general amnesty or general pardon except by virtue of an act of Congress. I do not deny that in any single case, by virtue alone of the constitutional provision, the President may grant a certificate of pardon. I do not doubt that he can grant it before conviction, as well as after conviction.

He cannot give a license or indulgence to commit crime; but after a crime is committed, all he has to do in his certificate is to specify particularly the crime that has been committed and for which the pardon is granted. But it may well be denied that but for the act of Congress of July 17, 1862, of which my friend from New Hampshire before me [Mr. CLARK] was perhaps the chief draughtsman, the President would have any authority to grant a general pardon or amnesty. I must admit that that act is quite full. Let me refer to it. The thirteenth section is in these words:

"Sec. 13. And be it further enacted, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare."

It will not be disputed that by virtue of that authority the President had power to issue his proclamation of general amnesty. But disputes may arise on other questions connected with this proclamation. What was the condition upon which the pardon was to inure to the benefit of the party pardoned? It was first that he should file the oath named and in the manner to be prescribed. But this is not of itself sufficient. There is something more necessary that the benefits of the pardon should inure.

According to the common law, and when we undertake to construe our Constitution we must construe it with reference to that law which existed among us at the time and with which our forefathers were perfectly familiar, perhaps the best system of law devised for the administration of justice among men, it is not only necessary that the party shall have filed this oath, but it is necessary that he shall have kept the oath. The President provides, in the close of the proclamation, that "the Secretary of State will establish rules and regulations for administering and recording said amnesty oath, so as to insure its benefit to the people and guard the Government against fraud." I believe the Secretary of State provided those rules and regulations under which parties who intended to take the benefit of this amnesty could take it. The taking of the oath is the technical acceptance of the pardon. The actual performance of the things, sworn to be done, is the condition of the pardon. If the condition be broken the pardon is void. The oath is that the party taking it will henceforward "faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder," and that he will "in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves."

First, then, if one has failed to take the oath prescribed, and in the manner prescribed, the pardon does not attach, and second, although he may have taken the oath, unless he has complied with it, that is, unless he has faithfully supported "all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves," the pardon as to him is void and its benefits are forfeited.

I have looked to some of the authorities on the subject of pardon, and refer to this point for the purpose of obtaining, if possible, a legal solution of existing difficulties. Those difficulties are great, but the powers of the Government must be large enough to secure its own existence, to perpetuate the principles of liberty which lie at its foundation, as well as to vouchsafe the happiness of the people. The Union may be restored in truth and in fact, without violating a principle of that instrument, and indeed without rejecting the unwritten traditions of the fathers. I propose, in a moment, to examine the condition of the people in the seceded States, the character of the organizations before us, and what the powers and duties of Congress are.

It will then be proper to inquire, how far this act of amnesty by the President relieved these parties in the seceded States? What rights it legally conferred? What the President undertook to relieve them of? How far he was advised of the precise character of their offenses? Whether he had any power independent of the act of Congress already cited to pardon generally? If not, then the extent of that general pardon under said act? How far it has been accepted and to what extent its benefits have been forfeited? And lastly, as I have said, the powers of Congress in the premises? I do not propose to elaborate these points, but suggest them for the solution of abler men, who have more immediate charge of reconstruction. The President says—

"I hereby grant to all persons who have, directly or indirectly, participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property, except as to slaves, and except in cases where legal proceedings under the laws of the United States providing for the confiscation of property of persons engaged in rebellion have been instituted."

Of what does he relieve them? Of anything except the penalty prescribed in the act of July 17, 1862? Does the pardon restore the person accepting it to full rights of citizenship? In other words, did the voluntary rebel forfeit any political right by his rebellion? He forfeited his life and property under the act named. The President's pardon did not assume to do more than restore to him his life and property. Is there not a political question behind this, that belongs to Congress and which does not come within the power of the President either under the clause of the Constitution or the law named? But assuming that the force of the pardon was sufficient to restore both civil and political rights forfeited, then has the condition of the pardon been kept?

On the subject of conditional pardons, the case of Wells *ex parte*, 18 Howard's Reports, where the whole question of pardon was discussed ably and learnedly, may be referred to. Wells was convicted of murder in the District of Columbia, and President Fillmore pardoned him, on the condition, however, that he should take, in lieu of capital punishment, imprisonment in the penitentiary of the District of Columbia for and during his life. On the next day, I believe, he applied for a writ of *habeas corpus*, his counsel taking the ground that the condition was void, because no man could sell his liberty, and that the pardon attached and was perfect and complete. The Supreme Court decided that the condition might be legally attached, and that the party instead of selling himself into slavery, preserved his life, which was already forfeited to the law in consequence of his crime, that he had no body which was his to sell into slavery, and that really he saved his life by the acceptance. This subject of conditional pardons, the extent of executive authority, and the forfeiture of the benefits arising from pardon, have received consideration in numerous cases. See *Cathcart vs. Robinson*, 5 Pet. R., 264-280; 8 Watts and Serg., 197; 7 Pet., 150; 1 Bailey S. C., 283; New York Legal Observer, 177.

I believe in the State of my distinguished friend from New York [Mr. HARRIS] it was decided that where a pardon had been granted upon condition that the party should permanently leave the country and he failed to go, or having gone, returned, he could be remanded into custody for the execution of the judgment and sentence of the court. Then if there be a political forfeiture in the crime of rebellion which has not been pardoned, the jurisdiction of Congress may properly attach and new organizations provided for, in which the rebel element may be excluded. But even if the President's pardon be valid to make the offender a new man, civilly and politically, yet if he has violated the condition of the pardon the pardon becomes inoperative, and if a majority in the seceded States have violated it, are the

rebel States not legally as they were before the attempted restoration?

I have no feeling of malice whatever against the people of the southern States. I was born in the South myself, and ask nothing but what I think would be best for them and the entire country. My friend from Illinois [Mr. TRUMBULL] seemed to think the other day that I was actuated by some new zeal, having been once a slaveholder. I said that I was a slaveholder at the beginning of this war. I am glad that the Senator is in his seat now. I was a slaveholder partly by inheritance. That I could not help, any more than the Senator from Illinois can help his disposition eternally to criticise me. [Laughter.] He got his disposition by inheritance, and I received a slave by inheritance. I forgive him: will he forgive me? [Mr. TRUMBULL. Certainly.] I got them partly by purchase, not for purposes of profit, but at their own request, to keep them from being sold to others. I never got a dollar of their wages from the day I purchased them until the day they were emancipated. I paid from my hard earnings the money for their purchase and turned them loose, and they have received from that day to this the rewards of their own toil.

I know that it is very easy to say, "You have been a slaveholder, and therefore a wicked man." Slaveholding is now, of course, unpopular. We must look to men's surroundings in order to judge fairly of their acts. I ought not to speak of myself in connection with many who have been slaveholders, but I must be allowed to speak now, in my own defense, the simple truths of history. George Washington was a slaveholder, James Madison was a slaveholder, James Monroe was a slaveholder, Thomas Jefferson, the apostle of freedom and the advocate at all times of emancipation, the man who looked down the long vista of the then future and saw with prophetic ken the war of the last four years, was a slaveholder up to the day of his death. I do not know but I have sinned in being a slave-owner. If so, better men than I have sinned—not better than the Senator from Illinois, but better men than I have sinned, all over the South. The Senator from Illinois cannot realize the fact, perhaps, that if he had been in a slave State when slavery existed, he might have become a slaveholder himself, even against his will. A negro for whom he might have had regard, one who had been kind to him, is put upon the block for sale; a purchaser is present to whom the slave is unwilling to be sold; the slave begs him to buy. Would he not become a slaveholder under these circumstances if he had money enough to do it?

Mr. TRUMBULL. I hope my friend from Missouri did not understand me as saying that he had been a slaveholder, by way of reproach. Certainly, I meant no such thing.

Mr. HENDERSON. I was afraid such might be the inference from the remarks of the Senator.

Mr. TRUMBULL. I did not so intend. Mr. HENDERSON. I am glad of it. I can say that so far as my former slaves are concerned, they will need no bounty from the Freedmen's Bureau. I have made some of them land-owners. My means are not large, but I have done something in the way of charity or justice, whichever it may be. To some I have given homes, and, if I live much longer enjoying good health and my present vigor of constitution, I hope to be able to make them all land-holders. That is not all. Within the limited sphere of my influence I have done something toward purchasing churches and school-houses for the moral and intellectual culture, not only of the few formerly belonging to me, but of the many belonging to others. I have said to them, "Go and educate yourselves; prepare to become citizens of this country, as you must inevitably be in the future." If they become able to reimburse me, they will do so.

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If not, the loss is light. If this be sin, then have I sinned, and many slaveholders, however odious now, have sinned likewise. For emancipation I have claimed no credit. If it be a great good, and I hope it is, others take the praise. But emancipation being an accomplished fact, we cannot overlook the condition of near five million people, nor lightly scoff at their claims for civil and political rights. I said no more than this, and this simple fact, I thought, might be recognized by all. I am glad to know, for the sake of the honorable Senator himself, that he was not insensible to the importance of the question itself. I can assure him that if my zeal be new, it is only because the circumstances themselves are new. At least, the zeal springs from no selfish aims of mine. If I consulted ambition alone, its ends might be better secured, perhaps, by bending the knee yet longer to a senseless prejudice.

I have said to the people of my State, and now repeat, that when my present term expires I shall ask in the way of reelection, no indorsement of the past and no expression of confidence for the future. I might not obtain it, if I wanted it. Not desiring it, however, I can well afford to disregard all suggestions except those of duty. If I can see the Union restored in such manner as to assure the largest freedom to the people, if I can see the principle find practical application in our Constitution and laws, that you cannot tax a man without representation, that you have no right to put the burden of the law upon him who has no voice in its passage, I shall be fully satisfied. I ask no honor beyond that of being instrumental in accomplishing acts of justice in the discharge of duty. It is pleasant, to be sure, to be associated with gentlemen of such distinguished abilities, and of patriotism no less distinguished, but yet one may well prefer the quiet of an humble home to the cares and responsibilities which too often bring to the most conscientious incumbent of public position more of denunciation than of applause, more of misguided hatred than of deserved honor.

But, at least, if honor comes from public life, it is bitter fruit, unless the conscience approve the deeds which bear it; it is an empty bubble unless posterity has reason to feel indebted to its possessor.

But if the Senate will excuse me for this digression I will return to the subject. My object is not to devise ways and means to keep the revolted States away, but to find a safe bridge for their return. If they come back in the spirit of haughty defiance, with hands unwashed of their country's blood, with no work of penitence to commend them, with hearts yet filled with hatred, and without conviction of the enormity of their crimes, things will be made worse by their return. I have said things are now bad enough. They should not be made worse. I am aware that some persons, many of them loyal and good men, ask the immediate recognition of the new governments. It was to restore the Union, say they, that the war was waged. It was to bring these States back that the rich man gave his treasure, the poor man his mite, the wise man his thought, and the soldier his blood. Now, it is asked, why not restore it?

Mr. President, if the simple recognition by Congress and the admission of members now at our doors would restore the Union, Congress would not hesitate a moment. If I could speak the word of reunion, it should be spoken, but no controversy between the President and Congress will help the matter. That controversy may come. It cannot now come through the fault of Congress. The President in his annual message informed us what he had done in the premises, and then said:

"Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you, for yourselves, of the elections, returns, and qualifications of your own members."

If Congress, in the exercise of this admitted right, a right no better established because of the President's admission, believes that the organizations from which these members come as Representatives are in disloyal hands, and that to receive the members would complicate our difficulties, can the President complain, ought the President complain, that we stop to inquire into facts? The President has not told us that in his opinion the Legislature of a single reconstructed State is loyal. If he thinks so, why has he so often interfered with their legislation? Why is martial law continued in each one of them, when its existence depends on his will alone? Why did he say to the Georgia convention that Georgia should not pay a certain debt? Why to the North Carolina convention that the ordinance of secession must be declared null and void, and not simply repealed? And why, I ask, if these States are loyal and entitled to the dignity of States, does the President almost daily set aside, by the orders of military men, holding place at his will and discretion, the solemn acts of their Legislatures? The President made it a condition that the reconstructed States should abolish slavery themselves, and adopt the constitutional amendment abolishing it for others. He thought he had the power, but whether he had it or not, he assumed and exercised it. But now that slavery is abolished, why are military officers throughout the South extending military protection to the negroes against the laws of the whites? They set aside entire codes of laws, and yet hold their places subject to executive approbation.

My purpose is not to condemn the Executive. All he has done may be necessary. I mean only to say, if these things are necessary, his plan of reconstruction is a failure, and Congress is not to be reproached for its short delay. If these organizations shall be recognized, is martial law yet to prevail? Are newspapers yet to be suppressed? Are negroes yet to be protected by the bayonet? Will these States still reject the fact of freedom and deny the freedman the right to hold and enjoy property? And if they so legislate, are judges and jurors and marshals who execute the State law, backed by State militia, to be arrested and tried before Federal soldiers, under martial law, for offenses against national authority? Will the President continue this work, and yet call these organizations independent and equal States of the American Union? Or does the President ask that Congress shall recognize the reconstruction, that he may be relieved of this unpleasant but necessary duty? For surely, these violations of the republican principle, in the late seceded States, would not be tolerated by the President if the conviction of overpowering necessity did not force him to commit them. But if the President has been driven to these great things, which close the doors against the admission of his own theory, will not he or Congress have to continue them even after admission? Congress ought to be excused from this work.

If these organizations are loyal, why is not their legislation all on the side of loyalty? If their legislation is right, why does the President set it aside and have the military daily triumph over the civil power? If the organizations are disloyal, neither the President nor his friends should ask their recognition, much less should they denounce Congress for its refusal. For if disloyal, the President is certainly responsible for the fact. Congress is guiltless, for Congress has had nothing to do with it. The President acted without our advice. He might have acted worse if he had taken it. But whatever the responsibility, the honor, or shame of reconstruction, it is his. If disloyal organizations have resulted, I acquit the President of all design to bring about such result. But if he sees that such is the fact, no pride of opinion or false sense of humiliation should stand in the way of its acknowledgment. It will require the wisdom of both the executive and

legislative departments of the Government to give us peace. Let us have that wisdom combined. Let the President reject the counsels of false friends, and let Congress learn to trust his integrity.

I have expressed no distrust of the President's fidelity to principle. I express none because I feel none. He felt it his duty to give civil government at once to the revolted States. That was the natural desire of every good man. He attempted it, but has not yet removed martial law from a single State. I do not blame him, for it is evident he cannot. He said his object was to "enable the loyal people of the State to restore the State to its constitutional relations to the Federal Government, and to present such a republican form of government as will entitle the State to the guarantee and protection of the United States." Did he put the power in loyal hands, and if so, have they presented such a form of government as he desired? If they have done so, military law should wither and die, and the civil power of those States is too sacred a thing to be touched by the rude hand of the soldier.

The misfortune is, that, however sanguine the President in his hopes of securing a loyal basis, he failed. He had snatched from the shoulder of the disloyalist the deadly musket, and vainly thought that acts of unmerited generosity in the moment of his defeat would melt his stubborn heart to repentance. The pardon was so sudden, and made so general, that its motive seems to have been misapprehended. There may have been, there probably was, a temporary feeling of gratitude in the first moment of helpless confusion, but it was soon thought to be more of a favor to the victor than to the vanquished. For a short time it may have been asked in suppliant spirit. It was soon demanded as a right. The musket, it is true, was gone; but that which was even far more potent in their hands had been substituted. The musket had been seized to perpetuate slavery. The musket could not save it. The ballot had once done so. The ballot might yet save the substance and traditions of slavery, though the musket could not save its form. For all this I have said Congress is not responsible. The President selected his own classes for pardon and for exception. He put his own construction on the act of Congress, and assumed that pardon for treason gave back the ballot to the traitor.

After issuing the amnesty proclamation he proceeded, as I have said, to issue another on the same day providing for the reorganization of North Carolina, which was followed by a proclamation of a similar character for each one of the seceded States, leaving out Louisiana, Tennessee and Arkansas, which had been reorganized under Mr. Lincoln.

The first part of it declares it to be the duty of the United States to see that each State has a republican form of government, and then proceeds:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said State to organize a State government, whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States, and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof; and with authority to exercise, within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and present such republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence."



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That is all well enough; I have no objection to it; but what comes next?

"Provided, That in any election that may be hereafter held for choosing delegates to any State convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified and prescribed by the constitution and laws of the State of North Carolina, in force immediately before the 20th day of May, 1861, the date of the so-called ordinance of secession; and the said convention, when convened, or the Legislature that may be thereafter assembled, will prescribe the qualification of electors, and the eligibility of persons to hold office under the constitution and laws of the State—a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."

It will be observed that in the former portion of the extract I have read, the proclamation of the President confines the reorganization of the State, in words, to the loyal men of North Carolina—such I am satisfied was the President's intention; but under the proviso, in my judgment, he commits the error. He says that everybody is a voter, who will take the amnesty oath, and who was a voter under the constitution as it existed May 20, 1861, the day of secession. The conquered rebel who saw the musket fall from his hands, however criminal with the blood of his fellow-men, had only to acknowledge the futility of further efforts in armed rebellion. No matter what his past deeds, they were pardoned, and the assumption made that such pardon was sufficient again to clothe him with the ballot, that sacred right of an American citizen. He was not required to say that State law, or even considerations of personal safety, had induced him to wage a bloody and relentless war against his country. Although he had voted for secession and willingly given his treasure and influence to further the cause, though he had brought terror upon unwilling neighbors and driven them from the support of a slandered and injured Government, or compelled them to take refuge in mountain caverns, while their property was seized and turned into the coffers of treason, that man could vote on a simple pledge for the future, regardless of the past.

The faithful negro, for whose degradation and misery these deeds of blood have been done, was again forgotten. The State constitution, made by his owners while he was a slave, of course denied him the suffrage. I have not complained of the President that the negro was denied the suffrage. I have not complained of anything. I do not now complain, much less do I design to censure. But it seems to me that if the State constitutions of Mississippi and Texas must be barriers in the way of negro suffrage, those other clauses denying suffrage to any but "citizens of the United States" should have presented barriers against the white men, who had abjured allegiance to our Government, sworn allegiance to a hostile *de facto* government, and for four years had staked their lives upon the success of the one and the total overthrow of the other. After these deeds they may be citizens of the United States; but if so, I know not how the right of citizenship may be forfeited. The President's pardon may have restored the right of citizenship, if lost. That may have been the President's view. If so, I have already expressed my dissent. The President's pardon went to the life and property, relieved the penalty named in the act giving him the power to offer amnesty, but went no further. If citizenship is forfeited, Congress alone can restore it. It is a political right, belonging to the legislative authority of the country, and which the Executive can neither give nor take away.

But, now, giving the pardon its full force, has it not been forfeited, and is Congress not justified in assuming a forfeiture, at least so far as it may be necessary to secure the guarantee of truly republican forms of government?

So far as the life and property of the rebels

are concerned, I do not ask that anything be abated from presidential pardon. Their blood I do not want. The cause of the country does not demand it. Humanity, indeed, shrinks back from the thought of justice. Justice now would be cruelty, in the eyes of history. Lives enough have been taken. Malice and revenge may claim many more. National policy rejects the claim. The war itself has confiscated enough. Confiscation will give our coffers nothing. It may gratify personal avarice, but this is a poor return for loss of national honor. For me, the rebels are welcome to life and property. I would not add one to the tears that moisten the cheeks of sorrow. I would so make our Government, however, that the heaviest penalty for treason would be the traitor's remorse. To dry up one tear, we are told, brings larger fame than to shed oceans of blood. But while I would extend mercy to the conquered rebel in my power, I must remember the simple dictates of justice in behalf of him who pleads for mercy, and pleads in vain at the hands of that rebel. That generosity, which ceases to flow beyond the limits of our own race, is partial and unworthy of man. While I would forgive the rebel, I would elevate him whom the rebel has oppressed for ages. I would teach each man to abandon his prejudices and seek his own happiness in the happiness of his fellow-men, where alone he can find it.

For many long years, indeed from the origin of our history as a nation, slavery and its incidents have constituted the weapons of political warfare. Party power, the lust of office, the whisperings of ambition, the hopes of individual preferment, the ties of political association, too often united with the promptings of avarice, conspired to uphold the institution. The same considerations, with many on the other side, it is too true, may have added to the intensity of the struggle; but chiefly the abuses of slavery on the one side, feeding, as it were, on increase of appetite, and the strong moral conviction of its injustice on the other, its wrong to the black and its injury to the white race, urged our people on to the gigantic struggle now just closed. But is it closed? The boom of the cannon is not heard, the crash of musketry has ceased, and the saber has been returned to its scabbard, but the nation seems yet in doubt. The air is tainted with suspicion that all is not right. The war was waged by rebels that injustice might yet live. Within the Union it was thought it could not live; hence it would go beyond the nation's jurisdiction. Justice is strong because it is the weapon of Omnipotence. Slavery in form has died. Let it die now, in fact and in truth, and the national life is assured. It was a feeling of conscious right that gave us success in the recent struggle. Now that success has come, we propose again to reject the truth, to turn our faces in shame from an honest conviction and barter once more eternal justice for expediency.

The President undertook to reconstruct on the white basis. The negro is again forgotten. A few negroes voted in the reorganization of Louisiana under Mr. Lincoln, and last March, every Democrat in Congress voted against admitting her Representatives under that organization. The other States are now reorganized, under what we are told is the same plan, and every Democrat here now clamors for immediate admission. Why is this? Is it because the negro has been excluded or because the former rebel has voted? Our Democratic friends here certainly have no interest in common with rebellion, and hence their present enthusiastic support, of what they call the President's reconstruction policy, must spring from the fact that the negro has been excluded. They see, in this, a white man's Government. The President having excluded him in the first work of reorganization, his hopes are, perhaps, gone forever. If loyal whites only had been admitted by the President to the ballot-box, those who opposed

secession until treason had overwhelmed them, they perhaps would have constructed the organic law of those States in such manner as to leave hope for the negro's enfranchisement hereafter. But who expected to find favor for the black man from the returning soldiers of Lee and Johnston's armies? With the political power in the hands of such men, the future is easily divined.

Do not understand me, Mr. President, as complaining that the negro was not permitted to vote. I only urge that his right was at least equal to that of rebels. If rebels must vote, the negro ought to vote also. I will make no offensive comparisons; but to those men who have carried mourning into every household in the land, who rejected all counsel and heedlessly rushed on to the country's ruin, who must be remembered in the long future when poverty parts with its hard earnings to pay the public debt, who would murder a whole section to secure the privilege of robbing a race, I owe nothing. The loyal Democrats owe them nothing. My friend from Indiana, [Mr. HENDRICKS,] who sits before me, and whom they defeated for Governor of Indiana in 1860, owes them nothing—except mercy, and with him I go to grant them mercy. Let him go with me for justice in behalf of others.

I know it is often said that unless pardoned rebels could vote, the President would have had no white basis or population to reconstruct upon. This, Mr. President, is a mistake. Thousands were forced into active measures against the Government. Many loyal men in the beginning, I know, afterward became disloyal, but had an oath been prescribed by the President for white voters, formerly qualified under their respective State constitutions, which would have excluded the active and willing disloyalist, who not only went into rebellion himself, but forced his neighbor in, we would now have organizations of a different character in the southern States, and such as would have given the President but little trouble. It may not be that such governments as would suit every man in Congress, or even a majority, would have resulted from any system whatever, but I contend that a more loyal basis might have been secured among the whites.

The white population of the eleven seceding States in 1860 was 5,449,463, the free colored population was 182,760, and the slave population was 3,521,110, making a total population of 9,153,333, three fifths being white and two fifths colored. I look now to the vote of 1860 for President. Of course I cannot give the vote of South Carolina, because the presidential electors in that State have always been chosen by the Legislature. But in the other States the vote for Mr. Breckinridge was 416,592, the vote for Mr. Bell 345,919, and the vote for Mr. Douglas 57,723, making an entire vote of 820,234. He who lived in the slaveholding States at the beginning of this rebellion knows perfectly well that those who voted for Bell and those who voted for Douglas were Union men.

I know it perfectly well. There is not a Senator within the hearing of my voice, who lives in a border State, that does not at once recognize the fact. Four hundred and sixteen thousand men in the South then voted for Mr. Breckinridge, and 493,000 of them voted for Bell and Douglas. Then nearly half the people of those States were Union men.

An oath reaching the past conduct of these men, a pardon, if you please, on the condition that the active, blatant rebel of 1860 and 1861 should refrain from participating in amending that which he wished to destroy, and which he would now as gladly destroy as ever, would have given us liberal reorganization, institutions of vitality, filled with the spirit of the age, devoid of prejudice, and opening up the brightest hopes for the melioration of the poor, whether white or black.

But we have to take things as they are. The

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President has acted, and his governments are before us. I asked him during the progress of reconstruction but one thing, and that was, if he reconstructed on the rebel vote to reconstruct on the negro vote also. It may have been wrong to do so, but if he had included it, his governments may have worked more harmoniously than they do. This is all I ever asked, all I now ask. There is nothing that I crave for self or friends at the hands of mortal man. So much, I thought, could be demanded of justice, so much be craved in the mercy of God. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. Foor in the chair.) Order!

Mr. HENDERSON. But if the active rebel vote had been excluded, I was willing to respect the constitutions of those States as they existed before the rebellion, and trust to Union men to so fix the franchise—and they would have done so—as to secure fidelity to the Union and peace to themselves. If to secure these ends the negro vote had become essential, it would have been granted. The Senate will pardon me if I refer to some remarks made by me at the last session of Congress on this subject of reconstruction. I read from volume two, Congressional Globe, second session, Thirty-Eighth Congress, page 1070:

"When citizens of a State rebel and take up arms against the General Government they lose their rights as citizens of the United States, and they necessarily forfeit those rights and franchises in their respective States which depend on United States citizenship."

The Senator from Massachusetts [Mr. SUMNER] interrupted me during the speech, and in reply to a question put by him, I said:

"I have already explained my positions on these subjects. I am in favor of the loyal men governing the State. If that be the government of the few, it results from the voluntary disloyalty of the many. They, of their own will, relinquish the right to govern themselves under the Constitution, and as they have no legal right to govern otherwise they cannot govern at all. I can no more compel them to govern themselves according to the Constitution than I can compel a loyal man to vote who refuses to do so. As to the oligarchy of skin or color, I can tell the Senator again that the question of suffrage is with the States. If they confer the franchise on the negro, I surely do not object."

"Mr. President, I say that the only way to crush out disloyalty and bring back peace in this country is to let the loyal men of the seceded States form State governments, and let us uphold them. That is the means upon which we must sooner or later rely to reestablish peace and restore union."

I do not think that it is necessary to the republican principle that the majority, although rebels, should govern, and therefore I took issue with the distinguished Senator from Ohio [Mr. WADE] at the last session. If a majority of the people of a State become disloyal, why cannot the minority rule?

I want State governments, indeed they must exist or the national Government is incomplete. Without a State Legislature no State can be represented in this body. Without a Governor or Legislature no State can ask for protection against domestic violence. But if a majority of qualified voters in a State are disloyal and are resolved to overthrow the national Government, you must destroy their power for mischief. Do you destroy their power by leaving them in possession of the State government, where they may levy taxes on the loyal men and use their money in waging war? You do not deny the right of the nation to expel from office, the State officials, whom these men have put in power to accomplish the objects of their treason. You do not deny the right of the nation to shoot and kill this majority when it opposes your power. You do not hesitate to step in with military power to protect the loyal minority against this majority. You admit the power to remedy. Then why is there no power to prevent? We have been told that "an ounce of prevention is better than a pound of cure." Our Constitution, it seems, is made on no such idea.

Mr. WADE. Will the Senator permit me to ask him a question?

Mr. HENDERSON. Certainly; I am seeking light.

Mr. WADE. How, practically, can one-tenth of the people of a State rule that State on republican principles?

Mr. HENDERSON. I am not speaking about the theoretical idea of republicanism. I am speaking of republicanism according to the Constitution of the United States, and I know of no other republicanism in a legal point of view; that is, in all my conduct here I must be guided by that Constitution. I am sworn to be so guided. If a majority in a State, opposed to the Federal Government, have a right to rule, they can secede legally. I admit the theory that all men should vote in the State if it can be carried out. But even on the subject of republicanism in a State does the Senator not know that for a number of years, the majority of the people of South Carolina have been slaves, who had no part, lot, or share in the Government? Does he not know that a majority of the people of South Carolina and Mississippi—I mean the slaves—were always debarred of any right in the Government, either national or State? I am considering the Constitution as it is, not as he and I would have it.

Mr. WADE. I said upon republican principles, not aristocratical principles, for I know that one man could govern a State on those principles.

Mr. HENDERSON. South Carolina was one of the original thirteen. Let me ask the Senator if South Carolina had not a republican constitution, in the eye of the supreme law, the Constitution of the United States?

Mr. WADE. No; she never had.

Mr. HENDERSON. Then was there an error in the understanding of our forefathers; they certainly must have deceived themselves when they made the instrument.

Mr. WADE. They were mistaken.

Mr. HENDERSON. That may be. Our forefathers may have made many mistakes. I have no doubt they did. One of them I would correct, and that is what we are considering. They made a mistake in leaving slavery to exist at all. But they did leave it, and it brought war. I think if we leave wrong to fester, again, sometime in the future, we shall have another war.

Mr. WADE. I am with you there.

Mr. HENDERSON. I hope you will be with me in many things. But all this is outside of the question. I submit to the Senator, have the disloyal men in a State the right to govern, if they are in a majority?

Mr. WADE. In my judgment they have not.

Mr. HENDERSON. Then have not the loyal minority the right to erect a State government?

Mr. WADE. My opinion is that where only one-tenth of the population of any State are loyal, that that State is in such a condition that it cannot govern itself upon republican principles.

Mr. HENDERSON. Suppose there are five hundred only, less than half in the State of Tennessee or the State of North Carolina, who are loyal; will the Senator govern that State for all time by military authority as a province of the Government of the United States rather than let the loyal minority make a State government for themselves? If we were to do that, we might pervert and overturn our whole republican system. We cannot afford to keep large standing armies for such a purpose, unless we intend to destroy our own liberties. Then let us permit the loyal minority to govern. In Missouri one-third, if not more, of our entire population, has been disfranchised by the new constitution of the State, and some say that a majority have been disfranchised by it if enforced. Will he turn away Missouri from representation here, if it be ascertained that a majority of her people are disfranchised? The people have voted on it and have made it the law of the State; and any man who cannot take the oath prescribed in it, of course cannot vote; and if it should turn out that a majority of the people have been disfranchised, the Senator

from Ohio must drive me from the Senate because Missouri is not a republican State.

Mr. WADE. I apprehend that the rebels will try to drive you out.

Mr. HENDERSON. It is the duty of the Government of the United States to recognize the loyal people of a State; let them form a constitution, and when that is done, admit them here, and when you have admitted them, protect them, if necessary, by the military authority of the country. Did you not protect Rhode Island a few years ago in the very same way? There is no doubt that a majority of the people of Rhode Island were in favor of the Dorr government. Nobody doubted it, and yet this Government maintained the minority there, because it was the established government.

Mr. FESSENDEN. Let me ask the Senator whether a military force would not be necessary in order to protect and sustain the government of a minority?

Mr. HENDERSON. I have felt the difficulty that the Senator presents; I have thought of this question much; I might answer him by saying that when a majority are disloyal and the minority are without State government, you need a much larger army. For all then is anarchy. If you have a State government, you have civil rules at least, and machinery to dispense justice. Hence you have order. If in the one case you have to use an army, in the other your army may be smaller, because the civil power gives its assistance. Again, the State may soon furnish its own police. It is much better for the people of each State to have their own police than for us to send an army among them. Military power is dangerous in peace. If it has to be used let it be in aid of law. If the rebel majority make the law you cannot aid it, and you have not only to overthrow the State law, but you must enforce an adverse policy. That, too, must be done by courts-martial and not by courts-civil. That is the very difficulty the President now has with his new organizations. They are not animated by the spirit of the loyal minority, but by the rebel majority. This is the mistake, and the great mistake.

The country wants the Union restored. Many good men are astonished everywhere that the Representatives are not admitted. The President committed himself to his plan of reconstruction, and his pride demands that he should succeed. The country is greatly indebted to the President for the much he has done in securing, at least, outward manifestations of loyalty by the people of the South. It will be remembered that almost every act of convention or Legislature, overthrowing the traditions and heresies of treason, have been secured by the direct interference of the President. The abolishment of slavery, the adoption of the constitutional amendment, the repudiation of the rebel debt, nullifying the ordinances of secession, and giving civil rights to the freedmen, may all be traced to that interference. If none but loyal men had been represented in those conventions, these and many other proper things might have been done without that dictation by the President, which upsets the entire theory of his plan. The President has entire confidence in these organizations, because, perhaps, they have done all he asked them to do, and promise to do more if he demands it. He does not ask them to give suffrage to the negro, and although it is and ever will be against their own interest to deny it, yet, as they have ever done, they consult prejudice rather than right or interest, and promise all except that. They would give that, if the President had asked it. But he was personally, perhaps, opposed to it, and at once the Constitution rose up in his way, and though he could attach any condition to pardon, and require other things in the judgment of some men much worse, though he could dictate other measures and did dictate, yet this would be a dangerous usurpation of power. If

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three and a half million men were disfranchised and robbed of all political power, there was no usurpation in that, no tyranny, no danger to the republican principle.

Some members of Congress are afraid that these organizations are a kind of Grecian horse; that they are full of armed men, and when once in the citadel they may rush forth and open the gates to the returning Democracy. Whether there are any armed men in them or not, the Democrats think so, and they demand immediate recognition. They have stimulated the President's pride, and he interprets these very reasonable fears of his friends as a reflection upon his loyalty and integrity. All that now exists between the President and Congress comes from this simple statement. The President is willing to trust them now. Congress asks time to look in and see if there is any danger. The President admits that Congress has a right to do so, but those who opposed his election and who have opposed his policy up to this moment tell him that this is an attack on his Administration.

Finally, the Senator from Massachusetts, [Mr. SUMNER,] always doing some imprudent thing, I cannot always be near him to tell him better, [laughter,] makes his whitewashing speech, and then the President sees a conspiracy against his policy. Parties are busy attempting to widen the breach, and on last Saturday a deputation comes up from the Virginia Legislature bringing to the President resolutions of that body, indorsing his reconstruction policy, but saying nothing about fealty to the Constitution or loyalty to the Government. Mr. Baldwin, the spokesman of the delegation, in presenting the resolutions, said:

"The people of Virginia and their representatives accept the result and abide by the consequences of the late contest."

"Accept" and "abide by!" "Chief among the results," he said—

"is the universal conviction that the Union of these States is an established fact. We recognize this Government as our Government, its Constitution and the rights which it promises as our rights."

It was their Government in 1861. The Constitution, save and excepting slavery, was then as it now is, and the rights it secured are no more sacred than in 1861, when the Gosport navy-yard was destroyed and Harper's Ferry was surrendered to rebel soldiers. If those rights are more sacred, it is simply because the negro is now entitled to freedom. But Mr. Baldwin says, further:

"Another great result is the final overthrow of slavery. This has been concluded by constitutional amendment. The General Assembly of the State of Virginia is engaged earnestly in consideration of these subjects, and we can only say that whatever policy may be adopted will be for the moral culture and improvement of the condition of the freedmen; and to treat them with harshness and injustice is against our feelings."

Mr. Baldwin says that great results have flowed from the war, and one of the greatest is the overthrow of slavery. Virginia accepts this result and recognizes the Government as her Government, and the Constitution thus changed as her Constitution. We are here assured that Virginia has gone to work to secure the "moral culture" of the negro and to "improve" his condition. If this be so, it is a little strange that General Terry interferes by military order to set aside a solemn act of that Legislature, designed, as he says, to sell all the negroes into slavery again under the pretext of vagrancy. But if the Virginia Legislature, in the process of reorganization, can busy itself in matters pertaining to the moral culture of the negro and the improvement of his condition as a citizen of the country, why is it that the national Legislature, through which, against the bloody protest of Virginia, the negro has become free, cannot aid and assist the reconstructed Virginia Legislature, in this humane and commendable work, without being held up all over the coun-

try as radicals, Jacobins, and Red Republicans? If Mr. Baldwin can accept the freedom of the slave, why cannot he accept that which will keep him free? I say nothing of the antecedents of Mr. Baldwin and those who came with him.

Mr. WILSON. Allow me to ask the Senator if this Mr. Baldwin is the Mr. Baldwin who was a member of the confederate congress.

Mr. HENDERSON. I think so. Of course it is the same.

Mr. WILSON. I should like to know if it is the same Mr. Baldwin who nominated General Lee the other day, as the next Governor of that State, in the Virginia Legislature.

Mr. HENDERSON. The same man, I think.

Mr. SUMNER. And he has been addressing the President of the United States!

Mr. HENDERSON. I do not object to his addressing the President of the United States. That is not my complaint. Senators run ahead of me and break up the connection of my thought. I cannot think so much as others, nor so fast. I was going to say that my objection consists not in the appearance of Mr. Baldwin and his associates. I would have them come, and come often. I like to hear expressions in favor of the Constitution as it now is. I like to be assured of a returning sense of loyalty. Congress only asks to be assured of the sincerity of the professions. The President seems to be satisfied. He commenced, however, with the work of reconstruction last May. Congress commenced only in December. When Congress shall have been engaged at the work as long as the President, it may be equally satisfied. One should scarcely be upbraided for a want of belief in any proposition, unless he has neglected the opportunities for information. Conviction in the human mind comes from the evidences adduced. Before we believe any proposition, and especially such a proposition as the sudden conversion of the people of the seceded States to unaffected and sincere loyalty, we should be excused for demanding the proofs necessary to establish it. I complain that the President himself being satisfied takes it for granted that Congress ought to be satisfied, and in reply to Mr. Baldwin uses some expressions that tend to no good. There is no use of controversy between the Executive and Congress. I profess to be, and am a friend of the President's, and shall use no language, even in expressing differences with him, that may tend to excite the country against him. His language in this reply will be interpreted as an attack upon certain members of Congress, at the least, and possibly upon Congress itself, should a difference hereafter spring up between them.

He says, in effect, that one rebellion has been put down against the southern men, and now he intends, if necessary, to put down a rebellion against somebody else. Of course I am not included in this new conspiracy or rebellion. My friend from Kentucky, [Mr. GUTHRIE,] the other day, in a moment of excitement, almost threatened the dissolution of the Union again. This is not oil on the troubled waters. The President says, in his reply to the Virginia delegation, as follows:

"The Government, in the assertion of its powers, and in the maintenance of the principles of the Constitution, has taken hold of one extreme, and with the strong arm of physical power has put down the rebellion. Now, as we swing around the circle of the Union with a fixed and unalterable determination to stand by it, if we find the counterpart or the duplicate of the same spirit that played to this feeling and these persons in the South, this other extreme which stands in the way must get out of it, and the Government must stand unshaken and unmoved on its basis. The Government must be preserved."

The Senator can now understand.

Mr. SUMNER. What is the meaning of that? I do not understand it.

Mr. HENDERSON. I do not know that I understand it, but if I do, it means the rebels and the radicals have played see-saw, and he intends to stop it. That is the whole of it. I

want to be plain. I will read the former sentence, however, and then perhaps the Senator can understand it for himself. The President says:

"I do not intend to say anything personal, but you know as well as I do that at the beginning, and, indeed, before the beginning of the recent gigantic struggle between the different sections of the country, there were extreme men South, and there were extreme men North."

The Senator is one of the extremest I ever knew; but the President proceeds:

"I might make use of a homely figure (which is sometimes as good as any other, even in the illustration of great and important questions) and say that it has been hammer at one end of the line and anvil at the other; and this great Government, the best the world ever saw, was kept upon the anvil and hammered before the rebellion, and it has been hammered since the rebellion; and there seems to be a disposition to continue the hammering until the Government shall be destroyed. I have opposed that system always, and I oppose it now."

The Senator will now understand that he is hammering at the other end of the line, and he may get hammered soon. [Laughter.]

Mr. SUMNER. I do not understand any such thing.

Mr. HENDERSON. The Senator is slow to understand. I hope it comes from conscious innocence. But, Mr. President, to be serious. I deprecate this language, it tends to no good. It comes, I fear, more from feeling than from judgment formed on a proper consideration of the case. Great interests are at stake, and they who now wield the power of this nation, both in the executive and legislative departments, have a grave responsibility on their shoulders. If mistakes were heretofore made in the organization of the Government, now is the time to correct them. Our forefathers were wise men, perhaps the wisest that any age has given us. No one doubts their integrity, their unselfish devotion to true republican principles. If they had carried out their own repeatedly expressed convictions on the subject of slavery, this war of the rebellion would not have come. We all know that considerations of an early union, the necessity for protection against foreign Powers, as well as the supposed immediate demands of trade and commerce, added to an indisposition or absolute fear to grapple with the avarice and prejudice connected with slavery, induced them in the formation of the Government to ignore the condition of the African slave.

They mournfully contented themselves with keeping the word "slave" out of the Constitution. They scorned to sanction, by direct words, its existence, but yet provided, under another name, that the nation's power should be used to mend, when broken, the chain of human bondage. They excused themselves and the Government they made, by putting the responsibility on the States. They hoped, indeed they expressed the hope, that the States would soon emancipate, and they framed a Constitution admirably suited to that condition of things. Slavery was inconsistent with the very principle on which they built. To save the pain of cutting, they consented to leave one fiber of the cancer, hoping that nature would soon heal it. Nature did not heal it, but the cancer grew from year to year until the whole body-politic became diseased. The last five years have been spent in a grand surgical operation to save the life of the patient. The cancer has been cut to its roots. The patient is suffering, but he is stronger than when the operation commenced. Who is the timid surgeon that would now hesitate to remove the last particle of disease? If there be one, that man will be responsible hereafter for much suffering. Some say, leave it with the States; they will cure themselves. The State governments are a necessary part of the national Government. The President tells us one cannot exist without the other. They are the limbs of the human body. Would you partially remove disease from the arm and then tell the arm to



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cure itself? Would you half cure the heel and foolishly trust to nature for the balance simply because the heel is so far from the seat of life? A limb sick, makes the body sick, and he who would preserve health and vitality must ward off disease at every point.

I have been led to these remarks by looking at the present condition of the southern States. Is there no symptom of disease there? All over the country Congress is denounced because it does not accept the President's healing or restoration of those States as a perfect cure. Is the old disease eradicated? If so, Congress ought to admit their Representatives, and it deserves the denunciation of the country in default of speedy action. Does the President himself believe that the cure is perfect? If we admit them they must henceforth be treated as loyal States. We must give them the exercise of all local and municipal power not granted to Congress. In that case we should at once remove martial law. The privilege of the writ of *habeas corpus* should be restored. It is now suspended by the will of the President. When once admitted, the condition of the freedman and the poor white, must be left to them. The suffrage cannot then be changed without their free consent, uninfluenced by any considerations. If admitted, and they are strong enough to repudiate the public debt, withdraw the pensions from the wounded veterans, or deny the claim of loyal States for expenses and loyal men for damages, the country must accept it, and accept it in peace. I do not fear many of these things, but the President himself seems to fear much. If he is satisfied with these organizations, why does he not treat them better?

During the session of the Georgia convention Mr. Seward telegraphed to the provisional governor, as follows:

"Your several telegrams have been received. The President of the United States cannot recognize the people of any State having resumed the relations of loyalty to the Union that admits as legal obligations contracted or debts created in that name to promote the war of the rebellion.

"WM. H. SEWARD."

Why? Was not Georgia an independent State? The President said it was. Did not Georgia have a right to assume and pay any debts she pleased? What right had Mr. Seward to telegraph to the convention of Georgia that Georgia should not pay a debt? And yet my Democratic friends say the President's policy must be sustained. What policy? Is it the policy of letting the President do as he pleases, reorganize a State government, and wherever it runs counter to his views to stop it in its legislation and say, "Thus far shall thou go and no further." But if Congress undertakes to interfere, not interfere, but hesitate, to sanction these as perfect and legitimate State governments, they are a set of Jacobins, "French revolutionists," "dangerous men," who ought to be turned out at the point of the bayonet. The President calls it "hammering at the other end of the line."

The State of Tennessee has been reorganized. How reorganized? The President himself was the beginner and the originator of it, as the military governor of Mr. Lincoln. The Tennessee members are here seeking admission. But the President has put General Thomas at Nashville. The Senator from Illinois [Mr. TRUMBULL] the other day presented his proposition here, putting judicial powers in the hands of the military, for certain purposes in the seceding States. It was to protect negroes, when discriminated against in their civil rights, by State legislation in those States. The press all over the country opposed to these so-called Jacobins announced the fact that the Senator from Illinois, the great leader of the new revolution, had introduced a most dangerous proposition, carrying military men down South to usurp the entire political power of the revolted States and to administer mock justice at the point of the bayonet. I did

not like it myself. I am afraid of even the appearance of military rule. But let us go on with the case of Tennessee. The President usurps these powers, I should say uses them, and the President is right, but the Jacobins are wrong. Will you tell me the difference? Is not General Thomas put in command in Tennessee by the President himself? Yes. Is he not kept there by the President? Yes. Did not General Thomas under the President's orders arrest a bishop of the diocese of Alabama, the other day, and imprison him? Some said it was only because the bishop would not pray for the President. And yet General Thomas is not dismissed. But suppose Congress should undertake to interfere with the worship of the Christian religion down South, what would be said about it? Let me read an order issued by General Thomas a few days ago. It is a letter addressed to Messrs. Guild & Smith, attorneys-at-law, at Nashville:

HEADQUARTERS DIVISION OF THE TENNESSEE,  
NASHVILLE, TENN., January 17, 1866.

SIR: It has been reported to Major General Thomas that you, as counsel for one John Allen, of Smith county, have instituted suit against James S. Burham, of Sumner county, late captain first Tennessee mounted infantry, for rent for the said Allen's farm while the said farm was under the control of the United States as abandoned property.

This is clearly a violation of General Orders, No. 29, from these headquarters, often published in the newspapers of the State, and must have been seen by you. He directs me to say to you that you will at once cause said suit to be discontinued and dismissed forever, failing in which you, John Allen, and the circuit court clerk of Sumner county will be arrested and brought to trial before a military commission.

By command of Major General Thomas:  
R. W. JOHNSON,  
Brevet Brigadier General, U. S. A.

Messrs. GUILD & SMITH, Attorneys-at-law.

Mr. HENDRICKS. How do you like it?

Mr. HENDERSON. No, the proper question is, how do you like it? Why, Mr. President, if this is not hammering on one end of the line, or the middle of the line, I do not know what it is. These attorneys bring a suit under a State law, and the military officer in chief command, under the direction of the President, announces in a letter to them that they will be arrested and imprisoned and tried before a military commission if they go on with the suit; the clerk of the court is notified that if he issues process he will be seized. Of course the letter does not include the judge, because the judge cannot take cognizance or jurisdiction of the case until the writ of summons has been returned; but if the clerk should happen to issue process, and it should be served, I suppose General Thomas would go further, and if the judge should undertake to render judgment in the case, the judge himself would be seized and hammered, under the judgment of a military court.

Mr. President, I have said this whole supposed controversy between the President and Congress is perfectly ridiculous to me. Why is the country convulsed from one end to the other now about the return of these States? Did they not go out voluntarily? Did we not beg them to stay? Was not the life of every man in this land endangered by their conduct? Have they not given us untold sorrows and afflictions in defiance of almost base entreaty and much gratuitous, but scorned advice? I told them these difficulties would come. They went. And now, because I do not vote them back the very moment they present themselves—before the President himself will abide by their laws, indeed while he feels bound daily to set them aside—I am a Jacobin, a leveller, a maniac on the subject of negro rights. Some of these gentlemen around me may be dangerous men; I do not know but they are; I am not. I claim to be conservative. I have always been conservative. If entitled to the designation of radical at all, it must be a conservative radical. Now, sir, here is General Terry, of Fort Fisher notoriously—

Mr. WADE. Fame.

Mr. HENDERSON. I beg pardon, it is fame, and not notoriety. What does he say in regard to a law of the State of Virginia? He is in command at Richmond. Was he not put there by the President of the United States, and can he not be removed by him to-day? Certainly. What has he done? The State of Virginia a short time ago passed a vagrant act. Here is a general order issued by General Terry, dated Richmond, January 24, 1866:

"By a statute passed at the present session of the Legislature of Virginia, entitled 'A bill providing for the punishment of vagrants,' it is enacted, among other things, that any justice of the peace, upon the complaint of any of certain officers therein named, may issue his warrant for the apprehension of any person alleged to be a vagrant and cause such person to be apprehended and brought before him; and that if upon due examination said justice of the peace shall find that such person is a vagrant within the definition of vagrancy contained in said statute, he shall issue his warrant directing such person to be employed for a term not exceeding three months, and by any constable of the county wherein the proceedings are had be hired out for the best wages which can be procured, his wages to be applied to the support of himself and his family," &c.

This act applies to white people too. The Senator from Illinois will notice that it does not apply to the negro alone; it applies to all persons; and yet General Terry says that it is made a mere pretense for selling negroes into slavery, and his order concludes as follows:

"It is therefore ordered that no magistrate, civil officer, or other person shall in any way or manner apply or attempt to apply the provisions of said statute to any colored person in this department."

They may sell white men, since this order, into slavery and the negroes may buy them, but General Terry says they shall not sell a negro into slavery; the white people may soon find themselves sold out in the Old Dominion to the blacks and the sale enforced by military law, and yet the President sustains all this. The President placed General Terry there and may remove him or overrule his orders. The President sustains him, however. But because we hesitate to regard the State of Virginia as fully reorganized, and now devotedly attached to the Union and resolved to sustain the Constitution directly in the teeth of these acts, the President strongly thinks we are "hammering at one end of the line."

Mr. SUMNER. Allow me to ask my friend if the President did not probably refer to the Democrats as hammering at the other end of the line.

Mr. HENDERSON. My impression is from all the circumstances surrounding the case, that the Senator from Massachusetts is one of the men alluded to. I think I can say to him as Nathan said unto David, "Thou art the man." [Laughter.] The Senator certainly did make an imprudent speech when the report on the condition of the southern States came in. The President should know that the Senator from Massachusetts makes many imprudent speeches. It is utterly impossible to keep him straight unless some more conservative man, like myself, can whisper him right. [Laughter.] If I could have reached him in time, I am satisfied, he would never have used the term "white washing." [Laughter.] I am fearful the President attaches too much importance to this imprudent speech. We pay no attention to it here.

Again, has not General Sickles issued an order at Charleston, with twenty-three sections, making up an entire civil code for the government of South Carolina, the Legislature being in session?

Mr. WILSON. The most comprehensive ever made.

Mr. HENDERSON. Certainly, taking almost the entire government of South Carolina under military control and military power. The President can do this thing—I say the President, because Generals Terry, Sickles, and Thomas, and all these men act through the President only—the President of the United

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States can do all these things, and Congress cannot help him. Congress never saw business of this sort going on, that it did not want a hand in it, and I think we have a right to have some hand in it. The President admitted the right, and he is now estopped from denying it.

General Grant issued an order, some time ago, right here in the city of Washington, immediately under the President's eye, and he certainly must have known all about it, which is general, and applies to all the eleven seceded States. It is as follows:

[General Orders, No. 3.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, January 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States:

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State or municipal courts of such State, all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses or acts done in their military capacity, or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens, or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents and employees, charged with the occupancy of abandoned lands or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same pursuant to the order of the President, or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced, or adjudged in said courts in any of such cases; and also protecting colored persons from prosecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:

E. D. TOWNSEND,  
Assistant Adjutant General.

That order is substantially the bill of the honorable Senator from Illinois, the bill that this Congress has passed, called the Freedmen's Bureau bill, and which it is understood all over the country the President will veto. Why veto? Did not General Grant issue this order with the consent of the President of the United States? Can there be any doubt about it?

Now, sir, is not all this controversy perfectly ridiculous? It seems to me so. But for its serious importance, the apparent earnestness of persons and parties in this maze of inconsistency and palpable contradiction would be amusing.

Mr. HENDRICKS. If the Senator will allow me, I should like to ask him one question: whether he reads these orders of the military commanders for the purpose of approving them, or for the purpose of condemning them, or simply for the information of the Senate?

Mr. HENDERSON. I do not know that the Senator has any right to catechise me as to the purpose with which I read a paper to the Senate. But he certainly cannot misunderstand my object.

Mr. HENDRICKS. I disclaim the right; but when so able a Senator is addressing the body, of course we would like to know what he means by the evidences that he brings before us.

Mr. HENDERSON. The Senator addressing the body is not so able, but it is a little strange he has not already indicated the ever quick and ready mind of the Senator from Indiana what his purpose is. Certainly he has displayed no ability whatever if he has failed to make himself understood by that Senator. I have no objection, however, to making the statement in answer to the question so plain, "that he may run, that readeth it."

The idea has gone abroad, and it is most carefully urged, that Congress has resolved to govern the southern States as provinces, that the committee of fifteen was organized to carry out this purpose. The party that opposed Mr. Johnson's selection take this opportunity to announce

their devotion to the Union, and clamor for immediate restoration. Of course military rule is denounced. This is a strong card. I dislike military law as much as any man. The whole country dislikes it. Even the soldier, reared under our institutions, who enforces it, dislikes it. Congress is arraigned for taxing the southern people without representation. This is another powerful argument, an argument that could not be answered, if the very organizations now presenting themselves did not propose to tax half their people, for all time to come, without any voice or representation now, and without hope of it in the future.

Again, we are charged with being disunionists. We are so designated in the columns of leading papers. And why is it? The people are taught to believe that harmony and peace and good-will reign supreme in the southern States; that they have loyal governments organized, administering justice without delay, sale, or denial, and protecting all their inhabitants; that the spirit of rebellion is far removed from them, and they only need an opportunity now to show their old proverbial love and attachment for the Union. The war was waged for the Union, and the people long to see it restored. This natural desire is seized upon to array hostility to Congress. The President is praised; his reconstruction policy indorsed in the strongest terms. Lincoln's reconstruction policy, in form the same, but differing only in that it brought Union men to Congress and secured another State to the Union in case of confederate success, was denounced by the same men. Congress is arraigned for the Freedmen's Bureau bill. I do not like it myself, and only supported it as a means of getting what is right. I had nothing to do with the committee of fifteen, and I hold now that the House of Representatives cannot control my vote, against my will, in the admission of a Senator from one of the seceding States. No law of Congress can control it. The States are in the Union, but in the President's view they are not yet out of rebellion. The Attorney General says they are not, and the President treats them worse than provinces. If the rebellion is over and the cause of it removed, why these proceedings which I have enumerated?

Mr. President, I think I have shown that the Executive is estopped from complaining of Congress. Political parties cannot consistently applaud the President and then say one word against Congress. Does the President design continuing this military rule after the Representatives are admitted? If necessary now, will it be less so after admission? My friend from Indiana, however, with all his instincts against these things is no doubt ready to join in the general cry and say, great is the President and accursed be the Jacobins.

Mr. HENDRICKS. I have not said that.

Mr. HENDERSON. I am glad of it. Many others have said it and do now daily say it.

Mr. HENDRICKS. My position with respect to the President of the United States is just this: I am not under that sort of obligation which is known as party obligation. I expect to indorse and approve in his conduct everything that my judgment and conscience approve. The Senator would not ask me to do less, and I think he would not ask me to do more.

Mr. HENDERSON. Certainly not.

Mr. HENDRICKS. My modesty would prevent my appearing before this body as the peculiar champion of the President. I did not help to make him President; but what is right in his Administration I shall support, and I think I may say now that perhaps I will find something in his conduct to approve which some of the Senators about me may disapprove.

Mr. HENDERSON. I was aware of the modesty of my friend. [Laughter.] And I am aware of another thing; I am aware of his distinguished ability and his sagacity in seizing

upon anything, anything fair and legitimate, of course, that may be necessary to build up the party with which he thinks the best interests of the country are connected. His modesty will also prevent his telling us whether he approves these acts of the President or not.

Mr. President, I now repeat my regrets that the President has seen fit to exact at the hands of Congress a strict compliance with his policy on the subject of reconstruction. I say compliance, for I cannot interpret his speech to the Virginia delegation in any other way. I regret it, because this is no time for party excitement. The best interests of this great country cannot now be safely connected with party success. To solve our difficulties needs true patriotism, and true patriotism is too often choked out by the rank selfishness of party politics.

Mr. WILSON. Will the Senator allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. WILSON. I want to ask him, as he is giving his opinions pretty freely, if he has any anxiety whatever in regard to the opinions of this Mr. Baldwin, or any man of that class, or any men in the country who sympathize with them, that they will be able to influence affairs in any of the States that in 1864 voted for Mr. Lincoln for President. I ask him if he does not believe that those States, by a most decisive majority, a majority larger than they gave in 1864, are to-day opposed to the admission of any of the States that have been in rebellion into these Chambers until they are so adjusted as to give proper security for the future?

Mr. HENDERSON. I have answered so many questions that I have scarcely been able to keep the true question in view. Injustice and wrong often triumph. Our only consolation is, that such triumphs cannot be permanent. I do not know how far the people will be deceived, nor how long the deception will last. The Union must be restored and this Congress must do it. It must be cemented in the everlasting principles of justice, but I want it cemented immediately.

Mr. WILSON. So do I.

Mr. HENDERSON. We cannot stand still. Work is to be done, and if we do not go forward we shall fall back. It is a crisis in our affairs, and a crisis as important as that of 1861. I am not mistaken in what I say. The rebellion is now suppressed. The rebels are restless and discontented. Some loyal men have become frightened at what they term the dangerous extremes of radicalism, and, after having been the most radical of all radicals, they are ready to fly to the arms of rebels and seek safety in their conservatism. It is an epoch in our history from which will date new political organizations. New schemes of personal ambition will soon be developed. The pride of our military chieftains will be appealed to, and cunning plans laid to secure their favor. This period is similar to that in English history, when Charles I became a prisoner in the hands of those who fought for the rights of man against the unlimited prerogative of the Crown. It is the condition of France when Louis XVI was a prisoner, and the combined enemies of the republic had melted away in the blaze of republican ardor. Let us avoid the excesses of the conquerors in those cases, but let us be firm in securing the legitimate results of the victory. Those results may be known to all who know the causes of the war. The war was another contest of prerogative with inalienable right, an effort to perpetuate privileges of the few, at the expense of the toil and tears of millions. It was to sanctify, by human law, what was condemned in the law of God. It was, in fine, to ignore the very existence of millions of people in the government and laws of a country, that claims the highest civilization, the largest freedom and the broadest charity for mankind.

In the judgment of Congress these danger-

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ous and anti-republican notions have again crept into and are likely to be conserved in the new organizations, and Congress will likely demand that they be eradicated before admission. It is quite certain that Congress is not satisfied with the present condition of things, and if we determine not to accept them, the decision should be made at once.

Some say we cannot go behind the action of the President. He has pardoned the rebels, and that pardon restored them to all the rights of citizenship, and among those rights is the right to vote. As the Constitution now stands, the regulation of the franchise belongs to the States. But surely Congress has entire control over the question of United States citizenship. Congress may make a citizen of the United States. It made many, by joint resolution, in the admission of Texas. Congress made citizens of the Stockbridge and other Indians by law, and recently it has declared, by bill already passed, the entire African race to be citizens of the United States. It seems to me that this power exists in Congress, as a great political right, irrespective of the crime of rebellion or other offense committed by the citizen himself. If this be true, then Congress may provide for an enrollment of all its citizens in the seceded States, and require an oath, or proof if you please, of original loyalty in any form to be prescribed, and in default of such oath or proof, or both, if thought necessary, the party so neglecting or refusing might be declared decitizenized. If this can be done much difficulty may be avoided, for Congress may at once provide for the erection of State governments in those States by the loyal men only. In this way the entire question of negro suffrage may be avoided. As those State governments existed at the date of secession, the negro could not vote, but at the same time, it was likewise provided, in nearly all of them, that none but citizens of the United States should vote. For instance, the constitution of Mississippi is in the following words:

"Every free white male person of the age of twenty-one years or upward, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last four months within the county, city, or town, in which he offers to vote shall be deemed a qualified elector."

Under the constitution of Texas; "every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, &c., (Indians not taxed and Africans and the descendants of Africans excepted,") shall be entitled to vote. The constitution of Arkansas provides that—

"Every free white male citizen of the United States who shall have attained the age of twenty-one years," &c.

Shall vote. The qualifications in Florida, Alabama, Tennessee, and Louisiana are the same. The right has been exercised, I know, but may be seriously questioned, whether any but citizens of the United States may properly be permitted to vote in any State. But however that may be, the constitutions to which I have referred required this test for the elector; and if Congress can take away citizenship, the State has already taken away suffrage, and reconstruction on the basis of purely loyal men, few or many, white or black, will give State governments, with which the President would find no cause, in my judgment, to interfere by military power.

The usual answer to the exercise of this power by Congress is that it is an *ex post facto* law, and therefore prohibited by the Constitution, which declares that—

"No bill of attainder or *ex post facto* law shall be passed."

But is it in any sense an *ex post facto* law?

Mr. HENDRICKS. Yes, it is.

Mr. HENDERSON. The Senator says it is. An *ex post facto* law is one that prescribes a punishment for the commission or doing of an act, to which no penalty or forfeiture was at-

tached at the time of doing it, or which increases the punishment after the commission of the offense. The question which I aimed to put, is, can Congress, in the exercise of its power for the safety of the nation, the preservation of the public welfare, take away the rights of citizenship for any cause whatever? We have before us a question now, the decision of which will involve the solution of this. Congress heretofore gave the right of suffrage to the people of this District in their own municipal government. Can Congress pass an act to take away that right of suffrage and put the city or District government here in the hands of a board of commissioners, to be appointed by the President or by Congress?

Mr. HENDRICKS. The Constitution of the United States places the government of the District of Columbia entirely under the control of Congress, and therefore we may do for the District of Columbia, I presume, whatever a legislative body may properly do for the people under its jurisdiction. But, with the permission of the Senator, I wish to suggest further, that if the President of the United States, as we all know he has done, has pardoned a very large portion of the people of the South upon a condition with which they have complied, they then, in my judgment, so far as the penalty of the law stands, are free from its penalties, and that to take away the right of citizenship is a penalty which we cannot impose as a punishment after the President has pardoned the parties.

Mr. HENDERSON. The Senator persists in misunderstanding me. I am not speaking now of crimes, nor the effect of the pardon. I have answered many questions, and, perhaps, not very satisfactorily. The Senator will permit me to ask him one question, as it may convey to him the best possible answer to the question he has asked me. In the State of Indiana, to-day, the uneducated are entitled to the right of suffrage. Does the Senator believe that a constitutional convention of the State of Indiana, if now in session, could deprive every man in that State who cannot read and write of the right of suffrage?

Mr. HENDRICKS. I have no doubt that the constitution of the State might be so amended as to limit the right of suffrage according to the pleasure of the convention, if that action should be approved by the people. But, sir, the question I suggested to the Senator was this: can you, after an act is done, impose a penalty not known to the law at the time the act was done? Can we, according to the sentiments which govern legislative bodies in these modern times, enact an *ex post facto* law, and punish a party for an act done in a manner not provided for by the law at the time the act was done, and especially after the President, or any other party having the power to pardon, has exercised that power.

Mr. HENDERSON. The Senator will remember the Federal Constitution provides that no State "shall pass any bill of attainder, *ex post facto* law, or law impairing the obligations of contracts." He says that the State of Indiana may pass such a law, and it will not be subject to the objection that it is *ex post facto*. How, then, is it that a similar act passed by Congress conflicts with a provision in the same words? The limitation is no stronger upon Congress than upon the States. The Senator might deny that the power claimed is a delegated power, but his admission estops him from calling such a law an *ex post facto* law. But I will discuss this subject no further. I refer to it as a way or means of legally securing loyal governments, provided the present organizations in the seceded States be rejected by Congress.

Mr. CLARK. If the Senator from Missouri will pardon me one moment, I wish to ask the Senator from Indiana a question.

Mr. HENDRICKS. I do not care about being drawn into this debate.

Mr. CLARK. I do not wish to draw the Senator from Indiana into the debate, but I desire to put this question: whether, if a State finds it is necessary for its own protection—not for the punishment of rebels, but to guard itself, and for its own protection—may it not exclude these men from voting? Would that be an *ex post facto* law?

Mr. HENDRICKS. That is not the question that I was discussing with the Senator from Missouri. I have no doubt of the entire control of the States over the question of the right of suffrage, and it may be exercised according to the pleasure of the State. The Senator from Missouri is advocating now, as a punishment upon the pardoned rebels, the withdrawal of the right and character of citizenship. As a penalty, as a punishment, I do not think it can be imposed after the President has pardoned.

Mr. HENDERSON. The Senator assigns me a position, the least defensible he can find, and then makes his attack. I try to explain, but he will not accept the explanation. I have not disputed, and for purposes of the argument I will not dispute, that the pardon of the President relieves these parties of the penalties of their crimes, provided the conditions of the pardon have been kept; but this is a separate and distinct question. I asked the Senator, even had there been no rebellion, if it is within the jurisdiction of Congress to pass an act declaring that any portion of the inhabitants of the United States are no longer citizens of the United States? Is this a political power that the body politic enjoy for their own protection and for their own purposes? That is the question. If the State of Indiana has the perfect right to enfranchise or disfranchise any portion of its population, is it not within the jurisdiction and competency of Congress to declare that certain parties are no longer citizens of the United States, even if there never had been any rebellion?

The honorable Senator from Indiana, instead of answering the question as put both by myself and by the Senator from New Hampshire, refers with apparent pleasure to the fact that the pardon having been exercised by the President, the rebels are made new men, that not only penalties are removed, but privileges, if everlost, are fully restored. I am not disposed to be technical in the premises, but if I were, it strikes me that the conduct of the President toward these organizations, since their establishment, furnishes strong evidence of the existence of a fact at the time of granting the pardon which would render it void. At the common law, to render a pardon valid, it must express with accuracy the crime intended to be forgiven. Hence, in the case of the United States vs. Steller, decided in the United States circuit court at Philadelphia, the court say that general pardons are not granted by the Crown but by Parliament, and that though our constitution may possibly confer the right, yet the right, if it exists, has never been exercised. In that case, the defendant had been indicted for "counterfeiting and uttering counterfeit coin," and there was a general verdict of guilty. In the President's certificate of pardon it was recited that the defendant had been convicted of counterfeiting, and thereupon a full and unconditional pardon was granted. The court refused to extend the pardon beyond its express terms, and hence the party was left subject to the disabilities imposed by the conviction and sentence. Another principle necessarily resulting from this was, that whenever it may be reasonably supposed that the King, when he grants a pardon, is not fully apprised of the heinousness or wickedness of the crime, or that he has been imposed upon by concealment or false representations of the party to be benefited, the pardon is void. But a more familiar principle still is the one previously alluded to, that if a pardon be granted on conditions and the conditions be not complied with the pardon is void.



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It may be that the President was fully advised of the character and extent of the crimes of the rebels when he issued his proclamation. It may be that no imposition was practiced on him to secure the amnesty, but if it be so, it surely cannot be that they have kept the conditions of the pardon, at least the President cannot think so. The pardon was general, and included the entire community with certain exceptions. Those exceptions could not participate in reorganization. The community pardoned did participate. In ascertaining whether there has been a compliance with the conditions, we must not, we cannot, look to isolated or individual cases. We must look to the community, the body-politic, and hold all responsible for the action of that pardoned community. The condition was that the pardoned, that is, the masses, with certain named exceptions, should "faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves."

Nobody doubts now that freedom is legally secured to the negro, and nobody doubts that full civil rights attach to that condition, yet Mississippi has passed a law denying the right of the negro to hold real or personal property. The same is true, I believe, of South Carolina, and hence the order of General Sickles, to which I have referred. The President himself, through the order of General Terry, his agent at Richmond, proclaims to the world that the pardoned or reconstructed rebels of Virginia are not "supporting faithfully" the constitutional amendment or Mr. Lincoln's proclamation of freedom, but on the contrary are attempting to sell the negroes back again into slavery. And so, Mr. President, I might go on with the entire list of these States, and show that the President was originally deceived, imposed upon, in his grant of pardon originally, or else the conditions have been so badly kept, as to forfeit the benefits of the pardon, and thereby let in the power of Congress over the entire subject-matter.

But admitting the validity of the pardon to the extent claimed by the Senator from Indiana and others, does it follow that the President possessed the exclusive power to appoint provisional governors, prescribe the qualifications of voters, and revive the suspended functions of these States, without the aid of the legislative power or even the counsel of the Senate in the appointment of the necessary agents.

Mr. President, I beg pardon of the Senate for occupying so much of valuable time without coming more immediately to the discussion of the several proposed amendments to the Federal Constitution. Senators who have so frequently interrupted me with questions or otherwise, are more or less responsible. I propose now to examine the amendments—

[At this point the honorable Senator yielded the floor, at the request of gentlemen, and the Senate went into executive session.]

WEDNESDAY, February 14, 1866.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing an amendment to the Constitution of the United States.

Mr. HENDERSON continued:

Mr. PRESIDENT: On yesterday I attempted to show the condition of the southern people, the character of their new governments, and the probable foolish and unnecessary controversy now threatened between Congress and the Executive. I sincerely hope it may not come, but pride of opinion, the love of approbation, the schemes now organized for party power, the selfish plans of the future, the confidence in popular prejudices, the distrust of public justice, the recklessness of some, and the cautious timidity of others, all point to trouble. In such times, and on such occasions, I know of but one course of safety, and this is, to reject what the conscience condemns and accept that which it approves. It is to cast aside

the claims of party, the considerations of temporary advantage to individuals or sections of country, and overcoming, alike, undue resentments against defeated treason and prejudices against race, to look forward only to the best interests of the Republic. The interests of the Republic are surely the best interests of mankind, and he who subjects himself to obloquy now, in order to promote those interests, may trust his vindication to a grateful future.

The country is not satisfied. The loyal people, the loyal press, members of Congress feel that some guarantee for future peace must be had before the southern representatives are admitted. The question now is, what shall be done? I have already said that if Congress will ignore the present organizations and provide at once for an expression of sentiment by the loyal whites alone in the seceded States, excluding the willing traitors, who, by oath, abjured their citizenship, the result will be, organizations loyal in character and deserving the recognition of Congress. But Congress is halting between two opinions. It is hoping that loyalty may grow up in the present organizations, as if apples may be taught to grow upon thistles by cultivation, and sweetness be extracted from the poison of the adder. I hope the committee may find evidences of loyalty and attachment to the Union in the present reconstruction, evidences so strong as to bring conviction to the unbeliever, and that we may soon have the consummation so devoutly wished for, the restoration of the Union. At the first moment when recognition in my judgment can be safely made, I intend to give my consent. The present condition of things cannot last long. It is abnormal, inconsistent with the elementary principles of our Government and the remedy must be promptly applied. Congress might have been convened last summer without inconvenience, but it was not convened; and now, in case of foolish and stubborn differences between the legislative and executive departments, our complications may be serious.

The President insists upon an unconditional indorsement of his plan. Congress stands mute. The country knows it is dissatisfied, and yet it will not speak. Congress is losing in public estimation because of its hesitancy. At last the committee of fifteen speaks, and gives us a guarantee in the shape of a constitutional amendment, whether the only one to be given I do not know, and asks us to adopt it as a security for the future. What is it? I will read it:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The distinguished Senator from Massachusetts [Mr. SUMNER] is dissatisfied with this proposed guarantee, and offers a substitute in the shape of a joint resolution of Congress, a simple act, which may be defeated by presidential veto, or which, if signed, may be repealed by this or any subsequent Congress. It is in the following words:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all States lately declared to be in rebellion there shall be no oligarchy, aristocracy, caste, or monopoly invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race; but all persons shall be equal before the law, whether in the courtroom or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any such State to the contrary notwithstanding.

Feeling that I had a right to be dissatisfied with both propositions, I have presented as a substitute for the latter measure, a resolution of amendment to the Constitution in the following simple words:

ARTICLE 14. No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of color or race.

It will be remembered that the clause of the Constitution relative to representation and taxation, as it now stands, is in the following words:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years and excluding Indians not taxed, three fifths of all other persons."

This is the text of the Constitution as it now stands; and of course unless amended the entire population of the southern States, after the next census, will be reckoned in the basis of representation; that is, while the war made free-men of the slaves against the will of the southern whites, it has also the effect of increasing the political power of the seceded States, both in the lower branch of Congress and in the colleges for the election of President. The very natural feeling of the country rose against this state of affairs. The desire was rather to restrain or limit their power than to increase it; but the necessary result of leaving the Constitution as it is, is to give the increased power.

The prejudices of loyal men are naturally excited against the rebels of those States, and the conduct and character of the new organizations, now asking admission, are not such as to greatly diminish those prejudices. The persistent refusal to recognize the negro, who had been the friend of the loyal men, as entitled to any political consideration whatever, and scarcely to the commonest rights of the civil society, created a new disgust at their conduct, and induced a desire to force upon them the abandonment of what is thought to be an unfounded prejudice, and at the same time to force upon them a greater respect for those plain and fundamental rights, which lie at the foundation of all good government, and a denial of which had precipitated upon the country the late dreadful war. I am not at all surprised at this general feeling. I am only surprised that the committee of fifteen—gentlemen of such distinguished abilities, generally so tenacious of the right and so ready to apprehend it—could have satisfied themselves with the proposition offered, either as a means of accomplishing the desired security for the future, or as a measure sanctioned by that justice and equality, now demanded by public sentiment, throughout the country.

At an early period of the session the prevailing sentiment, looking to the object I have indicated, was in favor of a simple constitutional provision by which representation should be based on voters qualified as electors under the respective State constitutions and laws. This, it was thought, would force the South to acknowledge the political rights of the negro. Indeed, it had no other object. I am not disguising, nor will I disguise, for party purposes, the object had in view in this or other measures. It is no time for dissembling. The questions are too great, the interests at stake, too large for dissimulation. Any attempt now at concealment is absurd. Is it not worse than absurd? Is it not criminal? This proposition, at least, had the merit of being equal. It put no brand, no stigma upon any State. It left each to determine the franchise for itself. Those who were thought worthy of the ballot in the respective States were made the representative basis in Congress. It stimulated the broadest republicanism, the most extended suffrage, by giving it the rewards due to such liberality. The more the voters in the State, the greater was to be the political power of that State in Congress, and the greater its weight, in the choice of President. No one seemed to doubt that this proposition would secure the largest possible negro vote in the North and South consistent with the peace, and good order, and proper government of the respective States.

I refer to this measure, its former popularity, and the strange and sudden disfavor into which it fell, to warn Senators against the danger of

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sectional or selfish considerations in the settlement of the great questions now before us. Absolute justice seemed to be stamped on the face of the measure, and Representatives were ready to accept it, as they would accept a demonstration of Euclid. It was fair, would apply to all the States alike, and its great merit was that it secured beyond doubt the great end desired—negro suffrage in the southern States. The political penalty attached to its denial was too heavy to be borne. Just at this moment a young and talented Representative from Maine [Mr. BLAINE] thought he would examine the figures, (they never deceive.) He betook himself to the census, and found the proposition would not do. It suddenly became unjust. Why unjust? Because, if adopted, the eastern and Atlantic States would lose power comparatively with the West. The active and enterprising, but poor young men of those States are in the habit of emigrating West. The women are left, but the men seek their fortunes in larger fields of adventure.

He discovered that in 1860 the entire population of California was 379,994, and that out of that number, 278,337 were males and only 106,657 were females. He discovered, also, that Illinois had 898,941 white males and only 805,350 females, an excess of 93,591, enough to give Illinois an additional member of Congress under the contemplated rule. He discovered also that Louisiana had an excess of males over females of 22,000; Kansas 11,000; Iowa 34,000; Indiana 48,000; Missouri 63,000; and other western and southwestern States in like proportion, while Connecticut, New Hampshire, New York, Rhode Island, Massachusetts, and the Atlantic States generally have a large excess of females over males. Hence while this rule might coerce the southern States to adopt negro suffrage, it would at the same time weaken the representative power of the East; in other words, while it might coerce the South to admit negro suffrage, it might drive the North and the East to woman suffrage, for which they were not prepared. The very moment Mr. BLAINE made some figures on this subject and laid them before the House of Representatives, that proposition was dead forever. Perhaps it ought to have died. But if so, it should have died of another reason. You cannot enfranchise everybody in the States, and it may be asked with great power, why should not the evil, instead of the political society, be represented in Congress?

Mr. SHERMAN. What was the date of that speech?

Mr. HENDERSON. Sometime in the early part of January, the precise date I do not remember. The figures I use are taken from the census, and I may not state the objections just as Mr. BLAINE stated them. I do substantially, for I happened to hear his remarks against the measure which had the approbation of many western members, and which yet is thought by them to be the best. The real objection to it in my mind consists in cheapening the franchise to obtain political power.

As I have said, however, the proposition died so soon as it was found that the East was to lose by it. I do not blame these Eastern gentlemen. They want the privilege to exclude their women and minors from the suffrage, yet they want them counted in the basis of representation in the Federal Government. At least, they object to any penalty being imposed on them for their exclusion. But hasten on. Something was to be done. The negro must be enfranchised, but the difficulty consisted in choosing words that would place the penalty for denying suffrage on the South, and yet let the North and East deny it with impunity. The next difficulty was to select words, that would act as a penalty on the South, without incurring the prejudice against negro suffrage in the North and East. Mr. BLAINE finally obtained the happy words, and these happy words are

now embodied in the proposition of the committee, which I have read.

The first inquiry of the country will be, what object is contemplated by this amendment? What is to be effected? After six or seven thousand million dollars have been expended, after mourning has been brought to almost every house in the land, after blood enough has been spilled to float our heaviest monitors, after the deepest interest has fixed itself in the public heart and intense anxiety is depicted on every face, it is simply contemptible to trifle with the sad earnestness of an intelligent people by the use of ambiguous language. They have a right to know our meaning, the purport of our measures, and they will be satisfied with nothing less. This resolution is now before us, and many earnest Union men think it must be adopted—that its defeat will be attended with great danger to the best interests of the country. Hence, many will not stop to inquire what results may flow from it. I read it again:

Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

It will be observed that after the word "Representatives," the first word in the resolution, the committee have seen fit to drop the three words which follow in the text of the Constitution: as it now stands, to wit, "and direct taxes." So if the amendment should pass, representation may be fixed on one basis and direct taxation on another. So jealous were our forefathers on this subject that they never thought for a moment of separating taxation and representation. In their judgment, such separation was tyranny. It was so declared throughout the revolutionary struggle, and at the time of the adoption of the Constitution a proposition like this, under which, a people paying full taxes, should have but half representation, would have received no favor whatever. A direct tax would operate harshly against my State. It is a tax levied in proportion to the numbers of the people. The people in the newly settled States are generally poor, and a tax on each person of an equal amount may be paid easily by the rich men of the old settled States, while it would drive to poverty the people of the new. If the rich States of the Atlantic sea-board, now having the power in consequence of the wicked absence and rebellion of the South, should be able to adopt a basis of representation under which they could pay the public debt by direct taxation, the West and South might be impoverished, while the people of New England and the middle States would grow yet richer.

I shall watch rebel influence and keep it out of the councils of the nation. The North will be forced to join me in this, but in foolish fear of rebel influence I will not consent to run into this danger. My State is as much interested in this proposition, as the East is in having their women and minors represented in Congress. The loyal men of the South, robbed of their substance by rebel tyranny, will join Missouri loyalists in having this great debt paid, as far as possible, from the wealth of the country, and not wrung almost entirely from the sweat of poor men. The poor men go from the East to the West. The rich stay where they can enjoy the comforts of an older civilization. I see no reason to run in base fear from anti-negro aristocratic rebel influence into the hands of a moneyed aristocracy. But whence comes this eternal specter of rebel power, in Congress, to frighten us from all propriety? I thought we had determined to reject all rebel organizations in the southern States, and to tolerate and recognize none but loyal Governments. If we do so, where is this rebel specter? It is, like many other ghosts, used for a purpose. I am not

afraid of such ghosts. The people of this country will never suffer any but loyal men to govern these southern States, and the sooner, the disloyal there know it, the better for them. I know they may give us trouble, and a great deal of it. But the loyal men will possess the country at all times. If I am right, then, this proposition is not so efficient, as a means of weakening rebel influences, as to place, in the hands of the more wealthy States the power, to tax unjustly the loyal and disloyal white and black of the poorer States South and West. I acquit gentlemen, of course, of any such intention, but such may be the result.

The answer comes back to me, all this may be avoided by the simple act of justice to be performed by the States, the enfranchisement of the blacks. Well, is it right to enfranchise them? Do you say so? You do not so declare, but you expressly declare the right to disfranchise. You admit that a good reason may exist for the disfranchisement, and invite it by implication. Suppose the white southern landlords agree to accept your proposition. Suppose that they take diminished representation and unjust taxes by Congress, both upon themselves and the negroes, in lieu of the right which you propose to give them, the right to deny the negro representation in the State organizations and the privilege to fleece him from year to year of his hard earnings by unjust State laws? Has Missouri no interest in this bargain? Remember, if the negro is represented in Congress, his interest is the same as that of my constituents. Our forefathers gave him a three-fifths representation as a slave, and a full representation when free. This proposition offers a bargain by which the southern white may rob the negro, provided he, for himself and the negro, will consent to be robbed at the discretion of others. Massachusetts and South Carolina made a bargain once before—I mean the bargain by which piracy was legalized and man stealing carried on by law until America was filled with slaves. Other people suffered by this thing. My State and others are likely to suffer by this new compact, and I think it best to have nothing to do with it.

But I have said the people will ask what this amendment means. It can mean but one of two things. First, it is intended to deny representation to a non-voting population; or, second, it is intended to secure suffrage to the negro.

If the committee intend to secure the first object, it must be because of the existence of a correct, living, vital principle in our Government, that a non-voting population in one of the States ought not to be represented in the Federal Government. If this be the design, I should like to ask on what principle the women, minors, and aliens are to be retained in the basis of representation? If any principle be involved, these, too, must be excluded from the enumeration in each State because they do not vote. If it be said that no principle is involved, but that it is a mere matter of temporary expediency, I answer that I will never give my sanction to a constitutional provision on any such considerations. If there be no principle involved, then the amendment should not be made. But whence comes this idea, I have already asked, that a non-voting free population shall not be represented in Congress? Every tradition of our fathers; every utterance by those who builded our institutions; every principle on which they are founded, utterly reject and condemn the idea as false and mischievous. Our fathers left the suffrage with the States. Suffrage at that day was much more limited than it now is. In some States only freeholders voted; in some the heads of families; in all a property qualification was necessary; in some the free negroes voted, in others they did not. Mr. Madison said:

"The definition of the right of suffrage is very justly regarded as a fundamental article of republican government."

And he says further:

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been to the Convention."

Hence the Convention left the suffrage question to the States, believing, in the language of Mr. Madison, that it could not be "feared that the people of the States will alter this part of their constitution in such a manner as to abridge the rights secured to them by the Federal Constitution." In this Mr. Madison and the good men of this day were deceived. The States in many instances, it is true, enlarged the right of suffrage to the whites, but as slavery became profitable, the rights of the free negroes were gradually "abridged," until all, except some of the New England States, denied them the suffrage. I infer from this language of Mr. Madison, if the Convention could have foreseen this revolution in sentiment, the child of avarice in the white man, and not the result of discovered incapacity in the black for the duties of citizenship, some provision would have been made to prevent this abridgment of the suffrage. I am left to infer as much from what he says, in the thirty-ninth number of the *Federalist*, in defining a republic. He says:

"It is essential to such a Government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise, a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their Government the honorable title of republic."

These things were not provided against because they were not anticipated. They have now come upon us, and it behooves us to remedy the evil, not by saying the evil may continue, and if it does, we will add another evil to it, but by making our State governments truly republican.

Representation was purposely made unequal in the Senate, but in the lower House it was purposely placed where the States could not alter it if they would. It was based, not on voters, but on the masses of people, old and young, black and white, sane and insane, excluding Indians not taxed and including three fifths of the slaves. There was a contest as to whether slaves should be represented in the Federal basis. There never was any contest as to free persons. All admitted the justice of including them in the ratio. In the fifty-fourth number of the *Federalist*, Mr. Madison says:

"It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State."

He says further, in that connection, that—

"The establishment of the same rule for the apportionment of taxes will probably be as little contested."

Though he insists the rule in the latter case is not founded on the same principle. This is true. Nobody can doubt that representation should be based on population. Taxes may properly be based on wealth; but is it not monstrous that a proposition should be urged, at this day of experience in the science of government, proposing that representation should be substantially confined to voters, while taxation is purposely left to be apportioned on numbers? Missouri has now a greater population than Massachusetts. Massachusetts has three times her wealth. Under this rule Missouri will pay larger taxes than Massachusetts and have less power in Congress. Mr. Madison said that representation should be based on population because "the rule is understood to refer to the personal rights of the people, with which it has a natural and universal connection." In the case of taxation, he said "the rule is in no case a precise measure and in ordinary cases a very unfit one." The less wealthy States had to accept the rule in the case of taxation. It was then, and is now, hard enough.

But when I am asked to give up political power, that the practical application of an always unjust rule in taxation, now to be made odious,

may be enforced against me, I cannot, I will not, consent. It is no answer to say that you mean well. If so, why not do well? The negroes of the South must be included in the ratio of Federal representation or we are no better than those who exclude them from the suffrage. You give their former owners the right to drive them from the ballot-box, and the only punishment you propose is to rob both the oppressor and the oppressed of their money. It is a compromise that the whites may govern the blacks in the State governments of the South and wring from them sweat and tears, provided the northern and eastern States are permitted to control the national Government. This is a Government of the entire people. Women and minors have an interest in it. Your legislation acts upon them. It gathers taxes of them without asking them if their respective States permit them to vote. Why should they not be represented here, even though they are not permitted to vote in the States? The Constitution provides that—

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

If the negroes now in the State of Louisiana continue to live there with the whites, their pursuits will be of the same character as those of the whites. Whatever may be existing prejudices between the whites and the blacks, the future will develop an identity of interests. What is favorable to one will be favorable to the other. What is injurious to one will be injurious to the other. If the white man grows sugar-cane and makes sugar in Louisiana, the negro will do the same. If, in Alabama, the old planter or Yankee adventurer who will go down there, undertakes to grow cotton, the negro will grow cotton also, and the interests of the planter and the Yankee adventurer and the negro are identically the same. You cannot separate them. Have the women of Maine and Massachusetts no interest in the legislation of Congress? Do you dare say that they are not interested as much as the men? Do they not pay taxes? The Senator from Massachusetts told us the other day that James Otis said that taxation without representation is tyranny. The Senator from Maryland [Mr. JOHNSON] replied that this referred only to representation in the English Parliament, where we had none. But if the principle be true only as applied in that case, how dare you make partial representation? If it be odious and tyrannical to deny representation entirely, the least diminution of it opens the door to wrong. Lead us not into temptation. Power is dangerous, when properly obtained. When unjustly obtained, it cannot exist, except in the corrupt elements which gave it birth.

Mr. SUMNER. I will remind the Senator that Otis claimed representation for each individual. He did not claim it merely for the community.

Mr. HENDERSON. I did not know that he went to that extent in the speech alluded to. It only makes the case stronger.

Mr. SUMNER. He did, as I shall show at the proper time.

Mr. HENDERSON. I was very well satisfied, without examining his views, that the principle he laid down must go to that extent. Half representation is half as bad as no representation. If it be tyranny to deny it entirely, it is half tyranny to deny the half, and half tyranny is equally a violation of the great principle of right. It is only a difference in degree; it is only modified tyranny, but it is tyranny at last.

Now, sir, Congress is constantly revising our impost duties; and equally often we revise our stamp, income, and excise taxes; and if you will give the distinguished Senator from Maine, [Mr. FESSENDEN], the chairman of the Committee on Finance, the power to regulate impost and excise duties according to his will and pleasure, it is quite certain that he can build

up the people of the State of Maine, or the people of all New England if he choose, and make them rich while other sections may be dragged down to poverty. Look at the varied products of this country and think how taxes may be adjusted. You do not raise cotton in Maine, nor in Massachusetts, nor in any other New England State. But you manufacture the article in large quantities. Cotton is the chief production of a great many of the southern States. Suppose you increase your tariff on cotton goods and levy an excise tax upon the growth of cotton in the southern States, giving a drawback for the tax on the raw material, as you proposed at the last session of Congress to the manufacturer, but denying it to the producer, thereby levying in effect an export tax and paying bounties to the manufacturer, how long before New England would be filled with the stream of wealth that had its source in the sweat of southern laborers?

Is not the negro interested in this? He may have no ballot in Alabama. But this should excite your sympathy and not tempt you to rob him. The same may be said of the sugar interests of Louisiana, the tobacco and grape interests of Missouri, the turpentine interests of North Carolina, the pork interests of Ohio, and the whisky interests of Illinois and Indiana.

It is useless to spend time in enumerating the many evils to spring from unequal and unfair representation. They meet us at every step. When representation in the lower House becomes unequal, the salt of the Constitution is gone. This looks like an effort to give the power in the lower House, by another compromise, to the same section of country to which an undue power was given in the Senate. If it must be done, let it be done in another name than mercy to the black man.

Again, the Constitution provides:

"The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

In the formation of the Constitution this power was considered by the commercial States of such great importance to them that in consideration thereof they bartered away the liberties of a race. With unequal representation in the hands of the commercial section, what injuries might not be inflicted on the agricultural portions of the community?

Are not the negroes interested in the exercise of this power by Congress? For many years they must look to agriculture for support. Laws, oppressive to them and ruinous to their pursuits, may be passed under this and other clauses of the Constitution. The interests of the negro deserve consideration whether he enjoys the franchise or not.

Again, Congress has the power "to declare war," "to raise and support armies," "to provide and maintain a navy." The mercantile interests of our nation are now in no kind mood toward England. I do not propose to speak of the action of England during our late war, or to condemn or indorse the denunciations of her conduct toward us. I simply refer to our present attitude to that Power to show the injustice of the pending proposition. Is war to be declared? Some persons desire it to be done, and thousands of our people might grow rich with "letters of marque and reprisal." The mercantile interests might be rejoiced at an opportunity to retaliate for real or imaginary wrongs. However such a war might gratify individual or sectional feeling, however it might add to our national glory, yet it would be a war of vast proportions, destroying the material interests of the nation, plunging us into almost hopeless bankruptcy, and bringing poverty and misery to all classes. If a minority of the people, inhabiting the Atlantic States, had the power and the will to declare such a war, and to impress the majority into the armies of the nation to maintain it, what sort of a Government would ours be? Can it be said that the negro of the southern States, struggling in poverty to support



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himself and family, has no interest in preventing this war, simply because he has no ballot? What difference does that make to us? The women of New England who did not vote denounced the war of 1812, and rightly held their places, in the basis of congressional representation, to force an early peace after an unprofitable and unavailing war. The women and men of New England denounced the war of 1846 with Mexico. Had the women and minors been excluded from the basis of their representation, and war then declared against the voice of New England voters, another war than the Mexican war might have come. In such event, who would have said that the women and minors had no interest in the matter and therefore no right to complain, because they could not vote in their respective States?

I might continue this course of remark, but I dismiss it and look for a moment to the population South and some of the effects to be produced.

If these States shall deny the suffrage, then by this rule you exclude from representation, in the single State of Virginia, 548,907 human beings, largely more than the white population of Kansas, Delaware, Minnesota, Oregon, and Florida, under the census of 1860. Think of it, Mr. President. These five States are entitled to six Representatives and ten Senators in Congress, with a white population of 499,117, which is 49,790 less than the negro population of the single State of Virginia. You have six Senators and ten Representatives in Congress, representing a white population in these States less than the negro population of the single State of Virginia. Do your excise laws not reach these negroes? Do not your tariff laws reach them? Will they not have to buy imported goods, and pay like others your excise and income taxes? I am answered, "If the States want justice done to the negroes and themselves, let them admit the negroes to the right of suffrage." That is not satisfactory. Suppose, as I have said, the whites of these States resolve to accept the compromise or bargain you tender them? Suppose they take the chances of unjust legislation for the privilege of robbing the negro by local law?

But I proceed. The five States named have a representative population, as the Constitution now stands, of only 559,017, which is but 10,110 more than the negro population of Virginia. The negro population of Georgia exceeds the white population of Rhode Island, Kansas, Delaware, and Oregon, by 45,525. The negro population of Mississippi exceeds the white population of the States last named by upwards of 17,000. These States have five Representatives and eight Senators in Congress.

The negro population of Georgia and South Carolina is 878,018, largely more than the entire white population of New Hampshire, Vermont, and Rhode Island, it being only 810,636. These States have six Senators and eight Representatives, but this vast population of nearly a million souls will go unrepresented. Add the negro population of Virginia to that of Georgia and South Carolina, and it almost equals the white population of Maine, New Hampshire, Vermont, and Rhode Island.

The proposed amendment does not declare that this population shall go unrepresented, but it implies that a good reason may exist for their local disfranchisement in the States, and if the States do regard them as brutes, and not persons, they can do so. I, for one, am totally unwilling to permit them to do it. I append a comparative table showing the population white and black in 1860 in fifteen States, the number of Representatives they now have, the number to which they would be entitled under the Constitution as it is, the number to which they would be entitled under the committee's plan, in case the negroes are excluded, the proportion of direct tax allotted to each under the act of 1861, levying a tax of \$20,000,000, and the proportion each of said States would be required

to pay of a twenty million tax under that Constitution as it now stands, and as the committee proposes to leave it, their slaves being free:

Ratio of representation.	White population in 1860.	Free colored population in 1860.	Slave population in 1860.	Total colored population and free.	Total population, white and black.	Number of Representatives at present.	No. of Representatives if based on entire population.	No. of Representatives if based on committee plan, and the negroes are excluded.	Loss.	Gain.	Share \$20,000,000 per cent of 1861, 67 per cent of the representative person.	Share of a tax of \$20,000,000 based on the ratio of taxation.
Massachusetts.....	1,221,464	9,602	462,108	9,602	1,231,066	10	10	11	1		\$324,851	\$739,657
Georgia.....	591,958	3,500	465,698	3,500	1,057,286	7	8	5	2		884,577	672,433
Maine.....	628,952	1,827	350,372	1,827	628,279	5	5	6	1		420,526	390,650
Louisiana.....	857,629	18,647	381,726	857,629	708,002	5	5	6	1		385,169	450,289
Connecticut.....	451,629	8,627	426,631	8,627	460,258	4	4	4			308,214	292,653
Mississippi.....	333,901	11,426	437,004	11,426	791,325	3	3	4	1		413,084	603,269
Indiana.....	1,338,000	11,426	375,719	11,426	1,350,126	11	10	12	1		504,575	838,872
Tennessee.....	823,732	170,688	283,419	170,688	1,098,820	8	9	7	1		669,488	705,855
Rhode Island.....	170,688	9,914	402,405	9,914	703,788	2	2	2			116,935	111,058
South Carolina.....	291,388	1,171	412,920	1,171	775,881	4	4	3	1		303,572	447,638
Wisconsin.....	774,710	58,042	490,865	58,042	1,232,612	7	7	7			637,698	463,460
Virginia.....	1,047,411	58,042	545,907	58,042	1,601,360	11	12	9	2	1	637,350	1,016,238
New Hampshire.....	325,579	494	314,389	494	315,083	3	3	3			218,406	216,352
Vermont.....	814,389	709	381,522	709	815,098	3	3	3			211,068	200,402
North Carolina.....	631,100	80,463	331,059	80,463	692,622	7	8	6	1		376,194	601,507
						91	94	84	17	7		
						122,627	129,245	110,818				

To show the monstrous injustice, however, that may result from the proposed amendment, I may state that should it be adopted and a direct tax of \$20,000,000 be levied, the apportionment to Virginia would be \$1,015,258. The representation of Virginia in the lower branch of Congress would be nine members. The State of Illinois, with sixteen members in Congress, would pay but \$1,088,800. Kansas, with one member, would pay \$68,183. Oregon, with one member, would pay \$33,367.

Minnesota, with two members, would pay \$109,470. Delaware, with one member, would pay \$71,369. New Hampshire, with three members, would pay \$206,382. Vermont, with three members, would pay \$200,492. And Maine, with six members, would pay \$290,585. Hence, these eight States, headed by the great State of Illinois, and including three of the New England States, would altogether pay \$2,177,556. The State of Virginia would have to pay over one million, or nearly half this sum. Virginia would be represented by two Senators and nine Representatives, while the States I have named would be represented by sixteen Senators and thirty-three Representatives. Under such circumstances the peculiar interests of Virginia industry might possibly be protected by these Representatives from States having diverse interests, but to believe it requires a belief in the improvement of man's moral nature far beyond what it promises to be in our day. If a vast public debt is to be paid, the representatives of peculiar interests will likely forget the plodding negro in the South, in their efforts to protect those interests and commend themselves to their own constituents. It matters not by whom the Virginia Representative may be elected, if when here his votes shall be cast in favor of the negro's interest. If he represents the whites he cannot fail to represent the negroes, for their pursuits are regulated by soil and climate and productions. Their pursuits are necessarily similar and their interests cannot be divided.

If, then, the object of the committee be to deny representation to citizens of the United States merely because the States see fit to deny them the suffrage, I think I have shown it to be politically wrong, leading to acts of injustice and oppression on the one side, and to poverty and humiliation on the other. I thank the Senator from Massachusetts [Mr. SUMNER] for his amendment to perfect this proposition. It declares that if the negro is to be excluded from the basis of representation, he must be excluded likewise from the basis of taxation. That is fair, and argues a mind fully imbued with the foundation principles of civil liberty. But if this amendment, which is but the repetition of the highest tribute we have ever paid our Republic, should be adopted, the amendment itself, I suspect, would be abandoned. You leave it to the States to exclude the negro from suffrage. If the States do so, you accept the action and at once proceed to say he is a brute, a thing that cannot enter into the basis of Federal representation. If, in your judgment, the negro be a person, how shall he be excluded from representation? This rule, in Mr. Madison's opinion, is the true one and proper to protect "personal rights." The whole Convention of 1787, a body of pure and upright and wise men, believed with him. If they were right, you cannot deny the negro representation without ignoring every profession of the Republican party and a most important principle of republican theory. But if he be a thing, and unworthy of representation, how is it that he is more than a thing for purposes of taxation? If he is a drone, unfit to vote, and therefore should have no more voice in Congress than a stone or a stick, why should he be required to pay money for Government purposes? If he be an unreasoning animal, it is enough that he provide himself with the means of life. If he is without capacity, white men should scorn to take from him the little he may accumulate.

Mr. SUMNER. Allow me to remind my friend that the argument of Otis and of our revolutionary fathers was, that there should be no taxation, direct or indirect, where there was no representation.

Mr. HENDERSON. That is certainly the true principle, a principle of common sense and republican right.

But the committee, I presume, will tell me they do not wish to deprive any part of the country of its due and just representation in Con-

gress. On the other hand, they will claim a desire to do equal justice to each section. They will take the ground, then, that the object of the amendment is not to deny representation, but to coerce negro suffrage. I have already said that one or the other of these things must be aimed at; and I cannot suppose the committee intended to violate so great a principle. Then negro suffrage in the seceding and border States is the purpose of the resolution. I say in the seceding and border States, for the resolution is so framed, that each one of the original non-slaveholding States may refuse to enfranchise its negroes, without loss of political power. As to these States the penalty is operative. It is one of those strange penal statutes that, appearing to be equal, operate unequally, because of the unequal condition of the parties to which it is to be applied. This begins by assuming that the object to be attained by its adoption is wrong. The object is negro suffrage.

But while a large number of Senators and Representatives and a respectable portion of the newspaper press of the country claim the right of Congress, by a simple bill or joint resolution, to secure this right to the negro, this amendment begins by repudiating any such power. It does much more. It admits the exclusive right of the States over the whole subject. It does not stop there either; but the implication is clear, that the negro may and ought to be, in some cases, excluded from the ballot on account of the color of his skin. Then, of course, no Senator who believes that the Congress now has the right to confer the suffrage can vote for the proposition without stultifying himself. If he votes for it he is estopped thereafter from setting up the guarantee clause or the anti-slavery amendment as a warrant for legislation. No Senator who believes that the educated and intelligent negro, devoted to the institutions of his country, and qualified for the highest honors of life, should have the poor privilege, without regard to his color, of giving or withholding his assent to laws affecting his person and property, can vote for it, because it shirks the performance of a plain duty from false ideas of expediency, and commits a great interest to the hands of its enemies. Hence, both they who favor a direct act of Congress on the subject, and they who believe that this is the proper time, perhaps the last and only time we shall ever have, to consummate an act of justice, by a constitutional amendment, declaring against all discrimination of color or race, must take their places against this proposition.

Again, if suffrage be the intention, this amendment does not accomplish it. It is as inefficient as it is evasive. To show what the enemies of the measure think of it, I quote from the columns of the Richmond Examiner:

"But, for the sake of argument, let us even suppose that this amendment should prevail and become a part of the Constitution. What then? What would be its operations? Nothing would be easier for the States it attempts to control to render it practically null, by declaring, first, that all persons now enjoying the elective franchise should continue to exercise it; and, secondly, that all persons hereafter admitted to it, should be admitted on a prescribed educational or property qualification. In this way the political control of the country would remain (for this generation, at least,) as completely in the white race as if no such amendment had ever been passed."

Another objection, in this view, consists in the fact, already perhaps stated, that it is partial in its good. If negro suffrage be desirable in the South, it is equally so in the North; but the amendment is purposely so framed that northern and western prejudices may run their course and northern and western injustice be perpetuated without punishment. This fact of itself destroys the force of the measure. It leaves too much undone. It is not entitled to approval as a great act of impartial good, but commends itself to the petty passions of the hour. It assumes to elevate the negro in the seceding States, not for the negro's good, but to punish the whites. It comes from malice, and not from charity or a sense of right. In effect, it says

the people of the North and West need no chastisement, and negro suffrage must not be forced on them. The people of the South have sinned, and this is their punishment. Mr. President, I am in favor of extending the suffrage in a modified, safe, and judicious way, not to punish the whites of the South, but to advance their interests, moral and material, and to insure the future peace of white and black. Instead of a punishment, the future will claim it as the greatest good. But it must not be partial. It must not be confined to a section. It must be as broad as our free country, as universal as truth itself.

If the negro ought to be enfranchised, our duty as statesmen, our honor as men, our own sense of responsibility to posterity, all demand that we should do it now, and do it with the boldness of conscious right. We should make it effective and appeal to an honest people to ratify it. It is admitted that under this amendment the South may refuse to enfranchise. Then your object is lost. It will not do to say that the pressure will be such as to force them to it. If the southern States find themselves in a minority in Congress, and that to enfranchise the negro would still leave them in a minority, nothing will be gained by yielding their assent, and your pressure ceases. If, on the other hand, they find that with the aid of the Democratic party of the northern States they can afford to exclude the negro from the basis of representation and yet retain political supremacy, your pressure is equally lost.

But another objection occurs. By attempting to cover up and conceal our real object, we may lose forever that which we have in view. You cannot put a proposition before the people that will deceive them. If, by this amendment, you intend to secure negro suffrage, the people will understand your purpose, and if they are opposed to the ends you aim at, however disguised, they will defeat you. The people are just as intelligent as we are. If, on the other hand, they desire negro suffrage, they cannot fail to see that this proposition is a sham and a delusion, and they may vote it down because of its inefficiency.

This amendment implies that impartial suffrage may be a curse to the white race. It is therefore put forward in the form of an evil. Another evil is put forth with it, and choice between them is given. One must be taken, but the other may be rejected. It is a choice between bitter cups, either of which is a penalty for past misdeeds. Do I state the proposition unfairly? I think not.

I come now to the chief argument, indeed the only argument, urged in favor of the committee's report. It is that the proposition can be carried. It is without merit, but it can succeed. A bold declaration of man's equality cannot be carried. I state it plainly. I hope I state it fairly.

The distinguished Senator from Maine in his speech the other day said, and I was glad to hear him say it, that he personally was willing, instead of the proviso to the amendment now pending, to attach the following:

"That all provisions in the Constitution or laws of any State making any distinction in civil or political rights or privileges on account of race or color shall be inoperative and void."

Mr. FESSENDEN. The Senator misapprehended me. What I said was, not that I was willing to attach that instead of the proviso, but that something like that, which I repeated, would suit me very much better if I supposed it could be adopted; that I personally would prefer a clean proposition abolishing all distinctions; and I presume all the Senators around me would.

Mr. HENDERSON. I am glad to hear the Senator say so. If all the Senators around him prefer it, and he prefers it, why not take it? Simply because it cannot be adopted. Before I close, I should say something further upon this argument addressed to our fears. It is an

argument that ought not to be addressed to us by the able Senator from Maine. That which is right will succeed. It is bound to succeed. It may not succeed to-day; it may not succeed to-morrow; but I have an abiding confidence that justice will soon or late triumph. Man may be unjust, but God is just, and as He is more powerful than man, so His justice is borne on to ultimate triumph against all human obstacles. I am slow to appreciate the argument that a proposition correct in itself can never receive the favor of the people. I know that such fears were entertained a short time ago when the proposition to amend the Constitution abolishing slavery was under consideration. Even the able and sanguine Senator from Massachusetts, [Mr. SUMNER,] I think, had some fears on the subject, and introduced a bill to declare slavery abolished. He now offers a bill, refusing yet to believe. He thought that a constitutional amendment could not then succeed. He wanted the object accomplished with all his heart, but his anxiety drove him to the selection of means wholly ineffectual. I thought that a simple act of Congress would always be disputed; the courts, Federal and State, might dispute it. But now that the amendment has been adopted, the Senator from Kentucky [Mr. GURRUE] rises in the Senate and says, with honor to himself, he recognizes it as the law of the land. There is not a southern man from one end of the country to the other who does not acknowledge the fact that the constitutional amendment is an operative amendment, and that slavery is forever abolished in the United States. That is a great thing accomplished. It gives peace, contentment, order, satisfaction. Nobody is now disputing it. Every department of the Federal Government acknowledges it. The courts cannot dispute it; the people do not dispute it; the State Legislatures do not dispute it; the State magistrates do not dispute it; the whole world acknowledges the fact that slavery is abolished.

It was said that the emancipation proclamation would do no good, that it was a dead letter and could not be enforced. I must confess that at the time I had some doubts of the propriety of it, and greater doubts of its efficiency. Does anybody doubt its propriety now? Was it not sanctioned by the country? You remember the relentless opposition waged against it. The discussions that sprang out of it gave it additional strength, and finally the people approved it as an act of justice; and the inspiration breathed by that proclamation gave us ultimate success in this war. You remember the opposition made to arming the negroes, but finally it received the sanction of the entire body of loyal men, and the country gratefully acknowledges their services in suppressing the rebellion.

No, Mr. President, if we have satisfied our minds that the negroes of the seceded States should now, or, in the future, have the elective franchise, the same right exists in other States; and let us place a distinct proposition before the people and defend it as honest and fearless men. It has been truly said that one earnest man in the right is always a majority. Many objections, other than those I have named, might be urged against this amendment proposed by the reconstruction committee, but to name them would require too much time. I must apologize to the Senate for trespassing already so long.

I come now to the measure proposed by the honorable Senator from Massachusetts, [Mr. SUMNER,] a joint resolution of Congress to secure civil and political rights irrespective of color. It gives me pain at any time to differ with the honorable Senator, and I especially regret a difference now. His purposes I do not condemn, but the means by which he proposes to arrive at them cannot receive my sanction. I could not vote for his bill two years ago to abolish slavery; I cannot vote for his bill to secure political rights now. I desired emanci-

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pation then, but took a different road to arrive at it. I desire that no State law hereafter shall be permitted to set up the senseless test of color in fixing the qualifications of voters. But I am not now ready to take away from the States the long-enjoyed right of prescribing the qualifications of electors in their own limits. Congress is not now prepared to take and exercise properly this power. Local reasons may exist, and do often exist, for excluding certain persons from the ballot. The people of each State can better judge of these reasons than Congress or the people in other States. But the United States is certainly interested in maintaining a republican form of government—republican both in theory and in practice.

No State can vitally wound the true republican principle that "all men are created equal," and that when government is to be established, its just powers must come from "the consent of the governed," without causing injury and bringing disease into the entire system. If wrong be done in one of the States, it is eventually felt by the nation. If a State becomes an oligarchy, the deleterious influences are not alone confined to the limits of the State. They cannot be so confined, because the few electors who control State policy are the same who send Representatives to Congress. The members of the Legislature, chosen by those electors, select the Senators who sit with us here. If the fountain be muddy, the stream is not clear. If the electors be aristocrats, the representatives will rarely be republicans. The right of suffrage," said Mr. Madison, "is a fundamental article in republican constitutions." "The regulation of it," he further said, "is at the same time a task of peculiar delicacy." He said, in another paper:

"It would be happy if a state of society could be found or framed in which an equal voice in making the laws might be allowed to every individual bound to obey them. But this is a theory which, like most theories, confessedly requires limitations and modifications."—*Madison Papers, Appendix, vol. 3, p. 15.*

We all feel the force of these simple words, "Suffrage is a fundamental article of republican constitutions." How true! But yet Mr. Madison and the fathers were content, according to my reading, to leave the whole subject with the States, under the hope that the people thereof would not "abridge the rights secured to them." That the States have abridged the rights of suffrage and have violated the fundamental rule of republicanism, as then understood in theory, we cannot doubt. An important question, however, to be considered is, were the theoretical views of republicanism entertained at that day ingrafted on the Constitution? I think not. They made a written Constitution, and when they speak of republican forms of government in the instrument itself, they mean simply a conformity with that Constitution. Our fathers did not sanction or approve of, slavery, but they left it existing in what they called republican forms. The time has now come, foreseen by Mr. Madison, (see No. 43 *Federalist*), when a "minority of citizens in some of the States" has become a "majority of persons," when, indeed, a majority of persons is found in that "unhappy species of population abounding in some of the States who, during the calm of regular government, are sunk below the level of man." Truly those men have now "emerged into the human character," and unless they have the suffrage, the republican system will become diseased. Violence and revolution must follow a denial of suffrage to a majority of free persons in a State, especially when that majority are the subjects, not only of prejudice, but hatred. But, on the other hand, as this is a practical question, and must be dealt with in a practical way, I am free to say that I would not to-day open the polls in the seceded States, were it in my power, to the entire population, white and black. When there is a way to effect a great good without any evil, that way should be adopted. Good is often accomplished through blood, but

when it comes in peace, accepted by all, how much better it is! What would be the result of indiscriminate suffrage now in the South? The whites for two hundred years have taken the labor of the black without further compensation than a scanty support. Perhaps that was all their labor was worth. I do not pass judgment on that question now. The negro is ignorant and brutalized by this long period of slavery. Perhaps the white man would be no better under similar circumstances. I doubt if he would. The negro is poor; the white man has something left, but not much. The little he has, the negro thinks belongs or ought to belong, in part at least, to him. The belief may be well founded in justice. I will not pass judgment here either. The white is offended that his grasp has been violently loosed from his slave, and like all angry mortals must wreak his vengeance on somebody. He has not power to harm the conqueror; he harms the innocent object of the conqueror's kindness. Like other disappointed men, he would destroy that which he can use no longer. The feelings of the ignorant and degraded negro may well be imagined, and I leave to the Senator from Massachusetts to imagine the consequences of an open, full, and unlimited ballot in those States now, and especially where the negroes have the numerical majority. Perhaps their excesses, following the ignorant, unskilled use of power, would set back, for years, this great reform. I have no time for further comment on the consequences of such conduct.

It is, in my judgment, yet proper to leave the qualifications of electors with the States, but not to the extent of allowing them to introduce disease and death into the body-politic, by denying in their own organizations the elementary principles of republicanism. Missouri has an interest in the State governments of Virginia, Louisiana, and Texas. If these governments become diseased, the whole body suffers, for the States are but limbs of that body. Our governments must be truly republican. The present Constitution tolerates something else. Let us amend it. The preamble of the honorable Senator's resolution indicates that the power to pass it is claimed, first, in the guarantee clause, and second, in the constitutional amendment abolishing slavery. It seems admitted that the power must be derived from these provisions of the Constitution or it does not exist at all.

Mr. YATES. Will the Senator allow me to interrupt him?

Mr. HENDERSON. Certainly.

Mr. YATES. I hope that I am not interjecting what I have to say in a wrong place in the Senator's speech, but I wish to ask him a question. The constitutional amendment, which has recently been adopted, abolishes slavery in all the States; in other words, it secures freedom to the freedmen. It is not a latitudinarian construction to say that it secures full freedom to the freedman. Can full freedom be conferred upon the freedman without conferring upon him all his rights, natural, civil, and political? The second clause of the constitutional amendment says that Congress shall have power to enforce it; that is, to confer full freedom upon the freedmen, for to abolish slavery means to confer freedom.

Another point. Congress, before the adoption of the amendment, could not make a citizen, and a State could not make a citizen. "We, the people of the United States," "do ordain and establish this Constitution." The people made the Constitution, not the Constitution the people. But the Dred Scott decision declared that because a slave might be bought and sold when the Constitution was made, because at that time he was not recognized as a member of the society, because he had no rights which a white man was bound to respect, therefore he was not one of the people, not one of the sovereignty. By the constitutional amendment abolishing slavery, the

freedman becomes what? He becomes one of the sovereigns, he is emancipated into the people of the United States; and Congress having no power before to make a citizen, except to naturalize a foreigner, and the States having no right whatever to make a citizen, although they may regulate and make the rules by which he may vote, the freedman, the moment the act of emancipation was proclaimed, became one of the people of the United States. "We, the people of the United States," "do ordain and establish this Constitution."

Well, sir, the question which I wish to propound to the Senator from Missouri, for whose opinions I have great respect, is, why there is any necessity for constitutional amendments when we have the power under the amendment to the Constitution already adopted now to secure not only in South Carolina or Georgia, but in every State of the American Union, freedom, full freedom, civil and political emancipation to every man who comes within that provision of the Constitution.

Mr. HENDERSON. Mr. President—

Mr. YATES. I am trespassing upon the gentleman's time.

Mr. HENDERSON. I think I understand the Senator, and I only rose to ask him a question which I think will furnish an answer to all of his questions, for they all bear on the same point. I ask him if there is any slavery or involuntary servitude in the State of Illinois? Is it not a free State?

Mr. YATES. There is not at the present time any slavery there, and cannot be, I believe.

Mr. HENDERSON. Was there slavery or involuntary servitude in that State before the constitutional amendment abolishing slavery?

Mr. YATES. There cannot be slavery under the amendment of the Constitution. It is impossible.

Mr. HENDERSON. There is, then, no slavery now—and there was no slavery before the amendment. I so understand the Senator; he assents to the proposition. Now, how is it that Illinois does not permit her negroes to vote? She did not before, and does not now, allow them to vote. Then Illinois is not a free State.

Mr. YATES. That is the reason that I propose by a bill which shall apply to every State, not only to Missouri but to Illinois, to declare that these men shall have the rights secured to them by the amendment of the Constitution.

Mr. HENDERSON. I am left to infer, then, that slavery exists where the ballot does not exist? I will ask the Senator another question. Are the women of Illinois free or slave?

Mr. YATES. I notice that when gentlemen are driven to the point and to the wall upon this question, they invariably ask, why do you not let women vote?

Mr. HENDERSON. Not at all. The question of woman suffrage is not before us. My remark springs naturally from the Senator's position. I have neither condemned nor approved such suffrage. The Senator says slavery has been abolished, and to abolish slavery is to confer the suffrage; in other words, he assumes that the denial of suffrage is slavery. I thought not. The suffrage may be the best means to preserve freedom; I think it is. But if the person denied the suffrage, in one of the States is a slave, then slavery exists in all the States, for women and minors do not vote in any one of them, I would perpetuate the negro's freedom; but I would do it in such manner as to be effectual.

Mr. YATES. I will answer that at the proper time.

Mr. HENDERSON. I am only discussing a question of power. The Senator seems to think I am combatting his desires. I am not disputing his proposition that the negro ought to have the suffrage, but I am speaking of the way in which it may be legally done and the extent to which the ballot may be safely carried. The Senator from Massachusetts proposes to do by an act of Congress what I think can only



be done by a constitutional amendment. That is the difference now between the Senator from Illinois and myself. I think the amendment can be adopted. Indeed, I feel confident of it.

Mr. SUMNER. What amendment?

Mr. HENDERSON. An amendment to the Constitution preventing any discrimination against the negro in the right of suffrage because of color.

Mr. SUMNER. It cannot.

Mr. HENDERSON. I thought, in the bright lexicon of the Senator from Massachusetts there was no such word as "fail."

Mr. SUMNER. I thought the Senator meant that this proposition of the reconstruction committee could be adopted.

Mr. HENDERSON. Oh no, I never thought that.

Mr. SUMNER. I believe that the Senator's proposition can be adopted, gratefully adopted by the country, but the other cannot be.

Mr. YATES. I only put my question for the purpose of showing that under the Constitution as it now is, under the new Constitution, so far as the freedmen are concerned, all distinctions on account of color are abolished, and all that it requires is appropriate legislation to carry into effect that provision of the Constitution. It is made our duty to do it; it is thrown into our hands by the people.

Mr. HENDERSON. I was speaking of the power to pass this bill under the guarantee clause, and not of the power under the constitutional amendment abolishing slavery, at the particular moment when the Senator interrupted me, for which interruption I am quite grateful, because I am always glad to hear him. I was speaking of the guarantee clause and was resisting the position assumed by the Senator from Massachusetts, [Mr. SUMNER,] in claiming the power to pass his bill under the guarantee clause. Now the Senator from Illinois thinks that the constitutional amendment and not the guarantee clause gives the power. I understand him to say that the guarantee clause does not give it; that is, he admits that before the adoption of the constitutional amendment there was no power in Congress to compel a State to admit its negroes to the right of suffrage.

Mr. YATES. I will explain. I think that under the decisions of the Supreme Court, before the adoption of the constitutional amendment, a State had the right to exclude the colored man from voting, because he was considered a slave, and not one of the sovereign people. But now the case is altered under the amended Constitution; he is one of the people.

Mr. HENDERSON. The decision did not adjudge, I hope, a free negro to be a slave. The Dred Scott case did not deny that a State could give the franchise to a free negro. Nations, as well as individuals, Mr. President, sometimes backslide. There may be such a thing as a national fall from grace. Communities sometimes retrograde. The cases of individual reaction are numerous. We are yet doomed to see many more. Let individuals fall back if they see fit, but let our action here be such as to insure rational and steady progress. The English Parliament and people traveled far along the road of human progress in their contests with Charles I. They fell back, however, and for many long years the milestone then planted by them was lost to their vision. The French Revolution, that most sublime convulsion of human passion and human aspiration, struck the shackles from twenty-five million people, who, rising from the degradation and misery produced by ages of misrule and oppression, proclaimed liberty, fraternity, equality to all men. Yet they soon fell back from their advanced position. Their own excesses, their divisions, and irrational measures paved the way for a new dynasty. Louis XVI went to the guillotine, and Napoleon came to the throne. This is a most important epoch in our his-

tory. We now have seven or eight million dissatisfied, discontented, maddened whites. They are to be restored to the body-politic and made contented. The nation can be generous. It must be generous. But charity must not be converted into weakness. Four million negroes commingled with a hostile population, scarcely knowing whether they are slave or free, uneducated, immersed in poverty, ready for any scheme to benefit themselves, and yet too ignorant to select the best means, they must be cared for, and a way be provided to give them contentment and knowledge and security for the future. They demand our sympathy, but that must be the sympathy of reasoning men, and not the fruitless simpering of children. If we make mistakes now it will be many years before we can recover. Let none be made. But I may dismiss all questions affecting the policy of this bill, for it is enough that it is unconstitutional.

To return to the point from which I digressed, I repeat, that, for all purposes connected with this bill, in determining what is a republican form of government, we must look to the Constitution itself, we must be controlled by facts and not by theories. Theory is good to induce a change of organic law, but it is not good to authorize legislation in the face of that law. Our forefathers, in fact, admitted the republicanism of Virginia with two hundred and ninety-three thousand slaves; the republicanism of Maryland with one hundred and three thousand slaves; that of North Carolina with one hundred thousand, and South Carolina with one hundred and seven thousand. If these States could be republican in form with so large a number of their people in slavery, surely the denial of suffrage alone could not, by any analogy, take from them the character of republicanism. I would be glad to think otherwise, but I cannot force my mind to believe what contradicts the history of the time.

Mr. SUMNER. Do I understand my friend as insisting that the denial of the franchise is consistent with a republican government? For instance, take the State of South Carolina, which denies the franchise to more than half its population.

Mr. HENDERSON. In theory it is not. Under the Constitution it was regarded as a republican State at the time of the adoption of the instrument.

Mr. SUMNER. It did not deny the franchise to more than half its citizens then; they were slaves.

Mr. HENDERSON. It then had only one hundred and forty thousand whites, and had one hundred and seven thousand slaves. It also had eighteen hundred free negroes. I think it more nearly a republican State now than then. Practically, the question of suffrage was left to the States.

Mr. SUMNER. But that is the question, whether they were left to deny the suffrage to any freeman on account of color.

Mr. HENDERSON. If that be the question, then the point is against my friend, for both South Carolina and Virginia did deny the suffrage to the free negroes on account of color only, at the time when the Constitution was made, and when it was adopted. Virginia had upward of twelve thousand free negroes thus denied.

Mr. SUMNER. But the question is—I cannot anticipate my friend's conclusion on that point—

Mr. HENDERSON. My conclusion is, that a mistake was made in recognizing a constitution as republican that permitted slavery. I knew of no way to get rid of it except by constitutional amendment. I think another mistake was committed in leaving each State to so far abridge the right of suffrage as to change, in theory, the republican form. But such is the Constitution and you cannot change it by act of Congress. That is my conclusion.

Mr. SUMNER. You are wrong; it is a

question of theory, and I say that our fathers so held.

Mr. HENDERSON. But our fathers did not deal with it in the Constitution as a question of theory, but as a question of fact. Whatever may have been their theories, I mean only to say that the text of the Constitution does not carry them out—

Mr. SUMNER. Now, the practical point is, did our fathers concede to any State the power of disfranchising citizens on account of color? I utterly deny it, and I challenge my friend to show any authority for it.

Mr. HENDERSON. Why, Mr. President, if I have already failed to show it, I must fail in the future. I have shown that the suffrage was left to the States, and that they did exclude their negroes; that they held in slavery in Virginia almost half of their population, and that Virginia was called a republican State. Indeed, she was most prominent in making the very provisions we are discussing. She excluded the slaves and—

Mr. SUMNER. Ah! slaves. That is another thing. The question is whether you are allowed to disfranchise freemen on account of color, whether you are allowed to deny them their rights as citizens. That I utterly deny. The exception was with regard to slaves who were not regarded as members of the body-politic. They were in that respect treated as minors or as women, represented by their masters; but every freeman, no matter what his color was, was recognized as entitled to all the privileges of citizenship. He was one of the sovereigns. The proposition cannot be met, if my friend will consult the history of his country.

Mr. HENDERSON. It was not slaves only that were disfranchised, but I have shown that free negroes were also disfranchised. But I have no controversy with the Senator in what we mutually aim at.

Mr. SUMNER. I know that, and I concede to my excellent friend, of course, all that I claim for myself. We are in search of the best that can be done on this occasion. I applaud his zeal and thank him for his courtesy.

Mr. HENDERSON. I am certainly very much obliged to the Senator from Massachusetts. I feel now ten times better than I did before. [Laughter.]

I cannot longer detain the Senate in presenting objections to the exercise of legislative power under the guarantee clause. It is sufficient to control my own action, that I believe by the letter, and even spirit of the Constitution, the suffrage was placed exclusively under the control of State action. I think that the error of so placing it is as clear as the error made in tolerating slavery. To rid ourselves of the evil, however, we must amend the Constitution.

Mr. SUMNER. Do I understand my friend to say that a State might adopt a rule, for instance, founded on the color of the hair, so that all men with light hair should be excluded from the right of suffrage? I insist that a State is not, under the Constitution of the United States, authorized to make any exclusion on account of color.

Mr. HENDERSON. It ought not to be, you mean.

Mr. SUMNER. No; it cannot be. Color cannot be a qualification. There may be a qualification founded on age or residence or knowledge or crime.

Mr. HENDERSON. You are now coming in conflict with the committee of fifteen, who declare by their resolution that the States now have the power, and may yet exclude everybody of a particular race or color.

Mr. SUMNER. I understand that the committee propose to place that in the Constitution of the United States, and that is one reason why I object to their report. I say that they propose to do what our fathers never did.

Mr. HENDERSON. The Senator from Massachusetts is in theory perhaps correct. He is speaking, however, of an ideal constitution.

## SENATE.

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The true republican principle requires that as large a portion of the people, as is consistent with the public good, shall be permitted to vote. All I contend for is that our fathers supposed the States were to preserve the true theory, and in that belief left the control of the subject with them. They have abused the power. It is true that but few of the original thirteen denied suffrage to free blacks. But if any of them denied it, my friend's theory is upset, for all the States were claimed as republican States by the fathers.

Mr. FESSENDEN. The western States have always denied it.

Mr. HENDERSON. But I am speaking of the original thirteen, because it is of their institutions that the framers of the Constitution spoke most.

Mr. President, it was my intention to show that the constitutional amendment abolishing slavery gives no sanction to this bill; but I have been so long detained by interruptions, leading me into a course of thought not anticipated and causing me to repeat myself again and again, I shall pass it by with a simple remark. Slavery or involuntary servitude is a condition in which the slave has no will of his own. He belongs to another; may be compelled to labor without wages. He may be sold against his will, and the title to his person pass to another. The right to control his person and labor passes by inheritance. His posterity follow his condition. He can own no property. Whatever may be acquired by him passes and belongs to his owner. It is a condition well known and understood in this country. That well-known relation of master and slave is now abolished. It was the function of the constitutional amendment to destroy and break up forever that relation. In my judgment it goes no further. It declares that slavery or involuntary servitude, except for crime, shall not exist in the United States, and then confers on Congress the power to enforce the provision by appropriate legislation. From this the Senator and others deduce the power to confer the suffrage by act of Congress. It is not claimed that the negro is not technically free, but it is said he cannot maintain his freedom without the suffrage, and therefore Congress may adopt any measures necessary to enforce his freedom. This argument makes the discretion of Congress the only limit of its power in the employment of means to maintain and perpetuate his freedom. Were this true, Congress might deem it necessary to educate him, and not only educate, but confer a classical education. In the judgment of many, an education, moral and intellectual, is as necessary to freedom as the ballot itself; but when this is given it may be found that freedom is an empty name without competency. A homestead may be given, and if a homestead be found useless until it is sufficiently stocked, Congress may proceed to furnish the means to stock it. Again, if freedom cannot be maintained without the ballot, then woman must enjoy it or be reduced to slavery. The argument, though on the side of mercy, and welling up from a pure and good fountain, I think is untenable.

Mr. WADE. I wish to put a question if the Senator is willing.

Mr. HENDERSON. Certainly.

Mr. WADE. Before he passes from this part of the subject, I wish to suggest to the Senator that I am not quite clear in my mind that we have not the power to legislate under the amended Constitution.

Mr. HENDERSON. To legislate suffrage?

Mr. WADE. To legislate suffrage by an act of Congress. Slavery is abolished by the constitutional amendment, and the second clause is that Congress may enforce that by appropriate legislation.

Mr. HENDERSON. The meaning of that, then, is that nobody is free or can be free in the States unless he has the suffrage.

Mr. WADE. I only want to state it, and as

the Senator has thought much on the subject, I wish him to answer this: I understand the construction that the courts have put upon the Constitution is that when a power is granted in the Constitution, the means to accomplish it are given with it, and that Congress is not restricted to any particular mode of indicating the constitutional proposition unless the Constitution itself has prescribed the means. Now, we are to free the slaves. Suppose a majority of Congress believe that the only way to secure that freedom and make it effectual is by granting the franchise to the whole population there, have we no right to do it? We are to enforce or guaranty their freedom. Now, suppose that a majority of us come to the conclusion that the only way to do that and make it secure is by giving the franchise to all, have we not the power to do it? We are to effect it in some way, and the Constitution does not prescribe or restrict us to any particular mode. I should like to hear that position answered.

Mr. HENDERSON. That is the whole subject I have been discussing. It seems the Senator disagrees with me. I cannot help it. I wish we could think alike. Perhaps I had better think with him than he with me. It might be better for the country, because his thoughts are generally better than mine; but his question involves the whole subject at issue, and to answer it would be to go over all I have said. Our Constitution is a written instrument. Congress can exercise no powers unless they are delegated. If implied powers are as broad as our discretion, our discretion may be as unlimited as the caprices of tyranny itself. Implied powers must be necessary to accomplish the end. The Senator talks about freedom and defines the word for himself. I might possibly define it a little differently; but the word freedom is not used in the constitutional amendment abolishing slavery. The Constitution is, that neither slavery nor involuntary servitude, except for crime, shall exist in the United States; and the second clause of it is, that Congress shall have power by appropriate legislation to enforce the provision. There is not the word "freedom" in it. Now, I think that persons may be neither in slavery nor involuntary servitude, who are yet denied the suffrage, in the respective States. If that be not true, every minor and every woman under twenty-one years of age in the State of Ohio is a slave. The negro is now free. To exercise implied powers to clothe that freedom with certain advantages, in my judgment, is a different thing.

Mr. WADE. One moment. I perceive that some of those who have argued this matter have considered that the franchise was freedom. They are synonymous terms in the minds of many. I do not understand them to be so. Undoubtedly a man may be free and not have the right to vote; but can that freedom be guaranteed and secured and enforced in a hostile community unless you give him that right?

Mr. HENDERSON. I will admit the Senator's position for the argument's sake, but then the question recurs, how shall the suffrage be secured? The suffrage may, in my judgment and in his, be the best means of securing independence, education, and other blessings belonging to a state of freedom.

Mr. SUMNER. Then have we not the power?

Mr. HENDERSON. I am talking about the power. I do not doubt that we have the power to propose a constitutional amendment, and if adopted the object will be accomplished.

Believing that four and a half million people cannot be kept in peace without a voice in the making of the laws to govern them, I am seeking to give them that voice. The Senator from Massachusetts thinks it can be done in a certain way. I think it cannot. This is all of it. If his bill be adopted the courts may say, it is void; I think they will; and we shall be where we commenced. If the amendment be adopted, it will be an assured advance in civilization, as well as in governmental reform.

Mr. SUMNER. May I remind my friend of the decision of the Supreme Court on two most solemn occasions in two of the best considered judgments that you find in our reports? They have laid down the rule to govern this very case. They have conceded to Congress the full discretion with regard to the means to be employed in carrying out any of its powers. There is no court, there is no branch of the Government, that can sit in judgment on Congress, when, in its discretion, it thinks best to exercise a power.

Mr. HENDERSON. You allude, of course, to the McCulloch case.

Mr. SUMNER. The McCulloch case and the case of *Hunter vs. Martin*.

Mr. HENDERSON. With all deference to the honorable Senator, I must now protest against those oft-quoted decisions being published again in this speech. I am, perhaps, the best-natured man in the world, but I cannot agree to publish in pamphlet form the opinions even of Chief Justice Marshall. If I publish this speech at all, I must publish with it, many able speeches of many Senators. They must be satisfied with their speeches alone. I am too poor to include the decisions of the Supreme Court. [Laughter.] The Senator from New Hampshire [Mr. CLARK] suggests that I have a right to cut them out. That will not do. It would be unjust to myself and equally unjust to others. I have been so kindly treated that I dislike to complain, but interruptions have forced me from the proper order of my remarks, and compelled me to trespass too long on the patience of the Senate. If let alone, I should soon have nothing more to say and might stop.

Now, Mr. President, a few words in favor of my own proposition and I have done. I propose to make the State governments republican in fact, as they are in theory. The States now have the power and do exclude the negroes for no other reason than that of color. If the negro is equally competent and equally devoted to the Government as the Celt, the Saxon, or the Englishman, why should he not vote? If he pays his taxes, works the roads, repels foreign invasion with his musket, assists in suppressing insurrections, fells the forest, tills the soil, builds cities, and erects churches, what more shall he do to give him the simple right of saying he must be only equal in these burdens, and not oppressed? My proposition is put in the least offensive form. It respects the traditional right of the States to prescribe the qualifications of voters. It does not require that the ignorant and unlettered negro shall vote. Its words are simply that "no State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of race or color." The States may yet prescribe an educational or property test, but any such test shall apply to white and black alike. If the black man be excluded because he is uneducated, the uneducated white man must be excluded too. If a property test be adopted for the negro, as in New York, the same test must apply to the white man. It reaches all the States, and not a few only, in its operation. I confess that, so far as I am personally concerned, I would go still further and put other limitations on the power of the States in regard to suffrage. But Senators have expressed so much distrust that even this proposition cannot succeed, I have concluded to present it in a form the least objectionable in which I could frame it. It will be observed that this amendment, if adopted, will not prevent the State Legislatures from fixing official qualifications. They may prevent a negro from holding any office whatever under the State organization. It is a singular fact, however, that to-day, under the Federal Constitution, a negro may be elected President, United States Senator, or a member of the lower branch of Congress. In that instrument no qualification for office is prescribed which rejects the negro. The white man, not native born, may not be Presi-

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dent, but the native-born African may be. The States, however, may in this respect, notwithstanding this amendment, do what the Federal Constitution never did.

My proposition is not so thorough as the suggested proviso of the Senator from Maine. He is willing to nullify all State laws making discrimination between the races in political rights and privileges. This would give the ballot and an equal right to hold office. The position of the Senator is an advanced one, and merits approbation. He prefers for himself, I take it, the simplified proposition I offer, to the committee's measure, which is duplex and evasive.

Mr. FESSENDEN. I would have the Senator not misapprehend me. He speaks as if I disapproved of the action of the committee.

Mr. HENDERSON. That is an inference of mine from the course of the Senator's speech to which I listened with pleasure.

Mr. FESSENDEN. I do not disapprove it in any shape or form. While I took the liberty to state what I preferred if it could be had, I did not undertake to say that under the circumstances it would be wise to do it.

Mr. HENDERSON. I understand the Senator. He admits the correctness of my views, but thinks them inexpedient.

Mr. FESSENDEN. I spoke of my own particular views in relation to that matter; but a man cannot always press his views against what may be his sense of propriety or prospect of success. A legislator must legislate for something that he can accomplish.

Mr. HENDERSON. When I remarked that "the Senator admits the correctness of my views," I regarded his views, as expressed in the proviso I have read, and my own views, as almost identical. At least they are substantially so. And I cannot be mistaken that the distinguished Senator's speech clearly indicated a preference by him for a plain, positive statement that the suffrage should be granted, over one permitting the States to exclude whole races of men in defiance of every principle of republican theory.

Mr. KIRKWOOD. Will the Senator from Missouri allow me to ask him a question? I want to understand him if I can. Do I understand him to say that Congress by this amendment confers on the States a power that they do not now have?

Mr. HENDERSON. Certainly not. I did not say so.

Mr. KIRKWOOD. I understood him to argue as if it was so.

Mr. HENDERSON. I see what the Senator is aiming at, I think. He intrenches himself behind the provisions of the present Constitution when he needs its shelter. It is good when it answers the purpose of his argument, but bad when it does not. He asks me if the States cannot now exclude the negro from the ballot. I answer, yes. But I thought we were amending the Constitution. Iowa refuses negro suffrage, and can do so after this committee amendment shall have been adopted without losing a member in Congress. No southern State can do so. The Senator seems more anxious to destroy the political power of certain States than to do justice to an oppressed race. It is true, under the Constitution as it now is, the States may exclude the negro from suffrage, but they may exclude him without loss of political power in Congress. He is willing to let the States continue to exclude the negro because, forsooth, it is the present Constitution. If so, why not stand by the Constitution throughout, and still let them retain their representation? If the existing Constitution is good against my argument, it is good against his.

Mr. KIRKWOOD. That is not the question.

Mr. HENDERSON. But that is the question.

Mr. KIRKWOOD. Not according to my view. I understand the Senator to argue that we are about conferring on these States a priv-

ilege they have not had before. I do not so regard it. If the Senator argues that under the Constitution there is no such power now, but that we are granting them a power, he is correct; but if they have that power, we are simply not interfering with that provision of the Constitution. That is all.

Mr. HENDERSON. I appreciate the Senator's position, and am glad to have his views, but I wish to confine myself to the neighborhood, at least, of my subject.

So soon as the rebellion had been put down by military force, means ought to have been taken to remove forever the causes that provoked it. The South made the issue boldly in the Montgomery confederation. It was not slavery especially that induced the separation. Slavery was but the incident. It was the inferiority of the black man and his unfitness for political association with the white man that constituted the corner-stone of the confederate fabric. When the fabric was torn down and scattered to the winds, the false political teachings, that entered into its construction, were abandoned by the builders. The South not only recognized the destruction of slavery on the downfall of the rebellion, but they were ready to abandon all the dogmas upon which slavery was founded. Slavery of white men, equals, was not justified by any portion of our people. It could only be justified as a guardianship or patriarchal government over an inferior race. If the inferiority were admitted, slavery had its defense in some sort of reason. But the experiences of the war attacked and destroyed this defense, long known to the South itself to be utterly untenable. Hence, on submitting to the national authority, they equally yielded to the logic of events on the negro question. They were ready to give up, in practice anyhow, the idea of the negro's inferiority. Mr. Calhoun, and other prominent men in the South, always held that if the negro were made free it was tantamount to a declaration of his equality, and his enfranchisement must follow.

If President Johnson had said in his proclamation of amnesty, "Whereas the people of the seceded States organized a rebellion and fought for four years against the Government of the United States in an unholy attempt to perpetuate the slavery of an entire race, on the false ground of the inferiority of that race; and whereas their rebellion has been overthrown, now I, Andrew Johnson, desiring to see slavery and its attendant evils removed, and that justice be established throughout the land, North and South, do proclaim that all persons taking part in said rebellion shall be pardoned upon the express condition that slavery and all its pretensions shall be abolished, and that all distinctions of race and color in civil and political rights shall henceforth cease," would they not have accepted it? Would they not have been glad to accept it? No doubt about it; and then this angry controversy, just beginning to mold new political organizations, would have been unknown.

Mr. CONNESS. The President tells you that he is afraid that would bring about a war of races.

Mr. HENDERSON. Simple justice never made war. To show that I am not mistaken in the expectations of the country, North and South, on this subject, I refer first to the testimony of Mr. Reagan of Texas, who was the postmaster general under the rebel government, and was one of the most active and persistent of rebel chiefs. His testimony is but the expression of a then fixed public sentiment at the South. He says, in a letter addressed to the people of Texas, just after the fall of the confederacy:

"I have no doubt you can adopt a plan which will fully meet the demands of justice and fairness, and satisfy the northern mind and the requirements of the Government, without endangering good government and the repose of society. This can be done by

"First, extending the privileges and protection of the laws over negroes as they are over the whites, and allowing them to testify in the courts on the same conditions; leaving their testimony subject to the

rules relating to its credibility; but not objecting to its admissibility. And in this you will conform with the wise current of legislation, and the tendency of all judicial decisions in all enlightened countries.

"And, second, by fixing an intellectual, moral, and, if thought necessary, a property test for the admission of all persons to the exercise of the elective franchise, without reference to race or color, which would secure its intelligent exercise."

In enumerating the advantages of these suggestions, he says:

"First. It would remove all just grounds of antagonism and hostility between the white and black races. Unless this is done endless strife and bitterness of feeling must characterize their relations, and, as all history and human experience teach us, must sooner or later result in a war of races. We now know from sad experience what war is between equals and enlightened people. But of all wars a social war of races is the most relentless and cruel, the extermination or expulsion from the country or enslavement of one or the other being the inevitable end where they are left to themselves, or the loss of liberty to both races where they are both subject to the control of a superior power, which would be our situation. I speak, of course, of the legal rights and status of the two races. Their social relations are matters of taste and choice, and not subject to legislative regulation.

"Second. This course would disarm and put an end to inter-State sectional political agitation, on this subject at least, which has been the special curse of our country for so many years, and which was the cause of the unnumbered woes we have recently experienced and still suffer; by depriving the agitators of a subject on which to keep up such an agitation, and of the means of producing jealousy, animosity, and hatred between the different races. And this would do much toward the renewal of the ancient relations of national harmony and fraternal good will between all parts of the country."

The President of the United States, who is now supposed to be so utterly opposed to negro suffrage, even as late as October last, authorized a publication by one Major Stearns, giving his opinion most decidedly in its favor. The President said:

"My position here is different from what it would be if I were in Tennessee.

"There I should try to introduce negro suffrage gradually; first, those who had served in the Army; those who could read and write, and perhaps a property qualification for others, say two hundred or two hundred and fifty dollars."

In the early days of last October, I had a conversation myself with the President, in which I expressed some fears of the loyalty of the new organizations, and took occasion to suggest the hope that he would insist on some sort of modified negro suffrage in those States, as a means of taking the question forever out of politics, and further, of removing, as far as possible, the false sentiments that originated and gave strength to the rebellion. The result of the conversation was that I was authorized to give publicity to his views, which I did in a speech of October 21, in my State, from which I read an extract:

"Taking his stand-point that the States are still in the Union, he does not think he can consistently interfere with the franchise in those States or in any other; that is, that he can confer it upon persons not enjoying it under the respective State constitutions, as they existed before the rebellion; but as an individual he desires that the negro shall be enfranchised and would be gratified to see the several State conventions extend the franchise to all persons of color who can read the Constitution of the United States in English and write their names, and also to all persons of color who own real estate valued at not less than \$250, and who pay taxes thereon."

I again repeat that these words were uttered to me by the President of the United States in the early days of October last, and now it is given out that the President is opposed to negro suffrage, not only in the States, but in the District of Columbia, where the power of Congress is not disputed. On the 10th of last October, the President addressed a regiment of negro soldiers, returning from service, in which he said:

"This is your country as well as anybody else's country. This is the country in which you expect to live and in which you expect to do something by your example in civil life, as you have done in the field. This country is founded on the principle of equality."

Again:

"It is for you to establish the great fact that you are fit and qualified to be free."

And again:

"He is the most exalted that is the most meritorious, without regard to color."



## SENATE.

## Representation of Southern States—Mr. Sherman.

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But it seems now the question of the negro's capacity to govern himself is not to be judged from his conduct. It is to be settled against him without trial. Merit is to be put out of the question. His inferiority is to be assumed, and the results of injustice to him, ignorance, poverty, degradation, are to be forever the quoted evidences of that inferiority. The question of human slavery entered into party politics, and justice was slow. The question of human right, involved in enfranchisement, is now given to party politics. Justice may be slow, but come, it must.

Against this measure but three arguments are urged:

1. That it produces social equality. This objection is totally unfounded. Is each voter the equal of another? Does my friend from Wisconsin [Mr. DOOLITTLE] regard every man, native and foreign, naturalized and unnaturalized, who is entitled to the ballot in that State, as his social equal?

2. It is urged that the negro is of another and an inferior race. Admit his race to be different from ours, does he not belong to the family of man? Is he not actuated by the same motives, possessed of the same feelings, and animated by the same hopes? He may not belong to the same race, but he belongs to the family of man, and the proudest boast of our free country to-day, is, that it is the home and asylum of man. If his race be inferior in intellectual power, that constitutes the strongest reason for guarding his rights against the assaults of the more vigorous and crafty. Are all men now entitled to the franchise equal in intellectual power? Are they all equal in sagacity and knowledge? Is the unlettered Irishman, shut out year after year from the light of the sun, in the coal mines of Pennsylvania, equally qualified to cast an intelligent vote with the distinguished members of the Federal judiciary now dispensing justice in this Capitol? But I ask, Senators, will you deny suffrage to the coal-digger? Or will you give another ballot to the eminent judge? Natural inferiority amounts to nothing. The question is, are the negroes capable of such moral training as to give them love of social order, and such intellectual training as to have them know and appreciate their rights and duties in the community? If they are incapable of such training, the States may yet deny them the franchise, after my amendment has been adopted. If the alleged inferiority prove unfounded, the worship of prejudice must cease, and the image of this unjust god be broken into dust. Can the experiment do any harm? Let us try it.

3. It is said that qualified, educated, intelligent negro suffrage will bring a war of races. Why so? Are white men so unjust that rather than suffer simple justice to be done to their fellow-men, rather than see the true republican principle vindicated in government, they will imbrue their hands in the negro's blood? I believe no such thing, and if I did believe it, I could scarcely hope for the success of my fellow white men in this war against humanity. If it be desirable to prevent a war of races, it can be done by simple justice to both races. If one race be taxed without representation, followed by the usual abuses of such power, and followed, too, by the prejudice and contempt of the ruling class, will not war of races come sooner? It must, it will come. It can be prevented now. Let it be done.

The reasons in favor of my proposition are inseparably connected with all I have said. I need not repeat them. Every consideration of peace demands it. It must be done to remove the relics of the rebellion. It must be done to pluck out political disease from the body-politic, and restore the elementary principles of our Government. It must be done to preserve peace in the States and harmony in our Federal system. It must be done to assure the happiness and prosperity of the southern people themselves. It must be done to establish in our

institutions the principles of universal justice. It must be done to secure the strongest possible guarantees against future wars. It must be done in obedience to that golden rule, which insists upon doing to others what we would that others should do unto us. It must be done if we would obey the moral law that teaches us to love our neighbors as ourselves. In fine, it must be done to purify, strengthen, and perpetuate a Government, in which are now fondly centered, the best hopes of mankind.

## Representation of Southern States.

## SPEECH OF HON. JOHN SHERMAN,

OF OHIO,

IN THE SENATE OF THE UNITED STATES,

February 26, 1866,

On the concurrent resolution of the House of Representatives relative to the representation of certain States.

Mr. SHERMAN. Mr. President, the immediate question before the Senate is upon the resolution of the House of Representatives, passed on the 21st instant, declaring that no Senator or Representative shall be admitted into either branch of Congress from any of the eleven States which have been declared to be in insurrection until Congress shall have declared such State entitled to such representation. This question, together with the reasons stated in the resolution for its passage, the circumstances under which it is pressed in Congress, and the many pending propositions of a kindred character now on our table, induces me to follow the example so often set in the Senate, and to discuss all these kindred propositions now while I have the floor. I shall do so as clearly and as briefly as possible, in the order in which they will probably present themselves for our vote. And first as to this resolution.

If the meaning of the resolution is that as a matter of convenience in the discharge of our duties the Senators and Representatives ought to act in concert with each other in legislating upon and in discussing all propositions affecting the right of States to representation, surely it is a reasonable proposition. We have already acted in concert at the beginning of this session by creating a joint committee as an organ of both bodies to confer with each other and to communicate to each House separately their deliberations. We have often before recognized the propriety of acting through joint committees on questions of great importance, when the concurrence of both Houses is needed, and when a free conference will probably tend to produce an agreement. Therefore, if this is the purpose of this resolution, it is a very simple and plain one, and obviously defensible.

But, Mr. President, this resolution goes further. It asserts, and it was intended to assert, that with Congress, and with Congress alone, rests the duty of defining when a State once declared to be in insurrection shall be admitted to representation in this and the other House of Congress. This is a proposition of constitutional law; and on this point I am glad to say that there has been no difference of opinion among us until this session of Congress. This question has been three times decided in the Senate. It has been decided by the unanimous report of our Judiciary Committee. It has not been controverted in this body until within a very few days, or until during the present session of Congress. At the last session a unanimous report was made from the Judiciary Committee, composed of some of the ablest lawyers in the Senate, in which this doctrine is, in my judgment, more clearly and distinctly expressed than in the resolution now before us. I cannot see why any one who gave his deliberate judgment to that proposition can oppose this. The honorable Senator from Maine read a portion of this report on Friday, but it will bear repetition, and I will now read it:

"The persons in possession of the local authorities

in Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana, till by some joint action of both Houses there shall be some recognition of an existing State government acting in harmony with the Government of the United States and recognizing its authority."

If this is law, how can any Senator vote against the pending proposition unless it is for reasons not involving the merits of that proposition? But this is not the only case, for I find that this very question was made, and by a vote of the Senate was definitely decided, and it was made so distinctly that no Senator could have voted for the proposition I am now about to read without understanding its full purport and effect.

It will be remembered that a bill came to the Senate, passed by the House of Representatives guaranteeing to the seceded States a republican form of government, commonly known as the Wade and Davis bill. It was antagonized here by various propositions, and among the rest by a proposition offered by the honorable Senator from Missouri, [Mr. BROWN.] That bill contained many sections intended to provide a mode by which these eleven States might, when the rebellion was suppressed within their limits, be restored to their old places in the Union. The proposition offered by Mr. BROWN, as a substitute for the bill, I will now read: and I invite the attention of Senators to the distinct assertion of the very doctrine that is proclaimed in this resolution:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled 'An act to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby declared to be, incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States."

Then mark these words—

"nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same."

This proposition was introduced in antagonism to the proposition then before the Senate, as a substitute for it, to cover the whole ground, and I am told was framed by our fellow Senator now dead, Judge Collamer. After debate it was adopted as a substitute by the close vote of 17 yeas to 16 nays. Among the yeas were every Democratic member of this Senate and some of the Republicans. All the nays were Union Senators, friends of the original bill, including many classed as radicals. I give the vote in full:

YEAS—Messrs. Brown, Carlile, Cowan, Davis, Doolittle, Grimes, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Trumbull, and Van Winkle—17.  
NAYS—Messrs. Chandler, Clark, Conness, Hale, Harlan, Lane, of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wilson—16.

It may be said that these gentlemen voted for this proposition for the purpose of defeating a more offensive one; and if the vote rested here that would be a reasonable explanation. But in order to point the significance of this vote the honorable Senator from Illinois, the chairman of the Judiciary Committee, [Mr. TRUMBULL,] called attention to the importance of the question and said he wanted a definite vote upon this proposition by itself. He stated its importance, the effect of the principle involved, and asked for the yeas and nays on the passage of the bill as amended, in order, as he said, to ascertain the judgment of the Senate upon this distinct proposition. The bill then contained nothing but what I have read to you, and the vote was taken by yeas and nays, and stood as follows:

YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Harlan, Harris, Henderson, Johnson,

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Lane of Indiana, Lane of Kansas, McDougal, Morgan, Pomroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—28.

"NAYS—Messrs Davis, Powell, and Sanbury—3."

So that by this deliberate vote, after debate, after the attention of the Senate had been called to the importance of the proposition by the judicial organ of this body, at a time when there was no excitement and no party feeling here on this proposition, the doctrine we are discussing was asserted by an almost unanimous vote of the Senate. It seems to me that with this declaration of the opinion of the Senate before us, made when it was not influenced by party feeling or party excitement, we ought not to doubt the correctness of the pending resolution, not near so strong in its tenor or language. It ought not to be resisted by any one who thus committed the Senate to that proposition against a measure that would have organized a system to reconstruct the seceding States.

But, Mr. President, I need not depend upon the vote of the Senate or upon the authorities, because I think, if you test this proposition by the simplest principles of constitutional law there can appear no doubt that Congress has the sole and exclusive power over this subject. The Constitution of the United States gives to the President of the United States no legislative power except as a part of the law-making power. He is an executive officer, with no legislative power except that which he exercises in connection with us. The Constitution of the United States confers upon Congress not only the power to raise and support armies, to appropriate money therefor, and to provide and maintain a navy, but—

"To make rules for the government and regulation of the land and naval forces."

And among the residuary powers conferred upon Congress is that important one—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Therefore, where a power is conferred upon the President, and the legislative power is necessary in order to carry that power into effect, Congress alone possesses the power to arm the Executive with the necessary authority to execute the laws. Upon Congress alone rests all the residuary powers; and therefore it is that the power of Congress follows our flag wherever it floats. Our flag may go round the world, to South America, to Italy, to China; it may go into any foreign country as it did in Mexico; it may go into the southern States subduing a rebellion, and wherever it goes the legislative power of Congress goes with it. It regulates and governs the Army, and the President has nothing to do but to execute the will of Congress and the Constitution of the United States.

It seems, therefore, testing it by reason, that this power must rest in Congress. The doctrine is very strongly stated by Story, in his Commentaries on the Constitution, in very much the language I have used; and he says, in speaking of the powers of Congress, that the jurisdiction and power of the Government of the United States follow our flag or our Army into a foreign country, and Congress may make rules and regulations for the government of the Army of the United States in a foreign country as well as in our own, and it is the duty of the President to execute them. It is true that, in the absence of rules and regulations prescribed by Congress the President may make such regulations as are absolutely necessary for the government of the Army wherever it is, but it is only as a part of his duty to execute the general laws. If Congress chooses to step in and prescribe the mode and manner in which these powers shall be exercised, he is bound by his oath to observe such rules and regulations. I conclude, therefore, that as Congress has declared eleven States to be in a state of insurrection, as it is necessary now to pass some plan or law by which these States may be restored

to their old place in the Union, Congress has the undoubted legislative power to prescribe the terms, conditions, and tests by which their loyalty and obedience to the law may be adjudged.

#### TENDENCY OF THIS RESOLUTION.

But, Mr. President—and I say it with great deference to the committee who reported it—I do not believe the bare assertion of this power tends to promote the object stated by the resolution itself. The object of this resolution is stated to be to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in a state of insurrection. If this resolution would tend to promote these great objects, I would vote for it much more cheerfully than I will; but I regard it as a mere straw in a storm, thrown in at an inopportune moment; the mere assertion of a naked right which has never yet been disputed, and never can be successfully; a mere assertion of a right that we have over and over again asserted. The only doubt I ever had about the resolution was the wisdom of introducing it and passing it under the previous question in one House at a moment when there was undue or unusual excitement in the public mind. My idea is that the true way to assert this power is to exercise it, and that it was only necessary for Congress to exercise that power in order to meet all these complicated difficulties. This resolution does not provide for the contingencies that have happened. Let me state the case. Suppose the two Houses of Congress cannot agree upon a plan of reconstruction, as it is very obvious we shall have difficulty in doing. Opposition here is already developed to the constitutional amendment as part of the plan agreed upon, in quarters at least to me unexpected, and it is very doubtful whether we can agree by the requisite majority upon this leading idea of a change of the Constitution. Suppose the two Houses of Congress cannot agree with each other, what then? Must these eleven States stand in their present isolated condition beyond the pale of civil law until the two Houses can agree upon some proposition?

Again, suppose that Congress will not agree with the President, as actually occurred in the passage of the Wade and Davis bill. We sent to President Lincoln our plan of reconstruction. He declined to approve it. There was a difference between Congress and the President. Up to this hour we never have exercised our power to regulate the mode and manner of bringing these States back into the Union. Suppose this difference exists between the various departments of the law-making power and no law should be passed on the subject, is it intended by this resolution to assert that no representatives from these eleven States shall come back here, and that the power of each House to judge of the elections, returns, and qualifications of its own members shall not be exercised until by force or in some other way we can be compelled to agree? Must these States be deprived of all representation here until a forced verdict is drawn out of Congress with the assent of the President? Not at all.

I have no doubt of the power of Congress to pass any law it can on the subject, but I know very well that if Congress fails to pass a law after a reasonable time, either House can and will exercise its undoubted power to admit Senators and Representatives on the floor of Congress. If we fail to pass a plan of reconstruction at the present session of Congress, this resolution will not prevent either House of Congress from hereafter exercising its undoubted power to pass upon the claim of any one who comes here at this bar demanding a seat as a Senator of the United States. Therefore I say that the measure proposed does not meet the real difficulty in the case. What we want is a plan of action by which these States may, upon such terms and conditions as are consistent

with the public safety, come back into this Union.

#### THE WADE-DAVIS BILL.

Mr. President, in my judgment the real difficulty in this whole matter has been the unfortunate failure of the executive and legislative branches of the Government to agree upon a plan of reconstruction. If at the last session we had provided a law, reasonable in itself, proper in its provisions, by which these States might have been guided in their efforts to come back into the Union, that would have been an end of this controversy; but unfortunately (and I am not here either to arraign the living or the dead) there was a failure to agree. Earlier in this war, during the Thirty-Seventh Congress, a gentleman now in his grave, and whose eulogy was so fittingly pronounced the other day in the House of Representatives by his colleague here, Henry Winter Davis, prepared a bill to meet this exigency. He was not then a member of Congress. He brought that bill to me. It was a bill to guaranty to each State a republican form of government. The provisions of the bill pointed out a plan by which these States, then declared by Congress to be in a state of insurrection, might, when that insurrection was subdued or abandoned, come back freely and voluntarily into the Union. It provided for representation; it provided for the election of a convention and a Legislature, and the election of Senators and members of Congress. It was a complete guarantee to the people within the States upon certain conditions to come back into the Union. The provisions and tests by which to judge when the state of insurrection had ceased and determined were prescribed. I introduced that bill here at the request of Mr. Davis. It was referred to the Judiciary Committee. It was not acted upon by them. I suppose they thought it premature. Afterward Mr. Davis came into the Thirty-Eighth Congress as a member of the House of Representatives. Among the first acts performed by him after taking his seat was the introduction of this same bill, framed by him and introduced by me into the Senate, in the House of Representatives. It was introduced by him on the 15th December, 1863. It was debated in the House of Representatives and passed by a very decided vote, and it was sent to the Senate. Its history I have already in part stated. It was reported to the Senate favorably; but in place of it was substituted the proposition I have already read, offered by the Senator from Missouri, which was adopted in the Senate. It was sent back to the House; a committee of conference was appointed, and the result was the reporting to the Senate and the House of what was called the Wade and Davis bill. That bill was debated and finally passed upon the report of the committee of conference. It went to the President; he did not approve it. I have before me a proclamation issued by the President on the 8th of July, 1864, in which it is recited:

"Whereas at the late session Congress passed a bill to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government; a copy of which is herewith annexed; and whereas the said bill was presented to the President of the United States for his approval less than one hour before the *quo die* adjournment of said session, and was not signed by him; and whereas the said bill contains, among other things, a plan for restoring the States in rebellion to their proper practical relation in the Union, which plan expresses the sense of Congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared, by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional

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amendment abolishing slavery throughout the nation may be adopted."

He then goes on and gives his reasons for not approving this plan; nor does he entirely disapprove of it, but he said it was one of numerous plans which might be adopted.

Mr. SUMNER. Will the Senator allow me to interrupt him there? I will state that it so happened that I had an interview with the late President Lincoln immediately after the publication of that paper, and it was the subject of very minute and protracted conversation, in the course of which, after discussing it in detail, he expressed to me his regret that he had not accepted the bill.

Mr. SHERMAN. Mr. President, I think every patriotic citizen of the United States will express his regret, not so much that the President did not approve that bill, because I will not condemn the President for declining to sign it, but that Congress in connection with the President did not agree upon some plan of reconstruction by which these States might have been guided, so that when the rebellion was put down they might see in the form of law some guide to lead them in the difficult road to restoration. Who does not now see that any law upon the subject would have been better than the absence of all law? You must remember that whatever fault there is in this matter was in the law-making power of Congress and the President combined. This controversy was all over before the presidential election, and I think before the nomination of Andrew Johnson. And in presenting these facts I am bound here to say that the paper issued by my colleague and Mr. Davis in reply to the President's proclamation, did not meet the sanction of the people, but was generally condemned as introducing an unpleasant controversy into the presidential canvass.

Mr. LANE, of Kansas. Will the Senator yield to me for a moment? I wish to propound a question about the Wade and Davis bill. Did not that bill provide for restricting the right of suffrage in the seceded States to the whites?

Mr. SHERMAN. It did. I will come to that after awhile, and will present that point distinctly. I have given you now, Mr. President, the history of that bill. I repeat that the declaration of my colleague was not approved by the people. He himself, perhaps, will agree with me that at that time it was generally regarded that the issue made by him before the people was unfortunate, because we were then in the midst of a presidential campaign. Certain it is that the public voice, so far as it could be gathered from the newspapers and from speeches and from various modes of expressing public opinion, was against the action of these two gentlemen, who, as chairmen of the respective committees of the two bodies, felt it their duty to defend this bill.

Thus, by the disagreement which commenced two years ago between Congress and the President, there was left no law upon the statute-book to guide either the President or the people of the southern States in their effort to get back to the embraces of the old Union. I regard that as a great misfortune.

## PRESIDENT JOHNSON'S PLAN.

Now, I will ask Senators this plain question, whether we have a right now, having failed to do our constitutional duty, to arraign Andrew Johnson for following out a plan which in his judgment he deemed the best, and especially when that plan was the plan adopted by Mr. Lincoln, and which at least had the apparent ratification of the people of the United States in the election of Lincoln and Johnson.

After this effort made by Congress to provide a plan of reconstruction, there was no effort made subsequently, no bill was introduced on the subject at the last session of Congress, no further effort was made to harmonize the conflicting views of the President and Congress. One whole session intervened after this veto,

as I may call it, of President Lincoln, and no effort was made by Congress to reconcile this conflict of views; and when President Johnson came suddenly, by the hand of an assassin, into the presidential chair, what did he have before him to guide his steps? The forces of the rebellion had been subdued; all physical resistance was soon after subdued; the armies of Lee and Johnston and all the other armies of the rebels had been overwhelmed, and the South lay at our power. Who doubts, then, that if there had been a law upon the statute-book by which the people of the southern States could have been guided in their effort to come back into the Union, they would have cheerfully followed it, although the conditions had been hard?

In the absence of law, I ask you whether President Lincoln and President Johnson did not do substantially right when they adopted a plan of their own and endeavored to carry it into execution? Although we may now find fault with the terms and conditions that were imposed by them upon the southern States, yet we must remember that the source of all power in this country, the people of the United States, in the election of these two men substantially sanctioned the plan of Mr. Lincoln. Why, sir, at the very time that Andrew Johnson was nominated for the Vice Presidency he was in Tennessee as military governor, executing the very plan that he subsequently attempted to carry out, and he was elected Vice President of the United States when he was in the practical execution of that plan. And now, before we examine the steps taken by the President, and fairly weigh the wisdom of his policy, we must determine the legal status of these seceded States.

## STATES IN INSURRECTION.

What was the condition of these States? I shall not waste much time upon this point, because mere theoretical ideas never appear to me to have much force when we are legislating on practical matters. They have been declared to be States in insurrection, but States still. The very resolution we have before us repeats three times that they are States now. They are referred to as States not entitled to representation. They are stated to be,

"The eleven States which have been declared to be in insurrection."

And again:

"No Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation."

I could show very many acts of Congress in which they are referred to as States, but States in insurrection. And there is no difference between Congress and the President as to the present condition of these States. The executive branch of the Government in all its departments now treats them as States in rebellion or in insurrection. Tennessee is the only one of these States that has been proclaimed by the President to be out of insurrection. He is now exercising power in all these States as States in insurrection. He is suspending newspapers, exercising arbitrary power, suspending the writ of *habeas corpus*, treating them yet as States in insurrection; and in this view, as I have stated, Congress concurs.

Now, what is the legal result of a State being in insurrection? It was sufficiently declared in the proposition I have already read, offered by the Senator from Missouri. They have no right while they are in insurrection to elect electors to the Electoral College; they have no right to elect Senators and Representatives. In other words, they lose all those powers, rights, and privileges conferred upon them by the Constitution of the United States. Having taken up arms against the United States, they by that act lose their constitutional powers within the United States to govern and control our councils. They cannot engage in the election of a President, or in the election of Senators or members of Congress; but they are still States,

and have been so regarded by every branch and every department of this Government. They are States in insurrection, whose rights under the Constitution are suspended until they cease to be in insurrection. When that period arrives is a question, in my judgment, which must be determined by Congress, and not by the President, for the reason I have already stated; but it is clear that the first duty of Congress, under these circumstances, is to provide a mode and manner by which the condition of the States may be tested, and they may come back, one by one, each upon its own merits, upon complying with such conditions as the public safety demands.

## WHAT THE PRESIDENT DID.

I propose now to recall, very briefly, the steps adopted by President Johnson in his plan of reconstruction. I do this for the purpose of presenting to the Senate, in a condensed view, the precise plan of reconstruction adopted by him, so that we may see at a single glance the present condition of these eleven States. When Mr. Johnson came into power he found the rebellion substantially subdued. What did he do? His first act was to retain in his confidence and in his councils every member of the Cabinet of Abraham Lincoln, and so far as we know every measure adopted by Andrew Johnson has had the approval and sanction of that Cabinet. If there is any doubt upon any measure it is upon the recent veto message; but up to and including that message, so far as we know—and in matters of this kind we cannot rely upon street rumors—Andrew Johnson's plan has met the approval of the Cabinet of Abraham Lincoln. He has executed every law passed by Congress upon every subject whatever, and especially has he executed the Freedmen's Bureau bill. He placed at the head of that Bureau General Howard, one of the most fit and worthy men in the United States, to conduct the delicate affairs of that bureau, and General Howard has never asked him for any single act of authority, any single power that was not freely granted by President Johnson. The Freedmen's Bureau is also under the control of Edwin M. Stanton. Every act passed by Congress in any way bearing on this rebellion the President has fairly and promptly executed. If there is any that he has failed to execute I should thank any Senator to name it to me for I do not now recall it. Not only that, but he adopted the policy of President Lincoln *in hæc verba*, as I shall show hereafter in examining his proclamations, and he extended and made more severe, as you may say, the policy adopted by Mr. Lincoln. Not only that, but in carrying out his plans of reconstruction, he adopted all the main features of the only bill passed by Congress—the Wade and Davis bill. I have the bill before me, but I have not time to go into its details. My colleague, who remembers the features of that bill, will know that the general plan adopted by President Johnson is the only plan that was ever adopted by Congress. Let us look into President Johnson's plan a little more and see what it was. His first proclamation was in reference to Virginia. In this proclamation, dated Executive Chamber, May 9, 1865, he provided:

"First. That all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion within the State of Virginia against the authority and laws of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void."

With a single stroke he swept away the whole superstructure of the rebellion. Then he provides for the execution of all the powers of the national Government within the rebel territory, extending there our tax laws. Perhaps President Johnson ought to have thought a little about these proclamations when he disputed the power of Congress to tax the people of the southern States. He was the first to extend over those States the tax laws of the United States, and appoint assessors and collectors of



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internal revenue and collectors of customs in the various ports. Then he provides:

"Ninth. That to carry into effect the guarantee of the Federal Constitution of a republican form of government, and afford the advantage and security of domestic laws, as well as to complete the reestablishment of the authority of the laws of the United States, and the full and complete restoration of peace within the limits aforesaid, Francis H. Pickens, Governor of the State of Virginia, will be aided by the Federal Government, so far as may be necessary, in the lawful measures which he may take for the extension and administration of the State government throughout the geographical limits of said State."

That was the first element of his plan of reconstruction. The next was the amnesty proclamation, issued on the 29th of May following. In this proclamation he recites the previous proclamation of President Lincoln, and then goes on:

"To the end, therefore, that the authority of the Government of the United States may be restored, and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have directly or indirectly participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property, except as to slaves, and except in cases where legal proceedings, under the laws of the United States providing for the confiscation of property of persons engaged in rebellion, have been instituted," &c.

And then in the oath of amnesty he provides that any person claiming the benefit of the amnesty should swear that he will "abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves." Then he goes on and excepts from the operation of this amnesty some fourteen classes of persons, more than quadrupling the exceptions of the previous proclamation of Mr. Lincoln; so that if there was any departure in this connection from the policy adopted by Mr. Lincoln, it was a departure against the rebels, and especially against those wealthy rebels who gave life and soul and power to the rebellion.

#### CONDITIONS IMPOSED BY HIM.

These were the agencies and organs under which the plan of reconstruction was to go on. Now I ask you, what conditions were imposed on these people? First, the adoption of the constitutional amendment. He was not willing to leave the matter to their amnesty oath or to the proclamation of President Lincoln, but he demanded of them the incorporation in their State constitutions of a prohibition of slavery, and the adoption by their Legislatures of the constitutional amendment so as to secure beyond peradventure the abolition of slavery forever and ever throughout the United States. This he required in every order issued to the South, and demanded it as a first and preliminary condition to any effort toward reconstruction. Next, he demanded a repudiation of the rebel debt, and a guarantee put into the constitutions of the respective States that they never would under any circumstances pay any portion of the rebel debt. Next, he secured the enforcement of the test oath so that every officer in the southern States under the act of Congress was compelled to take that oath; or if he could not find officers there to do it, he sent officers from the northern States to do it, so that this law, the most objectionable of any to the southern people was enforced in all instances at the South. It is true he appointed some provisional governors who could not take the test oath; but why? Because it was held that these provisional governors were not officers under the law. They were not officers whose commission was provided for by law: they were simply executive agents for the time being to carry into execution the plan of reconstruction; and he felt that if he could use any of these people in the southern States for the purpose of performing this temporary duty he had a right to do it. It was not prohibited by any law. The test oath only applied to officers of the United States who were provided for by law.

Next, he enforced in every case full and

ample protection to the freedmen of the southern States. As I said before, no case was ever brought to his knowledge, so far as I can gather, in which he did not do full and substantial justice.

Mr. MORRILL. Allow me to ask the Senator a question. Does he mean to say that the President required it as a condition of restoration that they should give protection to the freedmen of the South?

Mr. SHERMAN. I am merely speaking of what the President did, and I say that so far as I know he exercised and enforced every power of the Government to protect the freedmen of the southern States without exception. As a matter of course he did not require it as a condition to be inserted in their constitutions.

#### PARDONS.

Now, what are the objections to this policy? The first objection, that I have heard made most commonly, and which I have made myself, is, that the President was too liberal in exercising the pardoning power. But when we remember the fact that there were more than five times as many included in his exceptions as were included in the exceptions to the proclamation of Mr. Lincoln, and that the number of pardons in comparison with the whole number of persons excepted is substantially insignificant, and that we cannot know all the circumstances which surrounded every particular case of pardon, it is hardly fair for us to arraign the President of the United States. We can limit his power to pardon in these cases. The President of the United States has no power to pardon under the Constitution of the United States in cases like this. That power is derived from the amnesty law which we passed at an early period of the war. The constitutional power to pardon given to him by that instrument extends only to cases where there had been a legal accusation by indictment or affidavit, or to cases where a man had been tried and convicted of a crime. That is the kind of pardon contemplated by the Constitution, but the authority which we gave him by law to extend pardon and amnesty to the rebels is as broad as the insurrection itself. We conferred upon the President of the United States the unlimited power of amnesty, and he has exercised that power only to a very moderate degree.

#### SUFFRAGE WITHOUT DISTINCTION OF COLOR.

But the principal objection that has been made to his policy is that he did not extend his invitation to all the loyal men of the southern States, including the colored as well as the white people. If I were now required to state the leading objection made to the policy of the President in this particular, I should use the language of an eminent statesman, and say that when the President found before him an open field, with no law of Congress to impede him, with the power to dictate a policy in the South, to impose conditions on it, he ought to have addressed his proclamation to every loyal man above the age of twenty-one years. That would be the plan of the Senator from Massachusetts.

Mr. SUMNER. Every loyal man.

Mr. SHERMAN. I mean every loyal man of sound mind. Now, let us look at that question. In every one of the eleven seceded States, before the rebellion, the negro was excluded from the right of voting by their laws. It is true the Senator from Massachusetts would say these are all swept away. Admit that, but in a majority of the northern States to this hour there is a denial of the right of suffrage to the colored population. In Ohio, Pennsylvania, and New York that right is limited, and these three States contain one third of the people of the United States. In a large majority of the States, including the most populous, negro suffrage is prohibited. And yet you ask President Johnson, by a simple mandatory proclamation or military order, to confer the franchise on a class of people who are not only prohibited

from voting in the eleven southern States, but in a majority of the northern States, and indeed I think in all the States except six.

Further, it cannot be denied that the prejudice of the Army of the United States, who were called upon to enforce this proclamation within these States, was against negro suffrage. Whether that prejudice is wise or unwise, blinded or aided by the light of reason, I shall not say. I never myself could see any reason why, because a man was black, he should not vote; and yet, in making laws, as the President was then doing, for the government of the community, you must regard the prejudices, not only of the people among whom the laws are to be executed, but the prejudices of the Army and the people who are to execute those laws, and no man can doubt but what at that time there was a strong and powerful prejudice in the Army and among all classes of citizens against extending the right of suffrage to negroes, especially down in the far South, where the great body of the slaves were in abject ignorance.

But that is not all, Mr. President. The President of the United States was of the opinion that he had no power to extend the elective franchise to them, and therefore, in judging of his plan of reconstruction, we must give him at least a reasonable credit for honesty of purpose. In his message he tells you that this was the difficult subject which met him in the way, and he gives you frankly the reasons which induced him to exclude the colored population from the right to vote. He says:

"The relations of the General Government toward the four million inhabitants whom the war has called into freedom have engaged my most serious consideration. On the propriety of attempting to make the freedmen electors by the proclamation of the Executive, I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise."

After some further discussion he goes on to say:

"So fixed was this reservation of power in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose, certainly never avowed the purpose, of disregarding it; and in the acts of Congress during that period, nothing can be found which, during the continuance of hostilities, much less after their close, would have sanctioned any departure by the Executive from a policy which has so uniformly obtained."

Moreover, a concession of the elective franchise to the freedmen by act of the President of the United States must have been extended to all colored men; wherever found, and so must have established a change of suffrage in the northern, middle, and western States not less than in the southern and southwestern. Such an act would have created a new class of voters, and would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted."

And that is not all. We complain here that the President has not exercised his power to extend to freedmen the right of suffrage when Congress never has done it. We have absolute authority over this District, and until this session the proposition was not seriously mooted to extend the suffrage to the colored population. Here, better than anywhere else in the Union, they are fitted and entitled to suffrage, and yet we never, in our legislative power for this District, where we have absolute power, complied with that condition which has been asked of the President of the United States. It is complained that he did not extend the franchise to four millions in the southern States who are admitted to be ignorant, having been slaves for life, who are not prepared for liberty in its broadest and fullest sense, who have yet to be educated for the enjoyment of all the rights of freemen, when we ourselves never have been willing to this moment to confer the elective franchise upon the intelligent colored population of this District.

So I think we have never conferred the right

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to vote upon negroes in the Territories. My colleague will know whether we have or not. We never have. Here we have Territories where we have the power to mold the incipient form and ideas, and where our power is absolute; and yet Congress has never prescribed as a condition to their organization as Territories and to their admission as States the right of negroes to vote.

And this is not all. In the only plan Congress has ever proposed for the reconstruction of the southern States, the Wade and Davis bill to which I have referred so often, Congress did not and would not make negro suffrage a part of their plan. The effort was made to do so, and it was abandoned. By that bill the suffrage was conferred only upon white male loyal citizens. And in the plan adopted by the President he adopted in this respect the very same conditions for suffrage prescribed by Congress.

Now, have we, as candid and honorable men, the right to complain of the President because he declined to extend suffrage to this most ignorant freed population when we have refused or neglected to extend it to them or to the negroes of this District and to the colored men who may go into the Territories? No, sir; whatever may be our opinion of the theory or right of every man to vote—and I do not dispute or contest with honorable Senators upon that point—I say with the President, that to ask of him to extend to four millions of these people the right of suffrage when we have not the courage to extend it to those within our control, when our States, represented by us here on this floor have refused to do it, is to make of him an unreasonable demand, in which the people of the United States will not sustain Congress.

What then was done by the President? He fixed the qualifications of voters by several proclamations addressed to different States. Here is the qualification fixed in his proclamation in regard to North Carolina. He directs the provisional governor to convene "a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others." He confined it to the loyal population, and then went on:

"Provided, That in any election that may be hereafter held for choosing delegates to any State convention, as aforesaid, no person shall be qualified as an elector or shall be eligible as a member of such convention unless he shall have previously taken and subscribed to the oath of amnesty, as set forth in the President's proclamation of May 29, 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina, in force immediately before the 20th day of May, A. D. 1861, the date of the so-called ordinance of secession."

Therefore he confined the right to vote to loyal people who had taken the oath prescribed by him, an oath which required them to renounce all allegiance to the rebel authorities and to obey and abide by and support all laws and proclamations abolishing slavery, and no others are allowed to vote under this proclamation; and then he adds:

"And none shall be allowed to vote who could not vote under the law as it stood before the rebellion commenced."

My honorable friend from Massachusetts, I know, would have desired that that last clause was omitted; perhaps many others around me would have preferred it; but I have already said sufficient upon that point. He confined the right of voting to the loyal men who were entitled to vote under the laws of that State before the rebellion, and he denied his right in the absence of law to confer upon the negro population of North Carolina the suffrage, especially when Congress and the people of the southern States and the people of the northern States have never yet shown their disposition to extend the right of franchise within their own limits. I say, whatever I may think about it as a question of ethics, or as to the right, natural or artificial, political or civil, of the negro to vote, yet to demand of the President of the United States, under these circumstances, more

than he actually did, it seems to me is making an unreasonable demand.

## THE PRESIDENT AND THE FREED PEOPLE.

That he had no unkind feelings to the negroes of the southern States is shown by many things. I have here a Life which is made up mainly of extracts from his speeches, and I could read you expressions over and over again of kindness and friendship during the last summer to this negro population. It is true, you cannot expect Andrew Johnson, whose whole life has been a struggle, who was born in a slave State, who was reared in a slave State, who owned slaves, you cannot expect him whom you have elected President of the United States to forget and renounce all the prejudices of a lifetime. You cannot expect him to stand on the high and lofty pedestal of men who have contemplated this subject at a distance and now proclaim laws that are right within the light of their reason. You must take the man with all the circumstances that surround him; and I say, taking him in that light, he has shown, in his various speeches before he sent his message here, a kindly feeling to the negro population of the southern States. I would refer to one or two of those simply to show the general tendency of his feelings. On the 10th of October last he made a speech to some colored regiments who called to pay their respects to him at the Executive Mansion, in which he said to them:

"You have been engaged in the effort to sustain your country in the past, but the future is more important to you than the period in which you have just been engaged. One great question has been settled in this Government, and that is the question of slavery. The institution of slavery made war against the United States, and the United States has lifted its strong arm in vindication of the Government and of free government, and on lifting that arm and appealing to the God of battles, it has been decided that the institution of slavery must go down."

Then he follows with kind expressions, hoping for their welfare and future prosperity. Again, in his conversation with Mr. Stearns, of Massachusetts, an authentic report of which was given under the sanction of the President:

"You could not have broached the subject of equal suffrage at the North seven years ago; and we must remember that the changes at the South have been more rapid, and that they have been obliged to accept more unpalatable truth than the North has. We must give them time to digest a part; for we cannot expect such large affairs will be comprehended and digested at once. We must give them time to understand their new position."

"I have nothing to conceal in these matters, and have no desire or willingness to take indirect courses to obtain what we want."

"Our Government is a grand and lofty structure, in searching for its foundation we find it rests on the broad basis of popular rights. The elective franchise is not a natural right, but a political right. I am opposed to giving the States too much power, and also to a great consolidation of power in the central Government."

"If I interfered with the vote in the rebel States, to dictate that the negroes shall vote, I might do the same thing for my own purposes in Pennsylvania. Our only safety lies in allowing each State to control the right of voting by its own laws, and we have the power to control the rebel States if they go wrong. If they rebel, we have the Army and can control them by it, and if necessary by legislation also. If the General Government controls the right to vote in the States, it may establish such rules as will restrict the vote to a small number of persons and thus create a central despotism."

"My position here is different from what it would be if I was in Tennessee. There I should try to introduce negro suffrage gradually; first, those who had served in the Army, those who could read and write, and perhaps a property qualification for others, say two hundred or two hundred and fifty dollars."

"It will not do to let the negroes have universal suffrage now, it would breed a war of races."

Such were the opinions of Andrew Johnson expressed then, in which he showed that he was willing to meet the question of suffrage to the negro population, but he desired to do it gradually, and not, as he conceived, by a usurpation of power on his part. It is also shown by the evidence introduced the other day by the honorable Senator from Illinois, that the Freedmen's Bureau, right under the eye of Andrew Johnson, in Nashville, Tennessee, where he knew all that was going on, had organized vast systems for the education of southern negroes. All the plans of General Howard for the edu-

cation of the freedmen of the South, under which seventy thousand negroes are now being educated by the national Government; all these plans, so far as we know, have met the sanction and approval of Andrew Johnson. It seems to me, therefore, he has evinced no undue hatred or jealousy of the colored population of the southern States, but that he is willing gradually to extend to them the right of suffrage. In the mean time, as he tells us in the late veto message, he strongly desires to protect them in the enjoyment of all their natural rights. Now, I say again, to require impossibilities of the President of the United States, to make any undue demands or exactions of him, will not, in my judgment, be wise.

## PRESIDENT'S SPEECH ON TWENTY-SECOND FEBRUARY.

I conclude, therefore, this branch of what I have to say by this general observation: that up to and including the recent veto message of the President of the United States there had been no act of Andrew Johnson which in my judgment was inconsistent with the high obligations he owed to the great Union party of the United States. I would to God that I could end here; but some things that have transpired since, my duty to myself and my State—a duty from which I shall not shrink whether it meets the enmity of friends or opponents—compel me now to speak upon some matters in connection with the President of the United States which I deeply regret. And first of all and most prominent, as being that which now stands in the public eye, I do most deeply regret his speech of the 22d of February. I think there is no true friend of Andrew Johnson who would not be willing to wipe out that speech from the pages of history. It is impossible to conceive a more humiliating spectacle than the President of the United States invoking the wild passions of a mob around him with the utterance of such sentiments as he uttered on that day. Whether he be President or priest, I care not; I must express my deep and hearty regret and condemnation of some passages of that speech. The honorable Senator from Maine the other day read one paragraph in which he arraigns Congress for organizing a central despotism. No charge could be more unfounded. We, in pursuance of a time-honored custom in Congress of gathering through our committees the information that is necessary to enable us to act upon the great questions brought before us, chose to appoint a joint committee. I suppose the President has taken offense at the fact that this committee was organized on the day before his message was sent in, under circumstances, as he thought, of heat, and I have no doubt that much of what was said by the President of the United States is but the exhibition of temper and passion against what he regarded as unjust insults and accusations, but nevertheless no true friend of his will justify him in this arraignment of Congress.

I must confess that I have not seen anything in the conduct of the committee of fifteen in their reports to the two Houses of Congress to justify it. Individual members of that committee or individual members of Congress and citizens of the United States may have criticised with undue severity some of the acts of the President; but every man who holds such a position must expect manly criticism. The people will not stop to choose terms in speaking of those in power. He must expect that. It is a part of the penalty of his greatness. He must not therefore return accusation with accusation. I therefore say that the accusation made by the President of the United States against the action of Congress thus far has been unjust and unfounded. I speak with no feeling on this subject. The other day I objected to the discussion being commenced for fear that irritable remarks might be thrown back from Congress to the President. I do not desire to see it done, but I say to you now as the result of my deliberate reflection—and I know every true friend of the President will say I am right in this—I must

express deep and heartfelt regret that he felt himself called upon to address that crowded and seething mass on the 22d of February. Better far, if, when the citizens of the United States called upon him, he had paid the respectful compliment of thanks, instead of speaking to them in the manner he did, assailing independent branches of the Government. Every man, I think, must regret this paragraph:

"I fought traitors and treason in the South. I opposed the Davises, the Toombses, the Slidells, and a long list of others, which you can readily fill without my repeating the names. Now, when I turn round and at the other end of the line find men, I care not by what name you call them, who still stand opposed to the restoration of the Union of these States, I am free to say to you that I am still in the field."

I will say that I read from a report made by the gentleman who reports for us, and which report modifies very much the language of one report that I have seen in one of the city papers; but as this report is an official one, prepared by the gentleman who reports our proceedings, I prefer to take this.

Mr. HOWARD. What paper is it in?

Mr. SHERMAN. The Philadelphia Inquirer. The President went on to say:

"I am called upon to name three at the other end of the line; I am talking to my friends and fellow-citizens, who are interested with me in this Government, and I presume I am free to mention to you the names of those whom I look upon as being opposed to the fundamental principles of this Government, and who are laboring to pervert and destroy it."

"VOICES. 'Name them!' 'Who are they?' "THE PRESIDENT. You ask me who they are. I say Thaddeus Stevens of Pennsylvania is one; I say Mr. Sumner of the Senate is another; and Wendell Phillips is another."

This is extraordinary. The President of the United States is thoroughly combative in his disposition; he has been fighting all the days of his life; but it seems to me he ought to waive this disposition now, and remember the manner in which his lamented predecessor, Abraham Lincoln, received the jeers and blows of friends and foes. His easy good nature was a soft cushion against which everything which was offensive fell dead. His words were always kindly and genial to friend or foe. That is not the character of Mr. Johnson. It is one of the peculiarities of his character that he has not the gentleness of the late President, and yet let me say that in this respect the very courage with which he resists opponents wherever they present themselves, we commended five years ago as the highest virtue of Andrew Johnson's life.

What is the reason given for these personal allusions? Wendell Phillips has arraigned and abused the President in a shameless manner; but he is in the habit of doing that in regard to almost every one. He recently classed him with Arnold and Burr. He said he had taken Jeff Davis's place as leader of the confederacy, and threatened impeachment. This would never be good enough for him. My friend from Massachusetts, before the magnificent oration he gave us covering the whole ground of our difficulties, let drop an expression about "white-washing" in debate in December last that I have no doubt has greatly wounded and irritated the mind of the President. He regards it rather in the light of a personal affront, though I do not believe it was so intended.

In regard to Mr. STEVENS, the other gentleman named by him, we cannot judge fairly without recalling to mind the fact that Mr. STEVENS proclaimed Andrew Johnson to be an alien enemy, a citizen of a foreign State, in the convention that nominated him as Vice President of the United States, and therefore not now legally President. We must not forget that he has shown violent and bitter feeling at various times, and that he wields great influence, and in such a way as to exasperate even a patient man. I know him well—a man of great intellect, with a controlling will, and possessing the dangerous power of keen sarcasm, which he wields against friend and foe, cutting like a Damascus blade. In a recent debate he made use of an expression that would irritate any man,

especially when coming from a leader in the House of Representatives. He said of the President that his conversation with a certain "distinguished Senator" was:

"In violation of the privileges of this House, made in such a way that centuries ago, had it been made in Parliament by a British king, it would have cost him his head."

I ask you, Senators, whether the President of the United States, regarding him as he is; a man who never turned his back upon a foe, personal or political; a man whose great virtue has been his combative propensity; as a man who repelled insults here on the very spot where I now stand, when they came from traitors arming themselves for the fight; can you ask him, because he is President, to submit to insult? Every sentiment of manhood, every dictate of our nature, would induce a man, when he heard these words uttered, in the heat of passion, to thrust them back. When a man becomes President he has none the less the feelings of manhood. Whether a peasant or a President, he is a man for a' that. He can never overcome that feeling, and therefore I say, Senators, when we are examining the present condition of affairs, although I condemn the time and manner of repelling these insults as strongly as one can, yet that condemnation must be palliated by the circumstances by which he was surrounded, by our knowledge of his character, by the fact that he believed he was repelling personal insult thrust upon him by high officers of the Government, or by a gentleman like Wendell Phillips, who controls great masses of public opinion, and we are bound to give him the charity of this explanation.

There is another portion of this speech which I think is even still more indefensible than anything I have referred to; and that is that clause which I will not read to the Senate, in which he charges that these men are endeavoring to incite his assassination. No charge can be more idle, no accusation can be more unfounded; and I am astonished to the last degree that such an idea should ever enter the mind of the President of the United States that these gentlemen were conspiring his assassination! I have seen many papers printed on both sides of the question, by Democrats and Union men, and I never have seen one that approves this accusation. I have received many letters pro and con on this subject since this thing occurred, and I have never yet seen an intimation but what this charge was most unfounded. Sir, it is not in the ranks of the Union party the President will find assassins. They are bred only by a different school of politics. The men who have done so much to save this country from anarchy will not play the part of assassins. He need not guard against them; and this accusation seems to me rather the product of resentment, hatched by anger and passion, and hurled without reflection at those he believed wished to badger and insult him.

But, sir, throwing aside these personal allusions and these irritating remarks, what is the left of the speech? Cast over the remarks that I have referred to the mantle of charity, and what is there in the speech with which we can find fault? There may be ideas and sentiments which seem to be out of place; we are not here to criticize the speech of the President by the rules of grammar or syntax; but there are ideas in his speech that are deserving the grave consideration of the Senate. In one clause of the speech he says in speaking of the spirit of his address and conduct to the southern people:

"Coming in that spirit, I say to them, 'When you have complied with the requirements of the Constitution, when you have yielded to the law, when you have acknowledged your allegiance to the Constitution, I will, so far as I can, open the door of the Union to those who had erred and strayed from the fold of their fathers for a time.'"

Now read in connection with that another paragraph of the same speech:

"When those who rebelled comply with the Con-

stitution; when they give sufficient evidence of loyalty; when they show that they can be trusted; when they yield obedience to the law that you and I acknowledge obedience to, I say extend them the right hand of fellowship, and let peace and Union be restored."

TENNESSEE.

Other passages of this speech, and especially one or two in the veto message, show his earnest desire for the admission of Tennessee; and I have no doubt that much of the excitement in the President's mind arose out of the long-delayed admission of Tennessee into this Union. That feeling crops out very strongly in the veto message, and I confess to you that I do sympathize very much with his feelings. What is the condition of Tennessee? It was reconstructed in the sense in which the term is now used before the death of President Lincoln, under his guiding hand, with Andrew Johnson as his mere agent. It was reconstructed by Union men in the midst of war, and Tennessee aided us very much in the closing operations of this war. More than thirty thousand of her brave sons marched under the banner of Thomas and Sherman. Its government was reorganized before President Johnson came here. It was organized by his own personal friends who shared his fortunes. The men that are sent here to represent Tennessee are as true and loyal as either of you Senators, without exception. I have just had brought to me the recent letter of Mr. Maynard to the convention held on the 22d of February, and it breathes the very spirit of patriotism. There are Stokes and many others of these gentlemen who have served the cause of their country. Now I say to you that there is a feeling in the public mind that Tennessee ought to be admitted into the Union, and as soon as possible; that she has complied with every condition imposed upon her; that she has organized civil society so far as it can be; and I think it is the common feeling and desire of the people of the United States, whom we represent, the mass of the Union people, that she should be admitted as soon as possible. One year ago she was declared by the President not to be in insurrection; and I do think our first duty is at once to prepare a mode and manner by which she may be admitted into the Union upon such terms and conditions as will make her way back the way of pleasantness and peace. And, sir, I would follow the marked exception in the case of Tennessee by an encouraging plan for the admission of Arkansas and such other States as may be reconstructed on a loyal basis.

NO PLAN OF RECONSTRUCTION BY CONGRESS.

The weakness of the position of Congress now is not that any one denies your power, but that you hold no lanterns to them, no light, no plan, no mode by which they can get back into the folds of the Union. I say therefore, if the committee on reconstruction can report a joint resolution (instead of this asserting their power) fixing the mode and manner by which Tennessee and other States may come back into the Union, by which their loyal sons may be represented upon this floor, I believe it will meet the hearty plaudit of the American people. I do not wish to go into the general question still before the committee on reconstruction; but if I had any power in arranging a plan, I would mark the line as broad and deep between the loyal people who stood at our side and the rebels who fought against us as between heaven and hell.

Mr. HOWARD. How can you do it?

Mr. SHERMAN. Whenever loyal men present a State organization, complying with such terms and conditions and tests of loyalty as you may prescribe, and will send here loyal representatives, I would admit them; and whenever rebels send or come here I would reject them. The President in his veto message, to which I intend to refer presently, states this point as strongly and as well as I can make it, and I will read it in reply to the honorable Senator:

"I hold it my duty to recommend to you, in the



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interests of peace and in the interests of Union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any existing constitutional or legal test."

Define loyalty in your own terms; show that you have at least a generous appreciation of the position of these men; prescribe what you call a loyal man, if you choose; and then when these loyal men send here loyal men who can be tested by your oath or by any other mode or manner you choose to prescribe, let them come, in the name of God and humanity, and share our councils as they have shared our hearts; and I believe it is the irritation occasioned by this delay that has caused much of the excitement in the mind of the President. You may say that the President's idea of loyalty is not yours, and you may differ upon that. Why do you not define your idea of loyalty, and send it to him, and if it meets his approval, well? If not, then he makes an issue with Congress, and then you can fight it out; but until then you cannot.

## VETO MESSAGE.

Now, Mr. President, I come to the veto message. It is well known that I not only voted for the freedmen's bill, but I voted for it against the President's veto. I would vote for it over and over again. I considered it carefully; I find nothing in it but what I can approve; and I am surprised that any one who is willing to support the present Freedmen's Bureau is not willing to vote for this modification of it; but I do not wish to discuss at any length its merits. The honorable Senator from Illinois, in an elaborate and very able speech, has exhausted the whole subject. I am willing to let the veto of the President, with the answer of the Senator from Illinois, go to the people of the country, and upon that I am willing to defend my vote at any time and at all times. But what then? The President of the United States has constitutional powers and rights; he has the same duty imposed upon him to vote for or against that bill that rests upon any of us.

The Constitution declares that every bill shall be submitted for his approval or disapproval. If he does not approve it he sends it back, and it is nothing more nor less than a vote by him of "no" against the passage of that bill. He sends it back with his reasons. Suppose those reasons are not sufficient. That is a question that he must judge as well as you. He alleges that this bill is unnecessary, and I must confess that a recent construction put upon the bill through General Howard very much takes away from the immediate necessity for its passage. I supposed myself that the original Freedmen's Bureau bill expired by its own limitation in May, 1866, because I supposed that the President considered the rebellion as over in May last. He certainly did as to Tennessee. I supposed that the year of the duration of that bill after the war would commence, say some time in May, 1865, and therefore there was immediate necessity to supply some temporary act by which the freedmen in the southern States should be protected. It seems that in that we mistook the construction of the President, and I have here before me the order recently issued by General Howard, in which he says that—

"The President has assured the Commissioner that he regards the present law as continuing the existence of the bureau at least a year from this time."

That is, as no proclamation has been issued fixing the termination of the rebellion, until one year after that proclamation the present Freedmen's Bureau continues. If so, we have all the benefit of that system under the care of the most excellent manager of it now for one year for the protection of the freedmen. There are but very few powers conferred in the second bill that are not included in the first. There are three sections of the second bill that I think ought to be passed in the form of a law.

One provides for the poor negroes on the plantations set apart by General Sherman for them. It did seem to me that it was but reasonable and right for us to secure to them a military possession for a short period of time. They came into possession of that property lawfully under military rule; they were placed upon it when it was abandoned by its owners, and when its owners were fighting this Government. Their title was legal, their possession was legal; and I say there was nothing but a reasonable condition that you should not turn them out without at least two years' preparation. I could see no objection to that. It is true the expense of a Freedmen's Bureau may be large; but how can we help that? We have ourselves, in pursuance of our policy, emancipated the slaves; and whether it costs much or little, we are bound to ease their way from a condition of servitude to a condition of assured freedom. I tell you the people of Ohio do not care as to that. Whatever is necessary to be expended for this great purpose they are willing to pay their share. While they are reasonably economical in all questions, yet when it comes to the question of taking care of a race of people whom we ourselves have emancipated, they are willing to bear their share of the burden.

The sixth section of the bill, I must confess, seemed to me rather arbitrary; I refer to the power given to the President to buy lands at pleasure and without limit. I was disposed to vote to strike that out; but as the whole system was a temporary one, I did not believe the power would be abused by General Howard, and I trusted the President. I was willing to vote for it with that clause in; but that is neither here nor there. He had the right to veto it. What he says about taxation without representation I look upon very much like a stump speech that had no pertinency to the veto. That we have the power to legislate for the southern States is admitted by the President himself. In all the proclamations to which I have referred he by terms extends the Treasury laws over the southern States. He has admitted over and over again our power to legislate for these States by approving and indorsing and ratifying laws we have sent to him; and therefore all he said about taxation I look upon merely as one of those make-weights in an argument that with the people would not have any material influence. If he meant by that part of his veto message simply to say that as a general principle of American constitutional law every people who are affected by laws passed by Congress should be represented, I say that is right; but there are exceptions to that as there are to every other rule. We legislate for the people of this District and they do not vote and cannot have the right to vote. We will not even let them be heard here. We legislate for the Territories and do not give them the right to vote. We legislate for foreigners, who are not represented here, except indirectly, and who have no political power. We legislate for the women and children of our country, who have no vote. We legislate for a great many people who do not vote. They are all inferentially represented, but not directly represented by members of their own choice. Therefore I regard this part of the veto message simply surplusage not to be considered; but whether it is considered or not I am willing to stand by that bill; and let me say, sir, that if any President of the United States, I do not care whether it is Andrew Johnson or his successor, shall fail or neglect to protect from lawless violence the men who have been freed by this Government in the operations of war, that man will be cursed forever and forever. Our obligation to protect them is even more sacred than to protect the white people. My Democratic friends may think that is a very strong expression, but the reason is this: the white people can take care of themselves; they have been trained for generations as freemen; they will defend and maintain

their rights; you cannot hold them in slavery. All the powers of hell could not keep in slavery the American people who have once tasted the sweets of freedom.

But it is different with the freed people of the southern States. They are very poor, helpless, dependent upon our bounty and our protection, and are there in the presence of their masters who hate them because they have lost their services. We dare not trust their protection to the white people of the southern States, because we know the instinctive prejudices that govern and control in the southern States. I believe, and I will take the President at his word when he tells me, that his earnest desire is to protect them in all their rights. In the very veto message in which he sends back the measure we sent him, he tells us in most unequivocal terms—

"I share with Congress the strongest desire to secure to the freedmen the full enjoyment of their freedom and property, and their entire independence and equality in making contracts for their labor."

Then he goes on and states his objections to the bill. While he stands by that declaration, while he protects the freed people of the southern States, I will not quarrel with him about the means. Let him fail to do that, and I will denounce him as freely and as bitterly as any Senator on this floor.

## WHAT THE UNION PARTY DEMANDS OF THE PRESIDENT.

Mr. President, I feel that I have already detained the Senate too long, but there are some other observations which I shall take this occasion to make so that I may not hereafter feel called upon to trouble the Senate on these various questions of reconstruction. In my judgment, the Union party of the United States, whose representatives we are, demand both of the President and of Congress grave and important duties. I do not think either of us can avoid the fair performance of these duties by any excuse or equivocation. What they demand of the President, who accepted the nomination of the Union party, and who is the agent and representative of the Union party, and who is bound in honor to carry out its principles, is a faithful observance of the principles upon which he was elected. I look upon the common declaration either of a President or a member of Congress that he is the representative of the whole people, and is not under any obligation to the men who elected him, as as false in honor and false in principle. The President, it is true, is President of the United States, but he is the chosen representative of the Union party of the United States, and he is under obligations to that party which he cannot in honor depart from. Now, sir, a debt of honor is even of higher obligation than a debt which can be enforced in a court of law, simply because it rests upon honor alone. No debt can be of higher honor than that which the representative owes to the constituents who elected him. I think therefore that we have a right to expect that the President of the United States shall fulfill his promise upon which he was elected, that he would do all he could to make treason odious and to punish traitors. There is a growing feeling in the public mind that he is forgetting this cardinal principle of his early proclaimed policy. We have a right to expect that in the various departments and agencies of this Government he shall exercise the power intrusted to him through those men who aided and contributed to his election. He is bound as a principle of honor to select as the agents of the Government those who shared with him the political feeling that gave rise to his election. They are numerous enough to form the foundation of any Administration. And if he seeks fellowship, counsel, aid, or association from or with those who either took up arms in the recent contest, or who, regarding the war a failure, would have passively yielded to rebels, he commits that offense from which no man occupying his high position can or will recover. Tolerance of opinion within

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a political party is indispensable and choice of agents within it is a necessity, but it must be a grave exigency that will justify a betrayal of those by and through whom we obtain trust and power.

The Union party, in my judgment, is the most powerful political organization that has ever controlled the Government of this country. During the last fall it carried every one of the so-called northern States—northern no more, I hope. The Legislatures of all those States are in a harmony with the Union party. Nine out of ten of the soldiers who carried our flag are adherents of the Union party, and sustained us at the election as they did in the field of battle. The great body of the officers who led the soldiers through all the perils of war are of the same feeling. The great Union party is a sound, conservative, healthy political organization, demanding only of its agents what is reasonable and right. I think its members demand, and have a right to demand, of Mr. Johnson a strict, earnest, faithful adherence to the principles which led to his selection as a candidate for the Vice Presidency, and placed him side by side with the lamented Lincoln; and they demand of him trust and confidence in those who placed him in power.

## WHAT IT DEMANDS OF CONGRESS.

And, sir, this party demands of Congress some things, also. It demands of Congress a prompt restoration of some of the rebel States, or at least a prompt plan of restoration of the rebel States. If on account of their present condition any of these States cannot yet come into the Union; if because they are still rebellious, or will not in spite of our laws select men who have not stained their hands with the blood of our countrymen, let them stay out. While the State of Georgia or any other State of the South can find no citizen within her bosom to represent her except those who, more almost than all others, are responsible for the blood that has been shed in the recent war, I will never vote for the admission of its Representatives or Senators. They must first show by their conduct an obedience to the law. Among the laws that stood on the statute-book when they were the force to which they appealed was that law which prescribed a test oath; and I, for one, will never yield that test oath to enable any man whose hand is stained with the blood of my fellow-countrymen to take a seat on the floor of the Senate.

But, sir, I am desirous to see some mode by which loyal men from the southern States, in States that are organized on a secure and safe basis, may be promptly admitted on this floor. The people of the United States demand of Congress some such plan and that right speedily, and they demand a change of the basis of representation. By the provisions of the Constitution of the United States there are four million people of the southern States who, denied all political rights, will still be represented in Congress, and the strange anomaly will present itself of these rebel States, who have done all they could to overthrow the Government, coming back here with increased political power. I think that our constituents will demand of us that before they are admitted we shall have at least adopted a plan by which the basis of representation may be put upon a secure and safe footing.

Let us take some cases disclosed by the census tables and let us make a momentary comparison. The State of Alabama has a total population of 964,201; she is entitled upon the basis of representation to seven Representatives; but the State of Alabama has only 435,080 white people who exercise any political power. The State of Wisconsin has a population of 774,710, or nearly twice as many white people as the State of Alabama, and yet unless you change the basis of representation, Alabama will come back here with seven Representatives

while Wisconsin has but six. So with Virginia and Illinois. Virginia has a total population of 1,596,318, and a white population of only 1,047,411, while Illinois has a white population of 1,704,323, or nearly twice as many as the State of Virginia; and yet unless there is some change in the Constitution, Virginia will come back with twelve Representatives while Illinois has but thirteen. I might go through the list. This is a condition of inequality to which our people will not submit now when they have the power to remedy it.

The honorable Senator from Pennsylvania [Mr. BUCKALEW] the other day in a very ably prepared argument demonstrated, as I think, very clearly that the inequality of representation in the Senate is even still more marked than this; but he must remember that that inequality is beyond the power of recall; that no change can be made in that respect except either by revolution or by a national convention. Besides, this inequality of representation in the Senate does not really amount to very much, for the reason that the small States are mainly distributed side by side with the large States, and they have a community of interest with the large States. I have myself watched the vote upon the various propositions to see whether this inequality of representation of States in the Senate has operated hard, and I find almost always the large and small States mix and mingle in their votes. It very rarely makes any difference, as whenever the popular majority carries the House of Representatives that same popular majority carries the Senate. This inequality, while it cannot be changed, really does but little harm. The only section of which any complaint can fairly be made is New England, where a group of six small States stand together, and sometimes have peculiar interests of which they are very tenacious; but the West rapidly growing into giant power, strengthened by new States every year, and where there is a community of interests of great States and small States—the great West can soon hold New England in check whenever she unduly avails herself of her unequal political power here.

## THE BASIS OF REPRESENTATION—VOTERS.

Mr. President, the real question of difficulty is how this change in the basis of representation shall occur. The committee of fifteen have reported a plan that I shall probably vote for, but I must express my preference for another. I do it now, so that I shall not take up the time of the Senate hereafter. In my judgment the true basis of representation in this country is voters. I know this was discussed in the other House, and I have read the debate there, but the result was not satisfactory to me. All the objections that have been made to that system were objections that might be easily obviated and easily answered. Suppose the basis of representation was the very one suggested by Andrew Johnson, that all men above the age of twenty-one years, citizens of the United States, who by the laws of the respective States are entitled to vote shall be the basis of representation. What then? What is the objection to that plan? It is simple, uniform, applying to all sections without any appearance of legislating against a particular interest or a particular section. It is fair, manly, and honorable. The true basis of representation are men who cast the votes. All the others who stand outside of this circle are voted for by the voters and are represented by the voters.

But one of the objections made to this plan is that in the border States by their laws they exclude a large portion of their population from voting on the ground of disloyalty, having taken share in the rebellion. Suppose they do; suppose Maryland has excluded one third of her population because they were rebels, ought the loyal men of Maryland to vote for those rebels? Whether they are excluded on account of color

or crime they are equally to be excluded from the basis of representation, and this argument, which applied only to a narrow interest and of a temporary character which will soon disappear by the march of events, is now made to stand in the way of a just and fair basis of representation. So it is said that in the State of New York where there is a large preponderance of foreigners, the State of New York will lose, because foreigners not being voters will not be counted. Suppose it is, would not that be right? Foreigners are not citizens, but may become such. They pass through a pupillage and then are citizens and may be counted. Because they happen to have the most of them in New York, is that a reason why they should be included in the basis of representation? The States ought not to look upon this question as it affects their own particular interests for the time, but as a question of equality, of right, and of justice in the Electoral College and the House of Representatives.

So of New England. It is said that New England will lose something because she has a great number of beautiful women and children more than she has men. That is true; but I ask you, Mr. President, yourself a distinguished representative from New England, where the men are who represent these women? They are the best blood of your country who go westward and there soon give tone to society, and come back here to represent themselves and the mothers and sisters and kindred they left behind. New England is at this moment not only represented by her twelve Senators, but by six or eight more who are sons of New England who moved to the West and carried with them their religion, their principles, and in some cases their wives, or where they did not we provided wives for them. They came back here as Senators, and now stand here to vote New England ideas and New England principles. Suppose New England should lose a member or two because the young men have gone West, are her women and children unrepresented? No, sir, they are represented by men from every State in the Union.

I say, therefore, that this rule, proposed first I believe by Professor Leiber, is in my judgment the fairest basis of representation. That a change of the basis is demanded there can be no doubt. This in my opinion is the best proposition, but I do not profess to be among the impracticables, and if I cannot get what I want I am willing to take that proposition which was reported from the committee of fifteen, which does at least take away that singular feature by which the South would gain representation by the rebellion.

## UNIVERSAL SUFFRAGE.

Sir, perhaps I ought not to say anything further in regard to a proposition made by the Senator from Missouri, [Mr. HENDERSON,] so eloquently and ably defended and maintained in a long and elaborate oration by the Senator from Massachusetts, that we ought now to start *de novo*, to go back to first principles and base representation on population, and take away from the States the power to fix the qualification of voters, and proclaim that nobody should be excluded from voting on account of color. It has always seemed to me best to attempt that which is attainable; and when I say to you that no man can really believe that we can keep these States out from representation here until we can educate the people of the United States up to a change of their Constitution so as to compel any State to adopt negro suffrage, it is a proposition so clear that I need scarcely discuss it.

If we propose to exclude those eleven States from the Union until we can compel three fourths of all the States to vote for negro suffrage, then these eleven States will be a Hungary, a Poland, an Ireland, to be ruled over by the military rod for years to come. You may depend upon it the people of the United States

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will not acquiesce in that demand. They will not waste their energies and their money in enforcing so impossible a proposition. Therefore, without going into its merits, I say it is simply proposing that which we cannot adopt.

I beg Senators not to let the protection that is due to the negroes of the southern States depend upon the narrow foundation of a congressional enactment. Suppose you were to pass the law proposed by the Senator from Massachusetts, how long would it remain on the statute-book, in the mutations of parties in this country, where nothing is more unstable than party power, especially where no great principles are immediately at stake? How long would it be before a dominant majority in Congress would repeal your law, and then you would have wasted all your power to change the basis of representation and to protect the freedmen of the southern States? What I desire now is to secure a just and fair basis of representation so that the South may have a reasonable share of political power, no more, no less. Then after their representatives have been tried by the tests of loyalty that you may prescribe—let them be reasonable, moderate, kind, forbearing—then I hope to see these States come back into their old places in the Union, shorn of their treason, shorn of their power; equal with us, no better, no worse; white men and white women and white children, on the same footing, side by side, acting in harmony with each other in adopting legislation for the good of our great country.

## LET US BE MODERATE.

Such is my view of the subject, and although I shall probably take no part in the debate upon it, but will vote for almost any basis of representation that changes the present one, I do say it is the duty of Congress to adopt some mode by which the basis of representation may be put upon a safe foundation. Sir, the people of the United States now demand of us wisdom and moderation. This is not the time for extreme counsels. It is not the time to attempt great reforms and works. We have just gone through a terrible war, with an overwhelming debt staring us in the face. We have to tax our people to a greater extent than they have ever been taxed before. We have complicated political relations growing out of the condition of the southern States. Do the best we can, we shall have trouble and contention and strife. We know that lawlessness and crime are spreading with giant footsteps all over the southern States. We know that the race that we have redeemed from bondage is now held in fierce terror all over the South. We know that we owe them protection, and we are bound to protect ourselves against undue power of traitors in the southern States. We have to guard our councils against the machinations of traitors here and elsewhere.

I say now is no time to quarrel with the Chief Magistrate of the United States, unless we are compelled to do so by his base betrayal of the obligations he imposed upon himself when he became our candidate. It is a time for moderation and for wisdom. Sir, I would not plead for it, but I believe it is absolutely necessary, not only for our existence as a party, but for our existence as a nation. I fear the storm. I fear struggles and contentions in these eleven States, unless there is some mode by which the local power of those States may be put in loyal hands, and by which their voices may be heard here in council and in command, in deliberation and debate as of old. They will come back here shorn of their undue political power, humbled in their pride, with a consciousness that one man bred under free institutions is as good at least as a man bred under slave institutions. I want to see the loyal people in the South, if they are few, trusted; if they are many, give them power. Prescribe your conditions; but let them come back into the Union upon such terms as you may prescribe. Open the door

for them. I hope to see some great spectacle of punishment, some grand tribunal erected to try, not merely Jefferson Davis, but in his person to try the rebellion, to condemn it before the civilized world; the sentence to be recorded in the pages of history, not as the sentence of death merely against "an old man broken with the storms of state," but as the ignominious sentence of a free people against the worst rebellion ever inflicted on mankind. But that over, I do hope that without more bloodshed, of which we have had enough, we may see harmony restored in this great Union of ours; that all these States and all these territories may be here in council for the common good, and that at as speedy a moment as is consistent with the public safety.

## OHIO AND INDIANA.

Before I conclude, allow me to read two sets of resolutions framed since we have been engaged in this debate, and which receive my hearty approval: one passed by the Union party of the State of Indiana, and the other reported to the Union members of the Legislature of Ohio, and which, I believe, will receive their sanction. The Indiana Union convention passed the following resolutions:

*Resolved, That it is the province of the legislative branch of the Government to determine the question of reconstruction, and in the exercise of that power Congress should have in view the loyalty of the people of those States, and their devotion to the Constitution and obedience to the laws. Until the people of these States prove themselves loyal to the Government they should not be restored to the rights enjoyed before the rebellion.*

*Resolved, That no man who voluntarily participated in the rebellion ought to be admitted to a seat in Congress, and under the Constitution of the United States the power to determine the qualifications requisite of electors rests with the States respectively.*

*Resolved, That the Union of these States has not and cannot be dissolved except by successful revolution.*

I now present and read kindred resolutions reported to the Union members of the Ohio Legislature recently by a committee of their own number:

*Resolved, That the President, Andrew Johnson, in demanding of the revolted States the repeal of their ordinances of secession, the repudiation of their rebel war debts, and the adoption of the amendment of the Constitution abolishing slavery before he would withdraw the military control of the provisional governments, wisely inaugurated the necessary measures of reconstruction, that can only be completed by Congress and the States by the adoption of a further constitutional amendment apportioning representation in Congress among the States according to the numbers of those classes thereof who, by the laws of such States, have a voice in such representation; and that while the safety of the nation and justice to all its parts require that these States should be admitted only with such representation, we deem it inexpedient and unnecessary to press upon them other conditions to a full restoration to their place and rights in the Union.*

*Resolved, That we deem it the duty of Congress to provide by just and prudent but effective legislation for the protection of the freedmen.*

*Resolved, That we respectfully and earnestly urge upon Congress and the President to waive extreme opinions, and that in the discharge of the great trust confided to them by the nation they harmoniously provide for us the ways of future concord and the moderate but effectual measures of a lasting reconstruction.*

I will also read from a private letter which I have received from a distinguished citizen of my State, expressing an opinion in which I heartily concur:

"Our party is now in the hour of its trial, and it needs to gain strength by prudence rather than prodigally wasted by the very extravagance of rashness. We can never maintain ourselves against the President or anybody else upon a policy of indefinite and unconditional exclusion of the southern States, establishing a Hungary or Poland in the midst of the Republic. We must rather, in my judgment, offer immediate admission to the rebel States upon terms clear, distinct, and announced, and show to our people that it is not revenge but safety that we want."

## RÉSUMÉ.

I have thus, Mr. President, endeavored to show that to this hour no act has been done by the President inconsistent with his obligations to the great Union party that elected him.

Differences have arisen, but they have arisen

upon new questions, not within the contemplation of either the Union party or the Union people when the President was nominated. I have also shown that he has acted in pursuance of a policy adopted by Mr. Lincoln, and approved by the people, and that no event has yet transpired that will preclude him from a hearty cooperation with the great mass of the Union party in securing to the country the object for which we conducted successfully a great war. That events have transpired, that utterances have been made tending in that direction, no one will deny. The surest evidence is in the joy of the worst enemies of the country over our divisions.

I find in a recent paper this significant paragraph:

*Democratic Demonstration at Dayton.*

DAYTON, OHIO, February 20.

The Democracy of Dayton had a jollification over President Johnson's veto of the Freedmen's Bureau bill this afternoon, firing one hundred guns. Mr. Vallandigham made a brief speech, saying the Democracy did not elect President Johnson, but it is now their duty to stand by him. He announced a mass meeting in future for exultation. A flag floats from Mr. Vallandigham's window.

Mr. CRESWELL. May I ask what kind of a flag?

Mr. SHERMAN. I do not know; a good flag in bad hands, I suppose.

Sir, I can imagine no calamity more disgraceful than for us by our divisions to surrender, to men who to their country were enemies in war, any or all of the powers of this Government. He who contributes in any way to this result deserves the execrations of his countrymen. This may be done by thrusting upon the President new issues on which the well-known principles of his life do not agree with the judgment of his political associates. It may be done by irritating controversies of a personal character. It may be done by the President turning his back upon those who trusted him with high power, and thus linking his name with one of the most disgraceful in American history, that of John Tyler. I feel an abiding confidence that Andrew Johnson will not and cannot do this; and, sir, who will deny that the overbearing and intolerant will of Henry Clay contributed very much to the defection of John Tyler? But the division of the Whig party was an event utterly insignificant in comparison with the evil results of a division in the Union party. Where will be the four million slaves whom by your policy you have emancipated? What would be their miserable fate if now surrendered to the custody of the rebels of the South? Will you, by your demand of universal suffrage, destroy the power of the Union party to protect them in their dearly purchased liberty? Will you, by new issues upon which you know you have not the voice of the people, jeopard these rights which you can by the aid of the Union party secure to these freedmen? We know that the President cannot, will not, and never agreed to, unite with us upon the issues of universal suffrage and dead States. No such dogmas were contemplated, when, for his heroic services in the cause of the Union, we placed him side by side with Mr. Lincoln as our standard-bearer. Why, then, present these issues? Why decide upon them? Why not complete the work so gloriously done by our soldiers by securing union and liberty to all men without distinction of color, leaving to the States, as before, the question of suffrage.

Sir, the curse of God, the maledictions of millions of our people, and the tears and blood of new-made freemen will, in my judgment, rest upon those who now for any cause destroy the unity of the great party that has led us through the wilderness of war. We want now peace and repose. We must now look to our public credit. We have duties to perform to the business interests of the country in which we need the assistance of the President. We have every motive for harmony with him and with each other, and for a generous and manly



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trust in his patriotism. If ever the time shall come when I can no longer confide in his devotion to the principles upon which he was elected, I will bid farewell to Andrew Johnson with unaffected sorrow. I will remember when he stood in this very spot, five years ago, repelling with unexampled courage the assaults of traitors. He left in their hands wife, children, property, and home, and staked them all on the result. I will remember that when a retreating general would have left Nashville to its fate, that again, with heroic courage, he maintained his post. I will remember the fierce conflicts and trials through which he and his fellow-compatriots in East Tennessee maintained our cause in the heart of the confederacy. I will remember the struggles he had with the aristocratic element of Tennessee, never ashamed of his origin and never far from the hearts of the people. Sir, you must not sever the great Union party from this loyal element of the southern States. No new theories of possible utopian good can compensate for the loss of such patriotism and devotion. Time, as he tells you in his message, is a great element of reform, and time is on your side. I remember the homely and encouraging words of a pioneer in the anti-slavery cause, an expelled Methodist preacher from the South, who told those who were behind him in his strong anti-slavery opinions, "Well, friends, I'll block up awhile; we must all travel together." So I say to all who doubt Andrew Johnson, or who wish to move more rapidly than he can, to block up awhile, to consolidate their great victory with the certainty that reason and the Almighty will continue their work. All wisdom will not die with us. The highest human wisdom is to do all the good you can, but not to sacrifice a possible good to attempt the impracticable. God knows that I do not urge harmony and conciliation from any personal motive. The people of my native State have intrusted me with a position here extending four years beyond the termination of the President's term of office. He can grant me no favor.

If I believed for a moment that he would seek an alliance with those who by either arms or counsel or even apathy were against their country in the recent war, and will turn over to them the high powers intrusted to him by the Union party, then, sir, he is dishonored, and will receive no assistance from me; but I will not force him into that attitude. If he shall prove false to the declaration made by him in his veto message, that his strongest desire was to secure to the freedmen the full enjoyment of their freedom and property, then I will not quarrel with him as to the means used. And while, as he tells us in this same message, he only asks for States to be represented who are presented in an attitude of loyalty and harmony and in the persons of representatives whose loyalty cannot be questioned under any constitutional or legal test, surely we ought not to separate from him until, at least, we prescribe a test of their loyalty upon which we are willing to stand. We have not done it yet. I will not try him by new creeds. I will not denounce him for hasty words uttered in repelling personal affronts. I see him yet surrounded by the Cabinet of Abraham Lincoln, pursuing his policy. No word from me shall drive him into political fellowship with those who, when he was one of the moral heroes of this war, denounced him, spit upon him, and despitefully used him. The association must be self-sought, and even then I will part with him in sorrow, but with the abiding hope that the same Almighty power that has guided us through the recent war will be with us still in our new difficulties until every State is restored to its full communion and fellowship, and until our nation, purified by war, will assume among the nations of the earth the grand position hoped for by Washington, Clay, Webster, Lincoln, and hundreds of thousands of unnamed heroes who gave up their lives for its glory.

**Rights of Citizens.****SPEECH OF HON. A. J. ROGERS,**

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1866.

The House having under consideration the joint resolution (H. R. No. 63) proposing an amendment to the Constitution of the United States—

Mr. ROGERS said:

Mr. SPEAKER: I had hoped, after what has transpired in the last few days, that the time had come when the Constitution of the United States would be secure from invasion by Congress. When I heard the words of the President of the United States in commendation of that sacred instrument, and as I rejoiced at the course pursued by conservative men on the other side of the House who are determined to sustain that instrument as it was given to us by our fathers, I had good reason to believe there would be no other amendments to it proposed by this body or the Senate. I felt that the agitation which had been kept up in this House against that instrument in order to amend it, as the President says, so that no more respect would be paid to it than to a mere resolution of a town meeting, had gone by, and that we would now dedicate the balance of our time in Congress to the great doctrine of constitutional liberty that we might give power to a free and patriotic President in his great work of reconstruction, and proclaim to the civilized world that every star representing every State was a component part of the old flag, and that every Representative from every State had taken the vacant seats in Congress which had been intended by the Constitution should be filled by them. I do think, notwithstanding the position which has been assumed by the eloquent and learned gentleman from Ohio [Mr. BINGHAM] who reported this resolution, that no resolution proposing an amendment to the Constitution of the United States had been offered to this Congress more dangerous to the liberties of the people and the foundations of this Government than the pending resolution. When sifted from top to bottom it will be found to be the embodiment of centralization and the disfranchisement of the States of those sacred and immutable State rights which were reserved to them by the consent of our fathers in our organic law.

When the gentleman says the proposed amendment is intended to authorize no rights except those already embodied in the Constitution, I give him the plain and emphatic answer—if the Constitution provides the requirements contained in this amendment, why, in this time of excitement and public clamor, should we attempt to again ingraft upon it what is already in it?

Mr. BINGHAM. The gentleman totally misconstrues what I have said.

Mr. ROGERS. Wait until I have finished the point I have commenced. I say that the gentleman takes the position that there is nothing in this proposed amendment with regard to privileges and immunities of citizens of the several States attempted to be ingrafted in the instrument, except those which already exist in it. If those rights already exist in the organic law of the land, I ask him, what is the necessity of so amending the Constitution as to authorize Congress to carry into effect a plain provision which now, according to his views, inheres in the very organic law itself?

I know what the gentleman will attempt to say in answer to that position: that because the Constitution authorizes Congress to carry the powers conferred by it into effect, privileges and immunities are not considered within the meaning of powers, and therefore Congress has no right to carry into effect what the Constitution itself intended when it provided that citizens of each State should have all privileges and immunities of citizens in the several States.

Now, sir, the answer to that argument is simply this: that when the Constitution was framed and ratified, its makers did not intend to lodge in the Congress of the United States any power to override a State and settle by congressional legislation the rights, privileges, and immunities of citizens in the several States. That matter was left entirely for the courts, to enforce the privileges and immunities of the citizens under that clause of the organic law. Although our forefathers, in their wisdom, after having exacted and wrested from Great Britain State rights, saw fit to incorporate in the Constitution such a principle in regard to citizens of the several States, yet they never intended to give to Congress the power, by virtue of that clause, to control the local domain of a State or the privileges and immunities of citizens in the State, even though they had come from another State.

Mr. KELLEY. I understand the gentleman to suggest that one reason why the Constitution should not be amended is, that the President fears that so many propositions of amendment will make the instrument as common as a town-meeting resolution. I desire to ask him whether the President is not the same Andrew Johnson who, when a Representative in Congress, submitted no less than nine amendments to that sacred instrument in one session?

Mr. ROGERS. That may all be so. I am not here as the advocate of Andrew Johnson, because he is Andrew Johnson, but simply as the advocate of the great doctrine of constitutional liberty which he lays down. I am not here to support the conduct of Andrew Johnson in all the past years of his life, but to support him as President in his endeavors to so control the legislation of this country as to confer constitutional liberty upon the people, and carry out the letter, spirit, and intent of the organic law. I stand by him because of his reiterating those immortal and undying principles which were ingrafted in the Constitution of the United States, and I stand by him no longer than he stands by his oath to support and defend the organic law. I am wedded to no man, but am devoted to my country and its liberties.

But this proposed amendment goes much further than the Constitution goes in the language which it uses with regard to the privileges and immunities of citizens in the several States. It proposes so to amend it that all persons in the several States shall by act of Congress have equal protection in regard to life, liberty, and property. If the bill to protect all persons in the United States in their civil rights and furnish the means of their vindication, which has just passed the Senate by almost the entire vote of the Republican party be constitutional, what, I ask, is the use of this proposed amendment? What is the use of authorizing Congress to do more than Congress has already done, so far as one branch is concerned, in passing a bill to guaranty civil rights and immunities to the people of the United States without distinction of race or color? If it is necessary now to amend the Constitution of the United States in the manner in which the learned gentleman who reported this amendment proclaims, then the vote of the Senate of the United States in passing that bill guarantying civil rights to all without regard to race or color was an attempt to project legislation that was manifestly unconstitutional, and which this proposed amendment is to make legal.

Now, sir, on the 5th of January, 1866, Mr. TRUMBULL introduced a bill into the Senate of the United States, in this language:

That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase,

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lease, sell, hold, and convey real and personal property.

Sir, I shall deal with these grave questions in a spirit of candor, and with no disrespect to the committee of fifteen as individuals, yet I shall not hesitate to lay bare the wicked despotism which is the result of the making and sustaining such an unauthorized body who are sitting as an inquisition upon the liberties of the people. My whole ambition is to save my country and its liberties, and may God give me wisdom so to act as to further the great objects of the war, and relieve an oppressed people from the exercise of despotic power. I want all errors or wrongs on the part of the southern people, growing out of the war, to be at once buried forever in the deep ocean of oblivion. Great disasters threaten us by the hands of fanaticism. Let us remember that civil wars usually menace liberty, and often end in its overthrow and destruction.

No sentiment of disloyalty to the great doctrines of self-government embodied in the Constitution has or shall ever beat or throb in my heart. To the maintenance of those doctrines I have devoted the whole of my time in this body, and to them and the safeguards of constitutional liberty I shall devote the balance of my life. In devotion to and love of my country, I will yield to no man on earth. My only hope for liberty is in the full restoration of all the States, with the rights of representation in the Congress of the United States upon no condition but to take the oath laid down in the Constitution. In the legislation by the States they should look to the protection, security, advancement, and improvement, physically and intellectually, of all classes, as well the blacks as the whites. Negroes should have the channels of education opened to them by the States, and by the States they should be protected in life, liberty, and property, and by the States should be allowed all the rights of being witnesses, of suing and being sued, of contracting, and doing every act or thing that a white man is authorized by law to do. But to give to them the right of suffrage, and hold office, and marry whites, in my judgment is dangerous and never ought to be extended to them by any State. However, that is a matter belonging solely to the sovereign will of the States. I have faith in the people, and dark and gloomy as the hour is, I do not despair of free government. I plant myself upon the will of God to work out a bright destiny for the American people.

Let old issues, old feuds, and old questions be buried in the past. New and living issues are upon us. Let it be said of us in this period of our country's great trial and agony that there was a band of patriots in this Congress, who devoted their energies and their influence, regardless of party differences, to strengthen the arm of the President in his noble purpose of restoration, and who with honest hearts strained every nerve to make this a more perpetual Union, knowing in that great work no North, East, West, or South, and remembering that as Christ gave His life to save a fallen world, so did that noble band dedicate the part of their lives in which they were engaged as guardians of the people's honor to the forgiveness of their brethren in the South, and the restoration of all the States. With all the States fully represented, our future would be much brighter than was that of our fathers who fled from persecution in the Old World, and under our Constitution commenced this present Government, although we have a vast debt upon our shoulders which, with a united country and an equalization of taxes, we can very soon pay. Whatever is done, let it be the act of calm, dispassionate, and enlightened reason, exercised for the best interests of all, ever remembering that Christian injunction of doing unto others as we would that they should do unto us. In my political course my conscience is clear, and I shall not be content until the bright her-

itage of our fathers is transmitted to their descendants unimpaired.

I know human nature is frail. We are not so constituted that we can all think alike. I have no feelings against those who disagree with me, and my only regret is that they cannot look at the situation of our country from a stand above and beyond party. I have been treated with great respect by those who disagree with me, and feel bound to believe that they are moved by honest convictions of duty, and in all charitableness I am willing to accord to them the same rights I claim for myself. Let us treat our southern brethren with kindness. They deserve our sympathy and support, for sorely have they been chastened. God gave His only begotten Son to save the world. Can we not give up our passions and prejudices to save the Union? When you refuse representation you dissolve the Union, prostrate the Constitution, and erect an imperial despotism over nearly one third of the Union. The despotisms of Europe will shout over our fall, while the people of Ireland and all the downtrodden masses will shed tears, mingled with blood. Holding eleven States as conquered provinces, and the enforcement of taxes upon them, must alienate all the affections of the South, and finally end in revolution and blood. Congress has no power to dissolve the Union. I cannot join with northern disunionists in such an abominable act.

I call upon the people of the South to fill up the ranks and make a more determined effort to get into the Union than they did to get out. Let the angel of love blot out the memories of the past insurrection, and hover her wings over a united Union.

Who gave the Senate the constitutional power to pass that bill guarantying equal rights to all, if it is necessary to amend the organic law in the manner proposed by this joint resolution? This is but another attempt to consolidate the power of the States in the Federal Government. It is another step to an imperial despotism. It is but another attempt to blot out from that flag the eleven stars that represent the States of the South and to consolidate in the Federal Government, by the action of Congress, all the powers claimed by the Czar of Russia or the Emperor of the French. It provides that all persons in the several States shall have equal protection in the right of life, liberty, and property. Now, it is claimed by gentlemen upon the other side of the House that negroes are citizens of the United States. Suppose that in the State of New Jersey negroes are citizens, as they are claimed to be by the other side of the House, and they change their residence to the State of South Carolina, if this amendment be passed Congress can pass under it a law compelling South Carolina to grant to negroes every right accorded to white people there; and as white men there have the right to marry white women, negroes, under this amendment, would be entitled to the same right; and thus miscegenation and mixture of the races could be authorized in any State, as all citizens under this amendment are entitled to the same privileges and immunities, and the same protection in life, liberty, and property.

Will gentlemen upon the other side dispute my position? I defy contradiction. Why, sir, it says that the people of each State shall have the privileges and immunities of citizens in the several States. What is a privilege? What an immunity? Will learned gentlemen deny that the right of marriage is a contract and a privilege. Its source is the law of nature, whence it has flowed into the municipal laws of every civilized country, and into the general law of nations. (Bishop on Marriage and Divorce, section 29.) The organic law says that no person but a natural-born citizen, or a citizen when it was made, shall be eligible to the office of President. This amendment would make all citizens eligible, negroes as well as whites. For if negroes are citizens, they are natural born,

because they are the descendants of ancestors for several generations back, who were born here as well as themselves. The negroes cannot be citizens in a new State in which they may take up their residence unless they are entitled to the privileges and immunities of the citizens resident in that State. Most of the States make a distinction in the rights of married women. This would authorize Congress to repeal all such distinctions.

Marriage is a contract as set down in all the books from the Year-books down to the present time. A white citizen of any State may marry a white woman; but if a black citizen goes into the same State he is entitled to the same privileges and immunities that white citizens have, and therefore under this amendment a negro might be allowed to marry a white woman. I will not go for an amendment of the Constitution to give a power so dangerous, so likely to degrade the white men and women of this country, which would put it in the power of fanaticism in times of excitement and civil war to allow the people of any State to mingle and mix themselves by marriage with negroes so as to run the pure white blood of the Anglo-Saxon people of the country into the black blood of the negro or the copper blood of the Indian.

Now, sir, the words "privileges and immunities" in the Constitution of the United States have been construed by the courts of the several States to mean privileges and immunities in a limited extent. It was so expressly decided in Massachusetts by Chief Justice Parker, one of the ablest judges who ever sat upon the bench in the United States. Those words, as now contained in the Constitution of the United States, were used in a qualified sense, and subject to the local control, dominion, and the sovereignty of the States. But this act of Congress proposes to amend the Constitution so as to take away the rights of the States with regard to the life, liberty, and property of the people, so as to enable and empower Congress to pass laws compelling the abrogation of all the statutes of the States which makes a distinction, for instance, between a crime committed by a white man and a crime committed by a black man, or allow white people privileges, immunities, or property not allowed to a black man.

Take the State of Kentucky, for instance. According to her laws, if a negro commits a rape upon a white woman he is punished by death. If a white man commits that offense, the punishment is imprisonment. Now, according to this proposed amendment, the Congress of the United States is to have the right to repeal the law of Kentucky and compel that State to inflict the same punishment upon a white man for rape as upon a black man.

According to the organic law of Indiana a negro is forbidden to come there and hold property. This amendment would abrogate and blot out forever that law, which is valuable in the estimation of the sovereign people of Indiana.

In the State of Pennsylvania there are laws which make a distinction with regard to the schooling of white children and the schooling of black children. It is provided that certain schools shall be designated and set apart for white children, and certain other schools designated and set apart for black children. Under this amendment, Congress would have power to compel the State to provide for white children and black children to attend the same school, upon the principle that all the people in the several States shall have equal protection in all the rights of life, liberty, and property, and all the privileges and immunities of citizens in the several States.

The effect of this proposed amendment is to take away the power of the States; to interfere with the internal police and regulations of the States; to centralize a consolidated power in this Federal Government which our fathers never intended should be exercised by it. All men who are honest, and love their country,

and who believe in the doctrines upon which the constitutional liberty of this country is founded, must admit that the rights of the States were the most jealous rights which our fathers had in view; and when they wrested from England the independence of the several States, they wrested them as thirteen independent States and nations, free from each other, with all rights and privileges given to the people to exercise, carry into effect, and control a Government according to their own exclusive will and judgment.

Let us see what Chief Justice Parker says upon this subject of privileges and immunities of citizens of the several States, as already incorporated in the organic law of this country. He says, in 6 Pickering, pages 92 and 93, in the case of *Abbot vs. Bailey*:

"The constitutional provision referred to is necessarily limited and qualified; for it cannot be pretended that a citizen of Rhode Island coming into this State to live is *ipso facto* entitled to the full privileges of the citizen if any term of residence is prescribed as preliminary to the exercise of political or municipal rights. The several States then remain sovereign for some purposes, and foreign to each other, as before the adoption of the Constitution of the United States; and especially in regard to the administration of justice, and in the regulation of property and of estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction."

Does this amendment propose to leave the several States foreign to each other as regards the regulation of property and of estates, the laws of marriage and divorce, and the protection of the powers of those who live under their jurisdiction? No, sir; it proposes to take away all those rights of a State, and under this broad principle of equality which during the last five years has been proclaimed throughout the land to empower the Federal Government to exercise an absolute, despotic, uncontrollable power of entering the domain of the States and saying to them, "Your State laws must be repealed wherever they do not give to the colored population of the country the same rights and privileges to which your white citizens are entitled." I will not vote for any amendment to the organic law that is to affect the eleven southern States as long as those States are denied representation. The courts have decided that guarantees, privileges, and immunities are not powers, and when the Constitution authorized Congress to make all laws necessary and proper to carry into execution the powers vested in the Government, it meant powers strictly. Upon this point the honorable gentleman who reported this resolution [Mr. BINGHAM] and I agree. That powers do not mean guarantees and privileges we all agree; and because of that this amendment in part is deemed necessary.

Now, sir, another reason why our fathers never intended that Congress should have the right to interfere in the case of the clause of the organic law which says that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," is this: that the eighth section of the first article designates and names the particular powers which Congress may exercise. It is therefore clear that the framers of the Constitution intended to exclude the exercise of all powers except those expressly named. You nowhere find in the Constitution the grant of any power such as is now proposed to be exercised. You nowhere find Congress endowed with the right to interfere with the eminent domain and the sovereign power of a State. But each State has sovereign jurisdiction and power over the property, the liberty, the privileges, and immunities, and the lives of its citizens.

I am pleased to see gentlemen upon the other side of the House coming forward to defend State rights, which I regard as the vital principle of our Government. I am pleased to see the now gallant and noble advocate of liberty and State rights, the gentleman from New York, [Mr. RAYMOND,] standing up in the city of New

York and defending those great rights of State jurisdiction, without which the Constitution of this country is worthless, and the liberties of the people a myth. I am willing to follow in the track of him and those who manifest the same noble spirit. I am willing to sink all parties into oblivion, if it be necessary, to save this Union. To save this Union I am willing to sink party organization so low that when Gabriel blows his horn they will never hear it. I am willing to do this in order to preserve those principles of civil liberty which have been handed down to us by our fathers, and embodied by them in our Federal system of Government and in the self-governing constitutions of the independent States of this Union.

It was State rights that our fathers in framing the Constitution sought to preserve in all their just majesty. Through seventy-five years we have enjoyed these rights; and I desire that they shall be handed down unimpaired to our children and our children's children forever. I affirm that when you attempt to take away those rights by constitutional amendment, you make one more stride toward a consolidation of power in one central Government; one more stride toward despotism; one more stride toward the destruction of those great principles which Washington and Jefferson and Madison regarded as the vitalizing ideas of our republican system; one more stride toward the enslavement of your posterity, whose liberties can only be guaranteed by the maintenance of the great principles which our revolutionary fathers vindicated and sought to transmit for the benefit of their posterity.

Sir, one great object which is now sought is to prevent eleven sovereign States of this Union from being represented in the Halls of Congress while they are compelled to bear their full burden of taxation. The tendency of this effort must be to widen and deepen that gulf between the North and South which has been created by northern fanaticism and southern rebellion. The purpose is to make that gulf so broad and vast that the southern States shall never be permitted to take their place in this Union except as mere dependencies of a consolidated central power, by virtue of which Congress shall exercise an unlimited control over the municipal concerns of these States, embracing in its jurisdiction all the most valued rights of life, liberty, and property, which our Constitution designed to be under the guardianship of the individual States, which alone can give the citizen the adequate measure of protection.

Sir, I defy any man upon the other side of the House to name to me any right of the citizen which is not included in the words "life, liberty, property, privileges, and immunities," unless it should be the right of suffrage; and that has been decided by the circuit court of the United States in *Corfield vs. Coryell*, 4 Washington's Circuit Court Reports, pages 380 and 381, to be included in the words "privileges and immunities;" that "privileges and immunities" are so broad as even to include the right of suffrage. I will not affirm that that position is correct, nor will I deny it; but if it be correct, as that high court has solemnly decided, it is easy to perceive why our fathers refused to authorize Congress to legislate on this subject by granting no power to it to legislate upon the guarantees of the organic law, and confining its legislation to the powers granted. That clause in the organic law which says that no person shall be deprived of life, liberty, or property without due process of law, as well as the other guarantees of the Constitution, have been repeatedly decided by the Supreme Court of the United States to apply only to cases affecting the Federal Government, and not to apply to such cases as are exercised by the States. For instance, if a State should condemn a man to death without due process of law, or take his property for public use without any compensation, the clauses of the Constitu-

tion of the United States would have no application to such cases; but if the Federal Government should do the same thing, then these clauses in the organic law would apply. This position no lawyer in this House will deny.

What do we understand by the word property in a legal sense? Included in the right of property is the right to vote. The learned men on the same committee with myself will not deny that it has been so decided. In fact it is an axiom of law in this country, that the right of voting is a right of property. When a man has been refused the right of voting he has the right to prosecute the man who has deprived him of that right. It has been so settled in the courts of the Union, that the right to vote is property. Now, according to the broad construction and latitudinarian ideas of the times, it is easy to get courts to decide that this amendment would give Congress the power to regulate suffrage in the States under the words property, privileges, and immunities.

I know I am a young man, and of course pay much respect to older minds, yet I defy contradiction of any of the legal principles I am laying down. I do not want to pervert or misstate, and am always ready to be corrected if I err. I have taken some pains to study the theory of our Government and the liberties of this Union. Now, sir, I insist that the Federal Government has no power to deprive the States of any of the rights which they have reserved to themselves. I will refer to the case of *Campbell vs. Morris*, 3 Harris & McHenry's Reports, page 554:

"2. All power, jurisdiction, and rights of sovereignty not granted by the people by that instrument, or relinquished, are still retained by them in their several States, and in their respective State Legislatures, according to their forms of government."

"Uniformity of laws in the States is contemplated by the General Government only in two cases, on the subject of bankruptcies and naturalization."

"The legislative powers of Congress are particularly defined in the eighth section of the first article."

"Those powers do not interfere with or abridge the power of the States to make local regulations, the operation of which is confined to the State."

This Congress, not satisfied with the powers already given by the Constitution of the United States, not believing that they have authority to pass this civil rights bill which passed through the Senate of the United States, not believing according to the letter and spirit of the Constitution, within the meaning of the word "powers," there is any authority in Congress to carry into effect the immunities and privileges which are contained in this section, they now attempt to ingraft and implant upon the Federal system of this country for all time to come, a despotic and supreme power which would sap the very life-blood of the States and deprive them of the most precious and heretofore indestructible rights which they have enjoyed from the formation of the Government down to this time. It cannot be expected that the southern States or any one of the border States in this Union will indorse through their Legislatures an amendment of this character. If this amendment were submitted to the people it would not receive the sanction of one State except Massachusetts. The name of this committee ought to be changed from the committee on reconstruction to the committee on destruction. It is a source of despotism and partakes of the character of the English Inquisition and the Jacobin committee of France. It usurps the power to regulate the affairs of the Union, sits in secret inquisition over the liberties of the people, issues edicts and mandates to Congress, and with imperial dignity orders Congress to pass laws which would sap the life-blood of the nation, prostrate the Constitution, break down the Union, and destroy the rights and liberties of the people of America. Its conduct has been recorded for posterity to judge of, and that judgment will consign its acts to oblivion and eternal shame. It was established to prevent the southern States from having representation in the Union, to reduce them to conquered provinces, and to



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blot from the flag of our country eleven of its stars, and to allow none to even come in by act of Congress, until it would ratify these abominable, despotic, and accursed amendments to the Constitution. This is wicked, pestilent, and odious despotism. I say that the liberties of France were no more invaded, when Napoleon sought to regulate the destinies of France. The bloody acts of Nero and Caligula were not conceived in a more determined hatred of law, liberty, and order, than are the results of the action of this committee. I do not believe they intend to do wrong, but they are mad and know not what they do. They are like John Brown, who believed he was doing God's will in the murders at Harper's Ferry. I know they would not do an intentional wrong, but fanaticism has made them delirious in their vengeance upon the South. Do not inaugurate this spirit of despotism within the portals of this Capitol dedicated to the immortal Washington.

But of all the amendments that have been proposed there are none so dangerous and outrageous as this.

Mr. WASHBURN, of Indiana. I call the gentleman to order; he is addressing the galleries and not the Speaker.

The SPEAKER. The Chair sustains the point of order.

Mr. ROGERS. I have great respect for the Chair, and if I turned my back it was not from disrespect.

Mr. KELLEY. If the gentleman will allow me I will show we are not either oppressed or in any of the dangers that the French people were from Bonaparte or any other revolutionary character.

Mr. ROGERS. I yield.

Mr. KELLEY. I ask to read eight lines from a book I chance to have in my hand at the time. I will make no other speech. It is Thiers's description of Bonaparte after his return from Egypt.

"The general had not been above a week in Paris when the management of affairs came almost involuntarily into his hands. In default of his will, which as yet was nothing, he was asked for his opinion. On his part, he affected, with his usual reserve, to withdraw himself from the assiduities of which he was the object. There were many whom he refused to see; he showed himself but little, and went abroad only, as it were, by stealth. His face had become thinner, and his complexion darker. He wore, since his return, a gray frock-coat, and a Turkish saber fastened to a silken cord. To those who had been fortunate enough to obtain a sight of it, this was an emblem that reminded them of the East, the Pyramids, Mount Tabor, and Aboukir. The officers of the garrison, the forty adjutants of the national guard, and the staff of the place, desired to be presented to him. He delayed from day to day, and seemed to lend himself with regret to all this homage. He listened, he observed everything, but as yet he opened his mind to none. This was deep policy. When a man is necessary, he need not be afraid to wait. He irritates impatience of people; they hasten to him; and he has nothing to do but to choose."—*Thiers's Hist. French Revolution*, vol. 5, pp. 411, 412. London, 1838.

Our Bonaparte does not wait.

Mr. ROGERS. We have no Bonaparte. We have a pure man. We have a man who came from the humble walks of life, a man who has never been bound down by the aristocracy, a man who is the embodiment of civil liberty, who believes that this Government was made for the benefit of white men and white women. [Applause in the galleries suppressed by the Chair.]

In regard to this committee, I say that a more fatal and bloody tyranny did not insult humanity when Louis XIV proclaimed his edicts than through the operation of that committee is stalking forth over this country. The Emperor Tiberius harbored no more vengeance toward the Roman people than do the radical portion of this committee toward the liberty and rights of the people of America. When Charles I sent his file of soldiers to the British Parliament to arrest members of that body, he did not defile liberty more than is proposed to be done by these constitutional amendments in sweeping away the civil, religious, and political rights of the people of the States.

Mr. RANDALL, of Pennsylvania. Will the gentleman yield?

Mr. ROGERS. Yes, sir.

Mr. RANDALL, of Pennsylvania. The gentleman has stated that tyranny, such as never before has been known in our country, has been exercised by the committee of fifteen. I desire to ask whether he is at liberty to communicate to this House the character of that tyranny? What are the doings of the committee which he thus characterizes?

Mr. ROGERS. I am privileged to speak no further about it than what has already taken place. But if the gentleman will look at the amendments to the Constitution and the concurrent resolution declaring these eleven States out of the Union, and requiring an act of Congress to admit them; depriving by an amendment a State from paying its own debt, depriving the States of representation unless they grant unqualified suffrage to negroes, and this present joint resolution, all reported from this committee, and the assertion of the honorable chairman [THADDEUS STEVENS] that the committee had determined to admit the Tennessee delegation until the President used his constitutional power of veto, he will find the character of tyranny to which I refer. It is more than tyranny. It is treason to the Constitution, because it dissolves the Union. This concurrent resolution has done more than all the armies of the South were able to do. It drives eleven States out of the Union, and it destroys the representative character of our Government. The object of the committee is to compel these States to accept these despotic amendments before they shall have representation. I am a member of that committee, but it shall not seal my mouth. I hope no southern State that ever had independence will ever ratify such laws. Before I will see the liberty of the people trampled down through fanaticism and the Union destroyed by radicalism, I am willing to resort to arms as our fathers did to defend our liberty and our Union.

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me to ask a question?

Mr. ROGERS. Yes, sir.

Mr. RANDALL, of Pennsylvania. The gentleman has stated that he is not at liberty to state anything in reference to the action or conduct of that committee, which he characterizes as tyrannous. Now, sir, I ask the reason why he is not at liberty to communicate that; whether any additional secrecy has been imposed upon him by that committee in their proceedings for the consideration of Congress.

Mr. ROGERS. Enough has already been said upon what the committee have reported to show what it has done. Did not the honorable gentleman from Pennsylvania, [Mr. STEVENS,] a man for the honesty of whose opinions I have great respect, although I disagree with him, say the other day that because the President of the United States, in the exercise of constitutional power had seen fit to put his veto upon an odious and despotic act of this Congress, the committee had changed their mind upon the question of allowing the gallant, loyal members from the State of Tennessee to take their seats in this Hall? Why, sir, what is despotism, what is tyranny, what is disunion, unless such conduct as this constitutes them, conduct that obliterates from our flag eleven stars, representing eleven States in the American Union? What more could secession, rebellion, insurrection, invasion, and revolution do? I do not speak in disrespect of the members of that committee as individuals, but am condemning their political action, which is fairly open to the criticism of any member. I feel it my duty to warn the people of the dangers emanating from this star-chamber committee.

Mr. KELLEY. I desire to ask the gentleman a simple question.

Mr. ROGERS. I will yield for a question.

Mr. KELLEY. The gentleman says that the committee proposes to prevent the States

from paying their debts. I desire to ask him what debts it is proposed to prohibit the payment of.

Mr. ROGERS. It is proposed to prohibit the States from paying the debts they contracted in aid of the rebellion. I would not have one cent of it paid by the Federal Government, because it would have no right to do so, and it would be an outrage to do so. My ground is, that each State is sovereign upon the question of its debts. There is no more sacred right in any State than the right to say what debts it will pay, to whom it will pay them, and when and how it will pay them; and an amendment to the organic law for the purpose of preventing a State paying any debt it pleases is but the emblem of despotism and tyranny. Congress has no power, by an amendment to the Constitution or otherwise, to prevent New Jersey from paying any debt she pleases.

Mr. KELLEY. I beg leave to ask the gentleman from New Jersey whether the State of New Jersey contracted any debt in support of the so-called confederacy?

Mr. ROGERS. I hope the gentleman does not intend to insult me. If I was in a southern State I should oppose its paying the rebel debt. But I am talking about the power of the Federal Government and the rights of the States. If a southern State sees fit to pay a rebel debt, it is no business of all or any of the other States, or of the Congress or Federal Government.

Mr. KELLEY. I only ask the gentleman because he insists that we want to prevent New Jersey from paying her debts.

Mr. ROGERS. I used that argument to show that New Jersey stands in the Union the same as South Carolina; that New York and Pennsylvania have no more rights in the Union than South Carolina has, and that South Carolina has as much right to be represented here, and to have her Representatives admitted, as Pennsylvania, New York, or New Jersey has.

Mr. KELLEY. I am satisfied.

Mr. ROGERS. That is my doctrine, whether my Democratic brethren subscribe to it or not. Some policy ones may not; I do not know. Three different views are entertained in this House upon the status of the so-called confederate States. One view is, that the confederate States are in the condition of conquered provinces, subject to the control of the Congress the same as the Territories. Another view is, that they are in the Union, and possess the right of local and domestic legislation, but have not absolute right to demand representation in Congress without conditions and qualifications. Another view is that they are in the Union and States in the fullest sense of the term, and have a positive right to representation in Congress. To this latter view I subscribe with all my heart.

I concede that the first view of this case is a logical one, if the premises are correct. But there is nothing logical in the middle view. If they are States in the Union for any purpose they are entitled to all the rights of the other States, North or South. The Constitution is based upon the equality of the States, and there can be no such thing as a State being in the Union without the rights of the other States. My ground is that when a Representative from Virginia or Tennessee or South Carolina goes to the Speaker's desk with all the muniments of a regular election, having been duly elected according to law, he is entitled to have the oath submitted to him that is laid down in the Constitution—I mean the oath to support the Constitution of the United States—and any other oath put to any man is worth no more than the oath put by the highwayman to the victim whose purse he demands and whose life he attempts to take on the highway, that he will not tell of it. There are only two conclusions: either this war has broken up the Union and driven the States out, or else it has kept the States in the Union. If the States are in the Union, if they are a part and parcel of the Federal Union, what authority is there in the Constitution to

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impose different qualifications and obligations upon their Representatives from those laid down in the Constitution of the United States?

Mr. McKEE. I wish to ask the gentleman from New Jersey if he is in favor of nullifying a law of the national Congress before the constitutionality of that law has been decided by the proper tribunal?

Mr. ROGERS. No, sir; I am not for annulling a law of Congress. I am for standing by a law until that law is decided illegal by the highest court of the United States. But I have a right, as a representative of the people, to stand here and protest against laws that I believe to be unconstitutional, and I believe that the oath administered here is worth no more than the Jacobin oath of France or the oath of Charles I. It is only such tyranny as that that keeps these States out of the Union, and until you repeal the law imposing that odious test oath, you can never expect that the Representatives of all the States can take their seats in this House. That oath of itself is an indirect way of depriving the States of representation. The worst species of tyranny in the Old World was imposed on the people by virtue of odious and wicked test oaths. The President in his speech says that a man who takes the oath to support the Constitution must necessarily be loyal. You have just as much right to deprive a State of representation entirely as to compel it to send such members as can honestly take that oath. The Constitution defines the crime of treason, and the penalty is death. No such penalty as this test oath is known to the law for the commission of treason. If Congress can add to the oath directed by the Constitution, it can do away with it altogether. The power to add to necessarily gives power to diminish.

Mr. McKEE. Will the gentleman from New Jersey [Mr. ROGERS] yield to me for a single other question?

Mr. ROGERS. All right.

Mr. McKEE. As the gentleman is not in favor of nullifying laws until they are decided by the proper tribunals to be unconstitutional, then I would ask the gentleman how the Representatives from South Carolina are to be got into this House before we have such a judicial decision?

Mr. ROGERS. The way to get them into the House is to repeal the law; to declare here, in a spirit of Christian magnanimity, that these restrictions shall be removed; that we will act toward them like brethren, remembering that their fathers and our fathers died on the battlefields of the Revolution to achieve our independence. If the Speaker of the House believes it unconstitutional, he has the right to swear a member in the manner provided in our organic law. Repeal this odious, obnoxious, and unjust legislation, and let every one of the Representatives take their seats.

I hope that I may live to see the sun shine upon this Capitol when its rays shall strike down upon the Representatives of every State of this Union. I want to see here in these seats the Representatives of all the States. I pray God that I may be a member of Congress when I can go home and have the proud satisfaction of saying to my constituents that the Union has been restored, with the rights and equalities of the several States unimpaired, in pursuance of the Crittenden resolution and the statesman-like utterances of President Johnson.

I am no disunionist. But I protest against the exercise of despotic power by any class of men. When the rebels undertook to violate the Constitution of the United States, and to trample upon the Union, I protested against their acts. This House knows that all the time I voted the necessary men and money to enable the Government to put down the rebellion, because I was unwilling to have this Union destroyed merely for the purpose of satisfying the fanatical schemes of Wendell Phillips, William Lloyd Garrison, and other disunion traitors in this country for the last forty years.

I say this was never, within the meaning of public or international law, a civil war or a war between two nations so far as its results were concerned. It was an insurrection and an invasion of the States, which the people of the States, through the constitutional power at the Federal head, were bound to put down. The soldiers who gathered around the tomb of the immortal Washington, and laid down their lives to preserve the glorious heritage bequeathed to us by our fathers, went to quell an insurrection and to repel an invasion and to restore liberty to the people of the South who were unable to protect themselves against the powers of secession and despotism which attempted to break down the safeguards of the Union.

The Constitution of the United States says that Congress shall have power to raise and support armies. It also says that it shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. "To raise and support armies." What does that mean? It means that Congress is authorized to raise and support a general army, called the regular Army, for protection against foreign foes, and which was intended to be under the sole and exclusive control of the Federal Government. The other part of the section provides for the very difficulty which has arisen in this country; I mean the rebellion in the South against the Government of the United States. Was it not an insurrection and an invasion of those States? *Ad facto* government invaded those States, and each one of them had an insurrection therein, and the President of the United States called upon Congress to call out the militia; and did he not, in the very first proclamation he ever issued, say that there was an insurrection in the South, and that he called upon the Governors of the several States to bring forth from the militia a sufficient number to put down, under the Constitution of the United States, that insurrection and repel that invasion? The armies were raised and the war carried on in pursuance of a solemn guarantee that each State gave to the other, that the United States should guaranty to every State a republican form of government, and protect each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature could not be convened,) against domestic violence. This guarantee is found in the fourth section of the fifth article of the Federal Constitution.

Now, sir, when we examine the legislation of Congress we find that since the commencement of the war that legislation has uniformly treated the movement of the southern States in their opposition to the laws as an insurrection. Under the authority to suppress insurrection and repel invasion, the President of the United States called upon the militia of the several States to come forward to assist in the work of quelling the insurrection and repelling the invasion.

The first act of Congress in reference to the rebellion declares, after certain recitals,

"Then and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State or States, or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States, and thereupon all commercial intercourse by and between the same and the citizens thereof, and the citizens of the rest of the United States, shall cease and be unlawful, so long as such condition of hostility shall continue."

The act of July, 1861, directs the President to reduce the standing Army to twenty-five thousand within one year after the end of the "existing insurrection and rebellion."

Sir, there was another act of Congress passed on the 7th of June, 1862, and amended as late as February, 1863, which provided that the tax commissioners in insurrectionary districts, after bidding in for the United States lands sold for unpaid taxes, should, in the name of the United States, enter upon and take possession of the same, and lease the same "until the

said rebellion and insurrection in said State shall be put down; and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States; to be announced by the proclamation of the President."

Sir, this law is still in force, and the people of the insurrectionary States have elected Legislatures and State officers and taken an oath to support the Constitution of the United States.

By the act of July 22, 1861, the President was authorized to accept five hundred thousand volunteers for the purpose of suppressing insurrection, "provided that the services of the volunteers shall be for such time as the President may direct, not exceeding three years, nor less than six months, and they shall be disbanded at the end of the war."

Now, sir, that act says in so many words that these soldiers are called for under the act of July 22, 1861, for the purpose of suppressing insurrection.

In March, 1862, to take effect March, 1863, Congress apportioned the Representatives upon the basis that the insurgent States were in the Union, designating the number of each. That law is still in force. Under that law the present House of Representatives was chosen; under that law the present House is organized; under that law those eleven States of the South have right to representation.

The Constitution says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers."

Under that authority, Congress, after the passage of the Collamer statute, did both—apportioned both direct taxes and Representatives among the several States, including the southern as well as the northern and western States of this Union.

It was under the power to suppress an insurrection and repel an invasion, that millions of men were enlisted at the North, and it was under the provision of the Constitution which provides that the Governors of the different States shall, at the call of the President, furnish militiamen that the insurrection was suppressed and the invasion repelled.

[Here the hammer fell.]

Mr. ROGERS. I trust that the House will consent to extend my time for half an hour.

The SPEAKER. Is there any objection?

Mr. PRICE. I object.

Mr. ROGERS. I hope the gentleman will withdraw his objection. I have never had an opportunity heretofore to discuss this subject, and I am, I think, presenting it in a different light from any in which it has been presented.

Mr. KELLEY. I trust the gentleman from Iowa will withdraw his objection, as the gentleman from New Jersey has been interrupted so often.

Mr. PRICE. I object for the reason that I think the gentleman from New Jersey has had sufficient physical exercise to-day, and I am very certain that the House has suffered indiction enough for one time.

Mr. SCHENCK. I trust that we shall, at any rate, allow the gentleman ten minutes longer.

Mr. ROGERS. That is not sufficient time to enable me to say what I desire to say.

Mr. SCHENCK. There is one question which I would like to address to the gentleman from New Jersey. I always listen with great interest to his views on constitutional questions—

The SPEAKER. The gentleman from California [Mr. HIGBY] is entitled to the floor at present, objection being made to extending the time of the gentleman from New Jersey.

Mr. KELLEY. I trust that the gentleman from Iowa will withdraw his objection, and that the gentleman from New Jersey will be permitted to go on.

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Mr. PRICE. In compliance with the urgent request of several gentlemen, but against the dictates of my own judgment, I withdraw my objection.

The SPEAKER. There being no objection, the time of the gentleman from New Jersey is extended for one half hour.

Mr. BROOMALL. I trust that the gentleman will confine himself to the bill before the House.

Mr. SCHENCK. Will the gentleman from New Jersey allow me to make a single inquiry?

Mr. ROGERS. Yes, sir.

Mr. SCHENCK. I observe that the gentleman opposes every amendment proposed to the Constitution of the United States. I wish to understand whether I apprehend rightly his position. Is he opposed to every alteration of the Constitution on the ground that it has a tendency to change the instrument? [Laughter.]

Mr. ROGERS. That is one ground, that it has a tendency to change that instrument and even destroys it. [Laughter.] Another ground is that it is dangerous to interfere with the old landmarks, made in compromise and wisdom by our fathers, in a time of excitement and by an appeal to the passions of the people. Another ground is that these amendments to the Constitution of the United States have a tendency to deprive the southern States of representation and to prevent the consummation of that grand object which our soldiers had in view when they laid down and imperiled their lives in defense of the country.

Now, sir, gentlemen undertake to base the theory which they adopt here that these States are out of the Union, that they are conquered provinces, and that they have no right to come in except by a law of Congress, upon the clause of the Constitution that the United States shall guaranty to every State in this Union a republican form of government.

That clause of the Constitution says the United States shall guaranty to every State a republican form of government, and protect it against invasion, and suppress an insurrection in it. In order to carry out that clause of the Constitution, Congress is—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."—Article I, section 8.

That invasion has been repelled and the insurrection suppressed. The object was to protect the State, and to carry out that object in the preamble of the Constitution that this Government was made in order to form a more perfect Union. It was to form a more perfect and perpetual Union. It was that the States should be left as they were, to maintain them in the condition in which they were before the acts of secession were passed. That object has been accomplished. The States still live. The States are not out of the Union. Insurrection was put down. The militia was called forth by the President of the United States, in conformity to the requirements of the Constitution, to suppress insurrection and to repel invasion. It was not under the general power of Congress to raise and support armies at all, but under the power to authorize the President of the United States to call upon the several States for a sufficient number of militia to put down insurrection in the States.

What does the honorable gentleman from Pennsylvania [Mr. STEVENS] say of the States lately in rebellion? He says:

"They have torn their constitutional States into atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves; dead States cannot restore their own existence as it was."

Then, referring to the Constitution, he quotes from the third section of the fourth article the following:

"New States may be admitted by the Congress into this Union."

And proceeds thus:

"In my judgment, this is the controlling provision in this case. Unless the law of nations is a dead letter,

the late war between the two acknowledged belligerents severed their original compact and broke all the ties which bound them together. The future condition of the conquered Power depends upon the will of the conquerors. They must come in as new States, or remain as conquered provinces."

In another place in the same speech he says:

"To prove that they are and for four years have been out of the Union, for all legal purposes, and being now conquered, subject to the absolute disposal of Congress, I will suggest a few ideas and adduce a few authorities."

The law of nations with regard to the status of these States has no application whatever, for, as I have shown in the commencement of my argument, the right of the States in the Union exists by virtue of the Constitution itself; and that neither international laws nor State laws can regulate and control the status of a State during war, before war, or after war. I hold that they were States when they went into the war, that they were States during the war, and that they were States when they came out of the war, and that every man in the South, if he be elected according to the local laws of his State and the Constitution of the United States, is entitled to be admitted on the same conditions on which I have been admitted to a seat upon this floor.

It is provided in the organic law that each House shall be the judge of the elections, returns, and qualifications of its own members, and on that basis some members in this House go in for excluding members from the southern States; and they claim they have unlimited, despotic, and sovereign power within themselves as members of this body to say what State shall come in and what State shall not come in; what States shall be represented and what States shall not be represented.

The Constitution also says that each House may punish its members for disorderly behavior, and with the concurrence of two thirds expel them. Now, is there anybody on the other side who believes that our fathers intended, when they made the Constitution, to authorize the Congress of the United States to expel a member without any cause whatever? Did they intend to confer upon Congress the exercise of omnipotent power in that respect? Not at all, but only the power to expel after investigation and proof according to the forms of law, for some reasonable and lawful cause. We might just as well construe the second clause of the Constitution to mean that Congress has the right, by the intendment of the framers of that instrument, and within the spirit of the organic act itself, to expel a member without cause at pleasure, and without investigation; as to say we can keep southern members out who have all the qualifications laid down in the Constitution.

Every lawyer knows that when you undertake to construe a statute or constitutional provision you must do it according to the reason and spirit of it; according to the object or intent which the framers had in view at the time they made it. You must consider the evil they intended to remedy, and the difficulty that existed at the time of its passage. Now, sir, our fathers intended, when they made this provision in regard to extending a republican government to a State, that no State had a right to go out of the Union or withdraw its allegiance; and if it should undertake to do so they intended, by the exercise of force, to bring it back. It was an act of insurrection, and if other States should participate in such an act of insurrection and bring their armies into that State, it was an invasion of that State. Therefore, this war was carried on by the North to prevent the invasion of one State by another by a confederated, illegal government, and to put down the insurrection that existed in every State that attempted the act of secession.

It has been settled by the Supreme Court of the United States, and no gentleman on the other side dare deny it—if so, I will produce the opinion—that the Federal Government cannot

make war upon any State. A provision was attempted to be inserted in the Constitution, that the Federal Government should have power to coerce a State; but it was voted down, on the ground that it would be a declaration of war on the part of the Federal Government against a State. And then they provided, in order to prevent a war between one section of the country and the other, that the United States should guaranty a republican form of government to each State, and should do it by repelling invasion and suppressing insurrection in the State.

If the people rise in any one State against the laws of the United States, as they did in South Carolina in nullification times, and use force, it is an insurrection. If they take up arms and undertake to enforce their rights by war, then the Federal Government is called into action by virtue of this provision which declares that the United States shall guaranty to each State a republican form of government, and shall prevent or put down insurrection and invasion. If ten or eleven States confederate together for the purpose of breaking down the Union and carrying on invasion, then the Constitution calls upon the Federal Government to send an army there to protect the minority of the people who could not protect themselves from the invasion; and to protect them from the insurrection of the people in the several States in the localities where these minorities exist. Otherwise if a mere majority, or even less than a majority, should, by some form of legislative action, carry the State out of the protection of the Union by the force of the bayonet; and despotically compel the people to participate in the unlawful government, the minority being unable to protect themselves against this majority, would be bound, in order to have protection at all, to seek it from this *de facto* Government. For that would be a *de facto* Government which was acknowledged by the nations of the world as a belligerent for the purposes of international law and Christian warfare.

I hold it to be a self-evident principle that a man who lives in a *de facto* Government is bound to support that Government, and is not bound to adhere to a Government that does not protect him. That doctrine has been settled in many cases, and it is the only Christian rule of law that can be established.

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights. It has affairs and interests; it deliberates, and becomes a moral person, having understanding and will, and is susceptible of obligations and laws."

But our States are not subject to the definition given in public law, because under our Constitution a State is one thing and its government another. Our Constitution talks about guarantying to every State a republican form of government, meaning the State as one thing and its government another. It was the government of the States under the Constitution that the rebellion for a time suspended and usurped. Mexico has had its Government several times changed and overthrown, yet the State of Mexico, as a State, still exists.

Bishop on Law, in section one hundred and thirty-two, volume one, remarks:

"Except, therefore, for the clause guarantying republican governments to the States, the United States might, if it chose, after a State has committed what is called an act of secession, legislate for it forever to the exclusion of any subsequent State legislation. But the clause under consideration provides that the United States shall guaranty to the State a republican form of government. Therefore, as soon as the guarantee is executed, the right of legislation which the United States received from the defunct State government flows out to the new State government."

"When for any reason, as for instance when a State has passed what is termed in these days an ordinance of secession, there ceases to be within the State a government under the Constitution of the United States, the 'guarantee' mentioned in this section of the Constitution attaches, and the 'United States' becomes obligated to give the State a republican form of government."

"All persons residing within this territory are to be treated as enemies, though not foreigners." "But, in defining the meaning of the term 'enemies' property, we will be led into error if we refer to Flet



or Lord Coke. It is a technical phrase, peculiar to prize courts, and depends upon principles of public policy as distinguished from the common law."—*Prize Cases*, 674.

Following this argument, the Supreme Court of the United States, in the prize cases, says: "The laws of war, as established among nations, have their foundation in reason, and all tend to mitigate the cruelties and misery produced by the scourge of war; hence the parties to a civil war usually concede to each other belligerent rights; they exchange prisoners, and adopt other courtesies and rules common to public or national wars."

There refer to the case of *Luther vs. Borden*, 7 Howard's Reports, where, while discussing the fourth section of the fourth article of the Constitution, Chief Justice Taney says:

"Under this article" \* \* \* "it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not."

Then, referring to the clause relating to domestic violence, the Chief Justice adds:

"So, too, as relates to the clause in the above mentioned article of the Constitution providing for cases of domestic violence. It rested with Congress to determine the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that 'in case of an insurrection in any State against the Government thereof it shall be lawful for the President of the United States to call forth such numbers of the militia of any State or States as may be applied for as he may judge sufficient to suppress the insurrection.' By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President." \* \* \* "If there is an armed conflict" \* \* \* "it is a case of domestic violence, and one of the parties must be in insurrection against the lawful Government. And the President must of necessity decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed on him by Congress."

In the case of the *Amy Warwick*, in admiralty, Judge Sprague, of Massachusetts, said:

"It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges, and treated as foreign territory acquired by arms." \* \* \* "This is an error, a grave and dangerous error. Belligerent right cannot be exercised where there are no belligerents. Conquest of a foreign country gives absolute unlimited sovereign rights, but no nation ever makes such a conquest of its own territory. If a hostile Power, either from without or within, take and holds possession and dominion over any portion of its territory, and the nation by force of arms expel or overthrow the enemy and suppress hostilities, it acquires no new title, but merely regains the possession of that of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights."

When the United States take possession of a rebel district, they merely vindicate their preëxisting title. Under despotic Governments the right of confiscation may be unlimited; but under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as it was before.

The Constitution says that each State shall have at least one Representative. (Article I, section 2.) It also says that no State without its consent shall be deprived of its equal suffrage in the Senate even by an amendment to the Constitution. Yet we are violating our oaths of office to support the Constitution by refusing the positive commands of it. It says the States shall have their equal suffrage in the Senate and at least one Representative. We say they shall not.

Sir, we are now doing what the confederacy attempted to do, and what the whole United States attempted to prevent during the war. The confederates claimed that these were States. They even introduced into their system the Constitution of the United States, with, I believe, only two exceptions, the one extending the time during which the President should hold his position and excluding him from reelection, and the other doing away with compelling one State to surrender to another fugitive slaves, as the law existed before the southern States made war on the Union. The

South fought four years to preserve these as States, and the North did the same. We spent \$3,000,000,000 in debt and the States \$1,800,000,000, and we called out two million brave men to prevent these States from destroying themselves and going out; and yet after all this action of the Federal Government and all the power exerted by the two armies sustaining the individuality and the status of the States, we have here honorable gentlemen, men of learning and intelligence, and, I hope and believe, of patriotism, who are claiming that these States are out of the Union and dead States, and have no right to participate in the legislation of the country without a law of Congress for that purpose.

I say to you men on the other side who are conservative, pause and think before you allow radicalism in this House to destroy these States and the liberties of the people of this country. I say sink and perish any party rather than give up the glorious old stars and stripes of the old Union. I will join with you in every act or movement by whatever name you may call it, against radicalism and for the purpose of perpetuating those liberties which your fathers and my fathers intended should be transmitted by us to our descendants to the remotest generations of the world. Yet there is no party that can save the country but the Democratic, and in that organization I propose we all rally.

Sir, the President of the United States is doing all he can to secure representation to these States. He treats them as States in the Union, as they have always been treated, and it is only because he is using the constitutional powers given to him to carry out that view he is denounced upon the floor of this House as a man who two hundred years ago would have had his head brought to the block. All that I ask is that the President of the United States may have wisdom to persevere in his present course. I believe that he is an instrument in the hands of Almighty God, placed here to save the liberties of this people. I believe that the Almighty has, before this, intervened for the Democratic party; and I believe that He will now so guide this people that the radicals here and elsewhere will be unable to thwart the wise movement of the President of the United States in sustaining the Constitution, in perpetuating our form of government, and in using his power so that every stripe and every star shall be retained that ever graced the glorious banner of the United States of America.

I have confidence, too, that that Providence which watched over this Republic in its infancy, which hovered over the cradle where this nation was born, will, through the agency of Andrew Johnson, still work out the salvation of the American people. Looking to our greatness in all the elements of national power, our population, our wealth, our mechanical skill and industry, the day is not far distant when that bright and beautiful flag will gather back to its starry folds every star that ever represented an independent State of this Union, and our banner shall be lifted up, the symbol of the proud principle of civil liberty, which will give us strength and power to smother treason at home and repel invasion from abroad; and under that proud banner, we will proclaim to the halls of the Montezumas and to the monarchies of the Old World that every man, woman, and child on the western continent are free. May God speed the day when the people will rally in their might and at the ballot-box decide whether they want this Union dissolved or not.

I am for the Union, the indivisible Union, the Union of our fathers, the Union made by Washington, by Jay, and by Jefferson; the Union that has given to us peace, happiness, greatness, grandeur, and glory such as never belonged to any other nation since the foundation of the civilized world. I do not want such a Union as the radicals of this country are trying to set up for me. Their Union is a Union of despotism, a Union of tyranny, a Union not

of independent fraternal States each legislating for itself upon its own domestic affairs.

I agree with Bancroft and the preachers of the gospel all over the land, that God, in His wise providence, acts in mysterious ways. And I believe that the angel of peace is now hovering over us; and will soon proclaim the glad tidings to the land, of peace and good-will toward all men. Mr. Johnson acts as President through the interposition of Providence, and I believe he will carry out His great purpose. I am willing to welcome them back like prodigal sons, and say to them, let us join together in such a way that if we get into a war with a foreign country we can marshal an army in the South as well as in the North, and show such an array of numbers, patriotism, and talent as to defy the combined Powers of Europe in attempting to establish monarchy and despotism anywhere throughout this great continent.

I am a radical for constitutional liberty. You will never find me voting to sustain any man unless that man stands within the very line, letter, and spirit of the Constitution. I was one of the eight, as is well known, who voted against thanking Andrew Johnson for keeping military power and control over the southern States; and although I respect him, and will stand by him in his reconstruction policy and every constitutional movement he makes to restore these States to the Union, when he violates the Constitution, I shall protest, as I did against the last Administration.

Mr. SPALDING. I would inquire of the Chair how much time remains of that allowed the gentleman from New Jersey, [Mr. ROGERS.]

The SPEAKER. About five minutes. Mr. SPALDING. I move that his time be extended without limitation. [Cries of "That's right,"]

Mr. HARDING, of Illinois. I object.

Mr. MOULTON. I would like to ask the gentleman from New Jersey [Mr. ROGERS] a question.

Mr. ROGERS. All right; go on.

Mr. MOULTON. I understand the gentleman to say that on one occasion he refused to vote to eulogize President Johnson.

Mr. ROGERS. Yes, sir.

Mr. MOULTON. I would like to ask him whether that was before or after the veto message.

Mr. ROGERS. It was after the veto message.

Mr. MOULTON. On what occasion?

Mr. ROGERS. It was on a resolution which was passed on the afternoon of the day when the veto message was sent into the Senate.

Mr. LAWRENCE, of Pennsylvania. It was while the veto message was being read in the Senate.

Mr. ROGERS. It was then known all over the House that the President had vetoed that bill.

I want my constituents and the country to understand that I support Andrew Johnson only so far as he supports the Constitution. When he goes against the Constitution, I will go against him. I will protest against despotism and tyranny when exercised by any President, tyrant, or monarch on the face of the earth.

Mr. LONGYEAR. I desire to ask the gentleman from New Jersey whether he had heard of the veto or knew that it was coming before he gave that vote.

Mr. ROGERS. Yes, sir; I knew that it was coming probably before the gentleman did. I will bet that I did. [Laughter.]

Mr. KELLEY. I desire to ask the gentleman from New Jersey a question: If I am correct in my recollection, the gentleman dissented from the Chicago platform upon which General McClellan was nominated.

Mr. HOGAN. Mr. Speaker, I rise to a point of order. I submit that the Chicago platform is not under discussion.

The SPEAKER. The Chair sustains the point of order.

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Mr. VAN HORN, of Missouri. The Chicago platform was decided out of order in 1864. Mr. KELLEY. I made that remark about the Chicago platform as a preliminary to another question which I wish to ask.

The SPEAKER. The gentleman from New Jersey must confine his remarks to the constitutional amendment, or questions relative thereto.

Mr. ROGERS. Well, sir, I am trying to do so; and I think I am in the true line of the argument when I argue to show that the object of this constitutional amendment is to prevent the eleven southern States from resuming their rightful places in the Union. I believe, that I have adhered to the question under discussion.

The SPEAKER. You have adhered to the subject under debate.

Mr. KELLEY. If the gentleman from New Jersey were permitted to answer my question, the gentleman from Missouri would discover that the inquiry which I propose to make is entirely in order.

Mr. ROGERS. I have no objection to answering. I have never in my life done anything politically of which I am ashamed.

Mr. KELLEY. I am aware that the gentleman does not object to answering.

Mr. ROGERS. I am perfectly willing to be catechised. I hope there will be no objection on this side of the House.

Mr. HOGAN. I will not insist on the point of order.

Mr. KELLEY. I desire to know whether the gentleman from New Jersey dissented from the Chicago platform on which General McClellan was nominated, or whether he sustained it.

Mr. ROGERS. I supported General McClellan. I necessarily sustained the main part of that platform; although, if I had had the drawing of it, I would have embraced in it a declaration in favor of a more vigorous prosecution of the war than had been carried out by the Republican party up to the time when the Chicago convention sat.

Mr. KELLEY. I now come to the main question which I propose to ask. The gentleman has asserted the indivisibility of the Union. That is a declaration which, coming from the gentleman, astonished me; and I wish to know when he adopted that view.

Mr. ROGERS. Well, sir, I do talk about the indivisibility of the Union. I always held that opinion. I say that it never was divided. The Chicago platform never declared that it was divided. It simply declared that so far the war was a failure, as was the fact. When the Democracy saw that they would have to submit to the unlawful stretch of power involved in the abolition of slavery or allow the rebellion to succeed, they rallied in their might, and when all hopes of pacification and compromise were gone, they used their most powerful efforts for the prosecution of the war, and the result was, they and the whole people North succeeded in suppressing the rebellion.

[Here the hammer fell.]

Mr. HIGBY, who, on obtaining the floor, had yielded to Mr. ROGERS, whose time was extended, resumed the floor.

Mr. ROGERS. I thought that my time had been again extended.

The SPEAKER. A proposition was made to extend the gentleman's time, but objection was made.

Mr. KELLEY. I hope the House will extend the gentleman's time. I hope that the gentleman from New Jersey [Mr. ROGERS] will be allowed to finish his speech.

Mr. BINGHAM. If it can be made the special order for an early day, and the discussion confined within a reasonable time and the vote be then taken, I have no objection to it. I desire a full discussion of this measure. I believe the interest of the country requires the House should act on it, and act on it at an early day.

Mr. SMITH. What has become of the propo-

sition granting an extension of time to the gentleman from New Jersey to enable him to finish his speech?

The SPEAKER. Objection was made, but the Chair will again put it to the House.

Mr. SMITH. Is all that has since taken place to be put into his speech? [Laughter.]

The SPEAKER. No, sir.

Mr. KELLEY. I am not willing that the gentleman from New Jersey shall go on tomorrow, but I am willing to give him the rest of the day to finish the ingenious address which he has been making to the House.

The SPEAKER. Is there objection?

Objection was made.

Mr. KELLEY. I ask that the gentleman from New Jersey have leave to print the balance of his speech.

Mr. ROGERS. I do not ask for leave to print. I never write speeches.

## Representation of Rebel States.

## SPEECH OF HON. HENRY WILSON,

OF MASSACHUSETTS,

IN THE SENATE OF THE UNITED STATES,

March 2, 1866.

The Senate having under consideration the following resolution:

*Resolved by the House of Representatives, (the Senate concurring), That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.*

Mr. WILSON said:  
Mr. PRESIDENT: A stranger from the Old World listening to-day to honorable Senators might come to believe that eleven "wayward sisters," robed in the garments of humility and penitence, are pleading in tender accents for readmission into this sisterhood of States; and that their supplicating appeals are sternly and rudely repelled by the other members of the family. But that stranger, though unacquainted with American affairs, would quickly discern that these "wayward sisters" are not seeking the protection of the laws, for they are already completely subject to the rules and regulations of the household; but they are seeking for power, for authority to frame rules and regulations for the government of their loyal sisters. He would speedily discover that the nation is divided into two classes; that the one class imperiously demands the immediate and unconditional admission into these Halls of legislation of the rebellious States, *rebel end foremost*; that the other class seeks their admission into Congress at an early day *loyal end foremost*. He would hear, too, the blended voices of unrepentant rebels and rebel sympathizers and apologists mingling in full chorus—not for the restoration of a broken Union, for the unity and indivisibility of the Republic has been assured on bloody fields of victory, but for the restoration to these vacant chairs of the "natural leaders" of the South.

Politicians here and elsewhere may deceive themselves—they may affect to see what cannot be seen with the clear vision of intelligent patriotism, but the people who have given two and a half million men, the blood of six hundred thousand heroes, and \$3,000,000,000 for the unity of the Republic and the liberties of the people, clearly comprehend the issues. A loyal people instinctively see, amid the turmoil and excitement of the present, that this is not a struggle for the readmission of the rebel States into the Union, but a struggle for the admission of rebels into the legislative branches of the Government; not a struggle to put rebels under the laws of the country, but a struggle to enable rebels to frame the laws of the country. A loyal people see that the confederate States reconstructed since the surrender of the

rebel armies are as completely in the hands of rebels now as on the day Jeff. Davis was incarcerated at Fortress Monroe.

Mr. President, we have indeed fallen upon eventful, exciting, and sad times. Unrepentant rebels, rebel sympathizers, and apologists—the men whose hands are stained with the blood of more than half a million loyal heroes; who starved the country's defenders at Andersonville, Salisbury, and Belle Isle; plotted in the dark and troubled night of civil war in the secret lodges of the "Knights of the Golden Circle" and the "Sons of Liberty" for the overthrow of their struggling country; lighted the fires of riot and arson in the city of New York, and planned the assassination of Abraham Lincoln, are leaping with joy and shouting with exultation over the present deplorable aspect of national affairs. Rebel presses boast that they have published nothing since the victory at Manassas so gratifying as the President's veto to the bill for the Freedmen's Bureau. Rebel leaders bear themselves toward northern men, officers of the Army, and the tried and true loyal men of the South more insolently than ever. Returned rebel soldiers and kindred spirits are avenging themselves for the humiliations of defeat by insults, outrages, barbarities, and murders of harmless freedmen. Politicians in the loyal States, who rejoiced over the disasters of their country and sorrowed over the victories of its heroes on land and wave, are inspired anew in the work of vituperation and detraction. William B. Reed, the Democratic leader in Pennsylvania, gives as a sentiment to be drank in flowing bowls by the *élite* of the Democracy of Philadelphia, "Our illustrious statesman incarcerated at Fortress Monroe." Vallandigham, who kept watch and ward in the summer of 1864 over the border for the development of incipient treason in the great Northwest, now flies his flag. Returned rebels, and men of questionable loyalty, desecrate Washington's birthday here in the national capital. Presses that one year ago sneered at Abraham Lincoln as an "ignorant rail-splitter," and at Andrew Johnson as a "boorish tailor," now pour their malignity upon the Congress of the United States, and more than hint at the dispersion of the representatives of the people by the hand of lawless violence or executive usurpation. All that is disloyal from the Susquehanna to the Rio Grande, and the champions of slavery and caste everywhere, are exultant, defiant, aggressive.

The poor freedmen, who a few months ago were leaping and laughing with the joy of newfound liberty, invoking the blessings of Heaven upon the Government that had stricken the galling manacles from their limbs, are now trembling with apprehension, everywhere subject to indignity, insult, outrage, and murder. During the past four months, in Alabama alone, fourteen hundred cases of assault upon freedmen have been brought before the Freedmen's Bureau. Thousands and tens of thousands of harmless black men, from the Potomac to the Rio Grande, have been wronged and outraged by violence, and hundreds upon hundreds have been murdered. The offices and the agencies of the Freedmen's Bureau, of the officers of our armies, and the office of Judge Advocate General Holt are filled with the records of outrage and murder. The local authorities screen the murderers; the people protest against the punishment of white men for the murder of black men, and the murderers go unpunished.

Mr. President, in hundreds of thousands of the homes of the loyal people, who in the autumn of 1864 offered up their daily prayers on bonded knees for the triumph of their struggling country, and for the election of Abraham Lincoln and Andrew Johnson, there are manly hearts throbbing heavily with anxieties and gloomy forebodings. Noble men, and noble women too, have prayed and hoped and toiled through many a year for the triumph of liberty, justice, and humanity in America. They hoped when the

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slaveholders' rebellion was crushed, when the cause their hearts love and their judgments approve was supported by twenty-three out of the twenty-five loyal States, that the Administration they had intrusted with power would give the coming three years to patriotism and liberty, justice and humanity. They indulged the hope that the executive, legislative, and judicial branches of the Government would crowd these years with deeds that should consolidate free institutions, guard and hedge about popular rights, extend the rule of justice, and quicken the charities and humanities of the people. Their hearts are now throbbing heavily with a great sorrow, for they see that instead of spending the coming three years in strengthening the patriotism, securing the liberties, and extending the mild sway of equal justice to men of every race, these precious years are to be wasted, squandered in wicked wrangles, and in the use of the corrupt and corrupting patronage of the Government to debauch the public morals and to degrade the nation in the face of earth and of heaven. Surely the spectacle is enough to make the patriotic people, who, in November, 1864, consecrated their treasure, life, and blood to the maintenance of the unity of the country and the preservation of the menaced life of the nation, hang their heads in mortification, shame, disappointment, and sadness. The loyal people who stood by their country amid the storms of civil war with unwavering constancy will hold their public servants in all positions, in Congress, in the Cabinet, in the executive chair, to a stern responsibility.

Sir, why is it that the heart of a loyal people throbs heavily with disappointment and sorrow? What, in God's name, have the loyal people of America done that they should be so disappointed, so punished, so humiliated? What has the House of Representatives done that it should be threatened with violence by revolutionary utterances? What has the Senate of the United States done that a Senator should rise here this day and emphatically proclaim that, "By the Eternal he would advise the President to say to men elected to the Senate in the southern States, 'Come here, unite with the Democrats and conservative Republicans, call yourselves the Senate of the United States, and I will recognize you as the Senate of the United States?'" Sir, what have we done that we should be forced to listen to these revolutionary and treasonable utterances? These times remind me of those dark days four years ago, when our ears were pained with revolutionary and treasonable avowals; when in the secret councils of the Knights of the Golden Circle plans of treason were matured; when the Legislature of Illinois attempted to impair the power of a faithful Executive who was arming and sending her gallant sons to fight the battles of the endangered country. Sir, in those dark hours, when there were mutterings and threats of insurrection in the North, the heroic sons of the Northwest, from battle-fields they had made immortal by their constancy and valor, sent home messages of rebuke to the men who were organizing incipient treason, and those guilty men quailed and covered before the patriotism of the nation's defenders. The Senator from Kentucky, [MR. DAVIS,] as is his wont, indulges in prophetic utterances regarding the temper and action of the people. He will find, others will find, that the patriotic, liberty-loving men of the free and loyal States, who furnished the money to put down this rebellion, who filled the ranks of the armies, who furnished the talent that guided the civil and military councils of the country during the rebellion, will see to it that the men who utter these words, who make these threats, shall never control the destinies of the regenerated nation.

Why all this vituperation of the Senate and House of Representatives? Why these fierce attacks upon long-tried and long-trusted public servants whose devotion to country and to liberty should shield them from imputations upon

their motives and characters? It is answered that Congress differs from the policy of the President. Surely the members of Congress have a right, a constitutional right, a moral right, to differ with the President upon some matters of public policy, and the President of the United States has a right to differ from the policy enunciated by Congress, but it is the part of patriotism for the President and for Congress to endeavor by thought, word, and deed to harmonize differences. Unwise words may have fallen from the lips of men in Congress, from Cabinet officers, and even from the Executive, but a patriotic and liberty-loving people will forget the unwise words of Senators and Representatives and Cabinet officers and the President, if they perform deeds that will cement the unity of the Republic, hedge about and secure the rights of the laboring poor, and bring enduring peace and prosperity to the country recently swept by the storms of civil war.

On the 1st of May last, ten months ago, the rebel States were prostrate at the feet of the nation, completely conquered and subjugated. They had fought, and fought bravely, for four years against the authority of the country; but they had been defeated, and their people could then have been molded at the nation's will. Abraham Lincoln had been assassinated. The people of the rebellious States saw that the Government of the United States had a million men in arms, and they were ready to accept any policy the nation chose to impose upon them, and to accept it freely. The leaders of southern opinion, in May and June of last year, all expected the reorganization of the insurgent States upon the basis of the equality of all men before the law. The public sentiment in the South was fast settling down into complete acquiescence in any conditions the Government should demand. Many of the eminent men of the South cheerfully avowed their readiness to accept the enfranchisement of the black man, and Mr. Reagan and Mr. Mallory, members of Jeff. Davis's cabinet, publicly advised the granting of suffrage to the new-made freedmen.

Sir, in the North the religious associations, at their anniversary meetings, with voices approaching unanimity, demanded suffrage for the freedmen. The literary journals and the religious press ably and earnestly advocated enfranchisement. The Republican press was unanimous for suffrage; the New York Herald, always quick to discern the currents of public opinion, proposed a plan of qualified suffrage, embracing colored persons who had served in the Army or Navy who could read, who possessed a small amount of property, or were members of Christian churches; the New York News, edited by Ben Wood; a late member of the House of Representatives, took ground in favor of suffrage in an elaborate article; the New York World, that may perhaps be accepted as the leading Democratic organ of the country, declared that suffrage to the black man must come sooner or later; the Boston Post, the leading Democratic journal of New England, was ready to extend suffrage to the colored race; other journals, supporting the Democratic party, manifested their readiness to settle the controversy about the rights of the negro by giving him suffrage for his own protection. The holders of the public securities, with the quick instinct of self-interest, would extend suffrage for the better security of the public credit, and the people North and South were then ready most cheerfully to acquiesce in the extension of suffrage to colored men in the rebel States.

Tens of thousands of the most progressive and liberal men of the Democratic party—ninety-five of every hundred who in November, 1864, thronged to the polls, and consecrated their treasure, blood, and lives to the unity of the Republic and the liberties of the people—believed with Andrew Johnson that—

"All men should have an equal start and a fair chance in the race of life, and that merit should be rewarded without regard to color."

and, in the immortal words of Abraham Lincoln, that—

"The ballot of the black man in some trying time to come may keep the jewel of liberty in the family of freedom."

Thoughtful men, anxious to heal the wounds of civil war and bury in forgetfulness the memories of old contests, were speaking for universal amnesty and universal suffrage; for forgiving and restoring all. The nobler sentiments of the liberty-loving men of the country at that time are caught and expressed in the verse of Whittier:

"From you alone the guaranty  
Of Union, freedom, peace, we claim;  
We urge no conqueror's terms of shame.

"Alas! no victor's pride is ours,  
Who bend above our triumphs won  
Like David o'er his rebel son.

"Be men, not beggars. Cancel all  
By one brave, generous action; trust  
Your better instincts, and be just!

"Make all men peers before the law,  
Take hands off the negro's throat,  
Give black and white an equal vote.

"Keep all your forfeit lives and lands,  
But give the common law's redress  
To labor's utter nakedness."

If the President of the United States had seized that golden moment, that grand opportunity then vouchsafed by Providence to weapon the hand of the new-made freeman with the ballot, these sectional controversies would have perished forever, the representatives of the rebellious States would ere this have filled these vacant chairs, and the heavens would be raining their choicest blessings upon the nation for a deed so wise and so just. But the President, though frankly avowing himself in favor of qualified suffrage, declined to assume the responsibility which the condition of the country imposed upon him, and the great opportunity God gave the nation to destroy caste, to clothe the emancipated race with power to guard their own liberties, rights, and interests without a struggle, passed by—perhaps forever.

The President began the work of reorganization by the appointment of Governor Holden in North Carolina, and the appointment of provisional governors for other States soon followed. Many of the most eminent men of the country doubted the wisdom of the President's policy. The President, to allay the doubt and distrust of the people, declared that his policy was an experiment, that final action was reserved to the Government, and that if these States were not properly organized the Executive and Congress could change, correct, or set aside the action of the reconstructed State governments; but the work went on, conventions were held, the old rebel journals were revived and began to fire again the southern heart and to delude and deceive a people who had once been so deluded and deceived as to plunge into civil war. These rebel journals, while praising the President, bitterly denounced the leading men of the party of the Administration. Presses in the North echoed their utterances and maledictions, and oft-baffled politicians began to gather about and to denounce the Senate and House of Representatives even before Congress assembled. The history of the world records nothing more wicked than the attacks that have been made upon the Senate and House of Representatives since they assembled in December last.

Sir, when Congress assembled, the demand was made for the immediate admission of Senators and Representatives from these reconstructed States, nearly all of whom are unrepentant rebels—men who cannot take the oath unless they are as false as were the Senators and Representatives who left these Chambers in 1861. Congress, to secure unity of purpose and action between the two Houses, promptly appointed a joint committee of fifteen to inquire into the condition of the States lately in rebellion. That committee, representing fourteen States, is composed of men of known and recognized capacity



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and character. The President nearly two months ago was called upon to furnish the papers relating to the reorganization of these insurrectionary States, but he has thought proper, doubtless for sufficient reasons, to withhold those papers. Possibly those papers might satisfy Congress that these re-constructed States are prepared to take part in the government of the country. It is understood that the committee are proceeding to take testimony, and it is hoped that the testimony will soon be reported to the country, and that it will satisfy all fair-minded men that these States will soon be prepared for participation in the legislation of Congress. The loyal people of the United States who have poured out so much blood, and given so much treasure for its preservation, are in favor of fully protecting the people of the rebellious States, white and black, loyal and disloyal, but they have the right to demand, and they should demand, before intrusting the legislation of the country to the framers and administrators of confederate governments, and to the soldiers who have met their sons on bloody battle-fields, ample security for the rights of loyal men of every race, and for the money loaned the country in its hour of need to arm, clothe, feed, equip, and pay the defenders of the Republic.

Sir, politicians and presses are flippantly denouncing the Congress of the United States, and branding nine tenths of the men who placed the present Administration in power as radicals. For more than thirty years there has been a class of men in our country who have instinctively clung to every lingering wrong and wailed over every rotten institution as it fell. Have these political Bourbons yet to learn that for the past thirty years the patriotism, freedom, justice, humanity, and the progressive development of the Republic, have been represented by the radicals? Have they forgotten that for thirty years, on every issue before the country, the radicals have been vindicated by events and by the verdict of history? Surely gentlemen who prate of their conservatism cannot have forgotten the glorious facts that the radicals never plotted; never betrayed the cause of freedom; never fired upon the flag of their country; never murdered the country's defenders. Have these conservative gentlemen forgotten what the world will ever remember, that the radicals never imprisoned women for teaching little children to read God's holy Word; never lashed on the bare back laboring white men for expressing the opinion that it would be better for workmen if slavery did not exist; never murdered editors nor hung ministers of the living God for questioning the divinity of slavery; never seized and stuffed ballot-boxes to overrule the will of a free people; never reddened the midnight skies with the sacked and burning dwellings of a harmless race; nor never gave halls for free discussion, nor asylums for orphan children to the flames. Yes, sir, let it ever be remembered that during the past generation the denounced and branded radicals, moving in harmony with the eternal forces of nature and God, have achieved glorious victories and won enduring triumphs in all the struggles for country, for the rights of man, for justice, for humanity, and for Christian civilization. While timid conservatism has ever retreated from one lost battle for old abuses to another, radicalism has met every demand of slavery, of injustice, and of treason with a prompt and emphatic "No," and moved right on to assured victories—victories that history will record and coming generations will remember. In the struggles of the present and the future, wherever there is a wrong to be righted, a grievance to be redressed, or a right to be vindicated, conservative presses and conservative politicians will find that the radicals will go into the contest with the light of past victories on their faces.

Sir, let conservative gentlemen who are ever boastfully vaunting their conservatism remember that the crimes against country, against lib-

erty, against justice, and against humanity that have marked the past thirty years in America, were committed in the name of conservatism. Let conservative gentlemen remember that conservatives trampled down for years in Congress the sacred right of petition and the freedom of speech; arraigned before the bar of the House of Representatives the illustrious Adams, and censured the fearless Giddings; manacled colored seamen on the decks of Massachusetts ships, and expelled their counsel, the aged Samuel Hoar, from South Carolina; annexed Texas to make slavery perpetual, and opposed the admission of free California; rejected the prohibition of slavery in New Mexico and Utah, and enacted the fugitive slave law; repealed the prohibition of slavery in Kansas, enacted slave codes, murdered free State settlers and framed Lecompton constitutions; struck down a Senator on the floor of the Senate and fired upon the flag covering bread for the starving garrison of Sumter; organized treason and plunged the nation into civil war; plotted insurrection in the secret councils of the Knights of the Golden Circle and fired orphan asylums in the city of New York; slaughtered the captured garrison of Fort Pillow and sacked and burned defenseless Lawrence; starved Union prisoners at Andersonville, and assassinated the Chief Magistrate of the Republic. Every crime for a generation against liberty and the rights of man in America has been committed by men who vaunt their conservatism and denounce the advocates of freedom, justice and humanity as reckless agitators and radicals. Conservatism has come to be a word in the political vocabulary of America synonymous with cowardice, treachery, baseness, and crime. It is a word every man in America should blush to use as a word descriptive of any decent political organization.

Mr. President, the House, the Senate, the Cabinet, the President, each and all should not now forget to remember that they were clothed with authority by a party inspired by patriotism and liberty, a party that proclaims as its living faith the sublime creed of the equal rights of man and the brotherhood of all humanity, embodied in the New Testament and in the Declaration of Independence. Let Representatives, Senators, Cabinet ministers, and the President, amid the trials and temptations of the present, fully realize that the great Republican party, embracing in its ranks more of moral and intellectual worth than was ever embodied in any political organization in any age or in any land, was created by no man or set of men, that it was brought into being by Almighty God to represent the higher and better sentiments of Christian America, to bear the flag of patriotism and liberty, of justice and humanity. Brought into being in 1864 to resist the repeal of the prohibition of slavery in Kansas and Nebraska, the further expansion of slavery into the depths of the continent, and the longer domination of the slave power, it has for twelve years, in defeat and in victory, ever been true to country, ever faithful to its flag, ever devoted to the rights of struggling humanity. No political party in any country or in any age has fought on a plain so lofty, or achieved so much for country, republican institutions, the cause of freedom, of justice, and of Christian civilization. If it should perish now in the pride of strength and of power, by the hand of suicide, or by the follies or treacheries of men it has generously trusted, it will leave to after times a brilliant record of honor and of glory. The enduring interests of the regenerated nation, the rights of man, and the elevation of an emancipated race alike demand that the great Union Republican party, the outgrowth and development of advancing civilization in America, shall continue to administer the Government it preserved, and frame the laws for the nation it saved.

Sir, I trust this resolution will pass; that the policy of the Senate and House of Representatives will be settled.

Mr. SHERMAN. I dislike to interrupt the Senator from Massachusetts, but I should like to address the Senate about ten minutes on a matter personal to the Chief Justice, if he will allow me that time before the vote is taken.

Mr. WILSON. I will close in a few moments.

Mr. SHERMAN. Very well.

Mr. WILSON. When the policy of Congress shall be determined, I hope the committee will report at the earliest possible day upon the condition of the States, and especially upon the condition of Tennessee. When the facts are before us, I trust the Senate will proceed to act with calmness and dignity, uninfluenced by anything that may have been said or done elsewhere. We have indeed fallen upon evil times, when a Senator or Representative can rise unrebuked in these Chambers and tell us what the President of the United States will or will not do.

Sir, there was a time when a Senator who should have said what we have recently heard on this floor would have sunk into his seat under the withering rebuke of his associates. No Senator or Representative has a right to tell us what the Executive will do. The President acts upon his own responsibility. We are Senators; this is the Senate of the United States, and it becomes us to maintain the rights and the dignity of the Senate of the United States. The people demand that their Senators and Representatives shall enact the needed measures to restore, at the earliest possible day, the complete practical relations of the seceded States to the national Government and protect the rights and liberties of all the people without regard to color, race, or descent. I confess, Mr. President, that I am saddened at the present aspects of public affairs; but I am confident that the nation will pass through the trials that thicken around us. God has not carried the country through this great struggle to abandon it now. I have faith in the people, faith in the eminent men, civil and military, who have carried us triumphantly through this great civil war. Two years ago, in a trying hour of the country, we placed a great soldier at the head of all our armies and he led those armies to victory and the country to peace. Perhaps a patriotic and liberty-loving people, if disappointed in their aspirations and their hopes, may again turn to that great captain and summon him to marshal them to victory.

### Reconstruction.

### SPEECH OF HON. B. F. LOAN,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1866,

On the relation of the rebel States to the Government, and the duty of the Government in reestablishing the Union.

Mr. LOAN said:

Mr. SPEAKER: The absorbing question that demands the attention of national authority at this time, relates to national unity. Discord and civil war have divided our unhappy country, and threatened its destruction. Guided by an insane and malignant purpose, eleven States, in violation of all law, formally renounced their allegiance to this Government and organized for themselves separate *de facto* governments, and attempted to achieve their independence by war. After four years of civil war such as no other nation could endure and live, the rebel armies surrendered and the contest upon the battle-field for the dismemberment of the Republic has ceased for the present. The rebels yielded, not because they were willing to surrender the cause for which they fought, not because they repented of their treason, not because they desired to return to their allegiance, but because they were exhausted and overwhelmed by an irresistible force. "De-

feated but not conquered, subdued but not subjugated," their determination to destroy this Government and to erect another on its ruins, the chief corner-stone of which is to be African slavery, remains as fixed and steadfast as it was when they embarked in rebellion in 1860-1. The decision of war to which they first appealed having been given against them, they seek to transfer the contest to the Halls of the grand council of the nation, into which their chosen agents are now demanding admission, and where it is hoped, if they can once enter, they can by diplomacy and fraud achieve that success which they failed to secure by force. In relation to this matter our action should be guided by the utmost prudence; we cannot afford to make any blunders. In the physical conflict the disasters resulting from incapacity, cowardice, or disloyalty, could be repaired. They only incurred the unnecessary waste of treasure and the loss of the lives of a greater, or less, number of our patriotic fellow-citizens, who were freely offering themselves as sacrifices upon the altar of their country's safety. But here a mistake would probably prove fatal. We are the chosen few to whom has been confided, under God, the destiny of this great Republic, not for a day, nor for a year, but for all time; and what we do is irrevocable and earns for us an imperishable fame, or damns us to eternal infamy.

If we have the intelligence and manhood to act in the interests of universal liberty and the inalienable rights of man, untold generations will bless our memories for having secured them the liberty they enjoy. But if we suffer ourselves to yield to the seduction of apparent peace, and in our haste to restore the rebels to amicable relations with this Government, we forget the rights of humanity, and ignore justice in reestablishing the Union of these States, we will only be remembered to be scorned and despised as the betrayers of a sacred trust.

In the contest through which we have just passed more than three hundred thousand of the bravest and the best of our fellow-citizens have willingly laid down their lives, that the Republic might live. We owe it to themselves, to their widowed wives and orphan children, that the fruits of the victories that cost them and us so much should not be carelessly or recklessly thrown away. While our patriot dead have given so much to their country in the discharge of their duties, ought we to hesitate in the discharge of ours, to make any sacrifice that the interest of the country demands? The honors of place, the blandishments of power, the success of this party or of that, sink into utter insignificance in the presence of such important duties as those are which we are now required to perform.

The times demand the highest patriotism, the most utter abnegation of all personal considerations, the greatest intelligence, and the utmost care. Our gallant armies have well and faithfully performed the part required of them, in the contest waged against the nation's life; it remains for us to perform our part with equal ability, and the same fidelity. To do this successfully requires of us a thorough knowledge of "the situation;" and to this end I propose to add, to what has already been so well said, on the condition of affairs, a few suggestions upon some points which, in my opinion, have not been sufficiently elaborated.

It is very desirable that we should ascertain, if possible, the precise relation, in fact, as well as in law, which the revolted States bear to the Government. At a time prior to the rebellion, they were in law, and in fact, States in this Union, with all the rights and privileges, and under all the obligations that pertain to any and all the States in the Union. Afterwards, they formally, as States, renounced their allegiance to this Government, surrendered all their rights and privileges under it, and declared themselves absolved from all obligations to it. They then proceeded to organize independent

governments, State and confederate, and entered into compacts with each other for mutual defense and support, and announced their determination to maintain their independence by acts of war. Had our Government acquiesced in what they did, and "accepted the situation" and "let them alone," as they desired we should do, the rebellion they inaugurated would have become a successful revolution. The separation of the rebel States from the nation would have been final and complete, and the confederate government would have been as thoroughly established as was ours when Great Britain accepted the result of the seven years' war of the Revolution. Dismemberment, or war, was the alternative that the action of the rebels offered to the Republic. Hence it appears that the only rights that the Government could assert over that part of the national domain, which was included within the rebel States and over the inhabitants there, were just those that it could acquire by force of arms. The rebels had effected a dissolution of the Union in fact, but not in law.

In this connection it becomes material to inquire whether a dissolution of the union of the States would, as some contend, necessarily destroy the Government. On this point I am inclined to think that many are led into serious error in supposing the phrase "the Union" and "the Government" to be synonymous to express the national authority. Such is not the case. They are very different and distinct things. The Union is subordinate to the Government, and the Government may exist independent of the Union. The union of States in 1800 was not the same union of States that existed in 1820, nor was that the union of States that existed in 1840. During each period new States were added, but the Government remained the same, only enlarged and increased by its growth as the boy grows into manhood, and yet retaining the same individuality. The Union may be enlarged or diminished. States may be admitted into it or taken out of it, as by the conquest of a foreign Power, by treason or otherwise, without necessarily destroying the Government or our existence as a nation. Consequently when eleven States entered the chaos of rebellion, withdrew their representatives from the Halls of Congress, and inaugurated civil war, the Union of these States was, *de facto*, as much dissolved as it would have been if the rebels had proved victorious in the war and we had acknowledged their independence. Since the revolt of these States they have held no political relations to the Federal Government other than those of rebellious subjects. The Government exists without them. The Executive of the nation administers the law in the appointed forms. The supreme judicial tribunal of the nation holds its regular sessions as prescribed by law, and the Legislature of the nation holds its regular sessions and makes laws for the Republic entirely unaided by any representatives from the revolted States. At the time appointed by law the loyal people elected a President and Vice President for the nation. It having been previously declared by law that participation on the part of the States in rebellion in the formation of the Electoral College was not necessary for a valid election of those officers, and our President to-day holds his office in consequence of an election by a college of electors formed in pursuance of that law. The dissolution of the Union effected by the rebels in 1861 continues to this day. The political relations of those States to the Government have not been restored, and their right to representation in these Halls is not yet recognized. But this dissolution of the Union, however disastrous it may prove to the traitors and rebels who effected it, did not in the least impair the right of the nation to exercise its authority over all its territory and over all its subjects. The thief who steals a horse and runs off with him changes *de facto* the possession of the horse from the owner to the thief, but such change

does not impair the owner's right to pursue the thief and recover possession of his property, nor will it avail the thief when tried for the larceny to deny that he stole the horse, because the theft was in violation of law and is therefore a nullity.

Notwithstanding the rebels had effected a dissolution of the Union of the States, the vitality and the energy of the Government remained, and it was the national authority that opposed war to rebellion, not, as has been frequently said, for the maintenance of the Union, not to compel the revolting States to accept and enjoy the rights and privileges of States in the Union, but for the maintenance of national supremacy and to preserve the integrity of the Republic. National safety imperatively requires us to preserve our national boundaries intact. We could not safely permit a foreign flag to float over the peninsula of Florida nor over the mouth of the Mississippi river—that great outlet to the markets of the world for the inhabitants of those great States that lie in and around the basin of that river. And therefore the nation purchased those provinces with the common treasure for the national benefit, and not for the especial convenience and advantages of the inhabitants thereof. So, when the rebels undertook to divide our territory, change our boundaries, and establish a foreign government on our borders, it was to prevent them from succeeding that induced us to make war upon them, and not a desire to whip them into the Union for their good. After four years of war success crowned our efforts, and the flag of the Republic floats in triumph over every foot of territory that ever belonged to the national domain. Organized rebel armies have all been dispersed, and organized rebel governments have disappeared, it is to be hoped, forever. It would hardly seem possible that any question could arise as to the authority that should control the future political destiny of these rebel districts; but strange as it may appear, it is considered by some whose opinions are entitled to great weight to be a debatable question whether the subdued rebels or the lawfully constituted legislative authority of the Republic that still holds those districts in the iron grasp of military power shall determine their relations to and their rights under the Government.

There are those who insist that the relations of the revolted States to the Federal Government are of such a mysterious and wonderful power that they cannot be destroyed; that the Federal Government is powerless to change them; that the war they made upon the Republic had no effect upon them; that the ordinances of secession passed by them and the establishment of a *de facto* rebel government did not in the least impair the rights and privileges of these States as members of the Union. In effect, they maintain the indestructibility of a State which has once been admitted into the Union of States. Once a State always a State is a favorite phrase with such persons. They do not hesitate to tell us that a State in the Union may have a beginning, but that it can never have an end; that its vitality may be impaired, but it cannot be extinguished; that its functions may be suspended, but not destroyed; that its component parts may all be annihilated, yet it will still exist; that all the inhabitants may be hung for treason without working the destruction of the State; all of which I consider to be absurdities so gross and glaring that to attempt a refutation of them would be to oppose argument against unresisting imbecility.

These same persons also tell us that a State cannot commit or incur any forfeiture; that it is only a corporation, and as such "has nobody to be hung or soul to be damned" for the crimes it commits; that its powers, rights, and privileges are self-existent and indestructible; that they may be held in abeyance, but they are ever ready to be called into action by the loyal people of the State without regard to the smallness

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of their number, and that they can exercise all the powers and perform all the functions belonging to such States; that, unaided by any other authority or power, they have the right and the ability, at their option, to resume their relations with the Federal Government, even against its consent. All of which all loyal men know to be as false and heretical as were the doctrines of State-rights and the other like fallacies that culminated in rebellion. We know that the States, as such, owe allegiance to the Federal Government as the paramount authority; that as States they are represented in the Senate as the people are in this House of the Congress of the United States. If the States that joined in the rebellion had remained faithful as States in the Union, we know there could have been no organization of the people in the interests of treason; and we also know that they formally, as States, renounced their allegiance to the Federal Government, recalled their Senators from the Congress of the United States, and then entered the portals of organized rebellion and disappeared forever.

On their ruins the traitor inhabitants there erected eleven rebel States and they established a central government, known as the confederate States of America, all of which they claimed to be independent of and entirely disconnected with this Government. They declared that they had severed every tie that bound them to it, and for more than four years waged a war against it which, for gigantic proportions, savage barbarity, and wanton cruelty, has no parallel in modern times. In the progress of this war, to enable us to oppose it successfully, and to maintain our just authority over our national domain, it became necessary to proclaim the freedom of all the slaves in the rebel States and to call large numbers of them into our armies. Finally, we succeeded in dispersing the rebel armies, and the confederate government was dissolved, and the armies of the Republic took possession of and still hold all the rebellious territory. The military authorities deposed the rebel governments found there and established military, or, as they are more popularly known, provisional governments, in their places. On the consummation of these happy results the popular mind greatly rejoiced in the fond belief that the war of the great rebellion was closed and the nation saved; and the people hoped for a speedy return to peace, with all its attendant joys and blessings. Never was there a greater mistake nor a more delusive hope. Like the spider, whose web is suddenly swept away, the rebel chieftains, shrewd, wily, and irrepressible, on the dispersion of their armies realized the utter and irretrievable failure of their attempt to divide or destroy this Republic by force, and at once comprehended the necessity for changing their plans. Fraud is the inevitable alternative of those who find themselves too weak to succeed by force, and the rebel leaders have transferred the contest which they waged for the division of the Republic from the battle-field to the political arena. There, in the guise of friends, in the name of loyalty, in the avowed cause of peace, harmony, and union, they have assumed to organize in the late rebellious districts civil State governments, and demand for them the recognition of political relations with the Federal Government as States in the Union, their real object and purpose being to secure a position which will enable them to form political combinations by which they can, as formerly, control the policy of the Government, that they may direct it to national destruction, for they have found it to possess a power that they cannot resist, and one that will control them unless they can destroy it.

Recent events give to these demands and purposes a significance and importance which show them to be more dangerous to the safety of the Republic than were the rebel armies in the days of their most brilliant victories. In this hidden danger, which cannot be seen and appreciated

as could the rebel hosts in battle array, lies the greatest peril of the Republic. The utmost caution, the highest statesmanship, and the most devoted patriotism are required to guide safely the ship of state through these impending dangers. A mistake here would probably prove fatal. There is no opportunity for experiment; our action in the premises may be final and conclusive. Let us once permit any of these reconstructed rebel States to resume their political relations with the Federal Government and our power over them as disorganized communities will cease.

They are now without the protection of our Constitution, placed there by their crimes deliberately perpetrated, and we can lawfully deal with them in any way that in our opinion the best interests and the safety of the country may demand. Therefore, before we conclude ourselves by any action in the premises, we should know that the political power in the State seeking recognition is confided exclusively to loyal hands, and that equal privileges and exact justice have been secured by law alike to all loyal citizens. I think I can safely say that Congress could not in the faithful discharge of its duties in relation to those districts recognize the political relations of any States organized therein to the Federal Government until the inhabitants thereof give some evidence of their hatred of treason and of love for their country and its republican institutions, nor until rebel sentiments, rebel flags, rebel generals, rebel valor, rebel memories, and rebel debts are repudiated; nor until the love of justice, law, and order is so firmly ingrafted in the minds of the people as to give unquestioned assurance of an enduring peace.

Timid peace men who are afraid to do right for fear they might do wrong, and the apologists for traitors and rebels, insist that they have done enough to entitle them to be restored to their rights and privileges in the Union. Such men tell us that the rebels have laid down their arms, that they are disposed to acquiesce in the results of the war, and that they are willing to accept the situation. It is true, the rebels laid down their arms when they had no power to retain them any longer; that they are disposed to acquiesce in the results of the war, because they are powerless to do otherwise; and they are willing to accept the situation, because they have no option to refuse it. It is said that the rebels are disposed to be loyal, and are willing to return to their allegiance, but when they come they come in the interests of treason. Without authority of law, conventions were called to organize State governments in the rebellious districts; at the elections held to select delegates to these conventions nearly all the loyal people there were excluded from the polls, and candidates were voted for and elected because of their services in the armies of the rebellion, and of their assured fidelity to the cause of the traitors. In the constitutions they adopted, the political and nearly all the personal rights which this nation stands pledged to guaranty to its colored soldiers and its colored citizens—the only considerable portion of the inhabitants there that is or has recently been loyal to the Republic—are ignored; and standing armies and martial law are yet required to enforce national authority and to protect the loyal people against rebel violence and outrage. In violation of common decency and in contempt of law, these reconstructed rebels have, in many instances, elected as Representatives to this Congress, notorious, defiant rebels, whose infamous career in treachery and crime renders it impossible for them to take the oaths of office prescribed by law without committing perjury.

The allegiance they offer is not based upon a thorough and heartfelt repentance of their treason, nor does it arise from a patriotic devotion to their country, nor from a just pride in its glory and greatness and power. But it is offered in the hope that it will prove the means of affording them another opportunity to again

betray the country, and, if possible, to effect its destruction.

Let no one suppose, that in expressing these views, I am opposed to the speedy restoration of the rebel States to their places as States in the Union. I am as anxious as any one can be to see harmonious relations existing between every part of this country. I will allow no feelings of vengeance, or any memories of the past, to interpose to prevent the restoration of amicable relations between the Republic and the States lately in revolt. When the war of the rebellion is closed and peace is proclaimed; when the order establishing martial law in those States shall have been revoked and civil authority established; when loyal citizens from every part of the Republic are protected there by the civil law as distinguished from the military; when the leading traitors who sought the division of the Republic and the destruction of our Government are scorned and despised for their treason, and loyal men are honored and trusted for their fidelity to their country; when these States are organized in the interests of loyalty; when the rights of all citizens are alike protected by the law; when there is no exclusion of any from the ballot-box who may have borne or who are liable to bear arms in defense of our common country—in a word, when they come as loyal States, organized and controlled by loyal men, I shall be ready and willing to receive them into the sisterhood of States, without inquiring how or by what authority they were organized. But they will never come as loyal States so long as unrepentant rebels are permitted to control their political destiny and rule the loyal people there. "Conciliation and kindness" have ever been thrown away when bestowed upon rebels. "Extending confidence to them does not beget confidence in return."

The ordinary motives that govern human action have no application to the rebels. The demon of slavery has corrupted their natures, and they are no longer under human influences. In the war they prosecuted for the destruction of this Government, they disregarded all laws human and divine. Assassination and murder, arson and robbery, were recognized by them as legitimate modes of warfare. Who does not remember the massacre at Lawrence, where they surrounded at daybreak a peaceable town remote from the theater of actual hostilities, and murdered the citizens by hundreds in cold blood, and then sacked and burned the town? And the massacre at Fort Pillow, where the garrison, after having surrendered, were deliberately murdered, some of whom were crucified by nailing them to a cross, and were afterward, while alive, thrown into the flames of burning buildings? Or those still more cruel and heartless atrocities perpetrated at Salisbury, Andersonville, and Libby prisons, where our soldiers by thousands and tens of thousands were compelled to endure the lingering tortures of death by starvation and exposure to the elements? These were not the rash and inconsiderate acts of irresponsible subordinates in the confederate service; but they were the deliberate and well-considered acts of the confederate government, and were authorized and permitted by the general officers in its armies; in many instances the same men who have reorganized the rebel States, and who now control them, and who are asking for them recognition as loyal States in the Union. They assert that they are loyal now, and as a proof of their loyalty they propose to swallow as many of what they facetiously term "our iron-clad oaths" as will satisfy us of the fact.

Bitter experiences in my State have taught the people there the impolicy of trusting to the loyalty of a rebel who offers no better evidence of conversion from treason to loyalty than can be found in the virtue of an "iron-clad" or any other oath.

The late President, whose excellent judgment was frequently warped by the kindness of



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his heart, fondly believed that a people whom civil war and rivers of blood had divided could, by merely being placed in juxtaposition, be reunited in bonds of amity and friendship, and he determined to try the experiment, and selected our State as the place for the trial.

By his amnesty proclamation, appended to his annual message to Congress in December, 1863, he had invited the rebel soldiers to lay down their arms and return to their homes, promising that they should be protected there on taking the oath prescribed in the proclamation. As the war had been conducted in Missouri with more than ordinary cruelty and outrage on the part of the rebels, those of them who availed themselves of the President's proclamation of amnesty were not received by the Union men on their return home with the utmost kindness; in fact it was dangerous in some localities for them to remain at home, even under the President's promise for their protection. When informed of this fact the President was very desirous that they should have the protection promised them. He therefore permitted the Union men, who at the risk of all that was near and dear to them had been for years, as soldiers under the Union flag, exposing themselves to the bullets of their rebel neighbors in the character of rebel soldiers, bushwhackers, and guerrillas, to be disarmed and the flag taken from them and given, with their arms, to their rebel neighbors who had taken the amnesty oath. When, in the name and on behalf of my outraged fellow-soldiers, I expostulated with him for allowing this great wrong to be committed, he replied that it was a necessity, that there must come a time when the rebels and the Union men would have to live together in harmony and on terms of friendship, when they would have to go to the same mill and the same post office, and to meet at the same ballot-box, and the sooner that time should come the easier it would be for them to resume friendly relations; that as the Union men were not disposed to give protection to returning rebels, and in many instances were inclined to drive them off by force, it was prudent to disarm the Union men and thereby deprive them of the means of driving the armed rebels from their homes. But as such rebels were coming home at intervals and in comparatively small numbers, they would not probably be sufficiently strong to resist the Union men who, although disarmed, might be disposed to drive the rebels out of the country; therefore it was necessary to organize them as soldiers, arm them as such and place them under the protection of the national flag, where he believed the Union men dared not disturb them, and as they had laid down their arms and left the rebel armies, thereby manifesting a desire to live peaceably at home, there was no reason to believe that they would interfere with the Union men if they would behave themselves, and thus peace would be secured to all parties.

The theory was plausible and speaks well for the kindness of the heart that suggested it. But in practice it proved to be only another illustration of the folly of warming into life a poisonous snake, under the delusion that with returning strength its disposition to inflict injury and death would cease. It is hardly necessary to add that the experiment was a failure. The State government approved of the President's plan of arming the returned rebels and their sympathizers, and aided him in doing it. The rebels were thus virtually supported by the confederate, national, and State governments in their opposition to the Union men. In this condition of affairs but one alternative was left them. What they did in this crisis, or how it was done, are matters not necessary to be repeated here. Suffice it to say, that the State and its government are now in the possession of loyal men, and that every rebel and every rebel sympathizer within the State is permanently disfranchised by provisions in its con-

stitution, and that peace, prosperity, and happiness dwell within her borders.

In dealing with the revolted States, let us profit by this experience, and let us also give practical application to the statements so frequently repeated, "that treason is a crime," "that none but loyal men must govern the country," and "that rebels must take back seats;" to do this effectually, we must see that the disloyal are permanently disfranchised. There should be no understanding that their disabilities might be removed in the future; it is enough for them that they are permitted to live safely in a country, in which nearly every household to-day mourns the loss of some dear relative, whose death was occasioned by their infamous crimes. All loyal men in those States must be enfranchised without regard to color. Those races who bear arms to defend a Republic must be allowed to participate in its Government.

A military necessity required us to emancipate the negro and accept his services as a soldier that the Republic might be saved. We all remember when victory after victory was crowning the rebel armies on almost every battle-field and the armies of the Republic were ingloriously retiring before the advancing banners of rebellion, that national peril compelled us to proclaim the freedom of the slave and call him to our aid. Before the ranks of our armies had been swelled by two hundred thousand of these colored soldiers the tide of victory was changed, the rebel armies suffered defeat after defeat in rapid succession until they were finally dispersed and the war ended. The services of our soldiers are no longer required to defend the country; it now becomes a political necessity to preserve the fruits of our victories and to secure a permanent peace that we confide the ballot to the hands of all our loyal citizens before we take from them as soldiers the implements of war.

The ballot is the freeman's only safety in this country when he is deprived of the ballot. The ballot and peace or the bullet and war are the alternatives between which the Republic must choose.

In conclusion permit me to say that in all our action relating to the restoration of the Union of these States we should carefully avoid all compromises with wrong, oppression, and injustice. We should resolve to stand firmly by the right, and when the Union is reorganized let it be on the basis of universal freedom and universal suffrage for all loyal men.

#### Apportionment of Representation.

#### SPEECH OF HON. W. SAULSBURY,

OF DELAWARE,

IN THE SENATE OF THE UNITED STATES,

March 6, 1866.

The Senate having under consideration the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States—

Mr. SAULSBURY said:

Mr. PRESIDENT: As I understand that there are one or two other Senators who intend to speak on this subject, if it is agreeable to them to address the Senate to-day, I will with pleasure yield the floor. If no one else is prepared to go on I will proceed to make some remarks upon this resolution. And yet, I confess, Mr. President, that never since I have been a member of this body have I felt so little disposition to participate in its debates. Coming into public life at a time when the mind of the country was excited upon great sectional issues, when the spirit of party was at its height, I felt it my duty then by such feeble utterance as I could make and by my votes in this body to do all I could to allay sectional animosities and the spirit of party, and to prevent so far as I could in my feeble way the opening of that bloody scene which we have so recently and for four long years witnessed. Foreseeing,

then, that unless reason could resume its throne and passion and madness cease their hold upon the public mind, war must be the result, and believing, then, as experience has proved, that war was disunion, I felt it a duty which I owed to myself, to my State, and to my country, to do all that I could to avert the calamities of war. But, sir, war came, and with it consequences which perhaps those who advocated it did not anticipate. In witnessing the results of that war I am reminded of some utterances by a very distinguished writer upon constitutional law. Says Mr. Rawle:

"Natural life and political existence alike give way at the appointed measure of time, and the birth, decay, and extinction of empires only serve to prove the tenacity and illusion of the deepest schemes of the statesman and most elaborate theories of the philosopher."

Sir, the examples of all ancient republics awaken a doubt in the mind of the philosophical and thoughtful student whether it is possible for a purely republican form of government permanently to endure. Nor does modern history afford much encouragement for hope; for of all the republics which have existed in Europe in modern times, one, and only one, remains; and every republic founded upon this continent to-day is but a republic in name, and the great Republic of the United States of America is no exception to this general remark. For what is the proposition now before this body? Does it not show that the Republic founded by our fathers does not this day exist? Where are eleven of the States that composed in part the Federal Union? Where are twenty-two Senators who have a right to a voice in this body to-day? Excluded from participation in the deliberations of this body and in the councils of the nation, and excluded for a purpose—a purpose to pass in their absence, although their people and the States which they are entitled to represent are to be seriously affected by this proposed legislation, this measure in this body by less than the constitutional vote.

Sir, I come not here to reflect unjustly upon any member of this body or upon any party in this body, but truth demands the utterance that for the accomplishment of mere party purposes, regardless of the great interests of the whole American people, a committee of fifteen has been appointed by this Congress who in fact control the legislation of this Chamber and of the House of Representatives, and all they have to do is to meet in secret with closed doors, (the public eye not watching their deliberations or consultations,) and walk into this Chamber and into the other House and present a recommendation; and so far, all their recommendations have prevailed, however contrary to the spirit of the Constitution and destructive of the rights and liberties of the people.

Now, sir, if there be any other object for the presentation of such a proposition as that now before the Senate than that which I have named—the accomplishment of a party purpose—I should like some one to tell me what that object is. Why, sir, it was distinctly avowed in the House of Representatives that the object of this resolution was to deny to the southern States that voice in the legislation of the country to which they are entitled by the Constitution as it now exists.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that it is not in order in this body to allude to the proceedings of the other House.

Mr. SAULSBURY. I do not wish to violate the rules of the Senate. I have been one of those unfortunate members of the body who generally have not understood the rules very well, and pay very little attention to mere paper rules so long as I govern myself according to those high principles of honor which should characterize intercourse among gentlemen.

Then, sir, I say it was distinctly avowed by leading Republicans, but I do not say where,

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that one of the objects of keeping out southern representatives from legislation in these Halls was to pass measures of this character in their absence which could not be passed if they were present, and thus to deprive that section of the country of its equal representation according to the Constitution as it now exists; and it was said that if this was not done they, uniting with those who have been politely, and I was about to say gentlemanly, termed "copperheads," would control the politics of the country in the future.

Mr. President, we all know that there was a time when the States of this Union were equal. There was a time when the Federal Constitution did not exist, and when the States of this Union being all equal, all separate, all independent, all, according to the second of the Articles of Confederation, having reserved to themselves absolute sovereignty, met together in council to form a more perfect Union; and one of the most difficult subjects requiring their deliberation, and which came as near almost as any other preventing the formation of that Constitution and the permanent establishment of that Union, was this very question of taxation and representation. As has been often said in this Chamber and elsewhere, one of the great compromises of the Constitution was this very compromise of taxation according to representation. The proposition now, however, is to deny that equal representation and to make taxation unequal. As the clause of the Constitution now stands it reads thus:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

The proposition now before the Senate is:

Representation shall be apportioned among the several States which may be included within this Union according to the respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

Now, Mr. President, I wish to make this suggestion and ask this question: whether, if this proposition, now before the Senate, had been made to the delegates of the several States who formed the Constitution, you would ever had the Federal Union?

The proposition is to increase the taxation of the southern people and to decrease their representation. Suppose such a proposition as that had been made in the Convention which framed the Constitution, I ask you, sir, do you believe you would ever have had this Union? Certainly not. You propose—that is the effect of it—by your legislation here, in the absence of the representatives of that section of the country which is mostly to be affected by it, to do an act of injustice which had it been proposed by your fathers in the Convention which framed the Constitution would not have been submitted to, which would have forever prevented the formation of the Federal Union. Then I ask you, why do you do it now? Simply because you have the power, as you suppose, to inflict an unfair and unjust measure upon—yes, I will use the word—a conquered and submissive people; you propose to change the fundamental law at a time when one third of the country, and that the third of the country that is to be affected injuriously by it, have no representative on this floor to speak in behalf of their interests.

Attempt such an injustice toward the States of New York, Pennsylvania, and Ohio, and every hill-top and valley will glitter with the weapons of resistance in the hands of a people acting responsively to the call of liberty as magically as did the Scottish heights at the command of Roderick Dhu.

In discussing questions of this kind, it is proper that we should go back and consider

what it was our fathers meant to do in the establishment of this Government, and what kind of a Government it was which they did establish. As I said before, the time was when these States lived under what were called the Articles of Confederation. These Articles of Confederation having been found by experience not sufficient for all the general purposes of the States, they sent delegates to a Convention to frame the Constitution under which we now live. To show you how guarded they were in reference to the character and form of the Government which should be established, how jealous they were of their rights as States, and how jealous they were of the spirit of liberty, I ask your attention for one moment to a few of the instructions which they gave to their representatives:

"The powers to these deputies were the following: "By New Hampshire, 'to discuss and decide upon the most effectual means to remedy the defects of the Federal Union.'"

"Massachusetts, 'in conformity with the resolution of Congress recommending a convention for the sole purpose of revising the Articles of Confederation, to render the Federal Constitution adequate to the preservation of the Union.'"

"Connecticut, 'for the sole and express purpose of revising the Articles of Confederation, to render the Federal Constitution adequate to the exigencies of government and the preservation of the Union.'"

"New York, in the same words.

"New Jersey, 'for the purpose of taking into consideration the state of the Union, as to trade and other important subjects, and of devising such other provisions as shall appear to be necessary to render the Constitution of the Federal Government adequate to the exigencies thereof.'"

"Pennsylvania, 'to devise such alterations and further provisions as may be necessary to render the Federal Constitution fully adequate to the exigencies of the Union.'"

"Delaware, in the same words, with a proviso that each State shall have one vote in Congress.

"Maryland, in the same words, without the proviso.

"Virginia, in the same words. This State passed the first law for appointing delegates to the Convention.

"North Carolina, 'for the purpose of revising the Federal Constitution.'"

"South Carolina, 'to devise such alterations as may be thought necessary to render the Federal Constitution entirely adequate to the actual situation and future good government of the confederated States.'"

"Georgia, 'to devise such alterations as may render the Federal Constitution adequate to the exigencies of the Union.'"

I read these instructions to the delegates to the General Convention for the purpose of showing that the object of the States in sending their delegates to a General Convention in 1787 was not for the purpose of establishing a different kind of Government, but only to perfect the existing Federal Government under the Articles of Confederation, and to make it adequate for the general purposes common to all. And, in fact, this is all the Convention did, if Mr. Madison is to be considered authority. In the fortieth number of the *Federalist* he remarks:

"We have seen in the new Government, as in the old, the general powers are limited, and that the States in all unenumerated cases are left in the enjoyment of their sovereign and independent jurisdiction. The truth is that the great principles of the Constitution proposed by the Convention may be considered less as absolutely new than as the expansion of principles which are found in the Articles of Confederation."

We know very well that when the delegates met together there was great diversity of opinion among them as to the true nature and character of the Government which should be formed. We had the plan of Mr. Randolph, of Virginia; we had the plan of Mr. Pinckney, of South Carolina; we had the plan of Mr. Hamilton; we had the plan of Mr. Patterson; and we had the more republican and Federal form as presented by Mr. Dickinson, of my own State. During the progress of the debates, and for weeks it was attempted in that Convention to introduce the term "National Legislature," "National Judiciary," "National Executive." Some wished to clothe the Executive with power during good behavior; Mr. Hamilton, the Senate of the United States during good behavior.

Mr. Randolph, of Virginia, offered sundry resolutions even after the word *national* had been rejected by all the States, proposing, among other things,

"That a *national* Legislature shall have the right

to legislate in all cases in which the harmony of the United States may be interrupted by the exercise of individual legislation, and to negative all laws passed by the several States contravening, in the opinion of the national Legislature, the articles of the Union or any treaty under the Union."

So the controversy among these patriotic fathers went on until some of the members, among others Mr. Lansing, of New York, and Mr. Luther Martin, of Maryland, retired from the Convention, giving up all hope of ever forming such a system of Government as the States would agree to live under. It was then that the representatives from New Hampshire came in. After further deliberation, the Convention came to the conclusion not to form a "national" Government with a "national" Executive, a "national" Legislature, and a "national" Judiciary, but to continue a Federal Government, on the principles of the Articles of Confederation, and hence, instead of incorporating in the Constitution of the United States, as indicating the depositary of legislative power, the word "Parliament" or "national Legislature," they adopted the term "Congress of the United States," which was a fit, apt, and appropriate term to show the nature of the power intended to be deposited, or to be preserved or created in that Constitution by the representatives of sovereign and independent States, and to show the character of that Government, its relations to the States, and the relation of the States to each other.

The relation of the Government formed by the States was that of the creature to the creator, of the common agent to associated principals; and the relation of the States to each other was that of equality. As equal, independent political sovereignties, they agreed in the Constitution which they formed that no State, without its consent, should be deprived of its equal suffrage in the Senate. This provision manifestly establishes not only the equality of the States, but the indestructibility of one State by the others, and establishes the further fact, which is of the greatest importance at the present time, that this Senate has not, under any pretense whatever, any power on earth, without the consent of a State, to deny such State representation, and equal representation, in the Senate. And here, sir, I take occasion to express my unqualified dissent from the opinion recently expressed on this floor by the Senator from Pennsylvania. [Mr. BUCKALEW,] that this provision of the Constitution, in relation to Senators, can be changed by amendment, if he meant to be understood as saying that such change can be made without the consent of the State to be affected thereby. This is an unalterable compact between the States. The union of England and Scotland, effected by compact, contains stipulations beyond the power of the united Government to alter, especially that in relation to the religion of the latter kingdom. The stipulation in our Constitution referred to is equally beyond the power of the States to alter. The Convention which framed the Constitution considered no questions more thoroughly, nor were any more difficult of adjustment than those of representation and taxation. As a compromise, and the only one upon which they could agree, they declared that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

Then, I say, that had the proposition which is now before us been presented to the fathers, it would not have been entertained for a moment. I might go on and cite extracts from the *Federalist* showing the views of Mr. Madison, Mr. Hamilton, Mr. Jay, the authors of that celebrated work, in reference to the Constitution as finally presented for the consideration of the States, to show that it was only claimed that but a very few powers were delegated to the

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Federal Government, and that all other powers except those expressly delegated were reserved to the States or the people; and that according to Mr. Hamilton those powers thus reserved were of the same character and as sovereign in their nature as were the powers delegated to the Federal Government. I shall content myself with reading a very few brief extracts. In the thirty-first number of the *Federalist* Mr. Hamilton observes:

"The State governments by their original constitutions are invested with complete sovereignty."

In the thirty-second number he remarks:

"An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts, and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the Convention aimed only at a *partial* union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not by that act *exclusively* delegated to the United States. This exclusive delegation, or rather this alienation, of State sovereignty would only exist in three cases: where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally *contradictory* and *repugnant*."

In further explanation of the true character of our Federal system of government, in a departure from the spirit and genius of which the proposition under consideration has its origin, I refer to the views of Mr. Madison, as expressed in the *Federalist*. He says:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

This kind of a government having been framed, republican in character, Federal and not national in form and substance; and this new Government having started out to take a new position among the nations of the earth, and having prospered and grown beyond the most sanguine expectations of its friends, I come now to trace the causes which led to the unfortunate situation in which we find ourselves, and which situation is made the pretext of the unjust and unconstitutional legislation proposed.

Mr. President, numbering originally three million people and thirteen States, regarding with great strictness and care the fundamental principles of constitutional liberty as they were found in that written Constitution, in a few short years we became the wonder of the world. No people were so happy; for the records of human society do not show such a rapid growth, expansion, and development of any people in so short a time. And to what was it owing? To the free principles of government which our fathers secured for themselves and for their posterity, and a cheerful acquiescence by the great mass of the American people while those fathers lived in those constitutional principles of liberty applicable to the citizen, and those constitutional rights secured to the States as separate and distinct political communities. If to-day I shall appear to travel for a few moments out of what may seem to be the record of this case to notice the causes which have been instrumental in bringing this once happy country into its present lamentable condition, I shall not in fact be traveling out of the record.

Sir, I am tired of sitting in this Chamber and hearing, when a political difference grows up between the Executive of the United States and a portion of his party, those with whom I have acted from early life in political matters called "copperheads," "disunionists," and "traitors." Sir, parrots can repeat words, the meaning of which they have not understanding enough to comprehend. When such words

are applied in debate it is high time for those whose political opinions and associations are thus unwarrantably and unjustifiably assailed to turn around and ask who is the traitor and who is the disunionist. I do not propose to apply the term to the masses of any political party. I believe, on the contrary, that there are hundreds and thousands of good and patriotic people in all political parties. Could the great mass of that political party who refused every offer of compromise and rejected every possible mode of adjusting sectional differences have foreseen in 1860 what they have since witnessed, I do not believe that there are very many of that party, even, who would have hazarded and imperiled all that was dear to the American heart, and brought their country to the verge of disruption; ay, sir, to positive, actual disruption. Some of us did think, even then, sir, that we foresaw the consequences which have resulted from that course. We thought that if the storm could be allayed, if the mad passions of the hour could be calmed, it was a patriotic duty which we owed to ourselves, to our country, and to the world to advise peace, reconciliation, and harmony. But, sir, that was not the spirit that then governed the councils of the country. The interests of party were held to be superior to those of the country. There were, however, traitors then prating of patriotism and accusing others of disloyalty as there are disunionists and destructives now who boast of their devotion to the Union and attempt to impeach the patriotic fidelity of others by the use of vulgar epithets. I do not intend, for one, without uttering my protest, to allow gentlemen who for years and years were engaged in a course of political action in itself contrary to the teachings of the fathers and to the just rights of the people, when war rages in the land, or after the war has ceased, to assume for themselves all the patriotism and denounce all those who oppose their measures as being less patriotic than themselves.

Sir, one of the embarrassing questions with which the fathers had to deal in the formation of the Constitution was the subject of domestic slavery. I do not know that there was much sentimental opposition to slavery in those days. I do not know that it was then talked of generally as being so contrary to the Word of God and the rights of man as it is now. It was not so apparent then that it might become necessary for one section of the country to increase its own representation and to decrease the representation of another section by excluding this class from representation, or by a proffered bribe of superior friendship make them political allies, for it could not then have been foreseen that all the States, except the few southern States where slavery recently existed, would be so soon rid of that institution. At the time of the Declaration of Independence every colony was a slaveholding colony, and even at the time of the adoption of the Constitution of the United States every State except one was a slaveholding State, and their delegates met as the representatives of political communities recognizing the relation of master and slave. Hence, being there as the representatives of States making this recognition, they did not find it necessary to get rid of representation according to population, or to exclude from representation all classes and colors who were not allowed to vote.

The Constitution had not long been in existence, however, before there did arise in this country a few pestilent fellows who commenced presenting their petitions to Congress for the abolition of slavery in the States. In 1819 and 1820, by the gradual abolition of the institution of slavery in the northern States—some were so unkind as to say that their slaves were sold down South; I do not know anything about that—sectional power had become so nearly and equally balanced that when Missouri applied for admission into the Union what did we

hear? We heard the text from the mouth of Rufus King, of New York, which has been attributed, I believe, to Mr. Seward. Mr. King in that controversy declared that no laws and no constitutions could bind the conscience of the people, and that he would not recognize any such constitutional obligations as those imposed by the Constitution in reference to the rendition of fugitive slaves.

That difficulty, by the wisdom of the distinguished statesman from Kentucky and those who acted with him, was happily adjusted. But, sir, abolitionism was not content. It was comparatively quiet for a few years; but between 1833 and 1838 it convulsed the whole land by the presentation of petitions to Congress to do an unconstitutional act; and when Texas, by the constitutional act of Congress and the Executive of the United States, was admitted into the Union, abolitionism howled and threatened to do just what the southern people have vainly attempted to do. While I am on this matter, though I do not propose to attack any State or the people of any State, but as it is relevant to the question, I propose to read something that was said in another section of the country. I do not wish to make a sectional speech, but I do it for the purpose of showing that if the action of the southern people has been wrong, there are other people in this country who have been criminal also, and therefore when you meet in legislative halls, it should not be to legislate in the spirit of vengeance, but you should take into consideration the circumstances in which those people were placed, and the doctrines which they were taught to believe and the doctrines which you yourselves taught them to believe. Now, sir, when that subject of the annexation of Texas was being agitated, what do we find? We find Massachusetts resolving, as follows:

"Resolved, That the power to unite an independent foreign State with the United States is not among the powers delegated to the General Government by the Constitution of the United States."

"Resolved, That the Commonwealth of Massachusetts, faithful to the compact between the people of the United States, according to the plain meaning and intent in which it was understood and acceded to by them, is sincerely anxious for its preservation, but that it is determined, as it doubts not the other States are, not to submit to undelimited powers in any body of men on earth. That the project of the annexation of Texas, unless arrested on the threshold, may tend to drive these States into a dissolution of the Union, and will furnish new calumnies against republican Governments by exposing the gross contradiction of a people professing to be free, and yet seeking to extend and perpetuate the subjection of their slaves."

I do not quote this in any unkind spirit toward the people of Massachusetts or any other State, for, sir, I was proud when Massachusetts, South Carolina, and all the States were not only in the Union, but represented upon this floor, and if their statesmen uttered sentiments and advanced opinions which did not meet the approval of my judgment, I was not one of those to question their independent right to do so. But I say here that by her legislative resolve, Massachusetts, in 1844, used, in effect, the very same language which the Legislature of South Carolina and the people of the other southern States have used since. But, sir, that is not all. She passed some more resolves in 1845, the first of which I will read:

"Resolved, That Massachusetts has never delegated the power to admit into the Union States or Territories without or beyond the original territory of the States and Territories belonging to the Union at the adoption of the Constitution of the United States; and that in whatever manner the consent of Massachusetts may have been given or inferred to the admission of the States already by general consent forming part of the Union, from such territory, the admission of such States, in the judgment of Massachusetts, forms no precedent for the admission of Texas, and can never be interpreted to rest on powers granted in the Constitution."

The cause that led the South finally to take the fatal step of attempting to secede was the agitation of this slavery question by that portion of the people who were not at all interested in it, and the desire of a few men in the South to break up the Union; for I do not doubt there were such men in the South just as there were



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in Massachusetts and other sections of the country. I have no doubt there were a few men in both sections who wished to break up the Union for the purpose of breaking it up; but the great mass of either section did not want the Union destroyed. While I am on this subject let me refresh the minds of gentlemen on the other side who choose to give me their attention, and remind them that if the South attempted to secede, you taught them the doctrine. You had advocated it yourselves, and in its advocacy you were just as criminal as they, and in some respects, not only in its advocacy, but by your practical actions, you were just as criminal as they. You say that the southern States had no right to secede. Admit it; I think so, too. You say that they had no right to oppose a constitutional act of Congress. So say I. But, sir, you threatened secession yourselves, and you proclaimed—when I say “you” I mean your people in the northern States—that secession was a constitutional right. The first writer upon the Constitution of the United States, whose work was generally recognized, and which was, until a very late period, if it is not now, the text-book at your Military Academy at West Point, as I am informed, distinctly and plainly announced the right of a State to secede. You placed that book in the hands of the students in your Military Academy, and some of the ablest men in the land proclaimed that the doctrine was true. It was a doctrine the rightfulness of which had never been decided by any authority having the power to execute its decrees.

Before citing Mr. Rawle on this point I will state that the people of the northern States had in fact done the same thing that the people of the southern States have done, except that they did not meet in convention and attempt to repeal the act by which they ratified the Constitution of the United States. But, sir, can you not oppose the law and the Constitution without repealing your ratification of the Constitution? If the people of the southern States used force in asserting their right to oppose Federal authority, and you have done the same, what is the difference? During the existence of the fugitive slave law, a law enacted by the law-making power of the land, recognized by the judicial tribunals of the States and of the United States to be constitutional and binding, did you not oppose it? What, allow such an act as that to be executed within the limits of the northern States! It was sometimes executed and it was sometimes opposed, and opposed by force, and blood sometimes ran down your streets in the attempt to execute that law. In this aspect of the case the difference between portions of the northern people and a portion of the southern people was not a difference in principle; it was only a difference to the extent of the exercise of the power of resistance; the principle was the same in both cases, and it was as fully treasonable in Massachusetts, Ohio, or Wisconsin to oppose by force the execution of that law as it was in South Carolina to fire on Fort Sumter.

We know there were men in all sections of the country who honestly believed in the right of a State to secede. You did not, sir; nor do I; but I will show you who did. Mr. Rawle, in his day the great lawyer of Pennsylvania, and who was offered by Mr. Jefferson more than once the office of Attorney General of the United States and declined it, in his work upon the Constitution, says this:

“The Union is an association of the people of republics; its preservation is calculated to depend on the preservation of those republics. The people of each pledge themselves to preserve that form of government in all. Thus each becomes responsible to the rest, that no other form of government shall prevail in it; and all are bound to preserve it in every one. But the mere compact, without the power to enforce it, would be of little value. Now, this power can be nowhere so properly lodged as in the Union itself. Hence the term guarantee indicates that the United States are authorized to oppose, and, if possible, prevent every State in the Union from relinquishing the republican form of government, and, as

auxiliary means, they are expressly authorized and required to employ their force on the application of the constituted authorities of each State ‘to repress domestic violence.’ If a faction should attempt to subvert the government of a State for the purpose of destroying its republican form, the paternal power of the Union could thus be called forth to subdue it. Yet it is not to be understood that its interposition would be justifiable if the people of a State should determine to retire from the Union, whether they adopted another or retained the same form of government, or if they should, with the express intention of seceding, expunge the representative system from their code, and thereby incapacitate themselves from concurring, according to the mode now prescribed, in the choice of certain public officers of the United States. “The principle of representation, although certainly the wisest and best, is not essential to the being of a republic; but to continue a member of the Union it must be preserved, and therefore the guarantee must be so construed. It depends on the State itself to retain or abolish the principle of representation, because it depends on itself whether it will continue a member of the Union. To deny this right would be inconsistent with the principle on which all our political systems are founded, which is, that the people have in all cases a right to determine how they will be governed.”

I refer to this, not because I hold to the doctrine of secession, or ever did, or ever uttered such a sentiment, but to show that in his day the ablest writer upon constitutional law in this country, and whose work you placed in your Military Academy, held distinctly and unequivocally to the right of a State to secede. I cite it not to say that it is true, but to make an appeal to this Senate, to you, sir, and to the country, that if men have been taught by the ablest writers upon constitutional law to believe it, if it was a common belief among the people in one section, and if it was adopted and avowed by whole States in the other section of the country, and they unhappily, having erringly essayed the ways of secession, now find themselves unsuccessful and helpless, but honest in their conviction of right, it is no cause for vengeance at your hands; and because they have acted upon their honest belief of right, you have not a right to come into the Congress of the United States and deny them equal representation according to the Constitution, and to impose upon them unjust and unequal taxation. Happy, sir, would they be to be here, through their representatives, in peace, acting in harmony with you. In the spirit of vengeance and for the purpose of retaining political power in your hands against the will of the people, you unconstitutionally bar these doors against those representatives and impose upon them unjust burdens, and deprive them of clear constitutional rights.

Sir, your leading men, as well as those of their section, taught them that this doctrine was a true doctrine. You taught it to them in the council chambers of the nation. We hear a great deal of censure with reference to the southern gentlemen who avowed this doctrine upon this floor and the floor of the other House; but, sir, in some portions of the other section of the country they have idolized men who have preached the same doctrine, as I will proceed to show. When the question of the admission of Louisiana into the Union was before the House of Representatives in 1811, Mr. Josiah Quincy, an able Representative from Massachusetts, in opposing it, said:

“To me, it appears that it would justify a revolution in this country, and that in no great length of time may produce it.”

Under the sanction of this rule of conduct, I am compelled to declare it as my deliberate opinion that, if this bill passes, the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation—amicably if they can, violently if they must.”

What did the southern gentlemen when they were in this Hall say more than that? And yet Mr. Quincy was never visited by his section of the country with any dire punishment or any mark of disapprobation for uttering this doctrine. Having shown that the course pursued by the citizens of the southern States was a course having the approval of their leading men, and that the same doctrine had the approval of leading men in other sections of the country, I have accomplished my purpose, it

being simply to ask you, if that be true, whether they are in such a condition as to merit a further visitation of punishment even if you had the power to inflict it after what they have already suffered?

While referring to the work of Mr. Rawle, I wish to notice for a moment one ground upon which authority is claimed for this kind of legislation. It is said that Congress by the Constitution is bound to guaranty to every State a republican form of government. Mr. Rawle says that when a State resolves to go out of the Union, that clause does not apply. Let us see whether it does or not. It is claimed that you have authority to pass this joint resolution because the southern States withhold the right of voting from the negro population, and that Congress have a right to withhold representation in Congress from a State, or the adhering States, upon the basis provided for in the Constitution until the right of suffrage shall by authority of such State be extended to all the inhabitants of such State without distinction of race or color, and that this right in Congress is founded in or based upon its authority and duty under the Constitution of guarantying to each State a republican form of government; no government being, according to the opinion of the advocates of this theory, republican in form under which universal suffrage is denied. Indeed, so wild and extravagant has opinion become in radical circles in reference to this question, that it is gravely contended by some that Congress can by simple legislative enactment declare that all persons without any sort of distinction shall be entitled to the full and free enjoyment of the elective franchise within a State.

The words of the Constitution are, “The United States shall guaranty to every State in the Union a republican form of government.” What is the true meaning of this provision of the Constitution? By it a legal relation is created, and by it a contract is formed. There are parties to that relation or contract; those parties are the United States as guarantor and the State as guarantee. This relation necessarily creates an obligation in reference to the United States, and imposes a duty upon them. It also gives the right to a State to demand, whenever the necessity shall exist, the discharge of that obligation and the performance of that duty. But who is to determine when this duty is to be performed? Is the guarantor to make haste to redeem his pledge when the guarantee is perfectly satisfied? Is he to pay before demand, before notice, and when his kind offices are respectfully declined? If a portion of the people of a State in the Union shall attempt, or if any extraneous power shall attempt, to subvert the republican form of government in such State, the United States shall upon application of the legal authorities of such State, see to it that its republican form of government shall be maintained.

But suppose the entire people of a State, speaking through their State organization, their regularly constituted authorities, say, “We do not want a republican form of government.” Suppose your State (Connecticut,) New York, or any other State says so, what are the United States to do? You answer, send an army there and make them have it. We are bound to force republicanism upon a people whether they desire or disdain it. If they do not want it, we will whip it into them. Do you not see that this is destructive of the very essence of republicanism, which consists of freedom of choice? Sir, I always thought that the existence of the guarantee asking the performance of duty and the discharge of obligation was as necessary in law as the existence of the guarantor. Sir, this clause of the Constitution was never meant to be applied to a case like that we are now considering. It was meant to protect a State against the violence of faction, against the attempt of a portion of the people of a State combining together or acting in conjunction with others not of the State to subvert its repub-

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lican form of government while such State was a member of the Union or desired to maintain its relations to the Federal Government. The framers of the Constitution were too deeply read in history not to know that all Governments were liable to internal commotions, to convulsions, and to disruptions. They doubtless supposed it possible that this Government might be subjected to dangers of this character. But, sir, they did not provide specifically in the Constitution against the attempt by one third of the States to withdraw themselves from the Federal Union or for the employment of military force by the adhering States, acting through the agency of the Federal Government, to compel adherence by the other States to the Federal Union. In fact, it may safely be asserted that the framers of the Constitution, if we are to judge of their meaning by the just interpretation of their language in the exposition of that instrument, anticipated and justified the use of force on the part of the State governments to repel usurpations on the part of the Federal Government should such attempts at usurpation be made. Says Mr. Hamilton, (Federalist, No. 28:)

"It may safely be received as an axiom in our political system, that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select men as of the people at large.

"The Legislatures will have better means of information; they can discover the danger at a distance, and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty."

Again, in the Federalist, No. 45, Mr. Hamilton remarks:

"But ambitious encroachments of the Federal Government on the authority of the State governments would not excite the opposition of a single State or of a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combination, in short, would result from an apprehension of the Federal as was produced by the dread of a foreign yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case as was made in the other. But what degree of madness could ever drive the Federal Government to such an extremity?"

Sir, we unhappily have witnessed and suffered from this exhibition of madness on the part of both the State and Federal Governments; and to-day we are dealing with questions of the most momentous character resulting from the indulgence of this spirit of madness. Relieved from the horrors of the battle-field, we find ourselves in the midst of a frightful civil revolution, that threatens the destruction of our very system of government. If the attempts of the revolutionists are not thwarted they will pull down the pillars of the Constitution and convert the once free Republic of the United States into the worst despotism on earth.

But to return. A republican government may exist and be a very different sort of government from that under which we have lived. There are many different kinds of republics, and one Senator has enlightened us by reading from all the old musty books he could find in the Congressional Library definitions of republican governments, under the supposition, I suppose, that when the clause was placed in the Constitution that the United States should guaranty to every State a republican form of government, its framers meant they should not guaranty to the States the kind of old republics that used to exist, and not even the kind of governments that existed in the States when the Constitution was formed. Why, Mr. President, do you suppose the framers of that Constitution, when they made it, did not suppose they themselves were living under a republican form of government? Did they mean by placing that guarantee in the Constitution, to guaranty

to the States another kind of republican form of government, or one having more extensive privileges of a republican character, than the one existing at the time? In those days, in many of the States, there was a property qualification for voting, and negroes were excluded in most, if not all of them, and notwithstanding the very framers of the great model Republic themselves lived in States recognizing this inequality of rights, we have some of the advocates of this joint resolution placing it upon the ground, when asked for the constitutional authority to enact it, that Congress has a right, under that clause of the Constitution, that the United States shall guaranty to every State a republican form of government, to pass this resolution. The proposition is too absurd for argument.

This brings me to notice for a few minutes what is the true situation of these southern States, what are the rights of the people, and whether they have any rights. I know that I differ on this subject with not only gentlemen on the other side of the Chamber, but I have no doubt I differ with many gentlemen with whom I act politically. In 1862, in a speech on confiscation in this body, when it was dangerous for men to utter their honest sentiments, even in the Senate Hall and in the Hall of the House of Representatives, I took the ground that a State had no constitutional right to secede from the Federal Union, and that if it had any right of resistance at all it did not arise under the Constitution, but independently of it, and only when evils became so insufferable that it would be better to resort to war to redress them than to further bear them. I maintained then the doctrine which I maintain now, and as I escaped a fort and bastille then for the utterance, I presume now, since there is no further use for Fort La Fayette and Fort Delaware and Fort McHenry under the more enlightened present administration of the country than of the late one, I may repeat a doctrine which I then held, and which I believe to be founded in correct principles of law, that if the State had no right to secede, but did secede, or half a dozen or a dozen States seceded and established a government having the power to enforce its commands and to punish disobedience to its commands; the Government of the United States being the Government *de jure* and that other government thus wrongfully established, if you please, being the government *de facto*; the Government of the United States not having the power to protect the people of those States from the consequences of disobedience to the command of the government *de facto*, and the government *de facto* having power to punish them if they did not yield obedience, it was not treason in the people of those States, being thus circumstanced, to act in obedience to the commands of a government *de facto*; the Government *de jure* withholding its protection from them, it was not treason in those people in the eye of the law, and that upon a fair trial before any impartial tribunal in any State of this Union a man so circumstanced could not legally be convicted of treason.

I say nothing in reference to the men who set a revolution in motion; who attempt to revolutionize and break up a Government; but, sir, there never was any people on earth yet, the whole of whom were traitors and ought to be punished as traitors. Men who deliberately plot the destruction of a Government, and make war upon a Government by uniting with mobs or great masses of men, and not acting under the commands of a Government that can compel their obedience, may be liable to the penalties of treason, and are liable to the penalties of treason; but the great mass of the people living under a Government, although wrongfully established, having the power to punish them if they refuse to obey its commands, and yielding obedience to authority and power which they cannot resist, are not

traitors; and so it has been decided before this civil war was fought, or even before your Constitution was framed. The doctrine is older than Blackstone, and is cited by him as law. His language, volume four, page 221, is:

"A usurper who has got possession of the throne is a king within the meaning of the statute, as there is a temporary allegiance to him for his administration of the Government and temporary protection of the public; and, therefore, treasons committed against Henry VI were punished under Edward IV though all the line of Lancaster had previously been declared usurpers by act of Parliament. When, therefore, a usurper is in possession, the subject is excused and justified in obeying and giving his assistance; otherwise, under a usurpation, no man would be safe if the lawful prince had a right to hang him for obedience to the power in being, as the usurper would certainly do for disobedience."

I invite you to turn your attention at your leisure to Dallas's Reports, and you will find—I will not say the volume is full of such cases, but you will find many cases of this character: when Pennsylvania set up an independent government for herself and renounced allegiance to George III; when she established a government of her own, and even before she united with the other colonies under any Articles of Confederation, persons who within six and twelve months after the establishment of that single State government refused to yield obedience to it and joined with the Tories of the Revolution, and adhered to the interests and fortunes of George III, were indicted and convicted and executed for treason against the State of Pennsylvania; and upon what principle? A doctrine clearly recognized in law and fully stated there, that Pennsylvania having established a government *de facto*, with powers to compel obedience, to punish disobedience, and to afford protection, and allegiance and protection being reciprocal, and George III not having it in his power to protect them against the commands of the government of the State of Pennsylvania, their allegiance was due to the State of Pennsylvania after the establishment of such a government.

Now, Mr. President, let me ask you this question: is it possible that there is any such law in this land, or is it possible there ever was any such law in any Christian land, that a man shall be liable to be punished if he does a thing, and that he shall be liable to be punished if he does not do it? Here are two governments claiming the right to control the action of the individual citizen of a State. The one which is the rightful government, the Government of the United States, if you please, and which, perhaps, he would gladly serve, has not the power to protect him, or having the power, fails to exercise it in his behalf, yet declares that if he yields obedience to the government which has the power to punish him, "If he refuses to obey it I will hang him;" and the other government, the government *de facto*, says, "I have got you in my possession; if you do not yield obedience I will hang you." Is there any such law that a man shall be subjected to the penalty of death for yielding to circumstances which he is unable to resist and against which there is no power that can or will protect him?

Vain will be the boast of our love of liberty and our regard for law should we in practice discard the humane and just principle announced by Blackstone, and attempt to act upon a principle which the Government of England for four hundred years has repudiated, and which is not recognized to-day by any civilized Government on earth.

Why do I refer to this principle? The ignorant, the thoughtless, a miserable vitiated press may say, "because there is sympathy with traitors and treason." I never notice the utterances of fools. It is because we find ourselves placed to-day, in legislating for our country, in a situation that imperiously demands of the American legislator to think, and think properly, and to so apply his action that injustice and wrong and cruelty and crime shall not be committed simply to appease maddened partisans and superlative patriots who perhaps amid the hours

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of battle skulked and hid and robbed the Treasury, and cried "copperhead" and "traitor" against others.

I call your attention to this principle of law as applicable to the great mass of the southern people, and ask you, sir, if that be their legal status and real condition, whether your proposed legislation, even had you the constitutional authority to justify it in the absence from this Chamber of their representatives, is just and right, and whether those persons should be excluded from a participation in the Government or their representation in it diminished simply because they have yielded obedience to a power that they could not resist and a power against whose commands you could not protect them? Why, Mr. President, the honorable Senator from Pennsylvania [Mr. COWAN] the other day, in that very able and exhaustive speech which he made on this subject, a speech which would do credit to any American statesman that this Government has ever produced, showed you that the number of people in these southern States who were really anxious for disunion was comparatively small, and yet, although there were comparatively few who really desired the breaking up of the Union and who took steps to do it, your legislation proposes to deprive the whole mass of a constitutional right by a poor, miserable effort to amend the Constitution in the absence of everybody that is to be affected by it.

Now, suppose your constitutional amendment passes. If it passes, it ought to meet with the respect of somebody. If this constitutional amendment shall be presented to the States who are now represented in Congress and shall be adopted by simply three fourths of those States, is there anybody that will have the least respect for it? Then suppose you could go with the bayonet, which I think now under the brighter dawn of a better day which we begin to realize you are not going to have the liberty to do; suppose you were to go with the bayonet and present it to the other eleven States, and they, acting under duress, not as free agents and as free men, could get some people in their section so miserable and poor in spirit and craven in soul as to vote to adopt in their Legislatures such an amendment, would it command the respect of anybody in this land? Not at all. Open your doors, sir; admit the representatives of the southern States to seats in this body; require no miserable degrading oath of them; administer to them the very oath that you first took when you entered this body, and the only oath that the Constitution of the United States requires, and the only oath which Congress has any right to exact, an oath to support the Constitution of the United States; and then if you think your Constitution is defective, if you think it needs further amendment, or if you have not sufficiently exhausted your bowels of mercy and love and kindness toward your sable friends whose shadows darken this gallery every day, submit your amendments to the States represented in the Congress of the United States; and if they choose, acting freely as citizens of their States, to agree to your amendments, it will command the respect of themselves, but still it will not command mine. I should despise a people who would voluntarily assume so degrading a position.

Mr. President, I will continue these desultory remarks for a moment longer, because another idea suggests itself to my mind, and because, perhaps, I shall present a view which I know will not be recognized by gentlemen on the other side, but which I never have had any doubt of since the commencement of this war. You said—and this is not a new point, but we keep ringing it in your ears—you said directly after the inception of this war, that it was prosecuted for certain purposes, not for the destruction of any institutions or rights of the States, but to restore the Union with all the rights of the States unimpaired. I have looked carefully through the Constitution to see where it is that

you get the right to make war upon a State. I can see no such right arising under any provision of the Constitution; but still I do see where the Federal Government has a right to resort to force to put down opposition to its constitutional authority. If I held the views which I have read to you from Mr. Rawle, I could not admit the right in this Government to exercise force within a State except to put down insurrection or rebellion, or to suppress domestic violence, which are nothing but the operations of unorganized men, not the operations of political communities. But, sir, admitting the right in the Federal Government to use force to put down, if you please, the unanimous opposition of the people of a State to remaining in the Federal Union, what is the basis of your authority? From what source is it derived?

Why, Mr. President, if this had only been a league between the States, or the simplest kind of confederation, it has been held, I believe, by all writers that the violation of a league or of a treaty as between independent nations gives the right to resort to force. There is another principle applicable to nations as well as to individuals; it is this, that the great overruling principle of self-preservation gives the right to use force. Applying this principle this war was treated in its earliest stages as an insurrection and rebellion, and I believe that the late President of the United States never called it anything else than an insurrection. He may occasionally have called it a rebellion. It was treated in this Chamber as both an insurrection and rebellion. Here lately, when it becomes necessary to declare that these States are not entitled to representation in Congress, some persons who formerly adjudged it only to be an insurrection or a rebellion find out that it was a great civil war. The mistake they make is not in calling it a great civil war, but in attempting to apply to a civil war between independent States, united together for common purposes, under a written constitution of government, the principles applicable to wars among foreign Powers.

Now, Mr. President, here is a point to which I wish to call your attention and the attention of the country. If you have any right to make war to prevent a State seceding from the Union and setting up an independent government, you have that right only for the purpose of compelling that State to live up to the contract that she made when she entered the Union with you, or because the exercise of that right is necessary to your self-preservation. It gives you no right of government over that State, to hold it as your property, to appoint for it a territorial government, or to limit or abridge its right in any respect after the opposing forces shall have been once subdued and peace shall have been restored. Between political communities there is no chosen umpire to decide. Each decides for itself. This was the doctrine laid down by the fathers, and the doctrine cited the other day in the very able speech of the honorable Senator from Maryland [Mr. JOHNSON] from the writings of Mr. Madison. The judicial powers of the United States only extend to questions of law and equity arising under the Constitution. While it is, therefore, competent to decide upon questions of law and equity between individuals, it has not the power to decide great political questions unless you find that power delegated to it in the Constitution. Then, sir, I liken this case of a controversy between one portion of the States adhering to the Federal Government, and another portion of the States attempting to throw off their obligation to that Federal Government, to the case of a contract between individuals. There is no common arbiter to decide between these States. If it was a case in chancery between individuals, one party to the contract filing his bill of complaint, showing that he had faithfully performed his part of the agreement, might ask for a specific performance of that contract

as against the defaulting party, and he might have a decree for the specific performance of that contract, but the chancellor could not interpolate anything in that contract. It must be performed according to its terms. So among the States of this Union, if a controversy arises, as has arisen, the great chancellor or umpire to which an appeal is made is war. The same principle is applicable to a controversy of that kind, and in a tribunal of that kind, as is applicable to the civil case to which I have referred, in equity. Then your right to wage war was simply to compel the southern States to remain in the Union upon the terms that they agreed to live in the Union with you.

The principle, then, for which I contend is this: that when once the military power of the so-called confederate States has been put down; when there is no further resistance to the rightful exercise of the Federal authority, they are in the Union with all the constitutional rights of States in the Union just as fully and completely as if they had never attempted to secede. During the war honorable members of this body contended, just as inflexibly as I did, that those States had no right to go out of the Union. You all said they could not go out of the Union. You all said they should not go out of the Union. A bloody war was waged for four years to decide that issue; and after it is decided by the wager of battle, and peace reigns throughout the whole land; when you find the people of those eleven States not only anxious to live in peace with you and to resume their relations with the Federal Government, but so submissive that when they are told by telegraph to make an amendment to their constitution they do it; when you find the people throughout the whole of those States manifesting such an anxious desire to get back to their father's house, and to live in friendship and kindness with the other members of the family, you turn around and say no. You preach now practically what they asserted in the commencement of this controversy. They said they had gone out, and you said they had not. They said they would stay out, and you said they should not. And now, when they have shown that they could not get out, and when they are in the old house, you lock up eleven rooms of the thirty-six, and tell them they shall not at present abide in the house; that they shall not come to the common table; they shall not participate in any of the advantages and blessings of the Government; but if they will do something else, something which they are under no obligation to do, and which would be destructive to their interests to do, then they may come here with their representatives. What is that? "You have got some four million people down there that you have never thought entitled to exercise the right of voting; give them that power and come back." You attempt to do by indirection what you must know you cannot do directly; for you must know that there is not one of those eleven States in whose sons there is a particle of manhood that will ever submit to this amendment. Let them live in peace; that they ought to do. Let them obey the Federal law; that they ought to do. And if they be denied this right of representation, and are still taxed, let them be patient and learn to wait, for a brighter day is dawning. At the head of this nation to-day there is a man whose patriotism you never doubted in the darkest hour of the country's troubles, who has placed himself fairly and squarely upon the great republican doctrine of representation according to population, and of the right of each and every State to decide for itself who shall, or who shall not, exercise the elective franchise within its borders.

I have alluded to the fact that the present Executive has planted himself upon this great doctrine. I am not of his party. I did not vote for him. If there is any difficulty in the Republican party; if there is distraction in their councils, and divisions between them and the Executive, I have a right, without being of



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their party, to approve by my vote of a principle which I asserted and acted upon before the division among themselves.

But, sir, is there any *bona fide* intention now of permitting these southern States to be represented in either House of Congress, at least until after the presidential election? Can it be said that the object of all this is political? Are these States to be denied the exercise of a clear constitutional right—representation; are they to be taxed, and are their representatives to be kept out of the Halls of Congress until there shall be another mockery of an election in favor of the party in power? What does this mean? Although it is not in order to refer to what has been said, as I understand the ruling of the Chair, in the House of Representatives, it is in order, I believe, to read a joint resolution reported by the committee of fifteen, and introduced by them in the House of Representatives, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States be fully established, and did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form, and not inconsistent with the Constitution and laws of the United States, and a State government has been organized under the provisions thereof, which said provisions, and the laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union, and can only exercise the same by the consent of the law-making power of the United States: Therefore,

The State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States, upon the express condition that the people of Tennessee will maintain and enforce in good faith their existing constitution and laws, excluding those who have been engaged in rebellion against the United States from the exercise of the elective franchise for the respective periods of time therein provided for, and shall exclude the same persons for the like respective periods of time from eligibility to office; and the State of Tennessee shall never assume or pay any debt or obligation contracted or incurred in aid of the late rebellion; nor shall the said State ever in any manner claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever; which conditions shall be ratified by the Legislature of Tennessee, or the people thereof, as the Legislature may direct, before this act shall take effect.

My first remark is that there is no constitutional authority in Congress to say upon what terms or conditions Tennessee shall be a member of the Federal Union. "Congress may admit new States into this Union," says the Constitution. Congress may exercise delegated powers, and can exercise none but delegated powers. Under this delegated authority Congress did by act, approved June 1, 1796, admit Tennessee into the Union as a State. There is no power delegated to Congress to expel a State from the Union, or declare that a State once a member of the Union is out of it, or the terms and conditions upon which a State shall remain in the Union. If Congress may do this in reference to Tennessee it may do so in reference to Pennsylvania or New York. When new States are admitted into the Union they are in the equals of the original States, and are no more subject to the power of Congress than are the original States. It will not be pretended that the original thirteen States became members of the Union through the action of the law-making power of the Government. They became such members by their own separate ratification of the Constitution. This unconstitutional form for the recognition of Tennessee is to be the form to be applied to Virginia, North Carolina, South Carolina, and Georgia, original States, the creators in part of Congress, and of the executive and judicial departments of the Government, States without whose co-operative action Congress would never have existed, or the Union itself have been formed. Congress never had authority to say whether one of these original States should be members of the Union or not, and yet Congress modestly asserts the power of deciding whether they are

members of the Union. I believed when you were preaching Union and charging others with being disunionists that you meant disunion, because I knew you were violating daily the Constitution of the country, the bond of the Union, and by the exclusion of representatives from the southern States from Congress, and the assumption of the right to determine whether those States are in the Union, and the presentation of the joint resolution in reference to Tennessee, and the determination thereby that she is not in the Union and can only be so upon the conditions therein contained, the party in power conclusively prove themselves to be disunionists.

What does the resolution propose? It declares Tennessee to be one of the United States of America, on an equal footing with the other States, and then annexes conditions providing in effect she shall never alter her constitution; that certain persons shall not be allowed to vote; and providing that certain persons shall not be allowed to hold office. All these are conditions annexed to a State on an equal footing with the other States in the Union, and the resolution expressly declares that it shall not take effect until Tennessee agrees to accept the proposed terms of recognition. Why, sir, would Tennessee or any other State be in the Union on an equal footing with the other States, would she be an equal member of this Union, with such clogs and conditions as these annexed? You of Connecticut can exclude negroes from voting; you may make a qualification as to white men; you may admit men who have been engaged in the rebellion to share in the councils of your State and exercise the right of suffrage; but Tennessee, if she is in the Union, cannot be in the Union on equal terms with you. Sir, the time was when any State of this Union would have spurned any such offer of equality. I will not enter into the discussion of this resolution now. I only refer to it as of a kindred nature and character with the proposed amendment of the Constitution and the resolution which has passed both Houses saying that those States shall not be represented in Congress until Congress shall pass an act declaring them entitled to representation.

I have already detained the Senate too long, much longer than I anticipated. If I know my own heart, Mr. President, I have no other desire than to see this afflicted and distracted country once more in the enjoyment of all the blessings and all the constitutional rights which it enjoyed before the unfortunate civil war. If I have referred to the action of States which never assumed to secede from the Union, it has been simply to show that if there has been fault in the southern section of the country, there has been fault among themselves. I have no doubt that there have been bad men in all sections of the country; that there have been unwise men in all sections of the country; that politicians for the sake of party triumph in their respective States have uttered sentiments, avowed doctrines, and advised a policy which had they known would have led to such disastrous consequences as have resulted from them, they would not have uttered or advised. But now, sir, the clangor of arms is hushed, peace reigns everywhere, and there is not a member in either House of Congress who believes that if the representatives of these southern States were admitted into these Halls—constitutionally they have the right to be here—there would be any attempt whatever again to disturb their peaceful relations to the Federal Union. They know that war has its calamities. There are too many hearths around which fond parents with bleeding hearts sit in anguish to-day; there are too many new and precious graves on southern soil; there are too many wounded and lame; there are too many young men in the fullness of promise and the brightness of hope who have gone down to an early grave for the people in the southern States again to

wish to renew this fruitless strife. Beware of danger, not from them, but from yourselves. Injustice and wrong cannot always be practiced with impunity.

We are told by the Senator from Massachusetts, [Mr. SUMNER,] in the elaborate speech that he made—and we heard it from the Senator from Illinois, [Mr. YATES]—that if the right of suffrage was not given to this negro race there would be trouble. I do not know whether the remark was made as a threat or predicted as a consequence; but this I do know: if your policy is to be forced upon the country, and if you do keep from representation in Congress these States until they ratify what they never will ratify, you may meet with trouble in quarters where you least expect it. I ask you, sir, to consider a moment these important questions. Suppose you, for the accomplishment of mere party purposes, exclude representatives from these eleven States from admission to the Halls of Congress until after the next presidential election; suppose the party opposed to you in the States which have never been in revolt nominate an electoral ticket; suppose that these excluded States also nominate an electoral ticket; and they will, undoubtedly; and suppose those who are opposed to your policy shall have a majority of the Electoral College; suppose you simply, because you have kept out Representatives from the House of Representatives, should refuse to count those votes, and should declare that a minority candidate of the whole people of the United States shall act as the chief executive officer of this Government for four years more, do you believe the people would submit to it? I do not know what they will do, but I know you had better not attempt it.

#### Apportionment of Representation.

#### SPEECH OF HON. LOT M. MORRILL,

OF MAINE,

IN THE SENATE OF THE UNITED STATES,  
March 8, 1866.

The Senate having under consideration the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States—

Mr. MORRILL said:

Mr. PRESIDENT: I rise to discuss one or two topics connected with this question, and I shall not occupy much of the time of the Senate. That it is important is evidenced from the expression of sentiment in the Senate and in the country. To show, independent of this, that it is important, it only needs to be stated that it proposes to change the basis of representation in the popular branch of the national Congress. Its importance is rendered, I was about to say painfully, significant by the discussions which have obtained upon this floor in the last few weeks, during which it has occupied the attention of the Senate.

It is said to be unnecessary, unimportant, and by one class of Senators that it is unjust to the States, particularly the States which have so recently been in rebellion. It is said, on the other hand, by those who take a different view of the subject, that it is particularly unjust to the freedmen, whom it is the duty of the nation to protect and provide for. It was said yesterday that we violate a great principle of American law and American liberty in the attempt to pass it; that it is fundamentally wrong and unjust to a defenseless and unprotected race, the wards and allies of the nation, whose duty it is to give them protection.

It is plain that between these cross-purposes, if persisted in, the measure is to come to naught. My purpose, so far as I have any object, and so far as I have any method in the treatment of the subject to-day, will be to show that neither of these propositions is just. It is not unjust to the States recently in rebellion; it does not, as is supposed, violate a great fundamental prin-

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ciple of American representative law; and on the other hand, it does not violate, as is supposed, the principles of popular liberty in the person of this dependent race. Upon the contrary, I shall maintain affirmatively that its tendency is in the direction of popular liberty. Although I shall not pretend that it is an adequate measure, and that it deals out full and ample justice to this feeble race, who I believe all must agree it is the high duty of the nation to protect and defend; yet I shall maintain that its tendency is in that direction, and that those who have faith in it, those who would do what they can, now that they cannot do all they would, may accept it, and ought to accept it.

Sir, what is the issue precisely? It is said it is to change the great fundamental basis of representation on the one side. I do not quite agree to that. Rather, I maintain that it is to adjust the nation to the great events of the war. Those who have been at all watchful of the passing events of the last five years doubtless recognize some changes in the condition of the country. The great civil war through which the nation has passed in its march, and in the sweep of its events, has worked radical changes in public affairs. Sir, it has worked among other things a fundamental change in the basis of representation provided for in your Constitution. That change renders this proposition necessary. In the Constitution of the United States representation in the popular branch of Congress was based upon "the whole number of free persons, including those bound to service for a term of years, and, excluding Indians not taxed, three fifths of all other persons."

One of the great changes which have eventuated from this war is an amendment of your Constitution which forever sweeps away from the Constitution of the United States the "other persons" mentioned in the Constitution, and which constitute a portion of the basis of representation. Slavery and involuntary servitude have been swept from the pale of the Constitution; and thus has changed the fundamental basis of representation in the popular branch of Congress. How is the fact, however? Notwithstanding this radical change, the fact is that to-day Representatives from States are demanding admission into the lower branch of Congress based upon the system of slavery, which is among the things that were; which is altogether in the past. The question is presented, shall the American Congress admit into its councils some thirty Representatives in the lower branch of Congress based upon a provision of the Constitution now rendered obsolete by the changes to which I have alluded? Why, Mr. President, to do that would be to bring again into your presence the institution of slavery itself. It would be to say that, notwithstanding events that have transpired, you still recognize its existence as a political power in the nation. To-day, thirty Representatives, in theory and in fact, demand admission into the lower House of Congress based entirely upon the representative system as originally provided for by the Constitution of the United States, ignoring all changes.

To those who deny that an amendment to the Constitution is necessary I ask, how are you providing for this obvious change in the representative basis? The provision of the Constitution providing for representation based on three fifths of the "other persons" no longer exists. How shall equal and just representation be provided for? Some amendment is rendered absolutely necessary, unless the American Constitution is to give to the nation the expression of utterly contradictory sentiments, saying involuntary servitude no longer exists, in one portion of it; in another bearing on its front, in marked contrast, that three fifths only of the "other persons" are to still constitute the basis of representation.

Mr. SAULSBURY. If my friend will allow me to interrupt him, I will ask him whether he is in favor of giving to the southern negroes a

right to vote, and whether he means to exclude the southern States from the right of representation because they do not allow the negroes to vote.

Mr. MORRILL. If the Senator will pardon me until I get under way a little, I will try to answer all questions. I say, then, Mr. President, from the fundamental changes which have taken place in the Constitution some amendment has been rendered necessary to preserve its unity and to prevent unequal and unjust representation in the national councils. Thirty Representatives, based on the provision of the Constitution for the representation of "three fifths of all other persons," demand admission into the national Congress, and Senators stand here to oppose, nay, denounce, as unwise, inexpedient, and revolutionary, any amendment whatever. Why, sir, the admission of these thirty Representatives which are based upon this principle of the Constitution, "three fifths of all other persons," means the recognition of the institution of slavery. That is dead, gone, is wholly of the past; and yet its representatives demand admission to these Halls, and we are told that no amendment of the Constitution is necessary. The American Congress is called upon to do that thing, or it is called upon to reform this provision of the Constitution, and adjust to the events of the times.

Now, Mr. President, the committee on reconstruction, looking at this question I think wisely, undertake to adapt the nation to the events of the war. They take notice of a revolution in public affairs, marked and decisive, and which has changed the political and social system in half the nation, and which has wrought a change also in the popular basis of representation; and now propose to provide for the apportionment of representation according to the principles of the Constitution, to place the question upon some basis which shall be in harmony with the principles of the Government. And what is that basis? Substantially it is this: that representation hereafter shall be based upon citizenship. That is the rule; that is the implication of this amendment. Heretofore representation was based upon free persons and upon three fifths of "all other persons." "Three fifths of all other persons" being stricken out of the Constitution, the committee go upon the assumption that all are now free persons, and being free persons they are citizens, and being citizens they are entitled to representation, and if any State undertakes to deny them representation, to deny them suffrage, that State shall not represent them to that extent. In its endeavor, it is just. It is on the side of popular rights. It has an implication in it, perhaps, which is unjust; but as an endeavor, it is in the right direction. It is saying to these States, "We recognize the principle of citizenship as the basis of representation; you must recognize it or you must not represent those to whom you deny the right."

With this statement I justify the vote which I shall give for this amendment. I think the amendment on its face stands self-justified in the situation in which we are placed. I shall proceed to examine some of the objections which are brought against the adoption of this amendment. It is said that any amendment of the Constitution in these times is unnecessary, inexpedient, and unwise. There are a class of Senators here and a class of persons throughout the country who denounce all amendments of the Constitution at the present time as unwise and injudicious. We are told these are not times suited to an amendment of the fundamental law. I have already adverted to some of the facts which I think justify the conclusion that an amendment of the Constitution is our necessity; that to adjust the nation to the great events of the war it has become necessary to amend its Constitution and its general code of laws. But to those who make this objection let it suffice to say that the Constitution contem-

plates its own amendment, provides for it, and it has been of frequent occurrence.

But, Mr. President, I do not forget the history of the past few years. I do not forget that within the last five years a class of statesmen and politicians, who now resist all propositions for an amendment of the Constitution, here and elsewhere urged and demanded amendments of the Constitution of the nation. What were the circumstances then? Several States threatened to dissolve this Union. Several States had taken an attitude hostile to the Government of the country. They demanded the extension, the protection, and the perpetuation of slavery; and upon that question the country was divided. Then amendments to the Constitution were proposed without number here, elsewhere, and everywhere. Amendments to the Constitution seemed to be the order of the day. To what end, and for what purpose? To increase the power in the hands of the few who wielded the political power in those States, and who were demanding it. What is the question to-day? It is the same question precisely in another form. They brought on civil war, rebellion, and insurrection. They have been defeated. The institution of slavery has passed away in form, but it still lives in spirit. It stalks the earth in power. It comes to your Halls and demands admission. It abates not one jot of its power and force. It not only demands admission with the strength that it had when the war began, but it demands that its strength shall be increased by two fifths of its former slave population; that its political power in Congress shall be augmented by two fifths. The slaves, three fifths of whom are represented, are to be stricken out of the Constitution and are to be given to the great body of the American people and counted as numbers, for that is the rule, it is contended. On such basis of representation, then, by the rebellion the South has not only lost nothing, but in the scale of political power those who were capable of being the enemies of the nation, and may be again, have added to their strength two fifths. That is the proposition you have to meet, sir. Is it not plain that the national security demands that this proposition should be adopted?

But yesterday we had an additional reason, a reason which I did not anticipate, given why this amendment should not be adopted, and that was that it was wholly unnecessary, because, it was said, by the events which were transpiring in the country in regard to the recent slave population there need be no apprehension of excess of representation based on the whole "numbers" instead of three fifths, from the important fact that they were passing away. If I gather the force of that argument, it is this: we are to base no legislation and no action upon the idea that this race, recently slave, now free, is part and parcel of the American people, the object of our care, solicitude, and protection; they are passing away, dying; let them be represented as slaves now, and let them never enter into the basis hereafter of the representative system. Sir, that is the old argument, an argument worthy of another period than this. Our people have been an inexorable people in some respects in regard to the races that have been within their power. In the march of our civilization across the continent, the iron heel of that civilization has rested upon the Indian, and he is passing away. We seem to contemplate the probable extinction of the Indians from our limits with composure. He is a nomad; he is a savage; he is a barbarian; he is not within our morals or our code of law; he is not within the pale of the Constitution, but flits upon the verge of it outside our protection, the subject of our caprices, and sometimes, I think, of our avarice. And, now, if any consequence is to be attached to the remark of the honorable Senator from Wisconsin [Mr. DOOLITTLE] yesterday, this "inferior race" is not to be the subject of our solicitude; they, too, are passing

away; it is not worth while to change your Constitution in regard to them; let them be represented as two fifths slaves on the old basis until they shall have perished, and then your Constitution will need no amendment. The laws of a fearful antagonism of superior and inferior races are expected to accomplish what, if American statesmanship does not incite, it contemplates with apparent resignation.

Mr. President, I hail with something like a sense of gratitude the proposition of the committee on reconstruction, because it recognizes at least the great fundamental principle of American constitutional law and liberty, that representation in the national councils ought to be based on citizenship, and so far as the national councils are concerned it shall rest nowhere else. That is the significance of this proposition. Contemplating it in that view I content myself to vote for it, although I think it inadequate to the immediate exigency of the times. I would much prefer to say to these States, "If you desire to be represented at all in these Halls you shall do equal and exact justice to all the citizens of the United States, without regard to color." That is the mandate that should go forth from these Halls. That is the equal and exact justice which this nation should hold out to these men, but recently the enemies of the nation in arms, before they should be permitted to set their feet in these Chambers to represent themselves. But, sir, it would shock the sense of the nation, and I am sure it would shock the sense of justice of mankind, if the American Congress were to allow these people to come here restored to authority and represent the old system of slavery, now dead and buried, and in addition to that allow them a full representation according to the numbers of a race to whom they deny all privileges and rights.

But it is said that an amendment of the Constitution, such as is proposed, is inexpedient at this time. Eleven States, we are told, are demanding seats upon this floor, and are impatient of delay. The honorable Senator from Delaware [Mr. SAULSBURY] the other day became plaintive over the condition of these people and States. He told us their situation was one of suffering and desolation; that they needed representation here; and that they were anxious to be represented upon this floor. That, I submit, sir, is not the highest consideration for the action of the Senate. There are subjects lying back of the desires of these States necessary to be considered. I shall not undertake to recapitulate in detail what has been said by those who, on that side, have addressed themselves to this subject in behalf of these States; but we have been told that it is for the interest of the nation to receive these States into the Union, and that they should be represented on the floors of the two Houses of Congress; that that is the national necessity, higher than any other consideration, higher than that of representation or adjustment of representation, higher than that of protection to the freedmen, higher than that of national justice. We are told that the great political necessity of the times is the admission of these States now, unqualifiedly, without hesitation, and without the judgment or action of Congress. In language quite significant, passionate sometimes, you have been told that these States must be admitted now or hereafter as they are. In the language of the Senator from Kentucky, [Mr. GUTHRIE], "you will have to admit these States, or do worse."

To all such passionate invective I have just one reply, and that is, the actual and legal condition of these States is that of "insurrectionary States." That is their legal designation; that is their legal status. The Congress of the United States, the high legislative power of the nation, the supreme war power of the country, the Executive included, gave them the designation of insurrectionary States. They have been moreover regarded by the world for the

last four or five years as belligerent States. When Congress adjourned here last year that was their condition. It returned to find them here knocking at the doors of Congress, as it was said, with their representation, for admission into the councils of the nation.

Now, sir, if that state of things has been changed, how and upon what authority has it been changed? When the war power of the Government had overcome the rebel forces, at the surrender of the rebel forces, overcome by the power of the nation, what was the condition of these States? General Sherman, acting as he supposed within the scope of his military functions, undertook to recognize these States as existing. Those who remember his military memorandum will remember that according to the provisions of that memorandum these States were to be recognized as in existence; all the officers of the States were to be restored to their offices upon taking the oath to support the Constitution of the United States, and their privileges and their franchises were to be recognized and guaranteed to the people of these States; but what was the result? The President of the United States repudiated it at once. The President held, and held properly, and so did his Cabinet, and so did the country, that these States did not exist as States in the Union; they did not exist civilly; their governments had been subverted. By rebellion and civil war they had abdicated civil authority; their State governments had been overthrown, and therefore General Sherman's memorandum, which would have recognized them, and which would perhaps have brought them upon this floor as States, was repudiated utterly and entirely. The President of the United States very properly and very patriotically held that the proposition that these States were States of the Union, having civil or political existence now that they had laid down their arms, was not a proposition to be entertained anywhere; that their State governments had been overthrown; they were out of their relations with the Union; they were disorganized.

The President went further. When the civil authorities in the rebel State of Virginia undertook to exercise authority, he warned them that such assumption would be treated as usurpation, and they would be held to the strictest accountability by the military authorities of the United States for any attempt to exercise any civil function in the State of Virginia. General Sherman was thus given to understand, and very properly, that he did not understand the great political questions which underlaid the war. It was well enough for him to receive the surrender of the rebel army, but he could not, as a military commander, make terms for the restoration of States and the Union, and by which the authority of those States could be recognized. The President treated their State governments as having been overthrown; that there was no civil officer in all the South who could perform civil functions of any kind whatever. The States and the people were held to be in a state of absolute civil and political disability.

That being the condition of the whole southern country, will anybody show me how it came to pass that these States were resurrected, that these States were "organized," that these States were reconstructed in the absence of Congress and of legislation upon the subject? What were the President's functions? These States, on his view of their condition, had lost their State governments; there were no civil officers, and there could be no political or civil functions. What was his authority? How was he acting? Of course in the double capacity of President of the United States, sworn to maintain the laws and protect the Constitution, and as Commander-in-Chief of the Army and the Navy. As President of the United States, of course he could only enforce the law; but there was no law on the subject. Congress had passed an act providing for the contingency

which had arisen now, but it had failed to become a law; and as to the reconstruction of States there was no law; the nation was without law. Congress had never provided for such a case, and therefore there was no law to execute. The only capacity, therefore, in which the President could act was in that of Commander-in-Chief of the Army. Will it be pretended that as Commander-in-Chief of the armies of the United States the President had any authority to reconstruct States, or, to use his own language, to "organize" States? Not at all. The organization of States was civil and legislative in its character purely. Now, looking to results, what was accomplished in those States? Substantially, I submit, what was repudiated in Major General Sherman's plan. Today, substantially as a matter of fact, these States are restored, if at all, to the same status to which they were proposed to be restored by the memorandum of Major General Sherman.

What was done? Major General Sherman proposed to recognize these States on the condition that the officers should take the oath to support the Constitution of the United States. The condition, it will be observed, was an oath to support the Constitution. Governor Perry was authorized to "organize" the State of South Carolina, for example, on the condition of an oath to support the Constitution, including other things. Both were by military authority, and rest on the basis of an oath. General Sherman's plan contemplated the recognition of the officers of the State upon taking the oath to support the Constitution, and Governor Perry actually restored the officers of the State of South Carolina to their offices upon taking the prescribed oath.

It is needless to say that whatever the President did in regard to these States was necessarily a military act.

My honorable friend from Wisconsin [Mr. DOOLITTLE] undertook to explain this policy, and to tell the Senate as near as he could what were the functions of Governor Perry. He said they were not exactly those of a provisional governor; but he was called a "provisional governor" by the President. He said he was not exactly a military officer, for he was not commissioned thereunto, and could not be without the consent of the Senate; but he was in the nature of a negotiator to negotiate terms of peace. Our case required no negotiation, and admitted of no negotiation. This was a civil war, and the Government of the United States were proceeding against the States waging war upon them, upon the ground that they were "insurrectionary States," and must be overcome, and the insurgents dispersed, subjugated, subdued, coerced, and not upon the ground that they were to be negotiated with.

The truth is, the honorable Senator from Wisconsin undertakes to apologize for an act which he cannot justify, and which he finds no warrant either in the law or the Constitution to authorize. If he was not a "provisional governor," then he could not exercise a civil function. If he was a military governor, then he must have his commission; and as he had neither, he had no office, and could have no function; and that was the condition of Governor Perry. He was an agent, but a military agent, without authority of law anywhere; and the fruit of his labor of course must be irregular. The best that can be said of these States which we are demanded to admit here without consideration and without discretion is, that they are military States. At the close of armed rebellion they had no organization. If they have any now, it is a military organization, an organization which Congress cannot recognize, which Congress cannot respect; an organization which needs the ratification of the legislative authority to make valid. I do not criticize these proceedings to complain of them. It was the province of the President to organize military departments or governments in all that section of the nation that had at length surren-



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dered to its military authority. He might adopt the mode and employ the agents which he deemed best suited to the end. As Commander-in-Chief, he could hold such governments subject to his military power, as he did still continue to do, until the supreme legislative power of the nation should make provision for the case. But could he, as President of the United States, chief Executive, invest these States with the political and civil rights of "sovereign States" in the Union, and at the same time hold them subject wholly to his power as Commander-in-Chief of the Army and Navy? If they are American States in the Union, only lacking representation in Congress, with Governors, Legislatures, and courts, their civil authority restored, on what ground is it that these Governors, Legislatures, and courts are held subordinate to the power of the commanders of military departments; and on what ground is it that the constitutions and laws of those States are set aside and annulled by military orders of the commanding generals? It is that the war is not over; not so been adjudged. The military authority of the President is supreme; the volunteers enlisted for the war not yet permitted to return to their homes; the laws are not yet supreme; and the insurrectionary States have not yet been restored to those relations with the nation essential to peace and repose by the supreme legislative authority.

Now, Mr. President, it is contended that this proposed amendment to the Constitution violates the great American rule of representation embraced in the Constitution, which rule is defined to be "representation according to numbers." I allude now to the argument of the honorable Senator from Maryland, [Mr. JOHNSON.] If I understand his proposition and his reasoning, there are no longer "other persons" mentioned in the Constitution, three fifths of whom constituted a part of the basis of representation. His next postulate is, that these slaves have become freemen, and being freemen, are citizens. I will read an extract from the honorable Senator's speech, in which his view on that subject is much better stated than I could state it:

"Now, as far as relates to the quota of taxation, or as far as relates to the quota of representation, the state of things is materially changed. There are no men, so to speak, who are but three fifths men. We all stand upon the same platform. As we came from nature's God, we stand together upon an equality as far as relates to human rights, and it was entirely unnecessary, therefore, to change the mode of apportioning representation or of apportioning taxation except for some other purpose which did not enter into the estimation of the wise and good men by whom the Constitution was adopted in recommending this particular provision."

This argument proceeds, first, upon the assumption that the "other persons" no longer constitute the basis of representation, and that those "other persons," by the change in the Constitution freeing the slaves, have become free men, and being free men are citizens, and being citizens are entitled to representation. I assume that to be the method of the argument. It is difficult for me to see that there could be any other. The difficulty in the proposition is that "the assumed fact is not conceded to be the fact." Who says that these slaves ceasing to be slaves become free men? I know the honorable Senator from Maryland says so, and it does him great credit; but what is the fact in the States that are interested in this question? Do they say it? No, sir. They hold that when they ceased to be slaves they merely became "freedmen," simply not slaves. But were they interested with political rights and privileges? Not at all. Were they free men? Not a bit of it. Were they citizens? The last thing in the world. They are freedmen simply; and their argument is that according to all law and usage, ancient and modern, the simple act of freeing a slave, if you go no further, does not invest him thereby with all the rights, civil and political, and with all the immunities of the community in which he happens to be. What, then, is the condition of these "freedmen" in these States? They

hold them to-day as altogether outside of the objects of society. They say they never were American citizens. They are Africa in America; that is all; they are not citizens; they are not free men; they have no right whatever which that community is bound to respect; they are more than ever beyond the pale and protection of the Constitution; they have not even a master to serve with an interest in his service to care for his physical condition.

Sir, it does not follow by any means that these men who were slaves are free men, but according to the whole code of the South—morals, laws, and constitutions of the South—the very structure of its society, civil, social, and political, they are outside of the pale of society, outside of the pale of the Constitution. They are not members of the body-politic in any sense whatever. They are nomadic in their relations. They are as if but wandering tribes. They are, in the sense of the Constitution, "Indians not taxed," within the limits for whom we are not responsible, to whom we owe no duty and no protection whatever, and they have abundant authority upon this subject, the highest authority in the country. The Supreme Court of the country has determined, according to the history and according to the politics of the country, that they were never designed to be embraced within the pale of the Constitution, they never belonged to the governing class, were not of the American people, and now they maintain that that people are not entitled to the rights, privileges, and immunities of citizens of the United States. I meet the honorable Senator upon his proposition, and I maintain that it fails utterly and wholly, because, as the matter stands, the freedman is in the power and under the control of these States. They deny his citizenship, claim to determine his status, civil and political, and so far are upheld in it by the nation, and the Senator does not propose to interfere.

The honorable Senator talks humanely, as he always does, but he talks to no effect when he talks upon this proposition that these people, ceasing to be slaves, become American citizens, and then turns them over to the communities in which they are, and upon which they are dependent, and by whom to be governed and adjudged, and especially when he holds that interference on the part of Congress would be a violation of State rights and revolutionary.

Mr. HOWE. If his speech were put into a law it would be all right.

Mr. MORRILL. Yes, if I could put the honorable Senator's speech into a law I would settle this thing at once; but the difficulty is, that out of this Chamber it has not the force of law. It is powerful for persuasion here, but with these States whose representatives he asks us to receive, and whose authority over this subject we are told is conclusive, it is worth nothing.

But, Mr. President, to repeat, if this is a question for the national Government, then my honorable friend (if he will allow me to call him so) from Maryland would be right. If he could back his speech by the authority of the nation and say, "That is the law, and the States shall obey it," then our remedy is complete. Then, sir, ceasing to be slaves, these men become American citizens; they become freemen, and the nation taking upon itself the great obligation to protect its citizens in all their rights would enact that these States should have no representation whatever until they accorded these rights, and we would not leave it optional with them; we would say by authority of law, "If you wish your rights and privileges respected, you must respect the rights and the privileges of the whole body of the citizens of the Republic."

The honorable Senator settles the right of the States to determine the status of these freedmen, substantially, when he holds that it is the right of the States to say whether they shall have the suffrage or not. Suffrage is the highest element, the highest privilege, nay, the highest right of the American citizen. Without it,

all other rights are of little value. Without it, the power to protect his rights is wanting. I maintain that when the honorable Senator argues that the right of suffrage is a matter wholly with the States, and the United States Government has nothing to do with it and cannot deal with it, he denies to the freedmen within the power of the States the great essential right of American citizenship, without which he has no protection, without which, as a race, he must always be subordinate, always be within the power of the men who vote for him. The logic of the argument of the honorable Senator, that these men become citizens by force of emancipation, is negated by the argument that it is a question for the States, and we stand here to-day doing on that argument only what we can do, to say to these people, "If you ignore his rights you shall not vote for him."

Mr. President, suppose they are freemen and citizens; suppose now they belong to the great body of the American people and are part and parcel of it, and that we are one people, the American people are a unit, and there is no distinction of persons before American law; that being the rule, then I take it, the argument of the honorable Senator from Maryland, so far as a question of injustice to these States is concerned, falls to the ground; for if these men are citizens, as he maintains, and they have the rights and the privileges of citizenship, it is the roughest injustice that they should be denied the suffrage; and any law which the Congress of the United States could pass, or any alteration of the American Constitution which the American people could enact, which should deny these people in the South the right to represent the race to whom they themselves refuse representation and yet govern and oppress by taxation, would be in harmony, I take it, by the general sentiment of mankind; certainly such provision would be in harmony with the principles of justice. By what authority, allow me to ask, is it that these States having within their jurisdiction four million human beings, to whom they deny every right known to man, whom they claim to hold to forced labor by black codes and vagrant laws, in their arrogance and assumption turn to the Government of the United States and demand to be allowed to vote for these men thus held in a state of total disability, civil and political?

But, Mr. President, the honorable Senator will allow me to say that I think he is quite at fault in his definition of the rule of American representation. I do not understand, either by the history of that rule or by that which can be drawn from a fair interpretation of the Constitution, that the rule is at all as the honorable Senator understands it. He reads the rule to be representation according to numbers. I maintain that the great American rule is, and has been from the beginning, representation according to freemen, representation according to citizenship. I read the constitutional provision:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined"—

How?

"by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

Those "other persons" were the slaves, and no other. The basis of representation was upon the free persons, not simply on numbers, because the exception which follows excludes the idea that it rested on numbers. The great fundamental law was representation on free persons. The exception was of slaves who were not freemen, but numbers. All the freemen and three fifths of the numbers shall be counted, is the fair interpretation of that clause; and that is exactly in harmony with the history of the right of suffrage and of the right of citizenship as interpreted in all the constitutions and in the legislation of all the States during the revolu-

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tionary and constitutional eras in this country with a single exception. To show that I am right, that the great American rule of representation in this country was not numbers, but citizenship, I beg to read to the Senate from the constitutions of the States formed during the revolutionary era of the country. In that of Pennsylvania it was provided:

"That all elections ought to be free; and that all freemen having a sufficient evident common interest with and attachment to the community, have a right to elect officers, or to be elected into office."

There is the principle; not numbers, but "all freemen" will now read the provision in the constitution of Delaware, which is most marked and most explicit:

"That the right in the people to participate in the legislature is the foundation of liberty and of all free government, and for this end all elections ought to be free and frequent; and every freeman having sufficient evidence of a permanent interest with and attachment to the community hath a right of suffrage."

In the same constitution it was further provided:

"That every freeman, for every injury done him in his goods, lands, or person, by any other person, ought to have remedy by the course of the law of the land, and ought to have justice and right for the injury done to him, freely without fail, fully without any denial, and speedily without delay, according to the law of the land."

I commend that provision most cheerfully to the committee on reconstruction as the golden rule which, if adopted to-day, as Delaware adopted it in 1776, would be the solution, on the principles of justice and liberty and American law, of the great problems which perplex us.

The constitution of Maryland provided:

"That the House of Delegates shall be chosen in the following manner: all freemen above twenty-one years of age, having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein, and all freemen having property in this State above the value of thirty pounds current money, and having resided in the county in which they offer to vote one whole year next preceding the election, shall have a right of suffrage in the election of delegates for such county."

Here the right is not on numbers, but on freemen. The constitution of Massachusetts declared that—

"All elections ought to be free, and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments."

The provision in the constitution of New York was in these words:

"That every person who is a freeman in the city of Albany, or who was made a freeman of the city of New York, on or before the 14th day of October, in the year of our Lord 1776, and shall be actually and usually resident in the said cities respectively, shall be entitled to vote for representatives in Assembly within his said place of residence."

In the constitution of Connecticut it was provided that—

"The qualifications requisite to entitle a person to vote in election of the officers of government are, maturity in years, quiet and peaceable behavior, a civil conversation, and forty shillings freehold, or forty pounds personal estate; if the selectmen of the town certify a person qualified in those respects, he is admitted a freeman, on his taking an oath of fidelity to the State."

The constitution of North Carolina declared—

"That all freemen of the age of twenty-one years who have been inhabitants of any county within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same county of fifty acres of land for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate."

It will be found that in all the States with the exception of South Carolina the rule of American representation as settled by the States during the revolutionary era, that great period which stirred men's hearts in favor of liberty, was on freemen and not on numbers, as the Senator from Maryland supposes. The rule of American representation, as taught authoritatively by the States, the only authority that was then known to the nation or is indeed now conceded by the Senator was invariably, with

a single exception, on freemen, on the citizens; and it should be remarked that in no single instance, with the exception which I have noted, was there any exception on account of race or color. I therefore respectfully submit to my honorable friend from Maryland that he is entirely mistaken in supposing that the rule of representation, either in the Constitution of the United States or as a great American principle of representation outside of the Constitution, and as taught by the States, was based on numbers.

The honorable Senator from Maryland put the inquiry whether it is to be supposed that the people of Maryland were laboring under the very extraordinary delusion from 1776, when their constitution was adopted, down to within a recent period, in supposing that they had a constitution of State government "republican in form," because it recognized the institution of slavery. Of course I join no issue with the honorable Senator on that proposition. I freely concede that according to the national Constitution of 1789, it is plainly inferable that States might be regarded as "republican in form" although they recognized the institution of slavery. I do not deny that. That is the history of the country. To deny that would be to deny the implication which arises from the Constitution. That was undoubtedly so.

But, sir, we are talking to-day, in the providence of God, not of what the Constitution of 1789 recognized as republican, but the Constitution having been amended so that slavery no longer exists, the question to-day is, what is republican in fact? If the honorable Senator is right in supposing that the slaves of Maryland when they were released from slavery by this new provision of the Constitution became freemen and citizens entitled to all the privileges and immunities of citizens of other States and of his own State, I ask him whether his State can be republican in form or in fact if now it denies to one fourth of its population the rights of citizens? That is the question that arises on the facts in this case. We are not arguing the case supposed by the honorable Senator from Maryland. That is a case made up on the constitution of Maryland of 1776. She has a free constitution to-day, and by the force of that constitution all her population are freemen and citizens, according to the interpretation which the honorable Senator himself gives it; and now being freemen and citizens, and that being the charter of the national Government, liberty and equal and exact justice to all men the rule, I ask the honorable Senator whether if his State should adopt a provision in her constitution which disqualified one fourth of her citizens arbitrarily on account of color, and denied them all civil and political rights, privileges, and immunities, that State would be republican in form or in fact? That is a case that arises on the facts we are considering. I undertake to maintain here, and will maintain it anywhere, that on the basis of a free constitution, one of the grand results of this terrible struggle through which the nation has passed, no State in this Union can be a republican State which does not accord equal civil privileges and rights and immunities to all its citizens; it cannot be republican either in law or in fact according to the fundamental principles of American liberty. This question of slavery in the national Constitution was exceptional; this question of slavery in the State constitutions was exceptional also. It was not in harmony with the great principle of American liberty. The principle which underlies our institutions, and which formed the rule was equal rights and equal protection to all men. I admit that we agreed in the Constitution of 1789 to recognize the exception; but the exception no longer exists, and the rule is absolute and ought to be omnipotent; there is nothing now in the way of its universality, and should now be held to be equal and exact justice to all men. The

authority of this Government in this respect ought to be imperial everywhere, and it should protect its citizens against State authority and State interpretations in their rights, privileges, and immunities as citizens of the United States; and whenever it fails to do that, it will fail to command the respect of mankind.

I say, therefore, in reply to the inquiry of the honorable Senator, whether it is to be supposed that his State has labored under a delusion from 1776 down to the present time in supposing that its Government was republican in form up to the present hour, that up to the time of emancipation it was so, undoubtedly. But now the times have changed. Sufficient until that day was the evil thereof. We as a people are required now to conform our Constitution and our laws, as well as our morals and our ethics and our economies, to the great American rule, equal and exact justice to all men.

The opponents of this measure demand the immediate admission of these States without conditions for the national security and without protection for the freedmen. The rebel debts are still unrepudiated by those States and menace the public credit, while the national debt is unassumed by them. Secession is not annulled but repealed, and in condition for fresh opportunities to repeat its attack upon the national sovereignty. The freedmen have no protection in those States outside of that scanty and temporary protection, inadequate and precarious, which is afforded through the Freedmen's Bureau. Their rights of manhood are denied. Everybody knows that since these States have themselves become "reconstructed" they have enacted black codes and vagrant laws to take possession and control of these "freedmen." The great struggle to-day is for the possession of the negro now as in the past. That is the great struggle in the South. Slave-masters have lost their personal control over them. They demand now that they shall be remanded into their custody, they having the political power of the State. I read the sentiments, Mr. President, of a leading politician in the South in which the purpose is expressed in a sentence or two. Judge Humphreys, of Alabama, in endeavoring to induce that State to return to the Union, says:

"Gentlemen, our safest place is in the Union. Grant it the idea of chattel slavery is dead, if you please; our Democratic allies will give us back the race in the condition of forced laborers, and it does not matter in which state we have them, if we have them under our control."

Mr. President, the contest for chattel slavery is over, but the struggle for the possession of the negro as a forced laborer goes on, and we seem quite insensible to it. Under the pretense of a public necessity it is demanded that Congress admit these States into their relations with the Federal Union, requiring no security for the protection of this defenseless race, remanding them to the custody of their old masters, knowing that their object and their purpose is to hold them as an unprivileged and unprotected class. That such sentiments find expression on this floor is a matter, I think, of surprise.

The honorable Senator from Pennsylvania, [Mr. Cowan], in the ardor—I hope it was—of his eloquent speech the other day, gave utterance to a similar sentiment, showing that the same insensibility still holds its power in this Senate. He talks upon this great question in connection with the restoration of these States of the inferiority of this race. He says the question of suffrage never was a question of color or race, but it was a question of inferior manhood, "an inferior article," to use the expressive phrase of the honorable Senator; and so it comes to this: on a proposition the object of which is to secure some rights to a race that we know have none accorded and are in the arbitrary power of those States, Senators rise in their places here and signify their determination to admit these States upon the floor of the Senate, give them political power and concede

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to them political rights to lord it over this race, seem to justify the contemplated injustice and inhumanity on the ground of "inferior manhood," the negro is an "inferior article!" They are not worthy the concern of an American statesman; they are waifs on society; they are nomadic; they are simply Africans; they have no place in the American Constitution; they are outside of society, outside of the objects of American law. This is "a white man's Government." Remand them to their old masters who we know purpose to oppress and deny them every civil right, and then with fresh memory of recent flagrant war reach out the hand of friendship to men whose hands are still red with the blood of our children, and welcome them upon this floor to places of authority and power with such purposes and for such ends!

Mr. President, I am sorry to say this is not even the worst of it. The freedman has no protection at home, no hope of it here, and, alas! no hope of it anywhere. The saddest utterance that any American statesman has ever given expression to has fallen from him who at the present time occupies the highest place in the gift of the people of this country. I do not go out of my way to allude to it. I should not be doing my duty to this subject if I did not notice it. On this question of the defenselessness of this race, and whether the American people should extend the hand of protection to this race, let me read from a message sent to this Senate under circumstances which give it peculiar force:

"The idea upon which the slaves were assisted to their freedom was that on becoming free they would be a self-sustaining population."

In the first place, I think it may be thought a little singular that it should be announced that these people in any very high and lofty sense were "assisted to their freedom" at all. We never as a nation undertook to give them freedom on terms at all creditable to us. We denied interposition in their behalf, even, until it became obvious that Providence did not intend we should have our own liberty until we gave them a chance to help us by obtaining their own liberty; that was the ground we occupied. I deny that we volunteered to help the slave to his freedom on his account. The history of the times do not justify such assumption. We did not so much as propose to embrace his freedom in the objects of the war; nay, a great party in this country arrayed itself against every effort to aid him, and deprecated such efforts as contrary to the objects of the war; and when our late President at length came to the conclusion that we ought to declare the freedom of the slaves, how did he announce it to the world? As helping them to their freedom? As a measure of justice and humanity to the oppressed? No; but as helping ourselves to victory. He had felt the public pulse; he had watched the wondrous workings of Providence in the great conflict in which the nation was involved; he had seen the nation hang in the doubtful balances of war; he saw and came to realize that God in His providence did not intend that this nation should secure its own independence until it yielded the rights of the black. The negro was mustered into the military service to bear arms in defense of the Government; then the race was taken from the power of the rebellion and placed on the side of the nation. If it was understood, when he was "assisted to his freedom," that he was to take care of himself, was it not, at least, to be inferred that he was to have opportunity given him to do it; that he was not to be by the nation he served remanded to his old master and all opportunity cut off? That we have a right to ask for him. That we ought to demand. If we do less than that and fall so far short in our duty, we have no right to expect the smiles of Heaven or the approbation of the American people. Protection to the black man in a general way, opportunity, upon the principle, not that we helped him as a primary

motive, but that he was essential to the nation; and that such was the order of Providence—such are the universal laws which govern the moral universe—that if we had, that it was only by delivering him that we could break the power of our enemies and secure our own liberty. I question the historical accuracy of what is assumed. The implication is that we helped him to his liberty, and now we have done all that is required of us. The nation cannot thus lightly put aside its obligations to a defenseless race called to its aid in its day of peril, it cannot so cancel its moral obligation to see to it that, having led them out of the land of bondage, they are not left to perish in the wilderness or be returned to a servitude even more heartless and cruel.

We know he is in the power of his old master, and our responsibility is not that we have not helped him, but we have helped his oppressor. We have put the old rebel master in authority, restored him to places of power, invested him with the power of the State, and propose to remand his former slave to his custody, to hem the law of the State. He reigns supreme to-day in all these States, and demands admission into these Halls, and it is demanded now that Congress open the door of these Halls and admit the old master, clothed with authority and power. We all know that the freedman has no protection, and now from the high places of power it is declared as indicative of "the policy" the Government will pursue to its late allies and faithful friends, that when we freed him it was understood that he should take care of himself. Mr. President, as sad as this picture is, it is by no means the worst of it. There is a sentiment in this message which shocks me, and which I fear will shock the sensibilities of mankind. Knowing the condition of the freedmen, his situation, that from the beginning he has been held by these States as without the pale of constitutional or legal protection; knowing the sentiments of that region of the country in which he is held in subjection, the painful symptom of the following is plain:

"In truth, however, each State, induced by its own wants and interests, will do what is necessary and proper to retain within its borders all the labor that is needed for the development of its resources. The laws that regulate supply and demand will maintain their course, and the wages of labor will be regulated thereby. There is no danger that the exceedingly great demand for labor will not operate in favor of the laborer."

Now, Mr. President, consider that that language is uttered as a reason for refusing to give the necessary executive consent to a law designed for the protection of the freedman, designed to protect him from his old master, to open up opportunities to him, to reach out the hand of the nation and stand between him and absolute want. To this homeless, houseless, defenseless wanderer who has no abiding place, the Congress of the United States proposed to reach out the hand of the nation and protect him and provide for his temporary wants, and with a knowledge of all the facts, the reply from the chief Executive is, "Leave him to the laws of demand and supply." The explanation for which is, there is no law or justice to which he can appeal. It is said that the courts of the States are open to him; let him appeal to the courts of the States; but does any one need be told that the State courts are closed forever against him; that there he has been dumb for long ages of oppression? Let him have recourse to the courts of the United States; that is to refer him to a court which has already determined that the common sentiment of this country was that the black man had no rights which that court were bound to respect. In a condition of destitution and suffering and want, the black man cries to the nation for recognition of his manhood, for protection; the nation answers back, there is for you no justice, no protection, no courts, no rights, civil or political; in the language of the chief Executive, you are left to "the great law of supply and demand."

## Rights of Citizens.

SPEECH OF HON. C. DELANO,  
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 8, 1866.

The House having under consideration the bill (S. No. 61) entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication"—

Mr. DELANO said:

Mr. SPEAKER: In the few minutes allotted to me, I propose to put some questions to the gentleman from Iowa, chairman of the Committee on the Judiciary, in reference to certain provisions of the bill under consideration. Of course I shall have no time to enter upon the discussion of the very grave, difficult, and important question which, in my judgment, is involved in this bill.

In my opinion the States lately in rebellion ought cheerfully and voluntarily to adopt and enforce by local legislation all the important features of this bill. If they omit or refuse to do so, then Congress should enforce upon them these measures, provided we have the power to do so conferred by the Constitution. But if this power has not been granted, then the fundamental law should be amended so as to enable Congress to protect and secure the rights of all her citizens in any and in every State where unjust, unequal, and discriminating legislation calls for the increase of the powers of the General Government.

In reference to the question of citizenship, which has been ably discussed by the chairman of the Judiciary Committee, I have no doubt. It needs no law, in my estimation, to make citizens of these emancipated people. They are citizens by law now; and our enactment can only declare the rights and privileges in this respect which already belong to them.

But, sir, notwithstanding this, notwithstanding I regard them as entitled to citizenship, I have serious difficulties in my own mind in reference to the power of Congress, under the Constitution as it is, to pass the bill which is before us. I shall vote for it, if possible. If I can be brought to believe that there is a reasonable probability of its constitutionality, so that I can justify my conscience in turning over the question of the power of Congress to pass this bill to the courts, I shall sustain it; but without some further light upon the question than I now have, I do feel that there are such difficulties in the way as call for a careful examination of the provisions of this bill, in a constitutional point of view, by the gentlemen who control this House.

Passing at once, therefore, to the consideration of the question, I direct attention to the first clause of the bill.

Before I do so, however, I will remark that in my opinion the bill would be very much improved and relieved from many of its serious difficulties and objectionable features if it were amended in accordance with the proposition suggested by my colleague, [Mr. BINGHAM.] I think that, with this amendment, I could myself now, without any further light on the subject, vote for it. But we must discuss it as it is, and I desire therefore to call the attention of the chairman of the Judiciary Committee to certain thoughts connected with the subject.

The first section of this bill provides that all citizens "shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens." I desire to ask the chairman of the committee whether in his opinion this confers upon the emancipated race the right of being jurors.

Mr. WILSON, of Iowa. I will very frankly



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answer the gentleman. I do not believe it confers that right upon the emancipated people, nor upon any portion of the people of the United States, who are not under the laws of the several States qualified to act as jurors.

Mr. DELANO. I have no doubt of the sincerity of the gentleman, and when I say to him that I have great confidence in his legal opinions, he may know my sincerity, and know also that I do not offer it as a compliment.

But, with all this, I must confess that it does seem to me that this bill necessarily confers the right of being jurors, if its provisions are carried out.

Let us look again at the provisions of the bill. "To full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by the white citizens." Now, I ask how "full and equal benefit" of all these laws "as is enjoyed by white citizens," can be conferred when you say that this class or race shall not sit in the jury-box?

But I cannot pursue this thought, for I have no time to analyze or illustrate it. It strikes me as apparent, however, that this bill may be fairly interpreted so as to confer upon this race the right of being jurors.

Mr. WILSON, of Iowa. Will the gentleman yield?

Mr. DELANO. Undoubtedly.

Mr. WILSON, of Iowa. The words to which the gentleman has directed attention were not in the original bill, but were placed there by an amendment offered by myself. And the reason for offering it was this: it was thought by some persons that unless these qualifying words were incorporated in the bill, those rights might be extended to all citizens, whether male or female, majors or minors. So that the words are intended to operate as a limitation and not as an extension; and I think the very reason which was urged by those who desired the amendment to be incorporated in the bill, is an answer to the objection which the gentleman makes.

Mr. DELANO. I have no doubt the reason is as stated for introducing the words.

I turn now to another clause in the first section of the bill for the purpose of discussing the gentleman's explanation:

There shall be no discrimination in civil rights or immunities among the citizens of the United States in any State or Territory.

Now, I suppose that what follows after this is a limitation of this general declaration; and I do not see how the words that I have commented upon are a limitation, because they follow after giving the "right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold and convey." Then is added this clause, "and to full and equal benefit of all laws and privileges for the security of person and property, as is enjoyed by white citizens." It seems to me, therefore, that in the connection in which the words on which I am speaking are found in the bill, they are an enlargement or extension of specific rights enumerated in the bill. The entire clause enumerating rights, appears to have been a limitation of the first great declaration in the bill, that "there shall be no discrimination in civil rights or immunities, among the citizens of the United States in any State or Territory."

The gentleman, of course, will have more time to explain it hereafter, but thus it strikes me, and in my brief moments I can only point out the difficulties that occur to me.

Now, sir, if I am correct in this thought, I presume that the gentleman himself will shrink from the idea of conferring upon this race now, at this particular moment, the right of being jurors, or from so wording this bill as to leave it a serious question and render it debatable hereafter in the courts or elsewhere.

But I proceed to another phase of this bill. These people are given the right to be parties to suits, to give evidence, to inherit, and so forth. Now, I desire to ask the honorable

chairman of the Committee on the Judiciary under what clause of the Constitution he claims Congress to have power to declare who shall be competent to give evidence in the State courts? Here is an express right to be witnesses in the State courts, secured by penalties, to this race. I take the first grant for the sake of argument; they are to have the right to be witnesses; and the second section, if it is not amended as my honorable colleague [Mr. BINGHAM] proposes, will make it a crime in a State court, in obedience to a State law, to refuse to give that right, and subjects the judges of State courts to punishment in the way pointed out in the bill, if they, under the laws of the States, refuse to let black men be witnesses. Now, sir, where is the authority in the fundamental law of this land for this Congress to declare who shall be witnesses in a State court? Is it in the old Constitution? And if so, in what clause? Or is it in the amendment to the Constitution abolishing slavery? I desire to hear from the gentleman upon that point.

Mr. WILSON, of Iowa. I supposed the gentleman did not want to be interrupted.

Mr. DELANO. I am making inquiries for information. I want more light.

Mr. WILSON, of Iowa. I place the power of Congress to secure to these citizens the right to testify in the courts upon the same basis exactly that I place the power of Congress to provide protection for the fundamental rights of the citizen commonly called civil rights, so that if the presence of a citizen in the witness-box of a court is necessary to protect his personal liberty, his personal security, his right to property, he shall not be deprived of that protection by a State law declaring that his mouth shall be sealed and that he shall not be a witness in that court. That is one of the protective remedies which must run with these great civil rights belonging to every citizen. And I will say to the gentleman that when I come to close the discussion on this bill I shall enlarge somewhat on this point if the temper of the House at the time shall disclose a disposition to hear further discussion.

Mr. DELANO. I do not feel myself answered. The gentleman has offered me some very general remarks. I will not say "glittering generalities," because I do not wish to be offensive, but I want him to name the clause of the Constitution in which he finds the power.

Mr. WILSON, of Iowa. If the gentleman had read my remarks at the opening of this debate he would have seen very distinctly the provision of the Constitution upon which I base this bill so far as it relates to persons who are liable to be reduced to a condition of slavery, and that is the amendment to the Constitution abolishing slavery and conferring an express delegation of power upon Congress.

But I placed it upon a broader ground, and it was this: that these people, being entitled to certain rights as citizens of the United States, were entitled to protection in those rights, and that the power thus to protect them is necessarily implied from the entire body of the Constitution, which was made for the protection of these rights, and upon the duty of the Government to enforce and protect all those rights. I based the power of Congress to select the means in accordance with the doctrines laid down in the case of *McCulloch, vs. The State of Maryland*.

Mr. DELANO. The duties of this Government rest upon the powers of the Government. The duties of this Congress rest upon its constitutional powers, and those powers are to be derived from the Constitution if found at all.

Mr. WILSON, of Iowa. Will the gentleman allow me to ask him a question that may enable us both to get some light in relation to this subject?

Mr. DELANO. Certainly.

Mr. WILSON, of Iowa. I desire to ask this question: does the gentleman from Ohio [Mr. DELANO] believe that persons as citizens of the

United States are entitled to any rights? If they are entitled to any rights, are the great fundamental civil rights of life, liberty, and property involved among them?

And if they are entitled, as citizens of the United States, to those rights, are they entitled to protection of those rights from the hands of the Government? And should a State enact laws and attempt to enforce them which will deprive the citizens of the United States of those rights, may we not intervene to protect them in spite of those laws of the State?

Mr. DELANO. I believe that the citizens of the States are entitled to many rights. I believe that those rights are to be guaranteed and sustained and enforced by the laws of the States under the constitutions of the States, and by the Congress of the United States when there is power given by the Constitution of the United States to enforce those rights.

But I do not believe that the rights of the States are utterly overwhelmed and dethroned. I know that for years we have been swinging the pendulum of public opinion toward the doctrine of State rights until it threatened the subversion of the Federal Government. And I stand here in my place to-day to say that one of the most serious apprehensions I have, in the extreme of public opinion fluctuating from one point to another, is that we may fall into an error about as great and dangerous as that which has caused us these long years of bloody war.

Mr. WILSON, of Iowa. If the gentleman will pardon me again, I will say that I do not think I have received an answer to my question.

Mr. DELANO. Wait till I get through with my reply. I did not think the gentleman answered my question, but I allowed him to go on until he had said all he desired to say.

I suppose there are certain rights of citizenship that are exclusively within the control of the States, under the constitutions of the States. And by way of refreshing our memories in reference to the opinions of the fathers, I will call the attention of gentlemen to what Mr. Hamilton once said upon this subject. He once discussed this subject, and alluded to it in a way worthy of our attention to-day. He was answering an objection made before the public that the clause of the Constitution giving Congress the power to make all laws rendered necessary by the specific grants of power might be abused. He went on to show that that clause did not enlarge the powers of Congress, that it did not confer upon Congress anything that had not been specifically given. He says:

"If there be anything exceptionable it must be sought for in the specific powers upon which the general declaration is predicated."

Thereby saying, what I say here to-day, that the powers of Congress are specific powers, and that beyond those specific powers Congress cannot go without violating the Constitution. Following up that idea, he illustrates it, as follows:

"The propriety of a law, in a constitutional light must always be determined by the nature of the power upon which it is founded. Suppose by some forced construction of its power, which indeed cannot easily be imagined, the Federal Government should attempt to vary the law of descent in a State, would it not be evident that in making such an attempt it had exceeded its jurisdiction?"—*Federalist*, No. 32.

The SPEAKER *pro tempore*, (Mr. PATTERSON.) The time, twenty minutes, which the gentleman from New York [Mr. RAYMOND] yielded to the gentleman from Ohio [Mr. DELANO] has now expired.

Mr. DAVIS. I hope the time of the gentleman will be extended.

Mr. BINGHAM. I do not desire to interrupt my colleague, [Mr. DELANO.] But I desire to be heard in advocacy of the amendment to this bill which I have offered.

Mr. RAYMOND. I am quite willing to yield the remainder of my hour to the two gentlemen from Ohio, [Mr. DELANO and Mr. BINGHAM.] and they can arrange its division between themselves.

Mr. DAVIS. I move that the time of my

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colleague [Mr. RAYMOND] be extended for half an hour, and he can then yield portions of it to the other gentlemen.

Objection was made.

Mr. BINGHAM. I will yield to my colleague, [Mr. DELANO,] and trust to the indulgence of the House for an opportunity to be heard upon this subject.

Mr. DELANO. I was proceeding to remark, when my time expired, that Mr. Hamilton took the case of an effort on the part of Congress to interfere with the law of descent in a State.

And that brings me to the consideration of another clause in this bill. "All citizens shall have an equal right to inherit." Suppose a State Legislature declares that in the case of a person dying intestate the heirs shall inherit, excluding those who are of African or mixed blood. That would be illustrated in the case of a man who married first a white woman, by whom he had white children, and then married a black woman, by whom he had children of mixed blood. The State legislation is such as to exclude the children of mixed blood from the inheritance.

Now, sir, should this bill be passed that law of the State might be overthrown by the power of Congress. In my opinion, if we adopt the principle of this bill we declare in effect that Congress has authority to go into the States and manage and legislate with regard to all the personal rights of the citizen—rights of life, liberty, and property. You render this Government no longer a Government of limited powers; you concentrate and consolidate here an extent of authority which will swallow up all or nearly all of the rights of the States with respect to the property, the liberties, and the lives of its citizens.

This thought is illustrated by Mr. Madison; and for the purpose of directing the attention of the chairman of the Judiciary Committee [Mr. WILSON] to it, I will read the language of Mr. Madison from No. 45 of the *Federalist*:

"The powers reserved to the Federal States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Any one who has studied the Constitution of the United States knows that it was designed to establish a Government with limited powers, powers restricted to the necessary objects of its existence and the proper discharge of the great duties devolving upon it. It was never designed to take away from the States the right of controlling their own citizens in respect to property, liberty, and life. If we now go on in a system of legislation based upon the assumption that Congress possesses the right of supreme control in this respect, I submit whether we are not assisting to build up a consolidated Government in view of the powers of which we may well tremble.

Pursuing this train of thought, I might go on and show that the authority assumed as the warrant for this bill would enable Congress to exercise almost any power over a State. Sir, we have had in the State of Ohio until a very recent period a law excluding the black man from being a witness in a court of justice. I do not know but that laws of a similar character still exist in some of the States. It is but a little while since Indiana repealed a law of that sort.

Mr. NIBLACK. The gentleman will allow me to say that that law is only partially repealed. We had a constitution prohibiting all negroes from coming into the State since November 1, 1851. An act of the last session of the Legislature allows all negroes who were in the State before this constitutional provision went into operation to testify in all cases; but negroes who have come into the State since, in violation of our constitution, are still prohibited from testifying against white people. They can only testify in our courts in cases where negroes or mulattoes are the parties.

Mr. DELANO. Then, as a matter of course,

if this bill be passed, negroes who have come into the State of Indiana in violation of her constitution will be entitled to testify. This bill would override the legislation of that State.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Ohio a question, suggested by the remark of the gentleman from Indiana, [Mr. NIBLACK.] If the negro is a citizen of the United States, has the State of Indiana a right to pass a law, fundamental or statutory, declaring that such a citizen of the United States shall not come within the State of Indiana?

Mr. DELANO. That is another question which I will answer when it comes up appropriately for discussion. What I am asking is, has the State of Indiana a right to pass a law declaring that such a citizen shall not be a witness in court? Everybody knows that from the beginning of our Government to the present time this question as to who shall be a competent witness in the courts of the State has been left to be determined by the legislation of the State. Not long since the law of Ohio excluded from the witness-stand a man who was an infidel. A law of that kind still exists in some of the States. But the theory upon which this bill rests would uproot all the power of State legislation to regulate this question.

Nay, more, sir; we once had in the State of Ohio a law excluding the black population from any participation in the public schools or in the funds raised for the support of those schools. That law did not, of course, place the black population upon an equal footing with the white, and would, therefore, under the terms of this bill be void, and those attempting to execute it would be subjected to punishment by fine or imprisonment.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Ohio whether he believes—

Mr. DELANO. I have so little time remaining that, with the utmost desire to be courteous, I must decline to be interrupted further.

Now, sir, I proceed to inquire whether the constitutional amendment abolishing slavery confers on Congress the power to enact a measure of this character. That amendment provides—

"1. That neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

"2. Congress shall have power to enforce this article by appropriate legislation."

Now, what is this provision of the Constitution? It is the abolition of slavery and involuntary servitude. It is authority by Congress to pass proper legislation for the enforcement of that principle. Now, sir, can it be claimed by fair reasoning that the right to testify is necessarily incident to freedom? If this can be claimed, then there is authority to pass this law.

Mr. WILSON, of Iowa. The gentleman will pardon me for an interruption. Suppose that the only person witnessing a state of facts necessary to be given in court for the protection of life, liberty, and property should be a black man, has the State the right to say that that man, the only person living who has a knowledge of the facts to protect a citizen, should have no right to testify?

Mr. DELANO. I acknowledge myself surprised that the chairman of the Committee on the Judiciary of the House of Representatives of the United States of America should rise and ask me, when I am discussing a principle of power, whether an extreme case, such as he has put, would be an authority for violating the fundamental law of the land!

Mr. WILSON, of Iowa. No, sir; I ask whether the Constitution of the United States is so framed that the rights of protection cannot be established in the laws made by Congress?

Mr. DELANO. Does the gentleman believe

the Constitution of the United States is so framed as to say this power may be exercised? The simple question now is, whether the right to testify as a witness is a necessary incident to freedom.

Mr. NIBLACK. If the gentleman will permit me, I will respond to the gentleman from Iowa. I ask whether under most of the State laws the wife is not prohibited from testifying against the husband, or *vice versa*? Now, would not his objection as well apply to that?

Mr. WILSON, of Iowa. It is not so in many of the State laws; but then I answer the gentleman in the language of the bill referred to by the gentleman from Ohio [Mr. DELANO] a few moments ago, these rights are to be the same as are enjoyed by white citizens.

Mr. NIBLACK. The question is very proper.

Mr. DELANO. I must beg the gentleman not to interrupt me again.

Suppose a State Legislature should apply some qualification to the competency of a white man as a witness, say of religious belief, and it turns out on the trial that the only witness who can prove the facts is the man under this disqualification, what becomes of the gentleman's argument founded on the extreme case put by him?

The SPEAKER. The gentleman's time has expired.

Mr. MYERS. I move the gentleman's time be extended.

Mr. RAYMOND. I believe I had the floor, and that it was extended thirty minutes beyond the hour, so that the hour having expired, I still have thirty minutes left.

The SPEAKER. The gentleman from Indiana [Mr. KERR] has been recognized.

Mr. KERR. I will yield to the gentleman from Ohio if it does not come out of my time.

Mr. DELANO. I only want ten minutes.

Mr. MYERS. I move the gentleman's time be extended ten minutes, and that it does not come out of the time of the gentleman from Indiana.

There was no objection, and it was ordered accordingly.

Mr. DELANO. Mr. Speaker, I was about to remark there are certain powers that may be exercised under this amendment of the Constitution vastly important to the emancipated race. I have anticipated unfriendly legislation in the South; but I have felt a consolation in the power of Congress under this clause of the Constitution to prevent certain unfriendly legislation which has presented itself to my imagination; for instance, to establish in the South a system of peonage, or any system of laws that would interfere with the liberty of this race. It would then be in the power of Congress under this clause of the Constitution to modify and prevent such legislation. We proclaimed freedom to this race, and reserved to ourselves the power to enforce it, but we did not reserve to ourselves the power to enter the States and regulate the domestic relations of life, liberty, and property.

We did reserve to ourselves the power of preventing unfriendly legislation that would interfere with liberty. No lawyer who will reason like a lawyer, I think, can take that act and tell me that he believes that the right to testify or to inherit is a necessary condition of freedom, because we know from the whole history of our State legislation that such discriminations have been made. Aliens have been prevented from inheriting, and discriminations in inheritance, as well as in the right to testify, have been made by State legislation, and no one thought it an interference with the liberty of the citizen.

I must say, therefore, that I do not see how we can sustain the principles of this bill. I said in the outset that I wanted to see the provisions of this bill adopted or enforced upon the South, and it was with this thought before me that I introduced, at an early day of the session, an amendment to the Constitution requiring each State to provide for the security

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of life, liberty, and property, and the rightful pursuit of happiness, and giving to Congress power to enforce these rights where the States withheld them. That, in my estimation, is a better theory of proceeding on this subject than the one introduced by my colleague, which proposes to vest that power in Congress at once; because I want Congress to exercise no more power over the local legislation of the States than is absolutely necessary, and I would not allow it to go in the first instance to secure these rights, but allow it to go only when the States refuse to apply and give such security under the fundamental law of the nation.

I am still of opinion that if this subject is developed and investigated as it should be, that if we do anything upon this subject at all, we had better do it by taking up the amendment to the Constitution offered by my colleague, [Mr. BINGHAM,] now postponed till April, modifying it in the form I have suggested, and making it the fundamental law, and then proceeding to secure the rights of these persons in a way in which we shall not be trampling down or endangering the fundamental law of the land.

I am not to be understood as denying the power of this Government, especially that great war power which, when evoked, has no limit except as it is limited by necessity and the laws of civilized warfare. But, sir, in time of peace I would not and I cannot stand here and attempt the exercise of powers by this General Government which, if carried out with all the logical consequences that follow their assumption, will, in my opinion, endanger the liberties of the country.

I will not detain the House any longer. I have not been able to illustrate as I would, had I had time, this question. But I have endeavored to present it in such a form as will awaken investigation and bring the minds of members to the consideration of this important question. For it is just as important that we should not swing back into the assertion of powers in this Government that do not belong to it, as that we should not go to the other extreme of asserting the existence of powers in a State that do not belong to it. Let us take a calm, philosophical, and statesmanlike view of the condition of things in which we are placed; proceeding under no impulse such as has necessarily grown up under the terrible training we have had; proceeding with caution and deliberation, and taking care to preserve the constitutional rights both of the States and of the General Government.

We have a Government of which we may be proud, a Government that is to live, a Government that rests upon granted powers of a limited character; and if we sustain it and do not make it a tyranny, do not convert it into a usurpation, it will be a Government loved by the people, cherished by the people, wherein civil liberty will be established, I trust, forever, and the power of man for self-government be illustrated.

## EULOGY

## ON THE LIFE AND CHARACTER

OF

HENRY WINTER DAVIS,

BY

HON. JOHN A. J. CRESWELL,

February 22, 1866.

The death of Hon. Henry Winter Davis, for many years a distinguished Representative of one of the Baltimore congressional districts, created a deep sensation among those who had been associated with him in national legislation, and they deemed it fitting to pay to his memory unusual honors. They adopted resolutions expressive of their grief, and invited

Hon. John A. J. Creswell, a Senator of the United States from the State of Maryland, to deliver an oration on his life and character, in the Hall of the House of Representatives, on the 22d of February, a day the recurrence of which ever gives increased warmth to patriotic emotions.

The Hall of the House was filled by a distinguished audience to listen to the oration. Before eleven o'clock the galleries were crowded in every part. The flags above the Speaker's desk were draped in black, and other insignia of mourning were exhibited. An excellent portrait of the late Hon. Henry Winter Davis was visible through the folds of the national banner above the Speaker's chair. As on the occasion of the oration on President Lincoln by Hon. George Bancroft, the Marine band occupied the ante-room of the reporters' gallery and discoursed appropriate music.

At twelve o'clock the Senators entered, and the Judges of the Supreme Court, preceded by Chief Justice Chase. The President of the United States had been invited but was not present. The only members of the Cabinet present were Secretary Stanton and Secretary McCulloch. After prayer by the Chaplain, the Declaration of Independence was read by Hon. Edward McPherson, Clerk of the House. After the reading of the Declaration, followed by the playing of a dirge by the band.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, rose and said:

*Ladies and Gentlemen:* The duty has been devolved upon me of introducing to you the friend and fellow-member, here, of Henry Winter Davis, and I shall detain you but a moment from his address, to which you will listen with saddened interest.

The world always appreciates and honors courage. The courage of Christianity, which sustained martyrs in the amphitheater, at the stake, and on the rack. The courage of patriotism, which inspired millions in our own land to realize the historic fable of Curtius, and to fill up with their own bodies, if need be, the yawning chasm which imperiled the Republic. The courage of humanity, which is witnessed in the pest-house and the hospital, at the death-bed of the homeless and the prison-cell of the convict. But there is a courage of statesmen, besides, and nobly was it illustrated by the statesman whose national services we commemorate to-day. Inflexibly hostile to oppression, whether of slaves on American soil or of republicans struggling in Mexico against monarchical invasion, faithful always to principle and liberty, championing always the cause of the downtrodden, fearless as he was eloquent in his avowals, he was mourned throughout a continent, and from the Patapasco to the Gulf the blessings of those who had been ready to perish followed him to his tomb. It is fitting, therefore, though dying a private citizen, that the nation should render him such marked and unusual honors in this Hall, the scene of so many of his intellectual triumphs; and I have great pleasure in introducing to you as the orator of the day Hon. J. A. J. Creswell, his colleague in the Thirty-Eighth Congress, and now Senator from the State of Maryland.

Hon. J. A. J. CRESWELL then delivered the following

## ORATION:

*My Countrymen:* On the 22d day of February, 1732, God gave to the world the highest type of humanity in the person of George Washington. Combining within himself the better qualities of the soldier, sage, statesman, and patriot, alike brave, wise, discreet, and incorruptible, the common consent of mankind has awarded him the incomparable title of Father of his Country. Among all nations and in every clime the richest treasures of language have been exhausted in the effort to transmit to posterity a faithful record of his deeds. For him unfading laurels are secure, so long as letters shall survive and history shall continue to be the guide

and teacher of civilized men. The whole human race has become the self-appointed guardian of his fame, and the name of Washington will be ever held, over all the earth, to be synonymous with the highest perfection attainable in public or private life, and coeternal with that immortal love to which reason and revelation have together toiled to elevate human aspirations—the love of liberty, restrained and guarded by law.

But in the presence of the Omnipotent how insignificant is the proudest and the noblest of men! Even Washington, who alone of his kind could fill that comprehensive epitome of General Henry Lee, so often on our lips, "First in war, first in peace, and first in the hearts of his countrymen," was allowed no exemption from the common lot of mortals. In the sixty-eighth year of his age he, too, paid the debt of nature.

The dread announcement of his demise sped over the land like a pestilence, burdening the very air with mourning, and carrying inexpressible sorrow to every household and every heart. The course of legislation was stopped in mid career to give expression to the grief of Congress, and by resolution, approved January 6, 1800, the 22d of February of that year was devoted to national humiliation and lamentation. This is, then, as well a day of sorrow as a day of rejoicing.

More recent calamities also remind us that death is universal king. Just ten days ago our great historian pronounced in this Hall an impartial judgment upon the earthly career of him who, as savior of his country, will be counted as the compeer of Washington. Scarce have the orator's lingering tones been mellowed into silence; scarce has the glowing page, whereon his words were traced, lost the impress of his passing hand, yet we are again called into the presence of the Inexorable to crown one more illustrious victim with sacrificial flowers. Having taken up his lifeless body, as beautiful as the dead Absalom, and laid it in the tomb with becoming solemnity, we have assembled in the sight of the world to do deserved honor to the name and memory of Henry Winter Davis, a native of Annapolis, in the State of Maryland, but always proudly claiming to be no less than a citizen of the United States of America.

We have not convened in obedience to any formal custom, requiring us to assume an empty show of bereavement, in order that we may appear respectfully to the departed. We who knew Henry Winter Davis are not content to clothe ourselves in the outward garb of grief, and call the semblance of mourning a fitting tribute to the gifted orator and statesman, so suddenly snatched from our midst in the full glory of his mental and bodily strength. We would do more than "bear about the mockery of woe." Prompted by a genuine affection, we desire to ignore all idle and merely conventional ceremonies, and permit our stricken hearts to speak their spontaneous sorrow.

Here, then, where he sat for eight years as a Representative of the people; where friends have trooped about him, and admiring crowds have paid homage to his genius; where grave legislators have yielded themselves willing captives to his eloquence, and his wise counsel has molded, in no small degree, the law of a great nation, let us, in dealing with what he has left us, verify the saying of Bacon, "Death openeth the good fame and extinguisheth envy." Remembering that he was a man of like passions and equally fallible with ourselves, let us review his life in a spirit of generous candor, applaud what is good and try to profit by it; and if we find aught of ill, let us, so far as justice and truth will permit, cover it with the veil of charity and bury it out of sight forever. So may our survivors do for us.

The subject of this address was born on the 16th of August, 1817.

His father, Rev. Henry Lyou Davis, of the Protestant Episcopal church, was president of St. John's College at Annapolis, Maryland,



and rector of St. Ann's parish. He was of imposing person, and great dignity and force of character. He was, moreover, a man of genius, and of varied and profound learning, eminently versed in mathematics and natural sciences, abounding in classical lore, endowed with a vast memory, and gifted with a concise, clear, and graceful style; rich and fluent in conversation, but without the least pretension to oratory and wholly incapable of *extempore* speaking. He was removed from the presidency of St. John's by a board of Democratic trustees because of his Federal politics; and, years afterward, he gave his son his only lesson in politics at the end of a letter, addressed to him when at Kenyon College, in this laconic sentence: "My son, beware of the follies of Jacksonism."

His mother was Jane Brown Winter, a woman of elegant accomplishments and of great sweetness of disposition and purity of life. It might be truthfully said of her, that she was an exemplar for all who knew her. She had only two children, Henry Winter, and Jane who married Rev. Edward Syle.

The education of Henry Winter began very early, at home, under the care of his aunt, Elizabeth Brown Winter, who entertained the most rigid and exacting opinions in regard to the training of children, but who was withal a noble woman. He once playfully said, "I could read before I was four years old, though much against my will." When his father was removed from St. John's, he went to Wilmington, Delaware, but some time elapsed before he became settled there. Meanwhile, Henry Winter remained with his aunt in Alexandria, Virginia. He afterward went to Wilmington, and was there instructed under his father's supervision. In 1827 his father returned to Maryland and settled in Anne Arundel county.

After reaching Anne Arundel, Henry Winter became so much devoted to out-door life that he gave small promise of scholarly proficiency. He affected the sportsman, and became a devoted disciple of Nimrod; accompanied always by one of his father's slaves he roamed the country with a huge old fowling-piece on his shoulder, burning powder in abundance, but doing little damage otherwise. While here he saw much of slaves and slavery, and what he saw impressed him profoundly, and laid the foundation for those opinions which he so heroically and constantly defended in all his after-life. Referring to this period, he said long afterward, "My familiar association with the slaves while a boy gave me great insight into their feelings and views. They spoke with freedom before a boy what they would have repressed before a man. They were far from indifferent to their condition; they felt wronged and sighed for freedom. They were attached to my father and loved me, yet they habitually spoke of the day when God would deliver them."

He subsequently went to Alexandria, and was sent to school at Howard, near the Theological Seminary, and from Howard he went to Kenyon College, in Ohio, in the fall of 1833.

Kenyon was then in the first year of the presidency of Bishop McIlvaine. It was the center of vast forests, broken only by occasional clearings, excepting along the lines of the National road, and the Ohio river and its navigable tributaries. In this wilderness of nature, but garden of letters, he remained, at first in the grammar school, and then in the college, until the 6th of September, 1837; when at twenty years of age he took his degree and diploma, decorated with one of the honorary orations of his class, on the great day of commencement. His subject was "Scholastic Philosophy."

At the end of the Freshman year, a change in the college terms gave him a vacation of three months. Instead of spending it in idleness, as he might have done, and as most boys would have done, he availed himself of this interval to pursue and complete the studies of the Sopho-

more year, to which he had already given some attention in his spare moments. At the opening of the next session he passed the examination for the Junior class. Fortunately I have his own testimony and opinion as to this exploit, and I give them in his own language:

"It was a pretty sharp trial of resolution and dogged diligence, but it saved me a year of college, and indurated my powers of study and mental culture into a habit, and perhaps enabled me to stay long enough to graduate. I do not recommend the example to those who are independently situated, for learning must fall like the rain in such gentle showers as to sink in if it is to be fruitful; when poured on the richest soil in torrents, it not only runs off without strengthening vegetation, but washes away the soil itself."

His college life was laborious and successful. The regular studies were prosecuted with diligence, and from them he derived great profit, not merely in knowledge, but in what is of vastly more account, the habit and power of mental labor. These studies were wrought into his mind and made part of the intellectual substance by the vigorous collisions of the societies in which he delighted. For these mimic conflicts he prepared assiduously, not in writing, but always with a carefully deduced logical analysis and arrangement of the thoughts to be developed in the order of argument, with a brief note of any quotation, or image, or illustration, on the margin at the appropriate place. From that brief he spoke. And this was his only method of preparation for all the great conflicts in which he took part in after life. He never wrote out his speeches beforehand.

Speaking of his feelings at the end of his college life, he sadly said:

"My father's death had embittered the last days of the year 1836, and left me without a counselor. I knew something of books, nothing of men, and I went forth like Adam among the wild beasts of the unknown wilderness of the world. My father had dedicated me to the ministry, but the day had gone when such dedications determined the lives of young men. Theology as a grave topic of historic and metaphysical investigation I delighted to pursue, but for the ministry I had no calling. I would have been idle if I could, for I had no ambition, but I had no fortune and I could not beg or starve."

All, who were acquainted with his temperament, can well imagine, what a gloomy prospect the future presented to him, when its contemplation wrung from his stoical taciturnity that touching confession.

The truth is, that from the time he entered college he was continually cramped for want of money. The negroes ate everything that was produced on the farm in Anne Arundel, a gastronomic feat, which they could easily accomplish, without ever having cause to complain of a surfeit. His aunt, herself in limited circumstances, by a careful husbandry of her means, managed to keep him at college. Kenyon was then a manual-labor institution, and the boys were required to sweep their own rooms, make their own beds and fires, bring their own water, black their own boots, if they ever were blacked, and take an occasional turn at grubbing in the fields or working on the roads. There was no royal road to learning known at Kenyon in those days. Through all this Henry Winter Davis passed, bearing his part manfully; and knowing how heavily he taxed the slender purse of his aunt, he denied himself with such rigor that he succeeded, incredible as it may appear, in bringing his total expenses, including boarding and tuition, within the sum of eighty dollars per annum.

His father left an estate consisting only of some slaves, which were equally apportioned between himself and sister. Frequent applications were made to purchase his slaves, but he never could be induced to sell them, although the proceeds would have enabled him to pursue his studies with ease and comfort. He rather sought and obtained a tutorship, and for two years he devoted to law and letters only the time he could rescue from its drudgery. In a letter, written in April, 1839, replying to the request of a relative who offered to purchase his slave Sallie, subject to the provisions of his father's will, which manumitted her if she

would go to Liberia, he said: "But if she is under my control," (he did not know that she had been set to his share,) "I will not consent to the sale, though he wishes to purchase her subject to the will." And so Sallie was not sold, and Henry Winter Davis, the tutor, toiled on and waited. He never would hold any of his slaves under his authority, never would accept a cent of their wages, and tendered each and all of them a deed of absolute manumission whenever the law would allow. Tell me, was that man sincere in his opposition to slavery? How many of those who have since charged him with being selfish and reckless in his advocacy of emancipation would have shown equal devotion to principle? Not one; not one. Ah! the man who works and suffers for his opinions' sake places his own flesh and blood in pledge for his integrity.

Notwithstanding his irksome and exacting duties, he kept his eye steadily on the University of Virginia, and read, without assistance, a large part of its course. He delighted especially in the pungent pages of Tacitus and the glowing and brilliant, dignified and elevated epic of the Decline and Fall of the Roman Empire. These were favorites which never lost their charm for him. When recently on a visit at my house, he stated in conversation that he often exercised himself in translating from the former, and in transferring the thoughts of the latter into his own language, and he contended that the task had dispelled the popular error that Gibbon's style is swollen and declamatory; for he alleged that every effort at condensation had proved a failure, and that at the end of his labors the page he had attempted to compress had always expanded to the eye, when relieved of the weighty and stringent fetters in which the gigantic genius of Gibbon had bound it.

About this time, the only period when doubts beset him, he was tempted by a very advantageous offer to settle in Mississippi. He determined to accept, but some kind spirit interposed to prevent the dispatch of the final letter, and he remained in Alexandria. At last his aunt, second mother as she was, sold some land and dedicated the proceeds to his legal studies. He arrived at the University of Virginia in October, 1839.

From that moment he entered actively and unremittently on his course of intellectual training. While a boy he had become familiar, under the guidance of his father, with the classics of Addison, Johnson, Swift, Cowper, and Pope, and he now plunged into the domain of history. He had begun at Kenyon to make flanking forays into the fields of historic investigation which lay so invitingly on each side of the regular march of his college course. As he acquired more information and confidence these forays became more extensive and profitable. It was then the transition period from the shallow though graceful pages of Gillies, Rollin, Russell, and Tytler, and the rabbinical agglomerations of Shuckford and Prideaux to the modern school of free, profound, and laborious investigation, which has reared immortal monuments to its memory in the works of Hallam, Macaulay, Grote, Bancroft, Prescott, Motley, Niebuhr, Bunsen, Schlosser, Thiers, and their fellows. But of the last-named none except Niebuhr's History of Rome, and Hallam's Middle Ages, were accessible to him in the backwoods of Ohio. Cousin's Course of the History of Modern Philosophy was just glittering in the horizon, and Gibbon shone alone as the morning-star of the day of historic research, which he had heralded so long. The French Revolution he had seen only as presented in Burke's brilliant vituperation and Scott's Tory diatribe. A republican picture of the great republican revolution, the fountain of all that is now tolerable in Europe, had not then been presented on any authentic and comprehensive page.

Not only these, but all historical works of value, which the English, French, and German

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languages can furnish, with an immense amount of other intellectual pabulum, were eagerly gathered, consumed with voracious appetite, and thoroughly digested. Supplied at last with the required means he braced himself for a systematic curriculum of law, and pursued it with marked constancy and success. While at the university he also took up the German and French languages and mastered them, and he perfected his scholarship in Latin and Greek. Until his death he read all these languages with great facility and accuracy, and he always kept his Greek Testament lying on his table for easy reference.

After a thorough course at the university Mr. Davis entered upon the practice of the law in Alexandria, Virginia. He began his profession without much to cheer him; but he was not the man to abandon a pursuit for lack of courage. His ability and industry attracted attention, and before long he had acquired a respectable practice, which thenceforth protected him from all annoyances of a pecuniary nature. He toiled with unwearied assiduity, never appearing in the trial of a cause without the most elaborate and exhaustive preparation, and soon became known to his professional brethren as a valuable ally and a formidable foe. His natural aptitude for public affairs made itself manifest in due time, and some articles which he prepared on municipal and State politics gave him great reputation. He also published a series of newspaper essays, wherein he dared to question the divinity of slavery; and these, though at the time thought to be not beyond the limits of free discussion, were cited against him long after as evidence that he was a heretic in pro-slavery Virginia and Maryland.

On the 30th of October, 1845, he married Miss Constance T. Gardiner, daughter of William C. Gardiner, Esq., a most accomplished and charming young lady, as beautiful and as fragile as a flower. She lived to gladden his heart for but a few years, and then—

"Like a lily drooping,  
She bowed her head and died."

In 1850 he came to Baltimore, and immediately a high position, professional, social, and political, was awarded him. His forensic efforts at once commanded attention and enforced respect. The young men of most ability and promise gathered about him, and made him the center of their chosen circle. He became a prominent member of the Whig party, and was everywhere known as the brilliant orator and successful controvertist of the Scott campaign of 1852. The Whig party, worn out by its many gallant but unsuccessful battles, was ultimately gathered to its fathers, and Mr. Davis led off in the American movement. He was elected successively to the Thirty-Fourth, Thirty-Fifth, and Thirty-Sixth Congresses by the American party from the fourth district of Maryland. He supported with great ability and zeal Mr. Fillmore for the Presidency in 1856, and in 1860 accepted John Bell as the candidate of his party, though he clearly divined and plainly announced that the great battle was really between Abraham Lincoln, as the representative of the national sentiment on the one hand, and secession and disunion in all their shades and phases on the other. To his seat in the Thirty-Eighth Congress he was elected by the Unconditional Union party.

Since the adjournment of the Thirty-Eighth Congress he had been profoundly concerned in the momentous public questions now pressing for adjustment, and he did not fail on several fitting occasions to give his views at length to the public. Nevertheless, he frequently alluded to his earnest desire to retreat for awhile from the perplexing annoyances of public life. He had determined upon a long visit to Europe in the coming spring, and had almost concluded the purchase of a delightful country seat, where he hoped to recruit his weary brain for years to come from the exhaustless riches of nature. When the Thirty-Ninth Congress met, and he

read of his old companions in the work of legislation again gathering in their Halls and committee-rooms, I think, for at least a day or two, he felt a longing to be among them. During the second week of the session he again entered this Hall, but only as a spectator. The greeting he received, so general, spontaneous, and cordial, from gentlemen on both sides of the House, touched his heart most sensibly. The crowd that gathered about him was so great that the party was obliged to retire to one of the larger ante-rooms for fear of interrupting the public business. A delightful interview among old friends was the reward. He was charmed with his reception, and mentioned it to me with intense satisfaction. Little did you, gentlemen, then think that between you and a beloved friend the curtain that shrouds eternity was so soon to be interposed. His sickness was of about a week's duration. Until the morning of the day preceding his death, his friends never doubted his recovery. Later in the day very unfavorable symptoms appeared, and all then realized his danger. In the evening his wife spoke to him of a visit, for one day, which he had projected to his old friend, Mrs. S. F. Du Pont, when he replied in the last words he ever uttered, "It shows the folly of making plans even for a day." He continued to fail rapidly in strength until two o'clock on the afternoon of Saturday, the 30th of December, when Henry Winter Davis, in the forty-ninth year of his age, appeared before his God. His death confirmed the opinion of Sir Thomas Browne, who declared, "Marshaling all the horrors of death and contemplating the extremities thereof, I find not anything therein able to daunt the courage of a man, much less a well-resolved Christian." He passed away so quietly that no one knew the moment of his departure. His was—

"A death, like sleep;  
A gentle wafting to immortal life."

Mr. Davis left a widow, Mrs. Nancy Davis, a daughter of John B. Morris, Esq., of Baltimore, and two little girls, who were the idols of his heart. He was married a second time on the 26th of January, 1857. His nearest surviving collateral relation is Hon. David Davis, Associate Justice of the Supreme Court of the United States, who is his only cousin—german. To all these afflicted hearts may God be most gracious.

Thus has the country lost one of the most able, eloquent, and fearless of its defenders. Called from this life at an age when most men are just beginning to command the respect and confidence of their fellows, he has left, nevertheless, a fame as wide as our vast country. He died nineteen years younger than Washington and eight years younger than Lincoln. At forty-eight years of age Washington had not seen the glories of Yorktown even in a vision, nor had Lincoln dreamed of the presidential chair; and if they had died at that age they would have been comparatively unknown in history. Doubtless God would have raised up other leaders, if they had been wanting, to conduct the great American column, which He has chosen to be the body-guard of human rights and hopes, onward among the nations and the centuries; but in that event the 12th and 22d days of February would not be, as they now are, held sacred in our calendar.

Mr. Davis had gathered into his house the literary treasures of four languages, and had reveled in spirit with the wise men of the ages. He had conned his books as jealously as a miner peering for gold, and had not left a painful of earth unwashed. He had collected the purest ore of truth and the richest gems of thought, until he was able to crown himself with knowledge. Blessed with a felicitous power of analysis and a prodigious memory, he ransacked history, ancient and modern, sacred and profane; science, pure, empirical, and metaphysical; the arts, mechanical and liberal; the professions, law, divinity, and medicine; poetry and the miscellanies of literature; and in all

these great departments of human lore he moved as easily as most men do in their particular province. His habit was not only to read but to reread the best of his books frequently, and he was continually supplying himself with better editions of his favorites. In current, playful conversation with friends he quoted right and left, in brief and at length, from the classics, ancient and modern, and from the drama, tragic and comic. In his speeches, on the contrary, he quoted but little; and only when he seemed to run upon a thought already expressed by some one else with singular force and appositeness. He was the best scholar I ever met for his years and active life, and was surpassed by very few, excepting mere book-worms. He has for many years been engaged in collecting extracts from newspapers, containing the leading facts and public documents of the day; but he never common-placed from books. His thesaurus was his head.

I have but little personal knowledge of Mr. Davis as a lawyer. It was never my good fortune to be associated with him in the trial of a cause; nor have I ever been present when he was so engaged. But at the time of his death he filled a high position at the bar, and was chosen to lead against the most distinguished of his brethren. On public and constitutional questions, as distinguished from those involving only private rights, he was a host, and in the argument of the cases which grew out of the adoption of the new constitution of Maryland he won golden laurels, and drew extraordinary encomiums even from his opponents in that angry litigation. He was thoroughly read in the decisions of the Federal courts, and especially in those declaring and defining constitutional principles.

Possessed of a mind of remarkable power, scope, and activity; with an immense fund of precious information, ready to respond to any call he might make upon it, however sudden; wielding a system of logic formed in the severest school, and tried by long practice; gifted with a rare command of language and an eloquence well nigh superhuman; and withal graced with manners the most accomplished and refined, and a person unusually handsome, graceful, and attractive, Mr. Davis entered public life with almost unparalleled personal advantages. Having boldly presented himself before the most rigorous tribunal in the world, he proved himself worthy of its favor and attention. He soon rose to the front rank of debaters, and whenever he addressed the House all sides gave him a delighted audience.

I shall not attempt a review of the topics discussed in the Thirty-Fourth and Thirty-Fifth Congresses. The day was fast coming when contests for the Speakership and battles over appropriation bills, ay, even the fierce struggle over Kansas, would sink into insignificance, and Mr. Davis, with that political prescience for which he was always remarkable, seemed to discern the first sign of the coming storm. The winds had been long sown, and now the whirlwind was to be reaped. The Thirty-Sixth Congress, which had opened so inauspiciously, and which his vote had saved from becoming a perpetuated bedlam, met for its second session on the 3d of December, 1860, with the clouds of civil war fast settling down upon the nation. In the hope that war might yet be averted, on the fourth day of the session, the celebrated committee of thirty-three was raised, with the lamented Corwin, of Ohio, as chairman, and Mr. Davis as the member from Maryland. When the committee reported, Mr. Davis sustained the majority report in an able speech, in which, after urging every argument in favor of the report, he boldly proclaimed his own views, and the duties of his State and country. In his speech of 7th February, 1861, he said:

"I do not wish to say one word which will exasperate the already too much inflamed state of the public mind; but I will say that the Constitution of the United States, and the laws made in pursuance thereof, must be enforced; and they who stand across

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the path of that enforcement must either *destroy* the power of the *United States*, or it will *destroy* them."

For such utterances only a small part of the people of his State was on that day prepared. Seduced by the wish, they still believed that the Union could be preserved by fair and mutual concessions. They were on their knees praying for peace, ignorant that bloody war had already girded on his sword. His language was then deemed too harsh and unconciliatory, and hundreds, I among the number, denounced him in unmeasured terms. Before the expiration of three months events had demonstrated his wisdom and our folly, and other paragraphs from that same speech became the fighting creed of the Union men of Maryland. He further said, on that occasion:

"But, sir, there is one State I can speak for, and that is the State of Maryland. Confident in the strength of this great Government to protect every interest, grateful for almost a century of unalloyed blessings, she has fomented no agitation; she has done no act to disturb the public peace; she has rested in the consciousness that if there be wrong the Congress of the United States will remedy it; and that none exists which revolution would not aggravate."

"Mr. Speaker, I am here this day to speak, and I say that I do speak, for the people of Maryland, who are loyal to the United States; and that when my judgment is contested, I appeal to the people for its accuracy, and I am ready to maintain it before them."

"In Maryland we are dull, and cannot comprehend the right of secession. We do not recognize the right to make a revolution by a vote. We do not recognize the right of Maryland to repeal the Constitution of the United States, and if any convention there, called by whatever authority, under whatever auspices, undertake to inaugurate revolution in Maryland, their authority will be resisted and defied in arms on the soil of Maryland, in the name and by the authority of the Constitution of the United States."

In January, 1861, the ensign of the Republic, while covering a mission of mercy, was fired on by traitors. In February Jefferson Davis said, at Stevenson, Alabama, "We will carry war where it is easy to advance, where food for the sword and torch await our armies in the densely populated cities." In March the Thirty-Sixth Congress, after vainly passing conciliatory resolutions by the score, among other things recommending the repeal of all personal liberty bills, declaring that there was no authority outside of the States where slavery was recognized to interfere with slaves or slavery therein, and proposing by two thirds votes of both Houses an amendment of the Constitution prohibiting any future amendment giving Congress power over slavery in the States, adjourned amid general terror and distress.

Abraham Lincoln, having passed through the midst of his enemies, appeared at Washington in due time and delivered his inaugural, closing with these memorable words:

"In your hands, my dissatisfied fellow-countrymen, and not in mine, is the momentous issue of civil war. The Government will not assail you."

"You can have no conflict without being yourselves the aggressors. You can have no oath registered in heaven to destroy the Government, while I shall have the most solemn one to 'preserve, protect, and defend' it."

"I am loth to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection."

"The mystic chords of memory, stretching from every battle-field and patriot grave to every living heart and hearth-stone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature."

Words which, if human hearts do not harden into stone, through the long ages yet to come, "Will plead like angels, trumpet-tongued, against The deep damnation of his taking off."

The appeal was spurned; and in the face of its almost godlike gentleness they, who already gloried in their anticipated saturnalia of blood, inhumanly and falsely stigmatized it as a declaration of war. The long-patient North, slow to anger, in its agony still cried, "My brother; oh, my brother!" It remained for that final, ineradicable infamy of Sumter to arouse the nation to arms! At last, to murder at one blow the hopes we had nursed so tenderly, they impiously dragged in the dust the glorious symbol of our national life and majesty, heaping dishonor upon it, and like the

sneering devil at the crucifixion, crying out, "Come and deliver thyself;" and then no man, with the heart of a man, who loved his country and feared his God, dared longer delay to prepare for that great struggle which was destined to rock the earth.

Poor Maryland! cursed with slavery, doubly cursed with traitors! Mr. Davis had said that Maryland was loyal to the United States, and had pledged himself to maintain that position before the people. The time soon came for him to redeem his pledge. On the morning of the 15th of April the President issued his proclamation calling a special session of Congress, which made an extra election necessary in Maryland. Before the sun of that day had gone down, this card was promulgated:

To the Voters of the Fourth Congressional District of Maryland: I hereby announce myself as a candidate for the House of Representatives of the Thirty-Seventh Congress of the United States of America, upon the basis of the unconditional maintenance of the Union.

Should my fellow-citizens of like views manifest their preference for a different candidate on that basis, it is not my purpose to embarrass them.

April 15, 1861. H. WINTER DAVIS.

But dark days were coming for Baltimore. A mob, systematically organized in complicity with the rebels at Richmond and Harper's Ferry, seized and kept in subjection an unsuspecting and unarmed population from the 19th to the 24th of April. For six days murder and treason held joint sway; and at the conclusion of their tragedy of horrid barbarities, they gave the farce of holding an election for members of the House of Delegates.

To show the spirit that moved Mr. Davis under this ordeal I cite from his letter, written on the 28th, to Hon. William H. Seward, the following:

"I have been trying to collect the persons appointed scattered by the storm, and to compel them to take their offices or to decline."

"I have sought men of undoubted courage and capacity for the places vacated."

"We must show the secessionists that we are not frightened, but are resolved to maintain the Government in the exercise of all its functions in Maryland."

"We have organized a guard, who will accompany the officers and hold the public buildings against all the secessionists in Maryland."

"A great reaction has set in. If we now act promptly the day is ours, and the State is safe."

These matters being adjusted, he immediately took the field for Congress on his platform against Mr. Henry May, conservative Union, and in the face of an opposition which few men have dared to encounter, he carried on, unremittently from that time until the election on the 13th of June, the most brilliant campaign against open traitors, doubters, and dodgers that unrivaled eloquence, courage, and activity could achieve. Everywhere, day and night, in sunshine and storm, in the market-houses, at the street-corners, and in the public halls his voice rang out clear, loud, and defiant for the "unconditional maintenance" of the Union. He was defeated, but he sanctified the name of *unconditional Union* in the vocabulary of every true Marylander. He gathered but 6,000 votes out of 14,000, yet the result was a triumph which gave him the real fruits of victory; and he exclaimed to a friend, with laudable pride, "With six thousand of the workingmen of Baltimore on my side, won in such a contest, I defy them to take the State out of the Union." Though not elected, he never ceased his efforts. With us it was a struggle for homes, hearths, and lives. He said at Brooklyn:

"You see the conflagration from a distance; it blisters me at my side. You can survive the integrity of the nation; we in Maryland would live on the side of a gulf, perpetually tending to plunge into its depths. It is for us life and liberty; it is for you greatness, strength, and prosperity."

"Nothing appalled him; nothing deterred him. He said at Baltimore, in 1861:

"The War Department has been taught by the misfortune at Bull Run, which has broken no power nor any spirit, which bowed no State nor made any heart falter, which was felt as a humiliation, that has brought forth wisdom."

He also said, speaking of the rebels, and fore-

telling his own fate, if they succeeded in Maryland:

"They have inaugurated an era of confiscations, proscriptions, and exiles. Read their acts of greedy confiscation, their law of proscriptions by the thousands. Behold the flying exiles from the unfriendly soil of Virginia, Tennessee, and Missouri!"

And so he worked on, never abating one jot of his uncompromising devotion to the Union, like a second Peter the Hermit, preaching a cause, as he believed, truly represented by insignia as sacred as the Cross, and for which no sacrifice, not even death, was too great.

But his crowning glory was his leadership of the emancipation movement. The rebels, notwithstanding "My Maryland's" bloody welcome at South Mountain and Antietam, claimed that she must belong to their confederacy, because of the homogeneity of her institutions. They contended that the fetters of slavery formed a chain that stretched across the Potomac, and held in bondage not only 87,000 slaves, but 600,000 white people also. Their constant theme was "the deliverance" of Maryland. We resolved to break that last tie, and to take position unalterably on the side of the Union and freedom, and thus to deal the final blow to the cause and support of rebellion. We organized our little band, almost ridiculous from its want of numbers, early in 1863. A Sibley tent would have held our whole army. Our enemies laughed us to scorn, and the politicians would not accept our help on any terms; but denied us as earnestly as Peter denied his Lord. Mr. Davis was our acknowledged leader, and it was in the heat and fury of the contest which followed that our hearts were welded into permanent friendship. He was the platform-maker, and he announced it in a few lines:

"A hearty support of the entire policy of the national Administration, including immediate emancipation by constitutional means."

It was very short, but it covered all the ground. The campaign opened by the publication of an address, written by Mr. Davis to the people of Maryland, which, I venture to say, is unsurpassed by any state paper published in this age of able state papers for the warmth and vigor of its diction, and the lucidity and conclusiveness of its argumentation. It is a pamphlet of twenty pages, glowing throughout with the unmistakable marks of his genius and patriotism, and closing with these words of stirring cheer:

"We do not doubt the result, and expect, freed from the trammels which now bind her, to see Maryland, at no distant day, rapidly advancing in a course of unexampled prosperity with her sister free States of the undivided and indivisible Republic."

Mr. Davis was ubiquitous. He was the life and soul of the whole contest. He arranged the order of battle, dictated the correspondence, wrote the important articles for the newspapers, and addressed all the concerted meetings. In short, neither his voice nor his pen rested in all the time of our travail. He would have no compromise; but rejected all overtures of the enemy short of unconditional surrender. On the Eastern Shore he spoke with irresistible power at Elkton, Easton, Salisbury, and Snow Hill, at each of the three last-named towns with a crowd of wondering "American citizens of African descent" listening to him from afar, and looking upon him as if they believed him to be the seraph Abdiel. His last appointment, in extreme southern Maryland, he filled on Friday, after which, bidding me a cordial god-speed, he descended from the stand, sprang into an open wagon awaiting him, traveled eighty miles through a raw night air, reached Cambridge by daylight, and then crossed the Chesapeake, sixty miles, in time to close the campaign with one of his ringing speeches in Monument square, Baltimore, on Saturday night. In this, our first contest, we were completely victorious.

But we had yet a weary way before us. The Legislature had then to pass a law calling a convention. That law had to be approved by



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a majority of the people. Members of the convention had then to be elected in all parts of the State, and the Constitution which they adopted had to be carried by a majority of the popular vote. He allowed himself no reprieve from labor until all this had been accomplished. And when the rest of us, worn out by this incessant toil, gladly sought rest, he went before the Court of Appeals to maintain everything that had been done against all comers, and did so triumphantly.

Let free Maryland never forget the debt of eternal gratitude she owes to Henry Winter Davis.

If oratory means the power of presenting thoughts by public and sustained speech to an audience in the manner best adapted to win a favorable decision of the question at issue, then Mr. Davis assuredly occupied the highest position as an orator. He always held his hearers in rapt attention until he closed, and then they lingered about to discuss with one another what they had heard. I have seen a promiscuous assembly, made up of friends and opponents, remain exposed to a beating rain for two hours rather than forego hearing him. Those who had heard him most frequently were always ready to make the greatest effort to hear him again. Even his bitterest enemies have been known to stand shivering on the street corners for a whole evening, charmed by his marvelous tongue. His stump efforts never fell below his high standard. He never condescended to a mere attempt to amuse. He always spoke to instruct, to convince, and to persuade through the higher and better avenues to favor. I never heard him deliver a speech that was not worthy of being printed and preserved. As a stump orator he was unapproachable, in my estimation, and I say that with a clear recollection of having heard, when a boy, that wonder of Yankee birth and southern development, S. S. Prentiss.

Mr. Davis's ripe scholarship promptly tendered to his thought the happiest illustrations and the most appropriate forms of expression. His brain had become a teeming cornucopia, whence flowed in exhaustless profusion the most beautiful flowers and the most substantial fruits; and yet he never indulged in excessive ornamentation. His taste was almost austere chaste. His style was perspicuous, energetic, concise, and withal highly elegant. He never loaded his sentences with meretricious finery, or high-sounding, supernumerary words. When he did use the jewelry of rhetoric, he would quietly set a metaphor in his page or throw a comparison into his speech which would serve to light up with startling distinctness the colossal proportions of his argument. Of humor he had none; but his wit and sarcasm at times would glitter like the brandished cimeter of Saladin, and, descending, would cut as keenly. The pathetic he never attempted; but when angered by a malicious assault his invective was consuming, and his epithets would wound like pellets of lead. Although gallant to the graces of expression, he always compelled his rhetoric to act as hand-maid to his dialectics.

Style may sometimes be an exotic; but when it is, it is sure to partake more and more as years increase, of the peculiarities of the soil wherein it is nurtured. But the style of Mr. Davis was indigenous and strongly marked by his individuality. Although he doubtless admired and perhaps imitated the condensation and dignity of Gibbon, yet it is certain that he carefully avoided the monotonous stateliness, and the elaborate and ostentatious art of that most erudite historian. I look in vain for his model in the skeptical Gibbon, the cynical Bolingbroke, or the gorgeous Burke. These were all to him intellectual giants; but giants of false belief and practice. Not even from Tacitus, upon whom he looked with the greatest favor, could he have acquired his burning and impressive diction. Henry Winter Davis

was a man of faith, and believed in Christ and his fellow-man. His heart and mind were both nourished into their full dimensions under the fostering influences of our free institutions; so that, being reared a freeman, he thought and spake as became a freeman. No other land could have produced such dauntless courage and such heroic devotion to honest conviction in a public man; and even our land has produced but few men of his stamp and ability. His implicit faith in God's eternal justice, and his grand moral courage imparted to him his proselyting zeal, and gave him that amazing, kindling power which enabled him to light the fires of enthusiasm wherever he touched the public mind.

To show his power in extemporaneous debate, as well as his determined patriotism, I will introduce a passage from his speech of April 11, 1864, delivered in the House of Representatives. You will remember that the end of the rebellion had not then appeared. Grant, with his invincible legions, had not started to execute that greatest military movement of modern times, by which, after months of bloody persistence, hurling themselves continually against what seemed the frowning front of destiny, they finally drove the enemy from his strongholds, made Fortune herself captive, and, binding her to their standards, held her there, until the surrender of every rebel in arms closed the war amid the exultant plaudits of men and angels. Our hopes had not then grown into victory, and we looked forward anxiously to the terrible march from the Rappahannock to Richmond. Thinking that perhaps our army stood appalled before the great duty required of it, and that the people might be diverted from their purpose to crush the rebellion, when they saw that it could only be accomplished at the cost of an ocean of human blood, a call was made on the floor of the American Congress for a recognition of the southern confederacy. Speaking for the nation, Mr. Davis said:

"But, Mr. Speaker, if it be said that a time may come when the question of recognizing the southern confederacy will have to be answered, I admit it."  
\* \* \* \* \* "When the people, exhausted by taxation, weary of sacrifices, drained of blood, betrayed by their rulers, deluded by demagogues into believing that peace is the way to union, and submission the path to victory, shall throw down their arms before the advancing foe; when vast chasms across every State shall make it apparent to every eye, when too late to remedy it, that division from the South is anarchy at the North, and that peace without union is the end of the Republic; then the independence of the South will be an accomplished fact, and gentlemen may, without treason to the dead Republic, rise in this migratory House, wherever it may then be in America, and declare themselves for recognizing their masters at the South rather than exterminating them. Until that day, in the name of the American nation; in the name of every house in the land where there is one dead for the holy cause; in the name of those who stand before us in the ranks of battle; in the name of the liberty our ancestors have confided to us, I devote to eternal execration the name of him who shall propose to destroy this blessed land rather than its enemies."

But until that time arrive it is the judgment of the American people there shall be no compromise; that ruin to ourselves or ruin to the southern rebels are the only alternatives. It is only by resolutions of this kind that nations can rise above great dangers and overcome them in crises like this. It was only by turning France into a camp, resolved that Europe might exterminate but should not subjugate her, that France is the leading empire of Europe today. It is by such a resolve that the American people, coercing a reluctant Government to draw the sword and stake the national existence on the integrity of the Republic, are now anything but the fragments of a nation before the world, the scorn and hiss of every petty tyrant. It is because the people of the United States, rising to the height of the occasion, dedicated this generation to the sword, and pouring out the blood of their children as of no account, and vowing before high Heaven that there should be no end to this conflict but ruin absolute or absolute triumph, that we now are what we are; that the banner of the Republic, still pointing onward, floats proudly in the face of the enemy; that vast regions are reduced to obedience to the laws, and that a great host in armed array now presses with steady step into the dark regions of the rebellion. It is only by the earnest and abiding resolution of the people that, whatever shall be our fate, it shall be grand as the American nation, worthy of that Republic which first trod the path of empire and made no peace but under the banners of victory, that the American people will

survive in history. And that will save us. We shall succeed, and not fail. I have an abiding confidence in the firmness, the patience, the endurance of the American people; and, having vowed to stand in history on the great resolve to accept of nothing but victory or ruin, victory is ours. And if with such heroic resolve we fall, we fall with honor, and transmit the name of liberty, committed to our keeping untarnished, to go down to future generations. The historian of our decline and fall, contemplating the ruins of the last great republic, and drawing from its fate lessons of wisdom on the waywardness of men, shall drop a tear as he records with sorrow the vain heroism of that people who dedicated and sacrificed themselves to the cause of freedom, and by their example will keep alive her worship in the hearts of men till happier generations shall learn to walk in her paths. Yes, sir, if we must fall, let our last hours be stained by no weakness. If we must fall, let us stand amid the crash of the falling Republic and be buried in its ruins, so that history may take note that men lived in the middle of the nineteenth century worthy of a better fate, but chastised by God for the sins of their forefathers. Let the ruins of the Republic remain to testify to the latest generations our greatness and our heroism. And let Liberty, crownless and childless, sit upon these ruins, crying aloud in a sad wail to the nations of the world, 'I nursed and brought up children and they have rebelled against me.'

Mr. Davis's most striking characteristics were his devotion to principle and his indomitable courage. There never was a moment when he could be truthfully charged with trimming or insincerity. His views were always clearly avowed and fearlessly maintained. He hated slavery and he did not attempt to conceal it. He remembered the lessons of his youth, and his heart rebelled against the injustice of the system. His antipathy was deeply grounded in his convictions, and he could not be dissuaded, nor frightened, nor driven from expressing it.

He was not a great captain, nor a mighty ruler; he was only one of the people, but, nevertheless, a hero. Born under the flag of a nation which claimed for its cardinal principle of government, that all men are created free, yet held in abject slavery four millions of human beings; which erected altars to the living God, yet denied to creatures, formed in the image of God and charged with the custody of immortal souls, the common rights of humanity; he declared that the hateful inconsistency should cease to defile the prayers of Christians and stultify the advocates of freedom. No dreamer was he, no mere theorist, but a worker, and a strong one, who did well the work committed to him. He entered upon his self-imposed task when surrounded by slaves and slave-owners. He stood face to face with the iniquitous superstition, and to their teeth defied its worshippers. To make proselytes he had to conquer prejudices, correct traditions, elevate duty above interest, and induce men, who had been the propagandists of slavery, to become its destroyers. Think you his work was easy? Count the long years of his unequal strife; gather from the winds, which scattered them, the curses of his foes; suffer under all the annoyances and insults which malice and falsehood can invent, and you will then understand how much of heart and hope, of courage and self-relying zeal were required to make him what he was, and to qualify him to do what he did. And what did he? When the rough hand of war had stripped off the pretexts which enveloped the rebellion, and it became evident that slavery had struck at the life of the Republic, unmindful of consequences to himself, he, among the first, arraigned the real traitor and demanded the penalty of death. The denunciations that fell upon him like a cloud wrapped him in a mantle of honor, and more truthfully than the great Roman orator he could have exclaimed, "*Ego hoc animo semper fui, ut invidiam virtute partam, gloriam non invidiam putarem.*"

This man, so stern and inflexible in the execution of a purpose, so rigorous in his demands of other men in behalf of a principle, so indifferent to preferment, and all base objects of pursuit, had a monitor to whom he always gave an open ear and a prompt assent. It was no demon like that which attended Socrates, no witch like that invoked by Saul, no fiend like

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that to which Faust resigned himself. A vision of light and life and beauty flitted ever palpably before him, and wooed him to the perpetual service of the good and true. The memory of a pious and beloved mother permeated his whole moral being, and kept warm within him the tenderest affection. Hear how he wrote of her:

"My mother was a lady of graceful and simple manners, fair complexion, blue eyes, and auburn hair, with a rich and exquisite voice, that still thrills my memory with the echo of its vanished music. She was highly educated for her day, when Annapolis was the focus of intellect and fashion for Maryland, and its fruits shone through her conversation, and colored and completed her natural eloquence, which my father used to say would have made her an orator, if it had not been thrown away on a woman. She was the incarnation of all that is Christian in life and hope, in charity and thought, ready for every good work, herself the example of all she taught."

It was the force of her precept and example that formed the man, and supplied him with his shield and buckler. His private life was spotless. His habits were regular and abstemious, and his practice in close conformity with the Episcopal church, of which he was a member. He invariably attended divine service on Sunday, and confined himself for the remainder of the day to a course of religious reading. If from his father he drew a courage and a fierce determination before which his enemies fled in confusion; from his mother he inherited those milder qualities that won for him friends, as true and devoted as man ever possessed. Some have said he was hard and dictatorial. They had seen him only when a high resolve had fired his breast, and when the gleam of battle had lighted his countenance. His friends saw deeper, and knew that beneath the exterior he assumed in his struggles with the world there beat a heart as pure and unsullied, as confiding and as gentle as ever sanctified the domestic circle, or made loved ones happy. His heart reminded me of a spring among the hills of the Susquehanna to which I often resorted in my youth; around a part of it we boys had built a stone wall to protect it from outrage, while on the side next home we left open a path, easily traveled by familiar feet, and leading straight to the sweet and perennial waters within.

He lived to hear the salvos that announced, after more than two centuries of bondage, the redemption of his native State. He lived to vote for that grand act of enfranchisement that wiped from the escutcheon of the nation the leprous stain of slavery; and to know that the Constitution of the United States no longer recognized and protected property in man. He lived to witness the triumph of his country in its desperate struggle with treason, and to behold all its enemies, either wanderers like Cain over the earth, or supplicants for mercy at her feet. He lived to catch the first glimpse of the coming glory of that new era of progress that matchless valor had won through the blood and carnage of a thousand battle-fields. He lived, through all the storm of war, to see, at last, America rejuvenated, rescued from the grasp of despotism, and rise victorious with her garments purified and her brow radiant with the unsullied light of liberty. He lived to greet the return of "meek-eyed peace," and then he gently laid his head upon her bosom and breathed out there his noble spirit.

The sword may rust in its scabbard, and so let it; but free men with free thought and free speech will wage unceasing war until truth shall be enthroned and sit empress of the world. Would to God that he had been spared to complete a life of three-score and ten years for the sake of his country and posterity. When I think of the good he would have accomplished had he survived for twenty years, I can say, in the language of Fisher Ames, "My heart, penetrated with the remembrance of the man, grows liquid as I speak, and I could pour it out like water."

At the portals of his tomb we may bid farewell to the faithful Christian in the full assur-

ance that a blessed life awaits him beyond the grave. Serenely and trustfully he has passed from our sight and gone down into the dark waters.

"So sinks the day-star in the ocean bed,  
And yet anon repairs his drooping head,  
And tricks his beams and with new-spangled ore,  
Flames in the forehead of the morning sky."

From this Hall, where as a scholar, statesman, and orator, he shone so brightly, he has disappeared forever. Never again will he, answering to the roll-call from this desk, respond for his country and the rights of man. No more shall we hear his fervid eloquence in the day of imminent peril, invoking us, who hold the mighty power of peace and war, to dedicate ourselves, if need be, to the sword, but to accept no end of the conflict save that of absolute triumph for our country. He has gone to answer the great roll-call above, where the "brazen throat of war" is voiceless in the presence of the Prince of Peace. Let us habitually turn to his recorded words, and gather wisdom as from the testament of a departed sage; and since we were witnesses of his tireless devotion to the cause of human freedom, let us direct that on the monument which loving hearts and willing hands will soon erect over his remains, there shall be deeply engraved the figure of a bursting shackle, as the emblem of the faith in which he lived and died.

For the Christian, scholar, statesman, and orator, all good men are mourners; but what shall I say of that grief which none can share, the grief of sincere friendship?

Oh! my friend! comforted by the belief that you, while living, deemed me worthy to be your companion, and loaded me with the proofs of your esteem, I shall fondly treasure, during my remaining years, the recollection of your smile and counsel. Lost to me is the strong arm whereon I have so often leaned; but in that path, which in time past we trod most joyfully together, I shall continue, as God shall give me to see my duty, with unflinching, though perhaps with unskillful steps, right onward to the end.

Admiring his brilliant intellect and varied acquirements, his invincible courage and unswerving fortitude, glorying in his good works and fair renown, but more than all *loving the man*, I shall endeavor to assuage the bitterness of grief by applying to him those words of proud, though tearful, satisfaction, from which the faithful Tacitus drew consolation for the loss of that noble Roman whom he delighted to honor:

"Quidquid ex Agricola amavimus, quidquid mirati sumus, manet mansurumque est, in animis hominum, in æternitate temporum, fama rerum."

### **The Public Debt and Specie Payments.**

#### **SPEECH OF HON. J. A. GARFIELD,**

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 16, 1866.

The House having under consideration the bill to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865—

Mr. GARFIELD said:

Mr. SPEAKER: After the long and spirited contest on this bill, I shall do little beyond making as plain a statement as I can of the conditions of the great financial problem now before the country for solution. The bill relates to two leading points in that problem, namely:

1. To our indebtedness that shall accrue from time to time in the course of the next three years.

2. To our currency and its relation to the standard of value.

I shall notice these in the order I have named them.

Several gentlemen have said, during the

progress of this debate, that what might have been a very proper financial measure in time of war might be a very dangerous and unnecessary one in time of peace; that the vast powers proposed to be given to the Secretary of the Treasury in this bill are powers only justifiable in time of great public danger, as during the late war.

Now, I beg to remind gentlemen that the financial problems before this country are becoming greater since the war than they were during its progress. In the midst of the war, when the blood of the nation was up; when patriotism was aroused, and the people were determined to put down the rebellion and preserve the Republic at all hazards; when the last man and the last dollar were offered a willing sacrifice, it was comparatively easy to pass financial bills and raise millions of money. But now, when we are to gather up all the pledges and promises of four terrible years, and redeem them out of the solid resources of the people in time of peace, the problem is far more difficult. To solve it successfully requires greater exertion, and perhaps even greater financial ability than would be requisite were the war still raging.

What is the amount of indebtedness to be met, and when must it be met? To this question I invite the careful and earnest attention of the House. I shall give the official statement of the amount of our total indebtedness and also of that portion soon to become due. The amount of our public debt on the first day of this month was \$2,711,850,000. Less than half of this amount is funded. Within the next three years \$1,600,000,000 of this debt will fall due, and will be presented at the counter of the Treasury Department for payment. That payment must be promptly made or our paper goes to protest and our credit is broken. I hold in my hand an official table showing the amount of our indebtedness that matures during each half year for the next two years, which, after a word of explanation, I will read.

There was on the last day of February, 1866, a portion of our debt in the form of a temporary loan to the amount of \$119,835,194 50, payable at the option of the lender after ten days' notice. It would hardly be fair to reckon that whole amount as payable within the first six months, yet as it may be called for at any time, and is the least valuable form of loan, it must be added to the statement of indebtedness soon to be met. With this explanation, and supposing the payment of this loan to be demanded within the next six months, I call attention to the facts exhibited in the table.

Between this day and the 30th day of June next, we must pay, in addition to the regular expenditure of the Government, \$138,674,874 82. During the six months ending December 31, 1866, we must pay \$47,665,000. During the six months ending June 30, 1867, we must pay \$8,471,000. During the six months ending December 31, 1867, we must pay \$350,000,000. During the six months ending June 30, 1868, we must pay \$369,415,250. During the six months ending December 31, 1868, we must pay \$287,564,482. So that between this and the assembling of the next Congress there must be paid over the counter of the Treasury, besides the ordinary expenses of the Government, \$1,201,890,607 62.

I am sure that every member of this House acknowledges that this is a sacred obligation, every dollar of which must be promptly met the day it is due. I take it for granted that no man here will consent that a single dollar of it shall go to protest, or that any act of this House shall bear the least taint or color of repudiation. We must, therefore, meet these obligations. How can it be done?

Mr. SPALDING. Will my colleague allow me a question?

Mr. GARFIELD. Certainly.

Mr. SPALDING. Does not this amount of indebtedness thus maturing include the seven-

thirty bonds for which the Government may issue five-twenty bonds?

Mr. GARFIELD. My colleague is correct. Most of the seven-thirty bonds are included in this amount, but they must be redeemed in money or five-twenty bonds, at the holder's option. The Secretary has no power to compel such an exchange.

As I have already stated, there will be presented for payment in some form before the assembling of the Fortieth Congress \$1,201,000,000, in addition to the ordinary expenditures of the Government. How are these demands to be met? With what power is the Secretary of the Treasury clothed to enable him to meet this enormous obligation?

There are two clauses in the existing laws which give him some power.

The first and chief is to be found in the last clause of the first section, of the act of the 3d of March, 1865, which has been so ably discussed by my colleague on the committee, [Mr. ALLISON.] He has shown us—and no man, I believe, will venture to deny the correctness of the position—that the clause gives the Secretary of the Treasury power merely to *exchange* one kind of paper for another, but only with the consent of the holder. If the holder says, "I will not take your long bonds, I demand my money," his money he must have. If, when the seven-thirty bond is due, the state of the market makes money more valuable than a six per cent. bond for twenty years, the holder will of course demand money. He will of course take the option most profitable to himself and least advantageous to the Government.

The other clause that gives the Secretary power is in the act of June 30, 1864. The second section of that act allows the Secretary of the Treasury to take up the various kinds of paper representing indebtedness and issue therefor compound-interest notes or seven-thirty bonds. These two descriptions of paper are of all others the most expensive for the Government to issue.

I say, then, concerning this power, it is one that the Secretary ought not to use. It would be a calamity should he be compelled to use it. It would be a calamity, in the first place, were he compelled to issue in exchange for maturing indebtedness these compound-interest notes, for they are the most costly paper the Government can issue to its creditors—notes that are payable in three years with interest compounded every six months. It is enough to break the financial strength of any nation.

Again, by the provisions of this act the Secretary may issue seven-thirty bonds in exchange for matured indebtedness. They are short bonds. They now fill the market more than any others, and will be maturing after about twelve months. If we pay these out it will be only for the purpose of taking up others of the same kind. Even this can be done only at the option of the holder.

I say, therefore, that the Secretary is substantially limited in his power to these two clauses of the law; one that he ought not to use and cannot use without great disadvantage to the public credit, and the other that he can use only for the purpose of an even exchange, and that, too, by the consent of the holders. Therefore he has but little valuable power or discretion in funding the national debt. If Congress gives him no more power the Treasury will be at the mercy of the public creditors, who may combine to control the stock market and compel the Secretary to sacrifice the public credit to the gamblers of Wall street.

I hold it demonstrable that if you leave the Secretary of the Treasury where he is you abandon him to the mercy of the holders of the public securities, who, if they please, can utterly break him down and send the paper of the Government to protest.

Under these circumstances it was the duty of the Committee of Ways and Means to inquire what further power was necessary to en-

able the Secretary to meet these obligations as they mature, and put the debt into the form of long bonds at a lower rate of interest than we now pay. The committee believe that the bill now before the House gives the Secretary no more power than is needful for the accomplishment of the work before him. With that power the Secretary believes he can do the work. Without it he cannot.

If the plan now proposed be not adopted it is incumbent upon this House to offer one that will accomplish the work. It is not enough that gentlemen are able to point out defects in this bill and raise objections to it; but it is incumbent upon them to show us a plan which will accomplish the desired result and not be liable to equally grave objections.

Now, sir, what has been proposed as a substitute for this bill? The distinguished gentleman from Pennsylvania [Mr. STEVENS] has offered a substitute. I hope no one misunderstands his purpose. He is not only opposed to the pending bill, but he is unwilling to give the Secretary any additional power. He is not only unwilling to give the Secretary additional power, but he desires to take away much of the power already granted. His substitute consists of the committee's bill with every vital provision cut out, and the following disabling section added:

SEC. 2. That all laws or parts of laws which authorize the Secretary of the Treasury to fund or withdraw from circulation any United States legal-tender notes not bearing interest be, and the same are hereby, repealed.

If his substitute shall become a law, I desire it to be remembered that the House must take the responsibility of the disastrous results which must inevitably follow.

I have undertaken to state the first great duty which rests upon the Secretary of the Treasury, namely, to meet the maturing indebtedness of the Government. I will now state the second.

Mr. TROWBRIDGE. Before the gentleman from Ohio [Mr. GARFIELD] proceeds to the next branch of the subject, I would like to ask him a single question.

Mr. GARFIELD. Certainly.

Mr. TROWBRIDGE. I would like to have the gentleman state what is the necessity of retiring the greenback currency of the country and meeting these obligations of the Government, of which he has been speaking. Admitting his entire theory in regard to the bonds, and the seven-thirty and legal-tender notes, what is the necessity of diminishing the greenback circulation of the country at this time?

Mr. GARFIELD. That is a part of my second point, and I will cheerfully discuss it. Before leaving the first point, however, let me say that the committee have not been willing to leave the Secretary merely the barren power of exchanging one form of paper for another, bond for bond, dollar for dollar, and that only at the option of the holder. It is proposed in this bill that he be permitted to put a loan on the market, to sell bonds for money, and with that money redeem the old bonds as they mature. Even if we had no desire to limit the volume of paper currency it would be necessary to give him this power for the purpose of funding the debt.

But I hasten to the consideration of the currency. I call attention to the fact that Congress has established a policy, which is now nearly four years old, in reference to the circulating medium of the country. Five years ago there were in the United States over sixteen hundred banks, based on any and every kind of security, and issuing currency in whatever amounts were authorized by the laws of the various States.

The notes of one bank were based on real estate; of another, on State stock; of another, on United States stock. Each had its peculiar basis, its peculiar kind of currency, and regulated the amount of its circulation according to

its own rules and opinions. Sixteen hundred independent corporations were tinkering at the currency. The result was that a paper dollar in Ohio, though worth one hundred cents in gold at home, would pass for only ninety or ninety-five cents in Massachusetts or California. A Massachusetts dollar would fare equally hard in California. A paper dollar was worth its face in gold in only the immediate locality of its issue.

During the progress of the war against the rebellion, there was adopted a system of national banks based on a uniform security—the bonds of the United States—so that a paper dollar issued in Ohio is worth no less when it reaches Massachusetts. It was not, however, thought prudent by the Thirty-Seventh and Thirty-Eighth Congresses to make the United States Government a banker for the people, with arbitrary power to regulate the currency as it pleased. It was thought to be dangerous to repeat the history of the United States Bank of thirty years ago; and therefore it was resolved that the national bank system based on the bonds of the United States and regulated by the necessities of trade should be the established policy of the Government. The greenback currency was issued only as a war measure, to last during the necessities of the war, then to be withdrawn, and give place to the national bank system.

The war is now ended; and unless we mean to abolish the national bank system and make the Government itself a permanent banker, we must retire from the banking business and give place to the system already adopted. Unless gentlemen here are now ready to abandon entirely the national bank system, they must consent that ultimately the greenback circulation shall be withdrawn, and that the notes of the national banks shall furnish a paper currency which, together with gold, shall constitute the circulating medium of the country. The committee have proceeded on the belief that the national bank system is to be the permanent system of this country, and that the greenback circulation was only incidental to the necessities of war, and that with the removal of these necessities it was to be withdrawn.

Shall we return to specie payments: and if so, when and how? The President, in his late annual message, has expressed clearly and determinedly the purpose of the executive department of the Government to return at the earliest practicable moment to the solid basis of gold and silver. The Secretary of the Treasury in his report sets forth, with very great clearness and ability, the importance of an early return to specie payments. And this House, on the 18th of December last, with but six dissenting votes, not only declared itself in favor of returning as speedily as practicable to a specie basis, but also declared that the currency must be contracted as a means of resumption.

Now, how shall this be accomplished? By what lever can the financial machinery be so moved as to effect the object so much desired by every department of the Government? I answer that the only lever in our hands strong enough to reach every difficulty and overcome every obstacle is the greenback and fractional currency. In the first place they add \$450,000,000 to the volume of the currency. In the second place, they underlie the national bank system and constitute the reserves required by law.

It has been said during this debate that the circulation is not redundant; that we have now no more paper money than the business of the country requires; that the rate of interest is high, the money market stringent, and prices greatly advanced. I hold it demonstrable that our redundant currency is the chief cause of the high prices and the stringent money market.

I know that figures are not always the best index of the financial situation. If they were, I might show that less than three hundred million dollars furnished the circulation of this



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country before the war, and that now we have more than a thousand million. I need only refer to the horn-books of financial science to show that the only sure test of the redundancy of paper money is its convertibility into coin at the will of the holder, and that its redundancy will inevitably increase prices. On the latter proposition I will read a sentence from the highest living authority in political economy, (John Stuart Mill, *Political Economy*, volume two, page 18:)

"That an increase of the quantity of money raises prices and a diminution lowers them is the most elementary proposition in the theory of currency, and without it we should have no key to any of the others."

Mr. PRICE. I want to ask the gentleman from Ohio whether there is any more currency in circulation now than six months ago. In short, I want to know whether there is not more currency in circulation every day of the week and every week of the month for the last six months. And has it not been increasing? I want to know whether it is not equally true that gold has been coming down steadily, certainly, gradually, surely; and not only that, but that the commodities of trade and commerce have come down in the same ratio. Yet the currency has been increasing, strange as it may seem. And the gentleman need not go back to the horn-books to find out these facts. They stare us in the face every day. It cannot be denied that while the currency has been increasing gold has been going down.

Mr. GARFIELD. A paragraph from the *Merchants' Magazine* for January last will perfectly answer the gentleman's question. It is to this effect: the President's message raised Government securities at home and abroad and depressed gold. The report of the Secretary of the Treasury accomplished still more. The very announcement of the policy of resumption has checked gold and stock gambling and brought down prices. That historical fact is a complete answer to the gentleman's question.

Mr. PRICE. Does the gentleman deny the statement I make in reference to the increase of the volume of our currency and the decrease in the premium on gold?

Mr. GARFIELD. I do not deny it. I have admitted that gold is falling. I admit that our currency has been slightly increased. But, sir, it must be remembered that \$600,000,000 of rebel currency collapsed and disappeared on the day the so-called southern confederacy collapsed, and thus left a vacuum into which our currency has since been flowing.

Mr. PRICE. Do you deny in the face of the facts in the case that our currency has been increasing while gold has been decreasing?

Mr. GARFIELD. I have answered the gentleman.

Mr. PRICE. I am sorry I cannot see the answer.

Mr. GARFIELD. I have stated the facts in answer to the gentleman. I am not responsible for his inability to understand them.

I call attention, because the gentleman from Pennsylvania [Mr. STEVENS] has referred to it, to the remarkable example in British history on this subject. I have never seen a more perfect illustration of the truth that history repeats itself than this debate as compared with the debate in the British Parliament during their great struggle for a return to specie payments, after the war against Napoleon. From 1797 to 1819 the British people had only a paper circulation, and, as is always the case, the poorer currency drove out the better. As respectable people leave that portion of a city in which disreputable people settle, so gold retires before an irredeemable paper currency. If our customs and the interest on our public debt had not been made payable in coin, gold would have disappeared from the country. In England, when they had no gold in circulation, when prices had risen, when rents had risen, after stocks had fallen, Englishmen did as we have been doing here.

In 1810, a committee of the most able financiers and statesmen were ordered to report the cause of high prices and the premium upon gold, and after a laborious investigation, during which the most distinguished men were called in as witnesses, that most able paper, the Bullion Report, was submitted to Parliament. In that report the principle was enunciated that the only true test of the redundancy of currency was its comparison in value with gold; that whenever a paper dollar is not exchangeable for a gold dollar, it is proof that there are too many paper dollars; and there can be no surer test. In the report of that committee it was laid down as a fundamental proposition that nothing but the supreme test of gold applied to paper will certainly determine the question of the redundancy. That report was debated for many weeks, and every leading banker, broker, importer, and manufacturer of England opposed the bullion committee and their proposed return to cash payments. The measure was defeated. Gold and prices immediately rose. From 1811 till 1819 there was a steady rise in prices and stocks, and in the year 1819 another committee of the House of Commons was appointed to examine and report on the financial situation of the kingdom. Three of the members of the bullion committee of 1810 were also on the committee of 1819. After a most searching investigation, they reported in favor of resumption, and indorsed the doctrine of the Bullion Report.

Then it was that Sir Robert Peel distinguished himself as the great statesman and financier of England by declaring in the House of Commons his conversion to the doctrines of the Bullion Report which he had so strenuously opposed eight years before. I have before me the records of the great debate in which that illustrious man lamented that the distinguished author of the Bullion Report of 1811 was not then alive to aid him in that struggle and witness the triumph of those principles so clearly set forth in 1811. Eight years of terrible experience had demonstrated the truth of the Bullion Report. "Sir," said he, "we shall never have financial security in this country until we adopt the principles of that report;" and after a parliamentary struggle, the report of which fills nearly five hundred pages of Hansard's Debates, the report was adopted, and its principles have ever since been the acknowledged creed of Great Britain and of all other countries whose people have carefully studied the subject. I refer to this, sir, as a matter of history, and I further assert that there is no respectable authority on the subject of finance on the other side of the water or here that denies the doctrine that the only true test of redundancy of currency is its convertibility into gold. You may bring your figures to prove that we have no more currency than our trade requires, but I tell you that so long as your paper dollar cannot be converted into gold there is too much currency, and the moment it can be converted into gold for its face it has reached a stable and safe basis.

Now, if any gentleman here has the temerity to deny this doctrine I shall be pleased to hear his reasons for it. To make his denial good he must prove that the immutable laws of value have been overthrown. He cannot plead that the necessities of trade alone control the value of currency. Double the amount of currency, and the money market will be apparently more stringent; triple the amount, and money will be more stringent still. Why do you need four times as much money now to move the products of the country as was needed five years ago? Simply because the inflation of the currency has quadrupled prices, and deranged values.

But the worst feature in the case is the stimulus which this inflation gives to dishonesty everywhere, and the consequent discouragement of productive industry. I will not now question the policy of the act of 1862, by which paper money was made a legal tender.

It was perhaps a necessity of the war that could not have been avoided. But no one will deny that it unsettled the basis of all values in this country. It was a declaration by law that a promise to pay a dollar might be discharged by paying a sum less than a dollar. There was a time within the last two years when an obligation to pay \$100 could be legally canceled by the payment of thirty-eight dollars. The manifold evils resulting from such a state of values cannot be computed. To fulfill in January the contract of July may ruin the creditor, because the meaning of the most important word in the contract has been changed by the changing market. The dollar of July may have represented forty cents, while the dollar of January may represent double that sum.

Will prudent men embark in solid business and risk all they possess to such uncertain chances? There is left open the alluring temptation to speculate on the rise and fall of gold stocks and commodities, a pursuit in which all that is gained by one is lost by another, and no addition is made to the public wealth. And this is the history of thousands of our business men. They have trusted their capital to the desperate chances of Wall street. They have embarked on the sea of paper money, and they ask us to keep the flood rising that they may float. Every day adds stimulus to this insane gambling, and depresses legitimate business and honest labor. The tide must be checked, and the fury of the flood restrained. We must bring values back to the solid standard of gold. Let that be done and the fabric of business is founded, not on the sand, but on the firm rock of public faith. The fury of the storm tore us from our moorings, and left us to the mercy of the waves. Let us pilot the good ship again into port, so that we may once more feel the solid earth beneath our feet.

How perfectly prices have kept pace with the currency let the history of the last five years show. Name any one year in which the currency has been more inflated than in the preceding, with no prospect of contraction, and you will find prices proportionately advanced. I hold in my hand the price-list of the last four years, as published in the *Merchants' Magazine*. Take, for example, the average price of flour. In January, 1861, it was \$5 35 per barrel; in 1862 it was \$5 50; in 1863, \$6 05; in 1864 it was \$7; in 1865, \$10 per barrel. These prices kept in exact proportion to the volume of the currency. Now, in January, 1866, after the President, the Secretary of the Treasury, and Congress had made a decided movement toward specie payment, and indicated our purpose to restore the old standard of value as soon as practicable, the price of flour dropped to \$8 75 per barrel, as the average for the month. Take any one of the sixty-three articles on this market-list, and it will exhibit the same truth, that an expanded currency will produce high prices. British and French history, as well as our own, give the same testimony on this subject. I do not, of course, suppose that resumption will bring us down to old prices. Heavy taxes and the increase of gold will hold prices higher than they were before the war.

Resumption is not so difficult a work as many suppose. It did not take so long in England as the gentleman from Pennsylvania [Mr. STEVENS] stated it did in his speech this afternoon. In July, 1819, Parliament decreed that after February 1, 1820, the bank should begin to redeem in small quantities, and should increase the amount at stated periods until May, 1823, when full specie payment should be made. The bank contracted its circulation, reduced the price of gold, and fully resumed payments May 1, 1821, only fifteen months after the law went into operation. I should be sorry to see a sudden contraction of our currency and a rapid decline in gold. It would be too great a shock to business. If the Secretary is armed with the requisite power he can make the movement so steadily and gradually as not to dis-

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turb, to any dangerous degree, the course of business and trade.

The chief objection to the pending bill is that it confers too much power—more than ought to be intrusted to any man. Now, sir, tremendous power was given to General Grant, when the lives of hundreds of thousands of men were placed absolutely at his disposal. Sherman was intrusted with vast power when he started with his great army on his march to the sea. But it was necessary to trust some one with that power. Congress could not command armies and plan campaigns. So, also, in the present emergency some one must be trusted with power. Congress cannot negotiate a loan, cannot regulate the details of the currency, or fund the debt. It must delegate the power. I will not eulogize the present Secretary of the Treasury; he needs no eulogy from me. It is the Secretary of the Treasury, not Hugh McCulloch who needs this power. I vote to give it to the incumbent of that high office, whoever he may be, and hold him responsible for the use he may make of it.

I repeat it, sir, if gentlemen do not approve this bill they should offer some plan that will accomplish the desired result.

I call attention for a moment to the proposition of my friend from Maine, [Mr. PIKE.] If a stranger had told me before I came into this Hall this morning that the gentleman from Maine [Mr. PIKE] would introduce a proposition to authorize States to tax the bonds of the United States, I, as his friend, would have denied it. Does the gentleman hold that a State can constitutionally tax the bonds of the United States? Has he read the decisions of the courts?

There is not a lawyer in this House who will affirm that the States can levy such a tax. That question has been decided again and again by the Supreme Court of the United States, and the decision has always been one way. It was decided by Chief Justice Marshall, in 1819, in the case of *McCulloch vs. The State of Maryland*, (4 Wheaton, 316.) It was decided again by that same distinguished jurist in the case of *Weston vs. The City of Charleston*, (2 Peters, 449.) It was decided in the case of *Osborn vs. The United States Bank*, (9 Wheaton, 739,) in 1824, when Henry Clay, as counsel, argued other features of the cause before that court, but declined to offer any argument on the question of the power of the State to tax the bank, and alleged as a reason that the point was so well settled that argument was unnecessary. It was decided again in 1862, in the case of the *Bank of Commerce vs. New York*, (2 Black, 620.)

If the bonds of the United States can be taxed by State action, then the arsenals, the forts, the post offices, the mails of the United States, can be taxed in the same manner.

Mr. DAWES. Does the gentleman mean to maintain that this power of taxing United States bonds hereafter to be issued cannot be exercised by the States, provided Congress shall authorize it? I do not suppose that the gentleman from Maine, or any other gentleman, would contend that a State can exercise such power without the authority of Congress.

Mr. GARFIELD. I ask the gentleman from Massachusetts [Mr. DAWES] whether he believes that Congress can delegate that power to the States?

Mr. DAWES. I put the interrogatory to the gentleman from Ohio.

Mr. GARFIELD. Well, I trust that the gentleman from Massachusetts, who is a very distinguished lawyer, will do me the favor to say whether he believes it can be done.

Mr. DAWES. If the gentleman wants my opinion, I will say that I have no doubt that Congress has the power and can confer it upon the States. Whether it is wise for Congress to do so, is a question of policy. I may add, however, that I am very clear that Congress cannot authorize this taxation in respect to any bonds

already issued, because that would be in violation of the terms of the contract.

Mr. GARFIELD. Now, Mr. Speaker, we have heard the gentleman from Massachusetts express the opinion that Congress can delegate this power to the States. Hear the opinion of another distinguished citizen of Massachusetts. I ask the Clerk to read a passage from a speech of Daniel Webster's, on the very question under discussion. It was delivered in the Senate of the United States, May 28, 1832.

The Clerk read, as follows:

"The question being on the amendment offered by Mr. Moore, of Alabama, proposing, first, that the bank shall not establish or continue any office of discount or deposit, or branch bank, in any State, without the consent and approbation of the State; second, that all such offices and branches shall be subject to taxation according to the amount of their loans and issues, in like manner as other banks or other property shall be liable to taxation:

"Mr. WEBSTER spoke as follows: Now, sir, I doubt exceedingly our power to adopt this amendment, and I pray the deliberate consideration of the Senate in regard to this point.

In the first place, let me ask, what is the constitutional ground on which Congress created this corporation, and on which we now propose to continue it? There is no express authority to create a bank or any other corporation given to us by the Constitution. The power is derived by implication. It has been exercised, and can be exercised only on the ground of a just necessity. It is to be maintained, if at all, on the allegation that the establishment of a national bank is a just and necessary means for carrying on the Government and executing the powers conferred on Congress by the Constitution. On this ground Congress has established this bank, and on this it is now proposed to be continued. It has already been judicially decided that Congress having established a bank for these purposes, the Constitution prohibits the States from taxing it. Observe, sir, it is the Constitution, not the law, which lays this prohibition on the States. The charter of the bank does not declare that the State shall not tax it. It says not one word on that subject. The restraint is imposed not by Congress, but by a higher authority, the Constitution.

Now, sir, I ask how we can relieve the States from this constitutional prohibition. It is true that this prohibition is not imposed in express terms, but it results from the general provisions of the Constitution, and has been judicially decided to exist in full force. This is a protection, then, which the Constitution of the United States, by its own force, holds over this institution, which Congress has deemed necessary to be created in order to carry on the Government. So soon as Congress, exercising its own judgment, has chosen to create it, can we throw off from this Government this constitutional protection? I think it clear we cannot. We cannot repeal the Constitution. We cannot say that every power, every branch, every institution, and every law of this Government shall not have all the force, all the sanction, and all the protection which the Constitution gives it."

Mr. GARFIELD. Such was the opinion of the great "Defender of the Constitution." He believed that the power of a State to tax the securities of the United States is prohibited by a higher authority than a statute of Congress; that it is prohibited by the Constitution itself.

Mr. DAWES. Has the gentleman had that passage read as an answer to my interrogatory?

Mr. GARFIELD. I cite it in answer to the gentleman's construction of the Constitution.

Mr. DAWES. That quotation from Mr. Webster has, within my experience, been used for various purposes on many different occasions; but this is the first time I have heard this application of it.

Mr. GARFIELD. The application I have made of it is to show that Mr. Webster did not believe that Congress could constitutionally delegate to the States the authority to tax the securities of the United States.

Mr. DAWES. He does not say so; that question does not arise.

Mr. GARFIELD. He does expressly say that the power to protect United States securities is vested in Congress by the Constitution, and Congress cannot place it elsewhere. This very question has been argued before the Supreme Court within the last three weeks. One of the most distinguished lawyers of New York, Mr. William M. Evarts, delivered a very able argument to prove that Congress cannot delegate to a State the power to tax the bonds of the United States. I trust this House will not adopt the amendment of the gentleman from Maine, [Mr. PIKE.]

The gentleman from Pennsylvania [Mr. STE-

VENS] tells us he is in favor of returning to specie payments when it could be done without disturbing or deranging the business of the country. If he waits for that it can never be done. It cannot be done without first contracting the currency and producing a temporary stringency in the money market. If we have not the nerve to do that, if we have not patriotism to suffer that temporary inconvenience we must go on in the swift road to financial disaster and ultimate national bankruptcy.

The gentleman says we must reach specie payments by protection. He says if we protect our manufactures we shall keep gold from going abroad. This is not his first attempt to regulate the value and movement of gold by legislation. After a few days' trial his law of 1864 for that purpose was repealed. I do not oppose protection. I am in favor of protecting the sanctity of contracts by bringing all values back to the basis of a uniform standard. Then our iron-mills will not stand idle as they now do, because of the risk occasioned by the violent fluctuation of prices.

Mr. Speaker, this is our only remedy. I have faith in the Secretary of the Treasury that he will, by and by, with as little disturbance to business as possible, bring us to specie payments. We have traveled more than one quarter of the way since Congress met. Gold was then 148, now it is 180. Mercury in the barometer is not more sensitive to atmospheric influences than is the gold market to the legislation of Congress. Witness the following paragraph from the financial column of a recent New York daily:

"Wall street is more animated to-day in consequence of the report, which is extensively believed, that all loan bills will be made conducive to inflation, and that the temper of Congress is hostile to all measures looking toward contraction of the greenback currency. This is interpreted to be favorable to higher prices, and is already producing its effects in stimulating speculation."

Defeat this bill and there will be a jubilee in Wall street. This House must take the responsibility.

#### Loan Bill.

#### SPEECH OF HON. JOHN LYNCH, OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

March 16, 1866.

The House having under consideration the bill to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865—

Mr. LYNCH said:

Mr. SPEAKER: The bill under consideration extends the authority of the Secretary of the Treasury so far as to allow him to retire the United States legal-tender notes, which now constitute so large a part of the currency of the country, and which are the only "lawful money" in circulation, and to substitute therefor the bonds of the Government bearing interest in coin. The bill also provides that the bonds which may be disposed of elsewhere than in the United States may be made payable in the currency or coin of the country where they are made payable. These are briefly the powers which this bill proposes to confer upon the Secretary. Before considering their nature or the question of their necessity, let us see what powers that officer already has under existing laws. The act of June 30, 1864, authorizes the Secretary of the Treasury—

"To redeem and cause to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and to substitute in lieu thereof an equal amount of Treasury notes or of other United States notes."

Under this act the Secretary has the power to convert every dollar of the legal-tender circulation into seven-thirty Treasury notes or into compound-interest notes. Further, the act of March 3, 1865, provides that "any Treas-

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ury notes or other obligations bearing interest issued under any act of Congress may, at the discretion of the Secretary of the Treasury and with the consent of the holder, be converted into any description of bonds authorized by this act." This authority covers nearly half the entire indebtedness of the Government. The Secretary, under it, has the power to fund the entire issue of seven-thirty Treasury notes, amounting to \$830,000,000; the three-year compound-interest notes, amounting to \$180,000,000; the certificates of indebtedness, amounting to \$60,000,000; the one and two-year five per cent. notes, amounting to \$8,500,000, and the temporary loan, bearing four, five and six per cent. interest, amounting to \$115,000,000, making a total of \$1,193,000,000, which existing laws authorize the Secretary of the Treasury to fund at his own discretion. It should be understood, however, and it is due to the able officer at the head of the Treasury Department to have it well and fairly understood, that the authority conferred by the act of March 3, 1865, is, after all, limited to an extent which seriously interferes with the process of funding thereby authorized. The necessity of funding a large portion of the floating debt of the Government is, I think, universally admitted, and the Secretary of the Treasury, therefore, should be clothed with explicit power to make this change in the character of the debt in the safest, least expensive, and most practicable manner. In doing this, however, I would not have the distinction lost sight of which so clearly exists, and which is so universally recognized between the bonds, Treasury notes, and other interest-bearing obligations of the Government on the one hand, and the United States legal-tender notes on the other. These latter are the lawful currency of the country; they are not mere promises to pay money, but money itself—"lawful money," capable of paying debts, and answering all the uses of money in making exchanges within the country.

The interest-bearing portion of the public debt is payable at certain dates, and must be provided for at maturity. The Secretary of the Treasury is the guardian of the public credit. On him devolves the duty of providing for the payment of these maturing obligations. He has the responsibility, and should have power commensurate therewith.

The limitation with reference to funding, which I have alluded to as existing in the act of March 3, 1865, consists in the fact that the Secretary can only fund Government obligations in one way. In other words, he has no power to anticipate means by the sale of bonds and to apply the same to the funding of the floating debt. He can fund only so fast as an exchange of one class of indebtedness for another can be effected. He can hold out no inducement for a speedy conversion of such obligations, and he is thereby hampered and embarrassed in his operations. I hope, therefore, that the law which now gives this power under limitations may be so amended as to confer it upon the Secretary of the Treasury without restriction. Whether it is or is not best to continue, so far as it can be done, that portion of the debt bearing interest in currency in its present form, thereby preventing it from leaving the country and hastening the day when the Government may be able to redeem its circulating notes in specie by reducing the amount of coin it will be obliged to pay out for interest, are questions to be settled by the head of the Treasury; and I am ready to vote for the bill reported by the committee, amended only so as to prevent the funding of non-interest-bearing into interest-bearing obligations.

But I am, as I have already intimated, opposed to conferring any power upon the Secretary of the Treasury to contract the volume of the national greenback legal-tender currency. The exercise of such a power is not necessary to facilitate the funding of the interest-bearing

debt; indeed, it is acknowledged that it would retard if not defeat that most desirable object. It is said that the Secretary "could not if, he would and would not if he could" contract the currency, but that it is necessary to hold this power suspended in *terrorem* over the business of the country in order to prevent speculation. In answer I have only to say that if the people of the country are not competent to manage their business affairs they will not be benefited by any governmental guardianship which may be placed over them.

It should be borne in mind that \$182,000,000 of the United States currency afloat, about one third of the total amount in circulation, is in the compound-interest notes, which all agree should first be retired. The Secretary has not only the authority but the power, if he deems it prudent to exercise it, to call these in at any time. They never pass for the face value and interest, and the Government can at any time exchange its bonds for them. And yet the most determined advocate for contraction does not pretend that it would be prudent to withdraw them all from circulation in less than about two years. I have heard no one who favors contraction intimate that it would be prudent to contract more than \$100,000,000 per year.

Why should we confer on we know not what Secretary of the Treasury a power and authority which would extend beyond two years from this time? Congress meets twice within that period, and if it is found that the experiment is a safe one, and that it is prudent to continue the contraction of the currency beyond the amount of the compound-interest notes, the authority can be given. We can confer additional authority by subsequent legislation if it is found necessary, but are we quite sure that we can withdraw it when once conferred? May we not find it as hard to repeal a bad law as it is to enact a good one? How many men on this side of the House would consent to confer this vast power, which subjects the entire business interests of the country to the will or caprice of one man, providing it was known that the able and upright officer now at the head of the Treasury Department would not hold his position for sixty days, but would give place to some unknown successor? Can any man say that such a contingency may not happen? It is said that it is necessary to contract this currency because it is inflated, and that we can only return to specie payments by contracting. I believe it is capable of being demonstrated that the currency is not inflated, not in excess of the requirements of the country, and therefore does not need contraction, and that the amount of currency afloat has very little influence either upon the price of gold or the price of merchandise; in other words, that in order to reduce prices, either of gold or merchandise, and to return to specie payments it is not necessary to contract the currency.

In support of this proposition I will present a few plain statistics based upon the financial history of the past four years and upon the actual wealth and population of the country. The necessities of the Government which caused the issue of a large amount of paper money undoubtedly did to a considerable extent during the war advance the price of gold. But the increasing issue of paper money by the Government depended entirely upon the success of our armies in the field, and as their final success seemed speedy or remote, so the necessity for the issue of more promises to pay diminished or increased, and the value set upon such obligations depended entirely upon the degree of confidence which the people felt in the stability of the Government. Now, however, confidence being entirely restored, the only question which can affect the currency is whether the quantity in circulation is equal to or in excess of the business wants of the country. If it be shown that it is not in excess, then certainly no reason exists for its contraction;

if it can be shown that it is the safest and best paper currency ever put in circulation, that is another argument against its contraction; and if it be shown that the population and wealth of the nation is increasing so rapidly that in less than fifteen years the amount of currency *per capita* will be only one half what it now is, then that is another reason why we should hesitate before we agree upon a policy for annihilating a currency which every day's experience establishes more and more firmly in the confidence of the people.

Let us examine first the relation which the amount of gold has held to the amount of currency in circulation. The amount afloat on the 1st of July, 1864, when the price of gold was at its highest point—260 to 280—was, inclusive of State bank circulation and exclusive of compound-interest notes, according to the books of the Treasury Department, \$577,579,860. On the 1st day of November, 1865, one year and four months later, with the price of gold down to 145, the currency had increased to \$704,218,038, or a net increase of \$127,000,000; while at the present time, with gold in the vicinity of 130, the currency, exclusive of compound-interest notes, is equal to \$725,000,000. Thus it is plain that if the price of gold depended upon the inflation or contraction of the currency, then it ought, taking the price on the 1st of July, 1864, as a basis, to be now over three hundred per cent.; and if gold has declined from one hundred and eighty to thirty per cent. premium under an actual and considerable increase of the currency, what should prevent it from going to par within the present year, thereby enabling the Government itself to resume specie payments, and as a consequence carrying with it in due time a similar resumption by the banks of the country?

In addition to the many advantages and great superiority possessed by the legal-tender currency as a circulating medium, there is another advantage accruing to the Government from its use, and to this point I wish to call the attention of the gentleman from Ohio, [Mr. GARFIELD,] who thinks the Government should withdraw its circulation and leave the entire currency of the country in the hands of the banks. So long as the Government issues a currency of this character it can control the matter of specie payments, and the danger which attends it when left entirely in the control of the banks is removed. If the banks control the entire circulation we can never rely upon the permanency of specie payments; they will inevitably consult their own interests, and they will suspend whenever dangers threaten them, no matter what laws may be passed regulating the subject, for the laws of the country must conform to the laws of trade. Give the banks the entire circulation and they might laugh at an attempt to close them up on account of a suspension; they are "masters of the situation;" the country cannot get on without a currency.

But the permanency of specie payments may be greatly increased if the Government stands ready, anchored in the confidence of the people, to pay its paper dollar for dollar in gold, and this simple knowledge on the part of the people that the greenback passing through their hands day after day is the positive equivalent of a dollar in gold in the Treasury will make that circulation one of the greatest blessings which could be conferred upon the people. This sentiment is even now rapidly growing. Let us once reach a specie standard for the greenbacks of the country and the people will never consent to have withdrawn from circulation a currency so well adapted to all their wants and so well grounded in the first principles of security and confidence.

The practicability of an early resumption of specie payments and the road thereto involves many serious considerations. It has been and is strongly urged that there is no way of reaching such a result except through the policy of



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contraction; that to make money scarce and dear you will approximate a specie standard more certainly than in any other way. I question the correctness of this theory.

As has already been shown, gold has declined from two hundred and eighty to one hundred and thirty per cent. under an absolute increase of the currency. Will some one give me a sound reasoning why the decline should stop at this particular point? Will not the same reasons which have forced it from its highest altitude to its present point operate to drive it still lower? If we should double our imports to-morrow would not the price of gold advance, even though at the same time we withdraw one hundred millions of greenbacks from circulation? If, on the contrary, we should reduce our imports and double our exports, would not the price of gold decline without contracting our currency a single dollar? Is there any more certain way of paying our debt abroad or of keeping our gold at home than by increasing our exports? And is there any more certain way of increasing our exports than by stimulating productions? And is there any more certain way of stimulating production than by employing this very circulation, the capital of the country, in developing its vast resources of every character; in cheapening the price of food by increasing the production of food; in inducing immigration by opening new and vast fields for development, and in adding to the production of the country so rapidly that a few years will give us a monopoly of the leading agricultural staples, bringing the whole world to our doors to buy what we have to sell, and keeping the balance of trade as constantly in our favor in the future as it has so uniformly been in favor of England in the past? Instead of disturbing the entire business interests of the country by an attempt to compress the currency into channels in which it was employed prior to its increase, would it not be more natural, much easier, and far safer to enlarge those channels to suit its present volume? The business interests of the country are fast accommodating themselves to its new financial condition; already are matters so settled that contraction can scarcely be talked of without advancing the rate of interest one or two per cent., and I ask gentlemen which is the true policy for the development of this country, to make money dear or to cheapen it? Which most stimulates the employment of labor and the development of capital, and thus adds most to the wealth of the country, money plenty or money scarce?

Mr. Speaker, in regard to our finances, we have received and believed in the old and long-established precedents of the nations of Europe. Because it took Great Britain many years to return to specie payments after an exhausting war, the theory has been accepted almost without question that we cannot do otherwise. Sir, the experiences of the country for the last five years have exploded many false theories and falsified many sanguine predictions. It was positively asserted by our foreign foes that the South could not be conquered; that it never yet had been that a free people of the numbers, resources, and territory of the southern people were defeated and compelled to submit to the will of a conqueror; that we could not raise armies sufficient for the work; that we had no money of our own and could borrow none in Europe; that the armies, even if raised, would, upon a return to civil life, so disorganize society that Government would be upheaved and civil order destroyed.

Well, sir, we have seen the result of all these predictions; we have astonished the civilized world by setting at naught the most profound theories of these modern sages; we have overturned the accepted notions and ideas of past centuries, and in their stead we have hewn out our own destiny in our own way, until we stand on ground where we may safely bid defiance to

the assaults of the combined physical and moral powers of Europe.

In view of all these facts, so grandly and imperishably carved in our history, why should we follow the ideas of Europe in regard to our financial any more than we did in regard to our military administration? Because the London Times raises the cry and our own croakers echo it, that "we must have a financial crisis" in passing from a paper to a specie circulation, is it necessary for us to precipitate one upon the country in order to verify the predictions of these prophets of evil?

England said, you cannot carry on a war without a European loan, and that you cannot get. We spurned her prediction and appealed to our own people; the response was so mighty that even England and all other enlightened nations of Europe made haste to join the throng that poured their money into our coffers eager to buy our bonds and take our loans upon our own terms. Shall we now say that we cannot return to specie payments because England under circumstances of an entirely different character did not do so for many years after a return of peace? Such a reason it seems to me is not worthy the name of an argument. The laws of trade and the restoration of confidence are bringing us steadily and surely to a resumption of specie payments; any attempt to force a resumption by legislation will defeat the object; that confidence upon which a permanent resumption of specie payments must rest will neither be engendered nor strengthened by legislative tinkering. The last Congress tried an experiment in this direction by passing a law to force down the price of gold; the result was a rapid advance and the immediate repeal of the law.

It is almost universally admitted that the return to specie payments must be gradual. Suppose, then, that the Government of the United States takes the initiative; not by a contraction of the currency, but by announcing, at as early a day as is practicable, that its legal-tender currency will be redeemed in gold on presentation at the Treasury, and then, to aid the banks in following its lead, let the national banks be allowed to redeem in the legal-tender notes thus put on par with gold by the Government. With the basis of redemption thus broadened it could not be long before the business and the money of the country rested as firmly upon a specie basis as ever.

I do not assert either the necessity or practicability of doing this immediately. The harvests of the present year are necessary to assure us that the production of the country has been resumed with greater vigor than ever; with the volume of our exports daily increasing, they must be greatly augmented a year hence; with the flow of specie from the Pacific steadily gaining; with the national debt securely at rest in its present position, undergoing no increase, and with a material reduction of taxation already rendered possible by the condition of the country's finances, I can see no good reason why, under the present able management of the Treasury, the Government may not before all the Treasury notes now outstanding mature—if not within a year from this time—stand ready to redeem its own circulation in gold.

It may be said, in objection to this, that neither the Government nor the banks can resume specie payments because of the insufficiency of gold in the country. I answer that specie payments do not and never have, except to a comparatively limited degree, rested upon the amount of specie in the country; in other words, specie payments have been only a pleasant illusion which was immediately dispelled whenever a crisis occurred which disturbed public confidence; people then hastened to demand specie for their bank notes, and just then when it was wanted, and because it was wanted, it could not be had; the

banks suspended, fear took the place of confidence, and the gold dollar was sold at a premium. The great underlying principle of specie payments is public confidence; upon that rests the question far more than upon an ability to pay specie on demand. And where does a greater degree of confidence exist than among our own people that the Government has the power, the means, and the determination to protect the public credit, and to redeem and pay off its liabilities? Does any one suppose that if the greenbacks were daily redeemed by the Government in gold that there would be a run upon the Treasury? To say nothing of the impossibility of withdrawing any considerable amount from the circulation for such a purpose, the very fact that the paper dollar of the Government was worth a dollar in gold at the Treasury would, by the laws of trade, keep them moving as the circulating medium, undiverted from their proper channels. In support of this theory of specie payments, and the foundation upon which it has really rested in times past, I will compare the amount of currency afloat and the amount of specie in the country at five different periods since 1830.

We had in

	Specie.	Circulation.
1830.....	\$22,114,917	\$61,323,898
1840.....	33,105,155	105,968,572
1843.....	33,505,306	55,563,608
1850.....	48,677,138	155,012,911
1860.....	83,504,537	207,102,477

Thus it will be seen that at no time during this period, except in 1843, did the banks have specie enough to redeem but little over one third of their circulation. It should also be borne in mind that the banks having the least specie had the largest circulation, while the banks which held the largest amount of specie had little circulation, it would undoubtedly be within the truth to say that \$150,000,000 of the circulation of 1860 rested upon a specie basis of less than \$30,000,000. This proves conclusively that the paper circulation of the country never rested upon an actual "specie basis," but on the confidence of the community; and whenever this was shaken, the whole paper fabric fell. The currency of the country never rested on so solid a foundation, and was never so strong in the confidence of the country, as to-day.

It is assumed that because we have more than three times the amount of paper in circulation than we had in 1860, (\$207,000,000,) therefore all over that amount is in excess of the business wants of the country, and tends to unsettle values and inflate prices. I think the fallacy of this theory is in assuming that we had in 1860 all the currency in circulation that could be profitably used in the business of the country. We had, undoubtedly, all that the banking capital of the country at that time warranted, and much more, as has been shown, than could be redeemed in the promised specie. But the fact that we are now using four times the amount in the legitimate business of the country, and with less speculation in merchandise than at times when our circulation was one quarter the amount, is conclusive that we did not then have all we required and could profitably use. The fact is, the business of the country is only limited by the amount of capital available to transact it. The banks, with their \$300,000,000 of circulation, have supplied the old business, while the disbursements of the Government have gone into hundreds of new channels, have reached new classes, and have placed the means of doing business within the reach of more men than possessed them before.

It is assumed that the redundant currency is the cause of the high prices of merchandise, and that a reduction of the currency will bring down prices and also enable us to return to specie payments. But the fact is that gold has fallen from 280 to 130 while the currency has been increased, and merchandise which, according to this theory, should have both advanced with the increase of the currency and

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fallen with the decline in gold, has upset both theories by following gold down for a time, and almost immediately returning to the point at which it stood when gold was at its highest, then falling again until it approximates old values. Is it strange that merchandise, the product of labor, should command high prices in view of the enormous decrease in the productive industry of the country for the last four years. In nearly one half of the country, the entire South, the population was during the war almost wholly changed from producers to consumers and destroyers; and in the North more than two and half million men, or more than twelve per cent of its population were absolutely withdrawn from the work of production and added to the army of consumers; and in addition there has been to an extent very great, though incalculable, a diminution of the productive industry of those who have not been taken from their plows, their looms, and their anvils, caused by the suspense, anxiety, and excitement of the civil war.

In these four years the surplus production of the country has been exhausted, and the current production has not supplied the current demand. It is neither a redundant currency nor excessive speculation that has kept prices at so high a standard. Look at the present condition of trade in the great markets of the country, merchandise and the premium on gold both rapidly declining, not only without contraction, but with a positive increase of the currency. What is the true cause of this decline which all unite in saying is not the result of a sudden fluctuation, but promises to be permanent? Is it not simply the fact that the supply is increasing and the demand is falling off? The great army of consumers is being added to the class of producers, and prices of merchandise and food must always be primarily and chiefly subject to the great law of supply and demand. It can scarcely be doubted that prices would have been still lower and that domestic manufacture would have supplied much of the merchandise imported from abroad had not the fear of a "tight money market" withheld and diverted millions from the channels of productive industry to swell the bank deposits in the great financial centers of the country, to be loaned on call, and kept within reach against the day when contraction should give it more power and value. Men would not convert their money into cloth and iron and ships and railroads when all these products of labor were to be cheapened, while the money had only to be kept on hand to realize an advance in price.

Another fact which goes to show that high prices have not been caused mainly by the increase of the currency is that lands have advanced no more in the last five years than in the five years preceding, showing that the advance of prices have chiefly affected the products of labor.

In connection with this matter of contraction I wish to press another point, and it is this: that whenever you reduce the currency or tighten the money market you first strike at the price of labor. Labor is the first element in productive industry that is affected by it. If money becomes scarce and dear the demand for the products of industry falls off. The manufacturer not only reduces the wages of his operatives, but he reduces the amount of his productions by putting his employes upon half time. In this way the production is checked until the surplus is exhausted and the demand is again equal to the supply. Instead of being diffused over the country, seeking new channels of employment, and adding to the vigor of the development of the resources of the country, our capital will remain locked up in the vaults of the commercial centers, sensitive to the slightest influence, and in constant fear; and the uncertainty as to the policy which may from time to time be adopted by the head of

the Treasury. Is it not far safer and much more legitimate to absorb the excess of production by the development of new resources; to absorb also the excess of currency, if there be any, in new channels of employment; to give the currency the freest scope of circulation by creating and increasing the demand for labor? Wealth creates wealth, and it is the strongest evidence of financial statesmanship and business talent if that wealth is so applied as to add to the prosperity of the country. Our currency then finds its proper use in developing our vast resources; in building new railroads, canals, and factories; in replacing our lost shipping, and in opening up the vast mineral wealth of the nation; and in rebuilding and furnishing the sinews of trade to the whole southern country.

Let us now see how the present circulation of the country will be affected by its natural increase in population.

The total amount of currency in circulation October 31, 1865, was, according to the report of the Secretary of the Treasury, (exclusive of compound-interest notes,) \$704,218,038, or about \$19 32 *per capita* for the people of the United States. This amount would be reduced by our increasing population in the following ratio: in

	<i>Per capita.</i>
1870.....	\$16 63
1880.....	12 40
1890.....	9 10
1900.....	7 02

The ratio of circulation to the property of the country, estimating the increase at the same ratio as from 1850 to 1860, would be as follows: in

	<i>Per cent.</i>
1865, about.....	33 1/4
1870, ".....	2
1880, ".....	1
1890, ".....	1/2
1900, ".....	1/8

The national bank circulation of the country October 1, 1865, was \$171,821,903, distributed among the several sections of the country, as follows:

<i>Sections.</i>	<i>Population.</i>	<i>Bank capital.</i>	<i>Amount per capita.</i>
New England.....	3,135,283	\$64,998,034	\$20 73
New York, Pennsylvania, and New Jersey.....	7,453,985	61,595,246	8 27
Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, and Wisconsin.....	7,881,026	37,023,883	4 69
Delaware, Kentucky, Maryland, Missouri, and District of Columbia.....	3,212,041	5,962,850	1 85
Louisiana, Tennessee, Virginia, and West Virginia.....	3,414,121	1,665,040	48

Thus it is seen that the circulation of the country is very unequally distributed. It is chiefly centered in New England and on the seaboard, while the western and southern States are almost bare. Assuming the same ratio of distribution for the whole circulation of the country, the amount *per capita* for the United States averaging but \$19 32, yet New England would have the very great disproportion of \$84 *per capita*. And what is strikingly significant on this point is, that her business is in a most healthy condition; her capital is legitimately employed, and not for speculative purposes. France has a circulating medium of about \$30 and Great Britain of \$25 *per capita*, and yet we are told that \$19 32 will ruin the people of a country which has the broadest field under the sun for the employment of capital. We want the use of the currency now in circulation, than which there never was better or safer, to create new wealth; we want every hundred thousand dollars of greenbacks to be the implement and agent for extracting a million of the precious minerals from our mountains; we want this currency, the representative of the capital of the nation, to construct and equip three great lines of railroad to the Pacific; we want it to enable the fertile States and Terri-

ories of the West to develop their power in the productive industry of the country; we want it to construct new lines of communication whereby we may cheapen transportation from the distant States and give our producers greater benefits in foreign markets; in a word, we want it because the present and future interests and the rapid development of the country demand and need it.

I will refer to but one more point on this branch of the subject. It is assumed by many that we must have a financial revulsion because such has always been the case after an unusual abundance of currency. People who assume this lose sight of the fact that an abundant supply of paper money usually indicates a large indebtedness of the people, and that the crash comes when they are obliged to return their borrowed capital. The present abundance of paper money results from the indebtedness of the Government to the people; the people being comparatively out of debt, there will be no crash. Comparisons of our present condition with the financial revulsions of 1837 and 1857 fail entirely, because there is no similarity of circumstances; the currency at those periods was more vitiated than inflated; there was no security for it; the people were largely in debt. In addition to the currency afloat, which was then the representative of the indebtedness of the people, there was also afloat an enormous amount of notes—debt—which the people owed to one another and to the banks. The crash came when people found that no one had any money to pay with; the currency was not based upon the ability of a united people represented by its Government to pay, but upon the ability of individuals to redeem the promises they had made to each other. Now, the Government, representing the entire people, pledges the faith of that whole people to pay this national indebtedness.

Every dollar of paper money now in circulation, except the insignificant amount represented by State bank circulation, is secured by a mortgage on the whole property of the country. It is a secured circulation, and really rests upon a specie basis, although not immediately convertible into specie, except at a discount. If the specie is wanted it can be had and no man suffers, for no holder ever received it as the equivalent of specie, but at a larger discount than he now makes in converting it into the required coin. The gentleman from Pennsylvania, [Mr. SCOFFIELD,] who was troubled because he could not obtain specie for his greenbacks at the Treasury, would have found no difficulty in doing so without applying to the Treasury, if he were content to accept the amount which they cost him. The greenbacks rest on a specie basis, because they can be converted into bonds, the principal and interest of which are payable in coin.

The terrible evils, present and prospective, of this "irredeemable," inconvertible paper currency are purely imaginary. The people neither see, feel, nor believe in them; and they will never consent to an increase of their taxes to the amount of \$27,000,000 per annum for the purpose of allowing the bankers of the country a monopoly of the circulation. There is another reason why I am opposed to retiring any of this currency, which is, that we want it for supplying the southern States. That matter was alluded to by the gentleman from Ohio, [Mr. GARFIELD,] in answer to the inquiry of the gentleman from Iowa, [Mr. PRICE,] whether currency had not been increasing while gold had been decreasing in value. The gentleman from Ohio answered "that six hundred millions of confederate currency had collapsed in a day, and the vacuum had to be filled; so that while our currency had actually increased it had diminished relatively, that is, in proportion to the business of the country." Now, unless the vacuum has been filled, which no one would pretend, this simple statement of the gentleman

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pretty effectually disposes of his argument in favor of contraction. This whole southern country is to be rebuilt, and with capital drawn from the North, unless a contraction of our money market drives her people to Europe to borrow. The money will be loaned upon mortgages, and repaid by the annual crops of the country and by its developed wealth. Whether this capital shall be British gold or United States greenbacks, depends upon the state of our money market. If we give them the paper money of the country, we make every man who has a dollar of it in his pocket interested to that extent in the Government, and in sustaining its credit. If we drive them to Europe by our inability to supply them, we alienate them from us, and allow them to identify their interests with those of our enemies. Every day's experience goes to prove that our true financial policy is to go on and provide for the maturing obligations of the Government, without contracting or disturbing the currency of the country, which is the life-blood of its commerce. Let it alone, and it will flow where it is wanted, and find ample field for employment. Let us confer no authority upon the Secretary to contract this currency; its contraction should neither be threatened by the Government nor apprehended by the people.

### Reconstruction.

#### SPEECH OF HON. HENRY GRIDER, OF KENTUCKY, IN THE HOUSE OF REPRESENTATIVES, March 24, 1866.

The House, as in Committee of the Whole on the state of the Union, resumed the consideration of the President's annual message.

Mr. GRIDER. Mr. Speaker, as I am a member of the reconstruction committee, it is perhaps my duty, much as I feel disinclined, briefly to express and sustain my convictions in relation to its formation, powers, and action, as well as the action of Congress under it, now made exciting and of high interest and import, not only in Congress but throughout the whole country; involving questions until recently unassailed and always vital to constitutional freedom. We have had a most grievous and desolating war, and without stopping to dwell upon its disasters, its fearful visitations in the camp, the field, and the family circle, I proceed at once to show that the Federal Government had the express right granted in the Constitution "for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions" as the best hope of restoring peace and saving the Government in its integrity. This great beneficent end, so far as the insurrection is involved, has been accomplished, while it is to be regretted many wrongs and errors have been superinduced, wholly disconnected with the great end, the preservation of the Union.

The object of the war was conceded by all the authorities of the Government, and especially aptly set forth in the resolution of Mr. Crittenden, of the House, and President Johnson, then of the Senate, with scarcely a dissenting voice in either House or Senate, that the war, "forced upon the General Government without cause by the disunionists, should not be waged on the part of the Government in any spirit of oppression or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of any of the States, free or slave, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and as soon as these ends are accomplished the war ought to cease." The war has ceased. One end to be accomplished was to keep up the dignity, equality, and rights of the several States un-

impaired. The insurrection is suppressed. How stand the several States? What is their relation to one another and the United States? We shall undertake to show. They are certainly not Territories, conquered provinces, out of the Union, without the dignity and equality of the several States. They could not go out of the Union. If they had this right, then the General Government made war upon them wrongfully, and the Constitution giving this power to the General Government to maintain its own integrity by suppressing the insurrection is a nullity, wholly inoperative. Such cannot be the case. They must be in the Union or out of the Union. They went into insurrection to get out of the Union and form a separate government and failed. Then the insurrectionary States are under the Constitution and laws, where they were before the insurrection, with all the dignity, equality, and rights of the several States unimpaired so far as their status and representation are concerned.

But if this new and startling question is raised against the equality and rights of States, and against representation thereof, how is it to be decided? By the Supreme Court? Or by the Secretary of War? Or by the Senate and House? Or by the joint committee on reconstruction? We think not; this would be ridiculous; we believe such authorities, or their interposition, advice, or interference are alike uninvited and unwarranted, whether by law, joint resolution, or otherwise, you interpose any interference whatever. From long acknowledged principle and practice I hold that the House is exclusively the judge of its own members under the explicit terms of the Constitution, in these words, "Each House shall be the judge of the elections, returns, and qualifications of its own members." Any interference with the jurisdiction and action of the House exclusively to settle this question, is as absurd as to mangle and control the action of one court by the members, action, and interference of a different court of other powers, duties, and jurisdiction; and its tendency is to overwhelm all principle and condense power somewhere to subserve the end of those too fond to amend our fundamental and paramount law and place all the agencies of the Government in the hands of a fickle and variable majority. We must have a fixed rule; that rule is clearly set forth in the Constitution, and all are interdicted and excluded in their action but the House. The House by the Constitution is further invested, two thirds concurring, with the power to purify itself and expel members, showing that all laws, conditions, restraints, and interference with the House is uninvited and unconstitutional.

I had the honor to refer the following resolutions to the committee on reconstruction, which I here quote, expressive of some of the principles upon the subject now under consideration:

*Resolved*, That the United States Government grants the power peaceably, or if necessary by arms, "to enforce the laws, suppress insurrection, and repel invasion;" but the General Government cannot by any action whatever destroy itself nor the State governments, nor can the State governments destroy either, or legally disturb the harmony of the whole. All the grants and powers under the Constitution are conservative, none destructive; wherefore all the States have been and are always in the Union.

*Resolved*, That when the United States Government suppressed the insurrection it only vindicated its constitutional power and preëxisting rights, and no more; and the rights and powers of the Federal and State governments are all remitted back and assume the same condition and relations sustained before the insurrection, and (except so far as altered or amended) remain unimpaired and in full force and virtue.

*Resolved*, That the law of Congress apportioning Representatives to the several States (including the insurrectionary States) under the census of 1860 is constitutional and valid, and that members of Congress from all the States, regularly elected under said law, are entitled forthwith to their seats upon taking the oath of office to support the Constitution of the United States.

*Resolved*, That as a generous kindness and cordial forgiveness consistent with right, now peace exists, are the highest attributes of our nature, and as we must have "one Government, one Constitution, and

one people," the glory, protection, and safety of all—cherishing these feelings, we say it is untimely, unjust, and impolitic to insist upon amendments to the Constitution to operate upon all until all are represented in the House and Senate.

*Resolved*, That it is illogical and unconstitutional to hold that States are in the Union to vote for constitutional amendments and yet not entitled to representation in Congress.

*Resolved*, That to tax any State by Congress and refuse to the people representation is contrary to the first principles of the American Government, and is inconsistent with the constitutional and equal rights of all the people.

I beg leave to support the first and second resolutions by the opinions of some learned men and courts. Reconstruction is a wrong word. The Union has always existed; there has been a temporary suspension of law, in particular States and places, but that law is now again in force as before.

In the case of the Amy Warwick, in admiralty, Judge Sprague of Massachusetts, said:

"It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges and treated as foreign territory acquired by arms. This is an error, a grave and dangerous error. Belligerent rights cannot be exercised where there are no belligerents. Conquest of a foreign country gives absolute, unlimited sovereign rights, but no nation ever makes such a conquest of its own territory. If a hostile power, either from without or within, take and hold possession and dominion over any portion of its territory, and the nation by force of arms expel and overthrow the enemy and suppress hostilities, it acquires no new title, but merely regains the possession of that of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights."

"When the United States take possession of a rebel district, they merely vindicate their preëxisting title. Under despotic Governments the right of confiscation may be unlimited; but under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as it was before."

Judge Comstock says, in relation to the States in insurrection, that—

"The States are always members of the Union under the Constitution, with all the rights and immunities reserved in the compact; the armed insurrection of individuals being suppressed, the Constitution and laws resume their peaceful sway, the Union remains unbroken, and all the laws and institutions of slavery remain as they were before, unimpaired, and in full force and vigor."

And Judge Curtis remarks, when the insurrection is suppressed:

"That the McClellan policy of receiving the southern States back to their places in the Union as they were before they left it is the only policy that affords the slightest prospect of peace and reunion, with the Constitution preserved, with our nationality saved, and with the public credit rescued from destruction."

Judge Williams, of the court of appeals of Kentucky, (4 Metcalf's Reports, last case in the book,) says, upon this very question, coming up incidentally—and he has been classed with radical politicians—

"That on a restoration of the national authority over the seceded States, their constitution and laws which existed and were recognized by the Federal Government previous to the rebellion become operative as part of the national Government; that the States cannot constitutionally, by legislative, executive, or judicial action, destroy the United States Government, nor can they constitutionally destroy it by force of arms; nor can the United States constitutionally destroy a State government by any or all of these means."

Mr. Speaker, I ask to be indulged to quote once more upon this subject from Judge Nicholas, of Kentucky:

"Nothing short of success in the rebellion can get the rebel States out of the Union. They have, therefore, to be treated while the rebellion lasts, and after it is subdued, as States in the Union. Nothing can be more irrational than to suppose a power in Congress either to expel the rebel States or permanently to exercise despotic rule over them while the Constitution prohibits even the nation from depriving them by constitutional amendment, from their equal suffrage in the Senate. If there is anything equally irrational, it is the absurd attempt to deduce from the clause 'guarantying to every State a republican form of government' a power in Congress to impose upon a State a government that is not republican. This would be a plain breach of the guarantee under pretext of its fulfillment. A permanent form of government, dictated by Congress or any extraneous power, was certainly not intended, as it would certainly not be republican or self-government. After the rebellion is subdued (and it now is) the nation will not



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tolerate any protracted arbitrary government of the rebel States, even if Congress has the right so to govern during the rebellion. It would be the accumulation of vastly too much power in the Federal Government, leading to rapid consolidation and the overthrow of the most necessary safeguard of the nation's liberty."

A republican form of government is such as the States have themselves formed, uninfluenced by others; such as the States now have, and upon which, and in view of which, they were admitted into the Union; and such as any people of any State may form for themselves not in conflict with the precedents of the Government nor the paramount law of the nation. There is no power in Congress to say to the House you must not admit the members of a State until the State passes laws or conforms to certain conditions; no precedent can be produced resting upon constitutional authority for this course; and if prosecuted to the exclusion of members and Senators duly elected, from House and Senate it amounts to despotism and revolution. I rely upon the authorities quoted to show the insurrectionary States are in the Union—until very recently it has never been denied—and I now proceed most briefly to show they have been so treated by Congress during the whole rebellion. We have seen what was the object of the war; what was intended to be accomplished. We always, in Congress, claimed jurisdiction over all the States. We repeatedly gave representation in Congress to States in insurrection—I instance Virginia, Louisiana, and Tennessee. These States, some of them, were then in insurrection; and if out of the Union, as is now contended, why was this done?

In August, 1861, Congress passed a law assessing direct tax on Tennessee for \$670,000, as I believe, and all other States in their just proportion.

In July, 1862, Congress passed a law to provide internal revenue, operating upon Tennessee and all the States, and even now, so far as the laws concerned, collecting revenue under it.

In 1863 Congress passed a law fixing the ratio of and apportioning representation for Tennessee and all the States, both North and South. This certainly was a full recognition that the southern States were in the Union, and that they were entitled to representation, especially when the insurrection was suppressed, leaving the House, according to the Constitution, to be the judge of the elections, returns, and qualifications of its members, divested of any conditions or terms imposed upon them from any extraneous intermeddling source whatever.

In 1864 the revenue law was amended and continued in operation alike upon all the States; and I believe in that same year Hon. Andrew Johnson, a citizen of Tennessee, was nominated by the majority now in Congress as Vice President of the United States. He was constitutionally eligible and elected, and now by operation of the Constitution is President of the United States. How, then, can gentlemen contend that Tennessee is out of the Union, or was ever out of the Union? All this happened and we never heard a word about the States being out of the Union. We were spending thousands of millions, sacrificing many lives in camp and field, and breaking up the prosperity and peace of our whole people to establish the contrary fact and theory, to maintain the supremacy of the Constitution and preserve the Union.

In 1865 the Federal arms were victorious and the insurrectionary army surrendered. Never until that fact was announced did we hear this new theory about States being dead, not sustaining practical relations, being out of the Union. I have been at a loss to see any good reason for this great change, this opposition to so large a portion of the United States, and this opposition apparently local, sectional, and unjust. We think it cannot be founded on principle. It must be that we need the revenue to combat the enormous debt that threatens us, and so tax the southern States as Territories;

but if you give them representation, a correlative right, then the power in the Government may take a different stand-point and the people find other men to administer it.

Mr. Speaker, we must all agree and concur to have this Government administered for the good of the whole people as one people, without sectional jealousies, under equal laws and privileges, according to the grants, powers, and limitations of the Constitution. Then we will have no more insurrection, no more secession in the South, or revolution in the North; no further use for reconstruction committees, so called; no scores of amendments to the Constitution of the United States; no dictation to a State, what she shall do or not do, before her members, duly elected, shall be admitted; no dictation to a State whom she shall disfranchise or make eligible to office; what debts the State shall claim or release, pay or repudiate. I solemnly deny there is any power in Congress to put all these terms on Tennessee and the southern States before their members are admitted to their seats, or any other terms or conditions not found in the Constitution as to the admission of members and Senators.

If the States are dead, where does Congress get the power under the Constitution, the omnific power, to raise them into life? What does Congress claim, to receive or reject them by the action of a joint committee and the action jointly of House and Senate, granting by law restraining orders in effect? We have said there is no authority for this action; the House and Senate are each for themselves the judges; but if this joint action is to be had, and terms put upon House and Senate and States, why not do it, and take the responsibility and answer to the country? The admission of members is the first business of Congress, and now four months have elapsed since the session began and States by their members and Senators have been here all the time asking this matter to be settled, and no vote can be had on any one case. I deprecate this delay. The majority ought to have more respect for themselves and more kindness and generosity toward those over whom they claim to exercise their high powers and jurisdiction so new and unprecedented. But the majority of three to one in the House and twelve to three on the committee do not intend to take the responsibility to reject, as I believe, the members and Senators, and thus for the time being weaken if not dismember the Government. No, sir, they interpose charges, conditions, terms, and every possible excuse for delay and want of final action. They, the committee, institute inquiries and take proof about the loyalty of Tennessee and other States, much of it *ex parte*. Why, Mr. Speaker, you know Congress admitted members and Senators into Congress from Tennessee in the midst of the insurrection. Why then shall Congress be so very special now after so good a precedent? Tennessee is certainly more loyal now than she was then. Besides, the members-elect from Tennessee are all loyal and always were loyal; one of them was in Congress during the rebellion and two of them commanded Federal regiments during the war. Then why not admit the Tennessee members and Senators at once? No good reason for delay can be given. These are clearer and more commanding reasons than can be truthfully assigned for this delay, or their rejection, than can be found if you keep your reconstruction committee engaged till the session expires.

I beg leave, sir, to urge another particular fact that I think the majority ought to consider. When you ratified the constitutional amendment of emancipation, you not only counted Tennessee, but I believe five other southern States for the amendment; and thus it was ratified! Now, I ask gentlemen seriously, if Tennessee was in the Union, and partook by your consent and in behalf of emancipation in the solemn act of amending the Federal Constitution, if it is

not a palpable and shameful inconsistency to say now either that they are not sufficiently loyal, or not in the Union, and cannot have representation in Congress like other States; and more especially is it a palpable inconsistency, inasmuch as Tennessee presents, as I understand, members of unquestionable loyalty!

But, sir, there is still a higher point than that presented in the resolutions I have quoted. You are taxing these States which have been in insurrection, and in that respect holding them to the liabilities and responsibilities of States and denying them their dignity, equality, and rights in the halls of legislation by their representatives. This is a cardinal principle in American jurisprudence. It lies at the root of our liberties. Taxation without representation is the yoke of bondage. You may maintain this principle awhile, but it will be painful and irritating, and finally lead to dissension and evil. It cannot be maintained. Our fathers would not bear it, and we should scorn to ask it of any people, especially our own people. They must have representation if they meet the requisitions of the Government, as they are doing liberally and largely both in taxation and obedience to law. I have found it my duty to take part in ascertaining the state of loyalty in Tennessee, and I had the honor, in the form of a resolution, to express my opinion and the minority of the committee upon that subject, which I ask to read:

"The minority of the committee on reconstruction on the part of the House beg leave to report that said committee have directed an inquiry to be made as to the condition and loyalty of the State of Tennessee. There has been a large amount of evidence taken, some part of it conducing to show that at some localities occasionally there have been some irregularities and temporary disaffection; yet the main direction and weight of the testimony are ample and conclusive to show that the great body of the people in said State are not only loyal and willing, but anxious, to have and maintain amicable, sincere, and patriotic relations with the General Government. Such being the state of the facts, and inasmuch as under the census of 1860 Congress passed a law which was approved in 1863, fixing the ratio and apportioning to Tennessee and all the other States representation; and inasmuch as Tennessee, disavowing insurrectionary purposes or disloyalty, has, under the laws and organic law of said State, regularly elected her members and Senators to the Congress of the United States in conformity to the laws and Constitution of the United States, and said members are here asking admission, and inasmuch as the House by the Constitution is the judge of the elections, returns, and qualifications of its members," considering these facts and principles, we offer the following resolution, to wit:

"Resolved, That the State of Tennessee is entitled to representation in the Thirty-Ninth Congress, and the Representatives elected from and by said State are hereby admitted to take their seats therein upon being qualified by oath according to law."

Upon this resolution, however, the minority have not been able to get a vote. But to the proof. It cannot be reported in a short speech, being more than thirty pages of a large pamphlet; but I may remark, as I believe, not a single witness examined but states and concurs in the opinion, that to admit the representation from Tennessee would gratify the people and strengthen and encourage the loyalty of the State, conciliate the people and harmonize their action for the peace, advancement, and prosperity of the State and nation. The proof fully sustains the fact that the returned troops meet in social life like gentlemen of honor, principle, and peace, and no signs of disruption are found in their circle; that there are occasional local disturbances in Tennessee that the civil authorities are able to control, but these grow out of old personal animosities engendered during the insurrection, and not arising from any disaffection or rebellious spirit toward the General Government. This is the tendency of the proof, and accounts for the many rumors of disturbance in the country wrongfully attributed to disloyalty. It is further shown that the people of Tennessee are getting impatient to have a representation, and this long inquiry and delay is staying the strong tendency to full confidence in the Government, and in fact is injurious. Every recognition of Tennessee is encouraging to her people. "Every kind word

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uttered here goes as a healing balm to the wounded spirit of our people, and is as welcome as the olive branch brought by the returning dove to the ark." Loyalty is manifested, perhaps, better by the payment of taxes, willingly and without murmur, than any other duty; and in West Tennessee, where there is said to be, by some, slight disaffection, most disloyalty, Memphis, had, in January, 1866, with others in first district, paid \$2,842,747 81. I think this looks like obedience to the laws of 1863-64. I beg leave to read a few extracts from the testimony to suit my argument and views, and do not intend to be charged with garbling the testimony as it is ordered to be published largely, I fear for party purposes; but I still deny that anything can be found, taking the spirit and intent of the testimony, to show the members and Senators from Tennessee are not, according to this very unusual and unwarranted process, entitled to their seats by the decision of any authority, especially of the Senate and House separately, and uninfluenced by extraneous influences. Among other things Hon. Mr. Leftwich says:

"It is the opinion of myself, as well as of most of the best informed with whom I have talked, (among them our lamented President Lincoln,) that, notwithstanding so many of our people were subsequently, by various influences, forced into the rebellion, the election in Tennessee in February, 1861, was, and is, the true criterion of the loyalty of our State; at which we gave a majority, as I remember, of sixty-five thousand against 'separation,' (thought to be a more palatable term than 'secession,') and nearly that number against even calling a convention to discuss it.

"When Mr. Johnson assumed the presidential chair he was more odious to the southern people and more feared by them than any man now in the North; yet he is now by these same people as universally beloved and honored, just in return for evidencing a kind and forgiving spirit."

Hon. Mr. Cooper says, among other things:

"I can say fearlessly, from an intimate personal acquaintance with the people of the fourth congressional district, composed of the counties of Rutherford, Cannon, Coffey, Franklin, Lincoln, Giles, Marshall, and Bedford, and which I have the honor to claim to represent, and where there are no Federal soldiers, and have not been any, except in Rutherford county, since the 1st of July, 1865, that peace and quiet and complete obedience to law prevail. No difficulties of any kind; law and order are everywhere observed. The United States assessors and collectors visit every part of the district unguarded and alone; are promptly paid and kindly treated. The United States marshal needs no military force to enable him to do his duty. The white men and freedmen live harmoniously together. Contracts are made between them, liberal, just, and satisfactory, and are faithfully performed by both parties. No complaints are being made. All recognize the Government of the United States as the supreme law of the land. They most earnestly desire to be once more fully restored to the benefits of its protection, so that they can once more feel that they are American citizens.

"I fully believe that the United States troops might be withdrawn any day, and the present State government would be protected and guarded until the expiration of its term without molestation or danger. It seems to me that the people feel the necessity of peace and law and order, and they intend to have it.

"The Legislature has passed all laws necessary for the protection of the freedmen, and there is but one single case in which the punishment of the white man differs from that of the freedman, and that is in the case of rape, or assault with intent to commit rape, on the person of a white woman."

I read a part of General Thomas's statement:

"By Mr. GRIDER:

"Question. You say you believe that there is a gradual improvement going on in Tennessee as to loyalty?"

"Answer. Yes, sir.

"Question. Will you give your opinion as to whether the admission into Congress of the Representatives from Tennessee would tend to encourage the loyal people of Tennessee, and strengthen the feeling of loyalty in that State?"

"Answer. I think it would very much. It would not only encourage the loyal people to exert themselves, but it would encourage the rebels to return to their loyalty, because they would see that their chances and hopes for another outbreak were passing away from them. If you will permit me to give additional reasons why I think the delegation from Tennessee should be admitted I will do so.

"Question. Certainly; state any reasons you may desire to state.

"Answer. I think the delegation from the State of Tennessee should be admitted into Congress for the reason that that State, of her own accord, has complied with every instruction of the President, and has done all that it was believed it would be necessary for her to do in order to gain admission into Con-

gress. All that they have done of their own accord in Tennessee. They have repudiated the rebel debt; they have abolished slavery, and also adopted the constitutional amendment upon that subject; they have passed a franchise law, prohibiting from voting every man who has been engaged in the rebellion; and I believe they have now passed a bill giving the negro the right to testify in the courts; and all the members elected to Congress can take the test oath, both Senators and Representatives; and if their Representatives shall be admitted into Congress, it will be a precedent for all the southern States; they can see at once the reasons why the Tennessee members are admitted, and that if they expect their members to be admitted they must do as she has done.

"By Mr. GRIMES:

"Question. You have answered the inquiry of Mr. GRIDER in regard to the propriety of admitting into Congress the delegation from Tennessee; state, if you please, whether, if her delegation should be admitted into Congress, it would be safe for martial law to be then abrogated in the State of Tennessee.

"Answer. I would not abrogate it just yet.

"Question. Would you recommend the abolition of the Freedmen's Bureau in that State?"

"Answer. Not yet."

Hon. David T. Patterson states upon being interrogated, among other things, as follows:

"Question. What is your opinion in regard to the propriety of admitting into Congress the delegation from Tennessee at this time?"

"Answer. Situated as I am, it is very natural I should entertain the opinions I do upon that subject. I really think it would be advantageous to the loyal sentiment of Tennessee to be represented in Congress. I think the moral influence of a representation in Congress would do us good at home.

"It is very difficult to judge of men's motives and their real sentiments; but those who were rebels, and who have corresponded or conversed with me upon the subject, profess now to be loyal to the Government of the United States, to accept the results of the war in good faith."

Such is a glance at the testimony in part which has been taken as to the loyalty of Tennessee. There is much more of the same character. I have given one gentleman's statement from East Tennessee, one from Middle, and one from West Tennessee, and General Thomas from Nashville—men prominent and presumed to be best advised in relation to the issue made, and so far as I believe, there is no countervailing testimony taken by the committee as to Tennessee (and this is all I have examined) contravening the fair and logical conclusion, that upon the ground of loyalty and obedience to law, Tennessee is entitled to representation.

But this seems not to satisfy the majority in Congress; they themselves must fix terms and conditions to be adopted by State action before they can be admitted. This we have said is without authority. They must have guarantees. Now, I ask, what right has the Government of the United States to originate this demand for guarantees before a State shall have representation? Where is the power found, the grant given? Certainly not in the Constitution of the United States. It is an arbitrary assumption of a majority which they can now enforce, but which they, I trust, will not dare to do. "What!" we have been asked, "shall we admit traitors here with their bloody hands reeking in the blood of our officers and soldiers?" There is no argument in this; the Tennessee members are all loyal. We have heard this outcry of "raw head and bloody bones" ever since we were children, but we are too old to be startled by it now. It is mere alarm and false at that, and intended to make false issues, expand and change jurisdictions and not dare to meet the plain dictum and decision plainly announced in the Constitution, in substance, that the House is to be the judge of its members. I ask gentlemen, what guarantees do you expect or ask? What guarantees does the Constitution give you to warrant the competency of the members, the judgment of the House, and the oath to be administered after a regular election according to law manifested by their credentials? Is this sufficient? But gentlemen have said they would not trust their oath, must have guarantees. Well, sir, Washington in his Farewell Address clearly manifests, that according to his convictions, in courts of justice an oath under a sense of religious duty was of the highest obligation and importance, and no doubt he would have been willing in Congress, as a guarantee, to

take the oath and honor of a gentleman-elect, and upon these grounds admit members; but I shall not raise the question whether those so distrustful are themselves worthy to be trusted.

The Constitution justifies no guarantees from extraneous sources to control the action of the House and putting conditions other than the Constitution has explicitly warranted. If gentlemen will not be satisfied with these, they must usurp the authority and govern by the arbitrary force of a majority.

Mr. Speaker, I fear we do not realize the responsibilities under which we are acting; I fear we do not consider the consequences of this exclusive policy, this policy that assumes so much righteousness for the majority and so little of principle and patriotism for the minority; I fear this rigid, unrelenting, unforgiving feeling in the majority is pregnant with much wrong and error, and may lead to an assumption of power in majorities amounting to despotism. Had we not better recur to the usages of the times when the Government was formed, and in mildness and reciprocal respect look upon this as our Government, embracing all, forgiving all, and especially the erring and unfortunate? No relentless persecution or angry raid against any, in feeling or in policy; but forgive as we would be forgiven. Do our duty to the whole country and commit the results to the gracious Providence that has spared us even amidst the afflicting visitations to which we have been subjected. We hope for the best, hope for harmony, equal laws, rights and privileges, and an early return of general prosperity.

#### New York Contested Election.

#### SPEECH OF HON. S. S. MARSHALL, OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,  
April 3 and 4, 1866.

The House proceeded to the consideration of the following resolutions reported from the Committee of Elections:

*Resolved*, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

*Resolved*, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. MARSHALL said:

Mr. SPEAKER: It is very easy for gentlemen to be misled in regard to this case, even after having given some attention to it. The evidence is extremely voluminous and requires a great deal of time to read and understand it so as to get at the real bearing of the evidence and the right of the case.

I must say, sir, that I have been somewhat amazed at the speech of the honorable gentleman from Massachusetts, [Mr. DAWES.] I have heard a great many ingenious speeches and arguments in courts of justice where gentlemen had reposed in their hands very difficult cases, and at such times it is too often the practice of counsel to keep back and out of view as far as possible the facts which would favor the adversary and bring forward and marshal with solemn gravity the evidence—often feeble and unimportant—which seems to sustain the cause they advocate. I must say, if I understand the case at all, the gentleman has in his argument here manifested quite as much ingenuity as I have ever seen practiced in a court of justice.

It has been well said in regard to other matters occurring around us that we are now making history; and it is important for us all individually in our action in our public capacity that we should so deport ourselves that hereafter that history may not come up in judgment against us. I know in times of strong party excitement it is exceedingly difficult for gentlemen, however honest and pure they may be, to avoid being biased and influenced in contests like this by party prejudices or predilections. I do not claim for myself any infallibility

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New York Contested Election—Mr. Marshall.

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of judgment or more candor or sincerity than I am willing to accord to all other gentlemen. But I do fear, if I have not misunderstood the character and bearing of the testimony in this case, that the gentleman from Massachusetts, notwithstanding his acknowledged ability and candor, has allowed himself in some manner to be carried off from the true issue in this case, and has permitted his judgment to be warped. He has dwelt upon facts which are not in evidence, and has given the testimony of witnesses excluded by the committee. And this inadmissible, excluded evidence (admitted to be inadmissible) which is before us for no purpose whatever, is manifestly that which controls the judgment of the honorable gentleman, and without which there would not be a plausible pretext for sustaining the claim of the contestant. And I cannot otherwise account for the fact that very important evidence submitted in this case, admitted to be competent evidence, has been wholly ignored and forgotten by the chairman of the committee in his discussion before the House.

Before going into the evidence I wish to call the attention of the House to the difficulties under which the sitting member has labored in presenting this case to the House and to the country.

The contestant being one of the money lords of the land, and the expense of a protracted contest being to him a matter of perfect indifference, has taken advantage of his position in this respect. And in giving his specification of the grounds of contest, instead of stating distinctly the grounds on which he would rely in a form which would be recognized by any pleader, he has thrown together a mass of inconsistent, loose suggestions, conforming in no respect with the requirements of the act of Congress in regard to contested elections, thus misleading the sitting member in regard to the issues, and harassing him by accumulating a mass of evidence upon which he did not rely. He consumed the time authorized by law for taking testimony to such an extent that the sitting member was not able to examine the witnesses that he desired to examine, and the evidence closed at midnight on the last night allowed to him by law, and the appeal for further time to introduce additional evidence was denied him, although he had a letter from the chairman of the committee stating that evidence under such circumstances would ordinarily be admitted by the House.

It is also true, and ought to be remembered by the chairman of the committee, that the sitting member came before the House and before the committee since the meeting of this Congress, and asked, urged, and implored that time might be extended to him that he might poll the district and show by positive evidence that he received the number of votes which were returned for him. But this permission was not granted. Therefore, I say, without denying that the decision of the House and of the committee was right, that nothing can properly and fairly be inferred or presumed against him because he did not introduce this evidence. He had no opportunity of doing so; time was denied him for that purpose by the contestant, by the House, and by the Committee of Elections.

He furnished, as appears in the printed evidence, two thousand names of men that he proposed to call and examine for the purpose of showing by legal evidence that he had received the number of votes returned for him, but this was not permitted. And I therefore repeat that nothing can rightfully be presumed against him because he did not meet all the evidence, unsatisfactory and illegal as it was, brought on the part of the contestant.

If gentleman will look at the law of Congress and the specifications of the contestant in regard to the grounds of his contest, it seems to me that there cannot be any one who will not hold that there is a complete and utter failure to

comply with the act of Congress which requires that the grounds shall be definitely pointed out. This is not done, as I insist, in any single instance. I cannot now go over them, but I imagine before we take the vote upon this question gentleman will feel called upon to look for themselves into this matter and determine for themselves.

I know it is held by many that this act of Congress is not binding upon this House; that the House being a judge of the election, returns, and qualifications of its own members, the law pointing out the modes of giving notice, and of taking evidence, and everything pertaining to the matter, is merely directory, and that the House may rightfully depart from it whenever it pleases.

I think this is an erroneous view of the powers and duties of this House. A court, as such, has no power of legislation. It is the judge of causes within the limits of its jurisdiction, but cannot prescribe the form of the process, the time within which suits shall be commenced and process served, or the rules of evidence. For all this it must look to the law of the land.

And this House being, under the Constitution, a judge of the election, returns, and qualifications of its members, has not the power to disregard the law in regard to the rules of evidence or the character of a notice of contest or the time within which it shall be given. We are to judge as other judges upon the case brought before us according to the forms of law. There is no other proper rule of construction that can be given to this act of Congress and the law governing this case. I insist that this act of Congress not only furnishes a rule that ought to be binding upon us in justice, but that it is a law binding upon us as much as any law is binding upon a common court of justice. We are but a court in trying causes of this kind, and in determining them we must recognize the mode of procedure and be governed by the rules of evidence prescribed by the proper authorities of the country.

I do not propose to dwell on this. It seems to me it is only necessary to suggest it for gentlemen to see the force of it. A judge does not prescribe the time within which a summons shall be sued out and served on a defendant. It is no part of his office. He must take the law as he finds it. He must adopt the mode of procedure prescribed by the law of the land. So in regard to this body in determining as judges upon the election, returns, and qualifications of its own members.

It is also a well-known rule of law that to justify a recovery in any case a sufficient ground of recovery must be distinctly and clearly set forth in the pleadings. And in the second place, it is necessary that the evidence shall sustain these allegations. In other words, the proofs and the allegations must correspond, and if there is a defect either in the pleadings or in the evidence sustaining the allegations the case necessarily fails. If there is no case made out in the pleadings, although the evidence may be clear and conclusive, there can be no judgment given to the party asking relief.

Before proceeding, I suppose it will not be improper for me to call the attention of the House to a few errors committed by the majority of the committee in regard to the facts of the case.

In the majority report it is stated that there were but four precincts to which the contestant applied his evidence, and that the evidence of the sitting member was confined also to those four districts—ignoring entirely the fact that the sitting member had impeached one of the districts which had given a large majority for Mr. Dodge, the contestant, and had submitted evidence for the purpose of sustaining his allegation in regard thereto, showing that there was illegal conduct on the part of the canvassers which vitiated the returns so far as to furnish grounds for throwing out those re-

turns altogether. And if so, if the returns from that district are successfully impeached, then the sitting member is entitled to his seat, even though the other two districts are thrown out also. Throw out the other two districts entirely, as the chairman of the committee proposes, on account of irregularity, and then throw out this one in which Mr. Dodge had a majority, and you still leave the majority in favor of the sitting member.

But the fact that this district was impeached, and that evidence was brought forward for the purpose of excluding the vote, is ignored by the chairman and by the majority of the committee.

There is another statement, that Mackerelville, the fifteenth district, has a bad reputation in connection with the July riots. This is taken, I suppose, from the suggestion of the counsel of Mr. Dodge before the committee, for I have been unable to find any evidence to sustain the statement.

Another mistake is, that Andrew Brady, the clerk of the fifteenth district, was a self-constituted clerk. Now, it is true that his brother was first called as clerk and sworn, and that Andrew was substituted for him; but he was not self-constituted. He was accepted by the registrars and inspectors, and recognized as clerk. Mr. Hall, a Republican inspector and registrar, states in his testimony that he was appointed as such.

Mr. DAWES. Will the gentleman from Illinois [Mr. MARSHALL] repeat what he was saying? I did not fully understand him.

Mr. MARSHALL. I was speaking in regard to Andrew Brady, the clerk of the fifteenth district, being a self-constituted clerk. I say that is a mistake; he was accepted and recognized by the inspectors, and Mr. Hall stated that he understood that he was appointed after his brother, who had been first appointed, declined to act.

Mr. DAWES. Mr. Andrew Brady was not sworn, I believe.

Mr. MARSHALL. There is a conflict of testimony in regard to whether or not he was sworn.

Mr. BROOKS. This is the testimony on page 220 of the large book:

"Question. And Mr. Andrew Brady did serve?"

"Answer. Yes."

"Question. Did he serve with the consent of the inspectors of registry?"

"Answer. Yes, sir."

Mr. DAWES. Daniel Brady says he was appointed and sworn; that Andrew Brady was appointed to take his place, and Mr. Hall says that Andrew Brady was never sworn.

Mr. MARSHALL. I do not propose to dwell upon that point. I am calling attention to the mistake of the chairman of the committee in calling Andrew Brady a self-constituted clerk.

Mr. DAWES. Perhaps it was not strictly proper to call him a self-constituted clerk.

Mr. MARSHALL. Daniel Brady was first appointed, but declined to act, and then Andrew Brady was substituted in his place. He is no more a self-constituted clerk than is any other clerk appointed by the inspectors to act in such cases. You might as well say that all clerks are self-constituted. Andrew Brady was just as much a clerk of election as was any one; and if there was an omission to qualify him, we have the decision of the supreme court of the State of New York, in the case of *The People vs. Cook, 4 Selden*, that such an omission does not vitiate the ballot. If he was appointed clerk, and acted as such, he was an officer *de facto*, and the omission to swear him is no ground for attacking and defeating the ballot. Why is the fact brought forward with such solemnity that Andrew Brady was a self-constituted clerk, and acted through a fraud? I say that in this fifteenth district there is no evidence of fraud, either in the conduct of the clerk or the registrars, or any other officers, in making up the register, or on the day of election. There



is not one particle of legal evidence of fraud there, of any evidence that would convict any man of any offense on earth before any court. And yet we have it very solemnly paraded before us that Andrew Brady was a self-constituted clerk and acted fraudulently. Yet he testifies that he was a Republican, and not in the interest of Mr. Brooks, and at that election cast his vote in favor of Mr. Lincoln. And that was the case with the majority of the officers of election on that day; they were the partisans of Mr. Dodge, the contestant. And yet we have this brought forward here in the most solemn manner in order to show that Mr. Brooks and his friends were guilty of such frauds that this whole district should be disfranchised. I must say, with all respect for gentlemen, and raising no question about the fairness and impartiality of any member of this House, that such an enormity was never before attempted to be perpetrated in a legislative body as would be that of giving the contestant a seat in this House upon the evidence adduced.

Now, I want to call the attention of legal gentlemen from New York to what I am about to say. The chairman of the Committee of Elections misapprehends entirely the character of the board of registry. He calls them a board of judges, and from the manner in which he discussed that point you would be led to think that every elector in the district was compelled to go before this board and apply to have his name registered; and if objection is made he must produce evidence of his right to vote there, and that the board of registry have no power to act until that is done. Now, I insist that this is an erroneous construction of the law.

We have precisely such a law as this in the State of Illinois; and yet no man in that whole State ever dreamed of giving such a construction to it. I have never been before a board of registry in my life; nor do any of my neighbors ever think of going before them. The board assemble at the time prescribed by law, and names and information are furnished to them by any one. The board examine each name, and if satisfied that it is the name of a legal voter, they register it. It makes no difference how or from whom they obtain the names.

What matters it in this case if this bar-keeper did put down names on his account books of such as he thought were legal voters, and furnish them at the proper time to the board of registry? Were they placed upon the registry without the consent of the regular board? Certainly not. Some of these registrars were absent a part of the time; they did not remain there all day; but they came back and examined the register, approved it, and certified it according to the forms of law. I know not what may be the practice in other districts in New York; but I know that in Illinois, where the law is almost precisely similar, the voters of the district rarely think of looking over the registry to see whether their names are there or not. If they happen to do so and find their names omitted, they can at the second meeting, one week before the election, ask that their names be put upon the register; and it is done. The members of the board do not sit there as a court; and it is not absolutely required that a majority of them shall remain there all day. There is nothing in the law forbidding any one of them from absenting himself for awhile, and on his return looking over the list to satisfy himself as to its correctness. At most to do so is but an irregularity, and cannot operate to make the register a nullity. Is there any evidence that anybody, by their action, was deprived of the opportunity to have his name registered? Certainly no wrong was done unless some one was injured; and there is no proof that the right of any man to vote was jeopardized by the conduct of the board. I ask gentlemen from New York, all of whom must be affected by the construction to be

placed upon this act, whether they are willing to sanction the construction contended for by the chairman of the committee, the result of which would be, that if the officers whose duty it is to appoint a place for holding the election fail to do so until the time fixed by law for the meeting of the registry board, or any officer of election fails in the discharge of his duty, all the voters of the district must be disfranchised. If it is so, then the vote of the district must be thrown out without any further evidence. If it does not have that effect, then the matter ought not to be thrown in here as a make-weight, because it is entitled to no consideration whatever.

There is another fact urged as affecting the validity of the poll. The inspectors or registrars were not residents of the election district. The law is somewhat vague in regard to that, but it seems to me that the law does require that the registrars shall be residents of the election district; I mean the law as it stood at that time. But the people of New York, many of them at least, and there will be further evidence on this point adduced before the House, understood the law to refer to the Assembly district, and the Legislature has since passed an act which is now in force, and which I imagine is an adoption of the popular construction, declaring that the registrar shall reside in the Assembly district and need not reside in the election district. That is the law as it now stands in the State of New York, and the old law was so construed and acted upon in many of the districts of the city, those in which Mr. Dodge obtained a majority, as well as in this district which is thus impeached. The evidence will be exhibited to the House that in some of the election districts in which Mr. Dodge received a majority the registrars were not residents thereof.

Mr. Speaker, I think I have, without dwelling further upon it, made it sufficiently clear to all who favor me with their attention that the chairman of the committee has been mistaken in the construction of the registry law of New York, and that there was no expectation on the part of the framers thereof, and such is not the practice under it, for the board to sit as a court, that all electors are to appear before them, and that they must decide upon evidence adduced as to the right of each to vote. There is no such practice. They are to use any means within their power, from recollection, from the copy of the last register, or any other means within their knowledge, for making out a list. If they can be satisfied upon their oaths that it is a true register, this is all that can be required. If they know of an elector who lives in the district, although he may be a thousand miles from home, it is their duty to return him.

Another statement is that the election was not held at the place designated. I hold, sir, if that were true, yet unless somebody had been misled and deprived of the right of voting that would not affect the election in any way whatever. Suppose that the house designated had been burned down, or that the owner of the place had seen proper to refuse to allow the election to be held there, are the people, then, not to be represented? Such is not the proper construction of the law, and such construction would not, I think, be placed upon it by any lawyer on the earth who calmly and maturely considered the question.

What are the facts in regard to this place of election? The place designated was "at James Thompson's." This James Thompson was the proprietor of a liquor store on a corner lot one hundred feet in length, I believe. The election was not held in his store, but on another part of the lot designated by some as a stable. It was in a public place and fronting on the street, not in the liquor store, but it was held at "James Thompson's," and on the lot designated. And even if it should be held that there was a slight deviation from the point designated it is clear

that no legal voter was thereby misled or prevented from casting his vote.

There is another statement in the report that a canvasser in one of the districts was drugged and fell asleep during the canvass of the votes. It is not claimed that this district should be thrown out. Then why is this stated? Is it with the expectation of producing the impression that Mr. Brooks had been around drugging the officers of election? Where is there any evidence of the drugging of anybody? I have examined the testimony of this canvasser himself, who was a Republican, and a supporter of Mr. Dodge, and he testifies that he was not drugged; that he remained awake all the time that he was engaged in canvassing the poll—all day, and until two or three o'clock in the night. He says that he did get very much wearied, but that he remained awake during the time. If there is any evidence that he was drugged I have been unable to find it, although I know that it was suggested by the ingenious counsel for Mr. Dodge before the committee. I am afraid the honorable chairman of the committee, in drawing up his report, has forgotten the real evidence, and has adopted as facts and confounded with the evidence the statements of the counsel of Mr. Dodge. Is this one of the make-weights in the case, separately amounting to nothing, but which, when brought together, and paraded in solemn array before the House, may produce some effect upon the minds of gentlemen who cannot take time to read the evidence for themselves?

I know, sir, that there was no improper intention on the part of the chairman of the committee, but having come to the conclusion that Mr. Dodge is entitled to the seat, he has entered into the argument of the case with that feeling with which counsel generally enter into the argument of causes which they desire to gain. Having first made up his mind that he is right, he has brought forward arguments which he thinks will produce that conviction in the minds of others. It is natural that he should do so; but standing here with different convictions, believing that there is no legal evidence in the case that would authorize the House to unseat Mr. Brooks, much less to give the seat to the contestant, I think it my duty to bring to the attention of the House this discrepancy between the evidence in the case and the allegations in the report of the committee.

The object of all election laws is to facilitate, not to defeat elections. Registry laws are but directory for that purpose, and cannot be held to be more sacred or of more importance than the sacred right of the elector to cast his vote. It will never do to place a higher value on statutory regulations than on the right of suffrage itself. The whole object of a registry law is, not to throw obstacles around the right of the elector to vote, but to allow him to come untrammelled to the polls, and cast his vote in such manner as to secure a proper reflex of the sentiment of the people.

In presenting the law bearing upon cases of this kind, I am afraid I shall take up too much of the time of the House, but the law is very clear. In the State of New York, for instance, the State from which this contest comes, in the leading case of *The People vs. Cook*, 4 Selden's Reports, the court sustain every position that I take. I will read a paragraph or two. The court referring to the decision in the court below says:

"The learned judge decided, in his direction to the jury, that the votes given in the western district of the first ward of the city of Buffalo were properly canvassed and allowed to Mr. Welch, notwithstanding the inspectors took the oath of office upon a book called 'Wat's Psalms and Hymns,' and not upon the Gospels."

To this the defendant's counsel excepted. The court says:

"This exception is not well taken, for two reasons. First, the neglect of the inspectors, or clerks, to take any oath would not have vitiated the election. It

might have subjected those officers to an indictment, if the neglect was willful."

The court refers to quite a number of cases to show that a failure on the part of the officers to take the oath, although it is an indictable offense in them, does not vitiate or affect the election; and then further remarks that—

"These, and numerous other cases, show that the acts of public officers being in by color of an election, or appointment, are valid, so far as the public is concerned."

Again:

"The statute requires that the inspectors, after taking the oath, shall appoint two clerks, who shall take the constitutional oath. This is directory. If no clerks can be procured the election is not to fail. The inspectors must perform the duty which ordinarily is devolved upon the clerks. The failure of the clerks to take the oath did not render their acts void. The occasional interference of more inspectors than three does not prejudice the return, since the whole election was conducted by inspectors who were at least such *de facto*, and for the most of the time by those who were such *de jure*."

And again:

"An officer *de facto* is one who comes into office by color of a legal appointment or election. His acts in that capacity are as valid, so far as the public are concerned, as the acts of an officer *de jure*. His title cannot be inquired into collaterally. The doctrine on this subject will be found in the following cases."

Citing a number of adjudicated cases.

Now, this case of *The People vs. Cook* settles the question of law in dispute here. I intended to refer to some other adjudicated cases; I am afraid of taking up too much time, but they are in entire accordance with the views I have taken. I will refer to *Carpenter's case*, 2 *Parsons' Select Cases*, page 539, where the principles of law bearing upon questions of this kind are discussed by the court. The tendency of the law and of all the decisions is that technicalities of this kind shall not be allowed to prevail against the voice of the people. In the *Carpenter case* the court says:

"Very soon after the passage of the law, giving this court authority to hear and adjudge upon the validity of the election of county officers, questions of this character presented themselves to our attention. We saw and felt that we were called to assume a new and delicate jurisdiction, which, if not exercised with prudence and circumspection, would involve the court in the heat and excitement of every contested election in the county. We felt the necessity of assimilating all such to other legal proceedings. We demanded of the parties seeking to impeach an election return preciseness and exactitude of allegation; refusing to recognize all general charges. And we confined the petitioners to the specific charges made, refusing to permit them, under the pretense of a precise allegation, to enter into another experimental attack on an election return, with the hope of finding something in it which might affect its validity. We required that a petition, contesting an election return, should be a thing, complete and perfect in itself, setting forth precise allegations, and containing all necessary statements to show, that if such allegations and statements were true, the election of the returned candidate must, of course, be vacated."

"Nothing less than this, we deemed, was due to a thing so solemn as an election return, which is the embodiment of the popular will, the expression of the sovereign power of the only sovereign known to our Constitution, the people. Aware that the citizens conducting these elections were equally with ourselves bound by solemn oaths to the faithful execution of their duties, we felt that the fundamental maxim of the law, that all acts purporting to be done by individuals *de facto* exercising such legal authority, were to be presumed to be done rightly, applied to them with the same force as it would be to us by a higher tribunal. Hence we demanded, as is always demanded, when the actions and doings of judicial, or semi-judicial officers are impeached, even for informality, much more for fraud, that those who make such an assault must be prepared not only to state in what exact way these officers have violated their duty, but that they have violated such duty in a manner so as to nullify the election of the individual apparently chosen by the people."

"If such officers were charged with offenses against the law in conducting an election, if it was charged that they had omitted to perform certain directory duties required by law, we said they merit it, and ought to receive punishment for the offense, but the people should not be punished for the defaults of their agents. That because from unfaithfulness or ignorance, officers had disobeyed or neglected the declaratory mandates of the election law in conducting an election, that this misconduct should not disfranchise the people of the county who had not participated in nor sanctioned their illegal acts. We saw that by so doing, instead of punishing an officer for violating the election law, we should disfranchise the people of a district. This we could not but see would invite unprincipled partisans to commit such offenses in order to defeat an honest majority by indirect, which they could not overcome by direct, means."

I might cite a number of cases to the same effect, and will refer gentlemen who wish to examine the law in regard to this matter to *Skeritt's case* in the same volume, where this subject is very fully discussed. We are departing from all the principles of law if we allow mere informality, if we allow neglect or ignorance on the part of officers, to defeat the will of the electors of the district, and to put in here a man who was not chosen by a majority nor by a plurality of the people of the district, to represent them here. Look at former elections, and look at subsequent elections in this district. They show that the votes were very largely against the views of the man who now claims the seat, and there can be no honest pretense that Mr. Dodge could under any circumstances have received a greater vote than Mr. Brooks at that election. There is no such pretense. There can be no honest pretense that Mr. Dodge received a majority or a plurality of the legal vote of that district. But upon a mere technical objection it is proposed to throw out election districts, the effect of which will be to leave Mr. Dodge with an apparent majority.

I will turn now to the fifteenth district of the eighteenth ward, and I will dwell some little time upon that, because the case turns mainly upon it. If the House holds the poll of that district to be a void poll, and one that we cannot receive, then, under the hypothesis of the Committee of Elections, Mr. Brooks is not entitled to retain his seat. I hold, however, that even in that case, the proper result would not be to place Mr. Dodge in a seat to which he was never elected, but to send the case back to the people.

Now, what are the specifications in regard to this fifteenth district of the eighteenth ward? Inasmuch as the case turns principally upon this district, I call the attention of the House to the fact that there is no charge by the contestant that there was any fraud or irregularity in the fifteenth district of the eighteenth ward. There is no charge in the pleadings that in the fifteenth district of the eighteenth ward there was any fraud, or any irregularity of any character. The specification is that there were illegalities "in the fifteenth district" without naming any ward.

Mr. DAWES. Will the gentleman tell me whether there is any other fifteenth district in the whole congressional district?

Mr. MARSHALL. There are three wards in the district.

Mr. DAWES. Is there any other fifteenth district?

Mr. MARSHALL. I do not know. It is not a matter that has been submitted to me for determination.

Mr. DAWES. But that is a highly important point.

Mr. MARSHALL. Well, what is the fact about it?

Mr. DAWES. I will state the fact that that is the only fifteenth district in the whole congressional district.

Mr. MARSHALL. I do not know how this is ascertained. I am not aware that we have any evidence on the subject but, admitting it to be true, that might be an answer before a town meeting, but it is no answer to pleadings in court; it is no answer to the law of Congress, which requires that the contestant shall specifically state the grounds upon which he makes his contest. Whether there are fifteen or more districts in the other wards in that congressional district it is not for me to say. I know that in some wards in the city the number of districts run up as high as twenty or more. How do we know from the pleadings that the "fifteenth district," where no ward is named, might not refer to some other congressional district in the city of New York? There is no such specification as the law requires—the sitting member had no notice of the precise ground of contest—and therefore I insist that legally we cannot properly go into

this investigation. But I will not dwell upon that. I know that these technicalities do not have much weight here, although I think that here, as elsewhere, a party should be informed by the pleadings upon what his adversary relies.

There is another objection in regard to this district to which I wish to call the attention of the chairman of the Committee of Elections. He has, both in his speech and in his report, laid great stress upon the fact that the inspectors or registrars, were not residents of that election district. I call his attention to the fact that in the pleadings there is no charge, no specification, that they were not residents of the district. Even if the ward had been mentioned there is no allegation whatever in regard to this matter.

Mr. DAWES. I will say to the gentleman from Illinois that I think I can answer that; but there are a good many other things in his argument that I would like to answer, and I prefer to take them all together.

Mr. MARSHALL. I would like to hear the gentleman's answer now, if he has one.

Mr. DAWES. Of course I hold that there is an answer, and I will endeavor to show it.

Mr. MARSHALL. I never knew until to-day that my friend was such a complete Yankee as he is. He has not answered directly a single question put to him to-day.

Mr. DAWES. I submit that that is not exactly candid. If the gentleman will recur to any interrogatory that either he or the sitting member put to me during my argument that I did not answer, I will do it now.

Mr. MARSHALL. You may have answered, but you traveled a long way round to get at it.

Mr. DAWES. The difference between my friend and myself is, that I take my own time to answer. The gentleman insisted on putting his interrogatories and prescribing the time in which I should answer them. I will treat him as he treats me, with entire candor. I will answer his interrogatory when I come to reply to his argument.

Mr. MARSHALL. This is a point that is very important. I have not been able to find any specification that the registrars were not residents of the election district; and I want the gentleman to show me where there is any such specification. I think it but fair that he should do so.

Mr. DAWES. If the gentleman insists upon it that I shall answer him now, I will state that there is a distinct allegation, and it is copied into the report, that there were illegalities that worked to the injury of the contestant.

Mr. MARSHALL. Does the gentleman call that a definite specification?

Mr. DAWES. That was one of the illegalities.

Mr. MARSHALL. Then why make any other specifications?

Mr. DAWES. The gentleman inquired if there was any specification, and I gave him the specification.

Mr. MARSHALL. Then I am to understand that that is the specification, that these registrars were not residents of the election district?

Mr. DAWES. Under that specification you can show any legality.

Mr. MARSHALL. I hold that that is no specification at all. It is no compliance with the law of Congress, and it amounts to nothing. If it covers this ground, why does it not cover every ground? And why require a contestant to say anything except that there were "illegalities" and "irregularities?" If it embraces that, it embraces everything.

Sir, this is the most transparent trifling with the law of Congress. That is no specification whatever. It sets forth nothing as to what the contestant intended to prove or rely upon.

[Here Mr. MARSHALL, having but five minutes of his time left, gave way to a motion to adjourn.]

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New York Contested Election—Mr. Marshall.

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WEDNESDAY, April 4, 1866.

The same subject being again under consideration, the time of Mr. MARSHALL was extended by unanimous consent.

Mr. MARSHALL continued:

Mr. SPEAKER: The honorable gentleman from Massachusetts, [Mr. DAWES,] in his argument yesterday, and I believe also in his report, says that there is fraud proven in making the registry in the fifteenth district of the eighteenth ward; and I ask the attention of the House to what I shall say on this point. As the gentleman alleges, there was fraud in making up that register. I ask him who perpetrated that fraud, and where is the evidence of it?

Mr. DAWES. The gentleman put several interrogatories yesterday, and I told him that I would endeavor to answer him when I came to close the debate, a right accorded to me under the rules. I do not propose at the present time to respond to these interrogatories. They are part of the case; and I hope to be able to satisfy the House, if I have not already done so.

Mr. MARSHALL. If the honorable gentleman declines to answer I must endeavor to get along without the information. As a matter of course the gentleman must elect for himself as to whether he will answer or not. I will have no opportunity to reply to him hereafter, and it certainly would be more fair for him to let me know now what evidence he relies upon to make out this charge. But he declines to do so, and I must submit. I have examined the evidence, and can see no shadow of proof to show fraud in the making of this register. Who committed it? Three of the four members of the board were Republican, partisans of the contestant. The three inspectors and the clerk make up the four members of the board, three being Republicans, partisans of Mr. Dodge, the contestant, and the fourth was an appointee of Tammany Hall, which organization was running Mr. Barr in opposition also to Mr. Brooks. Mr. Brooks did not have a single friend on that board. How could a board constituted of his political enemies be supposed to perpetrate a fraud in his behalf? Can this House come to such a conclusion unless we have some positive evidence? I do not think such a thing was ever before heard of. Such a conspiracy by a man's opponents to perpetrate a fraud to secure his election may be possible, but it is so highly improbable that without overwhelming and conclusive testimony no man can credit it for a moment.

The honorable gentleman on yesterday, in answer to an interrogatory which I propounded to him in regard to a question of law, drew a very ingenious distinction. He admitted that the law was, that the acts of an officer *de facto* were binding upon all parties just as much as if he was an officer *de jure*; but, said he, this applies only to a case where the officer was duly qualified—having personally no legal disqualifications—to hold the office, but there was some defect or omission in the appointment. But that where the person was disqualified for holding the office, as in this case not a resident of the election district, he could not be an officer either *de facto* or *de jure*, and that his acts as such, though regularly appointed, would be absolutely void. This is in substance the position taken.

I deny that that is law, and I ask the gentleman to produce any authority or decision sustaining such a position. Will he tell this House that if a foreigner in that district, who had not been naturalized for the length of time required by law to make him an elector, had been honestly (and by mistake) appointed by the proper authorities, had entered upon the discharge of the duties, had made out the registry in regular form according to law, and sworn to and certified it, that he would not be recognized as an officer *de facto*, and that his acts would be utterly null and void, and that as the result of this innocent mistake, made by parties acting

in good faith, the whole district would be disfranchised? I repeat, this is not the law, and I believe that no authority can be found for any such position.

The Constitution requires that a member of this House shall be twenty-five years of age, and shall be a citizen of the United States. Now, suppose a man is elected to this House without this qualification, is sworn in, takes his seat, and upon some important measure gives the casting vote by which it becomes a law. Will the gentleman from Massachusetts [Mr. DAWES] tell this House that such person is not a member *de facto*, and that his act is not binding upon the public just as fully as the act of any other member of this House?

In the State of Illinois, by a constitutional provision, a man to be qualified for the position of judge of one of our courts must be at least thirty years of age. Suppose a man who is but twenty-nine is elected to that office, is commissioned, enters upon the duties of the office, tries causes and renders decisions upon them; will the honorable gentleman from Massachusetts tell this House that such judgments are not just as binding upon the parties as if he were of the age prescribed? He is an officer *de facto*, and, according to all decisions and all authorities on the subject, his acts are just as binding upon the parties and upon the public as if he were fully qualified to hold the office. There is, I think, no authority and no reason for the distinction which the honorable gentleman makes. These officers, not partisans of Mr. Brooks, were appointed in good faith; they entered upon the discharge of the duties of the office, and the parties and the public are just as much bound by their acts as if they were residents, all of them, of the election district. This, Mr. Speaker, seems so clear to me, and I think will be so clear to every member of the House, that I will not dwell further upon it.

Well, what other evidence is there in this case? Take away this attack upon the registry and the whole case falls as against the fifteenth district. It all depends upon that. There is no plausible pretext for excluding the poll if that fails. It is true the chairman of the committee in his report and in his speech refers to some other matters to which I will call the attention of the House for a moment.

When the evidence was nearly closed it appears that the contestant introduced an affidavit, not a deposition taken according to the forms of law, but an affidavit taken before a notary public, and brought it before the judge who was taking evidence and asked that it might be received, no notice having been given of the intention of the party to take this evidence. It is stated in the report that the deposition of this man was taken in the presence of the sitting member and his attorney. But no deposition was taken, and I ask the chairman of the committee, in his concluding remarks, to tell the House where he finds any evidence that such a deposition was taken or that the evidence was taken in any way in the presence of the sitting member and his counsel. Such was not the fact.

There is some complaint made, apparently, in the report that the sitting member did not allow that to be received as evidence. This affidavit has appended to it a list of some two hundred names of voters that Dean professed to have made search for. This information was based on the unsworn statements of others, and was at best but mere hearsay. It was not legal evidence, and would have been rejected in any court of justice. And besides, the time had nearly expired, and this was evidently a trap to throw Mr. Brooks off his guard and put him on a wild hunt for two or three hundred men, when his time was already nearly exhausted, and the contestant was refusing him further time for examining witnesses. Mr. Brooks would have done gross injustice to himself, to his constituents, and to the cause of justice if he had not

objected to the admission of this illegal *ex parte* statement.

Now, I ask gentlemen who have this report to turn to page 6 thereof, and I will request the Clerk to read what I have marked.

The Clerk read, as follows:

"The contestant, for the purpose of tracing each voter who cast his vote at this precinct, and finding his residence, if he had any, as designated upon the registry and poll-list, employed a responsible person, by the name of Dean, canvasser for the city Directory, to visit each place designated as the residence of the voter. The deposition of this Dean was presented to the committee by the contestant, and objected to by the sitting member; the ground of the objection was, that when the deposition was taken, among the others constituting the proofs of contestant, the ten days' notice required by law for the taking of this deposition had not been given. And it appears that in giving the notice the name of this witness was by clerical mistake left out of the list served upon the sitting member, and the mistake was not discovered until the day the depositions were taken, when it was too late to renew the notice. It also appears that the deposition of said Dean, offered in evidence, was taken in presence of the sitting member and his counsel, and the deponent was tendered to them for cross-examination, but they declined to cross-examine him for the reasons already stated. The committee were of the opinion that the sitting member was entitled, if he insisted upon it, to the ten days' notice, and that therefore the deposition could not be received.

"The contestant then sought to prove the same thing by another witness who had obtained his knowledge of the facts from Dean himself. This was objected to by the sitting member as hearsay testimony, and the objection was sustained by the committee.

"The committee therefore were without the benefit of the results of the investigations so made by Dean, however satisfactory they might be in testing the accuracy of the registry and poll-list, and ultimately the honesty of the vote. The sitting member, however, in an effort to sustain this register and identify the voters named upon it, introduced the deposition of one Brennan, (page 309,) long a resident of the district, an official in the Catholic church near this voting place, and believed to have special knowledge of the residents. His testimony corroborates the other testimony as to the fraudulent character and inaccuracy of this register."

Mr. MARSHALL. This testimony, it will be observed, of Dean and Phelps, was not brought forward in conformity to any rule of evidence. Dean was not examined before the proper tribunal, no notice had been given, and the chairman of the committee tells us that that evidence was ruled out and would not be considered by the committee.

Now, it seems to me to be a very strange fact that this evidence which was excluded, which was not before the committee, which has no more business here than if it had never existed, should be brought before the House in this manner, and dwelt upon with such gravity. Complaint is made of Mr. Brooks, the sitting member, that he objected to it, for I can construe the language of the report in no other way than as an intimation that by taking advantage of a mere technical objection, no way affecting the merits, he had excluded important evidence, which, if admitted, would have made out a strong case against him.

Mr. Phelps was also introduced, who proposed to swear what Dean had told him, and the chairman tells us that that also was decided not to be proper evidence and was therefore excluded. We are therefore deprived of what might otherwise be very valuable testimony to lead us to a proper conclusion in this case.

How do we know whether this evidence is valuable or not? It can only be known by looking into the evidence. Who ever before heard of a witness being excluded and not permitted to swear in court, and then the judge retiring and asking him what he would have sworn if he had been a competent witness, and then basing his decision on that *ex parte* statement? It seems to me, from the reading of the report, that the chairman of the committee has permitted this affidavit, which is not evidence, having no business before the House and not properly referred to here, to have undue weight on his mind in coming to his conclusions in this case. How do we know that Dean was a responsible witness? Who tells us so? How do we find it out unless we take his testimony, and that is admitted not to



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## New York Contested Election—Mr. Marshall.

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be before the House or the committee? How do we know he had made a diligent examination of the persons who had voted in this election? Why should the House be informed of a matter of this kind that is not proven and could not be proven under the circumstances? How do we know that the contestant omitted, by mistake, to place the name of this witness in his notice to the sitting member? How do we know that the deposition was taken in the presence of Mr. Brooks and his counsel? We are informed of none of these facts properly or legitimately. It seems to me that this evidence having been excluded, having no right to come before the committee, having no right to come before the House, it ought not so solemnly to have been stated by the chairman of the committee in making his report of the facts to the House.

As I before stated, it is not customary with us in the West to exclude a witness, to decide that he is not competent to be sworn, and then privately inquire of him what he would have testified to if he had been a competent witness, and make up our judgment on his outside and *ex parte* statement.

Now, I cannot account for this proceeding in any other way than this: that the chairman of the Committee of Elections [Mr. DAWES] having made up his mind, honestly no doubt, that Mr. Brooks ought not to be permitted to hold his seat, and that Mr. Dodge, the contestant, ought to be admitted in his place, has, in his examination of the case, permitted this excluded *ex parte* affidavit to control his judgment in making up his decision. Now, this is a strange kind of proceeding, a strange kind of law. It may answer in some countries, but we are not accustomed to this kind of proceedings where I have been in the habit of appearing before courts of justice. Some years ago, in one of the courts of Illinois, a lady filed her petition for a divorce, charging that her husband, while he was a very good sort of man to hoe corn, go to mill, and attend to other little matters of that kind, as a husband he was just no man at all. In the West, as you know, Mr. Speaker, we always give relief in such cases. To establish her charge she introduced a witness, an old lady versed in such matters, and by her testimony she made out a very bad case against the defendant. The old lady was cross-examined by a little gimlet-eyed lawyer who worried her very much, and she got a little irritated. Finally, the lawyer said, "Admitting that the defendant is not much as a husband, do you not think he would do?" "Well," replied the old lady, "I will tell you just the fact about it. I suppose he would do back yonder in Massachusetts, where you come from, but out here in the West he won't begin to answer. Here we want men." [Laughter.] And so in regard to a proceeding of this kind. It may answer in some places, but it seems to me that before this high court, in the trial of one of our peers, touching his right to hold a seat here, and bound by the established laws of the land, it cannot possibly be entitled to any consideration at our hands.

We are told also, in this same extract, that Brennan and Jung were introduced by the contestant, and that their testimony corroborates to some extent what goes before. Corroborates what? Why, corroborates the testimony of Dean and Phelps; because no other witnesses have been introduced for the purpose of proving fraud in this election. Leaving out what is said about the enrollment, there is no reference to other witnesses, and the testimony of those witnesses has been excluded. Now, who ever heard of a witness who has not been sworn, who was not permitted to testify, being corroborated by some other witness who was brought on the stand? Who ever heard of a proceeding of that kind in any court of justice? A witness is excluded. Is not permitted to testify; and yet some other witness is examined by the opposite party in reference to some other matter, not to contradict or impeach the testimony of this ex-

cluded witness. Yet it is claimed that the witness excluded is corroborated, and in that way the case is made out. It seems to me that that is a most extraordinary kind of logic, unknown to the books, and having no parallel in the practice of any judicial tribunal on earth.

But there is another thing that is brought in as a make-weight in this case. It is said that the vote in this district was unusually large, and therefore the election there must have been fraudulent. Is it any evidence of fraud that the vote at one election is much larger than at some other election? Is there any man on this floor who does not know that frequently in ordinary elections one half of the voters do not go to the polls? Because there was a smaller vote in this district in 1863 than in 1864 does it follow that the voters were not there in 1863? Sir, in the gentleman's own State, the State of Massachusetts, I have noticed the statistics of the elections, and that even in some of the important elections there the vote does not exceed one half of the number of voters which are proven by the census to reside in the State. And so it is in many other States. It is only on extraordinary occasions, when great excitement prevails, that there is anything like a full vote got out in any precinct anywhere in the United States.

But the evidence in the case explains this matter, and vindicates the correctness of the election in this district as fully and completely as anything of the kind can be explained and vindicated. On page 24 of the report, gentlemen will find a comparison between the registry of this district, made in 1865 after this election, and that made in the districts in which Mr. Dodge received a majority of votes, and also a comparison of the vote in this fifteenth district with the vote in the Republican districts at this and other elections. This comparison shows that in those districts where Mr. Dodge received a majority, there was a much larger falling off than in this fifteenth district, (indeed there was no falling off in this district,) where it is charged there must have been fraud. The registry shows that if there was fraud anywhere it was in the Dodge districts, and not in this fifteenth or Brooks district. I ask the Clerk to read the passage which I have marked in the report of the minority.

The Clerk read, as follows:

"Under the new revised registry act (act of 1865) of New York, the registration of voters was thoroughly reviewed and revised, and in that act the tendency was to cut off the foreign vote, supposed to be mostly Democratic, by exacting the show of naturalization papers before the registry, and by other rigid demands. This new revised registry of 1865 and the vote of 1864 and 1865 demonstrate, mathematically, the following facts:

## A CONTRAST.

Democratic—15th district, 18th ward.	Republican—3d district, 18th ward.
Revised registry, 1865, 530	Revised registry, 1865, 658
Vote in 1864..... 446	Vote in 1864..... 765
Increase of registry over vote..... 84	Decrease of registry in 1865 from the vote of 1864..... 107

"The 1864 registry in the Democratic district is thus demonstrated to have been correct by the revision of 1865, while the decrease of 107 in a single year throws great doubt over the Republican district.

## ANOTHER CONTRAST.

'Mackerellville' (so nicknamed) and Fifth avenue polls contrasted.

'Mackerellville' poll—15th district, 8th ward.	Fifth avenue poll—3d district, 18th ward.
1864.	1864.
Brooks..... 221	Brooks..... 192
Barr..... 168	Barr..... 62
Dodge..... 57	Dodge..... 511
Total..... 446	Total..... 765
428	563
Falling off..... 18	Falling off..... 202
1865.	1865.
Slocum, (Dem.)..... 373	Slocum, (Dem.)..... 206
Barlow, (Rep.)..... 45	Barlow, (Rep.)..... 357
Total..... 428	Total..... 563

## YET ANOTHER CONTRAST.

Democrat—15th district, 18th ward.	Republican—2d district, 18th ward.
Revised registry, 1865, 530	Revised registry, 1865, 583
Vote in 1864..... 446	Vote in 1864..... 739
Increase of 1865 registry over vote of 1864..... 84	Decrease of registry in 1865 from vote of 1864..... 156

"The 1864 registry of the Democratic district is here again, as in contrast with the Republican district, demonstrated to be correct.

## AND YET ANOTHER CONTRAST.

'Mackerellville' (so nicknamed) and another Fifth avenue poll.

15th district, 18th ward. 1864.	2d district, 18th ward, Fifth avenue. 1864.
Brooks..... 221	Barr..... 70
Barr..... 168	Brooks..... 199
Dodge..... 57	Dodge..... 462
Scattering..... 8	
Total..... 446	Total..... 739
428	509
Falling off..... 18	Falling off..... 230
1865.	1865.
Slocum, (Dem.)..... 373	For Secretary of State: Slocum, (Dem.)..... 199
Barlow, (Rep.)..... 45	Barlow, (Rep.)..... 310
Total..... 428	Total..... 509

"There is no answering such overwhelming facts as these but by declaring the two great Dodge districts to be as 'fraudulent,' as the Brooks districts is alleged to be."

Mr. MARSHALL. The registry subsequent to the election, a carefully revised registry, shows a much larger vote than was given at this election, which is charged to have been fraudulent.

But, sir, I am taking up too much time in discussing this district. It has been my only purpose to call the attention of the House to these facts; and I hope that members will look into the evidence for themselves.

The committee also throw out the vote of the seventh district of the twenty-first ward. The specification is that "sundry persons voted for the sitting member who were not legal voters, to wit, one hundred and upward." This is very indefinite, and not in accordance with the law of Congress; but I will not dwell upon that. It is charged that the vote is much larger in 1864 than it was in 1863 or 1865. I refer the House to page 19 of the report, where the House will find a comparison similar to that which has been read, and which explains the matter to the satisfaction of any reasonable man.

## CONTRAST OF VOTES IN THE DEMOCRATIC AND REPUBLICAN DISTRICTS.

7th (this Democratic, called Dutch Hill) district.	12th (Fifth avenue, Repub- lican) district.
1864.	1864.
Brooks..... 160	Brooks..... 155
Barr..... 159	Barr..... 28
Dodge..... 71	Dodge..... 310
Total..... 389	Total..... 493
289	290
Falling off..... 100	Falling off..... 203
1865.	1865.
Slocum, (Dem.)..... 221	Slocum, (Dem.)..... 122
Barlow, (Rep.)..... 68	Barlow, (Rep.)..... 168
Total..... 289	Total..... 290

## TWO MORE FIFTH AVENUE DISTRICTS.

13th district, (Fifth ave- nue), 21st ward.	14th (Fifth avenue) district.
1864.	1864.
Brooks..... 134	Brooks..... 135
Barr..... 27	Barr..... 26
Dodge..... 394	Dodge..... 330
Total..... 555	Total..... 491
430	358
Falling off..... 125	Falling off..... 133
1865.	1865.
Slocum, (Dem.)..... 141	Slocum, (Dem.)..... 142
Barlow, (Rep.)..... 289	Barlow, (Rep.)..... 216
Total..... 430	Total..... 358

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## ANOTHER CONTRAST.

Vote of 1864. New revised registry, 1865.  
 7th (Dem.) district.....389.....367  
 12th (Rep.) district.....493.....337

"Thus demonstrating that so far as we can judge by analysis and comparison of the poll of 1865 for State officers, with the poll of 1864 for Congress, the seventh (Dutch Hill) district was an honest and juster poll than the three Fifth avenue wealthy districts."

There is no direct charge that there was any irregularity or fraud in the registry in this case. There is, however, an attempt to prove that illegal votes were cast; and to establish this fact, there is introduced a witness the most extraordinary, I think, that was ever examined in any court upon earth. Mr. Speaker there is probably no member of this House who does not know that in any great metropolitan city, like New York, a man who has command of a large amount of money, and who is willing to use it for the purpose of securing office, can find scoundrels who will testify to anything. I do not charge that there is any evidence that this witness when he appeared upon the stand was bribed; but taking all the circumstances, and taking the testimony of the man himself, I say that I have no doubt in my own mind that he appeared upon the stand a bribed and perjured witness, and that he testified with the fruits of his perjury in his pocket. I do not, however, charge that there is any proof that the contestant had knowledge of this. The evidence shows that he had numerous friends who were willing to expend money by the thousands to secure his return from this district, and this man Stephen Geoghegan was a proper subject for any one who was in search of a willing and useful witness. A more infamous scoundrel, according to his own showing, never appeared to testify on any subject. In order that Stephen Geoghegan may have justice done to him he must be allowed to speak for himself. No one else could do him complete and full justice. And "none but himself can be his parallel." I will ask the Clerk to read the pages I have turned down. This is the evidence on which the people of this district are to be disfranchised and turned out of the House without a hearing or a voice.

The Clerk read, as follows:

"Question. Do you know of any man who voted on these names which we have just gone through, who voted for Mr. Brooks?"

"Answer. I do, sir."

"Question. How many were they?"

"Answer. Well, about—I guess there was in the neighborhood of thirty or so."

"Question. How do you know that they voted for Mr. Brooks?"

"Answer. Because I gave them the tickets, a great many of them, myself."

"Question. Do you think you gave Mr. Brooks's tickets to as many as thirty of these?"

"Answer. Yes, sir; I am certain."

"Question. How did they happen to go for him?"

"Answer. They generally go with any man that takes an interest in the election."

"Question. Are you sure these men whom you gave these tickets to voted them?"

"Answer. Yes, sir; I am certain they did. I was so kind to them as to walk right in with them with it in their hands."

"Question. How did you get so good a knowledge of this district and the names that were on the registry?"

"Answer. I lived a long time there—keep store there and been implicated in the election every year."

"Question. Do you keep more than one store?"

"Answer. I do, sir—two stores."

"Question. Do you always take a great interest in the elections?"

"Answer. I do."

"Question. Attend the polls all day?"

"Answer. I do. I wouldn't take time to eat my meals, for fear I would lose the voting."

"Question. Did you have a list of these voters who were dead and who were away?"

"Answer. I know them to be dead; but we substitute a man to vote their names, and keep them on. We've got to do that, you know, to help a friend."

"Question. This time did you render this efficient aid to Mr. Dodge, or Mr. Barr, or Mr. Brooks?"

"Answer. I done it for Mr. Brooks."

"Question. And you feel pretty confident that you got these thirty votes for him that you say voted Mr. Brooks's ticket?"

"Answer. Yes, sir; I am sure of it."

"Question. Did you attend any other district polling place during the day?"

"Answer. No, sir; I never left it. I didn't scarce take time to go up to my dinner."

"Mr. ANTHONY:

"Question. Did Mr. Dodge ever tell you that he was going to have you indicted?"

"Answer. No, sir; I never seen him only once before to-night."

"Question. Don't you think that any decent man would have you indicted for what you said to-night?"

"Answer. No, sir; I don't."

"Question. Do I understand you to say that you gave tickets to men to vote whom you knew were illegal voters in that district?"

"Answer. I did, sir."

"Question. And that you took these men in and had them deposit their vote?"

"Answer. Yes, sir; I always do that."

"Question. I understand you also to say that you gave tickets to men who were representing dead voters?"

"Answer. Yes, sir."

"Question. And that you induced them to deposit those votes?"

"Answer. Yes, sir; I done so, and always does that."

"Question. And you knew in doing that, and you know now, you were guilty of a felony?"

"Answer. Generally we takes that as a risk."

"Question. Didn't you know that it was so?"

"Answer. I suppose we are."

"Question. Don't you know that no decent man would believe you when you did that?"

"Answer. Yes, they will."

"Question. Do you think so or not?"

"Answer. It makes no difference to me whether they do or not."

"Question. Do you think that any decent man or any gentleman would believe a word you say?"

"Answer. I don't care whether they would or not."

"(Question repeated.)"

"Answer. I think they would, sir."

"Question. Has Mr. Dodge expressed any disapproval of your conduct on that occasion?"

"Answer. Not a word; I never spoke a word to him in my life about it."

"Question. Who have you spoken to about it?"

"Answer. I do this of my own free will."

"Question. When did you speak to Mr. Dodge about this matter?"

"Answer. Last night."

"Question. Did he express any disapproval?"

"Answer. Not a bit."

"Question. Did he say you had been guilty of a crime against the laws of your country?"

"Answer. No."

"Question. Did he express himself in any way as disapproving of your conduct in this matter?"

"Answer. Not a bit."

"Question. How many times have you been arrested?"

"Answer. About four or five times in my life."

"Question. Not more than that?"

"Answer. That's all."

"Question. Are you under bonds in any criminal matter at present?"

"Answer. No, sir. I was arrested once in my life."

"Question. Haven't you been arrested more than that?"

"Answer. No."

"Question. When was that?"

"Answer. Two years ago."

"Question. What for?"

"Answer. Fighting."

"Question. What disposition was made of that?"

"Answer. I was put under bail and the case was dismissed."

"Question. Where were you tried?"

"Answer. In the court of special sessions."

"Question. By whom?"

"Answer. Before Judge Kelly."

"Question. When were you tried?"

"Answer. I can't tell the trial now."

"Question. Give me the date, if you please."

"Answer. I can't."

"Question. As near as you can."

"Answer. Sometime in the middle of next summer two or three years ago; I forget which."

"Question. Give me the year as near as you can."

"Answer. About 1863, I think."

"Question. Who was the complainant in that case?"

"Answer. A man by the name of Mahom."

"Question. You say you were discharged on that?"

"Answer. Yes, sir."

"Question. Were you convicted and discharged after you were convicted?"

"Answer. No."

"Question. And you have never been arrested except that once?"

"Answer. Never."

"Question. Do you mean to swear that positively?"

"Answer. Yes, sir."

"Question. You've never been arrested but once?"

"Answer. Oh, yes; but never for no crime."

"Question. How many times have you been arrested?"

"Answer. Well, about, I guess, three times in my life; but then never kept in, only the one time—just appeared, that's all."

"Question. Were you ever arrested at the complaint of John Mahom?"

"Answer. Yes."

"Question. What was that for?"

"Answer. For shooting."

"Question. Were you ever arrested at the complaint of a man named Jagger?"

"Answer. I was, but I wasn't retained."

"Question. What was the charge against you?"

"Answer. Assault and battery."

"Question. Did you count this in the arrests that you mentioned?"

"Answer. No, sir; I don't call it an arrest when a man appears merely and is discharged."

"Question. How many other criminal complaints have you had made against you?"

"Answer. None that I know of."

"Question. Try to think and see if you can remember."

"Answer. No, not as I know of. You may think of it yourself."

"Question. Who else did you work for besides these two persons that you have mentioned?"

"Answer. Well, no other persons in New York."

"Question. Whom have you worked for anywhere else?"

"Answer. The first place I worked in America was in the South."

"Question. Whereabouts?"

"Answer. New Orleans, Georgia, Charleston, Savannah, and all over the South."

"Question. What did you work at there?"

"Answer. I peddled some of the time; more I worked at cotton stores, plantations, &c."

"Question. How long ago was it that you peddled there?"

"Answer. About '51 or '52 and '54."

"Question. How many times were you arrested down there?"

"Answer. No or a time, that I remember."

"Question. Don't you think you could remember if you thought about it?"

"Answer. No, sir."

"Question. No complaint ever made against you down there?"

"Answer. No, sir."

"Question. How many fights do you suppose you have been in in the course of your life?"

"Answer. A great many. In the course of the election I'm the whole time fighting generally; I fight with my nails election day."

"Question. How many times did you vote at the election?"

"Answer. Only once; I was too well known."

"Question. How many persons did you induce to vote illegally?"

"Answer. I guess in the neighborhood of twenty or thirty."

"Question. How many do you generally induce to vote illegally?"

"Answer. All that ever I can get. I couldn't give you any regular statement, for everybody I can get to vote I make them vote. It's a business I practice."

"Question. As a general thing at elections, how many do you put in?"

"Answer. I don't keep any memorandum of it."

"Question. Where was it that you saw Mr. Dodge?"

"Answer. In his own house the first time that I saw him; I went there to call on him."

"Question. How long were you there?"

"Answer. About five minutes."

"Question. Where did Mr. Dodge receive you?"

"Answer. In his own house; in his parlor."

"Question. What passed between you and him on that occasion?"

"Answer. Nothing, only he asked me if I wouldn't go down and testify to the best of my knowledge what I knew about the district."

"Question. That was the whole of the conversation?"

"Answer. That was the whole of the conversation. I told him I would do so with pleasure."

"Question. Where did you see Mr. Phelps?"

"Answer. I saw him down in Wall street in his office."

"Question. You didn't go to his house?"

"Answer. No, sir, I went to his office to tell him that I knew a little about the district."

"Question. When did you go there?"

"Answer. Some day last week; I don't know the exact day. I went there some day through the week myself, without his or any man ever sending for me."

"Question. Have you ever been to Mr. Brooks's house?"

"Answer. No, sir."

"Question. Have you ever seen Mr. Dodge in any other place except in his own house?"

"Answer. In no other place, sir."

"Question. Have you never seen him down here?"

"Answer. I have never known Mr. Dodge before I knowed him that night."

"Question. Now that you do know him, have you never seen him down here?"

"Answer. I never saw him until I did the other night."

"Question. Until last night?"

"Answer. Yes. I saw him the other day, and I was told it was him."

"Question. Where did you see him?"

"Answer. Down here."

"Question. In what part of this building?"

"Answer. Right here in this house—outside there."

"Question. Anywhere else in this building; were you up stairs in this building?"

"Answer. I was, sir. I did not know Mr. Dodge was there until he came down and shook hands with me at the door."

"Question. Do you know James B. Barlow?"

"Answer. I do, sir."

"Question. Where does he live now?"

"Answer. He lives across town now, sir."

"Question. Whereabouts?"

"Answer. I can't tell you."

"Question. What is his business?"

"Answer. I believe he is a coachman."

"Question. For whom?"

"Answer. I can't tell."

"Question. Can you give me any information of his whereabouts?"

"Answer. No, sir; I can't."

"Question. How long had you known him?"

"Answer. About three months or four before the election."

## HO. OF REPS.

## New York Contested Election—Mr. Marshall.

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"Question. Did you induce him to vote?  
 "Answer. It was I gave him the tickets.  
 "Question. Did you induce him to vote?  
 "Answer. Yes, sir.  
 "Question. Did he tell you that he wasn't a legal voter?  
 "Answer. No.  
 "Question. Did he tell you that he wasn't an American citizen?  
 "Answer. I knowed he wasn't myself.  
 "Question. How did you know it?  
 "Answer. Because I knew it. I know the man wasn't long enough in the country to be voting.  
 "Question. When did he come into the country?  
 "Answer. I can't tell you.  
 "Question. How did you know that he hadn't been long enough in the country?  
 "Answer. I know he wasn't, sir; I am swearing he wasn't. You can get it at the recorder's office.  
 "Question. What means of knowledge have you?  
 "Answer. I know he's an alien; he never was a citizen of the country.  
 "Question. Do you know when he came to this country?  
 "Answer. No, sir.  
 "Question. Then how do you know that he has not been here long enough to be a voter?  
 "Answer. That might be, and still he might never be naturalized. I know he was not.  
 "Question. How do you know it?  
 "Answer. I am swearing he is no citizen.  
 "Question. Do you think everything you swear to must necessarily be true?  
 "Answer. Yes, sir.  
 "Question. How many votes have you sworn in in the course of your life?  
 "Answer. I never swore in any that was not legal.  
 "Question. Was this man Barlow registered?  
 "Answer. I registered him.  
 "Question. Were you one of the registers?  
 "Answer. No, sir; but I just told them that he was a friend of mine, and that he was a voter in the district.  
 "Question. That was false, wasn't it?  
 "Answer. Yes.  
 "Question. You lied to them, then?  
 "Answer. Of course.  
 "Question. Did they want any affidavits with regard to that?  
 "Answer. No, not a bit; no bother in the world.  
 "Question. Who were the registers of that district?  
 "Answer. John Farrell, I think, was one, and Taylor (I believe he is here) was the other.  
 "Question. Warren S. Taylor?  
 "Answer. This man with the bald head, (pointing to Mr. Warren S. Taylor.)  
 "Question. Who was the other?  
 "Answer. The other I forget; some little fellow.  
 "Question. Is Mr. Taylor a Democrat or a Republican?  
 "Answer. He is a Republican; we used to have some fights, and he always fought for the Republicans?  
 "Question. Is Campbell a Republican?  
 "Answer. I believe he is a Republican; I can't tell you.  
 "Question. It was a Republican register?  
 "Answer. Yes, sir; there was two of them, and we had one Democrat.  
 "Question. Do you know who the inspectors of election were?  
 "Answer. I know them, but I forget their names.  
 "Question. Was it a Republican appointment, the inspectors there.  
 "Answer. Yes, two Republicans and one Democrat."

Mr. MARSHALL. Mr. Speaker, I will not detain the House with further extracts from this scoundrel's testimony. It fills many pages of this book. Without Geoghegan there is no evidence in this case amounting to anything at all. Without him there is no plausible pretext for charging that there was any fraud or irregularity in the election at this poll.

It seems to me, Mr. Speaker, that no member of this House ought to be turned out, or have his seat even jeopardized in the slightest degree by the testimony of a man leprous with infamy, who, by his own acknowledgment, is a criminal of the deepest die, a man who unblushingly stands up in the face of mankind and boasts of his own infamy.

It may be said he is not properly contradicted. Who would think of contradicting the testimony of such a witness? There are various ways of impeaching witnesses; one by proving a bad character, another by proving what he says to be absolutely false, and the third by cross-examination, showing by his own statement that he is utterly unworthy of credit. If you succeed in either it is unnecessary to call any other witnesses to contradict or impeach him. If I were defending a man for murder, where even life was at stake, and such a witness as Stephen Geoghegan were brought upon the stand to testify, convicting himself of infamy and scoundrelism as this man did, I would not bring any witness to contradict him. The

jury that would listen to the testimony of such a man would be utterly unworthy of the confidence and trust reposed in them.

But it is said that another witness, Russell Myers, in some respects confirms some of the testimony of Geoghegan. I will not take up the time of the House by asking the Clerk to read his testimony, but I hope each member will examine it for himself. This testimony amounts to nothing but hearsay. He went to certain places in the district and inquired of women and children for men who had voted at this election. He did not know the persons of whom he inquired, and is unable to give us the name of one of them. This witness was well known as a detective, and as a draft had just then been ordered his inquiries alarmed the people. It was natural when he inquired of the women whether such and such a man lived in a particular house, that they should prevaricate or say that no such person lived there. On such testimony as this, which is in fact not evidence at all in any legal sense, for the persons of whom Myers inquired, if they knew anything about it, ought to have been called and sworn as witnesses, are the people of this district to be disfranchised and turned out without a voice and without a hearing?

But I must pass on. This is all that it is necessary to say in regard to this district. This is all there is in the case. Take out this beautiful specimen of a witness, Stephen Geoghegan, and there is nothing left. If this House on testimony of that character will exclude this district and turn out of the House one of our peers, we will in my judgment be doing great injustice to ourselves and to the cause of truth and right.

The chairman of the committee in his report says that the evidence is confined to these four districts impeached by Mr. Dodge, forgetting the fact that Mr. Brooks had attacked the thirteenth district of the twenty-first ward, and had shown that the canvassers, in violation of law, after they had commenced canvassing the votes, left the polls unguarded with all the election papers and a large number of ballots lying loose on the table, and absented themselves from the room for half an hour with a crowd standing around the place. This was in direct violation of the statute of New York, which declares, (volume one, Revised Statutes, page 180:)

"As soon as the poll of an election shall have been finally closed, the inspectors of said election shall proceed to canvass the votes. Such canvass shall be public, and shall not be adjourned or postponed until it shall have been finally completed."

It was not only imprudent to leave the poll thus unguarded, but it was in direct violation of law. And the chances of fraud and tinkering with the ballots were so great, that I think that the return in that district ought to be excluded. Indeed, the case made out against this district is a much stronger one than the one made out against the two Brooks districts, so strongly assailed by the honorable chairman, and if any of them are thrown out this thirteenth district of the twenty-first ward ought to have priority in their march out of these Halls. No man can feel any assurance that a canvass thus conducted gave a true return of the vote in that district.

I do not assert that these inspectors or canvassers intended fraud, but an act like that endangers the purity of the poll. And at that poll the vote for Mr. Brooks and Mr. Barr combined did not run up to that on the presidential ticket, while Mr. Dodge is returned as receiving a majority of 258 over Brooks. It seems to me that this is a stronger case of impeachment than any of the others.

Now, if the seventh district of the twenty-first ward, and fifteenth district of the eighteenth ward, are excluded, and also this thirteenth district of the twenty-first ward, it still leaves Mr. Brooks with a clear majority of 155 votes. This being the case it is not necessary, it seems to me, to dwell further on this case. I, at least, am

very firm in my conviction that there is not even a plausible case made out against the sitting member by the evidence which has been produced.

But there is another fact that this House ought to consider in this case. The contestant, as is shown, is a man of extraordinary wealth, with an income of more than a thousand dollars per day, and he has not been very modest or parsimonious in the use of it for the purpose of forcing himself into this House. It is shown by the evidence that some ten or fifteen thousand dollars at least were expended by him and his friends for the purpose (I cannot call it anything else) of corrupting the very sources of the elective franchise. Where it went he does not explain. Money was poured out and disappeared like water upon the sand. Who got it and in what way does not appear.

It appears that not only Mr. Dodge, but a host of friends of his engaged in this contest of money against brains to secure a seat in this House. In his own examination, Mr. Dodge produced two subscription lists made by his friends, amounting in the aggregate to \$5,120. I will submit an extract in regard to this money branch of the question from the minority report:

"The sums of money expended by Mr. Dodge himself, and known to be expended by or through him, are then admitted to be—

Mr. Dodge, personally, (see Congressional Globe).....	\$6,000
First subscription list.....	2,220
Second subscription list.....	2,900
	<hr/> \$11,120

"But the sitting member shows—and which seems all to be verified by the testimony—the following expenditure:

Money paid by Dodge at Legrand Cannon's, (B., 41).....	\$500
Bargain of Cannon, Cowden, and Dodge with Barr, (B., 40, 59, 145-6).....	2,000
Enormous (so-called) 'printing bill,' (B., 46).....	2,008
Amount Cowden received from Dodge, (B., 48).....	3,500
Payments to the three wards, \$500 each.....	1,500
An undiscovered subscription paper from G. B. De Forrest, (B., 42).....	500
An undiscovered subscription paper from G. B. De Forrest, (B., 42).....	100
An undiscovered subscription paper from M. O. Roberts, (B., 42).....	100
Paid by Cowden voluntarily, (B., 55).....\$150 or	200
Two discovered subscription papers.	
Exhibit No. 4, p. 320, M. O. Roberts leading off with \$1,000.....	2,200
Exhibit No. 5, p. 320, John H. Sherwood leading off.....	2,900
Total discovered.....	<hr/> \$15,508

"Extract from Mr. Phelps, (D., 499.)

"It wasn't an expensive election at all. We would have made it far more so if we had only known as much as we know now."

Mr. Phelps was the lawyer and election agent of Mr. Dodge. How much more money was expended, of which we have no trace, we can only conjecture.

But it seems to me, without charging anything upon the contestant, that his friends, who are so free to lavish their money by thousands for the purpose of forcing him into this House from a district where there is a clear majority of four or five thousand against him, by buying up another candidate, and thus dividing the vote of the adverse party; I say it seems to me that it would not be presuming a great deal to say that some of his friends at least would not hesitate to put money into the pockets of such creatures as Stephen Geoghegan, and use them to effect the object they have so much at heart. And I submit, with all respect, that if the House decides against Mr. Brooks, and places the contestant in his seat upon the evidence that is adduced before us, it will leave a taint upon us and upon this House from which we should shrink with horror. No man is worthy to occupy the seats in these Halls, once filled by the grand characters and great minds of our country, who is not himself free from the taint and suspicion of corruption and dishonor. We ought to tell this contestant, when he comes here with such a claim and asks us to



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Civil Rights Bill—Veto Message—Mr. Davis.

SENATE.

set the returns aside, that he should come with clean hands and not with evidence like this, showing such attempts to corrupt the elective franchise. And it should be borne in mind that there is no evidence of any such corruption on the part of the sitting member, no attempt to buy his way into this House by the lavish expenditure of money, nothing that shows even an improper act on his part or on the part of any person in privity with him. Therefore it seems to me we would be doing gross injustice to ourselves and to the country—to the cause of right and of justice—if we should do otherwise than say to Mr. Dodge, "Go home, and when you come here again bring a case that upon its face, at least, is honest and fair. Until you do that, this House cannot give you a seat here, or even listen with patience to a claim destitute even of plausibility, and carrying with it such potent evidence of an attempt by the claimant and his friends to poison the very fountains of the elective system, and to sap the foundations of republican government."

### Civil Rights Bill—Veto Message.

SPEECH OF HON. GARRETT DAVIS,  
OF KENTUCKY,  
IN THE UNITED STATES SENATE,  
April 6, 1866.

The Senate having under consideration the bill (S. No. 61) to protect all persons in the United States in their civil rights and to furnish the means of their vindication; which had been returned by the President with his objections—

Mr. DAVIS said:

Mr. PRESIDENT: I intend to say something upon the subject under debate. We have heard the President of the United States denounced in the Senate on this occasion by men who were lately his friends, by men who have approved of the entire course of the President of the United States, up to the time of the introduction of this act. If the President, in accordance with the importunities of men in the Senate, and out of it, in addition to the conditions which he urged upon the southern States, had also required them to confer suffrage upon the negro, neither those Senators nor one of their radical associates would have made any opposition to the President. He insisted that those States, by provisions in their constitutions, should prohibit slavery perpetually, that they should accept the proposed amendment of the Constitution abolishing slavery throughout the United States, and that they should repudiate their debt created in the cause of the rebellion, which they, one and all, accepted; and his only, but with them great, short-coming was that he did not require them to confer upon the freed negroes the right to vote. Their objection is not that he did interfere with the States lately in rebellion as to those matters, but that he did not go far enough, and use all his influence and power to force them to extend suffrage to the negro race.

I know from the best authority that this last condition was endeavored to be enforced upon him by Senators who are now in their seats, and by a member of the Supreme Court of the United States; and it was said to him that if he would make this condition a *sine qua non* of the readmission of the southern States into the Union, he would do all that they expected of him, and satisfy the utmost demands of the party.

I do not approve entirely the course of the President of the United States in relation to the conditions that he did require the southern States to come under. The most satisfactory explanation of that line of policy that I have heard was from the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] in a speech in this Chamber some weeks since. It was to this

effect: that the President of the United States had the right, and it was his duty, to offer his counsel to these States to agree to terms of pacification; that they had the option to accept or reject the advice which he gave them; and that by their acceptance of the conditions proposed to them the effect was the same, and no more, than if the terms had originated with them. I agree to that general truth. I go further, and say, that if the President of the United States, or any other man in the nation, had drawn up a constitution *in extenso* for each and all of those States, and they had by their popular conventions accepted and ratified those constitutions, they would have been legally and validly the constitutions of the respective States for which they were thus made. The acceptance or rejection was a matter for the people of the States to decide for themselves respectively, in view of the terrible dangers that environed them. That the conditions were not more clement and magnanimous was because the President was beset and constrained by the wicked, revengeful, and furious leaders of the party which had elected him.

Mr. President, we have been together long enough in this Chamber to understand each other. I think I understand most of the men in it, and their particular sentiments and opinions, and the principles and considerations upon and the ends for which they act. If the southern States had presented their constitutions here with the additional provision that the freedmen should be entitled to political suffrage, which is so intensely desired by the majority in this Chamber, we would not have heard an objection to the admission of their members into this Chamber or the other House of Congress. I have heard it passionately exclaimed in this debate, "Will you admit upon the floors of the two Houses of Congress men whose hands are reeking with the blood of their murdered countrymen?" If those red hands had clasped the black hand of the negro and there had been inscribed upon the united hands, "We are men; we are brothers; concession of equal political rights," we never would have heard in either House the language, "Notwithstanding this concession your Senators and Representatives must stand back, because your hands are dripping with the blood of your murdered brothers!" The blood-stained hand of the southern rebel thus interlocked with the black hand of the negro freedman, to the radical statesmen of Congress would have looked as pure as the white lily. The same men who appear here to represent those States in the two Houses and have had the doors slammed in their faces would have found them wide open, and been warmly welcomed by every Republican member.

I will say one word upon the subject of the admission of these States into the Union, a matter so frequently brought up in debate. They have been admitted once into the Union, and all the power of Congress in regard to their admission was then exhausted. The State is not to be admitted again. She is in as one of the United States forever, or until she is torn away by revolution. The idea that Congress may require these States again to present their constitutions, as they did originally, and that it has the right to pass upon these constitutions and the admission of the States into the Union as members of the Confederacy, is altogether false and unfounded; it has no authority whatever in the Constitution. If every State in the Union during the existence of this war, and while it hung in doubt whether it would result favorably to the rebels or to the United States, had chosen to change her constitution, each State that was in relations with the Government and acknowledged obedience to it would have had the perfect right under that condition of the case to change her constitution. Suppose your own State, sir, [Mr. CLARK in the chair,] had changed her constitution during the pendency of this war; suppose all the New

England and all the loyal and adhering States had changed their constitutions, would they not have had a perfect right to do so? Would not the action of the conventions and people of those States changing them have been regular and valid? Who would have had the folly to say that a State thus having changed its constitution would be required by the Constitution of the United States, or by any precedent in the history of our Government, to bring that constitution before Congress and submit it to their judgment to determine the question, whether it was a republican form of government, and ask for readmission into the Union? Who would question the right of their Senators and Representatives to be admitted to seats upon the presentation of their proper returns, as the members from the States that had not changed their constitutions.

A State whose people are in rebellion can do no valid act while she is in the insurrectionary condition. All changes and alterations in her constitution and laws which she may then make are void. Her people have a perfect right to abandon their revolt, and return to their obedience to the United States; and on its termination in that way, or by military coercion, as to their constitution and laws, they revert back to the exact position which they occupied before the revolt. The State is as much in the Union as though she and her people had not resisted the authority and laws of the United States. As a State she has forfeited or lost nothing, because as to the State the Constitution declares no forfeiture or loss, and confers upon the General Government no power to punish a State; but the people who were engaged in the revolt may be treated, tried, and punished as criminals in the mode provided for by the Constitution and laws of the United States, but in none other.

The honorable Senator from Illinois has made a long argument against the veto and in support of this bill. I have great respect for that Senator as a man, as a Senator, and as a jurist. The ability and fidelity with which he sustained the right of the ejected member of the Senate from New Jersey to his seat challenged my admiration. I only regret that the intellect and the legal ability that he displayed throughout that contest should, upon so important a measure as this act, be withdrawn from the cause of his country and his country's Constitution and be given to faction and the interests and fortunes of a reckless faction.

The honorable Senator complains that the President's judgment of this bill has undergone a change since it was first drawn up by those who gave it form. I ask that Senator if the President of the United States was satisfied in his judgment and conscience by his subsequent examinations of the bill, that it was in conflict with the Constitution, if it was not the highest duty which he owed to the country to place his veto upon it? I believe myself, notwithstanding the fling which the honorable Senator made at the Senator from Maryland, [Mr. JOHNSON,] that the principles and arguments embodied in this veto message are sufficient to satisfy any unprejudiced man that the bill itself, in all of its essential provisions, flagrantly infracts the Constitution.

If it be true that the President at the first was predisposed, and desired to approve both this measure and the bill to increase the powers of the Freedmen's Bureau, but on their deliberate examination reached the conclusion that duty required him to put his veto upon both, it proves him to be possessed of the very highest order of moral courage, integrity of intellect, and patriotic purpose; and the able and unanswerable arguments against their constitutionality and policy, embodied in his veto messages, afford the most satisfactory testimony of his preëminent fitness for the office which he fills. I have a strong conviction that if that honorable Senator had brought to the investigation of these two measures the same

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impartial and independent reason, the same unselfishness and rectitude of purpose, as did the President, he too would have been constrained by the power of truth to have come to the same conclusions. I doubt not that if life is spared to the Senator, as I hope it will be, until the passions and madness that rule the day shall have subsided, that his own reflections will bring him to acknowledge that the President was right and he was wrong.

Mr. President, the title of an act is a sort of label of what it is. The title of this act, and its text also, is delusive. There is a studied want of clearness, a studied ambiguity, I think, in the language in which both are expressed. If I, after the best examination which I can give to this act, was asked for an appropriate title, I would propose to the Senator from Illinois, "An act to abolish and modify all laws, statutes, ordinances, regulations, and customs throughout the United States, so far as they make any discriminations for the white against the black or colored population thereof; to punish by fine and imprisonment all persons who may enforce such discriminations; and requiring certain officers to institute criminal and civil proceedings against them, at the cost of the United States." The Senator might object to this, as he does sometimes to my speeches, that it is too long. I would then give him a shorter title, in these words: "An act to consolidate all the reserved sovereignty and powers of the several States into the Congress and Government of the United States." That is a concise title, and one which, in my judgment, truly speaks the true character of this bill.

I have heard no plausible, much less any satisfactory, defense of this measure. I have not heard it attributed to any source of power which, in my opinion, furnished it with a decent covering. The honorable Senator from Illinois said truly that the *gravamen*, the chief efficacy of this bill, was in the first section; and the power of Congress to pass it was that it is in the nature of a declaratory law. That position was swept away by the Senator from Maryland yesterday, so as not to leave a vestige behind, and it would be superfluous to say another word in refutation of it.

But I will read the first section, or its substance—

All persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race or color or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, shall have the same right to make and enforce contracts, to sue, be parties, give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

I propose to discuss the principal features of this section; and first, the one which declares all persons born in the United States, except untaxed Indians, to be citizens. I deny wholly the power of Congress to make citizens of the United States. It is a principle of universal law that every person born in a country, who is not a slave, is a citizen or subject of that country, and unless excluded by special laws is entitled to all the rights and privileges of its citizens and subjects. All white persons born in the United States and not having become the citizens or subjects of some other country are citizens thereof. The only authority conferred by the Constitution upon Congress, relating to citizenship, is embodied in this clause:

"Congress shall have power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States."

Congress at an early day passed a naturalization law, and from time to time have enacted amendments to it. These laws formed

"the uniform rule of naturalization" which Congress was authorized to establish. Having only the power to make the rule, it has none to make the citizen, either individuals or classes, any more than after enacting uniform laws on the subject of bankruptcies it would have the power to adjudge individuals to be bankrupts, and issue them certificates. This provision of the Constitution is conceded by all to apply to none others but aliens. The treaty-making power may make citizens of aliens by acquiring foreign territory, and stipulating that the persons inhabiting it shall be citizens of the United States. There is, then, but the three modes of becoming citizens of the United States: by birth, according to the naturalization laws passed by Congress, and by treaty. The special laws referred to by the Senator from Illinois, which made citizens of the people of Louisiana and of the small remnants of Indian tribes, were either in execution of treaties or without authority on the part of Congress, and inconsiderately passed.

My further position is that the States have no power whatever over the subject of citizenship. To have perfect uniformity of law and rule upon this important subject, the States by the Constitution surrendered to the General Government all and exclusive power over it, as they did all power in relation to coin. The citizens of all the States, at the time of the adoption of the Constitution, became citizens of the United States. Their descendants, and all foreigners conforming to or coming within the naturalization laws passed by Congress, and their descendants, and all native born whites are citizens of the United States; none others. There is no distinctive State citizenship. There is in our country but one citizenship, that of the United States, and every person that is entitled to the denomination is a citizen of the United States, resident in some particular State or Territory. Every State may confer in its own mode local rights and privileges on whom it may please, but that does not constitute any person a citizen of the United States in the sense of the Constitution, or entitle such person to any rights, immunities, or privileges under it.

But the matter of citizenship in any and all its aspects, barely touches the question of the propriety of this veto; that is a question to be decided by the power of Congress under the Constitution to pass it, and the policy of the measure.

This section assumes for Congress jurisdiction over all the inhabitants, of every race and color, of all the States and Territories of the United States, over all their civil rights and immunities, and over all the penalties and punishments to which they may be subjected. In the simulation of imperial will and power in relation to all those most interesting concerns, appertaining to every human being in America, it declares there shall be no discrimination as to persons on account of race, color, or previous condition of slavery. This general and sweeping language is used for a purpose; it is a sort of mask to cover partially the true beneficiaries and objects of the measure, the negro race and their aggrandizement. There was no call, or need for such a law for the white race; and if there had been no blacks in the United States, it never would have been devised.

In many, if not most of the States, there are discriminations in relation to some of those important concerns against the negro race, made by their constitutions and statutes; and this act abrogates not only those constitutions and laws to that extent, but makes their execution by the State officers appointed for that purpose, a high misdemeanor, and punishes them heavily by fine and imprisonment.

Let us see what would be the effects, to a limited extent, of this measure in Kentucky and the State of the honorable Senator, Illinois. A few weeks since, in Louisville, a negro man violated a girl of only eight years of age; and within a few days, in my county, a similar out-

rage was committed on a white girl ten years old, after which the black monster cut her throat and disemboweled her. This crime, in Kentucky, when perpetrated by a negro upon a white woman is punishable with death; but when by a white man, by confinement in the penitentiary. The judge, the prosecuting attorney, the grand jury who preferred the indictment, the petit jury who might find a verdict, and the sheriff who should execute a criminal guilty of this shocking crime, by the terms of this act would be guilty of a high misdemeanor against the United States, and it is the duty of the United States' district attorney, marshal, deputy marshal, and commissioner to have each and all of them prosecuted in the United States courts, at the national expense, and those criminals would be each subject to be fined not exceeding \$1,000, and to be imprisoned for any period under twelve months, or both, at the discretion of the court.

By the laws of Kentucky a negro is not permitted to give evidence in a suit in which a white man is a party; but a free negro has always had the same right to sue as a white man; in such a suit, by this bill, the negro party would have the right to introduce a negro witness, because the white man would have that privilege. But the law of that State denying it to the negro party, the judge would refuse to permit his witness to testify; and for thus executing the law of the State, according to his official oath, he would under this act be prosecuted *ex officio* by certain United States officers, in a Federal court, at the national expense, as a criminal.

Both in Illinois and Kentucky the State laws make it a penal offense for a negro to marry or to contract to marry with a white person. The laws of those States also declare it a penal offense for the clerk to issue a license, and the minister of the gospel, or other person, to solemnize the rites of marriage between a negro and a white person. Marriage is a contract; the right to marry is a civil right. A white person in Kentucky and Illinois has the right to marry another white person; and this act guarantying the same right to negroes, the clerk who refused a license to a negro to marry a white person, the preacher who would not perform the ceremony, and the officers of the law who would enforce its penalties against persons who had violated it, would themselves become criminals, and subject to punishment under this act. Unfortunate men! if they refused to execute the laws of their own States, in conformity to their oaths, they become criminals against them, and liable to punishment by their respective authorities; and the execution of those laws would make them criminals against the United States, and subject them to punishment under this act.

The honorable Senator fell into a paroxysm of exultation over the President, because in his veto message he named legislators as one of the classes of State officers whom this measure would punish. The Senator referred to the verbiage of his bill in the second section, and vociferated, "No such thing?" and declared that it proposed to punish only those who act under color of law, and does not include the law-makers. Is the Senator entitled to that triumph? His bill says:

That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having been held in a condition of slavery or involuntary servitude, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding \$1,000 or imprisonment not exceeding one year, or both, in the discretion of the court.

If in the future the Legislature of a State were to pass laws to secure any right to white persons and withhold it from negroes, or to subject negroes to a different punishment from white persons who commit the same offenses,

I wonder if the legislators who might pass such laws would not cause the negroes, who would be by them deprived of civil rights assured to white persons, or have different punishments inflicted upon them from white people who had committed the same offenses, would not have caused those discriminations against negroes; and would not, therefore, come within the purview of the penal section of this bill. The Senator's triumph over the President is but his own self-delusion.

But this measure proscribes all discriminations against negroes in favor of white persons that may be made anywhere in the United States by any "ordinance, regulation, or custom," as well as by "law or statute." I never heard, until the Senator informed us in his speech, that punishment of negroes, free or slave, had ever been authorized by any custom in any of the late slave States; and he will pardon me, I hope, for telling him that he has been misinformed. The owners, by authority of law, both universal and local, were authorized to inflict reasonable personal correction upon their slaves; and this was all of it. The same principle applies to children and apprentices, and how long has it been since it was in force, in many cases with great severity, in the Army and Navy of the United States? And it still exists in extreme rigor in every other military and naval service.

But there are civil rights, immunities, and privileges "which ordinances, regulations, and customs" confer upon white persons everywhere in the United States, and withhold from negroes. On ships and steamboats the most comfortable and handsomely furnished cabins and state-rooms, the first tables, and other privileges; in public hotels the most luxuriously appointed parlors, chambers, and saloons, the most sumptuous tables, and baths; in churches not only the most softly cushioned pews, but the most eligible sections of the edifices; on railroads, national, local, and street, not only seats, but whole cars, are assigned to white persons to the exclusion of negroes and mulattoes. All these discriminations in the entire society of the United States are established by ordinances, regulations, and customs. This bill proposes to break down and sweep them all away, and to consummate their destruction, and bring the two races upon the same great plane of perfect equality, declares all persons who enforce those distinctions to be criminals against the United States, and subjects them to punishment by fine and imprisonment, and directs the appointment of legions of officers to prosecute, both penal and civilly, for the benefit of the favored negro race, at the cost of the United States, and puts at the disposal of these officers the *posse comitatus*, the militia, and the Army and Navy of the United States, to enable them to execute this bold and iniquitous device to revolutionize the Government and to humiliate and degrade the white population, and especially of the late slave States, to the level of the negro race. Vain effort! All the forces summoned by this measure to insure its execution would fail. The mass of them would ultimately turn with loathing and horror from the detestable enterprise to overwhelm its authors—an enterprise not only against the instincts and customs of the whole white race, but also against the unchangeable laws of nature.

Has the Constitution delegated to Congress the power to pass this monstrous measure? If it has the power to take up the revision, generally and indefinitely, of the State constitutions, "laws, statutes, ordinances, regulations, and customs" that establish and control all the civil rights, all the crimes and misdemeanors, pains, penalties, and punishments for the entire people of the United States, which the provisions of this bill recklessly arrogate; if Congress possesses the sovereign power to abolish, reform, and conform at its will throughout that vast and varied domain of legislation, to repeal, to restrict, to lop off, to change, to alter and

modify the entire body of State laws, constitutions, statutes, ordinances, regulations, and customs, and to declare what parts shall remain and be executed, and what parts shall cease to be and shall not be executed; and that all enforcement of the portions it proscribes shall constitute crime, and the State officers executing them shall be criminals and tried by courts created by it, and punished according to the measure it may prescribe, what is there to prevent Congress from passing an entire and exclusive civil and criminal code for all the thirty-six States? Grant to Congress the principles and the amount of power embodied in this bill and it cannot be successfully denied that it does possess all that would be required to force upon the States their entire civil and criminal bodies of law.

But the Constitution created no such a hydra-headed monster as a Congress with such enormous power would be. Every man with ordinary knowledge of the civil history of our country knows that before the adoption of the Constitution all the States were sovereign and independent, and that their Articles of Confederation were only a league, terms of federation, made by independent nationalities. The people of the several States formed a common Government by surrendering parts of that whole political sovereignty, which each one of them possessed, and all the powers which they parted with they expressed in the Constitution, and by its provisions organized them into a Government of three departments. This new Government being formed, not by one people of their original and plenary political sovereignty, but of particular powers, delegated by thirteen separate and independent States, the people of each of which were possessed of full political sovereignty, the same powers being surrendered by each State to a common Government according to the provisions of the Constitution, one of its necessary and fundamental principles was that all sovereignty, rights, and powers not delegated by the Constitution to the common Government, nor prohibited to the States, were retained by them respectively and separately. The Constitution thus divided all political sovereignty and power between the States and the common Government.

The exact line of partition, what powers were delegated to the General Government, and what were retained by the States, was a most interesting problem, that was early and generally discussed by the people, and particularly by the conventions of the several States which adopted the Constitution. This discussion has continued ever since, without a full and satisfactory solution having been reached. I will read some extracts from several of those able papers over the signature of "Publicus," by Hamilton, Madison, and Jay, urging upon the people of the States the adoption of the Constitution; and which numbers were, soon after they were published, compiled into a book with the title of "Federalist." Those letters were written before the Constitution was adopted, and were of course restricted to the exposition of the original text. The passages I will read, bear with directness and conclusive force on the question of the constitutionality of the pending act:

Hamilton, in No. 17 of the Federalist, page 76, says:

"Commerce, finance, negotiation, and war, seem to comprehend all the objects which have charms for minds governed by that passion, [ambition:] and all the powers necessary to these objects ought, in the first instance, to be lodged in the national depository. The administration of private justice between citizens of the same State, the supervision of agriculture, and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the Federal councils to usurp the powers with which they are connected," &c.

On page 77, the same writer says:

"There is one transcendent advantage belonging to the province of the State governments which alone suffices to place the matter in a clear and satisfactory

light: I mean the ordinary administration of criminal and civil justice. This, of all others, is the most powerful, the most universal, and most attractive source of popular obedience and attachment. It is this which, being the immediate and visible guardian of life and property; having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibilities of individuals are more immediately awake, contributes, more than any other circumstance, to impress upon the minds of the people affection, esteem, and reverence toward the Government. This great cement of society, which will diffuse itself almost wholly through the channels of the State governments, independent of all other causes of influence, would insure them so decided an empire over their respective citizens as to render them at all times a complete counterpoise, and not unfrequently dangerous rivals to the power of the Union."

Again, Hamilton, in No. 23 of the Federalist, page 104, says, in speaking of the powers proposed to be conferred on the Government of the United States by the Constitution:

"The principal purposes to be answered by union are these: the common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries."

The same, No. 33, on page 144, says:

"If the Federal Government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify. The propriety of a law, in a constitutional light, must always be determined by the nature of the powers upon which it is founded. Suppose that by some forced construction of its authority—which, indeed, cannot easily be imagined—the Federal Legislature should attempt to vary the law of descent in any State, would it not be evident in making such an attempt, it had exceeded its jurisdiction and infringed upon that of the State? Suppose, again, that upon a pretense of an interference with its revenue, it should undertake to abrogate a land tax imposed by the authority of a State, would not it be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax which the Constitution plainly supposes to exist in the State governments?"

In the same number of the Federalist, page 145, is this passage:

"Though a law, therefore, laying a tax for the use of the United States, would be supreme in its nature, and could not be legally opposed or controlled, yet a law abrogating or preventing the collection of a tax laid by the authority of a State (unless upon imports and exports) would not be the supreme law of the land, but a usurpation of a power not granted by the Constitution."

Mr. Madison wrote No. 39,<sup>ii</sup> and on page 178 it says:

"But if the Government be national with regard to the operation of its powers (acting individually and personally on all citizens composing the nation) it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national Government involves in it not only an authority over the individual citizen, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national Legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal Legislatures. In the former case all local authorities are subordinated to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent parties of the supremacy, no more subject within their respective spheres, to the general authority than the general authority is subject to those within its own sphere. In this relation, then, the proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between the two jurisdictions the tribunal which is ultimately to decide is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made according to the rules of the Constitution."

We have in these extracts a clear and precise statement of important principles of the Constitution; and an elimination of some of the powers of both the United States and the States, by the two greatest intellects and statesmen of the Convention. According to their authority, the enactment and the administration of all laws regulating the affairs of citizens of the same State, and all other things which it is proper to be provided for by local legislation; the ordinary administration of



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criminal and civil justice, which is the immediate and visible guardianship of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibilities of individuals are more immediately awake; these various and great interests belong exclusively to the States. They say further, that the power and jurisdiction of the General Government "extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."

"That the principle purposes to be answered by the General Government are the common defense, the preservation of the public peace, as well against internal convulsions as external attacks, the regulation of commerce with other nations, and between the States; the superintendence of our intercourse, political and commercial, with other countries;" and that all the powers necessary and proper to give effect to those purposes are conferred on the General Government. That the General Government is supreme within the sphere of the powers conferred upon it by the Constitution, and that all other powers were retained by the States, and within that sphere the States are possessed of distinct and independent supremacy, and no more subject to the authority of the General Government than it, within its appropriate sphere, is subject to the authority of the States.

These authorities further announce in plain language, that if Congress should pass an act impinging on any of the reserved powers of the States, it would be no law because of its wanting the sanction of the Constitution. Hamilton tests the point by putting the case of one of the classes of civil rights, which this bill secures to the negro race and all other persons. He says:

"Suppose that by some forced construction of its authority, which indeed cannot easily be imagined, the Federal Legislature were to pass an act to vary the law of descent in any State, would it not be evident in making such an attempt, it had exceeded its jurisdiction and infringed upon that of the State? Suppose, again, that upon a pretense of an interference with its revenue, it should undertake to abrogate a land tax imposed by the authority of a State, would it not be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax, which the Constitution plainly supposes to exist in the State governments?"

An act of Congress, to abrogate a State law upon any subject, of which the Federal and State Legislatures were invested with concurrent jurisdiction, Hamilton expressly concedes would be void; and if that position is evidently true as to such an act of Congress, in all cases where it held a concurrent jurisdiction, how much clearer is its truth in all cases where it has not a vestige of jurisdiction. In what terms could an act of Congress which assaults all the laws of all the States relating to the civil rights, and the penal sanctions of all their people, according to the principles of those two greatest of the great architects who built up the Constitution, be too strongly condemned.

The people generally were not altogether satisfied with the Constitution, as it had been offered to them for their acceptance and ratification. The ratifying conventions of most of the States proposed amendments to it; and but for the perfectly moral certainty that the most important of them would be proposed by Congress and ratified by the requisite number of the States, the Constitution would have been rejected. The ten amendments first made were within the two years next succeeding its adoption. The great jealousy of the people of the powers of the General Government and of what would be the tendency of its administration to encroach on the reserved sovereignty and rights of the States, was the cause that the tenth amendment was framed expressly as a check upon its supposed inherent proclivity to centralization, in these words:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Many years after this amendment was made Chancellor Kent wrote his Commentaries. In his chapter on Congress is this paragraph:

"The power of making laws is the supreme power in a State, and the department in which it resides will naturally have such a preponderance in the political system, and act with such mighty force upon the public mind, that the line of separation between that and the other branches of government ought to be marked very distinctly, and with the most careful precision.

"The Constitution of the United States has effected this purpose with great felicity of execution, and in a way well calculated to preserve the equal balance of the Government, and the harmony of its operations. It has not only made a general delegation of the legislative power to one branch of the Government, of the executive to another, and of the judicial to a third; but it has especially defined the general powers and duties of each of these departments. This is essential to peace and safety in any Government, and especially in one clothed only with specified powers for national purposes, and erected in the midst of numerous State governments, retaining the exclusive control of their local concerns."—1st vol. 231, (223.)

This I consider a clear and most satisfactory summary of principles that utterly condemn the pending measure.

The division of sovereignty, of all of the powers of government, between the United States and the several States, as stated by Hamilton, Madison, and Kent, have often been recognized by the Supreme Court of the United States, and all the courts, Federal and State, that have passed upon them. In the case of *McCullough vs. The State of Maryland* the opinion of the court pronounced by Chief Justice Marshall, principles of constitutional law in accordance with those recognized by Hamilton, Madison, and Kent, are thus stated:

"In America the powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign with respect to the objects committed to it, neither, with respect to the objects committed to the other.

"This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge."

"The tenth amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, declares that 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'"

"We admit, all must admit, the powers of the Government are limited. But we think a sound construction of the Constitution must allow to the national Legislature the discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to the end, which are not prohibited, but consonant to the letter and spirit of the Constitution, are constitutional."

"Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution; or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

As to all these principles the great authority of Judge Story, in his Commentaries on the Constitution, was in perfect accordance with Hamilton, Madison, Marshall, and Kent; as were every judge and jurist of national reputation before the rebellion. How could it be otherwise with men of enlarged minds, deeply learned in the science of the law and statesmanship, since those principles are so plainly embodied in the Constitution, in the calm and impartial reason and judgment that had ever before characterized the great and virtuous judges of the United States, who were previous to that time unperturbed by passion, unperverted by sectionalism and fanaticism, not debauched by ambition?

But the chairman of the Judiciary Committee claims for Congress the power to pass this act under section two, article four, of the Constitution, in these words:

"The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

That provision relates exclusively to the privileges and immunities guaranteed to the citizen of one State in some other State, and it does not touch the privileges and immunities of a citizen of a State within the one in which he resides. It refers to and provides for relations of persons and property between two or more States, not at all to those which are local, domestic, and wholly within the limits of one State. This construction was certainly given to it by Hamilton and Madison, otherwise they would have referred to it as qualifying the exclusive power which they attributed to each State over all its citizens and their concerns within it. The honorable Senator and his friends are proved to have had purposes in this act for transcending the scope of that provision of the Constitution, by the fact, that I twice offered amendments to it, limiting its effect and operation to the execution of that constitutional provision, and he and they, on both occasions, unanimously voted them down.

The Senator also assumes that the second section of the amendment of the Constitution abolishing slavery invests Congress with power to enact this measure into a law. The first section of that amendment can have no other effect than to give freedom to the persons who were then slaves. By its language it merely declares: "Neither slavery nor involuntary servitude shall exist in the United States." This provision can operate only on persons who were then in slavery or involuntary servitude, and how many were in such condition? In 1860 there were in the United States 482,122 free negroes. Before this amendment Maryland had liberated her 87,187 slaves, Missouri 114,931, and Tennessee 275,719; and at that time, by the census of 1860, there were in the United States 927,899 free negroes, who had been liberated by the States or their owners, and estimating the entire black population besides to have been slaves, and there were 3,023,686 in the United States. It is utterly unsound and absurd to contend that the second section of this amendment would authorize Congress to pass this measure to comprehend those slaves, and confer upon them the same civil rights and punishments as appertained to white persons; but if that were even true, there is no color of authority for extending it to the 929,899 blacks who were free before the adoption of this amendment, and also to more than 80,000,000 of white people, and the civil rights and punishments of this aggregate people. The whole effect of the second section by its language clearly is restricted to the persons made free by the first, and can not be made to comprehend any other persons whatever. In this aspect also the passage of the act by Congress was a flagrant, reckless, and enormous usurpation of power by the majority of the two Houses.

This measure in its every provision is violative of the Constitution, and also of all statesmanship and sound policy. In the extensive conflict it seeks with the State laws and authorities; in the transfer of all penal prosecutions and civil suits instituted in the State courts for offenses and trespasses committed under color of it into the Federal courts; in empowering and requiring "district attorneys, marshals, commissioners, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially authorized by the President, to institute both penal and civil proceedings at the cost of the United States, against all persons who may be charged to have violated it, and to cause them to be arrested and imprisoned, or bailed; in empowering the courts to increase the number of commissioners without limit to execute it, and conferring upon such commissioners judicial powers; in authorizing these commissioners to appoint persons without limit to execute warrants and other process that may be issued under it, and giving authority to the persons so appointed to call on the bystanders, or *posse comitatus*, the land or naval forces of the United States, or the militia, to enable

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them to perform their duty, and insure a faithful observance of the clause of the Constitution which prohibits slavery; in providing that the fees of the cormorant officials who may do anything under this act, and ten dollars in every case to the commissioner, and five dollars for every arrest to the person making it, shall be paid out of the Treasury of the United States; in requiring that any person who shall harbor or conceal another against whom any warrant shall have been issued, without regard to the guilt or innocence of the person charged, shall be subject to a fine not exceeding \$1,000, and imprisonment not exceeding six months; in empowering the President to make any district court ambulatory throughout the district, to administer the justice—no, the terrible injustice and oppression organized by this act; and finally, in providing for a special standing army, a permanent force, land, naval, and militia, to enforce its execution. All this extraordinary, extensive, costly, stern, and despotic organism, has been devised to pamper and exalt the negro, and to abase, degrade, and oppress the white race!

The honorable chairman has quoted laws and precedents to justify the pains and penalties which his measure has provided to be inflicted on State officers, who may execute State laws inconsistent with its strange and revolting features. Those laws were directed against the mere forms of law, which were in conflict with the Constitution, and therefore utterly null and void; and against persons who submitted themselves to be made tools and petty tyrants to perpetrate wrong, oppression, and crime under them—such wicked devices as this act. If the States should resort to similar legislation as that relied upon by the honorable Senator to punish those who attempt to execute this measure, it would be a timely, wise, and constitutional remedy. I hope all the States concerned will. I can confidently assure him that at least one will.

As I understand the pending measure, and the act to increase the powers of the Freedman's Bureau, if they were permanently established as the law, they would establish principles that would wholly absorb all reserved State sovereignty and rights, establish a centralized and aristocratic despotism impersonated in the members of the two Houses of Congress, and so much the more oppressive and galling to the people because instead of a single tyrant there would be many. To such a monster Government I would prefer a limited monarchy, but being the enemy of both, I am much more the enemy of the former; and whenever it raises its horrid form, I declare myself beforehand to be its mortal foe, and I will dedicate what of life and energy remains to me to its overthrow and the reinstatement of the Constitution and liberties of my country.

The radical party, who are now striding on to consolidation and despotism to perpetuate their possession of power and office, have able, unscrupulous, and daring leaders. In 1860-61 they would listen to no just and constitutional terms of compromise. Two or three days after the first disastrous defeat at Bull Run, they *male fide* voted for this resolution offered by Andrew Johnson, then a Senator from Tennessee. I will read the resolution and the yeas and nays on its passage in the Senate:

"Resolved by the Senate, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Cowan, Dixon, Doolittle, Fessenden, Foot, Fos-

ter, Grimes, Harlan, Harris, Howe, Johnson of Tennessee, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Salisbury, Sherman, Ten Eyck, Wade, Wilkinson, Willey, and Wilson—30.

"NAVS—Messrs. Breckinridge, Johnson of Missouri, Polk, Powell, and Trumbull—5."

The armies of the United States have conquered the rebellion, and the southern people have submitted and sued to come back to their allegiance and position in the Union and the Government, given up slavery, both by provisions in their own constitutions and ratifying an amendment to the Constitution of the United States abolishing it throughout the land, and repudiated the debts incurred to sustain their revolt. These are conditions beyond the just and constitutional principles upon which you declared you would make the fight and make the peace.

The President, whom your party elected, offered those magnanimous terms to the insurgents, and all of you in this Chamber but two, and all of your party in the other House, I believe, with him pledged yourselves to their maintenance; and now, because he will not go with you in their flagitious violation, you turn upon him, denounce him, and threaten his impeachment. Two sessions ago you passed an enabling act to authorize Nebraska, with a population of 22,841, Colorado, with 34,277, and Nevada, with 6,857, according to the census of 1860, to form constitutions preliminary to their admission as States in the Union. Their aggregate population was but little more than half the ratio for one Representative; but the great consideration was that each one of these infant Territories that assumed the name of State would bring to its patronizing party two Senators and one Representative, and add that much to the material of a two-thirds majority in both Houses.

The war terminated more than six months before the beginning of the present session of Congress. The magnitude of the conflict, and the fierce and determined energy with which it was fought on both sides, imparted to it a terrible grandeur; and the suddenness of its termination, the completeness of the submission of so many million insurgents, and their universal desire to return to the Government against which they had risen, and the obstinate purpose of the majority of Congress to reject their overtures, are not less strange. The latter aspect seems surpassingly sinister and inexplicable, except on considerations of excessive selfishness and criminal ambition.

Whenever the rebels grounded their arms, and the authorities of their respective States in good faith offered to place the States and themselves in proper relations with the Government of the United States, such States and their people had a perfect right to have their Senators and Representatives in Congress. Individual Senators and Representatives might be excluded for sufficient causes personal to each; but a valid objection to keep the State out is impossible under such a state of fact. Her citizens now loyal, having the qualifications prescribed by the Constitution, and the proper returns of their election to the Senate or House of Representatives, may rightfully demand their admission to their seats; for a ruling majority to keep them out is revolutionary. A majority of the Senators who have taken the oath of office and been admitted to their seats have assumed by this revolutionary act, not merely to mutilate the Senate, but to sunder the Union and subvert the Government by closing the doors of this Chamber against the Senators of eleven States, which States and their people are at peace with the United States and obedient to their authority.

You are responsible for this disorganized condition of the Senate, for you have made it. You further aggravated it within the last few days by ejecting from his seat the model Senator from New Jersey, when every intelligent reader of the newspapers in America knows that he

was legally and constitutionally elected by the majority of the Legislature of that State. In the House the same process is going on in a more aggravated form; your political friends are more than decimating their and your opponents, without sufficient cause, while they hold in their seats their political friends against whose election valid constitutional and legal objections have been established. In the mean time you are recklessly passing propositions to amend the Constitution, and overriding the President's veto of this flagitious measure, which requires two thirds of both Houses. You are rushing onward from outrage to outrage with terrible rapidity. You delude yourselves if you believe such a career can long continue.

The courts will decide that you being the wrong-doers, having mutilated Congress, and having passed your revolutionary measures by less than a majority, by a plurality which you created for your purposes in excluding twenty-three Senators from their seats, your acts are revolutionary and void. Public justice is often slow, but generally sure. Think you that the people will look on with folded arms and stolid indifference, and see you subvert their Constitution and liberties, and on their ruins erect a grinding despotism. No; ere long they will rise up with earthquake force and fling you from power and place. I commend to your serious meditation these words: "Go tell Sylla that you saw Caius Marius sitting upon the ruins of Carthage!"

#### New York Contested Election.

#### SPEECH OF HON. JAMES BROOKS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

April 5 and 6, 1866.

The House having under consideration the following resolutions reported from the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York—

Mr. BROOKS said:

Mr. SPEAKER: I do not know I have ever before risen to address a public body with emotions and feelings like those with which I now rise to address the House of Representatives. I am in some sort arraigned at the bar of this House by a committee, for the members of which I feel the highest respect, and by a contestant whose position as a merchant and whose abundance of wealth surround me with embarrassment and make me feel diffident in addressing the House in a matter which concerns my own interest. But if I know my own heart, proud as I am of a seat in the House of Representatives and of my associates here, I do not rise so much for the honor of this seat as to vindicate the right of two hundred thousand people in one of the largest representative districts of the United States to the choice of their own Representative upon the floor of this House to vote for them on the many important questions which come up here for action.

Sir, this election has excited profound interest here and elsewhere. In our district it was one of the hardest-fought contests I have ever seen in any part of the country. Yes, sir, fought by all manner of means, and in the midst of most extraordinary excitement; and when it was over I thought it was over for good; but it has not been over; it is prolonged to this moment, during a year and a half of one continuous struggle. The members of the House of Representatives are almost all acquainted with the localities of the imperial city which I have the honor in part to represent. I am sorry to say that a large portion of the wealth of my district has not been with me, but against me; and it is the richest district in the whole country,

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and approached in wealth by only one other, and that in Boston. I am sorry to say that the wealth and prosperity of that district located on Fifth avenue and the adjacent streets were for the contestant; while in the river districts, where our laboring population reside, the hard-fisted mechanics, the men who send our ships floating over every sea, and carrying the stars and stripes triumphant from pole to pole, the men who are the architects and artificers of our grandeur and glory; that class of men, situated in the river districts of New York, in the main gave their support to me.

My contestant in this case availed himself of that fact, which I cannot more deeply regret than he. I would be proud to represent the property and wealth of New York, as well as its labor and industry, and hitherto in a former Congress, in the last House of Representatives, I did represent both. The contestant has availed himself of that fact to say, in describing the geography of this district:

"It embraces the extremes of poverty and wealth, ignorance and intelligence, crossing the city from river to river, including the Fifth avenue, Murray Hill, and Dutch Hill. The interior districts are the abodes of wealthy citizens and intelligent middle classes; the river districts, in tenement house and shanty, hide the rowdies, roughs, and worst floating population of a great city."

I have no comment to make upon that classification which my contestant would make of the people whom he claims to represent. Let it go forth to these people. Let them read it, let them know it, and hereafter, as we shall meet again at the polls, undoubtedly, not here, but there, we will discuss the description of our constituents that he gives in a document which he lays before this House.

I have said I am surrounded by difficulties and embarrassments and have been throughout this contest, because from the very start even till now I have been met by a man of immense wealth and boundless resources. That is no discredit to him, however. It is an honor to have property if it is honorably earned or acquired and well used. But I have been met throughout—and I dwell upon it because I have been thus met—by a man whose income as recorded is \$384,415 per annum, and if we add his unrecorded income from United States bonds, seven-thirties and five-twenties, from certificates of indebtedness, from railroads, from coal companies, from iron companies, and from insurance and marine companies of all kinds, it swells up to \$500,000—an income which, calculating three hundred and thirteen days in the year, is \$1,519 every day of his life; which, calculating twelve working hours, is \$3,038 a day; which is \$251 every hour, and \$4 20 every breath he breathes, when he is off his bed and wide awake.

"Sir, I should have thought, possessed of a vast fortune like that, a hereditary fortune, a fortune by inheritance as well as by industry, claiming to be a representative of the merchants of New York, he would have been content with the declared and recorded election on the day of election; or, if not content with that, that he would have let alone a district giving about six thousand majority for General McClellan, and would not have aspired to misrepresent on the floor of this House a population like that of the eighth district of New York.

But nothing has surprised me in the course of this contestant throughout from beginning to end. In some early remarks which he made upon this floor, with profound anxiety to appear here at the earliest period, he is reported in the Globe (February 3) to have said:

"Reluctant as I was to enter into such a contest, yet I was urged to it from all parts of the country, and especially by those who had taken a deep interest in the canvass in my own district. And out of deference to them and to public sentiment generally, I felt it to be a duty to expose, as I thought I had an opportunity to, the machinery by which for years the wealth and influence of the mercantile portion of the city of New York had been deprived of a proper representation on the floor of Congress."

terest in the debates that have been going on, but compelled to be a silent listener."

"Knowing that there was to be a prolonged adjournment for the holidays, I sent again to my attorney in New York and urged him to see the attorney of the sitting member and ascertain whether it was not possible to have the testimony sent here, that it might be printed, that the case might come before the committee, so that I might know whether I was to have the privilege of participating in the important discussions of this body or whether I was to return to my home and engage in my ordinary mercantile business."

"Now, at this late period of the session, when two months have already expired, and when questions of such large interest to the nation, and especially to the commerce of the city which I believe I was called on to represent—which I have not a doubt I am legally entitled to represent—when questions of such vast magnitude are coming before the House, I feel that I ought to have an opportunity to participate in its deliberations if I am to have an opportunity at all."

"But I do not want, if I am entitled to a place on this floor, to sit here silently and have all these great financial and other important measures passed, I having no voice in the matter."

Sir, from the tone and tenor of that address it is apparent enough where it was born. One would know what inspired its origin. Certainly, it was not inspired in the river districts of New York city. Nor was it inspired on the Fifth avenue of New York. Only in Wall street are men thus inspired to address each other.

"*L'état, c'est moi*," said the French king; "Congress is I, and I am Congress," one would think from reading the remarks which have been reported here.

The contestant began nearly a year and a half ago to strike at these river districts of New York. Seventeen distinct allegations are in the pleadings which he submitted to the House, and he lighted upon thirteen different river districts at once, so as to employ all my time in order to meet him and his wealth in the contest. By presenting an immense front, by threatening my position on all sides, by not letting me know at what portal he was to enter, without regard to means, he sought only success, no matter how obtained. But he finally fell down on four districts, and at length the four are reduced to two. Two out of thirteen! And upon these two alone is it necessary to make remarks, so far as he is concerned.

The districts which he would throw out are of course the river districts. A is right on Murray Hill, where the gentleman lives, and which some people christen "Shoddy Hill," but all is wrong on Dutch Hill and in Mackerelville, where laborers of the congressional district reside. All is right directly among us, in our own neighborhood, but all is wrong elsewhere, where other people than ourselves reside, whom he desires to disfranchise in order to elect himself.

To maintain his position the contestant has introduced all sorts of witnesses and all sorts of testimony. I propose to call the attention of the House as briefly as possible to the character of some of these witnesses and to some of this testimony.

In the first place, the most extraordinary arena that ever man devised for the taking of testimony and for the introduction of such witnesses was chosen by the contestant in this case. Men who had never before entered the portals of a church, men who had hardly heard of a divine Master, men of the character of Geoghegan, who has already been described as the fraud broker, are for the first time introduced into the portals of a church.

Geoghegan, I need not describe him. I wish gentlemen could have seen him within the portals of that church as he was seen upon the day when the testimony was taken, with two of his fingers bitten off in various fights, from New Orleans to New York, lacerated in his person, powerful, vigorous, an outlaw, a bruiser, a fighter, a bully, a man who dwells in the very lowest purlieus, in the very sink of iniquity, from whence the contestant in this case fished him up for use on this occasion. He was one of the main witnesses in this case for the contestant—indeed, the Ajax Telamon.

Another was Myers, whom the Committee of Elections designates as a United States deputy marshal. Well, he was a rover, the testimony shows, all over California and Australia. Originally a butcher, he became a police officer, and during the excitement and turmoil of the war he got to be deputy United States marshal; or, in other words, a Government detective for the United States, a spy, a man to find out what was going on, a man employed to go here, there, and everywhere, sometimes in Missouri, sometimes in Kentucky, wherever he was wanted.

Here let me say, in presence of this House, that however useful detectives may be in time of war, whatever services they may have rendered to their country, if there is a character on earth more despicable than another it is the spy. The Government detectives that are chosen on all occasions are never chosen for their character, but because they have no character, men utterly regardless of truth or right. And this was another test witness in this case on behalf of the contestant.

Another of these witnesses was Chase, a man who performed an extraordinary operation within the portals of that church. In order to throw out the seventh district, twenty-first ward, two fellows, (Peter Funks we call them in New York,) by the names of McLaughlin and Coughlan, were introduced into the holiest precincts of that church to Mr. Dodge by Geoghegan; and there these Peter Funks told this Chase (so Chase swears) that they had voted four times for me and only once for Mr. Dodge. Now, these two witnesses thus introduced by Geoghegan this Chase swears that he never saw before. He did not know that their names were McLaughlin and Coughlan, only that they said they were; and yet by the introduction of such witnesses as these an effort is made to disfranchise the whole district and to throw me out of Congress. I did not know at the time that this was being done, but when some friends of mine became cognizant of such rascally tricks as Chase and Geoghegan were engaged in they resolved to have an offset for such, whenever they were to be of any worth, in Congress. Hence, not in the holiest precincts of the church, where it is written upon the walls, "Thou shalt not bear false witness against thy neighbor," but in the purlieus of a liquor shop, where "whisky," "gin," "rum," are truthfully written upon the labels of the bottles, the Messrs. "McLaughlin" and "Coughlan" were again introduced, and there they stated to another man that they voted "four times for Mr. Dodge and only once for Mr. Brooks." That is the character of the witnesses they presented to perform his miserable part on this occasion. That is the part the witness Chase, in concert with Geoghegan, acted to trick me out of my seat and to trick Mr. Dodge in. What sort of a character is that of Geoghegan? What sort of a credit ought he to have among honest men?

Another of those witnesses was a Mr. Burchell, the land agent of the contestant in the contested third district, twenty-first ward. This Mr. Burchell there represented for Mr. Dodge a large landed property he held in the third district. That ward was originally a farm belonging to Mr. Phelps, the father-in-law of Mr. Dodge. And by the conversion of the farm into city lots the property became of immense value. Through this Mr. Burchell an effort was made to prove that the contestant in this case had 188 instead of 137 votes in this district. He exerted all his landlord power and all his ingenuity to accomplish that purpose. Irishman after Irishman and German after German was brought up before the judge on that occasion to swear how they voted, for whom they voted. It was supposed to be certain that by the ownership of mortgages upon their property, by the possession of their houses, by having control of their wives and children through the tenelements in which they lived, the contestant in this

"I have sat here for two months, taking a deep in-



case, through his land agent, Burchell, could force these Irishmen, Germans, and Americans, too, to be recreant to their oath. Thank God, he failed. Though they may have told him for the purpose of saving their property that they voted for Mr. Dodge, yet when they were brought up before the judge to give their testimony upon oath, with very few exceptions they were true to truth, and the contestant failed to make out his case in that district. Instead of producing 187 votes, with all the violence of his landlord power, he was able to produce but about 120 votes, running behind his ticket, and therefore the Committee of Elections could not throw out the district as he intended and desired.

Another of these witnesses, one Hargin, of the thirteenth district of the eighteenth ward, was another character. This Hargin was an Irishman, originally from Connaught; an upholsterer by trade, afterward a low play-actor by profession, and finally an employé of the Federal Government for the purpose of enrolling people of the city of New York. It is not only proven in the evidence that he is a man of utterly abandoned and worthless character, so abandoned that the committee had to throw all his evidence out, but that he was willing to receive, and did receive, twenty or thirty dollars from the laboring men of that district to release them from the enrollment.

Sir, this congregation of witnesses needed something else added to them. It needed a saint as well as a satan. Geoghegan was the satan, and they got a Mr. Dean to work up the fifteenth district of the eighteenth ward, who in his affidavit swears at the start, "I am a man of religious principle." To make out the conglomeration perfect, it was necessary to have this saint as well as all these satans. What a set of witnesses to swear a member out of his seat! What a regiment of rogues, cheats, and even saints! Sir, when I look at all these witnesses, when I dwell upon their character, and when I see how Mr. Dodge and Geoghegan marshaled them in his parlor and in his church, I am led to exclaim, in the words of Shakspeare:

"Eye of newt, and toe of frog,  
Wool of bat, and tongue of dog,  
Adder's fork and blind-worm's sting,  
Lizard's leg, and owl's wing,  
For a charm of powerful trouble,  
Like a hell-broth boil and bubble."

During a year and a half of the hardest work of my life, I have realized the force of the line of Shakspeare—

"Double, double, toil and trouble."

Sir, when I look at the character of these witnesses produced from that great city which I in part represent, and which is in some degree the modern Rome, I am often reminded of the glowing words which Cicero used when describing a cloud of witnesses which Rome vomited forth upon the expulsion of Catiline:

"*Quis veneficus, quis gladiator, quis latro, quis sicarius, quis parricida, quis testamentorum subjector, quis circumscripta, quis ganeo, quis perditus inventiri potest, qui se cum Catilina, non familiarissime, viciisse pateatur.*"

"What wretch," it may be translated, "what rogue, what scoundrel, what abandoned villain has the contestant in this case not had either in his church or in his own parlor!"

Let me read from the record here, which is to me one of the most agreeable and yet one of the most painful records I ever met with in all my life. I read from the examination of Geoghegan:

*Interviews of Geoghegan with Dodge, in Dodge's Parlor. Extract from D., 454.*

"Question. Where was it that you saw Mr. Dodge?"  
"Answer. In his own house, the first time that I saw him; I went there to call on him."

"Question. Where did Mr. Dodge receive you?"

"Answer. In his own house; in his parlor."

"Question. What passed between you and him on that occasion?"

"Answer. Nothing, only he asked me if I wouldn't go down and testify to the best of my knowledge what I knew about the district."

"Question. That was the whole of the conversation?"

"Answer. That was the whole of the conversation. I told him I would do so with pleasure."

"Question. Where did you see Mr. Phelps? (Mr. Dodge's counsel.)"

"Answer. I saw him down in Wall street, in his office."

"Question. You didn't go to his house?"

"Answer. No, sir, I went to his office to tell him that I knew a little about that district."

"Question. When did you go there?"

"Answer. Some day last week; I don't know the exact day. I went there some day through the week myself, without his or any man ever sending for me."

"Question. Have you ever been to Mr. Brooks's house?"

"Answer. No, sir."

The part of this evidence which I read with pain is that which records that a merchant of New York, aspiring to represent its commerce and its trade, a representative of the noblest class of men, should have consented, for political purposes, to introduce within the portals of his house, and into the presence of his wife and family, a perjurer, a bruiser, a fighter, a man maimed in his limbs by the innumerable fights in which he had taken part. On the other hand, that part of this record which I read with pleasure and delight, and which I wish to place before the country on record is the closing remark of Geoghegan, that he never was in Mr. Brooks's house.

One word as to the character of this man Myers, the coöperator of Geoghegan to disfranchise the seventh district twenty-first ward, another of the witnesses in this case. I must read the testimony which is on page 398. Myers was using a city letter-carrier to drop letters for him to enter on the registry, telling him at the time to take no trouble to find them:

"Question. Do you know whether it is usual for carriers to hunt in couples?"

"Answer. Not very usual."

"Question. It is rather more usual for policemen to hunt in couples, is it not?"

"Answer. I was learning my route."

"Question. Why did you have to learn it?"

"Answer. It was merely a subterfuge."

"Question. In other words, you acted a lie on that occasion?"

"Answer. We have to use such dodges sometimes."

"Question. You don't think it wrong, as a partisan, to use either dodges or subterfuges?"

"Answer. No, sir."

"Question. If your party had required it, you would occasionally tell a lie as well as act it?"

"Answer. No, sir."

"Question. Is there any very great distinction between acting and telling a lie?"

"Answer. A great deal."

"Question. Please define the difference between acting a lie and telling one."

"Answer. A detective has got to use all subterfuges in the world, without compromising himself in a lie, in getting any information he wants."

"Question. Are you a detective?"

"Answer. I have been."

"Question. And your habits as a detective cling to you still, don't they?"

"Answer. They do a little."

It was in the time of the drafts that this well-known Government detective was sent to hunt upon Dutch Hill for names upon the voting list and registry. Myers was known to everybody in this district. What did he do to find men not residents in the district? Why, sir, in the midst of this excitement he went to the women and the children. In such times women would swear their husbands were not residents, or dead, although they were right aside of them or under the bed, to escape a draft. Children would swear in the same manner to the police officer or the Government detective, and yet such testimony of affrighted women and children is brought up here to oust me from my seat. Let me read from the testimony of Myers here:

"Myers, as a spy on Dutch Hill, goes around among the women and children not to find voters."

*Extract from D., 402.*

"Question. Were they men or women that you asked?"

"Answer. Women."

"Question. Women entirely?"

"Answer. Yes."

*Extract from D., 407.*

"Question. Where did you inquire for this Herwin Lonkin?"

"Answer. Up between Thirty-Ninth and Fortieth streets."

"Question. On the hill?"

"Answer. Yes, sir; an old resident up there said he lived in Forty-Fifth street."

"Question. Who is that old resident?"

"Answer. An old lady that has lived there for years and years."

"Question. What is her name?"

"Answer. That's more than I can tell you."

"Question. What is her business?"

"Answer. I can't tell you."

*Extract from Myers, D., 409.*

"Question. How many do you think you informed yourself about through Steve Geoghegan?"

"Answer. He gave a good deal of information when I looked for parties I could not find myself. He corroborated other people's statements."

"Question. How did you happen to go to Steve Geoghegan to get information about these parties?"

"Answer. By being acquainted with him, that's all."

"Question. Did you send for him, or did he send for you?"

"Answer. I didn't send for him at all; I used to stop in his house when I went up that way on several occasions."

I am to be sworn out of my seat in the House of Representatives by a lot of women and children protecting their husbands and brothers from a draft, or Geoghegan, whose testimony is distilled to this House through Myers.

Sir, before the lawyers of this House I should but waste time to dwell upon the worthlessness and illegality of all such hearsay testimony as this. I forbear to say more here on that point.

We have another character, Brady. Now, Brady was clerk of the regular fifteenth district of the eighteenth ward, appointed by Mr. Dodge himself, or his friends in his interest, another of the witnesses who is now used in this case to swear me off the floor of the House. Let me read from his testimony in the big book to show the character of the man:

"Question. How many times had you taken something to drink that morning that you went down there to act as clerk of the registry?"

"Answer. I don't know."

"Question. How many times do you think?"

"Answer. I couldn't form no idea."

"Question. Are you really positive that you hadn't taken so much that it influenced you?"

"Answer. Oh, no; it didn't influence my nerves."

"Question. How many glasses does it take to affect you?"

"Answer. It depends altogether on how the system is."

"Question. How was your system at that time?"

"Answer. I didn't take note of it."

"Question. How many glasses did you take that day?"

"Answer. I don't know; I didn't count them; I wasn't that particular about it."

"Question. How many did you take?"

"Answer. I don't know; I might have taken four, or two, or six, or fifteen."

"Question. If you had drunk fifteen, would it influence you much?"

"Answer. If I drank 'em right down it might; but if I took all day I don't think it would."

"Question. Did you vote for Mr. Barr more easily because Mr. Dodge was a temperance candidate?"

"Answer. I didn't make any inquiries about whether they were temperance men or not."

"Question. Now, just be careful and think whether you could not have taken so many that morning—whether you hadn't taken so many that you had forgot whether Mr. Dougherty administered the oath to you?"

"Answer. Oh, no; it was too soon."

"Question. How early do you commence generally?"

"Answer. Not until after I get out of bed; it depends upon how I feel."

"Question. How did you feel that morning?"

"Answer. I think I felt like taking a drink; I don't know whether I took one or not."

"Question. Did you take any before you started?"

"Answer. I don't know; it's such a usual occurrence that I didn't take note of it."

"Question. What do you drink when you do drink?"

"Answer. Sometimes ale, sometimes Bourbon, sometimes lager."

"Question. Did any person ever say anything to you about any consideration, beneficial to yourself that you could have for voting for Barr?"

"Answer. No, sir."

"Question. Do you say that positively."

"Answer. I am pretty well satisfied of it."

"Question. I ask you if you can say positively?"

"Answer. I say so positively; because I don't recollect."

"Question. You would know if there was?"

"Answer. If I got it; yes, sir."

"Question. If you were to get it, it is a matter you would know?"

"Answer. All I got, I got a few dollars to spend towards electioneering."

"Question. Who did you get them from, O'Brien?"

"Answer. Yes, sir; toward helping the election of Mr. Barr."

"Question. And you told him you would vote for Barr?"

"Answer. I told him I would do what I could for him."

"Question. And you voted all the Republican ticket except for Congress?"

"Answer. Yes, sir; that is, the Union ticket."

"Question. Who did you vote for for President, now?"

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"Answer. I voted the Republican electoral ticket."  
 "Question. How came you to vote for Barr for Congress?"

"Answer. Because I felt like it."

Now, Mr. Speaker, it would weary the House too much for me to enter into further reading to show the character of the witnesses in this case. I need not say to you, Mr. Speaker, and to this House, that New York is in some respects the sewerage of the whole earth, that no criminal throughout all Europe, many a criminal in Asia and Africa, no criminal in any of our own States, no rascal who wishes to hide himself, can so well bury himself and his iniquities as in the streets occupied by the million of people who make up the vast population of New York. I need not say to this House, in a population like that witnesses can be suborned to swear to anything anybody wishes them to swear to.

But let me not be misunderstood in reference to that noble and magnificent city. No city on the earth presents nobler characteristics. It is a place of abundant charities. It has palatial structures which line its rivers and deck its numerous islands to receive the poor and miserable from all parts of the world. It has churches, hundreds in number, whose spires point to heaven, all proclaiming the Christianity, the religion, the excellence, the general patriotism, and charity of that people. In such a vast population, resembling that of ancient Rome as described by Cicero, in words I have quoted from one of his orations against Catiline, of course it was to be expected, if men of wealth, of gigantic income, chose to purchase scoundrels and perjurers, and to receive them in their parlors or offices, they could secure scores of them to swear if necessary even the very hair from your head.

Mr. Speaker, in the course of this discussion some very extraordinary theories have been advanced in the report of the Committee of Elections, and in the speeches of some members, the most extraordinary of which, as it seems to me, is that in contested districts the sitting member is to account for every voter, if all the districts should be contested, even for the whole twenty-six thousand-odd voters, Brooks, Barr, and Dodge men. There is no sense, if there is any law, in all that. But such was the task I was put to in the seventh district, twenty-first ward, and fifteenth district, eighteenth ward, and the success of my task has been wonderful, and can be seen by my brief, &c.

If the expenses of such witnesses can be paid, I can produce here, on the floor of this House, for I have seen them since, in the city of New York, and will bring them here, witness after witness to contradict Myers and Dean. I cannot produce all the thirteen thousand voters that voted for Mr. Dodge; or the forty-five hundred that voted for Mr. Barr, or all the thousands of men that voted for me. That is out of my power. It is out of human power. It is no such duty as a man can be expected to perform. And such a theory as this is heard for the first time on the floor of this House.

More than a year after the election how am I to be accountable for any of the men who voted for Dodge or Brooks or Barr? The thing is impossible; and every man must know it is as senseless, I am sure, in law as in human judgment, for law is the essence of sense, and not of such nonsense as this would make of law. Suffice it to say, that in these two election districts there were two Republican registrars and one Democratic; two Republican inspectors and one Democratic; and two clerks, one of whom was a Republican. I had not a single friend whatsoever; no, not one. These officers of the election were appointed by the Tammany organization and by the Republican organizations of the city of New York. Tammany Hall was opposed to me and the Republicans were opposed to me. I had not one inspector or registrar or canvasser there at that election, and yet

I am arraigned here for frauds said to have been committed—it may be by Dodge, it may be by Barr, but never even alleged to have been committed by me.

Sir, I made an experiment at that election—a great experiment known to the people of this country. I made an experiment to see if a man could run for office and be supported by the people of New York who would not pay for or buy the nomination from a convention. The conventions of both parties in New York have men in them who are held up in the shambles for sale to the highest bidder. Relying upon the people, I went not to those conventions to purchase or to higgie or to buy one. I did not march up and down among the men of property in that district, for they seldom go out to public meetings or take any interest in anything that adds not to their property; but in those river districts, night and day, at the cart-tail, upon every little stage that I could improvise in street, as well as in hall, I invoked the people of New York to cast aside these false and corrupt nominations, and send me back to Congress by their own will. I told them, though, "I will pay no money whatsoever for an election, but of you, the people, I beg and implore your suffrage."

Proud and defiant elsewhere, I addressed those who are the real sovereigns of the country, and who could elect me to office despite all arrangements elsewhere. And thanks to the people, thanks to the virtue of the hard-fisted mechanics, these steamboat men, these machinists, these fishermen, these gas-men; thanks to them, they crushed the machinery of parties all to pieces and sent me back triumphant to the floor of this House. And I say to you now, here on this floor, with all due humility and submission, that if you throw me out from this House or this constituency I will come rolling back here, amid the thundering voices of thousands and thousands of these people, for these hard-fisted mechanics who have broken all political machines will dare to send me, and even dare to proclaim their will omnipotent. I shall go again to the foundry-shops and the gas-shops; I shall again mount the cart-tail and the barrel, and reproclaim that I desire the suffrages of the people, and I know they will give their hearts and heads in cheerful free will.

But what a theory is this, that I am to be held accountable for every man upon the register or upon the poll-list; that I am to be held responsible, months and months after the election, for every man who voted in the vast population of an ever-changing city! Why, sir, to apply the same rule to the contestant that he applies to me, the evidence discloses that a witness was sent to the Fifth Avenue Hotel to hunt up who voted as from thence, and on the poll-list, and from which he received some 60 or 70 votes, and after the election they could produce but 20 or 30 who were, if I recollect aright the number, really resident there! The evidence shows that a change in the population is greater in the streets and houses where the rich live even than in the tenement houses inhabited by the hard-fisted mechanics.

A great cry is then raised here against the sale of liquors near the polling places. Why, Mr. Speaker, there is more liquor in the cellars of the Fifth Avenue Hotel, or in the hotels contiguous to it, at this day and this hour, more rum, gin, whisky, brandy, and wines of all kinds than are to be found in all the avenues of the river districts, which are inhabited by the hard-fisted mechanics. The only difference is this, that in the cases of the hotels the liquor may be good, while in the river districts it is not quite so good as it might be.

Now, sir, let me illustrate the difficulty of finding the names of voters on the register. It is proved in the testimony that a man by the name of Jung, when shown his own name written down on the poll-list "Young," declared that "such a fellow never did live at that place," and that he had never heard of him,

although his own name is pronounced "Young." Then here is the case of a man by the name of Fleische. He says that no American can write down his name; that it is pronounced like "Fletcher," and that upon every poll-list his name is written down Fletcher. Now, if the great poet, Goethe, had voted in New York, his name would have been written on the poll-list "Gerta;" and if that magnificent genius had gone to the polls he would have found his name thus recorded. Nothing is more common than a change of name from one to another. Whenever, during the old French war, the British sailors captured a ship from the French navy, they always rechristened it; thus, the "Bellerophon" the "Billy Ruffian," and the "Andromache" became the "Andrew Mackey." Changes like these are of constant occurrence, and yet I am held responsible by the Committee of Elections, not alone for the orthography of voters, but for the phonography also. What injustice upon my constituents as well as upon me!

Mr. NIBLACK. Will the gentleman from New York give way for a motion to adjourn?

Mr. BROOKS. I will yield for that purpose.

Mr. DAWES. I hope we shall close up this matter to-night.

Mr. BROOKS. I shall not be able to finish what I have to say this evening.

Mr. DAWES. I hope the gentleman will complete his speech, and then, if the House will listen to me for a few minutes, we will close up the talk on this case, and be ready to take the vote in the morning.

Mr. BROOKS. I will proceed. Now, here in the seventh district of the twenty-first ward, there are eleven officers, under their solemn oaths, swearing to the verity of this election. Three registrars, three inspectors, three canvassers, and two clerks—a large majority of whom belong to the dominant party here. And yet, by the evidence of Geoghegan and Myers, an effort is made to disfranchise over four hundred voters in that district. In addition to all that, it will be found that the clerk of the polls, the clerk of the registrars of that district, Beckman, was a Republican, who testified before the judge what his politics are, and that he did not vote for me; and he swears that everything was properly conducted there. Now, I put it to the justice and to the common sense of this House, and to its honor, if, upon any mere informality, eleven sworn officers of the election are to be overthrown and four hundred-odd voters utterly disfranchised upon such worthless testimony as that of Myers and Geoghegan.

But even if the whole vote of the seventh district of the twenty-first ward be thrown out, it does not change the result. Hence the great contest in this case is upon the fifteenth district of the eighteenth ward, and upon that I propose to enlarge at some considerable length. The officers of this district were, as they were in the other district, two Republican and one Democrat registrars, two Republican and one Democrat inspectors, with a Republican clerk.

A great effort has been made, and it has been argued so that the House now comprehends it, to show that the registrars must live in the particular election district where they serve. And it is argued that if they do not all live in the little election district where they serve, that district must be disfranchised, because the votes there were illegally received.

Now, among legal gentlemen, there have been doubts upon the subject of what was the construction of the law in the case. There are doubts in the city of New York; but the practice on both sides has been, for instance, to select from the Republican districts their keenest and sharpest men as officers of the election to be sent into the Democratic districts, while the Democrats have taken from their districts their keenest and sharpest men to send into the Republican election districts.

I hold in my hand the Proceedings of the

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Board of Supervisors of New York for 1864, an official book, recognized by the law. Now, to show that this invariable practice has existed there, I propose to read a resolution presented by Supervisor Purdy. It is as follows:

"Supervisor Purdy presented a resolution disqualifying inspectors of registry from serving in such capacity who were appointed for districts in which they are not residents, and declaring their places vacant."

No action was had upon the resolution. It was laid over; thus showing that the supervisors thought the custom was according to law; that they were content with the practical construction of the law there given, with the well-known fact that Republicans were selected for the Democratic districts, and Democrats for Republican districts.

In addition to all that I hold in my hands numerous affidavits, to which I wish to call the special attention of the gentlemen on the other side of the House to show the construction given to this law. The construction given to it by the committee would not only throw me out, but it would throw out the contestant over and over again. And for the district represented here by Hon. Mr. DARLING, the true Representative upon the floor of this House, under this construction, is not Mr. DARLING, but Hon. Fernando Wood, and in the district represented by my honorable colleague to whom I am now addressing myself, the same result would be shown.

I desire to call particular attention to the twelfth district of the twenty-first ward; that district gave Mr. Dodge 310 votes and Mr. Brooks 155 votes. The registrars of that district did not live in the district and did not vote in the district. And that was the case with the eighth district of the twenty-first ward, which gave 197 votes for Dodge and 98 for Brooks, and the fourteenth district of the twenty-first ward, where the vote was 380 for Dodge and only 135 for Brooks.

With these remarks I send one of these affidavits to the Clerk's desk, as a specimen of numerous other affidavits which I have at my desk; and I ask that it be read.

The Clerk read, as follows:

*City and county of New York, ss:*

Bartlett Donuhue, John McAuliffe, James G. Sinclair and John O'Shaughnessy, of said county, being duly sworn, depose and say, that for the months of October and November, 1864, they were appointed by the board of supervisors of the county of New York as registrars of election, and acted in such capacity for the November election of said year in the following districts of the twenty-first ward, namely: twelfth district, fourteenth district, eighth district, twelfth district, and fourteenth district.

And deponents do further depose and say, each for himself, that they were not at that time residents of such election district, but resided in election districts in said ward other than the districts in which they acted in the capacity of registrars of election.

JAMES G. SINCLAIR,

No. 120 East Thirty-Fourth street.

JOHN McAULIFFE,

183 East Thirty-Fifth street.

J. O'SHAUGHNESSY,

527 Third avenue.

B. DONUHUE,

624 Sixth avenue.

Sworn before me this 29th day of March, 1866.

[L. S.] ELBRIT A. WOODWARD,

Notary Public.

*State of New York, city and county of New York, ss:*

I, William C. Conner, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, being a court of record, do hereby certify that Elbrit A. Woodward, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said city and county, duly appointed and sworn and authorized to administer oaths to be used in any court in said State, and for general purposes; and that his signature thereto is genuine, as I verily believe.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court and county, the 29th day of March, 1866.

W. C. CONNER, Clerk.

Mr. BROOKS. I also call attention to the second district of the eighteenth ward, and I ask the attention of the House to the enormous vote given in this district: for Dodge, 462; for

Brooks, 199. I ask that the following affidavit, which I send to the Clerk's desk, be read.

The Clerk read, as follows:

*City and county of New York, ss:*

Eugene Durain, of said city and county, being duly sworn, deposes and says that he was appointed a registrar of election for the November election of 1864 by the board of supervisors of the county of New York, for the second district of the eighteenth ward in said city and county, and acted in said capacity for said November election for the year 1864.

And deponent further says that he was not at that time, the months of November or October, 1864, a resident of said second district in the eighteenth ward of the city of New York, but was then and is now a resident and voter in the tenth district of said eighteenth ward in said city and county of New York.

EUGENE DURNIN,

188 East Twenty-First Street, New York City.

Sworn to before me this 29th day of March, 1866.

[L. S.] ELBRIT A. WOODWARD,

Notary Public of the County of New York.

\* Interlined before being sworn to.

ELBRIT A. WOODWARD,

Notary Public.

*State of New York, city of New York, ss:*

I, William C. Conner, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, being a court of record, do hereby certify that Elbrit A. Woodward, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said city and county, duly appointed and sworn and authorized to administer oaths to be used in any court in said State, and for general purposes; and that his signature thereto is genuine, as I verily believe.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court and county, the 29th day of March, 1866.

W. C. CONNER, Clerk.

The SPEAKER. The gentleman's time has expired.

Mr. DAWES. I move that the time of the gentleman be extended.

No objection was made.

Mr. BROOKS. Now, I am not lawyer enough, and I thank God I am not, to understand the arguments of some of the gentlemen who have alleged that no place for the election was designated by law. I do not understand such technical arguments, nor how they can influence the election. It is said that this election was illegal, because the place for holding the election was not designated, yet it is proved that early in the month of September, the common council, the lower branch of the city legislature, designated the place of James Thompson as the place for holding the polls. But for some cause that action was not concurred in by the board of aldermen until the 3d day of November.

[Here Mr. BROOKS yielded the floor for a motion to adjourn.]

FRIDAY, April 6, 1866.

The same subject being again under consideration,

Mr. BROOKS continued:

Mr. SPEAKER: I have come over to my old seat, the seat I occupied in the last Congress, and I desire to call the attention of the members of the Committee of Elections to some things which they have reported. Before doing so, however, I ask the attention of the House to the construction of the committee. It is composed of seven Republicans and only two Democrats. Let me call the attention of the House to the fact that there are six lawyers upon one side and but one on the other. Hon. Mr. RADFORD, who is a member of the committee—a man abundantly adapted from his practical business knowledge for a position on the Committee on Commerce or the Committee on Naval Affairs or the Committee on the Post Office—has been selected to adjudicate upon a legal matter.

I do not complain of the way in which the Speaker has organized the committees. I know that he meant to do right, and that he had but little material in the paucity of the Democratic number here for the construction of committees; and I take pleasure in here paying my tribute to the fairness and impartiality with

which he has presided over all our deliberations. What I wish to take notice of, however, is the political construction of the bench of judges—seven to two. I do not mean to complain of the action of the Committee of Elections or its honorable chairman. I have taken occasion to express my confidence in his honesty and uprightness, and I trust he will continue to deserve the compliment; but it has been my impression ever since the discussion in the case of *Bruce vs. Loan* that, beaten there, he has relied upon the party majority and never means to report against his party again. The House overruled his decision in that case, notwithstanding he advocated and maintained it with great vigor and great force. The impression made upon his mind has never been favorable to his impartiality since.

And when I call the attention of the House to some facts which I will now submit, with all due respect for that committee, I hope the other side of the House will again overrule the decision of this committee, and not hold that decision to be binding upon the House if the facts of the case do not sustain it.

Perhaps no more complicated election case was ever submitted to the House of Representatives than this. There are nearly a thousand pages of printed matter to be read. It is impossible for any one man, unless he is deeply interested in it all, to read the whole of that testimony. I have heard of but one man on that side of the House who has read the whole of it throughout from beginning to end; and hence when I say that the chairman of the committee has not read the testimony—and I am sure when I call his attention to the facts to which I will now refer, he will agree that he has not read it throughout—then he owes it to me and to the House to reconsider the judgment which he has submitted to the House.

On the first page of their report the majority of the committee say:

"The contestant, however, confined his proofs to the allegations affecting four precincts only, namely, thirteenth district of the eighteenth ward, fifteenth district of the eighteenth ward, third district of the twenty-first ward, and the seventh district of the twenty-first ward."

That is true.

"And the sitting member confined his own proof to a reply to that offered by the contestant in relation to these precincts. It therefore became unnecessary for the committee to examine further the other allegations on the one side and the other."

That is not true. And now I ask the chairman of the committee, and I hope he will not avail himself of his parliamentary privilege of silence not to answer the question, is not that statement an error? On the contrary, did I not in my specification at the beginning, and also at some length in my brief, call the attention of the committee to the thirteenth district of the twenty-first ward, to which the gentleman from Ohio [Mr. SPALDING] called his attention yesterday? Yet the gentleman from Massachusetts [Mr. DAWES] has omitted in his report to give the least attention whatsoever to it. Now, I would be happy to hear him upon that subject.

Mr. DAWES. I will say that it is not my purpose to interrupt the gentleman during his argument.

Mr. BROOKS. I beg the gentleman to interrupt me.

Mr. DAWES. But if I fail to notice his interrogatory in what I shall say in conclusion, then I ask him to call my attention to it.

Mr. BROOKS. I am sorry not to have a reply now.

Mr. DAWES. It is very evident that neither the gentleman himself nor myself can pursue a proper line of argument if we do it in this way.

Mr. BROOKS. This is the only way to get the facts to the direct attention of the House.

Mr. DAWES. I do not mean to omit to notice any fair interrogatory the gentleman puts to me.

Mr. BROOKS. Let me call the gentleman's



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attention to another point. On the fourth page of the report he says that the July riots were in the fifteenth district of the eighteenth ward. Now, where is the proof of that? If the gentleman has not time now to look it up, I hope that when he comes to reply, if he does not find it, he will candidly confess it to the House.

I now state, with all the solemnity of my position, that there is no such fact proven in the whole record of the testimony. The July riots were not in the fifteenth district of the eighteenth ward. The gentleman has been misled by the persistent argument before the committee of the counsel upon the other side, and by the proof which was submitted respecting another district in another ward. The riots spoken of in that testimony were a mile from the fifteenth district of the eighteenth ward, in another ward and in another direction. And the gentleman has confounded two different districts and two different wards, and this fifteenth district of the eighteenth ward is made to bear the burdens of the injury, outrages, riots, and disturbances elsewhere. I will not say, I dare not say, that this is done to inflame the opinions of the majority of this House, for the honorable gentleman from Massachusetts must be utterly incapable of such an act.

Now, I ask that, when he rises to speak, he will either verify what he has asserted, and that I know he cannot do, or as an honorable man, as a member from the old State of Massachusetts, as a lawyer, and as my judge in this case, he will correct the record he has made, and say that there were no July riots in the fifteenth district of the eighteenth ward.

[Mr. Dawes here gave some intimation of a desire to have that part of his report read.]

The report states, on page 4, that this district "had a bad reputation in connection with the July riots." Now, sir, there is no proof whatsoever of the riots having taken place in that district. There is no proof whatsoever that it had a bad reputation. The riots were not in that district nor near there, but a mile distant.

Now, sir, I call the attention of the honorable gentleman to another point in the testimony, and I do it with all kindness, for no man can comprehend so vast a mass of testimony, not even if he were paid for it. A man ought really to have a fee of \$1,000 for examining and comprehending such a mass of testimony. I call the gentleman's attention to another fact. He alleges that in the third district of the twenty-first ward the canvasser was drugged. The report says that, "in consequence of the free use of liquor, one of the inspectors, who was also a canvasser, became drugged, and fell asleep before the canvass was completed." Now, sir, there is no proof whatsoever of that character. The nearest approximation to it is that during the day Mr. Heisner, who was employed as an inspector and canvasser, became worn out with continued watching from sunrise of one morning to sunrise of another, and slept a very few moments. There is no proof in the record that this canvasser was drugged. And I assume that the gentleman from Massachusetts, when he rises to speak, will verify the statement of the report, or will, as an honorable man, take back the allegation.

It is alleged also that Brady, the clerk in the fifteenth district of the eighteenth ward, was a self-constituted clerk; in other words, that he made himself the clerk on that occasion. Now, sir, this is shown to be incorrect by reference to the Dodge book, pages 220 and 289.

This Brady served as clerk with the consent of the registrars, as all of them swear. In the Dodge book, page 219, Hall admits that this clerk was sworn. Yet the committee say on the fourth page of their report that "the entire duty of the board was discharged by the self-constituted clerk, Andrew Brady." The gentleman from Massachusetts has here manifestly fallen into an error; I do not say a criminal

error. It is an error into which any committee might fall, in view of the multiplicity of facts and the abundance of testimony which the committee have had before them.

Again, the report states that Dougherty, one of the registrars, was not present. Yet in the Brooks book, page 86, Cowen swears that Dougherty was present "pretty much all the time." Hall states, in the Dodge book, page 220, that he is not certain that Dougherty was absent.

Sir, these are important and essential facts. Yet, notwithstanding these facts, the honorable gentleman from Ohio, [Mr. SHELLABARGER,] who I regret to see is not now in his place, averred that there were frauds throughout that whole election in the fifteenth district of the eighteenth ward, when, so far as the record shows, everything was just and proper. Though there were irregularities, they are admitted by the honorable gentleman from Ohio not to vitiate the election; and it is nowhere pretended in the record that these irregularities amounted to fraud.

Now, sir, it has been averred in the remarks of the gentleman from Ohio, as well as in the report, that Mr. Thompson, at whose place this registry was held, received a list of about two hundred names, and that he himself entered those names upon the registry. There is in the record no proof whatsoever of this statement. The averments to this effect are incorrect, because those who make them have not read the testimony. Let me read the testimony.

Brady swears, (Dodge vs. Brooks, page 271 :)

"Question. Who did Mr. Thompson give that list to?"

"Answer. He fetched it in, I think, and laid it on the table."

"Question. Who did he address himself to when he brought it in?"

"Answer. I don't know; there was both Hall and Cowen there, the registrars in the district, he might have addressed himself to both."

"Question. What did he say?"

"Answer. I don't recollect the precise language. He said there was names that he got; there was persons came in and did not see their names on the books and he took them down, or words to that effect. I ain't got it down fine. There was some little objections raised, I believe."

"Question. Who raised the objections?"

"Answer. Hall did, I believe."

"Question. But you were finally told to put them on the registry list?"

"Answer. Yes, sir; I had to do as I was told."

"Question. I ask you if you put any names on any of those copies of the registry list, except such as you were instructed to put on by the inspectors of registry."

"Answer. Yes; I put down names that I was not instructed by them to put down."

"Question. Who told you to put them down?"

"Answer. There was nobody there to tell me to put them down."

"Question. How came you to do it?"

"Answer. Well, persons would come there to get their names registered, and I would be writing there as clerk, and I put them down."

"Question. Did you put any on that copy of the registry list except such as you were told to put on by the inspectors of registry, or the names of persons who came in and registered themselves—who gave you their own names?"

"Answer. No, not as I know of; I am pretty sure I didn't."

"Question. Did you never hear that it was a subject of great complaint in that district that you had put wrong residences opposite people's names?"

"Answer. Yes, sir; I was accused of that the next setting of the charter election, and I denied it point-blank."

"Question. Do you know one person who was entered on either of those registry lists who was not a legal voter in that district?"

"Answer. No, sir; I was not acquainted down there. Do you mean his name down as a voter?"

"Question. I ask you if you can name a single person whose name was upon that registry list who was not a legal voter in that district?"

"Answer. Yes."

"Question. Who?"

"Answer. My name was on it?"

"Question. Can you name another?"

"Answer. Yes, sir; there was Hall. I don't believe he lives in that district; he might; his name was on the back of the book."

"Question. Who else?"

"Answer. That's all I know of."

"Question. Were either of those names you have mentioned on the books as the names of voters?"

"Answer. No, sir."

"Question. They were only on as certifying?"

"Answer. Yes, sir."

"Question. Then you don't know the name of any person on there as a voter who was not a voter of the district?"

"Answer. No."

"Question. Did you do any cheating in making up that registry?"

"Answer. No, sir; although I was accused of it."

Now, sir, that is Brady, the Republican clerk, a witness in the case, who swears he put down the names by order of the registrars, and that, so far as he knows, the registry is correct.

I trust when the honorable gentleman from Massachusetts [Mr. Dawes] comes to address the House he will correct that fact on the record. I trust the honorable gentleman from Ohio [Mr. SHELLABARGER] will also make a correction. I regret not to see him in his seat. Oh, yes, there he is in the distance, and I am rejoiced to see him present. He charged names were entered upon the registry by Thompson. Let him take the testimony and do me the justice, as I know he will, as an honorable man, to say that he was mistaken in the allegations he made.

I do not know the length of this Hall, but I suppose it is over one hundred feet. It was on a corner lot of one hundred feet, a small lot in New York, where this election was held. It was proved that the stable door had a connection with the house. I put it to every member of the House, I put it to every man of common sense, whether because the election was held on one part of this one hundred feet lot, and not another; in a stable, and not in the liquor shop, it shall be thrown out?

Now, the honorable gentleman from Massachusetts on page 6 of the report alleges that the testimony of Brennan corroborates the other testimony as to the fraudulent character and inaccuracy of this register. Let me read:

"Question. Do you know of any illegal votes polled that day?"

"Answer. No, sir."

"Question. You did not take an illegal vote?"

"Answer. No, sir; not a single one."

I claim the gentleman from Massachusetts and the gentleman from Ohio shall not add the weight of their authority to oust me from the House without further examination of the testimony.

I refer to Brooks's book, page 326:

[Extract from Kearney's testimony.]

Poll-list as written correct by Kearney.	Poll-list as sworn to by Jan Casas Dean. Written in correct by Dean.
Hanigan, Peter, No. 289 E. 14th street.	Not Lanigan, Peter, as written by Dean.
McCart, Bernard, No. 297 E. 14th street.	Not No. 299 E. 14th street.
Bosbee, Charles, No. 307 E. 14th street.	Not Boske, Charles.
Faulke, Laurens, No. 301 E. 14th street.	Not Faulke, Lawrence, No. 501 E. 14th street.
Wierle, Jacob, Williams, Aaron.	Not Wiewel, Jacob.
Selouts, Thomas, No. 259 E. 17th street.	Not Williams, Amer.
Boylan, Charles, No. 255 E. 16th street.	Not No. 250 E. 15th street.
Redilwith, Richard, McRack, John.	Not No. 255 E. 15th street.
Sands, Charles, No. 245 Avenue B.	Not Bedywith, Richard.
Clark, Owen J., McCaladan, John, No. 561 E. 16th street.	Not Ratek, John.
Gilligan, Patrick, No. 273 E. 15th street.	Not No. 247 E. 15th street.
Breardan, James, No. 349 E. 16th street.	Not No. 261 E. 16th street.
McGarney, Hugh, McKeon, Patrick, No. 257 E. 16th street.	Not No. 276 E. 16th street.
O'Connor, Martin, Ray, David, Coughlinberger, Peter.	Not No. 549 E. 17th street.
Hines James, No. 517 E. 16th street.	Not McGarvey, Hugh.
Hank, Michael, No. 517 E. 16th street.	Not No. 251 E. 16th street.
Kranne, James, Finnian, John, Manning, Samuel, Bowen, John, No. 222 Avenue A.	Not O'Conner, Mortimer.
McConner, Bernard, McDermot, Philip, No. 247 E. 15th street.	Not on poll-list.
Madden, Joseph.	Not Coughlinberger, Patrick.
	Not Zines, James.
	Not No. 511 E. 16th street.
	Not Crane, James.
	Not Finnigan, John.
	Not Manning, Daniel.
	Not No. 521 E. 16th street.
	Not McConner, Bernard.
	Not No. 516 E. 16th street.
	Not Madden, John.

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New York Contested Election—Mr. Brooks.

HO. OF REPS.

Poll-list as written correct by Kearney.

Poll-list as sworn to by Jas Casas Dean. Written incorrect by Dean.

Walling, Patrick, No. 276	Not No. 514 E. 16th street.
E. 16th street,	
Farrell, Thomas, No. 516	Not No. 512 E. 16th street.
E. 16th street,	
Kerns, John, No. 221½ E.	
17th street,	Not 322½ E. 17th street.
Reslet, Robert,	Not Resler, Robert.
Wensker, John,	Not Wenster, John.
Loughly, William,	Not Coughly, William.
Herr, Emil,	Not Hene, Emil.
Benford, Michael,	Not Renford, Michael.
Koisman, Thomas,	Not on poll-list.
Brithmeser, Peter,	Not Brithaveser, Peter.
Bosdis, Charles, No. 212	
Avenue A,	Not No. 245 Avenue B.
Coman, John,	Not Curran, John.
Nalley, James, No. 278	
Avenue B,	Not No. 273 Avenue B.
Horr, Chris.,	Not Hene, Chris.
Preston, Hugh,	Not Ruston, Hugh.
Daily, David,	Not Daily, Daniel.
Burns, Owen, No. 251 E.	
15th street,	Not No. 266 Avenue B.
Riley, John, No. 264 Avenue B,	Not No. 254 Avenue B.
Pinkerton, James, No. 268	
Avenue B,	Not No. 264 Avenue B.
Garvin, Dennis, No. 266	Not Garom, D., No. 268 Avenue B.
Avenue B,	
Henyer, Alexander, No. 254 Avenue B,	Not No. 242 Avenue B.
Kaul, Andrew,	Not Carl, Andrew.
Kannon, William, No. 512	
E. 16th street,	Not No. 210 Avenue A.
Appelwitz, Michael,	Not Apfalerty, Michael.
Killieker, John, No. 242	
Avenue A,	Not No. 23 Avenue A.
Comfee, Chas,	Not Copler, Chas.
Lander, William, No. 222	
Avenue A,	Not No. 232 Avenue A.
Propts, Adam, No. 238	Not Propts, Abram, No. 211 Avenue A.
Avenue A,	
Segler, Baltzar,	Not Segler, Ballyar.
Turnleyer, Fred,	Not on poll-list.
Brennan, Patrick, No. 222	Not Not Bauman, P., No. 222 Avenue A.
255 Avenue A,	
Schere, Adam,	Not Burr, Adam.

I have thus gone through and proved by Kearney's testimony that some sixty-odd voters were misspelled, either accidentally by Dean, or by design, in order thus to throw me out of my seat.

[Mr. Brooks here read at length B. 3,011, the testimony of Frederick Jung, a German, whose name in English is pronounced "Young," to show by this Jung that German names could not be rightly written upon English registers, and that Dean's names on the poll-list were not the real names of the Germans who really voted. "Zines" was formed into "Hines," "Charles Boxberg" into "Charles Boske," "Wierle" into "Wierd," "Zeigler" into "Zeiler," "Emil. Heine" into "Herr," "Raar" into "Root."]

It is almost impossible for an American to pronounce many German names; hence they may be transformed into almost anything on the poll-list. A German, Blum, was asked if he knew "Jung," written "Young" on the poll-list, and he said, as we pronounced it, "I do not know such a man," though that very "Jung," pronounced "Young," was living in his house.

Now, I shall perhaps exhaust the patience of this House if I go on with the whole twenty-four names in Jung's testimony, of whom the gentleman from Massachusetts says but four could be found, whereas the whole twenty-four are found, or accounted for by errors on the poll-list, or in the brief submitted in debate by me to the committee, but not read, not even examined when an opinion was made up in this case. These errors are constantly and necessarily recurring from the fact that Americans were registering German names, and Germans were registering American or English names. A man with a certain name could not be found with an English pronunciation, while there have been real men, well known, as pronounced in German. Pass the resolution, then, submitted by the gentleman from Ohio [Mr. GARFIELD] and order a new investigation, and I will bring up these Germans who will pronounce the names in their own native tongue, and show that they do exist, and that they also had a right to vote on election day.

I do not, however, blame the honorable gentleman from Massachusetts, [Mr. DAWES,] except for not reading the testimony when he was acting as my judge. I do think, however, that he ought to have taken the trouble at least to read the brief of a fellow-member of Congress whom he was going to condemn, more especially when he was holding me responsible for the orthography and phonography of almost every German, Norwegian, or Swede, in the fifteenth district of the eighteenth ward.

I appeal, then, to the gentleman from Massachusetts, as the Representative from that Commonwealth, not to oust a member because he may not like his political opinions. because he may have party prejudices against him. I appeal to him not to disfranchise two hundred thousand people of the city of New York because of any passion or prejudice or indisposition to examine fairly a long case like this. He should remember he is acting as a judge, not as a prosecuting officer in this case.

But I am not done. I now call his attention to the following names, which he has entirely ignored. They prove the names, residence, and voters there, whom his silence at least alleges not to exist; whose testimony, evidently, he has never seen:

## Names of Voters proven in the Testimony.

John A. Morschamer, (B. 206.)	proves names.....	12
John M. Cormick, (B. 150.)	proves names.....	8
Charles Boyle, (B. 244.)	proves names.....	22
Max Blum, (B. 159.)	proves names.....	2
Ignat Waisman, (B. 160.)	proves names.....	1
James M. Laine, (B. 158.)	proves names.....	1
Barnard Dalton, (B. 160.)	proves names.....	1
Thomas Cahay, (B. 161.)	proves names.....	1
Charles Boxberg, (B. 159.)	proves names.....	4
Philip McDermott, (B. 202.)	proves names.....	6
Total names.....		58

Here I have shown 58 names corroborating Brennan to that extent; names of actual voters that are utterly ignored by the majority of the committee in their report, and treated as if they never existed; and then there were 26 other names corroborated of men voting by affidavit.

The man who votes by affidavit, I wish the House to understand, is a man whose name is not registered, but who can vote if he is not registered, provided he is first sworn, and provided, in the second place, he brings a householder to swear that he is a *bona fide* voter. There were 26 of these, and yet in the report of the honorable gentleman they are all ignored throughout, as well as the testimony of the 58 affidavit names, 26 proven names, 58 in all, as since corroborated, are they not, by Brennan throughout.

From the extent of their testimony it was quite impossible for the Committee of Elections to do justice to it all, if they had even tried, and do justice also to the dozen other cases that are before them. The gentleman cannot deny the fact that after the committee ordered me to make a brief, which cost me ten days of the hardest labor of my life, eighteen hours every day, in hunting up of hundreds of names which were necessary to compile that brief, it was submitted to the Committee of Elections at ten o'clock on Monday morning, when they had another case before them, and they could not have looked at it on that Monday, while the House was in session, and the only possible attention the gentleman could have given to it was on Tuesday, for on Wednesday in the committee, in the morning, this case was decided against me, notwithstanding the great labor I had spent in collating the names from that precinct. Is that the way to form an opinion, and to make up a case?

His own opinion, it was evident, was made up before he called for the brief or even read the testimony of this case, and his opinion became the opinion of his party portion of the committee, save the honorable gentleman from Wisconsin, who examined the case.

The gentleman, I see, has noted the fact that I said he had a prejudice, a party prejudice it

alone can be, against me. I came to that conclusion when on the printing of the testimony of this case he addressed this House in a style and language which did not seem to me civil, certainly not parliamentary, and so unlike the honorable gentleman that I hardly knew what had inspired such bad feeling on his part. He accused me of trifling with the Committee of Elections, as if I would trifle with the men who are to be judges of my right to a seat on this floor! He accused me of *laches*; he almost insinuated—though he did not directly declare it—that I held back the testimony in order to tamper with the report!

Now, I do not mean to insinuate that the honorable gentleman is not a just man. I am in duty bound to think he is. His honesty I have vouched for. And yet the same human passions that move all men doubtless inspire the gentleman from Massachusetts in his examination of this case; and such as led him to his extraordinary remarks upon the printing of the testimony in this case.

I ask at his hands now a reëxamination of facts he has never taken the trouble to read; and with the exposure of facts here submitted to-day, have I not a right, as a member of Congress, to demand it? I put it to the gentleman and to his associates, members from Massachusetts, that old Commonwealth in which I was born, that they do not oust a man who has already a seat in this House without an examination and a trial. If I had been arrested for some crime, if I had been indicted, if I had been guilty of fraud in the election, if I had spent enormous sum of money, and been convicted in a court, of frauds, the gentleman would have looked at my brief and record of these names a longer time than he gave to the consideration of this report. And hard, hard indeed, it is to be tried, condemned, and executed, without even having your judges listen to the testimony in your case.

The gentleman from Massachusetts and the gentleman from Ohio [Mr. SHELLABARGER] made a point against me that there was a great increase of the vote in these two new districts, twelfth and fifteenth of the eighteenth ward—from 496 to 811 in one year—from the year 1863 to the subsequent year, 1864. I call attention to the fact that this fifteenth district was a new district, as new and fresh as any district on the prairies of Iowa, Minnesota, Dakota, or Nebraska. It was a new settlement of new people. No inconsiderable portion of it was a promontory built out into the East river and occupied by laboring men, with a large gas-house having five hundred men in it, as is proved by the testimony. And I call attention to the fact that the old district was not large enough to poll all the votes, and hence a new district, the fifteenth, was created from necessity.

And if there is nothing in all that, I call the attention of the gentleman from Ohio [Mr. SHELLABARGER] to the fact that in the second district of the eighteenth ward there was an increase in nearly the same proportion. That district gave 462 for Dodge and 199 for Brooks. In the year 1863 it cast 485 votes, and in 1864 it cast 754. Now, by the rule of proportion which I was taught and practiced as a schoolmaster in New England, if 485 gives 754, what will 496 give? And I find the result is 756, or nearly the increase in the fifteenth district. What reply can be made to that? Here the second district, eighteenth ward, was a Dodge district; the fifteenth district, eighteenth ward, a Brooks district. Is it to be disfranchised for that?

It is well known that in 1863 there was a comparative lull throughout the whole country as regards politics—very little excitement. The vote in the State of New York fell off nearly one half—some 175,000 decrease, I think—while in 1864, in the presidential election, when all parties were marshaled in fullest array, when the sailors in the public

service voted, though absent from home, and when the soldiers in the field voted, it is a notorious fact that there was a full vote. The votes everywhere increased, but they increased no more in proportion in these twelfth and fifteenth districts of the eighteenth ward than in several of the districts where Mr. Dodge had a majority in the eighteenth and twenty-first wards. The proportionate increase was nearly the same in all those districts.

I call the attention of the gentleman from Ohio [Mr. SHELLABARGER] to this fact, and ask him to verify it, and then do me justice in presenting it to the consideration of his friends on that side of the House.

Mr. Speaker, I know these things are tedious to the House, and I am sorry to trouble the House with them. But there is no other way for an outcast like me to obtain justice from the party in power but by appealing to them for justice. I know they will give it to me if they will only study the case until they can comprehend and understand it. I have reliance upon that side of the House; and I am addressing my arguments mainly to that justice, for justice alone do I demand of them. And having submitted these few facts, I will drop the consideration of that subject in order to proceed to others that demand my attention.

The point to which I wish now to especially call the attention of this House, and more particularly the attention of my honorable colleagues from the State of New York, is the utter violation in this case of the statutes of New York by the contestant and his friends—the statutes against bribery and corruption.

The laws of the State of New York, and I trust it is so in other States, are very rigid against the employment of money in elections, except solely for the purposes of printing, or for bringing sick and infirm voters to the polls. The honorable gentleman from Massachusetts, [Mr. DAWES], and the honorable gentleman from Ohio, [Mr. SHELLABARGER], whose attention was called to those laws against bribery in the elections, in the argument, and the law was also set forth in my brief, have not given those statutes the least possible attention. Now, how is that? Why was that? The honorable gentleman from Ohio [Mr. SHELLABARGER] was pleased to address this House with all the power of his logic, with all his influence, and with all the eloquence he can array, and to ask what would be the consequences if the people of this country permitted irregularities like those which he alleged existed in the fifteenth district of the eighteenth ward.

Now, I ask him here, what more dangerous, alarming, terrible precedent can be set than to allow a man with the enormous income which I have proved this contestant to possess, or to allow his friends to use it so as to control peculiarly the district in which he may live, or any other district in which he may choose to exert the influence of his money. The custom is but little known in this country I hope, though it is well known in England. The nobility and great capitalists of England, especially of London, are in the habit of buying up whole boroughs and thus destroying the perfect right of representation. This practice has never before been introduced into this country; or if it has been introduced, it has never before been made a matter of record until this case arose.

Now, I have proved from the contestant's own confessions, in his remarks of February 2, as delivered before this House and published in the Daily Globe, that he spent \$6,000—or some sum not exceeding that, it was not quite up to that sum—of his own money, and he drew forth from his pocket on his examination, when this testimony was taken, the two subscription papers which I hold in my hand, having in them \$5,000 more, making over \$11,000 in all, which came from him and some of his friends. Now, I have proved from the record

that he and his friends spent over \$15,000, and I charge here, with the fullest belief in the fact, that he spent thousands and thousands of dollars beyond that.

But if it were only \$6,000, or if it were only \$4,000, what right had the contestant to use these vast sums of money to procure an election to this House? Or if he does thus procure an election to this House, what right has he to come here, reeking all over with fraud and corruption, and attempt to turn me out upon charges of corruption and fraud? I say to him, "You, sir, who charge others with fraud, ought to come before the Representatives of the people with clean hands and a pure heart. But your hands are soiled with corruption; you have shaken hands with perjurers and scoundrels; your parlors have been desecrated by the presence of the vilest of men; your associations have been with men who have never entered my house or my domicile. And yet you come here, in the Hall of the Representatives of the people, and allege fraud against me!"

For this expenditure of \$6,000, or of \$15,000 as I allege, has been made for purposes of corruption which the Representatives of the people here will never sanction; or if they do sanction it here, it will never be sanctioned elsewhere.

Now, I might enter into an analysis of the names upon these subscription papers, if I considered it worth while. I could go through the whole record and show the motives which prompted these contributions. But I will not do it; let them go for what they are worth.

Now, does the gentleman from Massachusetts [Mr. DAWES] know that Mr. Dodge had no connection with the expenditure of this money? If he says so, then I call the attention of the House to the testimony of Mr. Cowden, on page 48 of the Brooks book. When asked who suggested that he should act as treasurer, he said:

"Mr. Cannon suggested that I should act as treasurer; I only acted as treasurer for such money as Mr. Dodge put in my hands for certain purposes. I did not collect one single dollar; I did not ask a man for a dollar for Mr. Dodge's election. Mr. Dodge said, 'Here is a campaign to be carried on, and money is wanted; you have had some experience in the matter; just do whatever you would do for yourself.'"

And yet I am to be told that Mr. Dodge had no connection with this great expenditure of money!

Now I call attention, with something of pain and something of reluctance, to another matter. I am not a member of a church; I deeply regret that I am not. I have not made any profession of religion whatever. I often pray in my inner heart, and before my eyes close in death I hope I may be so changed that I may be sure of entering the portals of heaven. But I am now no professor of religion; I never set myself above other men; I am no better than they, and yet, as the poet Hood says,

"I sometimes kneel upon the sod,  
Et formid pauperis sue to God."

But the contestant in this case is a professor of religion; a member of the church. He is one who reads the commandments, among which is this: "Remember thou the Sabbath day and keep it holy." He is bound to live up to every one of his professions. Yet he comes in here and charges me with frauds, while he and his agents have been guilty of acts to which I will call the attention of the House.

I shall show that a vile bargain, a corrupt bargain, was made by this treasurer of Mr. Dodge, this Elliot C. Cowden, and by another man, Le Grand B. Cannon, both of them, I regret to say, members of a church in the city of New York, with the Tammany Hall Democratic candidate; consorting with Democrats, notwithstanding his horror of them, and that, too, on the Sabbath day. I shall show by this record here that on a Sunday they drove a hard

bargain, and were nearly successful in accomplishing the purpose for which that bargain was made.

Mr. Cowden was under examination, and I will read as follows:

"Question. Mr. Cannon has testified that the interview you and he had with Mr. Barr at your house was, he thinks, the Sunday before the election. Does that agree with your recollection?"

"Answer. I should think it was longer. I should think a week before the election; still I cannot say."

"Question. That was the interview at which you agreed to give Mr. Barr \$2,000?"

"Answer. It must have been."

"Question. The election was on Tuesday, the 8th?"

"Answer. I paid him on the seventh; then very likely it was the day before, on Sunday."

"Question. Now, did Mr. Barr come to your house on Sunday by appointment?"

"Answer. I am not quite sure that he did not come to my house three times; he called at the door once; he came once by appointment, and once not; I asked him to come; I said, 'Let me see you again.' He came to my door one evening for the purpose of inducing Mr. Dodge's friends to induce him to withdraw on the ground that it was a democratic district, and that he (Barr) could be elected; then I said, 'I have got some friends here to-night, and if you can, come and see me when we can talk about it.' I did not like to throw cold water upon him at once; he came to see me at my request; I think he came three times."

"Question. Now, I recur again to my former question, which you did not answer, whether the meeting at your house the Sunday before the election was by appointment?"

"Answer. It is very difficult to say whether it was or not; I know I told him that I was generally at home in the evening, when he came the first time, and that I should be glad to see him at any time. I cannot tell you whether I asked him to come that Sunday or not; but I know I told him if he had anything particular to say, he would almost always find me at home in the evening."

"Question. Before he came there that Sunday evening, did you mention to Mr. Cannon that Mr. Barr was to be there?"

"Answer. It appears to me I did; that I thought he would be there."

"Question. Then it must have been by appointment that Mr. Barr came there?"

"Answer. It was by appointment, so far as Mr. Cannon was concerned, I think; I met him almost every day, and he saw something of Mr. Barr almost as often as I did."

There is the fact of the establishment of a bargain made on the Sabbath day, the "Lord's day," as they call it in New England; a bargain driven with the Democratic candidate to keep in the field for \$2,000; a bargain made on the Lord's day, and the money paid by a New England man through his friends, he being a professor of religion.

But he says, "I did not make the bargain; I did not drive that bargain." He cuts loose from his friends Cowden and Cannon, and throws them overboard. "I did not make the bargain; sinners they are, I admit, to make bargains on Sunday; I had nothing to do with it; I did not know it until a week or more after the election."

Now, let us see what connection he had with the bargain. We had Mr. Dodge as a witness on the stand. Here is his testimony on this subject:

"Question. When was your last payment to Mr. Cannon on account of the election?"

"Answer. I did not pay anything to Mr. Cannon except on election day."

"Question. How much was that?"

"Answer. Five thousand dollars. He returned me, after election, I think, \$350."

"Question. For what purpose was that?"

"Answer. I don't know; it was some expenses for carriages, for hack-hire; he said he might want it in the course of the day."

"Question. When was your last payment to Mr. Cowden?"

"Answer. I have not the date; but my impression is that it was some three or four weeks after election."

"Question. And the amount?"

"Answer. It was exactly \$2,000."

"Exactly \$2,000!" Exactly the amount agreed upon in this bargain to be paid to keep Mr. Barr in the field.

"Question. Was any statement made at that time for what purpose that \$2,000 was?"

"Answer. He wrote me that he had a bill to pay, and that Mr. Cannon had stated that funds had been put in my hands."

"Question. Do you know whether that \$2,000 was for any special purpose?"

"Answer. I have heard since it was to pay Mr. Barr."

"Question. Did you know that at the time?"

"Answer. I suspected it, but didn't know it."



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Death of Senator Foot—Mr. Banks.

HO. OF REPS.

Well, suppose he did not know it at the time it was paid, but knew it afterward. It was a Sabbath-day's bargain; made upon the Lord's day. When he provided money to pay the bargain, did he not ratify and indorse the bargain? When he and I shall appear before the eternal Ruler of the universe, to give an account of our stewardships on earth, does he expect thus to escape from that injunction of the commandments, "Remember the Sabbath day and keep it holy," by saying, "I had nothing to do with the bargain that Cannon and Cowden made on the Sabbath day; I only paid the money some time after the election; although I paid exactly \$2,000, and suspected what it was wanted for?" Does he suppose that the Almighty Ruler of the universe will elevate him, though a professor of religion, to a higher heaven than that to which I shall attain? Does he expect in his profession of religion to be a better man than I am, who have never made any professions?

The SPEAKER. The gentleman's second hour has expired.

Mr. BROOKS. I am almost through.

Mr. ELDRIDGE. I hope the gentleman will be allowed to proceed, as he says he is nearly done.

Mr. GRINNELL. How long does the gentleman from New York want?

Mr. DAWES. It is for the House to say whether the gentleman's time shall be extended.

Mr. ELDRIDGE. I move that the gentleman's time shall be extended twenty minutes.

There was no objection, and it was ordered accordingly.

Mr. BROOKS. I will not take time to read all of the laws of the States, among them those of New York, against the violation of the Sabbath. Here is the New York law for the rigid observance of the Sabbath:

"There shall be no shooting, hunting, fishing, sporting, horse racing, gaming, frequenting of tippling houses, or any unlawful exercises or pastimes, on the first day of the week; nor shall any person travel on that day, unless in cases of charity or necessity, or in going or returning from some church or place of worship, &c.

"No person shall expose to sale any wares, merchandise, fruits, herbs, goods, or chattels on Sunday, except meats, milk, fish," \* \* \* "and the articles so exposed for sale shall be forfeited," &c.—*Extract from Revised Statutes, note, vol. 1, p. 678.*

The law of New York is rigid, but not so rigid as the laws of Massachusetts; and I call the attention of the honorable gentleman from Massachusetts to the Sabbath law of his own State, and I ask him if he is going to establish the fact that it is right to buy and sell candidates for office on the Sabbath day. If so, and Massachusetts has any of that religion left which her fathers had, he will have an account to settle with her in November or December when he returns home.

## MASSACHUSETTS.

"SEC. 2. Whoever trades on the Lord's day, or entertains any person not traveler, stranger, or lodger, shall be fined.

"SEC. 4. Whoever is present at any game, sport, or public amusement, except a concert of sacred music, upon the evening next preceding the Lord's day," \* \* \* "shall be punished."

"SEC. 11. Any innholder, common victualer," \* \* \* "keeping or suffering to be kept any place or implements such as are used in gaming," \* \* \* "or who on the Lord's day uses or suffers to be used any implements of that kind, shall forfeit \$100 or be imprisoned."

## VERMONT.

"SEC. 1. Forbids all secular employment.

"SEC. 2. If any person shall between twelve o'clock" \* \* \* "be present at any public assembly, except for religious or social service or moral instruction, and shall visit from house to house except it be from motives of humanity or charity, he shall pay a fine.

"SEC. 3. No person shall travel on the Sabbath day, or first day of the week, except for necessity or charity, and every person so offending shall pay a fine.

"SEC. 4. If any person shall after the setting of the sun preceding the first day of the week, until after twelve at night, hold or resort to any ball or dance, or exercise any games, sports, or play, or resort to any tavern, inn, or house of entertainment for amusement or recreation, he shall pay a fine."

Now, Mr. Cowden, the agent of Mr. Dodge,

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"gambled" on the Lord's day, "played," "sporting," in reference to this election, and Mr. Dodge found the money for the play, and the gentleman from Massachusetts, a veteran on the Election Committee, gives his sanction to all that.

The laws of Maine are yet more rigid. All of the laws of the New England States are full of the severest penalties; contracts are vitiated made on the Sabbath, and process cannot be served. Yet here was this man, on the Lord's day, gaming for the contestant in this case, the contestant supplying the money. What preposterous impudence of the contestant to make charges against me, then, of fraud! If I had stood in his position, covered from beginning to end with bribery and money that must have been used for fraud, I would never have entered within the portals of this Chamber.

But, sir, the contestant in this case, while indulging in bribery, so pronounced by the law, and Sabbath breaking, does not hesitate to speak very disparagingly of his constituents in the fifteenth district, eighteenth ward:

"It is a river district," he says, "consisting of vacant lots, tenement houses, and puddles, in the midst of the most degraded population of the city, and is known as Mackerelville."

Sir, there is nothing done so degrading in Mackerelville as this Cannon-Cowden-Dodge bribery on the Sabbath day. And yet the complacent contestant, living on Murray Hill, looks down on Mackerelville with an unutterable contempt.

He reminds me again of my classics, as from his money bags he surveys the laborer below. It is Horace who says:

"Populus me sibilat, at mihi plaudo  
Ipse domi, simul ac nummos contemtor in arca."

Which may be freely translated, "Let the Mackerelvillers hiss me; I am satisfied with myself on Murray Hill, while I am looking upon the money in my coffers."

And now, Mr. Speaker, I have stated my case, not as well, not perhaps as fully, as I could if time permitted. I ask of gentlemen of all parties nothing but justice. Justice! justice! justice! is what I want. Nothing less, nothing more.

If I am to be thrown out solely because I am not of the party in power, I say to my Democratic associates, "Be content; 'the blood of the martyrs is the seed of the church.'" But I appeal to my Republican associates, with whom I have served so long, for justice; I appeal to the Representatives of my own native State of Maine; I appeal to the Representatives of Massachusetts; I appeal to my colleagues from New York. If the honorable gentleman from Pennsylvania [Mr. STEVENS] is within the sound of my voice—he who is really the Government of this country now—I should not appeal to his mercy; I should hardly dare to crave his justice; but I would ask him what benefit would be gained for his party by the exchange of one species of copperhead for another. [Laughter.] Nothing at all. Nothing will be gained by any such exchange as that. You know what my record is. There it is, written out fair, plump, and honest. You know it all. I am in your hands. Do justice to me. Do to me as you would be done by in a case like this, and such cases will hereafter occur when you are defendants, and others plaintiffs; and above all establish no fearful precedent in election cases. Let it never be said that the majority of this House, by its mere power, disregards justice and truth at the cry of party, party, the party in temporary power. You have nothing to gain by such a proceeding. If you send me back to New York you increase the majority in that city two thousand votes or more in the district I come from. If you drive me out, the people will send me here again, and I beg and implore you not to establish such a precedent as you will establish by turning me out of this Congress and seating my contestant.

[Here the hammer fell.]

## Death of Senator Foot.

## REMARKS OF HON. N. P. BANKS,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

April 12, 1866,

On the character and public services of Hon. SOLOMON FOOT, late a Senator from the State of Vermont.

Mr. BANKS. The high respect entertained by the people of Massachusetts for the honored Senator whose death has been announced by the Senate renders it proper that in this House, as in that of which he was a member, some tribute should be paid in their name to his memory. It devolves upon me, in behalf of my colleagues and the people we in part represent, to discharge this duty.

The State of Vermont acquired its territory from New York, but its early population was chiefly from New England. There has ever been between them and the people of Massachusetts an attachment that is due to common interests and origin. The anniversaries she cherishes are celebrated by us in connection with her sons with the same spirit we give to those of the Pilgrim fathers. In common with other States of the Union we mourn this inscrutable dispensation of Providence that has deprived a patriotic sister State of two sons so distinguished, so honored, so trusted, and so worthy, whose death she has been called to mourn.

There is but one feeling, one manifestation. It is that of deepest public regret. Families sorrow for the affliction of bereaved families, citizens lament the loss of statesmen and counselors in whose experience and patriotism they were accustomed to confide, and the State sympathizes with her sister State bereft thus suddenly of her most trusted servants and brightest ornaments.

It is but a short time since we were summoned to pay the last solemn honors to the memory of the Senator of Vermont, senior by years if not in service. We are now called upon to render a fraternal and public acknowledgment of the high honors due to the memory of her remaining Senator.

There are few characters in American history more complete and perfect than that of Senator Foot, or whose service has been more varied, satisfactory, and important.

The public life of the late Senator, it is true, was identified with the Senate of the United States. Yet he had faithfully discharged the minor but not less important duties of local and neighborhood government which are so essential to the maintenance of our institutions and so closely identified with the destinies of the nation. He had been student, teacher, professor, town officer, representative, speaker, attorney of the people, constitutional legislator, and for a brief period, limited by his own choice, a member of this body. He had studied the science of medicine and of law, the logic and passion of popular assemblies, and in the course of his long and useful career served his native State in every public capacity except that of the executive or judicial administration of law. He had given much time to public service in those assemblies and associations of the people which are unrecognized by statute law, but which are of such paramount importance to good government. Knowing him as we do, we can well appreciate how much he contributed, by his benign influence, in these unostentatious labors, to the prosperity and stability of the State he loved so well. Such services are the foundations of the State. They make forms of government practicable here which are impossible elsewhere. They are the basis of American liberty. It is in such duties that the people learn to support and legislators to direct public administration. We cannot over-estimate their importance when performed by men of eminent

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## Death of Senator Foot—Mr. Banks.

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capacity or station, and we ought not to withhold from public servants the honor due to those who faithfully discharge them.

It was not until Senator Foot appeared in the Senate that his reputation became national and his character fitly appreciated by the millions that now mourn his death. It is not distinction that they lament. It is the loss of valued service. The reputation still exists. With the lapse of years it brightens, but the capacity for public service, now, alas! more than ever needed, is gone forever.

He entered the Senate in 1851. That memorable year ushered in the most eventful period of our national career. Congressional history divides itself into three periods. The first is that of the immortal Washington. It closed with the Administration of the second Adams. Every President, with this exception, and nearly every public man, had been numbered with the founders of States, the heroes of the war, or the fathers of the Constitution. It was the revolutionary era.

The election of General Jackson brought into operation new principles of action and new elements of power. The West, then limited, with the exception of Louisiana and Missouri, to the States east of the Mississippi, first asserted its power and assumed to shape the policy of the country in contradistinction to that of the Atlantic States, North and South. Its mission was the development of the continent and the maintenance and perpetuity of the Union of States. Secession and nullification were the enemies it first encountered. The intellect of Webster dissipated the metaphysical sophistries of secession, and the mailed arm of Jackson struck down at one terrible blow the hydra, nullification. Although presented under ordinary forms of legislation, it is now too apparent that the leading object of a portion of the people during the latter part of this period was the extension and perpetuation of slavery, or, failing in that, the destruction of the Government. This struggle culminated in the measures of settlement in 1850.

It was in the succeeding year, at the very opening of the new age, that the Senator we honor entered the Senate. The old parliamentary leaders were passing away. A few of the veterans still battled for a year or two, and then all were gone. New men had risen! Old principles were to be affirmed with new zeal. The great States of New York and Ohio had broken the lines of ancient parties by unexpected and thorough revolutions in public sentiment, and sent to the Senate the present Secretary of State and the Chief Justice of the Supreme Court. Massachusetts suffered a still more surprising revolution in political opinion, and was represented in the Senate by the senior member of her present delegation. Other States exhibited equally radical changes.

The South, though suffering no revolution in opinion, had gained in unity of purpose and intensity of spirit what it had lost in authority or talent by the change of leaders. It was too soon apparent that the bleeding wounds of the country, though assuaged, were not healed. Power had not won the prize for which it struggled, and concession had not secured the peace it coveted. Contests occurred in different parts of the country upon the execution of the measures of settlement. The compromise of 1820 was abrogated. Lurid flames of domestic violence and civil war appeared in the distant Territory of Kansas. The presidential contest of 1856 first disclosed the organization of sectional parties. States threatened secession. The flag of the country was fired upon by domestic enemies. Open rebellion ensued; and the most desolating and terrible war of all history was followed by the surrender of the enemy, the cessation of hostilities, the dissolution of armies, and apparent peace. Neither the place nor occasion offers fitting opportunity for the discussion of these great events.

The new Senator from Vermont was called

upon to grapple with the first and each rapidly succeeding fact in the history of the unparalleled treason. Resistance to the purpose of the enemy and the organization of measures and forces for the preservation of the country opened to him a theater that might have satisfied the highest ambition and the noblest patriotism. Never greater constancy, never higher wisdom, was demanded of man. In all this history the deceased Senator, unshrinking, unselfish, and equal to the occasion, bore well his part.

It is enough for us to say, turning down here the leaf of history upon his career, that none of his august associates, either of the earlier or later part of this great period, were more worthy of the high office he bore. It is not now in this presence undue praise to say that in the review of sixteen years of memorable senatorial service, amid complications and perils unprecedented in our annals, he has left nothing in word or deed that we can wish to blot from his dying record. He satisfied the country he served. He strengthened the cause he honored with his support. His labors were attended with constantly increasing success, and his life, rounded to its full period, closed with the respect of adversaries, the confidence of constituents, the affection of friends, and the admiration of the world.

It would be unjust to claim for him in any especial degree those brilliant qualities of mind or manner which, in the judgment of some persons, constitute the grace and charm of parliamentary life. It was his apparent choice, the approval rather than the applause of listening Senates to command.

All nations have regarded with pride the master-pieces of rhetoric and passion as well as of massive reason and diction which the world calls eloquence. Our countrymen, perhaps, carry this reverence to excess. It is not by any means the highest attainment of statesmen, and often is found unaccompanied by any quality of mind or heart which qualifies men for affairs of government. Speech-making is scarcely a high art. It is, rather, what Dr. Johnson calls it, a knack. It is not comparable in real importance with the power of conversation or of debate in its true sense, still less with capacity for administration. Exuberance, and even extravagance of speech, however, are the counterpart and accompaniment of liberty. A vice in individuals it may be, but it is the image of virtue in an age. Yet it is not in itself power, nor the accompaniment of power. Power exists in integrity and truth. Rhetoric sustains as well the apparent as the real cause. Great rulers have been almost invariably silent, thoughtful men. If it were well to gild refined gold or paint the lily we might add to the majesty of great actions the affluence and ornament of exuberant and eloquent diction.

But the Senator we mourn never failed in strong logic, convincing illustration, or intense reason, when it was required to satisfy the Senate of the justice of his convictions or the wisdom of his principles. Speech in him rather served to sustain than command the judgment. He had other avenues to the human heart than those of imagination or persuasion. He silenced adversaries and sustained friends by more effective though less brilliant appeals. He depended for success upon more enduring and nobler qualities. Firmness of purpose, fullness of experience and information, integrity of principle, constancy to duty, purity of character, serenity of mind, correct judgment, unflinching courage, and unceasing and honest labor, were the weapons with which he won his conquests or turned or struck a blow. In him spoke an earnest, intelligent mind, and the illustrious Commonwealth he represented. Individual capacity and representative integrity gave him authority and won for him the unfading honors which will forever rest upon his name.

We recur with unalloyed pleasure upon this sad occasion to the principles which adorned

the life of the departed statesman. Love of man and love of country illustrated every act of his public career. It is scarcely possible that it should have been otherwise in private life. "For when was public virtue to be found where private was not?" No trace of selfish aspiration, of unmanly detraction, or sordid jealousy tarnished his official course. I do not know in this hurried estimate of character what in him was wanting that is necessary to the formation of a pure, patriotic, Christian character. His life is proof that success in public service is not inconsistent with strict integrity, and that advancement does not always wait on dissimulation and corruption.

The manly simplicity which distinguished him ought not in this age of ostentatious and effeminate luxury to pass unnoticed. It was neither complaisance nor austerity. His manner was unchanged, whether in the Executive Chamber, the Senate, the committee-room, or the social circle. He would have been the same to peer and peasant. The ripe age to which he lived, his unimpaired energies, his genial and generous temperament, his elastic step, and the jocund health so constantly beaming in his open manly countenance, all attest the purity of his habits of mind and body. They were those of the people he represented. He could cheerfully have shared with them in their mountain home—

"A Roman meal,  
Such as the mistress of the world found  
Delicious, when her patriots of high note,  
Perhaps by moonlight, at their humble doors,  
And under an old oak's domestic shade,  
Enjoyed, spare feast! a radish and an egg!"

It would be the unanimous judgment of men that such capacity and experience ought to be spared for the direction of the generations that succeed each other. But the law of Providence is otherwise. One existence cannot span two lives. It is a consolation to know that the Senator we mourn lived the time allotted to man, and that he died full of years and of honors. His career is perhaps not yet ended. He who spoke the universe into existence, who said, "Let there be light and there was light," who created man in His own image, and gave him dominion over the earth, may have called him to another sphere for higher duties. We may have yet the benefit of his love if not of his care. It is but a step from one life to another, which all alike must follow, from the least unto the greatest, until we are one with God!

Happy it will be for us if in sharing the common lot we close a career as long, as useful, as honorable, as pure as his whose loss we mourn. The great struggle which opened and closed with his career was finished. He had assisted in removing from the escutcheon of his country the foul stain that tarnished its luster. He had fought the fight and kept the faith. His name was honored among men. He had received the highest honors of his State, and of the Senate to which he belonged. He had completed his work. Surrounded by family and friends, he reviewed his life and settled his accounts with man. He took his last farewell of those nearest and dearest to him. He made peace with God. He was conscious his end had come. He caught even from this side glimpses of the blissful mansions above. He asked not delay. What restrains the flight of that immortal spirit? He has one thought, one last thought more. It is for his country. He is lifted from the couch of death that his eyes may again rest upon its Capitol. The massive columns, the extended wings, the sculptured emblems of its progress and power, the rising roof, the majestic dome, the goddess of Liberty surmounting all, and pointing the way he was to follow, gave him the last taste of earthly pleasure! It is the palace of the people, the symbol of Union, the temple of liberty! and with this vision photographed upon his immortal spirit he passed from earth to God! May his translation be to us instruction and example!

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Northern Pacific Railroad—Mr. Woodbridge.

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## Northern Pacific Railroad.

REMARKS OF HON. F. E. WOODBRIDGE,  
OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

April 25, 1866.

The House having under consideration the bill to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes—

Mr. WOODBRIDGE said:

Mr. SPEAKER: Before entering upon the discussion of the subject, I will answer the inquiry of the gentleman from Ohio, [Mr. SHELLABARGER.]

The charter for the Northern Pacific railroad was granted in 1864.

An organization was made in accordance with the terms of the grant, a board of directors was elected, and a great effort made to obtain subscriptions for the stock.

The charter provided that fifty miles of the road should be completed within three years. Two years have elapsed and substantially nothing has been accomplished. The project of uniting the Atlantic and Pacific oceans by means of a railroad through the British possessions attracted the attention of English statesmen and capitalists years ago, and it was said that the trade of England in the Pacific ocean with China and with India must ultimately be carried through her North American possessions, that her political and commercial supremacy would depart from her if she neglected that great and important consideration, and failed to carry out to its fullest extent the physical advantages which the country offered and which she had only to stretch out her hands to take advantage of.

In 1858 a party of royal engineers surveyed a route to Puget sound lying wholly within the British possessions, and found, after leaving the base of the mountains, the snow insurmountable.

In 1865 a book was published in England by Thomas Rawlings giving the result of his observations, in which he strongly urges the necessity of a road from the Atlantic to the Pacific, in extension of the great line now traversing the upper and lower Provinces of Canada. The book excited great attention, and reawakened the English people to the importance of the enterprise.

The managers of the Northern Pacific railroad, not having been able to secure subscriptions to the stock of the company, and hence not being able to comply with the conditions of the charter—having expended over one hundred thousand dollars in explorations, &c.—were unable to command capital enough to proceed with so large an enterprise.

The managers of the Grand Trunk road had made them a favorable proposition, which, if accepted, would place the franchise in the hands of English capitalists and secure to foreigners the monopoly of the carrying trade between China and Europe across our continent, and for a large portion of the distance through foreign territory.

Pending these negotiations the attention of gentlemen of New England was called to the fact that there was danger of this valuable franchise passing into the control of a powerful foreign corporation, and with the acumen and patriotism which is the inheritance of Yankees they saw the national importance of preventing such a result. The subject was brought to the notice of capitalists in Boston and other cities, and upon examination of the affairs of the company they agreed to embark in it, provided persons of experience in railroad business could be placed in charge of it. This was assented to by the original board of directors, and the gentlemen composing the present board were appointed and assumed all the legal liabilities of the company. They did not

pay one dollar bonus, nor have the old board received one cent as a speculation.

They have performed every part of the contract which has matured, and will honestly perform it in accordance with its very letter.

Such is my answer to the inquiry of my friend from Ohio [Mr. SHELLABARGER] as to how the gentleman now interested came into control of the franchise, and under what contract, and their compliance therewith.

Now, sir, I will attempt to answer some of the inquiries of the gentleman from Illinois, [Mr. WENTWORTH.] I listened to his speech with both interest and astonishment. It is an easy thing, sir, to cry "There is a lion in the street" and scare women and children. It is easier by declamation to excite the prejudices, passions, and fears of men than it is by argument to convince their reason.

The gentleman, with his peculiar earnestness and force, exclaims, "Who are these men?" "Let me see them." "Show me their organization and by-laws." "Don't let my constituents be robbed." "Don't get me in a false position."

Why, sir, one would think, from the gentleman's apparent earnestness and indignation, that he really supposed there was bribery and corruption in this measure. I will give the gentleman the names of the present directors of the corporation.

First, its president is John Gregory Smith, of Vermont, a former Governor of my State, with whom I have been quite intimately acquainted for many years and who I am willing to indorse. He is not a plunderer or thief, but a sterling business man, and one of the successful railroad managers of New England.

Mr. WENTWORTH. Will the gentleman lay it on the table officially so that I may know it officially?

Mr. WOODBRIDGE. I have no objection to giving the names, and I will indorse the names which I give.

Mr. WENTWORTH. What knowledge have we that they are the men?

Mr. WOODBRIDGE. We have the knowledge which arises from the faith which one man puts in another. Such is all the knowledge I desire. I do not believe that gentlemen from my own State tell me what they know to be false; and when Mr. Smith or Mr. Stearns give me the names of their associates I believe them. I cannot put them on their oath, nor would I if I could, for their word is as good as their oath.

Mr. WENTWORTH. Have they made any official communication to this Congress?

Mr. WOODBRIDGE. I presume not. I am not aware that any railroad company asking aid from Congress makes the prayer officially.

Mr. WENTWORTH. Are the names in the bill?

Mr. WOODBRIDGE. There are no names in this bill. None are required. The bill is based on that of 1864.

Mr. WENTWORTH. That had another set of names.

Mr. WOODBRIDGE. The gentleman ought to have read the bill. There are no names in it.

Mr. WENTWORTH. None in the last? In the first there was the name of General Grant, and the name of General Frémont also.

Mr. WOODBRIDGE. The next director is Mr. Stearns, of New Hampshire, a railroad manager, known to all the delegation from his State, and they will indorse him as an honorable and successful business man.

Next on the list is George Stark, president of the Lowell railroad, one of the many roads which traverse the glorious old Bay State, and add to her material prosperity.

Next is Hon. Mr. Rice, of Maine, president of one of the railroads in that State, and a former judge of her supreme court.

Next is B. P. Cheney, well known as one of the partners of Wells & Fargo's Express Com-

pany, one of the most successful companies in the United States.

Next come Mr. Edward S. Tobey, ex-president of the Board of Trade, and Mr. James C. Converse, and Mr. George Richardson, of Boston, eminent and honorable merchants, and if the gentleman from Illinois desires it, my friend from Massachusetts [Mr. HOOPER] will indorse them all. Such, sir, are the men asking for the passage of this bill.

Mr. WENTWORTH. Where is the charter? Let us see it.

Mr. WOODBRIDGE. I have not the charter, my dear sir.

Mr. WENTWORTH. Who has it?

Mr. CHANLER. I rise to a question of order. I submit that the question of the charter is not before the House for consideration, and also that these gentlemen must address the Chair.

The SPEAKER. The Chair overrules the point of order. The gentleman from Vermont and the gentleman from Illinois have a right to discuss this question.

Mr. CHANLER. But I submit that they must certainly address the Chair.

The SPEAKER. The Chair sustains that point of order; but reference to the charter is clearly in order.

Mr. ELDRIDGE. I understood the Chair to decide yesterday that "brethren of the same family must dwell together in unity." Is not that the rule to-day?

The SPEAKER. That point has not been raised to-day.

Mr. ELDRIDGE. I make that point now.

Mr. RANDALL, of Pennsylvania. I would like to know how it could possibly be enforced on the other side of the House.

The SPEAKER. If the gentleman from Wisconsin makes that point, the Chair can only decide, as he did yesterday, that it is a very good rule. [Laughter.]

Mr. WOODBRIDGE. I will only say that the gentleman from Illinois [Mr. WENTWORTH] and myself will dwell together in unity, as I presume we all shall upon this side of the House.

Mr. Speaker, this is a mere business question; a question of facts and figures. I am quite sure that the gentleman from Iowa, [Mr. PRICE], chairman of the committee, and one of the sternest sentinels over the Treasury, would never have favored the bill and sustained his report with the vigor which he has exhibited unless the subject had undergone his closest scrutiny.

Mr. WENTWORTH. The gentleman speaks of the "report" from the gentlemen from Iowa. I would like very much to see that report, if the gentleman or anybody else can produce it.

Mr. WOODBRIDGE. There is no written report, and of that the gentleman has already been several times informed.

Mr. Speaker, sooner or later this great work must be accomplished. The natural growth of our country and the immense emigration which is now and will continue to pour upon us demand it; and in my opinion it will not be done by our citizens and for the interest of our country without the aid of Government, and I hope to be able to show in the course of my remarks that the passage of the bill will neither deplete our Treasury nor injure our credit at home or abroad.

The question is, shall we pass the bill now or delay it to some future day? Delay is fatal to the grant; for unless fifty miles of the road is completed within one year the charter is forfeited. I know it is said that the charter is not worth protecting; that it is a mere speculation; that the line is so far north, that it is not practicable; that the snow would interrupt the operation of the road for four or five months in the year, if it were built. The fact is that until you reach the Rocky mountains the temperature is about that of Philadelphia, as shown by the isothermal line; and that at the high-



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est point upon the line the mean temperature is about that of Albany. Thus it appears that the road may be run the entire year with less difficulty than it could be in my own State.

I will now consider this bill as a national, commercial, and economical question. For mineral wealth no portion of the earth equals the slopes of the Rocky mountains and thither the great tide of emigration will naturally flow. To make these masses, coming from every quarter of the globe, homogeneous and adapted to our institutions, the fostering care of Government must be extended to them. Cut off from the great commercial centers and the highest civilizations by immense distances and no facilities for communication they will naturally take but little interest in our Government.

It is estimated, sir, that in the year 1900 the United States will have a population of one hundred million souls. What the condition and character of that population shall be is a question of the deepest interest, and may well engage the thoughtful attention of both statesmen and philanthropists. Our immense emigration from the Old World is from the poorer and industrial classes. After arriving upon our shores they ordinarily have but little left, and are mainly dependent upon their own industry. To make them healthful elements in society they must become producers instead of consumers. To enable them to become producers they must be provided with lands at cheap rates. Now, sir, this railroad runs through a productive country of an area sufficient to make twelve or fourteen States as large as Pennsylvania. By granting the aid asked for in the bill, in a few years this territory will be opened up and be within reach of the industrious emigrant. That which is now undeveloped and worthless will become occupied and valuable. The lands now entirely without value will become a source of large revenue to the Government.

Again, Mr. Speaker, let us consider this question in a commercial point of view. The strength of a nation, next to the intelligence of its people and the purity of its ballot-box, is in its commercial power. What will be the effect of this route, connecting the Atlantic and Pacific oceans, upon the commercial interests of the country? The terminus of the route upon the Pacific will be within four thousand miles of China and India. England will be within thirty-six days of Hong Kong, and New York within twenty-seven.

The tea and silk and coffee and spices of the East for ourselves and for the largest portion of Europe will be transported over this line. In a word, this country will become the carriers of the vast trade between Europe and the East.

The measure also commends itself in a military point of view. The distance between the point where this route strikes the Pacific and San Francisco is about one thousand miles. In case of war all military supplies must be transported along the coast, as well as all the military forces, exposed to destruction from the vessels of the enemy. With this road in operation men and supplies could be transported from the Atlantic sea-board within one week and in perfect safety. Again, the route runs near the boundary line between our country and the British possessions, thus affording the greatest facilities and protection in case of a future difficulty with England.

Mr. Speaker, I will now for a moment consider the question as an economical measure; and first, it will be the means of bringing into market a vast amount of land, which must necessarily remain unoccupied until by means of a railroad it becomes accessible. The lands, now valueless to the Government, will be taken, and by means thereof a revenue returned far exceeding any amount of interest which, under any circumstances, can be called for.

Again, Mr. Speaker, it appears from a communication of General Meigs that during the

fiscal year ending June 30, 1865, the cost of transporting military stores across the plains was \$6,388,856 37. In my judgment, if this road was in operation, Government itself during the last year would have saved in transportation more than the interest on \$57,000,000, being the maximum sum upon which, under any circumstances, the interest is to be guaranteed.

Again, sir, it is estimated by General Sherman that one hundred thousand men will cross the plains this year. Montana has probably now a population of thirty thousand, and by estimation her population will double the coming year. As the population of the mining regions extends and increases an increase of military force for their protection is demanded, and hence the expense of transportation to the Government will enlarge year after year. Hence I believe that as a national, commercial, and economical measure the bill commends itself to our favorable consideration.

Now, sir, have we any precedents to rely upon? When the Central Pacific charter was granted Congress made large donations of land, and loaned the bonds of the Government to something over thirty thousand dollars per mile, taking the first security on the road. At the last session of Congress the corporation asked Congress to permit them to issue their own bonds to an amount equal to those to be advanced by the Government and make them a prior lien to the Government advances. Their prayer was granted, and in addition thereto there was a further grant of lands, and although it was then said that such legislation would bankrupt our Treasury and greatly injure our public credit, the result has proved otherwise.

This bill provides that Government shall for twenty years guaranty the interest at six per cent. on about fifty-seven million dollars, being about half the estimated cost of the road. As a security to the Government it provides that as the lands lying upon the south side of the road are sold the avails shall be paid into the Treasury of the United States in liquidation of the interest advanced. It further provides that as soon as twenty-five miles of the road is put in operation twenty-five per cent. of the gross receipts shall also be paid into the Treasury for the same purpose. I have estimated that at the end of the year 1867 fifty miles of the road will be completed. Government would then be obliged to pay \$96,000. In 1868 one hundred and fifty miles will be built, and Government be obliged to pay \$288,000. In 1869 three hundred and fifty miles will be built, and Government be obliged to pay \$672,000. In 1870 the entire distance finished will be five hundred and fifty miles, and Government be obliged to pay \$1,056,000; so that at the end of the year 1870 Government would pay in all \$2,112,000. At that time five hundred and fifty miles of the road will be in operation, which will have cost the company \$17,600,000. Vast amounts of land will be sold and occupied, and Government be receiving twenty-five per cent. of the gross receipts of the road and the proceeds of the sale of all the lands lying upon its south side. If the above estimates are even approximately correct, and the figures of my friend from Iowa [Mr. PRICE] are true, then at that time, and for the remaining sixteen years, Government will be receiving from the company amounts fully equal to the guaranteed interest.

Mr. Speaker, the future of our glorious country justifies this legislation. Its progress, if we are true to ourselves, can hardly be estimated. By locking the Pacific to the Atlantic the Orient will be brought to our doors, America will be the highway of the nations, and "New York the banking-house of the world."

In the language of an eloquent writer—

"This is the age of the people. They are the sovereigns of the future. It is the age of ideas. The people of America stand on the threshold of a new

era. We are to come in contact with a people numbering nearly half the population of the globe, claiming a nationality dating back to the time of Moses. A hundred thousand Chinese are in California and Oregon, and every ship sailing into the harbor of San Francisco brings its load of emigrants from Asia. What is to be the effect of this contact with the Orient upon our civilization? What the result of this pouring in of emigrants from every country of the world, of all languages, manners, customs, nationalities, and religions? Can they be assimilated into a homogeneous mass? These are grave questions, demanding the earnest and careful consideration of every Christian, philanthropist, and patriot. We have fought for existence, and have a name among the nations. But we have still the nation to save. Railroads, telegraphs, steamships, printing-presses, schools, platforms, and pulpits are the agents of modern civilization. Through them we are to secure unity, strength, and national life. Securing these, Asia may send over her millions of idol-worshippers without detriment to ourselves. With these, America is to give life to the long-slumbering Orient.

"So onward toward the setting sun the course of empire takes its way, not the empire of despotism, but of life, liberty, of civilization, and the Christian religion."

### Niagara Falls Ship-Canal.

### SPEECH OF HON. J. M. HUMPHREY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

April 24 and May 1, 1866.

The House having under consideration the bill providing for a ship-canal around the falls of Niagara—

MR. J. M. HUMPHREY said:

MR. SPEAKER: The propositions presented in this bill are undoubtedly of very great importance to all sections of the country, and should receive unquestionably the careful, the thorough, and the dispassionate consideration of every Representative in this House. This is in my judgment particularly necessary, for the reason that during the last ten years there has been disseminated through the country, both East and West, a mistaken idea in relation to the importance of this work, in relation to the practical benefits to be derived from it to the commerce of the country. Mr. Speaker, this bill, in my judgment, is an attempt, through this misapprehension which prevails throughout the country as to the real merits of the measure, to obtain from the Federal Government six or eight million dollars to put in the hands of a company for the purpose of building a canal, where private enterprise for the last thirty years has been engaged in building public works, and has utterly neglected this.

I say, therefore, this is a scheme on the part of men, not any gentlemen in this House, but on the part of men who are endeavoring, under false pretenses, to procure corporate rights and to have those corporate rights accompanied by a donation from the Federal Government of \$6,000,000. If this be so, then I submit we should look to it well that no such result shall follow or be indorsed by our legislation.

The bill comes here with a preamble, which I ask the Clerk to read.

The Clerk read as follows:

Whereas the exposed and unprotected condition of our extended northern frontier demands that immediate provisions be made by the Government for its defense; and whereas the construction of a ship-canal around the falls of Niagara, to connect the navigable waters of Lakes Erie and Ontario, of sufficient dimensions for the passage of gunboats and vessels of war, will afford great protection as a military work, in case of invasion or war with a foreign Power, to the large cities upon and the commerce of the northern lakes, and will be of vast importance to the United States in facilitating and increasing the commerce between the States, is national in its character, and should be constructed and controlled by the Government of the United States.

MR. J. M. HUMPHREY. Mr. Speaker, I would like to know how a bill that has two objects only, one military and the other commercial, should have come into this House without having been referred to the Military Committee or to the Committee on Commerce. I submit whether, from the circumstances, there is not something behind or back of this bill than what appears on its face.

Again, Mr. Speaker, talk about this bill as a

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military necessity while the whole power of the Government is engaged to prevent the Fenians from invading the Province of Canada. Yet we are asked to engage in an enterprise to build a canal to cost six millions under the pretense of a military necessity. Should the time ever come, as I believe and hope it never will, when there shall be a war between this Government and England, this Government will need no ship-canal as a means of defense. In less time than we shall require to fully discuss this bill there will be organized men enough on the Canadian border who will take possession of the canals and territory of Canada adjoining our lakes and rivers. It is a perfect absurdity to talk about this as a military necessity.

It has been well said by the gentleman who preceded me that by treaty between our Government and Great Britain we can have but one vessel on Lake Ontario and two upon the upper lakes. How, then, will we be benefited, unless that treaty be abrogated, by opening a communication between Lake Ontario and Lake Erie? Shall we be able to get any vessels from the sea-board in time of war through five hundred miles of the Gulf and river St. Lawrence in the territory of the enemy? I tell you, so far as the proposition of military necessity is concerned, it is one of those devices which designing men, who understand well how to appeal to the patriotism of our people just at this time, have resorted to in order to cover up and hide the real design they have, which is, to get a large donation of money from the Federal Government for their own private benefit. I appreciate as well as any member of this body the great importance of the commerce of this country, and I was sorry to hear the honorable member from Ohio [Mr. SPALDING] speak in terms that seem to me to be disrespectful to the people of the State of New York, which I have the honor in part to represent. He intimated that the people of the State of New York did not comprehend the magnitude of the commerce of the West. I want to ask that gentleman if he is aware that there is more vessels with a greater tonnage enters and departs from the port of Buffalo in one day than goes in and out of his beautiful city of Cleveland in a whole season. And yet the people of the State of New York are charged with not having due appreciation of the commerce of the West.

Why, Mr. Speaker, upon the question of western commerce, and the means that should be taken for the purpose of promoting it, no State has a record equal to that of the Empire State. As early as 1817, inspired by the foresight and sagacity of one of the noblest men that ever lived in this country, De Witt Clinton, New York engaged in the enterprise of constructing the Erie canal, a work the design and purpose of which was to connect the waters of the ocean with the waters of the great inland lakes of this country. Within five years after that design was conceived the work was entered upon by the State authority, and in about seven years it was carried to a successful termination.

At that time the beautiful cities of the West existed only in imagination. But the statesman of New York saw that all that was necessary to build up an empire there was to open this communication.

What other State has done any such thing? Did the Federal Government do any such thing?

At an expenditure of about ten million dollars that canal was constructed. Since its construction it has been enlarged until the State has expended more than \$100,000,000 to furnish an adequate avenue by which the commerce of the West may seek the markets of the East.

And yet we are told that the people of that State have but a very feeble apprehension of the importance of the great West. Why, Mr.

Speaker, in addition to this, the State of New York has chartered and its capitalists and enterprising men have built two railroad lines running the entire length of the State from east to west, and on these works a hundred more million dollars have been expended, and all this for the simple purpose of opening avenues for the commerce of the great and growing West.

I submit that when we take these facts into consideration, and when we take another fact also into consideration, and that is, that the capitalists of the State of New York own today more than three fourths of the whole commercial marine upon the western lakes, and that it furnishes seventy-five dollars out of every one hundred dollars that is used for the purpose of paying for and transporting the grain from the West to the markets of the East—I say when we consider these facts, no intelligent man will undertake to say that the people of the State of New York do not comprehend the magnitude of this commerce or neglect to furnish the means of transportation to market.

Thus much in vindication of the State of New York and its people.

Mr. Speaker, this bill involves a proposition to which I call the candid and grave attention of this House—a proposition by which the Federal Government proposes to override the sovereignty of the States in the protection of their own domain and their own people. This bill proposes that the Federal Government shall go into the State of New York, and without the consent of the State take possession of the soil, assert the right of eminent domain and build a canal around the falls of Niagara. If this can be done, I undertake to say that as far as the States of this Union are concerned they have surrendered and lost almost the entire power that they once possessed under and by virtue of the Constitution. If the Federal Government may go into the State of New York and say it is a military and a commercial necessity that this should be done, what is to prevent it from building another canal through the length of the State, and imposing such tolls, or none at all, as it may see fit? Or what is to prevent the Federal Government from constructing another railroad along the line of the present railroad through the State? And what the Federal Government may do in the State of New York it may do in every State of this Union.

Mr. Speaker, if we examine the legislation of the Federal Government in the past, I undertake to say that we cannot find a single instance where any such power as this has been asserted and acted upon. The very charter of one of these Pacific railroads—I have not examined them all—provides that where it shall pass over the unsettled lands of the Federal Government, it shall have a right of way, but it also provides that where it passes through a State—Minnesota, for instance—it shall do so only with the consent of that State; thus recognizing the right of a State to protect in full its own soil and to protect its own citizens. I ask gentlemen here who are ready and willing to look into this question to say whether this be not right. This bill proposes that the Federal Government shall enter the State and take possession of so much of its territory and the property of its citizens as may be necessary to build this work, and then to transfer the property and rights thus acquired to a corporation. It not only does this, but there is a section in this bill which authorizes that corporation to make its own laws and regulations independent of the State authorities, so that it will leave the corporation which is to build this canal in the position of being a little government of itself within the limits and jurisdiction of the State of New York, and at the same time independent of its laws and authority.

Mr. MOULTON. Do I understand the gen-

tleman to lay down the doctrine that this Government under the Constitution has not the right to take private property for the purpose of building post or military roads?

Mr. J. M. HUMPHREY. Unquestionably the Federal Government has the power for military purposes to take possession of anything, but now no such military necessity can be claimed to exist; the military necessity has ceased, and as soon as it has ceased then the Federal Government cannot take property; neither can it, after having taken it, assign it to a corporation, and invest in it this power.

Mr. MOULTON. Let me ask another question.

Mr. J. M. HUMPHREY. I have but very little time, and I prefer not to be interrupted. The Federal Government has given both lands and money in aid of works of internal improvement, but in all those cases the donation was in aid of either the State government or some corporation created by the State or Federal Government, but in no case has the Federal Government assumed the power by its own officers or agents to enter and occupy the territory of the State without its consent for any such purpose as contemplated in this bill.

Upon this question of constitutional power I desire to call the attention of the House for a moment to the fact that when the Convention that framed the Constitution was in session, this very question arose as to the power of the Federal Government to construct canals and engage in works of internal improvement in the States, and to what took place in that Convention. I read from Madison Papers, third volume, page 1576:

"Dr. FRANKLIN moved to add after the words 'post roads,' article one, section eight, 'a power to provide for cutting canals where deemed necessary.'

"Mr. WILSON seconded the motion.

"Mr. SHERMAN objected. The expense in such cases will fall on the United States, and the benefit accrue to the places where the canals may be cut.

"Mr. WILSON. Instead of being an expense to the United States they may be made a source of revenue.

"Mr. MADISON suggested an enlargement of the motion into a power to grant charters of incorporation where the interests of the United States might require and the legislative provisions of individual States may be incompetent." His primary object was, however, to secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones, as far as possible, ought to follow.

"Mr. RANDOLPH seconded the proposition.

"Mr. KING thought the power unnecessary.

"Mr. WILSON. It is necessary to prevent a State from obstructing the general welfare.

"Mr. KING. The States will be prejudiced and divided into parties by it. In Philadelphia and New York it will be referred to the establishment of a bank, which has been a subject of contention in those cities. In other places it will be referred to mercantile monopolies.

"Mr. WILSON mentioned the importance of facilitating by canals the communication with the western settlements. As to banks, he did not think with Mr. King that the power in that point of view would incite the prejudices and parties apprehended. As to mercantile monopolies, they are already included in the power to regulate trade.

"Colonel MASON was for limiting the power to the single case of canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution as supposed by Mr. Wilson.

"The motion being so modified as to admit a distinct question, specifying and limited to the case of canals,

"Pennsylvania, Virginia, Georgia, ye—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, no—8.

"The other part fell, of course, as including the power rejected."

This is what was said, and this is the action of the Convention that framed this very Constitution in which latitudinarian constructionists are seeking to find the power to go into the States and throw overboard the guarantees of that instrument, and to assume powers, which, if they be successfully asserted and put into execution, will render the whole system of internal improvements or of incorporations for that purpose by the States valueless. The incorporation of companies by State governments to construct railroads and canals would be a

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waste of paper; no individuals could be found to invest money upon the strength of such legislation.

Again, Mr. Speaker, in the year 1817 this very question was raised. James Madison, then President of the United States, gave his opinion upon the exercise of this power by Congress. I quote his words from his message vetoing the act of Congress entitled "An act to set apart and pledge certain funds for internal improvements."

"Having considered the bill this day presented to me entitled 'An act to set apart and pledge certain funds for internal improvements,' and which sets apart and pledges funds 'for constructing roads and canals and improving the navigation of water-courses, in order to facilitate, promote, and give security to internal commerce among the several States and to render more easy and less expensive the means and provisions for the common defense,' I am constrained by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States, to return it with that objection to the House of Representatives, in which it originated.

"The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution; and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers, or that it falls, by any just interpretation, within the power to make laws necessary and proper for carrying into execution these or other powers vested by the Constitution in the Government of the United States.

"The power to regulate commerce among the several States cannot include a power to construct roads and canals and to improve the navigation of water-courses, in order to facilitate, promote, and secure such a commerce without a latitude of construction departing from the ordinary import of the terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power to Congress.

"To refer the power in question to the clause 'to provide for the common defense and general welfare,' would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation, instead of the defined and limited one hitherto understood to belong to them, the terms 'common defense and general welfare' embracing every object and act within the purview of a legislative trust. It would have the effect of subjecting both the Constitution and laws of the several States in all cases not specifically exempted to be superseded by laws of Congress, it being expressly declared 'that the Constitution of the United States and laws made in pursuance thereof, shall be the supreme law of the land, and the judges of every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.' Such a view of the Constitution, finally, would have the effect of excluding the judicial authority of the United States from its participation in guarding the bounding between the legislative powers of the General and the State governments, inasmuch as questions relating to the general welfare being questions of policy and expediency are unsuceptible of judicial cognizance and decision."

The next year James Monroe, in his first annual message, in speaking of this power used this language:

"When we consider the vast extent of territory within the United States, the great amount and value of its productions, the connection of its parts, and other circumstances on which their prosperity and happiness depend, we cannot fail to entertain a high sense of the advantage to be derived from the facility which may be in the intercourse between them by means of good roads and canals.

"Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them. As this subject was acted on by Congress at the last session, and there may be a disposition to revive it at the present, I have brought it into view for the purpose of communicating my sentiments on a very important circumstance connected with it with that freedom and candor which a regard for the public interest and a proper respect for Congress require. A difference of opinion has existed from the first formation of our Constitution to the present time among our most enlightened and virtuous citizens respecting the right of Congress to establish such a system of improvement. Taking into view the trust with which I am now honored, it would be improper, after what has passed, that this discussion should be revived with an uncertainty of my opinion respecting the right.

"Disregarding early impressions, I have bestowed on the subject all the deliberation which its great importance and a just sense of my duty required, and the result is a settled conviction in my mind that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress; nor can I consider it incident to or a necessary means viewed on the most liberal scale for carrying into effect any of the powers which are specially granted. In communicating this result I cannot resist the ob-

ligation which I feel to suggest to Congress the propriety of recommending to the States the adoption of an amendment to the Constitution which shall give to Congress the right in question."

General Jackson, in his veto of the Maysville road bill, used this language:

"The constitutional power of the Federal Government to construct or promote works of internal improvement presents itself in two points of view: the first, as bearing upon the sovereignty of the States within whose limits their execution is contemplated, if jurisdiction of the territory which they may occupy be claimed as necessary to their preservation and use; the second, as asserting the simple right to appropriate money from the national Treasury in aid of such works, when undertaken by State authority, surrendering the claim of jurisdiction. In the first view, the question of power is an open one, and can be decided without the embarrassments attending the other, arising from the practice of the Government. Although frequently and strenuously attempted, the power, to this extent, has never been exercised by the Government in a single instance. It does not, in my opinion, possess it; and no bill, therefore, which admits it can receive my official sanction."

It is suggested by my friend on the right that it is idle to spend any time in reading to this House either the Constitution or the expositions which has been given to it by those who have gone before us, and who I have always been taught to believe were quite as well acquainted with the proper interpretation of that instrument as we are, and quite as honest in their attempts to give it a correct interpretation; but I have yet faith, and I yet believe that in this Congress, after members shall have an opportunity and shall avail themselves of it, to examine this question, there will be no such thing done as to pass a law in direct violation of the provisions of the Constitution. This much in relation to constitutional power.

I do not deny that the Federal Government has made donations time and time again; and that, under the very last proposition alluded to by General Jackson, they have exercised the power. But I submit that there can be no question as to the unconstitutionality of this bill, in respect to the sovereign power to take the territory and property of a State against its will and without its consent. If this bill should pass, and the honorable gentleman from Ohio has suggested that no member from the West would dare to vote against it, then I hope the constitutional lawyers that represent the West, for many of whom I have the highest regard—for I have sat here for four or five months and listened with great interest to their discussions of constitutional and legal questions; and whether I agree or disagree with them is immaterial, for I concede their ability to judge upon these questions—I hope that they will give this question a careful and candid consideration, notwithstanding it is intimated that there is not a man in the West who dare vote against this bill.

Now, Mr. Speaker, I will leave the further discussion of this important proposition of constitutional power with one further suggestion; and during the time which I may have in another morning hour, I will endeavor to discuss the practical facts in connection with this scheme. Does any man believe that this body will legislate for the benefit of the commerce of the country as well as the States have done? Does anybody believe that we here know as well what is demanded in the State of Illinois as the Legislature of Illinois? Just so it is with New York; just so it is with all the eastern States. I therefore say, leave this question to the States to act upon this matter; leave it to the private enterprise of the individuals who make up the State; those individuals who are full of enterprise, and who do not want to come here to lobby bills through, but who prefer to go to their own States, where the people will understand what they want. I ask again, will not just and honest legislation be promoted by leaving this matter to the States themselves and not assume it for the Federal Government?

[Here the hammer fell, the morning hour having expired.]

TUESDAY, May 1, 1866.

The same subject being taken up again for consideration—

Mr. J. M. HUMPHREY said:

Mr. SPEAKER: The project of connecting the waters of Lakes Erie and Ontario by means of a canal has engaged the attention of commercial men and capitalists for the last sixty years. In the year 1798 a Niagara ship-canal company was incorporated. Since that time three other acts or extensions of the same have been granted by the State of New York, but the scheme could never present sufficient merit to induce capitalists to even invest money enough to pay the cost of organizing a company. In the mean time the State of New York has built and enlarged the Erie and Oswego canals, and private enterprise has built the New York Central and Erie railroads to accommodate the trade that we are now told is pressing for an outlet through this canal. The Canadian government, also, at an early day thought it saw an opportunity to divert the western commerce through its territory, and built the Welland canal, which was completed about 1835. This canal has a capacity for passing boats of five hundred tons burden, double that of the New York canals. The tolls are merely nominal, and during the last five years there has been less business done on it than there was during the first five years after its completion. Private enterprise, aided by the British Government, in the mean time has built the Grand Trunk and the Great Western railroads, at an expense of over one hundred million dollars, and all to accommodate this western trade. A railroad has even been built on the banks of this canal, which now does most of the business formerly done upon it.

Commerce, like water, finds its own level, and is regulated by the law of supply and demand; it must have its general commercial center; and every country has its own commercial center from which the people get their commercial values and make their exchanges, and to which the surplus production of their staples are sent to market. The people of the United States recognize New York as our great commercial center; and although Boston, Philadelphia, Baltimore, New Orleans, Cincinnati, St. Louis, and Chicago, are centers for local values, yet it cannot be denied that New York is the great controlling center of all our commercial values and the place of shipment for our surplus productions. This being the fact, and that the great West is the chief grain-growing basin of the world being also a fact, it becomes a commercial (not military) necessity to transport the surplus productions of the West to the East by the most direct, safe, and cheapest route possible. Is the Niagara ship-canal that route or a necessary link in it? This canal would be of little benefit to through shipments in years when a foreign market is supplied from other sources, as has been the case for the last three years.

The exports from the United States from the 1st of September, 1864, to the 12th of June, 1865, to Great Britain, were only 1,615,083 bushels of wheat, 225,520 bushels of corn, and 97,844 barrels of flour, the percentage being only five of flour, nine and one half of wheat, and two of corn, on what it was in 1861 and 1862 for the same period. Ocean freights have not stood in the way; wheat and corn have been taken in steamships from New York to Liverpool for nothing, and three cents has been an outside figure the most of the season; flour has been taken at sixpence to tenpence per barrel. These figures do not look favorable for a direct route via the St. Lawrence and the Atlantic ocean. If we had a ship-canal given to us we could not have used it for that purpose. New York is the sea-port of this country for grain shipments. At New York we meet the ships of the world and orders for grain, if any, and we there meet the sale for our own country



and the balance of the world; while via the St. Lawrence we come out into open sea and meet icebergs and get a taste of salt water. We find no customers, no destination but Liverpool worth mentioning, and that market overstocked.

It is obvious, therefore, that New York will continue to be what it has ever been, the market for the great bulk of the western produce. And the means of reaching that market becomes the all-important question. And to its consideration I ask the attention of this House while I state some of the statistical facts bearing upon this question; and I take this occasion to say that I am indebted for much statistical information to a most valuable pamphlet published by Dr. Hayes upon this subject. The Erie canal, the Welland and Oswego canals, the New York Central railroad, the Erie railroad, the Baltimore and Ohio railroad, and the Ogdensburg railroad, are the principal avenues through which this commerce must now pass. I shall, however, confine myself mainly to a consideration of the capacity of the Erie canal to accommodate this commerce, omitting entirely any discussion of the capacity of the other routes mentioned, or that still more important fact that with the return of peace the Father of Waters is again opened to the commerce of the West with the people of half a continent as its buyers and consumers.

I expect to be able to show that the Erie canal is not only at present adequate for that purpose, but will continue to be for many years to come, and that it is the cheapest route that is now or can hereafter be opened; that it controls and keeps down to the lowest practicable figure the cost of transportation from the West to the East upon all the other routes.

Buffalo harbor, at the junction of the Erie canal with Lake Erie, is capable of accommodating all the vessels likely to go there for many years. It has a capacity for elevating from vessels into canal-boats, or into store, 2,808,000 bushels of grain per day, and a storage capacity of 5,885,000 bushels. Suppose canal navigation to commence the 1st of May, and to close the 1st of December in each year, we have one hundred and eighty-four working days. When worked to the full capacity, Buffalo alone could transfer from vessels into boats, or into store, 516,672,000 bushels. The most ever received in one year was in 1862, 68,442,344 bushels, leaving a capacity yet unoccupied of over 458,000,000 bushels, showing that only about one tenth of the capacity has ever been used.

But complaint is made of the canals of the State; that they are too small to furnish an outlet for western shipments. Let us see how that account stands. The corrected register of canal-boats, now in the hands of the collector at Buffalo, shows at the present time about 5,160 boats. The returns show that for the local use of the State of New York eleven per cent. of the whole is required; deducting that from the total, leaves 4,592 boats for the through business; allowing thirty days for each trip, and each boat to make seven trips during the season, we have a total of 32,144 trips; allowing each boat to average only 6,000 bushels of all kinds of grain, and there is proved a grain capacity of 192,864,000 bushels. Deduct for the most ever shipped in one season, 58,642,344 bushels, and it shows a grain capacity left unused of over 154,000,000 bushels.

But it may be said that it is unfair to take all the capacity for grain, leaving nothing for such freight as lumber, staves, flour, provisions, &c. Let us see how the year 1864 stands upon the eastward-bound through tonnage. These 4,592 boats, making 32,144 trips, their average tonnage being 141 tons each, give 4,532,304 tons capacity. The total through tonnage for 1864 was 1,907,136 tons, leaving a balance unoccupied of 2,625,168 tons, showing only about one third of the tonnage used. The capacity of the boats now running is far below

the average of what the canal can accommodate. Many of the boats are of the old, small class, while the canal is able to float a much larger class of boats. Those lately built and now building for the through business run from 200 to 250 and 300 tons. It requires no more time or trouble to lock through a boat of 250 tons than one of 50 tons, when the locks are enlarged to admit them into the locks readily. Thus we may fairly claim that the capacity of the canal for through business, with the enlarged locks, is equal to 6,000 boats of 220 tons each. These would move 1,320,000 tons each trip, and for the season of canal navigation could move 9,240,000 tons. The total through business of 1864 was but a trifle over one fifth of the canal facilities with the enlarged locks. There may be a few days in the fall of the year when the canal appears to be overtaxed, but if any one is able to build boats to run for those few days, and let them lie idle for the balance of the season, no one is disposed to hinder him.

Then what need is there for another ship-canal at present? Are the rates too high? The canal is open to the whole world, without regard to nationality or even color, to build and run just as many boats as they like, at just what price they like, over the State tolls; or three fourths of the boats can be bought for less than their estimated value. The commercial law of supply and demand regulates the rates of freight, which are sometimes ruinously low and at other times pay a fair profit. The average is not as profitable as in almost any other business where an equal amount of capital is at stake. Has the State been unfair in its dealings, and increased the tolls, that western men should seek to avoid them and take another route? Let us resort to figures again, both upon tolls and freight, taking the article of flour and tracing it through the various periods since shipments began to the present time, dealing with the general average for equal periods of years, for we must treat every great commercial business upon the average in order to arrive at correct deductions. We find that from 1830 to 1833, four years, the toll on a barrel of flour from Buffalo to Albany was 51 cents and the freight was 44 cents; the next twelve years the toll was 33 cents and freight was 42 cents, 40 cents and 27 cents for periods of four years each; the next four years tolls were 31 cents and freight 33 cents; the next, 25 cents tolls and 29 cents freight; the next, 23 cents tolls and 20 cents freight; the next seven years the toll was 19 cents and the freight 24 cents.

For thirty-five years western productions have been increasing at a rate never before equaled in any country, and during that time the tolls have been reduced sixty-three per cent., and the freight reduced forty-five per cent. on flour.

The rates of toll are not fixed upon a sliding scale, to rise and fall with the price of gold in New York, or the price of wheat and corn at Chicago, Buffalo, New York, or in London. In this fact the western producer has secured an important advantage.

The merchants also complain of the injustice done them; let us see how far the State is to blame in this matter. The averages on goods per 100 pounds from Albany to Buffalo were as follows, namely: first four years tolls were 49 cents and freight 45 cents; the next twelve years tolls were 33 cents and freight 57 cents, 45 cents and 26 cents for four years each; next four years tolls were 24 cents, freight 15 cents; the next, tolls 19 cents, freight 11 cents; the next, tolls 15 cents, freight 10 cents; and the last seven years the average was 6 cents tolls and 6 cents freight. Thirty-five years of unexampled increase of the wealth and growth of our western towns and cities, and a decrease in tolls and freights the most remarkable ever known in the history of the world—the reductions being from 49 cents to 6 cents per 100 pounds on tolls, and from 45 cents to 6 cents on freight, equal to eighty-eight per cent. in tolls and eighty-seven per cent. on freight; the extreme high price being paid cheerfully when

we were poor, the low price now being a cause of complaint when we are rich and prosperous! This wonderful reduction in rates is a convincing proof that the vast and astonishing increase of population and production has been more than anticipated, until the increased facilities have far outstripped the demand, leaving hundreds of our canal-boats lying idle during the greater part of the season, that would be useless entirely were it not for an increase of business during a few days in the fall. Prices have fluctuated, and combinations have been formed to put prices up, and in some few cases a few may have suffered by being caught in the gap; but competition is the great leveler of prices, and soon overcomes these irregularities.

To guard against combinations is one end to be gained, but this ship-canal would not gain that end. The experiment has been tried for several years. The Welland canal has been open, and has been used for the very same purpose; and to show how perfectly commerce regulates itself it is only necessary to make a comparison of the average for the transportation of wheat and corn from Chicago to New York. For the year 1864, via lake and canal, via Buffalo, it was 28<sup>3</sup>/<sub>8</sub> cents on wheat, and 25<sup>3</sup>/<sub>8</sub> cents on corn; and via Oswego it was 28<sup>3</sup>/<sub>8</sub> cents on wheat, and 25<sup>3</sup>/<sub>8</sub> cents on corn. Saving in favor of Buffalo one tenth of a cent on wheat, and four tenths on corn. Notice how evenly the charges are balanced in proportion to the work done by each route. The divisions of the charges by both routes for the average for the year were:

VIA BUFFALO.		
	On wheat.	On corn.
Lakes freight.....	9.53 cents.	8.94 cents.
Canal tolls.....	6.21	4.83
Canal and river.....	12.57	11.72
VIA OSWEGO.		
	On wheat.	On corn.
Lakes freight.....	15.37 cents.	14.23 cents.
Canal tolls.....	3.54	2.76
Canal and river.....	9.45	8.87

The fluctuation in prices at times does not prove any fault in either route. It is an evil that cannot be controlled by State authorities or by the canal interests, neither is it confined to the canal. Take the last four years and see the fluctuations on the lakes and canals: the lowest average rate from Chicago to Buffalo, in 1861, was in July, when it was 5<sup>3</sup>/<sub>8</sub> cents on wheat and 5<sup>1</sup>/<sub>8</sub> cents on corn. The highest was in October, the average for that month being 18<sup>3</sup>/<sub>8</sub> cents on wheat and 17<sup>1</sup>/<sub>8</sub> cents on corn, making a difference of about 350 per cent. between the months of July and October. On the canal from Buffalo to New York the average for July was 11<sup>1</sup>/<sub>8</sub> cents on wheat, and 10<sup>3</sup>/<sub>8</sub> cents on corn; in November the average was 25<sup>3</sup>/<sub>8</sub> cents on wheat, and 23<sup>3</sup>/<sub>8</sub> cents on corn, the difference being about two hundred and twenty-five per cent. from the lowest to the highest average for the months of July and November, or one hundred and twenty-five per cent. less fluctuation on the canal than on the lake for the same time. The total averages for each year have been very even. The average for 1861 from Chicago to Buffalo was 11<sup>3</sup>/<sub>8</sub> cents on wheat, and 10<sup>3</sup>/<sub>8</sub> cents on corn; and in 1862 the average was 11<sup>3</sup>/<sub>8</sub> cent less on wheat, and 9<sup>3</sup>/<sub>8</sub> cents on corn; in 1863 the average was 3 cents less on wheat and 3<sup>1</sup>/<sub>8</sub> less on corn; and in 1864 the average was 9<sup>3</sup>/<sub>8</sub> cents on wheat, and 8<sup>3</sup>/<sub>8</sub> cents on corn. While for the same time the prices averaged from Buffalo to New York:

	On wheat.	On corn.
In 1861.....	15.75 cents.	14.43 cents.
In 1862.....	15.81	13.76
In 1863.....	15.39	13.38
In 1864.....	15.78	16.55

Showing a constant, gradual reduction. Upon a gold basis 1864 was cheaper than ever before, the money being so depreciated in value that the net results were not near as great in the other years. About the same averages are also shown via Oswego. Thus the route has nothing whatever to do with the fluctuations of

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prices, they being ruled entirely by the law of supply and demand. The decreasing prices proves that our lake and canal facilities are now far in advance of the demand during the season of navigation.

Thus, by facts and figures, I have demonstrated that the present means of transportation are sufficient to accommodate the increasing commerce of the West and will continue to be for many years. But if it was otherwise, and greater capacity was required, the Niagara ship-canal would add nothing to it. By this canal—and the same can be done by the Welland canal now—vessels are enabled to tranship freight on to the Oswego and Erie canals at Oswego, instead of Buffalo; and if the Erie canal is not adequate to move this freight from Buffalo it will be equally inadequate from Syracuse, where the Oswego canal connects with it. To increase the capacity for transporting western produce to the eastern market by this route not only this ship-canal must be built, but the Oswego and Erie canals, for a distance of one hundred and eighty miles must be enlarged; the former is useless without the latter. But it is urged that this canal will open another and a competing route to Lake Ontario, and by such competition the cost of transportation will be reduced upon all the routes; but the comparison which I have already made between freights by way of the Welland canal and Oswego and Buffalo and the Erie canal is a complete answer to this claim. What is gained by reducing the distance of canal transportation is added to the lake-freights from the western ports to Oswego.

Mr. Speaker, it must be apparent to any one who will take the trouble to investigate the matter that this ship-canal scheme, as a commercial enterprise, has no merit whatever. It could not secure a subscription from the capitalists in either New York city or Boston to the amount of \$100. It is, therefore, unquestionably just the kind of scheme to come to Congress for aid. Hence, in the consideration of such a question we rise above the well-settled laws of trade and commerce. We are statesmen. No inquiry is made here whether it will pay, but is it a "military necessity?" It is in this way that the class of patriotic gentlemen whom the honorable member from Chicago the other day demanded should be excluded from this Hall during the consideration of the Pacific railroad bill, and who are commonly known as the legislative bounty brokers, hope to obtain \$6,000,000 of the people's money. True, the Government has no money to pay the poor soldier who periled his life in its defense, or to pay loyal men for property taken or destroyed by our Army during the war. The widows and orphans of the brave men who died in the struggle for national existence have thus far been turned coldly away by this Congress upon the pretense that the condition of our national finances demands the strictest economy. But let the shoddies of the war, whose occupation I had hoped was gone, come here with their "little" scheme, in the shape of some railroad or canal which they tell us is a "military and commercial necessity," and all at once a sudden change takes place; the Federal Treasury becomes a new-found Golconda. The scriptural promise is to them fulfilled; they have only "to ask, and it is given, to knock, and the Treasury is opened." Bonds or lands in untold millions are given to them; but the people will not, ay, cannot, endure this much longer. If it cannot otherwise be stopped they will come to this Capitol and scourge these legislative speculators from these Halls, and demand of us, their misrepresentatives, that we surrender the power they confided to us to honest and wiser men.

Mr. Speaker, a word to our brethern of the West and I am done.

The constantly decreasing tolls on the New York canals, the constantly increasing capacity to meet the wants of the West, and our desire

as soon as demanded by the further enlargement of the locks to increase their capacity to at least two hundred million bushels, should be a token of friendship and love between the Empire State and her sister States of the great Northwest. We will decrease the tolls just as fast as the increased business will warrant it being done. If the West had a thousand canals it could do no more and be just to itself. If New York holds a local position advantageous to exterior trade and interior traffic, is this a crime for which she must or ought to be denounced and punished? If by her own means and the wisdom and forecast of her statesmen she has improved those local advantages, not only to her own benefit, but for the welfare of her neighbors, should she be denounced as extortionate because she says to them, use these facilities for traffic in common with all the world by paying a fair and reasonable compensation therefor? Our toll rates are not and have not been any higher than they were in 1857 on agricultural products, when the tolls were paid in gold or its equivalent.

Does the West complain of this? Has she felt this conduct on the part of New York to be wrong, oppressive, and exorbitant taxation? Will her interests be better provided for by a private corporation? Most certainly not. There should be no rivalry or jealousies between the East and West, for when we look at Detroit, Chicago, Milwaukee, St. Paul, or any other city, county, or town upon the broad expanse of this fair and fertile western world, we find the seed from which sprang western enterprise and shrewdness, which has ripened into power and unexampled greatness and prosperity. That seed was the "universal Yankee." New York and the New England States planted the germ of this great western empire, which soon extended its fame to the over-populated countries across the ocean, inducing hundreds of thousands to seek homes upon its broad prairies. Now, no nation on earth, no eastern State, not even Canada, can strike a blow against the welfare of the West without sending the arrows of affliction directly into the hearts of their own offspring and family friends. Therefore New York, the eastern States, and the whole world respond and rejoice in western greatness and prosperity, and we will open the doors wider and wider for its increased productions as fast as it can reasonably demand it, but we ask the West in return not to slight its old and early friends, or go stumbling over difficulties, through Canada, down the St. Lawrence, out of the Gulf, around Nova Scotia and along its dangerous coast to get to Boston.

#### Niagara Falls Ship-Canal.

#### SPEECH OF HON. G. F. MILLER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

May 1, 1866,

On the bill providing for a ship-canal around the falls of Niagara.

Mr. MILLER. Mr. Speaker, the bill under consideration provides for the construction by a company of a ship-canal around the falls of Niagara, in the State of New York, commencing at some convenient point on the Niagara river above the falls and terminating at some convenient point below upon the stream, or upon the shore of Lake Ontario, which shall not be less than one hundred and five feet wide on the surface, and ninety feet in the bottom, with not less than fourteen feet of water, with locks not less than two hundred and seventy-five feet long, and forty-six wide, to be carefully surveyed and located by topographical and civil engineers to be appointed by the President of the United States. It also provides for securing the right of way, and said company allowed to charge tolls, to be imposed on vessels, &c., which are not to exceed the rate of tolls charged

on the Welland canal in Canada West; but with the reservation that said canal shall at all times after its construction be free from toll from the United States, and open to its use for the transportation of military stores, munitions of war, and troops, and for the passing gunboats, Government transports, and vessels engaged in the transportation of property or troops for the Government.

The bill also provides that the sum of \$6,000,000 shall be loaned by the United States to aid in the construction of said canal, to be paid in bonds of the United States, in denominations of \$1,000 each, to be dated the 1st of September, 1867, payable in twenty years thereafter, with interest at the rate of six per cent. per annum, payable semi-annually upon warrants or coupons annexed thereto, signed by the Treasurer of the United States, to be duly numbered, and registered in a book to be kept by him for that purpose. The bill also provides that said bonds are to be delivered over to said company in installments of \$200,000 whenever \$300,000 has been expended by the company in the construction of said canal, and in same manner until the whole sum is paid over. It is also provided that from the tolls which shall be collected on said canal, ten per cent. thereof, after deducting costs of repairs, &c., shall, on the 1st of January in each year, be paid into the Treasury of the United States, which moneys shall be applied toward the payment of the sum so loaned, with interest; and it is also provided in the bill that the United States may elect to purchase said canal by refunding the money the company expended, with interest thereon at the rate of seven per cent. I might add that the bill is so drawn as to sufficiently protect the United States and the public generally.

As to the feasibility of the project there can be no doubt, many surveys having been made; and among the most elaborate and reliable of these surveys is that made by direction of the General Government in 1836, by the late Captain William G. Williams, of the United States Engineer corps, an officer of distinguished ability and high professional attainments, and reported to the first session of the Twenty-Fourth Congress. This proposed ship-canal is the only link wanting to give a free communication through and between the great lakes, to wit, Lakes Ontario, Erie, Michigan, and Superior, and the river St. Lawrence, for vessels of the largest size navigating these lakes. The Niagara river, around whose stupendous cataract this canal is proposed to be made, is thirty-six miles in length, twenty-seven of which are now navigable for the largest class of ships on the lakes, leaving but nine miles of obstruction in the whole length of the river. The great waters of our northwestern possessions, covering an area of one hundred and fifty thousand square miles, bounded by a coast of about three thousand two hundred and ninety-four miles, and of the British possessions two thousand four hundred and twenty-five, are at length discharged through the narrow channel of the Niagara. As to the authority of the United States to aid in the construction of such an enterprise there can be no doubt. The doctrine contended for by the honorable gentleman from Buffalo, New York, [Mr. J. M. HUMPHREY], has long since been exploded, and the authority of Congress to make ports and encourage the improvement of rivers, harbors, ship-canal, &c., as a war measure, or for the encouragement of commerce, or the transportation of the United States mails, has become too well established to be shaken.

This contemplated improvement is of great national importance in a double aspect: first, as a measure of military defense; and secondly, in regard to commerce. Then, as to the first, as a war measure, history shows this to be a place of note during the late war with Great Britain. On the banks of the Niagara river were concentrated extensive military operations

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of both nations. At the mouth of the river, on the American side, stands the once impregnable Fort Niagara; on the opposite side and extreme of the river stands the British Fort Erie; and near the cataract lies the battlefield of Lundy's Lane. Here the contending armies, composed of the bravest of men, met in battle array contending for supremacy, and in case of another war with that powerful nation no doubt here again a large force and military stores would be concentrated. The history of the naval operations on Lake Ontario during that contest affords striking proof of the vast importance of the proposed work in a military point of view. The system of gunboats and other iron-clads fighting upon lakes, rivers, and other waters has become so efficient and popular in the late rebellion that the attention of Congress and the Government has been turned toward the developing and extending to it a much larger and a more perfect system to give it still greater efficiency.

The extent of our frontiers, both maritime and inland, is too great to warrant the hope that our Government will defend them by a system of fortifications, as it would require an immense army and be an enormous expense. This vast coast of upward of three thousand miles, along which are planted towns and cities, and the commerce on these lakes carried in more than sixteen hundred steam and sail vessels, must depend for security on gunboats and other iron-clads. The British Government have been preparing, so as to be ready in case we should have another war with her. She has, among other things, constructed the Rideau canal, decidedly a military work, connecting Montreal with Kingston, on Lake Ontario, and has also constructed the Welland canal, connecting Lake Ontario with the upper lakes, through which large-sized gunboats can be taken, thus rendering it indispensable for the protection of our frontier and commerce upon the lakes to have the proposed canal on the American side constructed.

But the honorable gentleman, [Mr. J. M. HUMPHREY,] who has spoken against this bill, has referred to the treaty of 1817 with England, by which the naval force of each Government on the lakes was restricted to one vessel of not over one hundred tons, carrying a single gun, for Lake Ontario, and not to exceed two vessels of like size and armament for all the upper lakes. It is, however, well known that the British Government has been pursuing steadily and effectually a policy looking to the command of the lakes by a strong naval force, if she might see fit to assert it. In 1861, after the seizure of the two rebel leaders, Mason and Slidell, on the British steamer Trent, when matters between the two nations had a warlike aspect, it was asserted extensively in the British press that a large force of gunboats was in readiness at Montreal to pounce upon our unprotected frontier and its commercial marine at the very commencement of hostilities. This intimation from the leading journals of that nation ought to be sufficient warning for us not to withhold our assent to any measure that will tend to protection of that exposed section of our country, and the citizens thus exposed have a right to demand it. This project has as strong a claim upon our Government as that of the Pacific railroad, and no one can doubt the necessity of the latter, both in a military and commercial aspect.

Then as to commerce. This proposed canal, if constructed, will most certainly be of immense importance in that point of view. Having more than three thousand miles of a shore line, forming a navigable boundary for eight of the most important States of the Union, with an aggregate population in 1860 of over nine millions; upon this coast are congregated cities, towns, and villages of a population of over a million of our citizens, surrounded by wealth incident to a high state of agricultural and commercial prosperity. From these cities, and

through these lakes and rivers, more than a hundred million bushels of grain, including wheat manufactured into flour, and other agricultural products in proportion, are already distributed annually to New York, New England, and the Atlantic cities north of and including Baltimore, for the consumption of these States and for exportation to foreign countries. Yet the vast agricultural production is but in its infancy.

It is said that in 1862 at least thirty million bushels of grain, including wheat manufactured into flour, to say nothing of the other agricultural products of the western States, passed from the upper lakes to Lake Ontario, through the Welland canal; and even this canal, under the British Government, could not do all the business of transporting the increased products of the West, and some few years since the Legislatures of the States of Illinois and Wisconsin appointed a deputation of influential citizens to visit the Canadian authorities and urge upon them the enlargement of the Welland canal, &c. This seems to me to be enough to inspire the American people to have a canal around the falls of Niagara constructed speedily, so as not to have to court a foreign Power to construct improvements in order to get an outlet for our productions.

It has been said that the country composing properly the valley of the lakes contains an area of one hundred and seventy thousand square miles. By a comparative view it is found to contain fifty thousand square miles, more than all the British possessions in Europe. It is said, however, that some of the citizens of the State of New York are opposed to the construction of this canal upon the ground that it will be calculated to injure the public works of that State. On examination it will be found that about the year 1863 a committee of the Legislature of that State made a report stating "that during a considerable portion of the last three years the enlarged canals have been taxed to their utmost capacity, not from deficiency in the main trunk, but from the impossibility of passing more boats through the locks." And it is well known that the railroads, except it might be a brief period in the summer, were unable to carry forward the freights offering for transportation to the sea-board. Then, if the improvements now constructed are unable to transport the products from the West, how will it be in a few years, when the productions will be increased at least one half?

But suppose the construction of this great enterprise should withhold from the New York canals some of the revenue in the way of tolls, is that any reason why Congress should withhold the Government support to such a great national enterprise, when we have the citizens of various States, through their Legislatures, and Boards of Trade of numerous large commercial cities urging this contemplated improvement upon the consideration of Congress and asking speedy action thereon? And I may say here, Mr. Speaker, that this is no new measure; it has been before the American people for many years, and attracted the serious consideration of our ablest statesmen. And again, Mr. Speaker, these western States, which are so distant from the sea-board, have been asking again and again for additional outlets to market for their vast products, so that nearly one half of what they realize for their productions may not be absorbed in the way of tolls, &c.; and it must be borne in mind that these western States contributed very largely in means and men of extraordinary bravery to put down the late rebellion, and it is due to them that this work should be accomplished. Then vessels might load at Chicago, that great city of the West, which bids fair to soon become one of the first cities of the Union, for the Atlantic, through this American canal around that great cataract.

It is said that \$6,000,000 is a large amount of money for the Government to lend its credit for.

Mr. Speaker, what is that sum in comparison with the importance and magnitude of this great work, both in a military and commercial point of view? But the Government is not asked by this bill to make a donation to the company of \$6,000,000, or any part of it. It is expressly provided that the Government shall be refunded, with interest, every cent that may be advanced, and as to the ability of the company to repay, there can be no doubt, as the revenue derived by the company in the way of tolls will certainly be very large; and besides, the United States is to have without charge the use of said canal for transportation of everything pertaining to the Government.

The portion of the State, Mr. Speaker, that I represent has, in a pecuniary point of view, but little interest in this project; but I look upon it as a great national measure, and one in which our western States especially have a deep interest, and therefore a strong claim upon Government; consequently a sense of duty impels me to vote for the bill. There is no telling how soon we may have difficulty with England; and a war with that nation, owning a powerful fleet and a well-disciplined army, must render this ship-canal indispensable for the transportation of our gunboats and munitions of war to aid in our defense, and therefore we should not forget that in peace is the time to prepare for war.

#### Territory of Montana.

#### REMARKS OF HON. S. McLEAN,

OF MONTANA,

IN THE HOUSE OF REPRESENTATIVES,

May 4, 1866,

On the bill (H. R. No. 202) to amend an act entitled "An act to provide a territorial government for the Territory of Montana," approved May 26, 1864.

Mr. McLEAN. Mr. Speaker, while as a general rule, I hold it to be the wisest policy for a territorial Delegate to quietly work for the interests of his constituents without much speech-making, yet I cannot allow this bill to pass the House unnoticed by me, and will therefore proceed briefly to state a few of my objections to the provisions contained in the second section, which reads as follows:

SEC. 2. *And be it further enacted*, That the acts of the so-called Legislative Assembly, elected without authority of law, and in pursuance of the proclamation of the acting Governor, which met and began its session in the city of Virginia on the 5th of March, 1866, be, and the same are hereby, declared disapproved, and null and void; and no money now appropriated, or which may hereafter be appropriated, by the Congress of the United States for defraying the expenses of the territorial government of Montana shall ever be paid to any person claiming to have been elected to the Council and House of Representatives of the Legislative Assembly of said Territory, for services as members or officers thereof at the session begun and held as aforesaid, or to defray the expense incurred by said Legislative Assembly for any purpose.

As the bill went into the hands of the Committee on Territories, it was not liable to the objections I am about to urge in its opposition, inasmuch as it simply asked Congress to pass an act for the reappportioning of the Territory of Montana, so that we might have that legislation so necessary in all of the new Territories. It is reported to the House divested of all its original features and embodies a sentence of outlawry against the Legislative Assembly called into existence by the proclamation of the acting Governor, who supposed he was executing his legal duty, while he knew he was carrying out the will of a great majority of the people of the Territory. When I took my departure from Montana, late last fall, as the Delegate of its people, the presumption was, that through the willful negligence or bad faith of the Governor, who refused to sign the "reapportionment bill" until it was too late for it to become a law, we would be compelled to ask Congress to pass an enabling act to free us from the evils consequent upon his willful neglect of duty. I introduced a bill for this purpose long since, but in the mean time the



acting Governor, influenced by the pressure of circumstances, issued a proclamation calling together the Legislative Assembly. I am not now prepared to say that this proclamation was in all respects in conformity with law, though I must confess, that composed as the Legislative Assembly is of the best legal talent of the Territory, the necessity for the convening and action of this body must indeed have been great. But the committee has placed before us no evidence of the illegality of this election and those elected to pass such laws as were necessary to the well-being of the people of Montana. If evidence of this nature does exist, the committee did not see fit to inform us of its existence. While I was led to believe that the bill, as originally drafted, would be offered without any serious alterations or additions, I will surely be permitted to express some astonishment at its being reported to the House in its present form.

I am aware of the fact that the wishes and feelings of Delegates are not often consulted here; but as in this case, when a blow is struck at the best interests of my Territory, declaring their laws null and void, and denying our legislators the right of remuneration for their services, I suggest that before all this had been done, a sense of propriety and justice, both, would have demanded that I should have been consulted in the premises. All who take any interest in Montana affairs must be aware of the great necessity for immediate and wise legislation.

Heretofore the laws, as claimed by many, were not of sufficient force or sufficiently carried out to be of any positive benefit in dealing with crime in the Territory. The consequence of this condition of affairs is that justice, instead of being administered through the ordinary channels, has been compelled to give way to the vigilante system of condemnation and execution. In our age and country it is a severe reflection on our people that such a state of things should exist, and this consideration, with the imperative necessity that demanded some wise local legislation concerning mining property, rendered it, in my estimation, almost a necessity on the part of the acting Governor to issue his proclamation calling together the Legislative Assembly.

Unless evidence is produced of the illegality of this act, I must conclude that the Legislative Assembly acted properly and legally in convening under the proclamation, and that the second section of this bill rendering null and void their action and depriving them of the pay their services demand, is entirely unnecessary, uncalled for, and an insult to my constituents. So firm am I in the belief that a great majority of the people of Montana favor the action of this Legislative Assembly, that I have no doubt they would almost unanimously elect the same gentlemen under this bill to the same positions. They know their own interests and should be the best judges of what is justly due them. Does any positive necessity exist for this hostile demonstration against the Legislative Assembly of Montana and the people who elected them to office? I think not. Gentlemen should have and could have ascertained something concerning the action of this Legislative Assembly, and if found necessary for the public good, it could have received the sanction of law, even did some trivial doubts exist regarding the validity of the action of the acting Governor. This is a course that kindness and good will would suggest, and would prove that some little regard was due to our interests and feelings. You cannot injure the feelings of the honorable gentlemen who are members of that body by refusing to pay them the miserable pittance allowed by law as a compensation for their services. In Montana it is hardly sufficient to pay the necessary expenses of members, as distinguished visitors to that country would well know did not the hospitality of our people prevent even a reference to

personal expenditure in such cases. The fact, then, of refusing them the usual legal compensation for their services will not cause such men much sorrow, when in almost every instance they perform their duties at a pecuniary sacrifice. The free-hearted people of the Territory of Montana will willingly take care of their legislators; provided, indeed, the same power that smites them through this amended bill does not exercise any unjust authority by refusing them the privilege of sustaining their own members.

I have no doubt, from the experience I have lately had, of the desire and disposition of certain parties that even this kind of legislation would be considered wholesome and judicious when territorial men would be the sole sufferers. In cases where an election is disputed on the floor of this House—and we have had a little of that done this session with wonderful unanimity—I believe it to be customary to allow some compensation to the unsuccessful party to defray the expenses of the contest. Then, in all fairness, is it right to deny the same privilege to the members and officers of the Legislative Assembly at Montana? But I do not for a moment conceive that a spirit of kindness had anything to do with the objectionable features of this bill. And I am glad to be able to state here that all the members of the Committee on Territories, not being consulted, were not aware of the changes made in this bill until it was offered in the House. The spirit in which this was done does not evince any very great degree of solicitude for the welfare of our people. No doubt Congress has the power to inflict on the Territories this quality of legislation; but in its exercise I would beg of them to be carefully considerate of the course they pursue. Kindness and forbearance in the exercise of these privileges will be attended with considerations more agreeable to the feelings of gentlemen on this floor, while it will tend in the Territories to keep alive a feeling of satisfaction and love for our institutions. Harsh and unjust legislation in connection with our Territories is as unwise as it is unnecessary. Living far off, in the West and Northwest, we feel, after we have suffered in prospecting and developing the country that is now, and in a greater degree will continue to be, of so much importance to the nation, as if we were entitled to some little consideration at the hands of Congress.

Notwithstanding the American doctrine that taxation should go hand in hand with representation, we are already causing money to flow into the national Treasury in greater abundance, according to our population, than any State of the Union. Our representation, in a practical point of view, is of a very limited nature, while you manage the taxation in the Territories on a scale of grandeur and magnificence heretofore unprecedented. It is hardly necessary for me to point to the treatment the House bestowed on the Delegate from Utah as a sample of the glorious rights and privileges we enjoy on the floor of this House. This, too, was when the Gentile jaws of the virgin State of Nevada were closing down on a godly portion of the saintly inheritance—a time of all others when the Delegate should be allowed a sufficient length of time to protest against the dismemberment of his Territory.

I do not here pretend to form any conclusion regarding the justice or injustice of this act, further than to strenuously object to a little State eating up a big Territory in the presence of an admiring House and a gagged Delegate who was obliged to witness this huge feat of gastronomy in almost dead silence. The Territories were peopled by your constituents from every State in the Union, and many of them have wives and children who remain your constituents still. We are also American citizens, and glory as much in the success and greatness of the nation as any other citizens of the States forming this Union. Should you view us in

the light of children, unable to take care of ourselves, then do not impose too heavy a burden on our young shoulders; but if you look upon us as men we ask at your hands manly treatment.

I speak at least for my own Territory in saying that we are almost unanimous in the belief that much congressional territorial legislation will be of no benefit to the General Government and very injurious to us. We are willing to pay our just dues to Government, and we rejoice that we are enabled to bear a proper proportion of the heavy burden imposed on the nation by the late war. If gentlemen would only take into consideration where we are, what we are, and what we must necessarily become, I believe they would at least try to prevent this harsh and hasty legislation to our prejudice. We do claim to know our own wants, and when it cannot possibly prejudice the interests of the nation, we would solicit the privilege of attending to our own affairs in our own way. The prejudice arising from political bias should not be allowed to operate against us while we remain in a territorial capacity. If we are to be treated as wards in this great national court of chancery, we would respectfully petition the nation to allow us sufficient of our own funds to live upon until our estates are settled. With the British Columbia border almost under our feet and serving as the boundary line of our Territory; with all its rich placers, and a knowledge of the liberality of the owners, it might be well for this Congress to ask itself the question whether such bills of outlawry might not have the effect of compelling citizens of the United States to seek quiet homes in the country of an ancient enemy. Does it not sound strange that a nation against whom we successfully rebelled through her oppression should at this day offer in her own possessions to the descendants of the same "revolutionary rebels" a home where they can enjoy more liberty with less taxation than in their own country? Yet this is the simple truth. Do not by unwise and oppressive legislation drive us over the border, while our love of country would actuate us to stand upon its outer edge a living wall of strength in the defense of our land.

#### Reconstruction—Increase of Duties on Wool.

SPEECH OF HON. G. V. LAWRENCE,  
OF PENNSYLVANIA,  
IN THE HOUSE OF REPRESENTATIVES,  
May 5, 1866,

On the subjects of reconstruction and the tariff.

MR. LAWRENCE, of Pennsylvania. I have endeavored for some time to obtain the floor, that I might speak briefly on a question intimately connected with and deeply affecting the whole district I represent, and especially the county in which I live and where the people have so often honored me with their confidence and support, namely, the necessity there exists for an increase of duties on foreign wools which come so largely in competition with the wool-growing and manufacturing interest of our whole country. Before I present my views on that special question, or on the subject of the duty of Congress on the general question of protection to home industry, I will, I am sure, be indulged in the expression of a few thoughts connected with what is denominated the great question of the hour, and one about which there has been so much said and written, much to the purpose, and much more having little or no bearing on the question—the duty of Congress in attempting to restore the States lately in rebellion to their proper relations and responsibilities to the General Government, and yet to guard by appropriate constitutional amendments and legal enactments against the possibility of a recurrence of internal strife or war,

arising from any local institution or imaginary cause. And who does not know that the excuses made and the pretenses given by the South as a justification of their wicked attempt to overthrow the Government were frivolous and imaginary, but were plead as a justification for their treason?

The leaders in the South and their northern allies, the copperheads, whose action and known sympathy with the rebels and with rebellion had made them so odious among loyal men that they hung their heads in shame as the patriots at the North rebuked them and defied their treason at the polls, are much disturbed that we do not make haste to take away all barriers and take to our counsels and fellowship men whose hands are yet red with the blood of our murdered brethren, and who have never even apologized for their crimes or in any way expiated their guilt. I have myself been exceedingly anxious on this subject and had a strong desire to see some of the loyal and patriotic men who were sent here from Tennessee admitted to seats in this Congress, and yet I see they themselves do not desire this recognition of their personal claims at the expense of the public good. They see and are most ready to acknowledge the unfortunate condition of things even in that State, and the evident fact that the return and enfranchisement of the rebel element would fill their places at the next election by open and defiant traitors, and that the removal now of the soldiers from the seat of government would insure the overthrow by force of the present State government and leave Nashville and the State, with the thousands of Union men and women therein to be driven out by their merciless persecutors; and yet, knowing all this and the general demoralization of the whole South, her deep and bitter prejudices against northern men and northern institutions, we have presented or are about to present terms, honorable terms, for their admission.

What terms did the leaders of the rebellion expect when they surrendered? Those who were not included in the surrender expected to suffer the just penalty of their crimes; many of those in the highest positions succeeded in escaping from the country, and others, including the president of the bogus government, were arrested in an attempt to steal away and escape the wrath of an indignant people. Those men felt how grievously they had sinned; how their souls were covered with perjury; and they expected death. Then they would not have stood about terms. They were humble and apparently very penitent; they had seen and felt the power of the North, and were compelled to submit to the majesty of that Government they so wickedly attempted to destroy, and all they asked was that their lives might be spared and they be permitted to return to their homes. How unfortunate was it that at that time Congress had not been called, when the legislative and executive authority could have unitedly devised and adopted such a plan of reconstruction as would have made the institutions of the country and the Government safe for all time from the demon spirit of secession and internal strife; but soon, ah, too soon, as all now see, did executive clemency, in granting wholesale pardons and ordering the return of confiscated estates to the most notorious rebels, beget a spirit of pride and defiance of the authority of the Government, until in a very few months, leading rebels demanded places and power, not from the people alone, but from the President, and many were appointed to lucrative positions under the revenue and other departments of the Government who could not and did not take the test oath which was prescribed by Congress, and which even northern men are all required to take before entering on the duties of offices assigned them.

Under the reconstruction policy of the Pres-

ident which he adopted, (doubtless with an ardent and commendable desire to restore order in the southern States,) the majority of the people, in open defiance of propriety and their pledges of submission, when opportunity offered, rejected all loyal Union men (a persecuted and despised class in all the South) and elevated to the highest positions of honor and trust the very men who had been leaders in inducing the rebellion and who had done most in the field to starve and murder our soldiers. Now, under such circumstances, do you expect we shall stultify ourselves and render nugatory, void, useless, all our victories? Shall we leave these questions open, the spirit which induced this carnage and death unrebuked? Shall we again be put in jeopardy? Have we not spent enough of treasure? Look at these thousands of millions—a sum hardly to be computed; this mortgage of one fifth of all the estates, real and personal, in the land to liquidate the debt. When we are gone and our children come up to take our places they will have to bear this burden and carry it from one to another generation as part of the price of the institutions and privileges saved to them in this struggle. Shall we be expected to forget our obligations to the hundreds of thousands of soldiers who live to enjoy the benefits and blessings of the institutions they aided to preserve? And shall we, can we, forget that host who, though dead, sleep in honored graves, and appeal to us from the very stillness of the tomb to make their sacrifices, their death, contribute to the peace, the harmony, and perpetuity of that for which they so freely offered their lives? And shall our children rise up in after years and curse us for bartering away their birthright, or leaving it in peril, when it is in our power to secure and render it perpetual? And of that host of conspirators against the peace, the honor, and the life of the Government, not one leader has or will suffer death; and but few have ever been arrested or incarcerated; and their treason has commended them to the people of their own States, for many of them are elevated to the highest positions of honor and trust. And it is demanded we shall at once, without hesitation or delay, without any "indemnity for the past or security for the future," pronounce them worthy associates, safe guardians of the public interests; let them renew the attempt to overthrow in the forum what they failed to destroy in the field!

Does the country not know that the nine tenths of the Opposition in this Congress would gladly welcome Jefferson Davis, Breckinridge, or Hunter back to the Senate of the United States? The attachment and sympathy which was apparent in the copperhead party of the North for the rebels in arms, the exultation at rebel victories, and the extreme depression when the Union armies triumphed, justify the conclusion they would prefer such for associates to the loyal men who compose the majority here, and who stand by the principles and the country against the treachery of friends or the menaces of enemies. Why, sir, there is indecent haste manifested to get these unrepentant rebel leaders into Congress, to vote down appropriations to your pensioners and to destroy your monetary system by repealing your tax laws and refusing the means to meet your obligations, and thus threaten your national honor and national life. There is even now a small portion of the Democratic party in the North who whisper repudiation, and intimate we should break faith with the bond-holders who lent their means, in the hour when your credit was tested, on specified conditions. And I predict that whenever it will become popular to appeal to the mercenary feelings and the lowest prejudices of men on this question, (as it has now on the question of justice to the colored race,) you will find this party growing bold and boisterous, and especially so when taxes are paid with difficulty, and when the merce-

nary feelings can overcome the impulse to duty and to patriotism. Now, place the leaders of this rebellion in power, and how soon would they join in the attempt to repudiate the very debt they compelled us to assume!

I believe the interests of the whole country will be best promoted by an early restoration of the former relations between all the States, the reestablishment of commerce and trade without any restriction. This the people desire and expect; and whenever they see the proper spirit manifested, and proper guarantees for future peace and safety given, they will expect and demand of us the admission of these States to all the benefits conferred by representation and equality; and I believe the constituency I represent will not expect me to make the extension of suffrage to the colored race in the South a condition. Congress having secured to this unfortunate class, by legislation, security and equality in civil rights under the law, the question of suffrage must be left to the States, and cannot be extended out of this District by congressional enactments. I refer to this merely to correct the misrepresentation made by our opponents in our own State. Their staple and capital in trade in the coming campaign will be the old appeal to the low and the ignorant about negro equality, negro suffrage, which all intelligent men understand and appreciate. One would suppose the demagogues who resort to this despicable means to obtain power would have learned ere this that we are advancing to a higher civilization, to a better appreciation of our duty to man as man, and to a better knowledge of the plain duty God requires of us toward this unfortunate race, just emerging from this long night of gloom. If they are physically and intellectually our inferiors then it is our duty to aid to lift them up from their degradation, remove the obstacles in their way, and give them fair play in an honest effort to improve their condition. I pray our Democratic friends for once to leave the negro out of the contest, and appeal to reason, and not to the mercenary interests and low prejudices of the ignorant or debased.

I must return to the question from which I have been partially diverted. What guarantees should we require? These leaders took the States out of the Union and voluntarily conspired against the Government, and have by their treason brought all this suffering on the nation; and is it too great a punishment to say they, the leaders in the councils of the confederacy and in the field, many of whom had been educated at the public expense, should be disfranchised and declared ineligible to office? This might not destroy treason, but it would make it somewhat "odious." Is it asking too much of the South to do what we are willing to do for mutual safety and greater security and equality, namely, to make population the basis of representation, or do they expect to keep up the rule and idea that three white men in the South are equal to five in the North in representation? Do they want us to assume their war debts, debts contracted in violation of their oaths, and to pay for overthrowing the Government they had administered for fifty years, and which gave them such ample protection in all their essential interests?

1. Let them in good faith agree to an honest and fair basis of representation, and acknowledge us as equals under the law.

2. Let them agree that the leading, active participants in producing and carrying forward the rebellion—the class specified in our proposition—shall forever be ineligible to office under the Government, which is a very small punishment for such flagrant treason.

3. Let them absolve us forever from the payment of any portion of their war debt, and agree faithfully to administer the law passed by Congress to guaranty civil rights to all classes, and then elect loyal men who can take the test oath, and I for one will vote to admit their Repre-

sentatives and accord to them equal privileges in all respects.

I believe, then, that these guarantees and the future safety of the country can only be secured by the continuance of the true loyal Union men of the country in power. We point with great pride and satisfaction to the record of this organization for the last five years. In the darkest hours of the Republic, when timid men were ready to yield, when treason South and North beset our pathway, and when dark clouds enveloped the future, this party in the field, in the halls of legislation, and among the people, clung with constant faith and unyielding tenacity to the Government and all its interests. Our faithful adherence to principle, to integrity, to justice and right, under a just Providence gave us the victory in the field and at the polls. History will record the fact that the Union party, composed of the soldiers in the field and the loyal patriotic masses of the loyal States, contending successfully with the armed legions in the field and the more cowardly allies in the North and West, saved us our heritage, an undivided territory, one Government, free institutions, and universal liberty. We have here attempted—perhaps not always by the most prudent counsel and wisest policy, but with great harmony and unanimity of purpose—to make the fruits of our victories contribute to our future safety, to our national honor, to the universality among our own people of the spirit of our free institutions, and will stand upon the record before a just and intelligent people.

Now, Mr. Speaker, having spoken longer than I expected on this branch of the subject, I will come to the question I most desired to present, and one in which as a policy or interest all the people I represent are deeply and vitally interested.

The general question of protection to all of our industrial pursuits has been well discussed and faithfully presented by my colleague, [Mr. KELLEY,] and I have distributed his able speech very freely in my district. I could not present it in so favorable a light or so ably as he has done, nor would I have time to attempt it. Another colleague, [Mr. MOORHEAD,] has also very fully, and at great length, presented this subject, especially in reference to the necessity of increased duties on iron, steel, &c., and I concur most fully with all they have said on the subject, and will be glad if I have time in an hour's speech to add some thoughts and statistics not given by them on the general question.

Washington county, Pennsylvania, has perhaps as many or more sheep within its borders, scattered over its rich hills and richer valleys, than any county in the United States, and has obtained as high a degree of perfection and improvement in keeping, managing, and growing sheep as any other, and in the other counties of the district a large portion of the most intelligent and useful farmers are engaged in the business. I need not say it is a most healthful, honest, and honorable pursuit. The shepherds in all the ages of the past are referred to in poetry and song. Sacred and profane history abound in references to the herds, the flocks, and their shepherds. And on the plains of Judea this class were honored by being the first to see the star as it rested above the Babe in Bethlehem, and to herald to the world the birth of the Saviour; and no class of men, as they now exist, are better entitled to the care and protection of a beneficent Government.

This interest is absolutely essential to our very existence. Wool enters largely into and often composes the fabric with which our bodies are clothed and our health and comfort secured; and no family in the land can dispense with the necessity which exists for it. No article can take its place; it is more valuable than cotton and linen. The universality of its use, the amount of capital and labor invested in it, all indicate the importance and permanent char-

acter which it assumes as a productive interest of the country. The supply is not nearly adequate to the demand, and hence the necessity of heavy importations of foreign wools. There is no country in the world better suited, or where there are more natural advantages than here, for rearing sheep and growing wool. In all of the northern, middle, western, and some of the southern States, sheep are found to grow as finely, as full of vigor and health, and are as free from disease and with as vigorous constitutions as in any other. They seem to fatten and thrive on the natural grass of the prairie as well as that found on the tilled soil. The wool seems to vary some in weight in the South and the North; but there is but little difference in the longevity or health of the sheep with the same quality of food and similar care and attention. With these natural advantages, and the readiness with which our people adapt themselves to all the industrial pursuits in which they find a reasonable profit, how do you account for the fact that this interest has advanced so little? I know of no more healthful employment; none which brings man more frequently into the open air and in direct contact with the very elements of life; none which is less expensive in its management. One man can, with ordinary industry and care, manage several hundred sheep during all the year, and the product in wool is carried to market often in a single day, and the larger portion of your annual profits of labor and your sheep all delivered at the same time.

In keeping sheep you are constantly enriching your soil. No animal perhaps furnishes so much return to the soil from its food as the sheep. Its manure is dropped almost always on the highest ground and where most needed, as is evinced by the increased quantity and green appearance of the grass on the high grounds. It also assists to expel weeds, briars, bushes, and shrubs from your pastures. It will often browse or feed among these in preference to the grass, and will thus save much manual labor by expelling them from the pastures. They are also well kept on woodland pastures in summer, and graze as well on rough as level land. In raising agricultural products and tilling the soil you are compelled to plow, to sow, to reap, to thresh, and carry to market at great labor and expense, often many days or perhaps weeks removing your annual grain crops to market, especially so when your are not contiguous to railroads or water communication; you are also exhausting the soil, and required, if you would preserve its original strength and productiveness, to add largely of guano, lime, or manure to retain its original vigor and reproductive power. One of the greatest sources of difficulty in farming the hill lands of Pennsylvania, and other States with rough surface, is the very great loss of soil when plowed, and before and after planting, from the heavy and washing rains which are almost sure to fall at some period in the spring or summer, when the ground is in a mellow or loose state or condition. I have known more land ruined and soil carried off in this than almost any other way, and have not envied the intelligence which is exhibited by many in thus exposing themselves to almost irreparable loss from this source, when their hill lands could be made, by keeping sheep, as profitable as by growing grain, and would be enriched from year to year with the soil unbroken, and unexposed to such waste. There is still another and very material advantage the wool-grower would have, if properly protected, over the man who tills the soil and depends on growing crops for his profits, which is in the certainty of a return for his labor and expense.

Wheat, which has in many places been the staple crop, is subject, especially in latter years, to many dangers, and is often totally destroyed, sometimes by the fly, sometimes by drought,

often by severe freezing when exposed in the winter season, often by rust, and by wet after being cut. It is a most uncertain crop, and to a certain extent the same may be said of almost every crop you grow on the soil.

I regard, then, the business of growing sheep and wool as much more pleasant, perhaps quite as healthful, attended with much less labor, and with much more certainty than the tilling of the soil. True, flocks are often exposed to the ravages of dogs and sometimes to disease; but either will be avoided when it becomes a business, and when a combination is formed against the former and proper care is taken to prevent the latter. I have been particular to show that there is nothing in the business, the employment itself, to prevent the growth and extension of so important an interest, and much to invite the landholder to invest a portion of his capital in sheep and pursue it steadily as a calling or business, and yet why is it that in the United States we find so little increase in the number of sheep or the quantity of wool in a given number of years? A reference to the figures furnished by the census report and documents since collected at the Treasury Department, and carefully examined by those who have given much care and attention to this subject, and which are regarded as approximating as near accuracy as we can get and are used in estimating our national resources and products, show many singular facts on this subject. I present some of these figures that you may see it is for want of protection and encouragement this important interest has languished or made so little progress.

From 1840 to 1860 there was little increase in the production of wool or number of sheep—really no substantial advancement in twenty years—and this during a period when other interests were most of them in a flourishing condition; indeed, wool is almost the only product that did not increase largely. Our population increased over eight millions between 1850 and 1860. The increase of stock, except sheep, in the western States in these years was one hundred and forty-three and a half per cent., but of sheep only two and seven tenths per cent., and wool seventeen per cent. All the agricultural products except this increased in the last decade one hundred and twenty-five per cent. In 1850 the number of sheep returned was 21,728,220, and the amount of wool at 52,516,954 pounds. The number of sheep in 1860 was 24,828,556, and the amount of wool 60,511,543 pounds.

In Pennsylvania during the ten years preceding the rebellion the number of sheep had decreased twelve per cent.; in Illinois, fourteen per cent. After the war had been waged for four years, and we had been thrown more upon our own resources, and less wool was imported on account of the danger to which foreign commerce was exposed, and also because of the slight protection under the tariff of 1861, the increase in Pennsylvania in the production of wool was seventy-six per cent., and in a greater ratio in some of the western States. Illinois, for example, had during ten years preceding decreased fourteen per cent.; but during the first two years of the war the number increased from 769,135 to 1,206,195. This shows how this interest increased when we had control of the home market, or even partially so. I doubt not many wool-growers will be utterly astonished when I present figures showing the importations of foreign wool into the United States, and when they see how their interests come in competition and are put in jeopardy by the products of cheap land and cheaper labor in foreign countries sold in their own market. The following tables and quotations, as they appear, are taken from the very able and elaborate report written and presented to the United States revenue commissioners by the committee of the National Wool-



39TH CONG....1ST SESS.

Reconstruction—Increase of Duties on Wool—Mr. Lawrence.

HO. OF REPS.

Growers' Association, of which Hon. Henry S. Randall was chairman:

## EXPORT OF COMPETING WOOLS TO UNITED STATES.

The following table gives the amount, value, and average price per pound of wool exported from Buenos Ayres to the United States, from 1855 to 1865, inclusive:

Year.	Pounds.	Dollars.	Cts. per lb.
1855.....	5,936,969	627,718	10.5
1856.....	5,672,939	588,403	10.3
1857.....	5,758,319	694,736	12.0
1858.....	Not returned,	946,467	Estimated at 13.0
1859.....	but estimated,	1,274,172	
1860.....	from value re-	1,226,841	
1861.....	turned, to am't	1,787,334	
1862.....	for the four yrs.	1,787,334	
1862.....	to.....40,267,800	838,580	14.4
1863.....	5,786,898	2,577,765	14.7
1864.....	17,461,208	3,618,431	15.1
1865.....	23,951,509	2,223,483	14.3
1865.....	16,103,889		
Total.....	120,969,698	16,404,470	13.0

The following table embraces the same particulars in relation to the wool exported to the United States, during the same period, from the British possessions in Africa:

Year.	Pounds.	Dollars.	Cts. per lb.
1855.....	495,937	104,211	21.00
1856.....	206,045	39,408	19.12
1857.....	792,084	183,426	23.15
1858.....	-	536,118	-
1859.....	-	587,014	-
1860.....	-	1,023,436	-
1861.....	-	1,010,111	-
1862.....	3,920,257	665,480	16.97
1863.....	6,711,975	1,179,707	17.57
1864.....	13,717,900	2,415,145	17.60
1865.....	8,312,283	1,533,796	18.45
Total.....	-	9,277,852	19.12

The cost of producing wool in foreign countries is comparatively small, owing to the cheapness of land and the extremely low wages paid

for their attention of the sheep. Rev. G. D. Carrow, late superintendent of missions of the Methodist Episcopal church in South America, speaks of sheep farming on the Pampas thus:

"In Buenos Ayres, a shepherd with his dogs and some occasional assistance from children takes all the care, besides shearing, of one thousand sheep summer and winter. His almost unvarying subsistence is hard biscuit and fried mutton. He cultivates no vegetables, uses no milk, butter, or any of the other simple luxuries to be found in every farm-house in the United States. His house is a hovel of unburned bricks, containing only the most scanty primitive furniture. His fuel is dried dung from the bottom of the sheep fold. The warmth of the climate renders his clothing of little expense. In short, all his material modes of life are as rude and inexpensive as if he were in a semi-savage state. In a country without public or private improvements and almost without established institutions, he contributes as little to the expenses as he shares in the benefits of civilization."

The above statement gives you the key to unlock the mystery, and shows you why productions there are cheaper than in this country, and why the Government should at once interfere to prevent such ruinous competition arising from the difference in condition and value of labor and of the soil. The report of the census of 1860 showed that the aggregate value of imported wool for the ten years previous was \$10,063,609, and the late census shows that during the next ten years it ran up to more than three times that amount, and was put down at \$30,428,157; almost two hundred per cent. increase.

You will have a correct view of the difficulties in the way of the wool-grower in this country if you will examine the tables heretofore given of the average prices of wool in Buenos Ayres and in the British possessions in Africa; and the table below will show how these compare with the prices in the metropolis of your own country for a specified period of time:

## Average prices of wool at New York.

For the years—	Gold rates.	Ohio.		New York.		Illinois.		Buenos Ayres.		Cape.	
		Currency.	Gold.	Currency.	Gold.	Currency.	Gold.	Currency.	Gold.	Currency.	Gold.
1861—First quarter...	-	-	41-43	-	40-42	-	39-42	-	19-23	-	23-29
Second quarter...	-	-	41-43	-	40-42	-	39-42	-	19-22	-	23-29
Third quarter...	-	-	34-40	-	34-38	-	32-35	-	18-20	-	22-26
Fourth quarter...	-	-	48-52	-	45-49	-	43-46	-	21-23	-	23-27
1862—First quarter...	103	50-55	48-53	47-52	45-50	46-48	44-46	22-24	21-23	24-28	23-27
Second quarter...	105	47-51	45-49	43-47	43-46	41-44	39-42	20-23	19-22	24-28	23-27
Third quarter...	117	52-55	44-47	48-50	41-43	47-49	40-42	21-24	18-20	26-32	23-27
Fourth quarter...	131	57-62	49-47	55-57	42-48	53-55	40-42	21-24	16-18	29-34	22-26
1863—First quarter...	154	73-77	47-50	69-72	45-47	63-67	41-43	28-33	18-21	35-41	23-27
Second quarter...	148	80-83	54-56	77-79	52-53	69-72	47-49	29-35	20-24	35-43	24-29
Third quarter...	130	72-76	55-57	70-73	54-56	63-65	48-50	26-30	20-23	31-40	24-31
Fourth quarter...	150	73-78	42-52	68-73	46-49	66-69	44-46	26-33	17-22	33-44	22-29
1864—First quarter...	160	75-79	47-49	70-74	44-46	67-72	42-45	27-35	17-22	35-46	22-29
Second quarter...	184	80-82	43-45	73-77	40-42	68-72	37-40	27-40	14-22	38-48	21-26
Third quarter...	249	101-107	41-43	94-100	38-40	87-96	35-39	33-54	15-22	58-72	23-29
Fourth quarter...	225	95-100	42-44	90-95	40-42	85-95	38-42	43-55	15-24	52-66	23-30
1865—First quarter...	198	95-104	48-53	90-97	45-49	83-99	42-50	36-47	18-24	50-64	25-32
Second quarter...	146	73-78	50-53	63-63	43-44	60-70	41-47	27-36	18-25	35-44	24-30
Third quarter...	144	70-75	48-52	60-65	42-45	50-65	35-45	26-37	18-25	35-43	24-30
Fourth quarter...	143	69-75	48-52	59-63	41-44	52-65	36-45	26-37	18-25	35-44	24-30

The figures presented below, taken from official documents, will be interesting to show the aggregate value of woollen goods imported in the time specified, and which should have been manufactured at home and out of our own wools if we are properly protected:

Aggregate value of woollens imported in ten years ending	
1830.....	\$86,182,110
1840.....	129,336,258
1850.....	109,023,152
1860.....	282,682,830

Should a nation so favorably situated as ours, having in geographical extent an empire with thousands of millions of acres of as fine soil for grass as the sun shines upon, well adapted to sheep-raising and wool-growing, with abundant water and steam power, and the most perfect and extended machinery for manufacturing the

wool, be thus dependent on other countries for an article of prime necessity? It is a monstrous fallacy, and under such a system, applied not only to wool-growing, but to iron, steel, and all the products of our own soil, and which can be manufactured at home by our own people, would drive us from our own market and fill it with the fabrics of a foreign people, most of it produced by pauper labor. Cannot every intelligent man see how much better it would have been to pay this \$45,000,000 sent abroad for foreign wool in the last four years to our own people, and grow the wool on our own soil? It was so much encouragement to foreign labor, and an addition to foreign capital.

"In 1851 William Cullen Bryant, in an able editorial from his own pen, in the Evening Post, in relation to increased duties on wool, said: 'Manufacturers who

are purchasers of South American wool are anxious to create a home market, but that only means a market in which their own productions are sold, and not a market in which their materials are bought. They are zealous in favor of laws which compel farmers to buy their cloths, but they object to a law which compels them to buy the farmers' wool, and as matters now stand the American wool-grower has nothing to gain by the increase of the number of woolen mills. The brisker the business the greater the encouragement given to the South American shepherd to increase his flocks. The farmer here pays a tribute in the shape of duty to encourage what politicians call American industry, and in return is graciously permitted occasionally, when the stock of South American wool on the market is scanty and the mills cannot be stopped without loss, to supply such deficiency as may arise. So far as the farmer is concerned the duty might as well be repealed as to be what it is now."

"This he would say to-day of the present duty on wool, and I solemnly declare that after much observation and a thorough knowledge of the subject, unless the tariff is made protective, wool-growing must be profitless. Mr. Bryant further says: 'The proprietors of the flocks in South America are stimulated by the ready market their wool finds in this country to improve the fleece of the native sheep; as they go on crossing the native breed with the fine-wooled varieties, the market here grows dull for our wool.' The Albany Cultivator about this time says: 'One of the largest woolen manufactories in the United States, which uses two million pounds of wool a year, a few years ago used exclusively our domestic Saxony and grade wools, now uses as exclusively the Merino wools of eastern South America. A few years ago this establishment alone paid \$300,000 for wool grown in western Pennsylvania in a single year, and does not now use a lock of our wool, but imports its supply of Merino wool, by the cargo from South America.'"

There are many farmers and wool-growers who cannot have access to the statistics furnished on the subject of the manufacture of woollen and mixed goods in the United States as presented by the statistics of 1860, and found in the Compendium of the Census of that year, which I give below for information on that subject:

"The returns of woollen manufacturers (table No. 23) show an increase of over fifty-one per cent. in ten years. The value of woollen and mixed goods made in 1850 was \$45,281,764. In 1860 it amounted to \$69,965,963. The establishments numbered 1,909, of which 453 were in New England, 748 in the middle, 479 in the western, 2 in the Pacific, and 227 in the southern States. The aggregate capital invested in the business was \$35,520,527, and it employed 23,780 male and 20,120 female hands, 639,700 spindles, and 16,075 looms, which work up more than eighty million pounds of wool, the value of which, with other raw materials, was \$40,360,300. The foregoing figures include satinets, Kentucky jeans, and other fabrics of which the warp is cotton, though usually classed with woollens. In the manufacture of these mixed goods the amount of cotton consumed is 16,088,625 pounds, which, with 384,036,123 pounds used in making cotton goods, as previously stated, amounts to 380,044,748 pounds, or 950,112 bales, exclusive of a considerable quantity used annually in household manufactures, and for various other purposes."

"The largest amount of woollens was made in New England, where the capital was nearly twenty million dollars, and the value of the product \$38,509,080, but little less than the total value in 1850. More than half the capital, and nearly one half of the product of New England belonged to Massachusetts, which had 131 factories of large size. Rhode Island ranked next, and had increased its manufacture 163 per cent. in ten years; that of Massachusetts being 48 per cent. The value of woollens produced in the middle States was \$24,100,488, in the western \$3,718,092, and in the Pacific and southern \$2,538,308. The sectional increase was, in New England 52.1, in the middle States 54, and in the South 107—the last showing the greatest relative increase. Pennsylvania, next to Massachusetts, was the largest producer, having 447 factories, which made \$12,744,373 worth of woollen and mixed fabrics, an increase of 120 per cent. A value of \$8,919,019 was the product of 222 establishments in the city of Philadelphia."

"The State of New York holds the third rank in relation to this industry, its manufactures amounting to more than nine million dollars. The woollen manufactures of Maryland exhibit an increase of 86 per cent. In Ohio, which produced in 1850 a greater value of woollens than all the other western States, there was a decrease on the product of 1850, owing, probably, to the shipments of wool to Europe, which, in 1857, was found to be the most profitable disposition of the rapidly increasing wool crops of that State. In Kentucky, now the largest manufacturer of wool in the West, the product was \$1,123,882, and the increase in ten years 40.4 per cent.; while in Indiana, which ranks next, it was 31 per cent., and in Missouri 18.3 on the product of 1850."

"The extension of this important manufacture is a subject of great interest to the country, inasmuch as our climate renders woollen clothing necessary throughout a large part of the Union during much of the year; and because it would supply the best market to the wool-grower."

There should be no antagonism between the wool-grower and manufacturer. Their inter-

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ests when properly understood are mutual, and the Government should extend to both just such protection as will enable them to control the markets here, which would be regulated by supply and demand, and keep out the products of foreign countries.

We are not compelled to be thus dependent on other nations for anything which we can grow or manufacture here out of the productions of our own soil, and should in nowise be so for our wool, our iron, or our coal. In reference to wool, we know we can grow more sheep and raise more wool, if protected by a just tariff, than any people in the world. In England the estimate is one sheep to one and three quarters of an acre; Ohio and Vermont have one to four and one half acres; New York one to six and one half acres; Iowa one to twenty-four acres; and the United States one to fifty-seven acres. Now we have at least twenty million sheep, possibly twenty-two millions, in the United States, producing over sixty million pounds of wool. We should at this time have more than twice this number of sheep and twice this amount of wool for our own consumption; and if our population increases the next twenty years as it did the last twenty, we shall need sixty million sheep to produce the wool we will require for our own people.

Mr. Speaker, I have no doubt if we are true to ourselves as a people; if we succeed in securing peace and harmony and proper guarantees against the recurrence of internal strife hereafter; if we are able to extend the spirit of our free institutions as we progress, the time will come, and probably within the life of some of our own children, when there will be scattered over this widely extended country one hundred millions of an active, intelligent, and industrious population. These must all be supplied with means of labor and subsistence, must be clothed and fed. When that time comes, one hundred and eighty million sheep will be required to produce all the wool needed for these people alone; and this is no exaggerated picture. I present the case in this light to show how vast an interest it is destined to become, and what a field is here opened up to the active, intelligent young men of the country. Now, too many of these are crowded into our cities and villages seeking a temporary subsistence, wasting the vigor of youth behind the counter, in the counting-room, at the desk, or loafing among the dens of infamy, and with undeveloped physical or mental powers do little for themselves or their race, and often in the end become a burden and expense to society. Let them look to this and other fields of enterprise, and early identify with the permanent and growing interests in these new and undeveloped fields of labor in the West and Northwest.

It may be expected that I should say something in reference to the increase of the tariff on iron as well as wool, as there is a large amount of capital invested in that business in one of the counties of my district, and because it is a question of such general interest. An examination of the statistics reveals the same facts that are presented in reference to wool; the competition is ruinous and entirely destructive to the manufacturers of iron, and unless relief is speedily afforded many of them will be compelled to put out their fires and the thousands of hands be thrown out of employment, and, as is natural, will seek their living from the soil and become producers instead of consumers. Though the monetary affairs and the expansion consequent on the condition of the country requiring a large circulation—temporary causes—had much to do in keeping up the price of iron and wool and other products, and creating an erroneous impression on many minds that there was no especial need of increased duties, that delusion has to yield to the undeniable fact that just now the monthly returns show larger balances against us than for years, and not only alarm the manufacturers

of wool and iron, but create serious apprehensions for the credit of the Government. The estimates made in July last of the amount of our indebtedness to Europe on United States bonds and railroad and other securities was \$900,000,000; now, it is very safe to say it is \$1,200,000,000, the annual interest and exchange on which would be over ninety million dollars in specie. Add to this the fact that at this moment there is and has been for some months an American free-trade league in New York, which would be much better denominated the British free-trade league, sending out its poison all over the country in the shape of tracts and documents—doubtless published by British capital—to instill in the minds of our people a doctrine which all experience here proves fallacious; for almost every revulsion to which this country has been subject for forty years has occurred when these balances were so largely in favor of Europe, and when the tariff was repealed or so much reduced as to invite this state of things.

No practical or sensible man can be led away by such miserable delusion. If the tariff of 1842 had not proved prejudicial to British interests, why should they have spent (as has since been alleged) over a million dollars here to modify and repeal it, and under the very same pretenses now offered? The practical common sense of every farmer and artisan or mechanic in any community could refute these miserable free-trade theories. Ask one of these what he thinks of the policy of purchasing thirty millions' worth of iron and steel in Europe to lay a railroad over the iron-ore and coal-fields of Pennsylvania. Again, ask them to look at the thirty-five millions paid annually to the foreign market for laces, silks, articles of luxury, many of which are bought merely to be sold to gratify the pride and vanity of a useless class of our own people who contribute nothing to the real wealth of the country. I give here a portion of what has been so well said by the revenue commission on this subject:

"Pennsylvania could, with difficulty, pay, in any product of her own, for fifty thousand tons of iron imported from Great Britain; but her capitalists and farmers can feed and sustain a population large enough to take from her own mines and manufacture five hundred thousand tons of iron of the value of \$50,000,000, and the same policy extended to her other resources makes her annual product worth \$500,000,000. The proceeds of her agriculture could not be exchanged abroad for one half of what the iron brings.

"In other words, Pennsylvania, without products of her own to spare, which she can exchange in Great Britain for fifty thousand tons of iron, can manufacture ten times that quantity. The whole agricultural product of the State being thus converted into iron and other manufactures becomes, directly and indirectly, a purchasing power in the home market. The product of an acre of wheat exported to England or Scotland may import a ton of iron, but an acre cultivated for vegetables at home will purchase five to ten tons of iron.

"The purchasing power of a people who have duly mingled manufacturing industry with agricultural production is tenfold that of a purely agricultural community. The individuals of a country with such a blended industry purchase from each other, and the only limit to the power of purchase is the power of production. The population of Great Britain and the United States is respectively not far from thirty millions, yet the internal trade of the United States is of tenfold greater value than our entire foreign trade, including the United Kingdom of Great Britain and Ireland. Our foreign trade with France is less than a fifteenth part of the value of our domestic trade. The strength and wealth of a country should be measured by the quantity and value of its productions which it consumes, and not by what it sends to other countries. No civilized nation obtains from other countries a tenth of its consumption. Massachusetts and Philadelphia contribute to the consumption of the United States more than all Europe; so also the city of New York and New Jersey. The trade between Pennsylvania, New Jersey, and New York on the one side and the New England States on the other vastly exceeds our trade with Europe."

It is in the power of foreign capitalists and manufacturers, owing to their low-wages system or cheap labor and immense capital, to subordinate our productions, to overthrow or greatly cripple, without danger to themselves, our American interests, and I am fully impressed with the absolute necessity there exists now,

more perhaps than ever before, for the interference on the part of Congress to place these producing interests and sources of our greatest wealth as a nation on a basis which cannot be shaken by these gambling speculative movements of British or American theorists.

Our national debt, the legacy of this unholy rebellion, and which must be met in good faith, will yet (as taxes are collected in times of national depression, and when this obligation is met with great difficulty) try the patience and integrity of the whole people, and we must be the more careful to husband our resources, develop the means of our own strength, gird ourselves up for the contest, give just and adequate encouragement to all industrial pursuits, learn to depend on ourselves, our own labor, our own capital; invite to our western lands agriculturists and wool-growers; to our rich, inexhaustible mines of coal, iron ore, lead, copper, and gold the hardy colliers and miners; bring to our use the water and steam power of the nation, which have already added a hundred fold to the productive energies of the country; distribute labor and let it find a just reward and ready payment, so that you shall have a just portion of consumers as well as producers; build up manufacturers of wool, of cotton, of iron, &c., on your own soil; create a home market, the best market you can have; buy nothing abroad which you can make at home. If we shall exhibit wisdom enough to do this we shall be able *in tempore* to meet all our obligations to the Government, to the country, to ourselves, and our children.

### Loyal Men Must Rule—"Traitors Must Take Back Seats."

### SPEECH OF HON. H. S. BUNDY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 5, 1866,

On the President's annual message, as in Committee of the Whole on the state of the Union—

Mr. BUNDY. Mr. Speaker, it was not my purpose to make or write a speech during the present session of Congress on the general subject of "reconstruction" which has been so fully and ably discussed in this House; and in the reflections now to be submitted I do not propose to confine myself to any one of the great questions so well considered and presented by gentlemen on this floor. But in so far as the brief hour permits I will attempt a very cursory and general consideration of the "state of the country." Permit me, in passing, to say that during the great rebellion, after the supporters of the Government had become conscious that the rebels were in terrible earnest in their purposes and efforts to break it up by waging war for its overthrow, bringing into requisition such barbarous instrumentalities as suggested themselves to the hearts and minds of "fiends incarnate," that then, and only then, the Government, impelled by the loyal people thereof, adopted the rights and some of the usages of war to repel the assaults made upon it and them, not only by armed traitors in the South but by the more wary and cowardly adjuncts of organized treason in the North.

Thereafter, until the armies of the rebellion were overthrown by and surrendered to the armies of the Union, there was but one idea and purpose entertained by the loyal people everywhere in reference to the rights and privileges of rebels in the great work of restoring the Government. Public opinion had also definitely settled the rights and privileges of the loyal men of the country in the same great work of restoration. The popular heart had been touched, and the popular mind of the country had been instructed by the terrific incidents of the war, as waged by the enemy, and the patriotic efforts and utterances of the great leaders of the loyal hosts in civil life while

grappling with the monster treason. Not a patriotic heart felt a single emotion nor a patriotic voice uttered a single sentiment that did not fully accord, harmonize, and demand the assertion of the great principle "That the loyal people of the country must govern the country."

This was not only demanded by loyalty, but was accepted and expected by treason. The people who by their sacrifices and valor had saved must govern the country. There was not a sign in the political firmament, nor a sound in the earth or atmosphere that portended any other purpose prior to the meeting of the Thirty-Ninth Congress. Early in the history of this session certain gentlemen gave out ominous indications that there would be an attempt at least to reverse the well-defined and clearly pronounced judgment of the whole country. These manifestations, however, did not seem to create any alarm and command much respect or attention, because their authors were and are the representatives of what is popularly known as the Democratic or copperhead party of the North, which party had contributed more to inaugurate and prosecute the rebellion than very many of its active and efficient leaders in the South. Congress and the country very naturally supposed they were only repeating themselves in disparaging the northern patriots and eulogising the southern rebels or making cheap proposals for their future coöperation when restored to power and place in the nation.

In the progress of time and the happening of events these indications assumed form and force until they developed in what we shall be pleased to name as the Democratic rebel theory of "reconstruction." The postulate of this theory is, "That once a State, always a State." The greatest if not the only objection to this theory rests principally, if not entirely, as to the scope and effect of the recognition of the principle given to it and claimed for it by its authors and supporters, to wit: the doctrine that "once a State, always a State," carries with it the right of each and every of the rebellious States to instant or immediate representation in the Government; and that they not only have, but have had that right during the entire period of the rebellion, and have retained all their relations to the Government the same as if their people had not rebelled. This theory carries with it as the logical and inevitable conclusion of such premises, that those States have all the while maintained and can now assert all the rights and privileges of States in the Union, and that there is no power vested in the Congress to delay or prevent them from resuming those rights or enjoying those privileges at their option and election. And because the Union majority in Congress, acting for and representing the great Union party of the country, does refuse or neglect to accept this theory as the true and only solution of the questions involved, it has been wantonly and bitterly assailed by traitors and rebels everywhere, North and South, and the terrors of another war have been invoked and the military power of the country summoned to drive from these Halls at the point of the bayonet the men who dare to scruple and refuse the insolent demands of traitors.

The unmitigated treason and criminality of such a demand, based upon such a wicked theory, need only to be stated to become obvious to every mind uninfluenced and uncorrupted by treason. If they are right, it necessarily follows that in the fall of 1864 when loyal men at home and in the field were concentrating all their energies, moral, political, and physical, to crush armed treason on the battle-field and sympathizing treason at home, putting forth stupendous efforts and submitting to great sacrifices to save the country from impending destruction, by electing a loyal President, a loyal Congress, and loyal Legislatures; that although triumphant, we gained no advantage over the rebels who were as persistently fighting to de-

stroy the Government. Adopt this Democratic rebel theory and they get into Congress as early as we do, and according to their present hopes and expectations, they made at least an even race with us for the Presidency. Therefore the great solicitude of the loyal people of this country for the speedy crushing out of the rebellion in 1864, causing such unparalleled sacrifices of men and money, only resulted in the immediate investiture of their enemies with power; and this was the boon and the only object our brave boys were fighting and dying for on the bloody fields of the Wilderness.

But, sir, the most astounding thing connected with this plan is the assertion made by its authors and supporters, that in its presentation and advocacy here they are but carrying out the views of the President of the United States; that this is the "my policy" of which we have heard and seen so much. What audacity and shamelessness do these men exhibit when they dare rise in their places here and assert that this Democratic rebel scheme for the unconditional wholesale surrender of loyalty to treason is indorsed by the President!

Mr. Speaker, this ought not, cannot be. Are we to be told here that our President, elected by the great party who rallied around the flag and saved the country from impending ruin, and preserved the Government in its peril, shall so far forget the great principles enunciated by himself, defended and supported in that awful struggle of 1864, and which triumphed in his election to the second great office in the gift of a patriotic and magnanimous people, to whom he is indebted for his present high and commanding position and prospective renown, will now, in sight of the goal of his and their hopes and aspirations, basely betray the interests of humanity and good government by surrendering it and its loyal defenders into the power of its and their implacable foes? The proposition is too shocking, too alarming, and monstrous to be even imagined, to say nothing of the realized fact. If it becomes an accomplished fact the doctrine of total depravity will be more authoritatively settled and illustrated than by the great swindle of a Ketcham or the wholesale homicide of a Probst. Why, sir, many of the ideas as to the legitimate rights and status of the rebels in the restoration of the Government were derived by me from the teachings of Andrew Johnson while acting as military governor of Tennessee, enunciated in his celebrated speech of July 2, 1864, after his nomination as the Union candidate for the Vice Presidency of the United States. Hear those patriotic utterances:

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state, and we are seeking security, let us fix the foundations of the Government on principles of eternal justice which will endure for all time.

"But, in calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain.

"Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. [Loud and prolonged applause.] I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government.

"Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized, and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of those authors of

rebellion is past. It is high time it was. I have been most deeply pained at some things which have come under my observation. We get men in command who, under the influence of flattery, fawning, and caressing, grant protection to the rich traitor, while the poor Union man stands out in the cold, often unable to get a receipt or a voucher for his losses."

And now, sir, it is claimed by the friends and advocates of this Democratic rebel scheme that as President the then Governor Johnson will "go back" on these patriotic utterances by him iterated and reiterated subsequent thereto and betray the men who rallied to his support when he so much needed it, into the hands and power of their deadly enemies. Such a consummation would be more to be dreaded just at this time than would have been the defeat of General Grant and his hosts in the Wilderness.

The incredulous feature of this whole theory is, that the President will, in order to placate the rebels and their friends, betray almost the entire party that elected him.

Mr. Speaker, men do not generally act without motive or consideration. What object can the President have in thus betraying his friends and joining the enemy? What had the enemy to offer for such a sacrifice? They were bankrupt in principle and political character, having nothing to give save broken faith to their Government. They had not so much as their great exemplar and prototype, the "first rebel and State rights man had when from the pinnacle of an exceeding high mountain" he offered the Saviour all the kingdoms of the world for his homage.

But, admitting that they had the numerical forces and powers of a great party to offer for such sacrifice, and were the boon never so munificent, the voice of all history teaches that its acceptance would consign the recipient to the ignominious fate of all those who have betrayed trusts bestowed and accepted. Great services rendered by the acceptor in the field or the forum furnish no excuse or mitigation for subsequent treason. If he has fought with the beasts at Ephesus, and overcome all his foes and the foes of the Government, the quality of such acts will be determined by the future conduct of the victor. The ignominy of treason has never been and never will be mitigated or slurred over because the actor had once been faithful and valiant. It is a principle, sharply defined and well established in the moral and political world, that the virtues and good conduct of an early, will not atone or avail for the broken faith and corrupt practices of a later life. The virtues and character of those angels "who kept not their first estate" have never been esteemed as paragons because they were once "angels of light." The Christian world has never abated jot or tittle of its execration of the treason of Judas because he was once "numbered with the twelve."

The fact that Benedict Arnold raised and commanded one of the first companies in the Continental army, and, "side by side" with Ethan Allen, entered and captured Ticonderoga, and was the first to enter and the last to leave Canada in the early and dark days of the Revolution, has not and will not relieve his name from the immortality of infamy which attaches thereto for his subsequent perfidy and treason to his country. No, sir, the earlier associations but magnify and intensify the infamy of the latter. Beside, sir, the ignominy and infamy of treason either to friends, principle, or Government seems to concentrate and abide on him that receives rather than him that gives the stipend as the price thereof. The man who gave the thirty pieces of silver "has been forgotten and clean out of mind" for eighteen hundred years, while the recipient has been and will continue to be damned to perpetual infamy, world without end.

Again, sir, who are these new converts and defenders of the alleged policy of the President? We may answer that they are—

1. Every man who voluntarily fought in the



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rebel army, or served in any capacity in the rebel cause, who compose the southern wing of the late Democratic party. Here permit me to say, without intending disrespect to any, that such constitute the brains and the courage of that party.

2. The northern wing of the late Democratic party, which was led in 1862, 1863, 1864, and 1865, by the Vallandighams, the Woods, Seymours, *et al.*, but who, in 1866, are praying and working to be put again into the leading strings of Jeff. Davis, A. H. Stephens, and others of their southern allies. I say the late Democratic party, because in 1866 they appear to have doffed their old name and uniform, and are now happy and rejoice in the cognomen of the Johnson party. These are they who, during the entire conflict of arms, like Job's war horse, "smelled the battle afar off," and who, by their speeches, practices, and votes during the same period, gave all possible aid to the rebellion, which added at least two years to the sanguinary conflict.

3. Bounty-jumpers, skeddaddlers from the drafts, deserters from the armies, cowardly soldiers who were prosecuted for misconduct, and rascally contractors.

4. A few original Union men who are made to believe that the President does in fact favor such an infernal policy and yet have confidence in his patriotism and integrity.

5. A small number of sore-heads, and those whose acute nasal organs snuff presidential patronage on the breeze which they have helped to evoke and which they hope and pray may blow them some good.

Presidential patronage after all is the great leverage power that moves all this mass and is the centripetal force that impels them inward toward the President. This patronage is the great magnet that attracts and holds all these discordant elements in solution. The indiscriminate bestowal of Government patronage is the "threefold cord," the cohesive power of public plunder that is to blend this heterogeneous mass into one homogeneous whole. Treason is to be made odious and traitors are to be punished by its free distribution. Anxious to receive and endure the just retribution for their crimes, Alexander H. Stephens and Herschel V. Johnson are ready and willing to be offered up as living sacrifices in the Senate of the United States, and if it please God they are willing to endure such punishment the remainder of their natural lives, even should the days of their years be threescore and ten, provided always that the Government resume specie payment as to them immediately, and provided further, that the State of Georgia does not in the mean time renew the attempt to secede, in which event they must again go with their State. What a host of patriots are anxious to be immolated in the same way, suffering the just punishment for treason, making it intensely odious. "They would suffer on their threescore years" and finally "seize the martyr's crown."

Mr. Speaker, the question thus submitted to the consideration of this House and the country by these men is not the "restoration" of the Government, but the immediate, unconditional surrender and ultimate destruction of the Government. Thereby the rebels would achieve in the political arena that which all their armies under their great leaders, together with the aid and comfort of the Vallandighams, the Woods, and all their traitorous hosts in the North could not effect in the field or at the ballot-box. Those men never had any real sympathy with the Government during its awful struggle for life. True, in the summer and fall of 1862, they pretended to favor the prosecution of the war for the Union, and worked diligently to induce Union men to go to the field with the secret understanding that Democrats would stay at home and vote at the ensuing election. Ohio, New York, and Pennsylvania responded very promptly and generously to the

call of the Government that year. Ninetenths of all the volunteers were Union men, who would have voted the Union ticket had they remained at home, but being absent from the polls the so-called Democrats were enabled to elect fourteen of the nineteen members of Congress from Ohio, and gained largely in the other States for the same reason.

The result of that election was barely transmitted over the wires when Vallandigham and the entire party were rejoicing over the fruits of their perfidy, holding large and enthusiastic meetings all over the State, claiming their victories as a verdict of the people against the administration of Mr. Lincoln and against the further prosecution of the war.

But these men raised the shouts of a rebel victory a little too early, as did the rebel armies at Richmond in 1864, when they heard of the nomination of McClellan for the Presidency. The cause for which patriots were battling was a just and holy one; and when Union men were cheated at home or stricken down in the field, like Roderic Dhu, it sounded its bugle, and other patriots rushed to its standard and overwhelmed the traitors. And so it will ever be in so just a cause.

"They never fall who die in a great cause;  
The block may suck their gore;  
Their heads may sadden in the sun; their limbs  
Be strung to city gates and castle walls.  
But still their spirit walks abroad, though years  
Elapse and others share as dark a gloom.  
They but augment the deep and sweeping thoughts  
Which overpower all others.  
And conduct the world at last to freedom."

The great object to be achieved by the success of this scheme is the play of the old rôle, "a united South and divided North." The uniting and consolidating of the two wings of the late Democratic party, with such additions thereto as it is believed, intended, and expected that presidential patronage will secure from nominal Union men; with such material they expect to consolidate all the factions named in one great conservative party, organized and ready for the campaign of 1868, relying almost exclusively upon Government patronage to aggregate this discordant mass, and blend it into a sympathizing whole, if indeed, the President shall be so conspicuously unfortunate as to fall into their hands.

What a motley army of mercenaries! Well may the President turn upon them and say, "Ye serpents, ye generation of vipers, copperheads; ye do not follow me because of the mighty works which I do, but for the loaves and the fishes."

This party when thus consolidated is to be baptised "The conservative party of the Constitution." The traitors, semi-traitors, bounty jumpers, skeddaddlers from drafts, cowardly soldiers, rascally contractors, with the very few Union men, will all look and act so much like traitors that the future ethnologist will be compelled to classify them all as rebels. Presidential patronage is to be the sword of Brennus, whose massive weight will make truth and justice kick the beam. It is to be the all-healing restorative which will bring together and cement the dis severed parts into one grand whole. They claim that in such a party, composed of such elements, there is enough good men who once sympathized and acted with loyalty to dignify and give character to the whole.

This will be simply impossible. The Union faction will become so thoroughly ingrafted into the rebel vine and so completely identified with the parent stock that a distinction cannot be noted.

Mr. Speaker, I call to mind a single analogy which will serve to illustrate my views of the result. "Once upon a time a cute Yankee visited the West to dispose of a wonderful invention of his prolific brain. He named the invention 'nerve and bone liniment, and all-healing restorative.' His best test as to its remarkable qualities was made upon a sheep-killing dog whose tail was severed from the

body. The restorative being applied to the stump a new tail was immediately produced, looking precisely like the original. Seeing the magical effect of this application, he also applied the restorative to the dis severed tail, and as instantly a new dog was produced at the end of the tail, looking precisely like the original, and the unfortunate owner was then and there possessed of two sheep-killing dogs, looking so nearly alike that he could not tell 'tother from which."

But, sir, the most presumptuous and the most mendacious assertion of all is, that their scheme was inaugurated and supported by the late President Lincoln. The bare statement that the late martyred President, during his wise administration of the Government, ever entertained a single thought other than that of preserving the Government for loyal men is simply absurd. It is a foul slander upon his fair fame and good name. The enemies of the country, not content with pursuing him while he lived with the most cruel and malignant warfare and slander, now that he is dead seek to blast his fair fame. Killed by the hands that had been inspired and nerved by the teachings of such men as Vallandigham and S. S. Cox, of Ohio, the latter of whom said in the Chicago convention, "For less offense than Mr. Lincoln had been guilty of the English people had chopped off the head of the first Charles. In his opinion Lincoln and Davis ought to be brought to the same block together." They have brought Lincoln's head to the block, but Davis still lives, and will live and be feted by these men till he dies a natural death, and then he will be apotheosized and canonized in their hearts forever.

Captain Koontz, of Pennsylvania, a McClellan leader in that convention, said, "The people will rise; and if they cannot put Lincoln out of power by the ballot they will by the bullet," which elicited rounds of applause in the convention. And by the teachings of the so-called Democratic press of the North, one of which, the La Crosse (Wisconsin) Democrat of August 29, 1864, said:

"If he is elected to misgovern for another four years we trust some bold hand will pierce his heart with a dagger point for the public good."

These quotations might be multiplied indefinitely, but these will exhibit the *animus* of nearly all the Democratic leaders and press of the North. And now, I say, that he has been killed in pursuance of and under the direction of such teachings, they seek to damn at once and forever the fairest fame that appears "on the landmarks of the cliffs of time," by connecting him with such an infernal policy as we are now considering. A sense of shame ought to mantle their cheeks, if, indeed, there remains such a passion or emotion in such abandoned organizations. If he was in favor of surrendering to traitors while living why did they denounce him then and finally kill him.

Mr. Speaker, there are no evidences of record that President Lincoln ever assumed to have an exclusive presidential policy for the restoration of the rebel States. But the contrary appears. In his proclamation accompanying his annual message of December 8, 1863, he explicitly declared that—

"To avoid misunderstanding it may be proper to say that this proclamation so far as it relates to State governments has no reference to States wherein loyal State governments have all the while been maintained. And for the same reason it may be proper further to say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive."

Again:

"And still further that this proclamation is intended to present the people of the States wherein the national authority has been suspended and loyal State governments have been subverted a mode [not the mode] in and by which the national and loyal State governments may be reestablished within said States, or any of them; and while the mode prescribed is the best the Executive can suggest with his present impressions, it must not be understood that no other possible mode would be acceptable."

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Loyal Men Must Rule—Mr. Bundy.

HO. OF REPS.

From these extracts it will be seen that Mr. Lincoln entertained no purpose of inaugurating a "presidential policy" and cramming it down the throats of the Congress *nolens volens*, but, on the contrary, averred as his deliberate judgment and honest sentiment (he never had any other) that the right, the power, and prerogative of admitting members sent to Congress from any State rested exclusively with Congress, and not to any extent with the Executive, and that while he was compelled to present "a mode," being the best that he could suggest at the time, "it must not be understood that no other possible mode would be accepted."

This, Mr. Speaker, is not the language or the manner of an imperious dictator, but the exhibition of an honest effort made by the modest Executive and wise statesman to inaugurate and set on foot such incipient or inchoate measures as might ultimately lead to the restoration of a distracted country. I defy all his bitter enemies, North and South, who now have the presumption and mendacity to be the pretended supporters of any alleged policy of Mr. Lincoln, to produce a single line or paragraph of his, spoken or written, that will warrant the belief or assertion that the late President ever entertained in the remotest degree any purpose to admit disloyal men to seats in the Congress of the United States, as is now claimed by the supporters of this scheme and the pretended supporters of the present President.

In the last speech Mr. Lincoln ever made on earth, and as his last will and testament to a disordered country, he said, speaking of his acts as the Executive:

"In this I have done just so much and no more than the public knows. In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction (as the phrase goes) which I promised if adopted, should be acceptable to and sustained by the executive government of the nation. I distinctly stated that this was not the only plan which might possibly be acceptable, and I also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States. This plan was, in advance, submitted to the then Cabinet and distinctly approved by every member of it. One of them suggested" \* \* \* \* "that I should omit the protest against my own power in regard to the admission of members of Congress."

I take this from President Lincoln's speech after the fall of Richmond, April 11, 1865, three days before he was assassinated. In his proclamation of May 29, 1865, President Johnson fails to "protest against his power in regard to the admission of members of Congress," and the fair inference is that the same member of the Cabinet who tried to induce Mr. Lincoln to omit the protest against his power, &c., prevailed with Mr. Johnson. At any rate that important protest against the legislative power of the President is omitted in the proclamation of Mr. Johnson. Subsequent events have made that omission significant.

But, Mr. Speaker, as all the malignant shafts of his vindictive enemies fell harmless at the feet of the wisest statesman the world has ever seen, while living, so now they will be more conspicuously impotent, in even shading his fair fame when dead. His fame is safe, for it is—

"Woe unto us, not him, for he rests well."

And—

"The earth that bears him dead bears  
Not alive so stout a gentleman."

"The good knight is dust,  
His good sword is rust,  
And his soul is with the saints we trust."

It may be said of him as of one of the olden time patriots, that—

"By him the people held their native rights  
Unimpaired, unoppressed; the great restrained  
From lawless violence, and the poor from  
Rapine by him—him their mutual shield."

He was emphatically—

"The rudder's guidance and the curb's restraint."

When his enemies shall have rotted and their

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memories perished from among men, it will be said of Abraham Lincoln that he—

"Hath borne his faculties so meek, hath been  
So clear in his great office, that his virtues  
Will plead like angels, trumpet-tongued, against  
The deep damnation of his taking off."

His tomb in after times will be a shrine for the pilgrimage of freedom's votaries, and upon his grave the future patriot will relume the dying flame of liberty.

But, Mr. Speaker, there are a few, a "very select few" gentlemen upon this floor who were elected as unconditional Unionists, as I am advised, that by their speeches in very general and indefinite terms propose an immaterial modification of the Democratic rebel scheme of reconstruction, having the same general postulate, to wit, "Once a State always a State;" but in the application of the principle involved in their theory, the right to representation of such State in Congress is limited to the loyal people thereof, requiring no action on the part of their respective State governments to put them in "practical relations with the Federal Government," and forbidding the action of Congress in the same direction. And this they claim *par excellence* as the "my policy" of the President. Judging from such intimations as are permitted to transpire, these gentlemen have the ear of and the inside track with the President. If this scheme at the first blush should seem more loyal and plausible than the Democratic rebel scheme, it will be found to be wholly impracticable in its application to the case in hand. As the case now stands it cannot effect a loyal restoration of the entire Government. For it is not claimed that any of the eleven rebel States not now represented elected or pretended to elect a single loyal Representative to Congress except the States of Tennessee and Arkansas, and perhaps one from North Carolina who has no constituency behind that can sustain him. There is not much doubt but that Representatives who can honestly take the oath from Tennessee and Arkansas will be admitted to this Congress, and perhaps at its present session. At any rate, for one, I am now and have been in favor of the admission of such men from those States, and will so vote when opportunity permits.

But as to the remaining nine rebel States no one, I believe, who is or has been regarded as thoroughly loyal, claims or pretends to claim that they have elected a single Representative who can conscientiously take the required oath, (the same oath that every member of the present Congress was required to take before he could have a place on this floor,) unless it be the one from North Carolina, as above indicated. Why, Mr. Speaker, there are not enough loyal men in any one of the nine States to fill and execute the offices of postmaster, assessor, and collector of internal revenue. That this view of the political condition of those States and their people is correct is evidenced by the message of the President now lying upon your table appealing to Congress to modify or repeal the test oath so that he can procure the services of enough men in those States to carry the mails, take charge of the post offices, and assess and collect the Government taxes therein, which would again bring unrepenting and unrelenting rebels into the high places of the nation, there to fester and batten and riot as in days of yore.

Thousands of the brave boys once in blue are "waiting and watching" "for something to turn up;" some suitable recognition of their services, sufferings, and sacrifices by that Government they have so nobly and heroically saved. These men could take the required oath. They are abundantly qualified in every way to discharge the duties of these various offices that rebels must have a "dispensation" to enable them to hold.

So much for this preëminently "my policy" which in following to its legitimate and logical conclusion, practically lands in "the slough of

despond" with the Democratic rebel theory, or else it must be merged in the Union policy hereinafter stated. We hope that its fate may be with the latter, for it will be much more pleasant to cooperate with the former friends of the Union and the party who saved it than to be compelled to separate from them for any cause. But unless they adhere to the well-defined and established principles of the party, as enunciated by its great leaders and accepted by the masses, painful and apparently destructive as it may be, separation will come, not by any act of the large body of the party, for it will move straight forward to the accomplishment of its great purposes unseduced by patronage and unawed by power, its only aspiration being:

"Thy spirit, Independence, let me share;  
Lord of the lion heart and eagle eye,  
Thy steps I follow, with my bosom bare,  
Nor heed the storm that howls along the sky."

If, indeed, offenses must come, woe unto him by whom they come.

The great Union party in and out of Congress believe with Governor Johnson, then of Tennessee:

"That the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government."

They accepted that as the law of the case in 1864 pronounced by one of their great leaders; they carried that law into effect in November of that year by electing its author as the Vice President of the United States. It was good law then, it is good law now, and they adhere to it. They care very little about the "dead State" or "live State" theories, and only regard the attempted distinction as one of form and not of substance. But they do regard as of vital importance the real *status* of voluntary rebels and the substantive rights and privileges of voluntary Unionists in the great work of restoration. Fix these upon an enduring, fair basis, and the metaphysical publicists may dispute as much as they like about immaterial matters connected with this great subject. The Union men in Congress and out of Congress very modestly, yet earnestly and firmly, assert that Congress has the absolute right, and it is its duty to exercise that right, to determine who shall and who shall not be admitted to seats therein from the rebel States. This position, I take it, will be maintained at all hazards as against all antagonists, no matter whence they come or whither they go. And in fixing the character of such representation it is as firmly determined that none but loyal men shall rule America. "Traitors must take back seats in the work of restoration." If in order to secure such a construction of future Government it has become necessary to have certain amendments made to the Constitution, then let that precede complete restoration. No loyal man doubts that there is such a necessity and that such an exigency is now upon us. Now is the time to effect the work; so said Andrew Johnson in 1864:

"I conclude that Governments can and ought to be changed and amended to conform to the wants, to the requirements and progress and the enlightened spirit of the age. And let me say, now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state, and we are seeking security, let us fix the foundation of the Government on the principles of eternal justice which will endure for all time."—Speech of Governor Johnson at Nashville, July 2, 1864.

This was good political doctrine then enunciated in words fitly spoken; it is just as sound now, and will remain so, commanding the homage of every loyal heart and demanding the earnest, vigorous effort of every loyal man until, indeed, the Government of this country shall be finally and forever rescued from the grasp of the traitor, and its foundations fixed "on principles of eternal justice which will endure for all time."

To this end the committee on reconstruction has just agreed upon a plan which, if adopted

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and carried into final effect, will go very far to secure these grand results.

As I now understand it from a very hasty perusal of the series of the proposed amendments to the Federal Constitution, I shall most cheerfully support it. The first section, looking to the security and defense of the personal and property rights of the citizen in all the States, is certainly just and right, and must commend itself to the judgment of every fair-minded man.

The second section, looking to the proper and equitable distribution of political power in all the States, fixing the basis of representation in each, is certainly just, and the rights of the loyal white men in this country demand its adoption as a part of the fundamental law of the land; so that a white voter in the North shall hereafter be just as good and no better than a white voter in the South. No one but the aristocrat, the rebel, or the demagogue will oppose the adoption of that article.

As to the third section it is not very material, in my judgment, whether that is retained or not as a part of the general plan, provided it be followed up by the passage into law of the accompanying bill, which provides for the disfranchisement of certain descriptions of voluntary rebels. Whether the third section is in or out matters very little to me.

As to the fourth and last section, there certainly can be no valid objection urged against its adoption and ratification. As a whole, then, let this plan receive the hearty support of every Union man in and out of Congress, and the work of restoration will be rapid, fair, and easy, asking and demanding no more of the people in the unrepresented States than we are willing to impose on ourselves, and cheerfully bear. With all deference to gentlemen on the other side, we do think a northern man is just as good as a southern man. We do not want to be compelled to look up to him or have him look up to us, but to meet all such upon the common democratic plain "seeing eye to eye," each feeling himself to be just as good, just as much of a man as the other; no better and no worse. If Democrats shall persist in their purposes and practices of looking up to and toadying after southern gentlemen, we cannot help it. There is no law against flunkysim in this country, and I suppose we should be met with violent opposition from that quarter if we attempted to pass one. It would be regarded as an "act in restraint of personal liberty," and declared by them as unconstitutional.

But, Mr. Speaker, it is said in certain quarters that the Union party cannot carry out its plans because the President whom it elected now stands opposed to it and will exert all the force and influence of his position to defeat it. "That he opposes all amendments to the Constitution," &c. Well, if this be so, we shall have to try and get along without him. For one I shall part company with him "more in sorrow than in anger."

My faith is strong that the great principles avowed and battled for by the Union party are immortal, and it is not in the power of any one man however exalted his position to defeat their ultimate triumph. If, indeed, such shall be their fate, well might the patriot invoke the curse of the poet, and say—

"Oh, for a heart to curse the slave,  
Whose treason, like a deadly blight,  
Comes o'er the councils of the brave,  
And blasts them in their hour of might."

Behind us, Mr. Speaker, is a loyal, confident, intelligent people, uncorrupted and unseduced. Their voice is potential, and it is well for a suffering country that they are "the power behind the throne that is greater than the throne itself." That people never will be destroyed. As to Presidents and Congressmen, "a breath can make them as a breath hath made," and it is to that solemn, that grand tribunal we must make our final appeal, and before such a forum I can have no fears as to the verdict.

The conflict of arms may be over, but the conflict of opinion still rages unabated. In my judgment, it will be "sharp and short." Union men everywhere must close their ranks, then—

"One last great battle for the right,  
One short, sharp struggle to be free.  
To do is to succeed—our fight  
Is waged in Heaven's approving sight,  
The smile of God is victory."

## Funding of the National Debt.

## SPEECH OF HON. JOHN SHERMAN,

OF OHIO,

IN THE UNITED STATES SENATE,

May 22, 1866.

The Senate having under consideration the bill (S. No. 300) to reduce the rate of interest on the national debt, and for funding the same—

Mr. SHERMAN said:

Mr. PRESIDENT: This bill came to us in the usual mode from the Secretary of the Treasury, and its purpose is to facilitate the negotiation of a five per cent. loan. It has been with me, during the present session of Congress, an earnest desire to see the interest on the debt of the United States reduced to not exceeding the rate of five per cent.; but the Secretary of the Treasury, as will be gathered from his public documents, hesitated somewhat as to whether he could negotiate a loan bearing that rate of interest. After full consideration, however, he presented this bill as containing the terms upon which, in his judgment, this loan could be negotiated. It came to us, and by general consent was reported to the Senate, printed for the purpose of attracting attention and criticism, and was subsequently considered by the committee, and reported. Its history is now known to the Senate.

Before considering the specific terms of the bill, it will be necessary for me to state the condition of the public debt. By the statement laid on our tables on the 1st of May, it appears that the ascertained debt of the United States at that time was \$2,827,676,871; and from that may be properly deducted the amount of money, coin, and currency on hand of \$137,987,028 82. To this aggregate must be necessarily added quite a number of items, some of which have been acted upon at the present session of Congress, and some of which will be acted upon before our adjournment, the mere statement of which will show the Senate the probable condition of the public debt within the next year or two. The largest sum, probably, that will be required; or that is now pending before us, is the bill introduced from the Committee on Military Affairs for the equalization of bounties, which will take, if passed, near \$200,000,000. What will be the fate of that measure I have no means of knowing. The Pacific railroad, now being constructed, will probably cost in the course of the next five years something like \$50,000,000, and over \$100,000,000 in the aggregate. If the various branches that are entitled to bounty should comply with the terms of the law by building, each of them, one hundred miles during the year, it will take \$6,400,000; but the presumption is that some of those branches will fail to comply with the law.

In the settlements with the States for expenses incurred for the military service in an irregular way, we have already appropriated I think about ten million dollars to the States of Missouri, Kansas, Pennsylvania, and West Virginia, and there are other claims of the same character which will be presented by other States. I am told that Indiana, Kentucky perhaps, and Ohio will have such claims. Ohio has a claim of that kind growing out of the Morgan raid. The probability is that this class of claims now unadjusted but not disputed, the principle having been settled, will take \$20,000,000. The largest yet allowed was to the State of Missouri, which I think amounted to some seven or eight millions.

Mr. HENDERSON. Seven millions.

Mr. SHERMAN. Then there is the measure presented by a prominent member of the House of Representatives, which, I hope, will not pass, and upon which I have a very clear judgment—the proposition to assume a portion of the expenses of the States in raising men during the rebellion; the proposition generally known as Mr. BLAINE's bill, and which, should it receive the sanction of Congress, would take, by its terms, \$116,000,000. As I have seen but very little effort to pass that bill, I lay that aside as not a probable burden upon the Treasury.

Then there are classes of large private claims growing out of the war, many of which are being constantly pressed upon us, and which will take probably millions of dollars, but the precise amount of which no man can estimate. The bill passed the other day for the relief of the contractors for the iron-clads, and the claims made by the States of Kentucky and Tennessee and the various border States for damages caused by the war, and claims for property used by the Army, are specimens of this class of claims, amounting, I might say, to fifties and hundreds of millions. I take it the great body of these claims will be rejected upon the general principles of public law; and therefore, in estimating the probable burden on the Treasury, I do not put this item very large, especially as I see a disposition in Congress to criticize very accurately this class of claims.

It therefore is very certain that in the most favorable aspect of affairs the public debt of the United States might fairly now be estimated at \$3,000,000,000. That is the amount stated by the Secretary of the Treasury in his annual report, and I think it is not overstated. With the strong probability of passing the bill for the equalization of bounties, it may be understated; but I take it as a correct estimate.

It will be observed that this debt is of the most diverse character. It consists, not only of the unliquidated claims that I have specified, but the public debt which is ascertained is provided for by twenty-seven different laws and as many as forty different forms of securities. The report on the finances, which was laid on your table at the commencement of the present session, contains a list of these various loans, covering six or seven pages. Under some of these laws there are a great diversity of issues. For instance, under the seven-thirty law there are three different series of notes, and under the five-twenty law there are five different series, containing somewhat different provisions. The seven-thirties vary somewhat, although it is very difficult precisely to state the difference.

Mr. FESSENDEN. The difference arises from the dates of issue, principally.

Mr. SHERMAN. Partly, but in the seven-thirties the difference is also in the terms of the bond. The principal difference is that in one class of those bonds the interest may be at the pleasure of the Government paid in gold at six per cent. I merely allude to this diversity of loans to show that the natural idea of every one connected with the finances of the Government would be, as early as possible, to consolidate and put in some uniform form the public debt of the United States. This is an obvious idea. It is now difficult for the people of the United States to understand any but two or three of these loans, and none but a skillful financier, engaged himself in the purchase and sale of stocks, can tell the various differences of value between the different forms of securities and the reasons of those differences. It is obvious, therefore, that for public convenience it is necessary to consolidate these loans as soon as possible into one distinct form, so that we shall have nothing to provide for but the interest of the debt and such portion of the principal as the policy of the United States may require us to pay off.

There is another reason for funding our pub-



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lic debt. It is not a question of policy, but it is a question of necessity. A large portion of this debt matures very soon, and it must be either renewed or paid off. It can only be

paid off by selling other bonds, and consequently there is necessity of prescribing the terms of these new securities. I have here a table showing when this public debt matures:

Character of issue.	Amount outstanding.	When payable.
Temporary loan, four per cent.....	\$612,227 98	Due.
do do five per cent.....	21,664,710 65	Due.
do do six per cent.....	67,263,163 47	Due.
Certificates of indebtedness, six per cent.....	55,921,000 00	Due.
One and two years notes, five per cent.....	32,536,901 00	Due.
Total amount due.....	\$178,001,008 10	
Six per cent. bonds (five-twenties).....	\$514,780,500 00	After May 1, 1867.
Six per cent. bonds.....	9,415,250 00	After Dec. 31, 1867.
Six per cent. compound interest notes.....	167,012,141 00	1867.
Seven and three-tenths Treasury notes.....	234,400,000 00	After June 30, 1867.
Total maturing in 1867.....	\$925,607,891 00	
Six per cent. bonds.....	\$8,908,341 80	After July 1, 1868.
Seven and three-tenths Treasury notes.....	65,600,000 00	After March 3, 1868.
do do do do.....	300,000,000 00	After March 3, 1868.
do do do do.....	230,000,000 00	After March 3, 1868.
Total maturing in 1868.....	\$604,508,341 80	
Six per cent. bonds (five-twenties).....	\$100,000,000 00	After Nov. 1, 1869.
Six per cent. bonds (five-twenties).....	\$50,590,300 00	After Nov. 1, 1870.
Five per cent. bonds.....	\$7,022,000 00	After Jan. 1, 1871.
Five per cent. bonds.....	\$20,000,000 00	After Jan. 1, 1874.
Five per cent. bonds (ten-forties).....	172,770,100 00	After March 1, 1874.
Total maturing in 1874.....	\$192,770,100 00	
Six per cent bonds.....	\$18,415,000 00	After Dec. 31, 1880.
Six per cent. bonds.....	\$50,000,000 00	After June 30, 1881.
Six per cent. bonds.....	192,252,430 00	After June 30, 1881.
Six per cent. bonds.....	75,000,000 00	After June 30, 1881.
Six per cent. bonds (Oregon war).....	1,016,000 00	After July 1, 1881.
Total maturing in 1881.....	\$265,268,430 00	
Six per cent. bonds (U. P. R. R. Co.).....	\$640,000 00	After Nov. 1, 1895.
Six per cent. bonds (C. P. R. R. Co.).....	1,898,000 00	
Total maturing in 1895.....	\$2,538,000 00	

It will thus be seen that while the pressure of the principal of the public debt is not very great now, yet \$178,000,000 is within the reach of the Secretary, and that next year and the year following both the seven-thirties and five-twenties come within his reach for payment or conversion.

Mr. CLARK. I suppose it is not a necessity that they must be redeemed. It is at the option of the Secretary.

Mr. SHERMAN. I say it is within the power of the Secretary.

Mr. CLARK. The Government may have a longer time if it chooses.

Mr. SHERMAN. Yes, by paying six per cent. interest in gold. I wish simply now to show that it is within the power of the Government, if it can reduce the rate of interest, to do so consistently with the stipulations of the bonds.

But there is another argument derived also from another table that I have before me. All modern nations who are now dealing very largely in public debt have as a matter of policy reduced their public debt to some simple, tangible form, so that in every country there is a specific debt known to the people of that country, with a fixed rate of interest prescribed by law; and the whole of the public debt is generally put in that form as soon as possible. England had formerly the same diversity of securities that we now have; but it has been the policy of English statesmen, from William Pitt down to this time, to reduce that debt into one simple form, so that nothing but the interest should be provided for, and the result has been that the whole of the public debt of England is reduced to a three per cent. debt except about one million pounds. The total amount of the public debt of Great Britain is £799,802,139, and the whole of this may now be said to be a three per cent. annuity, the

principal, however, redeemable at the pleasure of the Government. In France I find the same thing has occurred. The term "*rentes*" generally describes the great mass of the public debt. I think all the debt, except a few technical annuities, given probably for specific purposes, one called "*obligations trentenaires*," and some floating debt, is now funded in the form of *rentes*. The debt of Russia, also, is now funded into three, four and a half, and five per cent. stocks—the great body of it in the form of five per cent. foreign loans. The same statement holds good in regard to all European countries. Every nation in Europe, where a public debt has existed in some cases for centuries, has adopted it as a principle to reduce that debt to as simple a form as possible, so that the interest alone would be a charge upon the treasury, and that a sinking fund should pay off gradually such portion of the principal of the public debt as the policy of the Government would allow.

It is manifest that if the debt of the United States was now reduced to one simple form of a five per cent. stock or bond, so that the United States need not look except to the payment of the interest of that debt, and to the payment or purchase of such portion of the principal as its policy might dictate, much of our financial difficulty would be removed. What is now the trouble with us? Why cannot this project be adopted? The answer is that a very large portion of the principal of the public debt becomes due in a short time, and the Secretary must provide for the payment of that principal; and this very necessity of going constantly into the market to renew these loans imposes upon him nearly all the burdens of his office. And yet I do not arraign the policy that was adopted during the war of making short loans. It was proper to do it, it was necessary to do it. It was not proper for this Government to stipu-

late to pay these high rates of interest for a long period of time, and therefore during the war it was necessary to make short loans at a high rate of interest; but it was always done in view of reducing the rate of interest after the war should be over, and with a view of consolidating this whole debt. The policy, so far as I know, of those connected with the finances of the country, has been to keep ever in view the principle of redeemability in every form of security issued during the war. Therefore the five-twenty note was payable or might be paid after five years. The seven-thirties and the various forms of securities that have been issued are within the reach of the Government in a short time. Why was this idea so carefully kept in view? Simply to enable the United States to retain the advantage of paying the principal after the war when loans could be negotiated on more favorable terms. And now we may properly reap the benefit of this wise policy. We may now enter the money market with the laurels of victory and peace. We need no longer compete with the industrial interests of our citizens in borrowing money, but may prescribe our own terms and renew our debts on conditions consistent with our vast power and resources.

Now, Mr. President, the only additional question I need present in this connection is, is this the time to fund the public debt? I say emphatically it is. I believe we have wasted four or five precious months in doing it. I believe that the process would have been easier at the beginning of this session than it will be now; and why? In order to fund the public debt of the United States a large amount of currency is necessary; but it is necessary for us to reduce our currency as soon as possible. We cannot get back to specie payments without some reduction of the currency. Every one desires to resume specie payments. Before we return to specie payments this debt ought to be funded. It cannot be funded on as favorable terms after we return to specie payments. The very abundance of the currency obviously enables us to fund the debt at a low rate of interest; and it is just and right, as this debt was contracted upon an inflated currency, that upon that same currency the debt ought to be funded in its permanent form. The effect of the superabundance of paper money is to reduce the rate of interest; that is obvious. At the time of the celebrated John Law excitement, the rate of interest in France was reduced to one and a half per cent. by the overwhelming amount of paper money. I say that now, above all others, is the time to fund this debt in some form of security. If we postpone it six months or a year it will only add to our difficulties. The longer we postpone it, and the longer we leave this amount of floating indebtedness upon the market of the United States, the less will we be able to fund it at a low rate of interest and on favorable terms. And, sir, we have no choice about it. We have got to do it, because this debt is maturing, and we have got to put it in some other form unless we intend—to use a very expressive phrase—to shin it, and go into the market to renew short loans. This debt matures, and it has got to be paid. It can be paid, not by taxes but by selling new bonds and new loans; and therefore we must determine upon some form of funding this debt as soon as practicable. And this brings me to the main question involved in this bill, and that is what rate of interest the United States ought to pay on our public debt. Upon \$830,000,000 we are now paying interest at the rate of seven and three tenths per cent., higher than we allow our citizens to exact from each other. Upon the great part of our debt we pay six per cent. in gold, equivalent at present rates to seven and eight tenths per cent. in the currency for which the bonds were sold. We exempt our public creditors from the burdens of taxation. The question

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is now whether we are willing to continue to pay such interest, and whether we are unable to meet our obligations on more favorable terms.

And, sir, in considering this question, I wish it distinctly understood that I would not arbitrarily change any contract with a public creditor. Public faith is the most precious jewel of a nation, and I would not tarnish ours by any violation of promise or contract. So far as we have stipulated we must pay; our credit demands it. An old writer says:

"This is the great thing called credit. Credit is a consequence, not a cause; the effect of a substance not a substance: it is the sunshine, not the sun—the quickening something—call it what you will, that gives life to trade, gives being to the branches and moisture to the roots. It is the oil to the wheel, the marrow in the bone, the blood in the veins, and the spirits in the heart of all the *négoce*, trade, cash, and commerce of the world."

Credit is based, not only upon a strict compliance with contracts and ability to perform them, but also upon great care in making them.

We must have prudence in making a contract, honor in observing it, and ability to perform it. These are the elements of public as well as private credit. Our history as a nation has shown that we have the means and will to fill our contracts. It is for us to show our prudence in making these for the future. In private dealing we will not trust a man who has great means and ample property if he is reckless in making engagements, but we do trust a prudent man who has no resources but his prudence and probity. As a nation we ought not to impair our credit by making engagements more onerous than other nations do, unless we are compelled to do so by stern necessity. Now, sir, I cannot but think that it is discreditable to us as a nation that we are now issuing our bonds at a higher rate of interest than any Christian nation of the world; that we now continue to issue six per cent. bonds, principal and interest payable in gold, at a coin value of seventy-five cents on the dollar. I do think the fact that all European nations, with all their complicated relations and expensive forms of government, can sell their securities at a more favorable rate than we, is an unpleasant fact no longer justified by the relative condition of the several countries. While we were in war, our Government in discredit, and our own people fearing the result of the struggle, we were justified by necessity in paying high rates; but to do so now is a confession of weakness that I see no foundation for.

Let us test this question by a more detailed comparison of the rates of interest paid by this and other countries, and of the resources of each. I have a table showing the debt, population, and annual interest paid by leading nations:

Countries.	Total debt.	Population.	Per capita.	Annual interest.	Per capita.
Great Britain.	\$4,000,000,000	30,000,000	\$33.33	\$120,000,000	\$4.00
United States.	3,000,000,000	35,000,000	87.70	180,000,000	5.14
France.	2,000,000,000	36,500,000	54.79	130,000,000	3.56
Russia.	1,125,000,000	79,000,000	15.40	78,000,000	2.48
Austria.	1,000,000,000	35,000,000	28.57	60,000,000	1.71
Prussia.	850,000,000	16,000,000	53.12	58,000,000	3.62
Holland.	400,000,000	3,000,000	133.33	13,000,000	4.33
Belgium.	200,000,000	3,000,000	66.67	6,000,000	2.00
Portugal.	150,000,000	2,000,000	75.00	3,000,000	1.50
Spain.	130,000,000	18,000,000	7.22	2,000,000	0.11
Denmark.	110,000,000	1,500,000	73.33	1,500,000	1.00
Sweden.	60,000,000	2,000,000	30.00	1,000,000	0.50
Hanover.	48,000,000	1,000,000	48.00	1,000,000	1.00
Warrenburg.	25,000,000	1,000,000	25.00	1,000,000	1.00
Hamburg.	23,000,000	1,000,000	23.00	1,000,000	1.00
Greece.	20,000,000	1,000,000	20.00	1,000,000	1.00

Statement showing the aggregate indebtedness of the several European and American nations, and the average per capita on the population thereof; the aggregate interest per annum, and the average per capita on the population thereof.

But this table, while it presents us in an unpleasant aspect, does not show the entire facts. Of our debt only \$2,200,000,000 is on interest. The residue is not funded or is in the form of currency, but on the sum of a little more than \$2,000,000,000 we pay \$139,000,000 of interest, while Great Britain pays a less sum of interest by some millions of dollars on nearly double the debt. The rate of interest on her consols, at their present market value, is three and a third per cent. One hundred dollars of her bonds, bearing interest at three per cent., will sell in any money market of the world for eighty-six dollars in gold, equal to ninety-four dollars in our coin, while \$100 of United States bonds, bearing six per cent. interest, will sell in Europe at from sixty-five to seventy dollars in sterling gold, and in the market at New York for about seventy-six dollars in our coin. Is there such a difference between the condition of affairs in this country and in Great Britain; is there anything in our public credit, the nature of our institutions, or the character of our laws, or in the uncertainty of payment that compels this exorbitant difference? I do not think so. In France the rate of interest is about four per cent. and a fraction; sometimes a little less than four. In Russia it is five per cent. In Austria it is five per cent. Five per cent. is the highest rate paid, except during an emergency by any of those countries; and their resources are not to be compared with ours. This table shows that, tested by the public debt of any nation of modern times, the amount paid by the United States is entirely exorbitant, and therefore the first duty is to reduce this rate of interest, not by arbitrary means, but by every device of legislation. In my judgment, it will be a public discredit if the Secretary of the Treasury is compelled to issue any more six per cent. gold-bearing bonds.

When you examine our resources and compare them with the amount of our public debt, the latter seems insignificant. It is shown, not only by our official tables, but by the actual exhibition of our industry and strength in the last three or four years, that we have more elements of strength and more resources in money than any nation of Europe. England has but thirty million people upon whom her public debt rests; we have thirty-five million people, and our population increases at a ratio without example, maintaining that ratio for sixty years. We have the broadest agricultural field of any nation in the world, without even excepting Russia, because the great body of Russia is either too cold or too dry for agricultural productions. We have a territory of compact form but varied climate, and productions greater in extent than all Europe. We have 2,044,077 separate farms, each occupied by the owner, and in the main tilled by his own labor. Our coal-fields are estimated to be thirty-six times the size of those of Great Britain and Ireland, and are distributed throughout all portions of the country. As coal is the basis of the wealth of Great Britain, and actually yields seventy-two million tons, while we now consume but fifteen millions, we have in coal a bank that can never break, a mine of jewels more valuable than all the gold of the world. And our mineral resources are greater than those of any two countries of the world. California has furnished to the mints of the United States for gold coin over \$360,000,000, and probably a greater amount in bullion exchanged for foreign productions. Iron in mountains of rich ore is scattered in most of the States. We have more actual wealth *per capita*, now, than any nation in Europe. The price of labor here is twice what it is in Europe. All the elements which enter into the computation are in our favor. For us to pay this rate of interest, it seems to me, is an acknowledgment that there is some defect in our form of government, some insecurity, or some unreasonable demand for the use of money, that I cannot explain.

The vast disproportion between the rates of interest we pay and our resources has excited the intelligent observation of an Englishman recently among us and who has recently written a book upon the resources and prospects of America, a copy of which I have before me. I refer to Sir Morton Peto, and I am sure every Senator who hears me will deeply regret that one so friendly to our country seems, by the advices we have this morning, to have been involved in financial embarrassments at home. This intelligent writer, who is familiar with the whole system of finance and taxation in England, has presented in this volume the results of his study and observation of our resources in a manner that must attract the attention of every reader. The book is a careful collection of facts admirably arranged, but without attempt at concealment or exaggeration, and he closes it by saying that after the completion of our Pacific railroad—

"We shall be called upon to regard America as the greatest nation of the world. She will be entitled to take that rank by reason of her extent, her diversity of soil and climate, the character of her communications, the variety of her resources, her vast mineral riches, and the abundant field which she presents for labor and for the employment of capital and enterprise. Many among us are accustomed to smile when we hear the Americans speak of the United States, in their accustomed manner, as a 'great nation.' But there is no mere boast in that description. Emphatically, America is a 'great nation.' Where can we find her equal in geographical and natural advantages, in material progress, or in general prosperity? As a united people, the Americans present to the world a spectacle that must excite general admiration. Regarding them as of the same race and ancestry with ourselves, as a people using our language, governed by our laws, united by the same religion, influenced by kindred sentiments, their progress is a spectacle which should kindle our admiration and enthusiasm."

And, sir, in this connection we must remember that while our resources are so great, they are not locked up in the bosom of mother earth, but may be touched by the power of taxation. The actual experiment has been tried, and the result has been far greater than any of us estimated. We are now collecting a revenue greater than any modern nation. A recent official statement made to us by the revenue commissioners shows that during the current year the result of our taxes is over five hundred million dollars, a sum greater than France or Great Britain ever collected in any one year. We are now engaged in the happy duty of repealing many of these taxes, but will still retain \$30,000,000 to apply annually on the principal of our debt; a fact that has forcibly impressed the mind of Mr. Gladstone, who, after years of peace, is fortunate in being able in Great Britain to propose a plan of slightly reducing the debt of that country by changing a portion of it into terminable annuities.

Another element of credit is that under our system of government our national expenses are far less than other nations. Sir Morton Peto says:

"In proportion to population, the United States, in 1860, had, I apprehend, the smallest expenditure and the smallest national debt of any country in the world."

And, sir, even under the increase of our expenditure since the war our actual expenditure, other than on account of the public debt, will be in the future far less than the same population in Europe. Here war expenses cease with the war. No standing army swells exorbitantly our estimates. Our heroes who saved the country by war are now enriching it by their labor. Our current expenses next year will be considerably less than two hundred millions. So that whatever view we take of our financial position, whether we consider our resources, our receipts, or expenditure, or the varied industry of our people, we must conclude that we are not justified in paying rates of interest so far in excess of other nations.

Again, sir, the present rate of interest is a war rate, and the distinction between a war rate and a peace rate is recognized by all the

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writers. England was compelled to sell many of her three per cent. annuities at some sixty cents on the dollar; but even England when she was involved in the great war with Napoleon never paid anything like such a rate of interest as we do this day. It seems from the report of one of the revenue commissioners, which is very full of facts and details on this subject, that the average rate of interest paid by Great Britain during her war with the French republic, of eight years, was £4 17s. per £100; a little less than five per cent.; that during the year 1802 it was reduced to £4 4s.; that during the war with the French empire it was £4 15s.; that from the end of the war until 1821 it was £4 5s., or four and one fourth per cent., and that the average rate during the whole period of the war was four and three fifths per cent., reduced to a specie standard; and yet we have paid, uniformly, six per cent. in gold, receiving paper for our bonds, paying the interest in gold, and converting one into the other. At one time during the war we paid at the rate of thirteen or fourteen per cent. on money, counting the difference between gold and paper. Such a thing as that would exhaust any country except ours. We were able to borrow this money and get it from the people; but it is obvious that at the very earliest moment we must go back to something like a reasonable rate of interest on our public debt. We must not tear from our people the results of their labor and pay it for purposes of this kind when there is no necessity. I take it, therefore, as an axiom with which to set out, that we ought to reduce the rate of interest. I expect to live to see the time when the rate of interest in this country will not be over three or four per cent., and now we propose to reduce it on new loans to five per cent.

There are one or two collateral views that Senators might reflect upon with great propriety. First, there is the influence of these high rates of interest on the industry of our country. I have a letter here, which probably presents this point as clearly as I can, from a very intelligent citizen of the city of New York. I will read a short extract. He speaks of the effect of the high rates paid by the Government in the city of New York. He says:

"A powerful cause which exposes the poor and persons of limited means to such high rents is found in the rates of interest established by national and State laws and the increased value given to money by such legislation. During the rebellion the Government offered a higher rate of interest than the laws of New York and the sea-board States generally had established as legal. Hence investments in United States securities now realize more than two per cent. over bonds and mortgages in New York. Capitalists have therefore been withdrawing money from real estate loans to invest them at higher rates in Governments. This policy affects scores of millions of capital. It has a direct tendency to limit and retard building and discourage all State developments. It has entirely unsettled the whole system of the demand and supply of money for private enterprises. Every day an unprecedented number of houses and lots are thrown on the market, either from the inability of the borrower to pay off his mortgages or debts in any other way, or from the imperative necessity of raising money to prosecute old business or start new. These enforced real estate sales benefit the capitalists alone, who in return demand at least fifteen per cent. on their new property, and those who are obliged to rent are thus held at their mercy.

Before the war capitalists and corporations were ready to loan from fifty to seventy per cent. on real estate securities. With from two to five thousand dollars on hand a man could buy and build with a certain reliance on a loan, while his future earnings, with the gradual advance of property, would ultimately give him a clear title to a home for himself. In this way many thousands of good dwellings were constructed in New York; but the arrest of this system has put our population into the hands of the landlords, and they will hold the power till the system is changed. If the poor becamerich, they would do the same."

That is obvious. The effect of these high rates paid by the Government is not only to absorb the floating capital of the country, but to deter men from engaging in enterprise; and therefore all over the cities of the United States it is a common remark "It is impossible to get houses." In the West the cry is distressing. In all the cities it is impossible to get a house

at a fair rent. The rent absorbs all a man's little earnings. The result is the people are crowded into tenements, half a dozen families in a house; in New York, in some cases two or three families in a room; and all these distressing incidents grow out of the advance in rents, the greater expense of living, the high prices of produce, of food, clothing, and all the necessities of life. I think there is no fact that contributes so much to this state of affairs as the high rate of interest paid by the Government of the United States. We go in and compete with every man who is talking about building a house, to borrow money. We compete with every class of industry. We compete with the railroad companies in the sale of their bonds, with the manufacturers in the building of new warehouses. We compete with all classes by offering a higher rate of interest than we allow the courts to enforce for them. During the war that was necessary; we could not avoid it; but is it necessary now? I think it is not.

The great leading objects of this bill are to fund the public debt and to reduce the interest; but there is another object proposed by it which I think is peculiarly an American one, and upon which I ought to say something before I proceed to examine the details of the bill, and that is the necessity of providing when we contract a debt for the payment of it. The original funding act framed by Alexander Hamilton was based upon the idea that a public debt should be temporary, and this idea is ingrafted upon American finance. In view of this, in the first loan law of 1862, if I remember aright, we provided that one per cent. of the amount of the loan should be set aside as a sinking fund with a view to pay off the principal of the debt. That pledge has never been redeemed, nor during war was it possible or proper to redeem it. A sinking fund can properly be accumulated only during peace. It would be bad economy to take a portion of the money borrowed at high rates of interest during war and invest it in securities purchased in the market and then lay them aside and accumulate the interest for the purpose of paying off a debt during peace. Great Britain tried that for nearly one hundred years and finally abandoned it. The old form of a sinking fund, which was the favorite theory of Robert Walpole and William Pitt, was abandoned, then resumed, and was finally abandoned in 1819. I have an interesting book here, the preface of which was written by the celebrated Mr. McCulloch, in which he speaks of the abandonment by Great Britain and by all other nations of the old form of a sinking fund. I will read an extract from it:

"Neither must it be supposed that the notion of the wonder-working effects of sinking funds has been a mere harmless error. On the contrary, few delusions have been practically so mischievous.

"Dr. Hamilton, of Aberdeen, has the merit of having dissipated the delusion in regard to the sinking fund."

"He showed that instead of reducing, the sinking fund had increased, the debt. And he proved to demonstration that the excess of revenue over expenditure is the only fund by which any portion of the public debt can ever be discharged.

"But since Dr. Hamilton's work appeared, more correct accounts have been obtained of the expenditure, loans, &c., during the great struggle terminated in 1815. And from these it may be easily shown that the sinking fund was not a clumsy only, but a costly imposture. In proof of this we beg to state that the loans contracted in each year from 1791 to 1816, both inclusive, amounted in all to £584,874,557, at an annual charge to the public of £30,174,364. Of these loans the commissioners of the sinking fund received £188,522,350, the proportional annual charge on such portion being, of course, £9,726,090. But it further appears from the accounts referred to, that the stock which the commissioners purchased with this sum of £188,522,250, transferred to them out of the loans, only yielded an annual dividend of £9,168,232. On the one hand, therefore, an annual charge of £9,726,090 was incurred to enable the sinking fund commissioners to go to market; and, on the other, they bought stock which yielded £9,168,232 a year; so that, on the whole, their operations during the war occasioned a direct dead loss to the country of no less than £557,857 a year, equivalent to a three per cent. capital of £18,595,233, exclusive of the expenses of the office, which amounted to above

£60,000. Such was the practical result of Mr. Pitt's famous sinking fund, so long regarded as the palladium of public credit, and the sheet-anchor of the nation!

"Notwithstanding Dr. Hamilton's book was published, as already stated, in 1813, the statute for the suppression of the sinking fund, the 10 George IV. c. 27, was not passed till 1829. It enacted that in time to come the sum to be applied to the reduction of the national debt should be the actual annual surplus of revenue over expenditure.

The old form of sinking fund adopted in England, and also in this country, was to invest by certain persons named in the law specific funds and authorize them with those funds to buy any portion of the public debt. That plan of accumulating a sinking fund has been abandoned, and now, as this author says, the only proper way is to apply a fixed sum raised by taxes and from surplus revenue to the payment of the public debt. Instead of endeavoring to keep the debt alive by sinking fund commissioners, the application of a specific sum to the payment of the principal and interest of the debt every year would have the same effect in extinguishing the public debt as if invested in sinking fund commissioners and without the loss and expense of management.

Mr. VAN WINKLE. With the permission of the Senator from Ohio, I should like to ask him whether he has so far investigated this subject as to tell me whether the principal objection made to the sinking fund of Pitt and the others he has alluded to was not that the nation continued to be a borrower.

Mr. SHERMAN. That was it.

Mr. VAN WINKLE. And that it was really borrowed money which was applied to the sinking fund. Let me ask further, whether there would be any difference in the result, provided the nation had a surplus and that surplus was applied to the sinking fund or was paid directly on the debt. I ask for information.

Mr. SHERMAN. The Senator is undoubtedly correct. England borrowed money to pay into the sinking fund. The plan proposed in this bill is from the proceeds of taxes to raise a specific sum, appropriating it for the payment of the public debt. The difference is between borrowing money to pay a debt and using your own money to pay the debt, money collected from the people.

Mr. VAN WINKLE. Then the form in which it was applied, whether a surplus of taxes was taken and applied by means of a sinking fund or directly applied to the debt, would be immaterial.

Mr. SHERMAN. Certainly.

Mr. VAN WINKLE. The difference between them would arise out of other circumstances.

Mr. SHERMAN. So that the money to raise the sinking fund was not raised by borrowing. If it was raised by taxation and directly applied, the effect is the same as if invested in commissioners. The only reason why I make any remark about the sinking fund is that this bill contains a provision applying a specific sum every year to the cancellation of bonds under laws to be hereafter framed.

I have thus stated, I fear with too much detail, that any plan should embrace these ideas: the funding the debt, the reduction of interest, and the ultimate payment of principal. And here a difference of opinion arose whether this plan should be prescribed by Congress or whether it should be left mainly to the Secretary of the Treasury. I objected to the law passed here a month or two ago, and the Senator from Maine did not think my objections well founded. But I still think I was right. My objection did not arise from any want of confidence in the Secretary, for I know the present Secretary will not abuse this trust. But it grew out of what I considered the right of the people to know precisely the terms of the loan. That bill authorized the Secretary to sell a bond, principal and interest payable in gold, running not to exceed forty years, and bearing an interest not to exceed six per cent.,



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to be free from State and local tax, and which he might sell under par. Now, I did not wish to admit for a moment, in the form of a law, the possibility of any Secretary selling such a bond even at par, and certainly not under par. It was a cheapening of the public credit to provide for such a loan. And without renewing the controversy, I ask, is it not better in legislation on this important question, involving \$3,000,000,000, to put in the form of law and on the face of the statute the terms and conditions upon which your public agents shall sell your bonds? It seems so to me, and therefore, if this bill contained no new provisions, I should think it important, and highly important, that the terms finally agreed upon and fixed by the Secretary of the Treasury, after full consideration, should be embraced in the form of law so as to be binding upon him and his successors, so that no change should be made without the consent of Congress. I do not propose, however, nor do I ask the repeal of that law, but I think that when the plan is agreed upon, it should assume the form of law, leaving, however, the general provisions which passed a short time ago to stand to meet emergencies and exigencies now unforeseen.

The further question which I now desire to submit to the Senate is, whether this bill presents a plan by which these objects can be accomplished. If it were left to my own hopeful view of things I would strike out two or three clauses of this bill. I would not extend the exemption from taxation to the income tax. I would preserve the form of our laws in regard to the convertibility clause, vesting the power in the United States to pay off this debt after a certain time, say ten years. I would insert a proviso which was in the old law of 1795, authorizing the United States to pay off the principal. But the Secretary of the Treasury, who is to execute this law, is of opinion that he cannot negotiate a five per cent. loan upon these terms, and therefore he would not undertake it. He has the power under the general law we have passed to negotiate a loan at six per cent., or one at a less rate, but he thought he could not negotiate a five per cent. loan without additional legislation. I am not sure of that. I believe that if you pass a bill of this kind fixing the rate of interest at five per cent., with the general stipulations contained in this bill, we shall be able, though perhaps with some difficulty and after some time, to save the one per cent. without giving any additional benefits. He thought not, however. The question now is, not whether we shall give him this law, but whether we shall compel him to issue a six per cent. rather than a five per cent. loan, unless we give him the terms and privileges contained in this bill. If I was called upon to prescribe the form, being probably a more hopeful man than he or many of those around me, I would insist that the Government of the United States should not pay in any event over five per cent. interest, and that a clean loan should be negotiated for that amount, and that it should be something like the ten-forty loan, within easy conversion, so that if in ten years we could negotiate a loan at a less rate of interest we might have power to do it. But he thought that in order to enable him to negotiate a five per cent. loan he must have two provisions, one giving him authority to issue a thirty-year loan, to postpone the payment of the principal not to exceed thirty years; and the other to exempt these securities from the income tax of the United States.

Those were the two conditions upon which he thought he could negotiate a five per cent. loan. When I came to examine them, I found that these two conditions could amount to but very little loss. The income tax levied by the United States now upon national securities pays to us less than one tenth of one per cent. of the public debt. By the terms of the tax law the holders of these bonds are compelled to pay income as upon other property, but all the

bonds that are held by persons whose aggregate income is less than \$600 go free of tax; all the bonds that are held abroad are free of tax; all the bonds that are held by banks, insurance companies, and corporations are held free from this income tax. No corporation pays an income tax; the income tax is levied only upon individuals. The result is that the bonds of the United States, you may say the great mass of them, are held in such a way that they pay no income tax. The Secretary says:

"If you will surrender the trifling amount you collect from incomes derived from Government securities, I may be enabled to save you one sixth of all the interest paid upon the public debt."

When that proposition was made, it seemed to me perfectly obvious that we ought to adopt it. There is another reason. The income tax is, in its nature, temporary. There is scarcely a doubt but what that income tax will disappear like many of the other taxes in a short period of time. The time, in my judgment, is not far distant when a tax on a few articles of luxury will pay the interest on the public debt and pay our expenses. I have no doubt we shall go through the same process of legislation that our ancestors did after the war of the Revolution, and as those who went before us did after the war of 1812. All these taxes will disappear in a short period of time, and perhaps a tax on whisky and tobacco and on imported goods, a few simple taxes, with perhaps the income tax added, may be able to pay the interest on the public debt and the expenses of the Government. Therefore the only question was whether we should surrender this small matter in order to accomplish a great object. It seems to me we ought to do it. If the Secretary of the Treasury can go to work and negotiate this loan by surrendering this small income tax, and thus effect a saving of interest equivalent to twenty per cent. of all the interest paid by the United States, it is certainly a very good bargain, and it does not require a very shrewd man to see it.

The other provision was that there ought to be a fixed period before which the principal should not be paid. That was a point upon which I myself long hesitated; and I agreed to it for this reason, and it is a very obvious one if Senators will apply their minds to it: but a very small portion of the public debt can be converted now into a five per cent. loan. Why? Because but a small portion of it is due. The holders of the seven-thirties will avail themselves of their privilege to convert them into five-twenties. There is not very much pressing upon the Secretary of the Treasury, but whatever it is, he must pay it, and he must issue some form of loan, and the only question is whether it shall be a five per cent. or a six per cent. If you do not pass this bill he is compelled to issue a six per cent. loan because he cannot negotiate any other. He says he cannot, and that is the general judgment. It is the general judgment of gentlemen who oppose this bill that he cannot negotiate a five per cent. loan of any kind even with this bill, and therefore that he will be compelled to issue a six per cent.

The very fact that he is not compelled to borrow a large sum of money enables him to go into the market now like a rich man who has a boundless inheritance, a large estate, on which he wants to borrow a very small sum of money; he can get it on good terms, but he says he cannot get it unless the payment of the principal is postponed for twenty or thirty years. Suppose he does issue two hundred million or five hundred million five per cent. bonds under this bill; the objection is that we may want to pay off the principal sooner. Surely we would pay off the six per cent. bonds first, and we cannot expect to pay off all this enormous debt within thirty years. All the bonds that he could probably issue within a year or two would fall very far short of the amount that would still remain unpaid under the most

favorable circumstances in thirty years from this time. Next year, after he has established a five per cent. loan under this bill, it may be that he can go into the market and get a better loan still, a better bond, on more favorable terms, and thus reduce the rate of interest on the balance of the debt as it matures. I have no doubt he can do it.

I now come to consider an objection to this bill made with a good deal of force, especially by my Democratic friends, that the loans of the United States are exempt from State taxation. Although this is a very important question, it has never been discussed in the Senate, and I think that unless Senators have been required to examine the decisions of the courts of the United States, they probably have not seen how far the courts have gone in settling this question. I lay it down as a premise that in the absence of all stipulations about taxation in a law, no State can tax a Government security; it is entirely inconsistent with the supreme power of the national Government to borrow money. This question is settled more clearly than almost any question of constitutional law which has ever been mooted in this Government. The first case involving it that came before the Supreme Court of the United States was the celebrated case of *McCulloch vs. The State of Maryland*, in which the principle was decided that no tax could be levied by a State upon any agent employed by the national Government in the execution of its vested powers. That case, however, did not reach the particular point that I am now discussing, but subsequently the case of *Weston vs. The City Council of Charleston* arose in 1829, and is reported in 2 Peters, page 449, and upon the very point now in discussion. Chief Justice Marshall was still upon the bench, the same judge who had decided the case of *McCulloch vs. The State of Maryland*. The city of Charleston, under the authority of a law of the State of South Carolina, levied a tax upon bonds of the United States held by a citizen of Charleston. The question was submitted to the supreme court of the State of South Carolina, and it was decided there by a majority that the State had a right to tax a Government security or the income derived from it. A dissenting opinion was given by one of the judges of that court which is highly creditable to him, and I think presents the case very clearly. I will read a short extract from that opinion before I read anything from the decision of Chief Justice Marshall. This case arose at the beginning of the nullification crusade, and the very principles subsequently involved in the contest through which we have recently passed were then under discussion in South Carolina.

Judge Huger, in giving his dissenting opinion, said:

"I am unwilling, on so important a question, merely to express my dissent from the judgment of the court. It is now for the first time agitated, and ought to be fully discussed, that it might be better understood. It affects the use of a power, as essential to the General Government in periods of difficulty and danger, as any other which the people have delegated to it. If the city council of Charleston can tax the stock of the United States, *ex nomine*, the States can; and if the States can, it is impossible not to perceive that the fiscal operations of the General Government may be completely frustrated by the States. It will be in vain for Congress to pass acts authorizing the Secretary of the Treasury to borrow money, if the holders of their stock can be taxed for having done so by the States. Congress may offer ten per cent. for loans, but who will lend, if the States can appropriate the whole to their own use?"

He then proceeds to show that the power to tax at all involves the power in the States to nullify by taxation the power of the national Government to borrow money, and says:

"No Government, not revolutionary, has ever attempted to tax its own stock, and, among others, for two very satisfactory reasons:

"1. Because such a tax must necessarily operate injuriously upon all future loans; and

"2. Because there is in fact a violation of contract in so doing, and therefore immoral and impolitic. Under the influence of these reasons, the Legis-

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lature of this State has refused to tax the stock of the United States; but it appears that the city council of Charleston have thought differently, and have taxed it." \* \* \* \* \*

"If they can do so at all, they may do so to any extent; it is equally within their power to tax twenty per cent, or one hundred per cent, as one half per cent. What shall govern their discretion it is impossible to foresee. A State or a few States may concur in a policy at variance with that of the Government, nay, in hostility to it. This, unfortunately, has been already witnessed."

He prophesies the very case that occurred a few years afterward in that State:

"They may, indeed, be indisposed to dissolve the Union and declare war, when they might have no objection to counteract Congress, and control its measures by the exercise of a power strictly constitutional. Seven tenths of the stocks of the United States are owned in the cities of Boston, New York, Philadelphia, Baltimore, and Charleston."

And then he proceeds to discuss the power of cities and States to tax the Government stock, and shows that if it were conceded, the single State of New York might have it in its power to destroy the Government of the United States by preventing it from borrowing money. The case was brought up to the Supreme Court of the United States, where it was elaborately discussed by Mr. Hayne and Mr. Legare, then among the ablest counsel in the country. I will read from the decision of Chief Justice Marshall:

"This brings us to the main question. Is the stock issued for loans made to the Government of the United States liable to be taxed by States and corporations?"

"Congress has power 'to borrow money on the credit of the United States.' The stock it issues is the evidence of a debt created by the exercise of this power. The tax in question is a tax upon the contract subsisting between the Government and the individual. It bears directly upon that contract while subsisting and in full force. The power operates upon the contract the instant it is framed, and must imply a right to affect that contract."

"If the States and corporations throughout the Union possess the power to tax a contract for the loan of money what shall arrest this principle in its application to every other contract? What measure can Government adopt which will not be exposed to its influence? But it is unnecessary to pursue this principle through its diversified application to all the contracts and to the various operations of Government. No one can be selected which is of more vital interest to the community than this of borrowing money on the credit of the United States. No power has been conferred by the American people on their Government, the free and unburdened exercise of which more deeply affects every member of our Republic. In war, when the honor, the safety, the independence of the nation are to be defended, when all its resources are to be strained to the utmost, credit must be brought in aid of taxation, and the abundant revenue of peace and prosperity must be anticipated to supply the exigencies, the urgent demands of the moment."

Then he goes on to discuss the question at great length, and comes to the conclusion, in which the court was unanimous, that in the absence of all stipulation on the subject no State could be allowed to tax a Government security, simply because to do so would enable the States to destroy the power of the national Government, prevent it from prosecuting war, and from maintaining the authority of the United States. This principle has never been controverted and never been doubted by any judge on the bench of the Supreme Court of the United States. It has been acquiesced in by every judge who has sat upon that bench. It has never since been controverted by any State of the Union. It has never been attempted by any party in the Union to set aside that decision. This exemption is so clear a principle of constitutional law, in my judgment, that it cannot be assailed or gained. The same question was again brought before the Supreme Court of the United States in a case from the State of Pennsylvania, when Chief Justice Taney sat upon the bench—the case of *Dobbins vs. The Commissioners of Erie county*. The court again reaffirmed the same principle, referring to this case, repeating it, and applying this doctrine to a tax levied by the State of Pennsylvania on a Government officer. Again the question was brought before the Supreme Court of the United States during the recent war, in a case reported in 2 Black—the case of the *Bank of Commerce vs.*

The Tax Commissioners of New York city, where the opinion was given by Mr. Justice Nelson. The question arose there as to the power of the State of New York to tax Government securities in the possession of the Bank of Commerce, a corporation of that State, and the Supreme Court unanimously decided that a tax could not be levied in any form, from the very nature of the case, on a Government security. It should be remembered, too, that up to the time of this last decision no provision had been contained in any loan law expressly declaring that the Government securities should be exempt from State and local taxation. It was decided upon the general principle involved, and without regard to any stipulation made by Congress. This last decision was in 1862, and it was that winter, for the first time, that we put in the stipulation in one of our loan laws. The question was asked, why put in this stipulation if the law was so clear? The answer was just as conclusive, that as we were compelled to borrow money it was important to inform in the most authentic manner all who chose to loan it, of their rights and privileges under the Constitution. No doubt many a man, upon the faith of the direct pledge of Congress, superadded to the decisions of the Supreme Court, loaned us his money in time of war, when he would not have done it if it was to be subject to local taxation.

I might add, if it was necessary to add to these authorities, that the same question was up again during the last term, and again decided in the same way, in the case I now hold in my hand. This case was the taxation by the State of New York of the shares of a national bank; and a majority of the court drew a distinction between a tax upon a share in the bank and a tax upon a Government security, and they also based their decision upon the express declaration of Congress that these shares should be taxed. The Chief Justice, however, and Judge Wayne and Judge Swayne differed, and held that from the nature of the security itself, in any form or shape the Government security could not be taxed. The majority of the court drew the distinction between the shares in the bank and the bonds held by the bank, and allowed the shares to be taxed. In my judgment, such was the intent of Congress. It was a subject that was very much discussed and mooted here at the time, and although I was opposed to the tax, yet it was finally carried. The distinction made by the court was taken by Senators that the taking of shares in a bank was a reinvestment of the funds and a change of the form of security.

I say, then, that no Senator should vote against this bill, or any bill of a similar character, on the idea that it is not now wise to exempt Government securities from State taxation. That is the settled principle of constitutional law, whether it is put in your laws or not; and the only question is whether by omitting to put it in you will give the lenders the power to make a better bargain with you.

Mr. FESSENDEN. Has the Senator any doubt of our power to provide specifically that it shall be subject?

Mr. SHERMAN. I have no doubt that Congress may, as a part of the contract, and before the loan is issued, say that the States may tax the security. But, Mr. President, what effect would that have? Could you sell such bonds? Would you allow the southern States now to tax Government securities? Would you allow them to have the power over your public credit which would be involved in their power to destroy the income from Government securities, because, as Judge Huger says in the first decision made, if you give them the power to tax one mill you cannot restrain it? No, sir, the contract between the United States and all the citizens of the world is a contract higher than any imposition levied by a State, and we ought no more to tolerate the idea of levying tax upon the securities of the

United States except by the United States itself, than Great Britain would allow any foreign Power to levy in Great Britain a tax on British securities.

It must be remembered that by express provision inserted in all the acts passed during the recent war United States bonds are exempt from State taxation. All the debt now outstanding is thus exempt. Even the bonds issued under the recent acts will be so exempt. Suppose you follow the suggestion of the Senator from Maine and refuse in this bill to so exempt a bond bearing but five per cent. interest, or, as he suggests, actually provide that they shall be taxable. Who would buy them? Who would surrender their present securities? How could you fund your debt? No device could be more perfect to continue the present high rates of interest. And what good would result to State or nation? None whatever. The State could not tax the present bonds, and the holders would not take your new ones. The only way is to stand by the inviolability of our bonds as declared by the Supreme Court and upheld by every party or President to this time.

I now wish to meet the argument so often and forcibly made that it is unjust to exempt United States securities from local taxes. And, sir, I admit that if this is regarded as a privilege to the holder it is indefensible; but it is the privilege of the Government, not of the fundholder. It is the supreme power of the whole people to borrow money on the most favorable terms that is taxed and limited by a tax in the contract. Such an exemption is only justifiable on the ground that it enables the Government to borrow money on better terms. In the contract of borrowing the lender considers the rate of interest, the security of the principal, and the burdens of taxation. If no taxes are to be deducted from his interest and the principal is absolutely sure and easily convertible into money, he is willing to part with his money at a low rate of interest. This is the reason of the exemption, and the Government is presumed to receive the taxes in the more favorable terms of the loan.

But, sir, when the tax-payer sees that the Government is paying a higher rate of interest than the law allows to a citizen, the exemption will be felt to be wrong. With the present rate of interest there will be a constantly growing jealousy between the bond-holder and tax-payer. The latter will complain that his property is burdened with all the expense of Government while his neighbor enjoys his full income free from all burdens. This feeling is founded upon so clear a sense of what is right that no wise legislator will disregard it. It is true that a contract once made cannot be violated whether it costs much or little. Public faith demands an exact and specific performance, but an adjustment of this difficult problem ought to be made that will, while it preserves intact the rightful power of the Government to borrow money free from local taxes, require property in the funds to aid in the support of the Government. I have shown that this cannot be done with safety to the United States by allowing States to tax our securities. Two other modes have been suggested: first, to tax directly by act of Congress the public securities at a rate equal to local taxation; and secondly, to reduce the rate of interest.

A proposition has been made by Mr. Hayes, one of our tax commissioners, to levy a direct tax on all United States bonds held in this country of one per cent. on the principal of the bond, or to reserve one sixth of the interest payable on a six per cent. bond. Such a tax applied to our present securities would be a breach of public faith. Congress may have the power to do it—using the word power in its unrestricted sense—but it would be unjust, a fraud upon our creditors, and would forever impair our public credit. It is an indirect violation of a contract made in good faith. It

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is true the United States did not stipulate that it would not tax the bond, and the United States may properly levy an income tax upon public securities of any amount, as it may upon other incomes; but when the United States selects this particular kind of property as the only kind of property upon which it will levy a specific tax, it is a violation of public faith. To levy the same tax on this kind of property that you levy upon other property would not be unjust; but to select it out and put upon it exclusively an income tax of sixteen and two thirds per cent. in order to defeat in this way the stipulated exemption from State taxation would be a violation of the public faith; and yet that proposition has been made by an officer of the Government. Mr. Hayes has furnished us a long and elaborate report on the subject. I do not know that it is necessary for me to read his report, because any gentleman can find it. He attached to it the form of a bill for that purpose. It was disapproved by a majority of the revenue commission, but was submitted by Mr. Hayes as his own individual opinion.

Mr. FESSENDEN. Have you found anybody but him in favor of it?

Mr. SHERMAN. Yes, he has the testimony of some of the leading men in the city of New York, and among the rest some men who have been employed as agents by the Government—C. T. Hillyer, Henry A. Perkins, John L. Bunce, James S. Tryon, Jonathan F. Morris, Olcott Allen, James Goodwin, Stephen D. Pardee, E. V. Haughwout, John W. Hunter, Royal Phelps, William B. Astor, William M. Vermilye, and a number of others, whose testimony is given, and who state that such a tax, in their opinion, would be just. It is hardly fair to those gentlemen to regard their testimony as anything more than a general opinion that bond-holders should in some way contribute to the support of the Government; and I know that some of them prefer a reduction of the rate of interest as proposed by me.

This question of taxing Government securities is far from being a novel one. It has been resorted to in arbitrary Governments many times. In France, in the time of Louis XIV and Louis XV, and especially during the regency that intervened, forced taxes on public funds were resorted to until the credit of that country was entirely destroyed. It was proposed in England in 1717, but was firmly resisted. I have here a paper attributed to the celebrated Henley, Earl of Oxford, written in that year on the inviolable nature of public securities, and the arguments have not lost their force by time. He says:

"Your project of raising money for this year's service, or of paying debts by taxing or lowering the interest of the funds, meets, I think, with too much approbation among some people who look no further than themselves and consider only the present difficulty, regardless of the consequences of their proceedings. The importance of the case seems to require that everybody should contribute what they can to set this matter in a true light and examine without prejudice how much the interest of our country, its reputation and honor, its future good or evil, may be affected by it." "I cannot but think that conscience is concerned, and natural honesty and public justice and the credit of the nation—everything that is sacred and inviolable in property is nearly affected; all obligations will be in a way of being canceled, and, in a word, an indelible character of injustice cast upon us."

"To support and maintain a man's private credit, it is absolutely necessary that the world have a fixed opinion of the honesty and integrity as well as ability of a person. If there be good reason to object against the one or the other of these his credit sinks; no one chooses to deal with him, nor does any one care to trust him."

"This true, this only foundation of credit takes in all cases and all persons, public as well as private, national as well as personal. Just and honorable practices, fair and open dealings, a strict performance of contracts, a steady observance of engagements, will necessarily gain credit everywhere; and common experience teaches us that a breach in these as necessarily destroys it." "And, indeed, a readiness and willingness to perform one's engagements is such a fundamental of credit that all the affluence of money and the most immense riches are of no consequence if there be ground for the least suspicion of dissimulation. The ability of a person

without natural justice rather makes a man cautious than forward to deal with him.

"If, therefore, the legislature of any country should decline standing to its contracts or endeavor to impose other conditions than what at first were stipulated, I ask, would not such a conduct as necessarily impair the public credit as it would the credit of a private person? Has it not the same tendency to make the lenders jealous of their security? Who will venture to lend the public a second time if ever they find themselves not treated according to their contract? May there never be emergencies which may again oblige the public to borrow money? And if such cases should happen, upon what foundation must they proceed if an instance can be produced, an act of the legislature which can never be forgot nor ever be repaired to show that legal security is not a security, and that engagements are not to be understood literally? What is the natural consequence of this but that no man will lend the Government for the future, but at such interest and such advancements as are full equivalents to the hazards people may run in lending?"

The whole of this very able paper has a close application to the questions before us, and would well repay the reading; and the remedy he proposes is the one I propose. He says:

"If the lender be left at his liberty to receive his money or let it lay at lower interest, (in case where funds are redeemable,) no cause can be given of complaint. No injury is done, no hardship is offered. The integrity and honesty of the borrower is evident, and credit is indisputable. But if the borrower be his own judge and his own cause, and flies to an act of power because he can do it, it as necessarily sinks his credit as it takes away its foundation."

And, sir, this brings me to the plain and just remedy for all complaints of unequal taxation. Let us, in strict accordance with our engagements, sell our improved credit. Let us go into the market, and with our resources fully shown, our honor unimpaired, our securities free from all burdens, sell them on the most favorable terms; and thus we receive in advance all the taxes we could levy upon our securities. We will soon get more than the one per cent. which Mr. Hayes proposes to levy; and when the tax-payer points to the fund-holder as shirking his share of the public burden, the latter can say, "I pay my tax in advance. I get five per cent. interest for my money; the law gives you six. What is thus deducted from me relieves you from millions of taxes." This policy, adopted in England, has reduced the rate of interest on public securities from six to three per cent., and has made the British consol the highest standard of credit in the civilized world.

Fortunately our loans are now just in a condition when we can commence this reduction of interest. I showed awhile ago that we had \$177,000,000 of public debt within our reach now, and if it was known that no other but a five per cent. loan could be had, and that all maturing bonds should be paid off in money by the sale of five per cent. bonds, public creditors would quickly convert their securities into such a loan. Large institutions, among the rest one of the largest in the State of New York, have made a proposition to convert their five-twenty bonds, maturing in May next, into this five per cent. loan. If I had my own way I would not give them a thirty-year five per cent. bond; I would give a ten-forty five per cent. bond, retaining the principle of redeemability, with a view to still lower interest; but the Secretary thinks he cannot now negotiate such a loan as that, and therefore, for the present, I would give those the most ready to adopt the reduction policy the most favorable form of loan, but as soon as possible would reserve the power to reduce the rate of interest by the payment of the principal as soon as a bond without these exemptions or at a lower rate of interest would sell at par. This process must be gradual. It will not do for Senators to vote against this bill because they think five per cent. free of taxes is too high. We must get it down first to five per cent., then to four, and then to three, all the while faithfully observing our contracts; and we can do it.

It is not probable if this bill passes that during the present year more than one hundred millions of five per cents will be sold, because more than that would not be needed to meet the accruing indebtedness unless it should be

necessary to sell more to pay bounties to soldiers or some extraordinary expenditure. Next year the Secretary would have the power to pay off \$600,000,000 of the five-twenties if he could sell these five per cent. bonds. But it is important to pass the law this session in order to give him ample time to meet the obligations that are imposed upon him.

I say, therefore, that in every view which I can take of this bill it is a wise measure, intended to save interest upon the public debt, to adjust on correct principles, equality of taxation, and to lighten the enormous burdens upon our people. And there is another feature which commends it to my favor. If this bill pass in the form in which it now stands, the fund-holders will themselves pay off the principal of the public debt. The one per cent. saved on the rate of interest will pay off every dollar of this debt in thirty-six years. When the fund-holder and the tax-payer stand before the public hustings, and this matter is dragged into politics, as it will be, and the tax-payer says to the fund-holder "Your property is exempt and free from all tax," the fund-holder may say "No, my friend, it is not; your money you can loan to your neighbor at six per cent. interest, and the law enables you to collect the principal at pleasure; I have already paid for this privilege by deducting one sixth of my income; I have surrendered the principal sum loaned by me for an annuity for thirty-six years, and my share of the taxes will pay off every dollar of the debt within one generation." He may refer to the report of Mr. Hayes showing that the average tax in the United States is one per cent., and that sum annually applied with the consent of the fund-holder, and paid by him alone, would pay your debt.

I accept the justice of the principle. I say that we cannot go before the people and preserve the exemption from local tax unless we show that the United States get some benefit from it; and by surrendering this one per cent. the fund-holders will be stronger and more secure than they were before. They will feel safer in the payment of the principal; they will know that the one per cent. thus saved is laid aside under the operations of this law and applied to the payment of the principal of the public debt; that it will pay off the principal of that debt in due time and without any danger of the misapplication of the fund, for it will be applied each year, thus adding to the value of the remaining funds.

The passage of this bill is now an imperative necessity. It is not my bill; it is not my idea. I think it is too favorable to the fund-holders. I think that a ten-forty five per cent. loan might be put upon the market at par; but the Secretary of the Treasury says that without the two stipulations to which I have referred, he does not think that he can, to use the ordinary language of the day, float a five per cent. loan. I am therefore willing to give these stipulations to him, hoping that next winter we can repeal the clause exempting the bonds from income tax, and then let him issue a clear five per cent. loan. I do not think he will be able to issue over a hundred millions before that time. Perhaps next winter we may shorten the period during which the principal may be redeemable, and perhaps in a few years, if our country goes on prospering as it is now prospering, we may reduce the rate of interest as England has done, first one half per cent., then another one half, keeping the body of the bonds always within our reach. The position of our public debt is just in that condition now, under the established policy of those who have regulated our finances, that it is within our reach, so that we can soon fund the whole of the public debt and reduce the rate of interest on all or nearly all of it.

There is another collateral advantage which will be derived from this bill. I refer to the provision in the fourth section. It will be



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remembered that the holders of the seven-thirty notes have the right by the terms of the option printed on the back of those notes to convert them into five-twenty six per cent. bonds at maturity, or to demand the money. Two hundred and forty millions of these notes come due in the month of August next year, and six hundred millions in the May following. Under the condition of the present laws, the Secretary of the Treasury will be compelled to accumulate and hold in hand two hundred and forty millions in order to meet the possible option of the holders of the seven-thirties.

What would be the effect? The withdrawal of \$240,000,000 of money from the circulation of the country, when it is now being reduced under the operations of the recent law, would be disastrous. It would be withdrawing one-half of the circulating medium in order to meet an obligation when every particle of that money is necessary for the use of the people. Section four of this bill provides that the holders of the seven-thirty notes shall give a reasonable notice of their choice to take either the money or the bonds. They have the right to make that choice, and nobody proposes to abridge that right. They have the right to do it at the time stated, and nobody proposes to deprive them of it. What is proposed is simply to require them to give a reasonable notice of their choice of the alternative which they have, and that is put at six months. Some think that is too long and may complain of it. I do not think it is for the large amount involved. It works no injury, because the bill provides that in case they do not give their notice of the option, they get their money and the Secretary can provide for it. The probability is that the great mass of those notes will be converted into five-twenty bonds without cost; and one effect of having a five per cent. loan upon the market would be to float this large mass of indebtedness into the five-twenties as the holders have a right to do, while if you issue six per cent. bonds none of these holders will avail themselves of the option until the last moment, and then by demanding the money would greatly embarrass the Government.

It has been said in some of the public prints that this provision is a violation of the contract. It is no more a violation of the contract than the notice which is required by law in the case of a tenancy from year to year. If I am renting a house for a year or more I am bound to give notice of my intention to retain it.

Mr. FESSENDEN. I suggest to the honorable Senator, if he will take a suggestion from me, that it is a power, substantially, that Governments have always exercised. Take the original convertibility clause; we did not repudiate that clause, but we provided that the right of conversion should be exercised before a given time. There was no complaint made of it.

Mr. SHERMAN. There was some complaint made in the New York papers that this was a violation of the public faith, that we were repudiating our obligations; but it was not general. There are several precedents for this provision; but the most striking case was the one alluded to by the Senator from Maine, which was done after full debate and consideration. The United States notes originally issued, and still outstanding, had printed on the face of them, "The holder of this note may convert it into a bond bearing six per cent. interest in coin, and payable after five years and within twenty years." It was found that this privilege or option attached to the notes prevented the sale of the bonds, because no one would avail himself of that option, having the right to do it at any time; and therefore we provided that he should exercise that option by the 1st of July following or he should cease to have it. I have now one of these notes. The privilege printed on the face of

it is now denied me. Yet no one complains, as I failed to exercise my right at the time stated.

Mr. CLARK. I will inquire of the Senator from Ohio whether it does not go upon the ground that the bond-holder assents. The Government having provided that unless he gives notice within six months it shall be so, it is upon the ground that having notice he assents that it shall be so.

Mr. SHERMAN. That is true. It is a general principle of law, that wherever a party has a right to do or not to do a particular thing, a reasonable notice of his choice may be required. That is a principle of municipal law as well as of public law. It is required by nations generally and inserted in many treaties.

And now, Mr. President, I have thus, without any preparation except the few figures and papers before me, presented the reason for my earnest support of this bill. Like most financial questions, they attract but little attention though they deeply affect the nearest interest of every citizen, his food, his clothing, his home, and more important than all else, the honor of his country. Our attention has been so occupied with political questions affecting more keenly the interests of parties and partisans that all the complicated problems of finance thrust upon us by the war have not occupied as much of the time of this Senate as some unimportant political measures. I almost owe you an apology for occupying your time so long, but I trust in a short time the waves of the recent war will settle in peace and quiet, and that all of us will look to the material interests of a great country, all of which are in our hands. I am so hopeful of the future, after escaping all the perils of the past, that I may not see the clouds that others see. War is apt to be followed with financial distress, and we may be affected by the impending war in Europe. Our bonds now held abroad may, and no doubt will come back to us, and for a time will depress our securities. But war in Europe will open to us new markets. It will restore our commerce. We can well afford to redeem our bonds with the superabundant produce of the West. Our cotton crop will yield us exchange enough to absorb all the securities held abroad. Who can say that after the first panic the timidity of money may cause it to flee from war in Europe and seek safety in our national securities?

Sir, what we need now is confidence in ourselves, in our resources, and in our destiny. Our country has been for years the refuge of the laboring man, where he has found employment, independence, and freedom. It will soon be the refuge of capital. It may become the place of deposit of the wealth of the world. Why should it not be? We as a nation have always observed our obligations. We have twice paid off a national debt. We have unexampled resources in men, in land, in iron, gold, coal, and in all the elements of wealth. Why, then, should we talk about taxing our national debt? Why place it in the power of every village corporation to affect our national credit? Why enter the money market offering usurious interest? Why pay now more than any good merchant in New York will pay? Why traffic our loans, a mortgage on all our industry, on worse terms than bankrupt nations of Europe offer? Go, backed by your resources, your unclouded and undisputed empire, the love and faith of your people, the respect of all nations; go, I say, with all these, and with confidence in yourselves, to the people, who hold your bonds, and you will be able to borrow money at five per cent., yea, before long, at four per cent. Go not to the money-changers. If they are allowed to fix the rate of your interest they will continue it as it is with all its exemptions, until the people, fired at an injustice, will do wrong to correct it. I conclude as I commenced, that to compel the Secretary of the Treasury, by denying him this legislation, to issue more six per cent. bonds is a political crime.

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## SPEECH OF HON. T. O. HOWE,

OF WISCONSIN,

IN THE UNITED STATES SENATE,

June 5 and 6, 1866.

The Senate having under consideration the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States—

Mr. HOWE said:

Mr. PRESIDENT: At some time during this debate I purposed to state to the Senate my apology for the vote I am going to give. Perhaps the Senate would as lief listen to it this afternoon, or at least as lief allow me to state it this afternoon as at any time.

I am going to vote for the constitutional amendment now pending. I shall vote for it regretfully, but not reluctantly. I shall vote for it regretfully, because it does not meet the emergency as I hoped the emergency would be met; but I shall not vote for it reluctantly, because it seems to me just now to be the only way in which the emergency can be met at all.

Mr. President, in January last I submitted to the Senate a resolution which contained an embodiment of my own idea of the duty devolved upon Congress in this juncture. By that resolution I proposed to employ the legislative power of the nation to organize provisional governments for each of those communities which had destroyed, each for itself, the only government which the Constitution of the United States permits to a State of the American Union. That resolution was made the occasion of considerable debate, but never yet has attained to the honor of a reference to a committee. Perhaps it is the only instance on record of a resolution being offered to this body without sufficient merit to secure a reference. And since that resolution seems destined to remain here and to haunt the Senate Chamber without the poor right of burial in a standing or a special committee, and since I myself this afternoon am about to part company with it, and to embrace the idea embodied in the report of the committee of fifteen, I desire to say once more, for the satisfaction of all who may hereafter meet the ghost of my poor resolution stalking about among the archives of the Senate Chamber, that in my judgment, after having been intimate with it for a very long time, it is a perfectly honest ghost, and I desire to say more, that after considering carefully and diligently each one of the plans which have been submitted here time after time—rather ghostly, it seems to me, all of them—my own plan is still my favorite.

I want to say one thing more: that, instructed as I am now by a debate of more than four months' duration, a debate which has employed the best intellect of the country here and elsewhere, the single idea submitted in that resolution is, in my judgment, the only plan of which it can be truly said that it is entirely consistent with itself. If it be objected to it, that it is not consistent with the Constitution, then I am bound to say to the Senate that no plan yet submitted here or acted upon elsewhere is consistent with the Constitution.

If that resolution cannot be defended upon constitutional grounds, neither can the proposition of the Senator from Nevada or the plan now submitted by the committee of fifteen be defended. And no plan is so utterly defenseless as that of the President himself. They tell us that these States are still in the Union, and that my resolution would drive them out of the Union. Not at all, sir, the furthest from it possible. We do not look to statutes to see what is or is not within the Union. The boundaries of the Union are defined by treaties. Louisiana is in the Union, because by treaty with France we secured her to the Union. Texas is within the Union, because by treaty with Mexico we secured her to the Union. And these States, if you please to call them so,

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these communities, as I call them, will remain in the Union until by treaty with some Power outside or organized inside we consent to let them go out of the Union.

It is said that such a resolution as I proposed would effect the very object at which the rebellion was aimed. What was that? They aimed, if I understood their purpose, to throw off utterly and altogether the authority of the United States. Their proclamation was that within their respective limits the United States should exercise no control whatever. The resolution which I submitted to the Senate asserted, on the other hand, that the United States within those respective limits should exert the sole control for the time being. Is there no difference between the two propositions? We called them traitors because they denied that the United States had any authority within their limits. Is it traitorous to say that the United States has more power than it had before they raised the standard of rebellion?

But if it be not disloyal to the United States to assert that stretch of authority on its part it is said it is disloyal to the States; that it tramples upon the rights of the States. How does it trample upon the rights of States? I admit, of course, that the authority of this Government is limited. I admit that we can exercise no authority but what is delegated to us in the Constitution. I admit that all the rest of the authority belonging to Government is reserved to the States. We have no quarrel and no dispute upon these points. I admit that the right of representation is a right which is given by the Constitution to the several States. But I desire to say once more to the Senate that that right of representation is not a right given to all States. Nobody claims it for any State outside of the American Union, and I say it belongs to no State inside of the American Union unless it conforms to the conditions which the Constitution imposes upon every State. When those conditions are set aside and abjured, then that right falls. It can be claimed by no State inside of the Union unless it be conceded to the State first by the Congress of the United States. It is the lack of that concession which prevents Colorado from having representation here to-day. She claims to be a State. She has adopted her constitution. She has sent here her representatives. The two Houses have agreed by a majority of their votes to admit them. But the President has vetoed the bill, and so there is upon the statute-book no law authorizing them to send representatives here, and they are not received. But does that exclude Colorado from the Union, or does it trample upon the right of a State? That right has never been conceded to her by Congress yet, and she does not insist upon the exercise of it until it be conceded.

But you tell me this right has been conceded once by Congress to Louisiana, to Mississippi, and to Alabama. Yes, Mr. President, it was conceded once to those communities and to each of the others which have been in rebellion. How, then? Answer me, what is the consequence of that? When the right and the character of a State was conceded by an act of Congress to the State of Alabama or the State of Mississippi, did the United States stipulate forever thereafter to exercise none of the powers which she had before exercised in those limits under any circumstances whatever? When Congress first conceded the right to Alabama to send her representatives here, was that a right which continued to her under all circumstances whatever beyond the power of forfeiture? If so, you must concede that that right remained during the very heat and strife of the war. If she could not forfeit that; if it was a continual, perpetual right, your doors would have been bound to swing open at the knock of her representatives, if she sent them here when the war was at its height, and you were protected against having representatives from your direst and deadliest enemies in these

Halls only by the simple circumstance that they were a little too chivalrous or not sufficiently impudent to send them here to claim the right.

It will not be asserted that that right cannot be forfeited. No Senator on this floor who really loves the authority of this Government and means to abide by it and uphold it will pretend that Alabama, while this war was waging, could send her representatives here. "Oh," but you say, "why not let her send them here if they were loyal?" Why, sir, Alabama, while she was disloyal, would not choose loyal representatives, but if she did choose loyal representatives her representatives could not come this side of her lines without the permission of your Army. It was an offense against the laws of the United States for any man, no matter what were his personal dispositions, to come through those lines without the permission of the Government. There was a wall built up between everybody on that side and on this; not merely Congress, but your military boundaries were closed against every man, let his personal dispositions be what they might, coming from the rebellious districts.

But, Mr. President, I say that this right conceded to those States was not an absolute, unconditional, continuing right. It is a right to be exercised only under certain conditions. Every State claiming the right to send representatives here must show, first, the authority of Congress to do it; secondly, must show that they have a government, administering their own local affairs, which is republican in form; thirdly, it must be a State which has no engagements and no treaties either with another State or with any foreign Power; for that is expressly prohibited by the Constitution to all States; and fourthly, it must have a government, every officer of which, executive, legislative, and judicial, must be under an oath to support the Constitution of the United States; because the Constitution expressly forbids that any authority of government shall be wielded in any State by officers who are not under such an oath.

I insist that whenever a State violates either of these conditions it forfeits in law, and Congress may declare a forfeiture in fact, of the right to make its own laws, and of the right to participate in making our laws. Congress may declare that forfeiture in fact, because if you have not the authority to declare that forfeiture you cannot enforce these clauses of the Constitution. If the State of Mississippi sees fit to set up a government which is not republican but monarchical in form, to vest all the local power in the hands of a single individual for life, and in his heirs, and if you cannot interfere with the exercise of that authority by such a tribunal, by such a form of government, and strip him of it by an act of Congress, that clause of the Constitution is a dead letter. There is no other remedy to cure such a wrong as that. And so if they make treaties with other States or with foreign Powers; and so if they refuse to let their officers take the oath to support the Constitution of the United States, unless you have the power to resume the function which you delegated to her as a State, you cannot enforce those three commandments of the Constitution.

Sir, I admit it is hard to degrade a State to a Territory; I admit it is a harsh remedy to take the prerogatives of a State from a great community; but it is not so harsh after all as to take their lives; and when by the express words of your statute they forfeited their lives and you remit them that, is it worth while to talk of the harshness of taking these prerogatives of government from them?

But you say that although this right of local government is forfeited by the disloyal majority, it still lives in the loyal minority. I should say it was a very harsh and unjust remedy to take wantonly the prerogatives of a State from a loyal minority, simply because the majority about them were disloyal and traitorous. It

has been said, where you find ten loyal men in a State there is the State, and you must let it be and exist. Mr. President, there is some plausibility in that. I meet it by asking where you can, in any one of these communities, find the local power in the hands of ten loyal men. Nay, I ask you where, in any one of these communities, outside of Tennessee, and perhaps Arkansas, you can find ten loyal men exercising any portion of that local authority? Loyalty is not tolerated in these local governments. Talk to the American Congress about stripping loyal men of authority in South Carolina or elsewhere! Loyal men have no authority there, they have had no authority from the beginning of this struggle. Talk about the harshness to the loyal men of taking the prerogatives of States from these communities! I do not see the hardship to loyal men. Every particle of local authority vested by the Constitution in a State had been secured to the hands of traitors, and by the exercise of that power they had forced whatever of loyalty there was in the community into an unholy and unwilling subserviency to the cause of rebellion. Is it harsh to loyal men to take power from the hands which use it thus? I do not conceive it to be so. When we take power from or deny power to the majority in these rebellious States, we simply deny it to the worst enemies the loyal men in these communities have or can have; and when we find that power in the hands of their direct enemies, to wrest it from them, it seems to me, is not only the highest duty which we owe to them, but for it we have the clearest warrant of the Constitution.

I do not agree with the Senator from Vermont [Mr. Poland] that the framers of the Constitution never contemplated such an emergency as this, and therefore never provided for it. I say, in the express letter of the Constitution you have the authority to do just what I ask to have done. I will read it. After enumerating certain express powers which Congress may exercise, the Constitution declares that it shall have power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing power and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

If the power which that resolution asserted is not given there you cannot frame a clause which would clothe Congress with that power more clearly.

Mr. President, upon this question I have said all, perhaps more than I ought to have said. The question has passed from the consideration of Congress. There were difficulties outside of the Constitution in the way of the exercise of that authority, no matter how clearly it resided in the Congress of the United States. When Congress met here the President of the United States himself had for months been busy with the work that he called reconstruction. He had exercised, himself, the very authority which I claimed for Congress. He had abolished every one of those governments by a word of his mouth, and had done just what I asked Congress to do—established provisional governments. He had taken steps to supersede those which he called provisional governments with others which he called State governments, but which are to-day only provisional governments, nothing more nor less.

It has seemed good to the committee of fifteen not to disturb unnecessarily what the President had done, but to take his handiwork and to work it into some complete plan of reconstruction. Hence, it seems to have been thought advisable by them to let these organizations stand or stagger as they might, to do what they could with the work of home government, and to take the question from that point and settle if they could some terms upon which the other right, the right of representation, should be conceded to them by Congress. They have finally submitted, or there is submitted to the Senate, a joint resolution for an

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amendment of the Constitution of the United States. Allow me briefly to run over its propositions.

It first proposes to declare that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside." That is the first proposition. Is there any objection to it? The Senator from Indiana [Mr. HENDRICKS] yesterday, I think, assailed this proposition as one calculated to degrade the great right of American citizenship, a right which he seemed to think should be held exclusively to the use and behoof of the nobler and loftier races of the world. It degrades, does it, sir, the character of American citizenship to admit all men to it who are born and reared upon American soil? Mr. President, I dissent from that idea altogether, and I was surprised to hear it fall from the lips of the Senator from Indiana, of all men in the world. I thought he was a Democrat. I thought he boasted himself the champion of equal rights. I thought that was the bread and the meat and the drink of his political creed. I did not think he belonged to that class of nobility that measure their exaltation by the number of negroes they have under their heels. I did not suppose he felt it necessary to stand upon the necks of human beings in order to secure his patent of nobility; and I was surprised to hear this sentiment fall from his lips. I differ from it so widely and so radically as this, that I say there is no one proposition in the proposed amendment, and nothing in the Constitution as it stands, which will do so much to elevate the character and the dignity of American citizenship as that simple proposition. Nay, sir, I go further, and I tell you you will never have occasion to boast but you will always have occasion to blush for American citizenship until the time shall come when you can say to all the world that American institutions do not raise a man that is not worthy to be an American citizen and is not clothed with its panoply. I will vote for this proposition, and I shall not fear that American citizenship will be degraded by incorporating this clause in the Constitution.

It proposes further to say that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sir, does any one object to putting that proposition into the Constitution? Does any one on this floor desire to reserve to any State the right to abridge the privileges or immunities of citizens? Do you do it in the State in which you reside, sir, [Mr. HENDRICKS in the chair,] and whose legislation and institutions you have done so much to mold? Is it done in any of the States represented here? I cannot deny it for all of them; but for many of them I do happen to know that no such abridgment of privileges or immunities is tolerated. Is it necessary, however, to incorporate such an amendment into your Constitution? Do you find in any of these communities seeking to participate in the legislation of the United States an appetite so diseased as seeks to abridge these privileges and these immunities, which seeks to deny to all classes of its citizens the protection of equal laws? Yes, Mr. President, I am sorry to say, we do find just such an appetite, and it is necessary to amend your Constitution in this year of our Lord in order to prevent the gratification of that diseased appetite. It is known to the wide world now that but for the authority which has been exerted on the part of the United States most of these communities which now seek the right to participate in our legislation would have denied to a large portion of their respective populations the plainest and most necessary rights of citizenship. The right to hold land when they had bought it and paid for it would

have been denied them; the right to collect their wages by the processes of the law when they had earned their wages; the right to appear in the courts as suitors for any wrong done them or any right denied them; the right to give testimony in any court, even when the facts might be within their knowledge—all these rights would have been denied in most if not all of these communities but for the fact, for which I have once before rendered and now again render thanks to the President of the United States, that he sat his face against these provisions or most of them, and said he would not tolerate them nor allow them to be sanctioned in any one of these communities.

Most of these pretenses have been abandoned in most of these communities; but, sir, these are not the only rights that can be denied; these are not the only particulars in which unequal laws can be imposed. I have taken considerable pains to look over the actual legislation which has taken place in these several communities with reference to their several constituencies. I could, it seems to me, interest the Senate for a long time by reading from that legislation, but I shall not delay the Senate longer than to call its attention to a single instance. I read not long since a statute enacted by the Legislature of Florida for the education of her colored people. I read it in a Florida newspaper. The paper boasted itself that Florida was the first State to step forward and attempt the work of educating the children of her colored population. And now, sir, I ask the attention of the Senate to the provision which that Legislature made for the education of their colored population. They make provision for the education of their white children also, and everybody who has any property there is taxed for the education of the white children. Black and white are taxed alike for that purpose; but for the education of colored children a fund is raised only from colored men. It amounts to one dollar a head upon all colored males between the ages of twenty-one and fifty-five years. There were in 1860 between twelve thousand three hundred and twelve thousand four hundred colored males between the ages of twenty and fifty-five in Florida, so that that fund would yield about twelve thousand dollars dedicated to the work of educating the colored children of Florida—not a magnificent endowment, one would think. But how is it to be expended? First, there is to be a superintendent of colored schools for the State to be paid out of it, and he is to receive a salary of \$2,000. That reduces it essentially. Next, there is to be an assistant superintendent of colored schools for each county at \$200 a year. There are in the State of Florida, I believe, thirty-nine counties, which would give \$7,800 to the assistant superintendents. Add that to the salary of the State superintendent, and it takes \$9,800 from the school fund to pay the superintendents, leaving \$2,200 to pay the teachers. But the fund is not left quite so destitute as that; they require each one of the teachers to pay five dollars to the fund to get a license to teach. They are to be examined, their fitness ascertained, and if permission is given them to teach they are to pay five dollars, and that goes to the fund. That swells it; when that license is purchased they can set up a school. Into that school, however, it is worthy of remark that no child can go without permission of the superintendent or his assistant, and no child can stay a day without the permission of the superintendent or his assistant, and the teacher who has paid five dollars for the permission to teach cannot hold that permission a day longer than the superintendent or assistant superintendent sees fit to allow, for the statute expressly authorizes the superintendent or assistant superintendent to vacate or annul the certificate whenever he shall see fit for incompetency or "other good cause"—any cause which seems good to the superintendent or assistant superintendent.

There, Mr. President, I have submitted to you one of the statutes in one of these States, as you will have them to be, touching one of the great interests not only of this colored population but of the State itself, and I ask you, any of you to-day, if in view of one such fact as that you dare hesitate to put in the Constitution of the United States a positive inhibition upon exercising this power of local government to sanction such a crime as I have just portrayed.

Again, sir, we propose to change the basis of representation in the different States. We propose to base it still upon numbers; but it is proposed to say that if in any State the right of suffrage is denied to any portion of its male inhabitants over the age of twenty-one years, then a certain portion of the inhabitants of that State shall be excluded from the numbers counted in the basis of representation. Is that objected to? Yes. Is it not just? Will you tell me what reason there is why when three million people inhabiting these States are denied the right to vote for Representatives, other three millions should have a double representation in the Congress of the United States? To all the people who are allowed to choose Representatives in those States we give by this amendment just the representation that we give to the same number of people in any other State. The effect of it simply is to say that those people who are not allowed to choose Representatives shall not be represented. They cannot be represented; it is a physical impossibility. It is no use to talk about three million colored people being represented, when not one of them is consulted in the choice of Representatives. The Representatives chosen for those men are representing some other men, not them.

I am sorry to have to put that clause into our Constitution, as I am sorry for the necessity which calls upon us to put the preceding clause into the Constitution. I wish there was no community and no State in the United States that was not prepared to say with my friend from Nevada that all men may be represented in the Congress of the United States and shall be represented and shall choose their own Representatives. That is the better doctrine; that is the true doctrine. I would much prefer, myself, to unite with the people of the United States in saying that hereafter no man shall be excluded from the right to vote, than to unite with them in saying that hereafter some men may be excluded from the right of representation.

Sir, to the debate which we have had on this question of the right of suffrage I have listened with a great deal of interest. I trust I have derived some instruction from it, but after all it is not so much as I think would have come to me but for the fact that since I have first known politics at all, I think I have known that no State can deny to any large portion of its adult male population the right to vote, the right to an equal voice in the making of its laws and the choice of its officers, without danger to that State, the whole community, as well as great wrong to the individuals excluded.

I know it is said that these colored people who have just been released from slavery down there in these communities are not fit to vote. I admit it. Who is fit to vote? Only the man who always knows how to vote right, and who always will vote right, is really fit to vote; and, tried by that standard, how many of us are qualified to vote? These people, it is said, are very ignorant, very debased, utterly uncultured and untutored. Yes, Mr. President, I believe that is so. Who made them so? The very men who you insist shall have the exclusive right of voting there. Is it more dangerous to be an ignorant man than to make an ignorant man? Tell me that. Is he a more dangerous member of the State who simply is ignorant, than he who having the power to



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command otherwise makes men ignorant? The men in whose hands you want to pile up authority are the men who have imposed this ignorance upon that black population down there. You say they are degraded. The degradation is not natural to them; it is imposed upon them, and you know it; and the men who have done it you want to crown. God knows there are no people more unfit to exercise the right of suffrage than they are, except the men who made them such as they are, and those men are still more unfit.

But, Mr. President, I beg leave to say to you that ignorance is not the worst quality that you have to contend with in the State. The man who does not know how to vote is not so unfit to vote, after all, as the man who knows how to vote and will not vote as his convictions dictate. He is the dangerous man. He is the man that imperils all your laws. He is the worst enemy in republican States and in all States. He is the man against whom you have most to guard. The ignorant man necessarily has no predetermination to vote wrong; he is just as willing to vote right as wrong; and he can be instructed to vote right just as readily as to vote wrong if you take the same pains to instruct him in the right that you do to instruct him in the wrong, provided he is honest; and honesty dwells with ignorance just as readily, and, thank God, just as lovingly, as it does with culture, and you will find it there as often.

As I said before, I would much prefer to unite with the people of the United States in laying the command upon all men to permit all men to vote than to concur in laying the command on any portion of our fellow-men to go without the right. If, however, these communities upon whom this provision, it is supposed, will work most disadvantageously, do not like it, the remedy is plain and simple in their own hands. They have only to put the ballot into the hands of these men, allow them to choose Representatives, and Representatives will come here representing the whole of their population.

But again, sir, it is proposed to say that no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, in short, under the United States who has ever taken an oath to support the Constitution of the United States and then violated that oath and become a traitor to the Government of the United States. That presses hard. That is going to curtail the rights and the privileges of some of the men in these rebellious States. I ask the Senate to pause upon this proposition. I ask the Senate to consider this proposition carefully before they assent to it. It declares that such a man as Jefferson Davis, or Henry A. Wise, or John Slidell, or James M. Mason shall not hereafter hold office under the Government of the United States unless two thirds of Congress shall hereafter concede that privilege to him. It is a pretty harsh thing to say. I feel it keenly; I feel it sensitively. It is precisely what the President, I am told, has said about me and about men who think as I do. It is what the Secretary of the Treasury has said about men who think as I do, that we shall not hold office, offices which they have the control of and can exclude us from. I have all along thought this harsh. I have thought it was especially harsh to be told by the Secretary of the Treasury, who is particularly anxious and has called upon us to remit our test oath so that he can employ traitors in the service of the Government of the United States, that men cannot hold office under him who were guilty of no offense but thinking as I do. I have never considered myself criminal for anything which I think, for any vote which I have given, for any word which I have spoken. Doubtless I am somewhat guilty; but a man so charitable and tolerant as the Secretary of the Treasury, a man whose charity is so broad that it covers all this rebellion and

the guilt by which it is accompanied, ought to have charity enough to forgive such political sins as mine.

Sir, do not make this declaration unless you think it is just. I shall vote for it, because I feel as the Senator from Kansas [Mr. LANE] said the other day he felt, that men who have forfeited their necks to the halter can very well afford to commute by refraining from taking office for a short time. I do not think the Government of the United States can be accused of a great want of magnanimity when it does no more than to take traitors down from the scaffold, even if it does neglect to confer office and dignity upon them for the time being, and so I shall vote for this proposition.

But again, we propose to declare that the obligations of the United States incurred in suppressing this rebellion shall be met as honest men meet all their obligations. I will not argue that proposition to the Senate. I do not know that it is likely to be opposed. We propose to say, furthermore, that the debt which has been incurred in the effort to overthrow the Government of the United States shall not be paid; nor shall the United States ever be taxed to pay the value of the slaves we have made free, and were compelled to make free, to save the life of the nation.

Upon the features of this amendment I propose to spend no further time. It is of no value, we are told, unless the people adopt it. That is true. Will the people of the several States assent to this amendment of the Constitution? I do not know. I am not endowed with the gift of prophecy. I cannot tell. It ought to become a part of your Constitution; that I know; and I am very much in the habit of thinking that what ought to be done will be done. But what alternative is there? These communities have no representatives upon this floor; they wish to have them; we want them to have representation here. They ought to have them. Let them assent to these most reasonable, most just, and most necessary propositions, and representation will be conceded to them. There is no alternative that I know of except that presented in what is called the President's policy.

Mr. HOWARD. What does that mean?

Mr. HOWE. What does that mean? It means this: that although these people are not fit to make laws at home, and cannot be allowed to make them, yet they must be allowed to send representatives here to participate in making laws for the United States. That is what it means.

Sir, we have heard a good deal about the President's policy. I should not feel called upon to review it here but for the fact that it is held up to us as a model plan, because it so sacredly and religiously respects the rights of States. It respects the rights of States, and therefore is constantly held up before us as being utterly at variance and at war with the idea which I submitted in January last. Why, Mr. President, it is upon all-fours precisely what that idea was, except that the President established the provisional governments, while I thought that Congress should establish them.

The first act of the President with reference to these communities was to overthrow every semblance of government within them. The second act was to concentrate every particle of that local authority in the hands of a single man appointed by him in each one of those communities. That is what you call respecting the rights of States, is it? That is the way you would have the rights of States respected! Listen to a clause of that organic law which the President enacted for the government of these communities. Omitting the preamble which recites his reasons for the step he was about to take, he proceeds to say:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said State to organize a State government, whereby justice may be established, domes-

tic tranquility insured, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States, and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint William W. Holden—"

What for? To be—

"provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof."

That was the proclamation sent forth to Mr. Holden in North Carolina. A proclamation like that was sent forth to Mr. Sharkey in Mississippi, and to some individual in each one of the other States. That single clause which I have read to you, not only ignored the authority of Governor and Legislature and judge and municipal officer in these several States, but it absolutely ignored, set aside, trampled upon their organic laws and their constitutions. Some of these States, and most of them, had clauses in their constitutions prescribing the very mode in which their constitutions could be amended. The President of the United States ignores them all, disregards them all, and says to a man: "All the authority belonging to that State I put in your hands from this time forward; go on irrespective of your statutes and your constitutions; call together your people, prescribe the districts which may elect, prescribe the qualifications of those who may vote, and thus convene a body of men which shall make a new constitution for your State." It is indeed making an entirely new State.

Mr. President, in the history of the executive effort to reconstruct these States many very noticeable facts are found. I have been profoundly interested in looking over the journal of these executive efforts to make loyal States out of rebel communities. It was a difficult enterprise, you will see at once upon the face of the thing. That it should not have run entirely smooth I think would have been anticipated by anybody, especially commencing on that plan. I want to call your attention to some of these features. Most of these provisional governors entered upon the work assigned to them by issuing proclamations of their own, telling their respective subjects what was expected of them and how to do it. Governor Marvin, who was appointed provisional governor of Florida, and who, I believe, was one of the most intelligent of them all, issued a proclamation to his subjects; for you see they were all subjects of his, not constituents of his. He derived no power, no authority, from them whatever. He represented the President. As these were the people put into his hands to govern and to control for the time being, he issued a proclamation. He prescribed the qualifications which were required to enable a man to vote. He required them to be loyal; that is to say, he required them to take an oath that they would be loyal; and he required that nobody should vote who had been a traitor unless he had been pardoned; but he says:

"Where the person offering to vote comes within the exceptions contained in the amnesty proclamation—"

That is, where he is a \$20,000 man, I presume—

"and shall have taken the amnesty oath, and shall have made application to the President for a special pardon through the provisional governor, and shall have been recommended by him for such pardon, the inspectors or judges of the election may, in most instances"—

What?—

"properly presume that such pardon has been granted, though, owing to the want of mail facilities, it may not have been received by the party at the time of the election."

In other words, if, on the morning of the election, a man who has not been pardoned shall take the amnesty oath, and get the governor's recommendation for a pardon to be

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sent to Washington, the inspector of the election may presume he has been pardoned, but has not received his pardon for the want of due mail facilities. That is the legal presumption established for such cases in the proclamation of the provisional governor of the State of Florida.

Governor Holden, who took one of these commissions, had some doubts about the right of some of his people to vote. What does he do? He does not look into the law or constitution of North Carolina to settle the question. If my friend, the Senator from Michigan, [Mr. HOWARD,] was appealed to by one of his fellow-citizens to know whether he had a right to vote, I do not precisely know what he would do. I think he would go to the statutes of Michigan, if he did not recollect the law, and I think he would do anything or everything except just what Governor Holden did. What did he do? He wrote to the Secretary of State to know whether such a man could vote or not. The Secretary of State was inquired of as to whether a certain man should vote in the State of North Carolina. This was in execution of that plan which is so very respectful and religiously regardful of the rights of the States. Here is Governor Holden's letter:

STATE OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT.  
RALEIGH, NORTH CAROLINA, June 19, 1865.

SIR: I shall soon have to give directions to county boards, making provisions for the enrollment of voters.

I respectfully request to be instructed whether paroled soldiers will be allowed to vote for delegates to the State convention upon taking the oath of amnesty, or will each soldier have to procure the President's pardon?

I am, most respectfully, your obedient servant,  
W. W. HOLDEN.

Hon. WILLIAM H. SEWARD, Secretary of State.

Mr. SUMNER. Was it not addressed to the Secretary of State as having charge of our foreign relations?

Mr. HOWE. Mr. Holden must have thought he was dealing with a State not in the Union, but out of the Union, and that he must consult with the Department of Foreign Relations to know whether he had a right to vote or not. That did not occur to me. It is very plausible, very probable. I accept that explanation for the purposes of this argument.

But, Mr. President, the worst difficulty they seem to have had in getting along with this plan was in South Carolina. South Carolina proved a regular hard nut to be cracked. Several of these governors, when they received their commissions, not knowing exactly what to do with them, especially not knowing who was to pay them for discharging the duties imposed upon them, at once addressed letters to the Secretary of State to know who was going to pay their salaries. They got along with that very well. They were informed that their salaries would be paid upon bills being presented to the State Department, the Department of Foreign Relations. In South Carolina, Mr. B. F. Perry was appointed to be governor of those dominions. Perry seems to have been a little technical, crotchety, I should think. He was here in Washington, I take it, at the time he received his commission. The very first thing he does is to write a letter to the Department of Foreign Relations, dated Willard's Hotel, July 21, 1865:

"DEAR SIR: I desire to know what provision has been made for defraying the expenses?"

Not of the provisional governor, but—

"of the provisional government in South Carolina; likewise, whether I am allowed a private secretary, and his compensation; also, as to stationery, blanks," &c.

This is from the Governor of the sovereign State of South Carolina.

"In your communication to me inclosing my commission, you state that I am to receive a salary of \$3,000, and may draw for the same on your Department monthly or quarterly. As we have no money in South Carolina at this time, it would be a very great accommodation to me to allow me to draw a

quarter's salary at this time. If this can be done and you will send me a draft for the same, you will very much oblige me."

Then he goes on to ask for further and fuller instructions as to what he shall do. That was rather a poser. The Department of Foreign Relations seemed to have no difficulty in disposing of the mere matter of the governor's salary. They could get along by charging that over to the incidental fund of the War Department; but this undertaking to pay the expenses of that provisional government, and the private secretary, and all these assistants, to say nothing about the stationery of the executive department, was rather a poser; but the Secretary met it. On the very next day he replied, as follows:

DEPARTMENT OF STATE.  
WASHINGTON, July 22, 1865.

SIR: I have received your letter of yesterday, and trust that the favorable anticipations which it expresses in regard to the reorganization of the State of South Carolina will be realized.

The inevitable and indispensable charges attending the measure, including your salary as provisional governor, will be paid by the War Department as an expense incident to the suppression of the rebellion. You will, consequently, frame and submit to that Department an estimate of those expenses, in order that the necessary arrangements for defraying them may be made.

I am, sir, your very obedient servant,

WILLIAM H. SEWARD.

His Excellency B. F. PERRY, Provisional Governor of South Carolina, now in Washington.

The Secretary of Foreign Affairs had to play a little shy of that demand, but he met it honorably and honestly. Mr. Perry evidently seemed to think that as this cotillion was arranged by the United States the United States should pay for the music. The Secretary of State seems to have concurred in that view, and although he was a little afraid it might break him, he entered into the arrangement, but he says to the sovereign State of South Carolina, "It is only the inevitable and unavoidable expenses;" that is to say, you must economize all you can, for we do not know about this thing.

I should like to read other incidents transpiring in the progress of these efforts, but I have detained the Senate too long upon that subject. Let me conclude this part of the history with saying that after a fashion in almost all these communities, all, I believe, with the exception of Texas, the President, with the assistance of the Secretary of State, did succeed in setting up organizations which they proceeded to name State governments. Let them hereafter be known as State governments.

But, sir, were these governments clothed with the prerogative of States? Did the President so regard them? Did the Secretary of State regard them as States clothed with the power and with the attributes of States and vested with the authority of States? The Secretary tells us in a letter which he addressed to Governor Marvin of Florida on the 12th of September, 1865, how he regarded them. He says:

"Sir, your Excellency's letter"—

That was really very respectful in the Secretary of State. That looks as if he recognized them as sovereign States. He addressed Governor Marvin as "your Excellency"—

"Your Excellency's letter of the 29th ultimo"—

That was the letter in which he inclosed the proclamation from which I read an extract a short time ago—

"with the accompanying proclamation has been received and submitted to the President. The steps to which it refers, toward reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for but not received their pardons, is not entirely approved."

Not entirely approved—almost approved, not quite.

"All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of"—

The President? No—  
"of Congress."

That was the notice personally served upon the Governor of Florida by the Secretary of State, dispatched on the 12th of September, 1865.

Mr. President, as further evidence of the light in which the President and Secretary of State regarded these reconstructed governments down there, let me call your attention to a telegram sent from the Department of State on the 11th of November, 1865. That is after the Secretary of State had been notified that Governor Holden, in North Carolina, had gone on, had assembled a convention, and had the constitution amended, the amendments adopted by the people, and the government elected under it, the whole machinery set up, the fires under the boilers, all ready to start the engine. Holden thought the engine was going to start, and that he had to start, too, that is to say, stop playing provisional governor. The Secretary of State seems to have been afraid that Holden would start and let the new government run on; he telegraphed to him on the 11th of November 1865, as follows:

"The President directs me to say that he expects you to continue in the exercise of the functions of provisional governor of North Carolina until you shall have been relieved by directions from him."

Thus you see in that community which you insist upon calling a State because it was once made a State, the President not only intervened at the close of the rebellion and wiped out of existence every one of the local tribunals, put the whole power in the hands of a single man, authorized and ordered him to go on and reorganize a new government, but after that new government had been organized he still told the one-man power to stay there in spite of these new tribunals which had been chosen by the people to represent them. "Stay there because the President tells you to stay there" or "stay there until relieved by the President." That dispatch was sent on the 11th of November. It was not until the 4th of December that the Secretary of State wrote to Governor Holden:

"The time has arrived when, in the judgment of the President of the United States, the care and conduct of the proper affairs of the State of North Carolina may be committed to the constitutional authorities chosen by the people thereof without danger to the peace and safety of the United States."

Almost a month after he is notified of the organization of this government the President holds that whole power belonging to a State in the hands of a single individual, notwithstanding the people had done everything which they had been told to do to regain possession of that power.

So in Mississippi, on the 8th of September the Secretary of State addressed to Governor Sharkey this letter:

"Sir, your letter of the 28th ultimo, accompanied by a copy of the amended constitution of Mississippi, as adopted by the recent convention of that State, has been received and will engage the early attention of the President."

On the 19th of October Governor Sharkey informed the Secretary of State as follows:

JACKSON, MISSISSIPPI, October 19, 1865.

SIR: I have the honor to inform you that Benjamin G. Humphreys, who was elected to the office of Governor of the State at the late election, has been duly installed into office, and that all the other State officers have been duly qualified. The civil constitutional government of the State is now complete, and the Legislature is in session.

Very respectfully, your obedient servant,

W. L. SHARKEY,  
Late Provisional Governor.

Hon. WILLIAM H. SEWARD, Secretary of State.

On the 3d of November the Secretary of State sent a telegram to Governor Sharkey, addressed to "his Excellency William L. Sharkey, provisional governor of the State of Mississippi, Jackson." This is in reply to Sharkey's communication in which he calls himself "late provisional governor," and in which he tells him that the Governor and all the officers elected by the people had been duly

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installed, qualified, and taken possession of their offices. In reply to that the Secretary says:

"Your letter of the 19th ultimo has been received. It is the expectation of the President that you will continue your functions as provisional governor until further notice from this Department."

There was his new machine actually set running by a blunder of this provisional governor. He did not know but that when set up it was well enough to let it run. He informs the Secretary of State so. A few weeks after that, the Secretary tells him that he must continue to play provisional governor of Mississippi until he is otherwise ordered by the Department.

I am not objecting to these things; they are all right enough; but, Mr. President, [Mr. HENDRICKS in the chair,] when such antics are attempted to be played in the State of Wisconsin and the State of Indiana, you and I will have something to say about it, I take it. When such antics as these are attempted to be played in States which are States, States which are sanctioned by the Constitution, I take it that we shall have something to say about it. I comment upon these things because I find them in that policy and in that plan which is said to be so peculiarly respectful, so tenderly regardful of the rights of States, and because this policy is championed by those who assert that when you have once committed these prerogatives to a community they remain there forever; you cannot interfere with them under any circumstances whatever.

But, sir, the time did come, in the progress of events, when the notice went forth from the State Department to these provisional governors, saying to them, "Retire; let the new governments take possession." Were they made States thereby, clothed with the full powers of States, permitted to exercise the powers belonging to States under the Constitution? Let us see. The people of one of the counties of the State of Alabama, claiming the right to choose a judge of probate, a right secured to them by the constitution and laws of the sovereign State of Alabama, seem to have elected one Raphael W. Semmes to be judge of probate. Raphael W. Semmes is a historical character. I understand he is a very able man, and I dare say would make a very good judge of probate. As suggested by my friend from Ohio, [Mr. WADE,] if he has never had any actual practice in administering estates he has undoubtedly been the occasion of making a great many estates to be administered upon. The people there thought, it seems, that he was the best man they had for judge of probate, and they elected him. The news came up here to Washington that he had been elected. An order was issued. From whom? Not from any of the tribunals of the State of Alabama, but from Brevet Major General Charles R. Woods, who seems to have been in command of the department of Alabama:

HEADQUARTERS DEPARTMENT ALABAMA,  
May 17, 1866.

In compliance with instructions from the President of the United States, it is hereby directed that Raphael Semmes be not permitted to hold or exercise the functions of judge of the probate court of Mobile county, or any other civil or political office of trust while he remains unpardoned by the President.

By order of Brevet Major General Charles R. Woods:  
A. RAMSEY MINNINGER,  
Assistant Adjutant General.

Judge Bond will perform the duties of the office in the mean time.

That is a pretty good note for a major general. Recollect it is by command of the President of the United States, who is taking such excellent care of the sovereign rights of States. He tells the people of this county in Alabama, "You cannot elect Mr. Semmes for your judge of probate," and having done so, he says further, "Mr. Semmes, you stand to one side; Mr. Bond, you be judge of probate." Who is going to administer upon estates in that county hereafter, I should like to know? If the right of Judge Bond to administer is called in question, what is the evidence of his right? The

constitution and the laws of the State of Alabama require that the judge of probate shall be elected by the people. They elected Mr. Semmes. General Woods says to him, "You must not play judge of probate; let Judge Bond do this." Judge Bond has got the commission of General Woods as his authority for administering upon the estates of those who may happen to die in that particular county.

Mr. HOWARD. By whose authority was that done?

Mr. HOWE. By the authority of the President of the United States. Sir, the best advice I can give to the people of that county is, not to die until a new judge of probate is elected. I am afraid there will be trouble in the settlement of their estates.

[At this point, the honorable Senator yielded to a motion that the Senate proceed to the consideration of executive business.]

WEDNESDAY, June 6, 1866.

The same subject being again under consideration—

Mr. HOWE said: Mr. President, when the Senate adjourned last evening I was endeavoring to show that not only did the President of the United States recognize and exercise the power of the General Government to establish provisional governments for the seceded States, but that he recognized so absolute a control over them on the part of the Government of the United States that he did not recognize even the new governments organized through the intervention of his own governors as clothed with the attributes and prerogatives of States. I referred to the fact that a judge of probate in a county of Alabama had been dismissed by the order of the President from his office, and that another man, not elected by the people, had been selected to discharge the duties of that office. There is another instance. In New Orleans, in March last, the people elected a man by the name of Monroe to be mayor of that city. General Canby, it seems, being in command there, thought he was not a fit man to discharge the duties of mayor of that city, and we learn by a dispatch dated New Orleans, March 19, this fact:

"All the newly elected city officials were duly installed to-day with the exception of Mayor Monroe and Mr. Nixon, an alderman, whose functions have been temporarily suspended as coming within the exceptions to pardon made by President Johnson's proclamation. M. G. Rosseau has been installed mayor *pro tempore* by order of General Canby."

Thus, in Alabama, judges elected by the people are set aside; in New Orleans, mayors and aldermen of cities elected by the people are set aside; and these men were elected under the authority of these new constitutions and the laws enacted in accordance with these new constitutions!

Sir, let me be distinctly understood. I am not complaining of the President of the United States or of General Canby for setting aside Judge Semmes, or Mayor Monroe, or Alderman Nixon. These are not isolated cases, but a great many others like unto them have happened in other States of that portion of the Union. I am not complaining of these acts. I agree entirely with the President, that Judge Semmes is not fit to discharge the duties of judge of probate. I have no doubt that Mr. Monroe is entirely unfit to act as mayor of the city of New Orleans. What I wish to call attention to is this: that Judge Semmes is no more unfit for judge of probate than the people of that county are to elect a judge of probate. When the President of the United States finds that Judge Semmes is not fit for judge of probate, he gives the most conclusive testimony in the world that the people who elected Judge Semmes were not fit to make an election. There was no misunderstanding about who Judge Semmes was. They know all about him. They elected him because he suited them. So of the election of Mr. Monroe. Mr. Monroe was satisfactory to the people of the city of New Orleans, and therefore they chose him. In the

judgment of the President, he was unfit for mayor: he had not been pardoned. The people of New Orleans cared nothing for that fact. They would just as lief have a man to serve them who had not been pardoned as one who had; and, as far as that goes, I suspect I should agree very much with the people of New Orleans. I do not think there is any great distinction to be made between those who are not pardoned and those who have been.

I mention these facts for the other purpose of showing that the President does not regard these communities as States like the State of New York or like the State of Ohio. He would not attempt to do any of these things in either of those States or in any State which had held fast to the Union and never had dissolved its relations with the Union. And I cite them for the purpose of asking the question, how it happens that what the President could do without an act of Congress, Congress could not do by an act of its own? It was argued, I recollect, by the Senator from Pennsylvania [Mr. COWAN] some time since that the President had a peculiar gift, or a peculiar right, for doing these things because he was an executive officer. I understood the Senator to say that the President of the United States went into South Carolina and Georgia and deposed Governors and Legislatures, and had the same right to do it that a sheriff would have had, or a marshal. Perhaps he had as much right as a sheriff or a marshal. The Senator's argument put it upon the ground that these men were criminals discharging the functions of these offices down there, and that the President instead of arresting them as criminals just deposed them.

I think the Senator from Pennsylvania or any other lawyer can understand the vast difference between the two acts. But I think the Senator from Pennsylvania will agree that neither of these two acts could be done by the President, or be done by a sheriff, or a marshal, simply because he chose to do it. The mere fact that a man is a criminal, or is deemed to be a criminal, gives no authority to a sheriff or a marshal to interfere with him. Before the sheriff or the marshal is allowed to put his hand upon him and restrain him of his liberty, he must have the authority of the State or of the United States for doing it; he must have a writ, a precept, a written command in his possession issued by the supreme authority, directing him to do that very thing. It must be addressed to him, and must command him to do that very act, otherwise he cannot make the arrest. No marshal of the United States had any right to interfere with the Governor of South Carolina or with any member of her Legislature, simply because they had been traitors; but when a court of the United States, having jurisdiction of that offense, saw fit to issue a warrant, addressed to the marshal, directing him to make that arrest, then he could do it; not until then. The President could not do it at all. The President could not do it if he had a trunk full of warrants. He cannot serve a writ. In order to serve writs he must be authorized by law to serve them. His duties are very different from those of a marshal. And when the writ is issued it must be served by the officer to whom it is issued and by nobody else.

But there is this great difference between what the President did and what the Senator from Pennsylvania supposes he did. What the Senator from Pennsylvania supposes he did was simply to restrain the Governors of these States and the other officers of their liberty. That was not all. That was but a small part. He restrained the whole people of the "State," as they call it, of their liberty. They had under their laws, and it is contended here they had under the Constitution of the United States, the right to elect those men and to have their services. It was interfering less with the liberty of the individuals who were removed



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from office than the liberty of the people themselves. They chose to have those officers to serve them. The President said they should not have them.

Thus it was that, without writ, without warrant, as I think, without authority of law, certainly without process in his hands, by a single clause of a proclamation, he not only arrested, that is to say took possession of, took into custody, according to the theory of the Senator from Pennsylvania, every officer in each one of eleven States, but he actually took into custody the whole people of the State. That was a pretty sweeping arrest, not often equaled!

No, Mr. President, the only authority in the world for doing these things is the fact that the people of those States had themselves destroyed the only kind of government which the Constitution of the United States will tolerate. What was in the place of those governments was an illegal, unconstitutional, criminal existence, and the President treated that criminal organization just as a sheriff or anybody else would treat any other person or any other party engaged upon a criminal enterprise. The law commands you not to interfere with the liberty of a citizen except you have due process of law for doing it. Still, if you are going along Pennsylvania avenue and see a store about to be entered by a burglar, in spite of the Constitution, in spite of the laws, you would not hesitate to take him by the collar, if you felt strong enough, and stop the commission of that crime. And so the President found a band of criminals before him. He brushed them out of the way. But if they were lawful tribunals of legal States, then instead of doing a good deed, as I insist he did, he committed a great wrong.

But it has sometimes been said that he could be justified in doing these things because he was Commander in-Chief of the Army and the Navy, and that he did them in the exercise of what are called the war powers of the Government. Without stopping to consider whether more of the war powers of the Government is vested in the President than in the Congress of the United States, I want to say that the proof seems conclusive that he did not assume to act in virtue of any such power whatever. War had ended when he deposed these Governors and Legislatures. War had ended when the new Governors and new Legislatures were elected. War had ended when Judge Semmes was deposed; when Mayor Monroe was deposed. But if I am mistaken on that point, if war had not ended then, it did end subsequently. I can prove that. I can bring proof that the President and his friends will not contradict, that it ended in all the States but Texas. I find it certified in a proclamation, "Done at the city of Washington the 2d day of April, in the year of our Lord, 1866, and of the independence of the United States of America the ninetieth"—signed Andrew Johnson, and attested by William H. Seward, Secretary of State. That proclamation is introduced to the world by a series of whereases, occupying a whole column and more of this daily paper—the twelve tribes of whereases, starting, I believe, away back in 1861, five years of whereases. One would think a pretty important proclamation ought to succeed such a formidable preamble as that. Let us read the proclamation:

"Now, therefore"—

Because of all these things which have occupied a column and a half, or less—

"Now, therefore, I, Andrew Johnson, President of the United States, do hereby proclaim and declare that the insurrection which heretofore existed in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida is at an end, and is henceforth to be so regarded."

The insurrection is at an end, says the President; let the world henceforth so regard it. Well, what does that do? The insurrection being at an end, how is the face of things

changed by that? Now will these States have the services of their officers? Now will they be remitted to the rights and prerogatives of States? Now will their elections be respected, their laws have full force, run, and be glorified? Something important everybody thought was going to happen after such a proclamation as that was issued. It seems that an agent of the Freedmen's Bureau down in Georgia thought some great change must have been wrought by this proclamation in the face of political affairs, and he inquired what it meant. His inquiry was referred to the Department of War. He received this answer to it on the 9th of April:

WAR DEPARTMENT,  
WASHINGTON, April 9, 1866.

SIR: The assistant commissioner of the Bureau of Refugees, Freedmen, &c., for the State of Georgia having inquired whether the President's proclamation removes martial law, and stated that the department commander does not feel authorized to arrest parties who have committed outrages on freed people or Union refugees, the Secretary of War, with the approval of the President, directs me to inform you that the President's proclamation does not remove martial law, or operate in any way upon the Freedmen's Bureau in the exercise of its legitimate jurisdiction. It is not expedient, however, to resort to military tribunals in any case where justice can be attained through the medium of civil authority.

E. D. TOWNSEND,  
Assistant Adjutant General.

Brevet Major General J. M. BRANNAN,  
Augusta, Georgia.

The insurrection is suppressed; peace has come; martial law, however, does not end in those communities; nothing is changed by it; their rights are just what they were before, and the authority of the Government is just as absolute as it had been before; nay, this Judge Semmes was deposed after this proclamation issued, after the insurrection was suppressed, and was so declared by the President.

Would the President of the United States undertake to say that martial law existed or could exist in any State of the United States now, subsequent to his proclamation? The Constitution declares that "the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it." Would the President venture to say he had suspended the writ of *habeas corpus* when he had declared there was no longer any rebellion? I think not. He continues martial law there, because it is the only law that is reliable. He has nothing else, he has no act of Congress, and he cannot trust to the laws of those communities. He is perfectly right, in my judgment, in not trusting to those laws. But I think it would be a great deal better for him, a great deal better for those communities, a great deal better for the country if he would recommend to Congress here the passage of such laws as are suited to their condition.

Sir, let me call your attention to one little fact (I will not read the papers) illustrative of the great embarrassment attending this mode of governing great communities. The Legislature of the new State of Florida, I learn, enacted a law establishing a county criminal court, the principal business of which I judge to be to discipline the colored population of that State—the freed people. That statute declares a great many different offenses, prescribes penalties for them; whipping is one of the penalties; the pillory is another of the penalties. The commissioner of freedmen's affairs thought that whippings and pillories were not suitable penalties to be imposed on human beings. Accordingly he declared that such punishments should not be imposed on the freedmen who were subject to his jurisdiction. He appealed to the officer in command of the department of Florida, General Foster, I think. General Foster issued an order from his headquarters directing that whenever a county court sentenced a negro to be whipped or to stand in the pillory he should be turned over to his headquarters, not be whipped, not to stand in the pillory, but when turned over

to his headquarters he should be set to work at the ball and chain so long a time for each blow to be inflicted, so long a time for each hour he was to stand in the pillory. That order was received by the Governor, and he issued, I believe, an order in conformity to that requiring all persons sentenced to stand in the pillory or to be whipped to be turned over to his headquarters.

Now, Mr. President, just look for a moment at the condition of a man sentenced to be whipped or to stand in the pillory in Florida. The judgment is not executed; but neither is it reversed. The defendant is sent to the headquarters of General Foster. Another punishment which is provided for in no judgment in the world is inflicted upon him. The judgment in the county court stands unexecuted. After he has got through with his service at the ball and chain, and has left General Foster's headquarters, there is the judgment of the county criminal court to be executed. The only aid, as I see, that the negro is likely to get from this intervention of the officer in command is that the punishment of whipping or standing in the pillory is simply postponed, and in the end he receives a double punishment instead of a single punishment.

If a provisional government was established for Florida by act of Congress, none of these things could happen. When Florida enacted a law which outraged the sense of public justice, Congress would do what it does with every other Territory enacting such a law; the law would be set aside, and then there would be no judgments under it. But here, under this mode of administering government, the law is allowed to stand; the tribunals of justice act upon it, try cases, pronounce judgment, and the judgment is not allowed to be enforced, at least until another penalty deemed satisfactory to the officer in command is inflicted. Sir, I do sincerely think I am abundantly justified in making the proposition with which I set out, that if the power which I claimed in January last for Congress to provide provisional governments for those communities is not furnished by the Constitution, the President is more defenseless than any man who has ever undertaken to administer government for the United States. If that authority does not exist, how these acts are to be defended it is impossible for me to conceive.

But, Mr. President, it is urged that however the plan or the policy of the President may accord with the Constitution, it does accord exactly with the policy of his predecessor in office. That is a point which my colleague has urged repeatedly with great force and with great earnestness. I desire to say now that there is no more similitude between the policy of President Johnson and the policy of President Lincoln than there is between a blister of Spanish flies and a poultice of cabbage leaves. [Laughter.] What was the policy of President Lincoln, which this plan is said to resemble? Recollect, sir, when Mr. Lincoln issued his proclamation of the 8th of December, 1863, we were at war, and this proclamation of his was issued, not in the interest of our enemies in that war, but to injure our enemies and in the interest of our friends. Therefore it was that he proclaimed this:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on

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application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence."

That is what he said. There was in that proclamation the exercise of the same identical power which President Johnson exercised in 1865, and the exercise which I insisted ought to be exercised in January last by Congress; that is to say, the power to take the prerogatives of a State from the whole people of a State, and to do something else with them. President Lincoln proposed to take them from the whole body of the people and give them to a minority of the people, not less than one tenth. President Johnson, in 1865, took them from the whole body of the people, and gave them to a single individual. I proposed to take them from the whole body of the people in the State and give them to the people of the United States. That is the difference between the three propositions. Look at the practical operation, however, of the two plans. President Lincoln's proclamation says to these people down there, "So many of you as will, now while the war is raging, turn your backs on the rebellion, become our friends, take an oath to stand by us, and to fight our enemies, we will take by the hand; we will organize you into a State; we will build up the boundary line of a State, as a wall between you and the rebels; we will exclude them from all power, and vest all power in you." That was President Lincoln's plan. He proposed to wrest the prerogatives of the State from the majority and to bestow them as a reward upon the minority who should then, when the rebellion was at the height of its power, desert it, defy it, and take an oath to resist it. President Johnson's plan was promulgated only after the power of the rebellion was utterly broken. When majorities and minorities were alike ready to swear fealty to the United States because they could not longer resist its power, then the President tendered pardon and the prerogatives of the State to that very majority which had resisted while resistance was possible, and to whom the law secured nothing but the extreme penalty due to treason.

President Lincoln held up the prerogatives of the State as a reward to those who should desert the rebellion and help subdue it, while President Johnson, after the rebellion is subdued by the boundless expenditure of blood and treasure, flings those same priceless prerogatives to his prisoners of war.

But there was another difference between the policy of President Lincoln and the policy of President Johnson. President Lincoln says:

"This proclamation is intended to present the people of the States wherein the national authority has been suspended and loyal State governments have been subverted a mode in and by which the national authority and loyal State governments may be re-established within said States, or in any of them; and while the mode presented is the best the Executive can suggest with his present impressions, it must not be understood that no other possible mode would be acceptable."

President Lincoln offers the best plan he can think of, but advertises that he is ready to accept a better one if others can devise it. President Johnson offers a plan immeasurably worse, and allows men to whose unbought efforts he is indebted for the power he wields to be proscribed for no offense but believing that a better plan can be devised.

Mr. President, here seems to be the issue: we invite the people of the United States to incorporate these just and necessary amendments into their Constitution, and we propose to sequester the claim to representation in Congress until these amendments be agreed to. The opponents of these amendments invite the people of the States now represented to send Representatives here who will open these doors to the representatives of these rebellious communities at once, and whether the pending amendments be agreed to or not. That is the issue. I do not know what the decision is to be. I hear it said in the newspapers and elsewhere that a Congress is coming here that

will open these doors. Perhaps so. I see most elaborate efforts being made to bring such a Congress here. With what success it is to be attended I do not know. That remains to be seen. I see a great many individuals and a great many representatives sent here by the Union party to uphold the Union cause now aiding to their utmost in all that is thought to be required to secure such a Congress.

Mr. WILSON. There are not a great many of them.

Mr. HOWE. No, I do not mean to say there are a great many of these representatives. There are a few of them aiding in that work. I am told that the design is to pack the Congress of the United States, to select men and to secure the election of men devoted to the single purpose of getting representatives in here from these lately rebellious States.

Mr. President, there was an attempt about two hundred years ago to pack a Parliament in England, and it would be well enough perhaps for those engaged in this enterprise to recur to the history of that. It is said, indeed, that those who are engaged in this enterprise have the President with them and have the patronage of the Government on their side; that that is all-potential; that the country and the public conscience cannot stand up against it. They may be right who put that estimate upon the influence of patronage. But recollect we do not know that this patronage is to be in the hands of the present Executive for more than about two years. When, two hundred years ago, they undertook to pack a Parliament in England, this patronage was all in the hands of a king for life and his heirs after him.

Mr. COWAN. What Parliament was that?

Mr. HOWE. The Parliament of James II. The question there was whether the Catholics should be admitted to a share in the Government. The question here is, whether the rebels shall be admitted to a share in the Government. I do not know whether the hostility of the nation to the rebels is as strong as the hostility of the English nation was to the Catholics or not. I am inclined to think it is. That was the question in that case. I have stated the question in this. Macaulay says:

"The sanction of a Parliament was necessary to his system."

And I judge the President thinks that the sanction of a Congress would be convenient to his.

"The sanction of a free and lawful Parliament it was evidently impossible to obtain; but it might not be altogether impossible to bring together by corruption, by intimidation, by violent exertions of prerogative, by fraudulent distortions of law, an assembly which might call itself a Parliament, and might be willing to register any edict of the sovereign. Returning-officers must be appointed who would avail themselves of the slightest pretense to declare the King's friends duly elected. Every placeman, from the highest to the lowest, must be made to understand that if he wished to retain his office he must, at this juncture, support the throne by his vote and interest. The High Commission, meanwhile, would keep its eye on the clergy. The boroughs, which had just been remodeled to serve one turn, might be remodeled again to serve another. By such means the King hoped to obtain a majority in the House of Commons. The upper House would then be at his mercy. He had undoubtedly by law the power of creating peers without limit, and this power he was fully determined to use."

"But there was no extremity to which he was not prepared to go in case of necessity. When in a large company an opinion was expressed that the peers would prove intractable"

As it is sometimes suggested the Senate may—

"Oh, silly," cried Sunderland, turning to Churchill, "your troop of guards shall be called up to the House of Lords."

And I think I have heard such intimations thrown out about the treatment to be bestowed upon the Senate.

"Having determined to pack a Parliament, James set himself energetically and methodically to the work. A proclamation appeared in the Gazette, announcing—

A change of the postmasters, collectors of

revenue, assessors, and district attorneys, substantially.

"A proclamation appeared in the Gazette, announcing that the King had determined to revise the commissions of peace and of lieutenancy, and to retain in public employment only such gentlemen as should be disposed to support his policy."

If they wanted to eat the King's bread and butter they must support the King's policy.

"A committee of seven Privy Counsellors sat at Whitehall for the purpose of regulating—such was the phrase—the municipal corporations."

I do not know exactly how many members compose the Johnson club, which is, I believe, nothing essentially different from a committee of Privy Counsellors.

"In this committee Jeffreys alone represented the Protestant interest. Powis alone represented the moderate Roman Catholics. All the other members belonged to the Jesuitical faction. Among them was Petre, who had just been sworn of the council. Till he took his seat at the board, his elevation had been kept a profound secret from everybody but Sunderland," &c.

Macaulay goes on at length to describe the efforts which were made to pack the Parliament; but after all they did not succeed. It seems wonderful that they did not. The King had absolutely unlimited control of all patronage, all appointments. Parliament did not dispute that with him. Congress does not yet agree that that power is in the hands of the President. But whatever power the King had he had for life. It is not certain that the President has the power vested in him to-day for life. Mr. President, how were these efforts received by the people of England? The historian says that Aubrey de Vere, Earl of Oxford, the noblest subject of England, when called upon to acquiesce in the policy of the King, answered:

"Sir, I will stand by your Majesty against all enemies to the last drop of my blood. But this is matter of conscience, and I cannot comply."

He was at once removed from his lieutenancy. A similar demand was made upon the Earl of Shrewsbury, and a similar reply given, and similar treatment was administered; upon the Earl of Essex with like results, and upon a great number of the most distinguished nobility of England; and one after another they went their way, as our postmasters, collectors, and assessors are going now in these days. Mr. President, history has taken note and has preserved down to this day the names, the fames, and cherishes yet the memory of those men who would rather be right than to be lieutenants of counties; and history for a great many years to come will cherish the name and the memory of those men who in these days dare to be right rather than be postmasters or collectors.

Among the expedients resorted to for the purpose of securing the election of the right sort of representatives was this:

"The catechism by which the lords lieutenant had been directed to test the sentiments of the country gentlemen consisted of three questions. Every magistrate and deputy lieutenant was to be asked, first, whether, if he should be chosen to serve in Parliament, he would vote for a bill framed on the principles of the Declaration of Indulgence; secondly, whether, as an elector, he would support candidates who would engage to vote for such a bill; and thirdly, whether, in his private capacity, he would aid the King's benevolent designs by living in friendship with people of all religious persuasions."

A pretty close catechism there.

Mr. COWAN. There is not much objection to that these days—toleration and indulgence.

Mr. HOWE. No, there does not seem to be. I believe the catechism has been greatly improved since that period.

"As soon as the questions got abroad, a form of answer, drawn up with admirable skill, was circulated all over the kingdom, and was generally adopted. It was to the following effect: 'As a member of the House of Commons, should I have the honor of a seat there, I shall think it my duty carefully to weigh such reasons as may be adduced in debate for and against a bill of indulgence, and then to vote according to my conscientious conviction. As an elector, I shall give my support to candidates whose notions of the duty of a representative agree with my own. As a private man, it is my wish to live in peace and charity with everybody.'"

A very good form of an answer. Whether it was referred to by any extent by those dis

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tinguished Cabinet officers who were visited by a serenading party the other night, and catechized in much the same way, and whether any of their responses were framed upon this precedent or not, I do not know.

This was in 1687. In 1688 the dismissed lieutenants of counties were restored to favor and to place. The committee of Privy Councilors were dismissed from Whitehall and disgraced, and the King himself was a fugitive from his realm, and no man has since occupied his throne who supported his policy.

Sir, history is useless if it do not guide and animate us in the discharge of our duties.

Mr. President, some things have been said, and some incidents have transpired, since this debate commenced in January last which I propose to notice, although they are not very material to the debate itself. We seem to have parted company here. Gentlemen who met in this Congress at the beginning of the session representing the same party, upholding the same cause, commissioned to the same work, seem no longer to work together; and it has happened unfortunately, very unfortunately for the cause, very unfortunately for me, very unfortunately for the State that I have the honor in part to represent, that my colleague and myself seem to have parted company in this time.

My colleague some time since thought he had occasion to admonish me that the present President of the United States was not elected by the Whig party. I believe he was entirely correct in that statement. I really never had said or supposed that he was elected by the Whig party, and I did not quite understand at the time, and I do not quite understand now, what the necessity was for reminding me of so obvious a truth as that. It is true I did once belong to the Whig party. If, according to my colleagues's understanding of the gospel plan, that is the one unpardonable sin; if that is that blasphemy against the Holy Ghost which never can be forgiven in this world or in the world to come, I must submit to the consequences. I really was very honest and sincere, however, when I belonged to the Whig party. I really did think the Whig party tried to serve the country according to the best of its light and judgment; and I thought its light and its judgment were about as good as there were going. I think so still. I continued to serve it up to the time when in 1854 that party made its last struggle to defeat the repeal of the Missouri compromise; and when I found it, by reason of the defection of its southern members almost in a body, entirely unable to do anything to resist the tide of slavery aggressions, then, sir, I abandoned the Whig party and I united myself with the only party which seemed to me to promise some hope of effecting such a resistance. That is the extent of my guilt in that behalf.

My colleague took occasion to say in substance that he cared nothing for parties only as means to ends, but when we came down to principles we would find him there every time. If he had said that simply by way of paying tribute to his own steadfastness and stability I should not have felt called upon to dissent; but when he parades it rather as a reproach to those who no longer act with him than as a commendation of himself, it seems to me to demand some notice. I certainly do not stand here to deny that he is always true to principle; but I stand here to say that I do not think he is the only one who is always true to principle; and I must be allowed to add that, true as he is to principle, he is not understood to have been always true to the same principles. I have understood that in 1848 my colleague was a member of a convention which assembled at Buffalo, in the State of New York—a convention of what was called the Free Democratic party. That convention adopted what they called a platform. In that platform I find this resolution, the closing one:

"Resolved, That we inscribe on our banners, 'Free  
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soil, free speech, free labor, and free men,' and under it we will fight on and fight ever, until a triumphant victory shall reward our exertions."

I do not know that my colleague was a member of that convention. I have been told so. If he was there and subscribed to this resolution, I have no doubt it truly reflected his convictions at that time, and that he was then true to that principle. But my colleague will hardly insist that he was true to the same principle in 1852, four years later, when in Racine he was opposing the candidate of the same party whose representative he was at Buffalo, and where he is said to have exerted himself to prove that slavery was of divine ordination, and to prove it from the Scriptures.

Mr. DOOLITTLE. It is false that I ever said that anywhere. It is true that in 1852 I supported General Pierce and my colleague supported General Scott; but they stood precisely on the same platform, as far as slavery was concerned.

Mr. HOWE. If it is false that my colleague ever made any such defense of slavery, I am very glad to hear it, and I am very glad that I have furnished him the opportunity to say so.

Mr. DOOLITTLE. In relation to that, I do not know where my colleague obtains any information bearing on this subject, but it is utterly false. For twenty-five years I have spoken on the subject publicly, in the State of New York and in all the States, and I have always maintained, in every form in which language could be used, that slavery was wrong. The idea that I ever defended it as a divine institution is utterly false.

Mr. HOWE. I am very glad to be corrected. I did not make myself responsible for the statement. I introduced it here in his hearing that he might contradict it if it were not true. I have heard it repeatedly said within the State of Wisconsin; I am surprised it should have come to my colleague's ears now for the first time. If I am mistaken about it, as I must think I am, I am glad to be so told. But if he did not advocate slavery then and there in his speech, he defended and upheld a party which did uphold slavery, and he did not adhere to the Free Democratic party which he did uphold in 1848.

Mr. DOOLITTLE. I have stated to my colleague that in 1852 I supported the election of General Pierce; and upon the slavery question his platform was precisely the same as the platform of the Whig party, whom my colleague supported in Wisconsin. So we stood on the same platform as to that. It was averred in the platform of both parties that the slavery question was ended, and nothing should be said about it, *pro* or *con*, in Congress or out of Congress. But in 1854, when the Democratic party which elected Pierce, violated its pledges, renewed the slavery agitation, put in the knife, repealing the Missouri compromise, I from that moment denounced it as the dissolution of the Democratic party, and I gave what little power I had to help to overthrow it and trample it under my feet, because it was false to the pledges upon which it was elected; and in 1856, as a matter of course, we carried Wisconsin for Fremont, and against the extension of slavery into the Territories. My course, therefore, has been entirely consistent on the slavery question ever since 1847, when in the convention of the Democratic party of the State of New York, I myself introduced the corner-stone resolution upon which the Free-soil party of New York was organized, before the Buffalo convention. The Buffalo convention followed all that. It was the incident to it. It came in, and renominated Mr. Van Buren, who had already been nominated in the State of New York by the Free-soil Democracy, as they were called—the Barnburners, in the language of the day, by way of epithet. Those are the facts.

Mr. HOWE. I was not arraigning my colleague because he did not support General

Scott in 1852. There was nothing in his previous history that I know of that seemed to make such action on his part called for. I thought it peculiar that he did not support the candidate of the same party whose candidates he supported in 1848. It was not because he did not support the Whig party, but that he did not stand by the Free Democratic party which in 1848 he had pledged himself to stand by forever. I simply say that although there might have been some similarity—and I do not concede that—between the attitude of the Democratic party and the Whig party in 1852, there was not that marked similitude between the attitude of the free Democratic party in 1848 and the Democratic party in 1852. I am not accusing him of any want of sincerity. I am bound to suppose that he was just as sincere in his devotion to the Democratic party in 1852, as in his devotion to the free Democratic party in 1848; but there, I do insist, is the proof that he was not adhering to the same principles in 1852 that he was in 1848.

But, Mr. President, it is true, as my colleague has said, that the Democratic party did not keep the pledges they made in 1852; that in spite of their promise made there to have no more agitation upon the question of slavery, they did introduce it again two years later, and they did repeal the Missouri compromise. My colleague says now that from that moment the Democratic party was dissolved. He will not undertake to say that his connection with the Democratic party was dissolved from that moment. I never heard of his dissolving his connection with the Democratic party until 1866, some two years after the Missouri compromise was repealed.

Mr. DOOLITTLE. Upon that subject, if my colleague will allow me to call it to his recollection, he will remember at once that I went on the bench as judge of the first judicial circuit of Wisconsin in 1853, and from 1853 to 1856 was judge of the first judicial circuit, and of course while upon the bench I did not take part in political affairs. After I had resigned from the bench then I felt at liberty to take part in them.

Mr. HOWE. It is true my colleague was upon the bench, but I believe he recollects perfectly well that his political affiliations were known all that time. I think I cannot be mistaken in my recollection that his first declaration in behalf of the Republican party, which was formed in 1854 if I remember aright, was after Congress adjourned in August, 1856, and then a letter from him was published which was the first that was known to the people of Wisconsin that he adhered to the platform and policy of the Republican party.

Mr. DOOLITTLE. It is true, as my colleague states, that the first public declaration which I made was upon the adjournment of Congress in 1856, where the point decided was that Congress would enforce the border-ruffian slave code in Kansas. The outrage was such that I could not, for one, endure it, and I publicly denounced it, and from that moment threw all the influence that I possessed against the party which had sustained that course and determined to enforce, as the laws of the Territory of Kansas, that border-ruffian code.

Mr. HOWE. I believe my colleague is entirely correct. He did not leave the Democratic party because of the repeal of the Missouri compromise, nor because of their enactment of the fugitive slave law. He adhered to it in spite of both those acts. But in 1856, two years after the Missouri compromise had been repealed, after Congress had adjourned, he then joined the Republican party; and then I believe he is entirely correct in saying that he gave as his reason, not that he objected to these measures, but that the principle of squatter sovereignty, or popular sovereignty, so called, had not been observed in Kansas.

Mr. DOOLITTLE. My colleague will do



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me the justice to understand certainly that while upon the bench I did not write any public letters or make any public speeches, but I did in conversation privately express my most declared opinions on that subject to all persons who conversed with me upon it. As far as I was at liberty to make declarations, being upon the bench, I did so; but I did not make any public declaration by letter or speech; that is all. I denounced the repeal of the Missouri compromise from the moment it was proposed.

Mr. HOWE. That was not all. The point is, that when he did make a public declaration of his adhesion to the Republican party, it was not placed upon the ground that they had passed an obnoxious law in 1850 or another in 1854, but that the principle of popular sovereignty, which was pledged to the people of Kansas in 1854, had been violated, and they had not had the benefit of it. That was the ground upon which he, as I understand it, left the Democratic party in 1856 and joined the Republican party. But I am not disputing that he was just as sincere to his convictions in 1856 as he was in 1852 or in 1848, and I am not disputing that he is just as sincere in his convictions to-day, when he is leaving the Republican household, when he has left the Republican faith, as he was in 1856 when he embraced it.

Mr. DOOLITTLE. I will say to my colleague that I have not left it and do not expect to leave it. I do not mean either to be seduced from it or driven from it.

Mr. HOWE. Mr. President—  
The PRESIDING OFFICER, (Mr. POMEROY in the chair.) It becomes the duty of the Chair to remind Senators that the question under discussion is the amendment to the Constitution of the United States.

Mr. JOHNSON. I was about to ask what the question before the Senate was.

The PRESIDING OFFICER. The constitutional amendment has been under discussion for some time, and it is hoped that Senators will confine their remarks, as near as they are able to do so, to the question under discussion.

Mr. HOWE. Yes, sir; and I propose to confine my remarks as nearly to that question as I am able to do, but under these extraordinary circumstances I was not able to confine my remarks any nearer to that question than I have so far. Finding myself arraigned here as for a crime, that I had once affiliated with the Whig party, I thought it right to consider very briefly the party relations of my colleague heretofore. My colleague says now that he has not left the Republican party. I am very glad to hear that, if he really means to be understood by that that hereafter he will adhere to that party and to its principles and to its candidates and to its organization. But I understood him to say the other day that he had got on to a platform of his own and he did not propose to leave that, although the Union party did leave it, and he did not propose to leave that, although any other party got on to it.

Mr. DOOLITTLE. Mr. President—  
The PRESIDING OFFICER. Does the Senator from Wisconsin yield to his colleague?

Mr. HOWE. I cannot refuse to yield for explanations.

Mr. DOOLITTLE. As this is a matter personal to myself, I hope my colleague will allow me to say a word. I say I have not left the Republican party which is that party which stands upon the platform on which we elected the President and Vice President of the United States in 1864. I stand on that platform and by its principles, and do not intend to leave them. I do not intend to be driven off from them, nor to follow anybody else off who may choose to go off from them on to a new platform; nor will I abandon the platform whoever else may come on to it. I mean to be governed by the principle which I avowed the other day, and which I expect to control my action. I will not interrupt my colleague in his speech further.

Mr. HOWE. Mr. President, it is very evident I did not misunderstand my colleague's position. He repeats almost the same words I put into his mouth as having been used the other day. The fact is that he has divided from the Union party. Whether the Union party has left the true platform, or he has, is the point in dispute between him and the party. I shall not stop here to discuss that question at length, nor to ask the Senate to settle it. They are apart, and another party is now standing on the platform that he occupies. He calls it his. He means nothing more than that he and the Democratic party occupy the same platform. Whether it is his or theirs in point of fact, I take it, will be settled when they get into convention together. The question of title will be settled then. If it shall be found to be his property I shall not dispute it with him. If they acquiesce in that title, it will be entirely satisfactory to me. I apprehend, however, that there will be some dispute about the right to it.

I have said that I did not mean to raise any question here upon the sincerity of my colleague's convictions; but I cannot help noting the fact that in 1848 when he was acting with the Free Democratic party, the Free Democratic party of New York was much the strongest portion of the Democratic party; it was, numerically, much stronger than the Democratic party of that State; and in 1852 when he left the Free Democratic party and acted with the Democratic party of Wisconsin, the Democratic party was the majority in that State, and the Free Democratic party only numbered about eight thousand of the popular vote. I have shown that my colleague did not leave the Democratic party and join the Republican party in 1854, but only in 1856, and then Wisconsin was no longer a Democratic State. Wisconsin elected a Republican Governor in 1855, and in about sixty days after my colleague published that letter, Wisconsin gave a majority of somewhere from fifteen to twenty thousand for the Republican candidates for President and Vice President. The Republican party was unmistakably in the majority; and in about four months from the time my colleague joined the Republican party, so grateful were they for his services, which were very distinguished and very able, that they made him their representative in this Chamber. Since that time he has served the party and served the cause and served the country, and served it with distinguished ability. It is because of those recollections that that State especially and that I myself regret to see the attitude that he maintains to-day toward that party which welcomed him so cordially and has trusted him so long; for if he has not left it, he knows very well that he is proscribing it, turning from office, or helping to turn from office, as true and faithful men as were ever in that or any other party, and men who have done as much hard work in his support as any men have ever done. I do not know whether that party is in the majority in the State of Wisconsin or not; but the President certainly does not acquiesce in that view of public affairs which is most grateful and most acceptable to the Union party of Wisconsin. The President has this patronage in his power. It is said that he resigns it to those who maintain his policy. It is certain that my colleague has great influence in the disposition of it, at least in that State. Raising no sort of question upon the sincerity of his convictions, I must be allowed to say that he has been a most fortunate politician, always to happen to have just those convictions which bore the highest price in the market.

Mr. DOOLITTLE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to his colleague?

Mr. HOWE. No, not now. I take it there is no explanation to be made on that point.

Mr. DOOLITTLE. The last remark of my colleague seems to me to call for an answer.

Mr. HOWE. I shall be through in a moment.  
The PRESIDING OFFICER. The Senator from Wisconsin declines to yield the floor.

Mr. HOWE. Mr. President, one other remark has been made in the course of this debate to which I wish to allude. It was made by the Senator from Indiana [Mr. HENRICKS] a day or two ago. He accuses the Union party of laboring here for party purposes and party ends. I think that remark most unjust. If we were actuated by the selfish purpose of building up the Union party and strengthening it, does he suppose, does any man of sense suppose, that we would take under our care that poor and helpless and hopeless race known as Union refugees and the colored freedmen in those States? If we were making combinations for party interests, and not for the good of the country, does the Senator from Indiana suppose we do not know enough to affiliate with the powerful and educated and influential class in those States rather than with this weak and helpless one? Do not we understand the value of such combinations just as well as he does, and would not they be as willing to combine with us as with them? What is there to secure that affiliation between them? Is it inevitable? What have they done? Is it not as desirable to those men who are seeking their way back into the Union to affiliate with those who have power as with those who have none? This Union party—I do not mean we who represent it here, but the Union party of the country—have whipped the rebellion; and the opposition to that Union party has done nothing—but “the heavy standing round.” They have not helped to uphold the rebellion any further than words would go, and they certainly have not helped to subdue the rebellion, even so far as that. Looking at it as a practical man, I think those gentlemen who are seeking to come back here would rather affiliate with those who represent the Union party, which can do something, than those who represent the Democratic party, and can do nothing as they have done nothing. And certainly if we were looking to our own party interests rather than to the interests of the country, it seems to me that that is the crowd we should most naturally affiliate with. I think it is unjust in the Senator from Indiana to taunt us, us of all the people in the world, with seeking party ends and party interests in the efforts that we have been making on this floor. For myself, I disclaim every such purpose as that. For myself, I avow here, as I have avowed everywhere, that everything I have asked to have done in the name of the nation, South or North, in reference to closing up this war, I have asked to have done not only because I believed the best interests of the poor and the helpless demanded it, but because I believed the best interests of the rich and the powerful demanded it there and here. There is but one measure which meets every want in the nation, and that is justice; justice from the Government to the people; justice between man and man. I believe we are trying to administer justice between man and man, and justice between the Government and the people.

## Reconstruction.

## SPEECH OF HON. J. H. DEFREES,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

June 13, 1866.

On the joint resolution of the House (No. 127) proposing an amendment to the Constitution of the United States.

Mr. DEFREES. Mr. Speaker, it is a source of congratulation to the country that Congress has finally succeeded so well in recommending a plan for the restoration of the Government in all of the States of the Union that is so fair,

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honorable, and lenient toward those who were the instruments of bringing such terrible devastation upon the country.

The committee who have had charge of this subject are entitled to a great deal of credit, and will no doubt receive the thanks of all truly loyal men of every section of the country for the very able manner in which they have discharged the responsible duties required of them by this House. It is not my intention to enter into any lengthy argument to show the righteousness of adopting the propositions that are now before us, for they are self-evident, but to cursorily glance at the sections as presented.

Section one indisputably fixes the character of those who are entitled to be regarded as citizens of the United States or citizens of the several States, and secures to all life, liberty, and property, and places all persons upon an equality, regardless of their condition or color, so far as equal protection of the law is concerned. Certainly none can take exceptions to the provisions of this section.

The second section fixes the basis of representation in Congress upon the population of each State, yet provides that if any portion of the male inhabitants of any State, over twenty-one years of age, shall be debarred the privilege of exercising the elective franchise for any cause, except for participating in rebellion or for crime, the persons so excluded shall be deducted from the whole amount of male citizens over twenty-one years of age in such State. This provision will operate alike in all of the States. Should there be a class of citizens in any State that the majority of the people think are not capable of exercising the franchise intelligibly, it would certainly be wrong to count such persons in the basis of representation, to swell its number, without a constituency to be responsible to. Then, again, this section holds out an inducement to the States that may have within its borders a population which it is conceived is unfit for voters to make every effort and use all means proper for the preparing and qualifying such citizens for the use of the elective franchise, in order that they may be fully represented upon all of their population. I am aware that it is said that the object of this section is to force the late rebel States to make voters of the negro population, a measure that is abhorred by them. It will operate upon them in no way differently than upon all the rest of the States. All have a portion of that class of people, and there is no telling how long any one of the States may have more than its due proportion of such citizens. I believe the President said in his veto of the Freedmen's Bureau bill, that the—

"Negro possesses a perfect right to change his place of abode, and if, therefore, he does not find in one community or State a mode of life suited to his desires, or proper remuneration for his labor, he can move to another, where that labor is more esteemed and better rewarded."

The third section contains the essence of the whole proposition, and is most eminently just and proper.

It is an axiom that is as applicable to nations as to individuals, that self-protection is the first law of nature. If an individual is assailed and a determined effort is made to take his life, the person so attacked is justifiable in using all the means at his command and the power God has given him for self-protection, even to the slaying of his adversary. And whether the assaulting party accomplishes his foul purpose or not, he is dealt with by the law as a murderer and an assassin, and is placed where he can no longer prey upon society. Just so I hold it to be the duty and the right of a Government. If there are citizens of this Republic who have made every effort and have struggled with all their energies in every conceivable way to take its life, they, too, should be put out of the way of ever giving any further trouble, at least politically, whether they accomplished their designs or not. And who doubts, at this late

day, that we have such persons within the United States? Men who have held high places of honor and trust in the Government; men who have been raised and nurtured under the benign influences of its institutions, educated and prepared for usefulness at its national colleges, and that, too, with the special purpose of qualifying them to protect its life.

Now, sir, we have just terminated a terrible rebellion, one that probably has no equal upon the pages of history, and the people of the revolted States are asking again to be taken under the care and protection of the Government from which they attempted to secede. And while I think it right that they should again have the blessings of the laws of the Government extended to them, and they once more form a part of this glorious Union at as early a day as practicable, still I think every precaution should be taken to prevent a recurrence of those scenes through which we have just passed.

Go back to the earliest history of human government of which we have any knowledge, and we learn it was always the policy to dispose of those who occasioned a revolt so that they could not again disturb the public peace. When the Israelites, in the absence of Moses upon the mount, got up a revolution in the camp below, the leaders engaged in it were effectually and summarily disposed of by rightful authority. And we may come down to a later period in the history of the world, when a higher state of civilization existed—for instance, to the days of Emmett; or a still later period, when the attempt was made by the Hungarians to throw off the oppression of the Austrian Government—and we find it to be universally the case that the existing Government punished treason in some way, either by the execution or banishment from the country or the deprivation of the political rights of the traitor.

Sir, the incipient steps of treason in this country originated in the Halls of Congress as early as 1829–30.

That fiery and restless spirit, John C. Calhoun conceived the idea of rightful hostility to the laws of the General Government by a State, and on its tariff policy the spirit of secession began to lift its hydra head and take an open stand, and culminated in South Carolina in the spring of 1832 by assembling a convention to carry out its purposes. But the energy and patriotism of the then President, Andrew Jackson, soon scotched the serpent, and for awhile caused it to lie dormant. But the seed was sown, the poison was infused into the veins of the body-politic, and an occasion was only wanted for it to burst forth again. So well satisfied was President Jackson of that fact that he prophesied the time would come in the history of the country when slavery would be the pretext of its again attempting to assert its power.

But treason was more successful in its last effort than in its former one. It insidiously allied itself with a great party of the country, and so wound its coils around it that in a great measure it controlled every action of its movement. I do not say that the mass of the Democratic party intended to lend its influence for the overthrow of the Government, but I do say that a large portion of its leading men became infected with the leprosy of secession, and if not openly, did in a great many instances covertly "give aid and comfort to the enemy." So vast were the proportions of treason that it required all the energy and power of this mighty Republic to stay its hand.

Now, Mr. Speaker, let us take a short retrospective view of the past, and see what was the character and position of those who brought the late rebellion upon the country, and who were the men that led the hostile armies of the enemy against the hosts of loyal men sent out for the protection of the Government. Who were the men that led the armies of treason? Who led the columns of the insurgents at Bull

Run, at Shiloh, at Vicksburg, at Richmond, and, I might say, in all those sanguinary struggles with the armies of the Republic?

They were men, sir, educated at the expense of the General Government; many of them at the time they entered the armies of treason wore insignia upon their shoulders evidencing that they held position in the Army and Navy of the United States, men who had sworn, by laying their hand upon the divine Word, to uphold and defend that glorious flag that surrounds your chair from all foes, both domestic and foreign.

And, sir, who were the men in the outset of the rebellion that furnished the "sinews of war" and the arms to place in the hands of traitors? The very individuals that the Government had intrusted with the keeping of her treasures and the control of her arsenals; and even the soldiers of the regular Army that were in the disloyal States, in most instances, were stripped of their arms by their commanders, and insulted by being surrendered to the enemies of their Government, and mortified in consequence of having to give their parole of honor not to engage in the defense of their country.

Now, sir, the rebellion is over; the insurgents have been compelled by the forces of the Government to lay down their arms, not willingly, but grudgingly. A kind of *quasi* loyalty is manifested in some of the States lately in rebellion, and an effort is being made to incorporate them into the Union with the loyal States. A large majority of the men who inaugurated the rebellion survive its overthrow; and the question under consideration is, whether it would be politic and right to again permit any of the persons above described to hold seats in the councils of the nation or any place of profit or trust under its authority. I must confess, in my view of the matter, to say the least of it, it would be a very great impropriety, if not an outrage. I cannot believe the American people will ever consent that the reins of Government shall be placed in the hands of those whose fingers are dripping with the blood of loyal citizens and who disgraced themselves by forsaking their country in the hour of trial, who had sworn to maintain it.

We see in some of the southern States a spirit manifested to elect such and none others to seats in these Halls, in spite of the friendly admonitions of the President to do otherwise. Once admitted here, with no loyal element in their nature from choice, and their hearts rankling with venom and bitterness, engendered by hatred toward the North for years, and having failed in their wicked attempt at overthrowing the Government, it is not to be supposed that they would be proper persons to assist in again laying the foundations of the Union upon a solid basis or maintaining it in all its integrity. I, sir, believe in the sentiment expressed by the present Chief Magistrate a year or two since, while addressing a Tennessee audience, "that traitors should take a back seat in the work of restoration." And I go further than that, and say that traitors of the class mentioned in this proposition must never be permitted to hold any place of trust or power. We are bound by every obligation of justice and honor to legislate to preclude any possibility, if such can be done, of them ever ruling loyalists, white or black.

Suppose, sir, that the State of New York, some fifteen or twenty years ago, had sent from one of her districts Aaron Burr as a Representative to this Hall; a man who was strongly suspected of having traitorous intentions against his country, but upon whom, I believe, it was never proven. Do you not think that the indignation of the whole country would have been aroused, and every man who then held a seat in this House would have felt in duty bound to cast from the nation the stigma thus attempted to be thrown upon it by refusing to admit him to a seat here? There can be no

doubt of it. And is the public mind any the less sensitive now in reference to the honor of the nation? Have the people become less patriotic? Have they lost the high sentiment of regard they once had for the honor of their country so that they would now consent that traitors of the blackest die might hold the highest positions in the Government? Why, sir, so jealous of the honor of the nation were members of one branch of the national Legislature about the time of the commencement of the rebellion that they expelled a grave Senator from my State from their councils for merely giving a letter of introduction to the rebel chief; a man who, it was said, had made some valuable improvements in firearms. "Better were it for that man that a mill-stone were fastened about his neck and he cast into the depths of the sea" than to go before his constituents after having voted that such men might again hold position under the Government. I look upon treason, under any circumstances, as the highest degree of political sin; but when is added to it a threefold perjury, as is in most of the cases of those to whom this joint resolution refers, it is unpardonable. I do not know but that the Saviour of the world, when speaking of the sins that might be forgiven men, that there was one that could not be forgiven in this world or the world to come, but what he had reference to the monstrous sin of treason; if not, it must have been one closely allied to it.

Now, sir, my policy is to let the citizens of the States lately in rebellion know that they must raise up a different class of politicians from those they have been in the habit of looking up to as leaders, men who have some love for republican liberty, some regard for the principles that are contained in the Declaration of Independence, which lie at the foundation of the Government, and who are not blackened all over with ingratitude, treachery, and crime.

There is another consideration why this measure should pass. It would not only prevent the direful influence these men would have upon the interests of the country, and especially that portion of it with which they are connected, but it would serve in some small degree as a punishment for their wickedness and violation of law. I know it is said that we of the North can afford to be magnanimous in the hour of victory, and that we should extend the right hand of fellowship to our erring brethren and welcome them back again to the protection of the Government and to a participation in its affairs without any reference to past events. But that kind of magnanimity would be extremely unjust toward the memory of the hundreds of thousands of loyal patriots who surrendered up their lives in defense of the country. It would be an outrage against the feelings of the thousands of maimed and crippled soldiers whose lives will be a burden to them for the remainder of time; yet I fear that many are disposed to acquiesce in this mawkish generosity. Why, sir, of the many thousands who have been engaged in this monstrous rebellion, and who it is acknowledged have been guilty of crimes that have no parallel in the history of mankind, not one traitor has been arraigned and brought to trial or received any punishment for his acts. It is true that a poor, miserable creature, who was the cat's-paw of the men that this joint resolution is intended to reach, was brought to trial and convicted for violating the laws of war and humanity in starving soldiers to death, but the men who are responsible for the action of Wirz go unwhipped of justice. And, sir, from present indications, notwithstanding the people are sending up petitions and the Legislatures of a number of the States have passed resolutions asking the powers that be to bring these men to trial and to justice, yet I fear the halter will be cheated out of its victims and the sacredness of law be set at naught.

But, Mr. Speaker, it has been argued, since this debate upon reconstruction commenced, that these men have become repentant, that they have signified a willingness to "accept the situation," and that their love for the old Union has again returned to them. Where is the evidence to substantiate the assertion? It certainly cannot be found in the testimony of any of those leading rebels who have been summoned before the committee that reported these resolutions. It is true that Mr. Stephens, the vice president of the defunct confederacy, says that he believes the people of the South will accommodate themselves to the surrounding circumstances and acquiesce in what may be properly done by the Government; but does he manifest, himself, any great devotion to the Constitution and the principles upon which the Government is founded? Does he not tell the country that the dogma upon which the rebellion was inaugurated is right? Have any of these men manifested any regrets for the ruin and devastation that they have brought upon the country, only such as the culprit exhibits when he is overtaken in crime and has failed in his schemes? If such is the fact I have not been able to see it.

But, sir, instead of works meet for repentance, these men assert, with all the arrogance and haughtiness characteristic of their former lives, that they are entitled to be heard here in these Halls, and that it is an infringement upon their constitutional rights when it is proposed to require some conditions precedent to the full restoration of the rebellious States. They talk as though it was but a small affair to attempt the life of this Government; that although they failed in their machinations and efforts to sever the cords that bind it together as a whole, yet, as by divine right, they claim a share in its government. Such impudence is unparalleled in the history of mankind, unless it was when the devil required the Saviour to worship him in consideration of the vast kingdoms he promised him, when the old secessionist had no title to any.

Sir, I consider the propositions under consideration very lenient. They do not come up fully to my idea of justice in the premises. I would go further than is now proposed. I would add to the disqualification for office disfranchisement forever, so far as we have the power, and the confiscation of all their estates, and place it beyond the executive clemency to restore any of them to citizenship or to their property. They should be made to feel that treason is "odious," and that this Government has sufficient inherent power to vindicate itself in the punishment of all its foes of whatever character. Send them forth, sir, as vagabonds and outlaws, for the finger of scorn of all patriots to be pointed at. Place them before our countrymen as beacons of warning to the ambitious demagogue who may have rankling in his heart an unholy desire for power, even at the expense of the destruction of his country. Let our action on this resolution serve as a light to teach the patriot that the true path that leads to honor and glory is fidelity to the laws of his country. Impress that principle upon the hearts of those that will soon grow up and take our places here, and the Republic is safe.

The fourth section of the joint resolution, I presume, will meet with little, if any, opposition. The good character of the Government depends upon the fidelity with which it meets its contracts and discharges its pecuniary obligations. The debt incurred in suppressing the rebellion is principally owing to our own citizens, and it is with pride that we can recur to the fact. The history of the world produces no parallel, where a nation was involved in a war of so large proportions and of so long duration, of its own subjects furnishing the necessary means for its prosecution. This is an evidence that a republican Government is conducive to the prosperity of its citizens. But there is another species of debt referred to in

this section that would seem to be more sacred, if possible, than that incurred in prosecuting the war. I refer to that of pensions and bounties. The small pittance that is provided for those who have offered their lives as a sacrifice to their country's cause, and who have left behind them those that were dependent upon them for support, must not be neglected. Others who have survived the deadly conflict, but are left maimed for life, look to a generous Government for support, and have a right to expect that provision will be made for their relief, and that the Government will be prompt in discharging its obligations to them.

Mr. Speaker, it looks to me now that we have reached a solid foundation upon which to reorganize the superstructure of the Government, a basis that will be as durable as the everlasting hills. The people will ratify what we now propose to them, because equal and exact justice is meted out to all classes of our population. The disturbing element of slavery that has hitherto rocked the country from center to circumference and caused distraction in the national councils, is forever gone. The high road to grandeur and happiness is opened up before us, and everything that is noble beckons us on to future greatness and a still higher state of civilization, when all men will be equal before the law, and the great fact will be realized, that of one blood He made all the nations of the earth, and to one destiny all must come.

#### Protection of American Wool.

#### SPEECH OF HON. E. R. ECKLEY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 9, 1866.

The House, as in Committee of the Whole on the state of the Union, resumed the consideration of the President's annual message.

Mr. ECKLEY. Mr. Speaker, no interest has been so long and so much neglected as the production of wool, an article so essential to the wants of the people that it is an absolute necessity. It is second only to bread, its use confined to no class or condition, and is a necessity in every latitude of the country. It is not only necessary now, but must continue to be so long as seasons and climates last. Still the encouragement of its growth has been shamefully neglected in the legislation of the country. The manufactured article has been protected, but the raw material has been left to struggle with the freebooters of trade, and compete in market with the inferior article from every country of the globe, from the plains of ancient Asia to the islands of the western seas, and north and south, from the region of the icebergs to the scorching deserts of Africa.

I propose to state a few facts in connection with the production of wool, its consumption, and the encouragement it has received by and through legislation, and the effect that legislation has had upon its price and production, leaving the logical conclusion to the House, believing that it must result only in the conviction to which I desire to bring the members of this branch of Congress.

In the early history of the country woolen fabrics were brought from foreign countries; but little wool was produced here, and the means of manufacturing was almost unknown. The necessity caused by the want of this article induced the introduction of sheep. The early tariff on wool and woolsens, the trade regulations, and finally the embargo act, gave a stimulus to this branch of husbandry. Large importations of fine sheep were made from Europe, the business prospered, and the production was largely increased; so that at the close of the year 1812 both the production of wool at home and its manufacture were in a flourishing condition. Fine wool was worth seventy-five cents



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per pound, and woolen fabrics bore a price in proportion.

The treaty of Ghent, while it protected almost every other American interest, almost entirely ignored that of wool and woollens. The result was, factories languished, and the production of wool ran down, until it was almost abandoned. Prices were merely nominal.

The condition of this important business forced itself upon the attention of Congress, and in 1824 a duty of twenty per cent. *ad valorem* was levied upon wool and thirty per cent. on woollens. Under this salutary legislation the business again became prosperous, and prices ran up; fine wools brought from fifty to sixty cents per pound, and the production largely increased. This prosperity continued until 1833, when the gradual reduction of the tariff commenced and prices in proportion sunk and continued low until 1846, when the horizontal free-trade tariff was passed, almost entirely abolishing protection to wool and woollens; prices again sunk, and the manufacture of woollens, particularly broadcloths, was almost abandoned. The tariff of 1861 made no decided improvement; the rates varied, and wool costing less than eighteen cents per pound was admitted free.

No country on the globe relies so much on importing wool as the United States. The best data obtainable show the consumption of wool and woollens equal to two hundred million pounds per year for the last twenty years, while our production does not exceed, if it has reached, fifty millions. In 1840 we produced forty-six million pounds; in 1850, fifty-two million five hundred and sixteen thousand nine hundred and fifty-nine pounds; in 1860, sixty million five hundred and eleven thousand three hundred and forty-three pounds. The prices in 1862, 1863, and 1864, increased incident to the war, and the production increased also, nearly doubling in 1863 what it was in 1861.

No country is better adapted to the growth of wool than the United States, and if proper protection was extended to it there exists no good reason why we might not produce sufficient for our wants; and instead of paying to foreign countries for three fourths of what we consume, might save our money and grow rich upon the wisdom of the policy. If we continue in this fluctuating policy and deny to this particular interest the protection we extend to almost every other, and compel our people to enter the market in competition with the wool from every country in the world, we cannot expect it to prosper, but must incur a heavy indebtedness to foreign markets, a constant drain upon our pockets, as the only reward for our neglect and stupidity.

The importation of woollens for the past ten years amounts to \$282,682,880, all of which might have been saved to the country had a just and wise policy been adopted. For there is scarcely anything into which wool is worked but what can be manufactured here. America has the skill, the capital, and the materials, and can make as fine and more durable fabrics than we buy from Europe.

Our folly did not stop with the importations of woolen cloths and fabrics, but we have imported largely of the raw material, to be manufactured here. During the year ending June 30, 1865, we imported nearly fifty million pounds; nearly equal to our entire production. With these facts who can be surprised at the depressed condition of our home market for wool? Adopt a wise system and stand by it, give it support, and prevent it from fluctuating. Both the manufacturing and wool growing interests require stability and protection. Secure that and both will flourish. New machinery will be put in operation, an increased demand for labor will be made, property will increase in value, the production of wool will double, and the vast millions now paid for foreign cloths will be kept among our own people. The two interests, that of manufacturing and

that of growing wool, are so connected that they are hard to separate. But if no protection is to be secured to the wool-grower, then we need no more spindles or looms, for what we have have abundant capacity to work all of our own production and as much more.

The importance of this interest is well shown by the statistics of the State of Ohio; which had in—

	Sheep.
1840.....	2,028,401
1850.....	3,368,174
1860.....	3,942,929
1861.....	3,944,763
1862.....	4,448,227
1863.....	5,560,318

The wool clip in Ohio in 1863 amounted to about eighteen million dollars, and in 1864 to near twenty-five million dollars, and the statistics for 1865 and 1866 show a great increase, estimating nearly one half the wool grown in the United States to belong to Ohio.

I have the honor to represent one of the largest, if not the first wool-growing district in the United States, having in 1865 more than six hundred thousand sheep.

The investment of so large an amount of capital and the existence of so great an interest creates a nervous anxiety for proper protection to this great branch of husbandry by all the wool-growers of the country, and particularly by those in the State of Ohio.

No country in the world produces a higher average of wool than does the United States. Still the wool-grower must enter the market in competition with the low grades from every country and every clime. He must be badgered by shoddy traders and be cheated by the dealers in the inferior stuffs from every quarter of the world. Still our own grades of fine wool, of course, are preferred in the market, but at prices below its value. I append the price current of wools in New York on the 15th day of May, 1866, clipped from the New York Mercantile Journal, as follows: \*

	Cents.
Choice select Saxony, per pound.....	75
Saxony fleece.....	67
Full-blood Merino.....	62½
Half-blood Merino.....	57
California.....	20
Australia.....	35
Cape of Good Hope, fine.....	33
East India.....	25
African.....	15
Mexican.....	20
Texas.....	15
Smyrna.....	15
Syrian.....	20
Peruvian.....	25
Chilian.....	20
Valparaiso.....	20
South American.....	15
Mestizo.....	15
Entre Rios.....	10
Cordova.....	30

This shows the necessity of imposing a duty, such as will baffle frauds and secure protection to one of the growing interests, already great, that has struggled into importance under the neglect of the Government, but which is no longer to be postponed. Protection must be secured by the present Congress, and I think I hazard nothing in assuring the wool-growers that their voice has not only been heard in these Halls, but it is potent to produce relief.

#### Reconstruction.

#### SPEECH OF HON. A. J. ROGERS,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

June 13, 1866.

The House having under consideration the bill (H. R. No. 543) to restore to the States lately in insurrection their full political rights—

Mr. ROGERS said:

Mr. SPEAKER: The resolutions proposing an amendment to the Constitution which were the product of the committee of fifteen, and which were accompanied by two bills for passage by Congress, and which were reported by that

committee as a settlement of the disagreeing elements among the radicals on the committee, were some weeks ago reported to both Houses for action. This House had the magnanimity to allow a few members to make half-hour speeches on the reported amendment, and then, after consuming a few hours in debate, the master of the House determined to move the previous question, and further debate was stopped. The amendment, precisely as it came from the committee of fifteen, went through the House, under the party whip, by a strict party vote, every radical and pretended would-be-called conservative Republican voting for it. One would have supposed, if he did not know the cringing disposition to radical dictation of the Republican members, that they voted for it because they believed it contained the true principles upon which honest men should base their action, and met with their decided approbation. And as the celebrated committee, noted for its secret inquiries, had recommended it, and every member upon the committee but the three Democrats agreed to it; it was supposed by honest men that the committee who agreed to it and the radicals who voted for it in this body would at least stand by and sustain it thereafter.

But the amendment reported by the committee has been ignored by its own fathers and a secret inquisition of Senators held over its dead carcass. The third section of the committee's bantling has been struck out, because it was not considered safe to go before the people upon a section which disfranchised the voters of the entire insurgent States until 1870. That amendment, in addition to the third section, simply embodied the gist of the civil rights bill, made the payment of the rebel debt and the claim for pay for slaves void, and gave authority to Congress to pass appropriate legislation to enforce the amendment. The first proposition was tame in iniquity, injustice, and violation of fundamental liberty to the one before us. This proposition makes four million negroes citizens, not only of the United States, but of each and every State, and disqualifies from holding office forever nearly all the influential men of the South, those who are the men having the influence to get through their Legislatures a reasonable proposition. This proposition upsets the old foundation stones of our Republic and laughs and scoffs at the wisdom and patriotism of the framers of our present organic law. It destroys that elementary principle which for over seventy years has lain at the foundation of our happiness, that representation should be founded on population, and introduces a system which says you must allow negroes to vote or be deprived of the share in the Government which the fathers of the Republic designed should be enjoyed by you. I propose, sir, to examine into the reasons for the introduction into this House of this new issue of disunionism and treason to the Constitution of our fathers.

I intend to confine myself mainly to the changes which have been made by a secret caucus of the Senate to the amendment as it was originally presented by the committee of fifteen, and let me say that it is an unpleasant position for a member of Congress to be placed in to make an argument against a measure which has already been arranged by a secret party caucus who have determined to put it through, whatever arguments may be made by its opponents and however patriotic their motives may be. But, sir, I do say, that although upon this side of the House we are in a hopeless minority, we are yet the representatives of two million voters, and of nearly one half of the population of the adhering States, and more than a majority of the whole people of the whole Union; and although the majority can in secret caucus so arrange their tactics as to force the action of the House upon such measures as they may see fit, under the whip of caucus discipline, the minority have no such power,

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and all that they can do and what it is their bounden duty to do is to protect and vote against action of this character, and ask the House as the Senate was asked by members of the Opposition, that each man individually shall exercise his judgment upon this proposition to change the charter of our liberties, according to the dictates of his own conscience, free from the controlling influence of caucus. If you look at the history of this committee of fifteen from its organization down to the present time you will find that the whole object of its organization was to carry into effect party purposes, to affect the fall campaign, and to dismember and dissolve the American Union.

Sir, before the House was organized this committee of fifteen had been organized in a secret caucus, with a veil of darkness thrown over it; and in the dark recesses of radicalism with closed doors and darkened windows, where the people were not permitted to look in upon the commencement of proceedings which were designed to overthrow the elementary foundations of their happiness and national greatness, the radical members of the two Houses established, for the first time in the history of this country or of any other republic, a secret committee to control and dictate to the two Houses of Congress what action they should take on the great measures growing out of the contest of the last four years. And, sir, the resolution appointing this committee was hurried through without allowing us one minute for debate, under the whip and spur of party organization.

When the light of day shall break in upon the records of this committee, and the people are permitted to know its proceedings as I know them, it will be seen that it many times agreed to report its final action; but, sir, the fear of not being able to deceive the people with them many times induced it to reconsider. At one time universal negro suffrage was agreed to be reported as a condition to southern representation; but it was soon seen by it that the people could not be deceived by so plain an issue as that, and that to expose the true doctrine of the dominant party in that way would be certain defeat. It finally, on the 31st of January last, made its report, and brought forth its first child, which was to be baptized in the name of philanthropy as the last offspring of a putative father. I supposed the issue was then made up. The command of the committee was given to the radical members of this House, and they had nothing to do but obey. That proposition was a proposed amendment to the Constitution, in substance the same as the section of the article before us regulating representation. The proposition of January 31 declared that if the elective franchise was denied or abridged in any State on account of race or color or previous condition of slavery, then that whole race or color should not be counted in the basis of representation. There was no material difference between that and this. The party lash was again applied, and the previous question used to gag debate, and it passed this House by the overwhelming vote of the entire radical and so-called conservative element, amid the shouting of the negroes and radicals in the galleries and waving of handkerchiefs. It went to the Senate, and there the first offspring of the committee was strangled, though not killed, and instead of receiving a two-third vote, as required by the Constitution, it got barely a majority. The committee became nervous, and determined that the party lash should be more thoroughly applied, and that Mr. SUMNER and the radicals who defeated it in the Senate should yield their opposition or be read out of the party. It again sat and finally hatched a new progeny, which contains in substance and effect the same provision as to representation, except that it now says that if the elective franchise be denied in any State to males of the age of twenty-one years representation shall be denied in the proportion that the males thus excluded from vot-

ing shall bear to the white and black male inhabitants of the age of twenty-one years.

That second hantling went to the Senate to be christened, but in some particulars it was too weak, and in the one disfranchising the rebels too bold to suit the Senate. It was soon ascertained that it could not get a two-third vote there. The committee of fifteen became gloomy, and it saw it could not please two thirds of the Senate and finally gave up its work of destruction in despair. The radicals saw that a failure to agree upon some proposition would be death to their party. They took new courage, withdrew it from the Senate, and consigned it to a secret caucus of radical Senators. For three days the Senate was silent, while a caucus was convened in a private room away from the view of those who did not agree with the radicals there; and with closed doors, secured by bolts and locks, where even a reporter was not admitted, in the silence of an inquisition of death, they concocted the destruction of the great charter of American freedom, and brought forth, as the emblem of centralization and destruction of the elementary rights of the States, the article now before us.

The Constitution declares that no amendment shall be proposed without the vote of two thirds of both Houses. Yet a mere majority of a party caucus proposes this amendment, and the individual opinion of each member of that party must consent and ratify. That, sir, in effect is an amendment proposed to be submitted to the Legislatures, not by the convictions of honest minds, but by the coercive power of a caucus majority. Shall our charter of liberty be amended in a secret cabal with closed doors? What would the American people think if we were to close the doors of this House and in secret amend the work of their fathers? They would burst open the doors and demand to know what their servants were doing. The doors of the Senate, after the work of death to constitutional liberty had been inaugurated by this secret cabal, were opened for the consideration of the work. Party corruption had done its work and the dictates of honest consciences had been smothered. Mr. SUMNER and his followers, who defeated the first proposition, trembled with fear and unblushingly voted this monstrous abortion through the Senate with the aid of those who supported the first. It now became necessary to manipulate the House. It had given its views upon the proposition of the committee.

But the forcing process begun. The House are ordered to cringe and cower before the awful power of the honorable gentleman from Pennsylvania, [Mr. STEVENS.] The orders had been delivered and must be obeyed. Radicalism walks forth with bold impunity, and the last link of conscience is ordered to be broken. But, sir, that caucus we never shall forget; it was the crowning act of the radicals in Congress; it was one more obstacle to the restoration of the Union. If the President of the United States could have looked in upon that body then he would have been reminded of the time when history says the Romans danced and shouted over the downfall of liberty, made memorable by the love of centuries.

I am here to protest against amending the great charter of our liberties by a secret caucus. Every member, under the duty which he owes to his own conscience, to his country, and to his oath, ought not to be controlled by secret caucus, and should vote according to the dictates of his own judgment. He should not be controlled by secret cabals in his action, especially in matters pertaining to the fundamental principles which lie at the base of the liberties of the people, and which were founded in old revolutionary times and handed down to this generation, and which this generation should hand down to their descendants unimpaired as a great jewel and legacy of liberty.

I say this amendment would never pass by

the necessary two thirds if free from the control of party whip and party ties. It does not meet the deliberate judgment of two thirds of either House.

To show that my assertion is true, I refer to the language used on the question now before the House by Hon. Mr. SHERMAN on the Doolittle amendment to this proposition. Mr. DOOLITTLE proposed an amendment that representation should be based upon the voting population of the States. That would make representation equal in all the States. The eastern and middle States would not have a controlling influence because of their population of women and children there, as they will have under this. South Carolina, Massachusetts, and other States would stand upon an equal footing before the law in regard to representation, on the broad ground that representation is based upon the voting population of the State.

I ask gentlemen of this House, and especially those on the other side, to listen for a moment to the language of the honorable gentleman, [Mr. SHERMAN,] a member of the Senate of the United States, and one of its most prominent members, who declares in that body that he yields his own judgment, that he gives up his own views, that he abdicates the duty which he believes he owes to his country and his conscience, in order that he may give in his adherence to the doctrines of a secret cabal or caucus of radicals, assembled in secret, away from the gaze of the people of the United States, to concoct this scheme of disunion, and overthrow the fundamental principles of this Government.

The distinguished Senator from Ohio [Mr. SHERMAN] said:

"I shall detain the Senate but for a moment to explain the reasons for the vote I shall give in opposition to what is my own deliberate judgment on the question now pending. The more I think of this question the more I am convinced that the true basis of representation in the present condition of affairs is the number of male citizens who, under the laws of the States, are allowed to vote. This proposition, it seems to me, is a simple one, plain and obvious, which puts a citizen in one State on a footing of precise equality with a citizen in every other State, which equalizes the political power of all citizens, and which will destroy all sectional animosity. If this amendment be adopted, a citizen of the State of Ohio has precisely the same political power with a citizen of the State of Massachusetts or of South Carolina, no more and no less. The same number would be required in each State to elect a member of Congress. The number of citizens could be easily ascertained by the census, and the census rolls could be attested very readily at each annual election. This proposition is simple, plain, and obvious; and yet under the necessity in which we are now placed I shall feel called upon to vote against it."

Again, he said:

"That is a plain and obvious principle, and if that principle was adopted the southern States would feel no local jealousy. They could not feel any. No State and no community would have the right to complain. The laws of the United States would fix the naturalization of the foreigner; birth would fix the citizenship of the native; there could be no controversy. Then every citizen would stand equal before the law, with precisely the same political power, no more and no less. I say, therefore, that this is the only amendment to the propositions now submitted to us that I desire to make; but I feel bound by the action of my political friends to vote against this amendment. I place my vote distinctly on this ground."

I ask you, what security or safety is there for the people of the United States, what confidence for the protection of the lives and liberties of the people of this country is to be placed in the Senate of the United States, a body always heretofore held in regard on account of its wisdom and patriotism, when one of the chief spokesmen of the dominant party in that body rises and tells the people that he votes against his deliberate judgment and the convictions of his conscience, simply because a majority of his brother Senators, members of the same party, have assembled in secret conclave and decided that he shall so vote? Why, sir, if such legislation as this is to be encouraged and upheld, this nation will die and we shall all be wretched mourners around its tomb. What would you think of a jury deliberating on the life of a citizen who should agree to give up their

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own convictions of duty because a majority of the jury should so direct, and by their verdict condemn an innocent man to death? The Constitution meant to guard itself against amendments by requiring the deliberate judgment of each Senator and member acting solely each for himself. In Andrew Johnson is our only safety. His policy alone can protect our liberties. I trust that in the providence of God he will have support from the people sufficient to save our country from wreck. I believe he will yet work out a bright destiny for the American people.

Let me tell gentlemen upon the other side of the House that they are now legislating for those who are to come after them; and I appeal to them, although I may appeal in vain, to act upon the deliberate convictions of their judgment and conscience, and not to change the fundamental law of this country and destroy the constitutional equilibrium of the States merely because a secret caucus of a portion of the members of the United States Senate may dictate to them so to do.

There is nothing which the Constitution guards with greater care than an amendment to it. It provides that upon a proposition to amend it, unlike a proposition of minor importance, a two-thirds vote shall be requisite, and that the vote of each Senator or member, "yea" or "nay," upon a proposition of so vitally important a character, shall be recorded upon the Journal. A two-thirds vote of both Houses in favor of a proposition for a constitutional amendment is necessary before such a proposition can be submitted to the States for ratification.

I am here to denounce this attempt to stifle the common sense, reason, judgment, and understanding of the honorable gentlemen upon that side of the House who represent the Republican or so-called Union party of this country. I allow my action to be influenced by no caucus in deciding upon a proposed amendment to the organic law of the land. I have a duty which I owe to my country and to those who are to come after me. I owe it to the sacred memory of the revolutionary dead, whose glorious deeds of courage and patriotism constitute the proudest inheritance of the American citizen, that the work of our fathers should not be amended but by honest individual conviction. In voting upon a question affecting the great Magna Charta of our liberties, the bulwark of our rights, I act from the dictates of an honest judgment, exerted with all the impartiality and candor which God has enabled me to exercise. I yield not to the dictates of any party caucus that may attempt to control my action upon so vital a question. Sir, I say that no Senator, or member of this House, is accountable to any caucus upon a question like this. Our only responsibility is to the hundreds of thousands of brave men who fought the recent war to a triumphant conclusion, and the millions of people throughout the country who are looking to us to act honestly, conscientiously, and wisely upon this great question.

I understand the controlling influence of party caucuses and party conventions. I know they may be necessary in ordinary and primary matters. I am always willing to yield to their action upon mere party principles embodied in a platform, and always do cheerfully sustain and abide by their action. I believe a man is in honor bound to support any convention in which he participates; I mean a mere party convention, held to lay down the doctrines of a party. But he is a parasite who would yield his convictions upon fundamental principles to any caucus or convention or party. I will not support a flagrant violation of the fundamental law of the Government in order that my party may secure or retain political power. If they should ever attempt that, as this article does, I would withdraw from the party organization and declare my soul shall not be seared

with the sin of yielding up my own convictions upon fundamental principles to others, who were not more likely to be right than I.

Why, sir, we go so far as to say in this constitutional amendment that everybody who shall be naturalized or born in the United States shall not only be a citizen of the United States, but a citizen of each and every one of the several States. Everybody here knows that under the old Constitution now proposed to be amended a man may be a citizen of the United States and yet have no citizenship in any State.

What is there more vital, what is there more important than for a State to have the control of its own local affairs? Yet here we have a proposition to be submitted to the States to deprive the people of the States of that right. And we not only do that, but it is proposed to exclude nearly all the able men of the South from holding either Federal or State office. I give you warning that no southern State except Tennessee, where despotism reigns, will ratify or indorse any such amendment. You do not want them to ratify it, and have placed it there on purpose to prevent them from ratifying it.

It not only excludes all those who went voluntarily into the rebellion, but all those who were involuntarily forced into it. I hope some gentleman on the other side will have the justice at least to offer an amendment that those shall not be excluded who were involuntarily forced into the rebellion by conscription or otherwise. You do not intend to allow the South representation at all, and the whole object of this legislation is to give you an excuse to keep the Union divided. If you considered each one of your sections important to the country, you would have submitted to the Legislatures each section as a separate article, so that the States that objected to some could have ratified others. The first twelve amendments to the Constitution were submitted separately and ten were ratified and two rejected. This is a revolutionary movement to forestall the action of the people by calling the present Legislatures together to pass upon them. They never will be ratified by three quarters of the States. None of you expect they will. The repudiation of the rebel debt and the validity of the Federal debt would meet with the approbation of every State; yet you link them with the rest to prevent any from being ratified.

### Reconstruction.

SPEECH OF HON. GARRETT DAVIS,  
OF KENTUCKY,  
IN THE UNITED STATES SENATE,  
June 7, 1866.

The Senate having under consideration the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States—

Mr. DAVIS said:

Mr. PRESIDENT: We have been admonished by some of the leading members of the majority in the Senate, that Congress is now about entering upon the seventh month of its session, and that the public business was never so far behind at so late a period as any previous session of Congress as it now is. I think, that the honorable Senators who give this admonition and their friends, are alone responsible for the great backwardness of both Houses in the transaction of the public business. I admit that there is a very great state of backwardness in relation to the transaction of the legitimate, proper, and useful portion of the public business; but as to the business that is of an illegitimate and mischievous character, and that is calculated to produce results deleterious to the present and the future of the whole country, there has been a good deal, much too much, of progress made. This tardiness in the transaction of the important, useful,

and appropriate business of the country has resulted from a fixed and determined purpose, manifested in various propositions, of the majority of Congress to elevate what are denominated the freedmen, to aggrandize them, to make an unparalleled provision in its extent and expensiveness for the maintenance of the young, the aged, the infirm, and the helpless, and the religious and intellectual education of them all; and to force, if possible, upon Congress and the country the dogma of negro suffrage.

Another cause of the consumption of time is the general disposition of the majority to tinker with the Constitution, their numerous propositions to amend it, and the discussion of them in both Houses. And still another fruitful cause of much waste of time has been the war that is prevailing between that majority in both Houses and the Executive, not upon his part as I conceive, but by that majority upon him. I was never of the politics of the President, nor he of mine; but at the present time and for some time past his leading measures have received my approval and my hearty support. I think, notwithstanding the number of protests to the contrary in this Chamber, that his policy, as it is termed, is but a continuation of the later policy of the late President, but a continuation of the policy and principles to which the majority of both Houses of Congress stand pledged in the most solemn forms. We now see, though, that this majority, lately the friends of the President, are engaged in a war upon him, and that war manifests itself in various aspects and modes. They denounce him; they denounce his measures, his policy. He is a coordinate branch of the Government; or at least the executive department is, and he is the chief executive officer. He is as independent in his constitutional position in the Government, and in the legitimate exercise of the powers and functions of his office as is Congress in the exercise of its powers and functions, and he ought no more to be assailed by Congress, or to be obstructed in the legitimate exercise of those powers, than Congress should be in the exercise of its powers by him.

Among his powers is the veto. We have seen repeated and persevering efforts made by Congress, with a considerable amount of success, to checkmate the veto power of the President by their achieving, as I think, illegitimately and unconstitutionally, a majority of two thirds, and over two thirds, in both Houses. And one of the objects of the majority in presenting the extraordinary proposition under consideration is to attain and continue a political power that will enable it and its sectional successors to control the future legislation of Congress; to overrule presidential vetoes; to hold possession of and direct all the operations of the Government. But what is the immediate cause that has brought down the majority in such relentless hostility to the President? Let us examine for the object and the *animus*. Under the late Administration the President and Congress were in accord; that is, the good man who then filled the office of President was so flexible in his nature and will that he permitted himself to be driven from his own principles and purposes, often, by the vehemence, energy, and stronger will of the radical leaders in Congress. One of the most celebrated apostles of abolitionism in America, Phillips, remarked on a certain occasion, "Mr. Lincoln is a growing man; and why does he grow? Because we have watered him." And there was a great deal of truth expressed in those few words. The abolitionists in Congress and out of Congress watered the late President. They caused him to grow in the direction and shape that they wished him. They warped him from his own principles and policy to theirs. And what is the great sin of the present Executive of the United States? It is that he will not make himself the leader, the obedient tool of the



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majorities in the two Houses of Congress; that his judgment of his powers, of his duties to the country and to the Government, and of what is constitutional, wise, and good for the country, is inconsistent with and may conflict with their party purposes; and because he will not tamely submit his own reason and the conclusions of his own judgment and conscience to their behests.

To prove that this position of mine has not been taken without facts, I will read extracts from a speech of the honorable Senator from Michigan, [Mr. HOWARD,] delivered in this Chamber some two weeks or more since. That able Senator referred to the measures of the President for restoring relations between the States lately in rebellion and the United States Government, and characterized them as "his policy." The Senator then proceeded to make these remarks:

"I complain of this course of conduct on the part of the Executive, because I believe it to be a usurpation of the authority which pertains not to him but to Congress, and here is the gist of the controversy, here is the bone of contention."

Further:

"I will say that it is not competent for a military commander in the field, whether he be 'Commander-in-Chief' or acting in any other capacity under the Constitution of the United States, to impart political or legislative rights to the conquered community. That is what I assert. The Commander-in-Chief holds the sword of physical force; all his acts as 'Commander-in-Chief' are connected with the prosecution of the war as such, and go not a single inch beyond the necessities of the war. He has no authority to assume the legislative power that appertains to the Government who appoints him, and whose servant he is, and undertake to exercise legislative authority in the country where he is the conqueror. Let the honorable Senator from Pennsylvania read the numerous cases in Roman and Grecian history, and, indeed, in all other histories, in which attempts have been made on the part of commanders in the field, and he will not find a single instance in which any attempt to exercise legislative authority over a conquered people has been tolerated by the Government at home."

The more formal question of the power of each House to decide upon credentials is one which I am not discussing. I go far behind that: I go down to the bottom, to the essence of the question, and deny to the President the power to impart to the people of any rebel State any political rights whatever; and I claim that that power belongs to Congress and to Congress alone."

"It is said the States have the right of coming back to Congress. I grant it. They have the right to return to their allegiance and be represented in the two Houses of Congress; but that right does not accrue and cannot accrue until the conqueror, the Congress of the United States, has seen that it is consistent with their interests, with the interests of their people, the interest of the whole people of the United States. We hold them to-day not by their own will, not by their willing fealty to the Government, not in virtue of their fidelity to the Constitution, but solely, in my judgment, even to-day, by virtue of this highest law known to communities, physical force."

Mr. President, I have read these extracts from the speech of the distinguished Senator from Michigan, who was upon this illegitimate and hybrid committee of fifteen, raised without any proper authority, acting and coming to conclusions and making recommendations without any sanction or authority, and obligatory upon no person; my purpose being to show the *animus* and the objects which he and the party of which he is such a distinguished member, have in relation to the President and his constitutional powers in the war which they are making upon him. I will read, with the same purpose, a short paragraph extracted from one of the trusted oracles of this party in the Northwest, the Chicago Tribune, in these words:

"Mr. Johnson is merely the agent of the Republican party, which is the governing party, or, in other words, the Government. He is in duty and in honor bound to carry out its measures and principles. When he refuses to do so he commits a breach of trust, and stands in the light of a swindler."

What is this power called "the Government" by the members of this majority in the Senate during the last Administration? The majority of Congress and the Executive were then in harmony. The Executive was denominated by them "the Government." Gentlemen could hardly rise in their places and utter a sentence upon this floor without referring to the President as "the Government." True

loyalty, all loyalty, then consisted in supporting the President—"the Government"—and his measures; and myself and other humble men who had the independence, or the hardihood, to dissent from the measures of "the Government,"—of the President—and to condemn them, were denounced as "copperheads," as "disloyal." You see now, sir, the arrogant, profligate, and monstrous position assumed by this Tribune in Chicago. With him the President is no longer "the Government." "The Government" is the majority of Congress, according to its designation. By what authority is the President deposed and the majority in the two Houses of Congress installed as "the Government?" In this Chamber no Senator now denominates the President "the Government." Nor do I subscribe to any such absurdity. It is an abuse of terms to call either the Congress or the President the Government. The three departments, the legislative, executive, and judicial, and nothing less, constitute the Government. All the powers of government and of sovereignty trusted to the Government of the United States are divided out by the Constitution among the three departments. These departments are coördinate, and in the exercise of their appropriate constitutional powers they are equally independent; and where one is making encroachments upon another, or upon the Constitution generally, and the liberties of the people, it was the intention of the founders, not that one department should be the Government, but that each should be a check upon the other, and each should defend the Constitution and the liberties of the country from the assaults of the others.

Andrew Johnson is the existing impersonation of the chief executive power of the Government of the United States—that power is very limited, to be sure, not extending one particle beyond the powers enumerated in the Constitution, and those with which he is clothed by the laws of Congress within the sphere of its authority so to invest the President with incidental, auxiliary powers as expressed in the Constitution. The powers of the judicial department are enumerated, meted, and bounded out to the Supreme Court and the courts inferior to it, with the same authority of Congress by law to invest it with all proper and necessary incidental powers to execute those expressly delegated to it.

Now, Mr. President, I proceed to state what I understand to be a few plain and self-evident truths as connected with the American system of government:

1. The great leading feature of the complex political system of the United States is, that all sovereignty is divided between the State governments and a General Government common to all the States; and that the affairs of the people with foreign nations, and with each other as residents of different States, are confided to the General Government; and those affairs which relate locally to the people of each State, their institutions, and rights of person and property, were reserved to the States respectively, and are exclusively under the jurisdiction of their governments.

2. The Constitution of the United States forms a Government of delegated and limited powers, and that Government, or any of its departments or officers, has not a vestige of power but what is conferred by the language of the Constitution.

3. Military law exists by the legislation of Congress in the form of the Articles of War, and the Rules and Regulations of the Army. What is called martial law is the overthrow of all law and the domination of the arbitrary will of the military commander. This state of things cannot exist in any place in the United States where the civil law can be enforced by the civil courts with the aid and support of the military power. It is only in such localities where the civil law and courts have been in fact deposed by a hostile military force, and

this deposition continues by the actual presence and operation of the cause which produced it, that the will of the military commander becomes, of necessity, the law of the place; and only to the limits and so long as the civil law is thus deposed. So soon as the hostile force is withdrawn, or driven away, or conquered by friendly arms, the civil law and courts are reinstated by the principles of the Constitution, and become again *de facto* as they are all the time *de jure* the supreme law and authority.

Now, Mr. President, these propositions, in their length and breadth, are based upon the Constitution of the United States. They are not original with me. I have learned them. I have learned them from Hamilton and Madison in the Federalist, from the debates in the Convention which framed our Constitution, from the debates of the different State conventions that adopted it, from the decisions of the Supreme Court of the United States, particularly the decisions rendered by Chief Justice Marshall and Justice Story, and from the Commentaries of Chancellor Kent. These great truths or principles are a part of our system of government; they are moored in that Government and will abide there as long as it lasts intact by revolution; and I defy the honorable Senator from Michigan and all of his associates here or elsewhere to shake these principles, incorporated as they are in the Constitution.

But, Mr. President, about the year 1860 it became manifest that the American people were fast coming to a civil war. The just authority of the Government of the United States and the execution of its laws, it became apparent, were to be resisted. In the beginning of the year 1861 the banner of revolt, of insurrection, was unfurled. What was the duty of the Government of the United States, of its departments, and of the men who occupied those departments when this demonstration against the laws, authority, and power of the Government was made? They were not to remain torpid, inactive, as stocks and stones. That condition of things had been anticipated by the wise statesmen who framed the Constitution. The Constitution was cradled in a rebellion in the State of Massachusetts got up by Shays. It was just for the condition of things that arose in 1861 that the framers of the Constitution had made provision, and they had made it by prescribing the manner in which such resistance to the execution of the laws of the United States or such insurrections were to be met. They had designated the departments of the Government and the officers that were to undertake this great work of putting down such insurrections, and coercing obedience to the Constitution and laws, and with what means.

I now propose to examine what each department of the Government was to do in this great work, according to the provisions of the Constitution and laws made in pursuance of it. The Constitution reads thus, in various sections and paragraphs:

"The Congress shall have power—  
"To raise and support armies;"  
"To provide and maintain a navy;"  
"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;"  
"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

According to my understanding of the Constitution, this short summary embraces every provision of the instrument that invests Congress with any power to act, immediately or remotely, upon the subject of invasion, insurrection, or domestic disturbance in a State. Let us now see what other provisions in relation to this subject have been made by the Constitution, and to what departments or officers of the Government they appertain:

"The President." \* \* \* \* "before

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he enters upon the execution of his office, shall take the following oath or affirmation: 'I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.'

"The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States."

"He shall take care that the laws be faithfully executed."

Those words are not many, but they are comprehensive and explicit, and, in my judgment, they are all that were necessary or intended to meet the great exigence that came upon the country in 1861. How and by whom is such an exigence to be met? What is the oath of you, sir, as a member of this body and of every member of each House? All of us swear to support the Constitution. May the Lord have mercy upon us for the manner in which some of us have disregarded that oath! What is the oath of the President? That he will faithfully execute the office of President of the United States, and will, to the best of his ability, preserve, protect, and defend the Constitution of the United States. The members of Congress are simply to support the Constitution; the President is to preserve, protect, and defend it. He is to fight for it. When it is assailed, it is his duty to wield all the military power with which the Constitution and the laws of Congress have intrusted him for its preservation, its protection, and its defense.

If the execution of the laws is obstructed without force of arms, force of arms cannot be intervened to have them executed, or to aid in their execution. It is only when the authority of the Government and the due execution of its laws are resisted by arms that arms can be interposed for the purpose of putting down the resistance and enforcing the execution of the laws. And who is to interpose the arms? Not Congress. Congress has nothing to do with wielding the military power that may thus be properly invoked. Who is to do it? The President. That is his duty by the Constitution, made so by plain language. He is to execute the office of President of the United States faithfully; that is, to perform all the duties devolved upon him by the Constitution and laws. He shall take care that the laws be faithfully executed; and to do this, when it becomes necessary, he must apply and direct the military power of the United States. He is to preserve, protect, and defend the Constitution of the United States; and to do this, when it is assaulted by men in arms, he, as Commander-in-Chief, must repel the assault by the Army and Navy, and the militia of the States raised, provided, and called into the public service by laws passed by Congress. That is the aid which Congress is to afford him, and that is the only part which it can take in this grave business.

The act of 1793 was the first that was enacted to carry out the provisions of the Constitution for suppressing insurrections, &c. It was found defective, and in 1795 another and a more complete act was passed. In 1861, after the insurrection had broken out, Congress took up the subject again and passed a more elaborate and probably a better considered law, in which the provisions of the act of 1795, so far as they related to the subject of insurrections, were repealed. I will read a clause from the law of July 29, 1861, drafted, as I understand, by the late Senator Collamer:

"That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President of the United States, to enforce by the ordinary course of judicial proceeding the laws of the United States within any State or Territory of the United States, it shall be lawful for the President of the United States to call forth the militia of any or all the States of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed."

That is a most proper and constitutional provision. It limits itself to the occasions and the exigencies of resistance by force to the execution of the laws of the United States, or a rebellion, which is a great insurrection against the authority of the United States.

Now, sir, the honorable Senator from Michigan says that Congress is the conqueror, and that the people of the rebel States who were subdued by our arms and who capitulated and acknowledged obedience to the authority and laws of the United States occupy the position of a conquered people; and as such are subject to Congress, the conqueror.

Mr. HOWARD. If the Senator from Kentucky will pardon me for a very brief interruption, I should be glad to lay before the Senate a very high authority upon that particular point.

Mr. DAVIS. You can do that at your leisure after I shall have concluded.

Mr. HOWARD. It is no less an authority than Andrew Johnson, who adopted the principle in a deliberate speech made in this body.

The PRESIDING OFFICER, (Mr. RAMSEY in the chair.) The Senator from Kentucky, who is entitled to the floor, declines to yield.

Mr. DAVIS. Mr. President, my principle is to support Andrew Johnson when he is right and to oppose him when he is wrong, and that is the principle upon which I practice in relation to all Presidents and all parties and all Administrations; but I will proceed.

How can Congress be the conqueror of the southern States? Is Congress clothed by the Constitution with any military power? Not a particle. It is invested with the power to declare war, but not to declare war against a State or any portion of the people of the United States, but only against foreign nations. Such is the plain meaning of the Constitution and the ruling of the Supreme Court. That position is conceded by all American statesmen.

The war power of Congress has no application whatever to the suppression of insurrection or rebellion, except merely to exercise the legislative power to raise and support armies, to provide a Navy, and to call forth the militia and to raise the necessary supplies to enable the President to suppress the insurrection and see that the laws are faithfully executed. That fulfills the whole power and duty of Congress in the suppression of insurrection and rebellion; the consummation of the work belongs to the President, and not by the authority of Congress, but the Constitution.

I concede that when the United States is invaded, when a State or a portion of the people are in a state of insurrection, when there is such domestic violence in a State as requires the protection of the United States, to decide when the state of facts amount to either of those conditions does not appertain to the President as "Commander-in-Chief," and is nowhere given to him by the Constitution; yet he is invested with that high discretionary power.

How, then, does he get it? By the act of Congress. First, by the act of 1793; second, by the act of 1795; and lastly, by the act of July, 1861, in the section which I have read. Whence the authority of Congress to invest the President with this power? Here it is in these few words of the Constitution:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or any Department or officer thereof."

Mr. President, these provisions of the Constitution and of the laws of Congress have been before the Supreme Court, and have been construed by the final arbiters, organized by the Constitution, after the maturest consideration. I will refer, first, to the case of *Martin vs. Motley*, 12 Wheaton. It came up to the Supreme Court from the State of New York. The President had made a call on the Governor of that State for a militia force. Martin had been

enrolled and ordered by the proper military authority to report at the place of rendezvous, but failed. The powers of the President, the duties of subordinate military officers to obey his orders, and the effect upon the militiamen, all arose as questions in the case, and the court, in the opinion, say:

"If we look at the language of the act of 1795, every conclusion drawn from the nature of the power itself is strongly fortified. The words are, 'whenever the United States shall be invaded or be in imminent danger of invasion, &c., it shall be lawful for the President, &c., to call forth such number of the militia, &c., as he may judge necessary to repel such invasion.'"

That is a quotation from the law. Here is the reasoning of the court:

"The power itself is confided to the Executive of the Union, to him who is, by the Constitution, the Commander-in-Chief of the militia, when called into the actual service of the United States, whose duty it is to 'take care that the laws be faithfully executed,' and whose responsibility for an honest discharge of his official obligations is secured by the highest sanctions. He is necessarily constituted the judge of the existence of the exigency in the first instance, and is bound to act according to his belief of the facts. If he does so act, and decides to call forth the militia, his orders for the purpose are in strict conformity with the provisions of the law, and it would seem to follow as a necessary consequence that every act done by a subordinate officer, in obedience to such orders, is equally justifiable. The law contemplates that, under such circumstances, orders shall be given to carry the power into effect, and it cannot, therefore, be a correct inference that any other person has a just right to disobey them. The law does not provide for any appeal from the judgment of the President, or for any right in subordinate officers to review his decision, and in effect defeat it. Whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts. And in the present case we are all of opinion that such is the true construction of the act of 1795. It is no answer that such a power may be abused, for there is no power which is not susceptible of abuse."

In precise accordance to the judgment of the Supreme Court in that case was its ruling in the case of *Luther vs. Borden*, which arose out of the Dorr rebellion in Rhode Island. I will read one or two short passages from that opinion. Speaking of the act of 1795, the court say:

"By this act, the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere, is given to the President. He is to act upon the application of the Legislature or of the Executive."

That is, when there is domestic violence in a State, as was the case then in Rhode Island.

"And consequently he must determine what body of men constitute the Legislature, and who is the Governor, before he can act."

This principle, as the honorable Senator from Massachusetts [Mr. SUMNER] said some time ago, in relation to another matter, runs in several directions. It is an important principle. It has a multiform application; and it may receive other and more important applications in the course of events. I do not know that it will. I hope there will be no necessity for it. If there should be, I have no knowledge that it will be exercised; although it ought, and might be with the plainest sanction of the Constitution, and the highest considerations of duty and patriotism operating upon the President.

"The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must, of necessity, decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress."

What was the decision of the President in that case? He decided that the old charter government of Rhode Island was the true and legitimate government of the State; that the Governor, under that charter government, was the true and legitimate executive Chief Magistrate of that State. He decided that the Dorr government was spurious; that the election of Dorr under it, and every attempt to set up and organize a government under the Dorr consti-

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tution in the State of Rhode Island was illegal, unconstitutional, void, a wrong, and an outrage upon the existing government, and authorized the existing government to put it and all of its supporters down by force of arms. The President in that case did not interfere by the actual march of troops into Rhode Island, but he declared his purpose to do so, and that declaration induced the insurgents and the Dorrites to submit. Here is what the court say on that point:

"The interference of the President, therefore, by announcing his determination, was as effectual as if the militia had assembled under his orders. And it should be equally authoritative. For certainly no court of the United States, with a knowledge of this decision—

That he had determined to interfere simply—

"would have been justified in recognizing the opposing party as the lawful government; or in treating as wrong-doers and insurgents the officers of the government which the President had recognized and was prepared to support by an armed force."

Here is another point stated in this opinion which carries a truth, a principle with it, of which I have an application to make presently:

"In the case of foreign nations, the Government acknowledged by the President is always recognized in the courts of justice. And this principle has been applied by the act of Congress to the sovereign States of the Union."

Let gentlemen ponder a little upon the principle involved in that language. In relation to foreign countries, we all know, as the uniform practice and history of the Government, that whenever the President recognizes an existing *de facto* foreign Government, the Congress and the courts, and all the authorities of the United States, in obedience or in conformity, at least, to the acknowledgment by the President, recognize the existence of the same government. And the court says, "this principle has been applied by the act of Congress to the sovereign States of the Union." Here is the very point decided, that when a State is acknowledged by the President it will then be recognized by the courts, the act of 1795 vesting that power in the President. This opinion, in remarking upon the provision of the act of 1795, which was the subject of the main question in the case of *Martin vs. Mott*, says:

"The power given to the President in each case is the same"—

That is, in relation to invasions, insurrections, or domestic violence—

"with this difference only, that it cannot be exercised by him in the latter case except upon the application of the Legislature or Executive of the State. The case above mentioned arose out of a call made by the President by virtue of the power conferred on him by the first clause; and the court said that—

"Whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts."

There is no appeal from his judgment; there is no correction of it; there can be no revision of it; it is the law and the fact of the case; and it must be so received by all, not only by military officers who are exercising power in subordination to him as "Commander-in-Chief," but by Congress and by the courts; and such has been the uniform practice of the entire Government and all its officers. The opinion proceeds:

"It is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts." The facts that make up the case upon which he is to act by moving the armed forces of the United States."

What I have read from the Constitution, the laws of Congress, and the decisions of the Supreme Court, establish these propositions: that in 1861 it was the power, right, and duty of the President to decide whether, in any locality of the United States, "by reason of unlawful obstructions, combinations, or assemblages of persons," or insurrection or rebellion against the authority of the Government of the United States, it was "impracticable to enforce, by the ordinary course of judicial proceedings, the laws of the United States;" and that his

decision of this point is final, and concludes Congress and all the Departments and officers of the Government, and all the people of the United States.

The enforcement of the execution of the laws in the places where the obstructions existed had become a military operation; and all that Congress had the power to do, and which it was its highest duty to perform, was to furnish the President with the men and the money to enable him to take care that the laws be duly executed. That could only be done by the removal, the cessation, the non-existence of further resistance and obstruction. When the work was thus completed, whether by the voluntary submission of the insurgents, or their suppression by force of arms, the office of the President in the important matter was fulfilled; military operations and military expenses in it were to terminate, and Congress was under no obligation to vote more men and more money to put down an insurrection, a rebellion which no longer had existence, or for the enforcement of the execution of the laws to which there was no longer either resistance or obstruction.

But there was a necessity for some power, some officer of the Government to declare when the insurrection was suppressed. There is such a power and such an officer to execute it; and who is he? The Constitution had been attacked by an armed resistance to the execution of the laws, and an attempt to set up an independent power and government within the United States. It is made the duty of the President, by the Constitution, to the best of his ability to preserve, protect, and defend that Constitution, and to take care that the laws be faithfully executed throughout the United States. To give him the ability to perform those important trusts he is made by the Constitution the permanent Commander-in-Chief of the whole military force of the United States. The law intrusts him with the sole, exclusive, and unappealable power to decide when and where there is an insurrection or an armed resistance to the execution of the laws; and the Constitution and the law authorize him to move the whole military force to suppress the insurrection, to stifle all resistance or obstruction to the due execution of the laws. He is to determine upon and conduct every movement and operation to that end, and to continue them until it is effected. Not Congress, but the President, in fact and of necessity, is the functionary to know and declare when the work has been ended, and then to withdraw the military forces. Congress cannot know when it is done, but he knows because it is being done under his orders, and he is in constant communication with those who are in the performance of it. Congress might not be, as it was not, in session when the late rebellion terminated; but the Senator from Michigan says it was the duty of the President to convene Congress. It might be that a large number of the members of Congress were not then chosen. And for what purpose is Congress to be convened? That it might be informed by the President that he had suppressed the rebellion by the operations of the Army; or that it had terminated by the voluntary submission of the insurgents; and that it might authorize him to withdraw and disband the forces, and stop the heavy expenditure of public money when there was no longer any armed resistance in existence or threatened, but, on the contrary, all was submission, obedience, and peace. Could any proposition be more absurd and unsound? No, sir. The President is the constitutional and legal organ to decide and declare when the insurrection begins, how long it continues, and when it ends; and it is the duty of all the other departments and officers of Government to accept and act upon the particular state of the affair according to his decision and judgment upon it.

But the Senator from Michigan announces that the southern States and people, in conse-

quence of their rebellion, have ceased to be States, and have forfeited all their rights as States and American citizens. That Congress is their conqueror, and holds them this day in the condition of a conquered people, and has the right so to hold them until the interests and the will of the conquerors will allow them to reconstruct the States that revolted and readmit them as States into the Union; that this whole business of the reestablishment of relations between these States and the Government of the United States is a congressional affair exclusively, with which the President has nothing to do; and that "his policy" of reconstruction is nothing but arrogant and audacious usurpation of power, an infringement of the rights and powers of Congress, to which it ought not and cannot submit without degradation.

A most lofty and imperial pretension, truly, made for Congress by the Senator from Michigan! And where is its warrant? Not in the Constitution. If it be there, will some of the Websters, the Kents, and the Storrs of the majority in this body refer me to the provision, that I may read it and be instructed? But neither the Senator, nor any of his coadjutors in support of this measure, can find any support for this most extravagant claim of power for Congress in the Constitution. Indeed, he deigns not to place it on so humble a footing, but in swelling phrase claims it for Congress, as the conqueror of those States, and by the laws of war. If there be any right to the appellation of conqueror in the suppression of the rebellion it would appertain to the President rather than to Congress.

But there was no war, no conquest, no belligerent rights in this great and terrible civil strife, according to the sense in which those terms are found in publicists and the laws of nations. The two latter are not named in the Constitution, and as between the United States and the States, in its meaning, spirit, and scope, they have no covert existence there. The term "war" is found in the Constitution, but with no reference to a conflict between the United States and any of the States or any portion of the people. It refers only to contests of arms with foreign nations, and such has been the construction of the Supreme Court and of every American statesman. By the letter, meaning, and spirit of the Constitution, as expounded by all this high authority, Congress cannot declare war against a State or any portion of the people of the United States. Certainly, no State can make war against the United States, and have belligerent rights. It is not war in the sense in which the term is used in international law and as it is adopted by our Constitution. Between the United States and the people or the States lately in rebellion there was, then, no war, no belligerent rights on either side. What was it, and what law applied to and governed it? Upon the part of the revolted States and people it was an armed resistance to the authority and laws of the United States, a great insurrection, though not pervading all nor a majority of the States. It was just such an affair as the men who made the Constitution contemplated might occur, and for which they made provision in it. They provided that the Constitution, and laws of Congress made in pursuance of it, should be the supreme law of the land; that all officers, both Federal and State, should take an oath to support it; that the President, before entering upon the execution of his office, should take an oath, to the best of his ability to preserve, protect, and defend the Constitution; that he should take care that the laws be faithfully executed; that Congress should have power to raise and support armies, to provide and maintain navies, to levy taxes, and borrow money without limit, if need be, to the utmost capacity of the United States; to provide for calling forth the entire militia of the States to put down the insurrection, and



should make all laws which might be necessary and proper to give full effect to the powers which I have enumerated; and that the President should, by his own unquestioned and unquestionable will, as "Commander-in-Chief," move this vast array of military power, land and naval, to suppress the insurrection, to reinstate the authority of the United States, and to enforce the due execution of their laws whenever and wherever they might be resisted or obstructed. In the late great exigence that was all that was needful to be done, all that the Government and authorities of the United States were authorized by the Constitution to do. The wisdom and efficiency of the whole provision has been illustrated by the perfect military suppression of the stupendous insurrection, by the universality and completeness of the submission of the insurgents, by their true and general quiescence, beyond all parallel after such a profound and impassioned upheaving.

But there was a possible national disorder, so deep and so pervasive, but so improbable and so utterly remediless, for which, if it ever should come into being, the wise and far-seeing men who framed the Constitution attempted to provide no remedy. When the General Government should become continuously so perverted and oppressive in its administration as to have caused fixed discontent and hostility to it throughout the United States; when a majority of the State Legislatures would no longer choose Senators in Congress; when they would no longer direct the manner in which the presidential electors of their respective States should be appointed; when a majority of the people of a majority of the States should refuse to elect a Legislature to direct the manner in which their presidential electors shall be appointed, or should themselves have refused to choose such electors, the members of the Convention well knew that the political malady would have reached an extremity when it would be irremediable; and they did not attempt the vain task of prescribing a remedy. They tacitly conceded that the Government which they were about founding would then cease to be, and that the country and its destinies must be submitted to God and the people, and that reconstruction in some form, unseen, unknown to them, must come. But until that final catastrophe all was to be for the support, the defense, the preservation, and vindication of the Constitution and system of government which they had fashioned.

The possible condition of the country, as I have depicted it, is thus adverted to by Mr. Madison, in the forty-third number of the *Federalist*:

"Should it be asked, what is the redress for an insurrection pervading all the States and comprising the superiority of all the force, though not a constitutional right? the answer must be, that such a case, as it would be without the compass of human remedies, so it is fortunately not within the compass of human probability; and that it is a sufficient recommendation of the Federal Constitution, that it diminishes the risk of calamity for which no possible constitution can provide a cure."

Mr. President, we often hear it asserted that the Government of the United States was made to be perpetual; that it has all the rights of self-defense; that the national life must be preserved. All such language is inappropriate, and expresses ideas not fitted to our country and Government. The Constitution does not expressly provide for its dissolution, but it does impliedly. The same power which made it may at any time terminate its existence in any mode it may will.

In the forty-fifth number of the *Federalist*, Mr. Madison says:

"The State governments may be regarded as constituent and essential parts of the Federal Government; while the latter is nowise essential to the operation or organization of the former. Without the intervention of the State Legislatures, the President of the United States cannot be elected at all."

\* \* "The Senate will be elected absolutely and exclusively by the State Legislatures."

The members of the Convention knew as

much of the Constitution and the Government which they formed, its structure in all its parts, and its weaknesses, as any of their successors. They knew full well that if a majority of the States and of the people of those States persistently determined not to choose Senators or presidential electors or Representatives in Congress, that the Government was thereby brought to an end. They made no provision to avert that consequence.

The Constitution expressly provides that each State shall appoint, in such manner as the Legislature may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; that those electors shall vote for President, and the person having the greatest number of votes shall be President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest number, not exceeding three on the list of those voted for, the House of Representatives, voting by States and by ballot, shall choose the President.

If all the States should appoint electors, and the majority of them should refuse to vote at all for President, that officer could not be elected, and consequently the Government would be brought to an end. Again, if all the electors should vote for President and no person should receive a majority of the whole number appointed, and the election should thus be devolved on the House of Representatives, voting by States, and the majority of the States should refuse to vote, or voting, to vote for the same person, there could be no presidential election, and in that way the Government would be brought to a dead lock.

In all these and other ways the men who made the Government knew it could be terminated, and they devised no means to avoid it. Their purpose was that it should give liberty and security to the people, and for its strength and permanence should win and rest upon their confidence and attachment; that when it became perverted, corrupt, and oppressive, and the people could no longer consent to its continuance, they should have several modes of bringing it to a close. It has no principle or power of self-perpetuation. It has no right of self-defense. All its departments and officers are bound to support, protect, and defend it; but it is by the use of the powers and means with which they are intrusted by the Constitution and the laws; and they cannot resort to others without usurpation and crime. A Government or being possessed of the right of self-defense may seize and use all means within its reach so far as they may be necessary to enable it to repel attacks upon it, from whatever quarter they may come. The powers of the Government of the United States spring from no such source, and are commensurate with no such principle. They arise wholly from a written Constitution, and exist only to the extent that it, by its language, confers them.

The phrase "national life," is also incorrect, untruthful, and delusive. Life is the state of an organized being in which its natural powers and functions are self-operating and continue its existence. If the States were to cease to exist there could be no continuance of a President and Senate for the nation, and all the organism, the very being of the nation, so imperfect as to be visible, would at once come to dissolution. The national or Federal Government and Union and the States and their governments are essential parts of the same system; but the being, the life of the latter, would continue even if the former were destroyed; but if the latter were to perish the former would die with them. But "national life," "loyalty," and "disloyalty" with us in latter years are only "catch-words" intended to deceive and mislead. Political loyalty in the United States means fidelity to the Constitution and laws, support of those in office, so far as they per-

form their duties in accordance with them; sympathy and coöperation with all true friends of the Constitution and laws; the maintenance of the division of political sovereignty and power between the General Government and the States as it is made by the Constitution, to the former all that is conferred on it, and to the latter all that is reserved to them by the Constitution; and resisting all assaults upon these principles whether they may proceed from foreign or domestic enemies, private citizens, or men in office and power. This is the only true standard of American loyalty, and men are loyal or disloyal as their words and acts conform to or depart from it.

But, sir, when the President has, by the agency of the military forces of which he is Commander-in-Chief, occupied the portions of country where the insurrection had been made and suppressed it, what is next to be done? If the local governments have been overthrown or disorganized, the Commander-in-Chief, by his subordinates, must, *ad interim*, organize a *quasi* government to prevent crime and to protect persons and property until the government of the States can be reorganized and put into operation. But this military government arises from the exigency and necessity of the occasion, and with that it passes away and is superseded by the State governments. What else is the President to do? He is to give his counsel, aid, and protection to the people of the State in their efforts to reorganize their government by electing and installing their Governor, members of the Legislature, and judges. And what is to be done to reestablish relations between the State and the Government of the United States, and what departments and officers are to do it? The President is to act first. He issues his proclamation announcing that the insurrection is suppressed. He appoints district attorneys, marshals, postmasters, collectors of customs and internal taxes for the State, and he reestablishes the mails, collects the public revenue, and takes care that the laws of the United States are executed in them; and this is what I understand he has done in relation to the rebel States—this is his policy. Then the judicial department takes up the matter. The Supreme Court looks over its docket, and finds upon it cases from the States lately in rebellion. It knows and concedes the fact that the rebellion has been suppressed; the President by his public proclamation has so informed it and the country. It then proceeds to acknowledge those States lately in rebellion as present existing members of the United States, and in conformity to the Constitution and laws of Congress orders the cases brought from them up to this court before the insurrection, and any during its continuance, to be set down for hearing, which could not be done unless the localities from whence they came were existing States and in the Union.

During the entire period of the insurrection there were members of the Supreme Court, resident of States actively engaged in the rebellion until it was put down, and who had been assigned to circuits constituted of the rebel States; and they formed part of the court at each term, just as the judges resident in and whose circuits were formed of States which the rebellion never reached.

But a few days since an application was made to Justice Nelson, of the Supreme Court, for a writ of *habeas corpus* on behalf of a prisoner confined in one of the penitentiaries of the State of New York. On the return of the writ, and the bringing up the prisoner before the judge, it appeared that since the insurrection had been suppressed he, a citizen of South Carolina, had been tried by a military commission on a charge of murder, found guilty, and condemned for a long period to confinement in the penitentiary, where he was held under said judgment. The learned judge ruled that South Carolina was a State of the United States, in the Union, and possessed of, or entitled to, all the rights and

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powers of a State; that the trial of the prisoner for the crime of murder belonged properly and exclusively to the authorities of that State; and that the judgment of the military commission was void and of no effect; and the judge ordered the prisoner to be discharged.

But, Mr. President, what have been the action and decisions of the Senate on questions dependent upon the fact whether the States in which the rebellion existed were States in the Union? Before the extra session of Congress in 1861 Virginia had passed her ordinance of secession, and was then the chief power of the rebellion. Her State government existing at the beginning of the insurrection had been dissolved, and most of its officers had renounced the Government of the United States and adhered to the southern confederacy. A new State government was organized by her loyal citizens who were in a small minority; two gentlemen, Messrs. Willey and Carlile, were chosen by the new Legislature to be the Senators of Virginia, and the new Governor, Peirpoint, gave them his commission under the great seal of the State as Senators of that ancient Commonwealth. Those gentlemen brought their credentials and asked to be admitted as Senators from the State of Virginia. The President, then Senator Johnson, himself representing the rebel State of Tennessee, presented their credentials to the Senate and moved that they be permitted to take the oath and their seats as Senators. This was opposed by Mr. Bayard, who moved that their credentials be referred to the Committee on the Judiciary; but this was strenuously resisted by Senators Johnson, Collamer, Hale, Trumbull, and others. I will read passages from some of their speeches, and first, of Senator Johnson:

"Now, sir, we have the credentials here fair on their face. They purport to be the credentials of Senators elected by the old Commonwealth of Virginia, signed by a person purporting to be the Governor of Virginia, and under the great seal of the State. This appears to be fair. But Senators say, 'Oh, well; but we know this is not the Legislature of Virginia; there is another Legislature, and there is another man who is Governor.' Well, if you are going outside of these credentials to rely on the knowledge which you have of the condition of things in the State of Virginia, then you know that the old Governor of Virginia and the old Legislature are in rebellion against the country. They are rebels and traitors in arms against the Government, and are not to be recognized as the government of Virginia, but are to be recognized as enemies and traitors, whom the whole power of this Government is now put forth to subdue and bring into obedience to the Constitution and the laws; and I would to God that the power was used to bring them to obedience!"

Senator Collamer said:

"There are two difficulties which are suggested in this case. First, it is said that this is a certificate coming from a new government of Virginia, a new organization separated from the rest of the State, but acting for the State as a State. This is in the nature of a judicial proceeding; we are now judging of the qualifications of our members. It is not at all an uncommon thing in our highest tribunals that points arise in the investigation of cases where the court are constrained to say 'that is a political question; with that the courts have nothing to do.' For instance, whether a foreign Government recently commenced has become an independent people, whether in court it is to be treated and considered as a nation, is not a point on which the court can decide. That is a political question; and if the executive head of the Government has received ministers from that power, recognized it as a power on earth, the courts cannot go into the question whether he did it right or did it wrong. It is a matter of political action, and the political power is what settles it, and we cannot examine into it any more.

"In analogy to that, in this judicial proceeding must we not be governed by the fact that the government of Virginia that has executed these papers and sent them to us is recognized by our Executive? They have called on him for militia and have received militia from him. He recognizes them as the government of Virginia. It is a political question; it is settled. There is no occasion for our inquiring further into that. We as a judicial body on this question have nothing to do with that. Here is the Executive of that State recognized by the Executive of this Government; there is the end of that subject. Whether a course of proceedings might be instituted among us to call on our Executive to know whether he did this rightfully or not is altogether a different affair. They are *de facto* the government recognized by us. We have no more to do with that."

All the Republican Senators who entered into the debate, including the chairman of the

Committee on the Judiciary, [Mr. TRUMBULL,] sustained the views of Messrs. Johnson and Collamer, and when the Senate came to vote on the motion to refer the credentials of Messrs. Willey and Carlile to the Judiciary Committee for investigation, and a report upon the facts and principles involved, there were, in favor of the motion: Bayard, Bright, Polk, Powell and Saulsbury. Against it: Anthony, Bingham, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howe, Johnson of Tennessee, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Pomeroy, Rice, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot. Immediately upon this overwhelming vote, and without further question, Messrs. Willey and Carlile were permitted to be sworn, and took their seats as Senators from the old Commonwealth of Virginia. In this matter the Senate was sitting and acting as a court and was adjudging of the "elections, returns, and qualifications of its own members;" and what points did it decide and sustain?

1. That notwithstanding the State of Virginia had passed an ordinance of secession and was in the condition of armed and active insurrection against the United States, still she was one of the United States and in the Union.

2. That this great question was not a judicial, but a political question; and as the Senate, in its connection with the matter, was a *quasi* court, it could take no cognizance of this political question; but only of judicial questions, connected with the elections, returns, and qualifications of the applicants as Senators from Virginia.

3. That the President is the proper officer and power to decide that political question.

4. That he having decided it affirmatively, the Senate and all the departments and officers of the Government were bound by his decision, and must act upon the fact that Virginia was one of the United States.

5. That Messrs. Willey and Carlile having the proper returns or evidence of their election in the commission of the Governor under the great seal of the State, were entitled *prima facie* to their seats; that they were to be admitted to them at once; and all question of their right to hold them must be afterward examined by the Senate through the medium of its committee, and be judicially decided by it. The Senator from Michigan [Mr. HOWARD] has announced to the Senate that he was not then a member of this body; that if he had been, he would have voted against the admission of Messrs. Willey and Carlile as Senators from the State of Virginia. He may now think so; but I am inclined to the belief that he would not have taken that position alone and have broken the unanimity of his party upon that question. But West Virginia was afterward admitted as a new State into the Union, and Senator Willey residing in and being chosen one of the Senators from it, a senatorial vacancy occurred in the old State of Virginia; and while the most of her territory was still occupied by the rebels in arms, the body calling itself her Legislature chose Mr. Bowden as a Senator to fill the vacancy. He appeared, claimed his seat, and was permitted by the Senate to take it; and the Senator from Michigan intervened no objection. But he says that the precedent of admitting Senators from States in rebellion had been made in the case of Messrs. Willey and Carlile, and he yielded and acknowledged the authority of that precedent. This course of the Senator was very reasonable and proper, because that precedent was sustained by the name and authority of that eminent jurist and statesman and pure and elevated patriot, the late Senator Collamer, upon whom the Senator a few days since expressed in this Chamber a high but most just panegyric. If the Senator from Michi-

gan, in the case of Mr. Bowden, conceded the authority of the single precedent in the admission together of Senators Willey and Carlile, and chose to give the high authority of his name to another in the case of Mr. Bowden, when the rebels were still fiercely continuing their insurrection; now, one year after it has been thoroughly suppressed, by the surrender of all their armies, and the unconditional submission and obedience of the whole people of the States that were in insurrection to the laws and authority of the United States, with what consistency or reason can the Senator from Michigan oppose the admission of Senators from those States?

But, Mr. President, both Houses of Congress, including the Senator from Michigan, have admitted, in the gravest and most important form, that all the rebel States, notwithstanding they were making a great struggle in arms for their separation and independence, were States in the Union, by the passage of the law of 1862 apportioning representation among all the States according to the census of 1860, in which each of the rebel States are named, and its proper number of Representatives given to it by the same rule and in similar language as is applied to the States unaffected by the rebellion.

Again, all those States voted for the adoption of the amendment to the Constitution, by which slavery was abolished throughout the United States; and with the approval of the Government and all its departments and officers, and also of the entire people, their votes were counted in favor of its adoption. And the very amendment now proposed, by its specific language, is required to be referred for acceptance or rejection to the States lately in rebellion. In the face of the *résumé* which I have made, is it not passing strange that any Senator, or any intelligent man, should hold to the position that by their ordinances of secession and abandonment of the Union by their governments, and as a consequence of armed resistance to the authority and laws of the United States by the governments and people of those States, they ceased to be States of the Union, and forfeited all their rights, political, civil, and personal, under the Constitution; that the termination of the war and their unconditional submission and adherence to the United States, left them in the condition of a conquered country and people, with their governments utterly dissolved; that Congress or the President of the United States become possessed of all the powers and rights of a conqueror over them; that they could be held in that condition at the pleasure of the conqueror, and could become States again only by Congress passing an enabling act and readmitting them into the Union as States, subject to such terms and conditions as it might choose to impose upon them? All this is revolting heresy, and at war with our Constitution, its letter and spirit, and our whole political system.

I have said that an insurrection or rebellion against the United States is not treated by our Constitution as a war, but as a great domestic disorder; and the power to meet it, with which the Government is invested, is in the nature of the police power. Police in its large sense, according to Blackstone, is the internal regulation and government of a kingdom or State, and all the military power of a State is the final reserve of its police power. In the United States the militia of all the States is expressly made so, by Congress being empowered to provide for calling forth the militia (without any limit) to execute the laws of the Union, suppress insurrections, and repel invasions. When a riot is suppressed by the local police power no change in the order of things is produced. There may be an insurrection against the government and laws of a city, as has occurred in Baltimore and New York. The insurgents may overthrow the city government and dominate it for days. It may require the extraor-

inary reserves of the police power to be intervened to suppress the outbreak; but when that is done, no destruction or revolution or change of the city government has taken place; its organism and powers have been obstructed in their operation, but they remain perfect in their existence; and so soon as the obstruction is removed they resume their authority, and have their effect as though there had been no interruption. When there was domestic violence in Rhode Island, caused by Dorr's rebellion against the State, the power of the United States was invoked for its protection. If the rebel government had overthrown the legitimate government and driven all its officers from the State before the United States had acted in the matter, and afterward their military power had subdued the insurgents and occupied the State, it would only have been for the restoration of the deposed government to its authority in the State, and no measure would have been necessary to effect that; but it would have taken place at once spontaneously upon the detrusion of the rebel government. The United States would have been the victor, but not the conqueror, and would have had none of the power or rights of a conqueror. Their army would have been there in the performance of a special service, a duty enjoined by the Constitution, solely for the protection of Rhode Island and to reinstate her government; it would have had no authority to act further, and there could be no other legitimate consequence of its action. So where there is insurrection or rebellion against the United States, although both the people and the governments of States may have embarked in it, the duty, business, and authority of the Government of the United States is to suppress it, nothing more. That is all that the Constitution authorizes to be done in the case, and when that is effected the only consequences are that the Constitution, laws, and authority of the United States are reinstated; the States, their governments and people, that were involved in the revolt, are reduced to obedience to them; the Federal and State governments resume all their powers, and the people all their rights, except those of which the law may have deprived them; and things move on in the same relations as before the disturbance.

The only objects and ends of the power to suppress insurrections and rebellions are to support, protect, and preserve the General and State governments; to defend and perpetuate the union of the States under the Constitution; to oppose and arrest revolution, not to make it, and to hold the States in the Union, not to put them out of it. All this can be done only by the armies of the United States marching into the States in rebellion, and subduing the rebels; and the proposition that the successful use of the means which the Constitution authorizes for no other purpose than to avert those consequences, and which defeated the rebels in their great efforts to effect them, should of itself produce them, is a monstrous absurdity.

No, Mr. President, a State once admitted into the Union is there in perpetuity unless displaced by revolution, by force of arms, or in some other form. The State cannot take herself out, nor can the Government of the United States, or both together, effect that by any arrangement. There may be a rebellion so formidable as to dominate a State and hold possession of it, and suppress the authority and laws of the United States in it for a time; a State may be invaded and occupied by a foreign enemy, and a hostile government established in it for years; but in either state of case she remains all the time, *de jure*, one of the United States, a State in the Union: and on the suppression of the rebellion, or the expulsion of the foreign enemy, by the power and effect of the Constitution and the inherent capabilities of the State, all her rights, powers, and functions would resume their operation; and the relations between her and the United States would be

reestablished. There would have been no dissolution of the State, and there would be no need and could not be any reconstruction of it. A large part of the State of Maine was taken possession of by the armies of Great Britain in the war of 1812, and a foreign government established over it; and upon the withdrawal of that army the suspended authority and laws of Maine resumed their operation without any legislation, State or national. Congress has the power to admit a new State into the Union once, and that is all the power it has in relation to the admission of States. It cannot eject and readmit States, either new or old.

The only rehabilitation of the States lately in rebellion that is needed, or that is consistent with the Constitution, is, for the United States, by the different departments of its Government, to fulfill their appropriate duties to them. That has already been done by the executive and judicial departments; the legislative only continues to be contumacious; and what has it omitted to do to make complete and perfect the relations between those States and the United States?

The Constitution and laws of Congress provide that each one of those States shall have a certain number of members in the House of Representatives of Congress, and the Constitution further declares:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof," &c.

Those States, six months since, respectively elected their Senators and Representatives, who, early in the session, appeared with their credentials and asked of their respective Houses to be admitted as members, and their admission would have completed the reestablishment of relations between those States and the United States and their government.

The Constitution makes each House of Congress "the judge of the elections, returns, and qualifications of its own members;" and authorizes it to punish its members for disorderly behavior, and with the concurrence of two thirds to expel a member. But it confers no power on the Houses separately, or on Congress, to excise a State for any cause from all representation in it; and yet by what they term a concurrent resolution, which no person contends to have any constitutional or legal validity, they have ostracized the eleven States lately in rebellion by refusing to admit wholly their Senators and Representatives, however loyal they may have been to the United States throughout the rebellion. They thus mutilate Congress by cutting off twenty-two Senators and sixty-one Representatives, and exclude eleven States from taking any part in the Government. But the Constitution is mandatory, that every State shall have two Senators, and a number of Representatives in proportion to their population. As a pretext to evade or defy this vital principle, that majority at the beginning of this session assumed the position that those States by their rebellion had ceased to be States in the Union, and on being subjugated by the armies of the United States had been reduced to the condition of a country conquered by them, and were, therefore, not entitled to have representatives in Congress or take any part in the Government. This most extraordinary position was never taken until long after the rebels had made unconditional submission to the Government and laws of the United States. It has not a vestige of authority or sanction in the Constitution, and is in opposition to the frequent and unbroken legislation of Congress to December last, and of every measure, proclamation, and utterance of the Executive, and every act of the judiciary touching those States from the breaking out of the rebellion.

Congress stands concluded on that question by having levied a direct tax on those States and apportioned representation to them *eo*

*nomine* as States in the Union, by two several acts passed while the rebellion was raging. This puissant majority of the two Houses sends forth its imperial edict that the people of those States are not sufficiently loyal to be readmitted as States into the Union and to take part in the Government; that they must improve their loyalty by submitting to a probation before it will allow them to come back and have any share in governing themselves. But it most graciously informs them that if they will amend their constitutions, by introducing an article giving suffrage to the negro, it would receive that as evidence of their perfect loyalty, and readmit them as States into the Union upon that article as a fundamental and unalterable condition, and their Senators and Representatives should be permitted to take their seats. But whether it would respect or obliterate State lines as they had existed, whether it would permit the reorganization of eleven, or would dictate a half dozen, or what number of States out of that disorganized portion of the territory of the United States, that dominating majority has not yet spoken. Was there ever asserted before in the whole world such an unauthorized and impudent pretension?

The first I ever heard of the rebel States having abdicated or forfeited their rights, and being no longer States in the Union, was in February, 1862, when the Senator from Massachusetts [Mr. SUMNER] offered in the Senate a series of resolutions asserting that theory. If there was another Senator who accorded with this doctrine, there was then no utterance of it in the Senate. I have become somewhat acquainted with that Senator's dominating idiosyncrasy, and I regarded the propositions stated in his resolutions only as some of his characteristic vagaries. However, a few days afterward I presented a series of resolutions, which I regarded as the negation of his, and which I stated at the time I intended as a counterblast. I will read those offered by myself:

"1. *Resolved*, That the Constitution of the United States is the fundamental law of the Government, and the powers established and granted, and as appointed out and vested by it, the limitations and restrictions which it imposes upon the legislative, executive, and judicial departments, and the States, and the rights, privileges, and liberties which it assures to the people of the United States, and the States respectively, are fixed, permanent, and immutable through all the phases of peace and war, until changed by the power and in the mode prescribed by the Constitution itself; and they cannot be abrogated, restricted, enlarged, or differently apportioned, or vested by any other power or in any other mode.

"2. *Resolved*, That between the Government and the citizen the obligation of protection and obedience form mutual rights and obligations; and to enable every citizen to perform his obligations of obedience and loyalty to the Government, it should give him reasonable protection and security in such performance; and when the Government fails in that respect, for it to hold the citizen to be criminal in not performing his duties of loyalty and obedience would be unjust, inhuman, and an outrage upon this age of Christian civilization.

"3. *Resolved*, That if any powers of the Constitution or Government of the United States, or of the States, or any rights, privileges, immunities, and liberties of the people of the United States, or the States, are, or may hereafter be, suspended by the existence of this war, or by any promulgation of martial law, or by the suspension of the writ of *habeas corpus*, immediately upon the termination of the war such powers, rights, privileges, immunities, and liberties would be resumed, and would have force and effect as though they had not been suspended.

"4. *Resolved*, That the duty of Congress to guaranty to every State a republican form of government, to protect each of them against invasion, and, on the application of the Legislature, or Executive thereof, against domestic violence, and to enforce the authority, Constitution, and laws of the United States in all the States, are constitutional obligations which abide all times and circumstances.

"5. *Resolved*, That no State can, by any vote of secession, or by rebellion against the authority, Constitution, and laws of the United States, or by any other act, abdicate her rights or obligations under that Constitution or those laws, or absolve her people from their obligation to them, or the United States from their obligation to guaranty to such State a republican form of government, and to protect her people by causing the due enforcement within her Territories of the authority, Constitution, and laws of the United States.

"6. *Resolved*, That there cannot be any forfeiture or confiscation of the rights of person or property of any citizen of the United States who is loyal and



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obedient to the authority, Constitution, and laws thereof, or of any person whatsoever, unless for acts which the law has previously declared to be criminal, and for the punishment of which it has provided such forfeiture or confiscation.

7. *Resolved*, That it is the duty of the United States to subdue and punish the existing rebellion by force of arms and civil trials in the shortest practicable time, and with the least cost to the people, but so decisively and thoroughly as to impress upon the present and future generations, as a great truth, that rebellion, except for grievous oppression of Government, will bring upon the rebels incomparably more of evil than obedience to the Constitution and the laws.

8. *Resolved*, That the United States Government should march their armies into all the insurgent States, and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof, to enable them to reconstruct their legitimate State governments, and bring them and the people back to the Union and to obedience and duty under the Constitution and the laws of the United States, bearing the sword in one hand and the olive branch in the other, and while inflicting on the guilty leaders condign and exemplary punishment, granting amnesty and oblivion to the comparatively innocent masses; and if the people of any State cannot or will not reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States, securing to the people thereof their appropriate constitutional rights.

What is the principal object of the majority of the two Houses of Congress in playing this bold and desperate political game? They are in power, and are resolved to hazard everything to hold on to it. They have told us in both Houses, and their papers have echoed it a thousand times, that for three fourths of the period since the adoption of the Constitution the southern States had had possession of the Government, and controlled its power, patronage, and operations. They reasoned with themselves thus: if the late slave States, with a population of 12,240,500, when the free States have but a small fraction under 20,000,000, and with one fourth less of Representatives in Congress and not so many presidential electors by a fifth, could hold possession of the General Government three fourths of the time, what chance will there be for us if the freeing of their slaves is allowed to have the effect of adding thirteen to their Representatives, and the same number to their presidential electors? The South will be as one man against us, and uniting with the copperheads in the other States, we shall be ejected from power with no hope of a return. We can prevent our overthrow only by a great augmentation of our political power, for which we have two resources. Our friends dominate in all the Territories. It is true they have each only a population amounting to about one fifth of the ratio of a Representative, but nevertheless we must erect them into new States. It is true they would be of the English rotten-borough system, but still they each would have one Representative and two Senators and three presidential electors. We want the increased power that they would give us, and we are entitled to it by the highest law which we know or acknowledge—the law of party necessity and our own self-preservation in office. This general counsel was probably continued: but our main hope and reliance must be upon the negro vote, and we must devise some mode by which to give to freedmen the right of suffrage. To us they owe their freedom, and they know and are grateful for it; let us place in their hands the great lever of political power, suffrage, and we will put them under obligations that will bind them to us at least for this generation. Reinforced by the vote of the freedmen, we can carry the next presidential and congressional elections, and secure to ourselves the continuance of power, its offices and rich spoils. We have, too, that piece of cunningly devised machinery, the Freedmen's Bureau; that is of itself a government; our convenient collateral; by our management of it we can keep up distrust and hostility between the black and white races in the southern States; we can get possession of the freedmen, the only laborers in cotton-fields, which will

give us, also, necessarily, the possession of those fields; and with the aid of our friends and accomplices, the officers and agents of the Freedmen's Bureau, and their supporting military police, we will be the cotton kings, and control the political power of the southern States.

This is a compend of the schemes and policy of the radicals, and explains why the country cannot have union, peace, and the reinstatement of the Constitution, and laws, and the admission of the southern States to their rightful power in the Government though the war has been so long over. The Senators and Representatives of those States admitted, and the radicals would be in the minority in Congress, and be soon exiled forever from office and plunder. Their cry for justice and protection to the freedman is a most hollow pretext of ambition and selfishness under the guise of justice and humanity.

Their scheme is not characterized by wisdom, even in the councils of wickedness; but it is preëminently novel, daring, unpatriotic, and reckless of justice, law, and the Constitution. The admission as States into the Union of Territories with not more population than a single county should have to maintain its local government and institutions; the excision of the eleven southern States from the Government of the United States; the expulsion of Senator Stockton, of New Jersey, from this body; the organization and proposed enlargement of the Freedmen's Bureau; the civil rights bill; the formation of a novel and anomalous cabal to devise in its secret conclaves most important and unprecedented measures to be registered and passed by the two Houses; the character of the measures which it reported and recommended to Congress; the submission by the majority of the most important questions of policy and constitutional law to a secret caucus, and their agreement that every man would ignore the conclusions of his own judgment and conscience where they might differ from the decisions of the caucus, and, regardless of all conflict with the Constitution, and all sacrifice of the public good, they would support its decisions—it is difficult to believe, that in this early age of our country, so near to the steadfast and stainless virtue of our fathers, a party should in the presence of the American people deliberately accept such a horrible programme and live a day; but it is impossible that it can survive long!

Mr. President, to see scores of "tinkers" in ignorance, conceit, and frenzy dashing at the Constitution, disadjusting its admirable harmony, mutilating it of some of its most valuable and vital principles, and raging to deform it with their vicious crudities, it brings up the idea of a herd of bulls breaking into a china store of matchless beauty and value, tramping around, and disorganizing and befouling everything which they did not break and demolish.

The Constitution of the United States is the consummation of all statesmanship. Never before or since it was formed was there employed so large an aggregate of ability, experience, and virtue in founding a Government. It was to be made for thirteen independent sovereign States, and the great objects to be secured by it were liberty, empire, and strength. The States had each for itself a perfect government, and their Articles of Confederation for the union and defense of all had proved wholly inefficient. The State governments were preserved, and all sovereignty and political power, but what was delegated by the Constitution to the common Government, was retained by the States respectively; and each one was left in the exclusive possession of the power to govern and control its own people and affairs, so far as they were local to the State; and the affairs of the common Government, of the States, and the people of the different States, in their relations with foreign nations and each other, were intrusted to the common Government. It was a

mixed Government—in some of its features national, in some Federal, and in others blended, and a few were unique. Its powers were carefully arranged into three general classes, legislative, executive, and judicial, and each assigned to a separate and coordinate magistracy, and their connections with each other were adjusted with great skill, to make them mutual checks and balances and prevent their encroachments on the rights and liberties of the people and the powers of each other. Without reading the masterly and luminous analysis which Mr. Madison, in the forty-ninth number of the *Federalist*, gives of it in the extent, nature, classification, and division of its powers, and the sources from whence they are derived, I will present to the Senate his closing summary:

"The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a Federal Constitution, but a composition of both. In its foundation it is Federal, not national; in the sources from which the ordinary powers of Government are drawn it is partly Federal and partly national; in the operation of those powers it is national, not Federal; in the extent of them, again, it is Federal, not national; and finally, in the authoritative mode of introducing amendments, it is neither wholly Federal nor wholly national."

Mr. President, to eradicate or change materially one of the important principles of this complicated piece of political machinery is a very grave business, and the effects in marring its symmetry and perverting its operations can only be known by time and experience. It may, however, always be certainly assumed that they will prove greater and more mischievous than they were intended or even anticipated to be. If there is any human institution which ought to fix permanently the affections, confidence, and veneration of the American people, it is the Constitution made for them by the wisest and most virtuous statesmen that have ever lived in the tide of time. It is not, cannot be free from imperfections; but what seem often to many persons to be imperfections are not; they are frequently excellencies. The remedy of a seeming or even real defect may prove to be a greater one; it may even introduce several. When the Constitution is retouched, the movement should be made by able, patriotic, and pure men, who are further qualified for the difficult and important work by the study of its principles and the close observations of its practical workings for long years, and at a time when the public mind is profoundly composed.

Just at the close of the great civil war, when the people are all divided in their judgment as to the constitutionality, justice, and wisdom of the policy upon which the party in power have conducted it; when another great party out of power believe that the whole country have been wronged by frequent infractions of the Constitution, and the usurpation of vast powers for most sinister purposes by those having possession of the Government; and that they particularly have been outraged and oppressed by a wanton and tyrannous exercise of this usurped authority, and are exasperated by a keen sense of their wrongs, and a burning desire for satisfaction; when the ruling party itself is torn by a conflict between its majority in the two Houses of Congress and the President and their friends and partisans; and when it is menaced with defeat and ejection from power at the next general election, and its chiefs and leaders only want to know what means promise to give them success, and are ready to adopt them, however desperate and profligate they may be; at a time when those chiefs and leaders dominate, not only in Congress, but in the Legislatures of all the free States, and their desire for the continuance of their power is so intense, so exorbitant, so impure that they would sacrifice every claim of justice to individuals, the wisest measures of policy for the whole country, and the most valuable principles of the Constitution to achieve their ends; at such a time, surely there should

be no changes or intermeddling with the Constitution. If the States were all fully represented in Congress every sound head and heart would shrink from the idea of attempting, at this time, any alteration of the Constitution. But for a less number than a majority of the two Houses of Congress to decide to change essentially the Constitution, and to prelude the work by the unconstitutional exclusion of all the Senators and Representatives from the eleven States which are especially and so greatly wronged by the proposed amendments, and all of which would be defeated by the presence of their representation, is scandalous and shocking to the last degree. The condemnation of this iniquitous work by the people of the United States is certain, and will be speedy.

But the work has commenced, and in the spirit and manner that might be expected. A proposition to amend the Constitution must be initiated in Congress and receive the vote of two thirds of both Houses to authorize Congress to submit it to the States; and it is with Congress to require the States to act upon it either by their Legislatures or their conventions chosen for that purpose; and it must receive the vote of three fourths of the States to become a part of the Constitution. Such are the guards with which the Constitution is fortified against all hasty innovation, and by such large majorities of the two Houses of Congress and the States, it was intended to secure also the sanction of a large majority of the people.

What constitutes the two Houses of Congress, the vote of two thirds of both of which is required to pass a proposed amendment of the Constitution?

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislatures thereof."

And each State is entitled to Representatives upon an apportionment made among them, upon the basis of their population, by act of Congress. And,

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day," &c.

The question arose soon after the adoption of the Constitution, in each House, what number of its members were necessary to form a quorum to do business; and it has been often and uniformly decided by them that a majority of the whole number of each, as organized by the Constitution and law of Congress, and no less number, formed a quorum to do business. There being now thirty-six States, the Constitution fixes the number of the present Senate to be seventy-two; and a quorum to do business is a majority, which cannot be less than thirty-six, and it would take that number of Senators even to consider a proposition to amend the Constitution; but to pass it, the Constitution requires not two thirds of a quorum but two thirds of the Senate. Thirty-six Senators being a quorum, the Constitution never intended and does not authorize twenty-five of its members either to pass a proposed amendment or to overrule the President's veto of an act of Congress; but requires a majority of the Senate, thirty-six Senators, to do both these grave and responsible acts.

The Senate in May, 1864, long after the Senators from the eleven States had withdrawn, under the great stress of the war, passed a resolution in these words:

"Resolved, That a quorum of the Senate consists of a majority of the Senators duly chosen."

The vote on this resolution was—yeas 26, nays 12. Two years before, a resolution of the same purport was offered in the Senate, but it was opposed with great ability by the late Senator Foot and Senator FOSTER, and the Senate then manifested so decided an indisposition to pass it that it was not pressed to a vote.

When the Legislature of any State of the United States have elected a man to the Sen-

ate, he is "duly chosen;" and according to the decision in the case of the two Senators from West Virginia, Messrs. Willey and Carlile, if a person present himself to the Senate with his return of election in form, it is *prima facie* evidence of his due election, and he is entitled to be admitted to his seat; and all questions impugning his right to it, even the fact of his having been duly chosen, can only be inquired into by the Senate after his admission. As stated in the debate on that occasion, the unbroken practice has been in conformity with that position; and of many cases and precedents there is not one in conflict with it. So that according to the provision of the Constitution, the precedent set in the case of Messrs. Willey and Carlile, and the resolution of 1864, every man who has been elected a Senator from a State lately in rebellion, by its Legislature, and who has the return of his election in due form, is entitled *prima facie* to membership, and should be permitted to be sworn and to take his seat. All of the eleven rebel States by their Legislatures have chosen two Senators; but if they were admitted the radicals, instead of having two thirds, would be in a minority and could not pass one of their unconstitutional acts, much less a proposition to amend the Constitution. It therefore became a necessity, a dire necessity with them, that they should trample under foot the provisions and principles of the Constitution, and of the laws which they had passed, and their own precedents and resolution; and that from radicalism they should proceed to revolution.

Hence at the very beginning of the session they organized their revolutionary tribunal, the committee of fifteen. Then they take up the extravagant position of the Senator from Massachusetts, [Mr. SUMNER,] and boldly assert that the States lately in rebellion have ceased each to be one of the United States, and therefore have no right to send Senators and Representatives to Congress. But whether their dissolution as States took place when their ordinances of secession were respectively made, or when they appeared in insurrection against the United States, or when their armies surrendered to Grant and Sheridan, or when they dissolved their confederate governments, and submitted to all the terms and conditions imposed upon them, and acknowledged unconditional obedience to the Constitution and laws, these revolutionists have not informed the country. They do not refer to the Constitution to sustain this extravagant position, because there is no warrant for it there. They claim for themselves, as the Congress, the results of the achievements of the armies of the United States, operating legitimately under the Constitution to suppress insurrection, as inuring to them, the conquerors of the southern States and people, under the laws of war. The Senator from Michigan, [Mr. HOWARD,] in the tone and manner of a conqueror, defiantly asserts this claim for Congress, and refers the Senator from Pennsylvania [Mr. COWAN] to all the precedents in Grecian and Roman history to support the claim.

In my opinion, it is one of the most fruitful causes of the errors of our legislators that they go outside of the pale of the Constitution into other Governments to search up powers for that of the United States. It has no powers but what were conferred by the Constitution, and all of them are either expressly enumerated or are embodied in the clause that gives to Congress the power to pass all laws which are necessary and proper to carry into execution the powers expressly given to it or some department or officer of it. No power or principle of any other Government is part of ours, unless it be embodied or adopted by the language of the Constitution; and no implication can establish a power in the Government in hostility to or inconsistent with any express provision of the Constitution. As the principles of our religion are to be learned from the Bible, so the powers

of our Government are to be known by recurrence to the Constitution. Whatever is not found in those sources is to be rejected as heretical.

With us domestic war is not for conquest but suppression; it is not for the subversion of the Constitution and laws of the rebels but their maintenance, State as well as the Federal. It is simply to preserve the Union, to vindicate the authority of the United States, to save from destruction our entire system of government, Federal and State, to compel obedience and put things in the same order they were, that the Constitution authorizes the interposition of military power. That the success of this power should break up the relations of the rebel States with the United States, and dissolve their governments which it had prevented the rebels from effecting, is a monstrous solecism.

The statesmen who formed the Constitution founded it upon the States, and one of their cardinal objects was to preserve them. They were guilty of no such folly as providing for their dissolution or the forfeiture of any of their rights or powers, or punitive consequences to them in any form or for any cause. All the punishment which it authorizes is to be visited upon persons, individuals; and they who "levy war against the United States, or adhere to their enemies, giving them aid and comfort," commit treason and are subject to be punished as traitors, whether they act under the authority of the State governments or irrespective of them. The Constitution makes no classes or discriminations among those who thus make war against the United States. The highest and only allegiance of every citizen is due to the United States as to all matters intrusted by the Constitution to the General Government; as to all reserved to the States, his highest and only allegiance is due to his State. All allegiance is divided between the General and State Governments; and either has no rightful claim to a particle of what belongs to the other from any citizen.

All men in arms against the United States may be met and opposed by its armies, and in the conflict may be rightfully shot down. This is not war in the sense in which this term is used in the Constitution. But in every contest of arms, in every operation of the armies, both sides are bound to the strictest observance of all the humane laws and usages adopted by Christian nations to mitigate the horrors of war. Until the revolution be consummated by success neither party has any belligerent rights. There is no sovereignty lost, there are no governments dissolved or forfeited, or laws abrogated; there is no territory acquired by conquest; there are no titles or rights to property destroyed or permanently changed. As armies move from places their power and military rights go with them, and civil law and the state of things *ante occupationem militarem* are reproduced spontaneously. All captives and other persons who have committed treason are subject to trial and punishment, but by the civil courts, and with all the rights and in the mode prescribed by the Constitution, and liable to no other pains, penalties, or punishment than have been previously declared by law. This is American liberty, and when the question comes to me, which will you take, the Union of the States without the liberty, or the liberty without the Union, and I must accept the one or the other, I answer, give me the liberty and let the Union perish! But I have a hope that both may yet be saved.

Mr. President, it seems plain to my mind that the majority have become utterly regardless of the good, present and future, of the country, and have determined to sacrifice its institutions and liberties in their desperate struggle to continue themselves in power. I will not estimate the large amount of both which they trampled down in the Freedmen's Bureau and civil rights bill, and other measures of legislation. I will not stop to consider

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the numerous other amendments of the Constitution which have been proposed in the two Houses, but will proceed to the examination of the one now before the Senate.

This proposition is in the form of a joint resolution proposing to amend the Constitution by adding another article consisting of five sections, and has been passed by the House and sent to the Senate for its action. I will read it:

## ARTICLE.—

SECTION 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The first objection I make to the measure is that each of the five sections relates to a different subject, and yet all are submitted as a single proposition. The people might wish to vote for some of them and against others; and they should be presented in such form as to give an opportunity to vote separately on each. But for some object that right has been withheld, and they required to vote for all or against all of them together.

Secondly, no considerable portion of the people have manifested any desire to have these changes made in the Constitution. This proposition has originated with partisan leaders, not to improve the fundamental law of our Government, but as a strategic movement in party politics. It is the right of the people that these proposed changes should be submitted to them, but it was predetermined that this should not be done, because those very leaders knew that they would be rejected. If they had intended to deal fairly by the people in so grave a matter, the resolution would have required the proposed changes to be submitted to conventions, to be chosen for the purpose of considering them, or to their Legislatures, to be elected next after its passage. This course would not have delayed the action of any State twelve months, and the most of them not six months; and there was no occasion for such great haste in the important business of determining whether so important an innovation of the Constitution should be made. But the present Legislatures of all the States not involved in the rebellion had been elected, and in the old free States as long back as eighteen months. In these latter States the Legislatures are known to be intensely radical and to be willing to do blindly the bidding of their leaders in Congress. They were elected before the rebels had submitted and in the very acme of the war excitement, before there was any presentation or public discussion of these proposed changes of the Constitution or of the principles involved in them; and they are not fair representatives of the people of their respective States on the question of the merits of this proposition. But the considerations which render it improper for those Legislatures to decide this great matter determined the radicals in Congress to submit it to them and them only.

But the Senate has amended the first section of the proposed amendment, and it now reads:

All persons born in the United States and subject to the jurisdiction are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The real and only object of the first provision of this section, which the Senate has added to it, is to make negroes citizens, to prop the civil rights bill, and give them a more plausible, if not a valid, claim to its provisions, and to press them forward to a full community of civil and political rights with the white race, for which its authors are struggling and mean to continue to struggle. Except for the negro there is no occasion for it, as all persons of every other race born in the United States, and subject to their jurisdiction, by the operation and effect of the Constitution are citizens. This principle has never been controverted.

The next provision of this section, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" is unnecessary, because that matter is provided for in article four, section two, of the Constitution: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." This provision comprehends the same principle in better and broader language. The next branch, "nor shall any State deprive any person of life, liberty, or property without due process of law," is objectionable, because in relation to her own citizens it belongs to each State exclusively, as being of her own reserved sovereignty and rights, to regulate that matter. It is also unnecessary, because every State constitution contains such a provision, and the rights which it is intended to secure are regarded by all as a most important portion of American liberty, and there is no danger of the removal of the defenses which the States have thrown around them. To the remaining branch, which is, "nor deny to any person within its jurisdiction the equal protection of the laws," each of these objections apply with equal and conclusive force.

The second section, which purports to establish the basis of representation in Congress, is couched in language that is carefully ambiguous, and was evidently intended to obscure its meaning. It begins by adopting the American idea that representation among the States should be apportioned according to their numbers or population; but provides that whenever in any State—

The elective franchise shall not be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

The provisions of the Constitution should be clear and concise, and irrespective of the viciousness of the principle this proposition should be rejected for uncertainty and prolixity. Its true meaning was intended to be difficult to be reached, but when understood it is a measure which shrinks from the responsibility of openly forcing negro suffrage upon the late slave States, but attempts by a great penalty to coerce them to accept it. The radical majority well know the deep if not unalterable opposition of the white race in those States to negroes voting, and that by their constitutions and laws that right is withheld from the whole race. In the late free States the negro population is so small that whether they vote or not is a matter of no political consequence, and could, if allowed, take place to such a very limited extent as would not excite a general or intense opposition among the white population. I will give a table of the aggregate numbers of both the

white and negro races in some of the States according to the census of 1860:

	Whites.	Blacks.
South Carolina.....	291,388	412,320
Wisconsin.....	774,719	1,171
Mississippi.....	353,901	437,403
New Hampshire.....	284,036	528
Georgia.....	591,598	402,198
Vermont.....	314,389	709
Alabama.....	526,431	435,080
Iowa.....	673,884	1,004
Virginia.....	1,047,410	547,507
Massachusetts.....	1,221,464	9,062
Tennessee.....	826,782	282,019
Indiana.....	1,339,000	11,428
Kentucky.....	919,517	236,157
Illinois.....	1,704,323	7,628
North Carolina.....	631,130	261,681
Maine.....	626,952	1,327

Is any one so green as to believe that, if the condition of the old free States and of the lately slave States named in this list was reversed, as to white and black population, that a single one of the free States would now be advocating negro suffrage? If he would have the vestige of a doubt upon that question, and would only remember that but five of them, notwithstanding the small minimum of negro population of each, have allowed suffrage to negroes, he would doubt no longer.

According to the tables of 1860 there are, in the old free States, of the black race a total of 215,962, while in the late slave States there are 4,214,300. The former, if inhabiting one locality, would be less than the ratio for two Representatives, but the fraction would be large enough to secure two; while the latter would furnish the ratio for thirty-three Representatives, and have a fraction over; but the negro population in the free States is so small in the aggregate and is scattered so sparsely over twenty States as not to be available for a particle of political power. In those States it never did control a single local election, and a combination of circumstances is very improbable that ever will enable it to be felt in any election. It is of no importance, practically, in them whether or not the negroes vote. In the slave States this matter is widely different. In two of them the negro population preponderates largely over the white. In several others their relative strength is less disproportionate than what has long existed between the free and the slave States, in the aggregate; and in all it is large enough to be a formidable element of political power, and is sufficiently concentrated, locally, to be available and effective. The natural antagonism between the two races is irrepressible, and an equality of rights and power between them, without interminable strife, is impossible. One or the other must have the mastery. The God of nature has given it to the white man, and he has asserted it from the beginning and will to the end. This effort of people who have no negroes living among them to force other people, with whom they dwell in such formidable numbers, to concede to them equality of civil and political rights, whether successful or not, will have no other result than to aggravate the war between the races in the southern States, and is made only to get the control of the negro there to make him the instrument to subserve the most selfish and sinister purposes.

The position that this provision is intended to strengthen the sectional radical party at the expense of the southern States, by coercing them to bestow suffrage upon the negro, or withholding from them all representation upon that population, is as certain as though it was so expressed in the plainest language. Population is first made the basis of representation, which comprehends all residents, whites, negroes, mulattoes, and foreigners, whether naturalized or not; and having made all negroes citizens, and they not being allowed to vote in any of the late slave States, in them the basis of representation is to be reduced in the proportion in which the male negroes over twenty-one years of age resident in them bear to the aggregate number of their white citizens and those negroes added together. In plain and honest



language this provision would read: "Representatives shall be apportioned among the several States according to their respective numbers; but the negro population, in the States where it is not allowed the right of suffrage, shall be deducted so long as it is withheld from them; and when that right is conceded to its negro population in any State it shall be estimated with its other population in apportioning Representatives." This is the behest of the radicals to the late slave States, "Confer upon your negro population the right of suffrage to augment our power and for our benefit, and unless you do this we will reduce your representation in Congress and your presidential electors in proportion to the number of that population."

There is the pretext of a justification for thus reducing the power of the slave States about in this form: they made the rebellion and ought not to have their crime rewarded by having the unrepresented portion of their late slaves as an additional element of political power. But to this it might be responded, "The people of the slave States did not alone make the rebellion; the free States and their people helped it along most effectively. Whatever crime they committed in that affair they have suffered for it grievously in other respects besides the emancipation of all their slaves. The manner of their humiliation and punishment is enough to satisfy every claim of justice and sound policy, without stripping from them an important portion of their constitutional power in the Government. They have already accepted what was not demanded by justice or policy, and as much as true manhood can bear." But the hollowness of this pretext was exhibited partially by the radical majority voting down the proposition of the Senator from Indiana, [Mr. HENDRICKS,] that three fifths of the negro population should be computed in the apportionment of representation.

Next to population, Mr. President, the most just and proper basis of representation would be voters. This principle has many friends in Congress, and has been earnestly advocated by some of them. But it does not suit New England, because there the female population preponderates considerably over the male, and the adoption of that principle of representation would curtail the representation in Congress of those States two or three; and with characteristic address, her men in the two Houses have caused that proposition to be put on the shelf. Whoever else may lose, New England always wins.

The third section, proposing to punish "all persons who voluntarily adhered to the late insurrection, giving it aid and comfort," by forfeiting their right to vote for Representatives in Congress and electors for President and Vice President at the next election, has been stricken out by the unanimous vote of the Senate. An amendment of the Constitution that was intended and that could have no other effect than to enable the radical party to carry the next congressional and presidential elections, and which, when they were over, was to expire by its own limitation, was too absurd to receive the support of a majority of the radicals of the Senate, notwithstanding it had been passed by their friends of the House. "King Caucus" required that it should be expunged, and every radical obeyed the command of the king. But they introduce in its stead another section, not so ridiculous, but in substance and import more objectionable. I will read it:

SEC. 3. That no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

This new section is subject to a number of very grave objections; I will proceed to state some of them. It is in the nature of both a bill of attainder and an *ex post facto* law. Our highest courts have decided that all laws which declare a person to be guilty of a felony, or which make a forfeiture of personal or property rights, are in the nature of bills of attainder. The same authority has also ruled many times over that all laws which make any act penal that was not so at the time of its commission, or which changes, increases, or adds another punishment than what had been provided for crimes before they were committed, are *ex post facto* laws; and they have adjudged all laws of both those classes to be void and of no effect, because they are in contravention of the clause of the Constitution which says, "No bill of attainder or *ex post facto* law shall be passed." It is the incorporation of a criminal judgment against a multitude and an *ex post facto* law in the Constitution.

It is also unconstitutional, because it violates the fundamental principle of our Government, so clearly and well stated in the fourth resolution of the Chicago convention which nominated Mr. Lincoln for the Presidency, that each State has the exclusive right "to order and control its own domestic institutions." This amendment, in providing a punishment for certain officers of the States for an imputed violation of their oaths to support the Constitution of the United States, conflicts with that principle. And it is unconstitutional because it disregards the partition of the powers of the General Government into legislative, executive, and judicial, and the assignment of the first to Congress, the second to the President, and the third to the courts. In the matters I have stated, the proposed amendment violates the Constitution, and makes another continuing breach of it in the clause, "Congress may, by a vote of two thirds of each House, remove such disability;" the whole pardoning power of the Government being of an executive nature and vested in the President.

My proposition, that the proposed alterations of the Constitution because of their confliction with it, if even adopted according to the form of amending it, would be void, may seem a solecism and unsound. I propose to examine that point. The mode of making alterations of the Constitution is provided for in these words:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, in the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

The power of Congress in the premises is special and limited, the whole extent of it being to propose amendments to the Constitution by the action of two thirds of both Houses. The States and the people have no more important reserved rights than that such propositions shall be made by no less a majority than two thirds of both Houses; and that under the guise of amendments, propositions which would subvert or revolutionize or change the essential nature of the Constitution and Government cannot be made. The true and legitimate meaning of the word "amendment" is "alteration for the better," "reformation." Without insisting that proposed amendments of the Constitution should be such as would make it better, or reform it in some feature, it is certainly true that a proposition to make the President a hereditary monarch, Senators to continue in office for life, and members of the House for seven years, could not be legitimately made under this power to propose amendments; nor could a proposition to break up and dissolve the States and their governments, and to organize the United States into

one consolidated Government. No proposition which would be in palpable conflict with and that would certainly operate to change the essential nature and character of the Government formed by the Constitution, or to subvert some of its great and distinguishing principles, could be made by Congress to the States under a power to propose amendments. The framers of the Constitution did not intend to invest, and have not in fact conferred on Congress the power to initiate alterations of it which would revolutionize the Government formed by it. Therefore, all such propositions to change the Constitution, even if made by two thirds of both Houses of a full Congress, and ratified by three fourths of the States, being outside of the pale of their authority, would not become parts of the Constitution, and would have no validity whatever. If they were acquiesced in and took effect, a revolution, bloodless, but nevertheless a revolution, would have ensued.

Mr. President, I have already attempted, and I think successfully, to show that Congress, as the two Houses are now organized, being mutilated by the exclusion of the Senators and Representatives from eleven States by the arbitrary acts of the members who assume to be the two Houses; for the absence of the requisite majority of two thirds thus produced could not propose even proper and legitimate amendments to the Constitution. But the pending proposition, which assaults so many of its cardinal and vital principles that it would inaugurate a great change in the very order and nature of our Government, being initiated by this fragmentary Congress, acting as a revolutionary assembly; it requires extraordinary boldness to maintain that such a proposition made by two thirds of such a Congress, even if ratified by the Legislatures of three fourths of the States, would have any validity. The entire polity of the United States forms the most complex political system that ever existed, consisting of State governments and General Government, States and United States, and all sovereignty divided between them. The States were first each a sovereignty having its own separate government, and possessed of liberty; and they had formed a league for the purposes of common defense and security against foreign aggression. Experience had proved that the States had conflicting interests which caused antagonistical laws and regulations, and must end in mutual collisions and wars; and that their league was wholly insufficient to secure the ends for which it had been formed. The Constitution was designed to supply these needs, and created a nation and a national Government strong enough to give security against foreign attacks and internal disorders without endangering the liberties of the people. The General Government was conceived by and organized upon the States, and to protect and perpetuate them was one of its chief objects. They delegated to it only such powers as were necessary and proper to enable it to manage and control the general affairs intrusted to it. All other powers, except a few withheld both from it and the State governments, were reserved to the States respectively and to the people.

The division and allotment of political sovereignty and the adjustment of the relations between the United States and the States was a work of the greatest importance and difficulty, and taxed to the utmost all the resources of as great men as the world has ever produced, whose minds were enriched by deep reading in the political history of ancient and modern times, by having had free and self-governed communities as their common inheritance, by many years of thorough mental culture and ripe experience in public affairs, and a patriotism as pure and lofty as ever graced any heroic age. Such men were the founders of our Government, and they created and organized it and made its law by a written Constitution. That Constitution is the gathered wisdom of all

## SENATE.

## Reconstruction—Mr. Davis.

39TH CONG....1ST SESS.

previous political experience and statesmanship, and has until this degenerate day commanded the confidence and veneration of the people of the United States, and instructed the minds and inspired the hopes of every informed lover of liberty throughout the world. The intelligence and virtue of the people give to it the principle of life; thus sustained by them, it would make their liberties and happiness perpetual; that withdrawn, it becomes a lifeless, soulless Utopian creation.

Shades of Washington, Hamilton, and Madison! how does the eagerness of threescore ignorant, selfish, frenzied demagogues in one Congress, each with a proposition to mar, deform, disadjust, and disorganize your great and harmonious work with their vicious and revolting crudities impress you? What are your hopes of the future of our country? Mr. President, Montesquieu, Blackstone, and all our own great jurists have written that the concentration of the legislative, executive, and judicial powers of Government in one man or body of men makes a perfect despotism. Certainly the radical majority in the two Houses have made persevering and audacious efforts to concentrate in Congress a large amount of those powers. All free Governments should make every effort to avoid war, and especially civil war, because all wars are unfriendly and civil wars are often fatal to popular liberty. The powers of a Government are unavoidably augmented and energized during war, and then there is generally an accord between the legislative and executive branches, produced by the active presence of a common danger and a mutual effort to avert it, that makes the chief executive officer the instrument to give effect to their common policy and purposes. Power is the great corrupter of man, and the engrossment of so much of it in the executive in time of war as is inevitable, or as an ambitious and able man can so easily grasp, often causes him to form projects destructive of popular rights. Then the most danger to them is to be apprehended from the executive, and it should be the most attentively watched by the people.

But it is not so in the United States when peace has returned. Generally men clothed with power desire to increase it, and between those to whom it is parted out in the same Government there is a disposition to encroach on each other and absorb more than belongs to them. When they are not harmonized by resisting some common attack, this rivalry always exists, and a state of peace develops it, and often to an extent to produce serious disorder in the Government. From the nature and organization of the legislative branch its force is more efficient than that of the others; it feels this superiority, and is consequently most prone, not only to impinge upon them, but to grasp powers which the people have not confided to their Government.

I will read from the Federalist several passages bearing on this point. In No. 48, which treats of the division of the powers of Government into departments, and which was written by Mr. Madison, are these passages:

"It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and it ought to be effectually restrained from passing the limits assigned to it.

"Will it be sufficient to mark with precision the boundaries of those departments in the constitution of the Government and trust to these parchment barriers against the encroaching spirit of power. But experience assures us that the efficacy of the provision has been greatly overrated; and that some more adequate defense is indispensably necessary for the more feeble against the more powerful members of the Government. The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex.

"The founders of our Republic have so much merit for the wisdom which they have displayed that no task can be less pleasing than that of pointing out the errors into which they have fallen. A respect for

truth, however, obliges us to remark that they seem never for a moment to have turned their eyes from the danger to liberty from the overgrown and all-grasping prerogative of an hereditary magistrate, supported and fortified by an hereditary branch of the legislative authority. They seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations.

"In a Government where numerous and extensive prerogatives are placed in the hands of an hereditary monarch the executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise the legislative functions, and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their executive magistrates, tyranny may well be apprehended, in some favorable emergency, to start up in the same quarter. But in a representative republic, where the executive magistracy is carefully limited, both in the extent and duration of its power, and where the legislative power is exercised by an Assembly which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, and yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes, it is against the enterprising ambition of this department that the people ought to indulge all their jealousies and exhaust all their precautions.

"The legislative department derives a superiority in our Government from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with greater facility mask under complicated and indirect measures the encroachments which it makes on the co-ordinate departments. It is not unfrequently a question of real nicety in legislative bodies whether the operation of a particular measure will or will not extend beyond the legislative sphere. On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is this all; as the legislative department alone has access to the pockets of the people, and has in some constitutions full discretion, and in all prevailing influence over the pecuniary rewards of those who fill the other departments, a dependence is thus created in the latter which gives still greater facility to encroachments of the former."

This remarkable paper shows how thoroughly the writer had considered the Constitution and his perfect comprehension of the mode in which the Government it proposed to organize would work. With the benefit of observation and experience to this day he could not have depicted more forcibly and truly the aggressions of Congress upon the other departments, and particularly the executive; and with what confidence and audacity it is assailing the great principles of the Constitution, without which popular liberty cannot be preserved.

Mr. President, in our country loyalty is not fidelity to a King or a President or Congress, or to the men who administer the Government, but to the Constitution. It requires the proper support of the Government of the United States and of the States and their governments, for they are parts of the system which the Constitution has built up, and it throws its aegis equally over them. Its claim upon every citizen is to sustain every officer of the Government in the constitutional and legal discharge of his duties, and to oppose him in every departure from that rule, and above all to repel every aggression upon the Constitution.

But, Mr. President, since the insurrection broke out, the position that the States have no sovereignty has been often and boldly assumed, both in and out of the Senate. It is indeed coming to be believed that the States are creations of the Federal Constitution, that they exist in complete subordination to and by the sufferance of the Government of the United States. I think it is time that this dangerous and growing heresy should be corrected, and I will produce ample authority to refute it.

The tenth amendment to the Constitution is of itself sufficient to settle this question:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Full and complete sovereignty comprehends every political power, so that when there is a

partition and division of political powers between two Governments, the political sovereignty is divided between them. All legislative, executive, and judicial powers are parts of the aggregate of political sovereignty; and for a definite and correct conception of the extent of this political sovereignty that the Constitution confers upon the United States, and that is retained under it by the States, I will read from No. 33 of the Federalist, written by Hamilton:

"If a number of political societies enter into a larger political society, the laws which the latter may enact pursuant to the powers intrusted to it by its constitution must necessarily be supreme over those societies and the individuals of whom they are composed. It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government; which is only another word for political power and supremacy. But it will not follow from this doctrine that acts of the larger society, which are not pursuant to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation and will deserve to be treated as such."

Mr. Madison, in No. 52, when treating of the Senate, says:

"In the spirit, it may be remarked that the equal vote allowed to each State, is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserving that residuary sovereignty. So far the equality ought to be no less acceptable to the large than the small States; since they are not less solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic.

"Another advantage accruing from this ingredient of the Senate is the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then of a majority of the States."

This authority is not only directly in favor of the reserved State sovereignty and rights, but also impliedly, yet strongly, in its position that a majority of the whole number of the members of each House is necessary to pass laws and resolutions; a majority of the people and the States could not be represented by a less number of the two Houses.

Hamilton, in No. 17 of the Federalist, page 76, says:

"Commerce, finance, negotiation, and war, seem to comprehend all the objects which have charms for minds governed by that passion, ambition; and all the powers necessary to these objects ought, in the first instance, to be lodged in the national depository. The administration of private justice between citizens of the same State, the supervision of agriculture, and of other concerns of a similar nature; all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the Federal councils to usurp the powers with which they are connected," &c.

On page 77 the same writer says:

"There is one transcendent advantage belonging to the province of the State governments which alone suffices to place the matter in a clear and satisfactory light: I mean the ordinary administration of criminal and civil justice. This, of all others, is the most powerful, the most universal, and most attractive source of popular obedience and attachment. It is this which, being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibilities of individuals are more immediately awake, contributes, more than any other circumstance, to impress upon the minds of the people affection, esteem, and reverence toward the Government. This great cement of society, which will diffuse itself almost wholly through the channels of the State governments, independent of all other causes or influence, would insure them so decided an empire over their respective citizens as to render them at all times a complete counterpoise, and not unfrequently dangerous rivals to the power of the Union."

Again, Hamilton, in No. 23 of the Federalist, page 104, says, speaking of the powers proposed to be conferred on the Government of the United States by the Constitution:

"The principal purposes to be answered by union are these: the common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries."

The same, No. 33, on page 144, says:

"If the Federal Government should overpass the just bounds of its authority and make a tyrannical

use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify. The propriety of a law, in a constitutional light, must always be determined by the nature of the powers upon which it is founded. Suppose that by some forced construction of its authority—which, indeed, cannot easily be imagined—the Federal Legislature should attempt to vary the law of descent in any State, would it not be evident, in making such an attempt, it had exceeded its jurisdiction and infringed upon that of the State? Suppose, again, that upon a pretense of an interference with its revenue, it should undertake to abrogate a land tax imposed by the authority of a State, would not it be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax which the Constitution plainly supposes to exist in the State governments?"

In the same number of the *Federalist*, page 145, is this passage:

"Though a law, therefore, laying a tax for the use of the United States, would be supreme in its nature, and could not be legally opposed or controlled, yet a law abrogating or preventing the collection of a tax laid by the authority of a State (unless upon imports and exports) would not be the supreme law of the land, but a usurpation of a power not granted by the Constitution."

Mr. Madison wrote No. 39, and on page 178 it says:

"But if the Government be national with regard to the operation of its powers (acting individually and personally on all citizens composing the nation) it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national Government involves in it not only an authority over the individual citizen, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national Legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal Legislatures. In the former case all local authorities are subordinated to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent parties of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to those within its own sphere. In this relation, then, the proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between the two jurisdictions the tribunal which is ultimately to decide is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made according to the rules of the Constitution."

This authority is surely sufficient to refute the position that the States have no sovereignty.

Mr. President, the radicals have a definite policy, which is palpable to the whole country. Its paramount object is their continuance in office and power, and the chief means, negro suffrage, new States to be formed of Territories having but a modicum of population—rotten-borough States—and to exclude the southern States from all participation in the Government as long as practicable, but at all hazards until after the next congressional and presidential elections. Their machinery is a perpetual howl for justice and protection to "the loyal citizens of African descent," Freedmen's Bureau, civil rights bill, negro suffrage to be urged in every form, the members from the southern States to be excluded from Congress, tinkering with the Constitution, all constitutional right that is possible to be withheld from the southern people, and they to be oppressed and harassed in every mode by the omnipresent Freedmen's Bureau, to goad them to speeches, newspaper publications, and acts of indiscretion and violence, for the purpose of having a pretext to continue over them a military and civil régime that outrages every principle of constitutional law, right, and liberty. But this terrible game is about being "played out." Let gentlemen take notice! that it is the deliberate, firm, and unalterable purpose of the American people that every loyal Senator and Representative of the southern States to the next Congress shall be admitted to his seat, and that every southern State shall vote in the next presidential election, and that the candidate who re-

ceives a majority of the electoral votes of all the States shall fill that office.

I, sir, am for the maintenance of the inviolability of the Constitution, and the prompt redress and reparation of every infraction of it. I wish the United States and the States each to be in the undisturbed possession and exercise of all the sovereignty and powers which it accords to them, no more no less, and so of every department of the Government. I am the defender of the Government of the United States, of the States, of any department or officer that may be unjustly assailed; and when their position is changed to that of the aggressor, I then become an opponent. On this general principle I have heretofore endeavored to act throughout my humble political career, and in the future I will not swerve from it, come what may to me. I voted against Mr. Johnson because in the then condition of the country I was opposed to his political position; but I am now one of his supporters. By the providence of God, and the Constitution, he has been called to the Presidency; and none of his predecessors were ever surrounded by so many and such stupendous difficulties. But he seems to be the man for the occasion; and his ability, resources, courage, and patriotism have developed to meet its great demands. He is literally "to the best of his ability" striving "to preserve, protect, and defend the Constitution of the United States" against those who would destroy it, the radicals of Congress; and if this ark which holds the rights and liberties of the American people is to be rescued and saved, he will be one of the chief instruments in the great work, and his glory and fame will be deathless.

### Radicalism and Reconstruction.

#### SPEECH OF HON. C. SITGREAVES,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

June 16, 1866.

[THE SPEAKER stated there were several gentlemen who wished to speak, but were precluded by the closing of the debate on the state of the Union, and if there were no objection they could hand their speeches to the reporters to be printed in the *Globe*. There was no objection, and it was ordered accordingly.]

Mr. SITGREAVES. Mr. Speaker, from the hour that the guns of Fort Sumter inaugurated "the great rebellion," through the alternate defeat and success of our arms on a hundred battle-fields, when the capital was beleaguered by hostile armies, and, in the apprehension of many patriots, the sun of our national existence was about to set in darkness forever, I never doubted for a moment the final triumph of the Union. I saw the freemen of the North united as one man in a firm resolve to maintain the compacts of the Constitution. I heard the declarations of the press that the Union must remain one and indivisible forever. I heard the representatives of the people in Congress declare by solemn resolution—

"That this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

I saw the Democrat and Republican, the farmer and mechanic, the professional man and the laborer, gather from every hill and valley of the North and march side by side to the rescue of the imperiled Republic, bearing "the old flag," determined that not a star should be torn from that glorious symbol of the Union, and resolved to maintain its entirety or to die in its defense; but above all I felt that the God of Washington smiled upon our cause, and that the same holy fire of 1776 which He implanted in the bosoms of our fathers still glowed in the

hearts of their sons. Such were my feelings through that long and bloody war and up to the time that I took my seat on the floor of this House. Imagine, then, Mr. Speaker, my feelings of astonishment and sorrow when I heard the majority of this House, and members on this floor, professing to represent the people, declare that the Union was not restored, and never should be unless upon conditions so degrading as could be adopted only by a people whose servile necks were fitted for the yoke of despotic power. Sir, when I heard members talk of reconstruction instead of restoration; when I see week after week during this long session amendment after amendment proposed to the Constitution; when I see the most important constitutional questions affecting the rights of the States and the dearest interests of the people passed with less discussion than an ordinary measure of finance at a town meeting, or an alteration of the rules of a debating club; when I see the influence of radical ideas among the people, I would tremble for my country and despair of the perpetuity of the Republic had I not an abiding faith in the wisdom, justice, and mercy of the God of our fathers.

Mr. Speaker, why is this? Why is it, when from the outset of the rebellion our whole people have declared with one voice that no State could or should put itself out of the Union, either by peaceable secession or force of arms? Why is it that when to maintain this declaration our soldier-sons have poured out their blood as no soldiers have ever poured out their blood in the history of nations? Why is it that when the people of the insurgent States, defeated in the trial by battle to which they appealed, yield up their theories of secession and ask to take their old place under the flag of the Union? Why is it that when that incorruptible patriot, Andrew Johnson, wielding the executive power of the Government, declares that the rebellion has ended, resistance to constitutional authority ceased, and recommends the immediate admission of their representatives that we may be once more a united people, with one Constitution, one interest, one destiny, that this Congress says "No?"

Let us examine some of the principal reasons alleged for this strange, unnatural response.

1. We are told that "they have committed treason; that they still nourish the heresy of secession in their hearts, and therefore they cannot be intrusted with the ballot, for the ballot in their hands would be used to destroy the Constitution and the Union."

Mr. Speaker, this objection states two facts or truisms with which I most cordially agree: first, that the South has committed treason; and second, that heterodox ideas are dangerous. Sir, ideas are everything in a republic. Ideas make and repeal laws and constitutions. Ideas make wars, rebellions, and revolutions, both in Church and State, and every true patriot and Christian will denounce heterodox ideas as the foes of God and man. The idea of sectionalism promulgated by radicals North and South for different reasons, but to effect the same result, has been the curse of this Republic; for thirty years the accursed idea of secession, the daughter of sectionalism, was promulgated by the southern radical until it grew strong enough to bathe the land with fraternal blood.

For thirty years sectional ideas, in consequence of slavery, sustained by British emissaries and British gold, have been promulgated by the northern radical until it culminated in the same bloody result. The fires of secession in the South have been quenched in that blood. The fires of sectionalism in the North are still fanned by the northern radical in hate, and fed by the fuel of vengeance in the vain hope that he may succeed in kindling a flame which may destroy the Constitution and Union of our fathers. The ideas now so dangerous to the



constitutional rights of the States, to personal liberty, and the perpetuity of the Republic is northern radicalism. Let radicalism control the ballot and obtain a permanent lease of political power, and republicanism will be an empty name.

Mr. Speaker, in my discussion of this subject I shall use radicalism and fanaticism as convertible terms. The radical is always fanatic and the fanatic is always radical. I also beg leave to state that my remarks on radicals and radicalism are not intended to apply to any member of this House. I have expressed similar views long before this Congress was elected.

Mr. Speaker, there is no man on this floor detests treason and traitors more than I do, but I do not limit my detestation to southern treason and southern traitors. While I denounce the doctrine of secession taught in the South as leading to treason, I denounce the doctrine of the northern radical as equally damnable and leading to treason, rebellion, or revolution.

I cannot see the justice of denouncing southern traitors and loading northern traitors with honors. I never could see why assemblages of "Union men and women" should greet with applause the orator who declared that "for twenty years he had tried to destroy the Union of the States and gloried in the fact," while at the same time they applauded the most bitter denunciations of southern traitors. Sir, I am for meting out equal and impartial justice to all traitors. The southern traitor declares his repentance, the northern traitor never has. The late unnatural war was brought about by radical fanatics, and every intelligent man knows it. The southern radical and the northern radical both aim for a dissolution of the Union, and both aided each other with fuel to fire up the hearts of the people. The northern radical taught the people of the North to hate the people of the South with a moral and political hatred, the southern radical taught the people of the South to hate the people of the North with a moral and political hatred; and this teaching produced its legitimate results.

Sir, the testimony of all history and our own knowledge alike teach us that radical fanaticism should be dreaded as the arch enemy of God and man, but most especially to be dreaded in a republican Government where the press and speech are free. Radicalism is the same in every age, in every clime, and in every human heart. It is a master passion, beneath its sway every principle of humanity, every finer feeling of the heart are burned and destroyed as the flowers of the earth are destroyed beneath the burning lava of a volcano. Let us look at the page of history for the portrait of radical fanaticism; we shall find it identical on every subject. Look at the persecutions by the Roman Emperors against those who denied the divinity of Jupiter, refused to bow at his shrine, or to offer sacrifices to the Roman gods; for this, thousands of men and women were tortured with the most cruel tortures, were sewed in the skins of wild beasts and torn to pieces by blood-hounds, were crucified, were covered with wax and set on fire to light the imperial gardens of the palace.

Look at the history of Mahomedanism; imbued with the fanaticism of their chief, the Mahomedan proclaimed death to the infidel; he marched to exterminate the world or convert it to the creed of his prophet, and his path was marked by tears and blood and millions of human skulls.

Look at the history of Jesus, He who went about doing only good. Religious radicalism cried out not to release him, but Barrabas; radicalism nailed him to the cross and gloated over his dying agonies. Look at the persecution of God's ancient chosen people, the Jews, by the Christian radical; in every nation for ages persecuted, robbed, tortured, put to death in the name of Him who taught "love your enemies." Look at the old French Revolution; in the sa-

cred name of liberty Frenchmen were turned into human tigers thirsting for human blood. France was filled with spies, informers, and provost marshals; men were murdered by tens of thousands; blood and carnage rioted throughout the whole land; the rivers became putrid with human carcasses, and the streets of Paris were flooded with human blood. Religion, life, liberty, were all sacrificed by these radical monsters, and France became an earthly hell. The world beheld with astonishment deeds of horror that had no parallel in history committed by the gay and polite Frenchmen, and a nation boasting of the highest civilization transformed into incarnate devils; and all this was done under the plea now urged by our modern American radicals of "liberty, fraternity, and equality."

Look at our own land. The Puritans fled from religious persecution and sought these shores that they might worship God according to the dictates of their own consciences. They landed on the rock-bound shores of New England and there erected their altars; they multiplied and held the sword of civil power, and they sheathed that sword in the bosoms of those who worshipped God in a different creed; they fined, imprisoned, banished, tortured and executed the inoffensive Quaker for daring to worship God according to the dictates of his conscience; and continued their persecuting, bloody work until it was suspended by an order of the King. The Massachusetts radical, foiled by the order of the crown, but still thirsting for human blood, commenced and continued a persecution of old men as wizards and of old women as witches until no one felt safe. A single mistake in the recital of the Lord's Prayer was sufficient to consign a man or woman to imprisonment, trial, and death; and not until the radical began to fear that he might fall a victim to his own accursed devices did reason resume her empire, and the people saw with grief that they had been used as the bloody tools and executioners of radical fanatics; and all this was done and sustained and defended as the cause of "right and justice," and in the name of the Lord of Hosts.

Look at radicalism within the memory and knowledge of every member of this House. Who has not for years previous to the rebellion seen and heard sectional hate inculcated at the public meetings of the people, in the pulpit, the press, the rostrum, the school-book, and in the Senate and House of Representatives, by radicals, North and South? Who has not heard the Constitution of his country denounced as "a covenant with death and a league with hell?" Who has not heard of the applause with which Wendell Phillips was greeted by radical assemblages while he denounced undying hostility to the Union? Who has not heard of radical petitions presented to the Senate praying for a dissolution of the Union? Who has not heard of "the Helper Book," written by radicals, indorsed by sixty members of Congress, and scattered by thousands as a campaign document throughout the length and breadth of the land; a book intended to inculcate sectional hatred, stir up civil war in the South, and dissolve the Union? And, lastly, who does not know that radicalism, to promote the interest of southern traitors, pointed the pistol and nerved the arm of the assassin against the life of the lamented Lincoln?

Ah, Mr. Speaker, if the ballot is dangerous in the hands of the radical of the South, overthrown and repentant as he is, is it not doubly dangerous in the hands of the radical of the North, buoyant and unrepentant? Yet I would not, if I could, deprive him of it. Bad as the result of his teachings might be, it would be preferable, rather than to crush the freedom of speech and the press, for that would end in despotism. While, therefore, radicalism is the greatest and most dangerous foe to our institutions—for the mission of radicalism is, ever has

been, and always will be, to destroy, never to conserve—I would combat it with the weapons of truth. I would enlist the patriot, the Christian, the pulpit, and the press to expose and render it odious to the people, until it should sink, as its predecessors in history have sunk, beneath the scathing reprobation of honest men.

2. They tell us that the white man of the South shall not have the ballot unless his vote can be neutralized by the ballot of the black man, or, in other words, that the votes of disloyal men may be neutralized or controlled by the votes of loyal men. By what right do members assume that the southern men are disloyal now? The southron fought for an idea, that his paramount allegiance was due to the State; an idea in the truth of which he was educated, and in support of which he appealed to the fearful hazard of the sword. The decision was against him. He acknowledges his error; he abandons his theory. He is willing to accept our understanding of the allegiance due from the citizen; that the allegiance to the General Government is paramount, and is willing to seal it with an oath. What more have we ever required of any citizen? What more can we require? Will gentlemen pretend that they have an eye of Omniscience to scan the secret recesses of the human heart and read the thoughts of their fellow-man?

By what right do members assume that black men of the South were loyal to the Union? Sir, the evidence is overwhelming that they were loyal to their masters; we were told during the war that without them the rebellion would collapse, and this was urged as a reason to proclaim emancipation. That proclamation encouraged the effort of the slave for freedom, and forbid any attempt of any one in the service of the United States to prevent that effort; yet three millions of slaves made no effort. I believe during that long war, when large districts of country could at any time be devastated by the slaves, outnumbering as they did the whites in many places two to one, there was not a single servile insurrection. That was a time when we should have supposed that the slaves would have struck for freedom. I do not denounce the black man for this; I honor the amiability of his nature, the Christian forbearance which prevented him from imbruing his hands in the blood of the white man, although urged to do it by northern radicals; to that amiability and forbearance the white man intrusted his property, his wife, his children, all he had dear on earth, and he was not disappointed; confidence was met by confidence; and this magnanimity of the black man will make the white man of the South his fast friend forever; this magnanimity of the black man in the hour of the white man's peril will do more to make the white man of the South give him the rights of "a man and brother" than all the legislative theories and denunciations of radicalism.

The home of the black man and his posterity will be in the sunny South, side by side with the white man and his posterity, and the man who strives to excite animosity between them on account of race or color is an enemy to both. True patriotism, true philanthropy, will pour into the South the healing oil of love, not the bitter waters of strife.

But we are told that the Constitution guarantees "a republican form of government," and therefore every man should have the right of suffrage "without distinction of race or color" as a condition precedent to the admission of the southern States. Now, according to this theory of the radicals we have never had a republican form of government, and "the great Republic" of which we boasted is a delusion and a lie. I have always been taught that some degree of intelligence as well as virtue is necessary in the elector under a republican Government, but the radicals have told us for years that the body and soul of the black man

have been imbruted by slavery, that education was prohibited to the black by southern laws, and he had intelligence very little beyond the brute creation. Horace Greeley, in his Tribune of June 2, says that "dissimulation and treachery are the natural vices of slaves," and we heard from the lips of a prominent member of the dominant party on this floor very recently, [Mr. DONNELLY,] while he eloquently, and, I think, with great ingenuity of argument, urged a national Department of Education, that—

"We cannot make bricks without straw; we cannot build a republic without intelligence; we have found ignorance and rebellion everywhere associated together as parent and child. If popular ignorance has plunged Mexico into poverty, anarchy, and ruin, what shall it do for the United States? Can the same cause yield one result west of the boundary line of Mexico and an entirely different set of results east of that line?" "then let us eliminate that which is more dangerous than slavery, ignorance."

Yet with the knowledge of all this, that we cannot build a republic without intelligence, the radical would put the ballot in the hands of millions imbruted by slavery, with intelligence but little beyond the brute creation, possessing the vices of treachery and dissimulation, and by so doing give them the political power, in some States the actual numerical majority, in almost all, the balance of power, and yet profess that he does so "to guaranty a republican form of government."

Now, Mr. Speaker, I do not agree with Horace Greeley, that "dissimulation and treachery are the natural vices of slaves." The slave was not treacherous to his master during the late rebellion. Not treachery, but faithfulness, is a characteristic of the African race. I do not agree with my honorable friend [Mr. DONNELLY] that "popular ignorance has plunged Mexico into poverty, anarchy, and ruin." I think if I had time I could convince him that the admission to citizenship at the Revolution, without "distinction of race or color," and the miscegenation of the Castilian, the African, and the Indian has been the foundation of her "poverty, anarchy, and ruin." And I think I could convince my honorable friend [Mr. DONNELLY] that there may be something in a republic more dangerous than either slavery or ignorance; that is, educated intellect without the education of the heart. The educated intellect of a vicious man only makes him potent for evil. Educated intellect made France of the last century a nation of infidels; educated intellect told the people that there was no God but reason, and they bowed down to the incarnation of reason in the person of a naked prostitute. Educated intellect paved the way for a reign of terror and blood. But I do agree with him that a republic could not be built or exist without intelligence; and while I would not object to the ignorance of the few, as not dangerous to free institutions, I would object to the ignorance of the many.

I have no prejudices against the black man; I never had. I have always found him obliging, polite, friendly, of an amiable disposition, and with the simplicity of a "grown-up child." I would rejoice to see him an intelligent free-man. He now has the power, under God, to work out his own destiny. He is, when educated, capable of self-government. But with these views, I would be false to my constituents and false to the Republic to give the control of entire States to masses of ignorant men, black or white.

3. But we are urged to pass the several bills submitted to this Congress disfranchising the white man of the South and putting him under political control of the black man as "a punishment."

Honorable gentlemen on this floor have advocated these bills on this ground almost entirely. Sir, I deny the power of Congress to pass any law for the punishment of treason or any other crime heretofore committed by southern men. The Constitution which gave Congress its powers, and which we have all sworn

to support, says, in language impossible to be misunderstood, that—

"No bill of attainder or *ex post facto* law shall be passed."

By what authority, then, do members on this floor urge the passage of *ex post facto* laws as a punishment for crimes? By what authority do members on this floor introduce bills which are in spirit and effect bills of attainder in their most odious forms?

"Bills of attainder are such special acts of the Legislature as inflict capital punishment upon persons supposed to be guilty of high offenses, such as treason or felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder punishment than death it is then called a bill of pains and penalties."

"The punishment has often been inflicted without calling upon the party to answer, or without even the formality of proof, and sometimes because the law in its ordinary course of proceeding would acquit the offender. The injustice and iniquity of such acts in general constitute an irresistible argument against the existence of the power. In a free government it would be intolerable; and in the hands of the reigning faction it might and probably would be abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion or of gross subversion to the Crown or of violent political excitements, periods in which all nations are most liable—as well the free as the enslaved, to forget their duties and to trample upon the rights and liberties of others."—*3 Story on the Constitution.*

And yet members in contravention of these constitutional safeguards of the liberties of the citizen, advocate bills in which the Congress, as a judicial tribunal, disfranchises citizens as a punishment for crimes heretofore committed, and not even restricting this judicial act to cases of individuals by name, as in England, but to large classes of the people without designating names.

Mr. Speaker, perhaps the proceedings of no Congress that ever assembled under the Constitution have been watched with more intense interest by the people; every one felt when this Congress assembled that its proceedings would be for weal or for woe to the unborn millions who will live and die under our national flag. The States, the people felt that it would be a struggle between a written Constitution, guarantying the rights of the States and guarding the rights of the citizen, on the one hand, and the centralization of despotic power in the General Government on the other hand. It had been announced by the principal organ of the radicals that this Government would be reconstructed under "the form of a republic but with the strength of a monarchy." No wonder that our proceedings should excite intense interest, for no more momentous subject could engage the thoughts or enlist the interest of a free people.

Mr. Speaker, no man will deny that this conflict has commenced. Sir, it will be "an irrepressible conflict" until centralization is trampled into the dust under the indignant heel of a free people determined to maintain the compact of the Constitution, or until the States, shorn of their strength, are yoked to the car of Federal power, and then a Constitution would be a mockery.

The people of the United States have never indicated their desire for a change of the organic law by a reconstruction of the States. Sir, this Congress was not elected upon such an issue, and when, knowing this, I see a majority of this House voting in favor of propositions to change the fundamental law upon subjects always held sacred by the people; when I see these changes of the fundamental law submitted to Legislatures elected without reference to such changes, I tremble for my country. I feel if I could by so doing change the purposes of a majority of this House to centralize power, I would do what I never would do to mortal man, except for my God and for my country. I would kneel as a humble suppliant to my colleagues and pray them, for the sake of God, for the sake of a generous, confiding people, to pause until that people could be heard; that they would attach to

every bill of amendment a requisition that it shall be ratified by conventions instead of Legislatures. Sir, as it now is, a Congress elected without reference to amendment of the Constitution may propose amendments, and these amendments may be ratified by Legislatures elected entirely on other issues; thus the fundamental law may be changed, not only without the knowledge, but against the will of a vast majority of the people. It will be according to the forms of the Constitution, but in violation of its very spirit and essence.

Sir, that this bold attempt to override the rights of the people is contemplated by the champions of arbitrary power, and will be made, I have the proof. I read the following notice, published in the public presses:

"PENNSYLVANIA.—Governor Curtin has taken upon himself the duty of sending letters to the 'Governors of all the loyal States,' urging them to convene the Legislatures of their respective States, in order to take action on the proposed constitutional amendment which has lately been submitted to the country by Congress. The Governor of Massachusetts is reported as eager to respond, and is ready to call an extra session of the Legislature any Saturday afternoon."

No doubt, sir, every loyal radical Governor is "eager to respond," while at the same time he will prate about the duty of Congress to "guaranty a republican form of government."

From the number and character of the bills introduced as amendments of the Constitution, some members seem to think that two thirds of the Congress and three fourths of the States have omnipotent power to change the fundamental law in all its parts. Sir, I deny that power. There are reserved rights of the people that were never surrendered, even under the power of amendment; among these may be enumerated the right of every man to worship God according to the dictates of his own conscience—it is the inalienable right of every citizen now and forever—and to this may be added the right of suffrage. No State that ratified the Constitution ever contemplated a grant of power under an amendment of the Constitution, to pass bills of attainder, *ex post facto* laws, to impose a tax or duty on articles exported from any State, or to establish a monarchy. Sir, if the Constitution when submitted to the States had contained a provision authorizing two thirds of Congress and three fourths of the States to so amend as to deprive a citizen of the right to worship God, or to take away the right of suffrage, or to pass bills of attainder and *ex post facto* laws, or to impose a tax on the exports of a State, or to establish a monarchy, does any sane man believe for a moment that it would have been ratified by a single State of "the Old Thirteen." Sir, our fathers felt as we should feel, that there are reserved rights which are inalienable; that constitutions bind posterity, and that we have no right to bind posterity in the chains of arbitrary power. Yet, sir, we have a bill pending for some time giving authority to Congress, by an amendment of the Constitution, to authorize the levy of a tax or duty on cotton, an amendment which, if passed, would repeal that section of the Constitution which was intended by our fathers to protect commerce and to prevent sectional legislation by the passage of acts which might injure or destroy the staple productions of a State in order to promote the interests of another State, a power which would array the cupidity of one class of our citizens against the interests of another class, the cupidity of the manufacturer against the producer, the commercial against the agricultural interests, and *vice versa*, to end in discontent, rebellion, or revolution.

Yet we have heard on this floor, in colloquial debate, from the lips of a member of the dominant party, a gentleman who, in cultivated intellect, respectability, and eloquence, ranks as high as any other member, the right of two thirds of Congress and three fourths of the States to establish a monarchy, under the plea that when the people were ready to make such

a change they would be so demoralized that a republican government would not be worth contending for. Representatives of Illinois, Indiana, Ohio, Missouri, New York, Pennsylvania, are you prepared to sanction this doctrine? Are you willing to admit such a latitudinarian construction of the Constitution that your constituents could have the fetters of a monarchy riveted on their necks whenever three fourths of the States become so demoralized as to require it by an amendment to the Constitution? Are the rights of your constituents to be governed by the demoralization of others? Is that a condition in the compact, either express or implied? Would your constituents submit to the wrong, or would they assert their inalienable rights by revolution? Yet we have heard the right of Congress asserted in bills and by members in debate to regulate suffrage. You know that the power to give includes the power to take away—a power to disfranchise the people at the arbitrary will of a majority of Congress. Who can doubt that the power would be exercised in times of high political excitement? Are you prepared to give this sacred right of your constituents—the right of ballot—to the control and keeping of a majority of Congress?

Mr. Speaker, I have been pained to hear the passage of bills urged in this House by an appeal to the prejudices of party and the revengeful feelings engendered by the heat of the late conflict of arms. Legislation induced by passion should never be the legislation of a free people in a free republic. We legislate and propose amendments to the fundamental law, not for a year or a century of years, but for all coming time. We seem to forget that when we legislate against the South or for party we legislate for our own posterity. Suppose we should succeed in giving an ascendancy to party or in crippling the South in her resources; what is the life of a man or a party when compared with the life of an empire? Parties are ephemeral. The places that now know the men of the South, the actors in the late conflict, in a few years "will know them no more forever," but the Republic should and will (if sustained by wise legislation) endure forever. God grant that it may stand impregnable, in the future as in the past, against the assaults of traitors within and foes without.

It is folly to make an organic law giving the power to promote the interest of one section at the expense of another section, however the interest of one section may be identified with the interest of another section now. That identity of interest will not continue. With the settlement of our vast Territories and the development of their vast resources, new combinations of interest and power will be formed. The God of nature has identified the interests of the West with the South, and the men of the West in the future will be the political allies of the men of the South, whether the men of the South are white or black.

I need not say that every addition to the powers of the Federal Government, either by an amendment of the Constitution or by unconstitutional construction, is by subtraction from the powers of the States, and destroys the equilibrium of powers intended to check despotism, and would leave the dearest rights of the States and the people at the mercy of a majority of Congress, which in a country of such vast extent as ours, with such diversified productions, would inevitably result in sectional parties, sectional legislation, and hatred of the Union.

I need not say that constitutions are made for minorities not for majorities. I need not say with what fearful speed we are gravitating to centralization of power. Witness the taxation of State banks out of existence; the passage of bills by this House in relation to railroads; the power assumed over the right of suffrage; the attempt to destroy the independence of the State judiciary under the penalty

of fine and imprisonment; the interference with and virtual repeal of State laws; the power given to swarms of officers (including the officers of the Freedmen's Bureau) to arrest and imprison the citizens of every State; but above all the conversion of the United States into a great eleemosynary corporation by the passage of the "act to enlarge the power of the Freedmen's Bureau," districting the United States, with the establishment of military authority over each district containing freedmen or refugees; an agent in each county armed with military power, and authorized to supersede the civil power by trial and condemnation of citizens under the rules of the War Department, prescribed by the President, without trial by jury; the establishment of poor-houses; the erection of school-houses, and the support of millions of paupers at the expense of the people. And this bill, which conferred imperial power on the President, and laid the personal liberties of the people and the independence of the State judiciary at the feet of military power, the greatest stride to centralization ever dreamed or attempted under our Constitution, was only prevented from becoming a law by the firmness of Andrew Johnson. For this act the name of Andrew Johnson will live in the heart of every friend of popular rights as a champion and defender of the rights of the States and liberties of the people in their hour of peril until the Republic shall cease to exist.

The plan of reconstruction, embracing the refusal to permit eleven States to be represented in Congress, is a grand scheme to perfect centralization. This plan of reconstruction punishes the innocent as well as the guilty in the southern States, the loyalist as well as the traitor. Tennessee, who broke the chains of secession and stood in the ranks of the loyal States, with loyal representatives, is placed in the same category with South Carolina, and the powers of the loyal States are also to be curtailed under this plan of reconstruction. Who, sir, ever believed that the secession of traitors would reconstruct our Government? Why, sir, Jefferson Davis, in the height of his success, never dreamed that success would result in a reconstruction of our Government, much less that his defeat would effect that result. Mr. Speaker, I am not surprised that this effort to reconstruct should be urged upon us. Many men have long waited for some fortunate chance to occur that might enable them to reconstruct our institutions. The great "Head Center" of the dominant party in this House, [Mr. SREYERS,] with a candor that does him honor, recently said:

"In my youth, in my manhood, and in my old age, I have fondly dreamed that when any fortunate chance should have broken up the foundations of our institutions and released us from obligations the most tyrannical that ever man imposed in the name of freedom."

But thousands have prayed with more fervency than my venerable friend ever dreamed, that this fortunate chance should never occur.

Sir, the people neither demand reconstruction nor centralization. They want restoration. The industry and business of the country demand immediate restoration. Thousands of farmers, mechanics, and capitalists are waiting to go South. Their industry and enterprise would in a few years make that fair and fruitful land, now desolated by war, to "bud and blossom as the rose," but they will not settle in a "conquered province," governed by military force.

The financial interests of the country, the tax-payers burdened with the largest national debt upon earth, demand that their burdens should be lightened by an immediate restoration of the States, the industry, and productions of the South.

The friends of constitutional freedom demand immediate restoration as a measure vital to the preservation of the Constitution and perpetuity of the Union. The Christian—not the radical priest who preaches political "hatred and malice and all uncharitableness," who sees that

God is only a God of justice—not him, but the Christian who believes that God is a "God of love," ministers of the meek and lowly Jesus, who taught His disciples to pray "Forgive us our trespasses as we forgive those who trespass against us," demand it.

Sir, the law of love and friendship is the only law that can bind this Union in enduring bonds. Sectionalism and sectional hate sooner or later will rend it asunder. The policy of statesmen should be conciliation, not vengeance. I feel no hatred in my bosom toward the secession traitors of the South, or their allies the sectional radical fanatics of the North, although I believe, as much as I believe in my own existence, that they alike are responsible for the blood of our sons. I would restore the Union of my country in forgiveness and mutual confidence. I would rest the foundations of the Union on respect and love.

It is marvelous to me that statesmen cannot see that sectional denunciation and sectional laws can never cement the Union of the States, can never command or inspire the respect of nationalities. Look at Ireland; centuries of sectional oppression have not turned the spirit of her sons or caused them to love their "union" with Great Britain. She was first "a conquered province," then England by bribery and compulsion established "the Union," a Union commenced in perfidy, and which has been used by the British Parliament to restrict her commerce, to load her with taxes, and the result of which has been to drive thousands of her sons to seek liberty and a home under the flag of "this great Republic." Has sectional legislation, has the rule of force instead of conciliation, made the Celt love the Saxon and "the Union?" No! the wrongs of the Irishman have been transmitted from sire to son with undying hate, and at this very hour one hundred thousand Irishmen now on our soil stand ready to avenge their wrongs and to give liberty to their fatherland. This hereditary feeling of the Irish was most eloquently expressed by President Roberts in an address to the Fenians, as follows:

"The concentrated wrongs of centuries are in our hearts, and give strength to the perpetual longing for Irish freedom which neither time nor obstacles can quench."

Mr. Speaker, Ireland will yet be free, for—

"Freedom's battle once begun,  
Bequeathed from bleeding sire to son,  
Though baffled oft is ever won."

And where is the friend of human freedom in this land that would not rejoice to see the Irishman break his shackles and Ireland stand a disenthralled nation in the family of nations? Yes, sir, Ireland will yet be free; "the green flag" will again float over that beautiful isle, and then, and not until then, will the "epitaph of Emmett be written" on bronze and marble, as it is now written in every true Irish heart.

The soldiers who fought for the restoration of the Union, who gave their blood to restore the supremacy of the Constitution and the laws, will demand that the Union conquered by their arms shall be restored. It will be folly to tell them that they fought in vain; that they fought to dissolve, not restore, the Union. If this Congress fails to restore the Union of the States (and Congress is the only obstacle to that restoration) they will say that radical ideas have done what the armies of traitors in the field could not do—prevented the restoration of the Union. No glittering generalities like the glittering veil of the false prophet of Khorassan can deceive them. You may talk to them and repeat the stereotyped phrases about "the right," "humanity," "indemnity for the past and security for the future," "brotherhood of man," "hands dripping with human gore," &c., and you may frame bills with titles proposing to facilitate the restoration of the Union, while they in effect postpone it, but they will tell you that they fought for immediate restoration, not for postponement.



The Democratic party demands to a man the restoration of the Union. That grand old party who always maintained the faith of compacts, who always stood as faithful sentinels on the ramparts of the Constitution, who never in legislation knew any East or West or North or South, who from the time the foundations of the Constitution were laid warned the people against sectional fanatics, and repeated the warning until they were scoffed at as "Union savers;" that old party by whose policy, under God, this Republic marched steadily onward to a position of power and resources that has placed her in the van of nations, a party without whose united aid in men and money during a rebellion inaugurated by sectional parties the Union would have been swept like chaff before the whirlwind, that grand old party demands immediate restoration, not reconstruction.

Mr. Speaker, there can be no evasion now of the great issues to be tried before the tribune of the people, union or disunion? the constitutional rights of the States or centralization of power in the General Government?

Sir, if the southern States are out of the Union, then is our flag, intended as the emblem of the union of the States and power of this great Republic, in truth what a radical once proclaimed it, "a flaunting lie," and you should tear eleven stars from its glorious constellation.

Mr. Speaker, let this agitation cease, now and forever. Let us heal the wounds of our bleeding country. Let us restore the Union before we adjourn. It can be done in an hour. Let us do it, and the patriotic shouts of the people will greet our return to our constituents, and an impetus will be given to industry and enterprise which in its results will astonish the world.

Let us repudiate all hatred, all sectionalism, in our speeches or legislative acts. Let us act on the principle of "malice toward none, with charity for all," and we will bind the Union in bands of iron.

Let us lighten the burdens of the sons of toil by lifting the taxes from the necessities of life; but above all, let us inaugurate the system of "eight hours a day" for the laborer and mechanic in the employ of the Government. It would pioneer the way to a general introduction of the system into all the departments of industry. Let us give the laborer and mechanic time to cultivate his intellect, to study the Constitution of his country, to commune with his family and teach his children, to worship God, to relax his nerves. Ah! who can tell, as has been eloquently expressed in song by the gifted and respected wife of a laborer in the city of Trenton:

"Who can tell what harps are hushed  
By the roar of forge and wheel;  
Or what mighty minds are crushed  
Neath oppressor's iron heel?"

"Masters! count the gain, the cost,  
Labor pays from every pore,  
By the grand inventions lost,  
Shrouded stars and buried ore.  
Brothers, cast your bonds away,  
Give the word, 'eight hours a day.'"

Let us remember that the stability of the Republic under God depends on the working men. They compose our armies; they man our navies; they pour out their blood in our defense; they are never defiled with political corruption. I solemnly believe that if the liberties of this country are ever destroyed by foreign force or domestic treason that the last hand that will uphold the last standard of freedom will be the hand of the working man, and in his bosom liberty will find her last resting-place. Let us do this, and we will bind the heart of the working man to his country and its institutions with ties that cannot be severed by human influence or human power.

Let us double the pension of the soldier who was maimed or disabled in the service of the Republic; give him at least enough to supply his necessary wants through life. Do not let us calculate his services by dollars and cents,

or the increase of the national debt. He was the means of saving to the country the richest territory on earth, which, without his services, would have been lost to the Republic. Do not let him wander through the nation, whose life he was the means of preserving, in a condition but little above the condition of a pauper. And let us show to the living that we appreciate his services by doing our duty to the memory of the dead. Alas! we cannot give our thanks to the gallant dead. Three hundred thousand torn by shot or shell or bayonet, or destroyed by disease, "sleep the sleep that knows no waking" at Arlington, Andersonville, Gettysburg, and on the soil of a hundred battle-fields.

"The muffled drum's sad roll has beat  
The soldier's last tattoo;  
No more on life's parade shall meet  
The brave and fallen foe.  
On Fame's eternal camping-ground  
Their silent tents are spread,  
And glory guards with solemn round  
The bivouac of the dead."

They cannot receive our gratitude, but let us do what we can to honor their memory; let us double or treble the pension of his wife, made a widow, and his children, made fatherless, by his devotion to the Union.

Let us do this, and we shall never want for soldiers who will spring to arms against foreign invaders or domestic traitors. Let us avoid the exercise of all doubtful power. Let us maintain the supremacy of the civil over the military power. Let us maintain the independence of the judiciary; the freedom of speech; the freedom of the press; the right of trial by jury, as rights inestimable to the people "and formidable to tyrants only." Let us foster and promote public virtue. Let us establish a commission before which the loyal and innocent victim of the arbitrary power exercised during the rebellion may prove his loyalty and innocence, and thus save his name from the brand of treason and his children from the humiliation of being pointed out by the finger of scorn as the offspring of a traitor. Let there be provided a redress for every wrong committed within the limits of the Republic; then our laws will be revered, and the proudest title that a man on earth can boast, will be, "I am an American citizen."

Let us do this, and the Republic will be perpetual; then we can look with an eye of faith through coming ages and see our people the most prosperous on earth; united under one God, one Constitution, one destiny, and our beloved Republic, standing immutable in her strength then as she now is, "the asylum of the oppressed, the home of freemen."

#### Protection of American Labor.

#### SPEECH OF HON. T. T. DAVIS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

June 16, 1866.

The House, as in Committee of the Whole on the state of the Union, having under consideration the President's annual message—

Mr. DAVIS said:

Mr. SPEAKER: As the chairman of the Committee of Ways and Means has just notified the House that this is the last day of the session which can probably be assigned to general debate on the President's message and the state of the Union, I propose to diverge from the discussion of the question of reconstruction, to which so much time has been devoted, and to consider a subject of greater and more urgent importance to the country, namely, the protection of the labor and industry of our citizens, as connected with our finances. And I do this because I believe that every wise Government will be careful to preserve its credit by the adoption of a system of finance which, while furnishing the revenue requisite for the public service, shall protect and foster, so far as pos-

sible, the production, trade, and manufactures of its own people. The wealth of a nation consists not only in the amount of gold and silver which may be hoarded in its treasury, but in the power of producing, by well-remunerated and general industry, all that is essential to the administration of its Government, the supply of its citizens with the comforts, the conveniences, and even the luxuries of life, and in that surplus of production over consumption which makes up the capital of individuals.

Almost a century ago Adam Smith asserted a proposition which was true then and is true now, that no nation could long survive a system of taxation or finance which, absorbing the entire profits of industry, left the cost of maintaining population a charge upon capital. To Dr. Smith, more than to any other individual, perhaps more than to all other individuals who have addressed themselves to the study of political economy, is due that theory of free trade which is now the boast of English statesmen, and upon which the American Republic is invited by England to establish its financial system. I believe that our national finances can never prosper, and I assert that they have never prospered, under any system of free trade, and that every approach to it has proved injurious to our people. I am aware that almost everywhere it is conceded now that to discharge our public debt and its accruing interest we must impose burdens upon our citizens heavy and grievous to be borne, and that those burdens must rest both upon what we produce at home and upon what we consume or use from abroad. Still it is not to be denied that a certain class of men of intelligence and influence are wedded to the theory of free trade, and would, so far as possible, conform our action to its precepts.

I desire to-day to advocate the cause of American industry, and to show that its just protection is one of the highest duties of an American Congress. I desire to prove that England, in its advocacy of free trade, has ever acted in view of its own existing system of labor and production; and that so long as her manufactures and productions required the protection of legislation that legislation was bestowed, and that she repealed protective statutes only when they were useless.

From the time of Edward III to the year 1846 the statute-books of England will be searched in vain to find a single act based upon the theory of real freedom in the interchange of national productions. In 1879 Parliament enacted, for the benefit of British shipbuilders and to encourage employment in the commercial marine of England, that no merchandise should be imported or exported except in English ships; and additional statutes, with rigorous penalties, for the same purpose, were enacted down to the time of Cromwell, when it was made unlawful for a British shipper to charter or employ any vessel which was not built in England by British workmen, commanded by a British master, and manned by a crew at least three fourths Britons. In violation of the rights of her American colonists as British subjects, England denied to them, under her navigation laws, the rights of British citizens. By her restrictive and protective policy England struck down the commercial marine of her great rival, Holland, and centered within the British isles almost the entire commerce of the world. As early as 1837, England inaugurated a system of legislation to protect her woolen manufactures, and this protection was extended and enforced until English producers were enabled to sell their cloths in the markets of other nations cheaper than other nations could produce them.

Edward III was a sagacious monarch, and perceived the great advantage of inviting skilled labor from abroad to manufacture in England the raw material produced by his own subjects; and when the frugal and industrious Flemings, under his assurance and protection, established their arts of dyeing, dressing, and weaving wools



Carrying backward the rates of comparative increase, assigned by this table, to 1776, it will appear probable that then the population of the colonies did not much, if any, exceed 2,800,000, being about three and a half times less than the population of Great Britain; while a similar calculation will show that the real and personal property was about twelve times greater than that of the colonies. The area of the United Kingdom was 120,851 square miles. That of the United Colonies was 820,680 square miles. England had been cultivated for centuries.

It was estimated by Arthur Young, after long investigation and travel, in 1780, that the capital employed in agriculture in England and Wales was then £128,000,000—\$640,000,000, being a greater value than all the real and personal property of the United Colonies at the same period.

While, therefore, agriculture was highly developed, while wealth *per capita* was nearly three times greater in England than with us; while the steam-engine, the spinning-jenny, and the power-loom were all held under the restriction of English patents; and while the policy of England forbade either the export of machinery or the migration of the machinist; while labor was low in an old country and high in a new one, the young republic entered the lists with England as a competitor for the supply of American markets by American productions. In this contest we have ever felt the power, not only of English capital, but of English ideas, and in deference to British sentiment we have too often ignored the logic of undisputed facts. I shall now invite the attention of the committee to the consideration of the necessary results of the marked differences in culture and material wealth to which I have alluded.

The various acts of Parliament restraining manufactures in the colonies had for their purpose and end the monopoly of the sales to the colonists of the home manufactures of England. The spirit and temper of the nation were illustrated by an English writer in 1750, Mr. Gee, who, in speaking of "manufactures in our American colonies," says:

"They should not only be discouraged but prohibited. We ought always to keep a watchful eye over our colonies to restrain them from setting up any of the manufactures which are carried on in Great Britain; and any such attempts should be crushed in the beginning."

The reason is obvious, and one of the causes of revolution was the persistent and oppressive effort of England to prevent the introduction and prosperity of manufactures beyond the Atlantic in our colonies.

I appeal to distance instead of years; and I ask not the history of a century ago. I ask the present, on our western frontiers, what are the rates of interest which money there commands in this our day? I think I may say from personal knowledge that in Iowa, even in Illinois, in Minnesota, in Nebraska, and in Missouri, the average interest of money is more than ten per cent. per annum. In several States this rate is permitted by contract, and in all it is recognized by necessity. This is the concurrent history of settlement in all new countries, and this rate is lower than the average interest in California, Oregon, Idaho, and Nevada; and yet in our colonial days money was far scarcer than now.

Adam Smith, writing just before our independence, says, (chapter three, book five, of his *Wealth of Nations*:)

"The Americans, indeed, have no gold or silver, the interior commerce of the country being carried on by a paper currency, and the gold and silver which occasionally come among them being all sent to Great Britain in return for the commodities which they receive from us."

It is a fact which all history will verify, that our colonial Legislatures, to remedy the scarcity of currency, resorted to issues of paper money as a legal tender till prohibited by imperial legislation.

On the other hand, money was abundant in England, and scarcely exceeded five per cent. per annum, until the terrible tornado which prostrated the Bourbon dynasty swept Austria, Prussia, Russia, and England into the vortex of its revolution. Nor during the fiery ordeal through which England passed in the years of the Revolution and the Empire, when all Europe, combined against France, was subsidized by British gold, did the rate of interest in England reach so high a point as that paid by the people of the United States during the war of the rebellion.

Four centuries of gradual growth of agriculture and manufactures under rigorous protection, had given to England, at the date of our independence, rank as a leading Power of Europe. Robert Clive had recently laid the foundations of British empire in India on the bloody field of Plassey. Hastings, by his reckless daring and address, enlarged the fabric and made England sovereign over a hundred million Asiatics. The fabulous wealth of Bengal, Oude, and Bahar was transferred from India to London. The fabrics of England found a new and profitable market on the Hoogly and the Ganges.

The first Congress which assembled after the adoption of the Constitution took into earnest consideration the subject of domestic manufactures and the revenue to be derived from their protection.

But the country was impoverished; the financial ruin brought on by the absolute annihilation of the continental currency had not been retrieved. Capital for any extensive system of manufactures was unattainable; and in the absence of domestic production foreign supply was indispensable. Moreover, a defenseless sea-coast stretched along thousands of miles of unsettled country. The St. Lawrence, under the control of Britain, left a commercial avenue to the lakes; the Mississippi opened access to our western frontiers; and there was scarcely a spot from Georgia to New Hampshire where the smuggler would not prosecute his craft, under a system of high duties, with profit and safety. The tariff of 1789, 1790, 1791, 1792, 1794, 1795, 1796, and 1797 did something, but not much, to relieve us from the power of British competition, and England readily secured to itself the cotton manufacture in which we had not the capital to embark.

The war of 1812 made emancipation a necessity, and the tariff of 1816-17 was designed to give appropriate encouragement to American production.

From the adoption of the Constitution up to the war of 1812 the value of real and personal estate of the United States had only risen to about \$1,500,000,000, while that of Great Britain stood at \$10,212,300,000. The value of our annual production was \$420,000,000, including cotton exports of about \$47,000,000 per annum. Hers was \$1,531,845,000.

New England, now the seat of factories and machine-shops comparing favorably with those of Europe, turned her enterprise to the fisheries and commerce. We had no West. The coal-fields of Pennsylvania were unworked. Her iron ores were unheeded or unknown. The system of labor in the southern slaveholding States was believed, at least by its advocates, to be ill adapted to mechanical labor or manufactures. The result was natural, perhaps inevitable. So long as English capital and sagacity were aided by our own dependence and prejudices in the control of our productions and markets, we sent our cotton to England, paid freight, an import duty there, varying from 6s. 6d. sterling per hundred pounds in 1798, 7s. 10d. in 1802, 16s. 11d. in 1809, 6s. 10d. in 1831, to 2s. 11d. in 1833, and when the raw material had been spun by British jennies and woven by British looms, we kindly bought the fabric, paid return freight, a new import duty to our own Government,

and rejoiced that we were a great and a wise people.

New England preferred commerce to manufactures, and her influence unfortunately was not lent to protection, because her interest did not dictate it.

But let us look at the wakeful sagacity of England, while the commercial interests of New England and the North discarded manufactures—or at least failed to encourage them—and while the South, blind to the evils of servile labor, neglected to initiate a system of manufactures for the staples which she raised.

The following table shows the decennial increase of the import of cotton-wool for the manufactures of Great Britain from 1775 to 1864:

Years.	Pounds.
1775.....	4,764,389
1785.....	18,400,384
1795.....	26,401,340
1805.....	59,602,406
1810.....	132,488,935
1815.....	99,308,343
1820.....	151,672,655
1825.....	228,790,042
1830.....	268,981,452
1835.....	363,762,093
1840.....	592,488,010
1845.....	721,523,712
1850.....	663,370,861
1855.....	891,751,952
1860.....	951,707,264

I have not at hand the actual amount imported in the five years succeeding, but the value of import is as follows:

1860.....	£35,756,859
1861.....	38,653,398
1862.....	31,093,035
1863.....	56,277,953
1864.....	78,203,729

From 1861 to 1864 the import from the United States was reduced to a nominal amount by the war, and thus the price of cotton rose more than ten hundred per cent.

Our export of cotton, from its small beginning, for years has exceeded a thousand million pounds, and yet in 1857, when our total production was 3,113,962 bales, we manufactured within the United States but about 600,000 bales, furnishing to England nearly the entire residue of 2,500,000 bales to support her labor in competition with our own.

If we turn now to the Census of 1860, under the head of manufactures, we shall find in the introduction, page 20, that from 1821 to 1859, inclusive, the manufactured cottons imported amounted annually to \$14,624,687; from 1840 to 1856 the average was \$16,795,418, and for the last three of those years it was an average of \$28,811,966. In 1860 we received of plain cottons from Britain alone 228,766,939 yards, of the declared value of \$3,849,915, besides the other fabrics of the same material which we imported, because we were not wise enough to make them.

In 1856, it appears by statistics furnished by the reports of an official character in Great Britain, that there were then in operation in spinning and weaving cotton, wool, flax, and silk, 5,117 factories, using the power of 161,435 horses, 33,503,580 spindles, 367,208 power-looms, 682,497 hands.

Of these factories 2,210, employing 28,010,217 spindles and 379,213 hands, were employed in the spinning and weaving of cotton alone, while 887,369 persons were engaged in the preparation, dyeing, and printing of these fabrics and upon other textile fabrics of the kingdom.

It was estimated that the entire aggregate of persons, 1,569,856, thus employed sustained an additional population of 3,000,000 who were dependent on their labor, making about one eighth of the population at that time. But what becomes of this vast manufacture, which in a century has grown from nothingness to imperial importance? You find the answer by examining the export of manufactures.

In 1834 Great Britain manufactured of raw material 302,935,657 pounds, making the prod



uct worth £38,304,409; her home consumption was £17,794,823; leaving for export value £20,513,686, or \$102,568,430.

In 1859 she manufactured 976,600,000 pounds of the finished value of £71,373,214; her home consumption was £23,164,770; leaving export value, £48,208,444, or \$241,042,220.

Mr. Bigelow, whose elaborate work on the Tariff Question has furnished me with much valuable information, estimates the remunerative profit to English capital and labor in the manufacture of the 976,600,000 pounds of cotton in 1859 over the cost of material at nearly two hundred million dollars.

It is not wonderful that British statesmen should take pride in a manufacture which is conceded to have added to the national wealth within the last fifty years more than five thousand million dollars.

I might ask here, why is it that we employ to our own incalculable injury the labor of other nations to produce the fabrics which we wear from the material which we raise?

But first let me allude in a few words to other items of production. The number of tons of pig iron produced in England and Wales was, in—

1740 .....	17,000,000
1778 .....	68,000,000
1840 .....	1,396,000,000
1846 .....	1,750,000,000
1864 .....	4,767,951,000

• The estimated value of the iron of 1864 was £11,919,877, equal to \$55,599,385, and we exported of iron and its products from England in 1864 \$16,048,694. Great Britain produced in that year one half of all the iron produced in the world.

If we turn to coal, we find results equally astonishing and suggestive. It was stated by Mr. Taylor, in 1823, one of the most intelligent and extensive proprietors of coal mines in England, that the amount of coal consumed in Great Britain was 15,800,000 tons. I find by the examination of the Report of the Government Superintendent of Collieries for the year 1865, that the production in that year was 92,787,873 tons, of which there were exported 7,529,541 tons, and there were consumed 85,258,332 tons. In 1860 the total coal mined in the United States was 14,333,922 tons, and in 1863, under the extraordinary demand made and anticipated by the Government, it did not exceed 18,000,000 tons.

England has a population now nearly equal to our own. By her system of labor and manufactures, protected against competition until she could defy it, she has supplied the wants of her own millions, and exported of her productions and manufactures to other countries in a single year almost seven hundred million dollars in value.

Sir, these exports have risen from the sum of £87,234,396 in 1805 to £135,842,817 in 1860, and we have, except during the war of 1812, been her most munificent patron.

The statesmen of England know too well the great sources of their national wealth to imperil them by any policy of free trade, which has in it more than the name.

England reared the throne of her empire upon coal. She made iron king, and cotton prime minister. She surrendered the sovereignty of the colonies when she could retain it no longer, but by her capital and our dependence and folly secured the control of our productions and our markets.

The victories won by England over Napoleon were achieved in her mines, her workshops, and her factories. The thunder-bolts which fell at Talavera and Waterloo were forged in the foundries of Britain. The glories of Trafalgar and the Nile would have been unrealized in the absence of her manufactures, which developing her resources at home and sustaining her commerce on every sea, created the wealth by which the arms of Spain and Prussia and Russia were subsidized in that eventful conflict which convulsed Europe and the

world, and whose moving spirit was lulled to sleep by the surges of the South Atlantic.

Truly did Napoleon say, beneath the willows of Longwood, "Great Britain conquered me not with her swords but with her spindles; with her spindles she subsidized all Europe, and here I am." It will be well for us to remember the power which subverted his empire.

Mr. Speaker, Monsieur Arago, on the 8th of December, 1834, delivered before the Academy of Sciences, at Paris, an eloquent eulogium upon James Watt; and in it he alludes to the changes wrought by the steam-engine and jenny in the manufacture of cotton. By their means, in the county of Lancaster alone, he says:

"The spinners deliver to the calico manufacturers a quantity of yarn that 21,000 clever spinners could not accomplish with only the aid of the rock and spindle; and 1,500,000 people now find occupation there, where, before the inventions of Arkwright and Watt, there were only 50,000."

The cotton machinery of Lancaster in its full working power is to-day performing the labor of more than 50,000,000 men, while the labor of the steam-engine, in its multifarious creations of power, represents the capacity of 600,000,000 people employed in manual labor.

The policy of England is to-day what the policy of every wise nation is, to take care of itself; and these elements of power, thus existing in profusion, are not to be sacrificed to any sudden promptings of philanthropy. England about 1826 inaugurated a modification of her corn laws, not because she was unwilling to protect her own producers, but because her producers could not raise an amount approximating to the wants of a nation of manufacturers; but in utter repudiation of every idea of free trade, she made the import duty one pound sterling per quarter of eight bushels, when the market price was under fifty-one shillings, and reduced it to one shilling when the price rose to or above seventy-three shillings.

With the exception of the reduction of duties on silks in 1824, and of corn a little later, but little was done in England by way of reducing duties for any purpose until the act of 1842, in respect to which the Premier, Sir Robert Peel, said:

"We have applied ourselves to imperfections in the tariff, to make it clear and intelligible, and, as far as possible, consistent. We have sought to remove all prohibitions, all absolute prohibitions upon the importation of foreign articles; and we have endeavored to reduce duties which are so high as to be prohibitory to such a scale as may admit of a fair competition with domestic produce."

"With respect to raw materials which constitute the elements of our manufactures, our object, speaking generally, has been to reduce them to almost a nominal amount. In half-manufactured materials, which enter almost as much as raw materials into our domestic manufacture, we have reduced the duty to a nominal amount."

The various tariff acts from 1842 to 1859 reducing the duties on raw material and articles partially manufactured, as well as on articles of food, were intended to increase the export of her manufactures to other countries, where England by reason of her immense capital and machinery and her low labor could be a successful competitor.

The reduction of duties on articles wholly manufactured, ostentatiously alluded to by her statesmen, was simply offering to other nations a proposition they could not accept in competition with anything manufactured in England, for the simple reason that England could manufacture cheaper than anybody else.

The mean annual customs collected in the United Kingdom from 1838 to 1842 were reported at \$116,645,680, all of which, except \$10,542,715, were collected from silk manufactures, spirits, sugar and molasses, tea, tallow, timber, tobacco and snuff, wines, and ordinary agricultural products.

In 1843 and 1844, that is, for the two years after the free-trade tariff of 1842 reducing duties, the mean annual customs amounted to \$116,638,720, of which all but \$3,908,810 were of the list above enumerated.

Now, if we pass to the six years, from 1854 to 1859 inclusive, we shall find that the mean

annual revenue from customs was \$117,797,685, all of which save \$2,779,885 was collected on the enumerated list. Of the average annual duties of the first period, \$116,645,680, the sum of \$80,411,220 was collected from articles for consumption not raised at all in Great Britain, being on coffee, sugar, molasses, tea, timber, tobacco, and wines. Of the \$116,638,720 of the second period, \$86,531,410 were collected on same items; and of the \$117,797,685 of the last period the sum of \$92,584,301 was collected from same sources. But we must deduct from the residue in each instance \$12,000,000 more for customs on imported spirits which England does not manufacture to any extent because of her limited production of grain compared with her consumption. Where do we find here the evidence that free trade has opened the ports of England to foreign manufactures which compete with her own?

In 1841 and 1842, before her tariff proclaimed the reduction of duties on imported articles wholly or partially manufactured, she received on finished articles but an annual revenue of \$2,397,850, and for the mean of 1843-44, \$2,377,625. Will these insignificant sums, not more than sufficient to cover her revenue duties on the finished non-competing manufactures of the Indies and of other countries, indicate that the world has free entry into the ports of England?

In 1839 the import duties collected by Great Britain amounted to \$110,604,760. In 1859 they amounted to \$123,522,635, which to American arithmetic would seem to prove that the rule of reduction in England is that of "reduction ascending." Applied to the pretense of "free trade," a logician might style it the "*reductio ad absurdum*."

Preaching free trade to the world, England has within the last ten years once, at least, if not twice, imposed an increased duty of ten per cent. upon American cottons imported into her Indian empire to exclude the manufactures of New England.

I feel reluctant to trespass longer on the patience of the committee in proving, both by the words and the acts of British statesmen, that all their theories of free trade are based upon the idea that their own manufactures are protected against our competition by their capital and superior facilities, and that our markets are to be opened to them by the alluring assurance that their ports will be open to us. Yet I may be pardoned for citing the language of Sir Robert Peel in 1846, in debate in Parliament, complaining that other countries did not comply with the disinterested desires of England. He said:

"You have defied the regulations of those countries. But your exports, whatever be the tariffs of other countries, or however apparent the ingratitude with which they have treated you—your export trade has been constantly increasing. By the remission of your duties upon the raw material, by increasing your skill and industry, by competition with foreign goods, you have defied your competitors in foreign markets, and you have even been able to exclude them. Notwithstanding their hostile tariffs the declared value of British exports has increased above ten million pounds during the period which elapsed since the relaxation of duties on your part. I say, therefore, to you that these hostile tariffs, so far from being an objection to continuing your policy, are an argument in its favor. But depend upon it your example will ultimately prevail."

Suppose we had adopted this policy and opened our ports for the right of entry to those of Great Britain, where would have been the benefit to us? England years ago attempted to secure the reduction of our tariff by promising the repeal of her corn laws, and held out her proposed action as an equivalent for what she asked of us.

The proposition was not accepted, and in 1849 she removed the duties upon grains of her own volition and for her own interest. In 1850 we exported nearly three million bushels of grain less than in 1849, and nearly a million less than in 1848.

The following table will show our exports from 1846 to 1859, and from the fluctuations

which are apparent from year to year, it is apparent that we can place no reliance upon England as a steady and regular market. She will buy of us when we can undersell others, and only then:

*Table of amount of wheat, corn, and all other grains exported from the United States into the kingdom of Great Britain from 1846 to 1860, inclusive, in quarters, (eight bushels.)*

Years.	Quarters.
1846	1,106,890
1847	4,288,239
1848	1,290,303
1849	1,816,425
1850	1,082,755
1851	1,211,365
1852	1,400,420
1853	1,821,484
1854	2,136,223
1855	1,122,073
1856	3,117,678
1857	1,487,464
1858	1,500,481
1859	109,275
1860	2,624,005

Examination will show that while for twelve years, between 1848 and 1860, our exports to Great Britain of our cereals was reduced twenty-seven per cent., the amount imported by her from all countries increased over nineteen per cent.

How insignificant is such a market for the sale of the vast cereal production for which the agriculturists of the West seek a sale. In 1860 the western States produced in corn alone 470,190,097 bushels, and of wheat 102,251,127 bushels; while New England, which itself raised but 10,175,856 bushels of corn and 1,090,894 of wheat, furnished, with the other eastern States, a market for the sale of more than six times the quantity of grain exported to all Europe.

The western farmer who looks abroad for a permanent and regular market for his products, and demands free trade that he may buy the manufactures and productions of England untaxed, should be treated at once for ophthalmia or strabismus.

Our total agricultural production of 1860 is returned at \$1,856,000,000; our total exports were \$272,282,873, of which amount there was in cotton \$191,806,556, showing export of other commodities to be \$80,476,318, and proving that we consumed at home and interchanged \$1,588,717,127.

I am aware that since 1860 our exports of breadstuffs to Europe and to Great Britain has increased, but this is a circumstance which by no means indicates that we can continue to export.

The wheat-bearing regions of Russia, especially of her Polish dominions, are unlimited, affording a more ready supply, and the act of emancipation of the Czar is likely to a great extent to increase the cereal production of the empire.

Speculate as we will, we shall find that America has always furnished and will continue to furnish the largest and most reliable market for American productions.

Let me allude now to the mutual relations of the American farmer and the American manufacturer, to show the folly of a free-trade remedy for a dull market of our products, by citing statistics which are reliable:

*A table of the comparative number of male persons employed in manufactures in the several States named in 1830.*

States.	No. of males.	Population.
Maine	24,827	628,279
New Hampshire	18,579	326,073
Vermont	8,563	315,098
Connecticut	4,402	460,147
Rhode Island	20,795	170,885
Massachusetts	146,268	1,231,066
New York	170,885	3,880,733
New Jersey	43,198	672,035
Pennsylvania	182,593	2,906,015
Illinois	22,489	1,711,951
Indiana	20,563	1,350,428
Iowa	6,142	674,948
Minnesota	2,104	175,855
Michigan	3,626	749,113
Wisconsin	14,641	775,881
Ohio	65,749	2,339,502

An analysis of this table will show the immense disparity in the percentage of popula-

tion employed in manufactures between the eastern and the western States, and that while in three manufacturing States of New England the number of males employed was equal to almost eight per cent. of the whole population, while New York, New Jersey, and Pennsylvania had nearly six per cent. of their population thus employed, Iowa had not one per cent., Illinois and Indiana less than one and a half per cent., and Ohio a fraction over two per cent.

Deny to the manufacturers of the East the protection which will maintain their labor as manufacturers, and they and the millions who are dependent on them for support cease to be consumers of what others raise, but they must become producers in the broad West in competition with those who now complain of an inadequate market for their present product. Will it help the farmer of Ohio, of Indiana, of Illinois, or of Iowa to increase the number of producers and diminish at the same time the number of consumers? The practical application of such a doctrine will produce desolation throughout that portion of our country which bore up under the burdens of the war without complaint, and which is ready to submit to any but unnecessary sacrifices for the good of the Republic.

I am not here as the advocate of the manufacturing interests of New England or New York, New Jersey or Pennsylvania, as a matter of local or sectional consideration. New England is rich and powerful. She is able to take care of her own interests, and I fear she is selfish enough to do it, no matter who may suffer. She has grown rich by protected industry, until her enormous wealth constitutes protection to her great manufactures, and perhaps suggests indifference to protective legislation. Her patriotism has uniformly, I believe, been colored by her supposed interest, and perhaps till human nature is modified and reconstructed, the same phase will be exhibited before the country.

I quarrel not with New England, unless she force the contest. I drew my first breath in the pure atmosphere of her mountains, and slept in childhood beneath the shadow of her pines. Her laughing rills, her rocks, and glens are photographed upon the recollections of my youth. I love her noble charities, her art, and her enterprise. Yet I speak not for her. I speak for labor, American labor, wherever within the limits of my country it requires or seeks protection.

I demand this now, because the time is now, and the place is here, when and where we must determine the policy of the Government in reference to the great subject of its finances and its productions.

A debt of more than three thousand millions will rest upon the industry of the country when all the liabilities incurred during the rebellion shall be aggregated and funded. That debt and its interest must be paid, without a murmur, to the last dime. It is sanctified by the cause for which it was created and by the purposes it accomplished. But it must be paid, not from invested capital, but from its income and from the profits of labor, and, so far as practicable, by indirect taxation imposed for the protection of labor as well as for revenue. It is doubtless necessary, under the exigencies of the day, to continue for the present all of the modes of raising revenue which have been adopted in order to insure the maintenance of the public credit. But the experience of civilized nations suggests the avoidance of direct taxation whenever practicable, and the supply of revenue by customs upon imports.

Mr. McCulloch, in his elaborate Descriptive and Statistical Account of the British Empire, (volume two, page 402,) in speaking of revenue and expenditure, says:

"Direct taxes on property have been the curse of every country into which they have been introduced. To evade them people that are not poor counterfeit

poverty; some of the most powerful incentives to industry and economy are in consequence destroyed, at the same time that inferior stock, machinery, &c., are made use of." \* \* \* "Though theoretically equal, a tax either on property or income, or both, is practically most unequal. We may get a pretty accurate notion of the income derived from land, houses, funded property, and mortgages, but all beyond this is mere guess-work. There are no means by which to ascertain the value of farming, capital stock in trade, the profits derived from them, or the incomes of professional men. No inquisition into the affairs of private individuals can ever discover these particulars, and we need not dwell upon the impolicy of any system of finance that sets the duty and the interest of contributors into opposition, and makes the profit by concealing or perverting the truth." \* \* \* "Speaking generally, an income on property should not be introduced except under very peculiar circumstances, and should, if possible, be reserved for a *dernier resort* when the other or more legitimate sources of revenue may be insufficient, or when money must be had at all hazards."

A reference to the sources of revenue in England will show that she has constantly and successfully relied on customs as the principal means of filling her Treasury, and she has never yet adopted a system of duties which has not augmented her receipts.

While, therefore, I believe it would be unwise to dispense with our excise and income taxes at the present time, I believe that our duty consists in seeking a liberal revenue from imports, and that such imports should be so adjusted as to encourage our own industry, and thus increase our internal revenue from the profits or income of production.

Nature with munificent profusion has showered the elements of wealth over slope and mountain, valley and plain, from the shores of the Atlantic to the golden gates of the Pacific. All that our country now requires is peace, followed or accompanied by the developments of remunerated labor.

English statesmen long since based their claims to commercial supremacy on the coals and machinery of the kingdom, and on the control of the manufactures of cotton and of iron.

"Iron and coal, the sinews of manufacture," said Sir Robert Peel, "give us advantages over every rival in the great competition of industry. Our capital far exceeds that others can command. In ingenuity, in skill, in energy, we are inferior to none." "The large capitals of this country," said a commission reporting to Parliament in 1854, "are the great instruments of warfare against the competing capital of foreign countries, and are the most essential instruments now remaining by which our manufacturing supremacy can be maintained, the other elements, cheap labor, abundance of raw material, means of communication, and skilled labor being rapidly equalized."

What element of wealth has England that we have not? How many elements have we of which she is denied? Her coal-fields are rich and so are ours. Hers are limited, ours are inexhaustible. Tomlinson, in his Encyclopedia of Science in 1852, estimates the principal coal-fields in the United Kingdom available for working at about ten thousand square miles. The coal-fields of Iowa and Illinois alone exceed fifty thousand square miles, while Ohio, Kentucky, Missouri, Virginia, Pennsylvania, Maryland, Tennessee, North Carolina, Michigan, Georgia, Alabama, Indiana, and Arkansas make a coal-field as great in area as all England. The vast beds of ores of iron located in every part of the country, and in association with the coal, far exceed in extent and richness the ores of England.

The two cardinal elements of power are ours; and beyond the iron, the coal, the gold, and silver regions of the West, the copper mines of the North, the lead of Illinois, Missouri, New Jersey, and other metalliferous formations show an extent of variety of raw material for the employment of labor with which England furnishes no comparison.

The cotton plant is ours; not imported, but the product of our fields. By the application of free labor, and under a system well organized the product of five million bales may be

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increased if need be to ten or twenty millions. Sugar, tobacco, rice, wheat, corn, rye, hemp, flax, hops, are the growth of our varied climate and soil.

The steam power which vitalizes every part of England, performs in her mines, her mills, her machine-shops, her foundries, upon her railways, the daily labor of six hundred million people, and gives support to the greatest mercantile marine upon the seas.

With a population of thirty millions, her exports exceed seven hundred millions in value, upon a gold basis, while ours were less than two hundred and fifty millions, with a population in excess of hers and on a depreciated currency.

Why, with every element for the maintenance of profitable labor, shall we submit to the fallacy of British free trade, that she may supply us with her manufactures, and pay us, not what we may demand, but what she may consent to give, for our agricultural productions?

Give us protected labor; give to manufactures and agriculture mutual protection by encouraging in every agricultural community where practicable the establishment of manufactures. Why not encourage manufactures by the side of producers?

The great city of Chicago, represented upon this floor by my distinguished friend, [Mr. WESTWORTH,] already alive to her own interests, has reared within her limits manufacturing establishments which would do honor to New England. I have no apprehension, sir, if every people of the West would imitate her example, and thus make a profitable division of labor between agriculture and manufactures at their own doors.

The interior of Iowa and of Illinois, before the days of railways, have seen the time when corn in the field was not worth the labor of the harvest, because no home market existed, and the cost of transportation to a distant market was prohibitory. I have heard the pioneers of Illinois state the fact that until the construction of the Galena, Chicago, and Union railroad from Chicago toward Elgin, wheat could not be taken to Chicago from a distance of fifty miles for its market value on arrival. I have watched the gradual extension of her railways across her plains to the Missouri, and her corn and wheat, her pork and her beef now find a market which is available; in other words, internal improvements have brought her nearer market. Suppose Dubuque should become another Providence, Des Moines a second Lowell, and Keokuk another Cincinnati, what would be the local effect upon the agriculture of the State? Does any man doubt it? There is no man of enterprise and wealth the resident of any town in this country who has not advocated the introduction of manufactures and machinery into his own town to enhance its value and importance, and every argument has been based upon the employment of labor which would furnish a market for neighboring production. This principle thus applied locally by all is just as true of the nation as of a community, especially of a nation whose facilities for intercourse are as great as those with which nature and art have favored our own people.

The manufactures of Pittsburg pass by unbroken water communication to St. Paul, St. Louis, to the Yellowstone, up the Arkansas, to New Orleans, to Nashville, to Chattanooga, to New York, and Quebec, while thirty-five thousand miles of railway, with crossing and interlacing lines, render every part of the country accessible to internal commerce. The Hudson, the Erie, and Champlain canals, and the great lake navigation, connect the valley of the Mississippi, and the great Northwest with the Atlantic. The railway lines which are even now surmounting the Sierra Nevada and the Rocky mountains will soon open a new outlet to the cereals of the West and vastly extend mining and manufacturing enterprise on the Pacific

coast. Protection to labor is the watchword to American advancement. Its pathway hitherto has ever been bordered by the flowers of prosperity. Its abandonment has ever been the blight of our industry.

Pennsylvania has hitherto been the great iron State. In 1842 we enacted a tariff to protect the iron manufacture. At that time there were two hundred and thirteen furnaces of all kinds, which had been the growth of sixty years. In the four years to 1846 one hundred and three new furnaces started into life, involving an investment of more than \$6,000,000, and the increased annual production of iron for the four years averaged 216,171 tons, or nearly one quarter of the whole production of pig iron in the United States in 1860.

Under the act of 1842 the taxes upon iron were specific, with the *ad valorem* sometimes in addition. They were on the following articles:

	Per ton.
Bars and bolts not rolled.....	\$17
Bars and bolts rolled.....	25
Pig iron.....	9
Old scrap iron.....	10

By the tariff of 1846 the specific duties were changed on almost the entire iron list to thirty per cent. *ad valorem* at the port of foreign shipment, and the result was the almost universal prostration and bankruptcy of the iron manufactures of the country.

The fatal principle of *ad valorem* duties thus introduced gave the "inside track" to every foreign manufacturer having a partner or an agent in this country, and led as well to the perpetration of enormous frauds in the invoices of the exporters.

Nor were other efforts wanting to break down the American manufacturer. The complaint made to Parliament in 1854 of the low wages paid to British laborers was met by the report of a commission of inquiry with the declaration that—

"The laboring classes generally in the manufacturing districts, and especially in the iron and coal districts, are very little aware of the extent to which they are often indebted for their being employed at all to the immense losses which their employers voluntarily incur in bad times in order to destroy foreign competition, and to gain and keep possession of foreign markets."

Sir, from 1846 to 1861 our domestic industry did not receive the protection which was due to its importance or its necessities; and even if it was, the protection received was due to the depreciation of our currency from a gold basis, and to the enormous Government demand for our productions rather than to legislative interposition.

The return of peace and the suspension of increasing loans by the Government tend to bring the gold and the currency near to the same value, and our manufacturers are now struggling against the evils of inadequate protection. With a country whose resources for agricultural and mineral productions are unequaled on the globe; in whose coal-fields, yet scarcely explored, slumbers the motive power necessary to propel the machinery which a population as dense over the whole realm as that which now crowds every square mile of the British isles may require; with the energy, the inventive genius, and the industry essential to the erection, the extension, and the preservation of empire, we need but wisdom in the administration of our finances, in the development of nature's bounties, and in the measures designed to restore harmony and union, to render the American Republic the proudest boast of civilization. The internal revenues on which we so largely rely to meet the current expenses of the Government, and from which the last year we received \$211,129,529 17, and from which it was anticipated that the receipts for 1866 would be \$272,000,000, cannot be maintained unless our manufactures on which they are largely dependent shall be preserved in their efficiency. Three fourths of all this internal revenue are derived directly or indirectly from manufactures. To-day your rolling-mills, your

foundries, your machine-shops, your factories, are either closed or working at a loss to the proprietors. Your collieries are suspended, and thousands of unemployed laborers await the action of Congress, which is lamentably delayed till the very close of your session. Where is your revenue if your manufactures are stricken down? Moreover, we must bear in mind how largely the amount of incomes will be reduced by our return toward a specie basis, while the public debt must be paid at its face, the creditor, and not the Government, deriving the benefit of its enhanced value.

And here I desire to submit a table showing the total internal revenue, and internal revenue from manufactures in the years 1863, 1864, and 1865, and the percentage as compared with the revenue from September 1, 1862, when the act took effect, to June 30, 1863, being the end of the fiscal year, is, for ten months, only—

	Total revenue.	Manufactures.	Per cent.
1863.....	\$41,008,191 93	\$24,403,091	59.71
1864.....	116,850,672 44	75,403,386	64.53
1865.....	211,129,529 17	104,156,911	49.33

Showing that even in the last year the direct income from manufactures was 49.33 per cent. of total receipts, irrespective of the income tax or the profits of manufactures or of the income from freight, travel, insurance, and other sources growing out of the business of manufacturing.

Sir, the internal revenue on cotton fabrics in 1865 was \$7,331,148; woolen fabrics yielded \$7,947,094; iron manufactures \$8,494,989; railroad freights \$5,917,298. But it is certain that in the absence of protection, and increased protection, these manufactures and the income directly and indirectly dependent upon them cannot be maintained, and we shall find ourselves in America supporting by our policy the free-trade theory of England, which means subservience to her interests, and forgetfulness of our own.

Mr. Speaker, I desire to see the labor of America supported on no system which defrauds the laborer of the means of providing for the education of his children, that they may take their places of responsibility in the care of the Republic. I am unwilling to witness its degradation to the level of those European systems which support life only to make it a term of endurance. I speak in no spirit of hostility to England. I will admire whatever in her is good and noble. I will sympathize with her in every effort to elevate the standard of her people. Not even the envy of her nobility, nor the ignorant hatred of her lower classes toward us in our struggle to throw off the cursed system of human servitude which her cupidity fastened upon our soil, nor her masterly inactivity in the enforcement of her laws of neutrality shall make me forgetful of her Burke and Chatham; of Wilberforce; of Bright, and of Cobden; nor will I be unmindful of the noble spirit of forbearance which her workers in cotton manifested under the serious embarrassments arising from the embargo upon our great southern staple. I seek not, as did old England, prohibition upon exports; I seek not prohibition upon imports; but I would, were it in my power, establish, as a matter of duty, such a system as should maintain our own credit, protect our own industry, and invite to a country where land is cheap and where labor is remunerative the surplus population which England can spare, and for which we can provide.

I would build in all the wasted South, upon the streams where power now sports with solitude, the factories in which free labor shall work out the fortunes of freemen. I would enslave, not man but nature; not human bones and muscle, but the water-fall and the giant power of the steam-engine to redeem southern fields from the desolations of war and restore to a misguided people the freedom that they spurned and the prosperity which they destroyed. I would fill up the prairies with a



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new and increasing population, that a land lying waste for long generations may contribute by its fertility to the advancement of happiness.

I would invite industry and skill to the rich mines and ores which require but labor to convert them into the life-blood of commerce; and then as decade after decade, rolling away, should bear the rebellion, its crimes, and its retribution further and still further to the past, I should feel an abiding confidence that the burdens that now oppress thirty millions would be unfelt by a hundred million of true and loyal people holding peaceful, undivided, and undisputed power from the Atlantic to the Pacific.

### Constitutional Amendment.

### SPEECH OF HON. S. M. CULLOM,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

June 16, 1866.

[The SPEAKER stated there were several gentlemen who wished to speak, but were precluded by the closing of the debate on the state of the Union, and if there were no objection they could hand their speeches to the reporters to be printed in the Globe. There was no objection, and it was ordered accordingly.]

Mr. CULLOM. Mr. Speaker, a skillful general knows the position, strength, and courage of his own men, as also the position, numbers, and designs of the enemy. He studies the situation and is seldom deceived either by his own forces or those with whom he is contending. The Union party of this country should study well its position upon the great political questions of the day as well as the position of those who have opposed it ever since the beginning of our struggle for national existence. We should see to it that our positions are defensible, whether our Union forces are established upon the solid foundations chosen by our fathers, and whether the spirit and courage of the loyal people, are a sure guarantee of victory. These are not ordinary times; ages seem almost crowded into a day, and we are hurried along on the full tide of events scarcely knowing where we are or whither we are going. Then, sir, in the language of the great Webster, let us refer to the point from which we departed, that we may at least be able to conjecture where we now are. As the north star is the sure guide to the weary traveler as he passes over the unknown desert in the darkness of night, so there is one principle in our Government which, if followed and adhered to by the people, will lead us through the present darkness which hangs over the country like a thick cloud, and on to peace, prosperity, and permanency as a nation. That principle runs all through our Government, and forms the very fulcrum of its existence. It is peculiar to America and singles her out from all other nations, and places her far above them all in a proper estimation of the value of governments for men. That principle should be made the touchstone by which all the great questions now agitating the country and involving the rights of men should be tested, and by it we as legislators may determine whether in our disposition of these questions, we are moving backward or forward.

When our fathers proclaimed in the language of the Declaration of Independence that they held these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; and that to secure these rights governments are instituted among men, they spoke to the world the thrilling notes of truth which set the American Republic high above all other Governments in the shining galaxy of nations, kindled a new flame of liberty in the hearts of the American people, and made the monarchies and despotisms of the Old World from that moment more and more

insecure. That principle forms the very life of this nation; smother it out and America dies—dies disgraced. As the man once honest, sober, a Christian, turns from the habits which marked him as the man of God, and in the pool of debauchery, without friends to mourn him, dies, so this Republic, when she smothers out that life-principle of her distinctive organization, will die unhonored and unsung. The framers of the Constitution recognized it as one of the paramount objects of government. Union, justice, domestic tranquillity, the general welfare, the securement of the blessings of liberty to themselves and their posterity, were the great objects for which they ordained and established the Constitution of the United States. To secure the blessings of liberty, the Declaration of Independence was written and proclaimed, the long and severe struggle of the Revolution endured, and the Constitution framed and ratified by our fathers.

Sir, when that great and good man who was said to be "first in war, first in peace, and first in the hearts of his countrymen," was by resolution of Congress in 1775 made commander-in-chief of the armies, by the terms of the resolution, it was for the defense of American liberty. Union and liberty in the early days of this Republic were together mingled and interwoven in the hearts of the people, and from those living principles, warming and elevating the hearts of the early patriots of this land, grew the great prosperity and mighty power of this country.

Mr. Speaker, since the organization of this Government we have had some agitation and excitement as the result of the presence of elements antagonistic to that vital principle of liberty. Although for many years slavery remained in the Government as a local institution, undisturbed, yet its existence was in direct antagonism to the spirit and life of the vital principle of the Government. While that institution did not seek to reach out and spread its poisonous wings over the whole land and make slavery national and freedom sectional, wicked and horrid and barbarous as the institution was in the estimation of the millions of freemen, as well as the millions of downtrodden slaves, yet it was permitted to exist. But, sir, its votaries were not content that it should remain in the States where it had long existed, and finally the cry was that "as the star of empire took its way" to the West, so must slavery follow, and plant its curse upon the virgin soil of the new Territories of the nation. The free people, whose moral sense had long been insulted by the hideous forms of slavery and by its bold determination to crush out the vital principle of the Government, finally dared to assert their position, that freedom should be national, and that if slavery existed at all it should be sectional, and that it should not spread over territory then free, if by any constitutional power or means they could prevent it.

The majority of the free people of the Government were against its encroachments upon their rights as freemen, and when the voice of the people was heard, and in a constitutional mode it spoke against the institution of slavery, war came upon the country like a sweeping tornado, and for four years the nation trembled in the balance as tyranny, oppression, and all the wickedness of accumulating ages combined together, and with a desperation unparalleled were hurled against the Government struggling to maintain its integrity and the vital principle of its existence. Sir, as the sound of war rolled over the mountains and up the valleys of the North the fire of liberty and patriotism rekindled in the hearts of the people, and from that hour slavery was doomed to speedy destruction. That element which had become an eating canker upon the body-politic was to be removed, together with the excitement it had caused. The war continued; slavery was destroyed; the rebellion finally crushed, and we

are at work changing and modifying the laws and Constitution to more perfectly suit the new order of things.

Slavery, sir, was the cause of the rebellion; slavery has been the great disturber of the peace and harmony of our people from the beginning; slavery was a great moral and political evil; the moral sense of the people was against it; the spirit of the Government was against it; the spirit of the age was against it; the civilization of all Christendom was against it; it has now passed away, and may not the American people well rejoice? Nations, like men, cannot long prosper and cherish evil. They, like men, must deal justly if they would long succeed.

But, sir, the people who were once slaves are now free. It has become the duty of the Government to give them civil rights, to throw around them protection, to shield them, dependent as they are, just emerged from the prison of bondage, from the impositions of wicked men. This has in a measure been done. We have proposed amendments to the Constitution, which are as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three fourths of said Legislatures shall be valid as part of the Constitution, namely:*

#### ARTICLE —.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons, excluding Indians not taxed. But whenever the right to vote at any election for the choice of electors for President and Vice President, Representatives in Congress, executive and judicial officers, or members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. That no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as a judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House remove such disability.

SEC. 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this section.

By these amendments, which have gone to the people or the States for ratification, we provide that all persons born or naturalized in the United States and subject to our jurisdiction shall be citizens of the United States and of the several States; that no State shall abridge the privileges and immunities of citizens, nor deprive any person of life, liberty, or property without due process of law; nor deprive any person the equal protection of the laws. By these amendments we propose to settle the basis of representation and prevent the late rebel States from having an increased representation in the Halls of Congress when those States are admitted to the right of representation, as a direct result of their rebellion against the country.

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We are in favor of giving to the several States representation based upon the whole number of persons, excluding Indians not taxed; provided, that when the right to vote is denied to any male inhabitants of the age of twenty-one, and citizens, except for participation in rebellion or other crime, then the basis of representation shall be reduced in proportion as the number so denied bears to the whole number of male citizens twenty-one years old in the State. Is this section of the amendment just and right? Are the people of the loyal States ready to fold their arms and admit these southern States again to representation, and say this is no time to amend the Constitution because the people have not recovered from the excitement of the war, while the immediate result of the rebellion is to give them much more power in the Government than they before enjoyed?

Sir, in the beginning of the war we often heard the boastings of these southern men that one southern man was equal to five men in the North. Unless this amendment, which we have sent to the States, shall be ratified and become a part of the Constitution, it may truthfully be said that one southern vote is equal to two of the North. I am against such unequal representation. If the South should lose nothing in representation by her rebellion, I surely do not desire her to gain. But, sir, if the southern States do not desire to be weakened in their representation in the councils of the nation, they have the means of giving themselves strength. South Carolina, with a population composed largely more than half of black persons, who are given no voice in the Government, should not be permitted to take her place again in the sisterhood, covered all over as she is with secession, rebellion, and crime against the country, with additional members of Congress and presidential electors, as the reward for the rebellion for which she is prominently responsible, and which was inaugurated by South Carolina batteries firing upon the starving garrison at Sumter.

But, sir, there are other interesting sections in the amendment passed by this Congress. The next section in the series provides that no person shall be a Senator or Representative in Congress or presidential elector, or hold any office, civil or military, under the United States or any State, who, having previously taken the oath, as a member of Congress, officer of the United States, member of the Legislature of any State, or as a judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection and rebellion against the same, or given the enemies of the Government any aid or comfort. Is this not a just and righteous provision? Can it be that there are any loyal people in this country, now that we are passing out of the most terrible struggle the world ever saw, who can oppose such an amendment? The men who rebelled against the Government and undertook to overthrow it are all guilty of treason. By the laws of the country, under the Constitution, a man who commits such a crime is liable to the punishment of death. His liberty, his property, and his life are all at the mercy of the Government. Yet the nation passes over all this, calls not upon the officers of the law to visit its penalty upon them, except, perhaps, in a few cases, but says to all that great army of rebels and all those behind them aiding their cause in their efforts to destroy the country, "We will exercise toward you a more than Christian charity and will remit you to all your original rights, unless before your rebellion you enjoyed the special favors of the nation."

Sir, after some effort and much reflection we have at last become hard-hearted and cruel enough to say in this amendment to Davis and Lee and Mason and Slidell and Harris and Hampton and Beauregard and Johnston and Pillow and Breckinridge and Toombs and Ste-

phens and a few more such men who turned their backs upon the Government which had during all their lives lavished favors upon them, and upon which they had lived and grown and fattened, that they could not hereafter hold any office, Federal or State. We have said this, it is true, and for it we are said to be illiberal. Sir, it is a degree of magnanimity unequaled in all time in any civilized country on the globe. What cruelty these radicals are perpetrating upon the devoted heads of these leaders of the rebellion. These men, most of whom became gray with age, feeding at the Government crib, and many of whom should have been caught and tried, convicted and hung, for their treason before they left these Halls and other high positions of national trust and honor at the beginning of the rebellion. Cruel and ungenerous is the radical party toward such men as these. Sir, if such treatment of such men be cruelty, then we are cruel. But, sir, as I hear these sickly pleas in behalf of these leaders of the rebellion by men in our own country, I almost wonder that England and France, those virtuous allies of the rebels, have not again raised their voices against such ungenerous treatment of the people whom they followed with such tender affection all through the war. These beloved friends of theirs, whose coffers were replenished by British gold, whose arms were made in British shops, and whose ships were built in British dock-yards.

Sir, I rather guess that these neighbors, these friendly neighbors of ours, are a little too busy now to give their attention to such matters so far from home. I have heard it said that this is a world of checks and balances. I believe it, and it is well that it is. A short time ago England was rejoicing as she thought she read the history of the destruction of free government in the struggles through which we as a nation were passing. Quickly did she manifest an anxiety to recognize our domestic enemies as belligerents and as a separate nation, and to announce to the world that the American Republic, founded as it was and is upon the consent of the people, was a failure. With an air of supercilious triumph she trampled upon our rights, aided indirectly, if not directly, our enemies, encouraged them to continue the struggle, held out to them promises of recognition, demanded from us the possession of prominent rebels captured on the sea, and did everything she dared to do to embarrass us, burdened and oppressed and struggling as we were to maintain our national existence and freedom—she desired and expected to see us go down among the wreck of nations. But, sir, we passed through the storm, and now as the cloud of war thickens and gathers over Europe, and as America stands erect, having come out of the contest with the stars and stripes waving over the whole land, England may well exclaim, as she looks back upon the past, oh, what a mistake we made in not acting the part of an honorable nation toward the young giant of the western world in her master struggle against oppression. And, sir, while England looks about her to catch the first glimpse of the war clouds as they rise in the political horizon, suddenly the silence is broken by the announcement in her northern British possessions that the Fenians are coming, and their cry is, Liberty for Ireland, or death to the oppressors of her downtrodden sons!

Sir, oppression finds its enemies as well as votaries all over the world, and recently the people of Canada, that place where treason nestled and where the schemes of murder and arson to destroy our rulers and burn our cities were concocted, were startled from their homes to defend themselves for the wrongs inflicted by their Government upon the sons of the Emerald Isle in years gone by—checks and balances. France, too, ruled by Napoleon III,

with an eye always lusting for power, when the days of our Republic were almost dark as the night, discovers that in that hour it was her duty to collect from our little sister republic of Mexico a claim, old, stale, imaginary, and unadjusted as it was, and with that deceitful pretense sends her imperial troops and lands them upon our southern border, with a pitiless, penniless, and bigoted adventurer, with the regalia of a despot, at their head. Money and debts were not the object of that expedition. Napoleon, like England, believed he saw our republic tottering to the fall, and while, as he supposed, we went down, an empire should be established upon our ruins. That empire is not yet established. War is upon the people in Europe. The American struggle is ended, and Napoleon proclaims that he will very soon withdraw his troops, and trembles lest they get kicked out before he can decently ship them away.

But to return again to the consideration of the proposed amendments. I believe them to be eminently fair and just and subject only to the objection that they are too liberal to the offenders against the country. The last section of the amendment declares the Federal debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing the rebellion, inviolate, and prohibits either the nation or the States from the payment either of any debt or obligation incurred in aid of the rebellion or any claim for emancipated slaves. The trade and commerce and business of the country demand this at our hands; our financial stability requires it; our credit requires it; and justice to the men of labor and toil who fought the battles of the country and conquered the rebellion demand such guarantees as that the nation may not in the future be borne down by the load of rebel debts which might be placed upon them unless they are cut off by the Constitution of the country. I have given and shall continue to give these proposed amendments my support; they will soon, I trust, be ratified by a sufficient number of States and become a part of the great Magna Charta of the land. They are preliminary to the full restoration of the rebellious States to their political power in the nation.

But we are told that those States will not accept such amendments as a condition precedent to their restoration to their practical relations with the Government; whether this be true I am unable to say, but, sir, viewing them in the light of their own interest, which I believe they now begin to see, I think they will accept them as a just, liberal, and generous offer founded on justice and humanity, and not in malice and revenge. But we hear it said that this is not the time to amend the Constitution, while a part of the country remains unrepresented. Sir, all that part of the country is represented whose people helped to save it in the late struggle. Whose business is it to reconstruct this country? Who should be consulted in regard to our duty here? Shall the men who struggled to destroy the temple of liberty be invited to dictate the manner in which its battered walls shall be repaired? Or shall the patriotic men who gathered around that temple and drove back the enemies of liberty repair and beautify the structure in their own time and way, and, if they so desire, place a new cap-stone thereon, written upon its face the words akin to the Declaration of Independence—"the equal rights of all men before the law, without regard to religion, race, or color."

Sir, the situation is improving; the Government is being established upon an enduring basis, and the hopes of the future are brightening as the star of justice rises above the political horizon. We are moving forward, and the distinctive principle of our Government stands out bolder and bolder every day as a

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terror to tyrants and oppression. America shall be in fact what it has been in name, free and independent; the home of the brave and the land of the free. A nation to which the oppressed of all countries may come and find a free home for themselves and their children, and become the peers of all the rest. Here the German, whose patriotic heart yearns for the largest liberty; the Irishman, who has long struggled against the iron heel of oppression; the oppressed of all nations, may come and contest with an "equal chance" the proudest American, to wealth, position, and the highest honors a mighty people can bestow.

But, Mr. Speaker, other nations are being stirred to their very center by the mighty moving of the people for equal rights. The rulers of England and France and Austria and Prussia are to-day watching the pulse of the people, and as it beats stronger and stronger for equal rights, the thrones of monarchs and despots become more unstable, and in the interest of humanity I say, God hasten their fall! The world moves, and may we not hope that America will place herself first in the line, and in her grand march to wealth and power may the oppressed of all nations gather around her standard, and push on the army of liberty until all the enemies of justice are subdued by the convincing power and logic of truth and right.

But, Mr. Speaker, where are our enemies in this contest? Sir, they have not yet left the field. Beaten as they have been ever since the great struggle has been going on, yet they are still vigilant and hopeful of final success—the two wings of that great political army, the southern wing, under the command of Davis, and the northern wing, under the command of Vallandigham, are coming closer together, and in the coming election these two great political armies, one once beaten by the sword, and the other often beaten by the ballot, are to be thrown against the great political army of the Union in the hope that victory may yet perch upon their banners. There will be, there can be, as there has not been for the last four years, but two great parties in this country. Men may talk, devise schemes, make platforms, call conventions under whatever name they please, and organize third parties, but the people will sweep them out of the way, and believing that they are in the midst of that same struggle for national existence and the perpetuity of free institutions, they will move forward in the support of the men and measures who will protect them from the power of rebels and the reestablishment of oppression.

This Government is either to remain in the hands of the people whose views are reflected by the votes and speeches of the majority in this Congress, or it is to be handed over to the people whose sentiments and political views are reflected by Vallandigham, Seymour, Stephens, and Lee. The same doubting, undecided disposition existed in the minds of many good men during the war that exists now. As the storms of opposition came upon the Union party then from all quarters of the country, faint-hearted men almost staggered in their faith, and sometimes were ready to advise a more amiable and tender policy on the part of the Government toward the rebels and on the question of slavery; but the Government, in the hands of the Union party, kept right on, neither turning to the right nor left, until finally the rebellion collapsed and the corner-stone of its temple was removed. So let the Union party continue to keep right on, neither turning the one way or the other, but moving forward in the right, and it will not be weakened by faint-hearted men nor beaten by all its foes combined, and will soon have accomplished the great object of its mission, the salvation of the Republic from all its domestic enemies and its establishment upon the foundations of justice, which shall guaranty its perpetuity for ages yet to come.

## Reconstruction Amendment, and Future Civil Policy of the Country.

### SPEECH OF HON. JEHU BAKER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 9, 1866.

Mr. BAKER. Mr. Speaker, when I look over this great land and think how immense is its surface; when I consider its rivers, its mountains, its lakes, its valleys and its plains, all lying various and broad beneath a brighter sky than overhangs the States of Europe, I am filled with admiration of the beautiful and grand material home which God has provided for civilization in this western world.

When I reflect upon the prodigious material work which man has already performed in this new scene; when I recall that within little more than two centuries he has hewn down the forests, and drained the swamps, and tunneled the mountains of a continent; when I look at his great cities, almost equal to Paris, London, or ancient Rome, and soon to be greater than these; when I contemplate his ships going and coming over every sea upon the planet; when I consider the dock-yards of his commercial emporiums, burdened with a commerce that dwarfs the old fame of Arad and Tyre and Sidon; his fleets of deep-freighted steamers swimming his broad rivers and beautiful lakes; his fire-breathing steam cars, numerous as an army, and running with their long trains swift as the wind to and from every point of the compass; the lightning messenger of his thoughts, by which deep answers unto deep, and the eastern speaks to the western ocean; his immense agriculture, fructifying with teeming abundance unbroken thousands of miles of the most beautiful country the sun shines on from heaven; when I consider these things, my admiration mounts yet higher, and my love of country grows to a still deeper passion.

But, when I put aside all this natural beauty and magnificence; when I close the eye of sense to all this grand, visible performance, wrought out in so short a time by the cunning hand of our countrymen, and, with the eye of the mind look in upon the great soul of the nation, and consider what heroism, what intelligence, what high purpose is there—higher than all merely selfish and material ends—then it is that my love of country is profoundest; for then it is that I realize the full measure of its greatness.

With all their limitations and their vices, with all their still unenlightened ignorance and unconquered prejudices, in very truth the American people are more distinctively a *people*, self-conscious, self-thinking, self-acting, and aspiring to higher and better realizations, than is to be seen elsewhere on earth to-day, or found recorded upon any the brightest page of human history. I recur to this fact not in any spirit of vain boasting, but in humble thankfulness to God that He has set in this fair heritage a people with such antecedents and advantages, that it is theirs to lead the nations in their weary battle-journey toward the humanities which spring out of the true democratic idea.

Upon these great qualities of the popular masses the American statesman must ever rely in his contests with the American demagogue. And in every case of urgent and positive necessity they can be relied upon with implicit confidence. They have saved the country from two mighty perils, and they will save it from a third. When slavery went about overthrowing the great landmarks of liberty, and aspired to establish an absolute rule over the nation in the civil sphere, the people hurled it from power by the ballot. When next it took the sword to sever the Republic in half, the people crushed it upon the battle-field and wiped it from existence. And now, after the great struggle of arms is over, after more than

half a million of patriot lives have perished in the conflict, the people will see to it that everything shall *not* be left at loose ends—unguarded, insecure, and liable to relapse into another public calamity—but that the basis of pacification shall involve proper and just securities for the future peace and welfare of the country.

When the first peril came, the demagogue advised the people to bow their necks and wear the yoke of the slaveholder. The people spurned the demagogue. When the second peril came, the demagogue advised the people to let the nation perish in peace, rather than knock the rogues on the head who were seeking its life. Again the people spurned the demagogue. And now that the third peril is upon us, the demagogue, ever true to his unworthy instincts, is trying to persuade the people that their blood is as cheap as the soft earth that drank it, and that they should take to themselves no reliable guarantees that it has not been poured out in vain! And once more, so sure as God reigns and reason has not forsaken this noble people, they will spurn the demagogue!

After long, earnest, and laborious consideration, this Congress, by very great majorities in both Houses, has agreed upon a fundamental basis for the pacification and future security of the Republic. As it was plainly necessary that the nation, and not its late enemies, should take into its own hands the keeping of its own securities, it clearly resulted that the great terms of the arrangement should go into the Constitution of the country. Accordingly, the plan presented consists of a proposed amendment of the Constitution, made up of five sections.

This amendment I regard as one of immense value. Though it may not make our Constitution ideally perfect, or embrace all that many desired, yet it is full of strong, practical, and most valuable provisions; valuable for the safety of the Republic, and valuable for the security and future growth of liberty. On the whole, I regard it as a very fair expression of the average sense and average culture of the great popular mind of the country.

And I will say here, that as I apprehend it, the growth of institutions and liberties in any country is and must be but the forward movement of this average sense and culture. In the development of its civilization, the whole of a national society, and especially of a democratic society, must be looked at as one individual organism, impelled by one aggregate life force; from which it results that the social and institutional progress of the community will conform itself, not to the highest thought and aspiration in the State, nor yet to the lowest, but, as I have said, to the general average of the whole mass.

This being one of the laws, higher than any of human enactment, which governs the progress of nations and the growth of civilization, every truly wise thinker, freighted though his mind may be with darling conceptions which he longs to see completely realized, will accept it as a providential arrangement, content himself with adding one additional stone to the edifice of ages, and thus contrive to keep his soul in peace. The coral insect that is building a new continent in the western sea works wiser than it knows, because its puny efforts are guided by an infinite intelligence. Man too, with all his intellect, works to ends other and higher than he perceives, because the order, consistence and upshot of his effort is fashioned, not by him, but by that same infinite intelligence which is composing human history, age after age, even as a poet composes a drama—act after act, scene after scene.

If in the working out of the grand finale of human life on the earth, whatever that may be, progress seems slow, and the aspiring heart sinks with sadness, we may remember with the great Christian father, that God is patient, because He has all eternity to work in; and we may gather some cheer from the reflection, that



though civilization in all lands is still blundering in its alphabet, yet the realized fact of to-day is higher than the most famous ideal embodiments of the past; for we have here in our own country an actual subsisting polity incomparably superior as a whole to anything we read of in the Republic of Plato, the New Atlantis of Bacon, the Oceana of Harrington, or the Utopia of More. In view of this great law, which slowly evolves, step by step, the progress of human society, as of universal physical nature, we may learn to chasten our impatience without abating our zeal, and to accept thankfully for the time the best measure of good we are able to attain. If liberty will not grow in advance of culture, if in politics as in hydraulics the stream will not flow above the fountain head, it is no fault of ours, nor of God's either. Deep down at the bottom of the being of things, further down than finite intelligence may ever be able to penetrate, I make no question there is a complete moral justification of that wonderful arrangement, by which the individual, the social, the moral, the political, and religious life of mankind must pass by gradual advances, and through suffering, labor, and patient endurance, into the higher goods of liberty and virtue. If it seem that the wine-press of affliction we have trod during these late bloody years should yield more perfect immediate results, we may doubt whether our national culture has been equal to our national affliction, and we may know that the blood of the martyrs of humanity, like all other seed, does not instantly spring from the ground and flower forth into the full fruition of human uses. Now, and in the future, the utmost return will be made for the late prodigious heroism and suffering of the nation.

Most encouraging is that profound change for the better which has already taken place in our public life and public thought. The popular mind now perceives, if not perfectly, yet in shadowy outline, that there is a higher law than any of human devise, older than cities and empires, and to the requirements of which every nation ought to conform its institutions and its laws, just as the mason builds his wall by the plummet line, or as the husbandman observes the course of the seasons in his tillage. Here is the foundation of that party of Progress to which belongs the future of our country. When I attentively contemplate our fair and stalwart young Republic, her foot upon the broken lash and manacle, her garments red with the precious blood of her slain children, I detect upon her beautiful countenance a greater depth of thought, a more humane love, a higher purpose and wiser look than was ever seen there before. Like Magdalene, she has flung from her the gross filthiness of her pollutions, and lifted her heart in strong resolve to the things of a purer and greater life. If yet she has not entered completely into that higher life, if yet the new habit has not fully conquered the old, still, the great thoughts that quicken her intellect, the noble aspirations that inspire her heart, are prophetic of the peerless beauty and glory and rightness which shall crown her coming life.

Meantime, content with the possibilities of the present, nothing doubting the better realizations of the future, let us briefly analyze this Reconstruction Amendment which we have tendered to the States as a practical basis for the restored political order of the Union.

Indeed, comment upon the several sections which compose this amendment may well be brief; for there are some propositions, the justice and propriety of which are so obvious in their simple statement, that they cannot be much helped by any amount of argument or illustration.

The first section of the amendment is as follows:

"SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law

which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This section I regard as more valuable for clearing away bad interpretations and bad uses of the Constitution as it is than for any positive grant of new power which it contains. How admirable, how plainly just, are the several provisions of it!

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

Who can object to this? Persons born or naturalized in the United States, and subject to its jurisdiction, subject to taxation, to military service, to all the burdens of society, both State and national, *ought*, upon every principle of manly justice, to receive in turn from society that protection which is involved in the *status* of citizenship. To compel a man to submit to your jurisdiction in all things, to pay your taxes, and fight your battles, and then withhold from him this reasonable measure of reciprocal protection is, to say the least, and to call it by no harder name, a political villainy which every citizen of a democratic country ought to be ashamed of. Again:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

What business is it of any State to do the things here forbidden? to rob the American citizen of rights thrown around him by the supreme law of the land? When we remember to what an extent this has been done in the past, we can appreciate the need of putting a stop to it in the future. Again:

"Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

How clearly right and necessary to liberty is this! The Constitution already declares generally that no person shall "be deprived of life, liberty, or property without due process of law." This declares particularly that no State shall do it—a wholesome and needed check upon the great abuse of liberty which several of the States have practiced, and which they manifest too much purpose to continue. The final clause of the section, providing that no State shall deny to any person within its jurisdiction the equal protection of the laws, is so obviously right, that one would imagine nobody could be found so hard-hearted and cruel as not to recognize its simple justice. Is it not a disgrace to a free country that the poor and the weak members of society should be denied equal justice and equal protection at the hands of the law? Who can look straight at the fact till he realizes its full meaning and its full meanness without dropping his eyes and hanging his head in shame? This whole section is sound in all its parts and in every particular. It appeals irresistibly to the democratic instinct of the people, and it will be a jewel of beauty when placed in the Constitution of the country.

The second section is in these words:

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

The substantial, practical meaning of which is, that those States which disfranchise their colored population shall have them struck out of their basis of representation in Congress, lessening thereby their number of Representatives,

and, by consequence, lessening to the same extent their quotas of electors for President and Vice President. Taking for a basis the census of 1860, and the present law regulating the number of Representatives, the exact state of the case is as follows: the number of slaves was three million nine hundred and fifty thousand; the legal quota for a Representative in Congress is one hundred and twenty-seven thousand; from which it results that the unvoting, manumitted slave population, as matters now stand, would yield thirty-one members of Congress and thirty-one electors of President and Vice President. In addition to this, the curiously absurd feature of the case is to be observed, that in consequence of the abolition of slavery, the two fifths of the slaves who were excluded, would now be included in the basis of representation—thus actually *adding* not less than eleven Representatives and presidential electors to the strength of the late slaveholding States: that is, before the rebellion there were twenty, now there would be thirty-one Representatives and electors, resting upon no better foundation than the disfranchised colored people of the South. That a power so great as this—great enough in all doubtful cases to determine the destiny of the Republic by electing its President and controlling the popular branch of its Legislature—that such an odious, aristocratic power, based on not one solitary vote among the people, and controlled too, by those States which have deluged the country in blood in order to overthrow the Republic; that such a power, I say, so grossly unjust, so disgraceful to free institutions, and so dangerous to the country, should be permitted to continue in the system as a means of strengthening the hands of the late enemies of the Republic, is a thing too absurd, too out of joint with all the logic, justice, and patriotism of the case, to be conceived of as possible on any other hypothesis than that the loyal people of the country shall become stricken with judicial blindness.

It is idle to say the defeated insurgents are impoverished and weak. They have an ally in the North whose name is legion. The ex-cereb of the South and the copperhead Democrat of the North will rally under one banner, gather inspiration from one impulse, and strain every nerve to get control of the Government. In view of all that is past, the sentiment is higher than mere party, which prompts me to say that the ascendancy of this coalition would be dangerous to the Republic. Upon all accounts and by every just means such a public calamity ought to be prevented. Now, the eminent merit of this second section is, that while it will serve the practical purpose of greatly narrowing the power of the disloyal and dangerous element of the country, it is palpably just in itself, and at the same time plainly tends to a still higher justice. Who will be impudent enough to say, that if a State withholds suffrage from a large portion of her people, they ought nevertheless, in point of *very right*, to be numbered in her basis of representation? No just-minded man can say it. And who does not perceive that when such disfranchised persons are stricken from the count, the State is placed under an inducement of interest to enlarge her political power by elevating her political justice? This section of the amendment, in view of all the circumstances of the country, is, in my judgment, a most wise, righteous, and necessary measure.

The following is the third section of the amendment:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

Small room for comment here. It would be unfit, unjust, and indecent in the last degree, to allow these classes of ringleaders in treason to exercise any official control over the country. Members of Congress, graduates of West Point, gratuitously educated and nurtured by the nation, officers of the United States generally, Governors, State judges, and State legislators, who having sworn to support the Constitution, did then break their pledged faith and urge on the recent infernal rebellion against the life of the Republic, are excluded from office, unless Congress shall by a vote of two thirds of each House remove the disability. Here is mild rigor and humane leniency; rigor enough to make treason odious—that once favorite idea of the President; rigor enough to teach the value of an oath, and the necessity of *official patriotism* in all our borders; leniency enough to relax the rule, if by future repentance and good conduct, particular persons or classes may appear to merit such indulgence. The *moral sense* of the country surely demands that some punishment should be visited upon so great a public crime as the late rebellion; the *safety* of the country surely demands that its offices should not be filled by the prime movers of the rebellion; and thus public justice and public safety lend their united sanction to the measure under review.

I proceed to the fourth section of the amendment:

"SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void."

Beyond all question this is a vitally necessary measure; the happiness and safety of the people demand that the great material interests it provides for should be made perfectly secure. That these interests are perfectly secure without it, it is idle to pretend. That without such a check, many if not all the late rebel States will fasten their respective rebel debts on their people, is morally certain; that the policy of these same States will be to obtain some compensation for slaves manumitted by force and against their will, is equally certain; that another part of their policy will be to deny the justice of being taxed to pay the war debt of the nation and the pensions of Union soldiers, while their own war debt is repudiated and their own soldiers pensionless, is likewise certain; that, failing to get recognition of their own debt and pensions for their own soldiers, and pay for their manumitted slaves, they will do all they can to unsettle the national debt, and to rob the Union soldier of his pension, is none the less certain. The nature of man and the interests and passions by which he is actuated make these conclusions exceedingly probable. When we add to this the powerful alliance the late rebel States will have in the North, and think of the corrupting power of an enormous monetary interest struggling for recognition, these considerations, when summed up and taken as a whole, make it perfectly apparent that the safety and well-being of the country loudly demand the adoption of this security.

The following is the fifth and last clause of the amendment:

"SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

This section was of course necessary in order to carry the proposed article into practical effect.

Now, when we look at this amendment in the aggregate, and reflect how just and reasonable are its several provisions; when we consider the great liberties which are better secured by the first section—liberties to which the honor of the nation is pledged, and which no rational man can gainsay; when we con-

sider the plain, undeniable political justice of that more equal basis of representation which is provided for in the second section; when we look at the third section, by which, in conformity to national justice and national safety, the forsworn ringleaders of the late rebellion are most righteously excluded from the honors of official station in a country which they have striven through havoc and blood to destroy; when we examine the fourth section, and see what an ample shield of protection it throws over the otherwise imperiled material interests of the country; when we consider how humane and moderate is the whole arrangement—punishing lightly the prime actors in the rebellion, and punishing not at all the misled rebel masses; and finally, when we reflect how fatally necessary are the great features of the plan to the safety and well-being of the nation, I feel the utmost assurance that it will be triumphantly ratified by the voice of the people. So strong is it, so just is it, so necessary is it, that whoever stands before it and tries to defeat its adoption will be swept like a dry leaf before a western hurricane! After all that has happened by this iniquitous rebellion—after the tears and the blood that have flowed, the wreck of property and the grinding debt piled high on the shoulders of the nation—under God I declare it does not now rest with traitors, apostates, demagogues, and trimmers, to so shape affairs at this critical juncture, that the Republic shall be left insecure, and the people be robbed at last of the price of their blood! The amendment will and must be carried through. Liberty, patriotism, public safety, justice to the martyred dead and justice to the whole country, demand its adoption in a voice of thunder!

When ratified and conformed to in good faith by the revolted States respectively, they will be in a condition to resume their cast-off governing power in the Union, on terms at once safe to the country and humane and just to themselves. That the loyal nation, after crushing a rebellion which shook the Republic to its center, has now a constitutional right to require of its late enemies such conditions—precedent, as a basis for its own future quiet and security, is a proposition too utterly plain to admit of serious argument. The power to put down the rebellion carried with it as a necessary sequence the power to prescribe a safe order for the future. After all this terrible hubbub of war, after marshaling two millions of men to the field, and fighting hundreds of bloody battles, to be told that we have now no constitutional right to insist upon proper conditions of safety for the future, before admitting the defeated rebellion to power again, is an assumption so basely absurd, and so absurdly base, that I fling it from me with the contempt it merits. Most true, representation is a sacred right in a free Government. But, when States combine together in a Government like this, and drench the land with blood in their mad effort to overthrow the Republic, it is not true, that the *very moment* their flag of treason goes down in the field, they have a right to march their representative men into the councils of the nation! Some little breathing time, some decent interval for looking over the field and arranging the terms of a safe future, is certainly the most natural and the most reasonable thing in the world under the extraordinary circumstances of the case. That such temporary delay, for such just and necessary purposes, is an infringement of the real right of representation, can be seen only by the most inveterate of demagogues.

The difference between the plan of Congress, as presented in this Reconstruction Amendment, and the plan of the President, as presented in what is termed his "policy," may be stated in one brief sentence: *all that is contained in the first is missing in the second.* That great security for civil liberty provided for in the first

section of the amendment, to which the honor of the nation is committed, and which has been so richly earned by the suffering and the blood of its poor people, finds no place in the President's plan. That plainly just and democratic basis of representation, provided for in the second section, by which the late southern traitor will not be allowed in future to wield nearly twice the political power of the northern loyalist, finds no place in the President's plan. That most just provision of the third section, by which the perjured leaders of the rebellion will be effectually debarred from holding office and making laws for the loyal people of the country, finds no place in the President's plan. That wise and necessary provision of the fourth section, making inviolable the national debt, and securely protecting the people from rebel debts and immense impending claims for manumitted slaves, finds no place in the President's plan. All these great matters are fully provided for and permanently adjusted in the scheme of Congress—none of them in that of the President. Surely here is a difference wide enough to arrest the attention of the way-faring man, though a fool and running as he reads. All is made secure on the one hand; all is left insecure on the other.

Here, sir, I might rest; but I am loath to close without adverting, though in the briefest possible manner, to the great ideas and principles which should enter into the public life, and mold the future Civil Policy of our country.

1. The first grand political idea is, that the Republic should be contemplated as an indissoluble whole; all its powers should be cheerfully respected and obeyed; and the citizen of every State should feel a yet larger distinction in being a citizen of the United States.

2. The States ought to be regarded as indestructible members of the Republic, and all their rights should be sacredly respected.

These two ideas, taken in just combination, will guard against undue States rights on the one hand, and undue centralization on the other. Nature supplies us with a sublime and beautiful analogy to our political system. As the sun presides over the great movements of the solar field, holding each planet in its proper orbit, so each planet in turn presides over the things which belong peculiarly to itself. The destruction of the sun would send the planets madly from their spheres. The destruction of the planets would rifle the system of all its beauty and variety. We should adhere with equal tenacity to the indissolubility of the Republic and the indestructibility of the States; and all the rights and powers appropriate to each, should be regarded as indispensable to the health and well-being of the entire system.

3. The Administration of the Government of the Republic should be lifted high above all sectional or local partiality; and the official men who administer it, though elected or appointed from local districts, should stand for the equal rights and well-being of the whole country.

4. The people of every part should cultivate kind and respectful feelings toward the people of every other part of the Republic; and their representative men should encourage the growth of these sentiments.

5. The true Democratic Idea should be so cultivated, that all the liberties and humanities of our institutions and laws should find a vital expression in the sphere of our social life.

True democracy, like true religion, recognizes the inherent and immeasurable value of man, and of all men. I fear that this great sentiment finds, as yet, a better expression in our declarations, bills of rights, and brave public utterances, than in the core and habit of our private, practical life. We still look rather at the accidents of the man—his wealth, his station, his factitious advantage—than at the man himself. The divine genius of democracy will gradually remedy this, and bring our social life more completely under the influence of that broad

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humanity which we profess as a public theory. The leper must be cleansed and healed and made equal to a king in American society. Lazarus, scorned by the passer-by, and licked by the dogs, must be washed and renovated and advanced to a full peership with the richest denizen of Gotham. O Democracy! excellent benefactor of mankind, this is thy work! Though in thy name bad men and misled men have done the work of devils, placing their feet upon their brother's neck, laying the lash and the gyve upon thy altar as the symbols of thy genius, and striving might and main and through seas of blood to rend in twain thy temple of liberty, yet, blessed handmaiden of humanity, art thou holy and from God! These false ones have known thee no more than those knew Christ who burned their brother man to ashes with green wood for very love of the Lord!

6. Order combined with Progress is a political formula which ought to be appropriated by every American citizen; order for the permanent preservation of all that is good; progress for the remedy of all that is evil or imperfect in the Republic. Thus the stability of the system will be assured on the one hand, and its growth and perfection on the other.

7. As a people, we ought to cultivate just, generous, and magnanimous feelings toward all the other peoples of the earth; entering into appreciative sympathy with their peculiar genius; aiding them all we properly can in their struggles for liberty; and recognizing at its fullest value the contribution of each to the common civilization of the race. By occupying this high moral position before the nations, we shall draw to us the well-wishes and the affection of mankind, and aid, in the highest possible degree, the growth of that larger liberty, and that cosmopolitan civilization which are dawning upon the world.

8. As a means of counteracting the influence of climate upon character, and preventing the development of Provincial Centers in a country so great in area, a very important part of policy is to encourage the most intimate and the cheapest possible intercommunication—extending in every direction, and from center to circumference of the Republic. Not less than three such centers have manifested themselves already, though in different degrees—in the South, in New England, and in the West. These results have been produced in part by causes independent of slavery, and having nothing to do with Puritan and Cavalier. The assemblage of physical causes in the South, on the Mississippi plain, and in New England, have certainly a tendency to produce modified types of character; and these in turn conduce to modified social, and political opinions. The general diffusion of right Ideas, combined with a system of intercommunication which shall multiply commercial relations, and translate the people frequently and numerously from part to part of the Republic, will hold these natural tendencies within such limits, that they will contribute to the richness and variety of the national genius, without endangering the integrity of the Union.

9. Finally, and most important of all, Education should be made universal in the Republic; and in one important respect it should correspond to our political system. As we have a central Government for the whole Republic, and State governments for the subordinate parts, so the education of the national mind, which supports this complex system, should be unitary as to certain great general elements of culture, and diverse as to the rest. The unity of such a system of education would constitute us one nation in thought, while its diversity would break up our culture into as many varieties as there are States. Thus the popular mind of the whole country would become harmoniously adapted to our institutions, State and National, and stay them up with all the force of early habit and instinctive affection. I am persuaded that a profound improvement, in the

direction here indicated, is needed in our system, or rather no system, of National Education.

Such are the cardinal elements of a permanent future Civil Policy for the country. If but tolerably observed, they will conduct our Republic to an inconceivable measure of greatness and power; and, what is of infinitely more worth, they will make it an unequalled blessing to the countless millions who shall dwell beneath its protecting wing, and to the more numerous millions upon whom it shall shed its ameliorating influence.

Sir, as there is a time for all things, so there are things which are appropriate to each period of time. Late the martial drum-beat was heard through all our borders, and the deep-throated cannon was dragged to fields of carnage and death. War, furious, relentless, consuming war, was then the duty of the hour—made its duty in order that the Republic might not be blotted from the map of nations. After the most tremendous conflict of the age if not of history, the flag of treason and slavery went down before the banner of the Republic. The smoke has cleared away from the battle-field; the moldering dead, sown thick as the leaves of the forest, sleep quietly in the long battle-trenches where they fell; the green grass of summer is made greener by the blood that enriched the soil. O, God! how revolting is the thought, that the coming harvest of such a sowing should be prematurely blighted by the same hand that cast the seed! that the people which gave its children to the slaughter, and made itself immortal by its heroic endurance and its deeds of valor, should now prove itself incompetent to make secure and fruitful the peace it has conquered at so great a cost! It is impossible! It is impossible! There is too much intelligence, and patriotism, and nobleness of mind and heart in this great people, to allow such an ignoble and detestable fact to have a place in their history! The imperative public duty that now lies next our hand will be performed! The amendment proposed by this Congress as a basis of safe and permanent pacification—so just to the Nation, so just to the South, and so just in itself—will be sustained and placed in the Constitution of the Republic. Then—the country made secure from the perils which still threaten it—every star restored to more than its former luster in the azure field of the national escutcheon—we shall move upon the future with firm and assured footstep, meeting, as I trust in God successfully, the ever new and momentous duties which that future shall bring.

## The Tariff.

SPEECH OF HON. C. DELANO,  
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,  
July 10, 1866.

The House having under consideration the bill to provide increased revenue from imports, and for other purposes—

Mr. DELANO said:

Mr. SPEAKER: I do not rise for the purpose of discussing the details of the bill before the House nor with a view of entering into a general discussion of the questions of revenue and finance that are connected with it. But, as I desire the passage of this bill, whatever may be its perfections or imperfections, and as I am of opinion that all those whose interests are identified with interests like my own ought to support this bill, I have felt at liberty to offer to the House a few observations. I know, very well, that I may say of this tariff bill, truthfully, that it is not all it should be; that it is not all that the committee who brought it forward desire to have it; that it is not acceptable to every interest which it affects. And I presume that this much might be truthfully said of every revenue bill of the same kind that has ever been introduced or that is ever likely to be introduced into

this or any other legislative body. And while I say this, I must add that I have no doubt, with all respect for the committee who have matured this bill and brought it forward, that it might be materially improved. I have no doubt the laborious, vigilant, and diligent committee themselves entertain a similar opinion. I know how difficult it is to enter upon the question of taxation in any of the forms of legislation so as to meet justly and equitably all the interests that are affected by the measure. One of the most difficult subjects of legislation is this question of taxation in all its forms. While, therefore, I admit the imperfections of this bill, while I feel that it is subject to easy amendment and improvement, yet I feel that with all these imperfections and with all the opportunities for improvement, the bill, as it comes before us, ought to pass rather than be rejected.

I ought to say here, for myself, upon this question, at least that my constituents may know my views, that I am not for a prohibitory tariff nor for a tariff for protection merely and never have been; neither do I favor a tariff simply for revenue, and never have, although I have been for protection by means of a tariff whenever our finances have demanded revenue from import duties ever since I have participated in public affairs. As I said a few days since, when the question of imposing a duty on salt was under consideration, the finances of our country demand of us the collection of taxes by means of import duties at the present time, and were I called upon myself to prepare a revenue bill my first effort would be to ascertain how much duty ought to be collected; how much the finances of the Government required us to collect by means of imposts, and having settled that question, I would look over the interests of the country and see how this amount of revenue could be distributed with the nearest approach to justice, and with the greatest equality to all the great interests of the nation; and then, thirdly, I would inquire how this can be done and afford the most judicious protection to the industry, labor, and skill of the United States. I mean not simply the industry of the mechanic; I mean the industry of the agriculturist. And I mean not alone the industry of the mechanic and the agriculturist, but of the miner—all the interests of labor in the land; I make no discrimination at all.

The past history of our country admonishes us that the days of American prosperity have been during periods of protection to American industry, and that our days of adversity, of bankruptcy and financial distress, have been during periods of non-protection, when low tariffs, or horizontal tariffs, and other free-trade experiments, were being made. Free trade, sir, will answer, perhaps, if it is free.

But there is no nation on earth with whom we have important commercial intercourse that adopts this principle. How has England obtained so strong a position for her manufacturing interests? Why, sir, by protection, protection which she did not relax until this interest had become so strong, so experienced, so self-sustaining and powerful as not to require it. Free trade, in my opinion, if adopted now, will bring this nation to early bankruptcy and financial ruin. It will impose upon our people such burdens, from direct taxation, as cannot be endured. Meantime it will flood our country with the products of other nations; and to pay for these products we must ultimately export gold. We cannot always pay in bonds, and with all branches of industry paralyzed we shall soon have nothing left to export save our precious metals. Sir, the gold mountains of the West will prove inadequate to the task of paying our foreign debt if we are guilty of the suicidal policy of destroying all domestic industry by this delusive cry of free trade. I often think, sir, that the money of the foreign manufacturer, added to the prejudice and animosity engendered by party strife, constitute



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the principal alimant for the sustenance of the theory of free trade.

The bill now before the House does not altogether meet my own views in reference to the theory or the manner in which a revenue bill should be framed. But, sir, I am for it. I think there is a class of persons in this House whose interests are with mine, who show some signs of giving way and going against this bill, but who ought, like myself, to be for it. It is for their ears that I venture, not with the expectation of convincing them, but for their attention, nevertheless, a few remarks. There is another class of persons, those not directly interested with me, those, perhaps, who are interested adversely, but who have consented to or have arranged and agreed upon the main features of this bill, and who, I think now, not only in this House but out of it, ought to stand up to that arrangement and not start the hue and cry against the bill out of the House or in the House after they have signified their assent to it. I do not mean that this opposition is started in the House, but I do fear that some parties who have consented to this arrangement are not, out of the House, living up in good faith to the compromises that have been made.

Within all my recollections of public events this is the first bill that has ever been brought before Congress that did justly protect, or that approached anything like just protection to the agricultural interest of the land. Hitherto it has seemed that, in the course of legislation, there was no protection to be given to the man who labored on the soil, and brought things out of the soil, and made wealth in the production of the raw material, but it was to be given to him only who wrought it out and converted it into fabrics. The day has gone by when this discrimination should be made. The hour has come, and I wish to say it to members of this House, that those who represent that great interest of producing the raw material must and will be fairly heard and fairly represented in this matter, and it is for that interest that I speak.

I know how difficult it has been to bring this interest before Congress. Capital engaged in manufactures is combined and consolidated. Its influence can be condensed and brought to bear upon legislation, but in the case of agriculture it is diversified, scattered, and spread abroad over the nation; it cannot be concentrated. And hence concentrated capital has made itself powerful and great and mighty for protection. The interests of agriculture have been neglected, because they have not been represented. The day has come when it must be seen by statesmen how important these agricultural interests are, and how they demand just, proper, equal protection at the hands of the national Legislature. It is because this is the first bill that has ever proposed justice to this interest that I will go for it, and thus, if possible, place agricultural interests on an equal footing with other interests and among the other interests that are protected, so that when the tariff has to be modified and reformed, as I have no doubt it will in time have to be, the interest for which I speak may have a voice and a hearing in the reformation and correction and in the proper adjustment of the revenue question.

Are we to forget, gentlemen, have we not in the whole history of our legislation in America forgotten, that one of the great pillars upon which our country rests is agriculture? I ask you, where would be your commerce and where your manufactures were it not that you were furnished with material for their sustenance and support by those who plow the earth and cause it to bear fruit and grain and materials for your use? I ask you if the time has not come when this interest deserves and has a right to receive at your hands a fair and equal protection with other interests in the adjustment of your revenue laws. Now, sir, I do not propose, as I have before said, to discuss the details of this

bill. I concede that there are many things in it that are imperfect. But I assert that it does protect the agricultural interest, and will bring that interest somewhat upon a level with the other interests of the nation in the future adjustment of our revenue laws.

No sooner was this bill placed before Congress than the free-trade howl began all over the land; and I am sorry that I was compelled to hear a voice from Massachusetts in the other end of this Capitol saying that New England did not want this bill. I do not pretend to intimate that there are any gentlemen in this House who have sanctioned that cry. But the voice came from Massachusetts that New England does not want this bill; and why? I can look at the facts and see the reason why she may not want it. Although this bill largely advances the protection upon manufactures, it also puts protection upon the raw material for which she has had heretofore the markets of the world in which to seek supplies, and often without duties; and perhaps New England would prefer, or the gentleman who sounded this key note would prefer, to stand by the law giving protection to Massachusetts as it is, without any protection to agriculture, rather than advance the protection on manufactures and place agricultural protection along side of it.

Mr. BOUTWELL. I fear there is some misapprehension as to the opinions of New England, and as I may not have another opportunity to say a word, if the gentleman from Ohio will indulge me for a moment, I will say now that although I have no authority to speak for New England or for Massachusetts as a whole, I think I am able to comprehend the general idea of the people. I think it is this: that they are in favor of protection as the general policy of the country, not protection to manufactures or to commerce or to the mechanic arts merely, but to agriculture also. It is a policy by which they have lived and prospered, and they are likely to remain in the support of that policy under all circumstances. If there is any difficulty to-day in New England in reference to this bill it is not, I think I may say, in consequence of any particular interests which they think are fostered elsewhere at the expense of New England. Nor is it because they think that in this bill, as a whole, New England interests are not sufficiently protected. But New England, as the gentleman well knows, had a long and, during some periods of its progress, a bitter warfare with other sections of the country in reference to protection to domestic industry.

If I apprehend the sentiments and the purposes of the people of New England, they are not anxious to continue a contest of that sort. While they mean to maintain the principle and the policy of protection with reference to their own interests, with reference to the interests of the whole country, what they ask of Congress and of the country is a protective system which shall not only protect the interests of New England, but shall so protect all the interests of the country as to commend itself generally to the whole country. The difficulty in New England to-day is, then, not with reference to this bill, but it is from this circumstance: that in other sections of the country, and particularly in the great West, with which New England desires to be in accord upon this great subject of protection, there appears to be determined hostility to this bill. This is the aspect, as I understand, upon which New England presents herself to Congress and to the country in reference to the bill now under consideration.

Mr. DELANO. I shall have a few words to say before I have done to my friends of the West who are accused of hostility to this bill, and who thereby furnish an excuse to New England to deviate from her legitimate policy, as laid down by the gentleman from Massachusetts, [Mr. BOUTWELL.] I am very glad to

hear from that gentleman that the general policy of New England is to protect all the interests of the country. And I beg of New England now to show her faith by her works, and not by her words only. If others in other parts of the country, with whom New England desires to act in harmony, are unwilling to walk up to the line that New England believes to be the just line, still I ask New England to stand up to what the country expects from her, and go for that principle of equal protection to all the interests which she says she is in favor of. God forbid that I should be understood as having any feeling against New England!

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. DELANO. I will yield for an explanation, but I have not time to yield for a speech.

Mr. DAWES. I want to ask the gentleman if he desires New England to vote for this tariff bill upon the West against the wishes and the denunciations of the West. I say to him that New England is ready to vote for this tariff bill if the West wants it. But New England is not ambitious to furnish the West a tariff bill and then have the West relieve itself of all responsibility for it and heap upon New England the denunciations that have been heaped upon her in the past. She does not want the responsibility of this bill shifted from the shoulders of those who the gentleman from Ohio [Mr. DELANO] has well said have more interest in it than ever we have had in any tariff bill that has ever been passed. We are content with things as they are; we are content with the bill; we are content with things as they are rather than with the bill, if we are to carry the load of denunciations that is heaped upon us from the West.

Mr. DELANO. God bless New England, I was about to say, *for her love for the West!*

Mr. DAWES. We do not want it to be understood that we are forcing this tariff bill upon the country; we do not want it to be understood by your leading organs in the West that New England interests are forcing their protection upon you and upon the West. We say firmly to you, you made this tariff, we will abide by it, and by the present state of things, if you desire it.

Mr. DELANO. How pleasant are thy ways, O New England! You would not inflict a tariff upon the West without their consent. God bless you! How many years have you stood up and demanded of us a tariff on the ground that if it was not granted your manufactures would go to ruin? How long have I stood in Ohio against the free-trade Democracy and been accused of being the employed advocate of New England manufacturers? All the days of my life. I have no feeling against New England. But if she has at heart a principle, and that principle is equal protection—and she says so, and I am bound to take her at her word—I say to her, show your faith by your works, and come up now and vote for that principle as you have always done before, when you forced upon us your tariffs, with our feeble assistance, those of us who were in the minority; you had then no conscientious scruples about forcing upon the West what she did not want. You were very glad then to get your tariff, and you got it. I am glad of it, sir; for I feel that it has been a benefit to the country. Now, I want you to come up to the broad work, and when other interests are involved show that you believe what you say, and that you do not fall back from your faith the moment anybody else is to participate in the benefits of protection. Nor do I believe that you will. I do not believe that it is in New England to do so.

In what I have said here I do not wish to intimate that all this howl has come from New England; but when I heard from a Senator representing New England the declaration that the manufacturers of New England do not want this bill, and when I saw the whole kennel of

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free-trade hounds set loose upon the country, and all of them backed by this senatorial declaration, I began to wonder who was setting the dogs upon us. I do not say who it is. I ask you now to show that you who represent New England are not responsible for it. I do not believe you are. I trust that in our action upon this bill it will be seen that New England is true to her ancient traditions, true to her interests, true to her faith, and that she will stand up to this bill to the end. If she does not I will make her a prophecy.

There is a West this side of where the sun sets; and there are people in it. It has a soil from twelve inches to eight feet in depth, yielding corn and oats and rye and flaxseed and hemp and wheat. And that is not all. There are men and women there; and they populate the earth as the Lord commanded when He directed them to go forth and subdue it. There is youthful vigor and power there. We are your children. We came from you. We sympathize with you and we love you. All we want is that you shall treat us as parents should treat their children; that you shall live up to the declarations you have made here in the House to-day. Then we shall be repaid for what we have done for you these many years; and we will strike hands with you. Together we will sustain this Government against all enemies to its integrity, against all enemies to its finances, and we will make ours the greatest Government and the greatest people that God's sun has ever shone upon. But if you will not help us, then when we get strong enough, as we soon shall be, we will help ourselves and you may help yourselves. Is not such a course the instinct of nature and of humanity?

Have I not some reason for these remarks? Sir, I have alluded to what has transpired. I want to say now to my friends of the West, be not deluded with this cry of free trade. You have now for the first time in your lives an opportunity to put the agricultural interest upon the protective list. Ay, sir, and the people and your constituencies are watching. Let me give you a fact. There are in this country this day thirty-six million sheep; and I would not go a rod to kick any one of them.

Mr. WENTWORTH. And all of them have two lambs!

Mr. DELANO. That may be in the neighborhood where the gentleman from Chicago obtains; but sheep are not so prolific in other parts of the country. These thirty-six million sheep are represented by two hundred thousand voters. The sheep represent the voters, or the voters the sheep, or both ways, as you choose. [Laughter.] The men who own this property are voters. For the first time in their lives it is proposed that this property should be protected by the tariff law. I know that this bill will protect this property and its annual product and also many other important agricultural interests. I say to gentlemen that those two hundred thousand voters have been watching with intense interest the action of this House during the past week on this subject. Do you ask me why? Let me present to you a few facts. I want to call the attention of this House to the importations of wool for the last few years. Members are aware that I am not much a man of detail, and do not generally elaborate largely upon tables and statistics; but here are a few facts which exhibit an idea, and I want to lay them before the House.

In 1859 we imported two hundred and thirty-one thousand pounds of wool. Now, mark you, in 1860 we imported a million and a half pounds. That was before the war—before the embarrassments following the war stared the manufacturers in the face. Now, in 1861, when the war came upon us, when the manufacturers did not know what was about to happen, when the farmers of the West could not sell their wool at all, there was imported into this country only five hundred and fifty-six thousand (half a million) pounds of wool; one third of

the amount imported in 1860. Next year, sir, it was given in evidence that the war had brought out a demand for woolen goods. In 1862 you imported thirty-one million three hundred thousand pounds of wool; in 1863 seventy-three million nine hundred thousand pounds; and in 1864 eighty-seven million one hundred and ninety-three thousand pounds; and all this time when you were running up from an importation of half a million to eighty-seven million the importation of woolen goods was being diminished. Yes, sir, the importation of goods manufactured abroad was being diminished. The manufacturer had the monopoly of the markets of America for the sale of his goods, and the markets of the world, so far as we were concerned, in which to buy the raw material. What fact is more apparent than that the price of wool has not risen commensurately with that of other articles in any degree whatever during the war? It is a known fact that it has not, and the reason of it is here: you had a tariff that furnished no protection to the wool-grower whatever. Why, sir, to show you how this was accomplished, let me call the attention of the House to the importations of wool at the port of New York for the year ending the 31st of December last. You remember, sir, that that tariff puts a duty on wool, valued at the last port of exportation at twelve cents or less, of three cents a pound; when over twelve and not over twenty-four, six cents per pound; when over twenty-four and not over thirty-two, ten, and ten per cent. *ad valorem*; and when over thirty-two, twelve cents per pound and ten cents *ad valorem*. Now, sir, this was so framed by the ingenuity of the manufacturers that wools competing with American wools could be brought in here at a price less than twenty-four cents per pound. The average price is fourteen cents per pound. The South American wools, competing with our half, three fourths, and seven eighths Spanish merino wools, are imported under the existing tariff so as not to pay above three to six cents per pound duty. This is done by sending them here unwashed, and by handling them in the dirt, so as to reduce their value at the last port of export to such a sum as to cheat us of revenue, and thus deprive our own wool-growers of a market. In point of fiber and excellence these South American wools are as valuable to the manufacturer as the American fine wools.

By looking at the imports at New York you will see what was the result. We imported there for six months, ending December 31, 1865, five and a half million pounds of wool that cost twelve cents or less; eight million eight hundred and sixty-one thousand pounds of wool costing over twelve and under twenty-four cents per pound that paid a duty of only six cents; and when you go beyond twenty-four cents per pound, only fifty pounds were imported. A greater legislative wrong was never practiced upon a people than has been practiced upon the wool-growers of this land. We have borne it through the days of trial, in the days of taxation, in the days of heavy internal revenues, high taxes upon incomes, and high prices for all our manufactured goods. We have borne it as long as we can, and, God helping us, we will bear it no longer. And this I tell you, gentlemen, is the voice and sentiment of the western people to-day.

Now, sir, it is to put ourselves in a condition where we can prevent these impositions; where we can have a voice in adjusting this tariff, when it is to be adjusted, that I am here to-day to appeal to western men as well as eastern men to give us this tariff. Postpone it now, until next December, and the same interest, the same influence that causes the postponement will cause its defeat. Gentlemen, now is your time, and if you fail to avail yourselves of this hour you will stand where the gentleman from Massachusetts [Mr. Dawes] places you. New England will say to you, "We loved you and your

productions, but, you did not want this tariff yourselves; you did not want it, and we were not so blind that we would force it upon you."

Mr. HUBBARD, of Connecticut. Will the gentleman yield for one word?

Mr. DELANO. Yes, sir.

Mr. HUBBARD, of Connecticut. I desire to say to my friend that I believe there is one State in New England that does want this tariff, and that is the State of Connecticut. I believe that all of her interests, agricultural, commercial, and manufacturing, will be promoted by it, and I intend to vote for it.

Mr. DELANO. Thank you, sir. Good for Connecticut. She is a glorious State and has kept up the banner of the Union lately, and I trust she intends to do it in the future.

Mr. HUBBARD, of Connecticut. Yes, sir, she sent fifty-four thousand men into the field to fight for the flag, with only half a million of population.

Mr. DELANO. Nobody will suppose that I have any feeling against New England, or that I have come here to-day to asperse her. I want to present this question to New England and the West in its true light, and I have feebly attempted to do it in some of its phases and aspects.

There is one other fact that I desire to call the attention of this House to. I spoke of the importation of eighty-seven million pounds of wool in 1864. That, sir, did not include eight million pounds of—what do you call it? Shoddy? Eight million pounds of shoddy. I do not know but I have got some of it on. May be some of the rest of you have. In the last four years twenty-seven million pounds of shoddy have been imported into the United States competing with our wools. The people of the United States in four years have bought and paid for twenty-seven million pounds of the old clothing of what the gentleman from Iowa [Mr. GRINNELL] calls the lazzaroni of the East. Gentlemen of the West, do you want to continue this disgraceful state of things?

Mr. KELLEY. I want to say to the gentleman that he makes a mistake when he says only twenty-seven million pounds have been imported in four years. There has been twice that amount brought in in the shape of manufactured goods—our own old clothes coming back to us as new cloth.

Mr. DELANO. I cannot say as to that. My friend is very familiar with details of that sort, and probably knows the run of old clothes closer than I do. [Laughter.]

Mr. Speaker, you may think that this wool interest is a little nearer my heart than it ought to be. It is not for that only that I speak. That is not the only interest to be protected. There is the oil interest, the flaxseed, the hempseed, and the oil that is made and the lint that is produced and to be produced in that great half-explored and undeveloped area of country capable of producing these articles. While we sustain the spindle and the shuttle, the loom and the rolling-mill of our country, shall we neglect to protect the hardy tiller of the soil also? Why, sir, I venture to predict that with five years of judicious protection of the wool interest there will be produced from the States of Missouri and Iowa the eighty-seven millions of wool, with all the shoddy thrown in, that you have imported from abroad and derived no benefit from in the last four years.

Understand me, gentlemen, and my policy! I am for protecting labor and industry in all its branches. Sir, I do not want to strike down those blazing forges of Pennsylvania, whose light, when I travel on the railroads by night, is among the most joyful sights that greet my vision. Nor do I wish to silence the ringing anvils made jubilant with the hammer of industrious men. God forbid! I would multiply all these elements of industry, wealth, and power. But while I would do that I would build up these other great interests along-side of them. I join hands with you gentlemen who have iron and

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Appropriations for New Jersey Coast—Mr. Newell.

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steel and coal and looms, and I am willing to have a fair adjustment. Sir, I want my cattle, my flax, my oil, my wool, if need be my salt, upon an equal ground of protection with these other interests. And now, I say to New England, "As you have so long had protection, and had it at our expense—I do not say unjustly, but you have had it—come now to the work; do not seek to cast off your responsibility by saying that the West declines it. The West does not decline it; the West will not decline it; and if western men here decline it, there are two or three hundred thousand voters who will wish they had this protection."

The following tables are introduced to illustrate the positions assumed in the line of my argument and to establish the facts therein stated:

Year.	Free of duty.		Paying duty.		Total.	
	Pounds.	Value.	Pounds.	Value.	Pounds.	Value.
1859	Not returned.	\$4,363,121	221,290	\$81,833	221,290	\$4,444,954
1860	Not returned.	4,450,658	1,557,039	321,494	1,557,039	4,842,152
1861	Not returned.	4,593,100	556,700	137,673	556,700	4,700,773
1862	Not returned.	55,390	31,300,739	4,893,827	31,300,739	4,949,366
1863	Not returned.	-	71,917,754	11,772,034	71,917,754	11,772,034
1864	Not returned.	-	87,193,462	14,595,162	87,193,462	14,595,162
1865	Not returned.	-	-	-	-	-
		\$13,432,418	192,756,974	\$31,872,053	192,756,974	\$45,304,471

Unmanufactured wool imported into the United States annually since the year 1858.

Flocks or shoddy imported into the United States annually since the year 1861 is as follows:

Year.	Pounds.
1862	6,201,077
1863	7,867,601
1864	8,133,391
1865	4,863,034
Total	27,155,133

The value of manufactured wools imported into the United States annually since 1861 is as follows:

1862	\$14,884,394
1863	20,411,625
1864	32,139,336
1865	20,347,563
Total	\$87,782,918

This table, taken in connection with the table showing the amount of unmanufactured wool imported since 1858, presents the following remarkable contrast:

In 1861 the amount of unmanufactured wool imported amounted in round numbers to half a million. These imports steadily and annually increased, and in 1864 reached the enormous amount of eighty-seven millions, to which may be added eight millions of shoddy, making an aggregate of ninety-five million pounds; while in 1862 the importation of manufactured wools was fourteen millions, and in 1865 only twenty millions, never reaching a greater amount than thirty-two millions, which was in the year 1864.

It thus appears that the American manufac-

turers have had and still enjoy such monopoly of the American market as to prevent successful competition from abroad, while the producer of the raw material has been left without protection, leaving the manufacturer free access to the markets of the world for his raw material. American wools ought to be so protected as that the ninety-five millions now annually imported may be produced upon our own soil. The extensive and unoccupied prairies of the West will sooner be brought into occupation and cultivation by encouraging the growth of wool than in any other manner whatever. No country in the world is better adapted to this branch of agriculture, and protection is as necessary to develop the dormant wealth of the western States in this respect as it is to open the coal beds and iron mountains of the middle States or to keep in motion the looms and spindles of New England. To enforce the truth of this observation I submit the following table, showing the present number of sheep to the acre in various localities:

England	1 sheep to 11 acres.
Scotland	1 sheep to 12 acres.
Great Britain	1 sheep to 2 acres.
United States	1 sheep to 57 acres.
Vermont and Ohio	1 sheep to 44 acres.
New York	1 sheep to 64 acres.
Iowa	1 sheep to 24 acres.

In 1860—	
Vermont and Ohio had	1 sheep to 8 acres.
New York	1 sheep to 11 acres.
Iowa	1 sheep to 136 acres.

I call attention to the following provisions of the existing tariff. Wool, unmanufactured, the value of which at the last port of exports twelve cents per pound, or less, exclusive of charges in such port, pays a duty of three cents per pound. Wool, as above, of the value of more than twelve cents and not over twenty-four cents per pound, pays a duty of six cents per pound. Wool, as above, value over twenty-four cents and not over thirty-two cents per pound, duty ten cents per pound, and ten per cent. *ad valorem*. Wool, as above, value over thirty-two cents per pound, duty twelve cents per pound and ten per cent. *ad valorem*.

The finest mestiza and other fine wools imported into the United States, and which compete with the fine wools of America, have not during the last ten years averaged in valuation over fourteen cents per pound at the last port of export. Hence wools competing with American fine wools do not, by the existing tariff, pay a duty above six cents per pound.

The practical operation of the existing tariff will be exhibited by the following statement, furnished by the collector of the port of New York, giving the imports of wool into that port, and the duties paid, during six months ending December 31, 1865:

Grade.	Pounds.	Value.	Duty.
Wool costing 12 cents or less, 3 cents duty	5,510,694	\$564,039	\$165,320 82
Wool costing over 12 cents and not over 24 cents, 6 cents duty	8,881,250	1,420,249	532,875 00
Wool costing over 24 cents and not over 32 cents, 12 cents, and 10 per cent. <i>ad valorem</i>	50	31	9 10
Total	14,391,994	\$1,984,319	\$698,204 92

It will be thus seen that the American farmer has no encouragement in competing in the production of one of the great and indispensable products of industry, and that he cannot contend with the labor of the peasantry of other countries, where subsistence and labor do not cost to exceed one fourth of what they cost in the United States, and where winter feed and shelter are rendered unnecessary by the climate.

The national tax on American wool and the duties on objects necessary for its production

exceed the average duties on foreign wools, as will appear from the above table, so that the American wool-grower absolutely pays more for the privilege of selling his wool in the markets of his own country than is paid by foreigners for the privilege of importing.

I feel bound to state that the framers of the present tariff never contemplated that foreign fine wools would come into our country at the lowest rates of duty. They have been, themselves, disappointed in its effects, and are by no means chargeable with the injustice which it works.

I desire to say that the chairman of the Committee of Ways and Means is incapable of doing intentional injustice to any of the great interests of the country; and I take pleasure in adding that the industry, learning, and ability with which he has so long discharged his important and laborious duties as a member of the Committee of Ways and Means, entitle him to the profound respect and gratitude of the American people.

### Appropriations for New Jersey Coast.

### REMARKS OF HON. W. A. NEWELL,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

July 13, 1866.

The House being in Committee of the Whole on the state of the Union on the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, the question was upon the following amendment, offered by Mr. O'NEILL:

Insert after line one hundred and forty-three the following:

To provide additional station-houses, life-boats, and other appliances for the better preservation of life and property from shipwreck along the coast of New Jersey, between Sandy Hook and Little Egg Harbor, \$10,000; and for repairing and relighting the light-house on Tucker's Beach, on the coast of New Jersey, \$5,000.

Mr. NEWELL. Mr. Chairman, I desire to submit a few remarks upon the amendment just offered by the member of the Committee on Commerce, my friend from Pennsylvania, [Mr. O'NEILL.] The amendment proposes to appropriate the sum of \$10,000 to provide additional means for the better preservation of life and property from shipwreck along the coast of New Jersey, between Sandy Hook and Little Egg Harbor, and is in pursuance of resolutions which I had the honor to present at the opening of this session, and which I am glad to see have the approval of the Committee on Commerce, and will, I trust, be equally well received by the members of the House. I will take a moment to give a brief account of the history and nature of the system of life-saving in operation at the entering angle to the harbor of New York on the coasts of New Jersey and Long Island.

At the first session of the Thirty-Eighth Congress I presented a resolution requesting the Committee on Commerce to inquire if any and what means were necessary for the better preservation of life and property from shipwreck along the coasts of Long Island and New Jersey, and upon the passage of the light-house bill for that year offered an amendment providing that \$10,000 be appropriated to provide life-boats, rockets, carronades, and other appliances for the purpose indicated, which was unanimously adopted. At the next session \$10,000 more were added in the same manner, and subsequently an additional \$10,000, making in all \$30,000. Those appropriations were expended under the supervision of an experienced officer of the revenue service in erecting buildings called station-houses, originally at intervals of about ten miles, and as the appropriations were made, of five or six miles, along the coast of New Jersey, beginning at Sandy Hook and extending to Cape May, of which there are now twenty-eight; and on the coast of Long Island, which has twelve of these



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establishments. Each house is provided with a surf-boat, a life-car, which is a metallic elliptical-shaped vessel, holding six passengers, who lie down, when the hatch is fastened and the car thus made impervious to water. At each end of the car is a large iron ring, and through them runs a cable extending from the vessel to the shore, and on this the car plays through the surf, being pulled backward and forward by a rope attached to each end alternately by the crew and wreckers. Communication is established by a ball thrown from a mortar. To the ball is attached a small line, with which a cable is drawn to the vessel. On this the car runs a truck, or broad-fellowed beach wagon, to convey the surf-boat, cars, and other necessary appliances to the point of danger. Blue lights, used to notify the wrecked of approaching aid or to warn them of a dangerous point of shore; lanterns, axes, spades, speaking-trumpets, lincs, ropes, cables, life-preservers, a stove, and a full supply of dry wood cut up, complete the furniture of a station-house. A superintendent is required to make a monthly inspection of each house, to report if any repairs be necessary, as well as other matters of interest. A keeper for each house receives \$200 a year, who employs without expense to the Government a crew of eight thorough watermen and skilled in wrecking. So far as is possible, these men are always ready for emergencies.

The present superintendent has called my attention to the absolute necessity of doubling the number of stations and fixtures between the points designated in the resolution. Being five or six miles apart, it frequently happens that the opportunity to save life and property is lost by the time necessarily consumed in transporting the clumsy and heavy apparatus over a sandy and irregular beach, in the midst of a blinding storm, it may be, and not unfrequently in the night season. If the number is increased, as suggested, no need will ever exist for further extension. I trust the committee are sufficiently impressed with the value and importance of the system to appropriate the requisite sum and to provide for the salaries of the keepers; and I am fully persuaded that no similar amount can be disposed of in any way to accomplish greater good to humanity. During the existence of the system nearly, if not quite, four thousand lives and much property have been saved through its agency. Most noticeable among all the cases was that of the emigrant ship *Ayrshire*, wrecked on the coast of New Jersey, whose four hundred and one passengers were safely landed in a fearful storm in the Government life-cars, and during the subsequent storms not a few lives were saved in the same manner. It is desirable that the crews who endanger their lives shall be paid, and especially rewarded for any acts of dangerous and successful duty in saving life and property.

Such services have hitherto been rendered by these gallant men without pay or reward, and so palpable an injustice should no longer disgrace this Government. The present embarrassed condition of our finances may deter members from making any new source of expenditure, but I beg them to remember that these services have been rendered many years without salary or any recognition from the Government; and I trust that when the proposition is made to reward them it will not be withheld. I desire to give notice that at the proper time I shall make an effort to provide for them suitable remuneration. My constituents have ever been on the alert to save life and property from the dangers of shipwreck, and ask no compensation for acts of humanity, and desire no relief from its burdens; but they should not be expected to keep up organizations for that purpose, and to be always ready to afford relief, and receive no consideration for their services. I hope, also, that the appropriation asked for repairing and relighting the light-house on Tucker's Beach, on the coast

of New Jersey, will be made. This light has been discontinued since the year 1859. This light-house is located on Tucker's Beach, near Little Egg Harbor inlet, which leads into a large and commodious bay and harbor, acknowledged to be the best on the coast, there being about fifteen feet of water on the bar. It is frequented by all classes of coasting vessels, it not being unusual to see fifty sail at anchor here; and in the judgment of sensible seamen and coast traders the relighting is necessary to make this bay more useful as a harbor, it being difficult to find the inlet on a dark and stormy night without this light. I trust the small appropriation asked for may not be withheld.

## Contested Election.

## SPEECH OF HON. H. E. PAINE,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

July 11, 1866.

The House having under consideration the following resolution, reported from the Committee of Elections—

*Resolved*, That Hon. John L. Dawson is entitled to retain his seat as Representative in the Thirty-Ninth Congress from the twenty-first district of the State of Pennsylvania—

Mr. PAINE said:

Mr. SPEAKER: There was no minority report submitted in this case. It would seem, therefore, to be unnecessary for the committee to consume any time in the discussion of the report which they have submitted; and I would not occupy the attention of the House for a single minute in the argument of the case were it not for the fact that my colleague on the committee, the gentleman from Pennsylvania, [Mr. SCOTFIELD,] and other members of the House from that State, have intimated a desire to debate the resolutions which have been presented, and to advocate the claims of the contestant to the disputed seat on this floor. It becomes necessary, therefore, that an opportunity should be afforded to them to present the reasons which, in their minds, are strong enough to satisfy them that the report made in the case is incorrect, and that the contestant should have the seat. I shall, therefore, be obliged to explain to the House somewhat in detail the grounds upon which the majority of the committee have based the report which they have submitted. There are other reasons, which will appear as I proceed with the statement of the case, why this discussion on the part of the committee may be carried to some length. This was a case in which the soldiers of the State of Pennsylvania, under a law peculiar to that State, were allowed, while in actual service in the field, to vote for members of Congress; and the dispute between the contestant and the sitting member hinges for the most part upon the soldiers' vote. I will state the points which were made by the contestant.

He alleged, in his notice of contest, that the return judges of Westmoreland county unlawfully rejected certain military returns certified to them by the prothonotary of that county; that the same judges omitted to include in their canvass certain other military returns for that county, filed in the office of the secretary of the Commonwealth; that fraudulent and illegal votes were cast for John L. Dawson at certain polls within the district; that the return judges of Indiana and Fayette counties omitted to compute certain military returns for those counties, filed in the office of the secretary of the Commonwealth; and that, of the aggregate of votes, Smith Fuller had 11,068 and John L. Dawson 10,848.

He claimed, in argument, that 367 lawful military votes were returned, which were not embraced in the canvass of the district board, and that of these votes 254 were cast for Smith Fuller, and 113 for John L. Dawson.

He also claimed in argument that, through an error in the computation of the return judges, John L. Dawson received 3 instead of 2 votes from company E, one hundred and fifth regiment; that in footing up the votes of Mr. Dawson they also made a mistake of 1 in his favor; and that if these corrections were made in Mr. Dawson's majority of 125 and the military votes given in the foregoing table correctly counted, the result would be as follows:

Majority of uncounted military votes for Smith Fuller.....	141
Corrected majority of John L. Dawson.....	123
Majority for contestant.....	18

He also insisted in the argument that if the case should be decided upon technical grounds, eleven specified military returns, giving Mr. Dawson a majority of 31 votes, and alleged to have been actually included in the canvass, would be rejected, and Mr. Dawson's official majority of 125 thereby reduced to the extent of 31 votes.

He also insisted that the law was disregarded in the canvass of the home vote of Westmoreland county, of which Mr. Dawson received a majority of 1,477; that the returns of this vote were characterized by irregularities and frauds; and finally that the sitting member had in his answer failed to deny the averments of the notice, particularly the averment "that of the votes cast at the October election, 1864, Fuller received 11,068 votes and Dawson 10,848," and could not, therefore, dispute them in this contest.

These were the positions taken by the contestant. On the other hand, the sitting member, in his answer and argument, insisted that the notice of contest was not served within the time limited by law; that it was never served on him personally or otherwise; that the contestant, on the first argument, abandoned all the averments of the notice except the first, second, fifth, sixth, and eleventh; that the first was alone entitled to consideration, and would not, if true, reduce the majority of the sitting member below 59; that the second, fifth, and sixth averments were bad, and the proof respecting returns not received by the proper officer before issuing the certificate of election insufficient, because it was neither alleged nor shown that the returns in the office of the secretary of the Commonwealth had been "*bona fide* forwarded by the judges in the manner prescribed by law;" that the eleventh was not a particular specification of any ground of contest and was insufficient; that if sufficient it was not sustained by the proofs; that even if an unrestricted reexamination of the entire vote should be made, the sitting member would nevertheless retain his seat; that it was neither proven that all the votes lawfully polled were produced in evidence, nor that those produced in evidence were counted by the return judges; that the committee could only count those votes which were received too late to be counted by the return judges, and which, if received in time, could have been properly included in their returns; that certain fraudulent votes were cast and counted for the contestant; and that certain "false, fraudulent, imperfect, and illegal returns" were made in his favor and included in the canvass of the district board; and, finally, that no lawful votes were excluded from that canvass.

Mr. Speaker, in what I shall have to say to the House on this case, I shall not consider the points which were made by the sitting member. I shall only consider those points upon which the contestant relied before the committee; and of these there were two, upon which the contest before the committee turned. In the first place, the contestant insisted that certain votes which were cast by the soldiers, and which if counted would have been favorable to him, were not counted. And, secondly, he insisted in the argument, although he made no such point in his notice of contest, that certain

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votes which were actually counted for the sitting member in the canvass, were unlawful and ought not to have been counted. I shall ask the attention of the House to-day to those two points of the contestant, and to those only.

First, then, I ask your attention to those votes which he insists were not counted, but ought to have been counted. He presents to the House through the committee, forty-five returns claimed to be the returns of soldiers' votes cast at various military election precincts by soldiers of the three counties of that district, giving an aggregate majority of 141; and he asserts these votes were not counted, and the canvassers did not embrace them in the canvass on which the Governor predicated his proclamation giving the sitting member his seat. Among these forty-five returns, the committee found a few absolutely perfect in form. They found a large number which, although not regular in form, were sufficient in substance to authorize the committee, in their own judgment, to count them.

But there were among these forty-five returns, seventeen which the committee were unable to consider worthy of being embraced in the canvass. Of these seventeen the committee unanimously agreed to reject eleven wholly or in part. I will not say the committee unanimously agreed to reject them, but I will say that those members of the committee who agreed to this report were unanimous in the exclusion of eleven of these seventeen returns. There were six of the seventeen returns respecting which the committee were not unanimous. And the reason the committee were not unanimous was this: a principle had been established in a contest from the State of Pennsylvania, already determined by this House, in accordance with the recommendation of a majority of the committee, to which the minority could not assent. I refer to the case of Koontz vs. Coffroth. When that case was decided it was the opinion of the minority of the Committee of Elections that certain military returns were unlawfully excluded from the canvass; that the irregularities for which they were rejected by the majority of the committee and finally by the House were not substantial defects, but mere informalities, which, under the law of Pennsylvania, were not sufficient grounds for their exclusion. That opinion still remains unchanged. In the case of Koontz vs. Coffroth certain rejected returns ought in the judgment of the minority to have been counted. Of those members of the committee who have agreed to the report made in the case now before the House in conformity with the ruling of the House in that case, two reserved to themselves the right to vote in the House on the present case in accordance with their own convictions of the law and the facts. If this difference of opinion among the members of the committee would have made any difference in the result, two who sustained the report and now sustain it would have voted for the contestant. I am one of those. If the principle laid down by the minority of the committee and repudiated by the House in the case of Koontz vs. Coffroth could have changed the result in this case, I would have felt not only authorized but bound as a member of the House to adhere to the opinion of the minority, and to vote to admit Smith Fuller to the contested seat as the lawfully chosen Representative of the twenty-first district of the State of Pennsylvania in the Thirty-Ninth Congress.

But it so happens that whether in this case we adhere to the ruling of the majority of the committee in the case of Koontz vs. Coffroth, or adhere to the opinion of the minority, we are still obliged, in my judgment, to award the contested seat to the sitting member. The result is this: while I, in accordance with the views maintained by the minority in the case of Koontz vs. Coffroth, would have counted these six rejected returns, the majority of those who agreed to the report now before the House

were in favor of excluding them. If the position taken by the majority in that case is correct, if the report recommended by the majority of the committee and adopted by the House in that case is to prevail in this, then, in the judgment not only of the majority, but of the minority, including myself, the sitting member is entitled to retain his seat by a majority of 21 votes. If the House should reverse its decision made in the case of Koontz vs. Coffroth, and hold that the rejected votes should have been counted as the minority in that case recommended, the sitting member would be entitled to his seat by a majority of 4 votes.

I will not now go minutely into these points of difference between the majority and the minority in the case of Koontz vs. Coffroth, because in a subsequent part of my argument it will be necessary to consider in detail the several returns which that difference of opinion affected. I only allude to this now to show the effect this difference would have in the case before the House.

Now, this alternative majority of 21 or 4 is based on the supposition that nothing is to be deducted from the vote which was given to the sitting member by the official canvass.

I have said that the second of the points made by the contestant and requiring the consideration of the House was this, that certain military votes were, in fact, counted by the canvassers for the sitting member, which ought not to have been counted, which were not lawful votes. I will indicate the eleven returns alleged to contain these votes:

Westmoreland county.	Dawson.	Fuller.
1. Company B, 142d regiment.....	8	3
2. Company E, 206th regiment.....	30	24
3. Company K, 206th regiment.....	13	8
4. 16th cavalry regiment.....	1	0
Indiana county.		
5. Lookout Mountain hospital.....	1	0
6. Company G, 76th regiment.....	7	6
7. Company G, 11th regiment.....	4	0
8. Company A, 155th regiment.....	2	0
Fayette county.		
9. Company E, 140th regiment.....	6	4
10. Carver hospital.....	3	0
11. 7th cavalry regiment.....	1	0
	76	45
	—	—

Now, Mr. Speaker, in order to warrant this deduction from the official vote of the sitting member on account of ballots alleged to have been unlawfully cast or counted, it was necessary that three things should have been done by the contestant. In the first place he should have given notice by some allegation in his notice of contest that he intended to insist upon an objection of that nature to the validity of the sitting member's title to his seat. In the second place he should have shown that the votes which he disputed were really illegal votes and ought not to have been counted; and in the third place he should have shown that they were, in fact, counted. Now, he did not show that a single one of these votes was counted. There was no sufficient proof before the committee that any of these votes to which he objected were embraced in the official canvass. The only evidence that they were actually counted, aside from what appears in the table on page 389 of the contestant's second book, and relates exclusively to Westmoreland county, is to be found in the fact that the returns themselves are on file in the office of the secretary of the Commonwealth or county prothonotary. But while it might well be claimed that the presence of regular returns in these offices would be *prima facie* evidence that they were embraced in the canvass, how can it be said that the presence of irregular returns would be *prima facie* evidence that they were counted? It seems to the committee that the presumption would be in the opposite direction.

This paper, exhibited on page 389 of the second book, is inadmissible because only signed by one of the judges; but it would not be evidence before the committee even if signed by

all the county judges, for the reason that when a congressional district is composed of two or more counties there is no authority for depositing any return or statement of the county board in the office of the prothonotary, as will be more fully shown hereafter. But, more than that, he did not allege in his notice of contest that he should rely upon any such objection as this to the validity of the title of the sitting member to his seat. Unless, indeed, it be in the general allegation that the sitting member received 10,848 votes, and the contestant 11,068 votes, which allegation is the eleventh in the notice of contest, you cannot find any averment sufficient to entitle the contestant to introduce proof upon this point.

I will not discuss the validity of that allegation as a foundation for such proof, because it will devolve upon the chairman of the committee, [Mr. DAWES,] as a part of his duty, to consider this as well as the other points which were made in this case by the sitting member, while my own remarks will be confined to the positions taken by the contestant.

But, granting for the sake of argument, that there is in this eleventh allegation sufficient to constitute a basis for the introduction of such proofs as this, I have further to say that the contestant did satisfy the committee that of these eleven returns of votes which he insists were counted, but ought not to have been counted, four, and only four, were upon their face irregular and illegal, and could not of themselves justify the canvassers in counting the votes which they contained. These four returns were—

	Dawson.	Fuller.
1. Lookout hospital.....	1	0
2. Company G, 76th regiment.....	7	6
3. Company E, 140th regiment.....	6	4
4. 7th Pennsylvania cavalry.....	1	0

I do not say that satisfactory proof was made before the committee that in the case of these four returns the votes which were alleged to have been given for the sitting member were not, in fact, legally cast and returned for him; but I do say that, taking into consideration merely the proofs which were placed before the committee by the contestant in the printed and manuscript returns, I find no evidence that these votes were legally cast or returned. The sitting member offered no proof on this subject. Indeed, the contestant never, until near the close of the thirteen days consumed in the trial of this case, alluded to this claim to reduce the official vote of the sitting member. But for the sake of the argument I will assume that those 6 votes were illegal and ought not to have been counted. There still remains the difficulty that there is no proof that they ever were counted; and I suppose the chairman of the committee, [Mr. DAWES,] when he comes to discuss this part of the case, will satisfy you that no foundation was laid in the pleadings for the introduction of any such proof on the trial. Of course, then, it was impossible for the committee to deduct these votes from the aggregate majority of the sitting member.

The committee found, therefore, that the sitting member had a majority of 21 votes. Adhering to the principle which I maintained in the case of Koontz vs. Coffroth, I would have given him a majority of 4 votes, because I believed that the returns for McClellan hospital, battery H, fourth artillery; Camp Parole, Carver hospital, field and staff two hundred and sixth regiment, and company A, one hundred and fifty-fifth regiment, ought to be embraced in the canvass. These gave the contestant an aggregate majority of 17 votes. Inasmuch as there is no minority report in this contest, I should, under ordinary circumstances, be content to stop here and await the arguments that may be adduced by those who are to speak on behalf of the contestant before saying anything further in the case. But, sir, a remarkable document has been laid upon the desks of the members of this House since our report was submitted. I am compelled to call your atten-

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tion to this document, which is entitled "A short review of the report of the Committee of Elections," and is signed "Smith Fuller, contestant." The charges made by the contestant against the committee are so erroneous and offensive that they could have no palliation except in the disappointment naturally felt at an unexpected result of such a close and protracted contest, a result doubtless believed to be irreconcilable with the law and the facts. I know that under the influence of these grave charges Representatives have been led to entertain opinions respecting the contest now pending before the House which have very much astonished me. For example, a gentleman from the State of Pennsylvania, for whom I entertain the very highest respect, and whom every gentleman of this House esteems as one of the most honorable of men, stated to me, to my face, that he did not believe this to be the report of the Committee of Elections, and that he understood it was repudiated by every member of the committee except the chairman and myself! It becomes necessary for me, therefore, in view of the charges against the committee made in this pamphlet by Smith Fuller, the contestant, and in view of declarations made by members of this House which have repeatedly come to my ear, to submit the statement to which I now invite the attention of the House. And I ask permission of the House at this point to produce and read in this case certain portions of the journal of the Committee of Elections. I believe it can only be done with the consent of the House.

No objection was made.

Mr. PAINE. The journal of the committee is not pagged; but I find under date of June 19, 1866, the following:

"The committee met.

"Mr. Koontz concluded his argument in the case of Koontz against Coffroth.

"The committee voted upon the case of Fuller against Dawson, twenty-first congressional district of Pennsylvania.

"The vote upon the right to the seat stood as follows:

For Dawson—Dawes, Marshall, Paine, McClurg, and Nicholson.

For Fuller—Scotfield and Baxter."

It appears, therefore, that there were seven members of the committee who voted on that occasion, and of those seven five voted for this report and two against it. Two members of the committee, Messrs. SCOTFIELD and SHELLABARGER, were absent. Two did not vote, namely, Mr. UPSON and Mr. SHELLABARGER, of whom the latter was absent and the former was present, but asked to be excused from voting; he reserved his vote, and I do not know that he has up to this time given it either to the contestant or to the sitting member, nor do I know why he withheld it when the decision was made, unless it was because he had not then arrived at a conclusion in the case.

Mr. SHELLABARGER. Mr. Speaker, it is due to myself that I should say that my absence from the Committee of Elections when it was investigating the matter now before the House, was due to my almost compelled presence and attendance upon the investigation of a select committee of this House, for the proceedings and doings of which committee I felt more responsibility than I did in regard to the proceedings of this regular committee of the House. That explains the fact that during the entire investigation of the Committee of Elections in this particular case, I was not able to be present or to participate in the conclusions at which they arrived.

Mr. PAINE. I entirely understood the reason why the gentleman from Ohio was not present to have been that which he has just stated, and I will add, that after the vote was taken in the committee I called upon the gentleman and requested that he would record his vote upon this case on one side or the other. He informed me that not having been present, having been compelled by his duties on another committee to be absent, he

did not feel that he was entitled without further examination to vote upon the case, and was unwilling to do so.

It appears, therefore, that seven members of the committee did vote upon the case. Two did not vote, of whom one was present and one absent. Two were absent, of whom one did and one did not finally record his vote. And one, although present, did not vote. I refer to Mr. UPSON. As I have already stated, I do not know why his vote was not recorded. The chairman of the committee now suggests to me that he had been detained by sickness from some of the sessions of the committee.

I have made this explanation for the purpose of repelling the unkind attack made on the committee in respect to this vote. It seems to me that when seven out of nine members of a committee vote upon a case and the absence of one other vote, as of Mr. SHELLABARGER's, is fully explained, it can hardly be said that the report of the committee is repudiated by all of the committee excepting the chairman and myself. I insist that we have in good faith and fairly decided this case. If we have made mistakes, let them be shown. But let it not be said to this House that this report which we have presented here is not the report of the committee. It is the report of the committee, just as much so, and in precisely the same sense, as any report that was ever presented to this House in an election case, where there was no contradictory minority report, was the report of the committee. This is not only the report of the committee, but it is the only report emanating from the committee in this case. So much for that.

Now, Smith Fuller, contestant, in his "short review of the report of the Committee of Elections," makes several statements which I deem it my duty to correct. He says, "The Committee of Elections, after examining the returns of votes cast in the district, (the twenty-first congressional district,) find the allegations of the contestant in this particular (that the contestant received a majority of the votes cast) to be true." Smith Fuller, contestant, has therein made a great mistake. The committee found that the sitting member, John L. Dawson, received a majority of the votes cast at that election, as they have stated in this report, parts of which I have caused to be read. They found that, on the ruling of the majority of the Committee of Elections and of the House itself in the case of Koontz vs. Coffroth, the majority of Mr. Dawson was 21; and upon the theory of the minority in that case he had a majority of 4 votes. The contestant further states that "They find, upon a computation of all the votes polled for this district, that I, the contestant, have a majority of 16 votes." On the contrary, we find that the sitting member has a majority of 21 votes.

Mr. SCOTFIELD. Will the gentleman allow me to interrupt him a moment?

Mr. PAINE. Certainly.

Mr. SCOTFIELD. I would like to have it understood whether the gentleman from Wisconsin, [Mr. PAINE,] in denying that Fuller had a majority of 16 votes, is only speaking of the legal votes, or the votes legally cast. I take it that in this review offered by the contestant he means to say that if all the votes had been counted by the committee, those that were formal and those that were not formal, he would have had a majority of 16. And when the gentleman from Wisconsin controverts that, he means to say, I suppose, that there was no such majority formally certified; taking advantage of all the informalities or mistakes, whatever they are, I want to have him state clearly what he means.

Mr. PAINE. I suppose there is no difference between the gentleman and myself when we come to the real point. The committee did find that the contestant claimed a majority of 16 votes. They found more than that, that he claimed a majority of 18 votes, insisting upon

the two corrections to which we have particularly referred in our report. But we did not find that he had received a majority of 16 votes. We found, it is true, that if we had counted all the votes alleged to be contained in the papers which he laid before the committee he would have received a majority of 16 votes. But we found that the papers which he laid before us were not such that we or the House ought of right to receive the votes they contained. So that, leaving out of view entirely the questions raised by the sitting member in this case, instead of the contestant having a majority of 16 votes, the sitting member has a majority of 21 votes. It is true that if we had received every paper, whether merely informal or absolutely defective and worthless in substance, every paper which had any value, whether in form or substance, and every paper which had no value, either in form or substance, if all that were claimed by the contestant had been allowed by the committee, he would have had a majority of 16 votes, as the gentleman from Pennsylvania [Mr. SCOTFIELD] says. But I shall show, before I conclude, why we were compelled to reject many returns placed before us.

The contestant proceeds in his "review" to say, "It seems strange, under these circumstances, that the voice of the people of this district is to be stifled, and a man who has been rejected by their votes is to be retained as their Representative." That would be a strange thing for the committee to recommend to this House; it will be a strange recommendation for this House to adopt. But, in my judgment, it would be a proceeding no less marvelous for this House to evict the sitting member and give the contestant his seat here because he claims it without proving his right to it. I say that the voice of the electors of the twenty-first congressional district of Pennsylvania will not be stifled by permitting the sitting member to retain his seat. On the contrary, I say that their voice, so far as we are able to gather it from anything placed before the committee or before this House, will be stifled if you drive out the sitting member and admit the contestant to the seat which he claims, but which he has proved no right to hold.

"But," he proceeds to say, "the committee have given their reasons for reporting in favor of the candidate having the smallest number of votes; and to these reasons I will briefly call attention." I shall make no comment, Mr. Speaker, upon the taste which the contestant has shown in that passage of his short review of the report of the Committee of Elections. The committee have not undertaken to give their reasons for rejecting the candidate having the smallest number of votes. The committee have fairly stated to the House which candidate they believe had the largest number of votes; and as in duty bound they have recommended to the House to give him the seat. What less than this, what else than this, I ask, could the committee do?

Now, sir, I come to these particular returns about which there was so much dispute in the committee, and about which there will be much debate, I presume, in this House.

Mr. Fuller, in this document, says:

"The committee reject the returns of elections held by company A, one hundred and fifty-fifth regiment Pennsylvania volunteers, upon the ground that there is no evidence that the officers who held the election were sworn. They also reject the return of the election held at McClellan hospital, Virginia, for the same reason. If they had turned to pages 59 and 60 of book known as No. 2 printed by them for their own convenience, they would have found that the first named of these returns showed that the officers had been duly sworn and all the certificates required by law had been duly signed by the persons who administered the oaths. Had they taken pains to turn to page 380 of the same book they would have found that the officers who held the election at McClellan hospital had been sworn, as shown by the certificates of these officers who administered the oaths. I append these oaths to this statement; they will be found in the appendix, marked A and B. So if the committee wish to correct this statement in their report they will have no difficulty in doing so. These two returns give me a majority of 10 votes and would have reduced the majority accorded to the sitting member to 5 votes."



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I will first consider the return of company A, one hundred and fifty-fifth regiment Pennsylvania volunteers. The contestant asserts that we rejected this return on the ground that there was no evidence that the officers who conducted the election were sworn. He has not stated the whole of the objection which we made to that return. He has stated only one of two objections which we raised. One was that there was no evidence that these judges were sworn, but the other was that there was no poll-book accompanying the return and tallylist. That there may be no mistake on this point, let me read from pages 4 and 5 of the report of the committee; and I shall be obliged to read in this connection the opinions expressed by the majority and minority of the committee in the case to which I have so often referred, the case of *Koontz vs. Coffroth*, in order to show precisely the points of objection to this return, and the reason why it was excluded by the majority of the committee:

"The military returns alleged to have been omitted from the canvass, although in many instances irregular and informal, seem to be good in substance, with the following exceptions, namely:

"McClellan hospital, (No. 3.) The return for Westmoreland county in this case is in all things, except the names and residences, identical with the return from the same hospital for Adams county made by the same officers, and produced in evidence in the case of *Koontz vs. Coffroth*, recently decided by this House. In that case the majority used the following language: 'Of the eight alleged as rejected returns for Adams county, the three from the hospitals, namely: Mower, Cuyler, and McClellan, (papers 23, 24, 25,) are by all the committee admitted to be too defectively certified and authenticated to be entitled to any consideration. The law in relation to the certifying, signing, and returning, with the poll-book, the evidence of the administering of the oath to the officers of the election (sections 5 and 15) was wholly disregarded.' The minority in the same case expressed the following opinion: 'The three returns from the Mower, Cuyler, and McClellan hospitals (papers 12, 23, 24, 25) were rejected because the certificates of the oaths of the election officers were wanting. This was no lawful ground for their rejection, for it appears from the whole papers that the judges and clerks were actually sworn, and the returns, though defective in form, are perfectly intelligible, and clearly within the provisions of the statute applicable to mere formalities.' The authority of that decision is unanimously recognized by the committee, although its correctness is still doubted by the minority. It excludes the three votes from McClellan hospital for Westmoreland county, which are claimed by the contestant. Upon similar but rather stronger grounds the following transcripts, which do not contain the poll-books or certificates of oaths, namely: battery H, fourth artillery, (No. 2;) Camp Parole, (No. 9;) Carver hospital, (No. 10;) field and staff, two hundred and sixth regiment, (No. 12;) and company A, one hundred and fifty-fifth regiment, (No. 13,) are rejected by the committee. They would give Mr. Dawson 4 and Mr. Fuller 18 votes."

I call the attention of the House to the exact language of the report, because it becomes important in deciding as to the precise reasons for which this return of company A, one hundred and fifty-fifth regiment was excluded by the committee in the case now before us. I am one of the minority who still doubt the correctness of the decision referred to.

Upon the statements in the extract which I have read from the report of the committee relating to the return for company A, one hundred and fifty-fifth regiment, is predicated the contestant's assertion that this return was rejected, because there was no evidence that the officers who held the election were sworn.

Now, it is true that the absence of the certificates of oaths was one of the reasons why the committee rejected this return; but that was only one of two reasons. The other reason was that the poll-book was wanting.

In the case of *Koontz vs. Coffroth*, the committee and the House decided that the following six defects were each and all substantial and fatal, namely, first, the absence of the certificates of oaths of two of the judges; second, a joint election by two or more organized companies; third, the administration of the oaths to the election officers by a person who was not one of their number; fourth, the absence of a certified poll-book; fifth, a failure to keep separate poll-books for the voters of each city or county; sixth, an omission to make separate returns for the voters of each city or county.

I did not think, as the majority of the committee did in that case, that the presence of the certificate of oaths or of the certified poll-books was essential to the validity of a return if it was substantially shown by the papers taken together that the officers were sworn and that the votes were duly cast. Indeed, I was, and still am, satisfied that under the law of Pennsylvania the return, strictly so called, should suffice, if substantially correct, without either oaths, certificates, poll-book, or tally-list. And if in this case the decision had turned upon the vote of company A, one hundred and fifty-fifth regiment, I should have voted for the contestant, because I believe that return should have been canvassed. I said so in this report. I agree with the contestant that it should be counted in this case, and if when counted it would secure him the seat I would vote to give him this contested seat.

The contestant asserts in the extract which I have given from his pamphlet that if the committee had turned to pages 59 and 60 of the second volume of his evidence they would have made certain discoveries respecting the return of company A, one hundred and fifty-fifth regiment; and if they had taken pains to turn to page 380 of the same book they would have made certain other discoveries respecting the return for McClellan hospital. In other parts of his review similar language is used.

Sir, if he means by all this to say that the committee did not carefully and patiently examine these returns from beginning to end, he does, I know, great injustice to the committee, for never since I have been a member has any case been so patiently, so carefully examined as this case. There is no item of evidence referred to in this review as having escaped the attention of the committee which I had not read many times and carefully considered before the contestant's attorney placed the review in my hands. There is one item, and only one, which I had not observed before I drew up the report, and that was the certificates or oaths of company A, one hundred and fifty-fifth regiment. I think the reason these were overlooked ought to satisfy the most fastidious contestant. The statute of Pennsylvania provides the forms in which oaths, certificates of oaths, poll-books, tally-lists, and returns are to be sent in duplicate to the secretary of state and the prothonotary of the county. The several documents are arranged in the order in which I have named them, the oaths and certificates being first, the return last, and the poll-book and tally-list between them. I believe that in all the hundreds of returns printed in this and other Pennsylvania contests there is but one solitary case where this order is inverted, and that happens to be the identical case which is now before the House.

Here the return comes first and the certificates last. I had examined the return over and over again, looking for the certificates in their proper place without finding them. But I had discovered them before the review was placed in my hands. And it is true that upon these pages are to be found the certificates which this contestant alleges are there. If that fact would entitle him to have these votes counted under the ruling of the majority, then they should be counted by the majority of the committee. I, as one of the minority, had expressed in the report my opinion that this return ought to be counted, even before I had discovered the certificates of oaths. Their discovery, therefore, does not affect me. But the majority of the committee required not only the certificates of oaths but also the poll-books. The latter are wanting; hence the discovery of the certificates does not affect the majority. But, counting this return, I cannot vote to give the contested seat to Mr. Fuller, because this return added to all the others to which he is entitled would not destroy the majority of the sitting member.

I proceed now to the examination of the return for McClellan hospital, on page 380. Here, too, the contestant intimates negligence on the part of the committee. But I was familiar with that return long before the report was prepared, and I must again say that the insinuation that the committee have shown want of diligence in searching for evidence in this case is unjust. They have shown more diligence here, I am sure, than they have ever shown before or will ever show again in favor of any contestant at the expense of a sitting member.

Mr. SCOFIELD. I would like to know for whom the gentleman speaks when he says that hereafter no contestant shall have as much care and attention shown to his case as has been given to this. I think he will find no such resolution on the records of the committee that they will never treat another case as fairly as this.

Mr. PAINE. Mr. Speaker, I certainly did not speak for the gentleman from Pennsylvania. I will frankly admit that his habits of marvelous industry will necessarily lead him in all future contests to make as diligent and thorough an examination as he has made in this. I merely meant to state the result of conversations with the committee—a majority of them, I think, though I may be mistaken about that—

Mr. SCOFIELD. Not the committee, but individual members of it.

Mr. PAINE. That is all. I do not mean to say that the committee have taken a vote on the resolution, but I do say that I believe they have come to the conclusion that they have granted in this case indulgence to the contestant at the expense of the sitting member which they will never feel justified in granting again to any contestant. At all events that is my conviction.

Now, sir, I was very anxious myself to find a substantial return in regard to the McClellan hospital.

Mr. SHELLABARGER. I would like to understand the gentleman a little more explicitly in regard to the return of company A, one hundred and fifty-fifth regiment. He has given an explanation in regard to its not being sworn to, but he has not explained, I believe, in regard to setting it aside.

Mr. PAINE. I explained it fully, but the gentleman does not seem to understand what I said. I said that a second objection was that the poll-book was absent, that there was no poll-book at all. I am asked again what difference that makes. I answer, as I said before, that it makes no difference with me, it makes no difference with the gentleman from Ohio, [Mr. SHELLABARGER,] who was of the minority of the committee in the case of *Koontz vs. Coffroth*, nor with my friend from Pennsylvania, [Mr. SCOFIELD,] who was also of the minority, but it makes a very great difference with the majority of the committee.

Mr. SHELLABARGER. I understand my colleague to take the ground that the House must follow its determination in the case of *Koontz vs. Coffroth*; that that becomes the law of the House, which we must follow as the decision of the court of last resort in this case; that is, we must follow what my colleague regards as that judgment. Now, I maintain that neither he nor I nor anybody else is bound to look upon the decision of the House in a former case in any other light than a mere proposition, not as authority.

Mr. PAINE. It would be utterly impossible for me to be more explicit than I have been on that point. I can only repeat what I have said. I have said over and over again that if you count company A, one hundred and fifty-fifth regiment, as the gentleman from Ohio believes and as the gentleman from Pennsylvania believes it should be counted, and as I believe it should be counted, it can make no difference in the result in this case. I further

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say, as I said before, that although the report of the majority of the committee in the case so often referred to was ratified in this House, I feel not only authorized but bound in this case to vote in accordance with the opinion which I maintain in the minority report in the case of *Koontz vs. Coffroth*. I answer him; then, by saying that I do not believe this House is bound to follow the rule which the House adopted in that case, but I believe we are at liberty, if we see fit, to reconsider and change the rule which was then adopted, and I have no doubt that we ought to do so.

But I have to ask how you will change the result in the case now before us when you have done all that, when you have reconsidered and rescinded the rule which you then laid down, as I believe you ought to do? You will not affect the result in this case. You will still leave the sitting member in his seat. I have not intimidated—and the gentleman misunderstood me if he thinks I have—that this House is bound to follow an incorrect decision. I repudiate that idea. We are not only not bound to follow it, but are, in my judgment, in duty bound not to follow it.

Mr. SCOFIELD. If I understand my friend, he now says that company A, one hundred and fifty-fifth regiment, were counted for Fuller, so that that makes 7 votes to be taken from the 15 majority counted for the sitting member, leaving him in. Do I understand his position correctly?

Mr. PAINE. Let me explain.

Mr. SCOFIELD. I do not want an explanation. If the gentleman wants to meet this case with fairness, he will give us a categorical answer without talking and explaining and making speeches about it. Is he in favor of counting the 7 votes given by the soldiers of company A, one hundred and fifty-fifth Pennsylvania regiment, or is he in favor of rejecting them?

Mr. PAINE. I shall be very apt to answer the gentleman in my own way. I do not quite like to hear him say that he now understands this matter so and so, as if I had ever expressed a different opinion. I repeat that I have always thought, as I think now, that this return should have been counted. I say so in the report and have repeatedly said so in the House to-day. Why did not the gentleman read the report and ascertain my opinions there, instead of asking me whether he understands that now I say "so and so?" If that return would change the result it would change my vote in this case. But it makes no change in the result. I have said nothing different from this, and it is idle to insinuate that I have stated one thing in the report, or heretofore on this floor, in reference to this case, and now state another thing. I now answer the gentleman "categorically," and say that that return ought to have been counted.

[Here the hammer fell.]

Mr. SCOFIELD obtained the floor.

Mr. PAINE. I have not yet reached the main points of my argument, and should be glad of an extension of time.

Mr. SCOFIELD. I move the gentleman's time be extended.

Mr. PAINE. Personally, I do not desire to proceed, but I thought it due to the gentlemen on the other side that I should fully explain what they have to meet. But there seems to be some opposition, and perhaps I had better wait until I take the floor to close the debate.

FRIDAY, July 13, 1866.

The House resumed the consideration of the report from the Committee of Elections.

Mr. PAINE. Mr. Speaker, I understand how completely the patience of the House has been exhausted by this protracted debate and I promise to bring the question to a vote, if possible, in a very short time; but in order to do so I must now announce that I shall be unable

to yield any portion of my time to any member of the House for any purpose.

This contest commenced before the Committee of Elections on the 14th of March last. At or about that time the contestant presented his proofs and they were printed, and here is the volume which resulted. It contains one hundred and twenty-seven pages. On the 18th day of April the attorney of the sitting member asked the attorney of the contestant, in the presence of the committee, whether that book contained all the evidence upon which he rested his case. The answer was that it contained his whole case; I heard that answer given in the presence of both of the parties to the contest.

The committee then resolved to meet again on the 27th day of April for a further hearing of the parties, but when the 27th day of April came the contestant did not appear. It was evident to all of us, I presume—certainly it was to me when I came to look into this book—that it contained not one single line which, as evidence in this case either before the committee or before the House, was worth the paper upon which it was printed. It contains no certified copies of anything, but merely certified abstracts of returns of votes deposited in the office of the secretary of the Commonwealth of Pennsylvania; abstracts for which no law of the State of Pennsylvania or of the United States provides. It was not seriously contended on the hearing that these abstracts were competent evidence, but the contestant insisted in his "review" that just such certified abstracts were admitted in the cases of *Vallandigham vs. Campbell*, and *Blair vs. Barrett*, formerly decided by this House. An examination of those cases will show that no such abstracts were admitted either by the committee or by the House.

In the former case, which was decided in 1858, Mr. Vallandigham produced from the office of the secretary of the State of Ohio, not certified abstracts made by the secretary of returns on file in his office, but copies certified by the secretary of election summaries or abstracts prepared, in accordance with the statute of that State, by the county clerks of the district, and by them deposited, in obedience to law, in the office of the secretary of state. The evidence in that case consisted of copies authorized by law of abstracts authorized by law. The evidence in this book consists of abstracts not authorized by law of returns authorized by law. In that case the Committee of Elections were unable to agree, but submitted three minority statements. Four recommended the admission of Mr. Vallandigham to the seat. Four were in favor of Mr. Campbell, and one, the chairman, recommended that the seat should be declared vacant. The only objection to the introduction of this evidence referred to by those who supported Mr. Vallandigham's claim to the seat was that it was not procured within the sixty days limited for taking testimony. Those who supported Mr. Campbell's claim insisted that under the statutes of Ohio the abstracts or summaries made by the clerks and transmitted to the secretary of state constituted a valid foundation for the Governor's certificate of election to the successful candidate, but were not valid for any other purpose, and neither the original summaries of the clerks nor the copy thereof certified by the secretary of state would be competent evidence in a contest.

The following is an extract from the views of Mr. Lamar, in favor of Mr. Vallandigham:

"It was objected that the committee ought not to receive and consider the 'abstract' of votes returned to the office of the secretary of state for the returned member and the contestant because the document was not 'obtained' or 'taken' within the sixty days limited for 'taking testimony.' This objection, in the opinion of the undersigned, is destitute of force. Without deciding whether it was not rather the duty of the sitting member than of the contestant to produce it before the committee, they are clearly of the opinion that the negative provision as to testimony, in the ninth section of the act of 1851, was intended to

apply and does apply solely to the testimony of witnesses, or at most to such writing as can be proved only by the examination of witnesses; and that documentary evidence, at least that which proves itself, may be obtained at any time after the sixty days, and produced before the committee at the hearing. The abstract in question purports to come from the proper officer, and officer, and bears upon it the impress of the great seal of the State, than which there can be no higher evidence of authenticity."

In the minority report in favor of Mr. Campbell, Mr. Gilmer uses this language:

"It is not a copy of any official paper which of itself, when produced, would be evidence, but a mere copy of a certificate which itself is merely a result ascertained by calculation from the original and only source of information, the poll-books. The laws of Ohio require each voter to be registered on a poll-book at the time of his voting, by the judges or commissioners of the election. This poll-book is directed to be returned from each place of voting to the clerk of the county, and from it the clerk is directed to certify the summary—that is the number of votes cast for the respective candidates. (See *Swan's Dig.*, State of Ohio, pages 342, 343, 344, sections 17, 18, 19.) It is therefore plain that the only original records of the votes cast at any precinct or poll, are not the clerk's certificate to the Governor, but the poll-books kept by the commissioners and by them sent to the clerk's office, to be there safely kept for all persons 'who may choose to inspect them.' \* \* \* \* \* So the certificate of the clerk to the Governor of the number—the summary of the votes—is an adequate foundation for the merely ministerial act of the Governor in giving the certificate of election to the person appearing to have, from the clerk's certificate, the greatest number of votes. For that special ministerial act the clerk's certificate is a just foundation; the law makes it so; but it goes no further. It does not make it evidence in a legal contest when the question is not how many votes are certified to the Governor, but how many votes were actually cast at the polls, that any vote was really so cast."

The House by a vote of—yeas 107, nays 100, declared that the contestant, Mr. Vallandigham, was entitled to the seat.

The character of the evidence admitted in the case of *Blair vs. Barrett*, decided in 1860, will appear from the extract which I now give from the report of the committee in that case:

"In addition to this testimony was that from another source, which was strenuously resisted by the sitting member on two grounds: first, that evidence from this source was not competent in an investigation of this kind; second, that the method of producing it before the committee was in conflict with the well-established rules of evidence. The evidence alluded to was this: on the 15th day of August, 1858, the city council of St. Louis passed an ordinance to take the census of the city provided by its charter and previous ordinances. A copy of this ordinance will be annexed to this report. For this purpose the city was divided into districts and census-takers were appointed for each census district. They were instructed in addition to an enumeration of the inhabitants, to ascertain and report various other matters of statistical information; among which was the nationality of the inhabitants found within their respective precincts, and whether naturalized or not if foreign-born; how long resident, &c. It was to the evidence which the reports of these census takers disclosed that the sitting member strenuously objected: first, because under no circumstances could they be evidence of facts which they purport to contain; and secondly, because of the manner of bringing that evidence before the committee. The committee answer that so far as the census takers themselves were witnesses testifying to the facts contained in their report obtained by themselves, which was the case in very many instances in which this kind of testimony was offered, it is the ordinary case of men making memoranda or writing down what they know, and then coming into court and testifying to the facts thus acquired, refreshing their memory from the paper thus made out by them. Nor is there any objection to others comparing the poll-books with those memoranda thus verified and testifying to the result of the comparison. But these reports of the census takers now in the archives of the city are official documents and are *prima facie* evidence of the facts they contain."

The House sustained the report of the committee by a vote of—yeas 93, nays 91.

The contestant is therefore mistaken in his assertion that abstracts similar to those contained in this book were admitted in the case of *Vallandigham vs. Campbell*, and *Blair vs. Barrett*.

But if such a decision had been made by this House twenty times over it could be no rule for me, because it would have been so entirely violative of all known principles of evidence and so dangerous in contests of this kind that I should feel bound to ask the House to reconsider and reject it.

I have said that on the 18th day of April the committee adjourned to meet on the 27th. But

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the contestant did not appear on that day, nor did we receive any explanation of his absence, except a vague rumor that illness detained him at home. On the 4th day of May he at last returned to the committee-room, and instead of proceeding with the case upon the evidence already printed, he presented some four hundred additional documents, which he asked us to receive in evidence and order printed. Leave to postpone the hearing from April 27 to May 4 and obtain additional evidence had neither been asked nor granted, and yet we decided to accept these new proofs and print them for him at the expense of the United States. Such of them as he desired to have printed were printed in this volume of four hundred pages.

There were also presented in the case, before it finally closed, two briefs of the contestant, which have been printed and have been used before the committee, and when the case came up finally for decision, there was printed for the contestant this third brief, [holding a paper up in his hand,] which I will say here is most creditable to the attorneys for the contestant, and has been of great service in the examination of the case.

After we had heard the case for the last time, after the contestant had consumed nine days in our committee-room, and the sitting member had consumed four days, after we had spent many days in working out the details of the case, and after the decision of the committee had been communicated to the House in this report, the contestant laid upon the desks of members another document signed by him and entitled "A short review of the report of the Committee of Elections." Now, sir, the Committee of Elections found the majority of the sitting member to be 21 votes. It has been said here and many times reiterated that the committee found the majority to be only 15. I will not consume the time of the House now by referring to the language of the report. But I will state again that we found that the sitting member had a majority of 21 votes. I myself, as an individual member of the committee, adhered to the position which I took in the case of *Koontz vs. Coffroth*, and held the sitting member's majority to be 4.

I have been willing ever since this case was before us, even since it was decided, and up to this moment—I am willing now to reconsider any portion of it in which I may be charged with error. And if I can be convinced that I am wrong, I am ready at this moment to vote for the contestant.

Sir, the only consistency that I care for in such a case as this is consistency in the pursuit of truth; and this I will maintain, whatever the result may be. Having been intrusted with the task of working out the details of this case, I have carefully reviewed them again and again, in order that I might avoid mistake and consequent injustice. I will confess, however, that I have not escaped those feelings which I have no doubt all men experience to a greater or less extent in similar circumstances. In entering upon its investigation I resolved to accept whatever result it might lead to, and yet I felt a strong hope that the result of that investigation would enable me to vote in favor of awarding to the contestant the seat which he claims. I could not avoid the desire that such might be the result, because he is my political friend, and I had more personal acquaintance with him than with the sitting member. But, sir, I have not forgotten from the beginning of this examination to the end of it—I trust I shall never forget—that in a case like this I am, whether acting in the committee-room or in this House, both judge and juror, and that I cannot act as a mere partisan without a violation of my duty and my oath. And I tell this House that after having carefully examined this case over and over again, both before and after the report was printed, both before and after this "short review" by "Smith Fuller, contestant," was put

into my hands, I have a clear and firm conviction that John L. Dawson is entitled to retain the seat which he now holds in this House. I feel a greater confidence in the correctness of my conviction concerning the merits of this case than I have felt in any case which has been before the committee since I have been a member of it. Not only is there in my mind no reasonable doubt as to the right of the sitting member to retain the seat he now occupies, but an irresistible conviction compels me to give him my vote, and I could not do otherwise without being guilty of a violation of the oath which I took as a member of this House, without a violation of my sense of honor as a gentleman and of my conscience as an honest man.

Sir, in that "short review" of the report, which was handed to us by the contestant, he asks us to reconsider the case. I have carefully reconsidered it since that pamphlet was handed to me; I had reviewed it before; and there is nothing presented in this document, there has been nothing presented to this House by any of the gentlemen who have taken part in this debate, that I had not considered fully and carefully, over and over again, before that document was placed in my hands. One point in the case had escaped my attention when I drew up the report; but before the pamphlet was handed to me I had discovered it, and resolved to present it to the House. That was the case of company A, one hundred and fifty-fifth regiment. I have already informed this House of the immateriality of that return so far as it concerns the issue before us. And now I have to say to this House—and I call attention to the statement—that if you should proceed, as the contestant asks you to do, to review and correct this case, the majority for the sitting member would be increased by 16 votes at least. By careful reexamination since the report was prepared I find that you would have to add to the majority of the sitting member 4 votes for company C, fourth cavalry, and 12 votes for company K, one hundred and fifth regiment. If the contestant insists upon a review of this case, and is willing to abide the result of that review, it will compel him to retire from this House with a larger majority against him than that which the committee have reported.

When I drew the report I supposed that the return for company C, fourth cavalry, which is found on page 8 of the book containing the evidence of the sitting member, came from the office of the secretary of the Commonwealth, and therefore could be counted in this case; but upon the last careful review that I have made I have discovered that there is before this House no proof which will authorize us to count those 4 votes. The return, strictly so called, from the office of the prothonotary, shown on page 19 of the contestant's second book, was on its face regular, but on reexamination of the return set out on page 8 of the book of the sitting member, which I supposed to have been made by the secretary of the Commonwealth, I find that it was made by the prothonotary of Westmoreland county. It shows, what does not appear on page 19 of the second book, that voters from each of the three counties of the district took part in the election. For reasons fully explained in the case of Lincoln hospital in the report this paper can only be evidence of the Westmoreland county vote. But the whole number of voters for Westmoreland county was 16. The entire vote returned for Mr. Fuller is 18 and for Mr. Dawson 13. It is not shown how many of the 16 Westmoreland county voters voted for the candidates respectively. Hence the contestant cannot insist upon counting the return unless he allows Mr. Dawson 13 of the 16 votes. If rejected, it would increase the majority of Mr. Dawson by 4 only, a correction of 1 vote having already been made in the report.

I have discovered also that the return of

company K, one hundred and fifth regiment, shows that the votes cast by that company, of which the contestant had a majority of 12, were cast for John L. Dawson and Smith Fuller for the Senate of the State of Pennsylvania. As the chairman of the committee said yesterday, it would be an unprecedented course for us to count those votes without some proof that there was a mistake in the return. The insertion in this return of what would probably be claimed to be copies of the ballots themselves has no semblance of legal proof. But the deposition of one of the judges or clerks would have shown that the votes were cast for Representative in Congress, and that a mistake had been made in the return if such were the facts.

But I pass from this to the returns which the committee rejected wholly or in part. There were seventeen of these returns, namely:

	Dawson.	Fuller.
1. Battery H, 4th artillery.....	0	4
2. McClellan hospital.....	0	3
3. Company C, 4th cavalry.....	13	18
4. Camp Parole.....	0	1
5. Caylor hospital.....	4	4
6. 206th regiment, field and staff.....	0	2
7. Company A, 155th regiment.....	0	7
8. Lincoln hospital.....	0	15
9. Company E, 204th regiment.....	0	2
10. Company E, 4th cavalry.....	1	3
11. Co's E and C, 99th and 76th reg'ts.....	0	3
12. Camp Hamilton.....	0	1
13. Filbert street hospital.....	0	2
14. Satterlee hospital.....	1	6
15. Depot field hospital.....	0	4
16. Company C, 212th regiment.....	8	4
17. Company H, 211th regiment.....	13	10

Of these nine were so worthless that no man in this House can under any pretense of refusing to disfranchise soldiers count a single one of them. I now refer to the returns for company E, two hundred and fourth regiment; company E, fourth cavalry; companies E and C, ninety-ninth and seventy-sixth regiments; Camp Hamilton; Filbert street hospital; Satterlee hospital; Depot field hospital; company C, two hundred and twelfth regiment; and company H, two hundred and eleventh regiment, which I have numbered from nine to seventeen inclusive. The only proof, so far as company E, two hundred and fourth regiment, and company E, fourth cavalry, are concerned, is what purports to be a copy made and certified by the prothonotary of Westmoreland county of an abstract of votes made by the prothonotary of Alleghany county, in another district. Neither the abstract nor the certified copy was authorized by law. The return for company E, ninety-ninth regiment, and company G, seventy-sixth regiment, had already been counted once as the return for Cuyler hospital, and of course should not be counted the second time. But I call the attention of the House to the Camp Hamilton return at page 310 of this book. I wish the House to see what it is that provokes such a hue and cry about the threatened disfranchisement of the soldiers. Here is the return. It shows only one thing, that three men were sworn as judges and two as clerks of the election. There is not one word to show that a single vote was cast by any elector for any candidate. And because I refused to count that I am charged with consenting to disfranchise the soldiers in the field.

If the contestant can introduce that document and claim one single vote as the result of it, he can claim five hundred or one thousand just as well. If this document can prove one vote for a Republican in a Republican Congress, it could as well prove one thousand for a Democrat if this were a Democratic Congress. This return is a complete blank. Why shall we permit the contestant to fill the blank at his pleasure rather than the sitting member? It is a mistake to say that the rejection of such a paper involves the disfranchisement of the soldiers. Its admission would necessarily work their disfranchisement, for it would leave them no certainty that their votes would ever be correctly returned.

I come next to Filbert street hospital, on page 333 of the second book. The evidence



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## Contested Election—Mr. Paine.

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shows that certain persons were chosen judges and clerks of the election, and that 48 electors voted, but it does not show for what candidates any of them voted. Is it a virtual disfranchisement of the soldiers to refuse to permit the contestant to appropriate these votes without proof that they were cast for him? In the case of Satterlee hospital, on page 336 of the second book, there is no return, and the tally-list is only signed by two clerks. It might as well be signed by two boot-blacks. If there was any good reason why the judges did not sign it, there has been abundant opportunity since November, 1864, to show by depositions what that reason was. The return for the Depot hospital will be found on page 346 of the second book. I ask you to mark the effrontery of the contestant's claim in this case. The poll-book shows that only four soldiers of the twenty-first congressional district voted at this hospital. But in the tally-list it is set forth that John L. Dawson had 2 votes and Smith Fuller 4, and the same statement is again made in the return. And yet the contestant, who introduces this return, does not hesitate to count all of the votes for himself in making up his alleged majority of 18 votes. But Mr. Dawson should have 2 of these votes, and the result, instead of being a majority of 4 for Mr. Fuller, is an even vote.

The proof respecting the vote of company C, two hundred and twelfth regiment, is nothing but a Westmoreland prothonotary's copy of an Alleghany prothonotary's abstract, and is not entitled to a moment's consideration. The evidence respecting company H, two hundred and eleventh regiment, on page 341 of the second book, shows that certain persons were selected as judges and clerks, and gives the names of 28 voters of this district, but does not show how one of them voted. I have already shown that a reconsideration of the case would exclude the return of company C, fourth cavalry. Of the remaining seven returns six ought, in my judgment, to be counted. They are the returns for battery H, fourth artillery, McClellan hospital, Camp Parole, Carver hospital, two hundred and sixth regiment field and staff, and company A, one hundred and fifty-fifth regiment. I have repeatedly stated in the report and in the progress of the debate the reasons why I think these returns should be embraced in the canvass.

One only of the seventeen rejected returns remains to be considered. It is the Lincoln hospital return. The contestant in his short review of the report makes the following statements respecting this vote:

"The committee declined to count 7 votes polled for me at Lincoln hospital, District of Columbia, upon the ground that they had not been properly returned. The return contained a majority of 15 votes for me: 8 of them had been polled by soldiers from Westmoreland county, and the others from Fayette and Indiana, the other counties in the district. The committee held that although the return of the election was in all due form, and had been returned to one of the legal depositaries of the district, it could not be counted because it had not been returned to all. They admit, however, that if this return had been returned to the secretary of the State of Pennsylvania it would have been all right and should be counted. They admit also that it was returned to the secretary of state, as is shown by the certificate of the secretary of state, on page 68 of Book No. 1, but they say that this is only an abstract, and they cannot receive it as evidence. It is just such evidence as was admitted in the case of Vallandigham vs. Campbell, Bartlett's Contested-Election Cases, page 229, and Barrett vs. Blair, same, page 317.

"But what I consider most unjust to me and to the majority of the people of the district, is the fact that I procured this return in full, and just as the committee require it from the secretary of state, and had it referred by the House to this committee, as I can prove by my counsel and by the clerk who compared and numbered all the certificates. The papers on file in the room of this committee show that all the other returns are there in full from the secretary of state, July numbered, except this particular return, and it is gone. This return was No. 64, as appears from the book, and we find Nos. 63 and 65 on file, but 64 is missing! This return alone, added to the ten above, if it had not been lost by the committee, would have elected me by 2 votes. I appeal to every fair-minded man to say if it is just to me or to the people of the twenty-first district for this committee, when they admit they had the evidence

before them that this return was in the office of the secretary of state, and when they knew it would show that I had a majority of the votes polled in the district, not to notify me that it had been mislaid, from their files. They had lost the paper themselves and they could have replaced it in a few hours by writing to the secretary of the State of Pennsylvania at Harrisburg. On reading the report of the committee, a copy of this lost return was sent for to Governor Curtin, and is now on hand in full, marked, as it is, a 'duplicate copy.'

"It thus appears that this committee have counted me out by mistaking the facts and losing my papers, as they admit. I was elected by the rules laid down by themselves for measuring this case."

After Mr. Fuller's review had been placed upon our desks, he handed to the chairman of the committee a regular return for Lincoln hospital, with the following affidavit, namely:

IN THE THIRTY-NINTH CONGRESS.

CONTESTED ELECTION—FULLER vs. DAWSON.

Washington, D. C.:

Before the undersigned appeared William A. Cook, who on his oath says that he was one of the counsel of Dr. Smith Fuller, contestant for the seat now held by Hon. J. L. Dawson in the House of Representatives; that after the certified copies of the poll-books or returns from the secretary of state arrived from Harrisburg and passed into the hands of the contestant, they were carefully examined and compared by this deponent and others with the county returns or copies certified by the prothonotaries of the several counties, as well as with the abstract of returns previously obtained from the secretary of state, and schedules made of them; that at the time of that comparison and examination Lincoln hospital, which gave Smith Fuller 15 votes, 8 from Westmoreland county, 5 from Indiana, and 2 from Fayette, was among the number received from the secretary of state; that it was numbered 64, corresponding with the same number from Westmoreland county and schedules retained; that these returns were then placed together and by this deponent and the contestant presented, or caused to be presented, to the House and referred to the Committee of Elections, and that afterward, under the direction of the said clerk and in presence of said contestant, all the returns from the counties were prepared for printing, and wherever a county return was supposed to be defective or required explanation the certified copy from the secretary of state was also printed and the others left on file in the committee-room; that among these was the entire poll-book and return, complete in all respects, from the secretary of state, of Lincoln hospital, numbered 64, and agreeing in all respects as regards number of votes, &c., with that from Westmoreland county; that after preparing them in the mode indicated lists of these so prepared and of those on file were retained; that on seeing the report of the committee, and surprised that the statement was made that there was no State certificate, and that 7 votes were therefore rejected for the contestant, these lists were examined, and application was at once made to Governor Curtin for a copy of the return, which was promptly received marked "duplicate," and which is perfect in all respects, and is now on hand. The deponent also states that the brief of the sitting member refers to the return from Lincoln hospital as objectionable because, as is alleged, there was "no certificate from secretary of state;" but the brief was not printed until after the argument of the case closed, and a copy of it was not procured until a special messenger was sent for it to the room of the committee sometime after it was filed there, and it has never been submitted to either the contestant or his counsel, nor, so far as the deponent knows, was it ever in writing before the committee during any period of the argument, while the contestant's briefs were, in compliance with the demand of the committee, printed at the outset of the argument on the merits of the case. And the deponent further says that, if necessary, he is prepared he believes to furnish on proper demand additional affidavits as to the fact of the return in question being referred by the House to the committee; and he herewith incloses the "duplicate" copy received from the secretary of state.

WILLIAM A. COOK.

Sworn and subscribed before the undersigned this [L. S.] 3d of July, 1866.

EDMUND F. BROWN.

Notary Public.

The chairman of the committee thereupon inclosed copies of this affidavit and of the contestant's review, accompanied by several interrogatories relating to the subject, to Mr. Bartlett, the clerk of the committee, who was then in New England. The following answers were received:

WEST HAVEN, CONNECTICUT, July 5, 1866.

DEAR SIR: Your note of the 3d instant surprises me. It is impossible that any part of the evidence in the case of Fuller vs. Dawson (or in any other case) can have been lost. In accordance with the usage of the committee, Mr. Fuller and his counsel arranged the order of their papers for the printer, and prepared the index. The work was done under the direction of Mr. Cook, one of Mr. Fuller's counsel. In this case you will remember that a very large amount of record evidence was brought in long after the case was opened. It is customary to allow the

party interested to make his own selections from this kind of evidence for the printer. Mr. Cook (for Mr. Fuller) did so in this case; and all the papers which he stated it was unnecessary to print were at once locked up by me. The papers which he selected for the printer were tied up and sent to the printer by me at once.

Sometime after the argument in the case was closed, General PAINE desired to examine the original papers, and I delivered them to him, (both the printed and unprinted manuscripts,) and they were in his hands for two or three days. As I did not examine a page of the manuscript evidence in the case, it is impossible for me to identify any particular paper, but I cannot believe that it was possible to lose one of the documents.

I came here, as you know, at the urgent summons of my family, because of illness that required my presence. If you will write or telegraph me that I can be of any service in this matter, I will return instantly.

Truly yours,

D. W. BARTLETT.

Mr. DAWES.

Copy of questions addressed to Mr. Bartlett by the chairman of the committee, at the request of Mr. PAINE, and of Mr. Bartlett's answers to the several questions:

Mr. Bartlett's attention should be called to the following points:

1. Who selected the papers to be printed?
2. Were all papers which Mr. Fuller selected printed?
3. Did Mr. Bartlett lose any papers?
4. What did Mr. Fuller (the attorney) say while he was hunting for this lost paper in the committee-room?
5. What is the usage as to printing and indexing papers?
6. Is it the practice of the committee to read those not printed?

Answers:

1. Mr. Cook.
2. They were all sent to the printer?
3. Certainly not.
4. I have not the slightest recollection. He asked for the manuscripts, and I gave them to him.
5. The parties select such of their own papers as they wish to be printed and make their own index.
6. It is not.

D. W. BARTLETT.

WEST HAVEN, CONNECTICUT, July 5, 1866.

What the committee reported respecting this return will be easily ascertained from the report itself. That portion which relates to Lincoln hospital is in the following words, namely:

"Lincoln hospital, (No. 16.) Of these 15 votes, 8 are for Westmoreland, 5 for Indiana, and 2 for Fayette. The only proof before the committee respecting any of these votes, except the abstract on page 68 of Book 1, which is not legal evidence, was the certified transcript of the prothonotary of Westmoreland county. And the question is whether this transcript is competent evidence of the vote for Fayette and Indiana counties. The following are the statutory provisions of Pennsylvania bearing upon the question:"

They are cited at length.

"These provisions do not seem to make the certified transcript of the prothonotary of one county competent evidence of the votes of other counties. The prothonotary appears to be the lawful depositary of military returns, so far as they pertain to his own county and no further. And he can only certify to those of which he is the lawful custodian; at the same time the practical effect of such a construction of the law should not be overlooked. Separate poll-books, tally-lists, and returns are made for each of the counties. If three voters, one from each county, present themselves at the polls, their ballots are all deposited without number, mark, or other means of identification, in one ballot-box, and the name of each is entered upon a separate poll-book for his own county. At the close of the polls the judges count the votes and find 3 for Representative in Congress from this district. Suppose 1 to be for Mr. Dawson and 2 for Mr. Fuller, the judges are unable to prepare either the separate tally-lists or the separate returns, because they cannot know whether the vote for Mr. Dawson was cast by the Westmoreland, Indiana, or Fayette voter. A literal compliance with the law is absolutely impossible. They know that for the entire district Mr. Dawson appears to have 1 vote and Mr. Fuller 2, but to which county to return the respective votes they cannot possibly decide. And if they make a return purporting to show for which counties the respective votes for Mr. Fuller were cast, it must necessarily be fictitious. It is therefore impossible for the county return judges and of course for the district return judges to canvass any votes cast under such circumstances. And unless there is some other legal mode of proof such votes might be utterly lost in a contest in this House, if a transcript certified by the prothonotary of one county could not be admitted to prove the votes of another. But there is another instrument of proof, the certified transcript of the secretary of the Commonwealth, who is the lawful depositary of military returns for every county in the State. This is not produced in the present case, and only 8 of the votes contained in this return can be counted."

An examination of the documents which I have submitted shows that all the material statements of the contestant's review respect-

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*The Constitution and the Union—Mr. Trimble.*

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ing this hospital are wholly erroneous, and it will be unnecessary to consume any time in pointing out the particular errors. I will only refer to two points. We printed the four hundred returns at the contestant's selection in this case, as in other cases, to obviate the necessity of deciphering them in manuscript. Only the printed returns are used on the hearing. But in this case, failing to find the necessary evidence of the Lincoln hospital vote in the printed books, I sought for it also, in vain, among the manuscript returns. Before the report was prepared, I informed the attorney who wrote the contestant's review, in reply to an inquiry made by him on the subject, that this evidence was wanting, and the next day I saw the same attorney engaged in the examination of the manuscript returns himself in an unsuccessful attempt to find this evidence. The contestant, therefore, actually had the notice which he denies. Again, the confirmatory evidence of the presence of this return, alleged to be furnished by the consecutive numbering of the secretary's returns, would not be without weight if these numbers had been placed upon them before they left the secretary's office. But the fact is that they were written upon the secretary's returns in Washington in pencil by the contestant's attorney and clerk, in order to give those several returns the same numbers which the corresponding prothonotary's returns already had. The secretary's numbering, which was in black (not red) ink, was entirely different. The returns which are referred to as sixty-three and sixty-five were by him numbered one and twenty-one. Nor is it correct that these were the only returns which could not be found. There were thirteen others which I could not find. I am constrained to believe that Mr. Cook, although entirely sincere, is mistaken in his affidavit, and that this Lincoln hospital return was never in the committee-room before the report was submitted. And yet I would be willing to use the return presented since the report was made if that could be done without injustice to the sitting member, who has been advised, I presume, for the first time of this proposed evidence by the debate now in progress. But if you embrace in the canvass this Lincoln hospital return, and also the returns for McClellan hospital, battery H, fourth artillery, Camp Parole, Carver hospital, field and staff two hundred and sixth regiment, and company A, one hundred and fifty-fifth regiment, you must still vote for the sitting member, for he still has a majority of 13 votes.

Mr. Speaker, I wish now to call the attention of the House to some of the results which would follow if we should admit the claims of the contestant in this case. Sir, the contestant in his review of the report of the committee finds fault with the committee because they rejected the vote of Satterlee hospital, to which I have referred, where the tally-list was signed only by two clerks, and at the same time counted the vote of Carver hospital, which gave a majority of 3 votes for Dawson, although, as he alleges, the return was altogether blank. The return, strictly so called, from Carver hospital for Fayette county was, it is true, a mere blank. But, sir, there was appended to the entire document, including the poll-book, tally-list, and blank return, these words:

A true return of the election held as aforesaid, on the second Tuesday of October, 1864. Certified by us the day and year aforesaid.

GEORGE HINDS,  
Hospital Steeward United States Army,  
JOHN W. WINDSOR,  
Private 170th Company V. R. C.,  
H. R. WEST,  
Corporal Company H, 143d Pennsylvania,  
Judges of the said Election.

Attest:  
WILLIAM C. STINE,  
Clerk Carver Hospital,  
HERBERT S. GEE,  
Musician 52d Company V. R. C.,  
Clerks.

Now, that word "return" may mean either one of two things. It may refer to the technical return, or it may have a more compre-

hensive signification, referring not only to the technical return, but to the whole document, including the poll-book and tally-list. If you consider it in its most comprehensive sense as covering the poll-book and tally-list, then this return ought to have been counted. But if the contestant is unwise enough to insist upon using this final certificate in its restricted sense, I wish you to observe what the result will be, so far as his own vote is concerned. Sir, if you adopt that view at his request, if you take him at his own word, and decide that returns like that of the Carver hospital shall not be canvassed, you will rob him of five returns in Westmoreland county, of three in Indiana county, and of five in Fayette county, which give him an aggregate majority of 27 votes, all of which we have counted in his favor.

For in each of these cases the return was precisely like that in the case of the Carver hospital. The following statement will show what he would lose by the enforcement against himself of this rule, which he thinks should have been enforced against the sitting member:

Westmoreland county.	Fuller.	Dawson.
1. Company E, 21st cavalry.....	3	0
2. Company C, 204th regiment.....	6	2
3. Patterson Park.....	1	0
4. Findlay hospital.....	1	0
5. Hospital No. 1, Chattanooga.....	1	0
Indiana county.		
6. McClellan hospital.....	3	0
7. Carver hospital.....	3	0
8. Hospital No. 1, Chattanooga.....	1	0
Fayette county.		
9. Company K, 211th regiment.....	3	2
10. Company A, 121st regiment.....	1	0
11. Company B, 212th regiment.....	1	0
12. Company L, 8d artillery.....	1	0
13. Company F, 1st cavalry.....	1	0
	31	4

Why, sir, if you adopt the rule which the contestant asks you to adopt you add to the majority of the sitting member 27 votes, and subtract therefrom only 3. What becomes of the contestant if you take him at his own word? But, sir, great complaint has been made because I have, as is charged, asked the House to adhere to the rigid rule adopted by the Committee of Elections and by the House in the case of Koontz vs. Coffroth. I have, however, asked for nothing inconsistent with the views entertained by the gentleman from Pennsylvania [Mr. SCOFIELD] and the gentleman from Ohio, [Mr. SHELLABARGER.] I differ with them not at all respecting the rule adopted in that case. But suppose we had in this case adhered strictly to the rule then established. I ask you, what would have become of this contestant? Six specified objections to returns in that case were held by the committee and by the House to be fatal, namely: first, the absence of certificates of oaths of two or more judges; second, the absence of the poll-book; third, a joint election by two or more organized companies; fourth, the administration of the oaths to the election officers by persons not of their number; fifth, an omission to keep a separate poll-book for each county; sixth, an omission to make a separate return for each county. Under one or the other of those six objections falls every one of the seven returns, which I shall now read to the House, and which we have counted for the contestant:

Westmoreland county.	Fuller.	Dawson.
1. Cuyler hospital, (certificates wanting).....	2	0
2. Company C, 204th regiment, (certificates wanting).....	6	2
3. Company M, 100th regiment, (certificates wanting).....	3	0
4. Companies C and D, 140th and 116th regiments, (joint election).....	1	0
5. Company L, 6th artillery, (oath signed by one judge only).....	26	11
Fayette county.		
6. Battery H, Independent artillery, (several defects).....	1	0
7. Cuyler hospital, (certificates wanting).....	2	0
	41	13

Now, sir, a rigid adherence to the rules laid

down in the case of Koontz vs. Coffroth would have added to the majority of the sitting member the difference between 41 and 13 votes.

In support of three returns which were counted in favor of the contestant he himself made no proof satisfactory to the committee. But the proof was furnished by the sitting member. They were—

	Fuller.	Dawson.
1. Camp Smithers.....	4	1
2. Columbia hospital.....	1	0
3. Company B, 155th regiment.....	4	1
	9	2

Let us now recapitulate the results which might have followed if we had enforced against the contestant his own rules, and had rigidly adhered to those laid down in the case of Koontz vs. Coffroth:

The committee found Mr. Dawson's majority to be..21  
If the case is reconsidered corrections must be made for company C, fourth cavalry, and company K, one hundred and fifty-fifth regiment.....16

His majority will then be.....37  
If you exclude blank returns like that of Carver hospital you add to his majority.....27

And his majority will be.....64  
A rigid observance of the rule adopted in the case of Koontz vs. Coffroth would add to his majority.....28

And his majority would be.....92  
And but for evidence introduced by the sitting member you would add to this.....7

And Mr. Dawson's majority would be.....99

In conclusion I have to say that I know of no reason why the sitting member should not retain his seat, unless it be this: that he is what we on this side of the House sometimes call a copperhead. That may be a good reason why his constituents should not have sent him here; I believe it was a good reason. But that is a reason for his constituents to consider; it is no reason why you and I should kick him out of this House. And if that shall be done here to-day, it will, in my judgment, be a violation of right and of duty, to which I can be no party.

### The Constitution and the Union.

#### SPEECH OF HON. L. S. TRIMBLE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

June 16, 1866,

In Committee of the Whole on the state of the Union, on the President's annual message.

[The SPEAKER stated there were several gentlemen who wished to speak, but were precluded by the closing of the debate on the state of the Union, and if there were no objection they could hand their speeches to the reporters to be printed in the Globe. There was no objection, and it was ordered accordingly.]

Mr. TRIMBLE. Mr. Chairman, I had not intended to trouble this committee with any remarks upon this message. But when I hear, day after day, such flagitious calumnies hurled at the fame and memories of the departed heroes and statesmen of the Revolution by gentlemen whose great learning and experience as statesmen have been developed in this war, by their cries for blood, by the violence and vindictiveness of their natures, sharpened by confiscation acts, illegal proclamations, suppression of speech and the press, and who now gloat in their revenge upon unarmed men, innocent and defenseless women and children, I feel that to be silent under such circumstances would be criminal and recreant to every principle of honor and manhood.

It must be a source of profound regret to every votary of republican and representative government, that the dominant or revolutionary party now upon this floor, professing to represent the people of this great Government, was elected to the places they now hold amid the most terrific, cruel, and bloody civil war ever waged since the morning of creation; elected

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upon the paramount and distinct issue, as they professed, to preserve, protect, and defend the Constitution and the Union. But, oh! how shamefully they have violated, and are to-day violating, all their solemn resolves and pledges; trampling beneath their unhallowed feet the Constitution they have sworn in the presence of God to support, protect, and defend. Charity would probably plead for them, in much of the legislation done here, that they are acting under the inspiration of a Constitution they are going to make, which is to be odorous with the fragrance of their recently emancipated allies and friends, the negroes, who are, as they say, so preëminently qualified to govern and control this great country, schooled as they have been in that great school of slavery by cruel and inhuman masters. With such high Christian results accomplished by these southern people, ought you to lose the services of such valuable and efficient teachers of Africans? I shall not be surprised to hear next that a fleet of Yankee ships are on the way from the land of Africa or some other country, with a new supply of Congoes, to be elevated to the high estate of voters and American citizens by and through servitude and slavery. Of one thing I feel assured, if the past be any criterion for the future, they will take good care to be paid in gold, as they were paid for those the North sold to the South before the suppression of the slave trade.

The people of the South are not alone responsible for the institution of slavery. Did not the New England and northern ship-owners and capitalists receive rich and solid tribute from this trade they then so zealously protected, and now so unanimously denounce and condemn? If their avaricious schemes aided by the Freedmen's Bureau had not been frustrated by the timely interference of the veto of President Johnson, the unfortunate negroes of the South would to-day be under the most galling and despotic slavery the world ever saw, with only a change of masters, with none of the care and responsibilities of that humane but much abused class in the South.

Sir, this Republican party must entertain the hope and belief that there is no hereafter; that an outraged, oppressed, and tax-ridden people will never again be free. You deceive yourselves when you lay that flattering unction to your souls. We do not despair of the Union and the Constitution. That glorious era of law and of order, of freedom to the white man, cannot long be deferred. In defiance of bastiles and guard-houses and the minions of tyrants who would enslave them, the toiling millions cannot and will not long be enslaved. They will burst the chains that bind them, and in their just and righteous indignation hurl from power these tyrants and revolutionists who are to-day sowing broadcast the fatal seed for another rebellion or revolution. Pause, I beseech you, in this career of force and of madness. If you, from this Capitol, force upon the people of the States, North and South, without their consent, your dogmas of negro equality, of negro suffrage, the Freedmen's Bureau, and kindred measures, with the tyrants and usurpers that must follow in the very nature of things; these measures must and will produce, in my judgment, alienation and disunion. War will be the inevitable result of such sectional, unjust, and flagitious legislation, if God in His mercy does not avert it. We have had enough of war, carnage, blood-letting, and assassination to satisfy, it seems to me, the thirst for blood of any one, even a hyena. The white people of Maine and of Texas, of all the States, are of right free, and should be treated as free-men. They are taxed, and should be entitled to vote, with representatives here. They ought to be treated with kindness and justice. Friendship and union, to be lasting, should be reciprocal and founded in equality. Why not deal gently with them, as God has dealt with you? I entreat you to avoid the further shedding of

blood. This can be accomplished by us in acting as becomes Christians and patriots, uniting our whole country in the bonds of union, justice, and mercy, thus making the United States truly a refuge and asylum, not only for our own people, but for the oppressed of every nation and every clime.

In the district which I have the honor to represent, the first Kentucky, this remorseless and despotic party have, by their minions and miserable satellites, robbed, pillaged, and plundered the citizens to enrich themselves; burned their houses and their homes, turning innocent women and helpless children homeless to the wintry blast and cold charity of a friendless world, and to-day are repudiating just claims for property consumed by the Army and destroyed by order of military commanders. They have held our elections, driving from the polls loyal and legal voters at the point of the bayonet; issuing and executing illegal and infamous military orders; imprisoning loyal citizens for no cause except they refused to make war upon the Constitution; ordering our loyal judges to dismiss cases and enter up decrees to serve the purposes of tyrants and criminals; imprisoning loyal and law-abiding citizens for no crime except opposing crime, lawlessness, and vice. Hear the following summons and return:

*The Commonwealth of Kentucky,*

*To the Sheriff of McCracken County, greeting:*

You are commanded to summon Colonel James N. McArthur, Colonel A. M. York, and the owners of the steamboat Charmer, and A. M. DeSouhet, the master and part owner thereof, to answer on the first day of the next October term of the McCracken circuit court, a petition filed against them in the said court, by R. Saunders, and warn them that upon their failure to answer, the petition will be taken for confessed, or they will be proceeded against for contempt; and you will make due return of this summons on the first day of the next October term of said court.

Witness, B. SMALL, clerk of said court, this 20th day of September, 1865.

B. SMALL.

A copy. Attest:

B. SMALL, C. M. C. C.

HEADQUARTERS  
DISTRICT WEST KENTUCKY.

PADUCAH, KENTUCKY, September 23, 1865.

Respectfully returned through the sheriff of McCracken county to B. Small, clerk of the circuit court.

The civil authorities had no power to summon a United States officer, nor have they any jurisdiction toward the military in a State or Territory where martial law prevails. Nor have they any jurisdiction over officers or soldiers of the United States Army in any State or Territory where the writ of *habeas corpus* has been suspended.

Any further prosecution in this case or any other case of this character will subject the parties to arrest and imprisonment.

By command of Colonel James M. McArthur, commanding district of West Kentucky, and second brigade, first division, department of Kentucky:

SAMUEL WATSON, A. A. A. G.

A copy. Attest:

B. SMALL, C. M. C. C.

This was long after the surrender of the last confederate soldier, when we should have had peace with law and order.

Another specimen. I will read one of the said orders, published in McPherson's book, page 313, upon which there was a return of "fully executed by the military, August, 1863," to wit:

DISTRICT OF COLUMBIA.

HEADQUARTERS SIXTH DIVISION

SIXTEENTH ARMY CORPS,

COLUMBIA, KENTUCKY, July 29, 1863.

That no further doubt may exist as to the intent and meaning of Special Orders No. 150, dated headquarters sixteenth Army corps, July 14, 1863, it is ordered that no person shall be permitted to be voted for or be a candidate for office who has been or is now under arrest or bonds, by proper authority, for uttering disloyal language or sentiments.

County judges within this district are hereby ordered to appoint as judges and clerks of the ensuing August elections only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion, and are further ordered to revoke and recall any appointment of judges or clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books, to be voted for at said election, who is not avowedly and unconditionally for the Union and the suppression of the rebellion, or who may be opposed to furnishing men and money for the suppression of the rebellion.

The following oath is prescribed, and will be administered by judges of elections to voters, and to such candidates as reside within the district:

"I do solemnly swear that I have never entered the service of the so-called confederate States; that I have not been engaged in the service of the so-called 'provisional government of Kentucky,' either in a civil or military capacity; that I have never, either directly or indirectly, aided the rebellion against the Government of the United States or the State of Kentucky; that I am unconditionally for the Union and the suppression of the rebellion, and am willing to furnish men and money for the vigorous prosecution of the war against the rebellious league known as the 'confederate States.' So help me God."

Any voter, judge, or clerk of elections, or other person who may evade, neglect, or refuse compliance with this order, will be arrested and sent before a military commission as soon as the facts are substantiated.

By order of Brigadier General Asboth:

T. H. HARRIS,  
Assistant Adjutant General.

This, with some twelve others, with the "bastile," was used in 1863 to elect one L. Anderson to vote in violation of the known wishes of the people of that district to amend the Constitution, arrest a citizen and candidate without cause, then make his arrest cause for striking his name from the poll-book, and disfranchising and imprisoning his friends; which was done in this instance, as the records show. All of which was done in plain and open violation of the constitution and laws of Kentucky. O shame! where thy blush? This is the character of appliances brought to bear by a venal and desperate party to maintain the Constitution and the Union. No; not to main the Constitution and Union, but to overthrow it and the liberties of the people. The vote on the thirteenth amendment stood 119 to 56, not a majority even of a full Congress, much less two thirds. I regret to say it was carried by the votes of men from border slave States. A change of three votes would have altered the result. Without the vote of this bayonet Congressman, L. Anderson, and the aid of two others elected by like means we would have to-day the Constitution as our fathers made it, with union, peace, and prosperity. This is the way our Constitution was amended: robbing Kentucky and the South of \$4,000,000,000 of property.

But shall this dominant party claim that numbers are the great element of free government when they are really a majority of a minority, if you estimate the whole white voting population of the United States? Defiantly we are told that such a majority is infallible and omnipotent; the divine right of kings to rule is only transferred to this malignant minority. I have been taught that one of the objects of constitutional and well-regulated Governments was to restrain excited and revolutionary majorities; to protect the weak. A Constitution to the self-constituted dictators in this House is but unrighteous inventions restricting liberty. No Constitution ought to exist, but that we Democrats should bow to the great Sanhedrim of the saints, admit that they are the saints, whose first duty is to free all the negroes in the South, and make them voters, to keep up the Republican or disunion party. Then enslave and disfranchise the white people there, and take their property that they have not already taken; they to meet in caucus and keep up their organization; to bring out their flats in defiance of President, people, and Constitution.

I will give you a specimen of this immaculate party's tactics and documents in the campaign of 1864 in my district:

HEADQUARTERS DISTRICT WESTERN KENTUCKY,  
PADUCAH, September 6, 1861.

Mr. L. S. TRIMBLE:

You are hereby notified to appear at the counting-room of B. G. Brazelton, in the city of Paducah, within ten days from this date, and pay over the sum of five thousand dollars, the amount of an assessment levied on you to reimburse Union men for property taken by rebels in their several raids in this district.

By order of Brigadier General E. A. Paine, commanding district of Western Kentucky:

W. M. STARKS,  
T. M. REDD,  
B. G. BRAZELTON,  
Commissioners.

Office hours from two to five o'clock p. m.



Brazelton denies this act.

This was executed upon me by delivery at my office in Paducah, Kentucky. This is but one of hundreds issued by that incarnate fiend Paine, by which thousands were imprisoned, robbed, pillaged, and plundered.

Kentucky, with all her sufferings and wrongs, inflicted by those who profess to be her friends, has remained as true as the needle to the pole to the Union and the Constitution. Still she is taunted by upstarts as disloyal. You wonder that Kentucky complains at the treatment she has received at the hands of the Federal Government. She does complain with just and holy cause. Every promise and pledge made to her was made only to be broken; every right and privilege, however dear and inalienable to her under the Constitution, has been trampled under foot with scorn and contempt. Can you wonder she complains? It is the consequence of your own infliction of wrongs.

"The blood will follow where the knife is driven. The flesh will quiver where the pincer tears."

Your friendship to her has been worse than hostility. She feels its embrace by the pressure of her fetters. I am only amazed that she submits to such tyranny and usurpation. Forbearance will ere long cease to be a virtue. She has petitioned respectfully in time of war; she wastold to wait until the war was over; that was not the time. We now petition in time of peace to make and execute our own laws. We are told the war is not yet over. Our remonstrances were first mocked and construed into treason, then into impudence and audacity. Why do you by your legislation draw invidious distinctions between Kentucky and her loyal sister States of the North? Was it because she refused to be precipitated into revolution and join her kindred and friends of the South, but adhered unflinchingly to the Union and Constitution, offering and sacrificing upon every battle-field her heroic and gallant sons that the nation might live? Is this the justice you would have meted out to you? Is it justice? Nay, sir; it is base ingratitude.

The faith that has been kept with Kentucky has been only Panic faith. The Government by solemn enactment of law agreed to pay the loyal States for the slaves which voluntarily enlisted or were forced into the Army. Under this law Maryland and Delaware were partially compensated for their lost property. But Kentucky has never been paid to this day. The late President forbid the appointment of commissioners to adjust the claims of citizens of my State; and notwithstanding there are millions of dollars in the fund set apart for this purpose, she has not been paid, and never will be in my opinion, if the majority here shall remain in power.

There have been many things done in Kentucky that I do not indorse, that never were indorsed by a majority of her people. But throughout this entire conflict a majority of her noble and gallant sons have heroically and defiantly stood by the principles of self-government so indelibly impressed upon them by the teachings of her immortal and patriotic sires. She was the first-born of Virginia, that mother of States and of statesmen, which contributed more to establish this Government than any other State. Virginia gave to the United States, in a spirit of patriotism and undying love for the Constitution, an empire—the Northwest Territory—now comprising the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, represented on this floor by fifty-six Representatives, in the other end of this Capitol by ten Senators. By this act she gave that rich and valuable country to the United States. Little did Virginia then dream or believe that the children of her common country, aided by her bounty and enjoying the richest legacy ever enjoyed by any people in the world, would so soon and so far forget their duty to themselves, their country, and benefac-

tor, as to now turn upon her with passion and malignity to drive her, mutilated as she is, from the Union and the Constitution of her fathers, levying onerous and unequal taxes upon her charred ruins, denying her representation as a coequal State. Honor and justice revolt at such ingratitude. This fell spirit would drive your mothers from your houses and homes, making them wanderers and outcasts, with no place to lay their weary, devoted heads.

The dominant party here treat with scorn and derision the declared policy of the President and the people of the North and South. They have placed the Government of the Constitution in abeyance, and its legislative and executive functions are usurped by a revolutionary cabal who, in obedience to caucus, govern the nation through the forms of a directory. The right of each State to regulate the qualifications of its electors is denied, the will of the people of the District of Columbia is overridden; and by an almost unanimous vote they are for according to the negro equal political rights with the white man. The initial step, in my opinion, to a war of races has been taken, and a consolidated Government looms up in the future, if it be not already accomplished.

Sir, if the rights and powers claimed by the majority here for the Federal Government be not restrained, then, indeed, have we become a grand military centralized despotism, with no restraint upon the fury of passion or venality of party warfare. If you have a right by constitutional amendment to take my private property without compensation, either for public use or not; if you have the right, under your Freedmen's Bureau Bill, by despotic agents, to invade the States in times of profound peace, take my land, arrest, fine, and imprison me, denying me the right of suffrage, the writ of *habeas corpus*, trial by jury, or bail, then I fear indeed the Union is gone, our liberties forever lost. If they have authority thus to act they can with the same impunity create titles of nobility, declare Butler king or Fred. Douglass emperor, repudiate the public debt, abolish trial by jury. What may they not do?

We are told by the majority in their fury and frenzy that President Johnson's infractions of the Constitution in England would have cost him his head. They should remember and ponder upon it well, and not forget that they have heads also, and that history often repeats itself. We are informed that some instances have occurred when the gallows and guillotine were used contrary to the wishes of the inventors for the execution of the builders and makers. I know of no better guide for the future than the past. While we adhered to the Constitution we had peace, wealth, prosperity, and happiness, challenging and commanding the respect and admiration of the world, our commerce whitened every sea, our proud flag waved honored and respected in every port. Why is this not so to-day? The war is over. You can trace all our troubles and trials to this one source—disobedience to our own Constitution and laws.

Sir, when we demand that our Constitution and laws shall be respected and obeyed, ought we not to respect and obey them ourselves? You have whipped South Carolina and the other seceded States into obedience under our Constitution and laws. We require them to pay taxes, we require them to do more in the way of tribute to the Government than we require from New England. What do you give them in return? Nothing but insult, cruelty, and oppression. You declare them aliens and foreigners. You pass unjust laws to impoverish, degrade, and finally destroy them as a people.

By the resolution passed by Congress and by this House on the 22d day of July, 1861, it was solemnly asserted by the Congress of the

United States that the war was prosecuted not to oppress, nor to conquer, nor to subjugate, nor to overthrow, nor to interfere with the rights of the States, but to defend and maintain the Constitution and preserve the Union with all the dignity, equality, and rights of the several States unimpaired. When accomplished, the war ought to cease.

On the 6th of February 1863, President Lincoln authorized Secretary Seward to make the following important avowal, among other things, in reply to an offer of mediation between the United States and the confederate States made by the French Government:

"We have here, in the political sense, no North and South, no northern and southern States."

"The Congress of the United States furnishes a constitutional forum for debate between alienated parties. Senators and Representatives from the loyal portion of the people are there already, freely empowered to confer; and seats also are vacant, and inviting Senators and Representatives of this discontented party, who may be constitutionally sent there from the States involved in the insurrection."

These declarations contain the whole gist of the policy, not only of President Lincoln, but of the Government, as declared by the three great departments, legislative, executive, and judicial.

Does the Government stand by these solemn pledges made to the North, South, East, and West, and to the world? Did not Congress and Mr. Seward, the organ of the Government, hereby and herein declare that we accepted the war to make good and defend the Constitution and guaranty the State governments with all their dignity, equality, and rights unimpaired? Was this resolution an official declaration issued to deceive and inveigle into the Army the true men of the country who held the principles therein contained? Was this a deliberate falsehood or a solemn farce, to be changed with new scenery in another act, or were they high, holy, and national manifestoes to the people of the States and the world of the purpose and object for which the war was waged? I must weep for my country if she, when reason resumes its throne, shall then repudiate and renounce these solemn pledges thus expressed, and turn the whole power of the Government upon one section, and crucify States and State institutions, which cost such fearful sacrifices of blood and treasure, and which she undertook to protect and save through all time.

It is said the States of the South seceded and formed a new so-called government. They did, and we declared these acts null and void. They appealed to the sword—so did we—and submitted the question to the arbitrament of war and the God of battles. The result is before the world and a part of the history of the country. The decree should now be rendered that the Union is saved, the Constitution is saved, the States are saved, with the rights of every citizen in this land preserved, with the eleven stars of the South upon that glorious old flag shining with renewed splendor and glory. Desecrate not that flag, I entreat you, by mutilation or by tearing from its folds eleven or one single star; let it continue to greet the breezes of heaven as the ensign of thirty-six coequal States united by a just Government, shedding its blessings upon all like the dews of heaven. Let there be one refuge secure from tyranny and oppression; let that glorious refuge be here in the United States of America.

I have ever believed and sincerely believe to-day that the only way or hope to save this Union and preserve the life of the nation will be to preserve inviolate the Constitution. Tell me not that you can preserve my life after you have torn out my heart; it is as idle to talk of preserving this nation by overthrowing her Constitution. Under no circumstance conceivable by the human mind have I or would I ever violate that Constitution for any purpose. I

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will cling to it as the last hope of freedom, as the bond of unity in the past, as the only practical bond of union in the future, the only land lifted above the waters to which the ark of the Union can be moored. From that ark alone will go out the dove, which shall return bringing the *habeas corpus* and the olive-branch of peace.

The Union was originally formed by the exercise of a spirit of conciliation and compromise; to restore and preserve it the same spirit must prevail in our councils and the hearts of the people. Who will assert that our ancestors would have formed this Union with the people of the North if the feelings and opinions now existing among them had then existed? When the Constitution was framed there was then no hatred, no sectional strife, no negro suffrage, no Freedmen's Bureau, no military despotism, no high tariffs, no taxation without representation to enslave one section of the country to carry out the Black Republican negro policy to the detriment and disgrace of all. Then they were coequal States, protected alike, acknowledged by the Government and the world to be sovereign and independent States. By the Constitution certain duties were imposed upon the several States, and the exercise of certain of their powers was restrained, which implied their continued existence as States. But to remove all doubt an amendment was added which declared that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. The reserved rights of the States have been treated as nullities, not worth the paper on which they were written.

The finances of the country demand our immediate consideration. If we would avoid bankruptcy and repudiation our taxes should be equal and uniform. The wealth of the country should bear its just proportion, whether in bonds, stocks, or anything else. The rate of interest should be reduced, the debt scaled whenever there was fraud or want of consideration. All just claims should be paid. We should settle fair. When we go into court for equity we should do justice ourselves.

Sir, it has been said in this Hall, and elsewhere, by distinguished leaders of the radical party, that the Constitution and Union should never be restored as it was before this terrible civil war. Disunionists may and will object, but patriots would glory in such a result. Would to God I had it in my power, I would issue a general amnesty and let the captives free. I would open the new-made graves from the R.R. Grande to Gettysburg, restore the dead to life, the widows to their husbands, the orphans to their fathers, and the charred ruins and desolations of the South to all their original splendor. Sir, I would restore the maimed, the halt, crippled, and the blind with a reunion of friends and of States under the Constitution, with the ardent prayer that God in His wisdom and mercy should never again scourge a people as we have been.

But, sir, that is impossible. But we can and ought to do this for the thousands who have upon each side, in the discharge of what they considered their duty to their God, their country, their homes, and their firesides—who have gone from the bloody fields of war to that undiscovered bourne from whence no traveler ever returns—we should throw over their graves and memory the mantle of charity, foster and protect their widows and orphans, and, if possible, save for the living and posterity the Constitution unamended by tinkers, and which I trust will yet bless us with the best Government ever vouchsafed by God to any people since the morning of creation. Let us act with charity toward all and malice toward none; save, restore, and protect what is left from the fires of war to the living and those who are to come after us.

We are told by the action of Congress the southern people are disloyal. Will the taxing of cotton, the adoption of the various amendments submitted here and to the States, crushing out the last vestige of State rights and the liberty of the citizens, make them loyal? They were told, "If you will abolish slavery, give up four thousand millions of property guarantied to you by the Constitution of the United States, and yours by law until confiscated by legal process; if you will ratify the amendment and repudiate your war debt for the payment of which the faith of your States were pledged in many instances, it will be evidence of your loyalty and submission to the Federal Government; you will be entitled then to return to the house of your fathers." They did all this with an alacrity and unanimity never displayed before by any free people. But now it is sought to enforce other more onerous and degrading conditions. The pound of flesh was nominated in the bond, but not one jot of blood.

Suppose the southern people could be so lost to honor and manhood as to accept the terms proposed by the radicals or revolutionists, would their abject obedience to your unlawful behests fit them in any sense to become free American citizens? The people of the South say we have thought five years' residence was necessary to fit the intelligent foreigner for citizenship, so as to acquire knowledge of our institutions, yet Congress will admit that the negro, even though in besotted ignorance, is better than the foreigner, equal before the law with ourselves. Enfranchising the negro by Congress, will that make the South loyal? The imposition of such an act, its acceptance or non-acceptance does not change their position. What is the test a great nation should make of loyalty other than submission to the Constitution as it is and the laws passed in pursuance thereof? Does any gentleman here pretend a necessity for any other test? Does he apply any other test to his own loyalty, or ought he in justice? I fear there are some among us who care less for loyalty than power and plunder, and nothing for justice, but more to spit out their venom and wreak vengeance on a brave and chivalrous people whom the fortunes of war have prostrated at our feet. Nationalize our people; obliterate all sectional feeling by national, just, and humane laws. Every man should be proud of his State when its people have adorned their manhood by deeds of chivalry and valor. Has any one here looked on a returning regiment from the war, belonging to his own or native State, who has heard of its valor on the field? He sees its ranks thinned, and knows these veterans are battle-scarred; he sees that flag which was presented to them brought back, but in tatters, for it has borne the storm of battle. Who is there that does not feel a pride for these men, and for the State that gave them birth, North or South? Shall the people of the South be denied this poor privilege, and if you please, to weep over their fallen braves, shed tears for departed friends? Nay, sir, let her fair women decorate the lonely graves of their loved ones and strew flowers upon the cold clay that covers their mortal remains. There is no treason in this. Do you fear dead men, or would you crush this feeling of affection that has commanded the respect of the wise and good of all ages?

The issues which divided the Democrats and Abolitionists before the war are, as Mr. Lincoln predicted, again upon us. The Democratic party are unanimously in favor of restoring the Union with the rights of citizens unimpaired—the Republican party is against it. Then the cry was "No union with slaveholders." Now it is "No union with rebels." What further punishment do you propose to inflict on the South—on your own countrymen? Do you wish to prey on them as Eng-

land has on poor Ireland, or crush them as the Kaiser did the Hungarians, or obliterate those States as Poland has been blotted out from the map of Europe by the Russian Czars? Sir, if you do not intend to have a Union upon terms of equality, you had better at once let the South go in peace, for no brave people ever did or ever will submit long to such taxes and oppression without representation. Our forefathers fought for representation. They established the principle by the offering of their lives and their blood that representation and taxation should go together. Is that principle less dear to American freemen to-day? No, sir; it will continue to glow and burn until again enshrined in the hearts of every true American in this land, and woe to the man or party that stands in the way of this inalienable right. Eleven States are kept out of the Union as subjugated provinces. Twenty-two Senators are denied votes in the Senate in plain violation of that provision of the Constitution (article five) that you admit cannot be amended except by the consent of the State deprived of her equal voice in the Senate. New England had well pause and survey the ground this precedent establishes; it may some day deprive her of her arrogance and power. As American freemen and Democrats we will raise the banner of the Constitution and Union, emblazon upon its folds taxation without representation is unconstitutional and tyrannous, and resistance to tyrants is obedience to God. Upon this issue we will appeal from Congress to the people, the source of all power. Who can doubt the result, aided as we will be by Andrew Johnson, the patriot and people's friend, and by every lover of law and order?

In this contest we do not seek partisan advantage; we are battling for the rights of all. We are determined that freedom of speech and of the press shall be unimpaired, although they may be used to denounce us and the Constitution. We intend that rights of conscience shall be protected, although mistaken views of duty may turn the temples of God into theaters for partisan denunciation.

This Congress will not save the Union. It has, by its vindictive legislation, by displays of hate and passion, placed obstructions in its own pathway which it cannot overcome, and has hampered its own powers of action by illegal and unconstitutional acts. But if Congress will not save the Union the great constitutional Democratic party can. Congress has placed many things above the Constitution; we put it first of all. They think amendments to the organic law are worth more than Union and peace; we demand no conditions for the restoration of the Union. We are shackled with no prejudices, no hate, no passion. We wish for fraternal relationship with the people of the South. We demand for them what we demand for ourselves, the full recognition of the rights of States and every citizen thereof. In the coming elections the people must decide with which of the now great political parties they will act. But as they value their liberty, vote for no man whose position is doubtful. If they wish for Union, peace, and liberty, they will act with that party which does now and always did love and reverence the Union of our fathers. If they wish peace, they will act with those who sought to avert the war, and who now seek to restore good-will and harmony among all sections of our common country. If they care for their rights as persons, and the sacredness of their homes, they will act with those who stood up to resist arbitrary arrests, despotie legislation, illegal proclamations, and the overthrow of the judiciary, the last hope of justice and liberty. I have yet faith in the patriotism and intelligence of the American people. To them must be submitted this momentous question. To them I shall look with an abiding confidence for the triumph of the Constitution over all enemies.

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Koontz vs. Coffroth—Mr. McClurg.

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## Koontz vs. Coffroth.

## SPEECH OF HON. J. W. MCCLURG,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

July 18, 1866.

The House resumed the consideration of the following resolutions, reported from the Committee of Elections:

*Resolved*, That Alexander H. Coffroth is not entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

*Resolved*, That William H. Koontz is entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

Mr. MCCLURG. Mr. Speaker, I hope I will receive the attention of the House for a very short time. I shall not presume too much upon the uniformly good temper of the House. I am compelled to make some remarks, as the sitting member deems it necessary for him to occupy his hour. But I shall be very brief, for a case that called for the labor and eloquence of the sitting member nine hours before the committee, and of the contestant four and a half hours, and to read carefully the report of which will require one hour. Neither is this the place to dissect and discuss, in all its parts, the evidence contained in a volume of two hundred and seventy-two pages. That must be done in the dissecting-room, the committee-room. I will, therefore, now present only the important features, the important points of the case.

The case is that of a contest for a seat in this House between William H. Koontz, contestant, and Hon. Alexander H. Coffroth, the sitting member, from the sixteenth congressional district of Pennsylvania. It will be remembered that in the early days of the present session there was a contest between the same parties on the *prima facie* right to the seat, neither having received a certificate of election. That contest was decided "upon the certificates and papers," "without prejudice to the right of William H. Koontz, claiming to have been duly elected." In the present contest we are brought properly, in pursuance of the resolutions of this House, by due notice and pleadings, to the investigation on the merits of the case; and the important question is, Who received the greater number of legal votes? In determining this little else enters into the contest than the claim by the contestant that certain soldiers' votes should be counted; and by the sitting member, not only that they should not be counted, but that other soldiers' votes should be deducted, claimed to have been improperly and illegally counted for the contestant. In other words, the contestant claims that he received of votes of legal voters whose votes were not included in the official count a sufficient number to overbalance the majority which appears for the sitting member on the official count, to wit, 88. The sitting member resists this claim, and would have deducted other votes, which he claims were illegally counted for contestant. The soldiers' vote decides this case. But before proceeding to consider it, I will briefly notice a claim of each party outside of the soldiers' vote.

## PAUPERS.

The contestant claimed that 33 votes of paupers should be deducted from the count of sitting member, 17 in Bedford county and 16 in Adams, contending that, under the Pennsylvania law, paupers had no right to vote. It will be seen, on pages 7 and 8 of the report of the committee, that as the laws of Pennsylvania do not expressly deprive paupers of the exercise of the elective franchise the committee would not undertake to do so until the authorities of Pennsylvania shall have decided for themselves the law. The committee, therefore, make no deductions from count of sitting member on account of the pauper vote.

## STUDENTS' VOTE.

On the other hand the sitting member claimed that 13 votes should be deducted from contestant's count because given by students at Gettysburg, claimed by him to be non-residents. As it was in proof that but one student voted for contestant who did not consider Gettysburg his place of residence, and as it is not in proof that the students' vote was counted, and in proof that three only voted for Mr. Koontz, the committee make no deductions.

We come, then, to the

## SOLDIERS' VOTE.

And, Mr. Speaker, I wish every member of the House to bear in mind that not one soldier vote claimed by or counted for the sitting member is attacked by the contestant. And further, not one soldier vote, is it claimed by sitting member, should for any reason be added to his own count. By referring to the table on eighth page of the report of the committee, it will be seen that but one vote in all has been deducted from count of the sitting member. That one is the vote of Hezekiah Hite, a minor, acknowledged by sitting member to have been such and to have voted for him. And it will be perceived that that one is deducted, not from his official count, but from 99 before uncounted votes given him from returns introduced by contestant and proven not to have been included in the official count. The contestant gathers up the returns of soldiers' votes which had either not been received by the boards of return judges who canvassed returns or had been rejected, and offers, as it were, to restore the right of voting to the disfranchised soldiers; while, on the other hand, the policy of the sitting member, both in his allegations and his argument, is attack upon the soldiers' vote, persistent attack. He offers to disfranchise many who voted for himself, that in so doing he may disfranchise more who voted for the contestant. These are facts which no sophistry in debate can remove or should be permitted to mystify.

It is acknowledged by the parties in this contest that the official count of votes gave the sitting member a majority of 88 votes. On page 2 of the report of the committee is a table showing and numbering eleven companies, camps, and hospitals, and it is alleged and claimed by the contestant that they cast for him, Mr. Koontz, 258 votes, and for Mr. Coffroth 99 votes, and that they were not included in the official count by the return judges of the counties of Bedford, Fulton, and Adams, and that they should now be counted. On pages 3, 4, 5, 6, and 7 of the report these eleven companies, camps, and hospitals are separately considered and the objections to the returns noticed. It is useless to consume time now in discussing these objections, as certainly neither the sitting member nor any one for him will attempt to interfere with the count of the committee, as on page 8 of the report, except so far as I shall name. There can be nothing dwelt upon so as to reduce the count in that table that can affect the result in this case. There can be no doubt, except as to McClellan hospital No. 6, pages 4 and 5 of report, and No. 7, one hundred and thirty-eighth Pennsylvania regiment, pages 5 and 6. One of my colleagues on the committee, the gentleman from Michigan, who would, if here, defend this report, if necessary, doubts, as likewise does the colleague from Vermont, the legality of the vote in the one hundred and thirty-eighth Pennsylvania regiment, because two companies, B and G, voted together at the same poll, when the soldiers' voting law, section two, on page 15 of report, requires that "a poll shall be opened in each company." They doubt whether the twenty-seventh section of law as to "informalities" removes the difficulty. This vote was 32 for Mr. Koontz and 1 for Mr. Coffroth. Deduct the majority, 31, from his majority, as on page 14 of the report, and a majority still remains for Mr. Koontz of 40 votes; 71 with this vote, 40 without.

The colleague from Wisconsin expressed some doubt as to McClellan hospital, which gives 3 for Mr. Koontz, and he may, in his mind, give Mr. Koontz a majority of only 68. I need not therefore dwell here, neither need the sitting member in his remarks, because all doubts, as expressed by all members of the committee, (and all had opportunity to express themselves except the colleague from Delaware,) added together and deducted would leave Mr. Koontz's majority 37 votes. This would be by deducting from the eleven companies, camps, and hospitals, page 2 of report, which the contestant proved by competent and legal testimony had been cast for him and not counted on the official count, all cases where there is a legal doubt, and after deducting also from Mr. Koontz, as appears in table on page 8 of report, 3 votes from the uncounted votes appearing on page 2. This majority of 71 or of 40, according to the views of members as to two companies of legal voters having voted at one poll, and without an attempt to show fraud or unfairness, but mere ignorance of the letter of the law, the sitting member attempts to overcome by an effort to show that other votes should be deducted which he claims were counted upon defective and illegal returns from various other companies, camps, and hospitals.

A like attempt is made in all the counties to disfranchise the soldiers to deduct from the official count of the contestant votes alleged by sitting member to have been counted which he claims should be deducted. It is clearly useless to inspect what he presents as returns, and claims to be informal and insufficient, in any of these counties, because there is no satisfactory or legal evidence to show what returns were before the return judges who made the count. There is not one word of evidence that what are called copies of returns are copies of what were before the return judges.

I ask attention to Adams county. The foundation being removed, all will admit nothing can stand. The foundation for what sitting member presents as insufficient returns, which he claims to have been counted for contestant, is this: "a tally-list" of a clerk, nothing more, nothing less.

On page 212 of Miscellaneous Document No. 117, Henry G. Wolf, a clerk for return judges, testifies that "this paper now before me is my tally-list of the votes received and counted by the judges," &c. That paper is not in evidence. It is not in any way in this book No. 117 for us to inspect it. If it were it would still be an unauthorized paper. Section sixty-three of election law of Pennsylvania (see page 14 of the report in this case) reads:

"The clerks [in the plural] shall make out a fair statement of all the votes which shall have been given at such election within the county, &c., which shall be signed by said judges and attested by the clerks."

The judges shall sign it and one judge shall take charge of it, &c. Here one clerk produces what he calls "my tally-list." Then, from that unauthorized paper, read by him or looked at, but not placed in evidence, he testifies that "among the votes counted" were certain votes, 1, 2, 6, and 1, at various camps named by him for Mr. Koontz. And as further proof this clerk refers to paper A, papers B, C, D, and paper E, which are not put in evidence. Still we find in this book what purport to be such papers, (but not the tally-list.) They are not in evidence. If they were the clerk does not swear they are copies of anything the judges had before them. We presume all the clerk swore to was true; that 1, 2, 6, and 1 votes were counted. But we also presume that they were not counted upon defective papers, and he does not swear they were counted upon such as he had before him or such as we find in this book. We might, then, very properly reject all this.

But to pursue these votes with sitting member, which he claims were counted on illegal papers, we look at what we suppose he intended



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to present as evidence and what he calls returns. We find them defective, one in this respect and another in that. And while I do not accuse any one, and certainly not the honorable gentleman who has the seat, of presenting extracts from poll-books, &c., it does seem to me that the decision of the majority on the *prima facie* case of Koontz vs. Coffroth, "that poll-books, &c., were fatally defective without certificate of oath of officers," has caused only parts of papers to be made out and certified. Look at the first, A; it seems to be carefully certified to be "true copies of the poll-book, tally-paper, and returns." It may be all it is certified to be, and yet a portion may not have been copied. No oath appears. No certificate appears, and no oath that all the papers were copied; and bear in mind there is no proof that other and better papers were not before the return judges.

Further remark here seems to me wholly unnecessary to intelligent gentlemen. I might take up these returns one by one and show that they may not be defective; but then I would come to this same point, and could not say, for my life, whether these votes were counted or not; or, if counted, whether upon these papers.

As clearly in point, I will read from the report of the committee in the late case of Fuller vs. Dawson, in which like papers were excluded to the advantage of the sitting member, as follows:

"The prothonotary certifies that the transcript given on pages 68 and 69 of the second book is a correct copy of the poll-book, tally-list, and certificate of the return of the election, but makes no allusion to the certificate of oaths in the case. If these votes were, in fact, canvassed, and the only evidence upon which the canvass was made was such as is found in this transcript, it is clear that under the rule adopted by the majority of the committee respecting the hospital returns in the case of Koontz vs. Coffroth, these votes ought not to have been counted, for the certificates of oaths are entirely wanting. But it is not shown affirmatively that this was the only evidence, and the transcript raises no such presumption, because the prothonotary's certificate does not exclude the idea that perfect certificates may have been on file in his office."

In this condition and on this foundation are all the papers on which we are asked to deduct soldiers' votes in this (Adams) county. The attempt in each of the other counties is of a like character.

## BEDFORD COUNTY.

In Bedford county there is no evidence as to what papers were before the return judges. For a portion of them the prothonotary testifies that returns "from Nos. 44 to 53 are certified copies of the returns sent to me by the secretary of the Commonwealth, as shown by my certificate to the return judges." He produced a certified copy of his own certificate to the return judges, which certificate he made without authority of law. Certified copies of returns are required by eighteenth section of soldiers' law, and he took upon himself to certify a tabular statement made out by himself. Although it may be true the votes were counted, it cannot be presumed, without evidence, they were counted upon such papers. Certified copies of the returns before the judges should have been presented to the committee, and were not. This very certificate of the prothonotary was rejected by the committee on the *prima facie* case, Koontz vs. Coffroth, and therefore the sitting member had notice, if he did not otherwise know, that such papers were not admissible as evidence.

## SOMERSET COUNTY.

For Somerset county it is the same argument over again. "A certified copy of a tally-paper of clerks" is produced, and we are asked to reject returns alluded to in that unauthorized paper. A like paper was rejected by the committee in the case of Fuller vs. Dawson, as shown by the report in this case, pages 12 and 13.

## FRANKLIN AND FULTON COUNTIES.

In Franklin and Fulton counties there is the same want of evidence to show what returns were before the judges and counted. The

committee have therefore been led to recommend the resolutions which, if adopted, will give the seat to Mr. Koontz.

But I should not close without asking gentlemen to read extracts from testimony of deserters, on pages 11 and 12 of the report. The sitting member asks attention to it in his brief. He claims that soldiers at the polls "deterred" some twenty or thirty "citizens" from voting. These "citizens," or a number of them, are produced and testify for the sitting member. I earnestly unite with the sitting member in inviting attention to that testimony, pages 11 and 12 of report, or pages 184 to 190 of this book, Miscellaneous Document No. 117. I need not now refer to the law, but quote from one witness to show the character of the "citizens" whose votes would be counted by the sitting member to exclude or neutralize soldiers' votes. Peter G. Miller, commencing near foot of page 11 of report, and on pages 188 and 189 of this book, (Miscellaneous Document No. 117), swears:

"I was across, between the top and foot of the mountain, about six miles from the election; I did not go any nearer the polls; I did not offer my vote, because I was afraid to go there; I was a conscript and had not reported; I was drafted in 1863, in August, and had managed to escape the officers all that time; I would have been apt to have voted for Coffroth if I had gone, most assuredly; I am a Democrat in politics."

With one remark more I shall have finished. Judging by the past, I presume the sitting member will talk about persons voting who had not been assessed, &c., say some twenty-two in Somerset county. I have not here spoken of that and some other talk we will probably hear, because it is all excluded unless we admit those unauthorized certificates and tally-papers of clerks, &c., that I have alluded to. And, if they were admitted, the proper record evidence of assessments is not introduced, and it will be perceived that, in his brief, the sitting member ruled the contestant to record testimony where it could be produced. And of the 9 voters for Bedford county which he would exclude on such papers, I may in addition state that, for a portion of them, it is not in proof for whom they voted. I may add, as to Franklin county, in addition to what I said, that nothing shows what returns were counted, that the attempt to have 4 votes deducted because General Couch and staff voted and were "Black Republicans," is in character with much of what is called evidence in this book. The sitting member, in his brief, claims these votes should be deducted, and says, "See testimony of J. Newton Stelletto, page 237." What is that testimony to which he invites attention in order to deduct votes? Witness swears:

"Major John S. Schultz and Captain T. B. Swearingen voted; I do not know how they voted; both were members of General Couch's staff, whose headquarters were at Chambersburg; General Couch also voted."

Another witness, on same page, testified:

"I know these military men were Black Republicans, and intended to vote that ticket; I never heard them say how they had voted."

Mr. Speaker, I think it is unnecessary to say more.

## Koontz vs. Coffroth.

SPEECH OF HON. W. H. KOONTZ,  
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,  
July 18, 1866.

The House resumed the consideration of the following resolutions, reported from the Committee of Elections:

*Resolved*, That Alexander H. Coffroth is not entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

*Resolved*, That William H. Koontz is entitled to a seat in this House as a Representative from the sixteenth district of Pennsylvania in the Thirty-Ninth Congress.

Mr. KOONTZ, (contestant.) Mr. Speaker, I claim the right to represent the sixteenth

congressional district of Pennsylvania in this Congress. I will endeavor, in as brief a manner as possible, to present to the consideration of the House the grounds upon which my title is based. I assert that a majority of the legal votes of the district were cast for me, and that the official canvass, which gives the sitting member 11,067 votes, and myself 10,979 votes, being a majority in his favor of 88, is incorrect, for the following reasons:

1. It does not contain all the votes that were cast for member of the House of Representatives in said district by the duly qualified electors thereof; the return judges of three of the counties, to wit, Bedford, Fulton, and Adams, having excluded from the count eleven returns of elections held by soldiers from the district in actual military service under the laws of Pennsylvania.

2. That the board of return judges of Adams county made a mistake of 2 against me in counting the vote of the district of Hamilton Ban and Liberty townships, which should now be added to my vote.

3. That certain illegal votes were cast and counted for the sitting member.

I will proceed to consider these points in the order in which they are stated. The returns which were rejected by the judges, and which I claim should be added to the official canvass, are as follows:

		Koontz. Coffroth.	
No. 1. Company H, 208th regiment,	army of the James.....	34	18
2. Barracks No. 1, Soldiers' Rest,	Washington, D. C.....	58	29
3. Company G, 205th regiment.....		8	2
4. Mower hospital, United States,	Philadelphia.....	1	-
5. Cuyler United States hospital,	Philadelphia.....	1	-
6. McClellan United States hospital,	Philadelphia.....	3	-
7. 138th Pennsylvania regiment,	Front Royal, Virginia.....	32	1
8. 184th Pennsylvania regiment,		39	21
9. 202d Pennsylvania regiment,	White Plains.....	27	15
10. 21st Pennsylvania cavalry, City	Point, Virginia.....	36	4
11. 210th Pennsylvania regiment,		19	9
Total.....		258	99

I will not consume the time of the House in answering the various objections that were made to these returns, as that has been fully and ably done by the committee in their report. I will simply state that all the objections are overcome by the testimony, which shows conclusively that the elections were all fairly held, that the persons voting were duly qualified voters of the district, that they were required to establish their right to vote by the production of tax receipts or other necessary proof, and that in every case save one the officers were duly qualified according to law. In that case the officers were sworn by the captain of the company, who is not authorized by the law to administer the oath; but because the officers were not properly qualified the election is not thereby invalidated. They were public officers *de facto*, and as such their acts are valid and binding. This principle of law is thus laid down by Chancellor Kent:

"In the case of public officers who are such *de facto*, acting under color of office, by an election or appointment not strictly legal, or without having qualified themselves by the requisite tests, or by holding over after the period prescribed for a new appointment, their acts are held valid as respects the rights of third persons who have an interest in them, and as concerns the public, in order to prevent a failure of justice."

It is proven, also, that this election was fairly conducted, and neither in this nor any of the other rejected returns has the sitting member attempted to show fraud in holding the elections.

The committee have deducted 1 vote from me in each of the returns of company H, two hundred and eighth regiment, and company K, one hundred and eighty-fourth regiment, by reason of a discrepancy in the number of votes returned and the number of voters on the lists, the returns being in excess of the lists, 1 in

each company. They also refuse to count the vote cast for me at Cuyler hospital; not because it was an illegal vote, for the voter, Henry Rupp, on page 60, Miscellaneous Document No. 117, swears that he voted for me, and that he was a qualified voter at the time; but because I failed to insert the name of this witness in the notice for taking testimony. With these exceptions, the committee have recommended in their report that the votes contained in the foregoing returns should be counted, the legality of the votes having been fully established by the evidence.

By the act of 31st of January, 1801, (Smith's Laws, volume three, page 449,) the townships of Hamilton and Liberty, in Adams county, are created into an election district. A certified copy of the return of this election, on page 113, Miscellaneous Document No. 117, shows that I had 165 votes, while the testimony of Wolf, on page 212, shows that said return was only counted 163. I am therefore clearly entitled to these 2 votes.

The illegal votes that I object to as having been cast for the sitting member were those of thirty-three paupers taken out of the poor-houses of the counties of Adams and Bedford. As it does not appear in the testimony that the votes of the seventeen Bedford county paupers were included in the official count, although it is clearly proven that they voted for the sitting member, and as it is not shown that the sixteen paupers in Adams county who voted for him were not residents of Cumberland township, wherein the poor-house is located, and further, as the question of the right of paupers to vote under the laws of Pennsylvania has never been adjudicated by the courts of the State, the committee have refused to deduct these votes from the sitting member. Although upon this point I yield to the superior judgment of the committee, I cannot but express my firm conviction that under the laws of Pennsylvania a pauper in the common poor-house of a county is not entitled to the right of suffrage. By the constitution of Pennsylvania this right is restricted to white freemen over the age of twenty-one years, and when over twenty-two years of age the voter must have paid a State or county tax within two years. The foundation of this tax is an assessment upon the real or personal estate of the voter, or his occupation, or upon single freemen above the age of twenty-one years. A pauper cannot be the subject of taxation, because the moment he is sent to the poor-house his property is by law placed under the control of the directors of the poor; he cannot sue for and recover it, and is in the same position, in the eye of the law, as infants, lunatics, &c. His "occupation is gone" the moment he enters it, for he there becomes liable to do such duty as the steward may direct, nor has he the right of locomotion; he cannot come and go whithersoever he pleases, but his person is under the control of the overseer, and he therefore does not possess the essential elements necessary to constitute a freeman as intended by the legislative clause making single freemen the subjects of taxation, or within the meaning of the constitution restricting the right of suffrage to white freemen. The danger of allowing them the right to vote is shown in this case. In both the counties the stewards were active partisans, looking after the assessment and payment of taxes, and taking the paupers to the polls, and in one county it is proven that the steward offered to treat all who would vote the Democratic ticket, and as an inducement to one of the paupers to vote that ticket offered to buy him an article of clothing. It must be perfectly plain that under such circumstances a pauper cannot cast a free ballot because, did he attempt to contravene the wishes of the steward, he would not be permitted to go to the polls. The refusal of the committee to deduct these votes from the sitting member does not, however, change the result, and under such circumstances it could not be asked of the committee

to decide an immaterial point which has never been adjudicated by the courts of the State. Without deducting these votes from the sitting member I have still a majority of 71 votes over his majority in the official canvass, having shown to the satisfaction of the committee that in the uncounted returns I had a majority of 159 votes.

And what is the answer made by the sitting member to my case, which is so clearly established by the testimony? The points raised by him in his answer and argument may be classified as follows:

1. Alleged illegal votes received and counted for me by the board of election officers in some of the election precincts in the district.

2. Alleged illegal military returns said to have been received and counted for me by the boards of return judges, of the different counties.

3. That certain legal voters were restrained from going to the polls in certain districts in Bedford county through fear of arrest by the military, they being deserters, and that as they desired to vote and would have voted for the sitting member, had they gone to the polls, their votes should now be counted for him.

To sustain the first proposition the testimony of several witnesses was taken in all of the counties of the district except Fulton. It does not appear from the testimony that the votes assailed by the sitting member were included in the official canvass. Before any votes can be deducted from me he must first show that the votes were illegal, and second, that they were counted for me. In every instance he has failed to make the necessary proof that they were counted, attempting by illegal papers, wholly unauthorized by law, to establish these facts. But as this question has been so fully discussed by the committee in their report, and settled in accordance with the previous rulings of the committee upon like questions, I will not dwell upon it.

I now propose to take his testimony, and, assuming for the sake of the argument that the votes assailed by him were included in the official canvass, show that even if it were considered and all the weight given it that could be given by any impartial tribunal, it cannot change the result in this case. I will consider, first, the votes assailed by parol proof; second, the returns that he would have rejected; and third, the votes that he demands should be counted for him; and will take them just in the order in which he presents them in his brief prepared for the use of the committee. The alleged illegal votes in Somerset county are the following:

1. Charles B. Ellsworth, company F, one hundred and ninety-eight regiment.
2. George C. Chrestner, company F, forty-fifth regiment.
3. Lewis Andrews voted in Jonner township.
4. John S. Ellis voted, fifty-fourth regiment, Cedar creek, Virginia.
5. John H. Lloyd, company F, one hundred and thirty-eighth regiment.
6. Paul Hoffman, in Greenville township.
7. John Miers voted at Clarysville hospital.
8. William H. Owen, Mower hospital.
9. Edward Haisappel, York hospital.
10. Samuel Hummel, company B, fifty-fourth regiment.
11. Hiram I. Sauner, Chester hospital.
12. William H. Sauner, Chester hospital.
13. William C. Kelley, Chester hospital.
14. L. Albright, Mower hospital.
15. Christian Dietz, Alexandria (Virginia) hospital.
16. Daniel I. Miller, Campbell hospital.
17. Edward Ling, company I, one hundred and thirty-eighth regiment.
18. George Hudenfelter, company D, one hundred and thirty-eighth regiment.
19. Charles R. Walker, Mount Pleasant hospital.
20. Philip Glepner, Haddington hospital.
21. Henry Ware, Cuyler hospital.
22. A. J. Parker, Mount Pleasant hospital.

It is not proven for whom two of the parties above named voted, namely, Andrews and Hoffman, so that no deduction can be made for their votes unless it be from the sitting member, who proves them illegal, but fails to prove they were cast for me. Chrestner's vote is assailed, because it is alleged that he is a

mulatto, and not entitled to vote. I do not believe the proof is sufficient to show that the person who voted in the Army is the same person that is alluded to by the witnesses in their testimony, but if it is, then possibly under the testimony the committee would have been warranted, had the proof been made that this vote went into the official count, in deducting it from me. Lloyd swears that he voted for Mr. Coffroth, although the return gives me all the votes cast at that poll, his among the number. In this case it is the oath of one man against the oaths of five sworn officers, and as the preponderance of testimony is in favor of the return, and as it has been so long since the election took place that he may be mistaken, this vote should not be deducted from me. The votes of Ellsworth, Miers, and Owen are assailed, because it is alleged that they were non-residents of the districts where their votes were returned, all having voted in the Army. It is proven that when Ellsworth went into the Army, his family moved into Shade township, on the 1st of September, 1864, and remained there until in the spring of 1865. They were living there more than ten days before the election, which took place on the second Tuesday in October, 1864, eleventh day; and as "residence is a question of intention," to quote the authority cited from 3 P. L. J., page 310, McDaniel's case, by the sitting member in his brief, Ellsworth evidently considered Shade township (as it actually was by the residence of his family there) his residence, and he was clearly entitled to vote as a resident of that township; otherwise he would have been deprived of his vote altogether. Miers is returned as a voter of Salisbury borough, while one of the witnesses swears that no man of that name has lived in the borough for thirteen years past. It is proven that Miers did live in Elklick township before he went into the Army, that Salisbury borough was a part of said township until within a few years, and always was, and now is, the place of voting for Elklick township. Therefore, how natural would it be for him to say, when interrogated by the officers of elections as to his place of voting at home, that it was Salisbury borough. One of the witnesses swears that no man by the name of Owen lived in his township for the last five years, "that he knows of; thinks he would have known it." This testimony, however, is too uncertain to overcome the legal presumption that the proper proof was made by the voter before the election officers, of residence, payment of taxes, &c. The other votes contained in the above list are assailed by reason of alleged non-assessment and non-payment of tax. It is proven, however, (see page 116,) that the taxes of three of said persons, namely, Kelley, Ware, and Parker, were paid, and the witness thinks Ellis also.

But let me examine the kind of testimony by which it is attempted to show the non-payment of tax by these parties. A list of names is put in evidence (see paper marked A, on page 148) containing the names of these persons and their townships, and the clerk to the board of county commissioners is called as a witness, and he swears that he has examined the assessments on file in the commissioner's office for the years 1862, 1863, 1864, and that their names do not appear upon them. I deny that this is legal evidence, because it is not competent to prove the contents of a record by parol testimony. The record must speak for itself as to what it does or does not contain, and certified copies should have been produced for the inspection of the committee. But even if it were legal evidence it proves nothing, because all of these parties may have been legal voters, and their names not appear upon the assessments. There are three classes of voters whose names would not appear upon these books of assessment: first, voters on age; second, persons who voted upon the payment of a State or county tax elsewhere in the State

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within two years; and third, persons who established their right to vote before the board by the production of a receipt for payment of taxes, under section forty of the act of 25th of August, 1864. These men were all in the Army, and voted under this law, which states specifically what shall be noted upon the record, and none of its provisions require that it shall appear whether the voter voted on age or upon payment of tax. But, I may add, why were not the assessors of these various precincts called as witnesses, and why were not the voters themselves called and examined upon oath as to their right to vote? Why were the legitimate and proper modes of proof abandoned, and the attempt made to take away the dearest right of the citizen by this kind of evidence?

The votes assailed in Bedford county are these:

1. George C. Gordon, voted at Camp Biddle.
2. John Stineman, voted at Camp Biddle.
3. William Mock, voted at Camp Biddle.
4. James Cull, (or Carl), voted at Lincoln hospital.
5. James Gaguely, one hundred and eighty-sixth regiment, provost duty, Philadelphia.
6. William Ernst, voted at Mower hospital.
7. Andrew Buzzard, West Providence township.
8. John C. Sparks, Camp Carroll.
9. George McDaniels, Navy School hospital, Annapolis, Maryland.

It does not appear from the evidence that Gordon was not a legal voter; neither is it shown anywhere for whom Stineman, Mock, and Gaguely voted; nor is there any legal evidence to show whether Buzzard voted at all, or for whom. It is said that he admitted he voted for me in the township of West Providence. Yet no list of voters of that township is put in evidence, nor is it shown that it was counted, even if proven to have been cast. The testimony relating to Cull, Ernst, Sparks, and McDaniels is too uncertain to be of any weight whatever.

In Adams county the following votes are assailed:

"*Gettysburg Student Vote*—Jacob Rhone, J. C. Kohler, J. A. Krumwine, P. H. Schaffer, Joseph Griffith, S. S. Henry, William H. Gottwaldt, M. G. Boyer, L. A. Swope, George Grossman, Michael Colner, William H. Stiek, T. C. Pritchards—13."

The testimony shows that only three of these persons voted for me, two of whom swear positively that they considered Gettysburg their residence at the time, and were therefore legal voters. The testimony of the third is rather uncertain as to residence, but there is no legal proof that he voted, as there is no list of voters in evidence for the borough of Gettysburg, nor is it shown anywhere that this vote was counted.

The votes assailed in Franklin county are, Major General D. N. Couch, Major John S. Schultz, Captain T. B. Swearingen, and Major Bent—4.

I assert, without fear of successful contradiction, that there is not a particle of testimony to show that these men voted for me. Why these names, along with others that the sitting member has not proven voted for me, are brought into this case and asked to be deducted from my vote is beyond my comprehension. It would be a singular proceeding indeed to allow it to be done. A careful examination of the testimony in regard to all the votes assailed by parol proof in the different counties of the district will satisfy any candid mind that no legal tribunal would be warranted in deducting more than 3 votes from me, even if it had been proven that these votes were embraced in the official count.

The next class of votes to which he objects are the military returns. And what is the character of the demand made by the sitting member upon the committee and this House? It is that they shall deduct from the official count sundry returns of soldiers' votes that he alleges were embraced in it by the board of canvassers simply upon the ground of informalities on the face of the papers, and without his having produced one iota of testimony to prove

fraud in conducting any one of these elections. This demand is so preposterous that I will not attempt an examination of these returns in detail, but, as an instance of his mode of assailing votes, will refer to one of these returns, which he would have excluded. It is the return of company K, fifth Pennsylvania heavy artillery, Somerset county, and found on page 150. An examination of this will show that the poll-book is complete; the oaths signed by the judges and clerks; the certificate by one judge; that the other four officers were sworn; the tally-list complete, giving the names of the voters, and the township, and county to which they belong, with a proper certificate, signed by the judges and clerks; a complete tally-paper, signed by the clerks as required by law; and a full return, in the exact form prescribed by law, signed by the judges and clerks. In short, it is absolutely perfect, with the single exception that one of the clerks does not certify that one of the judges was sworn, although said judge certifies that he administered the oaths to the others, and he, along with them, signs the oath. This return gives me 23 votes and the sitting member 8, and for this trifling informality he would willfully disfranchise these voters.

It will be found, on an examination of all these returns, that, with the exception of company E, one hundred and forty-ninth regiment, (page 254,) which gives me 4 votes, but does not show the names of the voters, and of company B, two hundred and third regiment, (page 261,) which gives me 2 votes, with their names and residence, but does not show, on the face of the paper, that the officers were sworn, all the other papers produced by him give the poll-books, showing affirmatively that the officers were sworn, and in every instance the names of the officers holding the election, in many instances the full oaths and certificates attached, in every case the list of voters, showing their names and residence, in every instance a tally-paper or return, which are precisely the same in phraseology, and in many instances giving both; thus showing who held these elections, that they were sworn, and the names and residence of the voters, and being in substantial compliance with the act of Assembly. This, I contend, was sufficient, assuming, for the sake of the argument, that these votes were counted, to have put the sitting member upon his guard, and to have required some evidence of fraud in conducting these elections, before they could be thrown out. He would have the committee and the House repeat, on a larger scale, the action of the return judges. These returns passed the keen scrutiny of his friends in the board of judges, who could only pronounce the eleven returns above referred to to be too defective to be counted; while, by his answer and argument in this case, the sitting member has attempted to disfranchise nearly every soldier from the sixteenth district who voted at the October election in 1864, and that, too, without producing any testimony to show fraud at any one of the various polls held in the military camps. The record of contested elections may be searched in vain to find a more cruel assault upon the elective franchise than is attempted by the sitting member in this case.

Next in order is that class of votes which the sitting member claims should be added to his vote, because the voters, who were deserters, were restrained from going to the polls for fear of being arrested by the military; and that this part of the case may be fully understood by the House, I will here quote a portion of the testimony in relation thereto:

"Laban Johnson, being duly sworn, doth say, that he is a resident and voter of Southampton township, Bedford county, Pennsylvania. I was at the election and voted on the 11th of October, A. D. 1864. I am tolerably well acquainted with most of the voters of that township. I never knew a man of the name of James A. Shade in that township. No man of that name went to the Army from that township that I know of. There were soldiers at the polls from a few

minutes after they were opened until after they were closed. They said they were there for the purpose of taking any conscript that came there to vote from the township. There was a right smart company of soldiers there, ten or a dozen. All the conscripts were deprived from voting except one man, who voted a few minutes before the soldiers came. The soldiers said that if they had got there a few minutes sooner he would not have got away from there. Gideon Smith, Aquila Smith, David Smith, James Smith, James Collins were deprived from voting. James Hook—I saw him on the road; he didn't vote. Jesse Henser was a conscript; there, too. I didn't see Francis Donahoo that day. I saw Joseph Barnes on the road. Amos Perrin was in the band that was on the road to vote. These men were not permitted to come in the yard that day. I saw Joseph Moss on the road that day, and he was a conscript. The politics of these men were Democratic, and those that I saw said they were going to vote for Coffroth.

"Cross-examined by Mr. Cessna, under protest: I was a clerk at the polls and passed in and out of the election house that day. I know they were conscripts, and they told me that they were drafted and hadn't gone; they were there. Gideon Smith didn't offer his vote, and didn't come in sight of the window that day; nor did Aquila Smith, nor David Smith, nor James Smith, nor James Collins, nor James Hook, nor Jesse Henser, nor Francis Donahoo, nor Joseph Barnes, nor Amos Perrin, nor Joseph Morse, nor any other conscript except the one that voted. The soldiers did not arrest anybody at the polls that day. I don't know that there were men deprived of their votes except from what they told me after the election. They said that they saw the soldiers there, and knew that they would be taken up. They calculated that they would be taken up. The soldiers were at the polls all day.

LABAN JOHNSON.

Attest:  
S. L. RUSSELL.

Isaac Jiams, called.  
Mr. Cessna makes the same objections to the evidence of this witness that he did to that of the above witness, Laban Johnson.

Isaac Jiams, being duly sworn, doth say, that he is a citizen of Southampton township, Bedford county, Pennsylvania; that he was at the election in said township on the 11th day of October, A. D. 1864. The testimony given by Laban Johnson is substantially correct. I saw John Jiams. I talked to him. It was by the soldiers being there that he didn't vote. I saw Joshua Houser there. These men were Democrats, and intended voting the Democratic ticket.

"Cross-examined by Mr. Cessna: I did not see any of these conscripts offer to vote. There was a company of conscripts about two hundred yards from the window. They saw the window. I was with them. I don't know that they went any nearer to offer to vote. They could see the soldiers, and they were afraid to go to vote. They had been told by different ones that if they went to vote they would be picked up.

ISAAC X JIAMS.  
mark.

Attest:  
S. L. RUSSELL, Commissioner.

Richard McMullen, sworn, declares and says, that he has been a legal voter of Napier township for many years; that he did not vote at the election of 11th October, 1864; that he did not vote because he had been drafted some time before the election and did not report at the time he was bound to report; that he had sent his papers down by the deputy provost marshal, who thought that he could fix by moping him a little. The soldiers arrested him on Saturday evening before the election. He studied about the matter a little and saw a good opportunity to leave them, and he left them; that they were there at his house two or three times searching for him, and were there on the morning of the election; that about the middle of the day of the election he understood that there were soldiers at the polls, and that their business there was to arrest all deserters, and he did not on that account go to the polls; that he would have gone to the polls if the soldiers had not been there; that if he had gone to the polls he would have voted for A. H. Coffroth; that he was told that there were soldiers at the polls by a man who had been there and voted; that he reported at Somerset on the next Friday and was discharged; that he knew John Mansfield; that said Mansfield was with deponent on the day of the election avoiding the soldiers; that said Mansfield did not vote; he votes the Democratic ticket.

"Cross-examined by Mr. Cessna under protest: That he made his escape from the soldiers a little after dark; that he lives four miles from the polls; that on the day of the election he was six or seven miles from the polls, and was not at home on that day; that he did not go to the polls to offer his vote; that he did not go nearer to the polls on that day than six miles because he was afraid that he would be arrested; and the reason that he was afraid was, that he had been told that there were going to be soldiers there; that John Mansfield did not go to any election on that day.

RICHARD McMULLEN.

Attest:  
S. L. RUSSELL, Commissioner.

Mr. Reed calls A. J. Reighard. Mr. Cessna makes the same objections to him that he did to Laban Johnson and Richard McMullen.

A. J. Reighard, being duly sworn, doth depose and say, that he is a legal voter of Bedford township; that



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he did not vote at the election of the 11th of October, 1864; that he didn't vote because he was afraid to come in; that he was afraid to come in because he heard that there were soldiers here; that he always did come to vote; that if he had come he would have voted the Democratic ticket; that he knows Henry Claar.

Cross-examined by Mr. Cessna under protest:

That he was eight or ten miles from the polls on the election day; that he was not in Bedford township on the day of the election; that the citizens of Bedford township vote at the court-house in Bedford borough; that he didn't come any nearer than eight or ten miles to the election house on that day; that he don't know that there were any soldiers in Bedford on that day except from hearsay; that he was afraid of the soldiers on that day because he had been drafted; that he had been drafted on the 21st day of September, 1864; that his day to report was the 1st of October, and the election was the 10th or 11th of October; that he didn't report, and that was the reason that he was afraid.

By Mr. Reed:

I desired to vote.

Attest:

A. J. REIGHARD.

S. L. RUSSELL, *Commissioner*.

Mr. Reed calls John Groman. Mr. Cessna makes the same objections as in the last above case.

John Groman, being duly sworn, deposes and says, that he thought that he was a legal voter prior to and since the election of 11th October, 1864; that he is sure that he was a legal voter on the 11th October, 1864; that he did not vote at that election; that he was a drafted man, and was afraid of the soldiers; and that was the reason he didn't vote; that it was his desire to vote, and intended to have voted for A. H. Coffroth.

Cross-examined by Mr. Cessna under protest:

That he was not in Bedford on the election day; was about nine miles from the polls; didn't come any nearer than that, and didn't offer to vote; that he was drafted in September; was to report on 1st October; didn't report, and that was the reason that he was afraid to come here to vote; was informed that there were soldiers here; didn't know except from that information.

JOHN GROMAN.

Attest:

S. L. RUSSELL.

Mr. Reed calls Adam H. Earnest. Mr. Cessna makes the same objection as in the former cases.

Adam H. Earnest, being duly sworn, doth depose and say, that he is a resident of Bedford township, and a voter for years; that he did not vote at the election of the 11th October, 1864; that he did not vote because he was afraid to come in on account of the soldiers; that he wished to come in and vote; that he would have come in, he guesses, if there had been no soldiers here; that if he had come in and voted, he would have voted the Democratic ticket.

Cross-examined by Mr. Cessna under protest:

That he was about ten miles from the polls on the election day; didn't come nearer that day; didn't come to offer to vote; that the only way he knows, that there were soldiers here was by hearsay; that he was drafted in June, 1864; was to report in June or July; didn't report, and that is the reason why he didn't come to vote.

ADAM H. EARNEST.

Attest:

S. L. RUSSELL.

Mr. Reed calls William Thompson. Mr. Cessna makes the same objection as in former cases.

William Thompson, being sworn, deposes and says, that he is a resident and voter of Bedford township; that he has a brother, James Thompson, who in 1864 was a legal voter; that he, James, deponent guesses, must now be in Indiana; that he, James, was out about Mr. Hemming's; that he would have liked to come in and vote, but he was afraid of the soldiers, (to this Mr. Cessna emphatically objects, as being but hearsay); that he, James, told me he would have voted the Democratic ticket.

Cross-examined by Mr. Cessna under protest:

That James was drafted and didn't report, and didn't come in to the election.

his  
WILLIAM X THOMPSON.  
mark.

Attest:

S. L. RUSSELL, *Commissioner*.

Peter A. Miller, sworn, doth depose and say, that he is a citizen of Napier township, and has been for five years. I was in Napier township on the 11th day of October, A. D. 1864. I would have been at the polls if I had not been afraid that I would be taken by the soldiers that were there. I was threatened to be taken, because they were after me to take me. I would have been apt to have voted for Coffroth if I had gone, most assuredly. I am a Democrat in politics. I was informed that there were soldiers there.

Cross-examined by Mr. Cessna:

On the day of the election I was across between the top of the mountain and the foot of the mountain. It was about six miles from the election. I didn't go any nearer than that to the polls that day. I didn't offer my vote to the officers of the election, because I was afraid to go there. I was afraid of being taken. I was a conscript and hadn't reported, and I was afraid that they would take me for that; was drafted in 1863, on the 25th of August, and had managed to escape the officers all that time. They had been trying to take me for some time before the

election. I didn't see any soldiers at the election that day. I only know that there were soldiers there from hearsay only. I do not know that the soldiers on that day arrested anybody, or offered to arrest anybody, or disturbed anybody.

PETER A. MILLER.

Attest:

S. L. RUSSELL, *Commissioner*.

Mr. Reed calls Henry Stichler, who, having been sworn, doth depose and say, that he is a citizen of Napier, and has been a voter there for fourteen years, as near as I can recollect. I was in the township on the 11th October, 1864. I did not vote at that election. I desired to vote. I was afraid that the fellows with the blue clothes on, the soldiers, would arrest me, and that was the reason I didn't vote. If I had voted I would have voted for Coffroth. Henry Miller was then in the same situation, and would have voted the same scale.

Cross-examined by Mr. Cessna:

I was around at home on the day of the election; about my father's house, shoemaking a little, sneakingly. I was not at the election; was five miles off, and didn't go any nearer; didn't offer my vote to the officers of the election. I didn't go to the election for fear of being taken. I was drafted and did not report; I was drafted in June, and was trying to keep out of the way; that was my game. The soldiers caught me at last: treated me first rate. I knew that there were soldiers at the polls from hearsay only. I cannot say that the soldiers arrested, or offered to arrest, or disturbed anybody that day. I know nothing about Henry Miller, except what he told me. I cannot tell where he was that day; he was not with me.

HENRY STICHLER.

Attest:

S. L. RUSSELL, *Commissioner*.

Mr. Reed calls John Oldham, who, having been duly affirmed, doth depose and say, I am a citizen and voter of Napier township ever since I had a vote; was in the township on the 11th October, 1864; didn't vote. I was drafted and had not reported, and was afraid that the soldiers would take me, and therefore I did not vote; they had been after me on the Sunday previous, but they did not get me. If I had voted, I would have voted for Coffroth. I have always voted the Democratic ticket, and always will. I knew that Henry Miller was similarly situated; he told me so, and that he was chased back by the soldiers when he went to vote.

(Mr. Cessna objects to the declarations of Miller.)

Isaw Henry Miller the night of the election; hadn't seen him before on that day; we had a little tent where we laid together; to tell the plain truth it was about a quarter of a mile from my house, in the woods. Henry Miller was drafted man before I was. I was drafted in the June draft, about the 2d of June. I was about six miles away from the polls on election day; saw no soldiers there; only knew about soldiers being there by hearsay. I had not reported after being drafted. I knew that according to military law I was a deserter. I was afraid, because I was drafted and hadn't reported. If Jeff Davis should get upon the Democratic ticket, I would vote for him.

Re-cross-examined:

If Thaddeus Stevens should get upon the Democratic ticket I would vote for him. Miller is not in Bedford county.

his  
JOHN X OLDHAM.  
mark.

Attest:

S. L. RUSSELL, *Commissioner*.

Mr. Reed calls George W. Burkholder, who, having been duly affirmed, doth say, I have been a citizen and voter of St. Clair township, Bedford county, for many years; I didn't vote on the 11th of October, 1864; I was drafted and didn't report and went away; took the western train at Johnstown seven days before the election.

G. W. BURKHOLDER.

Attest:

S. L. RUSSELL, *Commissioner*.

It is true, sir, that by the ninety-fifth section of the act of the Legislature of Pennsylvania, of 2d July, 1839, it is provided that "no body of troops in the Army of the United States or of this Commonwealth shall be present, either armed or unarmed, at any place of election within this Commonwealth, during the time of such election;" but it is further provided "that nothing herein contained shall be so construed as to prevent any officer or soldier from exercising the right of suffrage in the election district to which he may belong, if otherwise qualified according to law." Now, while it appears from the testimony that there were soldiers at certain polls, there is no proof that they were not residents of those districts, and therefore may have been rightfully there for the purpose of exercising the right of suffrage. If, however, they were there in violation of law, they could doubtless be punished for it; but it is no reason why it should enable these persons to

have their votes counted in this contest, because not a man of them offered to vote. On the contrary, they all say that they were deserters, had failed to respond to the draft, and having heard that there were soldiers about were afraid that they would be arrested, and staid away from the polls, being in most instances five, six, eight, and ten miles away. If all the votes of this description could be added to the vote of the sitting member, my majority of 71 might perhaps be overcome. I submit, however, if it is not rather inconsistent in the sitting member, after trying so hard to take away from me the votes of the soldiers actually in service and who did vote, to ask that the votes of these draft-deserting soldiers hid in the mountains, and who never offered to vote, should be added to his vote?

I have shown conclusively that certain legal votes were excluded from the official canvass, and that these votes when added thereto give me a majority of 71. I have demonstrated that there is nothing in the proof adduced by the sitting member to cause the reduction of this majority except the mere trifle of a few votes, and therefore having a clear majority of the legal votes, I am entitled to be admitted to this House as the member from the sixteenth district of Pennsylvania.

A few reasons why I have made this contest and I have done. In the first place, since the day the return judges assembled in the various counties in the district to sum up the home and soldier vote, I have entertained the sincere conviction that I was honestly and fairly elected, and so believing, I determined that I would push the investigation of this case until after a fair and full hearing upon the merits, it would be determined by the learned and honest Committee of Elections whether that convict was right or wrong. They have after a patient and careful examination of the case reported to this House that I was elected.

But there were other reasons still that prompted me to make this contest. I was chosen as the candidate of the Union party in the sixteenth district in one of the most critical periods of the country's history. Over three years of war, carried on upon the most gigantic scale upon the part of the Government, had failed to put down a wicked rebellion, organized for the purpose of destroying this Union. An unsubdued rebellion, a rapidly increasing and enormous public debt, the finances of the country unsettled, gold as high as two hundred and ninety per cent., and repeated drafts, so depressed the public mind that the loyal people of the country almost began to wonder whether, when the dark clouds were rolled away and the sun of peace again shone forth, it would be upon a rent Union or a preserved Republic. The public sentiment of the country was divided upon the question whether the war should be stopped or whether it should be carried on by every resource of the Government until the rebellion was overthrown.

The feeling of distrust in our institutions, of our inability to put down the rebellion, of admitted weakness and half-concealed sympathy with treason, found expression in that remarkable document promulgated at the city of Chicago, which declared "that the war was a failure, and that justice, liberty, and humanity required that it should be stopped." On the other hand, the unwearied patience, the unswerving loyalty, and deep and profound faith of the American people in the permanency and stability of our institutions, and of our ultimate success over armed treason found utterance in the patriotic resolves of the Baltimore convention, which declared that treason must be overthrown and the unity and integrity of the Government preserved. These were no uncertain sounds. The former was an appeal to the timid, the wavering, the unpatriotic; the latter spoke the language of faith and hope in the darkest hour of the nation's history. Selected

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by the Union party of the sixteenth district of Pennsylvania as their candidate at such a time, and upon such an issue, I would have been untrue to them had I failed to make this contest.

But there is still another reason. Beaten upon the home vote largely, my election was saved by the brave men in the field, who for a brief time stopped their work of putting down treason in the front to send a crushing blow against its allies in the rear. To the brave men in front, with cannon in front of them, cannon to the right of them, and cannon to the left of them; to the brave men hurrying to the front to join the deadly strife; to the brave men who had been to the front, but alas! then lay prostrate in the hospitals with fevered brows, maimed limbs, and bodies pierced with shot and torn with shell, is due the credit of having saved the sixteenth district of Pennsylvania to the Union cause. Many of them have since the close of the war returned to their homes, and are now engaged in the peaceful pursuits of life, while many others were stricken down upon the battle-field or by disease contracted in the service of their country, and were not permitted to return to their homes and firesides, but now rest among the patriot dead of the Republic.

"They sleep their last sleep, they have fought their last battle,  
No sound can awake them to glory again."

Justice to the martyred dead and heroic living of the brave soldiers of the sixteenth district of Pennsylvania demanded that I should make this contest and vindicate their rights by preserving the purity of the elective franchise. Impelled by these considerations, sir, I have gone through this long and annoying contest, to find at last, as a reward for my time and labor, that justice is about to be done to myself and the majority of the legal voters of the sixteenth congressional district of Pennsylvania.

## Illinois Central Railroad.

## SPEECH OF HON. RICHARD YATES,

OF ILLINOIS,  
IN THE UNITED STATES SENATE,  
May 2, 1863.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. No. 127) making appropriations for the support of the Army for the year ending the 30th of June, 1867, the Committee on Finance proposed to amend the bill by striking out the following proviso at its close:

*Provided, That no part of the money hereby appropriated shall be used for paying the Illinois Central Railroad Company for the transportation of the troops or the property of the United States; and the Attorney General of the United States is hereby directed to institute a suit against the said company in the circuit court of the United States, in the eleventh circuit, without delay, to recover from the said company any moneys that have been paid to the said company by any Department of the Government for the transportation of the troops or property of the United States; and the said Attorney General is hereby further directed to appear for the United States in said court and prosecute its interests in the said suit.*

Mr. YATES. Mr. President, as one of the Senators from the State of Illinois, in which the Central railroad is situated, and whose interests are so immediately to be affected by the amendment, I deem it my duty to give some reasons which will influence me to give my vote for the motion to strike out. I will explain to Senators, who may not have given their attention to the history of the grant of lands by the United States to the State of Illinois in aid of the construction of the Illinois Central railroad, that the State, instead of building the road itself, chartered a company for that purpose, and in consideration of the grant of lands to the company reserved to the State seven per cent. of the annual proceeds of the road. This reservation now produces to the State a rich annuity, amounting the last year to about half a million dollars.

Now, Mr. President, if this motion shall not prevail, and the Central Railroad Company shall be compelled to refund to the Government what it has received for Government transportation during the war, then to the extent of the amount refunded is the amount of the gross proceeds reduced, and the State would be compelled to refund to the company seven per cent. of that amount. For instance, if as has been alleged elsewhere the railroad has received from the Government \$5,000,000 for the transportation of Government troops and property, then seven per cent. of that sum would be \$350,000, which the State would have to refund to the railroad company. Before I can consent that the people of the State of Illinois shall be taxed to refund this large sum, which is the effect of this amendment of the House of Representatives, I must be fully satisfied that she improperly received it. And, sir, the more I examine the subject the better am I satisfied, that it would be an act of gross injustice to require the railroad company to refund the amount it has received to the Government, and a gross wrong to my State to require it to refund to the company the seven per cent. of that amount which it has received. I shall therefore resist this amendment with all my might from first to last.

But, independent of the consideration that the road is situated in the State of Illinois, and that the State derives a large annual income from its gross earnings, and is directly interested to the amount of several hundred thousand dollars in the question at issue, and also that the prosperity of the State and that of the road are closely identified; beside such considerations as these I with great cheerfulness come to the defense of the road in its legal and equitable rights, from the consideration that from the beginning to the end of the war it has most faithfully, promptly, and energetically discharged its whole duty to the Government. There was not on the land or on the sea during the war a more important arm of our national defense than the Illinois Central railroad. Running from Dunleith, from the southern boundary of Wisconsin south to Cairo, and from Chicago south to Cairo, and being the only road running north and south in the direction of the seat of the war on the Mississippi, Tennessee, Cumberland, and the Southwest, it was the only road upon which could be, and were, transported the mighty armies, vast supplies and munitions of war, not only of the States of the Northwest but of the large armies which were sent from the East to the Southwest and from the Southwest to the East to meet the varying exigencies of the war.

I was placed in a position to know exactly, and almost all the time, how these duties were discharged; for no inconsiderable portion of this transportation was done upon orders issued by me in pursuance of the requisitions of the War Department. And when it is charged, as elsewhere it has been, that the road belonged to foreign capitalists who sympathized with the rebels, I happen to know well that the stock of the Illinois Central railroad was controlled by that class of capitalists in England represented by such men as Bright and Cobden, and that at least on two different occasions Richard Cobden visited the State of Illinois as the representative of these capitalists to examine and report upon its condition and management; and I happen to know what every Senator must in the nature of things know, that the success of the road and consequently the value of their stock and other heavy interests depended upon the triumph of the Union cause and the suppression of the rebellion. Be this as it may—and I freely admit that its bearing upon the question we are considering is not direct—yet I do know the fact to be that the Illinois Central railroad performed its duties to the Government, and performed them well.

And, sir, that it may be seen that this state-

ment of mine is not for this occasion merely, I will trouble the Senate to read from a message delivered by me during the war, while I was resisting a claim of the Central railroad against the State, which message was made to the people of Illinois and to Senators and Representatives who lived on the line of the road, and who knew the truth of the facts therein stated. I read from the Governor's message January 5, 1863:

"It is to be said in behalf of this company that they have most promptly, willingly, and uncomplainingly responded to all the calls of the Government in the transportation of troops; and very many cases have come to my knowledge in which they have transported our sanitary stores and nurses and moneyless sick and wounded without expense. So far as abuses may have occurred, in all cases I suppose they have been without the approval of the chief officers."

It is urged, that by the terms of the grant to the State of Illinois to aid in the construction of the Illinois Central railroad, contained in section four of the act for that purpose, approved September 30, 1850, the railroad company were to transport the troops and property of the Government free of cost, and that, therefore, the Government should institute suit to recover from said company all moneys that have been paid to said company for such transportation. The fourth section of the act reads:

"That the said lands hereby granted to the said State of Illinois shall be subject to the disposal of the Legislature thereof for the purpose aforesaid and no other. And the said railroad and branches shall be and remain a public highway, for the use of the Government of the United States free from tolls or other charge upon the transportation of any property or troops of the United States."

Now, while I confess that from a first careless reading of this section it would seem that technically the company was bound to transport Government troops and property free of charge; on the other hand, I contend that a careful reading will show plainly the reverse, and that the company in accepting the grant did not undertake to transport for the Government at all, but simply to keep open its road and branches for the use of the Government to do its own transportation, and that for thus keeping open the road as a highway the company was to exact no toll or other charges upon such transportation.

Now, sir, let us read carefully, giving to each word its proper signification: "the said railroad and branches shall be and remain a public highway." A highway for what? "For the use of the Government of the United States." It would be no very strained construction to say that this means for the use by the Government of the United States; but that I will not insist upon. "For the use of the Government of the United States." How? Why, of course as a public highway. "Free from toll or other charges" for this use of it as a public highway. "Free from toll or other charge upon the transportation of any property or troops of the United States." That most clearly means that the Government shall not be liable to pay any toll or charges in using the road as a public highway in the transportation of its troops and property. Senators must see that the distinction is broad and marked between a provision which gives to the Government the use of the road as a public highway, free from toll and charges, and a provision which would bind the company to become carriers for the Government free of charge. If the design of this provision was that the company was to do all Government transportation, why did it not expressly say so without the circumlocution of saying that it should remain a public highway? If it was the design that the road should be carriers for the Government, then the words "public highway for the use of the Government" are superfluous and meaningless, and all that was necessary to have been said was that the company should transport for the Government without charge.

In section six of the same act, where Congress did design that the company should

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actually do the transportation in fact, it says so in precise and direct language. The section as to carrying the mails reads as follows:

"And be it further enacted, That the United States mail shall at all times be transported on the said railroad, under the directions of the Post Office Department, at such price as Congress may by law direct."

Thus we see that where the company was to be carrier for the Government the language is specific and direct that the railroad shall transport the mails.

This provision as to the mails is useful by way of interpretation in another important aspect, as illustrative of the fact that where the Government required, not merely the use of the road, but actual transportation by the company as a carrier, it also provided for compensation to the company. Where the Government was to have only the use of the easement, the right of passage, it stipulated that it was to have that easement without charge. And is it at all reasonable to suppose that the Government meant that the company should transport vast armies, with long trains of ordnance and munitions of war of every kind and vast supplies without cost, and yet almost in the next section take care to provide that for the inconsiderable service of carrying the United States mail it should have adequate compensation?

But, sir, there are other means of arriving at the true construction of the provision contained in section four. We have both antecedent and contemporaneous construction. The term highway in the common law and the customary sense means a public road, turnpike, or thoroughfare. In the absence of statutory regulation any one may use it free of toll or charge of any kind. And we find in the legislative acts establishing turnpikes and canals almost the identical language contained in the grant to Illinois for the construction of the Illinois Central railroad.

Now, sir, look at the history of this clause for free transportation contained in the act authorizing the building of the road—see where it came from, and you will find that it was not inserted in the act because the Government had granted lands. This right to use the road by the Government was not given in consideration for the lands received, but I will prove to you, sir, that the clause reserving the right of the Government to use the road free came from and was copied from an act where no grant of lands was made. I will now give this history and will refer to a fact which in the long debates heretofore made has been overlooked, and which will show unanswerably that the construction which has been given the clause under consideration is entirely unwarranted.

Where, then, did this clause come from? I will show you. Here is volume three, United States Statutes-at-Large, and on page 659 I find the act of March 30, 1822, authorizing the State of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan. Now, sir, that act made no grant of lands whatever except the right of way and ninety feet on each side of the canal, but, mark the fact, that it contained this same clause reserving to the Government the use of the canal as a public highway for the transportation of Government property without charge. How, then, can it be said that the road in consideration of the grant of lands agreed to this free transportation when in the act from which the clause is copied there was no grant of lands whatever? But I proceed with the history. On the 2d of March, 1827, Congress passed an additional act in relation to the canal and donated a large body of land to aid in its construction, and in this act copied *verbatim* the clause contained in the act of 1822, reserving the use of the canal as a public highway to the Government free of toll or other charge. Now, sir, there cannot be the slightest doubt that the late Senator Douglas, the author of the bill making the grant to the

State in aid of the construction of the Illinois Central railroad, copied the clause in question from the canal grants—making only the slightest verbal alterations. That there may be no mistake in this regard, I quote the clause contained in the canal grants *verbatim*:

"It is hereby further enacted and declared that said canal when completed shall be and forever remain a public highway for the use of the Government of the United States free from all toll or other charge whatever for any property of the United States or persons in their service passing through the same."

The clause in the railroad grant is precisely the same in meaning and almost identical in language. Now, sir, that canal was to be made by the State as a great commercial thoroughfare connecting the waters of the lakes with the Father of Waters, to be open as a highway for all persons and for vessels of private individuals, and it was never contemplated that the State should put a single boat or horse or driver upon it; but the State was to have the right to collect tolls of all who used it for the purposes of transportation; and hence the Government reserved to itself the right to its use as a highway for the transportation of Government property or of persons in the service of the United States free of any toll or other charge.

Now, sir, will any one contend that under such a clause the State of Illinois was to construct canal boats, furnish teams, hands, conductors, and all other employés of the Government without charge? On the other hand, the Government has not in all the transportation it has done on the canal during the war set up any such claim against the State or company. Now, if this was the construction which was given immemorially to the provision in turnpikes and canals, and as undoubtedly applicable to all thoroughfares, by what warrant shall we attempt to give a different construction in this instance? Would not such construction be clearly in violation of that principle of law recognized to be sound, that where an antecedent statute or provision of a previous law is carried or adopted into a new law, it carries into the new law the same interpretation and construction which was given to it in the old law?

It is replied to this view of the case that the term railroad includes the rolling stock of the road. This may be the law of the case. Yet I believe there would be but few purchasers upon such a principle unless there was distinct designation of the rolling stock in the deeds of conveyance, and I know that in all the deeds and mortgages of railroads with which I am familiar, there is as much particularity in describing the rolling stock as the railway itself; and it is a sufficient answer to this objection to say that if the rolling stock is included in the term railroad it is quite clear that the officers, conductors, agents, and all the hands are not so included, and these constitute a large portion of the operative expense of the road. And yet it is absurdly contended that the Illinois Central railroad should receive no pay whatever for its immense army of employés. And even more than this, it is contended that, although it became necessary for the road, in order to meet the increased business occasioned by the war, to purchase at great expense large additions of rolling stock in the market at large, and to draw largely and at great expense on connecting lines of roads, yet all this was to be done for the Government free of charge. This, indeed, would be a convenient way for a great Government to draw on private individuals *ad libitum et ad infinitum* for material, men, and money to carry on a great war.

In the debates heretofore had, it was urged that Congress could not have meant simply to give the Government the use of the railroad, because that would suppose both the Government and company to be running their trains over the road at the same time, which, it was alleged, is impracticable, because collisions must necessarily occur. Now, sir, there never was a greater mistake. The instances are numerous in which several different companies run their

trains over the same road without any conflict whatever. All danger is averted by a simple arrangement of the time-table. Not only two, but a half a dozen roads may run their trains over a track common to them all, by arranging the hours of departure and arrival of each, respectively, without the least fear of collision. The reservation of the use of the road by the Government was entirely consistent with the use, at the same time by the company.

It is also alleged that the mere right to use the road by the Government was worth nothing to it, and why, therefore, provide for its simple use as a highway? Sir, the best answer to this would be to suppose that there had been no railroad at all from Chicago to Cairo or from Galena to Cairo, and then ask what price the Government would have given for a well-laid track, a road-bed complete, bridges of solid masonry, turnouts, depots, warehouses, &c., all ready for the Government, upon which to put its rolling stock for the transportation of its troops, supplies, and munitions of war. Inquire how many million dollars it would have cost the Government to have constructed the road-bed of this road, so indispensable to the success of our military operations in the Southwest? Why, sir, it would have cost the Government ten times the sum it has paid the road for the transportation of its troops and property. The right to use the road was a sufficient consideration in itself for the grant of lands. It must not, however, I repeat, be understood that the free use of the road was the consideration the Government was to receive for the lands. This was not the case, for the Government had required this free use of roads and canals where it gave no lands at all. The object the Government had in view was to sell its lands by doubling the price of the reserved alternate sections, to build the road as a great commercial and military thoroughfare, and to promote the prosperity of the country. It would have reserved the free use of the road if it had only granted the right of way and no lands whatever to the company, as it did in the first canal bill.

I now come to another point in this question, and that point is, that the moneys which it is proposed to recover from the Illinois Central Railroad Company have been paid to them in pursuance of a contract in writing entered into between the Government through the Secretary of War on the one hand, and the company by its president on the other. It was a valid contract based upon a valuable consideration, and was a wise and judicious arrangement of the Government for its great advantage, if not absolutely necessary under all the circumstances under which it was made.

Immediately upon the breaking out of the war in April, 1861, it became necessary for the Government to commence a heavy transportation on this road, which increased from month to month, until the road became almost exclusively the carrier for the Government, to the exclusion of the regular customers of the road, and sometimes for months its whole capacity could not meet the demands of the Government. I am informed that the Government often issued its orders to the company to do no private carrying for certain lengths of time. Sometimes for months they were thus prohibited from carrying for their customers.

Under these circumstances, Mr. Osborn, the president, and Mr. Douglas, the attorney of the road, came to Washington to effect an arrangement with the authorities as to the terms on which this transportation was to be made. They had interviews with the President, Secretary of War, and Quartermaster General; and the president and attorney for the road contended that under the clause in the land grant as to transportation it was not contemplated that the company should furnish rolling stock, men, and money for transportation of Government troops and property, but merely the use of the road as a highway. To this view of the case the Secretary of War assented, and



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the following stipulation in writing was entered into:

WAR DEPARTMENT, August 15, 1861.

SIR: Upon consultation with the Quartermaster General, it has been decided by this Department that the clause in your charter, section four, gives a clear right to the Government of the United States to the use of your roadway, without compensation, for the transportation of its troops and its property. As a proper compensation for motive power, cars, and all other facilities incident to transportation, two cents per mile will be allowed for passengers' travel, subject to a discount of thirty-three and a third per cent, as due to Government for charter privileges. Payment for transportation of freight, stores, munitions of war, and other public property, will be made at such reasonable rates as may be allowed to other railroad companies, subject, however, to the abatement of thirty-three and a third per cent, as before specified.

The foregoing basis has been arranged with the distinct understanding that transportation shall be furnished by your company at such times and in such manner as the Government of the United States may require, and that preferences shall be given to Government transportation in accordance with the regulations of this Department and of its officers.

If this proposition is acceptable to your company, notice in writing to that effect will be expected within ten days from this date.

Very respectfully, your obedient servant,

SIMON CAMERON,

Secretary of War.

W. H. OSBORN, President Illinois Central Railroad.

NEW YORK, August 17, 1861.

SIR: I have the honor to acknowledge your communication of the 15th, containing the determination of the Government in relation to the use of the railroad of this company.

Under present circumstances an important part of our line is imperiled, and active cooperation with the Government is indispensable, and I beg to notify you that the proposition of the Government is accepted.

The company will endeavor to forward the troops and property with the utmost promptitude, preference always being given as indicated.

I am, sir, very respectfully, your obedient servant,

W. H. OSBORN, President.

Hon. SIMON CAMERON, Secretary of War.

This arrangement was made with Mr. Cameron, the Secretary of War at that time, and the present Secretary of War at the last session of Congress said to the chairman of the Committee on Finance that he believed it wise to continue the arrangement. He said that if the Government had refused to pay anything the effect would be to stop the running of the road, and compel the United States to seize and operate it on Government account.

The Secretary of War acted wisely in not engaging in the railroad business, and in employing the company to do its work, (which all business men know it could do more economically,) at the same time reserving sufficient compensation for its right to the use of the road by requiring the company to perform the service at one third less than was paid to other roads. Was this not a valid contract? It was in the power of the Government to seize the road, and the company was ready to turn it over to the Government. Now, in all fairness, can the Government honorably go back upon its contract, especially when, but for that contract the company could have turned over the road to be operated by the Government, instead of losing the millions of dollars they have expended in transporting for the United States? Can it be denied that the Secretary of War had a right to make such a contract? Was it not wiser in him to employ the railroad as Government carrier than for the Government to undertake to do its own transportation and to do it at greater cost? Was this not eminently his duty, in view of the important fact that the road did not make one dime of profit upon the transportation for the Government? This declaration may strike you, Mr. President, as strange, if you have never been engaged in the business of railroads. But, sir, it is a statistical fact that the expenses of operating railroads are from fifty to seventy-five per cent. of their gross earnings. So that if you deduct one third from the gross earnings of a road you have nothing left by way of profit. The other two thirds are absorbed in the actual expenses incurred in operating the road. Upon our western roads the operating expenses are much greater than on eastern, owing to the sparseness of our population. The amount of

trade is irregular. Sometimes whole trains of cars have to be run with only half freights, which is not the case on eastern roads running through populous cities and a densely settled country, where the exact amount of business can be calculated and relied upon, and where trains, without any waste of material, are uniformly supplied to their full capacity.

I hold in my hands the last report of the Illinois Central Railroad Company for the year ending 31st December, 1865, by which it appears that the earnings for the year were \$7,181,208 37, and that, exclusive of outlays for permanent structures and for increase of equipment, the expenses for operation alone were \$4,509,794 33. Thus you see that the running expenses were about sixty-five per cent. of the whole amount received by the road. And thus also you see the Secretary of War made a profitable arrangement with the company, because the Government could not have operated the road near so cheaply.

Now, Mr. President, please remember, also, that in the first place all the railroads in the United States agreed to carry for the Government at about two thirds the ordinary fare and freights charged to private individuals, and that the Illinois Central railroad in consideration of its charter privileges, agreed to carry for two thirds of what other railroads received, and you will find that the United States did not pay what was absolutely required for running expenses; and if the Government had taken the road and run it there can be no question that the expense to the Government would have been far greater than it was under the wise policy pursued by Mr. Lincoln, the Secretary of War, and the Quartermaster General.

Mr. President, there were few, if any, clearer-headed lawyers in the United States than Mr. Lincoln; and while I do not assert it as a fact, yet I was positively assured in my own mind that he took the same view of the contract which I have taken, and that the contract was made after full conference with him upon the part of the Secretary of War and Quartermaster General. While I cannot prove that he did approve of the construction of the law as given in the contract, and of the contract as it was made, yet I can and will now prove to the Senate that the whole subject was before his mind, and that it was referred by him to the Secretary of War. Then, I will ask, if it is reasonable to infer that so important a contract, affecting not only the Illinois Central, but all the land-grant railroads, and involving many million dollars, would have been entered into without his consent and approval?

I now read from a copy of a letter from Mr. Lincoln to the Secretary of War, and certified by the Quartermaster General:

QUARTERMASTER GENERAL'S OFFICE,  
WASHINGTON, D. C., March 31, 1866.

SIR: In accordance with instructions of the Secretary of War of this date I transmit herewith a copy of the letter of President Lincoln, dated May 23, 1865, in relation to the Illinois Central railroad.

I am, very respectfully, your obedient servant,

M. C. MEIGS,

Brevet Major General United States Army,  
Quartermaster General.  
J. M. DOUGLAS, Esq., President Illinois Central Railroad, Willard's Hotel, Washington, D. C.

EXECUTIVE MANSION,  
WASHINGTON, May 23, 1863.

MY DEAR SIR: In order to construct the Illinois Central railroad, a large grant of land was made by the United States to the State of Illinois, which land was again given to the railroad company by the State in certain provisions of the charter. By the United States grant certain privileges were attempted to be secured from the contemplated railroad to the United States, and by the charter certain percentage of the income of the road was to be from time to time paid to the State of Illinois; at the beginning of the present war the railroad did certain carrying for the United States, for which it claims pay; and as I understand the United States claims at least part of this the road was bound to do without pay.

Though attempts have been made to settle the matter, it remains unsettled; meanwhile the road refuses to pay the percentage to the State. This delay is working badly, and I understand the delay exists because of there being no definite decision whether the United States will settle its own account with the

railroad, or will allow the State to settle it, and account to the State for it. If I had the leisure, which I have not, I believe I could settle it; but *prima facie* it appears to me we had better settle the account ourselves, because that will save us all question as to whether the State deals fairly with us in the settlement of our account with a third party, the railroad. I wish you would see Mr. Butler, late our State treasurer, and see if something definite cannot be done in the case.

Yours truly,

Hon. SECRETARY OF WAR.

True copy of original letter.

CHARLES THOMAS,

Assistant Quartermaster General.

Brevet Major General United States Army.  
March 31, 1866.

But to state the argument of those who favor the amendment in the strongest light possible for them, we will suppose the railroad was bound to furnish the Government not only the use of its road, but also of its rolling stock and employes in the transportation of Government troops and property free of cost, yet it will not be contended that the Government was to have any other than the same facilities with the company in its transportation of freights for its own benefit. I mean that no one will contend that in the use of it as a highway that the Government was to have any more than equal facilities with the company itself. What capitalist would ever be induced to invest in an enterprise in which others were to have superior privileges or preference? I believe all will admit that the railroad would have fully discharged its whole duty to the Government when it had done all in the way of transportation which it was doing for private customers.

But, sir, the Government required more of the railroad than this equal service. It required that the company should agree in writing to furnish "transportation at such times and in such manner as the Government of the United States may require," and "that preference should be given to Government transportation in accordance with the regulations of this [the War] Department and of its officers." The company was to start its trains at whatever time, to delay its trains, (which I know it often did,) at the pleasure of the officers of the Government, and it was to transport "in such manner" as to speed, quantity, quality of cars, &c., as the Government required. Now, sir, is not this preference a valid, a sufficient, and an independent consideration for the contract made by the Secretary of War? In that contract the Government required that the railroad should not only be open and free to the Government as a public highway, as it was to the company, but that it should have the preference for Government transportation. Here was a great surrender on the part of the company; for no matter if its warehouses were full of grain or produce or freights, those articles must remain without transportation, or find shipment on other roads, as long as Government required the use of the road.

Any military officer, any quartermaster furnishing Army supplies, could, by a simple order, employ every car, passenger or freight, in the transportation of troops and munitions of war and supplies to the exclusion of private shippers. The company, by giving this preference to the Government, incurred liability to private individuals. I am informed by the president of the company that large quantities of produce, which otherwise would have been shipped on their road, went to other roads, and that suits are now pending in the Illinois courts for losses sustained by individuals whose produce could not be shipped in time to meet the demands of the market in consequence of preference given to Government transportation. You can well imagine, sir, that if to-day corn at Cairo or Chicago is worth fifty cents per bushel, and in thirty days it is only worth thirty-five, individuals who had bought largely for those markets would be ruined by the failure of the company to ship in time for the market, and the company in having given a preference to the Government would incur heavy liabilities to those who had sustained the

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losses. Why, sir, it was often the case that for a month at a time the company was prohibited by positive orders from doing any private transportation whatever.

Here, sir, we find a legal consideration for this contract which, by no construction of law, by no argument or special pleading, can be said to have failed, for the preference which the Government required the road to give in writing was more than the worst enemy of the road would contend the company was liable for. If liable to afford the Government free, or, the same thing, equal transportation, it certainly was not liable to afford it preferred transportation. Therefore such preferred transportation, requiring the company to do what it was not liable to do, putting it to trouble, additional outlays, and subjecting it to heavy liabilities to private customers, beyond all doubt constituted a valuable and independent consideration.

Also, if it should be decided that the Secretary of War transcended his power in allowing the road remuneration for services which it was alleged the road was liable to perform without charge, yet it cannot be denied that when the Secretary of War discovered that merely the use of the road and its entire equipment upon equal terms with the company did not meet the emergencies of the war, he had a right, and it was required of him, to stipulate for any additional service which could be exacted from the road. Preference to the Government was a military necessity. The effectual prosecution of the war imperatively demanded that military should have preference over private transportation. Illinois alone sent two hundred and fifty thousand men to the field, together with uncounted trains of supplies from her rich granaries. Nearly all these, together with the troops and supplies of the northwestern States, and also of many of the eastern and middle States, were sent over this, the most expeditious route to the seat of war, making that preference necessary. The conclusion is therefore irresistible, that upon this ground of preference, if on no other, the contract was made upon the basis of an independent and valuable legal consideration.

Now, sir, as to the equity of the case. Suppose we admit that I am in error in the law, and suppose we adopt the unreasonable construction that the company was to furnish the road-bed, rolling stock, hands, and money, without charge, to the Government. Suppose this to be the strict legal construction, the letter of the bond. Yet all concede that when the grant was made no one dreamed that we should have such a war, and that such immense burdens would be put upon this road. When the war began the United States had an Army of thirteen thousand men. The provisions of the grant were made in view of peace, or of such increase of our Army force as ordinary wars, like that with Mexico, or with the Indians, or with some foreign Power, might require. No one dreamed that we should have an Army of over one million men. No one believed that the Illinois Central railroad, throughout its entire length of seven hundred and six miles, and all its machinery, cars, and employes, were to be absorbed by the Government for the greater part of four long years. And now, in all fairness, in all honesty, in just dealing, who will say that the Government shall require all this service for nothing? Who is the Shylock to demand the blood of the bond? Is there a Senator here who, if he had a contract of this kind with a neighbor, would enforce it? Could he, in honor, in equity, do it? And shall the most magnificent and most magnanimous nation of the world enforce such a hard construction upon a company which, amid the storms of this gigantic war, sent her locomotives thundering along our prairies to the relief of our armies and the triumph of our flag? If the railroad was willing to do such service at

actual cost, at one third less than the previously reduced price of all other roads, in all conscience is that not enough?

The President, Secretary of War, and Quartermaster General took the right view of the case. To have required of the Illinois Central road to perform a service costing them an immediate and immense outlay of millions of money without any return from the Government, and upon the great and pressing emergencies of war, was to require of them what they could not possibly have performed, and which would have resulted in as much injury to the Government as to the company. Indeed, the delays occasioned thereby might have proved fatal to the vigorous prosecution of the war, left the enemy with impunity to occupy all points on the Mississippi and expose southern Illinois to successful rebel invasion.

The argument relied upon for the oppressive course proposed to be pursued toward the Central road is that the Government has made a munificent grant of the public lands to aid in its construction, and that now it is only fair that the company should pay the Government all the moneys advanced to it during the war. Now, in reply to this it can be shown that the Government has been paid the full value of those lands in half a dozen different ways. In the first place, the United States granted to the Central road every alternate section and doubled the price of the reserved alternate section, charging \$2 50 per acre instead of \$1 25.

It is a well-known fact that for some of these reserved lands the Government received as high as seven dollars per acre. How was this? Why, sir, because this much-abused road made that half of the lands reserved by the Government far more valuable than the whole by bringing them nearer to market, and by attracting an industrious and energetic population to purchase and settle them. By this grant the Government was the greatest gainer, and it got early purchasers for lands which for thirty years had laid unsought and undesirable in a wilderness prairie, besides filling southern Illinois with a population which drove back the rebel hordes, preserved inviolate our soil, and sent to the war the very flower and chivalry of our great Army. And, sir, it can also be shown that the Government has already received from the Central railroad, dollar for dollar, the whole value of the lands at the time they were given to the company, in the deduction of one third from the amount which would have been charged for Government transportation by this as has been charged by other roads. If you consider this as an arrangement in perpetuity, that for all time to come the Government is to have this same privilege, namely, a deduction of one third of the cost of transportation, you will find that the United States will realize from this source alone, not only five times the value of the lands, but will have a perpetual, exhaustless, unfailing annuity so large and so vast as to defy the powers of computation. What, also, shall be said of the millions and hundreds of millions of dollars worth of property, created through the agency of the road along its whole extent, from which the Government draws, and will continue to draw, an ever-increasing revenue? Stately cities, a thousand prosperous villages, comfortable mansions, and highly cultivated farms have sprung up along the line of this railroad in the wilderness prairie where before wolves howled and the rank grass waved untrodden.

Mr. President, a most unfair line of argument has been pursued in the debates upon this subject. It is said that the Central railroad is rich, and therefore should be compelled to refund the money she has made under the contract with the Government. Sir, that most immoral logic must be founded on the principle of robbing a man of \$50,000 because he has \$50,000 left. But, sir, I need not dwell upon such an argument before an American Senate.

A great nation like this will do justice and will not soil its fair escutcheon by arbitrarily taking that which righteously belongs either to the rich or the poor. Rich as the Central road may be, I am informed that during its whole existence it has never paid but three annual dividends.

But, as further evidence of unfairness, it has been recklessly represented that the lands donated by the Government had of themselves built the road, and that the cost to the stockholders was nothing, or inconsiderable. How inexcusably reckless is this statement! At the same time Senators know that when the company received these lands, the whole of them (2,595,053 acres) would not have sold for \$1,500,000. Why, sir, do not all western and many eastern men know what the value of land-warrants was at the time this railroad was commenced? They were the tests of the value of these lands, and for years after this grant, and after they began to increase in value in prospect of the road, many, if not most of the public lands sold were bought with land-warrants, which were hawked around the markets and sold on 'change at from fifty to seventy-five cents to the dollar. And yet, sir, you talk of the Government having built a road which has cost \$40,000,000 with lands which were worth not to exceed in value, allowing the highest figure, \$2,000,000.

It is said, however, that the company has realized far more than two million dollars for these lands. This is true; but through whose agency? Not that of the Government, surely. No, sir; the company by investing millions of money and by great energy and wise management opened these lands to market and settlement and made them valuable. Is the United States, after granting these lands, and after they are made valuable, to set up a claim on the road on account of the increased value?

As well might it say to the pioneer, who under the homestead act goes into the wilderness, erects his cabin, and prospers until he becomes wealthy in houses, farm, stocks, and store; as well might the Government say to him after he has been paid an account for cattle and produce furnished the United States quartermaster upon contract: "Yes, you have complied with your contract, but you must remember that the land we gave you and which your labor and money have improved is now worth fifty dollars per acre, and in consideration of that fact we must recover from you the amount paid you upon the contract."

But, sir, to show you how unfounded and reckless are the charges made to prejudice the two Houses against the Central railroad, I will in answer to the charge that these lands have paid for the road, read a letter from Hon. William H. Osborn, the former president, a gentleman of eminently high character among the business men and capitalists of this country, whose word no man can rightfully question, showing the cost of the road and the sums already received and which will probably be received from the lands granted by the United States to the railroad company:

OFFICE ILLINOIS CENTRAL RAILROAD COMPANY,  
NEW YORK, March 24, 1866.

MY DEAR SIR: The secretary has made up an exact statement of the outlays upon the Illinois Central railway from the acceptance of its charter by the present company in 1852, with interest at six per cent. per annum, and has deducted the interest coupons on debt and the dividends paid, with the interest on said payments at six per cent. from the time at which they were made. He has also deducted all the money received for interest on lands and for interest-free lands, which reduces the sum total to the actual cost with six per cent. interest only. The result is that the railway cost, on the 31st of December last, \$47,646,685 97. From this cost the receipts from the lands have reduced the original debt, by payment of the bonds, \$4,801,500; leaving the cost (less land collections on 31st December) \$42,845,185 97.

Against this sum the company held on the 31st December \$8,785,035 25 land notes and \$98,620 acres of land. This land is worth to-day eight dollars per acre. It would be a good sale and one which the directors would confirm at any moment, say \$7,508,360, or with the notes in hand, \$16,293,395 25, to be deducted from \$42,845,185 97, leaves \$26,551,194 72 the

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actual cost to the shareholders of the Illinois Central Company on the 31st December last.

Yours, respectfully, W. H. OSBORN.  
JOHN M. DOUGLAS, Esq.,  
President Illinois Central Railroad Company.

Mr. President, I desire to call your attention to a most important consideration which must be set down on the credit side of the Illinois Central railroad, and it will appear strange to you when I say that the capitalists who invested so largely in this enterprise might have done far better without receiving a single acre of the public lands. I refer to the location of the road, and state that any one at all acquainted with the geography of the country through which the road and branches run, and with the commercial points and lines of travel and trade, will see at a glance that the road was located for the benefit of the State and the United States, and very much to the pecuniary prejudice of the stockholders of the company. The road was, by the charter, made to run, not between important commercial points, such as Chicago and St. Louis, nor along any of the lines of trade and traffic running East and West, nor through the settled portions of the State, but North and South, through the wild and unsettled lands of the United States; the sale, settlement, and improvement of these lands being the chief consideration which influenced Congress to make the grant. At the date of the grant the settlements had been principally confined to the public highways or stage routes and mainly to the timber lands, leaving the prairies to bloom in their native wildness. Flourishing little villages and a considerably dense population had sprung up along these thoroughfares and natural channels of intercommunication, which, from the beginning, have furnished travel and traffic and most remunerative profits to the roads which have since been constructed along them. On the other hand, the Central railroad had to build up its own settlements, its own towns and farms, and to create its own trade, travel, and business.

As late as 1853 I stood in the center of one of the grand prairies of Illinois, when almost the only sign of civilization I could see was the pioneer locomotive of the Illinois Central railroad and the hardy sons of the Emerald isle as they were laying the first rails of that great work; all else was an ocean world of wilderness land. The object of my visit there was to enter some land, with a few land-warrants which I had bought at seventy-five cents to the dollar, but so remote did it seem to me before that vast area could be settled that it was long before I could make a selection, and get my consent to risk what then was almost my all upon so seemingly wild a venture.

In order to get vacant lands on each side of the track the aim of the Government was to miss the settlements. So important was this consideration that I do not hesitate to say that the Central Railroad Company would have made money if it had given back to the Government every acre of land it had received, and constructed the road through the settled portion of the State and between the most important commercial points. Railroad men understand this view of the case well. They will inform you that while long lines of road through unsettled regions require the same or greater outlays for construction and operation, three fourths of the profits or earnings of all roads proceed from the local traffic and travel, and not from the through trade and travel. But these great advantages the Central company were compelled to forego, because the Government was not consulting the interest of the company but its own, and the development of the country, and seeking not for settled but for unsettled lands. Thus the location of the road through an unsettled route deprived the company of advantages greater than the value of the lands themselves.

To show the wonderful effect which the money of the stockholders of the Illinois Central railroad had in bringing into market and settlement the lands of the Government, I mention, that while these lands had been in the market for twenty-five years, and on account of their remoteness from market and destitution of timber seemed likely to remain so for half a century more, while they came under the denomination of refuse lands, and belonged to that class which at a former session of Congress were proposed to be ceded to the States in which they were situated, in order to dispense with the machinery of land offices and other expenses which cost the Government more than the revenue derived from their sale while these things were so, yet in the year 1853, while the first earth was being thrown up by the spade and the iron was being laid upon the fresh road-bed, the Government sold of its public lands in the State of Illinois alone 2,807,981 acres, and most of them in the prairies traversed by the Central road.

Sir, a few days since, when the Senator from Maine rather humorously called to account my friend from Indiana [Mr. HENDRICKS] for finding but little warrant in the Constitution for voting away money, but as not having so tender a conscience in voting away lands, and the Senator replied that the policy of the Government was wise, because, as a great land-holder, it had adopted the most effectual means of imparting value to its lands by donating half and doubling the price of the reserved half, and at the same time, incidentally, this policy had given stimulus to production, impulse to trade, and opened new fields to enterprise, affecting in no small degree a large portion of the Union, I felt like congratulating the Senator from Indiana (for I was with him in Congress and with him in his policy) for the triumphant vindication years has given of the wisdom of that policy.

Sir, the history of the Central railroad is the history of the origin, rise, progress and glorious triumph of this policy. Sir, look at it. In 1852 the State of Illinois had just ninety-five miles of completed road. The mammoth system of the State (as it was called) had burst like a bubble, and the Commonwealth was bankrupt, her credit down, and her bonds hawked about in the market almost as worthless rags. But, sir, Congress made the grant of lands to the State; the road commenced; it brought population and wealth to Illinois; it astonished the Government and the opposers of this policy by placing in the hands of the Government every dollar it asked for its land. I read from the report of the Commissioner of the General Land Office for the year 1865, page 32:

"By an act of Congress in 1850 a grant was made to Illinois to aid in the construction of railroads. It conveyed for the purpose 2,595,053 acres, which have been valued as high as \$30,000,000, resulting in an extraordinary impulse to the settlement and prosperity of the State. At the date of the grant nearly half of the public lands within the limits of Illinois were vacant and undisposed of. Now, after the lapse of only fifteen years, the United States have virtually retired as a land-holder from the State."

I might say that as early as the year 1857 the United States had virtually retired from the State as a land-holder, and that it was almost impossible to find eighty acres of land unentered which was not either swamp or barrens; and, indeed, nearly all of these descriptions of land had been entered.

In ten years the population of the State advanced from 851,740 to 1,711,951, more than doubling her population in a single decade. The construction of the road gave a new and wonderful impetus. Other roads began to be built, and the State which in 1852 had only ninety-five miles of road in 1860 had three thousand miles, intersecting through all its length and breadth, and developing her immense domain until now agriculture is reaping harvests upon her prairies such as the world never saw before. The growth of the State

has not been by any ordinary progress. Setting all example at defiance, she has marched forward with a bound to the proud position of the fourth in our "glorious empire of States." Wealth, power, glory, and dominion beyond the possibility of recall or change are hers, and hers forever. The Senator from Indiana was right. The policy of the land grants was right.

But, sir, let us not put to shame that policy by attempting to crush out the enterprises which so far have prospered under that policy and which should have the careful and continued support of the Government and of all the people of all the States.

#### Admission of Tennessee.

#### REMARKS OF HON. G. F. MILLER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 20, 1866,

On the joint resolution concerning the admission of Representatives from the State of Tennessee.

Mr. MILLER. Mr. Speaker, the Legislature of Tennessee having ratified the amendment to the Constitution of the United States, as passed the present Congress, this joint resolution provides for the admission to seats in Congress of loyal representatives from that State upon taking the oath prescribed by existing laws. It is conceded that Tennessee has sixty-three thousand loyal voters, and that she has, through her Legislature, disfranchised rebels, and in fact so changed her constitution and laws as to protect her citizens and make it truly a republican form of government, and the question is, shall this resolution be adopted? I trust, Mr. Speaker, it will.

The Governor of that State deserves the thanks, not only of his own State, but of the entire nation, for his indefatigable energy and patriotic services in calling together the Legislature, and urging upon them the ratification of the amendment, which with extraordinary alacrity was accomplished. It must be remembered that the loyal citizens of Tennessee during the late rebellion stood firm and undaunted for the Constitution and flag of this Republic. They suffered from persecution and hunger beyond description. They raised a large force, and entered the conflict for the preservation of this Union. Sir, the patriots of that State ought to receive encouragement from the nation, for to be a true patriot, surrounded as they were by blood-thirsty rebels ready and willing to take the heart's blood, not only of those who took arms for the preservation of this Union, but that of their wives, children, mothers, and fathers, and beside, had the torch applied to their homes, thus rendering them houseless, and many of the helpless portion of loyal families were compelled to fly to the mountains to hide themselves in order to evade the wrath of the rebels, while the able-bodied portion were engaged in the battle-field in mighty conflict with the blood-thirsty rebels. I tell you, sir, that men thus situated, who stood firm to their integrity when all that is dear to the human heart was in peril, are patriots indeed, and deserve the commendation of this Republic.

This is the first State that is claimed by the rebels to have seceded that has ratified this amendment, and by admitting its loyal representatives we will give encouragement to the loyal element and teach the other southern States that the only way for them to be represented in the councils of the nation will be to follow the example of Tennessee. It is unnecessary, however, to say here at what time or under what circumstances other of the States lately in rebellion will be admitted to representation, as that question will be determined when application is made, but I for one would say that I would require as a condition precedent that the State so applying must first ratify



the constitutional amendment, for I look upon that as indispensable to the injunction of "guaranteeing to every State in the Union a republican form of government." It is a great mistake in those who urge that Congress is bound to admit representatives from the so-called rebel States without any conditions whatever, for if that doctrine were tenable then those States would be sitting in judgment in their own case, and it would be idle to think they would vote for restrictions upon themselves after their admission. But owing to the peculiar condition in which these States were placed by the rebellion there can be no doubt that Congress has a right under the Constitution to demand first a guarantee by adopting the proposed amendment, and any other construction would, in my opinion, be detrimental to the preservation of the Union. But, as I have already said, I believe Tennessee has placed herself in a proper position, under the circumstances, to be entitled to have her representatives admitted to seats in Congress provided they can take the required oath. This amendment, so far as regards its practical effects, is applicable not only to the States lately in rebellion, but to all others.

Considerable has been said in regard to the preamble to the resolution: this, Mr. Speaker, I look upon as too trifling for us to divide upon, and in fact more is embraced than necessary; that, however, is not material as the resolution contains the main object, and that is the admission of representatives.

The honorable gentleman from Massachusetts [Mr. BOUTWELL] finds fault with the resolution because it does not require Tennessee to so change her constitution and laws as to permit universal suffrage. It has been the uniform construction of the Constitution of the United States, of the 17th of September, 1787, from its adoption, to allow each State to regulate therein the elective franchise, and that rule has been too firmly settled to be shaken. The amendment to the Constitution, however, will not allow a representation for men disfranchised; thus leaving to each State the privilege of deciding whether the colored man shall vote or not, and if not allowed that right no representation can be had for him, or in other words no other person can vote in his place. This may eventually induce at least those southern States that have a large population of colored people to allow them to vote in order to increase their representation in Congress. This, however, is a question entirely for such States to decide, and not for Congress to force upon them. But why should we insist upon the southern States allowing universal suffrage as a condition precedent to representation when our own States have not adopted that rule? I find that in the State represented by the honorable gentleman from Massachusetts conditions are imposed. The fourth article of the third section of the constitution of that State reads thus:

"Every male person (being twenty-one years and resident of any particular town in this Commonwealth for the space of one year next preceding) having a freehold estate within the same town of the annual income of three pounds or an estate of the value of sixty pounds shall have a right to vote in the choice of Representatives for the said town."

I find also in the article of amendments, adopted April 17, 1840, to that constitution, under item twenty, as follows:

"No person shall have the right to vote or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language and write his name: *Provided, however,* That the provisions of this amendment shall not apply to any person prevented by physical disability from complying with its requirements nor to any person who now has the right to vote nor to any person who shall be sixty years of age or upward at the time this amendment shall take effect."

Hence it will be seen that that gentleman's State has both a property and an educational qualification annexed to the voters, and in all the other States, with the exception of some

five or six, by their constitutions negro suffrage is excluded. Now, while the States we represent exclude negro suffrage, we cannot with much grace insist upon these States doing that which our own refused to do. I admit that the appeals of gentlemen in favor of such a theory are very patriotic, and especially those of the distinguished gentleman from Massachusetts, [Mr. BOUTWELL,] but he must remember that the State he has the honor to represent has not gone the length he asks to be imposed on the southern States.

It is true, as said by the honorable gentleman, that four million slaves have been emancipated; that the stigma of slavery that rested upon this Republic has been eradicated; and I might add that the country, by the aid of Providence, has done much for the colored race; and it is also true that the black man rendered good service in the Army in putting down the rebellion, and well he might, as by the war his race has become free and he is now being educated and elevated from degradation, in which the war at its breaking out found him. Truly much has been done for that race, and no wonder they so much revere the name of our much-lamented President, Abraham Lincoln, who by the guidance of Him in whom he trusted was able to bring about that great change in the social condition of the country. But as Providence has blessed our arms and brought about the emancipation of the colored race, we must not be too eager for their elevation. Time alone can bring about what is best. Often by being over zealous we retard that which we are too hasty to accomplish.

I am therefore, Mr. Speaker, in favor of the resolution now under consideration, and will most cheerfully vote for its adoption and join in welcoming loyal members from that State, who stood up in the hour of peril in behalf of and rendered valuable service for the preservation of our Republic, to a participation in the affairs of the nation.

### The Tariff.

## SPEECH OF HON. S. S. MARSHALL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 9, 1866,

In Committee of the Whole on the state of the Union, in opposition to the tariff bill.

Mr. MARSHALL. Mr. Chairman, it is difficult to speak with patience or decorum of the measure now before the House. In all ages of the world there has been an effort on the part of the few by legislative jugglery to rob the toiling millions and build up a favored class who could riot in unbounded wealth wrung from the hard earnings of labor. In other countries this effort has been but too successful. A favored aristocracy are thus enabled to riot in luxuries that their hands have not earned, and to domineer with supercilious arrogance over the meritorious and productive classes of the community. In our favored land it was fondly hoped by the founders of our great Republic that we had escaped forever from this system of robbery. It cannot be denied, indeed, that at the very foundation of our Government this system had its advocates, and that even then there were men whose aristocratic tastes were outraged and whose aristocratic noses turned up with supercilious arrogance at the idea of a democratic republic where labor should be unfettered, where no class should be specially favored, and where every man should be required to earn his bread by the sweat of his own face.

### THE OLD FEDERAL PARTY.

The great central idea of the old Federal party (not always avowed, it is true,) was that a favored class, removed from the degradations and contaminations of labor, was necessary to the maintenance of order and to the dignity and

character of every Government. "So manage your legislation as to make the rich richer and keep the poor in subjection" was their secret but favorite watchword. The less the producing classes are permitted to retain of the fruits of their own labor, the more subservient, it was believed, they would be to the purposes of the favored few. To consummate these purposes an emasculation of the States and a centralization of power in the Federal Government was necessary. And to effect this the old Federal party, with unflinching zeal, devoted its matchless talents and untiring energies.

### RISE OF THE DEMOCRATIC PARTY.

This attempt to make Republicanism itself an instrument of tyranny—to transfer under a specious disguise the effete institutions of the Old World to our virgin soils; to oppress and impoverish the people under the forms of a free constitution; to make the great producing classes of the country but "hewers of wood and drawers of water" to the legislative jugglers and their friends—was for the time defeated by the uprising of the people themselves under the lead of Jefferson, the great apostle of Democracy. The Democratic party was formed and organized, and with truth, justice, and the Constitution for its armor, and the protection of the people from legislative robbery for its battle-cry, it went boldly into the conflict, and with Herculean blows struck down (as was then hoped forever) the mailed hosts of disguised monarchy and Federal usurpation. It is now two thirds of a century since Thomas Jefferson was first elected President of the United States, and by his clear, simple, yet grand inaugural announced to the world the fundamental principles of Democracy, by which that historic party has ever since been guided:

"Equal and exact justice to all men and exclusive privileges to none; the support of the State governments in all their rights, as the most competent administrators of our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture and of commerce as its handmaid; the diffusion of information and arraignment of all public abuses at the bar of public reason; freedom of religion, freedom of the press, and freedom of person, under the protection of the *habeas corpus*; and trials by juries impartially selected."

These, sir, are the historic principles of the Democratic party, and these principles faithfully carried out in the administration of the Government would make us a free, prosperous, happy, and united people. Government should interfere with the business of the people only so far as is necessary to protect them in their legal and constitutional rights, and should take from them by taxation what is necessary to its support, economically administered, and not one dollar more.

When you go beyond that you are guilty of robbery. When you exempt any species of capital from taxation, and impose all its legitimate burdens on the residue of the people you are not only guilty of robbery to that extent, but you violate the very spirit and purposes of our Government. And when you go still further, as in this bill, and use the machinery of Government to take money by millions from one portion of the people, not for the use of the national Treasury, but to put it by a kind of skillful *hocus pocus* into the coffers of an already bloated and domineering aristocracy, you are guilty of a crime that language fails sufficiently to characterize. Labor, sir, should be protected in the right to eat the bread earned with its own hands, and the burdens of Government should be imposed rather upon the accumulated capital of the country than upon the humble pittance of the toiling millions.

To comprehend the real character and importance of this and kindred measures it is necessary to take a somewhat wide range of discussion. This bill and the system of taxa-

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tion of which it is the offspring, most extraordinary and diabolical as they are, are but the outcroppings of the deep-laid schemes of the old Federal or New England party, adopted almost immediately after the formation of our Federal Constitution. These schemes have never been abandoned, but on the contrary have been adhered to and prosecuted with a pertinacity almost without a parallel. The name and organization of that party have passed into history, but its principles and purposes have never for one moment been in abeyance, and they live to-day in full vitality and possess really greater power than they did in the time of the elder Adams. They never will be abandoned while selfishness and avarice constitute motives of human action, and the only hope of the country is in enlightening and arousing the people as to their true character. In this respect more than in any other it is important ever to remember that "eternal vigilance is the price of liberty," for when you place the laboring classes at the mercy of a moneyed aristocracy, I care not what may be the form of government, liberty itself becomes a mockery and a delusion.

TO CONSUMMATE THEIR PURPOSES THE OLD FEDERALISTS TURN DISUNIONISTS.

The daily and nightly dream and hope of the old Federal party was to inaugurate some scheme by which they could seize upon the Federal Government and use it as an instrument for levying tribute upon the agricultural States and upon the laboring classes of the whole country. It was soon discovered that the interests and policy of the southern States were opposed to the schemes of that party, and that these Federal hopes were in danger of being blighted forever. The magnificent West already began to loom up before the enraptured vision of these greedy cormorants, and their patriotic eyes brightened at the glorious prospect of levying tribute without limit upon the labor of the toiling millions that were destined to spread over those fertile plains. But this system could not be inaugurated with hope of success unless the South could be emasculated or driven from the Union. And it was thus that at the very commencement of the present century an agitation was commenced in New England to effect a dissolution of the Union. It is now over fifty years since Matthew Carey, of Philadelphia, published his valuable book, "The Olive Branch," in which he demonstrated "that there existed a conspiracy in New England to effect a dissolution of the Union at every hazard, and to form a separate confederacy."

Hear his description of these disunion Federalists who flourished in the days of Jefferson and Madison:

"They are possessed of inordinate wealth, of considerable talents, great energy, and overgrown influence. A northern confederacy has been their grand object for a number of years. They have repeatedly advocated in the public prints a separation of the States."

"To sow discord, jealousy, and hostility between the different sections of the Union was the first grand step in their career in order to accomplish their favorite object of a separation of the States."

"In fact, without this efficient instrument all their efforts would have been utterly unavailing. It would have been impossible had the honest yeomanry of the eastern States continued to regard their southern fellow-citizens as friends and brethren, having one common interest in the promotion of the general welfare, to make them instruments in the hands of those who intended to employ them to operate the unholy work of destroying the noble, the august, the splendid fabric of our Union."

"For eighteen years, therefore, the most unceasing endeavors have been made to poison the minds of the people of the eastern States toward and to alienate them from their fellow-citizens of the southern. The people of the latter section have been portrayed as demons incarnate and destitute of all the good qualities that dignify or adorn human nature."

"It thus happens that a people proverbially orderly, quiet, sober, and rational were actually so highly excited as to be ripe for revolution and ready to overturn the whole system of social order."

It has been often and well said that history repeats itself. In language written over fifty years ago, our author, in describing the old Federal disunionists of that day, draws a life-

like and most truthful picture of the radical agitators of the present day. In reading his graphic pages we almost imagine that he had in his eye our "central directory," with the smelling committees and the inflammatory libels sent forth "to sow discord, jealousy, and hostility between the different sections of the Union," and thus to render a restoration of peace, union, and fraternity impossible. These Federal disunionists of sixty years ago used precisely the same denunciations against Washington, Jefferson, Madison, the Randolphs, the Henrys, and their contemporaries of the southern States that are now so eagerly fulminated against the entire people of the same section of our country. In a time of war, such inflammatory appeals might be excusable, but now, when we need the healing influences of love, kindness, and conciliation to cure the wounds of our bleeding country such conduct is simply devilish, and should receive the execrations of all good men.

## THE TRUE KEY TO OUR POLITICAL TROUBLES.

And, sir, this and kindred schemes furnish the true key to and solution of our present political dangers and complications. On all economic and financial questions the interests of the West and the South are identical. They are all now, and will continue to be, agricultural States. That measure which wrongs and oppresses one wrongs and oppresses them all equally and alike. The South is the natural and inevitable ally of the West on all questions of revenue and taxation. With the South excluded, the New England lords of the loom, with their allies of the middle States, can levy tribute upon the people of the West at pleasure and without limit. This is demonstrated by the experience of the last five years. With the representatives of the South in their seats this could not be done. Hence this already bloated race of extortioners do not want the southern States restored to the Union, and they are determined that they shall not be unless the negroes are all admitted to the right of suffrage, by which means they expect to secure eight hundred thousand black allies as voters, who would be their pliant tools, and would aid them in continuing their system of outrage and oppression.

In speaking of this measure with that fearlessness and frankness which are due to those whom I represent here, I desire to say nothing that can justly be deemed offensive to any member of the House. I shall not charge that the Committee of Ways and Means deliberately intend the wrong and robbery that must result from the passage of this bill. It is much pleasanter to assume that they are the victims of false theories or have unwittingly become the dupes of the hordes of monopolists and manufacturers who have infested the Capitol during the entire session. I willingly take it for granted, as it is my duty to do on all occasions, that all the advocates of the bill within these Halls are actuated by just and honorable motives. The bill, indeed, is understood to have emanated principally from the brain of that prodigy in social science, Mr. Colwell, of the revenue commission, aided by a combination of the plunderers, each of whom, it is said, has agreed upon the portion he would be willing to take in the general grab. I take it for granted that the committee has been the victim of this unholy combination, and shall not hold them responsible for what cannot fairly be considered the result of their own deliberations. I therefore make no charge against any member of the House; but I do insist that with those who understand the secrets and control the action of the dominant faction this greed of plunder is at the bottom of and furnishes the proper key to our present political complications.

That very able Republican paper, the New York Evening Post, is beginning to more than suspect the secret motives of the loud-mouthed patriots of its own party; and touches upon the

key-note of its action when in an article a few days ago it says:

"We warn the prohibitionists that they ride too high a horse for safety. They are trying to force a most hateful and wicked scheme upon the country. That is bad enough; but they are at the same time keeping out the representatives of the southern States. Are they doing this in order to make sure of their own schemes? Is it to secure the passage of this prohibitive and destructive bill that they refuse to admit the southern members? It would seem so from their high-handed course. The country will believe it, and they will only ruin themselves by such a course, which heaps injustice on injustice, and commits one wrong in order to facilitate the commission of another—just as a highwayman maims his victims in order the more easily to plunder their persons."

## PROTECTIVE SYSTEM.

This system never could have found favor beyond those who were to be enriched by it but for the ingenious adoption for it by its advocates of a false and fallacious but popular name. The designation, "protection of home industry," certainly sounds remarkably well, and has won for it thousands of misguided advocates. Call it by its proper name, "robbery of the masses to enrich a supercilious and domineering aristocracy," and it will soon fall into merited disgrace and odium. Its advocates who had been watching and praying and laboring to bring about such an opportunity seized upon the occasion of the withdrawal of the southern representatives from Congress to immediately inaugurate and force upon the country the tariff of 1861, known as the "Morrill tariff." Its injustice and outrageous discriminations in favor of the capitalists and against the laboring men, especially of the West, were clearly and forcibly pointed out and demonstrated at the time. But the advocates of the bill, claiming a monopoly of all the loyalty of the country, and insisting that it was a revenue measure and necessary for the maintenance and credit of the Government in that time of war, succeeded by this false clamor in passing it through Congress and placing it upon the statute-book as a law of the land. The effect of it was the almost instantaneous doubling the price of everything purchased for consumption by the people of the West.

But we were in the midst of war, and the patriotic people, although disapproving of many measures of the Government, were not disposed to cavil at them in that time of peril. Indeed the masses of the people regarded this sudden and extraordinary increase in the cost of the necessities of life as the natural result of the war, and did not realize that in the main it was caused by a legislative fraud. Under the operations of this bill the profits of the manufacturers were enormous, and they found themselves, as if by magic, rolling in more than oriental wealth and splendor. A superficial observer would have supposed very naturally that these favored classes thus daily receiving enormous bounties, drawn from the pittance of the toiling masses, would have rested contented without asking for further legislation in their behalf. But, sir, it is the old story of privileged classes. Having once tasted the forbidden fruit of legislative robbery, their unholy demands are ever increasing. Avarice and extortion always grow by what they feed on. Although these lordly manufacturers were building palatial residences, sporting princely equipages, and regularly declaring annual dividends of twenty, forty, sixty, and in many instances one and two hundred per cent. on their capitals, the very next Congress was met by their clamors for more "protection," or, in other words, for the privilege of adding to the price of their goods, and thus more thoroughly robbing the consumer. They insisted that they were in danger of being ruined without more "protection." And that very wise and accommodating Congress almost immediately passed a joint resolution increasing the entire duties fifty per cent., which resolution remained in force until the existing oppressive tariff was enacted in 1864, carrying out the demands of the manufacturers.

As the law now stands, the manufacturers, ironmongers, bankers, and bond-holders are rapidly drawing to themselves the entire wealth of the nation. The existing tariff can be defended on no ground except that by which the highwayman claims the right to strip and plunder the defenseless traveler. Although yielding for the last year a large revenue, it is in no proper sense a tariff for revenue. The main idea running through it is "protection" of the manufacturer, or, as I more properly call it, "robbery of the people." The people, be it remarked, do not object to any fair and equal system of taxation to support their Government and maintain its good faith and credit. But they are every day becoming more enlightened on the subject of this legislative jugglery; and when they do fully comprehend that they are being impoverished to build up a heartless, soulless, domineering oligarchy, they will rise up in a body and demand that this robbery shall cease. Indeed, sir, if the people could fully understand and comprehend the fact that this measure will, on the day it passes, add \$200,000,000 to the wealth of the manufacturers and the holders of the immense stocks of goods that have been recently imported, and that this immense sum with the accumulated per cent. and interest added thereto must be raised by the bitter toil and sweat and agony of an already oppressed people, they would rise in their might and majesty and drive the authors and advocates of this scheme from these Halls in disgrace and confusion, as Christ drove the money-changers from the temple they were desecrating.

#### A REDUCTION OF EXISTING DUTIES DEMANDED.

That a radical modification of the existing tariff is imperatively demanded is undeniable. It violates every sound principle of political economy, and is a disgrace to the civilization of the age. A tariff of any kind inevitably increases the prices to the consumer. It can only be justified where it is necessary to raise revenue for the Government. But tariffs for revenue, and tariffs simply for "protection," as it is falsely called, are the natural antagonists and enemies of each other. When you very greatly increase the price of an article you necessarily reduce the consumption thereof. A very able writer on political economy, (Perry,) in his recent work, forcibly illustrates this point. He says:

"It follows, that the principles on which a revenue tariff should be framed are very different from those that should rule in protective tariffs. If the object be revenue, the duties should be low, so as not to discourage importation, or very sensibly increase prices. Low duties on all imports, except high-priced foreign luxuries, which are used only by the rich, and which may be taxed heavily without discouraging importation, will infallibly yield the largest aggregate revenue. The reason for this is, that society is like a pyramid standing on its broadest base; each horizontal section of it is more extended than the one above it. So in society. The number of those able to purchase an article at five dollars is more than twice as numerous as those able to purchase it at ten; and those who are able to buy it at one dollar are probably more than ten times as many as those who would buy it at five dollars."

"A lower duty, therefore, on any article is likely to bring it within the reach of a much wider circle of consumers; and for many to pay a low duty is better for the revenue than for a few to pay a high duty."

The same able writer shows very clearly the principles upon which the tariff now in force was framed, and the means by which its passage was secured. He says:

"The protectionists in Congress seized upon the opportunity of the withdrawal of the southern members for discriminating in favor of the articles in which they were interested, even to the extent of diminishing the revenue by practically prohibiting the importation. They did another thing which imposed at the time on many people, and which can hardly be characterized in too severe terms. At the moment when the great need of the Government was revenue, they added largely to the free list, taking care to put upon it many articles which are used in manufactures and which thus escape taxation altogether. They put the duty upon protected articles so high that little or no revenue is received from them, and at the same time withdrew by means of the free list all revenue from many articles especially used in protected manufactures. The new tariff, therefore, has not produced the revenue expected

from it. It is not honestly adjusted for that purpose. To put articles on a free list is no boon to free trade; especially when it is accompanied, as in this case, by very high duties. The present duties are very much too high, and many things are exempted from duty which ought to pay duty for the sake of revenue. The present tariff, therefore, rests on false principles throughout, and it cannot be permanent. They who feel themselves benefited by it may as well make up their minds to dispense with it. The western States will not tolerate it. Political economy denounces it. To relax commercial systems and not to restrict them is alone in accordance with the spirit of the age. The state of the country demands its abolition."—*Elements of Political Economy*, page 430.

Notwithstanding this spirited denunciation and demand for the repeal of this bill of abominations by the ablest living writer on political economy in our country, these favored classes come here and demand more "protection," and the result is the bill now before the committee, increasing the duties in many cases over one hundred per cent., and in almost innumerable instances making them absolutely prohibitory.

#### THE PROPOSED TARIFF.

I will not at this time attempt a thorough analysis of this bill or of its numberless enormities. It starts out with a fraud upon its very face. It professes to be a bill to provide increased revenue from imports, and for other purposes. The "other purposes" unrevealed are the real purposes of the bill. That it will very greatly increase the burdens of the people is beyond all question; and that it will reduce the revenue derived from customs at least \$50,000,000 will scarcely be seriously denied. A large number of articles used by manufacturers, from which revenue is now derived, are placed on the free list, while upon many important articles, largely consumed by the people, the duties are so greatly increased as absolutely to prohibit importation, thus enabling our favored manufacturers to charge just what they please for their fabrics. From these two classes—the free-list articles and the prohibited articles—no revenue whatever will be derived by the Government. On many other articles the importations and the revenue will be very greatly reduced by the increased duties. It is therefore a double robbery; a robbery of the people and a robbery of the Government at the same time. And this, too, when the people are already greatly oppressed and the Government is compelled to raise a large sum in gold to meet the accruing interest on our public debt, there being no other source from which this fund can be derived.

In this connection I will submit the exposition made by the importers of hardware and cutlery of New York of the effect of the bill on a single class of articles:

"The enormous rates of duty proposed to be levied upon hardware and cutlery indicate a regard for special interests to the entire sacrifice of revenue and great injury of consumers. It might have been expected that the protection of a war tariff of 50 per cent. on pocket cutlery, and 35 per cent. on table cutlery, and on files 30 per cent. *ad valorem*, and 6 cents per pound on some, and 10 cents per pound on others, averaging 66 per cent. on files, &c., on which many domestic manufacturers have become wealthy, would have satisfied them, and that the country might now be allowed the receipt of revenue from those which are imported, when it is remembered that, in addition to the import duties, the domestic manufacturer enjoys protection to the extent of 10 to 30 per cent. in the cost of freights, packages, commissions, &c."

"But it is now proposed, by taxing all pocket cutlery costing under five dollars with a specific duty of 75 cents per dozen and costing five dollars per dozen, and above with two dollars per dozen in addition to 50 per cent. *ad valorem*, to tax every child's knife costing 6d. sterling per dozen, (custom-house value 12 cents,) with both rates of tax 81 cents, which is 675 per cent. On every boy's knife which costs 1s. 3d. or 30 cents per dozen, the two duties will amount to 90 cents, equal to 300 per cent., and on every farmer's knife costing 3s. or 72 cents, the tariff will be \$1 11 or 154 per cent.; while the duty on all pocket knives costing (custom-house value) 72 cents to \$9 08 will average 72 per cent."

"In table cutlery a considerable quantity is imported, which costs 6s. per gross or \$1 44; the specific duty as the clause passed the House is 12 cents per dozen or \$1 44 per gross, with the 45 per cent. *ad valorem*, is \$2 09, equal to 145 per cent. The table cutlery, extensively used through the country, costing 16s., or \$3 86 per gross; the specific and *ad valorem* duty is \$3 18 or 82 per cent. Ivory table knives, costing 6s. per dozen or \$1 44 are to bear a specific duty of \$1 per dozen and *ad valorem* 45 per cent., together \$1 65 or

115 per cent., and a 10s. table-knife, custom-house value \$2 42, with both rates bears a duty of \$2 09, equal to 86 per cent."

"An English twelve-inch flat bastard file, used by nearly every mechanic, (custom-house value \$2 20,) with the proposed heavy specific of \$2 per dozen, is taxed 91 per cent., while mill and taper files, used by every farmer, are proposed to be taxed in the same proportion. German files, being of less cost, are taxed on the average 141 per cent."

"The proposed duty on German wrought nails varies from 141 to 155 per cent.; halter and dog chains, 81 per cent.; coil chain, 110 to 135 per cent.; trace chains, 134 to 154 per cent.; hooks and hinges, 183 per cent.; on curry-combs and padlocks, with specific 25 cents and *ad valorem* 45 per cent.; on cheaper kinds, costing from 18 to 45 cents per dozen, of which great quantities are used, the tariff is proposed to be 93 to 184 per cent."

"On the article of saws, used by every farmer, the specific and *ad valorem* duties will average 77 to 163 per cent."

"All these goods come into general use by the bulk of the community, especially among the poorer classes, many of whom have not the means to pay high prices; thus revenue will be sacrificed and the population generally injured."

When even the school-boys of the land have not escaped the vigilance of these extortioners, and are taxed from ninety to six hundred and seventy-five per cent. on their pocket-knives it is high time that grown up men and women shall look into this bill and see how much they are required to contribute to keep up this soulless aristocracy. Under the tariff as it now stands, look for a moment at the enormous profits of the manufacturers, as shown by the facts which they themselves have given to the country:

"The Androscooggin mills, with a capital of one million, declared last January a dividend of twenty-five per cent., and on the first of the present month another of twenty per cent., that is they have cleared nearly half a million dollars in the last twelve months. The Lancaster mills divided in January twenty per cent., and on the 1st of July twenty-five per cent. The Langdon mills divided twenty-five per cent. in January, and another twenty-five per cent. the present month. The Bates mills divided twenty-five per cent. in January and ten per cent. in July. The Chicago mills thirty per cent. in January and fifteen in July. The Hill mill ten per cent. in January and twenty in July. The Appleton mills twenty per cent. in January and ten in July."

And so on with other companies; and in addition to these enormous dividends we are informed that many of the companies have greatly enlarged their works, or otherwise greatly enhanced the value of their property and the capital invested. The manufacturing companies were never more prosperous. Their actual earnings average from forty to one hundred and twenty per cent. Some companies, the screw companies for example, divide three and four hundred per cent. per annum. If these profits were the legitimate results of industry and enterprise no one could complain, and, indeed, all should be gratified. But when it is the result of unjust legislation, by which the masses may be robbed to enrich these men, no language can sufficiently characterize the outrage.

Under the existing tariff the railroad system of the United States, in which the farmers are so vitally interested, is almost paralyzed, and the building of new lines of road is rendered almost an impossibility. Indeed, the present duty on railroad iron (all of which be it remembered must be paid in gold) almost amounts to a prohibition. A ton of rails which costs in Wales £6 10s. or \$32 50, will cost at New York, in our currency, at least \$83 62. To illustrate:

One ton at £6 10s. makes, at \$5 per £.....	\$32 50
Freight, insurance, interest, &c.....	7 50
Present duty.....	15 68

Total, in gold.....\$55 68

which, at fifty per cent. premium, makes \$83 52 in our currency. And now, by the bill before us, as reported, it is proposed to add an additional duty of about seven dollars per ton. From an able article in the *Evening Post* on this subject I extract the following:

"Already in anticipation of this duty some ironmasters have advanced the price to \$87 50. What the price will be we may well ask when the additional duty of about \$7 per ton in gold becomes fixed. As an evidence of how little the railroad iron interest needs protection we quote from a statement published by the American Iron and Steel Association: 'The



total production of rails in this country, new and re-rolled, in 1859, was 195,195 tons; in 1861, 335,308 tons, and the present capacity in 1866 of the mills in this country is 755,000 tons.\* Now, during this period of two years the importation of foreign rails was larger than at any previous period, yet with all this the iron interest has thriven remarkably. Had it not been for the importation of foreign rails, thousands of miles of important railroad lines would not now have been in existence, and millions of acres of productive land would still be without access to a market.

"We call the attention of the farmers of America to these facts. Without railroads their farms would be almost worthless; without railroads Illinois to-day be a thinly-settled, poverty-stricken plain; by its railroad system it has become one of the wealthiest and most populous States of the Union. The country needs nothing so much as more and cheaper railroads; but the protectionists are now laying such a tariff upon railroad iron as will cripple the greater number of the railroads in this country, and entirely stop the building of new roads, and for what? To put enormous profits in the pockets of a few iron-masters, who, after all, cannot make half the iron absolutely needed by the country. That is 'protection' to iron—but ruin to agriculture."

It may be said, sir, that the language I use in denunciation of this measure is extraordinary and unjustifiable. I admit that it is strong, and would be unjustifiable if the measure itself would admit of milder language. But, sir, when a bill of this character is brought into the House, which will inevitably have the effect, not to raise revenue for the Government, but to rob my constituents, I would be recreant in my duty to them if I did not call it by its proper name. In using such language I do not stand alone. Leading and influential Republican journals that heretofore tamely submitted to the robberies that have been perpetrated under the tariff laws from 1861 to this time, have been so shocked at this additional outrage that they have not hesitated to denounce it in the boldest and most fearless manner. The Chicago Tribune, the leading Republican journal of the West, says of it:

"It is such a bare-faced cheat that no man in the community, who has not a stock of goods on hand on the sale of which he expects to rob his neighbors from twenty to one hundred per cent. of their value, can fail to see and denounce it."

Again it says:

"The proposed increase of the tariff is an attempt on the part of its advocates to take about two hundred million dollars at one swoop out of the pockets of the rightful owners, and transfer it to the manufacturers, merchants, jobbers, and speculators who have goods on hand, whether of domestic or foreign production. It is a pure scheme of plunder, without the slightest excuse or palliation."

And again:

"The new tariff bill reported by the Committee of Ways and Means is a financial monstrosity, the like of which is rarely seen in any age or clime. It is hardly necessary to specify particular articles in the bill. Turn which way we will a new mountain of taxation rises before us—taxation avowedly not to put money into the national Treasury, but to keep it out—taxation to wring money from the many and give it to the few."

"Mr. MORRILL says that the proposed tariff is temporary. It cannot be so temporary that it will not take from two to four hundred million dollars out of the pockets of those who have earned it and transfer it to the pockets of those who have not earned it."

The New York Evening Post and Cincinnati Commercial, leading Republican journals, have also denounced the bill with equal vigor and courage. The New York Herald says very forcibly:

"The crowning act of infamous legislation, corruption, and imbecility of the present Congress is about to be consummated in the passage of the tariff bill reported by the Committee of Ways and Means. This bill, if rightly named, should be called a bill to enrich a few New England and Pennsylvania manufacturers and a few rich merchants who have large stocks of goods on hand, at the expense of the rest of the community."

"It is estimated—and we think the estimate is moderate—that if this tariff should become a law it would put at once five hundred millions into the pockets of those who hold stocks of goods and into the hands of the forestallers." \* \* \* "But who pays for all this? The farmers of the West and North, the planters, the mechanics, laborers, and all the industrious classes. They pay for it in enormous high prices, and all to enrich a bloated monopoly."

That able paper, the New York Mercantile Journal, says:

"The new tariff bill, as reported by Mr. MORRILL, is a most sweeping and radical measure. It changes the rates of duties upon upward of four thousand separate articles. The free list is largely increased, but

it is composed almost exclusively of articles that do not enter into general consumption, and which constitute the raw material for manufactures. Upon articles of general consumption the changes are of a most important character, and are from twenty to a hundred and fifty per cent. higher. In general, the new tariff bill will add an average of about thirty per cent. to the cost of living." \* \* \* "In many cases the taxes amount to an absolute prohibition. This is an important departure from the established principles of our Government and people, which regard a tariff as a source of revenue rather than an instrument of protection and monopoly."

"If the majority in Congress had devoted itself to the work of stopping the leaks in the present law so as to increase the revenue without adding to the burdens of taxation or the cost of living, there could be no objection to it. But we find that this was by no means the intention, and it is apparent, that if the present bill should become a law, the cost of living will be largely increased while the revenue will be diminished. It cannot fail to excite surprise, that after a brief two year's experience of the present law the manufacturers should again desire increased protection. The explanation, however, is obvious. The average duties of fifty per cent. *ad valorem* imposed by the law of 1864 increased the cost of labor and raw products to that precise extent, and the consequence is, that the tax operates as a bounty on the foreign manufacturer, and ceases to benefit the American producer. Hence, there is a fresh demand for higher duties, and if they should be adopted we shall have another demand next year for additional duties. If we increase the duties this year from fifty to seventy-five per cent, we must increase them next year to one hundred per cent., because every increase of duties is followed by a corresponding advance in prices. Upon this principle we shall be constantly obliged to adopt an increasing schedule of duties until we at last reach the Japanese ideal of absolute exclusion."

But in addition to this iniquitous taxation of the people of the West, this measure inflicts upon them another wrong equally disastrous. While you double the cost of the necessities of life you destroy our means of purchasing. This bill, so far as it operates in the way of prohibition, shuts up the foreign market for western breadstuffs. The paper last quoted says, truly:

"The prohibitive duties of the new tariff virtually shut up the foreign market for western breadstuffs. The foreign consumer has nothing but the products of his labor to give in exchange for our wheat, corn, beef, and pork; and if we exclude these from our markets by a prohibitory tariff, we deprive the western farmers of their best customers. The consequences are apparent. Our foreign customers are necessarily obliged to seek new markets, where the people will be willing to receive their products in exchange for their surplus of commodities. There can be no doubt that one of the results of the new tariff will be to render American breadstuffs and products generally almost unsalable in foreign markets."

That such will be the legitimate result cannot be denied by any one who has paid the slightest attention to the principles of political economy. These extracts, which might be multiplied almost indefinitely, have been taken from Republican and independent journals, and show at least that there are some iniquities that the lash of party cannot force some of your ablest journals to countenance, and that the independent press is thoroughly aroused to the outrages of our present financial and revenue system.

I repeat that these systems of taxation furnish the true key to our present political complications. I do not charge or think that any considerable portion of the dominant party are aware of this or are actuated by sinister motives. But it is notorious that the actual tone and direction is given to all political parties by a very few leading spirits. No one among the people supposed when the war ended so triumphantly to the Union Army that at this time, fifteen long months after that grand event, we would still remain a disaffected people, and that, too, by the voluntary action of the North, while the South stood quietly by asking for peace and union under the Constitution of our fathers. But the people had not learned, then, that there was a favored class controlling the legislation of the country who cannot afford a restoration of the Union under the Constitution. Union would soon deprive them, as they too well know, of the rich spoils they are now gathering from a deluded and oppressed people. Union would soon be followed by a just and equitable system of revenue and taxation by which labor

would be relieved of its intolerable burdens. Union, immediate Union, under the Constitution of our fathers, is now an absolute necessity to the laboring man, and especially to the people of the West. But for the same reason that we demand Union these favored classes will never consent to its restoration. They will never release their grip upon the throats of the people if they can avoid it. They will continue by all the means that great wealth and perverted talents can command, to stir up strife and animosity and distrust between the sections, and they will continue to insist that four million ignorant, degraded Africans, shall immediately, without preparation, be elevated to all the dignity and rights of American citizenship, under the hope that they will be effective allies of these lordly schemers and will aid them in perpetuating their system of legislative robbery.

It is for this that the Union remains broken, and strife, discord, and distrust continue to agitate the land. It is under this influence that Congress resolved itself into a political caucus and surrendered its powers to a central directory; for this that our grand Union Army has been robbed of that for which they laid down their lives upon a thousand battle-fields—the real, cordial restoration of the Union; for this that negro equality, negro citizenship, and negro suffrage are demanded, and this long-heeled child of Africa is fostered, fed, and clothed with money wrung by oppressive taxation from the toiling white man; for this the doors of these legislative halls have been shut in the faces of gallant soldiers who for four long years risked their lives and all that was dear to them in the cause of the Union; for this these gallant Union men, duly elected as members of Congress, with the evidence of election in their hands, have stood for seven long months at these doors, asking in vain for admission or recognition; for this the Constitution of our country has been openly and habitually violated. This, in short, is at the foundation of every political movement of the faction that now controls the legislation of our country.

#### THE PROHIBITIONISTS PRACTICAL REPUDIATORS.

Another serious objection to the bill arises from the fact that the prohibitionists have been so eager for "protection" that they threaten by such a system to destroy the revenues, and thereby entail upon the Government disgrace and bankruptcy. It is in fact the first practical step in the direction of repudiation. We have now a debt of \$1,000,000,000, the interest on which must be paid in gold; and by the very terms of our national obligations the interest on a debt of over \$2,000,000,000 must very soon be paid regularly in gold. As long as our currency continues in its present vicious and irredeemable condition the only source from which the Treasury can be supplied with the means of preserving its honor unsullied is the revenue derived from the duties on foreign imports. If these import duties should fall far short of the accruing obligations that must be met by payments in gold where and how is the deficiency to be met and provided for? It is manifest that in such case the danger of national disgrace by a failure to meet our obligations would be imminent. If the Government should be compelled to go into the market to buy up large amounts of gold, say twenty, thirty, or forty millions at one time, it requires no prophet to foresee ruin and disaster to every branch of business. This measure is therefore at the same time a blow at the prosperity of the people and the credit and stability of Government.

IT IS THE DUTY OF GOVERNMENT TO PROTECT AND NOT OPPRESS THE INDUSTRIAL CLASSES.

I desire here to state briefly an objection of a very grave character which, as I think, can be truly urged against the entire system of legislation adopted here. A Government which discriminates in favor of the wealthy, the bond-

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The Tariff.—Mr. Marshall.

HO. OF REPS.

holders, the bankers, the manufacturers, and other capitalists, and throws its burdens chiefly upon the laboring and industrious millions, proves recreant in the discharge of its highest and holiest duties. It is a system that cannot be long persisted in without proving disastrous to the whole country. It has been conceded on all hands, I believe, that the taxes should be reduced. This could be safely done, even though you pay the bounties to our soldiers which they expect, and which should have been paid months ago. Notwithstanding our enormous indebtedness, more money has been raised by taxation than was needed by the Government. The result of the last year's bleeding of the people has been to realize over five hundred million dollars, a greater sum than was ever raised by any other Government on earth in the same time by taxation. It is very considerably above the necessities of the Government. The suffering people demand to be relieved from these unnecessary burdens. What is the result? An internal revenue bill is framed and passed, which the chairman of the finance committee tells us will reduce the revenue from that source about seventy-five millions. And yet a critical examination and test of that measure will, as I believe, demonstrate that it will not bring one particle of relief to the laboring and industrious classes. It will unquestionably put additional millions into the pockets of the manufacturers, but where it will bring relief to the masses of the people I am wholly unable to see. By the tax on cotton alone, an article consumed almost entirely by the industrial classes, you have added to the burdens of the people more than enough to overbalance the relief given in all other items of the bill.

And now, again, by this tariff bill the revenue in the opinion of the best-informed on such subjects, will be reduced at least fifty millions more, while the cost of living will be nearly doubled to the people; and contrary to every wise and just system of taxation the articles of necessary and daily consumption that enter into the very life of the people, without which they cannot live at all, are the very articles most grievously taxed. On the common article of salt (which in my judgment should not be taxed at all) you propose to levy an import tax of over two hundred per cent., thus greatly increasing the price of an article now ruinously high. You by your duties double the price of iron, without which railroads cannot be built, the mechanic can have no tool, and the farmer no instrument of husbandry, the cost of which, in fact, enters into everything that we eat, drink, or wear, and without which society could not exist. You levy a heavy tax upon raw cotton, and a heavy import duty upon cotton goods, thus doubly increasing the cost of these fabrics, an article scarcely worn at all by the wealthy, and consumed almost exclusively by the laboring and industrial classes of the country. And so I might go on with this enumeration and show that the articles of prime necessity consumed by the great mass of the people are those most heavily taxed and from which the principal revenues are derived; and, with the single exception of the income tax, that the wealthy capitalists of the country almost escape the burdens of Federal taxation.

While the question of taxing cotton was before the House, I attempted in a few remarks to show that the proposed tax would be levied almost exclusively on the labor of the country, and argued that all Governments should derive their revenue principally from the accumulated wealth of the nation and not from the humble pittance of the toiling millions. This argument was characterized by an honorable member as *ad captandum*, by which, I suppose, was meant that it was an unjust appeal to the prejudices of the people. But, sir, I say now deliberately, that no Government deserves to live that habitually and persistently discriminates by legis-

lation in favor of the wealthy and against the laboring classes, and any Government that deliberately, by any system of taxation, robs the toiling masses to add to the already swollen hoards of the rich deserves the execration of mankind. It is to the industrial classes that we owe everything that makes us most proud of our country. It is upon them you must rely for your armies. It is there alone that the great fountain of virtue and patriotism is found uncontaminated and uncorrupted. It is the strong arm of the laborer that has established the greatness, the glory, and the prowess of our country. They, sir, have built your magnificent navies, your imperial cities, your towns, your churches, your railroads, your telegraphs—everything, sir, that gives to us grandeur and prosperity. They have hewn down the primeval forests and made this land an Eden for the habitation of man.

If by some sad fatality every banker, every great bond-holder, every capitalist in the land should in one moment be stricken with death, we would still remain a great and powerful nation. But, sir, if the arm of the laborer should be paralyzed, if for one single year the mechanic should cease from his labors, the farmer should abandon his fields, and the laborer refuse his accustomed toil; if the sound of the hammer, the harsh music of the saw, and the voice of the plowman should be heard no more, where, then, would be the grandeur, glory, and prowess of your country? Your ships would rot at your lifeless wharves; your cities would be inhabited by bats and owls, and desolation and death would reign supreme where now we still have life and hope and prosperity.

If by the jugglery of legislation, by oppressive taxation, you rob the laborer of the fruit of his toil, reduce him to the bare necessities of life, clothe his family in rags and wretchedness, rob him of all time for mental culture and social enjoyment, you thereby break his spirit and eventually ruin the whole country. And the fact that you will have scattered over the land a few men of immense and princely wealth will bring no relief when that hour of calamity arrives. Sir, if we wish our country to remain "great, glorious, and free," if we desire to transmit free institutions to those who shall come after us, the industrial classes must be protected from unnecessary and oppressive burdens.

"Princes and lords may flourish, or may fade,  
A breath can make them as a breath has made;  
But a bold peasantry, their country's pride,  
When once destroyed, can never be supplied."

This may be called *ad captandum*, but, sir, I insist that it is founded on the truest philosophy of government and of man. The industrial classes are not only the most necessary and indispensable to society, but they are in the main the most patriotic and deserving. And, sir, I say solemnly, a curse, a thousand curses on all legislation that would place upon them any burden not absolutely necessary to the proper administration of the Government.

"The noblest men I know on earth  
Are men whose hands are brown with toil,  
Who, backed by no ancestral graves,  
Hew down the woods and till the soil,  
And win thereby a prouder fame  
Than follows king or warrior's name."

"God bless the noble workingmen  
Who rear the cities of the plain,  
Who dig the mines and build the ships,  
And drive the commerce of the main;  
God bless them, for their swarthy hands  
Have wrought the glory of all lands."

Doctor Wayland, in his able work on Political Economy, very forcibly portrays the effect upon a nation of unjust and oppressive taxation of the industrial classes. He says:

"Of all the destructive agencies which can be brought to bear upon production, by far the most fatal is oppression. It drinks up the spirit of a people by in-

flicting wrong through means of an agency which was created for the sole purpose of preventing wrong and which was intended to be the ultimate and faithful refuge of the friendless. When the antidote to evil becomes the source of evil what hope for man is left? When society itself sets the example of peculation, what shall prevent the individuals of that society from imitating the example? Hence, public injustice is always the prolific parent of private violence. The result is that capital emigrates, production ceases, and a nation either sinks down in hopeless despondence, or else the people, harassed beyond endurance and believing that their condition cannot be made worse by any change, rush into all the horrors of civil war, the social elements are dissolved, the sword enters every house, the holiest ties which bind men together are severed, and no prophet can predict at the beginning what will be the end."

One of the strangest sophisms ever offered in a deliberative body is the argument of the honorable gentleman from Vermont [Mr. Morrill] in opening the debate on this bill. Of course he is deceived by it himself, for it is not to be supposed that he would willfully mislead the House or the country. Laborers are scarce, (is the burden of the argument,) and therefore this tariff is necessary to protect laborers from competition with the cheap or pauper labor of Europe. How do you protect them? Do you propose to prohibit the importation of cheap or pauper labor from Europe, as you prohibit the importation of cheap goods? Do you prevent your manufacturers and capitalists from bringing them here by the ship-load to come in competition with our laborers now here? Do you not rather encourage their immigration, and are they not, in fact, coming to our shores at the rate of several hundred thousand souls per annum? Is not the price of labor, like everything else, governed by the supply and the demand? When the supply is small and the demand great the price must go up; and on the other hand, when the supply is greater than the demand the price must inevitably come down. You therefore protect the laborer by doubling the cost of the necessities of life, and at the same time inviting and encouraging the cheap and pauper laborers of Europe to come here and underbid and reduce the price of his labor. This is the same protection that the wolf gives to the lamb or that the robber gives to the defenseless traveler. It is impossible, sir, that any people can be long deceived by such miserable sophisms as these.

#### THE DEPARTMENT OF THE MAJORITY TOWARD THE MINORITY IN THE HOUSE.

And now, sir, as I may not again have the opportunity of doing so, I am impelled before concluding to enter upon the discharge of a neglected duty. This duty is to me an unpleasant one, but I feel that I would do great injustice to my constituents and to myself if I should return to them without first animadverting in a proper spirit upon the extraordinary department of the majority toward the minority in this House during the present session. No parallel to it can be found anywhere in the history of deliberative bodies; and unless the etiquette and eloquence of the fish market shall at some time find a congenial historian the records of this session for scurrility and offensive personality will, it is hoped, remain forever without a recorded parallel. This Congress met in December last, under peculiar circumstances, and had reposed in its hands the gravest responsibilities. The self-styled "Union party" had an overwhelming majority in both branches of Congress. The Democratic minority had no power, if they so desired, to stop for an hour the passage of any bill or measure. The country was rapidly recovering from the effects of our sad and ruinous war, and the people turned with eager hopes to this Congress for a speedy and complete restoration of union, peace, fraternity, and prosperity. In the consummation of this end the minority expected to cooperate freely and fully with the majority, and it did not occur to us that any issue could be raised on this

question or that any party could be mad enough to place itself in the way as a barrier to the restoration of the Union.

True, before Congress met we heard the distant rumblings of faction and discord—the mad and crazy threats that the Union of our fathers should not be restored to us; and that the fond hopes of the heroic living and the martyred dead should be blasted forever. But no one then supposed that the malignant ravings of a superannuated madman would become the settled policy of a triumphant party, or that any man would be permitted, for party purposes, to tear open the closing wounds of a distracted country, and to sow broad-cast again the seeds of sectional hate and internecine war.

The minority, stripped of all power, and by the use of the previous question almost deprived of voice on this floor, have been spectators here rather than actors. Adhering to the principles of the fathers, and desiring that liberty and union under the Constitution should be preserved and perpetuated, we sincerely hoped that the majority would so deport themselves in this critical time in our country's destiny, that we might bury or forget party and party designations and all act together for the preservation and happiness of our common country. With this end in view, we hailed with sincere pleasure the annual message of the President; for although he was not the President of our choice, we saw with transport that the old landmarks of the Constitution were still kept in view, and that the pilot at the helm was attempting to steer our noble ship of state into a haven of safety and prosperity. We hoped that the principles therein enunciated would furnish a common platform upon which all could stand, and around which the people of the whole country could once more rally as a band of brethren.

Without hesitation we gave to the President a cordial and undeviating support upon his avowed policy. In doing this we were controlled solely by the dictates of an unselfish patriotism. We have sought neither executive smiles nor the loaves and fishes of office, upon which you have so long fed, and by means of which your party has become so insolent and domineering. We have avowed everywhere, publicly and privately, that we neither expected or desired any portion of the public patronage. The President does not owe his elevation to our voices, and in supporting him we are discharging a simple duty to our country. In the effort to heal the wounds of a distracted country, we neither sought nor expected any party advantage. Hoping that the great majority of the Republican party here would cordially cooperate in an effort to restore the Union we expected to stand with you upon a common platform, and without any reference to the past to labor with you for the peace and prosperity of our common country. And even when these hopes were disappointed, all must bear witness that we have borne ourselves with courtesy and kindness toward our fellow-members of all parties on this floor.

We have been met in this respect by the most offensive deportment, and by insulting language, almost daily used, that is by no means creditable to the House that has tolerated it. Some super-valiant gentlemen have seemed to court and expect the kicking their insolence so richly merits, under the vain hope of increasing their popularity at home by their self-sacrificing martyrdom. But we could not afford at this time to thus build up fading reputations, and these lofty aspirations and bright hopes must be doomed to disappointment. I freely and gladly admit that this deportment has by no means been universal, and that in the ranks of the majority are many gentlemen who would scorn to resort to such meretricious weapons of warfare, and who regard such conduct as injurious to the character of the House and disgraceful to the country. To such gentlemen,

and to the masses of the party, I would be very far from applying any language I may use here in the way of condemnation.

The pretext for this offensive deportment is as extraordinary as such conduct is reprehensible. No one has dared, or will dare, to make a personal charge against any gentleman on this side of the House. No one can or will intimate that any one of us has in any respect been derelict in his duty as a member of society or as a citizen of our common country. The sole pretext for this most reprehensible deportment is that we of the minority are members of the Democratic party. And gentlemen have seemed to take it for granted that a violation of the Constitution of our country, a revolution in the Government, civil strife, disunion, and disintegration were all preferable to a restoration to power of the Democratic party, and that all these desperate measures might properly be resorted to for the purpose of keeping the immaculate radicals in power. Members who from their position should have been far above such things, have not hesitated to drag before this House and spread upon its records the miserable worn-out garbage gathered from the purlieus frequented by the dirtiest pot-house politicians. The epithets "copperheads," "traitors," "rebel sympathizers," "secessionists," and the like, have been dealt out day by day in all possible forms and with every variety of decoration. The charges on which these epithets are based were originally false and contemptible, and the dragging them here from the dirty kennels where they originated can give them neither dignity nor respectability.

In this style of oratory it is hoped that the gentlemen who for a few years past have so freely indulged in it will forever remain without a successful rival. It requires neither education, brains, nor decency, as is apparent from the fact that men who are destitute of either are generally the greatest proficient in it. A parrot could cry out "traitor" and "copperhead," and would do so with quite as much elegance and propriety as such gentlemen have done. At the very commencement of this session, in the opening speech on the President's message, (and that, too, by the leader of the House,) the most offensive charges were indulged in. And it was there urged, as a reason for depriving eleven States of representation, and for indefinitely postponing a restoration of the Union, that if southern representatives were admitted the Democratic party would, at the first election, get control of the Government. And then, says the venerable coryphæus:

"I need not depict the ruin that would follow. Assumption of the rebel debt or repudiation of the Federal debt would be sure to follow. The oppression of the freedmen, the rearmament of their State constitutions, and the reestablishment of slavery would be the inevitable result."

And then the honorable gentleman closed by hurling his choicest anathemas at the "whole coil of copperheads" who persisted in calling ours a "white man's Government." The great leader having thus gallantly led off, all the small-fry have joined in the exciting cry, and we have thus been regaled with some of the most extraordinary eloquence known to any country. One super-valiant and exceedingly muscular gentleman could not join the Union army and fight for the salvation of his country for the reason that "he had to stay at home to watch copperheads." The member from Pennsylvania [Mr. BROOMALL] commences a speech on reconstruction with the following choice sentences:

"It was to be expected that the measure now before the House would meet the opposition and denunciation of the unrepentant thirty-three of this body." "The gentlemen who have voted on all occasions upon the rebel side of all questions that have been before the country for six years could hardly be expected to change their position at this time."

And the whole speech is continued and ended in this spirit. Another distinguished gentle-

man of the Keystone State [Mr. KELLEY] uses language still more unjust and offensive. Another member, in language and bearing that should not be tolerated in a deliberative body, attempted to defeat an important financial bill recommended by a Republican Secretary and reported by a Republican committee of this House, and urged as the chief ground of opposition that it was supported by the Democratic side of the House. Another preëminently eloquent gentleman characterizes the Democratic party as "the left wing of Jeff. Davis's army."

But, Mr. Chairman, I cannot quote or even allude to the one thousandth part of these offensive imputations. They have been continued from day to day almost without intermission. And I am certainly willing that these gentlemen shall retain all the laurels they have thus gathered around their prurient brows. The object is evident. They hope by this system of unscrupulous defamation to build up an insuperable mountain of prejudice against all who will not bow down to the Moloch of radicalism, and thus to retain their greedy and unholy grasp upon the Treasury.

#### THE DEMOCRATIC PARTY.

But, sir, if they desire to fix the brand of infamy on the Democratic party they must first blot out the history and records of our country for almost seventy years. By doing this you would obliterate that which is most grand and glorious in the history of our country. This can never be done. The world will not permit the memory of the past to perish. Falsehood and calumny may for a time dim the effulgence of its glory, but as the sun, obscured for a moment by a passing cloud, comes forth more grandly brilliant and triumphant as it marches across the trackless heavens, so will it be with that grand old party whose foundation is the Constitution of our country, and whose mission is the preservation of the rights and liberties of the people.

The Democratic party is of no mushroom growth, and was engendered neither by fanaticism nor bigotry. It was born with the Constitution, and after a protracted and bitter struggle, at the very commencement of this century, it hurled the old Federal party from place and power, and, under the lead of Thomas Jefferson, assumed the reins of Government; which it retained with scarcely a real intermission for sixty years. And, sir, that sixty years of administration will proudly bear comparison with any other in the annals of the world. It came into power in the very infancy of the Republic. Under its auspices our country immediately took up its grand and marvelous march to greatness and glory; the wilderness was subdued and made to put on the garb of civilization, the grand old forest receded, beautiful villages, towns, and cities sprang up as if by magic all over the land, and peace and prosperity brought gladness and joy to every heart and hearthstone. Under its auspices every acre of that vast domain that has been added to the original limits of the Republic was acquired; and under its fostering care our pioneers took up and prosecuted their wonderful westward march, carrying the arts and sciences, civilization and progress, with them from the Atlantic to the Pacific, and from the Lake of the Woods to the Rio Grande. Under its guidance two great foreign wars were successfully prosecuted and our flag and honor vindicated without increasing perceptibly the burdens of the people. Under its auspices our people passed the barriers of the Rocky mountains, took possession of the golden plains of California, and reduced to subjection the Pacific's dark blue waves. Under its care our flag whitened every sea, was kissed by every wind under the whole heavens, and visited every isle that gems the bosom of the ocean. And, sir, during this wonderful career the entire people, in peace and in war, were free.



prosperous, and happy; labor was lightly burdened, and the Federal tax-gatherer was unknown in the land. Liberty, regulated by law, prevailed everywhere; freedom of speech, freedom of religion, freedom of the press, and freedom of person remained inviolate. All these grand results were effected without having erected a single prison or arrested a single prisoner; "without having shed one drop of human blood or wrung one tear-drop from a human eye for a political offense." Political prisoners, military arrests, and state bastilles were things unknown in the land, and Government, like the dews of heaven, dispensed its blessings equally and alike to all. This is the party whose light these malignant defamers would extinguish and whose history they would blot out from the records of the country. As well try to extinguish the sun or eradicate the impress that God Himself has placed on all His works.

#### "THE INTENSELY LOYAL."

These slanders and epithets, so flippantly used against the Democratic party, were originally fabricated and circulated by men who wished to seize the Government that they might plunder and rob the people; men who "put on the livery of the court of heaven to serve the devil in;" in virtue's guise devour the widow's mite and orphan's bread; in holy phrase, transact villainies that common sinners durst not meddle with. Men who, in the name of Union, have labored unceasingly to bring about discord and disunion, in the name of republicanism have nearly achieved a centralized despotism; in the guise of loyalty and patriotism have struck at the vitals of the Constitution, and undermined the foundations of civil liberty; in the name of religion have sown infidelity broadcast, and in the name of charity cry unceasingly for bloodshed and massacre; in the name of honesty have robbed the people of uncounted millions, and in the name of economy have squandered the wealth of the nation; a faction, in short, conceived in sin and brought forth in iniquity, whose whole life has been a lie and a fraud, and whose advent to power was the prelude to every conceivable calamity to the country; whose honesty is speculation; whose economy consists in pocketing the money of the people; whose religion is hypocrisy; whose piety is infidelity; whose Unionism consists in stirring up strife and hatred between the sections; whose charity cries for blood and confiscation; whose love of country is a sham and a mockery; whose devotion to the interests of the soldier is shown by utterly refusing to pay him what is justly his due, and attempting to degrade him to the level of the negro; whose fidelity to the Constitution is manifested by trampling that sacred charter of our liberties under their unhallowed feet; whose political capital is falsehood and defamation, and whose sole principles are sectional domination for the sake of power and plunder. A faction, in fine, that has professed every virtue but to trample upon and outrage it, and denounced every vice while openly and unblushingly practicing it. An adulterous conjunction of the deserters of all parties, held together by the "cohesive power of public plunder;" oppressors of the poor; betrayers of the rights and interests of the soldiers, whose championships they profess to be; deliberate stirrers up of strife, hatreds, and animosities between different sections of our common country; promoters of discord and disunion; false to their own professions, false to God, and false to country, they will be driven from power with the curses of Heaven and of all good men resting upon them.

#### THE DEMOCRACY DURING THE WAR.

From such characters as these we constantly hear the cry of "treason" raised against all who will not quietly submit to their tyrannical domination. Sir, I do not stand here to vindicate the Democratic party. It needs no vindication. The annals of the world furnish no parallel to

the self-sacrificing devotion to their Government of the Democracy during the last few years. Their country precipitated into a bloody civil conflict which they had labored unceasingly to avert; with a party in power in whose devotion to the Union and the Constitution they had no confidence; slandered, hunted down, and imprisoned without the slightest cause, you could not drive from their hearts, you could not even weaken their love of the Union and of the starry flag of their country. Shut out from the emoluments and great prizes of the conflict, they rushed to the front ranks, and wherever the cannon roared the loudest, and the conflict raged the fiercest, there they bared their breasts to the merciless iron hail that rattled around them. Their bones lie bleaching on a thousand battle-fields, while a hundred thousand green graves open their voiceless mouths toward the heavens in silent rebuke of this infamous slander. Go, vile wretch, to these battle-fields, and in the presence of these martyred heroes repeat this slander if you dare. I had many dear friends who went forth to the conflict in all the glory and pride of their manhood, never more to return to their homes, their friends, and their little ones. They sleep now the sleep that knows no waking.

"The trumpet may sound and the loud cannon rattle,  
They hear not, they heed not, they are free from all pain;  
They sleep their last sleep, they have fought their last battle,  
No sound can awake them to glory again."

If any man, in view of these indisputable facts, shall hereafter in my presence repeat these stale and putrid slanders against the men who in 1860 rallied to the Union under the lead of Stephen A. Douglas, and in 1864 under George B. McClellan, I will not denounce him as a liar and a slanderer. I would not violate here any of the rules or proprieties of the House, and indeed would not raise such a defamer to the dignity of a personal altercation with a gentleman. I would pass him by with the same loathing with which I would pass a putrid carcass on the highway, and would leave him to the contempt and detestation of mankind.

#### Imported Wool.

#### REMARKS OF HON. W. LAWRENCE, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

July 23, 1866,

On the bill to provide increased revenue from imported wool, and for other purposes.

Mr. LAWRENCE, of Ohio. Mr. Speaker, the tariff bill which recently passed this House but failed as yet to pass the Senate, provided that "on woolen rags, shoddy, mungo, waste, and flocks, the duty shall be twelve cents per pound." That bill was by no means perfect, but I do not propose to discuss its merits or its imperfections now.

While I would reduce the duty on many of the five thousand articles or more covered by it, yet in one other particular at least I would increase the duty; I refer to the duty on the importation of foreign "woolen rags, shoddy, mungo, waste, and flocks." The bill introduced by my colleague, [Mr. BINGHAM,] and now before the House, makes no change in the existing tariff laws, except in relation to wool in its various forms.

I will not now discuss the policy of protection further than to say, that when a new and struggling branch of industry is essential to our national independence in war and in peace, and is adapted to our capacities and condition, it may not be wise to permit its destruction by foreign competition.

The subject of the duty on foreign wool has received much consideration by the States and the people. The General Assembly of Ohio

on the 9th of March, 1866, expressed the sense of the people of that State in these words:

Joint resolution relative to increasing the duty on imported wools.

Whereas sound policy dictates that every independent Government should develop to the fullest extent all its industrial resources, and not be dependent upon any other Government, whether foreign or adjacent, for any industrial productions; and whereas under many foreign Governments populations have become so dense as to reduce the price of labor to a minimum standard, and therefore are enabled to compete successfully in the United States market on almost all descriptions of manufactured articles, and especially clothing; and whereas American manufactures of clothing materials are never offered in American markets for a sum or at a rate less than the invoice price of foreign manufactures of the same quality and the custom dues or duty added; and whereas wool-growing is an industrial pursuit requiring a large capital, great experience, skill, and care, and, as the Statutes-at-Large now stand, the American wool-growers are compelled to compete with countries where lands are of a nominal value only, and the price of labor at a reduced minimum: Therefore,

Resolved by the General Assembly of the State of Ohio, That our Senators in the United States Congress are respectfully instructed, and our Representatives requested, to secure the passage of such a law as shall secure to the American wool-grower the same protection against foreign competition that is now insured to the manufacturer of either pure or mixed woolen goods.

The Ohio Wool-Growers' Association on the 16th of January last adopted these resolves:

"Resolved, That we approve the policy of terminating the action of the reciprocity treaty between the United States and the Canadas.

"Resolved, That wool-growers' interests are entitled to a degree of legislative protection equal to that accorded to manufacturing interests.

"Resolved, That the interests of the country require an extension of the culture of worsted wools."

I do not propose to discuss the subject of duties on wool, for that has been done by the gentleman from Iowa, [Mr. GRINNELL, March 6,] and by my colleagues, [Mr. ECKLEY, June 9, and Mr. DELANO, August 10.]

There is one topic connected with the interests of the whole country and not the wool-growers merely, which has not been discussed, and to that I will address a few words. I maintain that the duty on the importation of foreign "woolen rags, shoddy, mungo, waste, and flocks" is not sufficiently high. By the existing law the duty is only three cents per pound. I find these terms are not very generally understood; and I may, therefore, attempt to present some definitions of them.

On the 13th of December last, Mr. John L. Hayes, of Massachusetts, in the convention of wool-growers and manufacturers at Syracuse, said:

"In considering this matter, the producer of wool should not overlook the competition with clothing or merino wool of a material which was not known in manufactures until the present century. I refer to shoddy, or rather that variety of shoddy known in England by the name of mungo. The term 'shoddy,' strictly speaking, is the name applied to fiber made from soft rags, from flannels and blankets which were first used in manufacture of cloth. The use of this material originated at Batley, in England, in 1813. Mungo is the fiber obtained from hard rags of fine broadcloth, such as clippings from the tailors' shops. This was not introduced until later, and the manufacturers of Batley were quite incredulous of its being utilized. The Yorkshire man who first conceived the idea of using the fiber of hard rags, obstinately replied to the objection that the material could not be introduced, 'It mun go, (it must go.) It did go, and a new substance was introduced into the arts and a new word into the English language. Of shoddy and mungo sixty-five million pounds are consumed in England, more than our whole clip of wool in 1860. It is estimated that twenty-five thousand persons are employed in converting shoddy into cloth, and that the value of the product is five or six million pounds sterling. The fact, however, to which I wish to call attention is, that shoddy comes in competition with fine or cloth-wool only. It is not used in the manufacture of worsted, and does not take the place of combing wools."

"Flocks" are of two kinds, one being the shearings produced in manufacturing new cloth, while the other is the product of old rags and cloth ground up. Both varieties of flocks are mixed in or felted on cloth to give it weight and fill up, but neither of the varieties can be woven, while shoddy can be, and is woven into goods either mixed or unmixed with wool.

Waste is simply the flyings produced from the machinery in the manufacture of cloth.

HO. OF REPS.

Imported Wool—Mr. Lawrence.

39TH CONG....1ST SESS.

Now, I insist upon an increase of duties on the importation of these articles for several reasons:

1. It is our policy to discourage their importation. They produce woolen goods which, when handsomely finished, may deceive the great mass of purchasers, and yet are notoriously inferior in value and wearing capacity.

During the recent war the soldiers had frequent occasion to complain of imposition practiced upon them by clothing made in part of these imported rags.

Let England, then, manufacture her own rags for her own people, and let us adopt such a policy as will exclude foreign rags, either in the form of rags, or when picked into fiber, or in the form of fraudulent cloth.

2. This foreign trash when imported destroys the business of the wool-grower here. It must be remembered that in the manufacture of cloth a pound of shoddy is more productive than double its weight in wool. Wool loses by washing and scouring, shoddy loses nothing.

Every pound of shoddy imported drives out of the market more than two pounds of wool, perhaps three pounds. Yet foreign shoddy can be imported at a cost in New York of not over ten cents per pound.

If it be wise to levy duties on foreign wool, it is wiser still to levy them on this foreign

fraud. I submit to the House a statistical table showing the extent of the foreign trade in this article. It is thus:

Summary statement of quantity and value of wool and shoddy for four years ending June 30, 1865, imported into the United States.

	Pounds.	Value.	Average price pr. lb.
1862.....	41,598,946	\$6,480,306	15.4 cents.
1863.....	71,917,754	11,772,064	16.3 cents.
1864.....	87,193,462	14,595,140	16.7 cents.
1865.....	40,372,075	6,201,108	15.3 cents.

	Wool on skin.	Flocks or shoddy, lbs.	Total wool and shoddy.
1862.....	-	6,291,077	\$6,922,682
1863.....	-	7,867,601	12,353,208
1864.....	\$148,487	8,133,391	15,365,141
1865.....	108,593	4,863,064	6,720,096

	Pounds.
Wool dutiable in four years.....	251,442,237
Shoddy dutiable in four years.....	27,155,133
Canadian, under reciprocity treaty.....	10,585,559
Total.....	289,182,929

	Value.
Dutiable wool, as above.....	\$39,048,618
Shoddy.....	2,055,519
Wool on skin.....	257,080
Canadian wool, under reciprocity treaty....	4,207,832
Total.....	\$45,569,049

It should be remembered that we have American shoddy, and if it be desirable at all let us patronize the home article. From woollens and

cloths imported and produced in this country, it would seem the supply of shoddy would be more than sufficient to answer every demand required by the real interests of the people.

I have already remarked that I did not propose to discuss in detail the policy of a tariff. That has been sufficiently done. But for the purpose of illustrating this whole subject as affecting the producers, manufacturers, and consumers of wool and woolen goods, I present in this connection statistical tables, prepared with great care, and which I trust will be of value in the consideration of this and kindred subjects. They are as follows:

STATEMENT OF EXPORTS OF WOOL AND WOOLENS. Product of United States.

	Wool, lbs.	Woolen Goods.
1861.....	-	\$237,846
1862.....	1,153,388	296,225
1863.....	355,722	178,434
1864.....	155,482	66,358
1865.....	-	\$81,943

	Wool, lbs.	Woolen Goods.
1861.....	199,226	\$56,432
1862.....	332,953	76,708
1863.....	414,427	109,403
1864.....	223,475	134,634
1865.....	-	120,190

The exports, as heretofore, are of trifling amount. The woolen goods of American manufacture were scarcely deemed worthy of special enumeration until 1864.

Statement of Unmanufactured Wool imported in the year ending June 30, 1862.

Countries.	Wool, pounds.	Value.	Shoddy or flocks, pounds.	Value.
Russia and dependencies.....	292,089	\$36,859	-	-
Hamburg and Bremen.....	203,799	35,037	1,875,930	\$107,300
Holland and Dutch colonial possessions.....	24,730	3,255	51,154	3,044
Belgium.....	1,023,439	157,893	643,904	38,537
England, Scotland, and Ireland.....	16,006,963	2,699,049	3,322,658	271,725
Canada and British North American possessions.....	100,072	11,149	1,135	110
British West Indies and South American possessions.....	44,651	5,007	1,980	125
British possessions in Africa and Mediterranean.....	3,920,257	665,480	-	-
British East Indies and Australia.....	783,670	112,118	-	-
France.....	4,433,429	813,373	391,728	21,651
Spain and Canary Islands.....	425,803	63,525	-	-
Spanish West Indies, Cuba, and Porto Rico.....	94,808	9,680	-	-
Portugal and Portuguese colonies.....	129,275	18,106	-	-
Italy.....	429,793	59,433	2,588	84
Austria.....	112,610	16,983	-	-
Turkey in Europe, Asia, and Egypt.....	3,710,506	392,616	-	-
Mexico.....	31,209	3,560	-	-
New Granada and Venezuela.....	207,417	22,193	-	-
Brazil.....	618,481	88,574	-	-
Uruguay.....	14,061	1,386	-	-
Buenos Ayres.....	5,786,368	838,850	-	-
Chili.....	2,793,501	289,895	-	-
China and Japan.....	7,714	857	-	-
Sandwich and Pacific Islands.....	10,926	1,112	-	-
Liberia and West Africa.....	438,170	78,777	-	-
Canada under reciprocity.....	1,916,785	569,839	-	-
Total.....	43,571,026	\$6,994,606	6,201,077	\$442,376

Statement of Woollens imported in the year ending June 30, 1862.

Woolen cloths.....	4,432,392	pounds valued at.....	\$5,441,719
Blankets.....	6,930,296	" " " ".....	1,945,707
Shawls.....	49,882	" " " ".....	105,925
Woolen and worsted yarns.....	479,558	" " " ".....	372,533
Delaines and dress goods.....	23,133	" " " ".....	17,229
Carpets.....	559,928	square yds. " ".....	466,596
Flannels.....	92,642	yards " ".....	30,798
Felt and lasting.....	-	-	68,485
All manufactures not specified.....	-	-	6,435,412
Total.....	11,915,311	-	\$14,884,394
square yards.....	539,928	-	-
yards.....	92,642	-	-
cost.....	\$14,884,394	-	-

39TH CONG....1ST SESS.

Imported Wool—Mr. Lawrence.

HO. OF REPS.

## Statement of Wool imported during the year ending June 30, 1863.

Countries.	Wool, pounds.	Value.	Shoddy, pounds.	Value.
Russia and dependencies.....	1,758,367	\$275,651	68,412	\$5,470
Hamburg and Bremen.....	356,461	85,690	2,179,508	187,066
Holland and Dutch colonial possessions.....	88,619	11,593	26,186	1,627
Belgium.....	2,988,889	493,312	691,326	45,213
England, Scotland, and Ireland.....	17,619,123	3,384,866	3,652,569	325,382
Gibraltar and Malta.....	598,241	67,341	-	-
Canada and British North America.....	52,872	9,243	15,789	1,125
British West Indies, Central and South America.....	8,610	905	-	-
British possessions in Africa.....	6,711,975	1,179,707	-	-
British East Indies and Australia.....	118,234	16,753	-	-
France.....	9,643,764	1,632,843	1,195,078	62,977
Spain and Canary Islands.....	981,468	152,730	6,055	292
Spanish West Indies, Cuba, &c.....	72,409	11,577	-	-
Portugal and colonies.....	167,903	27,492	-	-
Italy.....	328,284	51,038	13,518	495
Turkey in Europe, and Asia.....	4,213,473	618,776	-	-
Mexico.....	1,226,820	155,450	-	-
South America.....	22,481,521	3,168,434	19,160	1,587
China and Japan.....	19,750	2,287	-	-
Sandwich Islands and whale fisheries.....	38,906	4,954	-	-
Posts in West Africa.....	2,442,065	421,522	-	-
	71,917,754	\$11,772,064	7,867,801	\$581,234
Reciprocity treaty with Canada.....	1,980,053	\$781,867	-	-

## Statement of Woolens imported in the year ending June 30, 1863.

Woolen cloths and shawls.....	4,363,993	pounds.....	\$5,147,404
Blankets.....	1,798,293	pounds.....	1,297,864
Yarn.....	357,967	pounds.....	383,011
	6,520,253	pounds	
Delaines.....	7,672,987	yards.....	1,744,639
Carpets.....	1,092,498	yards.....	1,016,562
Manufactures not specified.....			10,822,145
			\$20,411,625
Total pounds.....	6,520,253		
“ yards.....	8,765,485		
“ value.....	\$20,412,625		

## Statement of unmanufactured Wool and Shoddy imported in the year ending June 30, 1864.

Countries.	Unmanufac- tured wool, pounds.	Value.	Wool on skin.	Shoddy or flock, pounds.	Value.
Russia and dependencies.....	4,645,303	\$801,291	-	-	-
Denmark, Norway, and Swedish West Indies.....	44	3	\$16	-	-
Hamburg and Bremen.....	890,142	106,723	943	1,850,283	\$130,852
Holland colonial possessions.....	16,006	1,615	46	7,989	579
Belgium.....	1,511,347	343,941	-	697,012	51,273
England, Scotland, and Ireland.....	13,099,501	2,715,843	-	4,944,133	379,461
Gibraltar, Malta, and Greece.....	244,678	38,236	-	-	-
Canada and British North American Provinces.....	12,936	2,579	-	44,005	3,654
British West Indies and Central and South America.....	1,101	166	760	-	-
British possessions in Africa.....	13,717,900	2,415,145	100,334	-	-
British Australia and East Indies.....	864,548	177,209	-	-	-
France.....	10,945,299	1,771,423	-	541,200	53,920
Spain and Canary Islands.....	179,722	28,734	-	-	-
Spanish West Indies, Cuba, and Porto Rico.....	5,529	1,255	-	-	-
Portugal and colonies.....	230,914	38,407	-	-	-
Italy.....	1,261,078	65,400	-	48,481	1,756
Turkey in Europe, Asia, and Egypt.....	5,534,693	805,115	-	-	-
Mexico.....	702,676	96,111	392	-	-
Central America.....	114	21	24	-	-
South America.....	31,134,935	4,729,014	32,995	288	19
China and Japan.....	63,069	7,666	-	-	-
Sandwich Islands and whale fisheries.....	169,838	30,272	-	-	-
Other Pacific ports.....	8,522	1,246	1,870	-	-
Other ports in Africa.....	2,455,565	417,735	11,107	-	-
Under reciprocity treaty.....	3,202,642	1,328,851	-	-	-
Total.....	90,396,104	\$15,973,991	\$148,487	8,133,391	\$621,514



## HO. OF REPS.

## Imported Wool—Mr. Lawrence.

39TH CONG....1ST SESS.

## Statement of manufactures of woollens imported in the year ending June 30, 1864.

Woolen cloths and shawls.....	9,855,327 lbs.	\$10,698,035
Blankets.....	2,576,269 lbs.	749,793
Wool and worsted yarns.....	419,928 lbs.	434,549
Delaines and dress goods.....	39,777,952 yards.	10,069,768
Flannels.....	1,208,606 yards.	457,410
Carpets.....	1,508,370 yards.	1,658,380
Felt and lastings.....	-	102,910
Manufactures not specified.....	-	7,963,491
Total woollens.....	32,139,336	
Wool on skin.....	-	148,487
Wool, dutiable.....	-	14,595,140
Wool, free under reciprocity.....	-	1,378,851
Shoddy.....	-	621,514

Total wool and woollens.....\$48,883,328

## Statement of wool imported during the year ending June 30, 1865.

	Pounds.	Value.
Wool at or under 12 cents.....	17,297,247	\$2,012,175
Wool at 12 to 24 cents.....	22,981,168	4,144,262
Wool at 24 to 32 cents.....	31,044	9,318
Wool over 32 cents.....	15,092	8,766
Wool, scoured.....	47,524	26,587
Wool on the skin.....	40,372,075	6,201,108
Shoddy, &c.....	4,863,064	108,598
		410,395
	45,235,139	\$6,720,096

## Statement exhibiting the total quantities and values of manufactures of wool imported into the United States during the fiscal year ending June 30, 1865.

Woolen cloths, wholly or in part of wool, lbs.....	4,573,110	\$5,223,524
Shawls, wholly or in part of wool, lbs.....	28,596	34,295
Blankets, wholly or in part of wool, lbs.....	3,182,650	838,741
Flannels, not colored, value thirty cents or less per square yard, lbs.....	10,630	12,956
Flannels, colored and white, value over thirty cents per square yard, lbs.....	39,773	52,219
Flannels, composed in part of silk.....	-	18,154
Carpets—Wilton, Saxony, Aubusson, velvet, and all Jacquard woven, square yards.....	86,982	129,613
Brussels or tapestry, printed on the warp, square yards.....	235,739	217,375
Treble ingrain, three-ply, and worsted chain Venetian, sq. yards.....	10,055	7,520
Two-ply, ingrain and yarn Venetian, square yards.....	157	86
Druggists, brookings, and felt carpets, square yards.....	40,740	18,170
Carpets of wool, flax, or whatever material, N. O. P., square yards.....	19,611	28,549
Carpets, not specified.....	-	70,346
Yarns of wool or worsted, lbs.....	363,363	393,130
Balmorals and skirting of wool, worsted, or other material, lbs.....	250,823	192,121
Dress goods of wool or worsted, wholly or in part gray or uncolored, yards.....	436,885	97,414

Dress goods of wool or worsted, wholly or in part printed or colored, yards.....	27,794,892	\$7,719,725
Hosiery, shirts, and other knit goods of wool or mixed, lbs.....	152,031	309,968
Bunting, and all other manufactures of worsted, or of which worsted shall be a material, N. O. P.....	-	4,876,590
Felting and endless belts for paper printing machines, lbs.....	83,267	87,213
Hats of wool.....	-	615
(Mats, screens, rugs, &c., as carpets of like material.)	-	-
All other mats of wool and other material, lbs.....	12,726	19,239

## Statement exhibiting the quantities and values of wool and manufactures of wool, of foreign growth, and produce, exported from the United States during the fiscal year ending June 30, 1865.

Wool, unmanufactured, lbs.....	658,582	\$288,501
Cloths.....	-	41,146
Blankets, bales.....	486	21,953
Carpets, yards.....	1,114	1,658
Worsteds and mixed piece goods, yds.....	151,529	72,166
Shawls, yards.....	-	42,449
Wool manufactures not specified.....	-	252,188
Flannels, yards.....	76	64

## Statement exhibiting the quantities and values of wool and manufactures of wool, the growth and produce of the United States, exported to foreign countries during the fiscal year ending June 30, 1865.

Wool, unmanufactured, lbs.....	466,182	\$254,721
Wool, manufactures.....	-	132,544

## Statement exhibiting the Quantity and Value of unmanufactured Wool and Woolen Flocks, Waste, or Shoddy imported into the United States during the fiscal year ending June 30, 1865, and countries from whence imported.

Countries.	Wool on the skin and wool skins.	Wool, value 12 cents per pound or less.	Wool, over 12 and not over 24 cents per pound.	Wool, value over 24 and not over 32 cents per pound.	Wool, value over 32 cents per pound.	Wool scoured, value over 32 cents per pound.	Woolen flocks, waste, or shoddy.
		Pounds.	Pounds.	Pounds.	Pounds.	Pounds.	Pounds.
Russia on the Baltic and North seas.....	-	212,770	\$27,685	258,836	\$54,392	-	-
Russia on the Black sea.....	-	1,086,432	111,166	1,190,441	228,315	-	-
Danish West Indies.....	\$79	4,700	538	682	144	-	-
Hamburg.....	-	-	-	104,495	13,383	-	1,286,731
Bremen.....	1,656	-	-	150	28	-	175,589
Holland.....	-	-	-	-	-	-	6,254
Dutch West Indies.....	140	9,617	1,060	2,430	367	-	851
Belgium.....	-	6,413	851	31,113	6,370	6,704	317,718
England.....	2,408	676,668	74,052	1,298,714	260,495	\$5,212	26,115
Gibraltar.....	-	-	-	71,573	12,638	1,732	2,866,969
Canada.....	-	-	-	-	-	941	256,455
British American possessions on the Pacific.....	-	-	-	-	20	-	1,900
British West Indies.....	851	6,302	646	-	-	-	-
British possessions in Africa.....	55,297	1,027	101	55,388	9,580	-	-
British East Indies.....	-	32,290	3,807	8,279,973	1,529,989	505	-
Australia.....	3,802	138,860	16,611	605,273	127,856	6,059	-
France, Atlantic.....	-	-	-	408,592	90,573	2,293	-
France, Mediterranean.....	-	111,305	15,851	737,290	126,698	92	179,271
Spain.....	-	-	-	234,985	38,506	122	28,632
Portugal.....	-	2,009	131	-	-	-	-
Cape de Verde Islands.....	-	1,874	211	-	-	-	-
Italy.....	-	-	-	63,107	13,892	-	-
Austria.....	-	-	-	32,946	7,527	-	-
Greece.....	-	234,852	26,792	-	-	-	-
Turkey in Europe.....	-	185,007	10,758	-	-	-	-
Turkey in Asia.....	-	353,240	41,589	102,300	20,072	-	-
Other ports in Africa.....	-	645,719	93,198	895,056	154,878	-	-
Hayti.....	20	-	-	-	-	-	-
Mexico.....	1,468	267,969	29,371	81,481	14,851	-	-
Central America.....	9	-	-	-	-	-	-
New Granada.....	-	47,132	4,353	240,020	4,394	-	-
Brazil.....	-	261,982	29,380	615,447	90,644	-	-
Cisplatine Republic.....	2,567	188,364	19,022	975,896	177,979	-	-
Argentine Republic.....	39,470	9,859,618	1,199,056	6,244,271	1,024,697	-	-
Chili.....	-	3,019,861	305,581	342,612	64,614	-	-
Sandwich Islands.....	-	3,236	365	28,497	4,783	-	-
China.....	-	-	-	306	125	-	-
Unenumerated countries.....	826	-	-	294,694	66,672	-	-
Total.....	\$108,593	17,297,247	\$2,012,175	22,981,168	\$4,144,262	31,044	\$9,318
Under reciprocity treaty.....	-	3,486,079	\$1,527,275	-	-	-	-

## Summary statement of woollens imported for four years ending June 30, 1865.

	1862.	1863.
Woolen cloths and shawls.....	\$5,547,044	\$5,147,404
Blankets.....	1,945,707	1,297,864
Woolen and worsted yarns.....	372,523	383,011
Delaines and dress goods.....	17,229	1,744,639
Carpets.....	466,596	1,016,562
Flannels.....	30,798	-
Felt and lasting.....	68,485	-
All others.....	6,435,412	10,822,145
	\$14,884,394	\$20,411,625

	1864.	1865.
Woolen cloths and shawls.....	\$10,698,035	\$5,257,819
Blankets.....	749,793	838,741
Woolen and worsted yarns.....	434,549	393,130
Delaines and dress goods.....	10,069,768	7,817,139
Carpets.....	1,658,380	471,659
Flannels.....	457,410	83,329
Felt and lasting.....	102,910	87,213
All others.....	7,963,491	5,398,593
	\$32,139,336	\$20,347,563
Foreign woollens imported.....	\$14,884,394	20,411,625
Amount carried forward.....	\$35,296,019	

Amount brought forward.....	\$35,296,019
1864.....	32,139,336
1865.....	20,347,563
Grand total.....	\$87,782,918

## Summary of wool under reciprocity treaty in four years ending June 30, 1865, imported from Canada.

	Pounds.	Value.	Cents
1862.....	1,916,785	\$569,839	29.7
1863.....	1,980,053	781,867	39.5
1864.....	3,202,642	1,328,851	41.4
1865.....	3,486,079	1,527,375	43.8
	10,585,559	\$4,207,832	154.4

39TH CONG....1ST SESS.

Rights of Citizens—Mr. Shellabarger.

HO. OF REPS.

DATA FOR PROPOSED DUTIES ON WOOLENS,  
Founded on the following proposition agreed upon by  
the executive committee of wool-growers and man-  
ufacturers, 1860.

2. All manufactures composed wholly or in part  
of wool or worsted shall be subjected to a duty which  
shall be equal to twenty-five per cent. net; that is  
to say, twenty-five per cent. after reimbursing the  
amount paid on account of duties on wool, dye-stuffs,  
and other imported materials used in such manufac-  
tures, and also the amount paid for the internal re-  
venue tax imposed on manufactures, and upon the  
supplies and material used therefor.

Table No. 1.

Four pounds mestiza wool to one pound finished  
cloth.  
Cassimeres manufactured, 77,320 yards; wool con-  
sumed per yard, 32.4 ounces; weight per yard, 8.2  
ounces.  
Doeskins manufactured, 79,606½ yards; wool con-  
sumed per yard, 31.1 ounces; weight per yard, 8.2  
ounces.

Tariff of 1861:  
Duty on wool, 3 cents by 4, equal to 12 cents spec-  
ific duty per pound of cloth; *ad valorem* duty 25  
per cent.

Tariff of 1864:  
Duty on wool, 6 cents by 4, equal to 24 cents spec-  
ific duty; *ad valorem* duty 40 to 45 per cent.

Proposed tariff:  
Duty on wool 10 cents specific, 10 per cent. *ad val-  
orem*; average price mestiza wool, 15 cents per pound;  
*ad valorem* duty on wool per pound, 1½ cents, whole  
duty 1½ cents. Proposed specific duty on cloth, per  
pound, 55 cents; proposed *ad valorem*, 35 per cent.

Basis of proposed specific duty:  
Wool duty paid on one pound of cloth is 46 cents.  
1½ by 4, equal to..... 2.5 "

Duty on drugs, &c., per pound of cloth..... 2.5 "  
Total duty on raw material..... 48.5 "  
Charges on above duty:  
Interest six months, at 7 per cent. 3.5 per ct.  
Commissions and guarantees..... 6.5 "

Total charges.....10 " 4.85 "

Total compensatory duty required..... 53.35 "

Scale of minimums on flannels, blankets, &c.:  
Below 40 cents..... 25 cents.  
From 40 to 60 cents..... 35 "  
From 60 to 80 cents..... 45 "  
Above 80 cents..... 55 "  
Canada wool, average cost..... 45 "  
Duty 12 cents specific, and 10 per cent. *ad  
valorem*..... 16.5 "

Twelve pounds wool to one pound worsted;  
duty therefor..... 33 "  
Charges, 10 per cent..... 3.3 "

Reimbursing duties required..... 36.6 "

Table No. 2.

Basis of proposed *ad valorem* duty, 35 per cent.; 25  
per cent. net duty required for protection of man-  
ufacturer, 10 per cent. duty required for 5 per cent.  
internal revenue tax.

Data for determining above:  
Average weight of ten samples of foreign cassi-  
meres, 9.33 ounces.  
Average cost abroad..... 93.70 cents.  
Custom duties..... 51.47 "  
To cost abroad..... 93.70 "  
Add 60 per cent., cost importation and  
duties..... 74.40 "

Home value.....168.10

Five per cent. on above for internal rev-  
enue tax..... 8.40 "  
Ten per cent. on foreign cost..... 9.30 "  
Increase of duties under proposed tariff. 12.23 "  
Add present home value.....168.10 "

Home value under proposed tariff.....183.33 "

Five per cent. on above for internal rev-  
enue tax..... 9.01 "  
Ten per cent. on foreign cost..... 9.30 "  
Difference......29 "

Basis of specific duty on dress goods and Italian  
cloths:

Wool put 16 yards, 22 inches wide, or 10 square yards  
delaines, weighs 1 lb.

Wool duty 53 cents, requires 5.3 cents per square  
yard; proposed specific duty 6 cents.

Wool put 63-10 yards, 32 inches wide, or 5.6 yards  
Italian cloths, weighs 1 lb.

Wool duty 53 cents, requires 9.64 cents per square  
yard, proposed specific duty 8 cents.

Distribution of duty on cloth of suit of clothes:  
Quantity of goods, 7½ yards.

Average weight cassimeres, 69.98 ounces.  
Average cost abroad, \$7 02.75.

	Present tariff.	Proposed tariff.
Duty on wool.....	\$1 04.92	\$2 01.15
Duty on dye-stuffs.....	10.95	10.95
Charges on duties.....	11.59	21.21
Internal revenue tax at six per cent.....	75.90	81.40
Manufacturer's duty.....	1 82.66	1 63.03
Total.....	\$3 86.02	\$4 77.75

Total amount increase, 97.73 cents.  
Percentage increase on foreign cost of wool, 36.66  
per cent.  
Percentage increase on foreign manufacture, 13.05  
per cent.  
Proportion of manufacturer's duty on suit of clothes,  
average cost \$50, 3.26 per cent.

### Rights of Citizens.

SPEECH OF HON. S. SHELLABARGER,  
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,  
July 25, 1866,

On the bill to declare and protect all the privileges  
and immunities of citizens of the United States in  
the several States.

Mr. SHELLABARGER. Mr. Speaker, I  
regret that the Judiciary Committee, having  
charge of this bill, has not been called since  
the committee agreed to report in favor of this  
measure until now, when it is too late to fully  
discuss this important measure and to pass it  
through both Houses of Congress. It will, I  
I doubt not, be taken up and passed at our  
next session. I here, and now, submit some  
remarks upon the right of Congress to pass  
this bill into a law. I desire, if I can, to at-  
tract to its consideration the attention of my  
fellow-members of this House.

The design of this bill is to enforce that de-  
mand of the Constitution which declares "the  
citizens of each State shall be entitled to all  
the privileges and immunities of citizens" [of  
the United States] "in the several States." The  
bill occupies this single ground, and aims  
at nothing beyond. Its scope is distinct from  
that of the "civil rights bill." That insures  
equality in certain civil rights. This protects  
all the fundamental rights of the citizen of one  
State who seeks to enjoy them in another State.  
The "civil rights bill," therefore, has, in no  
sense, rendered this law unnecessary.

To accurately apprehend what remedies may  
be provided by Congress for enforcing this  
clause of the Constitution some well-settled  
principles in regard to it ought to be carefully  
noted. One of these is thus stated by Judge  
Story. He says:

"The intention of this clause was to confer on  
them," [the citizens of each State,] "if one may so  
say, a general citizenship."—2 *Story's Commentaries*,  
section 1806.

This clause, therefore, enacts that all "the  
privileges and immunities" of a "general" or  
"national" citizenship shall be enjoyed in  
every State by the citizens of the United States.  
Again, it was the design of this clause, as is  
expressed by the court of appeals of New York,  
in *Lemmon vs. The People*, (6 *Smith's Reports*,  
626, 627,) to secure to the citizens of every  
State within every other State the "privileges  
and immunities (whatever they might be) ac-  
cording in each to its own citizens." Judge  
Story (2 *Commentaries*, section 1806) expresses  
this design in these words:

"The intention of this clause was to confer on  
them, if one may so say, a general citizenship, and  
to communicate all the privileges and immunities  
which citizens of the same State would be entitled to  
under like circumstances."

Chancellor Kent (2 *Commentaries*, page 71,) says the same thing in these words:

"If they [that is native or naturalized citizens of  
the United States] remove from one State to another  
they are entitled to the privileges that persons of the  
same description are entitled to in the State to which  
the removal is made, and to none other."

The same thing is decided in *Livingston vs.  
Van Ingen*, (9 *John. R.*, 507) and in numerous  
other cases.

The next proposition touching this clause,  
which is thoroughly established, is this: that  
these words, "privileges and immunities," of  
this general or national citizenship, include and  
embrace at least the following, to wit: "the  
rights of protection of life and liberty, and to ac-  
quire and enjoy property, and to pay no higher  
impositions than other citizens, and to pass  
through or to reside in the State at pleasure;

and to enjoy the elective franchise according  
to the regulations of the law of the State." This I copy from Chancellor Kent's enu-  
meration. (2 *Kent*, s. p. 710.) He takes this  
enumeration of rights from the opinion of  
Judge Washington, in the case of *Corfield vs.  
Coryell*, (4 *Washington's Circuit Court Re-  
ports*, 371,) in which case Chancellor Kent says:

"It was decided that the privileges and immu-  
nities conceded by the Constitution of the United  
States to citizens in the several States, were to be  
confined to those which were fundamental, and which  
belonged of right to the citizens of all free Govern-  
ments. Such are the rights of protection of life,  
liberty, and to acquire and enjoy property, and to  
pay no higher impositions than other citizens, and  
to pass through or reside in the State at pleasure,  
and to enjoy the elective franchise according to the  
regulation of the law of the State."

To this enumeration of fundamental rights  
Story adds what I have already quoted, to wit:  
"all such as citizens of the same State would  
be entitled to under like circumstances."

Whatever confusion there may be (and there  
is some) as to what those local, and not funda-  
mental, privileges are which a State may give  
to its own permanent inhabitants and deny to  
sojourners, (see 2 *Kent's Commentaries*, page  
72,) it is universally agreed that these, which  
Kent enumerates as "fundamental," cannot  
be taken away from any citizen of the United  
States by the laws of any State, neither from  
its own citizens nor from those coming in from  
another State. We have now seen what the  
fundamental rights are which every citizen of  
the United States holds as the gift of his na-  
tional Government, and which neither any in-  
dividual nor any State can rightfully deprive  
him of.

Our next and principal proposition is that,  
as these rights grow out of and belong to na-  
tional citizenship and not out of State citizen-  
ship, and as the Constitution expressly enjoins  
that every citizen of the United States "shall  
be entitled" to them "in the several States,"  
therefore it is within the power and duty of  
the United States to secure by appropriate  
legislation these fundamental rights. And, in  
entering upon the statement of this point, it is  
proper that I should here state that, in order  
to avoid every doubtful exercise of power by  
the United States, and not to assume or trench  
upon the powers of the States, this bill has  
been carefully limited in the following partic-  
ulars and ways:

1. It protects no one except such as seek to  
or are attempting to go either temporarily or for  
abode from their own State into some other.  
It does not attempt to enforce the enjoyment  
of the rights of a citizen within his own State,  
against the wrongs of his fellow-citizens of  
his own State after the injured party has be-  
come or when he is a citizen of the State where  
the injury is done. This is because the bill is  
confined to the enforcement of this single clause  
of the Constitution. Without determining what  
further powers the Government may have in  
enforcing rights of "national citizenship" in  
favor of all its citizens, without regard to the  
fact of their passing from one State into an-  
other, it was thought best to make this act single  
and compact in its scope and structure, and to  
that end to confine its provisions to the single  
object of seeing that this clause of the Con-  
stitution was executed throughout the Republic.  
In *Abbott vs. Bailey* (6 *Pick. R.* 92) it is de-  
cided "that the privileges and immunities of  
'the citizens of each State,' in every other State  
can, by virtue of this clause, only be applied in  
case of a removal from one State into another."  
To conform the bill to this view of this constitu-  
tional provision, it was deemed best to limit it  
in accordance with that decision, and to make  
it secure to all the people those great interna-  
tional rights which are embraced in unrestrained  
and secure inter-State commerce, intercourse,  
travel, sojourn, and acquisition of abode.

2. As a consequence resulting from the last  
stated legal idea, the criminal provisions of this  
bill are so framed and drawn that no offense is

created by it at all, unless it shall be proved (in addition to the proof of the other facts required by the common law, or by the other provisions and terms of this act, to be established to make out the offense charged) that the act was done with the criminal intent of preventing the injured party from enjoying the invaded right in the State where he is injured. In other words, the act creates no offense of which the United States can take jurisdiction, unless the intent is proved, to prevent an American citizen from sojourning or staying or taking up abode or from doing business and the like in that State, or, what is the same thing, in that part of it where his interests and choice lead him to attempt the exercise of these privileges. The act, therefore, does not attempt to punish an ordinary wrong, such as murder, assaults, &c., of which the States have jurisdiction. It only attempts to see to it that the citizens of the United States shall have what it is solemnly and expressly declared by their national Constitution they shall be "entitled to in the several States."

With these preliminary remarks, I now wish to condense into the shortest possible space a statement of the authority for saying that Congress can pass a law enforcing this right. The first authority I introduce in support of the bill is the fact that Congress has already exercised its legislative power in enforcing this identical clause of the Constitution. This was done in a way which asserts the power of Congress to enforce the rights of citizens, as secured by this clause, more emphatically, if possible, than this bill does, because it was done in the repeal or abrogation of a clause of a State constitution which seemed to invade the privileges guaranteed by this clause of the Constitution of the United States.

By a joint resolution of March 2, 1821, (see 6 United States Statutes, 645,) it was declared that the State of Missouri should be admitted into the Union—

"Upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of her constitution 'shall never be construed to authorize the passage of any law, and no law shall be passed in conformity thereto, by which any citizen of either of the States of the Union shall be excluded from the enjoyment of any of the privileges or immunities to which such citizen is entitled under the Constitution of the United States.'"

These are the words of this act, and the Legislature was required to assent to it. Now, it will be seen that Congress solemnly enacted for the entire future of the State of Missouri that "no law shall be passed" by which any citizen of either of the States of the Union should be excluded from any rights of citizens of the United States as secured by the Constitution. And this statute is yet in force. By this memorable act of Congress, passed in that first great contest of the free spirit of our Constitution with the despotism of slavery, it was settled, and has ever since by its continuance in force stood confessed that it is the duty of Congress to secure, by appropriate legislation, to the citizens of each State the privileges of the American citizen in the several States.

I next refer to legislation by Congress enforcing other provisions of the Constitution, the validity of which legislation has been established by decisions of the courts, by the settled practices of our Government, and by the common consent and acquiescence of the people; but which depends for its validity upon identically the same principle as the bill before the House depends upon. The bill before the House rests for its constitutionality upon two propositions of constitutional law, both of which are now so firmly established as to have become postulates in discussions determining upon the validity of an act of Congress. One of these the Supreme Court of the United States expresses in the case of *Jones vs. Van Zant*, (5 Howard, 229, 230,) in these words. The duty is upon the Government—

"Of enforcing, by appropriate legislation, every

constitutional provision, whether in favor of itself or others. This grows out of the position and nature of such a Government; and is as imperative in cases not enumerated specially, in respect to such legislation, as in others."

The other postulate is thus expressed in *United States vs. Fisher*, (2 Cranch, 358:)

"The power to make all laws necessary and proper to carry into execution the powers granted confers on Congress a choice of means and does not confine it to what is indispensably necessary."

If these two principles do not embrace in them the power and duty of "enforcing, by appropriate legislation," that supremely important and imperative provision of the Constitution which declares, the citizens of the United States "shall be entitled to all the privileges of such citizens in the several States," then we have no power to pass this, or, indeed, any other law enforcing any provisions of the Constitution in any "case not enumerated specially in respect to such legislation."

Let us now look at some of the laws which this Government has kept in force during all its existence, and which rest for their validity upon no express grant of power to Congress to enact the law, but upon the—

"Duty of Congress, by the aid of appropriate legislation, to enforce every constitutional provision."

A duty which—

"Is as imperative in cases not enumerated specially in respect to such legislation as in others."

Justice Story declares that—

"The various instances in which Congress, in the progress of the Government, have made use of incidental and implied means to execute its powers it is almost impracticable to enumerate, if it were not useless. They are almost infinitely varied in their ramifications and details."—2 *Story's Constitution*, 145.

Indeed, a glance at the subject will show that those acts of Congress which rest alone for their validity upon the implied powers of the Government compose almost, if not quite, a majority of all the acts of Congress ever passed. There is no express power given in the Constitution to erect forts or magazines or light-houses or piers or buoys or public buildings or to make surveys of the coast. (2 *Story*, 145.)

There is no power expressly given to Congress to acquire territory or to make a government for or exercise jurisdiction over any Territory, (2 *Story*, 144;) nor to bring any suit, (*Id.*;) nor to make any contract, (*Id.*;) nor to create any corporation, (4 *Wheaton*, 409;) nor to make any military road, work, or defense whatever; nor any custom-house; nor to remove an obstruction from or to improve any harbor or navigable river; nor to lay embargoes, (2 *Story*, 170, and 5 *McLean*, 426;) nor to establish a military or naval academy; nor to secure exemption to nor protection of the officers of the United States, (2 *Story*, section 1246;) nor to protect any property of the United States; nor to punish crimes by citizens committed on ships-of-war; nor to punish robberies or other crimes against the United States mails; nor even to provide for carrying the mails. (3 *McLean*, 393.) You have no express power by the Constitution to protect the sessions of this body, nor to punish any breach of its privileges.

Such a mere glance at the subject shows how vast, both in number and importance, are the subjects as to which this Government's powers exist only by implication. The very first act of Congress ever passed was dated 1st June, 1789, and related to the vital matter of providing for the administration of oaths of public officers; and its constitutionality was denied, (2 *Story*, 166,) because there was no express power to enact it. What is said with so much emphasis by Justice Story (*Constitution*, section 1255) was very early in our history found to be true, to wit, that the provision of the Constitution enabling Congress "to make all laws which shall be necessary and proper for carrying into execution" the provisions of the Constitution, was necessary

"To remove all possible doubt respecting the right to legislate on that vast mass of incidental powers which must be involved in the Constitution if that

instrument be not a splendid pageant or a delusive phantom of sovereignty."

There is besides the power of Congress arising out of that clause just cited, another sort of implied power which has been called with great propriety a resulting power arising from the aggregate powers of the General Government."—2 *Story's Constitution*, section 1255.

This general statement about the implied powers of the Government is made to show how utterly idle it is to say that it is unconstitutional to pass a law enforcing the express provision of the Constitution that the citizens "shall be entitled" to their rights in all the States merely because the Constitution does not say in express words that Congress may pass a law on that subject. What I have said shows that probably half the laws ever passed by Congress would be rendered unconstitutional by such a rule; and it also shows that this bill rests upon the same authority which supports a vast mass of the legislation of the United States.

But, Mr. Speaker, for the purpose of showing how impregnable are the foundations of this bill, in the authorities of the Constitution, and to make the assurance of its validity doubly sure, I wish now to refer to cases where the Congress has exercised the power to enforce the provisions of the Constitution by criminal enactments, which, in principle, are not distinguishable from this bill. I will take only a few.

There is no power given to Congress to pass a law punishing any offense by one not in the service of the United States for a crime committed upon a ship-of-war. (2 *Story*, sec. 1256.) And yet the right to pass such a law is as well established as the Government itself. (3 *Wheaton*, 388; 7 *Cranch*, 156; 2 *Peters*, 439.) Or take the case of the act of July 7, 1836, section twelve, (Brightly, 203,) imprisoning in penitentiary for not over ten years every person employed on any steamboat, by whose misconduct any person's life is destroyed, and this, too, although the act may be done upon any water within the criminal jurisdiction of the States. There is nowhere any express power to pass such a law. And yet the courts have held invariably what Judge McLean says in *United States vs. Warner*, (4 *McLean*, 469,) that "this is a subject clearly within the power of Congress." (See 5 *McLean*, 242; *Wharton on Homicide*, 507.) The authority for this criminal legislation by which the United States punishes men for crimes committed in the body of the States, and where the States can try and punish the same persons for the same acts, is only to be found by implication as arising out of that clause of the Constitution which authorizes Congress "to regulate commerce among the several States." (9 *Wheaton*, 1—*Gibbons vs. Ogden*.)

Or take the twentieth section of the act of 3d of March, 1825, (4 *Statutes-at-Large*, 121,) punishing the uttering of foreign coin made in the similitude of the coin of the United States Mint. There is no express power to pass such a law to be found anywhere in the Constitution. In the case of *United States vs. Marigold* (9 *Howard*, 568,) the Supreme Court of the United States says that the clause authorizing the punishment of counterfeiting coin does not embrace the offense of uttering such coin, and then proceeds to trace and find the power of Congress to punish the uttering of such coin to be not expressly given in the Constitution, but only to arise incidentally out of either one of the two clauses, to wit, that relating to the regulation of commerce, or that authorizing the coining of money. Upon this subject the Supreme Court uses this language, to which I beg attention:

"Congress had the constitutional power to pass this law. Under the power to regulate commerce, Congress can exclude, either wholly or partially, any subject falling within the legitimate sphere of commercial regulation, and under the power to coin money and regulate the value thereof Congress can protect the creature and object of that power."

We have seen that the fundamental rights



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of national citizenship are the "creatures" of the American Constitution. Shall we be told that this "creature" is of less value or less entitled to demand the protection of this Government than the coin in which the Government makes? If not, then indeed may Congress protect this "creature and object of its power." It must be here noted again that this act of Congress punishes this act of uttering counterfeit coin within the body of the States, and this, too, although the State may punish the same man for the identical act for which he had been already indicted and punished under this act of Congress. This is because the same act may be a violation of the laws of both governments, the State and the national. This has been expressly decided in the Supreme Court of the United States in several cases: *Fox vs. Ohio*, 5 Howard, 410; *Moore vs. Illinois*, 14 Howard, 13. I submit that it is beyond the powers of reason, logic, or law, to show how it is that the power to regulate commerce between the States enables the United States to punish as crimes negligent acts of steamboat officers, and the uttering of spurious foreign coin, and that, too, within the jurisdiction of the States, and yet that logic be able to show that the constitutional enactment that United States citizens "shall be entitled" to these national privileges and immunities gives no power to Congress to carry out this provision of the Constitution.

It may be said that the difference is in the fact that the Constitution says expressly that Congress shall have power to regulate commerce, to coin money, but that it does not say that Congress shall have any power upon this subject-matter of the rights of citizenship. I answer this in two ways. First, I answer it by a direct denial of the assertion that the Constitution does not expressly give to Congress power to legislate upon any matter as near akin to these rights of citizenship as is the preservation of life upon steamboats akin to the regulation of commerce. I assert that the entire subject-matter of this bill is far more directly and plainly within the power to regulate commerce between the States than is negligence on steamboats or uttering spurious coin with the scope of that clause. What kind of commerce could there be between the States if the hostility of either the laws or of the individuals of the States were permitted to exclude men of other States from passing into or through, or sojourning in or doing business in such hostile State? Is it not absolutely self-evident that if this clause as to the privileges and immunities of citizens in the several States did not exist in the Constitution, yet all the powers assumed by this bill would amply exist in the other provisions of the Constitution?

But, Mr. Speaker, I now turn to the presentation of an argument which is utterly conclusive of this and every other objection to the constitutionality of this bill. It is this: that other provisions of the Constitution which, like the one upon which this bill is framed, merely declare rights to exist, but as to which no express grant of power to legislate for their securement is contained in the Constitution, have been held, by conclusive and overwhelming authority, to be capable of being enforced by both the civil and criminal legislation of Congress. Let us look at one of these. Take that second clause of the second section of the fourth article of the Constitution touching fugitive slaves, which is in these words:

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

There is no provision anywhere in the Constitution that Congress shall have power to pass any law, civil or criminal, to prevent "any law or regulation" of a State from discharging a person owing service; nor compelling such person owing service to "be delivered up to

the party to whom the labor is due." If there be any power to enforce, by legislation, this right to the person owing service, then it is merely an implied power, arising out of the assertion in the Constitution of the existence of the right. And this clause too is one where the Constitution designed to prevent one State, and its people, from taking away the constitutional rights of citizens of other States. In this respect it is like the clause on which this bill is founded. It is impossible to conceive of a principle upon which can be rested the claim that civil and criminal laws of Congress can be enacted and executed within the States, as valid and constitutional, enforcing this provision of the Constitution in favor of slavery, and yet it be unconstitutional, by civil and criminal laws, to enforce in all the States the rights of liberty which inhere in American citizenship.

Now, what has been the action of your Government touching the enforcement within the body of the States of this clause as to fugitive slaves? The fugitive slave law of 1793, in the fourth section, punished as an "offense," and by fine, any one who willfully obstructed the seizure of the slave, or who concealed such slave; and the other sections provided for that seizure, &c. The law of 1850 also enforces, by highly criminal provisions, this clause of the Constitution. It would be an abuse of the intelligence and patience of the House to detain it by a review of the decisions of the States and of the nation sustaining the constitutionality of the laws. I shall, however, enumerate a few of the leading cases for the purpose of showing how utterly irresistible they are in authority and how overwhelming in number. As both the law of 1793 and 1850 contained penal and civil remedies enforcing a constitutional right, as to which the Constitution gave no express power to Congress to legislate, both acts are identical in asserting the vital principle upon which this bill rests; and the cases which I enumerate sustaining the one or other of these laws are equally applicable to this measure, and directly affirm the principle on which it rests.

The following are some of the cases where this power of Congress to enforce, by proper legislation, any constitutional right, although the right is not one of those "enumerated especially in respect to such legislation:"

The case of *Glenn vs. Hodges*, 9 Johns, 67, decided by Chancellor Kent and others in 1812.

The case of *Wright vs. Deacon*, 5 S. & R., 64, decided by Chief Justice Tilgham in 1819.

The case of *Commonwealth vs. Griffith*, 2 Pick., 11, decided by Chief Justice Parker in 1823.

The case of *Lock vs. Martin*, 12 Wend., 314, decided in 1834.

The case of *Kauffman vs. Oliver*, 10 Barr., 517, decided in 1848.

The case of *Jones vs. Van Zant*, 5 Howard, 229, decided by Supreme Court of the United States in 1847.

The case of *Commonwealth vs. Aves*, 18 Pick., 219, decided in 1836.

The case of *Bushnel*, 9 O. S. R., decided in 1859 by the supreme court of Ohio.

The case of *Thompson*, 11 Ill., 332, decided in 1849.

The case of *Graves*, 1 Ind., 369, decided in 1849.

The case of *Sims*, 7 Cush., 285, decided by supreme court of Massachusetts.

The case of *Grigg vs. Pennsylvania*, 16 Peters, 539.

But, sir, it is unnecessary further to state cases. They are to be found in the decisions of the supreme courts of every State and of the United States; and have been repeated by these just as often as the question came before them. Every one of them affirms the power of Congress to pass civil and criminal laws enforcing in the body of the States and in the Federal courts, a right secured to the citizen

by the American Constitution; and this although there is no express grant of power to Congress to legislate upon the subject.

If these cases do not establish this right of legislation, then nothing can be established in our system of Government. It may be objected that anti-slavery men deny the constitutionality of the act of 1850, and some that of 1793. Some of the provisions of the act of 1850, if the question were a new one, I think would be, and ought to be, held unconstitutional, such as that depriving men of a jury trial. To these provisions the great mass of the constitutional objections of anti-slavery men have been directed. Comparatively few, perhaps none, denied that single distinct principle for which I contend, and upon which this bill rests its constitutionality, and which I again repeat in the words of the Supreme Court of the United States, in 5 Howard, 229, that it is the duty of the Government to—

"Enforce by appropriate legislation every constitutional provision, whether in favor of itself or others. This grows out of the position and nature of such a Government, and is as imperative in cases not enumerated specially in respect to such legislation as in others."

But, Mr. Speaker, suppose these decisions affirming this power to legislate for the enforcement of the constitutional rights of the people are not such as ought to have been made, yet they have been made, and the principle has become the settled law of the country. Shall it be endured, sir, that after slavery has for seventy years asserted and used these powers in its service, freedom and the highest rights of the citizen shall be denied them the moment they are first sought to be employed in their service?

In the solicitude which was felt to avoid every assumption of powers of doubtful constitutionality, and to secure the best attainable forms and terms of legislation in execution of this clause of the Constitution, this bill was submitted to the careful examination of the Attorney General of the United States. He kindly submitted some suggestions in writing as to some of the details of the bill, which have been adopted into the bill as reported to the House. I understand that the Attorney General of the United States approves this bill, both as to its constitutionality and necessity.

And here, Mr. Speaker, I leave this measure, submitting it to the careful deliberation and judgment of Congress. I would gladly hope that it might meet with the unanimous approval of both Houses. The power to pass it into law is plain and unquestionable. It aims at no sectional or partisan purposes. Its benefits, like the beneficences of all good government, are meant for all the people alike. The high and the lowly, the weak and the powerful, take of its protection. It is for the East and the West, the North and the South. All of the States and all of the people thereof will alike enjoy the protection it affords. Each child of the Republic, wherever he may go, however alone, frail, or defenseless, may by his touch start into action the provisions of this short and simple law, and instantly he is neither alone, frail, or defenseless, but has summoned to him the sublime presence and power of his Government, all of whose energies that touch has started into irresistible force and activity for his safety.

The necessities which demand the enactment of this law are so obvious, of such permanent duration, and are so overwhelming as to make the presentation of them now and here an improper consumption of the time of the House. Since the period of modern civilization, I know of no nation which has presented such a spectacle as our own. I know of no other in whose dominions was embraced an area large as half its territories which had become to near one half its own citizens a *terra incognita*. In our country there came to be a land into which its own children could not go and live. In that land for a quarter of a century could not

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## Basis of Representation—Mr. Schenck.

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be safely uttered that sublimest aphorism of our own national faith, and the very one with which we had propitiated the ear of Heaven in our imprecations for national life, "that all men were created equal." It was a land made of Heaven, rich and beautiful as the vale of Cashmere; but whose moral terrors had become as deadly as the fabled horrors of that land of the Britons where the ground was covered with serpents; the air such that none could breathe it and live; whither fishermen ferried goblins at midnight, and where the speech of the dead was constantly heard by the mariners. It was a land where the best precepts of Wilberforce and Washington could generally not be uttered with safety to life; and where that last, best petition sent by Franklin to the American Congress could be whispered neither by men nor by the children, neither in the ear of nation nor of God; a land where the experiences of the citizen who would avow or would not discard the best precepts of his own national faith and religion can, without exaggeration, be told in that strangely sublime recital of the sufferings of the good men of other ages who suffered tortures, cruel mockings, and scourgings, bonds and imprisonment; who were stoned, sawn asunder, slain with the sword; who wandered in deserts, mountains, dens, and caves of the earth, being destitute, afflicted, tormented.

And now, Mr. Speaker, since the people have poured out an offering of blood such as Liberty never had before upon her altars, to the end that the people might be free and safe throughout our country, the heart of the nation is again already sinking and sickening at the reappearance of that same reign of violence and terror which so cursed the land before. The sad and unwelcome fact is again being forced upon the attention of the nation that its own truly loyal citizens cannot safely dwell or go into all parts of their own country. It is becoming more manifest each day that the higher the evidences of the citizen's loyalty to his country, and the greater his sacrifices of blood made for that country, the less secure these citizens are now in attempting to abide in or even to go into vast portions of the country which their own blood has just delivered. In this Hall where I now speak, and within a few days of the time when I speak, one who was once a member of this House, and later a provisional governor of his State, and whose deserved eminence comes from his unconquerable loyalty, startled you and the country by the announcement that he could not return with safety to his home because that treason had prohibited his abode in the State of which he is the most illustrious patriot.

Another sad proof of this return of the reign of proscription and of murder has just been taken in Vicksburg under the order of this House. Its horrid enormities, in the massacre of a defenseless people, in the exposure and mutilation of their dead bodies, in the burning of their homes, schools, and churches, make one of the darkest pages in the annals of barbarism.

Sir, in every country and in every age the grave of a nation's soldiery has been the nation's shrine—a shrine whither science and art and song have ever repaired as rivals, emulous to bestow their choicest treasures; a shrine where gratitude and religion have sat together watching as sleepless vestals forever; a shrine where—

"Honor comes, a pilgrim gray,  
To deck the sod that wraps their clay."

But, Mr. Speaker, already to-day, when the first daisy which God planted upon the grave of the American soldier is scarcely dead, their comrades dare not go thither to strew them with new flowers because treason and an officer of the American Army forbid it. Sir, from nearly every part of that beautiful land—land of the orange and the magnolia—the soldier of the Republic and the friends of your Government are being driven to-day.

Mr. Speaker, the nation must protect its citizens or else perish. Refuse or fail, and your country sinks into the deserved contempt of the nation, and of its own people. In that contempt, should it come—which Heaven in mercy forbid—the Republic will find its grave.

Members of the Thirty-Ninth Congress, I entreat you to pass the bill. In it help to complete that circle of constitutional and legal defenses which the new nation must have. Fellow-members, may it be our peerless honor to provide these defenses. Let them be made, in their amplitude, their strength, their virtue, and their adaptation, not in the interests of a single race, government, continent, or age; but in the interests of humanity, God, and the ages. And then, in that circle of laws, when complete, protecting everywhere all the rights of all the people, behold that shield of the nation, beautiful and indurant as the shield of Achilles; part of the

"Arms which the Father of the fires bestowed  
Forged on th' eternal anvils of the god"—

a shield which shall cover the nation's head as well in the hour of peace as of battle, as well in the day of prosperity as of disaster. For you have covered the nation's head when you have covered the head of her children.

## Basis of Representation.

SPEECH OF HON. R. C. SCHENCK,  
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 24, 1866,

On the proposition to amend the Constitution of the United States, establishing the basis of representation.

Mr. SCHENCK said:

Mr. SPEAKER: I do not propose to address the House at any length on the subject we have now before us; but I do regard this discussion as in every sense a most interesting and important one. Early in the debate, if I could have obtained the floor, I should have been glad to enter into the matter somewhat at large. I propose to confine myself to some two or three remarks on the condition of the question, and on the two antagonistic schemes presented for remedying what is admitted, at least by all on this side of the House, to be a great evil.

It is not a new thing for me, sir, to feel an interest in this subject. By the present Constitution of the United States there is a provision for an unequal system of representation which, now that slavery, the cause of it, has gone, we propose also to get rid of. This evil was felt long before slavery was itself, by the late amendment to the Constitution of the United States, abolished throughout the whole broad expanse of this land; and if I may be permitted to refer to my own part in the treatment of this question, at a day much earlier than this, I will show by reference to an argument which I submitted seventeen years and a half ago in the House of Representatives of the United States I manifested, for once, a determination I felt then, in common with others, that this evil of unequal representation should be spread no further; just as upon the same principle I would now get rid of it altogether.

I will, at the risk of being considered egotistical in repeating myself, send up to the Clerk's desk a short extract from a speech I made here the 1st of August, 1848. A bill was then pending and under consideration to organize a government for Oregon, a territorial government. During the discussion of that bill it was proposed by a gentleman from the South, then a Representative upon this floor, to amend so as to authorize the carrying of their property into Oregon. I was among those who would not object to the taking of property there, including slaves held as such by the laws prevailing in certain sections of the Union, because I well understood, or believed, that the act of taking slaves to Ore-

gon would be of itself their manumission. This suggestion brought another gentleman from the South to the aid of his friend, who moved further to amend by a provision that all property carried there should still be held as property. On this sprung up a long debate, involving the whole policy in regard to the Territories in connection with the exclusion of slavery from them and the effect of carrying slave property into what was the common heritage and under the common jurisdiction of the national Government. I ask the Clerk to read the paragraphs I have marked from that speech.

The Clerk read, as follows:

"But, sir, regarding this as a political question purely, or one, if you will, of political power, there is a thing connected with slavery to which we cannot and will not be blind. It is the advantage in Federal representation which it gives. This much we do know in the free States, if we know nothing else; that a man at the South, with his hundred slaves, counts sixty-one in the weight of influence and power upon this floor, while a man at the North with his hundred farms counts but one. Sir, we want no more of that; and, with the help of God and our own firm purpose, we will have no more of it. Therefore, above all, it is that we want no more slave territory. That is a sufficient and conclusive reason, if there were no other; and it might as well be distinctly understood first as last. I am for no Missouri compromise, nor for compromises on this subject of any character. I want the principles of the great ordinance of 1787, prohibiting slavery, extended over all the territory owned or acquired by us. I would to God there had been no such acquisition. I have opposed, in all my time here, from the beginning, every scheme of annexation and all forms of territorial conquest and extension; but when, by the greater power of others, such acquisition comes, I am determined that with my vote there never shall come with it anything but free and equal institutions."

"Sir, shall I illustrate, to show that we understand this matter? There is the district of the honorable gentleman from South Carolina who would amend so as to extend slavery into Oregon. I have not consulted the census to see how it may be in his particular case, but he probably represents some five, or six, or eight thousand voters. Now there are about eighteen thousand voters in my district—eighteen thousand free white male adult citizens. These eighteen thousand freemen have one voice and one vote—I would it were an able one—on this floor. The five thousand or eight thousand in South Carolina have the same. On every bill or resolution, or other subject of legislation here, the eighteen thousand in Ohio can say ay or no once and no more, while one third or one half that number in South Carolina have also their ay or no. We do not complain of this. I wish it were not so. But so it was arranged, so agreed that it should be, by our fathers when they framed the Constitution; and we will hold by that agreement in all good faith, and submit to it as part of the price paid for this Union. But let there be no more slave territory, to make more slave States, to give us more of this slave representation and inequality of weight in the councils of the nation."

Mr. SCHENCK. Those were my opinions then, entirely coincident with what I think and feel now, with this difference, that then slavery existed. Then we could only guard the Territories in such manner as to exclude from them an institution which should build up more of the unequal relative representation already provided for among the States under the Constitution. Now, sir, another time has come. Dissatisfied with the condition of things as then existing, dissatisfied with the constitutional guarantees they had, dissatisfied with the spirit exhibited by the free States, which only asked that slavery might be extended no further, but were willing to stand by the Constitution and not infringe upon any of the rights secured locally or sectionally to the people of the South, these slave States rushed into war to get something better. The consequence has been that instead of getting further and greater securities for slavery, instead of being able to carry out their purposes of aggression upon freedom and upon the free States, their whole institution has come tottering down, thank God! and we are now standing here in our places to determine what provisions we shall make in the midst of the ruin of their favored system so as to prevent the perpetual mischiefs which it carried with it while in existence.

Whatever was said, therefore, at that time with regard to Territories is to be said now with regard to States. There is no longer any slavery, and there being no slavery, we ask that along with the institution which was the cause of this unequal representation the unequal representation itself shall be utterly wiped out.

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I need not go into any remarks in relation to the great evil we are called upon to remedy. I will but submit a single illustration, among many others which I was accustomed to present to my constituents and friends at home when addressing them during the past season in relation to this matter. I felt that now, as has been so properly said by the gentleman from Illinois, [Mr. Cook,] the "golden opportunity" had come, and that it must not be permitted to pass without improving it—now that we have the power to stretch our strong hand over it and ask the States to unite with us in abolishing the injustice altogether and forever. It was for this reason, with a view to prepare, as far as in my humble endeavor I might, the public mind for accepting a proposition of this kind, to be made in Congress, or having already been made in a former Congress, to be insisted upon and put in some practical shape when we should be assembled here again, that I presented the subject, as I said, to my people at home. Among the illustrations I say I will refer to but one to show what the great magnitude of that evil of unequal representation has been hitherto.

By looking at the results of the census taken in 1860 I find, among other facts equally extraordinary illustrating this inequality, this to be true in relation to the State of Pennsylvania, as compared with portions of the South. You cannot take the State of Pennsylvania and compare her with any other one State of the South. It is not worth while now to discuss why the South, in wealth and in population, has not increased and prospered as the free States have done. It is not worth while to inquire now, for all this has been sufficiently discussed and reflected upon, how far the institution of slavery has been a dead weight carried by the States of the South, nor how it has prevented their growth and prosperity in wealth and population. The fact, however, stands recorded, proved by your census, that when you come to compare Pennsylvania with any portion of the South in relation to the number of the white population, you are compelled to take half a dozen or more of those States in order to make that comparison, because there is no one of them that may be put in opposition to the State of Pennsylvania. By the census of 1860 Pennsylvania is found to have a population of 2,849,266. That is, of course, all free population. The States of North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, and Louisiana, seven of them, all taken together, have a free population of 2,829,785, being twenty thousand less than Pennsylvania has alone. Take them, however, as if they were equal, then how do they stand? Two million eight hundred thousand people in Pennsylvania, under the Constitution of the United States, are represented by two votes in the Senate and by twenty-four votes in this House; those seven lately slave States, with twenty thousand less free and white population, under the present form of the Constitution, have their fourteen Senators and thirty-nine votes in the House of Representatives.

Now, so far as Senators are concerned, no objection is to be taken. The Senate may be regarded as that aristocratic feature in our system which provides that one branch of the Legislature shall be composed of representatives of States, thus putting the smallest States upon an equality with the largest, in order to the protection of the former. But when we come to the House of Representatives, where equality of representation is maintained, or ought to be, under that old system we find that a population which, in these seven slave States, gives thirty-nine votes to them, gives only twenty-four to Pennsylvania. That, then, is the evil. It might be exemplified by a comparison between South Carolina and some northern States in a still more extraordinary degree while the Constitution of the United States remains in its present form. This comes of counting three fifths of the slave population and adding it to the other population in order to make up an artificial basis of

representation. Now that you count the other two fifths, you go on to increase the representation of these seven States and others that were slave States, without affecting in any perceptible degree the right of representation of those that, being already free, remained also loyal in the war which has ended in the destruction of slavery.

We are then agreed, I believe, that there is an evil to be remedied. There certainly can be no discussion upon that point on this side of the House. It is true, the gentleman [Mr. Marshall] who has just taken his seat, representing in part the great State of Illinois, speaks of us, because we desire to remedy this evil, as a revolutionary party; he speaks of us as rushing upon experiments which are abominable in their character, and at a time when no attempt to amend the Constitution should be made. Sir, I will not stop to answer remarks of that kind. If we are a revolutionary party, we are only revolutionary in the direction of freedom and equality; and it does not become a Democrat, as the gentleman improperly calls himself, to object to us on that account. If we are revolutionary, we are revolutionary only in the interest of humanity, and we have no sympathy with rebels at the South who clung with such tenacity to everything that made them tyrants and oligarchs, depriving a large part of their population of a portion of their natural rights. If there be any sympathy with those, it is not to be found in our breasts, however revolutionary may be our character. I leave it to the gentleman and those who act and think and feel with him to say whether they have or have not cooperated with any such party as that.

This, then, is the evil which we desire, under the forms of the Constitution, without resort to revolution, but by the use only of the means provided by that instrument itself, to remove, by submitting to the people the question whether they will apply that remedy which we think it now a good time to propose to them. We find ourselves divided in opinion, not with reference to what is to be cured, but as to the best mode of making that cure. On some accounts I regret that there should be this division of opinion among those of us who are disposed to get rid of this anti-democratic inequality of representation, now that the cause for it is gone. And yet, on other accounts, perhaps, it is well that this debate has come on and been continued as it has been, because in the collision of mind with mind and thought with thought, in the consideration of propositions and suggestions pro and con, we may perhaps arrive in the end at a better solution of the whole difficulty than we would otherwise reach.

I undertake to say, among the many important propositions to amend the organic law of this country, there is no one which commands itself to the consideration, the judgment, and approval of the people with more force than this as a means of solving and removing all the difficulties which now agitate the public mind. And on this account I can understand why, on this side of the House, we all may be agreed in seeking to get something, while on the other there may be objections to any amendment at all.

The gentleman from Illinois, [Mr. Cook,] in front of me, who addressed the House, suggested that, in opposing such a fair, equal, democratic representative amendment, gentlemen on the other side of the Chamber hold themselves liable to be suspected of being disposed to keep up this unequal share of representation on the part of the southern States with a view to a combination which shall enable them to get the control of the Government. It is for them to reflect whether they are actuated by such a motive or not. This much I will say, however, I am inclined to suspect that any man who is opposed to the adoption of some such amendment can only be so because he is unwilling to remove the question about the negro from the arena of politics, considering that if he

does so his party capital will be taken away and his occupation gone forever.

Now, sir, various amendments and propositions have been made, all circling around two plans—or two principles, perhaps I should say. There are a number of amendments, including one I had the honor myself to offer, which look to a cure to be arrived at by basing representation upon suffrage. Then there is the plan presented by the select committee on reconstruction, which proposes still to count the whole population as a basis of representation, providing, however, as a penalty, that that representation shall be taken away from any State in proportion to the number of citizens she may have, of any race or color, whose right to vote she denies or abridges. I like the first proposition the best. I will be content with anything that will effectually cure the evil; but I prefer the first proposition because I think it is founded upon a better principle, and will more practically accomplish the great thing desired by all of us.

Thinking so, sir, at a very early day in this session, I was one of those disposed to ask the attention of Congress to the subject, to propose in proper form the submission of the question to the Legislatures of the several States. On the first day of the session, on the 4th of December last, as soon as the House was organized, I gave notice that I would, on the next, or some succeeding day, introduce a proposition to amend the Constitution. On the ensuing day I did accordingly present a joint resolution. It stands as House resolution No. 1 of the session.

In that I propose representation hereafter shall be based upon suffrage. I propose that representation shall be apportioned among the several States of the Union according to the number of voters having qualifications requisite for electors of the most numerous branch of the Legislature of the States where they reside, following in this the language of the Constitution; these voters, however, to be further limited in their descriptions and definitions as being male citizens of the United States over twenty-one years of age. Now, whether the proposition be a good one or not, whether the limitation be such as should commend itself to the masses of our people, I will not for the present inquire. I will only remark they have seemed to me to embrace as many qualifications as we ought to include when we are going to lay down a new organic law on this subject.

Some gentlemen object to the word "male," and would extend the franchise of voting to the females. Well, I have as much gallantry, were that alone the thing to be considered, and sentiment of admiration for that sex, as any gentleman; but I claim, by common consent of civilized countries, including our own, the whole subject being considered, and especially the sphere of the two sexes, it has been held that the Government should be in the hands of the male part of the population and not the female.

I do not regard voting as a natural right, as some gentlemen do. I think that it is expedient in framing a republican Government you should extend as far as you conveniently and properly can the right of suffrage.

But after all it is not a question of natural right but one of justice and expediency how far you will go. Believing that, I have concluded to put among the other qualifications the word "male" in my amendment as discriminative at once of those qualities which an elector shall have. I have also required that these males shall be above the age of twenty-one years. Now, if I believed that voting was a natural right, instead of a matter to be settled according to expediency and the best exercise of fair and just consideration of age, sex, and everything else, among those who are called upon to take a share in the Government, I might not have fixed upon this age of twenty-one years. For if it be a natural right, how is it in France, for instance, a man shall not become an adult, capable of taking part in the legal transactions of the Government, or giving his consent to cer-



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tain things, or beyond the control of his parents, till he is twenty-five years of age? For the simple reason that in every country the age of majority, not being a thing which is settled by any consideration of natural right, is to be settled according to the best exercise of discrimination on the subject, and the best consideration that is to be given to questions of expediency by those who framed the institutions of that Government.

I take twenty-one years as the best age, because, I believe, in every State of the Union that has always been and is now the line of limitation between the adult and the minor. I have adopted that which has commended itself to the common discrimination, the common judgment, and has had the common assent of the people of this country.

I have required, also, that the voter shall be a citizen of the United States. Why? Because I hold this to be a Government by the citizens of the United States, and for the citizens of the United States. We are sufficiently liberal to the foreigner—and every intelligent, right-thinking foreigner himself so regards it—when we say to him, "After a certain term of probation, (making it very short, as we do by our laws,) when you come to this country as an asylum open for all lovers of liberty in all lands, you shall be permitted to take a position equal in every respect, with the exception, perhaps, of not being eligible to the office of President of the United States, to that of the native-born citizen."

This, sir, is my idea of what an amendment should be that assumes suffrage as a basis of representation. It is opposed by another system, involving a different principle, which comes to us from the committee on reconstruction. This subject had been referred to the Committee on the Judiciary, and was by them held under consideration, and would have been doubtless brought forward in due time. That is the appropriate committee to which have always been referred questions and propositions relating to amendment of the Constitution. But inasmuch as the subject allied itself to some of those matters which were under consideration by the committee on reconstruction—a proposition submitted by the gentleman from Maine [Mr. BLAINE] being referred to that committee—they have put into form an amendment involving a principle in which representation is to be based on the enumeration of the whole population of the country, excepting any race or color from being counted with regard to which there shall be a denial or abridgment of the elective franchise.

I make but two objections now, for it has been too fully and completely discussed to require that anybody should detain the House long in a debate which has already been so protracted. I make but two objections to that amendment, and to me they are objections most fatal to its adoption as a remedy.

In the first I have been anticipated most clearly and ably by my colleague, [Mr. LAWRENCE.] He objected that this language contained in the amendment, reported from the joint committee on reconstruction—"that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation"—held out virtually an offer of a bargain to the people of the States and to the States by their organic law to disfranchise some portion of the citizens; that it was equivalent to saying this: "You may, and by our language we imply that you probably will, deny or abridge the right of voting on account of race or color to some portion of your population, only it shall be with the understanding that if you do you shall by so much lessen your representation." Now I, together with my colleague and other gentlemen here, are unwilling, if we can avoid it, and can get a better mode of curing this evil, to ingraft into the organic law of the nation any-

thing which looks to even an implied consent that any of the people of any of the States of the Union shall make local organic laws which shall strike down and deprive of just, fair, and equal privileges, on account of race or color, any part of their number.

But I make another objection, and this does not go so much to the principle as it does to what may be the practice, the practical working of this amendment, if it shall prevail and become a part of the Constitution of the United States. Let me read the language again:

That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Now, sir, I am not one of those who entertain Utopian ideas in relation, not merely to the progress, but to the immediate change of sentiment, opinions, and practice among the people of those States that have so lately been slave States, and so recently in rebellion. I believe that, like all other people, their growth toward good and right and free institutions must necessarily be gradual; and if we pass the amendment which I have proposed, or anything similar to it, and say to them, "You shall have representation proportioned to the portion of your population to which you extend this inestimable franchise," my belief is that they will not, on the next day after it becomes a part of the organic law of the United States, at once enfranchise all the negroes in their midst. I am not sure that they ought to do it; but we are dealing with the matter now as it presents itself as a practical question. What will they probably do? My belief is that if you persuade them to do right, if you hold out to them an inducement for letting their negroes vote and striking out these disqualifications and putting all upon the basis of manhood, they will probably begin, after the amendment becomes part of the organic law, by extending this right to those who have acquired certain property; perhaps they will also extend it, after awhile, to those who have certain qualifications of education. However they may proceed, whether rapidly or slowly, it will be a work of progress and a work of time. But by this amendment you would say to them, "We do not want you to enter upon any such gradual bringing up of these people to the level plain of right to be enjoyed by them equally with others of other races in your midst." We say to them, "You may enfranchise one third or one fourth of your people who are black and deprived of the privilege of voting by introducing the qualification of property, up to which one third or one fourth may come; you may introduce a qualification of education up to which a number of them may come; but that will all be of no value; so long as there is any denial or any abridgment of the right to vote of a single man on account of his race or color, you shall have no part of the population of that race or color counted to measure to you your share of representation."

Now, I will not go into the abstract question whether they ought to enfranchise the negroes at once or not. I will not go into the question of how soon they ought to do it as a matter of expediency. I say that in all human probability, when they come to enfranchise, if they do it at all, this portion of their population, they will do it gradually; yet by this amendment, as it comes from the committee, you say that they shall not be represented for any part of it at all till they completely enfranchise them and put them on the same footing with the white population.

It is not worth while to go into the question as to what expedients shall be or ought to be resorted to in the South or elsewhere in order to educate the negro up to a condition for a full participation in this privilege. It is not worth while to go into the question whether the negro race ought to be completely and equally enfranchised now with the white population. We are dealing, I repeat, with a practical question. We are saying to the South, if we pass this amend-

ment, "Stand off; we care not for your property qualification." As an individual, I do not care for a property qualification for whites or blacks. I repudiate it altogether. I think on that question Dr. Franklin's argument about the man and the jackass has never been answered. But we say also to them, "We do not care about your qualification of reading and writing (on which there may be—certainly Massachusetts thinks so—something important to be considered); you may give every negro that can read and every negro that can write and every negro that can spell, on the day after this is made a part of the Constitution of the land, full rights as an elector in your States, but he shall not be counted in the apportionment of representation, nor shall one of his race be counted until you get through with and complete the whole work in some future time when you have enfranchised the whole race." I do not misconstrue or misstate the language and the evident purpose and effect of the amendment.

Mr. STEVENS. In the State?

Mr. SCHENCK. Of course, in the State in which this takes place. That is precisely my argument. You say to each State that has any of this population that none of it shall be counted until the whole of them are fully enfranchised.

Mr. BINGHAM. If my colleague [Mr. SCHENCK] will allow me, I will suggest that this precludes a State from a class legislation which would operate injuriously upon colored people. But if that legislation be general and not class legislation in its character, applying to the white population as well as to the black population, the standard of intelligence for instance, this proposed amendment to the Constitution will not operate as the gentleman suggests.

Mr. SCHENCK. My reply to that shall be to read here, in the presence and hearing of the House, the language of the amendment itself:

*Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Of course I understand it to mean all such persons in the State where the denial or abridgment shall be made.

Mr. BINGHAM. I beg my colleague to understand further that the words of the proposed amendment which he has just read import, *ex vi termini*, that the proviso does not operate at all, except the legislation is caste legislation, and then applies only to that caste.

Mr. SCHENCK. And when it does operate, how does it operate? If there be one negro denied the privilege of voting because he is a negro, is not that a denial or abridgment of the elective franchise on account of race or color? If one half of that race, or one third, or any proportion, be denied the right of voting on account of race or color, although that right is given to the rest, then what follows? If you deny or abridge the elective franchise at all, in any degree, this is the consequence: that "all persons of such race or color shall be excluded from the basis of representation."

Mr. BINGHAM. I beg leave to repeat to my colleague again, that if, for example, in South Carolina, when that State comes to be recognized, it is generally provided, without regard to race or color, generally provided by law that no citizen of South Carolina shall vote unless such citizen shall be able to read the English language, in that case this provision does not operate to the exclusion of her enfranchised black population who come up to that standard. But if, on the other hand, South Carolina shall by law expressly declare that no colored citizen of the State shall vote unless he can read the English language, leaving the ignorant white man to vote, then this provision declares that South Carolina shall not be entitled to representation upon her black population. I ask the gentleman now to say whether he is opposed to or in favor of such caste legislation.

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Mr. SCHENCK. I will answer the gentleman distinctly. I am opposed to caste legislation; that is comprehensible. But we are legislating here, by an amendment of our organic law, for the present existing condition of things. And what I say is that it is not probable that we shall be able in a day, perhaps not in a year, or two years, or three years, to educate South Carolina, for instance, up to the point of enfranchising all her black population with the right of voting. We shall not be able to educate her up to the point of making no distinction on account of color, so far as this matter of voting is concerned. If we do not, then we say to her by this amendment, "You may allow one third, or one half, or two thirds of your negroes to vote, by reason of their intelligence and education, or for some other qualification, but it shall not benefit you in the least in the matter of representation here. You must wait until there is no abridgment or denial of the elective franchise on account of race or color, before your negro population shall be included in your basis of representation." I am sure there can be no difference now between my colleague [Mr. BINGHAM] and myself as to our understanding of this matter.

I am not arguing the question of abstract right; I think that is unnecessary. I am arguing the question of the practical working of this amendment. I think it is very objectionable, because we must take these States as they are now; we must lead them, guide them, teach them to walk, put them in the right way and keep them there; we must educate them, up to the right point if we are to expect that when they reach that point they will feel themselves standing upon solid ground, from which they cannot be forced or driven.

Mr. STEVENS. If South Carolina by law shall provide that one half of her black population shall vote, and that the other half shall not, because they are black, can South Carolina complain if we punish her for such injustice by saying that she shall not be allowed to take advantage of the number of the black population in her basis of representation?

Mr. SCHENCK. That is not a question into which I can be drawn. I do not approve that more than the gentleman himself does.

Mr. STEVENS. I do not ask the gentleman if he approves it; but I ask would we be doing injustice to South Carolina by punishing her for excluding that class from voting by excluding them from representation?

Mr. SCHENCK. I have no desire to punish South Carolina for being half right.

Mr. STEVENS. Well, I have.

Mr. SCHENCK. I would give her credit for being even half right. So fast as she approaches the right basis, so fast as she advances toward the adoption of that rule of freedom and equality which extends to all men without distinction of color their right to take part in the government, simply upon the ground of their manhood, I would give her credit for her conduct. My objection in this case is that this amendment does not give her credit so far as she goes, but says to her, "The last ounce of the pound of flesh, with every quivering fiber, and every drop of blood, must be fully and entirely paid, or you shall have no consideration whatever."

Now, then, I come back to what I conceive to be the better system, a system based upon suffrage, a system of representation which shall be equalized among all the States of this Union according to the number of people that they have within their respective limits of whom they are willing to say that they are fit to take part in the Government. In the first place, this is most liberal. It says to the States, "Remove from the arena of politics this embittered and embittering question about interfering with your local institutions. We are willing that you yourselves shall hereafter, as heretofore, determine who shall and who shall not be electors of the most numerous branch of your Legislative Assembly;

but we give you warning, a warning to all North, South, East, and West, that only in proportion as you shall adjudge your people fit to participate in this common Government of ours, shall you take part in the Government through representatives in Congress."

Mr. BENJAMIN. I would like to ask the gentleman a question.

Mr. SCHENCK. I yield to the gentleman for that purpose.

Mr. BENJAMIN. If the State of Missouri, in her wisdom, sees cause to disfranchise a large part of her citizens in consequence of their disloyalty, as she has done, is it just that she should be deprived of a portion of her representation in this House in consequence of that act?

Mr. SCHENCK. Well, Mr. Speaker, I think it is, because the fewer of that sort of population she has to be represented, the better for her. If her citizens are loyal, even though they be so few as to entitle her to only one Representative, it is better for her than to have five or six or ten times the number of disloyal citizens.

Mr. BENJAMIN. I would remind the gentleman that in Missouri a part of our population are of that sort; and we cannot get rid of them.

Mr. SCHENCK. Very well; my amendment, upon the principle that—

"While the lamp holds out to burn,  
The vilest sinner may return."

extends to the States and to the people of the States every inducement to be loyal and law-abiding in their conduct in order that they may have, through their representatives, a greater share in the Government.

Now, sir, the objections which are made to this system of representation based upon suffrage come from gentlemen representing different sections of the country. Gentlemen from Indiana and some of the northwestern States are not quite reconciled to this system, because they say that by their State constitutions certain persons who are not citizens of the United States—men who, having recently arrived in the country, are yet aliens, or have only declared their intention to become citizens—are allowed to vote. Well, my reply to that is, that though it may at first operate hardly upon some of the voters of the northwestern and western States, yet this is a thing which is continually curing itself; and the amendment which I advocate, being based upon a right principle, that the citizens of the country shall rule the country, will only afford an additional inducement and stimulus for these people to become citizens as soon as the lapse of time will allow them to do so. So far from this being an objection to the amendment, I trust we shall have the help of the members from Indiana and all those northwestern members; that they will come to our aid and pass this amendment, although it may operate a little hardly upon themselves just at the present time.

Mr. VOORHEES. Will the gentleman allow me to interrupt him for one moment?

Mr. SCHENCK. Yes, sir.

Mr. VOORHEES. I have been listening to the gentleman with a great deal of interest, and I wish simply to ask him a question, so that his position may be clearly defined. I desire to know whether the gentleman takes the ground that the unnaturalized foreigner, who, although he has not yet attained to citizenship, is allowed in some of the States to vote, should be stricken from the basis of representation. Is that the gentleman's position?

Mr. SCHENCK. I think that that would be necessary. My proposition is that hereafter, if we can succeed in making this the organic law, no person shall vote unless he be not only a male over twenty-one years of age but also a citizen of the United States. I think it is time, if we have not had it sufficiently expressed heretofore in the Constitution of the United States, that the great organic law of the nation should embrace such a provision.

We have had a little experiment upon this matter in my own State. By the first constitution of the State of Ohio, adopted in 1802, every free white male inhabitant above the age of twenty-one years who had paid or been charged with a State or county tax was allowed to vote. That operated in such a manner that our courts were compelled to adopt a forced construction, and say that "inhabitant" meant a citizen of the United States.

Mr. VOORHEES. I do not wish to interrupt the gentleman if it is not desirable. My questions are put in good faith.

The SPEAKER. The gentleman's hour has expired.

Mr. ELDRIDGE obtained the floor.

Mr. VOORHEES. I move that the time of the gentleman from Ohio be extended.

There was no objection, and it was ordered accordingly.

Mr. VOORHEES. I wish to ask the gentleman how his proposition would operate on those soldiers who have not been naturalized and received into citizenship, but are voters because of their service in the war. Would it strike them out?

Mr. SCHENCK. No, sir. Every man who has fought for the country shall furnish that instead of the requirement of five years' residence; that will make him a citizen.

Mr. VOORHEES. I understand the fact to be that in some of the States where, of course, it was not the intention to interfere with the law of Congress on the subject of naturalization, laws have been passed making soldiers who served in the Army voters; not naturalizing them, but making them voters. A State cannot naturalize—a State cannot make a foreigner a citizen. The gentleman understands my point.

Mr. SCHENCK. I do.

Mr. VOORHEES. The question is whether this proposition, which proposes to strike from the basis of representation all who are not citizens, does not strike out the soldiers who have not been naturalized, but who have been made voters on account of service in the Army.

Mr. SCHENCK. I understand that the law makes service in the Army an equivalent for five years' residence.

Mr. VOORHEES. A State cannot do that.

Mr. SCHENCK. Such is the law, that proof of service shall stand in the place of previous residence in the country for five years. I am not afraid that they will be stricken out of the basis of representation; but I am thankful to the gentleman for any suggestion which will serve to call our attention to these men who have risked their lives and shed their blood for the salvation of the country. I think we will take good care of them on this side of the House, with the aid of the other side, if they choose to give it; if not, without their aid.

Mr. VOORHEES. We understand what that means. We are all ready to help you here.

Mr. SCHENCK. It is very unusual that we have any aid from that side of the House in regard to the rights of the soldiers.

Mr. VOORHEES. This is a day of new things.

Mr. SCHENCK. Now, sir, I was, when interrupted, as I think inopportunist, in the midst of an illustration from my own State. In Ohio, on the adoption of the first constitution, in 1802, our description of the qualifications of electors was in those words, "that the elector must be a free white male inhabitant above the age of twenty-one, who has paid or been charged with a State or county tax;" and such was the force of public opinion, and such the peculiar interest felt for that relation, that the courts held that the word "inhabitant," when properly construed, meant "citizen." I always thanked the courts for that construction, although I was not able to see on what process of reasoning they made it. When we came, fifteen years ago,

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to amend the constitution of Ohio we came up with the growth of public sentiment and put "citizens" into our new constitution as part of the description of those who should make competent voters. Therefore, as an inference from that history of my own State, I hold that if that same general rule be applied to the people of all the States—that the nation shall be governed by its own proper citizens—it will be a wholesome amendment; and if not clearly expressed or inferred from the Constitution of the United States as it now stands, as it would seem not to be, I think the amendment should be made now.

There is another section of the country from which comes objection to this amendment, involving a system of representation based upon suffrage. My own State, the middle and western States, indeed all the States outside of New England, are excluding negroes from the privilege of voting. The effect of the amendment will be, in Ohio, and in other States, where they are not put upon an equality, either to lose a fraction of our representation, or to extend to them the right of suffrage. I am not alarmed by either horn of that dilemma. I am not concerned that my State and the surrounding States should be shorn in their basis of representation of a few thousands of men of that race, provided that we shall take away the immense disproportion of the South by reason of their millions of that population.

I hope, therefore, that my friends from Ohio and other parts of the country where negroes are not permitted to vote will not be governed by any such consideration.

Then I turn to another objection that some gentlemen have discovered—that Massachusetts, for instance, may possibly lose a vote or two because of the disproportion there as compared with other parts of the country between males and females. I have not gone into the figures to ascertain whether that deduction is fairly drawn from the premises or not, and I will not do it. I am told by gentlemen from that section of the country that no such result is to be obtained by a fair examination. The truth is that the census does not at this time afford the means of making a fair representation of this subject. There is no enumeration taken of voters, or even of those who are of the age of twenty-one years and upward, but the census has been so taken as to give you the aggregate of those between ten and twenty, twenty and thirty, thirty and forty, and so on. And gentlemen are probably led into this mistake by going down to twenty years, not having any limit given in the census by which they may stop at twenty-one.

But I say I will not go into the figures, because I am willing and ready to stand upon this proposition, that New England, if she should even lose a vote, or two votes, or a fraction of a vote, cannot afford, any more than Ohio, or Indiana, or any other of those States can, having these particular objections to the scheme, to let the opportunity go by now and not introduce a general amendment which will remedy the one great evil under which we are all laboring together. I hold that Ohio must give up her objections on account of her negro population; that the northwestern States must give up their objections on account of the fact that they are permitting persons to vote who are not yet citizens of the United States. Those persons would have to wait, "to tarry at Jericho until their beards are grown." I hold that New England must give up her objections, and if we are to amend the organic law at all, we must do it by uniting upon a common principle, a common sympathy, a common feeling, at least on this side of the House, upon which the entire responsibility is thrown, acting harmoniously, and adopting such an amendment to the organic law as shall be entirely democratic and fair in all its scope and action upon all the people of the States of this Union.

## Representation of Southern States.

SPEECH OF HON. GARRETT DAVIS,  
OF KENTUCKY,  
IN THE SENATE OF THE UNITED STATES,  
March 2, 1866.

The Senate resumed the consideration of the following resolution of the House of Representatives:

*Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.*

Mr. DAVIS. Mr. President, it is not my purpose to make an elaborate speech upon the pending question, or one that I have matured with any degree of consideration; merely to make a few points in a desultory manner. I do not propose to occupy a great portion of the time of the Senate, and I expect to conclude my remarks in such time as will afford the Senator from Massachusetts, or any other gentleman who wishes to address the Senate upon this question, ample opportunity to do so.

I have heard complaints in the course of this and other debates recently, of executive acts, and of the exercise of executive power, from sources that I was hardly prepared for. The gentlemen who make these complaints have been for the last four or five years upholding and defending such executive acts and powers. I presume that the explanation of these complaints at this time is, that executive power has not been exercised so as to promote the party and personal objects of those who make such complaints, otherwise we should never have heard them. The mode in which the present President of the United States has intervened in the reorganization of State governments in the late rebellious States has been a subject of their animadversion, and I presume that the real grievance is, that the Executive did not proceed to an extent to satisfy certain radical gentlemen. If, for example, the President, in addition to exerting his moral power, or even his official power to induce the late rebellious States to abolish slavery by their new constitutions, to ratify the amendment of the Constitution abolishing slavery throughout the United States, and to repudiate their rebel debt, had advanced one other step, and had imposed on those States as another and indispensable condition upon which they would receive his assent to be restored to their proper relations in the Union, that they should concede to negroes the right of suffrage, I doubt not we would have heard no complaint whatever from that quarter of the interference of the Executive in the matter of the reconstruction of those State governments. I presume there is no gentleman in this Chamber who is supporting the proposition now under debate who would not concede that if all the States lately in insurrection had elected Senators and Representatives, of whatever position in relation to the rebellion, and had also sent up their several constitutions with provisions securing to their negro and white populations equal suffrage, he would without objection have advocated the admission of such Senators and Representatives. I have no doubt that to all the radical members of both Houses negro suffrage would have been the "open sesame" for full congressional representation for each State whose constitution guaranteed it.

Mr. President, in this matter of the admission of the Representatives of the southern States I am not a partisan. I am contending for a great constitutional principle. If the party to which I once belonged, or any party to which I might belong, were to occupy the position of the majority of the Senate in relation to that subject, and were now opposing the

admission of Senators from the southern States, I would make war upon that position and all its supporters, because I regard the exclusion of the southern States from representation in the two Houses of Congress as revolutionary, as subversive of the most important principle of our Government. I regard it practically as a dissolution of the Union by the two Houses of Congress; and as earnestly and zealously as I opposed a dissolution of the Union by the secession of the southern States, so I would stand in opposition to a dissolution of the Union, either permanently or temporarily, in the form of the exclusion of the Senators and Representatives of the eleven southern States from their seats in Congress.

Mr. President, we have a mixed form of Government, partly national, partly Federal, and partly State. Our form of Government is fashioned by the Constitution. Every power vested in the Government, and the distribution of all powers among the different departments and officers, are provided for in the Constitution. It is further a fundamental principle of our Government that it was created by the States acting as separate sovereignties. As the honorable Senator from Maryland [Mr. JOHNSON] said yesterday, when the States in 1787 entered upon the work of forming this Government, each State was sovereign and independent, as much so as any nation in the world. These separate sovereignties then proceeded to organize a common Government by each ceding to it the same portion of their separate sovereignty and political powers, and retaining all the residue except what was enumerated in the deed of cession, the Constitution. All political sovereignty and powers were thus divided between the States and the United States.

I hold these to be truisms in our system:

1. Every political power, every particle of sovereignty that was not delegated by the Constitution to the General Government, and that is not prohibited by the Constitution to be exercised by the States, still belongs to the States respectively.

2. All the powers of the General Government are distributed among three departments—the legislative, the executive, and the judicial.

3. Neither department has one iota more of power than is vested in it by the Constitution.

4. Congress is clothed with the whole legislative, the President with the whole executive, and the courts with the judicial power of the Government.

I hold that neither department of the Government can exercise one particle more of power than is organized by the Constitution and is vested by its words in that particular department. I propound this general principle, that the General Government can exercise no powers but what are conferred upon it by the Constitution; that if it collectively or by any of its departments or officers attempts to grasp any other powers, it is usurpation, and wholly unauthorized and void.

Laying down these general principles, I shall proceed to make some remarks relating more particularly to the subject-matter under consideration.

When the Constitution was formed it was well understood what were the States of the United States. Every independent sovereignty that was then in existence and united under the old Articles of Confederation was a State. Delegates from all of them, except Rhode Island, convened at Philadelphia for the purpose of forming a more efficient Government. By what authority was that Convention elected and did it proceed to frame a new Government? There was no power under the old Articles of Confederation to call such an assembly for such a purpose. It was appointed and organized without any authority or warrant except that of each State in sending its own delegates. It, however, was urged on by the law of necessity. The old system of government had so signally



failed as to prove to the satisfaction of all the men of that day that it was wholly insufficient to answer the exigencies of the United States as a Government. They, therefore, the great men of the country, those who had carried it through the Revolution and who had established our liberty and our independence, saw that all the fruits of their long war and of their great sacrifices would be lost unless there was a more efficient form of government made for all the States. Therefore, *ex officio*, they wrote letters to the different States, urging upon the leading men of each to have delegates elected to meet in general convention for the purpose of forming a more efficient common Government. That Convention met and deliberated. It framed a written instrument that afterwards appeared with the impress of each State as constituting for them a common Government. It was signed by Washington as the President of that Convention, and the Convention recommended it to the people of the United States for their adoption. The Articles of Confederation conferred upon the Congress very limited and only advisory powers. It neither established nor authorized any courts. Its resolves were not laws, but mere recommendations to the States; they had no sanctions, no machinery to give them effect; they had no operation on individuals, but spoke through the State governments, and by them came to be habitually disregarded. The Articles of Confederation did not organize a Government, but formed merely a league for independent States; the proposed Constitution provided for a common Government for the States, was recommended by the Convention to be adopted by the people of each State as a separate sovereignty, to have no obligation upon any State until accepted and ratified by it, and none upon those which might ratify it unless it was accepted by at least nine. It was submitted to the people of the States acting by their sovereign conventions, and was ratified by all, and in this way it was stamped by the highest authority. But it was with a full understanding that it was simply a proposition of a plan of government, by wise and patriotic men, and it was recommended to the different States; and it was adopted by them, acting by their conventions, and thus received its first authority. But the conventions of Virginia, New York, Massachusetts, North Carolina, and other States, at the same time recommended numerous amendments, that were generally publicly debated; and if it had not been manifest that the most important would be adopted, the proposed Constitution would have been rejected. The most essential of those suggested amendments were adopted, and are the chief bulwarks of American liberty.

In this scheme of government we find this clause: "New States may be admitted by Congress into this Union;" and that is all the provision of the Constitution in relation to the subject of new States. It has been said in the course of this discussion, and truly, that when a State is once in the Union it is always in the Union. That position is true; and why is it true? Because there is no mode provided or contemplated in the Constitution by which a State of the Union can ever get out of it. The original thirteen States became permanent members of the Union when they adopted the Constitution and entered into the Union by becoming parties to the Government. That is their destiny until it is changed by revolution, and no force, no power short of successful revolution, can ever change the position of those States as members of the Union, or disrupt a single State of the Union from it. As Vermont, Kentucky, Tennessee, Ohio, and all the subsequent new States were admitted into the Union, they became members of the United States upon precisely the same permanent law and condition; they were all States of the Union in perpetuity and all the time; and to be sometimes out and then again in without revolution was a legal impossibility.

What is done when a State is admitted into the Union? What is then required by the Constitution? She simply presents herself with a government of a republican form, and the question is submitted to Congress whether she shall be received as a new State into the Union or not. An act of Congress for that purpose is framed and passed; and so soon as that act has passed and her Senators and Representatives are admitted to their seats, the work is consummated. Nothing more is to be done. She may change her constitution in time of war or peace as often as she may please, and her change of constitution does not affect her position as a member of the Union so long as she adheres to a republican form of government; and even though she should change her government so as not to preserve a republican form, that change would not affect her position in the Union. She would continue *de jure* one of the United States. How would Congress take cognizance in the matter of a State having adopted a government not republican in form? It would simply declare the anti-republican features to be void and inoperative; the residue would remain in full force and effect, the State being all the time in the Union and possessed of all her constitutional rights and powers.

Mr. President, most of the old States have changed their constitutions at some time or other. The State of New York formed her first constitution in 1777. She had no mode prescribed in that constitution by which it should be amended or altered, yet it was amended twice by conventions of the people. In 1821 she met in general convention and formed another constitution, and in that constitution she provided a mode for its amendment; that mode required time and had some complexity; and in 1846 the State of New York determined to change her constitution again, and disregarding the forms of the proceeding required by it, she called summarily a sovereign convention of her people, which proceeded to form a new constitution, and repudiated the one of 1821. This action of the convention was ratified and confirmed by her people.

When the constitutions of 1821 and 1846 were framed, they both went quietly into operation, and the position of New York as one of our constellation of States was in no way perturbed, and Congress took no notice whatever of her having changed her constitutions. Their submission to Congress for its approval, or any rehabilitation of that State as one of the United States, was not dreamed of by any one. On the contrary, being a State in the Union, and having a republican form of government in 1787, when the Constitution of the United States was adopted, she changed it from time to time, and continued her relations with the Federal Government without any question. There was no congressional action whatever when New York or any other State changed its constitution. So long as the State government was preserved in a republican form, and the proper relations of the State with the United States were not disturbed, their government could not interfere; and its whole power of interference would be simply to reform what the State might improperly do in the premises.

I conclude, then, that the attempt of the rebel States to get out of the Union by secession, or by unsuccessful arms, has left them members of the Union as though they had never made such an attempt, and that their abortive efforts cannot be effectuated by Congress, or by the entire Government of the United States; that their entire power and duty is to hold all the States in the position of States in the Union, and where their proper relations are broken simply to restore, preserve, and perpetuate them.

Mr. President, Congress is expressly clothed with authority by the Constitution to call out the militia to suppress insurrections. I ask gentlemen whether there is any difference between an insurrection by the authority or the

countenance of a State government and an insurrection without such authority; or, if you please, in defiance of it. Here, for example, is the great State of New York; she now has more than four million people. Suppose there was an insurrection in that State against the State government, and the United States Government moved to suppress it, and the State government adhered to the Union and took part against the insurgents, and, with such assistance, the General Government suppressed the insurrection; every man engaged in the insurrection against the State government and the United States Government would be guilty of treason. But I ask the difference in principle, in constitutional provision, in punishment, or for any other legal consequences, between rebels who had thus reared the standard of revolt independently and in defiance of the State government, and of those rebels who have the sanction and all the cooperation and aid which their State governments can give them. The States cannot commit treason or any other crime against the United States, and consequently there is no punishment or forfeitures declared against States, no modes to try or punish States. Crimes can be perpetrated, according to our system and laws, only by individuals, natural persons, and it is only individuals and natural persons that can be punished. The individuals, natural persons, who make war against the United States, or who adhere to their enemies, giving them aid and comfort, commit treason and are subject to its punishment, whether they act under or in defiance of the State authorities; their crime, their punishment, and all the legal consequences are precisely the same whether the insurgents act in obedience to or against the State authorities.

The governments of eleven States arrayed themselves in favor of the late insurrection. But in Missouri, Kentucky, and Maryland, the State governments adhered to the United States, although many of the people of each of those States entered into the rebel armies; while in the revolted States many of their citizens were faithful to the United States. The whole law which governed the rebellion having no application whatever to States, all the States as political organizations continued unaffected by it; but all individual persons who embarked in the rebellion became equally subject to the law of treason, without any regard to the course of the State governments of which they were citizens.

Mr. President, these hasty remarks lead me to the conclusion that these States as States were not in the rebellion at all. It was an impossibility for the State governments to assume that position; they could not take upon themselves that delinquency. They could not give the form and relationship of State governments to the rebellion at all. They could in no way modify the character of the rebellion or of the rebels by connecting the State government with it. It remained as it would have been if there had been no effort to enlist the State governments in the rebellion, simply the crime of individuals. Jefferson Davis would not be responsible as the president of the confederate States, nor would any of the Governors of the confederate States be responsible as Governors of their respective States. Their delinquency, their crime, their responsibility and punishment, the denunciation by the Constitution and the law of their acts, are against them as individuals, and not as officials either of the confederate government or of the State governments of the confederate States.

If this position be true, here is the pretext for assuming now that an act of Congress is necessary to the readmission of the rebel States into the Union? They have never been out of it legally. In contemplation of the Constitution and law they have never been out of it. They were no more out of it in the midst of the rebellion when the wager of battle seemed most unpromising to the United States

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than they are now. They are out of it as much now as they were then. They were not out of the Union at either time; they were a portion of the United States whose people were in a revolt and rebellion against the Government of the United States, and that was all.

But the honorable Senator from Maine exclaims, shall these men assume a position of hostility to the General Government, and will you allow those who were engaged in this hostile conflict against their own Government to come back and take seats on the floor of the two Houses of Congress? He assumes that the laws of conquest apply to the rebels as they do between independent States internationally. No sir. The honorable Senator from Maryland stated that position truly in his speech some days ago. This insurrection was not a "war" in the sense in which that term is used in our Constitution and in the sense in which it is used by the laws of nations. Congress is authorized by the Constitution to declare war. To declare war against whom? Not against a State. All the contemporary expositors held, and the Supreme Court have again and again decided, that Congress cannot declare war against a State, and a State cannot declare war against the General Government any more than the General Government can declare war against a State. That sort of relation between the States and the United States is impossible. It cannot exist under our system. It resolves itself, then, simply into this, that a portion, if you please a larger portion, of the people of certain States arrayed themselves individually against the United States Government and resisted its authority by force of arms. They are simply guilty of insurrection. They committed a domestic offense. They are guilty of the crime of treason. While they have arms in their hands and are in the shock of battle they may be shot down as public enemies, because the Constitution permits the militia to be called out for the purpose of suppressing insurrection; and while military resistance exists anywhere, that term in the Constitution and its necessary significance permit them to be pursued with arms in the hands of the pursuers and a resort to all the means, forces, and usages of civilized warfare, while the resistance is continued, but no longer.

But, Mr. President, as the Senator from Maryland said, it is not a war power, it is a police power. There may be a riot in the United States in resistance to its authority; there may be sedition in the United States in the resistance of the execution of its laws and authority. There may be an insurrection. They are all crimes and offenses of the same class, of different degrees; and the highest grade of offense which our Constitution recognizes is that of an insurrection. It is a domestic offense. It is a simple resistance by persons who were bound to obey the laws, to their execution, and they are to be put down by the great police power of the nation, not by war technically. International belligerent rights do not apply to the rebels or the United States Government. There is no conquest or rights of conquest; there is no subjugation or forfeiture further than it is declared by law and enforced by the judgment of the civil courts. Obedience to law and punishment of individuals for crimes committed are the only legitimate ends to be effected by the Government. Most of the people of the southern States became insurgents. That was a state of things which the Constitution contemplated might exist, and for which it made provision, and what provision did it make? Congress shall have power—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

Now, shall we have a Government of delegated powers? The instrument by which all the power that this Government possesses was received is the Constitution. I have read this

clause of the Constitution to show what power Congress has over the matter of insurrection, and it is simply the power to suppress it. Has Congress any more or additional power than to suppress the insurrection? If it has any other power, from whence is it derived and where is the language of the Constitution that confers it? Here is all the power with which Congress is clothed over the subject of the late or any other insurrection. The President directs the military power of the nation so far as that power is in commission. It is the duty of the President to see that the laws be faithfully executed; and it is his function to apply all the forces which the laws have placed in his hands to this end. In addition to that there is that special provision in the fifteenth paragraph of the eighth section of the first article of the Constitution which declares that Congress shall have power—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

Will any gentleman tell me what other power Congress has over the subject of insurrection than what is imparted in the words which I have read? What other act in relation to that matter has Congress the right to do? Congress is authorized to call forth the whole militia of the country if it be necessary to suppress any insurrection. That is all the power that Congress has over this subject of insurrection. If it is not, and Congress has other power, I again ask for the provision of the Constitution which authorizes any other or additional act in relation to insurrection to be performed either by Congress or the President. Whenever the insurrection is suppressed, the work of both Congress and the President is fully and completely performed, and all governmental power over the subject is exhausted.

I will now prove from the Constitution, the laws of Congress, and the decisions of the Supreme Court, that the power to determine when any portion of the country is in a state of insurrection belongs to the President exclusively; that he as the Commander-in-Chief of the armies and navies of the United States has a right to control and direct all the military power, land and naval, for the suppression of the rebellion, and that he has the exclusive right to decide for himself and for the Government and for the people when the insurrection has been suppressed; that Congress has no cognizance whatever over these points. I here assume to you, Mr. President, and to such gentlemen as are present, that Congress has passed organic laws to carry this clause of the Constitution into operation, to wit, to suppress insurrection and to enforce the execution of the laws; that by those laws in their form and letter, as recognized and passed upon by the Supreme Court itself, Congress vested in the President the exclusive power to decide when the country was invaded, when any portion of the country was in a state of insurrection, and when there was domestic violence in a State; that Congress has no power, since the passage of those laws, to decide those questions at all, but that their decision rests exclusively with the President of the United States without any intermeddling by Congress.

I will read that clause of the Constitution again, and in connection with it a portion of the laws of Congress that have been passed to carry it into operation. Congress shall have power—

"To call forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

The first law to give effect to that clause was passed in May, 1792, and the second section of it provides:

"That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district

judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed."

This law was passed before the whisky insurrection of Pennsylvania. It will be observed that before the President could act so as to call forth the militia to enforce the execution of the laws of Congress, the state of resistance to their execution there must be certified to the President by the judge of the district court. Congress became satisfied that this mode was too dilatory, and consequently in 1795 it passed a supplementary law, authorizing the President himself to take notice of such state of case as it provided for, without the intervention of the judge. I will read the second section of that act:

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State or of any other State or States as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of the militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the next session of Congress."—*United States Statutes-at-Large*, p. 424.

It will be seen that the President is made the organ by this latter act of Congress, for the purpose of determining when the country is in a state of insurrection, and when the exigencies of the Government require the militia to be called out to enforce the execution of the law. These laws have been before the Supreme Court for their construction, in the case of *Luther vs. Borden*, 7 Howard. I will read several extracts from the opinion of the court rendered by Chief Justice Taney. On the points of the existence of the State government, what it was, and who were its incumbents, the opinion says:

"But the courts uniformly held that that inquiry proposed to be made belonged to the political power and not the judicial; that it rested with the political power to decide whether the charter government had been displaced or not; and when that decision was made the judicial department would be bound to take notice of it as the paramount law of the State, without the aid of oral evidence or the examination of witnesses; that according to the laws and institutions of Rhode Island no such government had been recognized by the political power; and that the charter government was the lawful and established government of the State during the period in contest; and that those who were in arms against it were insurgents and liable to punishment."—7 Howard, 89.

Page 42:

"The fourth section of the fourth article of the Constitution of the United States provides that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.' Under this article of the Constitution it rests with Congress to determine what government is the established one in a State. For as the United States guaranty to each State a republican form of government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of government and could not be questioned in a judicial tribunal."

In the same case (7 Howard, 42), the court said:

"So too, as relates to the clause in the above-mentioned article of the Constitution, providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that 'in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of another State or States as may be applied for, as he may judge sufficient to suppress such insurrection.'"

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SENATE.

Again, on page 43:

"By this act, the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of the Legislature or of the Executive, and consequently he must determine what body of men constitute the Legislature, and who is the Governor, before he can act. The fact that both parties claim the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must of necessity decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress."

On page 44:

"In the case of foreign nations, the Government acknowledged by the President is always acknowledged by the courts of justice. And this principle has been applied by the act of Congress to the sovereign States of the Union."

Here is the principle that is at the pith of the proposition that is now pending before the Senate. I read from page 44:

"It is said that this power in the President is dangerous to liberty, and may be abused. All power may be abused if placed in unworthy hands. But it would be difficult, we think, to point to any other hands in which this power would be more safe, and at the same time equally effectual."

"At all events, it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals."

"A question very similar to this arose in the case of *Martin vs. Mott*, 12 Wheaton, 20-31. The first clause of the first section of the act of February 28, 1795, of which we have been speaking, authorizes the President to call out the militia to repel invasion. It is the second clause in the same section which authorizes the call to suppress an insurrection against a State government. The power given to the President is such and is the same—with this difference only, that it cannot be exercised by him in the latter case, except upon the application of the Legislature or the Executive of the State."

"The case above mentioned arose out of a call made by the President, by virtue of the power conferred by the first clause; and the court said that 'whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts.' The grounds upon which that opinion is maintained are set forth in the report, and are, we think, conclusive. The same principle applies to the case now before the court."

I will now read a short extract from that opinion in *Wheaton*, rendered by Mr. Justice Story:

"If we look at the language of the act of 1795, every conclusion drawn from the nature of the power itself is strongly fortified. The words are, 'whenever the United States shall be invaded, or be in imminent danger of invasion, &c., it shall be lawful for the President, &c., to call forth such number of the militia, &c., as he may judge necessary to repel such invasion.' The power itself is conferred to the Executive of the Union, to him who is, by the Constitution, 'the Commander-in-Chief of the militia when called into the actual service of the United States,' whose duty it is to 'take care that the laws be faithfully executed,' and whose responsibility for an honest discharge of his official obligations is secured by the highest sanctions. He is necessarily constituted the judge of the existence of the exigency in the first instance, and is bound to act according to his belief of the facts. If he does so act, and decides to call forth the militia, his orders for this purpose are in strict conformity with the provisions of the law, and it would seem to follow as a necessary consequence, that every act done by a subordinate officer in obedience to such orders, is equally justifiable. The law contemplates that under such circumstances, orders shall be given to carry the power into effect; and it cannot therefore be a correct inference that any other person has a just right to disobey them. The law does not provide for any appeal from the judgment of the President, or for any right in subordinate officers to review his decision and in effect defeat it. Whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinions of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts. And in the present case we are all of opinion that such is the true construction of the act of 1795. It is no answer that such a power may be abused, for there is no power which is not susceptible of abuse. The remedy for this, as well as for all other official misconduct, if it should occur, is to be found in the Constitution itself."

Here is a compend of the whole matter. The fifteenth paragraph of section eight of article one of the Constitution provides that Congress shall have power—

"To make all laws which shall be necessary and

proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

This general clause gives to Congress an indefinite power to pass all laws which shall be necessary to execute its enumerated powers, among which is one to provide "for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." This act of 1795, and the act of July, 1861, are made under this general power vested by that clause of the Constitution in Congress. Congress is authorized to invoke all subsidiary powers necessary to carry the express powers given to it into operation. Among those express powers is one to call out the militia to suppress insurrection, to repel invasion, to put down domestic disorders in a State, and to enforce the due execution of the laws of Congress where they are resisted by combinations too powerful for the marshal with his ordinary *posse comitatus* to overrule. Then Congress in the exercise of this general power passed a law with this section:

"That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations and to cause the laws to be duly executed."

What states of case do this clause of the Constitution and this section of the act of 1795 provide for? The Constitution contemplated that a State might be disturbed by a domestic insurrection; that the United States might be invaded; that there might be insurrection against the Government of the United States, and that the execution of its laws might be resisted by combinations too powerful to be put down by the marshal and his *posse comitatus*. It therefore expressly declared that Congress should have power to act whenever the country was in either of those conditions. Congress was given power to pass such laws as should be necessary and proper for rectifying the disturbed condition of the country. Congress has so legislated in reference to the very case of this insurrection. Here has been a resistance in the southern States to the due execution of the laws of Congress. That resistance has been headed by combinations too powerful to be put down by the marshal and his *posse comitatus*. Congress, by its act of 1795, the second section of which I have just read, provides that to correct such a disorder as that the President shall not be required to wait for the certificate of the judge of the United States court, but he himself, upon his own information, upon his own volition, shall decide when the country is in such a state of case as to require him to call out the militia for the purpose of enforcing the due execution of the law and putting down the insurrection.

What has the Supreme Court in the cases of *Luther vs. Borden*, and *Martin vs. Mott*, decided in relation to these questions? That Congress has expressly vested in the President the power to order out the militia to meet such demands of the Government and the country. The Supreme Court has proceeded to consider and to expound this law in the two cases from which I have just read; and it has decided explicitly that the sole and exclusive power over the whole subject is given by the law of Congress into the hands of the President. It is for the President to decide when the laws are resisted by such a combination. The court holds that it is his sole and exclusive function to decide that point. The court further decides, that when the President has determined that such a state of case exists, he has the exclusive power to call out the militia forces of the States to the extent authorized by law into the service of the United States for the purpose of enforcing the due execution of the law. If he has the right to do this, as Commander-in-Chief he

has the right to conduct the military operations to put down this resistance to the execution of the law. He has not only the right to say when this state of case has arisen, but he necessarily has the right to decide how long it continues and when it terminates.

Let me illustrate this by the example of the whisky insurrection in the State of Pennsylvania. That was an insurrection, a resistance by an armed mass of people to the due execution of the law. That exigence gave rise to the passage of the act of 1795. The Supreme Court in passing upon that act say expressly that the President, if that act had been in existence at the time of the whisky insurrection, would have had the sole and the exclusive right to decide the fact whether the laws were resisted by such a combination or not, and that if he determined that they were so resisted, he would have had the right to call out the militia of the State, and as much of the militia of the adjoining States, within the limits of the law, according to his discretion, for the purpose of enforcing the execution of the law. Congress was necessarily excluded from all right to act in the case.

Now, sir, let us apply these principles to the case of the southern States in which the people rose in resistance to the execution of the laws of the United States. Whose office, whose duty was it to decide when they thus resisted the execution of the laws of the United States? It was the function of the President of the United States. The law of 1795 authorized him to do so, required him to make that decision, and commanded him to call out the militia for the due execution of the laws of Congress. The Supreme Court in both the cases from which I have read decided that Congress by the passage of the act of 1795 vested the President with the sole and exclusive power to determine that point himself, and that his decision cannot be appealed from; that it is final, conclusive, and exclusive. The court said in terms that the President had the exclusive right to decide that question. If he has a right when the country is in a state of insurrection to order out the militia, he has necessarily a right to decide when the military power has suppressed it. He orders the militia into the service of the United States; he orders them and the United States Army also to march upon an expedition to put down the obstructions to the execution of the law. Everybody embraced by that order must obey it. The Supreme Court has decided that this order of his is dominant; that it controls and commands the courts as well as all military and civil officers. It has been decided that he himself in virtue of this clause of the Constitution making him Commander-in-Chief, and the act of Congress, is clothed with the sole and exclusive power to decide that question of insurrection and to suppress it by force of arms.

The further question whether the President has the power to decide when insurrection is put down, I admit is not expressly determined by the Supreme Court, nor is there any opinion upon that point suggested, but that is a sequence necessary of the principle which it did sustain. When it decided that the act of 1795 gives to the President the sole and exclusive right to determine when the country is invaded; when a State has such a domestic disturbance in it as requires the President, upon the application of the Governor or the Legislature of that State, to intervene with the military power of the United States for the purpose of putting down the disorder; when they decided that the act of 1795 authorized the President himself, without the intervention of a district judge or of any other officer, civil or military, to determine that the laws of Congress are resisted in a State by a combination too powerful to be put down by the marshal and his *posse comitatus*; and that he having adjudged that to be the state of the case, orders the militia and the military power to march to



the scene of invasion or resistance or disturbance, their position that he had the discretionary and sole power to determine the existence of the facts which required his intervention necessarily involved the principle that he was to decide when the force which his duty required to be interposed should also be withdrawn.

What is the reason of the thing? Why is he authorized by the law of Congress to order out the militia or military force? It is to sweep away the obstruction to the due execution of the laws. When that is removed all is accomplished which the Constitution or the law or reason permits to be done. The normal state of things is restored; obedience from refractory citizens to the law and their submission to its due execution are brought about. Then, of course, the continuance of the application of military power is to cease. Would it not be absurd to say that the President has the right under the Constitution and the law, as decided by the Supreme Court in these two cases, to precipitate the military power upon a refractory population for the simple purpose of enforcing the due execution of the law, and when that has been achieved and the law is no longer resisted in its execution, but is peacefully and quietly submitted to by the insurgents, that the President has not the power to say that the cause for the interposition of the military power had ceased and to recall that power?

Mr. President, I will now make this point: here is the law of Congress vesting the powers on which I have been remarking, in the President. If Congress were to attempt itself to execute those powers without a repeal of the law, or were to pass a law vesting them in some other officer than the President, and that officer or Congress were to resist forcibly the President in the execution of such powers, that resistance would be treasonable. No power can rightfully interfere with the President in the execution of those laws, and if it be made he would properly remove it by the application of the necessary force.

Mr. President, each House of Congress is by the Constitution made the judge of the returns, elections, and qualifications of its own members. The State Legislatures elect Senators to Congress; and the Senate is made by the Constitution the judge of the elections, returns, and qualifications of its members. In the exercise of this power I admit the Senate may inquire into the fact of an election by a State Legislature; but when they have reached that point they cannot proceed beyond it and inquire into the regularity of the organization of the Legislature. Has the Senate the right to inquire and decide whether the members of a Legislature have been elected? No, sir. When the Senate, in the matter of judging of the election of its members, reaches the fact the choice has been made by the body acting as the State Legislature it can proceed no further, but must recognize and admit as a Senator the person chosen by that body, if he present the proper return. To inquire into the loyalty of the different members of the Legislature, and such matters, would carry the Senate into an unknown and shoreless sea, and far beyond the safe and constitutional power of the Senate.

But, sir, in conclusion, I will state another point. Gentlemen in the majority dash along here as though they had the Government and the world in a sling. They do not occupy anything like as strong a position as they imagine. I here announce that in ten days from this time the members of this Senate who are in favor of the admission of the southern Senators and the President of the United States could legally and constitutionally place every one of those Senators in his seat; and it is a plain and demonstrable constitutional proposition. The President is required by the Constitution to communicate with Congress, and from time to time give it information of the state of the Union and recommend such measures as he shall deem

necessary and expedient. Have gentlemen reflected what power is imported in those few short words? The Supreme Court has settled the principle that where the President is called upon to sustain the government of a State, by suppressing domestic violence, he necessarily has the power himself to ascertain and determine which is the regular government, where there are two in conflict. Apply that principle to the present case. Here is a provision in the Constitution which requires the President to communicate to the two Houses of Congress information as to the state of the Union and to recommend to them such measures as he shall deem proper and expedient. What does this necessarily impose upon him? He has to ascertain what men compose the two Houses of Congress. It is his right, it is his constitutional function, to ascertain who constitute the two Houses of Congress. The members of the Senate who are in favor of the admission of the southern Senators could get into a conclave with those southern Senators any day, and they would constitute a majority of the Senate. The President of the United States has the constitutional option, it is his function, it is his power, it is his right, and I would advise him to exercise it, to ascertain, where there are two different bodies of men both claiming to be the Senate, which is the true Senate. If the southern members and those who are for admitting them to their seats constitute a majority of the whole Senate, the President has a right, and by the Eternal he ought to exercise that right forthwith, to-morrow, or any day, to recognize the Opposition in this body and the southern members, the majority of the whole body, as the true Senate. And then what would become of you gentlemen? Oh, if the lion of the Hermitage, and that great statesman, the sage of Ashland, were here in the seat of power, how soon would they settle this question! They would say to, and they would inspire those to whom they spoke, "You southern men are kept out of your seats by violence, by revolution, against the Constitution, against right; the Union is dissolved, the Government is brought to an end by keeping the Senators from eleven States out of their seats when the Constitution expressly states that every State shall have two Senators."

These States have submitted. Has not the insurrection been suppressed? What else is to be done? Was it not suppressed ten months ago? Have not rebel armies surrendered? Are not their whole population disarmed? At the bidding of the President have they not put in their constitutions a clause abolishing slavery in their respective States? Have they not adopted the amendment to the Constitution of the United States abolishing slavery throughout the United States? Have they not in addition repudiated the rebel national debt, if I may use the term? What other evidences of submission could they give? What man not demented by passion, or interest, or some other worse influence could deny for a single moment that this insurrection is suppressed? It is suppressed. Was there ever an insurrection more effectually suppressed? Christopher Columbus is not more dead than the late rebellion is dead. What other evidence can these people give of their loyalty, of their obedience to the Constitution and laws? What terms are they to submit to? What other conditions do you wish to impose upon them?

The Senator from Illinois says nobody wants to keep them out. They want to get in, and why in the name of reason, then, are they not allowed to come in? There is no difficulty at all if that be the true sentiment here; but it is not the true sentiment. We all know that it is not the true sentiment. They are to be treated as a conquered, subjugated, and enslaved enemy. That is not the sense of the Constitution. It is not the spirit in which insurrections are to be put down under its authority. When a domestic enemy, if you please, to our Govern-

ment and country submits and gives all evidence of submission; not pretexts, not feigned submission, but deep, honest, and abiding as the gallant people of the South have: when they have surrendered every soldier they had in the field and have no longer a bayonet or lance to oppose the authority of the United States; when they have submitted to be disarmed, and there are not arms enough for a battalion in the southern States; when they are accepting first one humiliating condition suggested by the President, and then another, and then another, and are asking all the time for a restoration to their proper relations to the Government of the United States, why are they still refused? They are loyal. They are more loyal than those who keep them out of their rights. I would sooner trust them to-day as the true and devoted friends of our country and Government than the men who trample upon the Constitution still further to oppress them.

You cannot keep them out always, Senators. The time will come when there will be a recoil and a terrible recoil. This country is becoming impatient, indignant, and outraged by this paltering with the liberties of the southern people and with the fundamental principles of our Constitution. Whenever the President chooses to grasp the remedy it is at his hand.

Mr. CONNESS. May I interrupt the Senator?

Mr. DAVIS. No, sir. When I get through I will answer every question the honorable Senator may propound.

There is no plainer principle of constitutional law than that the President has the right to ascertain and decide what body of men is the Senate and what the House of Representatives when there are two bodies of men claiming to be each. He is to communicate with the two Houses of Congress. Before he can communicate he must ascertain what men constitute the Senate and what men constitute the House. It is his right to do so, and the people of America will sustain him in the noble and manly and patriotic performance of his duty in determining the identity of the true House. It ought to have been done at the beginning of this session. When a petty clerk took upon himself to read the list of the Representatives of the people of the United States, and to keep the Representatives of eleven States out of their seats, the Constitution guaranteeing to them those seats for the benefit of their constituents and country, that subordinate never ought to have been tolerated for one day in the perpetration of so great an outrage. Whenever Andrew Johnson chooses to exercise his high function, his constitutional right of saying to the southern Senators, "Get together with the Democrats and the Conservatives of the Senate, and if you constitute a majority I will recognize you as the Senate of the United States," what then will become of you gentlemen? You will quietly come in and form a part of that Senate.

### Political Questions of the Day.

SPEECH OF HON. GEORGE F. MILLER,  
OF PENNSYLVANIA,  
IN THE HOUSE OF REPRESENTATIVES,  
July 28, 1866,

On the general political questions of the day.

Mr. MILLER. Mr. Speaker, when the present Congress assembled on the 4th day of December last, among the many important national questions presented, one was whether the eleven States lately in rebellion were in a proper condition to send Representatives to Congress; and in order to have that question fully investigated a concurrent resolution was adopted on the 13th day of December, 1865, by the two Houses as follows:

"Resolved by the House of Representatives, (the Senate concurring,) That a joint committee of fifteen mem-

bers shall be appointed, nine of whom shall be members of the House and six of the Senate, who shall inquire into the condition of the States which formed the so-called 'confederate States of America,' and report whether any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise."

Under which resolution nine members were appointed by the Speaker of the House, and six by the President of the Senate, making the fifteen contemplated by the resolution. This joint committee on reconstruction, thus appointed, organized and entered upon the duties of their appointment, and after taking a large amount of testimony and making a thorough examination as to the status of these eleven States, recommended an amendment to the Constitution of the United States which passed the Senate by a vote of 38 to 11, and the House of Representatives by 138 to 36, (being more than a two-thirds vote,) in the following form:

Joint Resolution proposing an amendment to the Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:*

#### ARTICLE —.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The above adoption of this proposed amendment is indispensable, especially in regard to representation. Under the provisions of the Constitution of the United States of 1787 all colored freemen in the slave States and three fifths of the slaves were represented, although none of them were entitled to vote. Those States had nineteen Representatives of colored slaves, and as the slaves are now free they can add for the other two fifths thirteen more, making the slave representation thirty-two. Suppose the free blacks prior to the emancipation of the slaves will give at least five more, making the representation of non-voting people of color about thirty-seven. The full number of Representatives from the slave States at the breaking out of the rebellion was seventy. Add the other two fifths and it will be eighty-eight; thus giving to the late slaveholding States a

large representation for a non-voting population, which may be the means of their having a preponderance in Congress, which would certainly be vesting the States lately in rebellion with a power that might be wielded with injury and embarrassment to the Government. But why should they be vested with such extraordinary functions? If it is inexpedient to clothe the colored man with the elective franchise, certainly no one ought to exercise it for him. Hence the stern necessity of the adoption of the proposed amendment, which also extends protection to that race.

A diversity of opinion prevails as to the propriety of extending to the colored race the elective franchise. To me, Mr. Speaker, this question seems to belong entirely to the respective States to decide, and that evidently is the construction placed by statesmen upon the Constitution of the 17th of September 1787, and as I have said on other occasions it has now become too firmly settled to be shaken. In my own State the constitution confines the elective franchise to citizens who are white free men of the age of twenty-one years, and that constitution can only be changed in two ways: first, by calling a convention; and secondly, by an amendment or amendments proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their Journals with the yeas and nays taken thereon, and the secretary of the Commonwealth shall cause the same to be published three months before the next election in at least one newspaper in every county in which a newspaper shall be published; and if the Legislature next chosen shall agree to such proposed amendment or amendments by a majority of the members elected to each House, the secretary of the Commonwealth shall cause the same to be published in the manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such times, at least three months after being so agreed upon by the two Houses, as the Legislature shall prescribe. And if the people shall approve and ratify such amendment or amendments by a majority of the qualified voters of the State voting thereon, such amendment or amendments shall become part of the constitution.

While the State I have the honor to represent in part refuses negro suffrage by her constitution, I would not vote for any act of Congress to extend that right over any other State, leaving that question to the respective States. In the District of Columbia Congress has exclusive jurisdiction, and may try the experiment, if an experiment it is. I do not apprehend as much danger in allowing the black man a vote as some imagine. One thing is true, and that is that they are loyal to the Government of the United States, while many whites who claim to exercise that sacred right are the contrary. In Pennsylvania the black man voted prior to the amended constitution of 1838. And under the constitution of the great State of New York a man of color who shall have been for three years a citizen of the State and for one year next preceding any elections shall have been seized and possessed of a freehold estate of the value of \$250, over and above all debts and incumbrances charged thereon, and shall have been actually valued and paid a tax thereon, shall be entitled to vote. I understand that at the last presidential election several thousand colored men voted in that State; yet no apprehension was had that the colored men would be forced into the jury-box, raised to a judgeship, or placed in any office, or be thrust into the social circle of the whites, nor has any party in that State asked for a change of the constitution. Attempted prejudice against the black man is gotten up by demagogue politicians.

I am aware, sir, that aspirants for office are

trying to get up a prejudice against the Union party in Congress because they want to see the colored man who fought to save this Republic protected. I do not wish to be understood to be in favor of giving the colored man the right of suffrage against the will of the majority of the people of any State and on this subject I think I speak the sentiments of the majority of this House; that is the spirit of the proposed amendment of the Constitution of the United States which we lately passed and submitted to the States, some of which through their Legislatures have already ratified it, among which is Tennessee, which is one of those States lately in rebellion, and we have in response admitted her loyal Representatives to seats on this floor, and if the other States that rebelled desire representation they must follow the example of Tennessee. The preservation of this Union depends on Congress standing firm and united on this point. It has been said by politicians that the colored population will emigrate to the northern States. This is a great mistake. The northern climate is not suitable to the black man, while that of the South is congenial to his nature. What induced him to leave the South in former years was to escape from bondage, but as slavery is now abolished and protection afforded, the South is where that race will emigrate, and instead of southern colored men coming North to live it is more likely that those born in the North will make the South their home.

The recent bold and daring conduct of the rebels clearly demonstrates that the policy of President Johnson in regard to the States lately in rebellion is inadequate to afford protection to loyal citizens of the South, and render sufficient security to the Government, while that of Congress (in my opinion) is the only true mode of reconstruction, and the one that will place our Government on a firm and substantial basis and be a preventive against future rebellions. It is now for the people to say whether they will sustain Congress or not in their efforts to render our Government secure. This is no time to be week-kneed. One side or the other must be taken. Plutarch takes notice of a very remarkable though just law of Solon which declared "every man infamous who in any seditious or civil dissensions in the State should continue neutral and refuse to side with either party." Surely every lover of his country desires permanent security and a safeguard against another rebellion. We have expended too much treasure and lost too many precious lives to sustain this Republic to allow rebels to dictate terms to us. If the amendment to the Constitution of the United States that we have recently passed is ratified by the requisite number of the States we will have a bright future.

#### OUR COUNTRY.

The United States has 3,000,000 square miles of territory and 200,000 square miles of productive territory, or one fifteenth of the whole. Each acre contains 80,000 tons of coal, (of which only 20,000 are available or in workable beds in the aggregate.) We now produce over 20,000,000 tons of coal, including home and colliery consumption, and sell 20,000,000 tons annually. Our total resources in coal at 20,000 tons per acre are 3,740,000,000 tons. Of this amount about 27,073,000,000 tons are anthracite. We have also inexhaustible beds of iron ore and precious metals. These resources are available located; they are in proximity with the widest and most fertile plains, the richest soils known to man. They are open to development by ocean, lakes, or magnificent rivers, and are or will be traversed by railroad from ocean to ocean. Their value is incalculable; their extent boundless; their richness unequalled; and their quantity immeasurable. The wealth they represent cannot be told in figures. To make our country what it ought to be we must have a protective tariff in order to build up manufactories so as to consume our own agricultural products and put a

stop to the immense drain of gold to enrich the manufacturers of Europe. We now produce over \$2,500,000,000 of manufactures annually which consume about \$2,000,000,000 of agricultural products in food, raw material, &c.; yet we are paying the skill and sagacity of the manufacturers of Europe nearly \$100,000,000 annually in gold over and above our exchanges, value for value; while the manufacturers of Europe never took more than \$80,000,000 of our agricultural products, exclusive of cotton, in any one year, and generally considerably less.

It is said we have incurred a large debt in consequence of the late war in putting down the rebellion. True it is, but it is small compared to that of other nations, as the following will show when we take into consideration our own resources:

Statement of the different national debts, together with the population and average amount per capita to each inhabitant.

Name.	Debt.	Popula- tion.	Av'g amt per capita.
Great Britain.....	\$4,000,000,000	30,000,000	\$133 38
United States.....	3,000,000,000	35,000,000	87 70
France.....	2,000,000,000	36,500,000	54 79
Russia.....	1,155,000,000	75,000,000	15 40
Austria.....	1,125,000,000	35,000,000	32 14
Spain.....	535,000,000	16,000,000	33 44
Netherlands.....	465,000,000	3,000,000	155 00
Prussia.....	210,000,000	18,000,000	11 66
Portugal.....	150,000,000	4,000,000	37 50
Belgium.....	130,000,000	4,500,000	28 88
Bavaria.....	130,000,000	4,500,000	28 88
Brazil.....	88,000,000	7,700,000	11 43
Denmark.....	60,000,000	2,600,000	23 10
Hanover.....	48,000,000	2,000,000	24 00
Wurtemberg.....	40,000,000	1,800,000	22 23
Hamburg.....	25,000,000	1,700,000	14 77
Greece.....	23,000,000	222,000	103 60
Greece.....	20,000,000	1,000,000	20 00

The following is an estimate of the receipts and expenditures of the United States Government for the fiscal year ending June 30, 1866:

Receipts.	
Customs, first, second, and third quarters, actual.....	\$132,871,519 25
Customs, fourth quarter, estimated.....	46,505,359 35
	\$179,376,878 60
Lands, first, second, and third quarters, actual.....	\$488,311 40
Lands, fourth quarter, estimated.....	243,228 21
	731,539 61
Amount carried forward.....	\$180,108,418 21

Amount brought forward.....	\$180,108,418 21
Internal revenue, first, second, and third quarters, actual.....	\$245,369,074 50
Internal revenue, fourth quarter, estimated.....	64,141,853 87
Miscellaneous, first, second, and third quarters, actual.....	\$48,478,119 41
Miscellaneous, fourth quarter, estimated, including direct tax.....	18,463,365 64
Direct tax, first, second, and third quarters, actual.....	1,486,118 05
Total.....	\$558,046,954 68
Expenditures.	
Civil, first, second, third, and fourth quarters, actual.....	\$41,017,922 85
Interior, first, second, third, and fourth quarters, actual.....	18,852,455 91
War, first, second, third, and fourth quarters, actual.....	284,449,701 82
Navy, first, second, third, and fourth quarters, actual.....	43,364,118 52
Interest on public debt, first, second, and third quarters, actual.....	\$96,919,456 38
Interest on public debt, fourth quarter, estimated.....	36,219,903 52
	133,139,359 90
Total.....	\$520,823,559 00

From this statement it will be seen that the receipts exceed the expenditures \$37,223,395 68 after payment of the interest on the public debt, and \$284,449,701 82 for the War, and \$43,364,118 52 for the Navy. The large amount of expenditures for the past year was caused by the payment of the Army and Navy, and as the greater portion of them are now discharged that expenditure will be small for the next fiscal year; consequently a large sum can be applied to the liquidation of the national debt.

If, Mr. Speaker, our Government is properly and judiciously administered, we will advance in prosperity and strength. But should those who have for the past four years been endeavoring to destroy this Republic, in council chamber and on fields of battle, be in power and permitted to mold the destinies of the nation, we will have a gloomy and foreboding prospect. There will be no security for life or property—no permanent faith in the lasting security of our institutions. The hecatombs that have strewn the field of carnage or perished in the prison-pens of the South will all be in vain.

God forbid that the leading rebels should

ever sit in the councils of the nation or participate in the affairs of the Government. Go to Arlington Heights where once the arch-traitor Lee, who was educated by the United States, resided, and indulged in all the luxury the land afforded, and what do we see? Thousands upon thousands of graves containing the bodies of Union soldiers whose lives this man directed in destroying, and here and there you will find a grave marked "unknown," but not unwept. What a satisfaction it would be to some dear relative to be able to designate the body which that grave contains; but alas! that cannot be done; it can only be recognized by friends at the final resurrection. How mortifying it is to every lover of the Union to see leading rebels who caused so much misery throughout the land stalking about, bold and impudent, and even asking to aid in the administration of the Government!

And now, Mr. Speaker, as we are about to separate and return to our constituents after an arduous session of eight months, it is for them to say whether they will sustain us in our efforts to save the country. I am aware that many demagogues and aspiring politicians find fault with our proceedings, but I am willing to submit them to the scrutiny of a candid people. I assert here, as I will before my constituents, that I will not vote for the admission of Representatives from any of the States lately in rebellion which refuse to ratify the late amendment to the Constitution that we have submitted to the respective States, for I deem it indispensable for the security and permanency of our Government. With proper safeguards thrown around, and a firm reliance in Him in whose hands alone a country can prosper, this great nation will endure until time is no more, and be an asylum for the oppressed of all nations, and not like the ancient republics which through their luxury and wickedness fell to rise no more; for, as Mr. Montagu has said—

"Greece, once the nursery of arts and sciences, the faithful mother of philosophers, lawyers, and authors now lies prostrate under the iron yoke of ignorance and barbarism; Carthage, once the mighty sovereign of the ocean, and the center of universal commerce, which poured the riches of the nations into her lap, now puzzles the inquisitive traveler in his researches after even the vestiges of her ruin; and Rome, the mistress of the universe, which once contained whatever was esteemed great or brilliant in human nature, is now sunk into the ignoble feast of whatever is esteemed mean and infamous."



# LAWS OF THE UNITED STATES.

## PUBLIC ACTS OF THE THIRTY-NINTH CONGRESS

OF THE

## UNITED STATES,

*Passed at the First Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 4th day of December, A. D. 1865, and ended on Saturday, the 28th day of July, A. D. 1866.*

ANDREW JOHNSON, President. LA FAYETTE S. FOSTER, President of the Senate. LA FAYETTE S. FOSTER was elected President of the Senate *pro tempore* on the 7th day of March, and so acted until the end of the Session. SCHUYLER COLFAX, Speaker of the House of Representatives.

[The Index to the Laws follows the Index to the Appendix.]

CHAPTER I.—An Act to amend an Act entitled “An Act providing for the Selection of Jurors to serve in the several Courts of the District of Columbia.”

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if at any time it shall occur that all of the names in the box provided for in the fourth section of the act to which this is an amendment shall have been drawn out of the same at any term of the court before the first day of February next ensuing, the court, or any judge thereof, may order the marshal to summon from the body of Washington county twenty-three citizens, having the qualifications of jurors, as provided in said act, to serve as grand jurors, and twenty-six citizens, having such qualifications, to act as petit jurors, or either, as may be needed at any subsequent term of the court to be held between the time of the happening of the contingency aforesaid and the first day of February then next ensuing; and vacancies in either grand or petit jurors so ordered to be summoned as aforesaid may be filled by other persons summoned by the marshal upon the order of the court.

SEC. 2. *And be it further enacted,* That whereas all the names in the jury-box provided for by the fourth section of the act to which this is an amendment were, at the late term of the supreme court of the District of Columbia, sitting for the trial of crimes and misdemeanors, drawn from said box, the judge assigned to hold the December term of said court for the year eighteen hundred and sixty-five, be, and he is hereby, authorized and empowered to order the marshal to summon from the body of Washington county twenty-three citizens, having the qualifications of jurors, as provided in the act to which this is an amendment, to act as grand jurors for said term of said court, and twenty-six citizens, having such qualifications, to act as petit jurors for said term, and that vacancies in said grand and petit jurors may be filled as provided for in the first section of this act.

APPROVED, December 18, 1865.

CHAP. II.—An Act to prevent the Spread of foreign Diseases among the Cattle of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the importation of

cattle be, and hereby is, prohibited. And it shall be the duty of the Secretary of the Treasury to make such regulations as will give this law full and immediate effect, and to send copies of them to the proper officers in this country, and to all officers or agents of the United States in foreign countries.

SEC. 2. *And be it further enacted,* That when the President shall give thirty days' notice, by proclamation, that no further danger is to be apprehended from the spread of foreign infectious or contagious diseases among cattle, this law shall be of no force, and cattle may be imported in the same way as before its passage.

APPROVED, December 18, 1865.

CHAP. III.—An Act making Appropriation for refurnishing and repairing the President's House.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of thirty thousand dollars, or so much thereof as shall be necessary, be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for refurnishing the President's House and repairing the same.

APPROVED, December 19, 1865.

CHAP. V.—An Act authorizing the Secretary of the Treasury to appoint Assistant Assessors of Internal Revenue.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized to appoint any assistant assessors of internal revenue now provided by law.

APPROVED, January 15, 1866.

CHAP. VI.—An Act making Appropriations for the Payment of invalid and other Pensions of the United States for the year ending the thirtieth of June, eighteen hundred and sixty-seven, and additional Appropriations for the year ending the thirtieth of June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the payment of pensions for

the year ending the thirtieth of June, eighteen hundred and sixty-seven:

For invalid pensions under various acts, five millions five hundred thousand dollars.

For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, as provided for by acts of March eighteenth, eighteen hundred and eighteen; May fifteenth, eighteen hundred and twenty-eight; June seventh, eighteen hundred and thirty-two; July fourth, eighteen hundred and thirty-six; July seventh, eighteen hundred and thirty-eight; March third, eighteen hundred and forty-three; June seventeenth, eighteen hundred and forty-four; February second, July twenty-first, and July twenty-ninth, eighteen hundred and forty-eight; February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, and for compensation to pension agents and expenses of agencies, nine millions eight hundred thousand dollars.

For Navy pensions to widows, children, mothers, and sisters, as provided for by acts of August eleventh, eighteen hundred and forty-eight, and July fourteenth, eighteen hundred and sixty-two, one hundred and forty thousand dollars, to be paid out of the Navy pension fund.

SEC. 2. *And be it further enacted,* That the following [sum] be, and the same is hereby, appropriated to supply a deficiency in the appropriation for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, out of any money in the Treasury not otherwise appropriated:

For revolutionary pensions and pensions of widows, children, mothers, and sisters of soldiers as provided for by acts of March eighteen, eighteen hundred and eighteen, May fifteen, eighteen hundred and twenty-eight, June seven, eighteen hundred and thirty-two, July four, eighteen hundred and thirty-six, July seven, eighteen hundred and thirty-eight, March three, eighteen hundred and forty-three, June seven, eighteen hundred and forty-four, February two, July twenty-one, and July twenty-nine, eighteen hundred and forty-eight, February three, eighteen hundred and fifty-three, June three, eighteen hundred and fifty-eight, and July fourteen, eighteen hundred and sixty-two, two millions five hundred thousand dollars.

APPROVED, February 7, 1866.

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CHAP. VIII.—An Act to regulate the Registering of Vessels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no ship or vessel, which has been recorded or registered as an American vessel, pursuant to law, and which shall have been licensed or otherwise authorized to sail under a foreign flag, and to have the protection of any foreign Government during the existence of the rebellion, shall be deemed or registered as an American vessel, or shall have the rights and privileges of American vessels, except under the provisions of an act of Congress authorizing such registry.

APPROVED, February 10, 1866.

CHAP. IX.—An Act granting the franking Privilege to Mary Lincoln.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all letters and packets carried by post, to and from Mary Lincoln, widow of the late Abraham Lincoln, be conveyed free of postage during her natural life.

APPROVED, February 10, 1866.

CHAP. X.—An Act authorizing an Increase of the clerical Force in the Post Office Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in addition to the clerical force now authorized by law in the Post Office Department, the Postmaster General be, and he is hereby, authorized to appoint and employ four clerks of class one, seven of class two, fourteen of class three, and four of class four; and said clerks shall be paid until the thirtieth of June, eighteen hundred and sixty-six, out of any money in the Treasury not otherwise appropriated.

APPROVED, February 16, 1866.

CHAP. XII.—An Act to amend an Act entitled "An Act to prevent the Spread of foreign Diseases among the Cattle of the United States," approved December eighteen, eight hundred and sixty-five.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December eighteen, eighteen hundred and sixty-five, is hereby amended so as to read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the importation of neat cattle and the hides of neat cattle from any foreign country into the United States is hereby prohibited: *Provided, however,* That the operation of this act, or any part thereof, shall be suspended as to any foreign country or countries, or any parts of such country or countries, whenever the Secretary of the Treasury shall officially determine, and give public notice thereof, that such importation will not tend to the introduction or spread of contagious or infectious diseases among the cattle of the United States; and the Secretary of the Treasury is hereby authorized and empowered, and it shall be his duty, to make all necessary orders and regulations to carry this law into effect, or to suspend the same as therein provided, and to send copies thereof to the proper officers in the United States, and to such officers or agents of the United States in foreign countries as he shall judge necessary.

SEC. 2. *And be it further enacted,* That the President of the United States, whenever in his judgment the importation of neat cattle and the hides of neat cattle may be made without danger of the introduction or spread of contagious or infectious disease among the cattle

of the United States, may, by proclamation, declare the provisions of this act to be inoperative, and the same shall be afterwards inoperative and of no effect from and after thirty days from the date of said proclamation.

SEC. 3. *And be it further enacted,* That any person convicted of a willful violation of any of the provisions of this act shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

APPROVED, March 6, 1866.

CHAP. XIII.—An Act to quiet the Title to certain Lands within the corporate Limits of the City of San Francisco.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the right and title of the United States to the land situated within the corporate limits of the city of San Francisco, in the State of California, confirmed to the city of San Francisco by the decree of the circuit court of the United States for the northern district of California, entered on the eighteenth day of May, one thousand eight hundred and sixty-five, be, and the same are hereby, relinquished and granted to the said city of San Francisco and its successors, and the claim of the said city to said land is hereby confirmed, subject, however, to the reservations and exceptions designated in said decree, and upon the following trusts, namely: that all the said land, not heretofore granted to said city shall be disposed of and conveyed by said city to parties in the *bona fide* actual possession thereof, by themselves or tenants, on the passage of this act, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe, except such parcels thereof as may be reserved and set apart by ordinance of said city for public uses: *Provided, however,* That the relinquishment and grant by this act shall not interfere with or prejudice any valid adverse right or claim, if such exist, to said land or any part thereof, whether derived from Spain, Mexico, or the United States, or preclude a judicial examination and adjustment thereof.

APPROVED, March 8, 1866.

CHAP. XV.—An Act to declare the Meaning of certain Parts of the Internal Revenue Act, approved June thirty, eighteen hundred and sixty-four, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in section one hundred and twenty of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirty, eighteen hundred and sixty-four, the words, "all dividends in scrip, or money thereafter declared due, and whenever the same shall be payable, to stockholders, policy-holders or depositors," are hereby declared to mean all dividends in scrip or money wherever payable, and all stockholders, policy-holders, depositors, or parties whatsoever, including non-residents, whether citizens or aliens.

SEC. 2. *And be it further enacted,* That in section one hundred and twenty-two of said act the word "stockholders" is hereby declared to mean all persons or parties whatsoever that are or may be stockholders, including non-residents, whether citizens or aliens; and the words "all such interest or coupons, dividends or profits, whenever the same shall be payable," are hereby declared to apply to all such interest or coupons, dividends or profits wherever the same are or may be payable, and to whatsoever party or person the same are or may be payable, including non-residents, whether citizens or aliens.

SEC. 3. *And be it further enacted,* That it shall be the duty of all persons required to make returns or lists of income and articles or objects charged with any duty or tax, as provided by the act aforesaid, or any act amendatory thereof, to declare in such returns whether the several rates and amounts therein contained are stated according to their values in legal-tender currency; and in case of neglect or refusal so to state, to the satisfaction of the assistant assessor receiving such returns or lists, such assistant assessor is hereby required to make returns or lists for such persons so neglecting or refusing, as in case of persons neglecting or refusing to make the lists or returns required by the acts aforesaid, and to assess the duty thereon, and to add thereto the amount of penalties imposed by law in case of such neglect or refusal.

SEC. 4. *And be it further enacted,* That whenever the rates and amounts contained in the lists or returns as aforesaid shall be stated in coined money, it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in legal-tender currency, according to the value of such coined money in said currency at the time when and place where said lists or returns are receivable, and which value the said assessor shall determine. And the lists required by law to be furnished to collectors by assessors shall in all cases contain the several amounts of taxes or duties assessed, estimated, or valued in legal-tender currency only.

SEC. 5. *And be it further enacted,* That the provisions of this act shall, so far as necessary, apply to all returns, lists, assessments, and collections required by the acts aforesaid in addition to those above mentioned, by whomsoever made, returned, assessed, or collected, in any mode or for any purpose whatever. And the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is hereby authorized to make all necessary rules and regulations for carrying this act into effect.

APPROVED, March 10, 1866.

CHAP. XVI.—An Act to establish certain Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following be established as post roads:

## CALIFORNIA.

From Rio Vista, via Maine Prairie and Binghampton, to Silveyville.

From Red Bluff, via the Upper Sacramento river, Soda Springs, and Shasta Valley, to Yreka.

From Red Bluff, via Payne's Creek, Mill Creek, and Big Meadows, to Susanville.

From Chico, via Stony Creek and Coast Range, to Nome Cult.

From Cloverdale, via the Lakeport and Cloverdale Wagon Road, to Lakeport.

## COLORADO.

From Central City, via Georgetown, to Argentine.

From Gold Dirt to South Boulder.

From Denver, via Mount Vernon and Idaho, to Empire City.

## DAKOTA.

From Fort Wadsworth to Devils Lake.

## INDIANA.

From Momence, Illinois, via Beaver Lake Ditch, Stringham's Point, and Pilot Grove, all in Newton county, Indiana, to Adriance, Indiana.

From Fulton, via Millville, to Keenawha.

## IOWA.

From Boonsboro' to Panora.

From Winterset, via Quincy, Clarinda, and Marysville, to Savannah, in Missouri.

From Indianola, via Lawrenceburg and Liberty Centre, to Chariton.

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From Chariton, Lucas county, via Garden Grove, to Leon.

From Marshalltown, via Vienna, Wolf Grove, Fifteen-Mile Grove, and Grundy Centre, to New Hartford.

From Decorah to Hesper, in Winneshek county.

From West Mitchell, in Mitchell county, by Plymouth and Mason City, to Clear Lake, in Cerro Gordo county.

From Postville, via Lybrand and Ludlow, to Waukon, in Alamakee county.

## KANSAS.

From Humboldt, Kansas, via Osage, Catholic Mission, and Chetopa, to Fort Gibson.

From Pleasant Hill, Missouri, via Blooming Grove, to Mound City, Kansas.

From Neosha Falls, Kansas, via Belmont, to Syracuse, in Wilson county.

From Fort Scott, via Mill Creek, Dayton, Mapleton, and Blue Mounds, to Garnett, tri-weekly.

From Verdigris Falls, via Virgil, to Pleasant Grove.

From Xenia to Walnut Hills.

From Council Grove to Albilene.

From Neosha Falls, via Mount Airy, to Liberty, in Woodson county.

From Emporia, via Madison, Shell Rock, Pleasant Grove, and Post Oak, to Fort Roe.

From Ottumwa, via Madison, Janesville, Eureka, and Darley's Mills, to Salt Spring.

From Enterprise, via Ottumwa, Sac and Fox Agency, Greenwood, Ottawa, and Paola, to Harrisonville, Missouri.

From Council Grove to Marion Centre.

From Ottawa, via James Carroll's, Jackson Mark's, and Mineral Point, to Burlington.

From Medina, via Oskaloosa, Winchester, and Easton, to Leavenworth.

From Lawrence, via Oskaloosa, to Grass-hopper Falls.

From Perryville, (located on the route of the Union Pacific railroad,) via Oskaloosa and Easton, to Leavenworth.

## MAINE.

From Porter, via North Parsonfield, Parsonfield, and North Newfield, to West Newfield, in York county.

From North Acton, Maine, via Wakefield, to Union, New Hampshire.

From Woodman's Station, via New Gloucester and West Gloucester, to North Raymond, in Cumberland county.

From Poland to West Poland, in Andros-coggin county.

## MASSACHUSETTS.

From North Falmouth, by Hatchville and East Falmouth, to Waquoit.

## MICHIGAN.

From Coopersville to Squire's Ferry.

From Coopersville, via Mansfield Mills, Ravenna, Slocum's Grove, Whitney's Mill, and Moreland, to Squire's Ferry.

## MINNESOTA.

From Paynesville, by Norway Lake, to Six-mile Timber, on Chippeway river.

From Hastings, via Cannon Falls, to Kenyon.

From St. Cloud to Fort Ripley, on the west bank of the Mississippi river.

From Watertown to Glencoe.

From Blue Earth city, Minnesota, to Yankton, Dakota Territory.

From Hutchinson, via Cedar, Greenleaf, Kandigoli, and Irving, to Torah.

From Henderson, by Arlington, New Auburn, Witadan Lake, and Fort Wadsworth, in Dakota Territory, to Fort Rice on Missouri river.

## NEBRASKA.

From West Point, Cumming county, to Rock Creek, in said county, ten miles.

From Pawnee City, via Frieses Mills, Nebraska, to Seneca, in Kansas.

From Dakota City, via West Point, to Columbus.

From Brownsville, Nebraska, to Rockport, Missouri.

From Big Sandy, Jones county, to Rose Creek, Nuckolls county.

From Plattsmouth, via Glendale, South Bend, Ashland, Salt Creek, Rock Creek, Lancaster, Saline City, Saltillo, Centerville, Olive Branch, Clatona, to Beatrice.

From Plattsmouth, via 8 Mile Grove, to Weeping Water.

From Decatur, via Logan Valley, West Point, St. Charles, and Jalapa, to Fremont.

From De Soto, via Arizona, to Decatur.

## NEVADA.

From Carson, by way of Ophir, Washoe City, and Steamboat Springs, to Huffaker's Ranch, all in Nevada.

From Ione, by way of Canon City, to Austin, all in Nevada.

From Austin to Cortez, in Nevada.

From Austin, by way of Kingston, Twin river, and San Antonio District, to Silver Peak, all in Nevada.

From Virginia, by way of Sacramento District, Unionville, Star, Dungen, and Paradise Valley, in Nevada, to Boise City, in Idaho.

## NEW YORK.

From Unadilla, in the county of Otsego, via Sidney, Tompkins, and Masonville, to Cannonsville, in the county of Delaware.

The road from South New Berlin, in the county of Chenango, to Morris, in the county of Otsego, in the State of New York, is hereby declared to be a post road.

## OHIO.

From New Carlisle, via Brant, to Dayton.

## OREGON.

From Auburn to Clarksville.

From Dalles City, on the Columbia river, to Umatilla, in Umatilla county.

From Umatilla, by Le Grand, in Union county, to Baker City, in Baker county.

## PENNSYLVANIA.

From Tylersport, in Montgomery county, to Seller's Tavern, in Bucks county.

## VERMONT.

From Rassaumpsie, via South Danville, to Danville.

From South Danville to West Danville.

## WASHINGTON TERRITORY.

From Wallula, by Antoine Plants, Peru, D'Orville Lake, and Hell Gate, to Helena, Montana Territory.

## WEST VIRGINIA.

Change route numbered four thousand one hundred and twenty-five, (4,125,) from Midgetown, in Tyler county, to Ellenboro', in Ritchie county; and route Sisterville, in Tyler county, to Twigg, in Pleasant county.

## WISCONSIN.

From Watome, Waushara county, to Grand Rapids, Wood county.

APPROVED, March 14, 1866.

CHAP. XVII.—An Act to extend the Time for the withdrawal of Goods for Consumption from public Store and bonded Warehouse, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That on and after the passage of this act, and until the first day of May, eighteen hundred and sixty-six, any goods, wares, or merchandise under bond, in any public or private bonded warehouse, upon which the duties are unpaid, may be withdrawn for consumption, and the bonds canceled, on payment of the duties and charges prescribed by law; and any goods, wares, or merchandise

deposited in bond, in any public or private bonded warehouse, on and after the first day of May aforesaid, and all goods, wares, or merchandise remaining in warehouse, under bond, on said first day of May, may be withdrawn for consumption within one year from the date of original importation, on payment of the duties and charges to which they may be subject by law at the time of such withdrawal; and after the expiration of one year from the date of original importation, and until the expiration of three years from said date, any goods, wares, or merchandise, in bond as aforesaid, may be withdrawn for consumption on payment of the duties assessed on the original entry and charges, and an additional duty of ten per centum of the amount of such duties and charges.

SEC. 2. *And be it further enacted,* That neither this nor any other act shall operate to prevent the exportation of bonded goods, wares, or merchandise from warehouse within three years from the date of original importation, nor their transportation in bond from the port into which they were originally imported to any other port or ports for the purpose of exportation; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, March 14, 1866.

CHAP. XVIII.—An Act to further secure American Citizens certain Privileges under the Treaty of Washington.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the produce of the forests of the State of Maine upon the Saint John river and its tributaries, owned by American citizens, and sawed or hewed in the Province of New Brunswick by American citizens, (the same being unmanufactured in whole or in part,) which is now admitted into the ports of the United States free of duty, shall continue to be so admitted under such regulations as the Secretary of the Treasury shall from time to time prescribe.

SEC. 2. *And be it further enacted,* That this act shall take effect from and after the seventeenth day of March, eighteen hundred and sixty-six.

APPROVED, March 16, 1866.

CHAP. XIX.—An Act in Relation to the Court of Claims.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the fourteenth section of an act approved the third day of March, anno Domini eighteen hundred and sixty-three, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February twenty-fourth, eighteen [hundred] and fifty-five, be, and the same is hereby, repealed; and from the final judgment, or decree, in all cases heretofore decided by the Court of Claims, of the character mentioned in the fifth section of said act of March third, eighteen hundred and sixty-three, an appeal shall be allowed to the Supreme Court of the United States, at any time within ninety days after the passage of this act, except in such cases where the amounts found due by said court have been paid at the Treasury.

SEC. 2. *And be it further enacted,* That the regular session of the Court of Claims shall hereafter commence on the first Monday of December in each year.

SEC. 3. *And be it further enacted,* That at the end of every term of the Court of Claims, the clerk of said court transmit a copy of the decisions thereof to the heads of Departments; to the Solicitor, Comptrollers, and Auditors of the Treasury; to the Commissioners of the General Land Office and of Indian Affairs; to the chiefs of bureaus; and to other officers charged with adjusting claims against the United States.

APPROVED, March 17, 1866.



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CHAP. XX.—An Act to amend an Act to extend the Charter of the President and Directors of the Fireman's Insurance Company of Washington and Georgetown, in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sixth, seventh, eighth, ninth, and tenth sections of the act to incorporate the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia, approved March third, eighteen hundred and thirty-seven, and which was extended by the act approved February seventh, eighteen hundred and fifty-seven, be, and the same hereby are, repealed; the fire companies which existed at the time of the passage of said acts, and upon which existence said sections were based, having ceased to exist.

SEC. 2. *And be it further enacted,* That the stock of said Firemen's Insurance Company shall be issued, sold, transferred, and held in the same manner that the same might have been issued, sold, transferred, and held had those sections never existed.

APPROVED, March 17, 1866.

CHAP. XXI.—An Act to amend an Act entitled "An Act to incorporate a National Military and Naval Asylum, for the Relief of the totally disabled Officers and Men of the volunteer Forces of the United States."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States, Secretary of War, Chief Justice of the United States, and such other persons as from time to time may hereafter be associated with them, according to the provisions of this act, are hereby constituted and established a board of managers of an establishment for the care and relief of the disabled volunteers of the United States Army, to be known by the name and style of "The National Asylum for Disabled Volunteer Soldiers," and have perpetual succession, with powers to take, hold, and convey real and personal property, establish a common seal, and to sue and be sued in courts of law and equity; and to make by-laws, rules, and regulations for carrying on the business and government of the asylum, and affix penalties thereto: *Provided,* That such by-laws, rules, and regulations are not inconsistent with the laws of the United States.

SEC. 2. *And be it further enacted,* That the business of said asylum shall be managed by a board of twelve managers, who shall elect from their own number a president, who shall be the chief executive officer of the board, two vice presidents, and a secretary; and seven of the board, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any meeting of the board.

SEC. 3. *And be it further enacted,* That the board of managers shall be composed of the President and Secretary of War and Chief Justice of the United States, *ex officio*, during their terms of office, together with nine other citizens of the United States, not members of Congress, no two of whom shall be residents of the same State, but who shall all be residents of States which furnished organized bodies of soldiers to aid in the late war for the suppression of the rebellion, (no person being ever eligible who gave aid or countenance to the rebellion,) to be selected by joint resolution of the Senate and House of Representatives immediately after the passage of this act. The term of office shall be for six years, and until others are appointed in their places, after the first election, which shall be of three for six years, three for four years, and three for two years, to be determined by the order in which they shall be named in the resolution. New elections shall be made by joint resolution of Congress, and vacancies

by death, resignation, or otherwise, to be filled in like manner. No member of the board of managers shall receive any compensation as such member; but his traveling and other actual expenses while upon the business of the asylum may be paid. But any member of the board having other duties connected with the asylum may receive a reasonable compensation therefor, to be determined by the board.

SEC. 4. *And be it further enacted,* That the board of managers shall have authority to procure for early use, at suitable places, sites for military asylums for all persons serving in the Army of the United States at any time in the war of the rebellion not provided for by existing laws, who have been or may hereafter be disqualified for procuring their own maintenance and support by reason of wounds received or sickness contracted while in the line of their duty during the present rebellion, and to have the necessary buildings erected, having due regard to the health of location, facility of access, and capacity to accommodate the persons provided for in this act.

SEC. 5. *And be it further enacted,* That for the establishment and support of this asylum there shall be appropriated all stoppages or fines adjudged against such officers and soldiers by sentence of court-martial or military commission, over and above the amounts necessary for the reimbursement of the Government or of individuals; all forfeitures on account of desertion from such service; and all moneys due such deceased officers and soldiers, which now are or may be unclaimed for three years after the death of such officers and soldiers, to be repaid upon the demand of the heirs or legal representatives of such deceased officers or soldiers. And the said board of managers are hereby authorized to receive all donations of money or property made by any person or persons for the benefit of the asylum, and to hold or dispose of the same for its sole and exclusive use.

SEC. 6. *And be it further enacted,* That the officers of the asylum shall consist of a governor, a deputy governor, a secretary, and a treasurer, and such other officers as the board of managers may deem necessary, to be appointed from disabled officers serving as before mentioned, and they may be appointed and removed from time to time, as the interests of the institution may require, by the board of managers.

SEC. 7. *And be it further enacted,* That the following persons only shall be entitled to the benefits of the asylum, and may be admitted thereto, upon the recommendation of three of the board of managers, namely: all officers and soldiers who served in the late war for the suppression of the rebellion, and not provided for by existing laws, who have been or may be disabled by wounds received or sickness contracted in the line of their duty; and such of these as have neither wife, child, nor parent dependent upon them, on becoming inmates of this asylum, or receiving relief therefrom, shall assign thereto their pensions when required by the board of managers, during the time they shall remain therein or receive its benefits.

SEC. 8. *And be it further enacted,* That the board of managers shall make an annual report of the condition of the asylum to Congress on the first Monday of every January after the passage of this act; and it shall be the duty of the said board to examine and audit the accounts of the treasurer and visit the asylum quarterly.

SEC. 9. *And be it further enacted,* That all inmates of the asylum shall be, and they are hereby, made subject to the Rules and Articles of War, and will be governed thereby in the same manner as if they were in the Army of the United States.

SEC. 10. *And be it further enacted,* That the managers of the asylum shall have power and authority to aid persons who are entitled to its

benefits by out-door relief in such manner and to such extent as they may deem proper, provided such relief shall not exceed the average cost of maintaining an inmate of the asylum.

SEC. 11. *And be it further enacted,* That so much of the act to which this is an amendment as provides for the establishment of a naval in connection with a military asylum, and so much of said act as provides that all stoppages of fines adjudged against naval officers and seamen by sentence of courts-martial or military commission, all forfeitures on account of desertions from the naval service, and all moneys due to deceased naval officers and seamen which are or may be unclaimed for three years after the death of such officers or seamen, shall be appropriated for the establishment of the asylum contemplated and provided for by this act and the act of which it is amendatory, be, and the same is hereby, repealed.

SEC. 12. *And be it further enacted,* That all the property of the United States now at Point Lookout, St. Mary's county, Maryland, shall be and become the property of the asylum so soon as a title to the satisfaction of the board of managers shall be made to the asylum of at least three hundred acres of land, including that on which said property of the United States is now built and maintained or held.

SEC. 13. *And be it further enacted,* That Congress may at any time hereafter alter, amend, or repeal this act.

APPROVED, March 21, 1866.

CHAP. XXII.—An Act quieting Doubts in Relation to the Validity of certain Locations of Lands in the State of Missouri, made by Virtue of Certificates issued under the Act of Congress of February the seventeenth, eighteen hundred and fifteen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all locations of lands in the State of Missouri, purporting to have been made by virtue of certificates issued under the act of Congress, approved February the seventeenth, eighteen hundred and fifteen, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," which are invalid in consequence of having been made or located after the expiration of the time specified by law for making said locations, shall be, and the same are hereby declared to be, as valid, and as binding, as if the said locations had been made and fully completed within the time prescribed by law, provided said locations shall be according to law in all other respects; but the foregoing provisions of this section shall not apply to, comprehend, include, or extend to any land within township forty-five, north of the base line, in range seven, east of the fifth principal meridian line in said State of Missouri.

SEC. 2. *And be it further enacted,* That the United States do hereby grant, relinquish, and convey, in fee-simple, and in full property, to James Y. O'Carroll, or his legal representatives, all of the right, title, and interest of the United States in and to all of the land within survey-number two thousand four hundred and ninety-eight, in township forty-five, north of the base line in range seven east of the fifth principal meridian line, in the State of Missouri, being the same land that was located by virtue of certificate number one hundred and fifty, issued to the said James Y. O'Carroll, or his legal representatives, under the act of Congress approved February the seventeenth, eighteen hundred and fifteen, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes:" *Provided, however,* That nothing in this section shall grant, relinquish, or convey the whole or any part of any lot, tract, piece, or parcel of land in said town-

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ship, which has been heretofore confirmed by the United States to any person or persons, or to the legal representatives of any person or persons: *And provided further*, That nothing in this act shall be so construed as to invalidate or impair any patent heretofore issued by the United States, or shall in any manner abridge, divest, impair, injure, or prejudice any valid adverse right, title, or interest of any person or persons in or to any portion or part of the aforesaid land which is granted, relinquished, and conveyed by this act.

APPROVED, March 21, 1866.

CHAP. XXIV.—An Act more effectually to provide for the Punishment of certain Crimes against the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person or persons shall falsely make, alter, forge, or counterfeit; or cause or procure to be falsely made, altered, forged, or counterfeited; or willingly aid or assist in the false making, altering, forging, or counterfeiting any bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or shall utter or publish as true, or cause to be uttered or published, as true, any such false, forged, altered, or counterfeited bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing, for the purpose of defrauding the United States, knowing the same to be false, forged, altered, or counterfeited; or shall transmit to, or present at, or cause or procure to be transmitted to, or presented at, the office of any officer of the United States, any such false, forged, altered, or counterfeited bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing, knowing the same to be false, forged, altered, or counterfeited, for the purpose of defrauding the United States; every such person shall be deemed and adjudged guilty of felony, and being thereof duly convicted, shall be sentenced to be imprisoned, and kept at hard labor, for a period not exceeding ten years, or be fined not exceeding one thousand dollars, or both of said punishments in the discretion of the court.

SEC. 2. *And be it further enacted*, That if any offense shall be committed in any place which has been, or shall hereafter be, ceded to, and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for by any law of the United States, such offense shall, upon conviction in any court of the United States having cognizance thereof, be liable to, and receive the same punishment as the laws of the State in which such place is, or may be situated, now in force, provided for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any of the courts of the United States.

APPROVED, April 5, 1866.

CHAP. XXV.—An Act to provide for the transfer of the Custody of the Library of the Smithsonian Institute to the Library of Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the library collected by the Smithsonian Institution under the provisions of an act approved August tenth, eighteen hundred and forty-six, shall be removed from the building of said institution, with the consent of the regents thereof, to the new fire-proof extension of the Library of Congress, upon completion of a sufficient portion thereof for its accommodation, and shall, while there deposited, be subject to the same regulations as the Library of Congress, except as hereinafter provided.

SEC. 2. *And be it further enacted*, That when such library shall have been so removed and deposited, the Smithsonian Institution shall have the use thereof in like manner as it is now used, and the public shall have access thereto for purposes of consultation on every ordinary week day except during one month of each year, in the recess of Congress, when it may be closed for renovation. All the books, maps, and charts of the Smithsonian library shall be properly cared for and preserved in like manner as are those of the Congressional Library, from which the Smithsonian library shall not be removed except on reimbursement by the Smithsonian Institution to the Treasury of the United States of expenses incurred in binding and in taking care of the same, or upon such terms and conditions as shall be mutually agreed upon by Congress and the regents of said Institution.

SEC. 3. *And be it further enacted*, That the Smithsonian Institution, through its secretary, shall have the use of the Library of Congress, subject to the same regulations as Senators and Representatives.

SEC. 4. *And be it further enacted*, That the Librarian of Congress shall be authorized to employ two additional assistants, who shall receive a yearly compensation of eight hundred dollars, and one thousand dollars, respectively, commencing July one, eighteen hundred and sixty-six, to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 5. *And be it further enacted*, That the sum of five hundred dollars, or so much thereof as may be necessary, shall be appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of the removal herein provided for.

APPROVED, April 5, 1866.

CHAP. XXVI.—An Act to provide for a Term of the District Court for the District of Minnesota, to be held at the City of Winona in said District.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter, and until otherwise provided by law, there shall be held, annually, on the first Monday in June, a term of the district court of the United States for the district of Minnesota at the city of Winona, in said district, and all process, writs, and recognizances, civil and criminal, which may have been, or may hereafter be, issued and made returnable at Mankato, shall be returned to the said term of the said court at the said city of Winona, in like manner and with the like effect as if originally made returnable thereto.

SEC. 2. *And be it further enacted*, That all acts or parts of acts which require a term of said court to be held at Mankato, in said district, be, and the same are hereby, repealed.

APPROVED, April 5, 1866.

CHAP. XXVII.—An Act to amend an Act entitled "An Act for the Relief of Seamen and others borne on the Books of Vessels wrecked or lost in the Naval Service," approved July four, eighteen hundred and sixty-four, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in case any officer of the Navy or Marine corps on board a vessel in the employ of the United States which, by any casualty, or in action with the enemy, has been or may be sunk or otherwise destroyed, shall thereby have lost his personal effects, the proper accounting officers are hereby authorized, with the approval of the Secretary of the Navy, to allow to such officer a sum not exceeding the amount of his sea pay for one month, as compensation for said loss: *Provided*, That such loss has not occurred through the negligence or want of skill or foresight of

the officer making application for such loss: *Provided*, That the accounting officers shall in all cases require a schedule and certificate from the officer making the claim for effects so lost: *And provided further*, That no allowance shall be made by virtue of this act for any loss incurred prior to the nineteenth day of April, eighteen hundred and sixty-one.

SEC. 2. *And be it further enacted*, That so much of the seventh section of the act of Congress, approved February twenty-fourth, eighteen hundred and sixty-four, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March third, anno Domini eighteen hundred and sixty-three," as provides that "the bounty money which any mariner or se[a]man enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service," be, and the same is hereby, repealed.

APPROVED, April 6, 1866.

CHAP. XXVIII.—An Act making additional Appropriations, and to supply the Deficiencies in the Appropriations for sundry civil Expenses of the Government for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, and to supply deficiencies in the appropriations, for the service of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, out of any money in the Treasury not otherwise appropriated, namely:

## SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy and petty officers and men of the Navy employed in the work, one hundred and twenty thousand dollars.

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, seventy-five thousand dollars.

For continuing the survey of the reefs, shoals, and keys of South Florida, including compensation of civilians engaged in the work, and excluding pay and emoluments of the officers of the Army and Navy and petty officers and men of the Navy employed in the work, eleven thousand dollars.

For publishing the observations made in the progress of the survey of the coast of the United States, including compensation of civilians employed in the work, four thousand dollars.

For repairs of steamers and sailing schooners used in the coast survey, twenty thousand dollars.

For pay and rations of engineers for steamers used in the hydrography of the coast survey, no longer supplied by the Navy Department, six thousand dollars.

## LIGHT-HOUSE ESTABLISHMENT.

For the Atlantic, Gulf, and Lake coasts, viz:

For supplying the light-houses and beacon-lights with oil, wicks, glass chimneys, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, one hundred and eighty-three thousand two hundred and eighty-seven dollars.

To supply deficiency in estimate for supplies of oil, wicks, glass chimneys, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, seven thousand dollars.

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For repairs and incidental expenses of light-houses and lighted beacons, one hundred and thirty thousand dollars.

To supply a deficiency in estimate for repairs and incidental expenses of light-houses, fifty thousand dollars.

For salaries of five hundred and eighty-nine keepers of light-houses and lighted beacons, and their assistants, two hundred and thirteen thousand one hundred and ninety-three dollars and thirty-three cents.

For salaries of forty-three keepers of light-vessels, twenty-three thousand nine hundred dollars.

For mates' and seamen's wages, repairs, supplies, and incidental expenses of forty-three light-vessels, two hundred and eighteen thousand nine hundred and seventeen dollars and seventy-five cents.

To supply deficiency in estimates for seamen's wages, repairs, supplies, and incidental expenses for light-vessels, twenty-three thousand three hundred and twenty-one dollars and seventy-five cents.

For expenses of weighing, cleaning, repairing, painting, replacing, and supplying losses of buoys, chains, moorings, and incidental expenses of the same, and for repairing and keeping in repair all the day-marks, beacons, spindles, and monuments, and for expenses of coloring and numbering all the buoys and beacons, one hundred and twelve thousand three hundred and fifty dollars.

For expenses of visiting and inspecting lights and other aids to navigation, two thousand dollars.

For the coasts of California, Oregon, and Washington:

For supplying light-houses and beacon-lights with oil, glass chimneys, and wicks, chamois skins, polishing powder, and other cleaning materials, transportation, and expenses of keeping lamps and machinery in repair, thirty-three thousand and thirty dollars.

For repairs and incidental expenses of light-houses and lighted beacons, fifteen thousand dollars.

For salaries of forty keepers and assistant keepers of light-houses, at an average not exceeding eight hundred dollars per annum, thirty-two thousand dollars.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of floating buoys and beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys, ten thousand dollars.

To supply deficiency in estimate for raising, cleaning, painting, remooing, and supplying losses of buoys, fifty thousand dollars.

For special works, viz:

For rebuilding sea-wall at Sand's Point light-station, New York, fourteen thousand eight hundred dollars.

For rebuilding sea-wall and repairs to tower at Nayat Point light-house, Rhode Island, six thousand five hundred dollars.

For replacing the present stakes at Whitehall Narrows, New York, by approved structures, nine thousand four hundred dollars.

For repairs and renovations at Little Gull Island light-station, New York, three thousand dollars.

For a new light-house on Hart Island, New York, or vicinity, six thousand six hundred dollars.

For a new light-house on North Brother Island, or vicinity, East River, New York, eight thousand five hundred dollars.

For repairs and renovations at Split Rock light-station, Lake Champlain, nine thousand six hundred dollars.

For repairs and renovations at Galloo Island light-station, fifteen thousand dollars.

For beacons in Providence river, Rhode Island, on Conanicut and Bullock's Points, in addition to previous appropriations, seventeen thousand dollars.

For banking in light-house site at Cohansey,

Delaware bay, four thousand five hundred dollars.

For a new iron stairway at Cape Henlopen light-house, twelve thousand dollars.

For a new light-house at Sharp's Island, Maryland, fifteen thousand dollars.

For new lanterns at Clay Island, Fog Point, Watt's Island, Turkey Point, Havre de Grace, and Fishing Battery light-houses, six thousand dollars.

For a new iron stairway at Cape Henry light-house, Virginia, twelve thousand dollars.

For new iron stairways at Cape Lookout and Cape Hatteras light-houses, North Carolina, twenty thousand dollars.

For repairs and renovations at Turtle Island light-station, Ohio, twelve thousand dollars.

For rebuilding Green Island light-house, Ohio, thirteen thousand seven hundred dollars.

For protecting the foundation on which Waugoshance light-house is constructed, ninety thousand dollars.

For renovations and repairs at Windmill Point light-house, Lake Saint Clair, three thousand five hundred dollars.

For rebuilding outer-range light at Cedar Point, Sandusky bay, Ohio, twenty thousand dollars, or so much thereof as may be necessary.

For range lights at Portage entry, Michigan, one thousand five hundred dollars.

For new keeper's dwelling at Beaver Island light-station, Michigan, five thousand eight hundred dollars.

For repairs and renovations at Marquette light-station, Michigan, thirteen thousand dollars.

For repairs and renovations at Cooper Harbor light-station, Michigan, thirteen thousand seven hundred dollars.

For repairs and renovations at Ontonagon light-station, Michigan, fourteen thousand dollars.

For beacon-lights at the mouth of Fox river, Wisconsin, six thousand dollars.

For a beacon-light on the landing at Santa Barbara, California, six thousand seven hundred dollars.

To enable the Light-House Board to reestablish lights and other aids to navigation discontinued by the enemy on the southern coast, one hundred thousand dollars.

To enable the Light-House Board to experiment with new illuminating apparatus and fog signals, three thousand four hundred dollars.

For a new light-house at the mouth of North river, Albemarle sound, North Carolina, fifteen thousand dollars.

For repairs and renovations at Tybee light-house, Georgia, twenty thousand dollars.

For rebuilding light-house at Presque Isle, Pennsylvania, (Lake Erie,) upon the most eligible site under the control of the Light-House Board, twenty-five thousand dollars.

For repairs and renovations at Mamagada light-station, Detroit river, seven thousand five hundred dollars.

For repairs and renovations at Kenosha light-station, Wisconsin, four thousand dollars.

For repairs and preservation of public buildings, especially southern buildings, fifty thousand dollars.

For furniture, carpets, and miscellaneous items for the same, fifteen thousand dollars.

For continuation of the north wing of the Treasury extension, two hundred thousand dollars.

For completion of the Dubuque, Iowa, custom-house, post office, and United States court-room, fifteen thousand dollars.

For completion of alterations of the Cincinnati custom-house, twenty-two thousand dollars.

For completion of alterations of the Philadelphia custom-house, thirty thousand dollars.

For payment of claims due for the constructing and furnishing the Baltimore court-house, one hundred and nine thousand dollars.

For payment of claims due for the repair of Government warehouses and construction of wharves, Staten Island, New York, twenty-nine thousand dollars.

For burglar-proof safes, or vaults, twenty thousand dollars.

For heating of old Treasury building, ten thousand dollars.

For office furniture and repairs of furniture and miscellaneous expenses for Treasury bureaus, Washington, twenty thousand dollars.

## PUBLIC BUILDINGS AND GROUNDS.

For error in compensation of employes in the Interior Department, to wit: one messenger, at one thousand dollars, and two assistants, at eight hundred and forty dollars each, forty dollars.

For compensation of two night watchmen at the President's House, at six hundred dollars, each, per annum, one thousand two hundred dollars.

For additional compensation of twenty per centum to two night watchmen, at six hundred dollars each, two hundred and forty dollars.

For deficiency due the Navy Department, for use of pile-driver, men, oil, and engine, while repairing navy-yard bridge, two thousand nine hundred and fifty-nine dollars and sixty-six cents.

For deficiency in consequence of relaying and repaving all the crossings of the streets intersecting Pennsylvania avenue, on the north side, from the Capitol to the Treasury Department, ten thousand dollars.

For deficiency in repairing the conservatory at the President's House, seven thousand five hundred dollars.

To enable the Commissioner of Public Buildings to properly refurnish and repair the President's House, in conformity with his estimate, forty-six thousand dollars, the old furniture to be disposed of under the direction of the Secretary of the Interior.

For purchase of coal and pay of firemen to warm the Library of Congress, one thousand five hundred dollars.

For care, support, medical and surgical treatment for forty transient paupers; medical and surgical patients, in some proper medical institution in the city of Washington, to be selected by the Commissioner of Public Buildings, twelve thousand dollars.

For hire of carts on the public grounds, two thousand dollars.

For purchase and repair of tools used in the public grounds, four hundred dollars.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, three thousand dollars.

For annual repairs of the Capitol, water-closets, public stables, water-pipes, pavements, and other walks within the Capitol square, broken glass, and locks, and for the protection of the building, and keeping the main approaches to it unincumbered, in addition to old material sold, eight thousand dollars.

For fitting up rooms in the basement, under the court-room of the Supreme Court, for a consultation room for the court, six thousand five hundred dollars.

To enable the Commissioner of Public Buildings to pay for sewers and paving in front of Government property constructed under the act of May five, eighteen hundred and sixty-four, thirty-two thousand and seventy dollars: *Provided*, That no payment shall be made on account of any appropriation herein contained to reimburse the city of Washington for improvements heretofore constructed in front of or through the public grounds, until the items have been properly examined and audited as to legality and amount by the proper officer of the Treasury.

For improvement of grounds, purchase of



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plants for garden, and contingent expenses incident thereto, two thousand dollars.

For fuel, in part, for the President's House, five thousand dollars.

For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets, in Georgetown, Four-and-a-half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, eighty-five thousand dollars.

For repairs of the Potomac and upper bridges, six thousand dollars.

For repairs of Pennsylvania avenue, and keeping it clean, and for sprinkling the same, ten thousand dollars.

For public reservation number two and Lafayette square, in addition to any sum heretofore received or that may hereafter be received for the sale of hay raised on the grounds, two thousand dollars.

For taking care of the grounds south of the President's House, and continuing the improvement of the same, three thousand dollars.

For repairs of water-pipes, five hundred dollars.

For cleaning and repairing sewer traps on Pennsylvania avenue, three hundred dollars.

For casual repairs of all the furnaces under the Capitol, five hundred dollars.

For an additional watchman in reservation number two, seven hundred and twenty dollars.

For casing with stone and erecting a wall in front of the north basement of the old part of the Capitol, so as to correspond with the south basement already completed, four thousand three hundred dollars.

For completing the sewer through the Botanic Garden, twenty thousand five hundred and five dollars.

For taking up and relaying with stone flagging the brick pavement in front of the War and Navy Departments, on Seventeenth street, three thousand dollars.

For stone crossings at the streets intersecting Pennsylvania avenue, five thousand dollars.

For repairing, reglazing, repainting, and putting in thorough order the greenhouse at the President's, five thousand dollars.

For repairing roof of the old portion of the Capitol, five thousand four hundred and fifty dollars.

To meet the expenditure made by the Commissioner of Public Buildings in illuminating the Capitol and the Government portion of the City Hall, two hundred and fifty dollars.

For hauling manure for the public grounds, five hundred dollars.

For the protection and improvement of Franklin square, two thousand dollars.

For painting the President's House inside and out, eight thousand dollars; to be expended by the Commissioner of Public Buildings.

For rebuilding fence (destroyed by fire) around the Smithsonian Institution, two hundred dollars.

For fuel for center building of Capitol, fifteen hundred dollars.

For completing the dome of the Capitol, fifty thousand dollars.

For supplying deficiency in appropriation for lighting the Capitol and President's House and public grounds around them, and around the executive offices and Pennsylvania avenue; Bridge and High streets, Georgetown; Four-and-a-half street, Seventh street, and Twelfth street across the Mall, and Maryland avenue west, and Sixth street south, thirteen thousand dollars.

For sweeping and cleaning Pennsylvania avenue prior to the inauguration on the fourth of March, eighteen hundred and sixty-five, one thousand dollars.

For carrying the Potomac water into that portion of the President's House occupied for

offices, and all the necessary fixtures, three thousand dollars.

For supplying deficiency in appropriation for fuel for the President's House and Capitol, six thousand dollars.

For continuing the work on the Capitol extension, one hundred and seventy-five thousand dollars.

For casual repairs of Patent Office building, ten thousand dollars.

For defraying the expenses incident to the death and burial of Abraham Lincoln, late President of the United States, thirty thousand dollars.

For salary of warden of the jail in the District of Columbia, sixteen hundred dollars.

For the support and maintenance of the convicts transferred from the District of Columbia to such place or places as may be selected by the Secretary of the Interior, thirty thousand dollars.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

## OFFICE OF THE SECRETARY OF STATE.

For publication of the laws, eight thousand dollars.

For extra clerk hire, eight thousand dollars.

For the pay of the United States commissioner, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the fifth of June, eighteen hundred and fifty-four, from November first, eighteen hundred and sixty-five, to March, eighteen hundred and sixty-six, and for drafting and compilation of the final chart, showing the places "reserved from the common liberty of fishing," their limits and descriptions, fifteen hundred dollars, or so much thereof as may be necessary.

## OFFICE OF THE ATTORNEY GENERAL.

For deficiency in appropriations for salaries under act of March third, eighteen hundred and sixty-five, three thousand three hundred dollars.

For deficiency in appropriation for contingent expenses, three thousand five hundred dollars.

For pay of two temporary clerks from January first to June thirty, eighteen hundred and sixty-six, twelve hundred dollars.

For stationery, furniture, and other contingencies, and for books and maps for the library for the Interior Department, three thousand dollars.

For compensation for temporary clerks in the Pension Bureau, for the current fiscal year, twenty thousand dollars.

## GOVERNMENT HOSPITAL FOR THE INSANE.

For the support, clothing, and medical treatment of the insane of the Army and Navy and the revenue-cutter service, and of the District of Columbia, at the Government hospital for the insane in said District, including five hundred dollars for books, stationery, and incidental expenses, ninety thousand five hundred dollars.

For finishing, furnishing, and lighting additional accommodations in the east wing; for new bedding for the west wing, and for the extension and replanking of the coal wharf, ten thousand dollars.

For continuation of the wall inclosing the grounds of the hospital, ten thousand dollars.

For removing and repairing three old frame houses and building two new cottages for the occupation of the employes of the hospital having families, six thousand dollars.

## PATENT OFFICE.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand eight hundred dollars.

For preparing illustrations and descriptions for report, six thousand dollars.

For finishing the saloon in the north wing of the Patent Office building, and for furnishing the same with suitable accommodations for the reception and convenient exhibition of the models, thirty thousand dollars: *Provided*, That in the purchase of carpets for any of the public buildings or offices under any appropriations herein provided, they shall be of domestic manufacture.

## CENSUS OFFICE.

For making good the aggregate difference between the original rates of salaries paid the clerks and employes of the Census Office, before they were assigned to the General Land Office, from June one to December thirty-one, eighteen hundred and sixty-five, two thousand four hundred and fifty dollars and thirty-one cents.

For paying the salaries at the original census rate, of principal clerk, and other clerks and one employe from January one to June thirty, eighteen hundred and sixty-six, six thousand four hundred and sixty dollars.

For incidental expenses of the Census Office, fifteen hundred dollars.

In the office of the engineer, Department of the Interior, viz:

For one clerk, six months, at one thousand eight hundred dollars per annum, nine hundred dollars.

For one clerk, six months, at one thousand five hundred dollars per annum, seven hundred and fifty dollars.

For one clerk, six months, at one thousand two hundred dollars per annum, six hundred dollars.

For mileage of Government engineer from Cincinnati, Ohio, to Omaha, Nebraska, and thence to Washington, in July, eighteen hundred and sixty-five, directed by the President of the United States to examine and report upon Union Pacific railroad routes west from Omaha, two thousand nine hundred and two miles, at ten cents per mile, two hundred and ninety dollars and twenty cents.

For mileage of the same from Washington to New York and back, in August, eighteen hundred and sixty-five, on account of the Union Pacific railway, two hundred and twenty-five miles, each way, at ten cents per mile, forty-five dollars.

For cost of completing bridge over Big Sioux river, near Sioux City, and Government wagon road from Sioux City, Iowa, to Fort Randall, Dakota Territory, in addition to former appropriations, ten thousand dollars.

For commutation of quarters and fuel to officer of corps of Engineers, United States Army, in charge of Engineer office, Department of the Interior, agreeably to Army regulations, from first August, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six, to be paid by Department of the Interior, agreeably to Army regulations, eleven hundred and thirty-seven dollars and sixty-four cents.

For contingencies, two thousand dollars.

## LIBRARY OF CONGRESS.

For purchasing files of leading American newspapers for the Library of Congress, one thousand five hundred dollars.

To enable the Joint Committee on the Library to pay the first installment due on a contract made with William H. Powell for a naval picture to be placed in the Capitol, in pursuance of a joint resolution approved March second, eighteen hundred and sixty-five, two thousand dollars.

## BOTANIC GARDEN.

For grading, draining, procuring manure, tools, fuel, and repairs, purchasing trees and shrubs, under the direction of the Library Committee of Congress, three thousand three hundred dollars.

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For pay of Superintendent of Botanic Garden, and assistants in the Botanic Garden and greenhouses, to be expended under the direction of the Library Committee of Congress, six thousand one hundred and forty-five dollars and eighty cents.

For the purchase and removal of materials, and for erecting four greenhouses in the Botanic Garden, to be expended under the direction of the Joint Committee on the Library, twenty-five hundred dollars.

## COLUMBIAN INSTITUTION FOR THE DEAF AND DUMB.

For salaries and incidental expenses, including five hundred dollars for the purchase of books and illustrative apparatus, twelve thousand five hundred dollars.

For the erection, furnishing, and fitting up of the two extensions to the buildings, to provide enlarged accommodations for the male department, and to furnish rooms for the instruction of the pupils in useful labor, thirty-nine thousand four hundred and forty-five dollars and eighty-seven cents.

For the proper inclosure, grading, and improvement of the grounds of the institution, three thousand five hundred dollars.

## SURVEYING THE PUBLIC LANDS.

For surveying the public lands in Wisconsin, six thousand dollars.

For surveying the public lands in Minnesota, fifteen thousand dollars.

For surveying the public lands in Dakota Territory, five thousand dollars.

For surveying the public lands in Nebraska Territory, twenty-five thousand dollars.

For surveying the public lands in Kansas, twenty-five thousand dollars.

For surveying the public lands in Colorado Territory, fifteen thousand dollars.

For surveying the public lands in Nevada, fifteen thousand dollars.

For surveying the public lands in New Mexico, five thousand dollars.

For surveying the public lands in California, thirty thousand dollars.

For surveying the public lands in Oregon, twenty thousand dollars.

For surveying the public lands in Washington Territory, twenty thousand dollars.

To supply a deficiency in the fund for the relief of sick and disabled seamen, one hundred and seventy thousand dollars.

## MISCELLANEOUS.

For the fencing in, repair, and completion of the United States court-house and post office at Indianapolis, Indiana, and paving the sidewalks in front of the same, the sum of eight thousand dollars, or such part thereof as may be necessary.

For the alteration and repair of the court-house in the city of Boston, five thousand dollars.

For repairs of United States marine hospital at Cleveland, in the State of Ohio, eight thousand dollars.

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, forty thousand dollars.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, fifty thousand dollars.

To enable the Secretary of the Interior to adjust and settle the accounts of D. S. Payne, for enumerating the inhabitants of the Territory of Idaho, under the direction of the Governor of said Territory, as authorized by the act of March three, eighteen hundred and sixty-three, entitled "An act to provide a temporary government for the Territory of Idaho," the sum of eight thousand eight hundred dollars, or so much thereof as may be necessary.

For building a custom-house at Portland, Maine, in addition to the sum heretofore appropriated by Congress, seventy-five thousand

dollars: *Provided*, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum, not exceeding thirty-five thousand dollars, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States, for the purpose of enlarging the same, or the Secretary may exchange the lot now owned as aforesaid for a more eligible one, if the same can be procured; but no money shall be paid or agreed to be paid by the United States in consideration of such exchange, and no transfer, assignment, or conveyance of property by the United States shall be made upon such exchange, except a conveyance, on its behalf, by the Secretary of the Treasury, of the interest of the United States in the lot aforesaid and the building thereon.

For building a custom-house at St. Albans, in the State of Vermont, ten thousand dollars.

For expenses of the census of Arizona Territory, taken in the year eighteen hundred and sixty-four, to be audited and paid under the supervision of the Secretary of the Interior, four thousand one hundred and sixty dollars.

For securing the right of way and building a bridge across the canal to the marine hospital near Portland, Maine, three thousand dollars.

For making alterations and repairs in the custom-house, court-house, and post office building, at Providence, Rhode Island, three thousand dollars.

For compensation of the revenue agent stationed at New York, in addition to the sum authorized by the act of June thirtieth, eighteen hundred and sixty-four, including one thousand dollars for the current fiscal year, two thousand dollars.

For one thousand copies of a compilation of the laws of the United States relating to revenue, commerce, and navigation, now in course of preparation for the press at the Treasury Department, such sum as may be necessary therefor in the discretion of the Secretary of the Treasury, and not exceeding seven thousand dollars.

To enable the Secretary of the Treasury to pay to William Handy, of the Treasury Department, for extra clerical services, such sum as may be found due, not exceeding five hundred dollars.

For compensation to John Hopley, for services in indexing the national currency act, one hundred dollars.

For additional compensation to the publishers of the Statutes-at-Large, eight thousand five hundred and seventy-five dollars and sixty-nine cents.

For refitting the rear basement rooms of the old Treasury building for office purposes, eleven thousand dollars.

For the purchase of the property in Washington city known as Ford's theater, for the deposit and safe-keeping of documentary papers relating to the soldiers of the Army of the United States, and of the museum of the medical and surgical department of the Army, one hundred thousand dollars.

SEC. 2. *And be it further enacted*, That the ninth section of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and sixty-four, and for the year ending the thirtieth of June, eighteen hundred and sixty-three, and for other purposes," approved March third, eighteen hundred and sixty-three, appropriating thirty per centum of the cost of engraving the special dies for internal revenue stamps, not to exceed in amount twenty thousand dollars, be, and the same is hereby, so amended as to enable the Secretary of the Treasury to pay the contractors, Butler and Carpenter, the said sum of twenty thousand dollars in full of all claims for indemnity.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase for the United States an appropriate building site at

Island Pond, or at some point northerly of Island Pond and south of the Canadian boundary line, in the State of Vermont, and to cause to be erected thereon a suitable building for the use of such officers of the customs as are or may be stationed at that place: *Provided*, That the cost of such purchase and erection shall not exceed the sum of ten thousand dollars; which amount is hereby appropriated for the purpose.

SEC. 4. *And be it further enacted*, That the sum of four thousand dollars, appropriated by "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirty, eighteen hundred and sixty-five," approved June twenty-five, eighteen hundred and sixty-five [four], "to enable the Joint Library Committee to purchase a complete file of selections from European periodicals, from eighteen hundred and sixty-one to eighteen hundred and sixty-four, relating to the rebellion in the United States, to be deposited in the Library," is hereby transferred to the fund for the purchase of books for the Library of Congress, to be expended one half for the purchase of law books and one half for the purchase of miscellaneous books for said Library.

SEC. 5. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to expend during the fiscal year ending the thirtieth day of June, eighteen hundred and sixty-six, so much of the appropriation of second March, eighteen hundred and sixty-one, as he may deem expedient and proper, not exceeding in the whole ten thousand dollars, for compensation to United States marshals, district attorneys, and other persons employed in enforcing the laws for the suppression of the African slave trade, for any services they may render, and for which no allowance is otherwise provided by law; and also so much of said appropriation as may be necessary to pay the salaries of the judges and arbitrators appointed by him, pursuant to the act of Congress approved July eleven, eighteen hundred and sixty-two, entitled "An act to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade," and for the expenses of the mixed courts of justice provided for by said treaty.

SEC. 6. *And be it further enacted*, That the authority to sell the property known as the Pennsylvania Bank building, in accordance with the acts approved June twenty-third, eighteen hundred and sixty, section two, and March fourteen, eighteen hundred and sixty-two, section five, is hereby conferred upon the Secretary of the Treasury: *Provided*, That the property be sold at public auction, and for a sum not less than one hundred and ten thousand dollars.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to increase the clerical force in the office of the Assistant Treasurer of Philadelphia, and the aggregate salaries of said clerks shall not exceed the sum of nine thousand dollars, which amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That, in addition to the appropriations hereinbefore allowed for the branch mint at California, the following sums respectively are hereby, in like manner, appropriated, viz:

For wages of workmen and adjusters, sixty-nine thousand four hundred and fifty dollars.

For incidental and contingent expenses, repairs, and wastage, one hundred and six thousand five hundred and twenty-nine dollars and twenty-nine cents.

SEC. 9. *And be it further enacted*, That in addition to the appropriations hereinbefore made for the Territory of Arizona, the following sums are hereby appropriated, viz:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses, five thousand dollars.

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For preparation and printing laws of the Territory, five thousand dollars.

SEC. 10. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for deficiencies in the appropriations for the objects hereinafter expressed, viz:

For compensation of the officers, clerks, messengers, and others, receiving an annual salary in the House of Representatives, one thousand four hundred and twenty-nine dollars and sixty-four cents.

For clerks of committees, and temporary clerks in the office of the Clerk of the House of Representatives, four thousand one hundred and eighty dollars.

For contingent expenses of the House of Representatives, viz:

For fuel and lights, pay of engineers, firemen, and laborers, repairs and materials, ten thousand dollars.

For furniture, repairs, and packing boxes, for members, twenty thousand dollars.

For pages and temporary mail boys, two thousand three hundred dollars.

For stationery, thirteen thousand four hundred and thirty-two dollars.

For folding documents, including materials, twenty-five thousand dollars.

For miscellaneous items, ten thousand dollars.

Contingent expenses of the Senate, viz:

For stationery, fifteen thousand dollars.

For clerks, pages, horses, carryalls, and so forth, twenty-seven thousand dollars.

For miscellaneous items, five thousand dollars.

For fuel and repairs of heating and ventilating apparatus, to be provided under the charge of the Sergeant-at-Arms, sixteen thousand two hundred and fifty dollars.

For furniture purchased, and repairs done by the Sergeant-at-Arms, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, twenty-three thousand five hundred dollars.

For additional labor in the folding-room and around Senate Chamber, five thousand dollars.

To supply a deficiency in the appropriation for the Capitol police under the act of April twenty-two, eighteen hundred and fifty-four, to be paid to the widow of David Vose, late a policeman in the crypt, being twentyper centum on his salary from December four, eighteen hundred and sixty-one, to July eight, eighteen hundred and sixty-four, five hundred and thirty-two dollars to be expended under the direction of the Commissioner of Public Buildings.

For salary of the stenographer appointed under resolution of January fifth, eighteen hundred and sixty-five, three thousand and six hundred and fifty dollars.

For additional compensation to laborers in the Clerk's office of the House of Representatives, the same as allowed by act of June twenty-fifth, eighteen hundred and sixty-four, seven hundred and thirty dollars.

SEC. 11. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Veder, Edward R. Sherman, Charles C. Adams, Samuel W. Tucker, J. G. Adams, A. Benigral, J. C. Parker, J. A. Odell, V. Barnes, T. H. Gladman, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsay, A. Jewett, jr., F. Cochran, B. C. Farless, J. P. Townsend, C. W. Odell, J. W. Morehead, S. P. Lee, W. H. Salter, James Cross, J. R. Creed, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, S. S. Baker, J. M. Conroy, O. W. Boyden, J. O. Armes, J. Bellows, E. S. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. B. Guillion, Charles Goheen, H. Holmes, G. C. Holliday, B. E. Messer, E. C. Messer, F. Madden, W. McKee,

W. H. E. Ourand, L. P. Porter, P. W. Pearson, J. L. Rowland, C. V. Rotterdam, E. J. Schale, E. J. Sweet, T. J. Schea, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntire, V. B. Munson, J. J. Dickens, W. E. Armes, J. C. Green, Lewis E. Rauterburg, and B. W. Parsons, employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night work and especial service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the sum of three thousand three hundred and sixty dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated therefor.

SEC. 12. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five, out of any money in the Treasury not otherwise appropriated:

For the compensation of the superintendent of the building occupied by the Quartermaster General, viz: for the fiscal year ending June thirty, eighteen hundred and sixty-five, and the present fiscal year four hundred dollars.

For the Indian service in Utah, being for money advanced by Brigham Young, while Governor and *ex-officio* superintendent of Indian affairs, found due and allowed by the Secretary of the Interior, thirty-eight thousand four hundred and eighty-seven dollars and fifty-three cents.

For plates, engraving, printing, and paper for national currency notes, two hundred and fifty thousand dollars: *Provided*, That no portrait or likeness of any living person hereafter engraved, shall be placed upon any of the bonds, securities, notes, fractional or postal currency of the United States.

For making certain alterations in the custom-house building at Philadelphia, seven thousand four hundred and twenty-five dollars.

For deficiency in the appropriation for fuel for the President's House and Capitol, six thousand dollars.

To supply a deficiency in the appropriation for the Naval Academy for the fiscal year ending June thirty, eighteen hundred and sixty-six, one hundred and seventy-eight thousand and sixty-four dollars.

To pay H. A. Klopfer for ten months' service, as a laborer in the office of the Attorney General, at forty dollars per month, four hundred dollars.

For certain alterations to the post office portion of the building in Portland, Maine, used for post office, custom-house, and court-house, five thousand dollars: *Provided*, That no part of the money hereby appropriated for claims due for the construction and furnishing the Baltimore court-house, and for the payment of claims due for the repairs of the Government warehouses and the construction wharves, Staten Island, New York, shall be paid for damages, and no payments whatever shall be made unless upon a full examination of the proper Department of the Government, and a certificate by the Attorney General that the said amounts to be paid are just, legal, and proper.

SEC. 13. *And be it further enacted*, That such sum as may be required to pay the additional compensation provided by section three of "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-five, and for other purposes," approved June twenty-fifth, eighteen hundred and sixty-four, up to and including the thirtieth day of June, eighteen hundred and sixty-six, be, and the same is hereby, appropriated.

SEC. 14. *And be it further enacted*, That from and after the first day of April, eighteen hundred and sixty-six, there shall be paid annually, instead of the yearly salaries at present authorized, to the Director of the Mint at Philadelphia, four thousand five hundred dollars; to the treasurer, three thousand five hundred dollars, and one thousand five hundred dollars for additional compensation as Assistant Treasurer of the United States; to the melter and refiner, three thousand dollars; to the assayer, three thousand dollars; to the assistant to the assayer, two thousand dollars; to the chief coiner, three thousand dollars; to the assistant to the chief coiner, two thousand dollars; to the engraver, three thousand dollars; to one clerk, two thousand five hundred dollars; to two clerks, two thousand dollars each; to four clerks, one thousand five hundred dollars each; to the treasurer of the branch mint at San Francisco, for salary as Assistant Treasurer of the United States, in addition to his salary as treasurer of said mint, one thousand five hundred dollars; to the Assistant Treasurer of the United States at New York, eight thousand dollars; to the Assistant Treasurer of the United States at Boston, five thousand dollars; to the Assistant Treasurer of the United States at Saint Louis, five thousand dollars; and the amount necessary to carry these provisions into effect for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, is hereby appropriated.

APPROVED, April 7, 1866.

CHAP. XXIX.—An Act to provide Arms and Ammunition for the Defense of the Inhabitants of Dakota Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to issue, upon the requisition of the Governor of Dakota Territory, such amount of ordnance and ordnance stores as may be necessary to arm the inhabitants of said Territory who may organize for defense against hostile Indians, not exceeding one thousand stand of small-arms, and one hundred thousand rounds of ammunition, to be charged against the quota due, or to become due, to the Territory under the laws for arming and equipping the militia.

APPROVED, April 7, 1866.

CHAP. XXXI.—An Act to protect all Persons in the United States in their civil Rights, and furnish the Means of their Vindication.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or invol-



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untary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court, against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March three, eighteen hundred and sixty-three, and all acts amendatory thereof. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 4. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby, specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offense. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of the commis-

sioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act; and such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offenses created by this act, as they are authorized by law to exercise with regard to other offenses against the laws of the United States.

SEC. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offense. And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process as aforesaid shall have authority to summon and call to their aid the bystanders or *posse comitatus* of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of this act; and said warrants shall run and be executed by said officers anywhere in the State or Territory within which they are issued.

SEC. 6. *And be it further enacted*, That any person who shall knowingly and willfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent his discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for either of said offenses, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which said offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States.

SEC. 7. *And be it further enacted*, That the district attorneys, the marshals, their deputies, and the clerks of the said district and territorial courts shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, inclusive of all services incident to such arrest and examina-

tion. The person or persons authorized to execute the process to be issued by such commissioners for the arrest of offenders against the provisions of this act shall be entitled to a fee of five dollars for each person he or they may arrest and take before any such commissioner as aforesaid, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner, and in general for performing such other duties as may be required in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

SEC. 8. *And be it further enacted*, That whenever the President of the United States shall have reason to believe that offenses have been or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

SEC. 10. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

SCHUYLER COLFAX,  
*Speaker of the House of Representatives.*  
LA FAYETTE S. FOSTER,  
*President of the Senate, pro tempore.*

IN THE SENATE OF THE UNITED STATES,  
April 6, 1866.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and,

*Resolved*, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest:  
J. W. FORNEY,  
*Secretary of the Senate.*

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, April 9, 1866.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," returned to the Senate by the President of the United States, with his objections, and sent by the Senate to the House of Representatives, with the message of the President returning the bill:

*Resolved*, That the bill do pass, two thirds

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of the House of Representatives agreeing to pass the same.

Attest:

EDWARD McPHERSON, *Clerk*,  
by CLINTON LLOYD, *Chief Clerk*.

CHAP. XXXII.—An Act granting to the State of Wisconsin a Donation of public Lands to aid in the Construction of a Breakwater and Harbor and Ship-Canal at the head of Sturgeon Bay, in the County of Door, in said State, to connect the Waters of Green Bay with Lake Michigan, in said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, granted to the State of Wisconsin for the purpose of aiding said State in constructing and completing a breakwater and harbor and ship-canal to connect the waters of Green Bay with the waters of Lake Michigan, two hundred thousand acres of public lands, to be selected in subdivisions agreeably to the United States survey, by an agent or agents appointed by the Governor of said State, subject to the approval of the Secretary of the Interior, from lands subject to private entry: *Provided*, That said selections shall all be made from alternate and odd-numbered sections of land nearest the location of said harbor and canal in said State not otherwise appropriated, and not from lands designated by the United States as "mineral" before the passage of this act, nor from lands to which the rights of preëemption or homestead have attached.

SEC. 2. *And be it further enacted*, That the said lands hereby granted shall be subject to the disposal of the Legislature of said State, or, if the Legislature thereof shall not be in session, or shall adjourn within ten days after the passage and approval of this act, then said lands shall be subject to the disposal of the Governor and board of commissioners of school, university, and swamp lands of said State, for the purposes aforesaid, and for no other; and the said canal shall be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of said Government, or upon vessels employed by said Government in the transportation of any property or troops of the United States.

SEC. 3. *And be it further enacted*, That before it shall be competent for said State to dispose of any of said lands, to be selected as aforesaid, the plan of said breakwater and harbor and the route of said canal shall be established, and a plat or plats thereof shall be filed in the office of the War Department, and a duplicate thereof filed in the office of the Commissioner of the General Land Office.

SEC. 4. *And be it further enacted*, That if the said breakwater, harbor, and canal shall not be completed within three years from the passage of this act, the lands hereby granted and remaining unsold shall revert to the United States.

SEC. 5. *And be it further enacted*, That the Legislature of said State shall cease to be kept an accurate account of the sales and net proceeds of the lands hereby granted, and of all expenditures in the construction, repairs, and operating of said canal, and of the earnings thereof, and shall return a statement of the same annually to the Secretary of the Interior. And whenever said State shall be fully reimbursed for all advances made for the construction, repairs, and operating of said canal, with legal interest on all advances until the reimbursement of the same, or upon payment by the United States of any balance of such advances over such receipts from said lands and canal, with such interest, the said State shall be allowed to tax for the use of said canal only such tolls as shall be sufficient to pay all necessary expenses for the care, charge, and repair of the same.

SEC. 6. *And be it further enacted*, That said ship-canal shall be at least one hundred feet in width, with a depth of water not less than thirteen feet.

APPROVED, April 10, 1866.

CHAP. XXXIII.—An Act to grant the Right of Way to the "Cascade Railroad Company" through a military Reserve in Washington Territory.

Whereas the Cascade Railroad Company, a corporation duly created and organized under the laws of Washington Territory, has constructed and put in operation a railroad on the Cascade Portage of the Columbia river, in said Territory, a portion of which said road is constructed through a military reserve of the United States; and whereas doubts have arisen as to the right to construct such road through said reserve and the validity of the charter of said company: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be, and is hereby, granted to the said Cascade Railroad Company a right of way of sixty feet in width along the line of said road as at present constructed and along the changes of location hereafter made to straighten and render said road safe, through the public lands of the United States, the military reserve, and the lands of private persons agreeing thereto, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side-tracks, and wharves. And the charter of said company is hereby adopted and declared to be valid: *Provided*, That nothing in this act shall be so construed as to give said company the right to occupy for any purpose whatever more than sixty feet in width on the line of said road at any point or points where the space or pass between the river and bluff or mountain is so narrow as not to admit of the construction of another parallel railroad, turnpike, road, canal, or other public work for transportation of freight or passengers.

APPROVED, April 10, 1866.

CHAP. XXXIX.—An Act to amend an Act entitled "An Act to provide Ways and Means to support the Government," approved March third, eighteen hundred and sixty-five.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An act to provide ways and means to support the Government," approved March third, eighteen hundred and sixty-five, shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt: *Provided*, That of United States notes not more than ten millions of dollars may be retired and canceled within six months from the passage of this act, and thereafter not more than four millions of dollars in any one month: *And provided further*, That the act to which this is an amendment shall continue in full force in all its provisions, except as modified by this act.

SEC. 2. *And be it further enacted*, That the

Secretary of the Treasury shall report to Congress at the commencement of the next session the amount of exchanges made or money borrowed under this act, and of whom, and on what terms; and also the amount and character of indebtedness retired under this act, and the act to which this is an amendment, with a detailed statement of the expense of making such loans and exchanges.

APPROVED, April 12, 1866.

CHAP. XL.—An Act to reimburse the State of Pennsylvania for Moneys advanced Government for War Purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That to supply a deficiency in paying the Army, under the act of March fourteenth, eighteen hundred and sixty-four, and to reimburse the State of Pennsylvania for money expended for payment of militia in the service of the United States, the sum of eight hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That before the same is paid, the claim of the said State shall be again examined and settled by the Secretary of War.

APPROVED, April 12, 1866.

CHAP. XLI.—An Act to amend "An Act to incorporate the Mutual Fire Insurance Company of the District of Columbia."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the third section of an act entitled "An act to incorporate the Mutual Fire Insurance Company in [of] the District of Columbia," approved on the tenth day of January, eighteen hundred and fifty-five, be, and the same hereby is, so amended as to read fifty thousand dollars, in the place of twenty thousand dollars.

APPROVED, April 12, 1866.

CHAP. XLIV.—An Act to establish the Collection District of Port Huron, the Collection District of Michigan, the Collection District of Montana and Idaho, and to change the Name of the Collection District of Penobscot.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a new collection district, to be called the district of Port Huron, be, and the same is hereby, established in the State of Michigan, which shall embrace the mouth and entire shore of the Saint Clair river, and the counties of Saint Clair, Lapeer, Tuscola, and Saginaw, and all the territory and waters of the State of Michigan lying north of said counties and east of the principal meridian; and a collector shall be appointed to reside at Port Huron, which shall be the sole port of entry for said district. And the said collector shall receive the same compensation provided for the collectors of Pembina, Chicago, and certain other ports, by the second section of the act entitled "An act to regulate the foreign coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," approved June seventeen, eighteen hundred and sixty-four. And all the territory and waters of the said State of Michigan lying west of the said principal meridian, and not included in the district of Michilimackinac, are hereby made a separate district, to be called the district of Michigan, for which a collector, with the same compensation as above provided for the collector of Port Huron, shall be appointed to reside at Grand Haven, which shall be the sole port of entry for said district of Michigan.

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SEC. 2. *And be it further enacted*, That the Territories of Montana and Idaho be, and the same are hereby, made a new collection district, to be called the district of Montana and Idaho; and that a collector, with the same salary as is above provided for each of the collectors of Port Huron and Michigan, shall be appointed to reside at the port of entry in said district, which shall be designated by the Secretary of the Treasury.

SEC. 3. *And be it further enacted*, That the collection district of Penobscot, in the State of Maine, shall hereafter be called the district of Castine.

APPROVED, April 13, 1866.

CHAP. XLV.—An Act making Appropriations for the Naval Service for the year ending thirtieth June, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and sixty-seven:

For pay of commission, warrant, and petty officers and seamen, including the Engineer corps of the Navy, nine millions three hundred and thirty-six thousand six hundred and thirty-eight dollars.

For the payment of bounties to discharged seamen, eight hundred thousand dollars.

For the purchase of various articles of equipment, viz: canvas, leather, iron, cables, and anchors, oil, galleys, and stores, and for the payment of labor on articles manufactured in the navy-yards, and for outfit stores in the navigators', boatswains', and sailmakers' department of vessels, one million dollars.

For surgeons' necessities and appliances for the sick and wounded of the Navy, including the Coast Survey and Engineer and Marine corps, one hundred and sixty-eight thousand seven hundred and fifty dollars.

For navigation apparatus and supplies, and for purposes incidental to navigation, one hundred and ninety-two thousand five hundred dollars.

For contingent expenses of the Navy, two hundred and fifty thousand dollars.

#### Bureau of Yards and Docks:

For contingent expenses that may accrue for the following purposes, viz: for freight and transportation; for printing, advertising, and stationery; for books, maps, models, and drawings; for the purchase and repair of fire-engines; for machinery of every description, and patent right to use the same; for repairs of steam-engines and attendance; for purchase and maintenance of oxen and horses, and driving teams; for carts, timber-wheels, and workmen's tools of every description for navy-yard purposes; for telegrams and postage of letters on public service; for furniture for Government offices and houses; for coals and other fuel; for candles, oil, and gas; for cleaning and clearing up yards; for flags, awnings, and packing boxes; for pay of watchmen; for incidental labor at navy-yards not applicable to any other appropriation; for rent of landing at Portsmouth, New Hampshire; for tolls and ferriages; for water tax; and for rent of stores, one million seven hundred and sixty thousand dollars.

#### Bureau of Equipment and Recruiting:

For expenses that may accrue for the following purposes, namely: expenses of recruiting, traveling expenses of officers, transportation of men, printing and stationery, advertising in public newspapers, postage on public letters, wharfage and demurrage, apprehension of deserters, pilotage and towage of vessels, and assistance to vessels in distress, eight hundred thousand dollars.

#### Bureau of Navigation:

For contingent expenses of the Bureau of Navigation, viz:

For freight and transportation of navigation materials, instruments, books, and stores; for postage on public letters; for telegraphing on public business; for advertising for proposals; for packing boxes and materials; for blank-books, forms, and stationery at navigation offices; for maps, charts, drawings, and models; and for incidental expenses not applicable to any other appropriation, five thousand dollars.

#### Bureau of Medicine and Surgery:

For contingent expenses of the Bureau of Medicine and Surgery, seventy-five thousand dollars.

#### MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward and nurse, and servants; for rations and clothing for officers' servants; additional rations to officers for five years' service; for undrawn clothing, and bounties for enlistment, one million one hundred and seven thousand and sixty-six dollars and ninety-five cents.

For provisions, one hundred and sixty-nine thousand nine hundred and seven dollars and fifty cents.

For clothing, three hundred and fourteen thousand six hundred and sixty-three dollars and five cents.

For fuel, thirty thousand one hundred and seventeen dollars.

For military stores, viz: pay of mechanics, repair of arms, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, sixteen thousand dollars.

For transportation of officers, their servants, troops, and expenses of recruiting, ten thousand dollars.

For repairs of barracks, and rent of offices where there are no public buildings, fifteen thousand dollars.

For contingencies, viz: freight; ferriage; toll; cartage; wharfage; purchase and repair of boats; compensation to judge advocates per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures; water rent, forage, straw, barrack furniture, furniture for officers' quarters; bed-sacks, wrapping-paper, oil-cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; pay of matron, washerwoman, and porter at the hospital headquarters; repair to fire-engine; purchase and repair of engine-hose; purchase of lumber for benches, mess tables, and bunks; repairs to public carryall; purchase and repair of harness; purchase and repair of handcarts and wheelbarrows; scavengering; purchase and repair of galleys, cooking stoves, ranges, stoves where there are no grates; gravel for parade grounds; repair of pumps; furniture for staff and commanding officers' offices; brushes, brooms, buckets, paving, and for other purposes, eighty thousand dollars: *Provided*, That in the purchase of carpets and furniture provided for in this act they shall be of domestic manufacture.

#### NAVY-YARDS.

##### Portsmouth, New Hampshire.

For iron foundry, five thousand nine hundred and forty-six dollars.

For shop for iron-cladding, sixteen thousand six hundred and thirty-two dollars.

For condensers, seven thousand six hundred and sixty dollars.

For road and timber slips, twenty-eight thousand three hundred and three dollars.

For enlarging office building, nine thousand seven hundred and forty-eight dollars.

For fitting and furnishing plumber's, cop-

persmith's, and tin shop, three thousand six hundred dollars.

For machinery and tools, forty-eight thousand one hundred dollars.

For repairs of all kinds, seventy thousand dollars.

For completing plumber's, coppersmith's, and tin shop, ten thousand dollars.

For the purchase of Seavey's Island, one hundred and five thousand dollars: *Provided*, That a perfect and approved title in fee to the whole island can be obtained and vested in the United States for that sum: *And provided further*, That in case the owners of lots and improvements on said island shall not agree to receive said sum for the whole of said island and the privileges and improvements thereunto belonging, the Secretary of the Navy is hereby required to discontinue the public use of the bridge and thoroughfare leading from said island to and across the navy-yard, to take effect on the first day of January, eighteen hundred and sixty-seven.

##### Boston.

For purchase of the right of drainage through the yard, now held by the city of Charlestown, twenty-five thousand dollars.

For one steam fire-engine, five thousand dollars.

For widening main entrance, twelve thousand dollars.

For tools for machine and forge shops, seventy-one thousand five hundred dollars.

For machinery for ropewalk, thirty-one thousand dollars.

For filling in a portion of timber-dock, forty thousand dollars.

For addition to stable, eight thousand dollars.

For repairs of all kinds, eighty-five thousand dollars.

##### New York.

For iron-plating shop, ninety-eight thousand nine hundred and twenty-two dollars.

For receiving store, forty-seven thousand six hundred and three dollars.

For quay-wall extension at sewer, one hundred thousand dollars.

For continuing the work on the new machine and boiler shop, one hundred thousand dollars.

For dredging channels, sixty-five thousand dollars.

For special repairs, twenty thousand five hundred dollars.

For repairs of all kinds, one hundred and sixteen thousand dollars.

For the purchase of the Ruggles property, ninety thousand dollars.

For protecting from destruction and decay the unfinished buildings and other structures already commenced, for which no appropriation is made in this bill, twenty thousand dollars.

##### Philadelphia.

For dredging channels, four thousand and twenty-eight dollars.

For repairs of dry dock, forty-six thousand dollars.

For repairs of all kinds, fifty-eight thousand four hundred and eighty dollars.

For completing saw-mill, twenty-five thousand dollars.

For extending south pier one hundred feet, fifteen thousand dollars.

##### Washington.

For new paint shop, eight thousand five hundred and eighty-three dollars.

For smithery, twelve thousand and sixty-two dollars.

For extension of iron foundry, eight thousand four hundred and forty-five dollars.

For machinery and tools, ninety thousand six hundred dollars.

For repairs of all kinds, sixty-one thousand six hundred dollars.

##### Norfolk.

For railway track and cars, eight thousand dollars.



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For repair of wharves, two thousand five hundred dollars.

For one Ames's wharf crane, three thousand dollars.

For machinery and tools, fifty thousand dollars.

For ship-joiners' shop and timber shed number twelve, forty-five thousand dollars.

For storehouse number fourteen, forty-six thousand dollars.

For the protection of the property at Norfolk navy-yard, twenty thousand dollars, or so much thereof as shall be necessary.

*Pensacola, Florida.*

For muster office, eight thousand one hundred and four dollars.

For new gate to dock basin, thirty thousand dollars.

For pile engine, seven hundred dollars.

For the preservation and necessary repairs of the property of the United States at the Pensacola navy-yard, fifty thousand dollars, or so much thereof as may be necessary.

*Mare Island, California.*

For foundry and boiler establishment, eighty-five thousand dollars.

For cisterns, buildings sixty-eight and forty-five, seven thousand three hundred dollars.

For quay wall, fifty thousand dollars.

For grading, twenty thousand dollars.

For cistern and holder for gas-works, two thousand five hundred dollars.

For repairs of all kinds, fifty thousand dollars.

**HOSPITALS.***Boston.*

For repairs of buildings, roads, fences, cemetery, walls, stable, and furniture; painting, glazing, grounds, and miscellaneous items, ten thousand dollars.

*New York.*

For repairs of hospital buildings and appendages, roads, fences, walls, stables, and furniture; painting, glazing, cemetery, grounds, and miscellaneous items, ten thousand five hundred dollars.

*Laboratory, New York.*

For repairs of buildings and appendages, purchase and repairs of instruments, apparatus, and machinery, painting, glazing, furniture, and miscellaneous items, three thousand five hundred dollars.

*Washington.*

For completing building authorized by act of Congress approved March fourteenth, eighteen hundred and sixty-four, including cost of inclosing premises, grading sidewalks, laying curbstones, together with the necessary out-buildings and their appurtenances, thirty thousand dollars.

*Annapolis.*

For repairing hospital building, appendages, painting, glazing, furniture, and miscellaneous items, five thousand dollars.

*Norfolk.*

For repairs of buildings, appendages, roads, fences, rebuilding sea-wall, painting and glazing, spouting and repairing roof, wharves and bridges, brick pavement, stable, furniture, floors of basement, improving grounds, and for miscellaneous items, twenty thousand dollars.

*Pensacola.*

For repairs of building, appendages, painting, glazing, furniture, and miscellaneous items, ten thousand five hundred dollars.

*Mare Island.*

For repairs of building, appendages, painting, glazing, furniture, and miscellaneous items, seven thousand five hundred dollars.

**MISCELLANEOUS.**

For pay of superintendent, naval construct-

ors, and all the civil establishments of the several navy-yards and stations, one hundred and forty-six thousand two hundred and thirty dollars. And the pay of the clerk of the yard and first clerk to naval store-keeper at each of the navy-yards at Portsmouth, New Hampshire, and Philadelphia, shall be twelve hundred dollars per annum.

For testing the use of petroleum as a fuel under marine boilers, five thousand dollars.

For the construction of a levee on the river front of the Government property at Mound City, Illinois, seven thousand dollars.

To pay mileage of Visitors to the Naval Academy, one thousand dollars.

For expenses of Naval Academy, viz: for pay of civil officers, professors, watchmen, and others, contingent expenses, improvements, and repairs, one hundred and ninety-eight thousand four hundred and twenty-nine dollars.

For the purchase of the land adjacent to the Naval Academy at Annapolis, belonging to the State of Maryland, and known as the Government House and grounds, twenty-five thousand dollars.

For the purchase of other grounds at Annapolis for the use of the Naval Academy, twenty-five thousand dollars.

For the erection of a building suitable for the accommodation of the third and fourth classes at the Naval Academy, one hundred thousand dollars.

For the erection of a machine-shop at the Naval Academy, twenty thousand dollars.

For the increase of the library at the Naval Academy, two thousand dollars.

For the enlargement of the chapel at the Naval Academy, and for the erection of mural tablets therein to commemorate the memory of naval officers who have sacrificed their lives in the service of the country, seven thousand dollars.

**NAVAL OBSERVATORY.**

For the pay of assistant astronomer, three aids, and clerk, eight thousand dollars.

For wages of instrument maker, two watchmen, porter, and messenger; for keeping grounds in order, and repairs to buildings and inclosures; for fuel, light, office furniture, and stationery, and for freight, transportation, postage, and incidental expenses, twelve thousand dollars.

For preparing for publication the American Nautical Almanac, fifteen thousand eight hundred and fifty dollars.

**NAVAL ASYLUM, PHILADELPHIA.**

For furniture and repairs to same, one thousand dollars.

For house cleaning and whitewashing, eight hundred dollars.

For furnaces, grates, and ranges, seven hundred dollars.

For gas and water rent, one thousand five hundred dollars.

For improvement of grounds, three hundred dollars.

For wharves and lots, eight hundred dollars.

For painting houses and walls, two thousand dollars.

For repairs of all kinds, one thousand dollars.

For support of beneficiaries, forty-eight thousand dollars.

SEC. 2. *And be it further enacted*, That so much of the first section of the act making appropriations for the naval service, approved May twenty-first, eighteen hundred and sixty-four, as appropriates two hundred and fifty thousand dollars "for bounties for destruction of enemies' vessels, as per act of July seventeenth, eighteen hundred and sixty-two," be amended so that said appropriation shall apply to all cases of destruction of enemies' vessels during the recent rebellion, and at the same rate as is provided in the act to which reference is made.

SEC. 3. *And be it further enacted*, That no portion of the amounts herein appropriated shall be paid in violation of the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July second, eighteen hundred and sixty-two.

SEC. 4. *And be it further enacted*, That so much of the second section of an act entitled "An act to regulate the pay of the Navy of the United States, approved March three, eighteen hundred and thirty-five, as prohibits any allowance to any officer in the naval service for rent of quarters, or for furniture, or for lights, or fuel, or transporting baggage, and all acts and parts of acts authorizing the appointment of Navy agents, be, and the same are hereby, repealed.

SEC. 5. *And be it further enacted*, That the examination of candidates for admission to the Naval Academy shall be held at such stated times as the Secretary of the Navy may direct.

SEC. 6. *And be it further enacted*, That the office of assistant in Bureau of Ordnance be, and the same is hereby, abolished.

SEC. 7. *And be it further enacted*, That hereafter no vacancy in the grade of professor of mathematics in the Navy shall be filled.

SEC. 8. *And be it further enacted*, That the act approved August thirty-first, eighteen hundred and fifty-two, for "surveys an[d] reconnoissances, for naval and commercial purposes, of such parts of Behring's straits of the north Pacific ocean, and of the China seas, as are frequented by American whale ships and by trading vessels in their routes between the United States and China," be, and the same is hereby, revived, and the Secretary of the Navy is hereby authorized and required to recommence and continue surveys and reconnoissances in the Pacific ocean, not yet fully examined, by using such vessels, officers, crews, outfits, and supplies of the Navy, as may be necessary and available for that service.

SEC. 9. *And be it further enacted*, That, for the purpose of settling the accounts of disbursing officers of the Navy, where payments for contingent expenses have been made from the appropriation for "the pay of the Navy" prior to the passage of the act making appropriations for the fiscal year eighteen hundred and sixty-three-four, the Secretary of the Treasury be, and he is hereby, authorized to transfer from the appropriation for the pay of the Navy to the appropriation for contingent, the sum of two hundred and forty-five thousand and nine hundred and four dollars and twelve cents.

APPROVED, April 17, 1866.

CHAP. XLVI.—An Act to reimburse the State of Missouri for Moneys expended for the United States in enrolling, equipping, and provisioning militia Forces to aid in suppressing the Rebellion.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That immediately after the passage of this act the President shall by and with the advice and consent of the Senate appoint three commissioners, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri, in enrolling, equipping, subsisting, and paying such State forces as have been called into service in said State since the twenty-fourth day of August, eighteen hundred and sixty-one, to act in concert with the United States forces in the suppression of rebellion against the United States. And the said commissioners shall be authorized and required to sit as a board at some place in the State of Missouri, and shall be authorized to call witnesses before them and examine them under oath. And said commissioners shall be authorized to employ a clerk at a rate of compensation not to exceed fifteen hundred dollars per annum.

SEC. 2. *And be it further enacted*, That the commissioners so appointed shall proceed, sub-

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ject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in said State, under the authority and command of Federal officers. And no allowance shall be made for any troops which did not perform actual military service in full concert and coöperation with the authorities of the United States and subject to their orders.

SEC. 3. *And be it further enacted*, That in making up said account, for the convenience of the accounting officers of the Government, the commissioners shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, and paying said troops, and from the aggregate amount they shall deduct the amount of direct tax due by the said State to the United States under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one.

SEC. 4. *And be it further enacted*, That in the adjustment of accounts under this act the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

SEC. 5. *And be it further enacted*, That so soon as said commissioners shall have made up said account and ascertained the balance, as herein directed, they shall make written report thereof, showing the different items of expenditure as hereinbefore stated, to the Secretary of the Treasury, and shall transmit all the testimony taken by said commissioners to the Secretary of the Treasury; and if upon an examination by the proper accounting officers of the Treasury the account shall be found to be just and correct, the same shall be paid.

SEC. 6. *And be it further enacted*, That the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be severally sworn that they will carefully examine the accounts existing between the United States and the State of Missouri, and that they will, to the best of their ability, make a just, true, and impartial statement thereof, as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each day of actual service.

SEC. 7. *And be it further enacted*, That the sum of six million seven hundred and fifteen thousand and eighty-nine dollars and sixty-five cents, or so much thereof as may be necessary, be, and the same is hereby, appropriated to carry this act into effect.

APPROVED, April 17, 1866.

CHAP. XLVII.—An Act to authorize the President of the United States to transfer a Gunboat to the Government of the Republic of Liberia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to transfer to the Government of the republic of Liberia any one of the gunboats now or hereafter included in the Navy of the United States, her armament, tackle, apparel, and furniture, which may be acceptable to that Government, and cau, in the judgment of the Sec-

retary of the Navy, be conveniently spared for that purpose, and upon a valuation to be fixed by him.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy is authorized and directed to enter into a contract with any person duly empowered by the Government of that republic, by which that Government shall engage to repay to the United States the value of the gunboat to be transferred: *Provided*, That the contract shall stipulate for the full reimbursement to the United States of the value of such gunboat in annual installments, not exceeding ten in number, with interest on each at six per centum per annum from the date of the contract.

APPROVED, April 17, 1866.

CHAP. XLVIII.—An Act to provide that the "Soldier's Individual Memorial" shall be carried through the Mails at the usual Rate of printed Matter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the ornamental records of the personal services of Federal officers and soldiers, composed partly of written and partly of printed matter, but containing no private communications, and known as the "soldier's individual memorial," shall be allowed to pass through the mails upon the payment of the usual postage on printed matter.

APPROVED, April 17, 1866.

CHAP. LXIII.—An Act to authorize the Sale of Marine Hospitals and of Revenue-Cutters.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to lease, or to sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, such marine hospital buildings and lands appertaining thereto as he may deem advisable; and he is hereby empowered to make, execute, and deliver all needful conveyances to the lessees or purchasers thereof respectively; and the proceeds of said leases and sales are hereby appropriated for the marine hospital establishment: *Provided*, That the hospitals at Cleveland, Ohio, and Portland, Maine, shall not be sold or leased, nor shall any hospital be sold or leased where no other suitable and sufficient hospital accommodations can be procured upon reasonable terms for the comfort and convenience of the patients.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, such of the revenue-cutters as he shall find to be ill adapted to the purposes of the revenue service, and to expend the proceeds of said sales in the purchase or construction of other vessels better suited to the wants of said service.

APPROVED, April 20, 1866.

CHAP. LXV.—An Act to issue American Registers to the Steam Vessels "Michigan," "Dispatch," and "William K. Muir," and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby directed to issue American registers to the Canadian-built steamers "Michigan" and "Dispatch," and the American-built steamer "William K. Muir," of the collection district of Detroit; and American registers, or enrollment and license, to the following-named vessels, that is to say, to the sloop "Jenny Lind of Wolf Island," of Oswego, New York; the schooners "Coquette of Oakville," "Trenton of Trenton," "Forest

Queen," "Two Brothers of Wallaceburg," "Minetta of Gananogue," and "Elizabeth," of Oswego, New York; the bark "St. Elizabeth," of Provincetown, Massachusetts; the barks "Advance" and "Acorn," and schooner "Asia," of Chicago, Illinois; the barges "Harvest," "Ajax," and "Matilda," of Chicago, Illinois; the steamer "Prince Albert," of Georgetown, District of Columbia; the brig "Maitland," propeller "Niagara," and steamboat "Canadian," of Buffalo, New York; the schooner "E. P. Ryerse," of Cleveland, Ohio; the schooner "Eureka," of Margareta, Ohio; the brigantine "City of Toronto," of Erie, Pennsylvania; and the schooner[r] "Wavertree," of Cleveland, Ohio; and American registers, or enrollment and license, to the following-named vessels, that is to say, the ship "Screamer," of Brunswick, Maine; the barge "Mary," of Detroit; the steam-tug "Sampson," of Detroit; and the schooners "Caledonia" and "Enterprise," of Detroit; and the "Anglo-Saxon," a Canadian-built vessel.

APPROVED, April 25, 1866.

CHAP. LXVIII.—An Act making Appropriations to supply Deficiency in the Appropriation for the Public Printing for the fiscal year ending June thirty, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriation for the public printing for the fiscal year ending thirtieth of June, eighteen hundred and sixty-six, out of any money in the Treasury not otherwise appropriated:

To supply a deficiency in the appropriation for the public printing, one hundred and fifteen thousand dollars.

To supply a deficiency in the appropriation for paper for the public printing, four hundred and fifty thousand dollars.

To supply a deficiency in the appropriation for the public binding, ninety-five thousand dollars.

And the Superintendent of the Public Printing is hereby authorized to employ an additional clerk, of class four.

APPROVED, April 26, 1866.

CHAP. LXX.—An Act to facilitate the Settlement of the Accounts of the Treasurer of the United States, and to secure certain Moneys to the People of the United States, or to Persons to whom they are due, and who are entitled to receive the same.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all amounts of moneys that are represented by certificates, drafts, or checks, issued by the Treasurer of the United States, or by any disbursing officer of any department of the Government of the United States, upon the Treasurer or any Assistant Treasurer, or designated depository of the United States, or upon any national bank designated as a depository of the United States, and which shall be represented on the books of either such offices as standing to the credit of any disbursing officer, and bearing date prior to July first, eighteen hundred and sixty-three, and which were issued to facilitate the payment of warrants, or for any other purpose in liquidation of a debt due from the United States, which may remain outstanding on the first day of July, eighteen hundred and sixty-six, shall be deposited by the Treasurer of the United States, to be covered into the Treasury by warrant, and to be carried to the credit of the parties in whose favor such certificates, drafts, or checks were respectively issued, or to the persons who are entitled to receive pay therefor, and into an appropriation account to be denominated "outstanding liabilities."

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SEC. 2. *And be it further enacted*, That the certificate of the Register of the Treasury, stating that the amount of any draft issued by the Treasurer of the United States, to facilitate the payment of a warrant directed to him for payment, and which may have so remained outstanding and unpaid for three years or more as aforesaid, and which shall have been thus deposited and covered into the Treasury, shall be, and the same is hereby authorized to be, when attached to any such warrant, a sufficient voucher in satisfaction of any such warrant or part of any warrant, the same as if the drafts correctly indorsed and fully satisfied were attached to such warrant or part of warrant. And all such moneys mentioned in this and in the preceding section shall remain as a permanent appropriation for the redemption and payment of all such outstanding and unpaid certificates, drafts, and checks as aforesaid.

SEC. 3. *And be it further enacted*, That the payee, or the *bona fide* holder of any such draft or check, the amount of which has been so deposited and covered into the Treasury, shall, on presenting the same to the proper officer of the Treasury, be entitled to have it paid by the settlement of an account and the issuing of a warrant in his favor, according to the practice in other cases of authorized and liquidated claims against the United States.

SEC. 4. *And be it further enacted*, That at the termination of every fiscal year after this act shall begin to operate, the provisions thereof shall apply to all similar certificates, drafts, and checks, which shall then have for three years or more remained outstanding, unsatisfied and unpaid, and to all disbursing officers' accounts that shall have so remained unchanged, as in the next section provided for.

SEC. 5. *And be it further enacted*, That the amounts, except such as are provided for in the first section of this act, of the accounts of every kind of disbursing officer of the Government of the United States, which shall have remained unchanged, or which shall not have been increased by any new deposit thereto, nor decreased by drafts drawn thereon, for the space of three years, shall in like manner be covered into the Treasury, to the proper appropriation to which they may belong, and the amounts thereof shall, on the certificate of the Treasurer of the United States that such amount has been deposited in the Treasury, be credited by the proper accounting officer of the Treasury on the books of the Treasury Department, to the officer in whose name it had stood on the books of any agency of the Treasury, if it shall be made to appear that he is entitled to such credit.

SEC. 6. *And be it further enacted*, That for the purpose of giving force and effect to the full intent and meaning of this act, it shall be the duty of the Treasurer, and of all Assistant Treasurers, and of all designated depositories of the United States, and of the cashiers of all national banks designated as such depositories, to report to the Secretary of the Treasury, at the close of business on the thirtieth day of June next, and in like manner at the close of business on every thirtieth day of June thereafter, the condition of every such account so standing, as in the preceding section specified, on the books of their respective offices, stating the name of each depositor, respectively, with his official designation, the total amount so remaining on deposit to his credit, and the dates, respectively, of the last credit and the last debit made to each of such accounts, respectively. And it shall be the duty of every and each disbursing officer in any and every department of the Government of the United States to make a like return of all checks issued by such officer, and which may then have been outstanding and unpaid for three years and more, stating fully in such report the name of the payee, for what purpose given, the office on which drawn, the number of the voucher received therefor, and the date, number, and

amount for which it was drawn, and, when known, the residence of the payee.

APPROVED, May 2, 1866.

CHAP. LXXI.—An Act to remit and refund certain Duties.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby authorized and empowered to remit, or if paid to refund, any duties levied on produce shipped from a port of the United States to a port of the United States, via Canada, if the said produce was actually *in transitu* and detained by ice when the recent reciprocity treaty with Canada expired.

APPROVED, May 2, 1866.

CHAP. LXXII.—An Act to provide for the better Organization of the Pay Department of the Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the passage of this act, the active list of the pay corps of the Navy shall consist of eighty paymasters, forty passed assistant paymasters, and thirty assistant paymasters. Paymasters shall be regularly promoted and commissioned from passed assistant paymasters, and passed assistant paymasters from assistant paymasters, and all passed assistant paymasters authorized by this act to be appointed who have not heretofore been appointed and commissioned as assistant paymasters and all assistant paymasters hereby authorized to be appointed shall be selected from those who have served as acting assistant paymasters for the term of one year, and who were eligible to appointment in the grade of assistant paymasters when they were appointed acting assistant paymasters, as aforesaid; subject, however, to such examinations as are required by law, and such as may be established by the Secretary of the Navy.

SEC. 2. *And be it further enacted*, That passed assistant paymasters shall give bonds for the faithful performance of their duties in the sum of fifteen thousand dollars, and that their annual pay shall be, at sea, fifteen hundred dollars; on other duty, fourteen hundred dollars; on leave or waiting orders, twelve hundred dollars.

APPROVED, May 3, 1866.

CHAP. LXXIII.—An Act concerning the Boundaries of the State of Nevada.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, as provided for and consented to in the constitution of the State of Nevada, all that territory and tract of land adjoining the present eastern boundary of the State of Nevada, and lying between the thirty-seventh and the forty-second degrees of north latitude and west of the thirty-seventh degree of longitude west of Washington, is hereby added to and made a part of the State of Nevada.

SEC. 2. *And be it further enacted*, That there is hereby added to and made a part of the State of Nevada all that extent of territory lying within the following boundaries, to wit: commencing on the thirty-seventh degree of north latitude, at the thirty-seventh degree of longitude west from Washington; and running thence south on said degree of longitude to the middle of the river Colorado of the West; thence down the middle of said river to the eastern boundary of the State of California; thence northwesterly along said boundary of California to the thirty-seventh degree of north latitude; and thence east along said degree of latitude to the point of beginning: *Provided*, That the territory mentioned in this section shall not become a part of the State of Nevada until said State shall, through its Legislature, consent thereto: *And provided further*, That

all possessory rights acquired by citizens of the United States to mining claims, discovered, located, and originally recorded in compliance with the rules and regulations adopted by miners in the Pah-Ranagat and other mining districts in the territory incorporated by the provisions of this act into the State of Nevada shall remain as valid subsisting mining claims; but nothing herein contained shall be so construed as granting a title in fee to any mineral lands held by possessory titles in the mining States and Territories.

APPROVED, May 5, 1866.

CHAP. LXXIV.—An Act to encourage telegraphic communication between the United States and the Island of Cuba and other West India Islands and the Bahamas.

Whereas James A. Scrymser, Alfred Pell, junior, Alexander Hamilton, junior, Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, their associates, successors, and assigns, persons composing the International Ocean Telegraph Company, an incorporated company chartered by the State of New York, are desirous of establishing a submarine telegraphic communication between the United States of America and the West India islands and the Bahamas: Now, therefore, in order to facilitate the said enterprise,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the said International Ocean Telegraph Company, incorporated under the laws of the State of New York, their successors and assigns, shall have the sole privilege for a period of fourteen years from the approval of this act, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands, over which the United States have jurisdiction, from the shores of the State of Florida, in the said United States, to the island of Cuba and the Bahamas, either or both, and other West India islands.

SEC. 2. *And be it further enacted*, That the said International Ocean Telegraph Company shall at all times give the United States the free use of said cable or cables, to a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic or consular agents; and the said company shall keep all its lines open to the public for the transmission for daily publication of market and commercial reports and intelligence, and all messages, dispatches, and communications shall be forwarded in the order in which they shall be received; and the said company shall not be permitted to charge and collect for messages transmitted through any of its submarine cables more than the rate of three dollars and fifty cents for messages of ten words, subject, however, to the power of Congress to alter and determine said rates: *Provided*, That the said International Ocean Telegraph Company shall, within the period of three years from the passage of this act, cause the said submarine telegraphic cable or cables to be laid down, and that the said cable or cables shall be in successful operation for the transmission of messages within the said period of five years; otherwise, this grant to be null and void.

SEC. 3. *And be it further enacted*, That Congress shall have power, at any time, to alter or repeal the foregoing act.

APPROVED, May 5, 1866.

CHAP. LXXV.—An Act to extend the Jurisdiction of the Court of Claims.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Court of Claims shall have jurisdiction to hear and determine the claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from respon-



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sibility on account of losses by capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, and papers in his charge, and for which such officer was and is held responsible: *Provided*, That an appeal may be taken to the Supreme Court, as in other cases.

SEC. 2. *And be it further enacted*, That whenever said court shall have ascertained the facts of any such loss to have been without fault or neglect on the part of any such officer, it shall make a decree, setting forth the amount thereof, upon which the proper accounting officers of the Treasury shall allow to such officer the amount so decreed as a credit in the settlement of his accounts.

APPROVED, May 9, 1866.

CHAP. LXXXVI.—An Act enlarging the Powers of the Levy Court of the County of Washington, in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the levy court of the county of Washington, in the District of Columbia, is hereby empowered to declare and locate as public highways such roads known and used as military roads in said District during the rebellion as said court may deem advisable: *Provided*, That the damages which the owners of the land over which said roads pass shall sustain by reason of said roads being declared public highways, shall be assessed as provided for in section three of the act of Congress approved July first, eighteen hundred and twelve, entitled "An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia."

APPROVED, May 9, 1866.

CHAP. LXXIX.—An Act to incorporate the National Theological Institute.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Abram D. Gillette, Edgar H. Gray, Edmund Turney, Zalman Richards, Robert J. Powell, William T. Johnson, Henry Beard, Charles H. Morse, Joseph C. Lewis, John S. Poler, David Rees, D. W. Anderson, Daniel C. Eddy, Leonard A. Grimes, Justice D. Fulton, William R. Williams, Isaac Westcott, Howard Malcolm, Joseph H. Kennard, Newton Brown, T. Dwight Miller, and all persons who shall or may be associated with them, and their successors, are hereby created and declared a body corporate and politic, in deed and in law, by the name of "The National Theological Institute," and by that name shall have succession and be capable in law to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity and elsewhere; to make and use a common seal, and the same to alter or renew at pleasure; and generally to do and perform all things relative to the object of this corporation which is now and shall be lawful for any individual or body politic or corporate to do.

SEC. 2. *And be it further enacted*, That the object and purpose of this corporation shall be for the education of persons for the Christian ministry, and those associated with them as assistants, in such course of theological and general studies as may be deemed proper for that purpose; and for that purpose is hereby authorized to elect or appoint such officers as may be deemed necessary or proper for the control of its affairs; to adopt such regulations and by-laws for its government as may be deemed necessary, not inconsistent with the laws of the United States in force in the District of Columbia, and to amend or repeal them at pleasure; to receive and hold any lands, tenements, annuities, moneys, goods, chattels, or other property of every kind or nature, which shall be given, granted, or bequeathed to it, or be otherwise acquired, for the purpose of carrying out

the object of this corporation, not exceeding fifty thousand dollars in real estate at any one time; and the same to sell or dispose of in such manner as may be desired for the purpose aforesaid: *Provided*, That any property so acquired, or the proceeds thereof, or any money received as a gift, shall not be used for any other than such educational purposes: *And provided, also*, That no person shall be excluded from the advantages of education afforded by the institute on account of theological belief.

SEC. 3. *And be it further enacted*, That this act may at any time be altered, amended, or repealed.

APPROVED, May 10, 1866.

CHAP. LXXX.—An Act to amend an Act entitled "An Act relating to *Habeas Corpus*, and regulating judicial Proceedings in certain Cases," approved March third, eighteen hundred and sixty-three.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any search, seizure, arrest, or imprisonment made, or any acts done or omitted to be done during the said rebellion, by any officer or person, under and by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so done or omitted to be done, either by the person or officer to whom the order was addressed, or for whom it was intended, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of the said act of March third, eighteen hundred and sixty-three, for all the purposes of defense, transfer, appeal, error, or limitation provided therein. But no such order shall, by force of this act, or the act to which this is an amendment, be a defense to any suit or action for any act done or omitted to be done after the passage of this act.

SEC. 2. *And be it further enacted*, That when the said order is in writing, it shall be sufficient to produce in evidence the original, with proof of its authenticity, or a certified copy of the same; or if sent by telegraph, the production of the telegram purporting to emanate from such military officer shall be *prima facie* evidence of its authenticity; or if the original of such order or telegram is lost or cannot be produced, secondary evidence thereof shall be admissible, as in other cases.

SEC. 3. *And be it further enacted*, That the right of removal from the State court into the circuit court of the United States, provided in the fifth section of the act to which this is amendatory, may be exercised after the appearance of the defendant and the filing of his plea or other defense in said court, or at any term of said court subsequent to the term when the appearance is entered, and before a jury is impaneled to try the same; but nothing herein contained shall be held to abridge the right of such removal after final judgment in the State court, nor shall it be necessary in the State court to offer or give surety for the filing of copies in the circuit court of the United States; but, on the filing of the petition, verified as provided in said fifth section, the further proceedings in the State court shall cease, and not be resumed until a certificate under the seal of the circuit court of the United States, stating that the petitioner has failed to file copies in the said circuit court, at the next term, is produced.

SEC. 4. *And be it further enacted*, That if the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court aforesaid, pro-

ceed further in said cause or prosecution before said certificate is produced, then, in that case, all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable to damages therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person, so offending, shall be found; and upon a recovery of damages in either court, the party plaintiff shall be entitled to double costs.

SEC. 5. *And be it further enacted*, That it shall be the duty of the clerk of the State court to furnish copies of the papers and files in the case to the party so petitioning for the removal; and upon the refusal or neglect of the clerk to furnish such copies, the said party may docket the case in the circuit court of the United States; and thereupon said circuit court shall have jurisdiction therein, and may, upon proof of such refusal or neglect of the clerk of the State court, and upon reasonable notice being given to the plaintiff, require him to file a declaration or petition therein; and upon his default may order a non-suit, and dismiss the case at the costs of the plaintiff, which dismissal shall be a bar to any further suit touching the matter in controversy.

APPROVED, May 11, 1866.

CHAP. LXXXI.—An Act to authorize the Coinage of Five-Cent Pieces.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, so soon as practicable after the passage of this act, there shall be coined at the Mint of the United States a five-cent piece composed of copper and nickel, in such proportions, not exceeding twenty-five per centum of nickel, as shall be determined by the Director of the Mint, the standard weight of which shall be seventy-seven and sixteen hundredths grains, with no greater deviation than two grains to each piece; and the shape, mottoes, and devices of said coin shall be determined by the Director of the Mint, with the approval of the Secretary of the Treasury; and the laws now in force relating to the coinage of cents, and providing for the purchase of material, and prescribing the appropriate duties of the officers of the Mint and the Secretary of the Treasury, be, and the same are hereby, extended to the coinage herein provided for.

SEC. 2. *And be it further enacted*, That all laws now in force relating to the coins of the United States, and the striking and coining of the same, shall, so far as applicable, be extended to the coinage herein authorized, whether said laws are penal or otherwise, for the security of the coin, regulating and guarding the process of striking and coining, for preventing debasement or counterfeiting, or for any other purpose. And the Director of the Mint shall prescribe suitable regulations to insure a due conformity to the required weights and proportions of alloy in the said coin, and shall order trials thereof to be made from time to time by the assayer of the Mint, whereof a report shall be made in writing to the Director.

SEC. 3. *And be it further enacted*, That said coin shall be a legal tender in any payment to the amount of one dollar. And it shall be lawful to pay out such coins in exchange for the lawful currency in the United States, (except cents, or half cents, or two-cent pieces, issued under former acts of Congress,) in suitable sums, by the treasurer of the Mint, and by such other depositaries as the Secretary of the Treasury may designate, and under general regulations approved by the Secretary of the Treasury. And under the like regulations the same may be exchanged in suitable sums for any lawful currency of the United States, and

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the expenses incident to such exchange, distribution, and transmission may be paid out of the profits of said coinage; and the net profits of said coinage, as ascertained in the manner prescribed in the second section of the act entitled "An act relating to foreign coins and the coinage of cents at the Mint of the United States," approved February twenty-first, eighteen hundred and fifty-seven, shall be transferred to the Treasury of the United States: *Provided*, That from and after the passage of this act no issues of fractional notes of the United States shall be of a less denomination than ten cents; and all such issues at that time outstanding shall, when paid into the Treasury or any designated depository of the United States, or redeemed or exchanged as now provided by law, be retained and canceled.

SEC. 4. *And be it further enacted*, That if any person or persons not lawfully authorized shall knowingly make, issue, or pass, or cause to be made, issued, or passed, or aid in the making, issuing, or passing of any coin, card, token, or device whatsoever, in metal or its compound, intended to pass or be passed as money for the coin authorized by this act, or for coin of equal value, such person or persons shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, and by imprisonment for a term not exceeding five years, at the discretion of the court.

SEC. 5. *And be it further enacted*, That it shall be lawful for the Treasurer and the several Assistant Treasurers of the United States to redeem in national currency, under such rules and regulations as may be prescribed by the Secretary of the Treasury, the coin herein authorized to be issued, when presented in sums of not less than one hundred dollars.

APPROVED, May 16, 1866.

CHAP. LXXXII.—An Act imposing a Duty on live Animals.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That on and after the passage of this act, there shall be levied, collected, and paid, on all horses, mules, cattle, sheep, hogs, and other live animals, imported from foreign countries, a duty of twenty per centum *ad valorem*: *Provided*, That any such animals now *bona fide* owned by resident citizens of the United States, and now in any of the Provinces of British America, may be imported into the United States free of duty until the expiration of ten days next after the passage of this act.

APPROVED, May 16, 1866.

CHAP. LXXXIII.—An Act to change the Place of holding the Courts of the United States for the northern District of Mississippi.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the district courts of the United States for the northern district of Mississippi, now required to be held at the town of Pontotoc, shall hereafter be held at the town of Oxford, in said State.

APPROVED, May 16, 1866.

CHAP. LXXXIV.—An Act to amend "An Act to establish the Grade of Vice Admiral in the United States Navy."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of an act to establish the grade of vice admiral in the United States Navy, approved December twenty-first, eighteen hundred and sixty-four, be, and the same is hereby, amended by adding thereto the following: "And he shall be allowed a secretary, with the rank and sea pay and allowances of a lieutenant in the Navy."

APPROVED, May 16, 1866.

CHAP. LXXXV.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending June thirtieth, eighteen hundred and sixty-seven, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails, (inland,) nine million five hundred and fifty thousand dollars.

For transportation of the mails, (foreign,) six hundred thousand dollars.

For ship, steamboat, and way letters, eight thousand dollars.

For compensation to postmasters, four million two hundred and fifty thousand dollars.

For clerks for post offices, one million nine hundred and twenty thousand dollars.

For payment to letter carriers, six hundred and forty thousand dollars.

For wrapping-paper, one hundred thousand dollars.

For twine, thirty thousand dollars.

For letter balances, six thousand dollars.

For compensation to blank agents and assistants, eight thousand dollars.

For office furniture, six thousand dollars.

For advertising, eighty thousand dollars.

For postage stamps and stamped envelopes, two hundred and fifty thousand dollars.

For mail depredations and special agents, one hundred thousand dollars.

For mail bags, one hundred and thirty thousand dollars.

For mail locks, keys, and stamps, thirty thousand dollars.

For payment of balances due to foreign countries, three hundred and fifty thousand dollars.

For miscellaneous payments, three hundred and twenty thousand dollars.

To enable the Superintendent of the Naval Observatory to carry out the object of Senate resolution of March nineteenth, eighteen hundred and sixty-six, for report of Isthmus routes to the Pacific ocean, fifteen hundred dollars.

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June thirtieth, eighteen hundred and sixty-seven, out of any money in the Treasury not otherwise appropriated:

For the mail steamship service between the United States and Brazil, one hundred and fifty thousand dollars: *Provided*, That this appropriation shall take effect only when Brazil shall have performed the condition on her part provided in the law authorizing said service.

For the mail steamship service between San Francisco, Japan, and China, for six months ending June thirtieth, eighteen hundred and sixty-seven, two hundred and fifty thousand dollars.

For the overland mail transportation between Atchison and Folsom, and for marine mail transportation between New York and California, nine hundred thousand dollars.

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to employ sailing vessels for the transportation of the mails between the ports of the United States and any foreign ports where the service may be facilitated thereby, allowing and paying therefor a compensation not exceeding the sea postages accruing on the mails so conveyed.

SEC. 4. *And be it further enacted*, That the Postmaster General be, and is hereby, required to report to the Secretary of the Treasury annually, prior to the first day of November of each year, his estimate of the money required for the

service of the Post Office Department for the ensuing fiscal year; which estimate shall be reported to Congress with the printed estimates of appropriations required by the joint resolution of the seventh of January, eighteen hundred and forty-six.

SEC. 5. *And be it further enacted*, That the balance of the appropriation of one hundred thousand dollars under the thirteenth section of an act "to establish a postal money-order system," approved May seventeenth, eighteen hundred and sixty-four, which may remain unexpended at the close of the current fiscal year, may be used as far as necessary to supply deficiencies in the proceeds of the money-order system during the fiscal year commencing July first, eighteen hundred and sixty-six.

SEC. 6. *And be it further enacted*, That all advertising, notices, and proposals for contracts for the Post Office Department, and all advertising, notices, and proposals for contracts for all the Executive Departments of the Government, required by law to be published in the city of Washington, shall hereafter be advertised by publication in the two daily newspapers in the city of Washington having the largest circulation, and in no others: *Provided*, That the charges for such publications shall not be higher than such as are paid by individuals for advertising in said papers: *And provided also*, That the same publications shall be made in each of said papers equally as to frequency, and that the circulation of such papers shall be determined upon the tenth day of June annually; and the publishers of all papers competing for such advertising shall furnish a sworn statement of their *bona fide* paid circulation of each regular issue for the preceding three months; and shall in like manner certify under oath that such circulation has not, during the said three months, been increased by any gratuitous circulation, by a reduction in price below the ordinary and usual price of such papers, or by any other means, for the purpose of obtaining the official advertising: *Provided*, That the charge for such advertising shall not be greater than is paid for the same publications in other cities, or at a higher rate than is paid by individuals for like advertising.

APPROVED, May 18, 1866.

CHAP. LXXXVI.—An Act to prevent and punish Kidnapping.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person shall kidnap or carry away any other person, whether negro, mulatto, or otherwise, with the intent that such other person shall be sold or carried into involuntary servitude, or held as a slave; or if any person shall entice, persuade, or knowingly induce any other person to go on board any vessel or to any other place, with the intent that he or she shall be made or held as a slave, or sent out of the country to be so made or held, or shall in any way knowingly aid in causing any other person to be held, sold, or carried away, to be held or sold as a slave, he or she shall be punished, on conviction thereof, by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment not exceeding five years, or by both of said punishments.

SEC. 2. *And be it further enacted*, That if the master or owners, or person having charge of any vessel, shall receive on board any other person, whether negro, mulatto, or otherwise, with the knowledge or intent that such person shall be carried from any State, Territory, or district of the United States, to a foreign country, State, or place, to be held or sold as a slave, or shall carry away from any State, Territory, or district of the United States, any such person, with the intent that he or she shall be so held or sold as a slave, such master, owner, or other person offending, shall be punished by a fine not exceeding five thousand nor less than five hundred dollars, or by imprisonment not

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exceeding five years, or by both of said punishments. And the vessel on board which said person was received to be carried away shall be forfeited to the United States.

APPROVED, May 21, 1866.

CHAP. LXXXVII.—An Act to establish a Post Route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the railroad bridge across Lake Champlain at Rouse's Point, connecting the Ogdensburg and Lake Champlain railroad in the State of New York, with the Vermont and Canada railroad, in the State of Vermont, be, and is hereby, declared a lawful structure, and is, and shall be, recognized and known as a post route.

SEC. 2. *And be it further enacted,* That the Ogdensburg and Lake Champlain Railroad Company, their successors or assigns, and the Vermont and Canada Railroad Company, their successors and assigns, are hereby authorized to keep up, maintain and use the said bridge, for the transportation of the mails, and for the benefit of the general commerce between said States and the transportation of persons and property. And in place of the float now in use forming part of said bridge, they or either of them may construct and maintain two suitable draws, one of which shall be at least sixty feet wide, and the other at least ninety feet wide, and which shall always be opened by the railroad company which constructs the same, whenever required for the passage of vessels, except during and for fifteen minutes prior to the passage of mail trains. And which draws shall be so constructed and managed as at all times to afford reasonable and proper facilities for the passage of vessels: *Provided,* That this act shall be subject to amendment or repeal at the pleasure of Congress.

APPROVED, May 21, 1866.

CHAP. LXXXVIII.—An Act amendatory of "An Act to provide for the Reports of Decisions of the Supreme Court of the United States."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the reporter of the decisions of the Supreme Court of the United States shall hereafter be allowed the term of eight months for the publication of his reports instead of six, as provided by the act of August twenty-nine, eighteen hundred and forty-two.

APPROVED, May 21, 1866.

CHAP. LXXXIX.—An Act to regulate the Time and fix the Place for holding the Circuit Court of the United States in the District of Virginia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the circuit court of the United States in the district of Virginia shall be held at the city of Richmond, commencing on the first Monday in May and on the fourth Monday of November, in each year; and the said court may adjourn its session, now authorized, from Norfolk to Richmond, and there hold the same, and transfer to said last-named place all records, files, process, and property pertaining to said court. And all proceedings and process in or issuing out of said court, which are, or may be, made returnable to any other times or places appointed for holding said court than herein prescribed, shall be deemed legally returnable on the days specified and at Richmond, and not otherwise; and all suits and other proceedings in said court which stand continued to any other time or place shall be deemed continued to the place and time prescribed by this act. And special or adjourned terms of said

court may be held at such time and on such notice as may be ordered and prescribed by the Chief Justice of the Supreme Court of the United States, with the same power and jurisdiction as at regular terms. And said court, at any such regular, special, or adjourned terms, shall have power to issue and enforce all writs and process, make all orders, and do all acts necessary for the due administration of justice and the exercise of their jurisdiction.

APPROVED, May 22, 1866.

CHAP. XCVI.—An Act to incorporate the Academy of Music of Washington City.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Max Strakosch, William G. Pope, Max Maretzek, W. G. Metzertott, Joseph J. May, B. F. Isherwood, John G. Clark, Henry C. Sherman, Carl Bergman, and F. C. Adams, or any five of them, be, and they are hereby, authorized and empowered to receive subscriptions to the capital stock of a company to be denominated "The Academy of Music of Washington, D. C.," who shall open a book for that purpose in the city of Washington, at the time and place to be by them designated, of which they shall give five days' notice in two or more of the daily papers of said city, and shall keep the same open until ten thousand shares of fifty dollars a share each shall have been subscribed; and any person of lawful age, and a citizen of the United States, shall be permitted to subscribe upon paying five dollars on each share at the time of subscribing. And it shall be lawful for the said corporation to have a common seal, sue and be sued, plead and be pleaded, and have and exercise all the rights, privileges, and immunities, for the purpose of the corporation hereby created.

SEC. 2. *And be it further enacted,* That the affairs of the company shall be managed by nine directors, to be elected annually by ballot on the first Monday of October, by the stockholders or by their legally empowered agents; and each share of stock shall entitle the holders thereof to one vote; the election to be held at the office of the company at a general meeting of the stockholders convened for that purpose by ten days' public notice in two or more of the daily papers of the city of Washington: *Provided,* That the first election for directors shall be held pursuant to ten days' notice given in one or more papers of the city of Washington, by the persons named in the first section of this act, or any five of them, who shall designate the time when and the place where said election shall be held; and the stockholders shall then and there elect nine directors to serve until the next ensuing election, as provided for in this act. And at the first ensuing meeting of the directors after every election they shall appoint one of their number as president, who, together with themselves, shall hold office until the next ensuing election as herein provided for, and five members of said board shall compose a quorum. And in case that an election for directors should not be made when pursuant to this act it should have been made, the company for that cause shall not be dissolved, and it shall be lawful within forty days thereafter to hold and make an election for directors in such manner as the by-laws of the company may prescribe, and the president and directors for the time being shall be continued in office until such election take place. And in the event of death or resignation, or removal of any director from office, his place for the remainder of his term may be filled by the president and directors for the time being, in such manner as the by-laws may prescribe.

SEC. 3. *And be it further enacted,* That the president and directors shall have power to appoint a secretary and such other officers, agents, and clerks as may to them appear

proper, to fix their compensation and pay the same.

SEC. 4. *And be it further enacted,* That the capital stock shall be called in and paid in such installments and proportions, and at such times and places, as the president and directors for the time being may require and designate, who shall give fifteen days' notice thereof in two or more daily papers of the city of Washington. And if any stockholders, subscribers, their assignees or transferees, shall refuse or neglect to pay such proportions or installments, at the time and place appointed, such stockholders, subscriber, transferee, or assignee shall, at the option of the president and directors, forfeit to the use of the company all his, her, or their right, title, and interest in and to every share on which such installment has not been duly paid; and fresh subscriptions may be opened for the same, in such manner as the by-laws may prescribe, or the president and directors may at their option commence suit for the same and proceed against the holder of said stock for the amount of the installment or proportion so unpaid: *Provided,* That no stockholder or subscriber shall be permitted to vote at any election for directors, or at any general or special meeting of the company, on whose shares any installments or arrearages may be due more than fifteen days previous thereto.

SEC. 5. *And be it further enacted,* That the president and directors for the time being shall have power to ordain, establish, and put in execution such rules, regulations, ordinances, and by-laws as they may deem essential for the well government of the institution, not contrary to the laws and Constitution of the United States or of this act, and generally to do and perform all acts, matters, and things necessary to carry out the purposes of this corporation.

SEC. 6. *And be it further enacted,* That the president and directors are hereby empowered and fully authorized, on behalf of the company, to purchase and hold in fee-simple, or lease for a term of years, real estate in the city of Washington sufficient to enable them to erect thereon a building suitable for operatic, dramatic, and other entertainments, in such manner, and upon such terms, as may be by them deemed for the best interests of the company.

SEC. 7. *And be it further enacted,* That the said company are hereby authorized to borrow money to an amount not exceeding their capital stock, upon bonds to be issued by said company, secured upon their property and franchises: *Provided,* That no bond shall be issued for a less sum than one hundred dollars, and bearing a greater rate of interest than seven per centum per annum.

SEC. 8. *And be it further enacted,* That the president and directors shall, from time to time, divide so much of the profits of said company as to them may appear advisable, first deducting all expenses, and pay the same to the respective stockholders, or their agents duly empowered to receive the same.

SEC. 9. *And be it further enacted,* That the stock of said company shall be transferred on the books of the company in such manner only as the by-laws of the company may direct.

SEC. 10. *And be it further enacted,* That nothing in this act shall be so construed as making it perpetual, but Congress may at any time alter, amend, or repeal the same.

APPROVED, May 24, 1866.

CHAP. XCVII.—An Act to amend the Charter of the Washington Gas-Light Company.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the charter of the Washington Gas-Light Company be, and the same is hereby, amended in the third section by substituting the word "February" for "January."

SEC. 2. *And be it further enacted,* That the



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capital stock of said company be, and the same is hereby, increased five hundred thousand dollars, subject to the same liability as is provided in the eleventh section of the original act of incorporation, approved July eighth, eighteen hundred and forty-eight.

APPROVED, May 24, 1866.

CHAP. C.—An Act to authorize the Appointment of an additional Assistant Secretary of the Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized and empowered, by and with the advice and consent of the Senate, to appoint an additional Assistant Secretary of the Navy, who shall perform the same duties and receive the same salary as is by law allowed to the present Assistant Secretary of the Navy.

SEC. 2. *And be it further enacted,* That the office hereby created shall cease by limitation in six months from the approval of this act.

APPROVED, May 26, 1866.

CHAP. CII.—An Act to repeal Section twenty-three of Chapter seventy-nine of the Acts of the Third Session of the Thirty-Seventh Congress, relating to Passports.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section twenty-three of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and sixty-four, and for the year ending the thirtieth June, eighteen hundred and sixty-three, and for other purposes," be, and the same is hereby repealed. And hereafter passports shall be issued only to citizens of the United States.

APPROVED, May 30, 1866.

CHAP. CIII.—An Act to define more clearly the Jurisdiction and Powers of the Supreme Court of the District of Columbia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That writs of attachment and garnishments shall be issued by the clerk of the supreme court of the District, without any authority or warrant from any judge or justice, whenever the plaintiff, his agent or attorney, shall file in the clerk's office, whether at the commencement or during the pendency of the suit, an affidavit, supported by the testimony of one or more witnesses, showing the grounds upon which he bases his affidavit, and also setting forth that the plaintiff has a just right to recover against the defendant what he claims in the declaration, and also stating either, first, that the defendant is a non-resident of the District; or, second, that the defendant evades the service of ordinary process by concealing himself or by withdrawing from the District temporarily; or, third, that he has removed or is about to remove some of his property from the District, so as to defeat just demands against him; and shall also file his (the plaintiff's) undertaking, with sufficient surety or sureties, to be approved by the clerk, to make good all costs and damages which the defendant may sustain by reason of the wrongful suing out of the attachment: *Provided, however,* That if the defendant, his agent or attorney, shall file an affidavit traversing the said affidavit, the court shall determine whether the facts set forth in said plaintiff's affidavit are true, and that there was just ground for issuing said writ or warrant of attachment; and if the court shall deem the facts do not sustain the affidavit, he shall quash the writ of attachment or garnishment; and this issue may be tried by a judge at chambers on three days' notice. And the thing

attached shall not be discharged from the custody of the officer seizing it, until the defendant shall deliver, either to the officer or to the clerk, to be filed in the cause, his undertaking, with sufficient surety or sureties, to satisfy and pay the final judgment of the court against him; and in case the defendant be found liable to the plaintiff's claim, in whole or in part, the final judgment shall be that the plaintiff recover against the defendant and his surety or sureties; and if the defendant fail to execute such undertaking, the court may sell the thing attached whenever it is satisfied that it is the interest of the parties that it should be sold before final judgment.

SEC. 2. *And be it further enacted,* That from and after the passage of this act the annual salaries of the chief justice and associate justices of the supreme court of the District of Columbia, instead of the amount now fixed by law, shall be as follows: for the chief justice, four thousand five hundred dollars, and for each of the associate justices, four thousand dollars.

APPROVED, June 1, 1866.

CHAP. CIV.—An Act to incorporate the Women's Hospital Association of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Abram D. Gillette, Byron Sunderland, Charles H. Hall, George W. Sampson, J. N. Coombs, William B. Matchett, Henry D. Cooke, William W. Corcoran, Charles Knap, J. H. Thompson, Moses Kelley, Ansel St. John, Mrs. Adelaide J. Brown, Mrs. Mary W. Kelley, Elmira W. Knap, Mary C. Havenner, Mary Ellen Norment, Jane Thompson, Maria L. Harkness, Isabella Margaret Washington, Mary F. Smith, Mrs. Elmira W. Powell, and Mrs. Elizabeth Sampson, and their successors duly chosen, are hereby constituted and created a body-corporate in the District of Columbia, by the name of the Columbia Hospital for Women and Lying-in Asylum.

SEC. 2. *And be it further enacted,* That said corporation hereby constituted shall consist of twenty-four members. They shall have power to fill all vacancies created by death, resignation, or otherwise, and to make by-laws, rules, and regulations: *Provided,* That such by-laws, rules, and regulations are not repugnant to the Constitution or laws of the United States.

SEC. 3. *And be it further enacted,* That the affairs of said corporation shall be under the control and management of a board of twelve directors, to consist of the first twelve of the above-named incorporators, or such further number as the duties of the corporation may require, such increase of numbers to be made by a vote of two thirds of the existing board. The board of directors shall also have power to appoint all sub-committees necessary to the direction and efficiency of the institution hereby authorized to be established.

SEC. 4. *And be it further enacted,* That the first twelve corporators named in the first section hereof, together with those who may be elected directors as provided in the preceding section, shall constitute the first board of directors, who shall from their number elect a president, two vice presidents, a secretary, and treasurer; and seven of the directors, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business.

SEC. 5. *And be it further enacted,* That the object of the association hereby incorporated is to found in the city of Washington a hospital and dispensary for the treatment of diseases peculiar to women, and lying-in asylum, in which those unable to pay therefor shall be furnished with board, lodging, medicine, and medical attendance gratuitously, and to that end full powers are hereby conferred on the association.

SEC. 6. *And be it further enacted,* That said corporation shall have power to accept, purchase, receive conveyances of, and hold property, either personal or real, to an amount necessary for the full accommodation, convenience, and support of the institution and those participating in its benefits.

SEC. 7. *And be it further enacted,* That the property, personal or real, so held by said corporation, shall be exempt from all taxes and assessments levied under act of Congress, or by authority of any municipal corporation or board within the District of Columbia.

SEC. 8. *And be it further enacted,* That Congress may at any time hereafter alter, amend, or repeal this act.

APPROVED, June 1, 1866.

CHAP. CV.—An Act to protect American Citizens engaged in lumbering on the St. Croix River, in the State of Maine.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the produce of the forests of the State of Maine upon the St. Croix river and its tributaries, owned by American citizens, and sawed in the Province of New Brunswick by American citizens, (the same being unmanufactured in whole, or in part,) and having paid the same taxes as other American lumber on that river, shall be admitted into the ports of the United States free of duty, under such regulations as the Secretary of the Treasury shall from time to time prescribe.

SEC. 2. *And be it further enacted,* That this act shall take effect from and after its passage.

APPROVED, June 1, 1866.

CHAP. CVI.—An Act supplementary to the several Acts relating to Pensions.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, and section three of an act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, be, and the same are hereby, repealed, and the following shall stand in lieu thereof: that, from and after the passage of this act, all persons by law entitled to a less pension than hereinafter specified, who, while in the military or naval service and in line of duty, shall have lost the sight of both eyes, or who shall have lost both hands, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month; and all persons, who under like circumstances, shall have lost both feet, or one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much so as to require constant personal aid and attendance, shall be entitled to a pension of twenty dollars per month; and all persons who, under like circumstances, shall have lost one hand or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their inability to perform manual labor equivalent to the loss of a hand or a foot, shall be entitled to a pension of fifteen dollars per month.

SEC. 2. *And be it further enacted,* That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension which has been, or may hereafter be, granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for

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money for and in behalf of any person entitled to a pension shall, before receiving said money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in said money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take the said oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury.

SEC. 3. *And be it further enacted*, That any person who shall present or cause to be presented at any pension agency any power of attorney, or other paper required as a voucher in drawing a pension, which paper shall bear a date subsequently to that on which it was actually signed or executed, such person so offending shall be deemed guilty of a high misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both, at the discretion of the court before whom such conviction shall be had, and no sum of money due, or to become due, to any pensioner under the laws aforesaid, shall be liable to attachment, levy or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto; but shall inure wholly to the benefit of such pensioner.

SEC. 4. *And be it further enacted*, That no claim agent or other person shall hereafter charge or receive more than twenty-five cents for preparing the papers necessary to enable a pensioner to receive a semi-annual payment of his pension, nor shall any pension agent charge or receive more than fifteen cents for administering an oath to a pensioner, or his attorney in fact, under a penalty of five dollars in each case.

SEC. 5. *And be it further enacted*, That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved March three, eighteen hundred and sixty-five, is hereby repealed.

SEC. 6. *And be it further enacted*, That if any person entitled to an invalid pension has died since March four, eighteen hundred and sixty-one, or shall hereafter die while an application for such pension is pending, and after the proof has been completed, leaving no widow and no minor child under sixteen years of age, his heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his death.

SEC. 7. *And be it further enacted*, That in all cases when a commission shall have been regularly issued to any person in the military or naval service who shall have died or been disabled while in the line of duty, after the date of such commission, and before being mustered, such officer or other person entitled to a pension for such death or disability by existing laws shall receive a pension corresponding to his rank, as determined by such commission, the same as if he had been mustered: *Provided*, That this section shall not apply to any officer who shall have willfully neglected or refused to be so mustered.

SEC. 8. *And be it further enacted*, That officers absent on sick leave, and enlisted men absent on sick furlough, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

SEC. 9. *And be it further enacted*, That the period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to

which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

SEC. 10. *And be it further enacted*, That enlisted men employed as teamsters, wagoners, artificers, hospital stewards, farriers, saddlers, and all other enlisted men, however employed in the service of the Army or Navy, not specifically mentioned in the first section of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, shall be regarded, in the administration of the pension laws, as non-commissioned officers or privates.

SEC. 11. *And be it further enacted*, That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, then no pension shall be allowed to such widow until said minor child or children shall have become sixteen years of age, any previous enactment to the contrary notwithstanding; and the minor child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly authorized guardian of such minor or minors.

SEC. 12. *And be it further enacted*, That section four of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, is hereby so amended that the provisions thereof shall apply to and include the orphan brother or brothers, as well as sister or sisters, under sixteen years of age, and the father as well as mother of a deceased officer or other person named in section one of the above entitled act, who were dependent upon him for support in whole or in part, subject to the same limitations and restrictions.

SEC. 13. *And be it further enacted*, That nothing in this or any other act shall be so construed as to repeal or modify the sixth section of an act entitled "An act supplementary to 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, or to entitle a person to receive more than one pension at the same time, and in every case in which a claim for pension shall not have been filed within three years after the discharge or decease of the party on whose account the claim is made, the pension, if allowed, shall commence from the date of filing the last paper in said case by the party prosecuting the same.

SEC. 14. *And be it further enacted*, That the fourteenth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July fourteenth, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, be, and the same is hereby, repealed, and that the widows and children of colored soldiers and sailors who have been or may be hereafter killed, or who have died or may hereafter die of wounds received or of disease contracted in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pensions, bounty, and back pay provided by law, without other evidence of marriage than proof, satisfactory to the Commissioner of Pensions, that the parties had habitually recognized each other as man and wife, and lived together as such; and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor party thereto.

APPROVED, June 6, 1866.

CHAP. CX.—An Act making Appropriations for the Support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-seven:

For pay of officers, instructors, cadets, and musicians, one hundred and fifty-four thousand eight hundred and forty dollars.

For commutation of subsistence, four thousand five hundred and sixty-one dollars.

For pay in lieu of clothing to officers' servants, one hundred and fifty-six dollars.

For current and ordinary expenses, fifty-eight thousand dollars.

For increase and expense of library, two thousand dollars.

For expenses of Board of Visitors, three thousand dollars.

For forage for artillery and cavalry horses, fifteen thousand dollars.

For horses for artillery and cavalry practice, one thousand dollars.

For repairs of officers' quarters, five thousand dollars.

For targets and batteries for artillery practice, five hundred dollars.

For furniture for cadets' hospital, one hundred dollars.

For gas-pipes, gasometers, and retorts, three hundred dollars.

For reflooring academic buildings and barracks, six thousand dollars.

For the purchase of fuel for warming mess-hall, shoemakers' and tailors' shops, two thousand dollars.

For materials for quarters for subaltern officers, three thousand dollars.

For continuing the erection of memorial tablets and mural monuments to deceased officers of the regular Army, and of volunteers; arranging and preserving trophies of war; and marking with proper inscriptions the guns captured during the rebellion, five thousand dollars.

For enlarging and improving the cemetery, and for repairing the inclosure thereof, five thousand dollars.

For the removal to a safe place, and reconstruction of the magazine, ten thousand dollars.

For ventilating and heating the barracks and other academic buildings; improving the apparatus for cooking for the cadets; repairing the hospital buildings, including the introduction of baths for the sick; the construction of water-closets in the library building; and new furniture for the recitation rooms, twenty thousand dollars.

For the removal and enlargement of the gas-works, six thousand dollars.

SEC. 2. *And be it further enacted*, That no person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion shall hereafter receive an appointment as a cadet at the Military or Naval Academy.

APPROVED, June 8, 1866.

CHAP. CXI.—An Act making Appropriations to supply Deficiencies in the Appropriations for Contingent Expenses of the House of Representatives of the United States, for the fiscal year ending June thirty, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated:

For miscellaneous items, ten thousand dollars.

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For folding documents, seventeen thousand five hundred dollars.

For furniture and repairs, and packing boxes for members, ten thousand dollars.

For stationery, fifteen thousand dollars, for the fiscal year ending June thirty, eighteen hundred and sixty-six.

APPROVED, June 8, 1866.

CHAP. CXIV.—An Act to amend the Postal Laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, from and after the first day of July, eighteen hundred and sixty-six, prepaid and free letters shall be forwarded, at the request of the party addressed, from one post office to another without additional postage charge; and returned dead letters shall be restored to the writers thereof free of postage.

SEC. 2. *And be it further enacted,* That the tenth section of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July one, eighteen hundred and sixty-four; and so much of the twenty-eighth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March three, eighteen hundred and sixty-three, as requires postage to be charged at the prepaid rate, to be collected on the return delivery of letters, indorsed with a request for their return to the writers, be, and the same are hereby, repealed; and all letters bearing such indorsement shall hereafter be returned to the writers thereof without additional postage charge.

SEC. 3. *And be it further enacted,* That the third section of the act entitled "An act to establish a postal money-order system," approved May seventeen, eighteen hundred and sixty-four, be, and the same is hereby, amended so as to authorize the issuing of a money order for any sum not to exceed fifty dollars, and that the charge or fee for an order for a sum not exceeding twenty dollars shall be ten cents; for an order exceeding twenty dollars shall be twenty-five cents.

SEC. 4. *And be it further enacted,* That a money order shall be valid and payable when presented to the deputy postmaster on whom it is drawn, within one year after its date, but for no longer period; and in case of the loss of a money order a duplicate thereof shall be issued without charge, on the application of the remitter or payee, who shall make the required proofs; and postmasters at all money-order offices are hereby authorized and required to administer to the applicant or applicants in such cases the required oath or affirmation free of charge.

SEC. 5. *And be it further enacted,* That all railroad companies carrying the mails of the United States shall convey without extra charge, by any train which they may run over their roads, all such printed matter as the Postmaster General shall, from time to time, direct to be transported thereon with the persons in charge of the mails designated by the Post Office Department for that purpose.

SEC. 6. *And be it further enacted,* That if any person or persons shall willfully and maliciously injure, deface, or destroy any mailable matter deposited in any letter box, pillar box, or other receiving boxes established by authority of the Postmaster General of the United States for the safe deposit of matter for the mails or for delivery, or shall willfully aid and assist in injuring such mailable matter so deposited as aforesaid, every such offender being thereof duly convicted shall, for every such offense, be fined not more than five hundred dollars, or be imprisoned not more than three years, at the discretion of the court.

SEC. 7. *And be it further enacted,* That whenever it shall become expedient, in the opinion of the Postmaster General, to substitute a different kind of postage stamps for those now in

use, he shall be, and is hereby, authorized to modify the existing contract for the manufacture of postage stamps so as to allow to the contractors a sum sufficient to cover the increased expenses, if any, of manufacturing the stamps so substituted.

SEC. 8. *And be it further enacted,* That section two of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July one, eighteen hundred and sixty-four, be amended by adding the following: *Provided,* That when the quarterly returns of any postmaster of the third, fourth, or fifth class show that the salary allowed is ten per centum less than it would be on the basis of commissions under the act of eighteen hundred and fifty-four, fixing compensation, then the Postmaster General shall review and readjust under the provisions of said section.

SEC. 9. *And be it further enacted,* That whenever the Postmaster General shall require special agents of the Post Office Department to collect or disburse the public moneys accruing from postages, such special agent or agents, when so employed, shall, prior to entering upon such duty, give bond in such sum, in such form, and with such security, as the Postmaster General may approve.

APPROVED, June 12, 1866.

CHAP. CXV.—An Act making Appropriations for the Construction, Preservation, and Repairs of certain Fortifications and other Works of Defense, for the year ending June thirty, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the thirtieth of June, eighteen hundred and sixty-seven:

For Fort Wayne, near Detroit, Michigan, fifty thousand dollars.

For Fort Ontario, Oswego, New York, fifty thousand dollars.

For Fort Montgomery, at outlet of Lake Champlain, New York, fifty thousand dollars.

For Fort Scammel, Portland, Maine, thirty-five thousand dollars.

For Fort George, on Hog Island ledge, Portland, Maine, fifty thousand dollars.

For Fort Popham, Kennebec river, Maine, fifty thousand dollars.

For Fort Constitution, Portsmouth, New Hampshire, seventy-five thousand dollars.

For Fort Winthrop, Boston, Massachusetts, thirty thousand dollars.

For Fort Warren, Boston, Massachusetts, twenty-five thousand dollars.

For sea-wall at Great Brewster's Island, Boston harbor, Massachusetts, seventy-five thousand dollars.

For sea-walls on Deer and Lovell's Islands, Boston harbor, Massachusetts, fifty thousand dollars.

For fort at entrance of New Bedford harbor, Massachusetts, thirty thousand dollars.

For Fort Schuyler, East river, New York, thirty thousand dollars.

For fort at Willett's Point, opposite Fort Schuyler, New York, fifty thousand dollars.

For repairs of Fort Hamilton, New York, thirty thousand dollars.

For fort on site of Fort Tompkins, Staten Island, New York, fifty thousand dollars.

For fort at Sandy Hook, New Jersey, fifty thousand dollars.

For repairs of Fort Mifflin, near Philadelphia, twenty-five thousand dollars.

For construction of permanent platforms for modern cannon of large caliber, in existing fortifications of important harbors, one hundred thousand dollars.

For repairs of Fort Washington, on the Potomac river, twenty thousand dollars.

For Fort Monroe, Hampton Roads, Virginia, thirty thousand dollars.

For Fort Taylor, Key West, Florida, one hundred thousand dollars.

For Fort Jefferson, Garden Key, Tortugas, fifty thousand dollars.

For fort on Ship Island, coast of Mississippi, ten thousand dollars.

For Fort Clinch, Amelia Island, Florida, fifty thousand dollars.

For fort at Fort Point, San Francisco bay, California, one hundred and twenty-five thousand dollars.

For fort at Lime Point, California, seventy-five thousand dollars.

For fort at Alcatraz Island, San Francisco bay, California, ninety thousand dollars.

For survey of northern and northwestern lakes, including Lake Superior, fifty thousand dollars.

For purchase of sites now occupied and lands proposed to be occupied for permanent sea-coast defenses, provided that no such purchase shall be made except upon the approval of its expediency by the Secretary of War, and of the validity of title by the Attorney General, thirty-five thousand dollars.

APPROVED, June 12, 1866.

CHAP. CXVI.—An Act authorizing Documentary Evidence of Titles to be furnished to the Owners of certain Lands in the City of St. Louis.

Whereas within the city of Saint Louis, in the State of Missouri, there are many lots, tracts, pieces, and parcels of land which were confirmed by the act of Congress of June the thirteenth, eighteen hundred and twelve, on the ground of inhabitation, possession, or cultivation of the same prior to December the twentieth, eighteen hundred and three, and in some cases there is no adequate documentary evidence of said confirmations; and in consequence of the death of the ancient witnesses, who knew the facts of said inhabitation, possession, or cultivation, the owners of said lands, in said cases where there is no adequate documentary evidence of said confirmations, are without complete evidence of title to the same, as against the United States; and whereas persons holding grants and confirmations of lands in said city of Saint Louis, under other acts of Congress heretofore passed, may, in some cases, be without perfect documentary evidence of said grants or confirmations by the United States, and difficulties may hereafter arise therefrom, to the great injury of such persons: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the district court of the United States for the eastern district of Missouri is hereby authorized, by proper decree, to declare released, granted, relinquished, and conveyed by the United States in fee-simple and in full property, all of the right, title, and interest of the United States in and to any lot, tract, piece or parcel of land within the city of Saint Louis, in the State of Missouri, to the person or persons having the best claim or claims to the same; but nothing in this act shall authorize said court to declare released, granted, relinquished, and conveyed, as aforesaid, any land within any wharf, street, lane, avenue, alley, or other public thoroughfare, or within the boundaries of any land which has been heretofore granted or assigned by the United States for the use or support of schools, or within the boundaries of any land heretofore lawfully granted by the United States, where full, sufficient, and complete documentary evidence of such confirmation or grant now exists of record.

SEC. 2. *And be it further enacted,* That every person desiring a decree in his or her favor, under this act, shall file a petition in said dis-



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trict court, asking for such decree, and describing the land for which said decree is desired; and the United States and all persons claiming such land adversely to said petitioner (if there be any such adverse claimants) shall be made defendants in said cause; and if any party to any such cause shall be a minor under the age of twenty-one years, a guardian *ad litem* shall be appointed by said court for said minor; and said district court shall have full and complete power, jurisdiction, and authority to hear, try, and determine all questions arising in said cause relating to the claim of the petitioner, the extent, locality, and boundaries of said claim, and all other matters connected therewith or concerning the same; and said district court shall also have power to make, prescribe, and enforce such rules and regulations as may be necessary and proper to carry this act into full and complete execution.

SEC. 3. *And be it further enacted*, That a copy of every petition which shall be filed under this act, and a copy of the writ or process thereto attached, shall be delivered to the district attorney of the United States for said eastern district of Missouri, by the United States marshal for said district, which said delivery shall make the United States a party to the cause specified in such petition, without any other or further proceedings, notice, service, writ, or process whatever; and said district attorney shall make such defense therein for the United States as in his opinion the public interest may require; but no answer or other pleadings filed by said attorney in such cause shall be required to be verified by oath or affirmation.

SEC. 4. *And be it further enacted*, That for the purpose of more completely describing, identifying, and defining the boundaries, situation, and locality of any lot, tract, piece or parcel of land sought to be released, granted, relinquished, and conveyed under this act, the said district court shall have power to cause an accurate survey, plat, and description thereof to be made by a competent person at the expense of the petitioner; and all of the expenses and costs of all suits and other proceedings under this act shall be paid by the respective petitioners, and the payment thereof may be enforced by execution or otherwise.

SEC. 5. *And be it further enacted*, That every decree which shall be rendered under this act in favor of any petitioner shall be deemed a full, sufficient, and complete release, grant, relinquishment, and conveyance, in fee-simple, and in full property, to such petitioner, and to his or her heirs and assigns, forever, of all the right, title, and interest of the United States in and to the land described in such decree.

SEC. 6. *And be it further enacted*, That whenever said district court or the circuit court shall render a final decree under this act, concerning any lot, tract, piece or parcel of land, such court shall cause to be transmitted to the Commissioner of the General Land Office a full, true, and complete transcript of said final decree, and of the description or survey of said land.

SEC. 7. *And be it further enacted*, That any party to any final decree rendered by said district court in any suit or cause commenced under this act may appeal from said final decree of said district court to the circuit court of the United States for the district of Missouri, at any time within one year from the time of the rendition of said final decree, and not after that time; and on the granting of said appeal, a full, true, and complete transcript of said final decree, and of the petition, and all other pleadings and proceedings in said cause, and of the evidence therein, shall be transmitted to said circuit court. And when said appeal shall have been completed, said circuit court shall have full and complete jurisdiction over said cause, and may allow the pleadings to be amended if necessary, and may admit new parties if necessary, and shall hear, try,

and determine said cause *de novo*, without regarding any error, defect, or other imperfection in the proceedings of said district court, and shall render such final decree therein as the facts and the justice of said cause may require.

SEC. 8. *And be it further enacted*, That in case of any difference of opinion between the judges of the said circuit court upon any question arising in any such cause, the same may be certified to the Supreme Court of the United States, for its decision thereon as in other cases.

SEC. 9. *And be it further enacted*, That all of the right, title, and interest of the United States in and to all of the wharves, streets, lanes, avenues, alleys, and other public thoroughfares which are situate, lying, and being within the corporate limits of the city of St. Louis, in the State of Missouri, shall be, and the same are hereby, granted, relinquished, and conveyed by the United States, in fee-simple and in full property, to the said city of St. Louis, and to the successors and assigns forever of said city: *Provided, however*, That no individual rights or titles acquired previously hereto shall be in any manner impaired or prejudiced hereby.

APPROVED, June 12, 1866.

CHAP. CXVII.—An Act to grant the Right of Way to the "Humboldt Canal Company" through the public Lands of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way for a canal through the public lands of the United States lying in Humboldt county, State of Nevada, and the use of the land for tow-paths, cuttings, and embankments, to the extent of fifty feet on each side of the center of the canal, shall be, and is hereby, granted to the Humboldt Canal Company: *Provided*, That in cases where deep excavation or heavy embankment is required, such greater width, not exceeding two hundred feet, may be taken by said company as may be necessary.

SEC. 2. *And be it further enacted*, That, in order to create a reservoir for said company sufficient to feed said canal in all seasons, said company shall be, and is hereby, authorized, by a dam across the Humboldt river, at such point at or near the gap in the Fremont range of mountains through which said river passes, to flow so much of the public lands above said dam as may be required for the purpose of said reservoir.

SEC. 3. *And be it further enacted*, That there shall be, and is hereby, granted to said company the necessary sites along said canal for waste-gates, mill-sites, depots, and other uses of said canal, so far as places convenient for the same fall upon the public lands, and also the privilege of discharging the waste waters of said canal over any public lands into the said Humboldt river, at such places as may be suitable for that purpose: *Provided*, That the proper officers of said company shall transmit to the Commissioner of the General Land Office a correct plat of the survey and location of said canal, and of the sites needed for mills, depots, waste-gates, and other uses of said canal, before the appropriation thereof for said uses shall become operative: *And provided further*, That unless thirty miles of said canal shall be excavated within one year, [and] the whole within three years, from the date hereof, the grants hereby made shall cease and determine: *And provided further*, That if said canal shall at any time after its completion be discontinued or abandoned by said company, the grants hereby made shall cease and determine, and the lands hereby granted shall revert to the United States: *And provided further*, That nothing in this act shall be so construed as to interfere with any grant of the right of way

and of public lands heretofore made to any railroad company.

APPROVED, June 12, 1866.

CHAP. CXXII.—An Act to regulate and secure the Safe-Keeping of public Money intrusted to disbursing Officers of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act it shall be the duty of every disbursing officer of the United States having any public money intrusted to him for disbursement, to deposit the same with the Treasurer or some one of the Assistant Treasurers of the United States, and to draw for the same only as it may be required for payments to be made by him in pursuance of law; and all transfers from the Treasury of the United States to a disbursing officer shall be by draft or warrant on the Treasury or an Assistant Treasurer of the United States: *Provided*, That in places where there is no Treasurer nor Assistant Treasurer of the United States, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depository, or, in writing, authorize the same to be kept in any other manner, and under such rules and regulations as he may deem most safe and effectual to facilitate the payments to public creditors.

SEC. 2. *And be it further enacted*, That if any disbursing officer of the United States shall deposit any public money intrusted to him in any place or in any manner, except as authorized by law, or shall convert to his own use in any way whatever, or shall loan, with or without interest, or shall for any purpose not prescribed by law withdraw from the Treasurer or any Assistant Treasurer, or any authorized depository, or shall for any purpose not prescribed by law transfer or apply any portion of the public money intrusted to him, every such act shall be deemed and adjudged an embezzlement of the money so deposited, converted, used, loaned, withdrawn, transferred, or applied, and every such act is hereby declared a felony, and upon conviction thereof shall be punished by imprisonment for a term not less than one year nor more than ten years, or by fine not more than the amount embezzled nor less than one thousand dollars, or by both such fine and imprisonment, at the discretion of the court.

SEC. [3.] *And be it further enacted*, That if any banker, broker, or any person, not an authorized depository of public moneys, shall knowingly receive from any disbursing officer, or collector of internal revenue, or other agent of the United States any public money on deposit or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States; or shall use, transfer, convert, appropriate, or apply any portion of the public money for any purpose not prescribed by law; or shall counsel, aid, or abet any disbursing officer or collector of internal revenue or other agent of the United States in so doing, every such act shall be deemed and adjudged an embezzlement of the money so deposited, loaned, transferred, used, converted, appropriated, or applied; and any president, cashier, teller, director, or other officer of any bank or banking association who shall violate any of the provisions of this act shall be deemed and adjudged guilty of embezzlement of public money, and punished as provided in section two of this act.

APPROVED, June 14, 1866.

CHAP. CXXIII.—An Act to provide for the Settlement of Accounts of certain public Officers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, all monies raised in the United States for the support of refugees

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or freedmen, and received by any officer of the United States Army, shall be charged against such officer on the books of the Treasury Department and accounted for by him in like manner as if such monies had been drawn from the Treasury of the United States, and if any part thereof shall have been expended for the use of refugees or freedmen, the same shall be passed to the credit of the officer, if, upon examination of his accounts, it shall appear to the proper accounting officer of the Treasury Department that the amount expended was properly disbursed for such refugees or freedmen, and on the adjustment of the accounts of the officer, if any balance shall remain in the hands of such officer the same shall be paid into the Treasury of the United States, for a fund for the relief of refugees and freedmen. And any officer having such balance in his hands, who, after being duly required, shall refuse or neglect to pay over the same, or who shall, after due notice, fail to settle his account, shall be proceeded against in the same manner as is provided for by existing laws in the case of disbursing officers who neglect or refuse to account for monies drawn from the Treasury of the United States.

SEC. 2. *And be it further enacted*, That where accounts are rendered for expenditures for refugees or freedmen under the approval and sanction of the proper officers, and which shall have been proper and necessary, but cannot be settled for want of specific appropriations, the same may be paid out of the fund for the relief of refugees and freedmen, on the approval of the Commissioner of the Bureau of Refugees and Freedmen.

APPROVED, June 15, 1866.

CHAP. CXXIV.—An Act to facilitate commercial, postal, and military Communication among the several States.

Whereas the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every railroad company in the United States, whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, boats, bridges, and ferries all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination: *Provided*, That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road, nor shall it be construed to authorize any railroad company to build any new road or connection with any other road without authority from the State in which said railroad or connection may be proposed.

SEC. 2. *And be it further enacted*, That Congress may at any time alter, amend, or repeal this act.

APPROVED, June 15, 1866.

CHAP. CXXVI.—An Act to authorize the Commissioner of Patents to pay those employed as Examiners and Assistant Examiners the Salary fixed by Law for the Duties performed by them.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Patents is hereby authorized to pay those em-

ployed in the Patent Office from April first, eighteen [hundred] and sixty-one until the first day of August, eighteen hundred and sixty-five, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades: *Provided*, That the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

APPROVED, June 18, 1866.

CHAP. CXXVII.—An Act for the Disposal of the public Lands for Homestead actual Settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of according to the stipulations of the homestead law of twentieth May, eighteen hundred and sixty-two, entitled "An act to secure homesteads to actual settlers on the public domain," and the act supplemental thereto, approved twenty-first of March, eighteen hundred and sixty-four, but with this restriction, that until the expiration of two years from and after the passage of this act, no entry shall be made for more than a half quarter section, or eighty acres; and in lieu of the sum of ten dollars required to be paid by the second section of said act, there shall be paid the sum of five dollars at the time of the issue of each patent; and that the public lands in said States shall be disposed of in no other manner after the passage of this act: *Provided*, That no distinction or discrimination shall be made in the construction or execution of this act on account of race or color: *And provided further*, That no mineral lands shall be liable to entry and settlement under its provisions.

SEC. 2. *And be it further enacted*, That section second of the above-cited homestead law, entitled "An act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, be so amended as to read as follows: that the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the Army or Navy of the United States, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of five dollars, when the entry is of not more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified: *Provided, however*, That no certificate shall be given or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled

to a patent, as in other cases provided by law: *And provided further*, That in case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money herein specified: *Provided*, That until the first day of January, eighteen hundred and sixty-seven, any person applying for the benefit of this act shall, in addition to the oath hereinbefore required, also make oath that he has not borne arms against the United States, or given aid and comfort to its enemies.

SEC. 3. *And be it further enacted*, That all the provisions of the said homestead law, and the act amendatory thereof, approved March twenty-first, eighteen hundred and sixty-four, so far as the same may be applicable, except so far as the same are modified by the preceding sections of this act, are applied to and made part of this act as fully as if herein enacted and set forth.

APPROVED, June 21, 1866.

CHAP. CXXVIII.—An Act to reimburse the State of West Virginia for Moneys expended for the United States in enrolling, equipping, and paying military Forces to aid in suppressing the Rebellion.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That immediately after the passage of this act the President shall appoint three commissioners whose duty it shall be to ascertain the amount of moneys expended by the State of West Virginia in enrolling, supplying, equipping, subsisting, transporting, and paying such State forces as have been called into service in said State since the twentieth day of June, eighteen hundred and sixty-one, to act in concert with the United States forces in the suppression of rebellion against the United States.

SEC. 2. *And be it further enacted*, That the commissioners so appointed shall proceed at once to examine all the expenditures made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, supplying, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which West Virginia may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in said State. And no allowance shall be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States and subject to their orders.

SEC. 3. *And be it further enacted*, That in making up said account, for the convenience of the accounting officers of the Government, the commissioners shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, transporting, and paying said troops, and from the aggregate amount they shall deduct the amount of direct tax due by the said State to the United States under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one.

SEC. 4. *And be it further enacted*, That in

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the adjustment of accounts under this act the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases.

SEC. 5. *And be it further enacted*, That so soon as said commissioners shall have made up said account and ascertained the balance, as herein directed, they shall make written report thereof, showing the different items of expenditure, as hereinbefore stated, to the Secretary of the Treasury, who shall cause the same to be examined by the proper accounting officers of the Treasury, and said officer shall audit the accounts as in ordinary cases; and if from their report it shall appear that any sum remains due to the said State, he shall draw his warrant for the same, payable to the Governor of said State, and deliver it to him.

SEC. 6. *And be it further enacted*, That the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of West Virginia, and that they will, to the best of their ability, make a just, true, and impartial statement thereof, as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury.

SEC. 7. *And be it further enacted*, That the sum of three hundred and sixty-eight thousand five hundred and forty-eight dollars and thirty-seven cents be, and the same is hereby, appropriated to carry this act into effect.

APPROVED, June 21, 1866.

CHAP. CXXIX.—An Act to establish a Hydrographic Office in the Navy Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be a hydrographic office attached to the Bureau of Navigation in the Navy Department, for the improvement of the means for navigating safely the vessels of the Navy and of the mercantile marine, by providing, under the authority of the Secretary of the Navy, accurate and cheap nautical charts, sailing directions, navigators, and manuals of instructions, for the use of all vessels of the United States, and for the benefit and use of navigators generally.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to cause to be prepared, at the hydrographic office attached to the Bureau of Navigation in the Navy Department, maps, charts, and nautical books relating to and required in navigation, and to publish and furnish them to navigators at the cost of printing and paper, and to purchase the plates and copyrights of such existing maps, charts, navigators, sailing directions, and instructions as he may consider necessary, and when he may deem it expedient to do so, and under such rules, regulations, and instructions as he may prescribe.

SEC. 3. *And be it further enacted*, That the moneys which may be received from the sale of all such maps, charts, and nautical books shall be returned by the Secretary of the Navy into the Treasury of the United States; to be used in the further preparation and publication of maps, charts, navigators, sailing directions, and instructions for the use of seamen, and to be sold at the rates as set forth in the preceding section.

APPROVED, June 21, 1866.

CHAP. CXXX.—An Act to incorporate the "Howard Institute and Home" of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That James M. Edmunds, Sayles J. Bowen, Cordial Storrs, Augustin Chester, John R. Elvans, J. Sayles Brown,

and Linus D. Bishop, and their associates and successors, are hereby declared to be a body politic and corporate, under the name and style of "The Howard Institute and Home" of the District of Columbia, and as such shall have perpetual succession, with power to receive, purchase, and hold real or personal property, and to be able to sue and be sued, and to plead and be impleaded in all courts of law and equity in the United States, and to ordain and establish such by-laws, ordinances, and regulations as may be deemed necessary to carry into effect this act, and promote the objects of the corporation hereby created.

SEC. 2. *And be it further enacted*, That the object for which this corporation is created is declared to be the establishment of a charitable institution for the instruction of freedmen in the industrial pursuits of life and fit them for independent self-support, and to afford a temporary home for such freedmen as may, from sickness, misfortune, age, or infirmity, require fostering care until otherwise relieved.

SEC. 3. *And be it further enacted*, That James M. Edmunds, Sayles J. Bowen, Cordial Storrs, Augustin Chester, John R. Elvans, J. Sayles Brown, and Linus D. Bishop, are hereby appointed a board of managers of said "Howard Institute and Home," for one year from and after the passage of this act; and that thereafter a board of managers, consisting of seven persons, shall be elected from and by the contributors to the means to establish said institution, for such time and according to such rules as said corporation may establish. And said board of managers shall have the exclusive control of all the property, real or personal, contributed or belonging to said corporation, and to appoint such officers as may be deemed requisite for the conduct of its business, for such time and at such salaries as they may determine, and to change either at pleasure.

SEC. 4. *And be it further enacted*, That the corporation hereby created shall be established and maintained by voluntary contributions, gifts, donations, or bequests of money and other property, made to the same for that purpose. And the board of managers shall cause a record to be kept of all such contributions, gifts, donations, and bequests, with the name and residence of each person making the same, and of all expenditures made by said board for the establishment and conduct of said institute and home, and make an annual report of the same, exhibiting the several items of expenditure and objects thereof, and generally the work accomplished by said corporation, to the Secretary of the Interior, a copy of which report shall be sent to each individual who shall have contributed not less than five dollars to said corporation during the year previous to the issuing of said report.

SEC. 5. *And be it further enacted*, That Congress may, at any time, alter, amend, or annul this act.

APPROVED, June 21, 1866.

CHAP. CXXXI.—An Act to regulate the Appointment of Paymasters in the Navy, and explanatory of an Act for the better Organization of the Pay Department of the Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the appointments to be made under the act entitled "An act to provide for the better organization of the pay department of the Navy," approved May third, eighteen hundred and sixty-six, may be made from the number of acting assistant paymasters of the Navy who performed duty as acting assistant paymasters during the war, and who at the time of their appointment under this act shall not be over the age of thirty-two years.

SEC. 2. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to waive the examination of such

officers in the pay department of the Navy as are on duty abroad, and cannot at present be examined, as required by law: *Provided*, That such examinations as are required by law shall be made as soon as practicable after the return of said officers to the United States, and no officer found to be disqualified shall receive the promotion contemplated in the act herein referred to.

APPROVED, June 21, 1866.

CHAP. CXXXII.—An Act authorizing the Restoration of Commander Charles Hunter to the Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to restore Charles Hunter, late a commander in the Navy, to the position which he held on the retired list of the Navy when dismissed therefrom.

APPROVED, June 21, 1866.

CHAP. CXXXVIII.—An Act making Appropriations for the Repair, Preservation, and Completion of certain Public Works heretofore commenced under the Authority of Law, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums of money be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended under the direction and superintendence of the Secretary of War, for the repair, preservation, and completion of the following works, heretofore commenced under the authority of law, and for the other purposes herein-after named, that is to say:

For examination and survey of works of improvement for which appropriations have been heretofore made, and concerning which no sufficient information is now in possession of the Department, and for examination and survey at other points in the fourth section of this act specified, that is to say, on the Atlantic coast thirty thousand dollars; on the Pacific coast twenty-five thousand dollars; on the northwestern lakes one hundred thousand dollars; on the western and northwestern rivers one hundred thousand dollars. And the Secretary of War, when the public interests require it, shall cause examinations or reexaminations to be made, with suitable surveys of the works aforesaid, and all other works provided for by this act, and shall make such changes or modifications of the plans heretofore adopted for their improvement as shall be necessary and proper. And he shall cause such needful examination of other harbors and places in the fourth section of this act specified, upon the sea and lake coasts, and on western rivers, to be made as will enable him to determine what improvements thereof are required to render them safe and convenient for the navigation of the naval and commercial vessels of the United States and the cost of such improvements, and he shall make full report thereof, and of the plans deemed advisable therefor, to Congress, at the commencement of the next session, for such action as may be judged expedient and right. And if, upon such examination and survey of works first herein named, being works now existing or in process of completion, and concerning which no sufficient information is now in the possession of the Department, there shall remain an unexpended balance of appropriation properly applicable thereto from the sums herein appropriated, which may, in the judgment of the Secretary of War, be judiciously applied toward the economical and needful continuation or completion of such works, the Secretary of War shall direct such balance to be applied and used accordingly; but no moneys shall be used for



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such purposes, excepting from the balances remaining from appropriations herein made for the specific examination and survey of such works.

For extending the breakwater at Portland harbor, Maine, one hundred and five thousand one hundred and eleven dollars and five cents.

For improvement of navigation of Hudson river, New York, fifty thousand dollars.

For preservation of Provincetown harbor, Massachusetts, forty-three thousand and sixty-eight dollars and forty-four cents.

For improvement of Thames river, Connecticut, ten thousand dollars.

For extension and repair of breakwater at Burlington, Vermont, twenty-seven thousand six hundred and seventy-two dollars and twenty cents.

For completion and repair of Delaware breakwater, Delaware bay, one hundred and seven thousand nine hundred and ten dollars.

For improving channel of Susquehanna river below Havre de Grace, Maryland, twenty-six thousand four hundred dollars.

For continuing improvement of Patapsco river, Maryland, five thousand two hundred dollars.

For construction of snag-boats and other apparatus for clearing western rivers, and for the outfit, working, and preservation thereof, five hundred and fifty thousand dollars.

And the Secretary of the Navy is hereby authorized and directed, upon such terms as may be agreed on by the Secretary of the Navy and the Secretary of War, to transfer to and place at the disposal of the Secretary of War such steamers of the United States, with boats and equipage belonging thereto, and used during the rebellion as portions of the river fleet, as may be so transferred in the judgment of the Secretary of the Navy without detriment to the public service, and as may be conveniently and fitly used in raising snags or removing obstructions from western rivers, so as to render them safe and navigable for the vessels of the United States and for the uses of commerce; and if the same shall be purchased by the Secretary of War, the amounts required for the payment therefor shall be taken from the appropriation aforesaid.

For improving the mouth of the Mississippi river, seventy-five thousand dollars.

For improvement of the Mississippi, Missouri, Arkansas, and Ohio rivers, five hundred and fifty thousand dollars.

For improvement of the Des Moines rapids, Mississippi river, two hundred thousand dollars.

For improvement of the Rock Island rapids, Mississippi river, one hundred thousand dollars.

For improvement of the St. Clair flats, Michigan, eighty thousand dollars.

For improvement of the Saint Mary's river, between Lake Superior and Lake Huron, fifty thousand dollars.

For improvements of Oswego harbor, New York, and preservation of the public works at that point, forty-five thousand dollars.

For improvement at Little Sodus Bay harbor, Fairhaven, in Cayuga county, New York, thirty-three thousand eight hundred and forty dollars and forty-one cents.

For improvement at Big Sodus Bay harbor, Wayne county, New York, fifty-three thousand one hundred and fifty-one dollars and eighty cents.

For improvement at the harbor of Genesee river, New York, seventy-five thousand six hundred and seven dollars and thirty cents.

For improvement of harbor at Buffalo, New York, one hundred thousand dollars.

For completing the sea-wall at Buffalo harbor, New York, thirty-one thousand dollars.

For improvement of harbor and repair of public works at Erie, Pennsylvania, thirty-six thousand nine hundred and sixty-one dollars.

For improvement of Conneaut harbor, Ohio, twenty thousand five hundred and thirteen dollars and seventy-four cents.

For improvement of Ashtabula harbor, Ohio, twenty-four thousand seven hundred and eight dollars and eighty-two cents.

For improvement of harbor at Grand river, Ohio, twenty-four thousand and seventy-two dollars.

For improvement of harbor at Cleveland, Ohio, fifty-nine thousand eight hundred and six dollars.

For improvement of harbor at Black river, Ohio, ten thousand dollars.

For improvement of harbor at Vermillion, Ohio, fifteen thousand three hundred and fifteen dollars and seventy-four cents.

For improvement of harbor at Huron, Ohio, thirty-nine thousand dollars.

For improvement of harbor at Sandusky City, Ohio, thirty-eight thousand five hundred and eighty dollars.

For improvement of the harbor at Toledo, Ohio, twenty thousand dollars.

For improvement of the harbor at Monroe, Michigan, thirty-one thousand and fifteen dollars and twenty-seven cents.

For improvement of harbor at Aux Becs Scies, Frankfort, Michigan, eighty-eight thousand five hundred and forty-one dollars.

For improvement of harbor at Grand Haven, Michigan, sixty-five thousand dollars.

For improvement of harbor at Black Lake, Michigan, fifty-five thousand six hundred and fifteen dollars and thirty-one cents.

For improvement of harbor at Saint Joseph, Michigan, six thousand dollars.

For improvement at the mouth of Saginaw river, Michigan, sixty-seven thousand five hundred dollars.

For improvement of harbor at Chicago, Illinois, eighty-eight thousand seven hundred and four dollars.

For improvement of harbor at Kenosha, Wisconsin, seventy-five thousand four hundred and sixty-one dollars and forty-one cents.

For improvement of harbor at Racine, Wisconsin, twenty-three thousand nine hundred and ten dollars.

For improvement of harbor at Milwaukee, Wisconsin, forty-eight thousand two hundred and eighty-three dollars and fifty-one cents.

For improvement of harbor at Sheboygan, Wisconsin, forty-seven thousand five hundred and ninety-eight dollars and ninety-one cents.

For improvement of harbor at Manitowoc, Wisconsin, fifty-two thousand dollars.

For repairs of Government wharves and landings, and improving harbor at Marcus Hook, on Delaware river, Pennsylvania, five thousand dollars: *Provided*, That before expenses shall be incurred on said wharves and landings, it shall be shown to the satisfaction of the Secretary of War that the same belong to the United States.

For improvement of the harbor at Green Bay, at the mouth of Fox river, Wisconsin, thirty thousand five hundred dollars.

For constructing works and improving the entrance into the harbor of Michigan City, Indiana, seventy-five thousand dollars: *Provided*, That it shall be first shown to the satisfaction of the Secretary of War that a sum equal to double the amount aforesaid has been expended by the Michigan City Harbor Company in the construction of a safe and convenient harbor at that place: *And provided*, That the passage of vessels to and from said harbor shall be free and not subject to toll or charge.

For improvement of the Kennebec river, in the State of Maine, between Sheppard Point and the city of Augusta, twenty thousand dollars.

For removal of obstructions to navigation in the Willamette river, between Portland and its mouth, in the State of Oregon, fifteen thousand dollars.

For continuing the repair of the piers in Saco

river, in the State of Maine, forty thousand dollars.

SEC. 2. *And be it further enacted*, That the money appropriated by this act shall be so applied as to complete, or make the nearest approximation to completing, the work for which each specific appropriation is made; and it shall be the duty of the Secretary of War to apply the sums herein appropriated for other purposes than for examinations and surveys by contract: *Provided*, That no contract shall be made except after public advertisement for proposals in such form and manner as to secure general notice thereof, and the same shall only be made with the lowest responsible bidder therefor, upon security deemed sufficient in the judgment of the Secretary. And it shall be the duty of the said Secretary, at the earliest practicable time, to report to Congress the result of any survey or resurvey, with the plan adopted and the items of expenditure under said plan; and he shall make report of all action taken under the provisions of this act; and he shall accompany said report with a statement of the amount and date of all former appropriations for each work, and a full estimate for its entire and permanent completion, with the amount that can be profitably expended in the next fiscal year. And he shall also state in what collection district each work is located, and at or near what port of entry, light-house, or fort; what amount of revenue was collected at the nearest port of entry for the last fiscal year; and, as far as practicable, what amount of commerce and navigation would be benefitted by the completion of each particular work: *Provided*, That he shall continue to make such a report at the commencement of every session of Congress until the works herein provided for shall all be completed.

SEC. 3. *And be it further enacted*, That whenever the Secretary of War shall invite proposals for any works, or for any material or labor for any works, there shall be separate proposals and separate contracts for each work, and also for each class of material or labor for each work; and he shall report to Congress, at its next session, all the bids with the names of the bidders. All persons not holding commissions in the regular Army of the United States who shall be intrusted with the disbursement of the funds appropriated for the works named in this act, shall be required to give bond and ample security for the faithful application of the same; and no such disbursing officer in the Army of the United States shall receive any commission or compensation for making such disbursements. And the moneys hereinbefore appropriated shall remain and be at the disposal of the Secretary of War, and subject to his control for the purposes named in this act, until the several works and improvements herein provided for are completed, any law or regulation to the contrary notwithstanding.

SEC. 4. *And be it further enacted*, That the Secretary of War is hereby directed to cause examinations or surveys, or both as aforesaid, to be made at the following points, namely: at Superior City, Eagle Harbor, Marquette, and Lac La Belle, on Lake Superior, and at Ausable river, in the State of Michigan; of the Ohio river between Pittsburgh, Pennsylvania, and Buffinton Island, West Virginia; of Sandusky river, Ohio; at Chester harbor, Pennsylvania; at Bridgeport, Connecticut; at Hell Gate, New York; at the port of Ogdensburg, New York; at San Francisco, California; at the "Grand Chain," in the Ohio river; at the harbor of Baltimore, between Fort McHenry and the mouth of the Patapsco river, in the State of Maryland; of the Mississippi river, between Fort Snelling and the Falls of Saint Anthony and the Upper or Rock river rapids of the Mississippi river, with a view to ascertain the most feasible means, by economizing the water of the stream, of insuring the passage, at all navigable seasons, of boats draw-

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ing four feet of water; of the Minnesota river, from its mouth to the Yellow Medicine river, in order to ascertain the practicability and expense, by slack-water navigation or otherwise, of securing the continued navigability of said stream during the usual season of navigation; and for examining and reporting upon the subject of constructing railroad bridges across the Mississippi river, between St. Paul, in Minnesota, and St. Louis, in the State of Missouri, upon such plans of construction as will offer the least impediment to the navigation of the river; of Rock river; the Kennebec river above Gardiner, Maine; the Penobscot river above Hampden, Maine; at the Zambro river, Minnesota; at the Cannon river, Minnesota; at the harbor and the mouth of the Eighteen-mile creek, at Olcott, New York; at St. Croix river, above the ledge; from the mouth of Illinois river to La Salle; together with such necessary estimates of cost, as hereinbefore provided, as will enable the Secretary of War to determine what improvements and public works shall be necessary at the respective points aforesaid. And the Secretary of War shall cause a survey to be made at the harbor of Burlington, Vermont, and the harbor of Dunkirk, New York; at the harbor of Oak Orchard Creek, New York; and at Muskegon, White river, Manistee, South Haven, and New Buffalo, in the State of Michigan; the Fox and Wisconsin rivers, in the State of Wisconsin; and the Rock river, in the States of Illinois and Wisconsin, with its connections with Lake Winnebago; and the upper Columbia river, Oregon.

APPROVED, June 23, 1866.

CHAP. CXL.—An Act to provide for the Revision and Consolidation of the Statute Laws of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint three persons, learned in the law, as commissioners, to revise, simplify, arrange, and consolidate all statutes of the United States, general and permanent in their nature, which shall be in force at the time such commissioners may make the final report of their doings.

SEC. 2. *And be it further enacted,* That, in performing this duty, the commissioners shall bring together all statutes and parts of statutes which, from similarity of subject, ought to be brought together, omitting redundant or obsolete enactments, and making such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text; and they shall arrange the same under titles, chapters, and sections, or other suitable divisions and subdivisions, with head notes briefly expressive of the matter contained in such divisions; also with side notes, so drawn as to point to the contents of the text, and with references to the original text from which each section is compiled, and to the decisions of the Federal courts explaining or expounding the same, and also to such decisions of the State courts as they may deem expedient; and they shall provide by a temporary index, or other expedient means, for an easy reference to every portion of their report.

SEC. 3. *And be it further enacted,* That when the commissioners have completed the revision and consolidation of the statutes, as aforesaid, they shall cause a copy of the same, in print, to be submitted to Congress, that the statutes so revised and consolidated may be reënacted, if Congress shall so determine; and at the same time they shall also suggest to Congress such contradictions, omissions, and imperfections as may appear in the original text, with the mode in which they have reconciled, supplied, and

amended the same; and they may also designate such statutes or parts of statutes as, in their judgment, ought to be repealed, with their reasons for such repeal.

SEC. 4. *And be it further enacted,* That the commissioners shall be authorized to cause their work to be printed in parts, so far as it may be ready for the press, and to distribute copies of the same to members of Congress, and to such other persons, in limited numbers, as they may see fit, for the purpose of obtaining their suggestions; and they shall, from time to time, report to Congress their progress and doings.

SEC. 5. *And be it further enacted,* That the statutes so revised and consolidated shall be reported to Congress as soon as practicable, and the whole work closed without unnecessary delay.

SEC. 6. *And be it further enacted,* That the commissioners shall each receive as compensation for his services at the rate of five thousand dollars a year for three years, with the reasonable expenses of clerical service and other incidental matters, not to exceed two thousand dollars annually for such expenses.

APPROVED, June 27, 1866.

CHAP. CXLI.—An Act making further Provisions for the Establishment of an Armory and Arsenal of Construction, Deposit, and Repair on Rock Island, in the State of Illinois.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and is hereby, authorized and directed to change, fix, and establish the position of the railroad across Rock Island and the bridge across the Mississippi river at and on the island of Rock Island, so as best to accord with the purposes of the Government in its occupancy of said island for military purposes; and in order to effect this he is authorized to grant to the railroad company a permanent location and right of way on and across Rock Island, to be fixed and designated by him, with such quantity of land, to be occupied and held by the company for railroad purposes, as may be necessary therefor; and that the said grant and change be made on such terms and conditions, previously arranged, between the Secretary of War and the companies and parties in interest, as will best effect and secure the purposes of the Government in occupying the island.

SEC. 2. *And be it further enacted,* That the Secretary of War be, and is hereby, authorized to grant to the companies and parties in interest such other aid, pecuniary or otherwise, toward effecting the change in the present location of their road and bridge and establishing thereon a wagon road for the use of the Government of the United States to connect said island with the cities of Davenport and Rock Island, to be so constructed as not materially to interfere with, obstruct, or impair the navigation of the Mississippi river, as may be adjudged to be fair and equitable by the board of commissioners authorized under the act of April nineteenth, eighteen hundred and sixty-four, entitled "An act in addition to an act for the establishment of certain arsenals," and may be approved by him.

SEC. 3. *And be it further enacted,* That the provisions of the act, approved April nineteenth, eighteen hundred and sixty-four, entitled "An act in addition to an act for the establishment of certain arsenals," be so extended as to include the small islands contiguous to Rock Island, and known as Benham's, Wilson's, and Winnebago Islands.

SEC. 4. *And be it further enacted,* That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for Rock Island arsenal, to be applied as follows, viz:

To liquidate claims for property in Benham's, Wilson's, and Winnebago Islands, and for prop-

erty in Rock Island which has been taken, in pursuance of law, for military purposes, two hundred and ninety-three thousand six hundred dollars, or so much thereof, and no more, as may be necessary to pay the respective claimants such amounts as may be reported by the board of commissioners authorized by the act of April nineteenth, eighteen hundred and sixty-four, and ordered by the United States circuit court to be paid to each.

To secure water-power at the head of Rock Island, one hundred thousand dollars.

To erect store-houses for the preservation of arms and other munitions of war, and to establish communication between Rock Island arsenal and the cities of Davenport, Iowa, and Rock Island, Illinois, one hundred thousand dollars.

APPROVED, June 27, 1866.

CHAP. CXLII.—An Act to amend an Act entitled "An Act to authorize the Sale of Marine Hospitals and Revenue-Cutters," approved April 20th, 1866.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to authorize the sale of marine hospitals and revenue-cutters," approved April twentieth, eighteen hundred and sixty-six, shall not be construed to authorize the Secretary of the Treasury to lease or sell any such hospital where the relief furnished to sick marine[r]s shall show an extent of relief equal to twenty cases per diem, on an average, for the last preceding four years, or where no other suitable and sufficient hospital accommodations can be procured upon reasonable terms for the comfort and convenience of the patients.

APPROVED, June 27, 1866.

CHAP. CXLIII.—An Act in Amendment of an Act to promote the Progress of the Useful Arts, and the Acts in Amendment of and in Addition thereto.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon appealing for the first time from the decision of the primary examiner to the examiners-in-chief in the Patent Office, the appellant shall pay a fee of ten dollars into the Patent Office, to the credit of the patent fund; and no appeal from the primary examiner to the examiners-in-chief shall hereafter be allowed until the appellant shall pay said fee.

APPROVED, June 27, 1866.

CHAP. CXLIV.—An Act to establish a Land Office in the Territory of Idaho.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the public lands within the Territory of Idaho, to which the Indian title is or shall be extinguished shall constitute a new land district, to be called the Idaho district, to be located at Boise City, Ada county; and the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and receiver of public moneys for said district, who shall be required to reside at the place at which said office shall be located, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in other Territories.

APPROVED, June 27, 1866.

CHAP. CLV.—An Act amendatory of the organic Act of Washington Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That after the next annual session of the Legislative Assembly of said Territory the sessions shall be biennial. Members

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of the Council shall be elected for the term of four years, and members of the House for the term of two years, and shall receive the sum of six dollars per day instead of three dollars heretofore allowed, and shall also receive the same mileage now allowed by law.

SEC. 2. *And be it further enacted*, That each House shall have authority to elect, in addition to the officers now allowed by law, an enrolling clerk, who shall receive five dollars per day. The chief clerks shall receive six dollars per day, and the other officers elected by said Legislature shall receive five dollars per day each.

SEC. 3. *And be it further enacted*, That the first election, for the first biennial session under this act, shall be at the time of holding the general election for the Territory in the year eighteen hundred and sixty-seven.

SEC. 4. *And be it further enacted*, That the act of the Legislative Assembly of the Territory of Washington, approved January fourteenth, eighteen hundred and sixty-five, entitled "An act in relation to the county of Skamania," be, and the same is hereby, disapproved.

APPROVED, June 29, 1866.

CHAP. CLVI.—An Act to create the Office of Surveyor General in Idaho Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for Idaho, whose annual salary shall be three thousand dollars, and whose power, authority, and duties shall be the same as those provided by law for the surveyor general of Oregon. He shall have proper allowances for clerk hire, office rent, and fuel, not exceeding what is now allowed by law to the surveyor general of Oregon, and he shall locate his office at Boise City, in said Territory of Idaho.

APPROVED, June 29, 1866.

CHAP. CLVIII.—An Act to extend the Time for the Reversion to the United States of the Lands granted by Congress to aid in the Construction of a Railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse Bay, in the State of Michigan, and for the Completion of said Road.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time limited by the fourth section of an act entitled "An act making a grant of alternate sections of the public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes," approved June three, eighteen hundred and fifty-six, for the completion of the railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, shall be, and hereby is, revived and extended for the period of seven years, from and after the third day of June, one thousand eight hundred and sixty-six; and that said grants shall continue and remain in full force and effect for and during that period, as if it had been so provided in said fourth section of said act of June three, eighteen hundred and fifty-six: *Provided*, That the Amboy, Lansing, and Traverse Bay Railroad Company, a corporation organized under the laws of the State of Michigan, shall forfeit all right to said grant, or any part thereof which it may now have, or which may hereafter be conferred upon it by the Legislature of the State of Michigan, if and whenever the said company shall fail, in whole or in part, fully and completely to perform any of the following conditions, that is to say: first, to clear, grub, and grade twenty consecutive miles of the road-bed of said road between Owasso and Saginaw City, so that the same shall be in readiness for the ties and iron by the first day of February, eighteen hundred and sixty-seven; second, to fully complete said road

from Owasso to Saginaw City, so that the same shall be in readiness for the running of trains by the first day of November, eighteen hundred and sixty-seven; third, to fully complete in like manner twenty miles of said road in each and every year after the said first day of November, eighteen hundred and sixty-seven, and to fully complete the entire road by the time limited by this act: *And provided further*, That in case of failure of said Amboy, Lansing, and Traverse Bay Rail Company to perform any of the above conditions by the respective times limited therefor, the Legislature of the State of Michigan may at its first session after any such failure, confer the said grant upon some other railroad corporation or corporations, upon such terms and conditions as the Legislature may see fit, to carry out the purposes of the said act of June three, eighteen hundred and fifty-six, and when so conferred, such corporation or corporations shall be entitled to have and enjoy all of the said grant which shall not then have been lawfully disposed of, to the same extent and in the same manner and for the same purposes, as if the same had been originally conferred upon such corporation or corporations: And any such railroad corporation or corporations, whether now organized or hereafter to be organized, upon which said grant may be so conferred in whole or in part, may receive the same without prejudice to any land grant or other rights or franchises previously acquired. But in no case shall such corporation or corporations be entitled to receive more than ten sections of land to the mile, for that portion of said road which may be consolidated in accordance with the provisions of this act: *And provided further*, That if the Legislature shall, in any such case of failure, so confer said grant as above provided, then the said lands, or so much thereof as shall then remain not lawfully disposed of, shall be subject to the disposal and future control of said Legislature, as provided in section three of said act of June three, eighteen hundred and fifty-six, until the expiration of the time limited by this act. But in case the said Legislature shall in such case fail to so confer said grant, then the said lands shall revert to the United States.

SEC. 2. *And be it further enacted*, That the Flint and Pere Marquette Railroad Company may change the western terminus of its road to some point on Lake Michigan, at or south of Grand Traverse bay; and any railroad corporations, having a right to the respective land grants specified in the said act of June three, eighteen hundred and fifty-six, located in the lower peninsula of the State of Michigan, may unite and contract with each other, or with any other railroad corporation or corporations, for the construction and operation of a single line of road for any portion of their routes, without prejudice to any land grants, or other rights or franchises previously acquired. And any and all such corporations are hereby authorized to change the location of their lines of road, so far as may be necessary, for the purpose of such consolidation, but not so as to change their respective termini otherwise than is authorized by this act. And whenever any change of terminus or location of line is made, as provided for in this act, the corporation or corporations making such change, shall file in the General Land Office new maps definitely showing such change and the new line of road adopted: *Provided*, That the road mentioned in the first section of this act shall run on the west side of Saginaw river, and that the principal depot shall be located in the northern portion of the plat of Saginaw City, so as best to accommodate the cities of Saginaw and East Saginaw.

SEC. 3. *And be it further enacted*, That the lands granted by the said act of June three, eighteen hundred and fifty-six, to aid in the construction of the railroad described in the first section of this act, shall be disposed of only in the following manner, that is to say: when the Governor of the State of Michigan

shall certify to the Secretary of the Interior that ten or more consecutive miles of said road have been completed in a good and substantial manner, as a first-class railroad, stating definitely the commencement and termination of each completed portion of said road and the corporation or corporations so entitled to lands on account thereof, the Secretary of the Interior shall cause patents for lands for such completed portion of said road to be issued to said corporation or corporations: *Provided*, That none of said lands shall be acquired or so patented for any portion of said road so completed south of the intersection of said road with the Detroit and Milwaukee railway, until the whole of said road north of said intersection shall have been completed and the lands therefor patented as aforesaid: *And provided further*, That the road mentioned in the first section of this act shall be and remain a public highway for the use of the Government of the United States, and shall transport, free from toll or other charges, all property, troops, and munitions of war belonging to the same.

SEC. 4. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

APPROVED, July 3, 1866.

CHAP. CLIX.—An Act to amend an Act entitled "An Act to amend an Act entitled 'An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for postal, military, and other purposes,' approved July 1, 1862," approved July 2, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Union Pacific Railway Company, eastern division, is hereby authorized to designate the general route of their said road and to file a map thereof, as now required by law, at any time before the first day of December, eighteen hundred and sixty-six; and upon the filing of the said map, showing the general route of said road, the lands along the entire line thereof, so far as the same may be designated, shall be reserved from sale by order of the Secretary of the Interior: *Provided*, That said company shall be entitled to only the same amount of the bonds of the United States to aid in the construction of their line of railroad and telegraph as they would have been entitled to if they had connected their said line with the Union Pacific railroad on the one hundredth degree of longitude as now required by law: *And provided further*, That said company shall connect their line of railroad and telegraph with the Union Pacific railroad, but not at a point more than fifty miles westwardly from the meridian of Denver in Colorado.

SEC. 2. *And be it further enacted*, That the Union Pacific Railroad Company, with the consent and approval of the Secretary of the Interior, are hereby authorized to locate, construct, and continue their road from Omaha, in Nebraska Territory, westward, according to the best and most practicable route, and without reference to the initial point on the one hundredth meridian of west longitude, as now provided by law, in a continuous completed line, until they shall meet and connect with the Central Pacific Railroad Company of California; and the Central Pacific Railroad of California, with the consent and approval of the Secretary of the Interior, are hereby authorized to locate, construct, and continue their road eastward, in a continuous completed line, until they shall meet and connect with the Union Pacific railroad: *Provided*, That each of the above-named companies shall have the right, when the nature of the work to be done, by reason of deep cuts and tunnels, shall for the expeditious construction of the Pacific railroad require it, to work for an extent of not to exceed three hun-



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dred miles in advance of their continuous completed lines.

APPROVED, July 3, 1866.

CHAP. CLX.—An Act granting certain Lands to the State of Michigan to aid in the Construction of a Ship-Canal to connect the Waters of Lake Superior with the Lake known as Lac La Belle, in said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and is hereby, granted to the State of Michigan, for the use and benefit of the "Lac La Belle Harbor and Improvement Company," a company organized under and by virtue of the laws of the State of Michigan, for the purpose of aiding in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State, one hundred thousand acres of the publiclands of the United States in the upper peninsula of Michigan, to be selected from the odd-numbered sections of land nearest the location of the said canal, not otherwise reserved or appropriated, nor designated by the United States as "mineral lands," prior to the passage of this act, nor to which the rights of preemption or homestead have attached: *Provided,* That the said canal shall be at least one hundred feet wide at the top, seventy-five feet wide at the bottom, and shall have, when completed, a depth of water through its entire length of at least twelve feet, running from sixteen feet of water in Lake Superior to fourteen feet of water in Lac La Belle: *And provided further,* That said canal shall be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of said Government, or upon vessels employed by said Government in the transportation of any property or troops of the United States.

SEC. 2. *And be it further enacted,* That the lands hereby granted shall be subject to the disposal of the Legislature of the State of Michigan for the purposes aforesaid and no other; that as soon as the Governor of the said State shall file, or cause to be filed, with the Secretary of the Interior, a map or plan showing the location of the said canal, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands applicable and subject to the provisions of this act; and whenever the Governor of the State of Michigan shall certify to the Secretary of the Interior that the said ship-canal has been completed, in a good, substantial, and workmanlike manner, in all respects in conformity with the provisions of this act, and to his satisfaction, then it shall be the duty of the Secretary of the Interior to issue patents to the said State of Michigan for the lands hereby granted.

SEC. 3. *And be it further enacted,* That if the said ship-canal shall not be completed within two years from and after the passage of this act, the lands hereby granted shall revert to the United States.

APPROVED, July 3, 1866.

CHAP. CLXI.—An Act granting Lands to the State of Michigan to aid in the Construction of a Harbor and Ship-Canal at Portage Lake, Keweenaw Point, Lake Superior, in said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and hereby is, granted to the State of Michigan, to aid in the building of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in addition to a former grant for that purpose, approved March third, eighteen hundred and sixty-five, two hundred thousand acres of land in the upper peninsula of the State of Michigan, and from land to which the right of homestead or preemption has not attached: *Provided,* That one hundred and fifty thousand

acres of said lands shall be selected from alternate odd-numbered sections, and fifty thousand acres from even-numbered sections of the lands of the United States. Said grant of lands shall inure to the use and benefit of the Portage Lake and Lake Superior Ship-Canal Company, in accordance with an act of the Legislature of the State of Michigan, conferring the land granted to the said State, by the act herein referred to, on said company: *And provided further,* That the time allowed for the completion of said work and the right of reversion to the United States, under the said act of Congress, approved March the third, eighteen hundred and sixty-five, be extended three additional years: *And provided further,* That no lands designated by the United States as "mineral" before the passage of this act shall be included within this grant.

APPROVED, July 3, 1866.

CHAP. CLXII.—An Act to regulate the Transportation of Nitro-Glycerine, or Glynoin Oil, and other Substances therein named.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter it shall not be lawful to transport, carry or convey, ship, deliver on board, or cause to be delivered on board, the substance or article known or designated as nitro-glycerine, or glynnoin oil, nitro-leum or blasting oil, or nitrated oil, or powder mixed with any such oil, or fiber saturated with any such [article] or substance upon or in any ship, steamship, steamboat, vessel, car, wagon, or other vehicle, used or employed in transporting passengers by land or water between a place or places in any foreign country and a place or places within the limits of any State, Territory, or district of the United States, or between a place in one State, Territory, or district of the United States, and a place in any other State, Territory, or district thereof; and any person, company, or corporation who shall knowingly violate the provisions of this section, shall be liable to a fine of not less than one thousand nor more than ten thousand dollars, at the discretion of the court, one half to the use of the informer.

SEC. 2. *And be it further enacted,* That in case the death of any person shall be caused, directly or indirectly, by an explosion of any quantity of said substances or articles, or either of them, while the same is being placed upon or in any such ship, steamship, steamboat, vessel, car, wagon, or other vehicle, to be transported, carried, or conveyed thereon or therein in violation of the foregoing section, or while the same is being so transported, carried, or conveyed, or while the same is being removed from such ship, steamship, steamboat, vessel, car, wagon, or other vehicle, every person who knowingly placed or aided, or permitted the placing of the said substance upon or in such ship, steamship, steamboat, vessel, car, wagon, or other vehicle, to be so transported, carried, or conveyed, shall be deemed guilty of manslaughter, and on conviction thereof shall suffer imprisonment for a period not less than two years.

SEC. 3. *And be it further enacted,* That it shall not be lawful to ship, send, or forward any quantity of the said substances or articles, or to transport, convey, or carry the same by ship, boat, vessel, vehicle, or conveyance of any description, upon land or water, between a place in a foreign country and a place within the United States, or between a place in one State, Territory, or district of the United States, and a place in any other State, Territory, or district thereof, unless the same shall be securely inclosed, deposited, or packed in a metallic vessel surrounded by plaster of paris, or other material that will be non-explosive when saturated with such oil or substance, and separate from all other substances, and the outside of the package containing the same be

marked, printed, or labeled in a conspicuous manner with the words "Nitro-Glycerine, Dangerous;" and any person, company, or corporation who shall knowingly violate the provisions of this section, shall be liable to a fine of not less than one thousand nor more than five thousand dollars, at the discretion of the court, one half to the use of the informer.

SEC. 4. *And be it further enacted,* That the district court of the United States within the district in which any offense against this act shall be committed, or if committed in or upon any ship, boat, vessel, or vehicle, beyond the territorial limits of any district, then within the district from which the same departed, or that in which it shall first arrive, shall have jurisdiction to try and punish the offender under the provisions of this act.

SEC. 5. *And be it further enacted,* That this act shall not be so construed as to prevent any State, Territory, district, city, or town within the United States from regulating or from prohibiting the traffic in or transportation of the said substances between persons and places lying or being within their respective territorial limits, or from prohibiting its introduction into such limits for sale, use, or consumption therein.

APPROVED, July 3, 1866.

CHAP. CLXIII.—An Act for the Relief of the Members of the Thirty-Seventh Regiment of Iowa Volunteer Infantry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be paid to the members of the thirty-seventh regiment of Iowa volunteer infantry the same bounty provided by law, or which may hereafter be provided by law to soldiers enlisted into the volunteer forces of the United States during the year eighteen hundred and sixty-two; and in case any of the members of said regiment are dead or may die before the payment of said bounty, the same shall be paid to their representatives in the same order provided by law for the payment of bounty in other cases.

APPROVED, July 3, 1866.

CHAP. CLXIV.—An Act to create an additional Land District in the State of Oregon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to establish an additional land district in the State of Oregon, and to fix from time to time the boundaries thereof, which district shall be named after the place at which the office shall first be established; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and change the location of the land office from time to time when the same shall be expedient.

SEC. 2. *And be it further enacted,* That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof, and until the end of the next ensuing session, a register and receiver for said land district, who shall be required to reside at the site of the office, shall be subject to the same laws and responsibilities, and whose compensation and fees shall be respectively the same per annum, as are now allowed by law to other land officers in said State.

APPROVED, July 3, 1866.

CHAP. CLXV.—An Act making a Grant of Lands in alternate Sections to aid in the Construction and Extension of the Iron Mountain Railroad, from Pilot Knob, in the State of Missouri, to Helena, in Arkansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and is

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hereby, granted to the State of Missouri, for the purpose of aiding in the construction and extension of the Iron Mountain railroad, from its present terminus at Pilot Knob to a point on the southern boundary line of the State of Missouri, every alternate section of land, designated by odd numbers, for ten sections in width on each side of said road; but in case it shall appear when the route of said road is definitely fixed that the United States have sold any sections or parts thereof, granted as aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents to be appointed by the Governor of said State to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified so much land in sections or parts of sections, to be selected as aforesaid, as shall be equal to such lands as the United States have sold or otherwise appropriated or to which the rights of preemption have attached, which lands thus selected shall be held by the State of Missouri for the use and purposes aforesaid, and for none other: *Provided*, That the lands so located shall be within the Ironton land district as now established and not more than twenty miles from the line of said road: *And provided further*, That all mineral lands except those containing coal and iron, and any lands heretofore reserved to the United States by any act of Congress or in any other manner by competent authority for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, be, and the same are, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railroad through the same, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the State of Arkansas, for the purpose of aiding in the construction and extension of a railroad from the point where the Iron Mountain railroad intersects the southern boundary line of Missouri, by the nearest and most practicable route, to a point at or near the town of Helena, on the Mississippi river, every alternate section of land, designated by odd numbers, for ten sections in width on each side of said road; but in case it shall appear, when the line of said road is definitely fixed, that the United States have sold any sections or parts thereof, granted as aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents to be appointed by the Governor of said State to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified so much land, in alternate sections, designated as aforesaid, as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the rights of preemption have attached, which lands thus selected shall be held by the State of Arkansas for the use and purposes aforesaid, and for none other: *Provided*, That the land so selected and located shall in no case be further than twenty miles from the line of road when the same shall be located: *And provided further*, That all mineral lands, except those containing coal and iron, and any lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, be, and the same are, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railway through the same, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

SEC. 3. *And be it further enacted*, That the

sections and parts of sections of land which shall remain to the United States within ten miles on either side of said road, and the even sections and parts of sections corresponding to the odd ones selected within twenty miles of the same, shall not be sold for less than double the minimum price of the public lands when sold, nor shall any of the said lands become subject to private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual *bona fide* settlers under the preemption laws of the United States may, after the proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the increased minimum price: *And provided, also*, That settlers under the provisions of the homestead law, who comply with the terms and requirements of this [said] act, shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

SEC. 4. *And be it further enacted*, That the said railroads shall be, and remain, public highways, so far as the same may be constructed under this act, for the use of the Government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States, and at the costs in all respects of said railroad companies; and the said roads are hereby required to be constructed within the term of five years from and after the first day of July, anno Domini eighteen hundred and sixty-six.

SEC. 5. *And be it further enacted*, That the lands hereby granted to said States of Missouri and Arkansas shall be disposed of by said States for the purposes aforesaid only, and in manner following, namely: whenever the Governor of either of said States shall certify to the Secretary of the Interior that any section of ten consecutive miles of either of said roads is completed in a good, substantial, and workmanlike manner, as a first-class railroad, and the said Secretary shall be satisfied that said State has complied in good faith with this requirement, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and selected as aforesaid, not exceeding ten sections per mile, situate opposite to and within a limit of twenty miles of the line of said section of road thus completed, extending along the whole length of said completed section of ten miles of road, and no further. And when the Governor of said State shall certify to the Secretary of the Interior, and the Secretary shall be satisfied that another section of said road, ten consecutive miles in extent, connecting with the preceding section or with some other first-class railroad which may be at the time in successful operation, is completed as aforesaid, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and situated opposite to and within the limits of twenty miles of the line of said completed section of road or roads, and extending the length of said section, and no further, and not exceeding ten sections of land per mile for all that part of said road thus completed under the provisions of this act and the act to which this is an amendment, and so, from time to time, until said roads and branches are completed. And when the Governor of said State shall so certify, and the Secretary of the Interior shall be satisfied that the whole of any one of said roads and branches is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted for and on account of said completed road and branches in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road and branches: *Provided*, That no land shall be granted or conveyed to said States under the provisions of this act on account of the con-

struction of any railroad or part thereof that has been constructed under the provisions of any other act at the date of the passage of this act, and adopted as a part of the line of railroad provided for in this act: *And provided*, That nothing herein contained shall interfere with any existing rights acquired under any law of Congress heretofore enacted making grants of land to the said States of Missouri and Arkansas to aid in the construction of railroads: *And provided further*, That should such States or either of them fail to complete the roads herein recited within the time prescribed by this act, then the lands undisposed of, as aforesaid, within the States so failing shall revert to the United States.

SEC. 6. *And be it further enacted*, That so soon as the Governor of either of said States shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said roads herein mentioned, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

SEC. 7. *And be it further enacted*, That nothing contained in this act shall be held as vesting in the State of Arkansas title to the lands herein recited for the trust purpose aforesaid, or authorizing said State to make any disposition of the same, until said State shall be restored in all respects to its former relation to the national Government and be represented in the Congress of the United States.

APPROVED, July 4, 1866.

CHAP. CLXVI.—An Act concerning certain Lands granted to the State of Nevada.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the appropriation by the constitution of the State of Nevada to educational purposes of the five hundred thousand acres of land granted to said State by the law of September fourth, eighteen hundred and forty-one, for purposes of internal improvement, is hereby approved and confirmed.

SEC. 2. *And be it further enacted*, That land equal in amount to seventy-two entire sections, for the establishment and maintenance of a university in said State, is hereby granted to the State of Nevada.

SEC. 3. *And be it further enacted*, That the grant made by law of the second day of July, eighteen hundred and sixty-two, to each State, of land equal to thirty thousand acres for each of its Senators and Representatives in Congress, is extended to the State of Nevada; and the diversion of the proceeds of these lands of Nevada from the teaching of agriculture and mechanic arts to that of the theory and practice of mining is allowed and authorized without causing a forfeiture of said grant.

SEC. 4. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for Nevada, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, whose compensation shall be three thousand dollars per annum, and whose duties, powers, obligations, responsibilities, and allowances for clerk hire, office rent, fuel and incidental expenses shall be the same as those of the surveyor general of Oregon, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

SEC. 5. *And be it further enacted*, That in extending the surveys of the public lands in the State of Nevada, the Secretary of the Interior may, in his discretion, vary the lines of the subdivisions from a rectangular form, to suit the circumstances of the country; but in all cases lands valuable for mines of gold, silver, quicksilver, or copper shall be reserved from sale.

SEC. 6. *And be it further enacted*, That until

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the State of Nevada shall have received her full quota of lands named in the first, second, and third sections of this act, the public lands in that State shall not be subject to entry, sale, or location under any law of the United States, or any scrip or warrants issued in pursuance of any such law except the homestead act of May twentieth, eighteen hundred and sixty-two, and acts amendatory thereto, and the acts granting and regulating preemptions, but shall be reserved exclusively for entry by the said State for the period of two years after such survey shall have been made: *Provided*, That said State shall select said lands in her own name and right, in tracts of not less than forty acres, and dispose of the same in tracts not exceeding three hundred and twenty acres, only to actual settlers and *bona fide* occupants: *And provided further*, That city and town property shall not be subject to selection under this act: *And provided further*, That this section shall not be construed to interfere with or impair rights heretofore acquired under any law of Congress.

APPROVED, July 4, 1866.

CHAP. CLXVII.—An Act granting Lands to the State of Oregon, to aid in the Construction of a military Road from Corvallis to the Aquinna Bay.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, granted to the State of Oregon, to aid in the construction of a military wagon road from the town of Corvallis to the Aquinna bay, three alternate sections per mile from the unoccupied public lands, designated by odd numbers, and not more than six miles from said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purposes whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress, or other competent authority, be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That said road shall be constructed with such gradation and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: when the Governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then a quantity of land hereby granted consecutive to said completed portion of said road, not to exceed thirty sections may be sold, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

APPROVED, July 4, 1866.

CHAP. CLXVIII.—An Act making an additional Grant of Lands to the State of Minnesota, in alternate Sections, to aid in the Construction of Railroads in said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is

hereby, granted to the State of Minnesota, for the purpose of aiding in the construction of a railroad from Houston, in the county of Houston, through the counties of Fillmore, Mower, Freeborn, and Faribault, to the western boundary of the State; and also for a railroad from Hastings, through the counties of Dakota, Scott, Carver, and McLeod, to such point on the western boundary of the State as the Legislature of the State may determine, every alternate section of land designated by odd numbers to the amount of five alternate sections per mile on each side of said road; but in case it shall appear that the United States have, when the lines or route of said roads are definitely located, sold any section, or part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected, for the purposes aforesaid, from the public lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections or parts of sections, designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached as aforesaid, which lands, thus indicated by odd numbers and sections, by the direction of the Secretary of the Interior, shall be held by said State of Minnesota for the purposes and uses aforesaid: *Provided*, That the land so selected shall in no case be located more than twenty miles from the lines of said road: *And provided further*, That no land shall be granted or transferred by the provisions of this act not included within the jurisdiction of the State of Minnesota: *And provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, provided the United States has yet in possession the title thereto.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which by such grant shall remain to the United States within ten miles on each side of said road shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual *bona fide* settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation as now provided by law, purchase the same at the increased minimum price: *And provided also*, That settlers under the provisions of the homestead law who shall make entries after the passage of this act, upon the sections numbered by even numbers, and who comply with the terms and requirements of said act shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the lands hereby granted shall be subject to the disposal of the Legislature of Minnesota for the purposes aforesaid, and no other; and the said railroad shall be and remain public highways for the use of the Government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States, and the same shall at all times be transported at the cost, charge, and expense in all respects of the company or corporation, or their successors or assigns,

having or receiving the benefit of the land grants herein made.

SEC. 4. *And be it further enacted*, That the lands hereby granted shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: when the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed, in a good, substantial, and workmanlike manner, as a first-class railroad, then the Secretary of the Interior shall issue to the State patents for all the lands in alternate sections, or parts of sections, designated by odd numbers, situated within twenty miles of the road so completed and lying consecutive to said completed section of ten miles, and not exceeding one hundred sections, for the benefit of the road having completed the ten consecutive miles as aforesaid: *Provided, however*, That the consecutive principle hereby applied shall not extend to such lands as are taken by the said railroad companies to make up deficiencies, provided that no land to make up such deficiencies shall be taken at any point within ten miles upon each side of the line of said roads. When the Governor of said State shall certify that another section of ten consecutive miles shall have been completed as aforesaid, then the Secretary of the Interior shall issue patents to said State in like manner for a like number; and when certificates of the completion of additional sections of ten consecutive miles of said roads are from time to time made as aforesaid, additional sections of land shall be patented as aforesaid, until said roads are completed, when the whole of the lands hereby granted shall be patented to the State for the uses aforesaid, and none other: *Provided*, That if said roads are not completed within ten years from the acceptance of this grant, the said lands hereby granted and not patented shall revert to the United States.

SEC. 5. *And be it further enacted*, That as soon as the Governor of said State shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said roads, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

SEC. 6. *And be it further enacted*, That the United States mail shall be transported on said road, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law, the Postmaster General shall have power to fix the rate of compensation.

APPROVED, July 4, 1866.

CHAP. CLXIX.—An Act to provide for the Disposal of certain Lands therein named.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of the General Land Office be, and he is hereby, authorized to cause to be offered at public auction all the unsold lots of that portion of the public domain known as the Fort Howard Military Reserve, which is situated in the county of Brown, and State of Wisconsin, giving not less than two months' notice of the time and place of such sale, by advertising the same in such newspapers and for such period of time as he may deem best. Every such lot shall be sold separately to the highest bidder for cash, and when not paid for within twenty-four hours from the time of purchase, it shall be liable to be resold under the order of the Commissioner of the General Land Office aforesaid, at such reasonable minimum as may be fixed by the Secretary of the Interior, and no sale shall be binding until approved by that officer.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to cause patents to be issued in due form of law for each and every such lot, as soon as may be after the purchase of and payment for the same.

APPROVED, July 4, 1866.



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CHAP. CLXXIV.—An Act granting Lands, to the State of Oregon, to aid in the construction of a military Road from Albany, Oregon, to the eastern Boundary of said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military road from Albany, Oregon, by way of Canyon City, and the most feasible pass in Cascade range of mountains, to the eastern boundary of the State alternate sections of public lands, designated by odd numbers, three sections per mile, to be selected within six miles of said road: *Provided,* That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further,* That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted,* That the said lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted,* That said road shall be constructed with such width, graduation, and bridges, as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted,* That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: that when ten miles of said road shall be completed, a quantity of land not exceeding thirty sections for said road may be sold contiguous to said completed portion of said road; and when the Governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold, contiguous to said completed portion of said road, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

APPROVED, July 5, 1866.

CHAP. CLXXV.—An Act to provide for the Payment of the Sixth, Eighth, and Eleventh Regiments of Ohio Volunteer militia, of Cincinnati, Bard's Company of Cavalry, and Paulsen's Battery, during the Time they were in the Service of the United States, in 1862.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the officers and men of the sixth, eighth, and eleventh regiments of Ohio volunteer militia, and of Captain S. W. Bard's company of cavalry, and of Captain August Paulsen's battery, of Cincinnati, ordered into the service of the United States at Cincinnati, Ohio, on the second day of September, eighteen hundred and sixty-two, notwithstanding any irregularity in their muster into the service of the United States, be paid for the time the officers and men were actually in the service, respectively, not however to exceed the period of thirty-one days.

APPROVED, July 5, 1866.

CHAP. CLXXVI.—An Act making Appropriations for the Support of the Army for the year ending thirtieth of June, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-seven:

For expenses of recruiting, transportation of recruits, and compensation to citizen surgeons for medical attendance, three hundred thousand dollars.

For pay of the Army, ten millions seven hundred and twelve thousand and fifty-two dollars.

For commutation of officers' subsistence, one million six hundred and fifty-one thousand five hundred and eleven dollars and fifty cents.

For commutation of forage for officers' horses, one hundred and five thousand two hundred dollars.

For payments in lieu of clothing for officers' servants, one hundred and ninety-one thousand seven hundred and sixty-six dollars.

For payments to discharged soldiers for clothing not drawn, one hundred and fifty thousand dollars.

For subsistence in kind for regulars and volunteers, five million three hundred and one thousand six hundred and twenty-five dollars.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, store-houses, and offices; of forage in kind for the horses, mules, and oxen for the quartermaster's department at the several posts and stations and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank books for the quartermaster's department certificates for discharged soldiers blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, four millions one hundred and thirty-four thousand four hundred and ninety-nine dollars and thirty-three cents.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the additional compensation of judge advocates, recorders, members, and witnesses, while on that service; under the act of March sixteenth, eighteen hundred and two, extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, store-houses, and hospitals; in the construction of roads, and on other constant labor, for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action or who die when on duty in the field, or at posts on the frontiers, or at other posts and places when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks

to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horses' and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other department, one million dollars.

For the purchase of cavalry and artillery horses, seven hundred and thirteen thousand one hundred dollars.

For transportation of officers' baggage, fifty thousand dollars.

For transportation of the Army, including the baggage of the troops when moving, either by land or water; of clothing, camp and garrison equipage, from the depots at Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field; and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance; ordnance stores, and small-arms, from foundries and armories, to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, five million dollars.

For hire of commutation quarters for officers on military duty; hire of quarters for troops; of store-houses for the safe-keeping of military stores; of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables, and for repairing public buildings at established posts, six hundred and twenty-four thousand and thirty-eight dollars.

For contingencies of the Army, one hundred thousand dollars.

For the medical and hospital department, five hundred thousand dollars.

For repairs, improvements, and new machinery at the national armory, one hundred thousand dollars.

For repairs and improvements at arsenals, including new, and additions to present, buildings, and machinery, tools, and fixtures, fifty thousand dollars.

For purchase of site and erection of magazine for storing gunpowder, two hundred thousand dollars.

For the purchase of land for enlarging the Watervleit arsenal, thirty thousand dollars.

SEC. 2. *And be it further enacted,* That the sum of one hundred and forty-six thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to be disbursed by the Secretary of War in the erection of fire-proof buildings at or near Schuylkill arsenal in the State

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of Pennsylvania, to be used as store-houses for Government property at that post.

SEC. 3. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Bureau of Refugees, Freedmen, and Abandoned Lands for the fiscal year commencing July first, eighteen hundred and sixty-six, namely:

The salaries of assistant and sub-assistant commissioners, one hundred and forty-seven thousand five hundred dollars.

For salaries of clerks, eighty-two thousand eight hundred dollars.

For stationery and printing, sixty-three thousand dollars.

For quarters and fuel, fifteen thousand nine hundred dollars.

For clothing for distribution, one million one hundred and seventy thousand dollars.

For commissary stores, three million one hundred and six thousand two hundred and fifty dollars.

For medical department, five hundred thousand dollars.

For transportation, one million three hundred and twenty thousand dollars.

For school superintendents, twenty-one thousand dollars.

For repairs and rent of school-houses and asylums, five hundred thousand dollars.

For telegraphing, eighteen thousand dollars.

SEC. 4. *And be it further enacted*, That the quartermaster's department shall in all cases in obtaining supplies for the military service, state in advertisements for bids for contracts, that a preference shall be given to articles of domestic production and manufacture, conditions of price and quality being equal, and that such preference shall be given to articles of American production and manufacture, produced on the Pacific coast, to the extent of the consumption required by the public service there; and in advertising for Army supplies the quartermaster's department shall require all articles which are to be used in the States and Territories of the Pacific coast to be delivered and inspected at points designated in those States and Territories; and the advertisements for such supplies shall be published in newspapers of the cities of San Francisco, in California, and Portland, in Oregon.

SEC. 5. *And be it further enacted*, That section seventeen of an act entitled, "An act to define the pay and emoluments of certain officers of the Army," approved July seventeenth, eighteen hundred and sixty-two, and a resolution entitled "A resolution to authorize the President to assign the command of troops in the same field or department, to officers of the same grade without regard to seniority," approved April fourth, eighteen hundred and sixty-two, be, and the same are hereby, repealed. And no officer in the military or naval service shall, in time of peace, be dismissed from service except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof.

SEC. 6. *And be it further enacted*, That the Superintendent of the United States Military Academy may hereafter be selected, and the officers on duty at that institution detailed from any arm of the service; and the supervision and charge of the Academy shall be in the War Department under such officer or officers as the Secretary of War may assign to that duty.

SEC. 7. *And be it further enacted*, That when it is necessary to employ soldiers as artificers or laborers in the construction of permanent military works, public roads, or other constant labor of not less than ten days' duration in any case, they shall receive, in addition to their regular pay, the following additional compensation therefor: enlisted men, working as artificers, and non-commissioned officers employed as overseers of such work, not exceeding one overseer for every twenty men, thirty-five cents

per day, and enlisted men employed as laborers twenty cents per day; but such working parties shall only be authorized on the written order of a commanding officer. This allowance of extra pay is not to apply to the troops of the engineer and ordnance departments.

SEC. 8. *And be it further enacted*, That the allowance now made by law to officers traveling under orders where transportation is not furnished in kind shall be increased to ten cents per mile.

APPROVED, July 13, 1866.

CHAP. CLXXVII.—An Act relating to Pilots and Pilot Regulations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no regulations or provisions shall be adopted by any State of the United States of America which shall make any discrimination in the rate of pilotage or half pilotage between vessels sailing between the ports of one State and vessels sailing between the ports of different States, or any discrimination against vessels propelled in whole or in part by steam, or against national vessels of the United States, and all existing regulations or provisions making any such discrimination, as herein mentioned, are hereby annulled and abrogated.

APPROVED, July 13, 1866.

CHAP. CLXXVIII.—An Act to amend "An Act making a Grant of Lands to the State of Minnesota to aid in the Construction of the Railroad from St. Paul to Lake Superior," approved May fifth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section one of the act entitled "An act making a grant of lands to the State of Minnesota to aid in the construction of the railroad from Saint Paul to Lake Superior," approved May fifth, eighteen hundred and sixty-four, be amended by adding thereto the following: *Provided further*, That in case it shall appear, when the line of the Lake Superior and Mississippi railroad is definitely located, that the quantity of land intended to be granted by the said act in aid of the construction of the said road shall be deficient by reason of the line thereof running near the boundary line of the said State of Minnesota; the said company shall be entitled to take from other public lands of the United States within thirty miles of the west line of said road such an amount of lands as shall make up such deficiency: *Provided*, That the same shall be taken in alternate odd sections as provided for in said act.

APPROVED, July 13, 1866.

CHAP. CLXXIX.—An Act to extend to certain Persons the Privilege of Admission, in certain Cases, to the United States Government Asylum for the Insane.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That civilians employed in the service of the United States, in the quartermaster's department and the subsistence department of the Army, who may be, or may hereafter become, insane while in such employment, shall be admitted on the order of the Secretary of War, the same as persons belonging to the Army and Navy, to the benefits of the asylum for the insane in the District of Columbia, as now provided by law in reference to soldiers and sailors in the Army and Navy.

SEC. 2. *And be it further enacted*, That the following classes of persons, under the following circumstances, shall be entitled to admission to said asylum on the order of the Secretary of War, if in the Army, or the Secretary of the Navy, if in the Navy, to wit:

First. Men who, while in the service of the

United States, in the Army or Navy, have been admitted to said asylum, and have been thereafter discharged therefrom on the supposition that they had recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

Second. Indigent insane persons, who have been in the same service and been discharged therefrom on account of disability arising from such insanity.

Third. Indigent insane persons, who have become insane within three years after discharge from such service from causes which arose during and were produced by said service.

APPROVED, July 13, 1866.

CHAP. CLXXX.—An Act to provide for making the Town of Whitehall, New York, a Port of Delivery.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the town of Whitehall, in the State of New York, which by existing law is a port through which imported merchandise may be exported in bond and for drawback to the adjacent British North American Provinces, be, and the same is hereby, constituted a port of delivery within the collection district of Champlain, and that a deputy collector, as now authorized by law, shall there reside, who shall receive the same compensation as is now paid to the deputy collector now stationed at that port.

APPROVED, July 13, 1866.

CHAP. CLXXXI.—An Act to extend the Benefits of Section Four of an Act making Appropriations for the Support of the Army for the year ending June thirtieth, eighteen hundred and sixty-six, approved March third, eighteen hundred and sixty-five.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section four of an act entitled "An act making appropriations for the support of the Army for the year ending June thirtieth, eighteen hundred and sixty-six," be so construed as to entitle to the three months' pay proper, provided for therein, all officers of volunteers below the rank of brigadier general, who were in service on the third day of March, eighteen hundred and sixty-five, and whose resignations were presented and accepted, or who were mustered out at their own request, or otherwise honorably discharged from the service after the ninth day of April, eighteen hundred and sixty-five.

APPROVED, July 13, 1866.

CHAP. CLXXXII.—An Act granting Aid in the Construction of a Railroad and Telegraph Line from the Town of Folsom to the Town of Placerville, in the State of California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands be, and the same is hereby, granted to the Placerville and Sacramento Valley Railroad Company, a corporation existing under the laws of the State of California, and designated by the Legislature thereof, to construct the road hereinafter named, and to its successors and assigns, for the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in said State; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road, material for the construction thereof; said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass over the public lands; also, all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

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SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the Placerville and Sacramento Valley Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not containing gold or silver, designated by odd numbers, to the amount of ten alternate sections per mile, on each side of said railroad line, as said company may adopt, whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preëmption or other claims or rights at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office: *Provided*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal.

SEC. 3. *And be it further enacted*, That whenever said Placerville and Sacramento Valley Railroad Company shall have ten consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that ten miles of said railroad and telegraph line have been completed in a good and substantial manner, and in all respects as required by this act, the commissioners shall so report to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to and contiguous with said completed section of said road, unless said lands are covered by the exceptions of this act. And from time to time, whenever ten additional miles shall have been constructed, completed, and in readiness, as aforesaid, and verified by the commissioners to the President of the United States, then patents shall be issued to said company, conveying the additional sections of land, as aforesaid; and so on as fast as every ten miles of said road is completed, as aforesaid: *Provided*, That said commissioners named in this section shall be paid, by the company, ten dollars per day for the time actually employed, and ten cents per mile for the distance actually and necessarily traveled each way.

SEC. 4. *And be it further enacted*, That said Placerville and Sacramento Valley railroad shall be constructed in a substantial and workmanlike manner, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, stations, and watering-places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron, and a uniform gauge shall be established the entire length of the road. And there shall be constructed a telegraph line of the most substantial and approved description, to be operated on the entire route: *Provided*, That said company shall not charge higher rates to the Government, its officers or agents, than they do to individuals for telegraphic service, and that the said railroad shall be and remain a public highway for the use of the Government of the United States free of all toll or other charge upon the transportation of any property or troops of the United States, and the same shall be transported over said road at the cost, charge, and expense of the corporation or company owning or operating the same when required by the United States to do so.

SEC. 5. *And be it further enacted*, That the President of the United States shall cause such lands to be surveyed for twenty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of

said railroad; and the odd sections of land hereby granted shall not be liable to sale, or entry, or preëmption, before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, eighteen hundred and forty-one, granting preëmption rights, and the acts amendatory thereof and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company; and the sections and parts of sections of land which by the aforesaid grant shall remain in the United States within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold.

SEC. 6. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Placerville and Sacramento Valley Railroad Company, upon and subject to the following conditions, namely: that the said company shall commence the work on said road within one year from the approval of this act by the President, and shall complete the whole road by the fourth day of July, eighteen hundred and sixty-nine.

SEC. 7. *And be it further enacted*, That the United States make the several conditioned grants herein, and that the said Placerville and Sacramento Valley Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then in such case, the title to the public lands herein reserved for the construction of said road shall revert to the United States.

SEC. 8. *And be it further enacted*, That all people of the United States shall have the right to subscribe to the stock of the said Placerville and Sacramento Valley Railroad Company until the whole capital is taken up, by complying with the terms of subscription.

SEC. 9. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Placerville and Sacramento Valley Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed, pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act, and not afterwards, and shall be deposited with the Secretary of the Interior.

SEC. 10. *And be it further enacted*, That the said company is authorized to accept to its own use any grant, donation, or loan, power, franchise, aid, or assistance which may be granted to or conferred upon said company by the Congress of the United States, by the Legislature of any State, county, or municipal corporation, or by any corporation, person or persons, and said corporation is authorized to hold and enjoy any such grant, donation, loan, or power, franchise, aid, or assistance, to its own use, for the purpose aforesaid.

SEC. 11. *And be it further enacted*, That unless the said Placerville and Sacramento Valley Railroad Company shall obtain *bona fide* subscription to the stock of said company to the amount of four hundred thousand dollars, with five per centum paid within one year after the passage and approval of this act, it shall be null and void.

SEC. 12. *And be it further enacted*, That Congress may at any time, having due regard for the rights of said Placerville and Sacramento Valley Railroad Company, add to, alter, amend, or repeal this act.

SEC. 13. *And be it further enacted*, That all lots in villages, towns, and cities shall be exempted from, and not subject to, the operations of this act.

APPROVED, July 13, 1866.

CHAP. CLXXXIII.—An Act relating to Lands granted to the State of Minnesota to aid in constructing Railroads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever it shall appear that the United States have sold or disposed of any lands granted to the Territory or State of Minnesota for the purpose of aiding in the construction of railroads, after the definite location of the line of road, and before the withdrawal of said lands from sale at the proper local land office, said State may by its agent select, in lieu of the lands so sold or disposed of, from any of the lands of the United States subject to sale, being odd-numbered sections, within twenty miles of the line of the proper road, a quantity of land equal to that so sold or disposed of; and the lands so selected shall be substituted for those so sold or disposed of by the United States, and may be disposed of by said State in all respects as if said substituted lands had been parcel of the original grant to the State: *Provided, however*, That nothing herein contained shall be so construed as to diminish the quantity of land granted by act of May fifth, eighteen hundred and sixty-four, to the State of Minnesota to aid in the construction of a railroad from St. Paul to Lake Superior.

SEC. 2. *And be it further enacted*, That the time named in the act granting lands to the Territory of Minnesota to aid in the construction of a certain railroad, "from Saint Paul and from Saint Anthony, by the way of Minneapolis, to a convenient point of junction west of the Mississippi river, to the southern boundary of the Territory," approved March third, eighteen hundred and fifty-seven, for the construction and completion of said road, is hereby extended for seven years from the passage of this act.

SEC. 3. *And be it further enacted*, That all the lands heretofore granted to the Territory and State of Minnesota to aid in the construction of railroads, shall be certified to said State by the Secretary of the Interior, from time to time, whenever any of said roads shall be definitely located, and shall be disposed of by said State in the manner and upon the conditions provided in the particular act granting the same, as modified by the provisions of this act: *Provided*, That when the original quantity granted to aid in the construction of any road has been increased, the quantity authorized to be sold from time to time shall be increased correspondingly: *And provided further*, That on the completion of any ten miles of road, the State may sell one half the quantity of lands which said State is authorized to dispose of on the completion of twenty miles.

SEC. 4. *And be it further enacted*, That the lands granted by any act of Congress to the State of Minnesota, to aid in the construction of railroads in said State, specifically, lying in place, on any division of ten miles of road, shall not be disposed of until the road shall be completed through and continuous with the same: *Provided, however*, That this provision shall not extend to any lands authorized to be taken to make up deficiencies.

SEC. 5. *And be it further enacted*, That so much of any act as conflicts with the provisions of this act is hereby repealed.

APPROVED, July 13, 1866.

CHAP. CLXXXIV.—An Act to reduce internal Taxation and to amend an Act entitled "An Act to provide internal Revenue to support the Government, to pay Interest on the public Debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, and Acts amendatory thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That on and after the first day of August, eighteen hundred and sixty-



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six, in lieu of the taxes on unmanufactured cotton, as provided in "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, as amended by the act of March third, eighteen hundred and sixty-five, there shall be paid by the producer, owner, or holder, upon all cotton produced within the United States, and upon which no tax has been levied, paid, or collected, a tax of three cents per pound, as hereinafter provided; and the weight of such cotton shall be ascertained by deducting four per centum for tare from the gross weight of each bale or package; and such tax shall be and remain a lien thereon, in the possession of any person whomsoever from the time when this law takes effect, or such cotton is produced as aforesaid, until the same shall have been paid; and no drawback shall, in any case, be allowed on raw or unmanufactured cotton of any tax paid thereon when exported in the raw or unmanufactured condition. But no tax shall be imposed upon any cotton imported from other countries, and on which an import duty shall have been paid.

SEC. 2. *And be it further enacted,* That the aforesaid tax upon cotton shall be levied by the assessor on the producer, owner, or holder thereof. And said tax shall be paid to the collector of internal revenue within and for the collection district in which said cotton shall have been produced, and before the same shall have been removed therefrom, except where otherwise provided in this act; and every collector to whom any tax upon cotton shall be paid shall mark the bales or other packages upon which the tax shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner or other person having charge of such cotton a permit for the removal of the same, stating therein the amount and payment of the tax, the time and place of payment, and the weight and marks upon the bales and packages, so that the same may be fully identified; and it shall be the duty of every such collector to keep clear and sufficient records of all such cotton inspected or marked, and of all marks and identifications thereof, and of all permits for the removal of the same, and of all his transactions relating thereto, and he shall make full returns thereof, monthly, to the Commissioner of Internal Revenue.

SEC. 3. *And be it further enacted,* That the Commissioner of Internal Revenue is hereby authorized to designate one or more places in each collection district where an assessor or an assistant assessor and a collector or deputy collector shall be located, and where cotton may be brought for the purpose of being weighed and appropriately marked: *Provided,* That it shall be the duty of the assessor or assistant assessor and the collector or deputy collector to assess and cause to be properly marked the cotton, wherever it may be, in said district, provided their necessary traveling expenses to and from said designated place, for that purpose, be paid by the owners thereof.

SEC. 4. *And be it further enacted,* That all cotton having been weighed and marked as herein provided, and for which permits shall have been duly obtained of the assessor, may be removed from the district in which it has been produced to any one other district, without prepayment of the tax due thereon, upon the execution of such transportation bonds or other security, and in accordance with such regulations as shall be prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury. The said cotton so removed shall be delivered to the collector of internal revenue or his deputy forthwith upon its arrival at its point of destination, and shall remain subject to his control until the taxes thereon, and any necessary charges of custody thereof, shall have

been paid, but nothing herein contained shall authorize any delay of the payment of said taxes for more than ninety days from the date of the permits; and when cotton shall have been weighed and marked for which a permit shall have been granted without prepayment of the tax, it shall be the duty of the assessor granting such permit to give immediate notice of such permit to the collector of internal revenue for the district to which said cotton is to be transported, and he shall also transmit therewith a statement of the taxes due thereon, and of the bonds or other securities for the payment thereof, and he shall make full returns and statements of the same to the Commissioner of Internal Revenue.

SEC. 5. *And be it further enacted,* That it shall be unlawful, from and after the first day of September, eighteen hundred and sixty-six, for the owner, master, supercargo, agent, or other person having charge of any vessel, or for any railroad company, or other transportation company, or for any common carrier, or other person, to convey, or attempt to convey, or transport any cotton, the growth or produce of the United States, from any point in the district in which it shall have been produced, unless each bale or package thereof shall have attached to or accompanying it the proper marks or evidence of the payment of the revenue tax and a permit of the collector for such removal, or the permit of the assessor, as hereinbefore provided, under regulations of the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, or to convey or transport any cotton from any State in which cotton is produced to any port or place in the United States without a certificate from the collector of internal revenue of the district from which it was brought, and such other evidence as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe, that the tax has been paid thereon, or the permit of the assessor as hereinbefore provided, and such certificate and evidence as aforesaid shall be furnished to the collector of the district to which it is transported, and his permit obtained before landing, discharging, or delivering such cotton at the place to which it is transported as aforesaid. And any person or persons who shall violate the provisions of this act in this respect, or who shall convey or attempt to convey from any State in which cotton is produced to any port or place without the United States any cotton upon which the tax has not been paid, shall be liable to a penalty of one hundred dollars for each bale of cotton so conveyed or transported, or attempted to be conveyed or transported, or to imprisonment for not more than one year, or both; and all vessels and vehicles employed in such conveyance or transportation shall be liable to seizure and forfeiture by proceedings in any court of the United States having competent jurisdiction. And all cotton so shipped or attempted to be shipped or transported without payment of the tax, or the execution of such transportation bonds or other security, as provided in this act, shall be forfeited to the United States, and the proceeds thereof distributed according to the statute in like cases provided.

SEC. 6. *And be it further enacted,* That upon articles manufactured exclusively from cotton, when exported, there shall be allowed as a drawback an amount equal to the internal tax which shall have been assessed and paid upon such articles in their finished condition, and in addition thereto a drawback or allowance of as many cents per pound upon the pound of cotton cloth, yarn, thread, or knit fabrics, manufactured exclusively from cotton and exported, as shall have been assessed and paid in the form of an internal tax upon the raw cotton entering into the manufacture of said cloth or other article, the amount of such allowance or drawback to be ascertained in such manner as may be prescribed by the Commissioner of In-

ternal Revenue under the direction of the Secretary of the Treasury; and so much of section one hundred and seventy-one of the act of June thirty, eighteen hundred and sixty-four, "to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," as now provides for a drawback on unmanufactured cotton, is hereby repealed.

SEC. 7. *And be it further enacted,* That it shall be the duty of every person, firm, or corporation, manufacturing cotton for any purpose whatever, in any district where cotton is produced, to return to the assessor or assistant assessor of the district in which such manufacture is carried on, a true statement in writing, signed by him, and verified by his oath or affirmation, on or before the tenth day of each month; and the first statement so rendered shall be on or before the tenth day of August, eighteen hundred and sixty-six, and shall state the quantity of cotton which such manufacturer had on hand and unmanufactured, or in process of manufacture, on the first day of said month; and each subsequent statement shall show the whole quantity in pounds, gross weight, of cotton purchased or obtained, and the whole quantity consumed by him in any business or process of manufacture during the last preceding calendar month, and the quantity and character of the goods manufactured therefrom; and every such manufacturer or consumer shall keep a book, in which he shall enter the quantity, in pounds, of cotton which he has on hand on the first day of August, eighteen hundred and sixty-six, and each quantity or lot purchased or obtained by him thereafter; the time when and the party or parties from whom the same was obtained; the quantity of said cotton, if any, which is the growth of the collection district where the same is manufactured; the quantity, if any, which has not been weighed and marked by any officer herein authorized to weigh and mark the same; the quantity, if any, upon which the tax had not been paid, so far as can be ascertained, before the manufacture thereof; and also the quantities used or disposed of by him from time to time in any process of manufacture or otherwise, and the quantity and character of the product thereof, which book shall, at all times during business hours, be open to the inspection of the assessor, assistant assessors, collector or deputy collectors of the district, inspectors, or of revenue agents; and such manufacturer shall pay monthly to the collector, within the time prescribed by law, the tax herein specified, subject to no deductions, on all cotton so consumed by him in any manufacture, and on which no excise tax has previously been paid; and every such manufacturer or person whose duty it is so to do, who shall neglect or refuse to make such returns to the assessor, or to keep such book, or who shall make false or fraudulent returns, or make false entries in such book, or procure the same to be so done, in addition to the payment of the tax to be assessed thereon, shall forfeit to the United States all cotton and all products of cotton in his possession, and shall be liable to a penalty of not less than one thousand nor more than five thousand dollars, to be recovered with costs of suit, or to imprisonment not exceeding two years, in the discretion of the court; and any person or persons who shall make any false oath or affirmation in relation to any matter or thing herein required shall be guilty of perjury, and shall be subject to the punishment prescribed by existing statutes for that offense: *Provided,* That nothing herein contained shall be construed in any manner to affect the liability of any person for any tax imposed by law on the goods manufactured from such cotton.

SEC. 8. *And be it further enacted,* That the provisions of the act of June thirty, eighteen hundred and sixty-four, as amended by the act of March third, eighteen hundred and sixty-

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five, relating to the assessment of taxes and enforcing the collection of the same, and all proceedings and remedies relating thereto, shall apply to the assessment and collection of the tax, fines, and penalties imposed by, and not inconsistent with, the provisions of the preceding sections of this act; and the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, shall make all necessary rules and regulations for ascertaining the weight of all cotton to be assessed, and for appropriately marking the same, and generally for carrying into effect the foregoing provisions. And the Secretary of the Treasury is authorized to appoint all necessary inspectors, weighers, and markers of cotton, whose compensation shall be determined by the Commissioner of Internal Revenue, and paid in the same manner as inspectors of tobacco are paid.

SEC. 9. *And be it further enacted*, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirty, eighteen hundred and sixty-four, as amended by the act of March third, eighteen hundred and sixty-five, be, and the same is hereby, amended as follows, viz:

That section five be amended by adding thereto the following: and any inspector, or revenue agent, or any special agent appointed by the Secretary of the Treasury, who shall demand or receive any compensation, fee, or reward, other than such as are provided by law for, or in regard to, the performance of his official duties, or shall be guilty of any extortion or willful oppression in the discharge of such duties, shall, upon conviction thereof in any circuit or district court of the United States having jurisdiction thereof, be subject to a fine of not exceeding one thousand dollars, or to imprisonment for not exceeding one year, or both, at the discretion of the court, and shall be dismissed from office, and shall be forever disqualified from holding any office under the Government of the United States. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the person, to be ascertained by the judgment of the court, who shall first give the information whereby any such fine may be imposed.

That section eight be amended by striking out of said section all after the words "until an appointment filling the vacancy shall be made."

That section fourteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call for the annual list or return, and no annual list or return has been rendered by such person to the assistant assessor as required by law, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, addressed to such person, requiring him or her to render to such assistant assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or if any person without notice, as aforesaid, shall not deliver a monthly or other list or return at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business

of such person, or any other person he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax as aforesaid. And the assessor may summon, as aforesaid, any person residing or found within the State in which his district is situated. And when the person intended to be summoned does not reside and cannot be found within such State, the assessor may enter any collection district where such person may be found, and there make the examination hereinbefore authorized. And to this end he shall there have and may exercise all the power and authority he has or may lawfully exercise in the district for which he is commissioned. The summons authorized by this section shall in all cases be served by an assistant assessor of the district where the person to whom it is directed may be found, by an attested copy delivered to such person in hand or left at his last and usual place of abode, allowing such person at the rate of one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such assistant assessor shall be evidence of the facts it states on the hearing of an application for an attachment; and when the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty. In case any person so summoned shall neglect or refuse to obey such summons, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor to apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and, if satisfactory proof be made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper, not inconsistent with the provisions of existing laws for the punishment of contempts, to enforce obedience to the requirements of the summons and punish such person for his default or disobedience. It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent list or return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such list or return, according to the form prescribed, of the property, goods, wares, and merchandise, and all articles or objects liable to tax, owned or possessed or under the care or management of such person, and assess the tax thereon, including the amount, if any, due for special or income tax; and in case of the return of a false or fraudulent list or valuation, he shall add one hundred per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such tax; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the tax shall, in all cases, be collected by the collector at the same time and in the same manner as the tax; and the list or return so made and subscribed

by such assessor or assistant assessor shall be taken and reputed as good and sufficient for all legal purposes.

That section nineteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that the assessor for each collection district shall give notice by advertisement in one newspaper published in each county within said district, and if there be none published in the district, then in a newspaper published in a collection district adjoining thereto, and shall post notices in at least four public places within each assessment district, and shall mail a copy of such notice to each postmaster in his district, to be posted in his office, stating the time and place within said collection district when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor or assistant assessor returned in the annual list, and such notice shall be advertised and posted by the assessor and mailed as aforesaid at least ten days before the time appointed for hearing said appeals. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeals as aforesaid, to submit the proceedings of the assessor and assistant assessor, and the annual lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And such assessor is hereby authorized at any time to hear and determine in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessor or assistant assessors, and the office or principal place of business of the said assessor shall be open during the business hours of each day for the hearing of appeals by parties who shall appear voluntarily before him: *Provided*, That no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district. And all appeals to the assessor as aforesaid shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested, and shall, moreover, state the ground or principle of error complained of. And the assessor shall have power to reexamine and determine upon the assessments and valuations, and rectify the same as shall appear just and equitable; but such valuation, assessment, or enumeration shall not be increased without a previous notice of at least five days to the party interested to appear and object to the same if he judge proper, which notice shall be in writing, and left at the dwelling-house, office, or place of business of the party by such assessor, assistant assessor, or other person, or sent by mail to the nearest or usual post office address of said party: *Provided further*, That on the hearing of appeals it shall be lawful for the assessor to require by summons the attendance of witnesses and the production of books of account in the same manner and under the same penalties as are provided in cases of refusal or neglect to furnish lists or returns. The costs for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or by the disbursing agent for the district, on certificate of the assessor, at the rates allowed to witnesses in the district courts of the United States.

That section twenty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the assessor of each collection district shall, immediately after the expiration of the time for hearing appeals concerning taxes returned in the annual list, and from time to time, as taxes become liable to be assessed, make out lists containing the sums payable according to law upon every subject of taxation for each collection district; which list shall contain the name of each person residing within the said district, or owning or

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having the care or superintendence of property lying within the said district, or engaged in any business or pursuit which is liable to any tax, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors when known. And the assessor making out any such separate list shall transmit to the assessor of the district where the persons liable to pay such tax reside, or shall have their principal place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside, or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals concerning taxes returned in the annual list, and from time to time thereafter as required, a certified copy of such list or lists for their proper collection districts. And in case it shall be ascertained that the annual list, or any other list, which may have been, or which shall hereafter be, delivered to any collector, is imperfect or incomplete in consequence of the omission of the names of any persons or parties liable to tax, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return or returns made by any persons or parties liable to tax, the said assessor may, from time to time, or at any time within fifteen months from the time of the passage of this act or from the time of the delivery of the list to the collector as aforesaid, enter on any monthly or special list the names of such persons or parties so omitted, together with the amount of tax for which they may have been or shall become liable, and also the names of the persons or parties in respect to whose returns, as aforesaid, there has been or shall be any omission, undervaluation, understatement, or false or fraudulent statement, together with the amounts for which such persons or parties may be liable, over and above the amount for which they may have been, or shall be, assessed upon any return or returns made as aforesaid, and shall certify or return said list to the collector as required by law. And all provisions of law for the ascertainment of liability to any tax, or the assessment or collection thereof, shall be held to apply, as far as may be necessary to the proceedings herein authorized and directed. And wherever the word "duty" is used in this act, or the acts to which this is an amendment, it shall be construed to mean "tax," whenever such construction shall be necessary in order to effect the purposes of said acts.

That section twenty-one be amended by striking out the words "without having taken the oath or affirmation required by this act," and inserting in lieu thereof the words "without having taken the oath or affirmation required by law."

That section twenty-two be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be allowed and paid to the several assessors a salary of fifteen hundred dollars per annum, payable quarterly; and, in addition thereto, where the receipts of the collection district shall exceed the sum of one hundred thousand dollars, and shall not exceed the sum of four hundred thousand dollars annually, one half of one per centum upon the excess of receipts over one hundred thousand dollars. Where the receipts of a collection district shall exceed four hundred thousand dollars, and shall not exceed six hundred thousand, one

fifth of one per centum upon the excess of receipts over four hundred thousand dollars. Where the receipts shall exceed six hundred thousand dollars, one tenth of one per centum upon such excess; but the salary of no assessor shall in any case exceed the sum of four thousand dollars. And the several assessors shall be allowed and paid the sums actually and necessarily expended, with the approval of the Commissioner of Internal Revenue, for office rent; but no account of such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officers of the Treasury Department. And the several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire; but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed, and the precise periods of time for which they were respectively employed, and the rate of compensation agreed upon, and shall be accompanied by an affidavit of the assessor stating that such service was actually required by the necessities of his office, and was actually rendered, and also by the affidavit of each clerk, stating that he has rendered the service charged in such account on his behalf, the compensation agreed upon, and that he has not paid, deposited or assigned, or contracted to pay, deposit, or assign any part of such compensation to the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof; and the chief clerk of any such assessor is hereby authorized to administer, in the absence of the assessor, such oaths or affirmations as are required by this act. And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor, and three dollars for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor, and twenty-five cents for each permit granted for making tobacco, snuff, or cigars; and assistant assessors may be allowed, in the settlement of their accounts, such sum as the Commissioner of Internal Revenue shall approve, not exceeding three hundred dollars per annum, for office rent; but no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner of Internal Revenue may require, and shall have been audited and approved by the proper officers of the Treasury Department; and assistant assessors, when employed outside of the town in which they reside, in addition to the compensation now allowed by law, shall, during such time so employed, receive one dollar per day; and the said assessors and assistant assessors, respectively, shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for stationery and blank books used in the discharge of their duties, and for postage actually paid on letters and documents received and sent, and relating exclusively to official business, and for money actually paid for publishing notices required by this act: *Provided*, That no such account shall be approved unless it shall state the date and the particular item of every such expenditure, and shall be verified by the oath or affirmation of such assessor or assistant assessor; and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided further*, That the Commissioner of Internal Revenue may, under such regulations as may be established by the Secretary of the Treasury, after due public notice,

receive bids and make contracts for supplying stationery, blank books, and blanks to the assessors, assistant assessors, and collectors in the several collection districts: *Provided further*, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents, and inspectors in Louisiana, Georgia, South Carolina, Alabama, Florida, Texas, Arkansas, North Carolina, Mississippi, Tennessee, California, Nevada, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the compensation thus allowed shall not exceed the rate of five thousand dollars per annum. Collectors of internal revenue acting as disbursing officers shall be allowed all bills of assistant assessors, heretofore paid by them in pursuance of the directions of the Commissioner of Internal Revenue, notwithstanding the assistant assessor did not certify to hours therein, or that two dollars per diem was deducted from his salary or compensation before computation of the tax thereon.

That section twenty-four be amended by striking out the proviso thereto, and inserting in lieu thereof the following: *Provided*, That in calculating the commissions of assessors and collectors of internal revenue in districts whence cotton or distilled spirits are shipped in bond to be sold in another district, one half the amount of tax received on the quantity of cotton or spirits so shipped shall be added to the amount on which the commissions of such assessors and collectors are calculated, and a corresponding amount shall be deducted from the amount on which the commissions of the assessors and collectors of the districts to which such cotton or spirits are shipped are calculated.

That section twenty-six be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in the adjustment of the accounts of assessors and collectors of internal revenue which shall accrue after the thirtieth of June, eighteen hundred and sixty-four, and in the payment of their compensation for services after that date, the fiscal year of the Treasury shall be observed; and where such compensation, or any part of it, shall be by commissions upon assessments or collections, and shall during any year, in consequence of a new appointment, be due to more than one assessor or collector in the same district, such commissions shall be apportioned between such assessors or collectors; but in no case shall a greater amount of the commissions be allowed to two or more assessors or collectors in the same district than is or may be authorized by law to be allowed to one assessor or collector. And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise; but no payment shall be made to assessors or collectors on account of salaries or commissions without the certificate of the Commissioner of Internal Revenue that all reports required by law or regulation have been received, or that a satisfactory explanation has been rendered to him of the cause of the delay.

That section twenty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement in one newspaper published in each county in his collection district, if there be any, and if not, then in a newspaper published in an adjoining county; and by notifications to be posted in at



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least four public places in each county in his collection district, that the said taxes have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after the date of such notification, and shall send a copy of such notice by mail to each postmaster in the county, to be posted in his office. And if any person shall neglect to pay, as aforesaid, for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice, to be left at his dwelling or usual place of business, or be sent by mail, demanding the payment of said taxes, stating the amount thereof, with a fee of twenty cents for the issuing and service of such notice, and with four cents for each mile actually and necessarily traveled in serving the same. And if such persons shall not pay the duties or taxes, and the fee of twenty cents and mileage as aforesaid, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes and fee of twenty cents and mileage, with a penalty of ten per centum additional upon the amount of taxes. And with respect to all such taxes as are not included in the annual lists aforesaid, all taxes the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to give notice and demand payment thereof, in the manner last mentioned, within ten days from and after receiving the list thereof from the assessor, or within twenty days from and after the expiration of the time within which such tax should have been paid; and if the annual or other taxes shall not be paid within ten days from and after such notice and demand, it shall be lawful for such collector, or his deputies, to proceed to collect the said taxes, with ten per centum additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects, including stocks, securities, and evidences of debt, of the persons delinquent as aforesaid. And in case of distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods or effects, or at his or her dwelling or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification to the owner or possessor of the property and the publication or posting of such notice as herein provided, and the place proposed for sale shall not be more than five miles distant from the place of making such distraint. And said sale may be adjourned from time to time by said officer, if he shall think it advisable to do so, but not for a time to exceed in all thirty days. And if any person, bank, association, company, or corporation, liable to pay any tax, shall neglect or refuse to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person, bank, association, company, or corporation; and the collector, after demand, may levy, or

by warrant may authorize a deputy collector to levy upon all property and rights to property belonging to such person, bank, association, company, or corporation, or on which the said lien exists, for the payment of the sum due as aforesaid, with the interest and penalty for non-payment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and where such property shall consist of stocks, said certificate shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the same on their books and records, in the same manner as if transferred or assigned by the person or party holding the same, in lieu of any original or prior certificates, which shall be void, whether canceled or not. And said certificates, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt. And all persons, and officers of companies or corporations, are required, on demand of a collector or deputy collector about to distraint, or having distrained on any property or rights of property, to exhibit all books containing evidence or statements relating to the subject or subjects of distraint, or the property or rights of property liable to distraint for the tax so due as aforesaid: *Provided*, That in any case of distraint for the payment of the taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor, if, prior to the sale, payment of the amount due shall be made to the proper officer charged with the collection, together with the fees and other charges; but in case of non-payment as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall retain from the proceeds of such sale the amount demandable for the use of the United States, and a commission of five per centum thereon for his own use, with the fees and charges for distraint and sale, rendering the overplus, if any there be, to the person who may be entitled to receive the same: *Provided further*, That there shall be exempt from distraint and sale, if belonging to the head of a family, the school-books and wearing apparel necessary for such family; also arms for personal use, one cow, two hogs, five sheep and the wool thereof, provided the aggregate market value of said sheep shall not exceed fifty dollars; the necessary food for such cow, hogs, and sheep for a period not exceeding thirty days; fuel to an amount not greater in value than twenty-five dollars; provisions to an amount not greater than fifty dollars; household furniture kept for use to an amount not greater than three hundred dollars; and the books, tools, or implements of a trade or profession to an amount not greater than one hundred dollars shall also be exempt; and the officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt.

That section twenty-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in all cases where property liable to distraint for taxes may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, and charges, shall be paid to the person legally entitled to receive the same; or if he cannot be found, or refuse to receive the same, then such

surplus shall be deposited in the Treasury of the United States, to be there held for the use of the person legally entitled to receive the same, until he shall make application therefor to the Secretary of the Treasury, who, upon such application and satisfactory proofs in support thereof, shall, by warrant on the Treasury, cause the same to be paid to the applicant. And if any of the property advertised for sale as aforesaid is of a kind subject to tax, and such tax has not been paid, and the amount bid for such property is not equal to the amount of such tax, the collector may purchase the same in behalf of the United States for an amount not exceeding the said tax. And in all cases where property subject to tax, but upon which the tax has not been paid, shall be seized upon distraint and sold, the amount of such tax shall, after deducting the expenses of such sale, be first appropriated out of the proceeds thereof to the payment of said tax. And if no assessment of tax has been made upon such property, the collector shall make a return thereof in the form required by law, and the assessor shall assess the tax thereon. And all property so purchased may be sold by said collector, under such regulations as may be prescribed by the Commissioner of Internal Revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property to the Commissioner of Internal Revenue, who shall by regulation determine the fees and charges to be allowed in all cases of distraint and other seizures; or where necessary expenses for making such distraint or seizure have been incurred, and in case of sale, the said collector shall pay into the Treasury the surplus, if any there be, after defraying such fees and charges.

That section thirty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in any case where goods, chattels, or effects sufficient to satisfy the taxes imposed by law upon any person liable to pay the same shall not be found by the collector or deputy collector whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than twenty nor more than forty days from the time of giving said notice. And the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted at the post office nearest to the estate to be seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the expense of making such levy, and all charges for advertising and an officer's fee of ten dollars. And in case the real estate so seized, as aforesaid, shall consist of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees, aforesaid, to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid. And if no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States,

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and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise, the same shall be declared to be sold to the highest bidder. And said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner; and upon any sale and the payment of the purchase money shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereinafter provided, then the said collector or deputy collector shall execute to the said purchaser, upon his surrender of said certificate, a deed of the real estate purchased by him as aforesaid, reciting the facts set forth in said certificate, and in accordance with the laws of the State in which such real estate is situate upon the subject of sales of real estate under execution, which said deed shall be prima facie evidence of the facts therein stated; and if the proceedings of the officer as set forth have been substantially in accordance with the provisions of law, shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto. Any person, whose estate may be proceeded against as aforesaid, shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the sale thereof, and all further proceedings shall cease from the time of such payment. The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold as aforesaid, or any particular tract thereof, at any time within one year after the sale thereof, upon payment to the purchaser, or, in case he cannot be found in the county in which the land to be redeemed is situate, then to the collector of the district in which the land is situate, for the use of the purchaser, his heirs or assigns, the amount paid by the said purchaser and interest thereon at the rate of twenty per centum per annum. And any collector or deputy collector may, for the collection of taxes imposed upon any person or for which any person may be liable, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, or by another collector, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector or the expiration of his term of office from any other cause, said record shall be delivered to his successor in office; and a copy of every such record, certified by the collector, shall be evidence in any court of the truth of the facts therein stated. And when any lands sold, as aforesaid, shall be redeemed as hereinbefore provided, the collector shall make an entry of the fact upon the record aforesaid, and the said entry shall be

evidence of such redemption. And when any property, personal or real, seized and sold by virtue of the foregoing provisions, shall not be sufficient to satisfy the claim of the United States for which distraint or seizure may be made against any person whose property may be so seized and sold, the collector may, thereafter, and as often as the same may be necessary, proceed to seize and sell, in like manner, any other property liable to seizure of such person until the amount due from him, together with all expenses, shall be fully paid: *Provided*, That the word "county," wherever the same occurs in this act, or the acts of which this is amendatory, shall be construed to mean also a parish or any other equivalent subdivision of a State or Territory.

That section forty-four be amended by striking out all after the enacting clause and inserting the following: that each collector shall be charged with the whole amount of taxes, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors, or by his predecessor in office, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for passports, penalties, forfeitures, fees, or costs, and he shall be credited with all payments into the Treasury made as provided by law, with all stamps returned by him uncanceled to the Treasury, and with the amount of taxes contained in the lists transmitted in the manner above provided to other collectors, and by them received as aforesaid; and also with the amount of the taxes of such persons as may have absconded, or become insolvent, prior to the day when the tax ought, according to the provisions of law, to have been collected, and with all uncollected taxes transferred by him or by his deputy acting as collector to his successor in office: *Provided*, That it shall be proved to the satisfaction of the Commissioner of Internal Revenue that due diligence was used by the collector, who shall certify the facts to the First Comptroller of the Treasury. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he shall faithfully account for and pay over the proceeds thereof upon a resale of the same as required by law. In case of the death, resignation, or removal of the collector, all lists and accounts of taxes uncollected shall be transferred to his successor in office as soon as such successor shall be appointed and qualified, and it shall be the duty of such successor to collect the same.

That section forty-one be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the taxes imposed by law, however the same may be designated, and to prosecute for the recovery of any sum or sums which may be forfeited by law; and all fines, penalties, and forfeitures which may be incurred or imposed by law, shall be sued for and recovered, in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, *qui tam* or otherwise, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction. And taxes may be sued for and recovered, in the name of the United States, in any proper form of action before any circuit or district court of the United States for the district within which the liability to such tax may have been or shall be incurred, or where the party from whom such tax is due may reside at the time of the commencement of said action. But no such suit shall be commenced unless the Commissioner of Internal Revenue shall authorize or sanction the proceedings: *Provided*, That in

case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector, deputy collector, assessor, assistant assessor, revenue agent, or inspector of internal revenue, the United States shall not be subject to any costs of suit, nor shall the fees of any attorney or counsel employed by any such officer be allowed in the settlement of his account, unless the employment of such attorney or counsel shall be authorized by the Commissioner of Internal Revenue, either expressly or by general regulations.

That section forty-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that shall appear to be unjustly assessed or excessive in amount or in any manner wrongfully collected, and also repay to collectors or deputy collectors the full amount of such sums of money as shall or may be recovered against them, or any of them, in any court, for any internal taxes or licenses collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, assistant assessors, collectors, deputy collectors, and inspectors, in any suit which shall be brought against them, or any of them, by reason of anything that shall or may be done in the due performance of their official duties; and all judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties, shall be paid to the collector as internal taxes are required to be paid: *Provided*, That where a second assessment may have been made in case of a list, statement, or return which in the opinion of the assessor or assistant assessor was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be recovered, refunded, or paid back, unless it is proved that said list, statement, or return was not false or fraudulent, and did not contain any understatement or undervaluation.

That section forty-eight be amended by striking out all after the enacting clause and inserting the following: that all goods, wares, merchandise, articles, or objects, on which taxes are imposed by the provisions of law, which shall be found in the possession, or custody, or within the control of any person or persons, for the purpose of being sold or removed by such person or persons in fraud of the internal revenue laws, or with design to avoid payment of said taxes, may be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue for that purpose, and the same shall be forfeited to the United States; and also all raw materials found in the possession of any person or persons intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulent[ly] selling such manufactured articles, or with design to evade the payment of said tax; and also all tools, implements, instruments, and personal property whatsoever, in the place or building or within any yard or inclosure where such articles or such raw materials shall be found, may also be seized by any collector or deputy collector, as aforesaid, and the same shall be forfeited as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding in rem in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his custody or possession any such goods, wares, merchandise, articles, or objects, subject to tax as aforesaid, for the purpose of selling the same with the design of avoiding

payment of the taxes imposed thereon, shall be liable to a penalty of five hundred dollars, or not less than double the amount of taxes fraudulently attempted to be evaded, to be recovered in any court of competent jurisdiction; and the goods, wares, merchandise, articles, or objects, which shall be so seized by any collector or deputy collector, may, at the option of the collector, be delivered to the marshal of said district, and remain in the care and custody of said marshal, and under his control until he shall obtain possession by process of law, and the cost of seizure made before process issues shall be taxable by the court: *Provided*, That when the property so seized may be liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense, the owner thereof, the collector, or the marshal of the district, may apply to the assessor of the district to examine said property; and if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and the owner thereupon shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in amount equal to the appraised value, with such sureties as the said assessor shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said assessor with the United States district attorney for the district in which said proceedings in rem may be commenced: *Provided further*, That in case said bond shall have been executed and the property returned before seizure thereof, by virtue of the process aforesaid, the marshal shall give notice of the pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid. But if said owner shall neglect or refuse to give said bond, the assessor shall issue to the collector or marshal aforesaid an order to sell the same; and the said collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district; and the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

That sections fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-nine, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, and seventy, be, and the same are hereby, repealed, to take effect on the first day of September, eighteen hundred and sixty-six.

That section seventy-one be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that no person, firm, company, or corporation shall be engaged in, prosecute, or carry on any trade, business, or profession, hereinafter mentioned and described, until he or they shall have paid a special tax therefor in the manner hereinafter provided.

That section seventy-two be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that every person, firm, company, or corporation engaged in any trade, business, or profession, on which a special tax is imposed by law, shall register with the assistant assessor of the assessment district, first, his or their name or style, and in case of a firm or company, the names of the several persons constituting such firm or company, and their places of residence; second the trade, business, or profession, and

the place where such trade, business, or profession is to be carried on; third, if a rectifier, the number of barrels he designs to rectify; if a peddler, whether he designs to travel on foot, or with one, two, or more horses or mules; if an innkeeper, the yearly rental value of the house and property to be occupied for said purpose. All of which facts shall be returned duly certified by such assistant assessor, to both the assessor and collector of the district; and the special tax shall be paid to the collector or deputy collector of the district as hereinafter provided for such trade, business, or profession, who shall give a receipt therefor.

That section seventy-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any one who shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which a special tax is imposed by law, without payment thereof as in that behalf required, shall, for every such offense, besides being liable to the payment of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred dollars, or both, and such fine shall be distributed between the United States and the informer, if there be any, as provided by law.

That section seventy-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the receipt for the payment of any special tax shall contain and set forth the purpose, trade, business, or profession for which such tax is paid, and the name and place of abode of the person or persons paying the same; if by a rectifier, the quantity of spirits intended to be rectified; if by a peddler, whether for traveling on foot or with one, or two, or more horses or mules, the time for which payment is made, the date or time of payment, and (except in case of auctioneers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and peddlers) the place at which the trade, business, or profession for which the tax is paid shall be carried on: *Provided*, That the payment of the special tax herein imposed shall not exempt from an additional special tax the person or persons, (except lawyers, physicians, surgeons, dentists, cattle brokers, horse dealers, peddlers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and auctioneers,) or firm, company, or corporation doing business in any other place than that stated; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples, at said office or place of business. And every person exercising or carrying on any trade, business, or profession, or doing any act for which a special tax is imposed, shall, on demand of any officer of internal revenue, produce and exhibit the receipt for payment of the tax, and unless he shall do so may be taken and deemed not to have paid such tax. And in case any peddler shall refuse to exhibit his or her receipt, as aforesaid, when demanded by any officer of internal revenue, said officer may seize the horse or mule, wagon, and contents, or pack, bundle, or basket of any person so refusing, and the assessor of the district in which the seizure has occurred may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling-house, require such peddler to show cause, if any he has, why the horses or mules, wagon,

and contents, pack, bundle, or basket so seized shall not be forfeited; and in case no sufficient cause is shown, the assessor may direct a forfeiture, and issue an order to the collector or to any deputy collector of the district for the sale of the property so forfeited; and the same, after payment of the expenses of the proceedings, shall be paid to the collector for the use of the United States. And all such special taxes shall become due on the first day of May in each year, or on commencing any trade, business, or profession upon which such tax is by law imposed. In the former case the tax shall be reckoned for one year, and in the latter case, proportionately for that part of the year from the first day of the month in which the liability to a special tax commenced, to the first day of May following.

That section seventy-five be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that upon the death of any person having paid the special tax for any trade, business, or profession, it may and shall be lawful for the executors or administrators, or the wife or child, or the legal representatives of such deceased person to occupy the house or premises, and in like manner to exercise or carry on, for the residue of the term for which the tax shall have been paid, the same trade, business, or profession, as the deceased before exercised or carried on, in or upon the same houses or premises, without payment of any additional tax. And in case of the removal of any person or persons from the house or premises for which any trade, business, or profession was taxed, it shall be lawful for the person or persons so removing to any other place to carry on the trade, business, or profession specified in the tax receipt at the place to which such person or persons may remove without payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, shall be registered with the assistant assessor, and with the collector, together with the name or names of the person or persons making such change or removal, or successor to any person deceased, under regulations to be prescribed by the Commissioner of Internal Revenue.

That section seventy-six be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that in every case where more than one of the pursuits, employments, or occupations, hereinafter described, shall be pursued or carried on in the same place by the same person at the same time, except as hereinafter provided, the tax shall be paid for each according to the rates severally prescribed: *Provided*, That in cities and towns having a less population than six thousand persons according to the last preceding census, one special tax shall be held to embrace the business of land-warrant brokers, claim agents, and real-estate agents, upon payment of the highest rate of tax applicable to either one of said pursuits.

That section seventy-seven be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that no auctioneer shall, by virtue of having paid the special tax as an auctioneer, sell any goods or other property at private sale, nor shall he employ any other person to act as auctioneer in his behalf, except in his own store or warehouse or in his presence; and any auctioneer who shall sell goods or commodities otherwise than by auction, without having paid the special tax imposed upon such business, shall be subject and liable to the penalty imposed upon persons dealing in or retailing, trading or selling goods or commodities without payment of the special tax for exercising or carrying on such trade or business; and where goods or commodities are the property of any person or persons taxed to deal in or retail, or trade in or sell the same, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer to sell such goods



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or commodities for and on behalf of such person or persons in said house or premises.

That section seventy-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any number of persons, except lawyers, conveyancers, claim agents, patent agents, physicians, surgeons, dentists, cattle brokers, horse dealers, and peddlers, doing business in co-partnership at any one place, shall be required to pay but one special tax for such co-partnership.

That section seventy-nine be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that a special tax shall be, and hereby is, imposed as follows, that is to say:

One. Banks chartered or organized under a general law, with a capital not exceeding fifty thousand dollars, and bankers using or employing a capital not exceeding the sum of fifty thousand dollars, shall pay one hundred dollars; when exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, two dollars. Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker: *Provided*, That any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.

Two. Wholesale dealers, whose annual sales do not exceed fifty thousand dollars, shall pay fifty dollars; and if their annual sales exceed fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, they shall pay one dollar; and the amount of all sales within the year beyond fifty thousand dollars shall be returned monthly to the assistant assessor, and the tax on sales in excess of fifty thousand dollars shall be assessed by the assessors, and paid monthly as other monthly taxes are assessed and paid. Every person shall be regarded as a wholesale dealer whose business it is, for himself or on commission, to sell or offer to sell any goods, wares, or merchandise of foreign or domestic production, not including wines, spirits, or malt liquors, whose annual sales exceed twenty-five thousand dollars. And the payment of the special tax as a wholesale dealer shall not exempt any such person acting as a commercial broker from the payment of the special tax imposed upon commercial brokers: *Provided*, That no person paying the special tax as a wholesale dealer in liquors shall be required to pay an additional special tax on account of the sale of other goods, wares, or merchandise on the same premises: *And provided further*, That, in estimating the amount of sales for the purposes of this section, any sales made by or through another wholesale dealer on commission shall not be again estimated and included as sold by the party for whom the sale was made.

Three. Retail dealers shall pay ten dollars. Every person whose business or occupation it is to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including spirits, wines, ale, beer, or other malt liquors, and whose annual sales exceed one thousand and do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer.

Four. Wholesale dealers in liquors whose annual sales do not exceed fifty thousand dollars shall pay one hundred dollars, and if exceeding fifty thousand dollars, for every addi-

tional one thousand dollars in excess of fifty thousand dollars, they shall pay one dollar, and such excess shall be assessed and paid in the same manner as required of wholesale dealers. Every person who shall sell or offer for sale any distilled spirits, fermented liquors, or wines of any kind in quantities of more than three gallons at one time to the same purchaser, or whose annual sales, including sales of other merchandise, shall exceed twenty-five thousand dollars, shall be regarded as a wholesale dealer in liquors.

Five. Retail dealers in liquors shall pay twenty-five dollars. Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors in quantities of three gallons or less, and whose annual sales, including all sales of other merchandise, do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer in liquors.

Six. Lottery ticket dealers shall pay one hundred dollars. Every person, association, firm, or corporation who shall make, sell, or offer to sell lottery tickets or fractional parts thereof, or any token, certificate, or device representing or intending to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery, or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery ticket dealer: *Provided*, That the managers of any lottery shall give bond in the sum of one thousand dollars that the person paying such tax shall not sell any tickets or supplementary ticket of such lottery which has not been duly stamped according to law, and that he will pay the tax imposed by law upon the gross receipts of his sales.

Seven. Horse dealers shall pay ten dollars. Any person whose business it is to buy or sell horses or mules shall be regarded a horse dealer: *Provided*, That one special tax having been paid, no additional tax shall be imposed upon any horse dealer for keeping a livery stable, nor upon any livery stable keeper for dealing in horses.

Eight. Livery stable keepers shall pay ten dollars. Any person whose business it is to keep horses for hire, or to let, or to keep, feed, or board horses for others, shall be regarded as a livery stable keeper.

Nine. Brokers shall pay fifty dollars. Every person, firm, or company, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

Ten. Pawnbrokers using or employing a capital of not exceeding fifty thousand dollars, shall pay fifty dollars; and when using or employing a capital exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, shall pay two dollars. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon, shall be deemed a pawnbroker.

Eleven. Land-warrant brokers shall pay twenty-five dollars. Any person shall be regarded as a land-warrant broker who makes a business of buying and selling land-warrants or of furnishing them to settlers or other persons.

Twelve. Cattle brokers, whose annual sales do not exceed ten thousand dollars, shall pay ten dollars; and if exceeding the sum of ten thousand dollars, one dollar for each additional thousand dollars; and such excess shall be assessed and paid in the same manner as required of wholesale dealers. Any person

whose business it is to buy or sell or deal in cattle, hogs, or sheep, shall be considered as a cattle broker.

Thirteen. Produce brokers, whose annual sales do not exceed the sum of ten thousand dollars, shall pay ten dollars. Every person other than one having paid the special tax as a commercial broker or cattle broker, or wholesale or retail dealer, or peddler, whose occupation it is to buy or sell agricultural or farm products, and whose annual sales do not exceed ten thousand dollars, shall be regarded as a produce broker.

Fourteen. Commercial brokers shall pay twenty dollars. Any person or firm whose business it is, as a broker, to negotiate sales or purchases of goods, wares, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers, or consignors, or consignees of freight carried by vessels, shall be regarded a commercial broker.

Fifteen. Custom-house brokers shall pay ten dollars. Every person whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded a custom-house broker.

Sixteen. Distillers shall pay one hundred dollars. Every person, firm, or corporation, who distills or manufactures spirits, or who brews or makes mash, wort, or wash for distillation or the production of spirits, shall be deemed a distiller: *Provided*, That distillers of apples, grapes, or peaches, distilling or manufacturing fifty and less than one hundred and fifty barrels per year from the same, shall pay fifty dollars; and those distilling or manufacturing less than fifty barrels per year from the same, shall pay twenty dollars: *And provided further*, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

Seventeen. Brewers shall pay one hundred dollars. Every person, firm, or corporation who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer: *Provided*, That any person, firm, or corporation, who manufactures less than five hundred barrels per year, shall pay the sum of fifty dollars.

Eighteen. Rectifiers who shall rectify any quantity of spirituous liquors, not exceeding five hundred barrels, packages, or casks, containing not more than forty gallons to each barrel, package, or cask, shall pay twenty-five dollars; and twenty-five dollars additional for each additional five hundred such barrels, packages, or casks, or any fractional part thereof. Every person, firm, or corporation who rectifies, purifies, or refines distilled spirits or wines by any process, or who, by mixing distilled spirits or wine with any materials, manufactures any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, "spirits," or "wine bitters," or any other name, shall be regarded as a rectifier.

Nineteen. Coal-oil distillers and distillers of burning fluid and camphene shall pay fifty dollars. Any person, firm, or corporation, who shall refine, produce, or distill petroleum or rock oil, or oil made of coal, asphaltum, shale, peat, or other bituminous substances, or shall manufacture illuminating oil, shall be regarded as a coal-oil distiller.

Twenty. Keepers of hotels, inns, or taverns, shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be so occupied as follows, to wit: when the rent or valuation of the yearly rental of said house and property shall be two hundred dollars, or less, they shall pay ten dollars; and if exceeding two hundred dollars, for any

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additional one hundred dollars or fractional part thereof in excess of two hundred dollars, five dollars: *Provided*, That a payment of such special tax shall be construed to permit the person so keeping a hotel, inn, or tavern, to furnish the necessary food for the animals of such travelers or sojourners without the payment of an additional special tax as a livery stable keeper. Every place where food and lodging are provided for and furnished to travelers and sojourners for pay shall be regarded as a hotel, inn, or tavern: *Provided*, That keepers of hotels, taverns, and eating-houses, in which liquors are sold by retail, to be drank upon the premises, shall pay an additional tax of twenty-five dollars. The yearly rental shall be fixed and established by the assistant assessor of the proper assessment district at its proper value; but if rented, at not less than the actual rent agreed on by the parties. All steamers and vessels, upon waters of the United States, on board of which passengers or travelers are provided with food or lodgings, shall be subject to and required to pay twenty-five dollars: *Provided*, That any person who shall make a false or fraudulent return concerning the actual rent mentioned in this paragraph shall be subject to a penalty therefor of double the amount of the tax.

Twenty-one. Keepers of eating-houses shall pay ten dollars. Every place where food or refreshments of any kind, not including spirits, wines, ale, beer, or other malt liquors, are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house. But the keeper of an eating-house, having paid the tax therefor, shall not be required to pay a special tax as a confectioner, anything in this [act] to the contrary notwithstanding. And keepers of hotels, inns, taverns, and eating-houses, having paid the special tax therefor, shall not be required to pay additional tax for selling tobacco, snuff, or cigars on the same premises, anything in this act to the contrary notwithstanding.

Twenty-two. Confectioners shall pay ten dollars. Every person who sells at retail confectionery, sweetmeats, comfits, or other confections, in any building, shall be regarded as a confectioner. But wholesale and retail dealers, having paid the special tax therefor, shall not be required to pay the special tax as a confectioner, anything in this act to the contrary notwithstanding.

Twenty-three. Claim agents and agents for procuring patents shall pay ten dollars. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government, or procure patents, shall be deemed a claim or patent agent, as the case may be.

Twenty-four. Patent-right dealers shall pay ten dollars. Every person whose business it is to sell, or offer for sale, patent-rights, shall be regarded as a patent-right dealer.

Twenty-five. Real-estate agents shall pay ten dollars. Every person whose business it is to sell or offer for sale real estate for others, or to rent houses, stores, or other buildings or real estate, or to collect rent for others, except lawyers paying a special tax as such, shall be regarded as a real-estate agent.

Twenty-six. Conveyancers shall pay ten dollars. Every person, other than one having paid the special tax as a lawyer or claim agent, whose business it is to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, shall be regarded as a conveyancer.

Twenty-seven. Intelligence office keepers shall pay ten dollars. Every person whose business it is to find or furnish places of employment for others, or to find or furnish servants upon application in writing or otherwise, receiving compensation therefor, shall be regarded as an intelligence office keeper.

Twenty-eight. Insurance agents shall pay ten dollars. Any person who shall act as agent

of any fire, marine, life, mutual, or other insurance company or companies, or any person who shall negotiate or procure insurance for which he receives any commission or other compensation, shall be regarded as an insurance agent: *Provided*, That if the annual receipts of any person as such agent shall not exceed one hundred dollars, he shall pay five dollars only: *And provided further*, That no special tax shall be imposed upon any person for selling tickets or contracts of insurance against injury to persons while traveling by land or water.

Twenty-nine. Foreign insurance agents shall pay fifty dollars. Every person who shall act as agent of any foreign fire, marine, life, mutual, or other insurance company or companies shall be regarded as a foreign insurance agent.

Thirty. Auctioneers, whose annual sales do not exceed ten thousand dollars shall pay ten dollars, and if exceeding ten thousand dollars shall pay twenty dollars. Every person shall be deemed an auctioneer whose business it is to offer property at public sale to the highest or best bidder: *Provided*, That the provisions of this paragraph shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by or for executors, administrators, or guardians of any estate held by them as such.

Thirty-one. Manufacturers shall pay ten dollars. Any person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise, not otherwise provided for, exceeding annually the sum of one thousand dollars, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages with his own name or trade-mark thereon any articles or compound, shall be regarded as a manufacturer.

Thirty-two. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses, or mules, the first class, and shall pay fifty dollars; when traveling with two horses, or mules, the second class, and shall pay twenty-five dollars; when traveling with one horse, or mule, the third class, and shall pay fifteen dollars; when traveling on foot, or by public conveyance, the fourth class, and shall pay ten dollars. Any person, except persons peddling only charcoal, newspapers, magazines, Bibles, religious tracts, or the products of his farm or garden, who sells or offers to sell at retail, goods, wares, or other commodities, traveling from place to place in the town or through the country, shall be regarded a peddler: *Provided*, That any peddler who sells, or offers to sell, distilled spirits, fermented liquors or wines, dry-goods, foreign or domestic, by one or more original packages or pieces, at one time, to the same person or persons, or who peddles jewelry, shall pay fifty dollars: *Provided further*, That manufacturers and producers of agricultural tools and implements, garden seeds, fruit and ornamental trees, stoves and hollow-ware, brooms, wooden-ware, charcoal, and gunpowder, delivering and selling at wholesale any of said articles, by themselves or their authorized agents, at places other than the place of manufacture, shall not therefor be required to pay any special tax: *Provided further*, That persons who shall sell shell or other fish or both, traveling from place to place, and not from any shop or stand, shall be required to pay five dollars only; and no special tax shall be imposed for selling shell or other fish from hand-carts or wheelbarrows.

Thirty-three. Apothecaries shall pay ten dollars. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, or where medicines are sold, shall be regarded as an apothecary. But wholesale and retail dealers, who have paid the special tax therefor, shall not be required to pay a tax as an apothecary; nor shall apothecaries who have

paid the special tax be required to pay the tax as retail dealers in liquor in consequence of selling alcohol; or of selling or of dispensing, upon physicians' prescriptions, the wines and spirits official in the United States and other national pharmacopœias, in quantities not exceeding half a pint of either at any one time, nor exceeding in aggregate cost value the sum of three hundred dollars per annum.

Thirty-four. Photographers shall pay ten dollars. Any person who makes for sale photographs, ambrotypes, daguerreotypes, or pictures, by the action of light, shall be regarded as a photographer.

Thirty-five. Tobacconists shall pay ten dollars. Any person, firm or corporation whose business it is to manufacture cigars, snuff, or tobacco in any form, shall be regarded a tobacconist.

Thirty-six. Butchers shall pay ten dollars. Every person whose business it is to sell butchers' meat at retail shall be regarded as a butcher: *Provided*, That no butcher having paid the special tax therefor shall be required to pay the special tax as a retail dealer on account of selling other articles at the same store, stall, or premises: *Provided further*, That butchers who sell butchers' meat exclusively by themselves or agents, traveling from place to place, and not from any shop or stand, shall be required to pay five dollars only, any existing law to the contrary notwithstanding.

Thirty-seven. Proprietors of theaters, museums, and concert halls, shall pay one hundred dollars. Every edifice used for the purpose of dramatic or operatic or other representations, plays or performances, for admission to which entrance money is received, not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater: *Provided*, That when any such edifice is under lease at the passage of this act the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

Thirty-eight. The proprietor or proprietors of circuses shall pay [one] hundred dollars. Every building, tent, space, or area, where feats of horsemanship or acrobatic sports or theatrical performances are exhibited, shall be regarded as a circus: *Provided*, That no special tax paid in one State shall exempt exhibitions from the tax in another State. And but one special tax shall be imposed for exhibitions within any one State.

Thirty-nine. Jugglers shall pay twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay ten dollars: *Provided*, That a special tax paid in one State shall not exempt exhibitions from the tax in another State. And but one special tax shall be required for exhibitions within any one State.

Forty. Proprietors of bowling alleys and billiard rooms shall pay ten dollars for each alley or table. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling alley or billiard room, respectively.

Forty-one. Proprietors of gift enterprises shall pay one hundred and fifty dollars. Every person, firm, or corporation who shall sell or offer for sale any real estate or article of merchandise of any description whatsoever, or any ticket of admission to any exhibition or performance, with a promise, express or implied, to give or bestow, or in any manner hold out the promise of gift or bestowal of any article or thing for and in consideration of the purchase by any person of any other article or thing, shall be regarded as a proprietor of a gift enterprise: *Provided*, That no such proprietor, in consequence of being thus taxed, shall be exempt from paying any other tax imposed by law, and the special tax herein required shall be in addition thereto.

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Forty-two. Owners of stallions and jacks shall pay ten dollars. Every person who keeps a horse or a jack for the use of mares, requiring or receiving pay therefor, shall be regarded as the owner thereof, and shall furnish a statement to the assessor or assistant assessor, which shall contain a brief description of the animal, its age, and place or places where used or to be used: *Provided*, That all accounts, notes, or demands for the use of any such horse or jack, the owner or keeper thereof not having paid the tax as aforesaid, shall be void.

Forty-three. Lawyers shall pay ten dollars. Every person who for fee or reward shall prosecute or defend causes in court of record or other judicial tribunal of the United States or of any of the States, or whose business it is to give legal advice in relation to any cause or matter whatever, shall be deemed to be a lawyer.

Forty-four. Physicians, surgeons, and dentists shall pay ten dollars. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist.

Forty-five. Architects and civil engineers shall pay ten dollars. Every person whose business it is to plan, design, or superintend the construction of buildings, or ships, or of roads, or bridges, or canals, or railroads, shall be regarded as an architect and civil engineer: *Provided*, That this shall not include a practical carpenter who labors on a building.

Forty-six. Builders and contractors shall pay ten dollars. Every person whose business it is to construct buildings, or vessels, or bridges, or canals, or railroads, by contract, whose receipts from building contracts exceed two thousand five hundred dollars in any one year, shall be regarded as a builder and contractor.

Forty-seven. Plumbers and gas-fitters shall pay ten dollars. Every person, firm, or corporation, whose business it is to fit, furnish, or sell plumbing material, gas-pipes, gas-burners, or other gas-fixtures, shall be regarded a plumber and gas-fitter.

Forty-eight. Assayers, assaying gold and silver, or either, of a value not exceeding in one year two hundred and fifty thousand dollars, shall pay one hundred dollars, and two hundred dollars when the value exceeds two hundred and fifty thousand dollars, and does not exceed five hundred thousand dollars, and five hundred dollars when the value exceeds five hundred thousand dollars. Any person or persons or corporation whose business or occupation it is to separate gold and silver from other metals or mineral substances with which such gold or silver, or both, are alloyed, combined, or united, or to ascertain or determine the quantity of gold or silver in any alloy or combination with other metals, shall be deemed an assayer.

Forty-nine. Miners shall pay ten dollars. Every person, firm, or company, who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having paid the tax therefor as a manufacturer, and no other, shall be regarded as a miner: *Provided*, That this shall not apply to any miner whose receipts as such shall not exceed, annually, one thousand dollars.

Fifty. Express carriers and agents shall pay ten dollars. Every person, firm, or company, engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of one thousand dollars per annum, shall be regarded as an express carrier: *Provided*, That but one special tax of ten dollars shall be imposed upon any one person, firm, or company, in respect to all the business to be done by such person, firm, or company, on a continuous route, and the payment of such tax shall cover all business done

upon such route by such person, firm, or company, anywhere in the United States; and such tax shall be required only from the principal in such business, and not from any subordinate: *Provided further*, That draymen and teamsters owning only one dray or team shall not be required to pay such tax.

Fifty-one. Grinders of coffee or spices shall pay one hundred dollars. Any person who manufactures or prepares for use and sale, by grinding or other process, coffee, spices, or mustard, or adulterated coffee, spices, or mustard, or any article or compound intended for use in the adulteration of or as substitutes for coffee, spices, or mustard, shall be regarded as a grinder of coffee or spices: *Provided*, That any person who shall roast coffee for use and sale shall be required to pay the special tax herein imposed upon grinders of coffee or spices.

That section eighty be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that the special tax shall not be imposed upon apothecaries, confectioners, butchers, keepers of eating-houses, hotels, inns, or taverns, or retail dealers, except retail dealers in spirituous and malt liquors, when their annual gross receipts shall not exceed the sum of one thousand dollars, any provision of law to the contrary notwithstanding; the amount of such annual receipts to be ascertained or estimated in such manner as the Commissioner of Internal Revenue shall prescribe, as well as the amount of all other annual sales or receipts where the tax is graduated by the amount of sales or receipts; and where the amount of the tax has been increased by law above the amount paid by any person, firm, or company, or has been understated or underestimated, such person, firm, or company shall be again assessed, and pay the amount of such increase: *Provided*, That when any person, before the passage of this act, has been assessed for a license, the amount thus assessed being equal to the tax herein imposed for the business covered by such license, no special tax shall be assessed until the expiration of the period for which such license was assessed.

That section eighty-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that nothing contained in the preceding sections of this act shall be construed to impose a special tax upon vintners who sell wine of their own growth at the place where the same is made; nor upon apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines; nor shall physicians be taxed for keeping on hand medicines solely for the purpose of making up their own prescriptions for their own patients; nor shall farmers be taxed as manufacturers or producers for making butter or cheese, with milk from their own cows, or for any other farm products: *Provided*, That the payment of any tax imposed by law shall not be held or construed to exempt any person carrying on any trade, business, or profession, from any penalty or punishment provided by the laws of any State for carrying on such trade, business or profession within such State, or in any manner to authorize the commencement or continuance of such trade, business, or profession, contrary to the laws of such State, or in places prohibited by municipal law; nor shall the payment of any tax herein provided be held or construed to prohibit or prevent any State from placing a duty or tax for State or other purposes on any trade, business, or profession, upon which a tax is imposed by law.

That section eighty-six be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation, manufacturing or producing goods, wares, and merchandise, sold or removed for consumption or use, upon which taxes are imposed by law, shall, in their return of the value and quantity,

render an account of the full amount of actual sales made by the manufacturer, producer, or agent thereof, and shall state whether any part, and if so, what part, of said goods, wares, and merchandise, has been consumed or used by the owner, owners, or agent, or used for the production of another manufacture or product, together with the market value of the same at the time of such use or consumption; whether such goods, wares, and merchandise were shipped for a foreign port or consigned to auction or commission merchants, other than agents, for sale; and shall make a return according to the value at the place of shipment, when shipped for a foreign port, or according to the value at the place of manufacture or production, when removed for use or consumption, or consigned to others than agents of the manufacturer or producer. The value and quantity of the goods, wares, and merchandise required to be stated as aforesaid shall be estimated by the actual sales made by the manufacturer or by his agent. And where such goods, wares, and merchandise have been removed for consumption or for delivery to others, or placed on shipboard, or are no longer within the custody or control of the manufacturer or his agent, not being in his factory, store, or warehouse, the value shall be estimated at the average of the market value of the like goods, wares, and merchandise at the time when the same became liable to tax.

That section eighty-seven be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation who may now be engaged in the manufacture of tobacco, snuff, or cigars, or who shall hereafter commence or engage in such manufacture, before commencing, or, if already commenced, before continuing such manufacture for which they may be liable to be assessed under the provisions of law, shall, in addition to a compliance with all other provisions of law, furnish to the assessor or assistant assessor a statement, subscribed under oath or affirmation, accurately setting forth the place, and, if in a city, the street and number of the street where the manufacturing is, or is to be carried on, the name and description of the manufactured article, and, if the same shall be manufactured for or to be sold and delivered to any other person or party, the name and residence and business or occupation of the person or party for whom the said article is to be manufactured or to whom it is to be delivered, and generally the kind and quality manufactured or proposed to be manufactured; and shall give a bond to the United States, with one or more sureties to be approved by the collector of the district, in the sum of three thousand dollars for each cutting-machine kept for use; in the sum of one thousand dollars for each screw-press kept for use in making plug or pressed tobacco; in the sum of five thousand dollars for each hydraulic press kept for use; in the sum of one thousand dollars for each snuff mull kept for use; and in the sum of one hundred dollars for each person employed by said person, firm, company, or corporation in making cigars; conditioned that he will comply with all the requirements of law in regard to the manufacture of tobacco, snuff, or cigars; that he will not employ others to manufacture cigars who have not obtained the requisite permit for making cigars; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on any manufacture of tobacco, snuff, or cigars; that he will render truly and correctly all the returns, statements, and inventories prescribed for manufacturers of tobacco, snuff, and cigars; that whenever he shall add to the number of cutting-machines, presses, snuff mulls, or cigar makers, used or employed by him, he will immediately give notice thereof to the collector who holds the bonds that he will pay to the collector of the district all the taxes which may or should be assessed and due on any tobacco, snuff, or



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cigars so manufactured, and that he will not knowingly sell, purchase, or receive for sale any such tobacco, snuff, or cigars which have not been inspected, branded, or stamped as required by law, or upon which the tax has not been paid if it has accrued or become payable. And the said bond may be renewed or changed from time to time, in regard to the sureties or amount thereof, according to the discretion of the collector, under the instructions of the Commissioner of internal revenue. And every person, firm, company, or corporation aforesaid shall exhibit, whenever demanded by any officer of internal revenue, a certificate from the collector, who is hereby authorized and directed to issue the same, setting forth the kind and number of machines, presses, snuff mills, and number of cigar makers for which the bond has been given. And any person, firm, or corporation manufacturing tobacco, snuff, or cigars of any description without first furnishing the bond in the cases herein required, shall be subject to a fine of three hundred dollars, and in addition thereto, upon conviction thereof, shall be liable to imprisonment for a term not exceeding one year, at the discretion of the court.

That section eighty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that it shall be the duty of the assistant assessor of each district to keep a record, in a book or books to be provided for the purpose, to be open to the inspection of any person upon reasonable request, of the name of any and every person, firm, company, or corporation who may be engaged in the manufacture of tobacco, snuff, or cigars in his district, together with the place where such manufacture is carried on, and place of residence of the person or persons engaged therein; and the assistant assessor shall enter in said record, under the name of each manufacturer, an abstract of his monthly returns; and each assessor shall keep a similar record for the entire district.

That section eighty-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in all cases where tobacco, snuff, or cigars, of any description, are manufactured, in whole or in part, upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or contract with another that the manufactured article is to be received in payment therefor or any part thereof, the tax imposed by law thereon may be assessed upon the party for whom the same was made, or to whom the same was delivered as aforesaid, or upon the person or party who made the same, as the assessor shall deem best for the collection of the revenue. And in case of fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be liable to forfeiture; and such articles shall be liable to be assessed the highest rates of tax imposed by law upon any article of like kind.

That section ninety be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person, firm, company, or corporation, now or hereafter engaged in the manufacture of tobacco, snuff, or cigars, of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff-flour, snuff, cigars, tinfoil, licorice, and stems, held or owned by him or them on the first day of January of each year, or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by him or them, and what was purchased from others, whether

chewing, smoking, fine-cut shorts, pressed, plug, snuff-flour, or prepared snuff, or cigars, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and every such person, company, or corporation shall keep in book form an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on or before the tenth day of each month, furnish to the assistant assessor of the district a true and accurate abstract of all such purchases and sales, or removals, which abstract shall be verified by oath or affirmation; and in case of refusal or neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he or they shall forfeit the sum of five hundred dollars, to be recovered with costs of suit. And it shall be the duty of any manufacturer or vendor of tinfoil, or other material used in manufacturing tobacco, snuff, or cigars, on demand of an officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tinfoil or other materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act. And all the provisions of law relating to manufactures generally, so far as applicable and not inconsistent herewith, shall be held to apply to the manufacture of tobacco, snuff, and cigars: *Provided*, That the tax imposed upon the manufacturer of tobacco, snuff, and cigars, shall be held to accrue upon the sale or removal from the place of manufacture, unless removed to a bonded warehouse: *Provided further*, That manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, may be transferred, without payment of the tax, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds or other security as may be prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such a warehouse to any other bonded warehouse established as aforesaid, and may be withdrawn from bonded warehouse for consumption on payment of the tax, or removed for export to a foreign country without payment of tax, in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, snuff, or cigars in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, snuff, or cigars.

That section ninety-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that all manufactured tobacco, snuff, or cigars, shall, before the same is used or removed for consumption, be inspected by an inspector appointed under the provisions of law, who shall mark or affix a stamp upon the box or other package containing such tobacco, snuff, or cigars, in a manner to be prescribed by the Commissioner of Internal Revenue, denoting the kind, quantity, or number contained in each package, with the date of inspection and the name of the inspector, and the collection district. The fees of such inspector shall in all cases be paid

by the owner of the manufactured tobacco, snuff, or cigars, so inspected. And any person who shall affix upon any box or other package containing such tobacco, snuff, or cigars, any mark or stamp which shall be false or fraudulent in any of the particulars before recited in this section, or shall, with intent to defraud the United States, or to cause the same to be defrauded, change in any manner such stamp or mark, or such box or package so marked or stamped, shall be liable to a fine of not less than fifty dollars, or to imprisonment, not exceeding two years, for every such offense. And all cigars manufactured after the passage of this act shall be packed in boxes or paper packages. And any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed, unless otherwise provided, shall be forfeited, and may be seized wherever found, and shall be sold, and the proceeds of such sale shall be distributed between the United States and the informer, if there be any, as provided by law. The Commissioner of Internal Revenue shall keep an account of all stamps delivered to the several inspectors; and said inspectors shall also keep an account of all stamps by them used or placed upon boxes containing cigars, and of all tobacco, snuff, and cigars inspected, and the name of the person, firm, or company for whom the same were so inspected, and shall return to the assessor of the district a separate and distinct account of the same, and also return to the said Commissioner, on demand, all stamps not otherwise accounted for, and shall give a bond for a faithful performance of all the duties to which he may be assigned, and to return or account for all stamps which may be placed in his hands.

That section ninety-two be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, snuff, or cigars upon which the taxes imposed by law have not been paid, with the knowledge thereof, such person shall be liable to a penalty of one hundred dollars for each offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, from any manufacturer who has not paid the special tax, shall be liable for each and every offense to a penalty of one hundred dollars, and, in addition thereto, a forfeiture of all the articles, as aforesaid, so purchased or received, or the full value thereof. And every person, before making any cigars after the passage of this act, shall apply for and procure from the assistant assessor of the district in which he resides a permit authorizing such persons to carry on the trade of cigar making, for which permit he shall pay said assistant assessor the sum of twenty-five cents. And every person employed or working at the business of cigar making in any other district than that in which he or she is a resident shall, before making any cigars in such other district, present said permit to the assistant assessor of the district where so employed or working, and procure the indorsement of said assistant assessor thereon, authorizing said business in said district, for which indorsement the assistant assessor shall be entitled to receive from the applicant the sum of ten cents. And it shall be the duty of every assistant assessor, upon application of any person residing in the district, to furnish a permit, or to indorse upon the permit of the applicant,

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if resident in another district, authority to pursue the trade of cigar making within the proper district of such assistant assessor; and said assistant assessor shall keep a record of all permits granted or indorsed by him, showing the date of each permit, the name, residence, and place of employment of the party named therein, the name and district of the officer who originally granted the same, or who may have made any subsequent indorsements thereon, and the name or names of the party or parties by whom the person named in such permit is employed, or, if working for himself, stating such fact; and every person making cigars shall keep an accurate account in a book of all the cigars made by him, for whom, and their kind or quality; and, if made for any other person, shall state in said account the name of the person for whom the same were made, and his place of business, and shall, on the first Monday of every month, deliver to the assistant assessor of the district a copy of such account, verified by oath or affirmation that the same is true and correct. And if any person shall make any cigars without procuring such permit, or the proper indorsements thereon, or neglect to keep such account in book-form, he shall be punished by a fine of five dollars for each day he shall so offend, or by imprisonment for such time as the court may order for each day's offense, not exceeding thirty days in the whole, upon any one conviction. And if any person making cigars shall fail to make the return herein required, or shall make a false return, he shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days. And any person may apply to the assistant assessor or inspector of the district to have any cigars of his own manufacture counted; and on receiving a certificate of the number, for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the tax. A copy of the certificate shall be retained by the assistant assessor or by the inspector, who shall return the same to the assessor of the district. The purchaser shall pack such cigars in boxes or paper packages, and have the same inspected and marked or stamped according to the provisions of law, and shall make a return of the same, as inspected, to the assistant assessor of the district wherein the same were manufactured, and, unless removed to a bonded warehouse, shall pay the taxes on such cigars within fifteen days after purchasing them, to the collector of the district wherein they were manufactured, and before the same have been removed from the store or building of such purchaser, or from his possession; and if such purchaser shall neglect for more than fifteen days to pack and have such cigars duly inspected, and to pay the taxes thereon according to law, he shall be fined not exceeding five hundred dollars, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars may be seized by the collector and shall be forfeited to the United States. And if any person, firm, company, or corporation shall employ or procure any person to make any cigars, who has not the permit or the indorsement thereon required by this act, he shall be punished by a fine of ten dollars for each day he shall so employ such person, or by imprisonment not exceeding ten days. And if any person shall be found making cigars without such permit or the indorsement thereon, the collector of the district may seize any cigars, or tobacco for making cigars, which may be found in possession of such person, and the same shall be forfeited to the United States and sold; and the proceeds of such sale shall be distributed between the United States and the informer, if there be any, as provided by law.

That section ninety-three be amended by

striking out all after the enacting clause and inserting in lieu thereof the following: that all goods, wares, and merchandise, or articles manufactured, made, or produced (except refined petroleum, refined coal oil, cotton, gold and silver, spirituous and malt liquors, manufactured tobacco, snuff, and cigars) by any person or firm, where the product shall not exceed the rate of one thousand dollars per annum, and shall be made or produced by the labor of such person or firm, or by his or their family, shall be, and are hereby, exempt from tax; where the product shall exceed such rate, and not exceed the rate of three thousand dollars, the tax shall be levied, assessed, and collected only upon the excess above the rate of one thousand dollars per annum; and in all other cases the whole annual product, including any business or transaction where one party has been furnished with materials, or any part thereof, and employed by another party to manufacture, make, or finish the goods, wares, and merchandise, or articles, paying or promising to pay therefor, and to whom the same are returned when so made and finished, shall be assessed and the tax paid thereon by the producer or manufacturer: *Provided*, That whenever a producer or manufacturer shall use or consume, or shall remove for consumption or use, any articles, goods, wares, or merchandise, which, if removed for sale, would be liable to taxation, he shall be assessed for the tax upon the articles, goods, wares, or merchandise so used, or so removed for consumption or use; but naphtha, the product of the distillation of petroleum, and other similar bituminous substances, when used or consumed on the premises for fuel or cleaning, shall be exempt from tax.

That section ninety-four be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that upon the articles, goods, wares, and merchandise hereinafter mentioned, except where otherwise provided, which shall be produced and sold, or be manufactured or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption or use, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be assessed, collected, and paid the following taxes, to be paid by the producer or manufacturer thereof, that is to say:

On candles, of whatever material made, a tax of five per centum ad valorem.

On gas, illuminating, made of coal wholly or in part, or any other material, when the product shall not be above two hundred thousand cubic feet per month, a tax of ten cents per one thousand cubic feet; when the product shall be above two and not exceeding five hundred thousand cubic feet per month, a tax of fifteen cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five millions of cubic feet per month, a tax of twenty cents per one thousand cubic feet; when the product shall be above five millions, a tax of twenty-five cents per one thousand cubic feet. And the general average of the monthly product for the year preceding the return required by law shall determine the rate of tax herein imposed. And where any gas-works have not been in operation for the next year preceding the return as aforesaid, then the rate shall be determined by the estimated average of the monthly product: *Provided*, That the product required to be returned by law by any gas company shall be understood to be, in addition to the gas consumed by said company or other party, the product charged in the bills actually rendered by the gas company during the month preceding the return; and until the thirtieth day of April, eighteen hundred and sixty-seven, all gas companies whose price is fixed by law are authorized to add the tax herein imposed, to the price per thousand feet on gas sold; and all such companies which have heretofore con-

tracted to furnish gas to municipal corporations are, in like manner and for the same period, authorized to add such tax to such contract price: *Provided further*, That all gas furnished for lighting street lamps or for other purposes, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house, shall be subject to tax whatever the amount of product, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That gas companies located within the corporate limits of any city or town, whether in the same district or otherwise, or so located as to compete with each other, shall pay the rate of tax imposed by law upon the company having the largest production: *And provided further*, That coal tar and ammoniacal liquor produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar, and the products of the manufacture of ammoniacal liquor thus produced, shall be exempt from tax.

On illuminating, lubricating, or other mineral oils, marking not less than thirty-six nor more than fifty-nine degrees Baumé's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, twenty cents per gallon; and all such oils between the specific gravity, by Baumé's test, of thirty-six and fifty-nine degrees, inclusive, shall be deemed refined illuminating oil; and any person or persons who, for the purpose of sale or consumption, shall mix any of the heavier paraffine oils with such illuminating oils, or with naphtha, or either one with the other, shall be deemed manufacturers of illuminating oil, and taxed as such; and said oil thus mixed, either with or without further distillation, shall be subject to a tax of twenty cents per gallon if, after said mixing or distillation, the product marks, by Baumé's hydrometer, between said points of thirty-six and fifty-nine degrees, inclusive.

On illuminating, lubricating, or other mineral oils, marking not less than thirty-six nor more than fifty-nine degrees Baumé's hydrometer, the exclusive product of the refining of crude oil produced by a single distillation of coal, shale, asphaltum, peat, or other bituminous substances, not otherwise provided for, ten cents per gallon.

On oil, naphtha, benzine, benzole, or gasoline, marking more than fifty-nine degrees Baumé's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, a tax of ten cents per gallon: *Provided*, That distillers and refiners of illuminating, lubricating, or other mineral oil, naphtha, benzine, benzole, or gasoline, shall be subject to all the provisions of law applicable to distillers of spirits, with regard to special taxes, bonds, returns, assessments, removing to and withdrawing from warehouses, liens, penalties, forfeitures, drawbacks, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of taxes, so far as the same may, in the judgment of the Commissioner of Internal Revenue, and under regulations prescribed by him, be deemed necessary for that purpose: *And provided further*, That distillers and refiners of coal or mineral oil, whose product shall not exceed twenty-five barrels per day, on a monthly average, shall not be required to make returns oftener than once in thirty days.

On spirits of turpentine, ten cents per gallon.

On coffee, roasted or ground, on all ground spices and dry mustard, and upon all articles intended for use as substitutes for or as adulterations of coffee, spices, or mustard, and upon all compounds and mixtures prepared for sale,

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or intended for use and sale as coffee, spices, or mustard, or as substitutes therefor, one cent per pound: *Provided*, That the exemption of one thousand dollars in annual value of product manufactured shall not apply to any of the above-specified articles mentioned in this paragraph.

On molasses produced from the sugar-cane, and not from sorghum or imphee, a tax of three cents per gallon.

On sirup of molasses or sugar-cane juice, when removed from the plantation, concentrated molasses or melado, and cistern bottoms, of sugar produced from the sugar-cane and not made from sorghum or imphee, a tax of three fourths of one cent per pound.

On sugars not above number twelve Dutch standard in color, produced from the sugar-cane, and not from sorghum or imphee, other than those produced by the refiner, a tax of one cent per pound.

On sugars above number twelve and not above number eighteen Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, a tax of one and a half cent per pound.

On sugar above number eighteen Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, a tax of two cents per pound.

On the gross amount of the sales of sugar refiners, including all the products of their manufactories or refineries, a tax of two and one half of one per centum ad valorem: *Provided*, That every person shall be regarded as a sugar refiner, and pay the taxes required by law, whose business it is to advance the quality and value of sugar upon which a tax or duty has been paid, by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means, or who shall by boiling or other process advance the quality or value of molasses, concentrated molasses, or melado, upon which a tax or duty has been paid.

On sugar candy and all confectionery made wholly or in part of sugar, valued at not exceeding twenty cents per pound, including the tax, a tax of two cents per pound; exceeding twenty and not exceeding forty cents per pound, including the tax, a tax of four cents per pound; when exceeding forty cents per pound, including the tax, or sold by the box, package, or otherwise than by the pound, a tax of ten per centum ad valorem.

On chocolate and cocoa prepared, a tax of one and a half cent per pound.

On gun cotton, a tax of five per centum ad valorem.

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, not otherwise provided for, when valued at thirty-eight cents per pound, or less, including the tax, a tax of five per centum ad valorem; and when valued at above thirty-eight cents per pound, including the tax, a tax of ten cents per pound.

On varnish or japan, made wholly or in part of gum copal, or other gums or substances, a tax of five per centum ad valorem.

On glue and gelatine of all descriptions, in the solid state, a tax of one cent per pound.

On glue and cement, made wholly or in part of glue, sold in the liquid state, a tax of forty cents per gallon.

On pins, solid head or other, a tax of five per centum ad valorem.

On photographs, ambrotypes, daguerreotypes, or other pictures taken by the action of light, and not hereinafter exempted from tax, a tax of five per centum ad valorem.

On screws, commonly called wood screws, a tax of ten per centum ad valorem.

On clocks and time-pieces, and on clock movements, when sold without being cased, a tax of five per centum ad valorem.

On all soaps valued at above three cents per

pound, not perfumed, and on salt-water soap made of cocoa-nut oil, a tax of five mills per pound.

On all perfumed soaps, a tax of three cents per pound.

On all uncompounded chemical productions not otherwise provided for, a tax of five per centum ad valorem.

On essential oils of all descriptions, a tax of five per centum ad valorem.

On all furniture, or other articles made of wood, sold in the rough or unfinished, not otherwise provided for, a tax of five per centum ad valorem: *Provided*, That all furniture, or other articles made of wood, previously assessed, and a tax paid thereon, shall be assessed a tax of five per centum ad valorem upon the increased value only thereof when sold in a finished condition.

On salt, a tax of three cents per one hundred pounds.

On scales, pumps, garden engines and hydraulic rams, a tax of three per centum ad valorem.

On tin ware of all descriptions, not otherwise provided for, a tax of five per centum ad valorem.

On all iron not otherwise provided for, advanced beyond muck-bar, blooms, slabs, or loops, and not advanced beyond bars, and band, hoop, and sheet iron not thinner than number eighteen wire-gauge, and plate iron not less than one eighth of an inch in thickness, a tax of three dollars per ton: *Provided*, That a ton shall, for all the purposes of this act, be deemed and taken to be two thousand pounds.

On band, hoop, and sheet iron, thinner than number eighteen wire-gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, not including nails, tacks, brads, or finishing nails, usually put up and sold in papers, whether in papers or otherwise, a tax of five dollars per ton: *Provided*, That rods, bands, hoops, sheets, plates, spikes, and nails, not including such as are usually put up in papers as before mentioned, manufactured from iron upon which the tax of three dollars has been levied and paid, shall be subject only to a tax of two dollars per ton, in addition thereto, anything in this act to the contrary notwithstanding.

On steel made directly from muck-bar, blooms, slabs, or loops, a tax of three dollars per ton.

On stoves, and hollow ware in all conditions, whether rough, tinned, or enameled, and castings of iron, not otherwise provided for, a tax of three dollars per ton.

On tubes made of wrought iron, a tax of five dollars per ton.

On steam, locomotive, and marine engines, including the boilers, and on railroad cars, a tax of five per centum ad valorem: *Provided*, That when the boilers, tubes, wheels, tire[s], axles, bells, shafts, cranks, wrists, or headlights of such engines or cars shall have been once assessed, and a tax previously paid thereon, the amount so paid shall be deducted from the taxes on the finished engine or cars.

On boilers of all kinds, water-tanks, sugar-tanks, oil-stills, sewing-machines, lathes, tools, planes, planing-machines, shafting, and gearing, a tax of five per centum ad valorem.

On railings, gates, fences, furniture, and statuary made of iron, a tax of five per centum ad valorem.

On copper and brass tubes, nails, or rivets, sheet lead, and lead pipes and shot, a tax of five per centum ad valorem.

On goat, calf, kid, sheep, horse, hog, and dog skins, tanned or dressed in the rough, a tax of five per centum ad valorem.

On goat, calf, kid, sheep, horse, hog, and dog skins, carried or finished, a tax of five per centum ad valorem: *Provided*, That all goat, calf, kid, sheep, horse, hog, and dog skins upon which duties or taxes have been

actually paid, shall be assessed on the increased value only when carried or finished.

On patent enameled and japanned leather and skins of every description, a tax of five per centum ad valorem: *Provided*, That when a tax or duty has been paid on the leather in the rough, the tax shall be assessed and paid only on the increased value.

On oil-dressed leather, a tax of five per centum ad valorem.

On leather of all descriptions, tanned or partially tanned, in the rough, a tax of five per centum ad valorem.

On leather of all descriptions, carried or finished, a tax of five per centum ad valorem: *Provided*, That all leather in the rough upon which duties or taxes have been actually paid, shall be assessed on the increased value only when carried or finished.

On all liquors known or denominated as wine, not made from grapes, currants, *rhubard* [rhubarb], or berries, produced by being rectified or mixed with other spirits, or into which any matter whatever may be infused to be sold as wine, or by any other name, and not otherwise provided for in this act, a tax of fifty cents per gallon: *Provided*, That the return, assessment, collection, and the time of collection of the taxes on such wines shall be subject to the regulations of the Commissioner of Internal Revenue. And any person who shall willingly and knowingly sell or offer for sale any such wine made after the passage of this act, upon which the tax herein imposed has not been paid, or which has been fraudulently evaded, shall, upon conviction thereof, be subject to a fine of five hundred dollars or to imprisonment not exceeding two years at the discretion of the court.

On cloth and all textile or knitted or felted articles or fabrics of cotton, wool, or other materials, before the same has been dyed, printed, or bleached, and on all cloth painted, enameled, shirred, tarred, varnished, or oiled, a tax of five per centum ad valorem.

On thread and twine, a tax of five per centum ad valorem.

On articles of clothing manufactured or produced for sale by weaving, knitting, or felting; on silk hats, bonnets, and hoop-skirts; on articles manufactured or produced for sale as constituent parts of clothing, or for trimming or ornamenting the same, and on articles of wearing apparel manufactured or produced for sale from India-rubber, gutta-percha, or from fur, or fur skins dressed with the fur on, a tax of five per centum ad valorem: *Provided*, That on all articles made of fur, the value of which shall not exceed twenty dollars, a tax of two per centum only shall be paid.

On boots, shoes, and shoe-strings, a tax of two per centum ad valorem; to be paid by every person making, manufacturing, or producing for sale boots or shoes, or furnishing the materials or any part thereof, and employing others to make, manufacture, or produce them: *Provided*, That any boot or shoe maker making boots or shoes to order as custom work only, and not for general sale, and whose work, exclusive of the materials, does not exceed annually in value one thousand dollars, shall be exempt from this tax.

On clothing, gloves, mittens, moccasins, caps, felt hats, and other articles of dress for the wear of men, women, and children, not otherwise assessed and taxed, a tax of two per centum ad valorem, to be paid by every person making, manufacturing, or producing for sale clothing, gloves, mittens, moccasins, caps, felt hats, and other articles of dress, or furnishing the materials or any part thereof, and employing others to make, manufacture or produce them: *Provided*, That any tailor, or any maker of gloves, mittens, moccasins, caps, felt hats, or other articles of dress to order as custom work only, and not for general sale, and whose work, exclusive of the materials,



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does not exceed annually in value one thousand dollars, shall be exempt from this tax; and articles of dress made or trimmed by milliners or dressmakers for the wear of women and children shall also be exempt from this tax: *Provided*, That the branching into sprays, branches, or wreaths of artificial flowers, on which an impost or internal tax has already been paid, shall not be considered a manufacture within the meaning of this act.

On paper not otherwise herein provided for, a tax of three per centum ad valorem.

On all manufactures not otherwise provided for, of cotton, wool, silk, worsted, hemp, jute, India-rubber, gutta-percha, wood, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, a tax of five per centum ad valorem: *Provided*, That on all cloths or articles dyed, printed, or bleached, on which a tax or duty shall have been paid before the same were so dyed, printed, or bleached, the said tax of five per centum shall be assessed only upon the increased value thereof: *And provided further*, That any cloth or fabrics or articles as aforesaid, when made of thread, yarn, or warps, imported, or upon which an internal tax shall have been assessed and paid, shall be assessed and pay a tax on the increased value only thereof; and when made wholly by the same manufacturer, shall be subject to a tax only of five per centum ad valorem: *And provided further*, That brown earthen and common or gray stoneware shall be subject to a tax of two and one half per centum ad valorem, and no more.

On all diamonds, emeralds, precious stones and imitations thereof, and all other jewelry, a tax of five per centum ad valorem: *Provided*, That when diamonds, emeralds, precious stones or imitations thereof, imported from foreign countries, and upon which import duties have been paid, shall be set or reset in gold or any other material, the tax shall be assessed and paid only upon the value of the settings.

On bullion in lump, ingot, bar, or otherwise, a tax of one half of one per centum ad valorem, to be paid by the assayer of the same, who shall stamp the product of the assay as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed at any mint of the United States, or by any private assayer, unless stamped as prescribed by general regulations, as aforesaid, are hereby declared unlawful; and every person or corporation who shall sell, transfer, transport, exchange, export, or deal in the same, shall be subject to a penalty of one thousand dollars for each offense, and to a fine not exceeding that sum, and to imprisonment for a term not exceeding two years nor less than six months. No jeweler, worker or artificer in gold or silver shall use either of those metals except it shall have first been stamped as aforesaid, as required by this act. No person or corporation shall export or cause to be exported from the United States any gold or silver in its natural state, not coined, assayed, or stamped, as aforesaid; and for every violation of this paragraph every offender shall be subject to the penalties herein provided: *Provided*, That nothing herein contained shall apply to the reworking of old gold or silver in lump, ingot, or bar, as aforesaid.

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, or damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of forty cents per pound.

On cavendish, plug, twist, and all other kinds of manufactured tobacco, not herein otherwise provided for, a tax of forty cents per pound.

On tobacco twisted by hand, or reduced from leaf into a condition to be consumed without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, and on fine-cut shorts, a tax of thirty cents per pound.

On fine-cut chewing tobacco, whether manufactured with the stems in or not, or however sold, whether loose, in bulk, or in rolls, packages, papers, wrappers, or boxes, a tax of forty cents per pound.

On smoking tobacco, sweetened, stemmed, or butted, a tax of forty cents per pound.

On smoking tobacco of all kinds, not sweetened, nor stemmed, nor butted, including that made of stems, or in part of stems, and imitations thereof, a tax of fifteen cents per pound.

On cigarettes, or small cigars, made of tobacco inclosed in a wrapper, or binder, and not over three and a half inches in length, and on cigars made with twisted heads, and on cheroots, and on cigars known as short-sixes, the market value of which is not over eight dollars per thousand, a tax of two dollars per thousand.

On all cheroots, cigarettes, and cigars, the market value of which is over eight dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all cheroots, cigarettes, and cigars, the market value of which is over twelve dollars per thousand, a tax of four dollars per thousand, and in addition thereto twenty per centum ad valorem on the market value thereof. And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe such regulations for the inspection and valuation of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall, in his judgment, be most effective for the prevention of inequalities and frauds in the payment of such tax. And, in addition to other regulations, it shall be the duty of the inspector or assessor who appraises any cigars, cigarettes, or cheroots to examine the manufacturer thereof or his agent under oath, which oath shall be administered by the inspecting and appraising officer, and reduced to writing, and signed by such manufacturer or his agent, with a view to ascertaining whether such manufacturer has any interest, direct or indirect, in any sale that has been made, or any resale to be made of said cigars, cigarettes, or cheroots, by the concealment of which he seeks to obtain a false, fraudulent, or deceptive appraisal.

That section ninety-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that there shall be levied and collected and paid monthly on all sales of real estate, goods, wares, merchandise, articles, or things at auction, including all sales of stocks, bonds, and other securities, a duty of one tenth of one per centum on the gross amount of such sales: *Provided*, That no tax shall be levied under the provisions of this section upon any sales by or for judicial or executive officers making auction sales by virtue of a judgment or decree of any court, nor to public sales made by guardians, executors, or administrators.

That section ninety-nine be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that there shall be paid on all sales made by brokers, banks, or bankers, whether made for the benefit of others or on their own account, the following taxes, that is to say: upon all sales and contracts for the sale of stocks, bonds, gold and silver bullion and coin, promissory notes, or other securities, a tax at the rate of one cent for every hundred dollars of the amount of such sales or contracts; and on all sales and contracts for sale negotiated and made by any person, firm, or company not paying a special tax as a broker, bank, or banker, of any gold or silver bullion, coin, promis-

sory notes, stocks, bonds, or other securities, not his or their own property, there shall be paid a tax at the rate of five cents for every hundred dollars of the amount of such sales or contracts; and on every sale and contract for sale, as aforesaid, there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale or contract, on which there shall be affixed a lawful stamp or stamps in value equal to the amount of tax on such sale, to be determined by the rates of tax before mentioned; and in computing the amount of the stamp tax in any case herein provided for, any fractional part of one hundred dollars of value or amount on which tax is computed shall be accounted at one hundred dollars. And every bill or memorandum of sale, or contract of sale, before mentioned, shall show the date thereof, the name of the seller, the amount of the sale or contract, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or any one who acts in the matter as agent or broker for such person or persons, who shall make any such sale or contract, or who shall, in pursuance of any sale or contract, deliver or receive any stocks, bonds, bullion, coin, promissory notes, or other securities, without a bill or memorandum thereof as herein required, or who shall deliver or receive such bill or memorandum without having the proper stamps affixed thereto, shall forfeit and pay to the United States a penalty of five hundred dollars for each and every offense where the tax so evaded, or attempted to be evaded, does not exceed one hundred dollars, and a penalty of one thousand dollars when such tax shall exceed one hundred dollars, which may be recovered with costs in any court of the United States of competent jurisdiction, at any time within one year after the liability to such penalty shall have been incurred; and the penalty recovered shall be awarded and distributed by the court between the United States and the informer, if there be any, as provided by law, who, in the judgment of the court, shall have first given the information of the violation of the law for which recovery is had: *Provided*, That where it shall appear that the omission to affix the proper stamp was not with intent to evade the provisions of this section, said penalty shall not be incurred. And the provisions of law in relation to stamp duties in schedule B of this act shall apply to the stamp taxes herein imposed upon sales and contracts of sales made by brokers, banks, or bankers, and others as aforesaid. And there shall be paid monthly on all sales by commercial brokers of any goods, wares, or merchandise, a tax of one twentieth of one per centum upon the amount of such sales; and on or before the tenth day of each month, every commercial broker shall make a list or return to the assistant assessor of the district of the gross amount of such sales as aforesaid for the preceding month, in form and manner as may be prescribed by the Commissioner of Internal Revenue: *Provided*, That in estimating sales of goods, wares, and merchandise for the purposes of this section, any sales made by or through another broker upon which a tax has been paid shall not be estimated and included as sold by the broker for whom the sale was made.

That section one hundred be amended by striking out all after the enacting clause, including schedule A, and inserting in lieu thereof the following: that there shall be levied, annually, on every carriage, gold watch, and billiard table, and on all gold or silver plate, the tax or sums of money set down in figures against the same, respectively, or otherwise specified and set forth in schedule A, hereto annexed, to be paid by the person or persons owning, possessing, or keeping the same on the first day in May, in each year, and the same shall be and remain a lien thereon until paid.

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## SCHEDULE A.

CARRIAGE, phaeton, carryall, rockaway, or other like carriage, and any coach, hackney coach, omnibus, or four-wheeled carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be used exclusively in husbandry or for the transportation of merchandise, valued at exceeding three hundred dollars and not above five hundred dollars each, including harness used therewith, six dollars.....	\$6 00
Carriages of like description, valued above five hundred dollars, each, ten dollars .....	10 00
ON GOLD WATCHES, composed wholly or in part of gold or gilt, kept for use, valued at one hundred dollars or less, each, one dollar.....	1 00
On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at above one hundred dollars, each, two dollars.....	2 00
BILLIARD TABLES, kept for use, each, ten dollars.....	10 00

*Provided*, That billiard tables kept for hire, and upon which a special tax has been imposed, shall not be required to pay the tax on billiard tables kept for use, as aforesaid, anything herein contained to the contrary notwithstanding.

On plate, of gold, kept for use, per ounce troy, fifty cents..... 50 |

On plate, of silver, kept for use, per ounce troy, five cents..... 05 |

*Provided*, That silver spoons or plate of silver used by one family to an amount not exceeding forty ounces troy belonging to any one person, plate belonging to religious societies, and souvenirs and keepsakes actually given and received as such and not kept for use; also, all premiums awarded as a token of merit by any agricultural society, corporation, or association of persons, for any purpose whatever, shall be exempt from tax.

That sections one hundred and one and one hundred and two be, and the same are hereby, repealed.

That section one hundred and three be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that every person, firm, company, or corporation owning or possessing or having the care or management of any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any stage-coach or other vehicle, except hacks or carriages not running on continuous routes, engaged or employed in the business of transporting passengers for hire, or in transporting the mails of the United States upon contracts made prior to August first, eighteen hundred and sixty-six, shall be subject to and pay a tax of two and one half per cent. of the gross receipts from passengers and mails of such railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or such stage-coach or other vehicle; *Provided*, That the tax hereby imposed shall not be assessed upon receipts for the transportation of persons or mails between the United States and any foreign port; but such tax shall be assessed upon the transportation of persons from a port within the United States through a foreign territory to a port within the United States, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States, receiving hire or pay for such transportation of persons or mails; and so much of section one hundred and nine as requires returns to be made of receipts hereby exempted from tax when derived from transporting property for hire is hereby repealed: *Provided also*, That any person or persons, firms, companies, or corporations owning, possessing, or having the care or management of any toll-road, ferry, or bridge, authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description, over such toll-

road, ferry, or bridge, shall be subject to and pay a tax of three per cent of the gross amount of all their receipts of every description; but when the gross receipts of any such bridge or toll-road, for and during any term of twelve consecutive calendar months, shall not exceed the amount necessarily expended during said term to keep such bridge or road in repair, no tax shall be assessed upon such receipts during the month next following any such term: *Provided further*, That all such persons, companies, and corporations shall, until the thirtieth day of April, eighteen hundred and sixty-seven, have the right to add the tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding. And whenever the addition to any fare shall amount only to the fraction of one cent, any person, or company, liable to the tax of two and a half per centum, may add to such fare one cent in lieu of such fraction; and such person or company shall keep for sale, at convenient points, tickets in packages of twenty and multiples of twenty, to the price of which only an amount equal to the revenue tax shall be added: *And provided further*, That no tax under the foregoing provisions of this section shall be assessed upon any person, firm, company, or corporation, whose gross receipts do not exceed one thousand dollars per annum: *And provided further*, That all boats, barges, and flats not used for carrying passengers, nor propelled by steam or sails, which are floated or towed by tug-boats or horses, and used exclusively for carrying coal, oil, minerals, or agricultural products to market, shall be required hereafter, in lieu of enrollment fees or tonnage tax, to pay an annual special tax, for each and every such boat of a capacity exceeding twenty-five tons, and not exceeding one hundred tons, five dollars; and when exceeding one hundred tons, as aforesaid, shall be required to pay ten dollars; and said tax shall be assessed and collected as other special taxes provided for in this act.

That section one hundred and seven be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation owning or possessing or having the care or management of any telegraphic line by which telegraphic dispatches or messages are received or transmitted, shall be subject to and pay a tax of three per centum on the gross amount of all receipts of such person, firm, company, or corporation.

That section one hundred and ten be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be levied, collected, and paid a tax of one twenty-fourth of one per centum each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking; and a tax of one twenty-fourth of one per centum each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking beyond the average amount invested in United States bonds; and a tax of one twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and an additional tax of one sixth of one per centum, each month, upon the average amount of such circulation, issued as aforesaid, beyond the

amount of ninety per centum of the capital of any such bank, association, corporation, company, or person. And a true and accurate return of the amount of circulation, of deposit and of capital, as aforesaid, and of the amount of notes of persons, State banks or State banking associations, paid out by them for the previous month, shall be made and rendered monthly by each of such banks, associations, corporations, companies, or persons to the assessor of the district in which any such bank, association, corporation, or company may be located, or in which such person has his place of business, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amounts subject to tax as aforesaid; and for any refusal or neglect to make or to render return and payment, any such bank, association, corporation, company, or person so in default, shall be subject to and pay a penalty of two hundred dollars, besides the additional penalty and forfeitures in other cases provided by law; and the amount of circulation, deposit, capital, and notes of persons, State banks and banking associations paid out as aforesaid, in default of the proper return, shall be estimated by the assessor or assistant assessor of the district as aforesaid, upon the best information he can obtain; and every such penalty may be recovered for the use of the United States in any court of competent jurisdiction. And in the case of banks with branches, the tax herein provided for shall be assessed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to such branch; and so much of an act entitled "An act to provide ways and means for the support of the Government," approved March three, eighteen hundred and sixty-three, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed: *Provided*, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof." And the deposits in associations or companies known as provident institutions, savings banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than five hundred dollars made in the name of any one person; and the returns required to be made by such provident institutions and savings banks after July, eighteen hundred and sixty-six, shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

That section one hundred and eleven be amended by inserting after the words "proprietors, managers, or agents of lotteries," the words, "and all lottery ticket dealers."

That section one hundred and fourteen be amended by inserting after the word "periodically," in the first sentence of said section, the words: or otherwise, or publishing any guide, almanac, catalogue, directory, or any other paper or book.

That section one hundred and sixteen be amended by inserting after the words "on the excess over five thousand dollars" the following: and a like tax shall be levied, collected, and paid annually upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons

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residing without the United States, not citizens thereof.

That section one hundred and nineteen be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the taxes on incomes herein imposed shall be levied on the first day of May, and be due and payable on or before the thirtieth day of June, in each year, until and including the year eighteen hundred and seventy, and no longer; and to any sum or sums annually due and unpaid after the thirtieth of June, as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied, in addition thereto, the sum of ten per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased or insolvent persons.

That section one hundred and twenty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be levied and collected a tax of five per centum on all dividends in scrip or money thereafter declared due, where ever and whenever the same shall be payable, to stockholders, policy-holders, or depositors or parties whatsoever, including non-residents, whether citizens or aliens, as part of the earnings, income, or gains of any bank, trust company, savings institution, and of any fire, marine, life, inland insurance company, either stock or mutual, under whatever name or style known or called, in the United States or Territories, whether specially incorporated or existing under general laws, and on all undistributed sums, or sums made or added during the year to their surplus or contingent funds; and said banks, trust companies, savings institutions, and insurance companies shall pay the said tax, and are hereby authorized to deduct and withhold from all payments made on account of any dividends or sums of money that may be due and payable as aforesaid the said tax of five per centum. And a list or return shall be made and rendered to the assessor or assistant assessor on or before the tenth day of the month following that in which any dividends or sums of money become due or payable as aforesaid; and said list or return shall contain a true and faithful account of the amount of taxes as aforesaid; and there shall be annexed thereto a declaration of the president, cashier, or treasurer of the bank, trust company, savings institution, or insurance company, under oath or affirmation in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful account of the taxes as aforesaid. And for any default in the making or rendering of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company making such default, shall forfeit as a penalty the sum of one thousand dollars; and in case of any default in making or rendering said list or return, or of any default in the payment of the tax as required, or any part thereof, the assessment and collection of the tax and penalty shall be in accordance with the general provisions of law in other cases of neglect or refusal: *Provided*, That the tax upon the dividends of life insurance companies shall not be deemed due until such dividends are payable; nor shall the portion of premiums returned by mutual life insurance companies to their policy holders, nor the annual or semi-annual interest allowed or paid to the depositors in savings banks or savings institutions, be considered as dividends.

That section one hundred and twenty-two be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any railroad, canal, turnpike, canal navigation, or slack-water company, indebted for any money for which bonds or other evidence of indebtedness have been issued, payable in one or more years after date, upon which interest is stipulated to be paid, or coupons representing the interest, or any such company

that may have declared any dividend in scrip or money due or payable to its stockholders, including non-residents, whether citizens or aliens, as part of the earnings, profits, income, or gains of such company, and all profits of such company carried to the account of any fund, or used for construction, shall be subject to and pay a tax of five per centum on the amount of all such interest, or coupons, dividends, or profits, whenever and wherever the same shall be payable, and to whatsoever party or person the same may be payable, including non-residents, whether citizens or aliens; and said companies are hereby authorized to deduct and withhold from all payments on account of any interest, or coupons, and dividends, due and payable as aforesaid, the tax of five per centum; and the payment of the amount of said tax so deducted from the interest, or coupons, or dividends, and certified by the president or treasurer of said company, shall discharge said company from that amount of the dividend, or interest, or coupon on the bonds or other evidences of their indebtedness so held by any person or party whatever, except where said companies may have contracted otherwise. And a list or return shall be made and rendered to the assessor or assistant assessor on or before the tenth day of the month following that in which said interest, coupons, or dividends become due and payable, and as often as every six months; and said list or return shall contain a true and faithful account of the amount of tax, and there shall be annexed thereto a declaration of the president or treasurer of the company, under oath or affirmation in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful account of said tax. And for any default in making or rendering such list or return, with the declaration annexed, or of the payment of the tax as aforesaid, the company making such default shall forfeit as a penalty the sum of one thousand dollars; and in case of any default in making or rendering said list or return, or of the payment of the tax or any part thereof, as aforesaid, the assessment and collection of the tax and penalty shall be made according to the provisions of law in other cases of neglect or refusal.

That section one hundred and twenty-two be further amended by adding thereto the following proviso: *Provided*, That whenever any of the companies mentioned in this section shall be unable to pay the interest on their indebtedness, and shall in fact fail to pay such interest, that in such cases the tax levied by this section shall not be paid to the United States until said company resume the payment of interest on their indebtedness.

That section one hundred and twenty-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be levied, collected, and paid on all salaries of officers, or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of six hundred dollars per annum, a tax of five per centum on the excess above the said six hundred dollars, and a tax of ten per cent. on the excess over five thousand dollars; and it shall be the duty of all paymasters and all disbursing officers, under the Government of the United States, or persons in the employ thereof, when making any payment to any officers or persons as aforesaid, or upon settling and adjusting the accounts of such officers or persons, to deduct and withhold the aforesaid tax, and they shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal tax; and the pay-roll, receipts, or account of officers or persons paying such tax,

as aforesaid, shall be made to exhibit the fact of such payment. And it shall be the duty of the several Auditors of the Treasury Department, when auditing the accounts of any paymaster or disbursing officer, or any officer withholding his salary from moneys received by him, or when settling or adjusting the accounts of any such officer, to require evidence that the taxes mentioned in this section have been deducted and paid over to the Commissioner of Internal Revenue, or other officer authorized to receive the same: *Provided*, That payments of prize money shall be regarded as income from salaries, and the tax thereon shall be adjusted and collected in like manner: *Provided further*, That this section shall not apply to payments made to mechanics or laborers employed upon public works.

That section one hundred and twenty-four be amended by adding thereto the following additional proviso: *Provided further*, That any legacy or share of personal property passing as aforesaid to a minor child of the person who died possessed as aforesaid shall be exempt from taxation under this section, unless such legacy or share shall exceed the sum of one thousand dollars, in which case the excess only above that sum shall be liable to such taxation.

That section one hundred and twenty-five be amended by inserting after the words "that the tax or duty aforesaid," the following: "shall be due and payable whenever the party interested in such legacy or distributive share or property or interest aforesaid shall become entitled to the possession or enjoyment thereof, or to the beneficial interest in the profits accruing therefrom, and the same;" and by inserting after the words "United States," in the first sentence of said section, the words: "and every administrator, executor, or trustee, having in charge or trust any legacy or distributive share, as aforesaid, shall give notice thereof in writing to the assessor or assistant assessor of the district where the deceased grantor or bargainer last resided, within thirty days after he shall have taken charge of such trust;" and by inserting after the words "shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon," the words: "and in case of willful neglect, refusal, or false statement by such executor, administrator, or trustee, as aforesaid, he shall be liable to a penalty of not exceeding one thousand dollars, to be recovered with costs of suit." Any tax paid under the provisions of sections one hundred and twenty-four and one hundred and twenty-five shall be deducted from the particular legacy or distributive share on account of which the same is charged.

That section one hundred and thirty-seven be amended by inserting after the words "imposed by this act," the words: "shall be assessed in the collection district where the estate is situate, and."

That section one hundred and thirty-eight be amended by adding thereto the words: "and every such person having in charge or trust any disposition of real estate or interest therein, subject to tax under this act, shall give notice thereof in writing to the assessor or assistant assessor of the district where the estate is situate, within thirty days from the time when he shall have taken charge of such trust, and prior to any distribution of said real estate, together with a description and value thereof, and the names of the persons interested therein; and for willful neglect or refusal so to do, shall be liable to a penalty of not exceeding five hundred dollars, to be recovered with costs of suit."

That section one hundred and forty-five be amended by inserting after the word "years" the words: "from the time when such tax shall have become due and payable."

That section one hundred and forty-seven be amended by striking out all after the enacting



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clause, and inserting in lieu thereof the following: that any person liable to pay a tax in respect to any succession shall give notice to the assessor or assistant assessor of his liability to such tax within thirty days from the time when he shall become entitled in possession to such succession or to the receipt of the income and profits thereof, and shall at the same time deliver to the assessor or assistant assessor a full and true account of said succession for the tax whereon he shall be accountable, and of the value of the real estate involved, and of the deductions claimed by him, together with the names of the successor and predecessor and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the assessor or assistant assessor fully and correctly to ascertain the taxes due; and the assessor or assistant assessor, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon his requisition, may assess the succession tax on the footing of such account and estimate; but it shall be lawful for the assessor or assistant assessor, if dissatisfied with such account, or if no account and estimate shall be delivered to him, to assess the tax on the best information he can obtain, subject to appeal as hereinafter provided; and if the tax so assessed shall exceed the tax assessable according to the return made to the assessor or assistant assessor, and with which he shall have been dissatisfied, or if no account and estimate has been delivered, and if no appeal shall be taken against such assessment, then it shall be in the discretion of the assessor, having regard to the merits of each case, to assess the whole or any part of the expenses incident to the taking of such assessment, in addition to such tax; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the Commissioner of Internal Revenue.

That section one hundred and forty-eight be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if any person required to give any such notice or deliver such account, as aforesaid, shall willfully neglect to do so within the time required by law, he shall be liable to pay the United States a sum equal to ten per centum upon the amount of tax payable by him; and if any person liable to pay any tax in respect of his succession shall, after such tax shall have been finally ascertained, willfully neglect to do so within ten days after being notified, he shall also be liable to pay to the United States a sum equal to ten per centum upon the amount of tax so unpaid, at the same time and in the same manner as the tax to be collected.

That section one hundred and fifty be, and the same is hereby, repealed.

That section one hundred and fifty-two be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that it shall not be lawful to record any instrument, document, or paper required by law to be stamped, unless a stamp or stamps of the proper amount shall have been affixed, and canceled in the manner required by law; and the record of any such instrument, upon which the proper stamp or stamps aforesaid shall not have been affixed and canceled as aforesaid, shall be utterly void, and shall not be used in evidence.

That section one hundred and fifty-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that all official instruments, documents, and papers issued by the officers of the United States Government, or by the officers of any State, county, town, or other municipal corporation, shall be, and hereby are, exempt from taxation: *Provided*, That it is the intent hereby to exempt from liability to taxation such State, county, town, or other municipal corporation, in the exercise only of functions strictly belong-

ing to them in their ordinary governmental and municipal capacity.

That section one hundred and fifty-five be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, which shall have be[en] provided, or may hereafter be provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument, aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose to sale, any vellum, parchment, paper, article, or thing, having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled; or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument, which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used, in pursuance of this act, from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks on any adhesive stamp, with intent to use the same, or to cause the use of the same after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall, on conviction thereof, forfeit the said counterfeit stamps and the articles upon which they are placed, and be punished by fine not exceeding one thousand dollars, or by imprisonment and confinement to hard labor not exceeding five years, or both, at the discretion of the court.

That section one hundred and fifty-eight be amended by striking out all after the enacting clause and inserting in lieu thereof the follow-

ing: that any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or shall accept, negotiate, or pay, or cause to be accepted, negotiated, or paid, any bill of exchange, draft, or order, or promissory note for the payment of money, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax chargeable thereon, and canceled in the manner required by law, with intent to evade the provisions of this act, shall, for every such offense, forfeit the sum of fifty dollars, and such instrument, document, or paper, bill, draft, order, or note, not being stamped according to law, shall be deemed invalid and of no effect: *Provided*, That the title of a purchaser of land by deed duly stamped shall not be defeated or affected by the want of a proper stamp on any deed conveying said land by any person from, through, or under whom his grantor claims or holds title: *And provided further*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon, at the time of making or issuing the said instrument, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, or if said instrument be lost, to a copy thereof, he or they shall appear before the collector of the revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of fifty dollars, and where the whole amount of the tax denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest, at the rate of six per centum on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such instrument or copy, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction that any such instrument has not been duly stamped at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proven to the satisfaction of the collector, shall, within twelve calendar months after the first day of August, eighteen hundred and sixty-six, or within twelve calendar months after the making or issuing thereof, be brought to the said collector of revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid, and to cause such instrument to be duly stamped. And when the original instrument, or a certified or duly proved copy thereof, as aforesaid, duly stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument or such certified copy or the record thereof may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped: *And provided further*, That in all cases where the party has not affixed the stamp required by law upon any instrument made, signed, or issued,

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at a time when and at a place where no collection district was established, it shall be lawful for him or them, or any party having an interest therein, to affix the proper stamp thereto, or if the original be lost, to a copy thereof; and the instrument or copy to which the proper stamp has been thus affixed prior to the first day of January, one thousand eight hundred and sixty-seven, and the record thereof, shall be as valid, to all intents and purposes, as if stamped by the collector in the manner hereinbefore provided. But no right acquired in good faith before the stamping of such instrument or copy thereof, and the recording thereof, as herein provided, if such record be required by law, shall in any manner be affected by such stamping as aforesaid.

That section one hundred and sixty-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that hereafter no deed, instrument, document, writing, or paper, required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded, or admitted, or used as evidence in any court until a legal stamp or stamps, denoting the amount of tax, shall have been affixed thereto, as prescribed by law: *Provided*, That any power of attorney, conveyance, or document, of any kind, made or purporting to be made in any foreign country to be used in the United States, shall pay the same tax as is required by law on similar instruments or documents when made or issued in the United States; and the party to whom the same is issued, or by whom it is to be used, shall, before using the same, affix thereon the stamp or stamps indicating the tax required.

That section one hundred and sixty-five be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if any person, firm, company, or corporation shall make, prepare, and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, lucifer or friction matches, cigar lights, or wax tapers, and playing cards, and also including prepared mustards, preserved meats, fish, shell-fish, fruits, vegetables, sauces, sirups, jams, and jellies, when packed or sealed in cans, bottles, or other single packages, whether of domestic manufacture or imported, upon which a duty or tax is imposed by law, as enumerated and mentioned in schedule C, without affixing thereon an adhesive stamp or label denoting the tax before mentioned, he or they shall incur a penalty of fifty dollars for every omission to affix such stamp.

That section one hundred and sixty-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person who shall offer or expose for sale any of the articles named in schedule C, or in any amendments thereto, whether the articles so offered or exposed are imported or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamp or stamps denoting the tax paid thereon, and all such articles imported, or of foreign manufacture, shall, in addition to the import duties imposed on the same, be subject to the stamp tax, respectively, prescribed in schedule C, as aforesaid: *Provided*, That when such imported articles, except playing cards, lucifer or friction matches, cigar lights, and wax tapers, shall be sold in the original and unbroken package in which the bottles or other inclosures were packed by the manufacturer, the person so selling said articles shall not be subject to any penalty on account of the want of the proper stamp.

That schedule B, preceding section one hundred and seventy-one, be amended by striking

out all after the paragraphs relating to "gauger's returns" and "measurer's returns;" and by striking out all from "receipts for the payment of any sum of money," down to "weigher's returns, if of a weight not exceeding five thousand pounds, ten cents; exceeding five thousand pounds, twenty-five cents," inclusive, and inserting in lieu thereof the following: receipts for any sum of money, or for the payment of any debt, exceeding twenty dollars in amount, not being for the satisfaction of any mortgage or judgment or decree of any court, or by indorsement on any stamped obligation in acknowledgment of its fulfillment, for each receipt two cents: *Provided*, That when more than one signature is affixed to the same paper, one or more stamps may be affixed thereto, representing the whole amount of the stamp required for such signature; and that the term money, as herein used, shall be held to include drafts and other instruments given for the payment of money.

That schedule B, preceding section one hundred and seventy-one, be amended by inserting, immediately preceding the proviso relating to stamps on mortgages, the following: upon every assignment or transfer of a mortgage the same stamp tax upon the amount remaining unpaid thereon as is herein imposed upon a mortgage for the same amount. Also by striking out the words "mortgage or" in said proviso. Also by inserting the words "domestic and inland bills of lading and" after "than" and before "those" in the first line of said schedule.

That schedule B be amended, under the head of contract, by striking out the words following: "stocks, bonds," and "notes of hand." Also, by inserting under the head of contract, after the words "for each note or memorandum of sale, ten cents," the words following: bill or memorandum of the sale or contract for the sale of stocks, bonds, gold or silver bullion, coin, promissory notes, or other securities, shall pay a stamp tax at the rate provided in section ninety-nine.

That schedule C be amended by striking out the paragraph in relation to photographs.

That schedule C be further amended by striking out the paragraph relating to cigar lights and wax tapers, and inserting in lieu thereof the following: for wax tapers, double the rates herein imposed upon friction or lucifer matches; on cigar lights, made in part of wood, wax, glass, paper, or other materials, in parcels or packages containing twenty-five lights or less in each parcel or package, one cent; when in parcels or packages containing more than twenty-five and not more than fifty lights, two cents; for every additional twenty-five lights or fractional part of that number, one cent additional; and by striking out all after the words "playing cards," and inserting in lieu thereof the following:

For and upon every pack, not exceeding fifty-two cards in number, irrespective of price or value, five cents.

For and upon every can, bottle, or other single package, containing meats, fish, shell-fish, fruits, vegetables, sauces, sirups, prepared mustard, jams or jellies contained therein and packed or sealed, made, prepared, and sold, or offered for sale, or removed for consumption in the United States, on and after the first day of October, eighteen hundred and sixty-six, when such can, bottle, or other single package, with its contents, shall not exceed two pounds in weight, the sum of one cent (\$0.01.)

When such can, bottle, or other single package, with its contents, shall exceed two pounds in weight, for every additional pound or fractional part thereof, one cent (\$0.01.)

That section one hundred and seventy-one be amended by adding thereto the following proviso: *Provided also*, That no claim for drawback on any articles of merchandise exported prior to June thirtieth, eighteen hundred and

sixty-four, shall be allowed unless presented to the Commissioner of Internal Revenue within three months after this amendment takes effect.

That section one hundred and seventy-nine be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that, where it is not otherwise provided for, it shall be the duty of the collectors, in their respective districts, and they are hereby authorized, to prosecute for the recovery of any sum or sums that may be forfeited; and all fines, penalties, and forfeitures which may be imposed or incurred, shall and may be sued for and recovered, where not otherwise provided, in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any court of competent jurisdiction. And where not otherwise provided for, such share as the Secretary of the Treasury shall, by general regulations, provide, not exceeding one moiety nor more than five thousand dollars in any one case, shall be to the use of the person, to be ascertained by the court which shall have imposed or decreed any such fine, penalty, or forfeiture, who shall first inform of the cause, matter, or thing whereby such fine, penalty, or forfeiture shall have been incurred; and when any sum is paid without suit, or before judgment, in lieu of fine, penalty, [penalty,] or forfeiture, and a share of the same is claimed by any person as informer, the Secretary of the Treasury, under general regulations to be by him prescribed, shall determine whether any claimant is entitled to such share as above limited, and to whom the same shall be paid, and shall make payment accordingly. It is hereby declared to be the true intent and meaning of the present and all previous provisions of internal revenue acts granting shares to informers, that no right accrues to or is vested in any informer in any case until the fine, penalty, or forfeiture in such case is fixed by judgment or compromise, and the amount or proceeds shall have been paid, when the informer shall become entitled to his legal share of the sum adjudged or agreed upon and received: *Provided*, That nothing herein contained shall be construed to limit or affect the power of remitting the whole or any portion of a fine, penalty, or forfeiture conferred on the Secretary of the Treasury by existing laws. The Commissioner of Internal Revenue shall be, and is hereby, authorized and empowered to compromise, under such regulations as the Secretary of the Treasury shall prescribe, any case arising under the internal revenue laws, whether pending in court or otherwise. The several circuit and district courts of the United States shall have jurisdiction of all offenses against any of the provisions of this act committed within their several districts: *Provided*, That whenever in any civil action for a penalty the informer may be a witness for the prosecution, the party against whom such penalty is claimed may be and shall be admitted as a witness on his own behalf. Every person who shall receive any money or other valuable thing under a threat of informing or as a consideration for not informing against any violation of this act, shall, on conviction thereof, be punished by a fine not exceeding two thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

SEC. 9, [his.] *And be it further enacted*, That sections two, five, eight, nine, ten, and twelve of the act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June thirtieth, eighteen hundred and sixty-four," approved March third, eighteen hundred and sixty-five, be, and the same are hereby, repealed.

That section six of the act of March third,

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eighteen hundred and sixty-five, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,'" approved June thirty, eighteen hundred and sixty-four, be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that every national banking association, State bank, or State banking association, shall pay a tax of ten per centum on the amount of notes of any person State bank, or State banking association, used for circulation and paid out by them after the first day of August, eighteen hundred and sixty-six, and such tax shall be assessed and paid in such a manner as shall be prescribed by the Commissioner of Internal Revenue.

That section fourteen of the same act shall be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that the capital of any State bank or banking association which has ceased or shall cease to exist, or which has been or shall be converted into a national bank, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid; and whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation; and whenever any bank which has ceased to issue notes for circulation shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury shall prescribe, it shall be exempt from any tax upon such circulation; and whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such State bank or banking association.

That an act entitled "An act to declare the meaning of certain parts of the internal revenue act, approved June thirty, eighteen hundred and sixty-four, and for other purposes," approved March tenth, eighteen hundred and sixty-six, be amended by striking out sections three, four, and five of said act, and inserting in lieu thereof the following: that it shall be the duty of all persons required to make returns or lists of income and articles or objects charged with an internal tax, to declare in such returns or lists whether the several rates and amounts therein contained are stated according to their values in legal-tender currency or according to their values in coined money; and in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns or lists, such assistant assessor is hereby required to make returns or lists for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make the returns or lists required by the acts aforesaid, and to assess the tax thereon, and to add thereto the amount of penalties imposed by law in cases of such neglect or refusal. And whenever the rates and amounts contained in the returns or lists as aforesaid shall be stated in coined money, it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in legal-tender currency, according to the value of such coined money in said currency for the time covered by said returns. And the lists required by law to be furnished to collectors by assessors shall in

all cases contain the several amounts of taxes assessed, estimated, or valued in legal-tender currency only.

SEC. 10. *And be it further enacted*, That, from and after the passage of this act the articles and products hereinafter enumerated shall be exempt from internal tax:

Alum; aluminum; aluminous cake, patent alum, sulphate of alumina, and cobalt;  
Aniline and aniline colors;  
Animal charcoal, or carbon;  
Anvils;  
Articles manufactured in institutions for the blind, and in institutions for the deaf and dumb, which are sold to aid in their support, or the support of the pupils;  
Barrels and casks, other than those used for the reception of fluids; packing-boxes made of wood; and boxes of wood or paper for friction matches, cigar lights, and wax tapers;  
Beeswax, crude or unrefined;  
Bichromate and prussiate of potash;  
Bleaching powders;  
Blue vitriol;  
Borax, and boracic acid;  
Brass not more advanced than rods or sheets;  
Brick, fire-brick, draining tiles, cement, drain and sewer pipes, earthen and stone water-pipes, retorts and tiles made of clay;  
Bristles;  
Brooms made from corn, brush, or palm-leaf;  
Building stone of all kinds, including slate, marble, freestone, and soapstone, and rock, and ground gypsum;  
Bunting and flags of the United States, and banners made of bunting of domestic manufacture;  
Burstones, millstones, and grindstones, rough or wrought;  
Candle wicking;  
Chronometers;  
Coffins and burial cases;  
Copperas;  
Copper, lead, and tin, in ingots, pigs, or bars;  
Copper and yellow sheathing metal, not more advanced than rods or sheets;  
Crates, and grain or farm baskets made of splints;  
Crucibles of all kinds;  
Crutches and artificial limbs, eyes, and teeth;  
Deer-skins, smoked, or not oil-dressed;  
Feather beds, mattresses, palliasses, bolsters, and pillows;  
Fertilizers of all kinds;  
Flasks and patterns used by founders;  
Flax and the manufactures thereof;  
Flavoring extracts solely for cooking purposes;  
German silver in bars or sheets;  
Gold leaf and gold foil;  
Hemp and jute prepared for textile or felting purposes;  
Hulls of ships and other vessels;  
Illuminating gas manufactured by educational institutions for their own use exclusively;  
India-rubber springs used exclusively for railroad cars;  
Iron bridges, and castings for iron bridges;  
Iron drain and sewer pipes;  
Keys, actions, and strings for musical instruments;  
Litharge and orange mineral;  
Machines driven by horse power and used exclusively for cutting fire-wood, staves, and shingle bolts; and hand-saws;  
Magnesium, calcined magnesia, and carbonate of magnesia;  
Malleable iron castings, unfinished;  
Manganese;  
Masts, spars, ship and vessel blocks, and tree-nail wedges and deck plugs, cordage, ropes, and cables made of vegetable fiber;  
Medicinal and mineral waters, of all kinds, sold in bottles or from fountains, and mead;  
Mounting and machinery of telescopes for astronomical purposes;

Mills and machinery for the manufacture of sugar, sirup, and molasses from sorghum, imphoe, beets and corn;

Mineral coal of all kinds, and peat;  
Monuments of stone of all kinds, not exceeding in value the sum of one hundred dollars: *Provided*, That monuments exceeding the value aforesaid, erected by public or private contributions to commemorate the service of Union soldiers who have fallen in battle, shall be exempt from taxation;

Moldings for looking-glasses and picture-frames;

Muriatic, nitric, and acetic acids;

Nickel, quicksilver, and sodium;

Nitrate of lead;

Oakum;

Original paintings, statues, and groups of statuary and casts made thereof by the artist from the original designs;

Oxide of zinc;

Paints, painters' and paper stainers' colors;

Printing paper of all descriptions; and tarred paper for roofing and other purposes; books, maps, charts, and all printed matter, and book-binding; paraffine; paraffine oil, not exceeding in specific gravity thirty-six degrees Baumé's hydrometer, a residuum of distillation or the products thereof; lubricating oil made from crude petroleum, coal, or shale, not exceeding in specific gravity thirty-six degrees Baumé's hydrometer: *Provided*, That such oil shall be subject to the same inspection as illuminating oil; crude petroleum, and crude oil the product of the first and single distillation of coal, shale, asphaltum, peat, or other bituminous substances;

Photographs or any other sun picture, being copies of engravings or works of art, when the same are sold by the producer at wholesale at a price not exceeding fifteen cents each, or are used for the illustration of books;

Pickles, when sold by the gallon and not contained in glass packages;

Pig-iron; muck-bar; blooms, slabs, and loops;

Plows, cultivators, harrows, straw and hay cutters, planters, seed-drills, horse-rakes, hand-rakes, cotton-gins, grain-cradles, and winnowing-mills;

Pot and pearl ashes;

Productions of stereotypers, lithographers, engravers, and electrotypers;

Putty;

Quinine, morphine, and other vegetable alkaloids, and phosphorus;

Railroad iron, and railroad iron rerolled;

Railroad chairs and fish plates; railroad, boat, and ship spikes; ax polls; iron axles; shoes for horses, mules, and oxen; rivets, horseshoe nails, nuts, washers, and bolts; vises, iron chains, and anchors; when such articles are made of wrought iron which has previously paid the tax or duty assessed thereon;

Reapers, mowers, threshing-machines, and separators; corn-shellers and wooden ware; cotton and hay presses;

Repairs of articles of all kinds;

Residuum, the product of mineral, vegetable, or animal substances drawn from stills after distillation;

Roman and water cements, and lime;

Roofing slate, slabs, and tiles;

Saleratus, sal soda, caustic soda, crude soda, aluminosilicate of soda; aluminate of soda; bicarbonate of soda; and silicate of soda;

Sails, tents, awnings, and bags made by sewing from fabrics or other articles upon which a duty or tax has been paid; and bags made of paper;

Saltpeter;

Salts of tin;

Silex used in the manufacture of glass;

Soap, valued at not above three cents per pound;

Spelter;

Spindles and castings of all descriptions made specially for locks, safes, looms, spinning-ma-



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chines, steam-engines, hot-air and hot-water furnaces, and sewing-machines, and not sold or used for any other purposes, and upon which a tax is assessed and paid on the article of which the casting is a part;

Spokes, hubs, bows, and felloes; poles, shafts, arms, and wheels not ironed or finished for carriages or wagons; wooden handles for plows, and for other agricultural, household, and mechanical tools and implements; and pail and tub cars and handles; and wooden tanks, and cisterns for crude mineral oil;

Starch;

Steel, made from iron advanced beyond muck-bar, blooms, slabs, or loops in ingots, bars, rails made and fitted for railroads, sheet, plate, coil, or wire, hoop-skirt wire covered or uncovered; car wheels, thimble skeins and pipe boxes, and springs, tire and axles made of steel used exclusively for vehicles, cars or locomotives; and clock springs, faces and hands;

Stoves, composed in part of cast iron and in part of sheet iron, or of soapstone, fire-brick, or freestone, with or without cast iron or sheet iron: *Provided*, That the cast and sheet iron shall have paid the tax or duty previously assessed thereon.

Sugar, molasses, or sirup made from beets, corn, sugar maple, or from sorghum or imphee;

Sulphate of barytes;

Sulphur, flowers of sulphur, and sulphur flour;

Tar and crude turpentine;

Tin cans used for preserved meats, fish, shell-fish, fruits, vegetables, jams, jellies, paints, oils, and spices;

Umbrellas and parasols, and sticks and frames for the same;

Value of bullion used in the manufacture of wares, watches, and watch-cases, and bullion prepared for the use of platers and watch-makers;

Vegetable, animal, and fish oils of all descriptions, not otherwise provided for, including red oil, oleic acid, and admixtures of the same with paraffine oil, not exceeding in specific gravity thirty-six degrees Baumé's hydrometer;

Verdigris;

Vinegar;

White and red lead;

Whiting; Paris white;

Window glass of all kinds;

Wine made of grapes, currants, or other fruits, and rhubarb;

Wire made from wire less than number twenty wire gauge, upon which a tax has been assessed and paid as wire, and no manufactured wire shall pay a greater tax than that imposed on number twenty wire gauge;

Yarn and warp for weaving, braiding, or manufacturing purposes exclusively;

Yeast and baking powders;

Zinc, in ingots or sheets;

*Provided further*, That the exemptions aforesaid shall, in all cases, be confined exclusively to said articles in the state and condition specified in the foregoing enumeration, and shall not extend to articles in any other form, nor to manufactures from said articles.

SEC. 11. *And be it further enacted*, That all lists or returns required to be made monthly, by any person, firm, company, corporation, or party whatsoever, liable to tax, shall be made on or before the tenth day of each and every month, and the tax assessed or due thereon shall be certified or returned by the assessor to the collector on or before the last day of each and every month. And all lists or returns required to be made quarterly, and all other lists or returns, for which no provision is otherwise made, shall be made on or before the tenth day of each and every month in which said list or return is required to be made, or succeeding the time when the tax may be due and liable to be assessed, and the tax thereon shall be certified or returned as herein provided for monthly lists or returns. And the tax shall

be due and payable on or before the last day of each and every month. And in case said tax is not paid on or before the last day of each and every month the collector shall add ten per centum thereto: *Provided*, That notice of the time when such tax shall become due and payable shall be given in such manner as shall be prescribed by the Commissioner of Internal Revenue; and if said tax shall not be paid on or before the last day of the month as aforesaid, it shall be the duty of said collector to demand payment thereof, with ten per centum additional thereto in the manner prescribed by law; and if said tax and ten per centum additional are not paid within ten days from and after such demand thereof, it shall be lawful for the collector or his deputy to make distraint therefor, as provided by law, and so much of section eighty-three of the act of June thirtieth, eighteen hundred and sixty-four, as amended by the act of March third, eighteen hundred and sixty-five, as relates to the time of payment and collection of tax, is hereby repealed; and in all cases of neglect to make such lists or returns, or in case of false and fraudulent returns, the provisions of existing law, as amended by this act, shall be applicable thereto.

SEC. 12. *And be it further enacted*, That apothecaries who manufacture, for their own dispensation and sales to consumers and to physicians, the medicines compounded according to the United States or other national pharmacopœias, or of which the full and proper formula is published in any of the dispensaries now or hitherto in common use among physicians and apothecaries, or in any pharmaceutical journal now issued by any incorporated college of pharmacy, shall not be regarded as manufacturers under this act. But apothecaries and all other persons who manufacture for the dispensing and sales of others, or who make and advertise any article, medicinal or otherwise, simple or compound, with any special proprietary claim to merit, or to special advantage in use or effect, whether such claim be based on the properties, qualities, price, or any other distinctive or distinguishing characteristic, whether real or pretended, of the articles so made and advertised, whether such article be or be not made according to the authorities above cited in this section, shall be regarded as manufacturers under this act.

SEC. 13. *And be it further enacted*, That no stamp tax shall be imposed upon any uncompounded medicinal drug or chemical, nor upon any medicine compounded according to the United States or other national pharmacopœia, or of which the full and proper formula is published in any of the dispensaries now or hitherto in common use among physicians or apothecaries, or in any pharmaceutical journal now issued by any incorporated college of pharmacy, when not sold or offered for sale, or advertised under any other name, form, or guise than that under which they may be severally denominated and laid down in said pharmacopœias, dispensaries, or journals as aforesaid; nor upon medicines sold to or for the use of any person, which may be mixed and compounded for said person according to the written receipt or prescription of any physician or surgeon. But nothing in this section shall be construed to exempt from stamp tax any medicinal articles, whether simple or compounded by any rule, authority, or formula, published or unpublished, which are put up in a style or manner similar to that of patent or proprietary medicines in general, or advertised in newspapers or by public handbills for popular sale and use, as having any special proprietary claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect, whether such claim be real or pretended.

SEC. 14. *And be it further enacted*, That in case any goods or commodities for or in respect whereof any tax is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making

of such goods or commodities shall be removed, or shall be deposited or concealed in any place, with intent to defraud the United States of such tax, or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels, respectively shall be forfeited; and in every such case, and in every case where any goods or commodities shall be forfeited under this act, or any other act of Congress relating to the internal revenue, all and singular the casks, vessels, cases or other packages whatsoever, containing, or which shall have contained, such goods or commodities, respectively, and every vessel, boat, cart, carriage, or other conveyance whatsoever, and all horses or other animals, and all things used in the removal or for the deposit or concealment thereof, respectively, shall be forfeited; and every person who shall remove, deposit, or conceal, or be concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any tax is or shall be imposed, with intent to defraud the United States of such tax or any part thereof, shall be liable to a fine or penalty of not exceeding five hundred dollars.

SEC. 15. *And be it further enacted*, That the judge of any circuit or district court of the United States, or any commissioner thereof, may issue a search warrant, authorizing any internal revenue officer to search any premises, if such officer shall make oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of said premises.

SEC. 16. *And be it further enacted*, That in case any person shall sell, give, or purchase or receive any box, barrel, bag, or any vessel, package, wrapper, cover, or envelope of any kind, stamped, branded or marked in any way so as to show that the contents or intended contents thereof have been duly inspected, or that the tax thereon has been paid, or that any provision of the internal revenue laws has been complied with, whether such stamping, branding, or marking may have been a duly authorized act or may be false and counterfeit, or otherwise without authority of law, said box, barrel, bag, vessel, package, wrapper, cover, or envelope being empty, or containing anything else than the contents which were therein when said articles had been so lawfully stamped, branded, or marked by an officer of the revenue, such person shall be liable to a penalty of not less than fifty nor more than five hundred dollars. And any person who shall make, manufacture, or produce any box, barrel, bag, vessel, package, wrapper, cover, or envelope, stamped, branded, or marked, as above described, or shall stamp, brand, or mark the same, as hereinbefore recited, shall, upon conviction thereof, be liable to penalty as before provided in this section. And any person who shall violate the foregoing provisions of this section, with intent to defraud the revenue, or to defraud any person, shall, upon conviction thereof, be liable to a fine of not less than one thousand nor more than five thousand dollars, or imprisonment for not less than six months, nor more than five years, or both such fine and imprisonment, at the discretion of the court. And all articles sold, given, purchased, received, made, manufactured, produced, branded, stamped, or marked in violation of the provisions of this section, and all their contents, shall be forfeited to the United States.

SEC. 17. *And be it further enacted*, That where any whisky, oil, tobacco, or other articles of manufacture or produce, requiring brands, stamps, or marks of whatever kind to be placed thereon, shall be sold upon distraint, forfeiture, or other process provided by law, the same not having been branded, stamped, or marked as required by law, the officer selling the same shall, upon sale thereof, fix, or cause to be affixed the brands, stamps, or marks so required, and deduct the expense thereof from the proceeds of such sale.

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SEC. 18. *And be it further enacted*, That manual labor schools and colleges shall not be required to pay a manufacturer's or special tax while the proceeds of the labor of such institutions are applied exclusively to the support and maintenance of such institutions.

SEC. 19. *And be it further enacted*, That no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally assessed or collected, until appeal shall have been duly made to the Commissioner of Internal Revenue according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof, and a decision of said Commissioner shall be had thereon, unless such suit shall be brought within six months from the time of said decision, or within six months from the time this act takes effect: *Provided*, That if said decision shall be delayed more than six months from the date of such appeal, then said suit may be brought at any time within twelve months from the date of such appeal.

SEC. 20. *And be it further enacted*, That section fifteen of the act of March three, eighteen hundred and sixty-five, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June thirty, eighteen hundred and sixty-four," be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that in any port of the United States in which there is more than one collector of internal revenue, the Secretary of the Treasury may designate one of said collectors to have charge of all matters relating to the exportation of articles subject to tax under the laws to provide internal revenue; and at such ports as the Secretary of the Treasury may deem it necessary, there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the collector, whose compensation therefor shall be prescribed by the Secretary of the Treasury, but shall not exceed, in any case, an annual rate of two thousand dollars, excepting at New York, where the compensation shall be an annual rate of three thousand dollars. And all the books, papers, and documents in the bureau of drawback in the respective ports, relating to the drawback of taxes paid under the internal revenue laws, shall be delivered to said collector of internal revenue; and any collector of internal revenue, or superintendent of exports and drawbacks, shall have authority to administer such oaths and certify to such papers as may be necessary under any rules and regulations that may be prescribed under the authority herein conferred.

SEC. 21. *And be it further enacted*, That every person, firm, or corporation who distills or manufactures spirits or alcohol by continuous distillation from grain, who brews or makes mash, wort, or wash for distillation or the production of spirits, shall be deemed a distiller, under this act. And the making or keeping by any person of grain, mash, wash, or beer, prepared or fit for distillation, together with the possession by such person of a still or other apparatus capable of use for distilling, upon the same premises, shall be deemed and taken as presumptive evidence that such person is a distiller within the meaning of this act.

SEC. 22. *And be it further enacted*, That every person, firm, or corporation who rectifies, purifies, or refines distilled spirits or wines by any process, or who, by mixing distilled spirits or wine with any materials, manufactures any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, "spirits," or "wine bitters," or any other name, shall be regarded as a rectifier under this act.

SEC. 23. *And be it further enacted*, That if any person shall carry on the business of a

distiller or rectifier without having paid the special tax, as required by law, he shall for every such offense be liable to a fine of not less than double the tax imposed upon the spirits distilled, or double the special tax due for the spirits rectified by such person or found upon the premises hereinafter mentioned, and to imprisonment for a term not exceeding two years; and all spirituous liquors so distilled or rectified, or owned by such person, or found as hereinafter mentioned, and all materials for making or preparing the same, and all vessels containing the same, and all stills or other apparatus capable of being used for distilling, owned by such person or found upon any premises where such business shall be carried on in violation of this section, shall be forfeited to the United States, and may be seized by the collector or deputy collector of the district within which such offense is committed.

SEC. 24. *And be it further enacted*, That every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the assessor of the district within which such business is to be carried on, stating the name or style under which, the name or names, and the place or places of residence of the person or persons by whom, and the place where said business is to be carried on, and whether of distilling or rectifying. In case of a distiller, the notice shall also state the kind of stills, boilers, and other implements to be used, the capacity of each, the name or names of the owner or owners of the premises on which the distillery is or is to be situated, and if such premises are leased, the terms of the lease. In case of any change in the location, form, capacity, ownership, agency, or superintendence of such distillery, stills, boilers, or other implements, like notice shall be given as aforesaid, within twenty-four hours, of such change. Such person shall also give bond, in form to be prescribed by the Commissioner of Internal Revenue, with sureties approved by the collector of the district, who may approve the same if he shall be satisfied by affidavits made on said bond, of the sufficiency of said sureties, conditioned that he will comply with all the requirements of the law in relation to distilled spirits. The penal sum of such bond shall not be more than double the amount of the tax on the spirits that can be distilled by such still or stills or other implements during a period of fifteen days; said collector may refuse to approve said bond when, in his judgment, the location of the distillery is such as would enable the distiller to defraud the revenue, and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond may be required in case of the death, insolvency, or removal of either of the sureties, or in any other contingency, at the discretion of the collector. Any person failing to give the notice or bond hereinbefore required, or giving a false or fraudulent notice, shall be liable to the fine and forfeiture provided in the last preceding section.

SEC. 25. *And be it further enacted*, That no person shall use any still, boiler, or other vessel, for the purpose of distilling in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether, are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or any other business is carried on, or in any dwelling-house; and every person who shall use such still, boiler, or other vessel, for the purpose of distilling, as aforesaid, in any building or other premises where the above specified articles are manufactured, produced, or other business is carried on, or in any dwelling-house, or who shall procure the same to be done, shall forfeit such stills, boilers, or other vessels so used,

and all the spirits distilled, and pay a fine of one thousand dollars, or be imprisoned for not more than one year, in the discretion of the court; and any person who shall manufacture any still, boiler, or other vessel, to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify the collector where such still, boiler, or other vessel is to be used or sent, and by whom it is to be used, and of its capacity, and the time when the same is to be sent or set up; and no such still, boiler, or other vessel, shall be set up without the permit in writing of the collector for that purpose; and any person who shall set up such still, boiler, or other vessel, without first obtaining a permit from the collector of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of five hundred dollars, and shall forfeit the distilling apparatus thus removed or set up in violation of law: *Provided*, That saleratus may be made or manufactured in any building or on any premises where spirits are distilled: *Provided further*, That any boiler used in generating steam or heating water to be used in such distillery may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

SEC. 26. *And be it further enacted*, That every rectifier or wholesale dealer in distilled spirits shall enter, daily, in a book or books kept for the purpose, under such rules and regulations as the Commissioner of Internal Revenue may prescribe, the number of proof gallons of spirits purchased or received, of whom purchased and received, and the number of proof gallons sold or delivered; and every rectifier or wholesale dealer who shall neglect or refuse to keep such record shall forfeit all spirits in his possession, together with the apparatus, tools, and implements used, and be subject to a fine of five hundred dollars, or imprisonment for not less than six months nor more than one year, in the discretion of the court. And every rectifier shall mark on each package of five gallons or more of distilled or rectified spirits sold by him, his name and place of business.

SEC. 27. *And be it further enacted*, That the owner or owners of any distillery shall provide at his or their own expense a warehouse suitable for the storage of bonded spirits, of [his or] their own manufacture only; or he or they may provide a secure room in a suitable building, to be used as such warehouse, but no dwelling-house shall be used for such purpose; and no door, window, or other opening shall be made or permitted in the walls thereof, leading to any other room or building used for any other purpose, or into the distillery; and after a bond has been given, as hereinafter provided, such warehouse or room, when approved by the Secretary of the Treasury, on report of the district collector, is hereby declared to be a bonded warehouse of the United States, and shall be used only for the storing of spirits manufactured by the owner, agent, or superintendent of such distillery, and shall be under the custody of the inspector as hereinafter provided; and shall be kept locked up by the proper officer in charge, at all times, except when he shall be present; and the tax on the spirit stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law. And the owner or owners of such warehouse shall execute a general bond to the United States with two or more sureties, to be approved by the collector; and such bond shall be for not less than the amount of taxes on the spirits to be covered thereby, and in such form, and containing such conditions, as shall be approved by the Secretary of the Treasury, and shall be changed or renewed from time to time in regard to the amount and

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sureties thereof, as the collector, with the approval of the Secretary of the Treasury, may require.

SEC. 28. *And be it further enacted*, That general bonded warehouses, for the storage of spirits or other merchandise allowed by law to be placed in bond to secure the payment of the internal revenue tax thereon, or the exportation thereof, may be established under such rules and regulations and upon the execution of such bonds as the Secretary of the Treasury may prescribe, and shall be in the immediate custody of store-keepers who shall be appointed for that purpose, whose compensation shall be paid monthly to the collector of the district by the owners or proprietors of such warehouse, and shall not exceed the rates which may be allowed to store-keepers of bonded warehouses established under the laws and regulations relating to customs: *Provided*, That any article manufactured in a bonded warehouse established under the one hundred and sixty-eighth section of the internal revenue act of June thirtieth, eighteen hundred and sixty-four, and located in any of the Atlantic States, may be removed therefrom for transportation to a customs bonded warehouse at any port on the Pacific coast of the United States, for the purpose only of being exported therefrom, under such rules and regulations and upon the execution of such bonds or other security as the Secretary of the Treasury may prescribe.

SEC. 29. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury an inspector for every distillery established according to law, who shall take an oath faithfully to perform his duties; and who shall take an account of all the meal and vegetable productions or other substances to be used for the purpose of producing spirits, when put into the mash tub or otherwise used; and shall inspect, gauge, and prove all the spirits distilled, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue; and shall take charge of the bonded warehouse established for the distillery in conformity to law; and such warehouse shall be in the joint custody of such inspector and the owner thereof, his agent or superintendent; and when any spirits shall be placed in such warehouse, an entry therefor, in such form as shall be prescribed by regulations, shall immediately be made and signed by the owner of said spirits, and shall have indorsed thereon a certificate of the inspector that the spirits mentioned have been duly inspected and received in said warehouse, and such entry and certificate shall be filed with the collector of the district; and said inspector shall not engage in any other business while employed as an inspector, and shall be paid five dollars per day for the time during which he is engaged; and the amount of compensation thus paid for inspection shall be assessed by the assessor upon the distiller, and returned to the collector monthly for collection; and in addition to the above compensation, such inspector shall receive such fee as may be prescribed by the Commissioner of Internal Revenue for each and every proof gallon of distilled spirits inspected by him and removed to the bonded warehouse, which shall be paid by the distiller or owner of the spirits; but no compensation shall be allowed to such inspector for more than one inspection of such spirits. And in case the duties of such inspector shall be greater at any time than he can perform, upon the joint application of the inspector and owner of such distillery, the Secretary of the Treasury may appoint an assistant inspector; and upon the refusal of the distiller to join in such application, the collector shall decide as to such necessity; and such assistant inspector shall qualify in the same manner and be subject to the same penalties as the inspector, and he shall be paid in the same manner as the inspector, at a rate not exceeding the sum of three dollars per day

while so employed; and in case of disagreement as to the necessity of retaining the services of such assistant, between the owner of the distillery and the inspector, the collector shall decide as to such necessity, and his decision in the matter shall be final. And in case of absence by sickness, or from any other cause, of such inspector or assistant, the collector may designate a person to take temporary charge of such distillery and warehouse, who shall during such absence perform the duties, receive the same rate of pay, and be paid in the same manner, as said inspector or assistant for the time he may be so employed: *Provided*, That the owner, agent, or superintendent of any distillery who shall use, cause or permit to be used, any materials for the purpose of producing spirits, or shall distill or remove any spirits in the absence of the acting inspector or assistant, without permission granted by the collector of the district, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto be liable to a fine of one thousand dollars, to be recovered in the manner provided for other penalties: *Provided further*, That any person who shall ship, transport or remove any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or who shall cause the same to be done, shall forfeit the same, and shall, on conviction thereof, be subject to and pay a fine of five hundred dollars.

SEC. 30. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more general inspectors of spirits, who shall be entitled to receive such fee as may be prescribed by the Commissioner of Internal Revenue for each and every proof gallon gauged and proved by him, to be paid by the owner of the spirits; and any owner, agent, or superintendent of any distillery or bonded warehouse who shall refuse to admit an inspector upon such premises, so far as it may be necessary for the performance of his duties, or who shall obstruct an inspector in the performance of his duties, shall forfeit and pay the sum of five hundred dollars, to be recovered in the manner provided for recovery of other penalties imposed by this act.

SEC. 31. *And be it further enacted*, That every person making or distilling spirits, or owning any still, boiler, or other vessel used for the purpose of distilling spirits, or having such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or using any such still, boiler, or other vessel, shall, from day to day, to make, or cause to be made, true and exact entry in a book, to be kept in such form as the Commissioner of Internal Revenue may prescribe, of the number of pounds or gallons of materials used for the purpose of producing spirits, the number of gallons of spirits distilled, the number of gallons placed in warehouse, and the proof thereof, and the number of gallons sold, with the proof thereof, and the name and place of business or residence of the person to whom sold; and shall also on the first, eleventh, and twenty-first days of each month, or within five days thereafter, render to the assessor or assistant assessor an account in duplicate, taken from his books in the particulars hereinbefore recited, and verified by oath, of all the facts occurring after the last day of account preceding. The entries to be made in the books of the distiller as aforesaid shall, upon the several days when the returns are made, as provided, be verified by oath or affirmation of the person or persons by whom such entries shall have been made, in the presence of the assessor or assistant assessor, or other proper officer, who shall append thereto his certificate of the ex-

ecution of the same. The owner, agent, or superintendent of any distillery shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the certificate of the person by whom they were made the following oath or affirmation: "I do certify that to the best of my knowledge and belief the foregoing entries are just and true, and that I have taken all the means in my power to make them so." Said book shall always be open for the inspection of any assessor, assistant assessor, collector, deputy collector, revenue agents, or inspectors, and any premises where distilling shall be carried on shall be open to said officers, or either of them, at all times. Any person who shall violate the provisions of this section shall for every such offense be liable to a fine of five hundred dollars. Any person who shall render an account under the provisions of this section which shall be false or fraudulent shall be liable to a fine of not less than five hundred dollars, or to imprisonment not less than six months.

SEC. 32. *And be it further enacted*, That there shall be levied, collected, and paid on all distilled spirits upon which no tax has been paid according to law, a tax of two dollars on each and every proof gallon, to be paid by the distiller, owner, or any person having possession thereof; and the tax shall be a lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the interest of said distiller in the lot or tract of land whereon the said distillery is situated, from the time said spirits are distilled, until the said tax shall be paid: *Provided*, That the tax on all spirits shall be collected at no lower rate than the basis of first-proof, and shall be increased in proportion for any greater strength than the strength of first-proof.

SEC. 33. *And be it further enacted*, That proof spirits shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit; and the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use, such hydrometers, weighing and gauging instruments, meters or other means for ascertaining the strength and quantity of spirits subject to tax, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing, and gauging of spirits subject to tax throughout the United States. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of first-proof, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

SEC. 34. *And be it further enacted*, That the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into one of which shall be conveyed each day all the spirits manufactured in said distillery during that day; and such cisterns shall be so constructed as to leave an open space of at least three feet between the tops thereof and the floor or roof above, and of not less than eighteen inches between the bottoms thereof and the floor below, and shall be separated in such a manner as will enable the inspector to pass around the same, and shall be connected with the outlet of the stills, boilers, or other vessels used for distilling, by suitable pipes or other apparatus so constructed as always to be exposed to the view of the inspector; such cisterns and the room in which they are contained shall be in charge of and under the lock and seal of



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the inspector; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks or other packages, under the supervision of the inspector, and shall be immediately inspected, gauged, proved, and the casks or packages marked as herein provided, and be removed directly to the bonded warehouse before mentioned: *Provided*, That the spirits may be drawn off from said cisterns at any time previous to the third day, if so desired by the owner, agent, or superintendent of such distillery; and all locks and seals required by law shall be provided by the Secretary of the Treasury, at the expense of the owner of the distillery or warehouse, and the keys shall always be in the custody of the inspector or assistant inspector, or the officer having charge of the distillery or warehouse.

SEC. 35. *And be it further enacted*, That any person who shall knowingly and fraudulently use any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, or who shall fraudulently make false record of the same, or who shall destroy or tamper with any locks or seal which may be placed on any cistern, rooms, or buildings, by the duly authorized officers of the revenue, shall on conviction thereof be imprisoned for the term of two years, and pay a fine not exceeding one thousand dollars, in the discretion of the court; and any person who shall use any molasses, beer, or other substances, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same shall have been registered in the proper record book provided for this purpose, shall forfeit and pay the sum of one thousand dollars for each and every offense so committed.

SEC. 36. *And be it further enacted*, That on all wines, liquors, or compounds known or denominated as wine, made in imitation of sparkling wines or champagne, and put up in bottles in imitation of any imported wine, or with the pretense of being imported wine, or wine of foreign growth or manufacture, there shall be levied and paid a tax of six dollars per dozen bottles, each bottle containing more than one pint, and not more than one quart, or three dollars per dozen bottles, each bottle containing not more than one pint; said tax to be paid by the manufacturer, owner, or person having possession thereof; and the returns, assessment, collection, and time of collection of the tax on such imitation wines shall be subject to the regulations of the Commissioner of Internal Revenue. And any person who shall willfully and knowingly sell or offer for sale any such wine made after this act takes effect, upon which the tax herein imposed has not been paid, or which has been fraudulently evaded, shall, upon conviction thereof, be subject to a penalty of one thousand dollars, or to imprisonment not exceeding one year, at the discretion of the court.

SEC. 37. *And be it further enacted*, That every owner, agent, or superintendent of any distillery shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus, belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the inspector, when required so to do by any duly authorized officer, under a penalty of two hundred dollars for any refusal or neglect so to do.

SEC. 38. *And be it further enacted*, That all spirits distilled shall, before the same are removed to the bonded warehouse, be inspected, gauged, and proved by the inspector appointed for that purpose, after the same *has* [have] been drawn into casks or packages, each of not less capacity than twenty gallons, wine measure, and said inspector shall mark by cutting, branding, or otherwise upon the cask or package containing such spirits, in a manner

to be prescribed by the Commissioner of Internal Revenue, the quantity and proof of the contents of such cask or package, with the date of inspection, the collection district, the name of the inspector and the name of the distiller, and also the number of each cask in progressive order, such progressive number, for every distiller, to begin with number one with the first cask or package inspected after this act takes effect, and subsequently with number one with the first cask inspected on or after the first day of January, in each year, and not two or more casks warehoused in the same year by the same distiller shall be marked with the same number, and the officer in charge of the warehouse shall refuse to allow any cask of spirits to be taken out therefrom which has not marked thereon all the several particulars aforesaid, and in the manner required by law. And the inspector or other revenue officer in charge of any distillery shall make a prompt return of all spirits inspected by him in accordance with the provisions of law, and the name of the distiller, to the collector, and a duplicate thereof to the assessor of the district; and any person who shall fraudulently evade or attempt fraudulently to evade the payment of the tax upon any spirits distilled as aforesaid, by changing any marks upon any such cask or package, or in any other manner whatever, or who shall fraudulently put into such cask or package spirits of greater strength than that inspected and certified to by the inspector, shall pay double the amount of tax on each proof gallon of the quantity of such spirits, to be assessed and collected as in case of other taxes, and forfeit and pay as a penalty the additional sum of five hundred dollars for each cask or package so altered or changed, to be recovered as provided by law; and any inspector, assistant inspector, or officer temporarily in charge of any distillery, who shall conspire with the proprietor of any distillery or with any other person or persons to defraud the United States of the revenue or tax arising from distilled spirits or any part thereof, or who shall, with intent to defraud the United States of such revenue or tax, make any false or fraudulent entry, certificate, or return, or place any false or fraudulent mark upon any cask or package, shall, on conviction thereof, pay a fine of not less than one thousand nor more than five thousand dollars, and be imprisoned for not less than two nor more than five years; and any person who shall fraudulently use any cask or package bearing inspection marks, for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quantity or quality different from that so inspected, shall be imprisoned for a term of six months or shall pay a fine of one hundred dollars for each cask or package so used, in the discretion of the court; and any person who shall knowingly purchase or sell, with inspection marks thereon, any cask or package, after the same has been used for distilled spirits, or who shall fraudulently omit to erase or obliterate the inspection marks upon any such package or cask at the time of emptying the same, shall forfeit and pay the sum of two hundred dollars for every cask so purchased or used, or on which the marks are not so obliterated. And any person who shall, with fraudulent intent, use any inspector's brands or plates upon any cask or package containing or purporting to contain distilled spirits, or who shall knowingly make or use any counterfeit or spurious brand or plate upon any cask or package of distilled spirits, as aforesaid, shall be deemed guilty of a felony, and, on conviction thereof, shall pay a fine of one thousand dollars and be imprisoned for not less than two nor more than five years, and such cask or package, with its contents, shall be forfeited to the United States. And any inspector who shall permit any person not employed by him to use any of his brands or plates, or who shall negligently or willfully leave such brands

or plates where they can be used by any other person than those who may be in his employ, shall pay a fine not exceeding one thousand dollars, in the discretion of the court. And any inspector who shall employ any owner, agent, or superintendent of any distillery or warehouse under his supervision, or who shall employ any person in the service of such owner, agent, or superintendent, to use his plates or brands, or to discharge any of the duties imposed by law upon such inspector, shall, for each offense so committed, be subject to the fine last mentioned.

SEC. 39. *And be it further enacted*, That any person or persons who shall add, or cause to be added, any ingredients to any spirits before the tax imposed by law shall have been paid thereon, for the purpose of creating a fictitious proof, shall, upon conviction, be subject to a fine of one thousand dollars for each cask or package so adulterated, and be imprisoned for not less than one nor more than two years, in the discretion of the court, and such cask or package, with its contents, shall be forfeited to the United States.

SEC. 40. *And be it further enacted*, That any distilled spirits which have been inspected, gauged, proved, and marked by the inspector, according to the provisions of law, may be removed without the payment of tax from the bonded warehouse owned by the distiller, under such rules and regulations, and upon the execution of such transportation bonds or other security, as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe, and may be transported to any general bonded warehouse used for the storage of distilled spirits, established under the internal revenue laws and regulations, after having been branded as follows: "U. S. bonded warehouse, \_\_\_\_\_ district, \_\_\_\_\_; for transportation to \_\_\_\_\_ district, \_\_\_\_\_;" (inserting in each case the number of the district and name of the State;) and immediately after the arrival of such distilled spirits at the district of the collector to which it has been transferred, it shall again be inspected and placed in a bonded warehouse; and the tax shall be paid on the difference between the number of proof gallons as stated in the bond given at the place of shipment and the number received at the warehouse, less the allowance for leakage as established by the regulations of the Commissioner of Internal Revenue; and except for actual destruction by unavoidable accident, by the elements, or by the public enemy, no other allowance for loss shall be made; and any distilled spirits entered in a general bonded warehouse shall be subject to such rules and regulations as the Commissioner of Internal Revenue may prescribe, and be chargeable with the same costs and expenses, in all respects, to which imported goods deposited in public store or bonded warehouse may be subject, and shall be in charge of a store-keeper, to be appointed by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits so stored in said warehouse, which shall be at the risk of the owner of the said spirits; and all labor on the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor. And the same fees shall be paid for the execution of all papers, instruments, and documents relating to the exportation of any spirits or other merchandise, as are charged to exporters for like services in the custom-house; and all expense and services required in the removal, transfer, and shipment of the same for export shall be paid by the owner thereof: *Provided*, That any distilled spirits may be withdrawn from a bonded warehouse, after having been inspected and gauged by the proper officer, and after the payment to the collector of internal revenue for the district

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in which the warehouse is situated of the tax imposed by law; and when so delivered, shall be branded "U. S. bonded warehouse, tax paid;" or may be removed from said warehouse without the payment of the tax for the purpose of being exported, or for the purpose of being rectified, or redistilled, canned, or put into other packages, after the quantity and proof of the spirits to be removed have been ascertained and inspected as required by law; under such rules and regulations and the execution of such bonds or other security as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe; but such removal of bonded spirits for the purpose of being rectified, redistilled, or put into other packages, shall be allowed but once on the same spirits; and all spirits so removed for redistillation, rectification, or change of package, shall be returned to the same warehouse, and shall again be inspected; and the tax shall be paid to the said collector on any deficiency or reduction beyond three per cent. And upon spirits removed under bond for the purpose of being redistilled or rectified, or change of package as aforesaid, and upon which an allowance shall have been made, as herein provided, the duty upon such allowance shall be paid, together with the taxes imposed by law upon such spirits, in case such spirits shall be withdrawn for consumption or sale, or for transportation without being exported. And no drawback shall be allowed on any distilled spirits on which the tax has been paid; but nothing in this section shall be so construed as to prevent the manufacture in bond for exportation, without the payment of taxes, of medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, as provided by law.

SEC. 41. *And be it further enacted*, That any spirits or other merchandise may be removed from bonded warehouse, for the purpose of being exported, upon the order of the superintendent of exports for the port whence the spirits are to be exported; and such order shall state the port to which such spirits are to be shipped, and the name of the vessel, and also the number of proof gallons, and the marks of the packages or casks; and such spirits or other merchandise shall be branded "U. S. bonded warehouse, for export," and shall be put on board of the vessel in or by which they are to be exported, by an officer under direction of the superintendent of exports, and placed under the supervision of an officer of the customs, after a bond with good and sufficient sureties shall have been given in such form and containing such conditions as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe. And such bond shall be canceled upon the presentation of the proper certificate that said spirits have been landed at the port named in said bond, or at any other port without the jurisdiction of the United States, or upon satisfactory proof that after shipment the spirits have been lost. And at any port where there shall be no superintendent of exports, all the duties and services required of superintendents of exports and drawback shall devolve upon and be performed by the collector of internal revenue designated to have charge of exportations.

SEC. 42. *And be it further enacted*, That any person or persons who shall execute or sign any false or fraudulent bond, permit, entry, or other document, required by law or regulations; or who shall fraudulently procure the same to be executed; or who shall connive at the execution thereof, by which the payment of any internal revenue tax shall be evaded, or attempted to be evaded, or which shall be executed, or purport to be executed, for the purpose of placing in, or withdrawing from, any bonded warehouse any spirits or other mer-

chandise for any purpose whatever, or which shall in any way be used or attempted to be used in fraud of the internal revenue laws and regulations, in conviction thereof, shall forfeit all property in such spirits or other merchandise to which such instrument relates, or purports to relate, and shall be imprisoned for a term not less than one nor more than five years, at the discretion of the court.

SEC. 43. *And be it further enacted*, That any person owning any distilled spirits intended for sale, manufactured prior to the time when this act takes effect, exceeding fifty gallons altogether, shall notify in writing the collector of the district wherein such spirits may be stored, held, or owned, within sixty days thereafter, to gauge and prove the same; and upon the receipt of said notice the collector shall cause said spirits to be gauged and proved, and the casks or packages containing the same to be marked by the inspector in the following manner:

Manufactured prior to  
—, 186—.  
—, Inspector,  
— District.  
Inspected —, 186—.

And no spirits so manufactured, held, or owned, shall be gauged, proved, or marked in any cistern or other stationary vessel, but shall be gauged, proved and marked only in barrels, casks, or packages in which the same shall have been placed; and the quantity held in leach-tubs shall be estimated by the inspector, and when drawn off into packages, shall be gauged and marked as herein provided. Upon the receipt of the return the collector shall immediately forward to the Commissioner of Internal Revenue a copy thereof; and any person holding or owning such spirits, and refusing or neglecting to notify the collector, as in this section provided, shall forfeit the same and pay the sum of five hundred dollars, to be collected in the manner provided by law for the collection of other penalties. No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery premises, under the penalty of a forfeiture of all spirits so found. And all spirits, after being removed from the original package in which they were inspected and gauged into other packages for purposes of rectification, redistillation, or change of proof, shall again be inspected and gauged and properly branded; and the absence of an inspector's brand shall be taken and held as sufficient cause or evidence upon which any spirits so found may be forfeited. And any person who shall change the character of any spirits, either by rectification, mixing, or otherwise, after they have been duly inspected and marked, as hereinbefore provided, and place the same in other packages for consumption or sale without first stamping or branding upon such package, in such manner as the Commissioner of Internal Revenue may prescribe, the word "Rectified," shall forfeit such spirits, and the same may be seized by the collector or deputy collector of the district where such spirits may be found, or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue for that purpose. And any person who shall so brand any package containing spirits, knowing the taxes thereon have not been paid, shall forfeit such spirits, and shall be deemed guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than two years, at the discretion of the court.

SEC. 44. *And be it further enacted*, That all boilers, stills, or other vessels, tools, and implements, used in distilling or rectifying, and forfeited under any of the provisions of this act, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or

other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law. And all spirits or spirituous liquors which may be forfeited under the provisions of this act, unless herein otherwise provided, shall be disposed of by the Commissioner of Internal Revenue as the Secretary of the Treasury may direct. And the Commissioner of Internal Revenue is hereby authorized, with the approval of the Secretary of the Treasury, to exempt distillers of brandy from apples, peaches, or grapes exclusively, from such of the provisions of this act relating to the manufacture of spirits as in his judgment may seem expedient. And any word or words in any and all parts of this act, and of all acts to which this act is additional, indicating or referring to person or persons, shall be taken to include partnerships, firms, associations, bodies corporate or politic, or any other party whatsoever, when not otherwise designated, or manifestly incompatible with the intent thereof.

SEC. 45. *And be it further enacted*, That any person who shall remove any distilled spirits from the place where the same are distilled, otherwise than into a bonded warehouse as provided by law, shall be liable to a fine of double the amount of the tax imposed thereon, or to imprisonment for not less than three months. All distilled spirits so removed, and all distilled spirits found elsewhere than in a bonded warehouse, not having been removed from such warehouse according to law, and the tax imposed by law on the same not having been paid, shall be forfeited to the United States, or may, immediately upon discovery, be seized, and, after assessment of the tax thereon, may be sold by the collector for the tax and expenses of seizure and sale. And proceedings upon such seizure shall be according to existing provisions of law in relation to distraint, and in conformity with any regulations which shall be made by the Commissioner of Internal Revenue. And the burden of proof shall be upon the claimant of such spirits to show that the requirements of law in regard to the same have been complied with. And any person who shall aid or abet in the removal of distilled spirits from any distillery otherwise than to a bonded warehouse as provided by law, or shall aid in the concealment of such spirits so removed, shall be liable, on conviction thereof, to a fine of not less than two hundred nor more than one thousand dollars, or to imprisonment for not less than three nor more than twelve months. And any person who shall remove, or shall aid or abet in the removal of any distilled spirits from any bonded warehouse, other than is allowed by law, shall be liable to a fine of not more than one thousand dollars, or to imprisonment not less than three nor more than twelve months.

SEC. 46. *And be it further enacted*, That every brewer shall, before commencing or continuing business after this act takes effect, file with the assistant assessor of the assessment district in which he shall design to carry on his business, a notice in writing, stating therein the name of the person, company, corporation, or firm, and the names of the members of any such company or firm, together with the place or places of residence of such person or persons, and a description of the premises on which the brewery is situated, and his or their title thereto, and the name or names of the owner or owners thereof; and also the whole quantity of malt liquors annually made and sold or removed from the brewery for two years next preceding the date of filing such notice.

SEC. 47. *And be it further enacted*, That every brewer shall execute a bond to the United States, to be approved by the collector of the district, in a sum equal to twice the amount of tax which, in the opinion of the assessor, said brewer will be liable to pay during any one month, which

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bond shall be renewed on the first day of May in each year, and shall be conditioned that he will pay, or cause to be paid, as herein provided, the tax required by law on all beer, lager beer, ale, porter, and other fermented liquors aforesaid made by him, or for him, before the same is sold or removed for consumption or sale, except as hereinafter provided; and that he will keep, or cause to be kept, a book in the manner and for the purposes hereinafter specified, which shall be open to inspection by the proper officers as by law required, and that he will in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the manufacture and sale of any malt liquors before mentioned: *Provided*, That no brewer shall be required to pay a special tax as a wholesale dealer, by reason of selling at wholesale, at a place other than his brewery, malt liquors manufactured by him.

SEC. 48. *And be it further enacted*, That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a tax of one dollar for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel which shall be brewed or manufactured and sold, or removed for consumption or sale, within the United States; which tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, in the manner and at the time hereinafter specified: *Provided*, That fractional parts of a barrel shall be halves, quarters, sixths, and eighths; and any fractional part of a barrel containing less than one eighth shall be accounted one eighth; more than one eighth and not more than one sixth, shall be accounted one sixth; more than one sixth and not more than one quarter, shall be accounted one quarter; more than one quarter and not more than one half, shall be accounted one half; more than one half and not more than one barrel, shall be accounted one barrel; and more than one barrel and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead.

SEC. 49. *And be it further enacted*, That every person owning or occupying any brewery or premises used, or intended to be used, for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence as agent for the owner or occupant, or shall have in his possession or custody any brewing materials, utensils, or apparatus, used or intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or superintendent, shall, from day to day, enter or cause to be entered, in a book to be kept by him for that purpose, the kind of such fermented liquors, the description of packages, and number of barrels and fractional parts of barrels of fermented liquors made, and also the quantity sold or removed for consumption or sale, and shall also, from day to day, enter or cause to be entered, in a separate book to be kept by him for that purpose, on [an] account of all material by him purchased for the purpose of producing such fermented liquors, including grain and malt; and shall render to said assessor or assistant assessor, on or before the tenth day of each month, a true statement in writing, taken from his books, of the whole quantity or number of barrels and fractional parts of barrels of fermented liquors brewed and sold, or removed for consumption or sale, during the preceding month; and shall verify, or cause to be verified, the said statement, and the facts therein set forth, by oath or affirmation to be taken before the assessor or assistant assessor of the district, according to the form required by law, and shall immediately forward to the collector of the district a duplicate of said statement, duly certified by the assessor or assistant assessor. And said

books shall be open at all times for the inspection of any assessor or assistant assessor, collector, deputy collector, inspector, or revenue agent, who may take memorandums and transcripts therefrom.

SEC. 50. *And be it further enacted*, That the entries made in such books shall, on or before the tenth day of each month, be verified by the oath or affirmation of the person or persons by whom such entries shall have been made, which oath or affirmation shall be written in the book at the end of such entries, and be certified by the officer administering the same, and shall be in form as follows: "I do swear (or affirm) that the foregoing entries were made by me, and that they state truly, according to the best of my knowledge and belief, the whole quantity of fermented liquors brewed, the quantity sold, and the quantity removed from the brewery owned by — in the county of —. And further, that I have no knowledge of any matter or thing, required by law to be stated in said entries, which has been omitted therefrom." And the owner, agent, or superintendent aforesaid, shall also, in case the original entries made in his books shall not have been made by himself, subjoin thereto the following oath or affirmation, to be taken in manner as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries fully set forth all the matters therein required by law, and that the same are just and true, and that I have taken all the means in my power to make them so."

SEC. 51. *And be it further enacted*, That the owner, agent, or superintendent of any brewery, vessels, or utensils used in making fermented liquors, who shall evade or attempt to evade the payment of the tax thereon, or fraudulently neglect or refuse to make true and exact entry and report of the same in the manner by law required, or to do or cause to be done any of the things by law required to be done by him as aforesaid, or who shall intentionally make false entry in said book or in said statement, or knowingly allow or procure the same to be done, shall forfeit, for every such offense, all the liquors made by him or for him, and all the vessels, utensils, and apparatus used in making the same, and be liable to a penalty of not less than five hundred nor more than one thousand dollars, to be recovered with costs of suit, and shall be deemed guilty of a misdemeanor, and shall be imprisoned for a term not exceeding one year. And any brewer who shall neglect to keep the books, or refuse to furnish the account and duplicate thereof as provided by law, or who shall refuse to permit the proper officer to examine the books in the manner provided, shall, for every such refusal or neglect, forfeit and pay the sum of three hundred dollars.

SEC. 52. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared, for the payment of the tax aforesaid, suitable stamps denoting the amount of tax required to be paid on the hogshead, barrels, and halves, quarters, sixths, and eighths of a barrel of such fermented liquors, and shall furnish the same to the collectors of internal revenue, who shall each be required to keep on hand, at all times, a supply equal in amount to two months' sales thereof, if there shall be any brewery or brewery warehouse in his district, and the same shall be sold by such collectors only to the brewers of their districts, respectively; and such collectors shall keep an account of the number and values of the stamps sold by them to each of such brewers, respectively; and the Commissioner of Internal Revenue shall allow upon all sales of such stamps to any brewer, and by him used in his business, a deduction [deduction] of seven and one half per centum. And the amount paid into the Treasury by any collector on account of the sale of such stamps to brewers shall be included in estimating the commissions of such collector and of the assessor of the same district.

SEC. 53. *And be it further enacted*, That every brewer shall obtain, from the collector of the district in which his brewery or brewery warehouse may be situated, and not otherwise, unless said collector shall fail to furnish the same upon application to him, the proper stamp or stamps, and shall affix upon the spigot-hole or tap (of which there shall be but one) of each and every hogshead, barrel, keg, or other receptacle, in which any fermented liquor shall be contained, when sold or removed from such brewery or warehouse, a stamp denoting the amount of the tax required upon such fermented liquor, in such a way that the said stamp or stamps will be destroyed upon the withdrawal of the liquor from such hogshead, barrel, keg, or other vessel, or upon the introduction of a faucet or other instrument for that purpose; and shall also, at the time of affixing such stamp or stamps as aforesaid, cancel the same by writing or imprinting thereon the name of the person, firm, or corporation by whom such liquor may have been made, or the initial letters thereof, and the date when canceled. Every brewer who shall refuse or neglect to affix and cancel the stamp or stamps required by law in the manner aforesaid, or who shall affix a false or fraudulent stamp thereto, or knowingly permit the same to be done, shall be liable to pay a penalty of one hundred dollars for each barrel or package on which such omission or fraud occurs, and shall be liable to imprisonment for not more than one year.

SEC. 54. *And be it further enacted*, That any brewer, carman, agent for transportation, or other person, who shall sell, remove, receive, or purchase, or in any way aid in the sale, removal, receipt, or purchase of any fermented liquor contained in any hogshead, barrel, keg, or other vessel from any brewery or brewery warehouse, upon which the stamp required by law shall not have been affixed, or on which a false or fraudulent stamp is affixed, with knowledge that it is such, or on which a stamp once canceled is used a second time; and any retail dealer or other person, who shall withdraw, or aid in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel containing the same, without destroying or defacing the stamp affixed upon the same, or shall withdraw or aid in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel, upon which the proper stamp shall not have been affixed, or on which a false or fraudulent stamp is affixed, shall be liable to a fine of one hundred dollars, and to imprisonment not more than one year. Every person who shall make, sell, or use any false or counterfeit stamp or die for printing or making stamps which shall be in imitation of or purport to be a lawful stamp or die of the kind before mentioned, or who shall procure the same to be done, shall be imprisoned for not less than one nor more than five years: *Provided*, That every brewer, who sells fermented liquor at retail at the brewery or other place where the same is made, shall affix and cancel the proper stamp or stamps upon the hogsheads, barrels, kegs, or other vessels in which the same is contained, and shall keep an account of the quantity so sold by him, and of the number and size of the hogsheads, barrels, kegs, or other vessels in which the same may have been contained, and shall make a report thereof, verified by oath, monthly to the assessor, and forward a duplicate of same to the collector of the district: *And provided further*, That brewers may remove malt liquors of their own manufacture from their breweries or other places of manufacture to a warehouse or other place of storage occupied by them within the same district in quantities of not less than six barrels in one vessel without affixing the proper stamp or stamps, but shall affix the same upon such liquor when sold or removed from such warehouse or other place of storage. But when the manufacturer of any



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ale or porter manufactures the same in one collection district, and owns, occupies, or hires a depot or warehouse for the storage and sale of such ale or porter in another collection district, he may, without affixing the stamps on the casks at the brewery, as herein provided for, remove or transport, or cause to be removed or transported, said ale or porter, in quantities not less than one hundred barrels at a time, under a permit from the collector of the district wherein said ale or porter is manufactured, to said depot or warehouse, but to no other place, under such rules and regulations as the Commissioner of Internal Revenue may prescribe, and thereafter the manufacturer of the ale or porter so removed shall stamp the same when it leaves such depot or warehouse, in the same manner and under the same penalties and liabilities as when stamped at the brewery as herein provided; and the collector of the district in which such depot or warehouse is situated shall furnish the manufacturer with the stamps for stamping the same, as if the said ale or porter had been manufactured in his district: *And provided further*, That where fermented liquor has become sour or damaged, so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes, in casks, or other vessels, unlike those ordinarily used for fermented liquors, containing respectively not less than one barrel each, and having the nature of their contents marked upon them, without affixing thereon the stamp or stamps required.

SEC. 55. *And be it further enacted*, That every brewer shall mark or cause to be marked, in such manner as shall be prescribed by the Commissioner of Internal Revenue, upon every hogshead, barrel, keg, or other vessel containing the fermented liquor made by him, before it is sold or removed from the brewery, or brewery warehouse, or other place of manufacture, the name of the person, firm, or corporation by whom such liquor was manufactured, and the place where the same shall have been made; and any person other than the owner thereof, or his agent, who shall intentionally remove or deface such mark therefrom, shall be liable to a penalty of fifty dollars for each cask from which the mark is so removed or defaced.

SEC. 56. *And be it further enacted*, That every person other than the purchaser or owner of any fermented liquor, or person acting on his behalf, or as his agent, who shall intentionally remove or deface the stamp affixed upon the hogshead, barrel, keg, or other vessel, in which the same may be contained, shall be liable to a fine of fifty dollars for each such vessel from which the stamp is so removed or defaced, and to render compensation to such purchaser or owner for all damages sustained by him therefrom.

SEC. 57. *And be it further enacted*, That the ownership or possession by any person of any fermented liquor after its sale or removal from brewery or warehouse, or other place where it was made, upon which the tax required shall not have been paid, shall render the same liable to seizure wherever found, and to forfeiture; and that the want of the proper stamp or stamps upon any hogshead, barrel, keg, or other vessel in which fermented liquor may be contained after its sale or removal from the brewery where the same was made, or warehouse as aforesaid, shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the non-payment thereof.

SEC. 58. *And be it further enacted*, That every person who shall withdraw any fermented liquor from any hogshead, barrel, keg, or other vessel upon which the proper stamp or stamps shall not have been affixed, for the purpose of bottling the same, or who shall carry on, or attempt to carry on, the business of bottling fermented liquor in any brewery or other place in which fermented liquor is made, or upon

any premises having communication with such brewery or any warehouse, shall be liable to a fine of five hundred dollars, and the property used in such bottling or business shall be liable to forfeiture.

SEC. 59. *And be it further enacted*, That any inspector or revenue agent who shall hereafter become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, and any assessor, collector, inspector, or revenue agent, who shall hereafter become interested, directly or indirectly, in the production, by distillation, or by other process, of spirits, ale, or beer, or other fermented liquors, shall, on conviction before any court of the United States of competent jurisdiction, pay a penalty not less than five hundred dollars, nor more than five thousand dollars, in the discretion of the court. And any such officer interested as aforesaid in any such manufacture at the time this act takes effect, who shall fail to divest himself of such interest within sixty days thereafter, shall be held and declared to have become so interested after this act takes effect.

SEC. 60. *And be it further enacted*, That every internal revenue officer, whose payment, charges, salary, or compensation shall be composed, either wholly or in part, of fees, commissions, allowances, or rewards, from whatever source derived, shall be required to render to the Commissioner of Internal Revenue, under regulations to be approved by the Secretary of the Treasury, a statement under oath setting forth the entire amount of such fees, commissions, emoluments or rewards of whatever nature, or from whatever source received, during the time for which said statement is rendered; and any false statement knowingly and willfully rendered under the requirements of this section, or regulations established in accordance therewith, shall be deemed willful perjury, and punished on conviction thereof, as provided in section forty-two of the act of June thirty, eighteen hundred and sixty-four, to which this act is an amendment; and any neglect or omission to render such statement when required shall be punished on conviction thereof by a fine of not less than two hundred dollars nor more than five hundred dollars, in the discretion of the court.

SEC. 61. *And be it further enacted*, That so much of this act as changes the existing law relating to distilled spirits and fermented liquors shall take effect from and after the first day of September, eighteen hundred and sixty-six.

SEC. 62. *And be it further enacted*, That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause or procure to be promised, offered, or given, any money, goods, right in action, bribe, present or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever to any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any department of the Government of the United States, after the passage of this act, with intent to influence his decision or action on any question, matter, cause, or thing which may then be pending, or may by law be brought before him in his official capacity, or in his place of trust or profit, or with intent to influence any such officer or person to commit, or aid or abet in committing, any fraud on the revenue of the United States, or to connive at or collude in, or to allow or permit, or make opportunity for the commission of any such fraud, and shall be thereof convicted, such person or persons so offering, promising, or giving, or causing, or procuring to be promised, offered, or given any such money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or

other valuable thing whatever, and the officer or person who shall in anywise accept or receive the same, or any part respectively shall be liable to indictment in any court of the United States, having jurisdiction, and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, given, accepted, or received, and imprisoned not exceeding three years; and the person convicted of so accepting or receiving the same, or any part thereof, if an officer or person holding any such place of trust or profit, shall forfeit his office or place; and any person so convicted under this section shall forever be disqualified to hold any office of honor, trust or profit under the United States.

SEC. 63. *And be it further enacted*, That hereafter in all cases of seizure of any goods, wares, or merchandise which shall, in the opinion of the collector or deputy collector making such seizure, be of the appraised value of three hundred dollars or less, and which shall have been so seized as being subject to forfeiture under any of the provisions of this act, or of any act to which this is an amendment, excepting in cases otherwise provided, the said collector or deputy collector shall proceed as follows, that is to say: he shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisement of the same to be made by three sworn appraisers, to be selected by him for said purpose, who shall be respectable and disinterested citizens of the United States residing within the collection district wherein the seizure was made. The aforesaid list and appraisement shall be properly attested by such collector or deputy collector and the persons making the appraisement, for which service said appraisers shall be allowed the sum of one dollar and fifty cents per day each, to be paid as other necessary charges of collectors according to law. If the said goods shall be found by such appraisers to be of the value of three hundred dollars or less, the said collector or deputy collector shall publish a notice, for the space of three weeks, in some newspaper of the district where the seizure was made, describing the articles and stating the time, place, and cause of their seizure, and requiring any person or persons claiming them to appear and make such claim within thirty days from the date of the first publication of such notice: *Provided*, That any person or persons claiming the goods, wares, or merchandise, so seized, within the time specified in the notice, may file with such collector or deputy collector a claim, stating his or their interest in the articles seized, and may execute a bond to the United States in the penal sum of two hundred and fifty dollars, with sureties, to be approved by said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors will pay all the costs and expenses of the proceedings, to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney for the district, who shall proceed thereon in the ordinary manner prescribed by law: *And provided also*, That if there shall be no claim interposed, and no bond given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise, by publication; and at the time and place specified in said notice, shall sell the article so seized at public auction, and after deducting the expense of appraisement and sale he shall deposit the proceeds to the credit of the Secretary of the Treasury. And within one year after the sale of any goods, wares, or merchandise, as aforesaid, any person or persons claiming to be interested in the goods, wares, or merchandise so sold may apply to the Secretary of the Treasury for a remission

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of the forfeiture thereof, or any of them, and a restoration of the proceeds of the said sale, which may be granted by the said Secretary upon satisfactory proof, to be furnished in such manner as he shall prescribe: *Provided*, That it shall be satisfactorily shown that the applicant, at the time of the seizure and sale of the goods in question, and during the intervening time, was absent out of the United States, or in such circumstances as prevented him from knowing of such seizure, and that he did not know of the same; and also that the said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner or owners of such goods. If no application for such restoration be made within one year, as hereinbefore prescribed, then, at the expiration of the said time, the Secretary of the Treasury shall cause the proceeds of the sale of the said goods, wares, or merchandise to be distributed according to law, as in the case of goods, wares, or merchandise condemned and sold pursuant to the decree of a competent court.

SEC. 64. *And be it further enacted*, That the office of the Commissioner of Internal Revenue be reorganized so as to include—

One Commissioner of Internal Revenue, with a salary of six thousand dollars; and

One deputy commissioner, with a salary of three thousand five hundred dollars;

Which offices are already created, and the duties thereof defined by law; and to authorize, under the direction of the Secretary of the Treasury, the employment of the following additional officers and clerks, and with the salaries hereinafter specified, namely:

Two deputy commissioners, each with a salary of three thousand dollars;

One solicitor, with a salary of four thousand dollars;

Seven heads of divisions, each with a salary of two thousand five hundred dollars;

Thirty-four clerks of class four; forty-five clerks of class three; fifty clerks of class two; and thirty-seven clerks of class one;

Fifty-five female clerks; five messengers.

Three assistant messengers, and fifteen laborers; and a sum sufficient to pay the additional salaries of officers, clerks, and employes herein authorized is hereby appropriated out of any money in the Treasury not otherwise appropriated; and this section shall take effect from and after the thirtieth day of June, eighteen hundred and sixty-six.

SEC. 65. *And be it further enacted*, That all official communications made by assessors to collectors, assessors to assessors, or by collectors to collectors, or by collectors to assessors, or by assessors to assistant assessors, or by assistant assessors to assessors, or by collectors to their deputies, or by deputy collectors to collectors, may be officially franked by the writers thereof, and shall, when so franked, be transmitted by mail free of postage.

SEC. 66. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to appoint an officer in his Department who shall be styled "special commissioner of the revenue," whose office shall terminate in four years from the thirtieth day of June, eighteen hundred and sixty-six. It shall be the duty of the special commissioner of the revenue to inquire into all the sources of national revenue, and the best methods of collecting the revenue; the relations of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, with the view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country; and to inquire, from time to time, under the direction of the Secretary of the Treasury, into the manner in which officers charged with the administration and collection of the revenues perform their duties. And the said special commissioner of the revenue shall from time to time report, through

the Secretary of the Treasury, to Congress, either in the form of a bill or otherwise, such modifications of the rates of taxation or of the methods of collecting the revenues, and such other facts pertaining to the trade, industry, commerce, or taxation of the country, as he may find, by actual observation of the operation of the law, to be conducive to the public interest; and, in order to enable the special commissioner of the revenue to properly conduct his investigations, he is hereby empowered to examine the books, papers, and accounts of any officer of the revenue, to administer oaths, examine and summon witnesses, and take testimony; and each and every such person falsely swearing or affirming shall be subject to the penalties and disabilities prescribed by law for the punishment of corrupt and willful perjury; and all officers of the Government are hereby required to extend to the said commissioner all reasonable facilities for the collection of information pertinent to the duties of his office. And the said special commissioner shall be paid an annual salary of four thousand dollars, and the traveling expenses necessarily incurred while in the discharge of his duty; and all letters and documents to and from the special commissioner relating to the duties and business of his office shall be transmitted by mail free of postage. And section nineteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June thirtieth, eighteen hundred and sixty-four," approved March third, eighteen hundred and sixty-five, be, and the same is hereby, repealed.

SEC. 67. *And be it further enacted*, That in any case, civil or criminal, where suit or prosecution shall be commenced in any court of any State against any officer of the United States, appointed under or acting by authority of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June thirtieth, eighteen hundred and sixty-four, or of any act in addition thereto or in amendment thereof, or against any person acting under or by authority of any such officer on account of any act done under color of his office, or against any person holding property or estate by title derived from any such officer, concerning such property or estate, and affecting the validity of this act or acts of which it is amendatory, it shall be lawful for the defendant, in such suit or prosecution, at any time before trial, upon a petition to the circuit court of the United States in and for the district in which the defendant shall have been served with process, setting forth the nature of said suit or prosecution, and verifying the said petition by affidavit, together with a certificate, signed by an attorney or counselor at law of some court of record of the State in which such suit shall have been commenced, or of the United States, setting forth that, as counsel for the petitioner, he has examined the proceedings against him, and carefully inquired into all the matters set forth in the petition, and that he believes the same to be true; which petition, affidavit, and certificate shall be presented to the said circuit court if in session, and if not, to the clerk thereof, at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, and shall be thereafter proceeded in as a cause, originally commenced in that court; and it shall be the duty of the clerk of said court, if the suit were commenced in the court below by summons, to issue a writ of certiorari to the State court, requiring said court to send to the said circuit court the record and proceedings in said cause; or if it were commenced by capias, he shall issue a writ of habeas corpus cum causa, a duplicate of which said writ shall be delivered to the clerk of the State court, or left at his office by the marshal of the district, or his deputy, or some person duly authorized

thereto; and thereupon it shall be the duty of the said State court to stay all further proceedings in such cause, and the said suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be deemed and taken to be moved to the said circuit court, and any further proceedings, trial, or judgment therein in the State court shall be wholly null and void. And if the defendant in any such suit be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of habeas corpus cum causa, to take the body of the defendant into his custody, to be dealt with in the said cause according to the rules of law and the order of the circuit court, or of any judge thereof in vacation. All attachments made and all bail and other security given upon such suit or prosecution shall be and continue in like force and effect as if the same suit or prosecution had proceeded to final judgment and execution in the State court; and if, upon removal of any such suit or prosecution, it shall be made appear to the said circuit court that no copy of the record and proceedings therein in the State court can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed de novo, and to file a declaration of his cause of action, and the parties may thereupon proceed as in action[s] originally brought in said circuit court; and, on failure of so proceeding, judgment of nolle prosequi may be rendered against the plaintiff, with costs for the defendant: *Provided*, That an act entitled "An act further to provide for the collection of duties on imports," passed March second, eighteen hundred and thirty-three, shall not be so construed as to apply to cases arising under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June thirtieth, eighteen hundred and sixty-four, or any act in addition thereto or in amendment thereof, nor to any case in which the validity or interpretation of said act or acts shall be in issue: *Provided further*, That if any officer appointed under and by virtue of any act to provide internal revenue, or any person acting under or by authority of any such officer, shall receive any injury to his person or property, for or on account of any act by him done, under any law of the United States, for the collection of taxes, he shall be entitled to maintain suit for damage therefor in the circuit court of the United States, in the district wherein the party doing the injury may reside or shall be found. And all property taken or detained by any officer or other person under authority of any revenue law of the United States shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof. And if any person shall dispossess or rescue, or attempt to dispossess or rescue, any property so taken or detained as aforesaid, or shall aid or assist therein, such person shall be deemed guilty of a misdemeanor, and shall be liable to such punishment as is provided by the twenty-second section of the act for the punishment of certain crimes against the United States, approved the thirtieth day of April, anno Domini one thousand seven hundred and ninety, for the willful obstruction or resistance of officers in the service of process.

SEC. 68. *And be it further enacted*, That the fiftieth section of an act passed June thirtieth, eighteen hundred and sixty-four, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," is hereby repealed: *Provided*, That any case which may have been removed from the courts of any State under said fiftieth section to the courts of the United States shall be remanded to the State court from which it was so removed, with all the records relating to such cases, unless the justice of the

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circuit court of the United States in which such suit or prosecution is pending shall be of opinion that said case would be removable from the court of the State to the circuit court under and by virtue of the sixty-seventh section of this act. And in all cases which may have been removed from any court of any State under and by virtue of said fiftieth section of said act of June thirtieth, eighteen hundred and sixty-four, all attachments made, and all bail or other security given upon such suit or prosecution, shall be and continue in full force and effect until final judgment and execution, whether such suit shall be prosecuted to final judgment in the circuit court of the United States, or remanded to the State court from which it was removed.

SEC. 69. *And be it further enacted*, That whenever a writ of error shall be issued for the revision of any judgment or decree in any criminal proceeding where is drawn in question the construction of any statute of the United States, in a court of any State, as is provided in the twenty-fifth section of an act entitled "An act to establish the judicial courts of the United States," passed September twenty-fourth, seventeen hundred and eighty-nine, the defendant, if charged with an offense bailable by the laws of such State, shall not be released from custody until a final judgment upon such writ, or until a bond, with sufficient sureties, in a reasonable sum, as ordered and approved by the State court, shall be given; and if the offense is not so bailable, until a final judgment upon the writ of error. Writs of error in criminal cases shall have precedence upon the docket of the Supreme Court of all cases to which the Government of the United States is not a party, excepting only such cases as the court, at their discretion, may decide to be of public importance.

SEC. 70. *And be it further enacted*, That this act shall take effect, where not otherwise provided, on the first day of August, eighteen hundred and sixty-six, and all provisions of any former act inconsistent with the provisions of this act are hereby repealed: *Provided*, *however*, That all the provisions of said acts shall be in force for collecting all taxes, duties and licenses properly assessed or liable to be assessed, or accruing under the provisions of acts, the right to which has already accrued or which may hereafter accrue under said acts, and for maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof, and for carrying out and completing all proceedings which have been already commenced, or that may be commenced, to enforce such fines, penalties, and forfeitures, or criminal proceedings under said acts, and for the punishment of crimes of which any party shall be or has been found guilty: *And provided further*, That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained before the respective provisions of this act shall take effect, the same duty shall be, and is hereby, continued until such provisions of this act shall take effect; and where any act is hereby repealed, no duty imposed thereby shall be held to cease, in consequence of such repeal, until the respective corresponding provisions of this act shall take effect: *And provided further*, That all manufactures and productions on which a duty was imposed by either of the acts repealed by this act, which shall be in the possession of the manufacturer or producer, or of his agent or agents, on the day when this act takes effect, the duty imposed by any such former act not having been paid, shall be held and deemed to have been manufactured or produced after such date; and whenever by the terms of this act a duty is imposed upon any articles, goods, wares, or merchandise, manufactured or produced, upon which no duty was imposed by either of said former acts, it shall apply to such as were manufactured or produced, and not removed from the place of manufacture or production, on

the day when this act takes effect. And the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to make all necessary regulations and prescribe all necessary forms and proceedings for the collection of such taxes and the enforcement of such fines and penalties for the execution of the provisions of this act.

SEC. 71. *And be it further enacted*, That it shall be the duty of the Commissioner of Internal Revenue to have this act, and the acts to which it is amendatory, published in at least one German newspaper in each of the States of the Union where such paper may be published.

APPROVED, July 13, 1866.

CHAP. CC.—An Act to continue in force and to amend "An Act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March third, eighteen hundred and sixty-five, shall continue in force for the term of two years from and after the passage of this act.

SEC. 2. *And be it further enacted*, That the supervision and care of said bureau shall extend to all loyal refugees and freedmen, so far as the same shall be necessary to enable them as speedily as practicable to become self-supporting citizens of the United States, and to aid them in making the freedom conferred by proclamation of the Commander-in-Chief, by emancipation under the laws of States, and by constitutional amendment, available to them and beneficial to the Republic.

SEC. 3. *And be it further enacted*, That the President shall, by and with the advice and consent of the Senate, appoint two assistant commissioners, in addition to those authorized by the act to which this is an amendment, who shall give like bonds and receive the same annual salaries provided in said act, and each of the assistant commissioners of the bureau shall have charge of one district containing such refugees or freedmen, to be assigned him by the Commissioner with the approval of the President. And the Commissioner shall, under the direction of the President, and so far as the same shall be, in his judgment, necessary for the efficient and economical administration of the affairs of the bureau, appoint such agents, clerks, and assistants as may be required for the proper conduct of the bureau. Military officers or enlisted men may be detailed for service and assigned to duty under this act; and the President may, if in his judgment safe and judicious so to do, detail from the Army all the officers and agents of this bureau; but no officer so assigned shall have increase of pay or allowances. Each agent or clerk, not heretofore authorized by law, not being a military officer, shall have an annual salary of not less than five hundred dollars, nor more than twelve hundred dollars, according to the service required of him. And it shall be the duty of the Commissioner, when it can be done consistently with public interest, to appoint, as assistant commissioners, agents, and clerks, such men as have proved their loyalty by faithful service in the armies of the Union during the rebellion. And all persons appointed to service under this act and the act to which this is an amendment, shall be so far deemed in the military service of the United States as to be under the military jurisdiction, and entitled to the military protection of the Government while in discharge of the duties of their office.

SEC. 4. *And be it further enacted*, That officers of the Veteran Reserve corps or of the volunteer service, now on duty in the Freedmen's Bureau as assistant commissioners,

agents, medical officers, or in other capacities, whose regiments or corps have been or may hereafter be mustered out of service, may be retained upon such duty as officers of said bureau, with the same compensation as is now provided by law for their respective grades; and the Secretary of War shall have power to fill vacancies until other officers can be detailed in their places without detriment to the public service.

SEC. 5. *And be it further enacted*, That the second section of the act to which this is an amendment shall be deemed to authorize the Secretary of War to issue such medical stores or other supplies and transportation, and afford such medical or other aid as here may be needful for the purposes named in said section: *Provided*, That no person shall be deemed "destitute," "suffering," or "dependent upon the Government for support," within the meaning of this act, who is able to find employment, and could, by proper industry or exertion, avoid such destitution, suffering, or dependence.

SEC. 6. Whereas, by the provisions of an act approved February sixth, eighteen hundred and sixty-three, entitled "An act to amend an act entitled 'An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes,' approved June seventh, eighteen hundred and sixty-two," certain lands in the parishes of St. Helena and Saint Luke, South Carolina, were bid in by the United States at public tax sales, and by the limitation of said act the time of redemption of said lands has expired; and whereas, in accordance with instructions issued by President Lincoln on the sixteenth day of September, eighteen hundred and sixty-three, to the United States direct tax commissioners for South Carolina, certain lands bid in by the United States in the parish of Saint Helena, in said State, were in part sold by the said tax commissioners to "heads of families of the African race," in parcels of not more than twenty acres to each purchaser; and whereas, under said instructions, the said tax commissioners did also set apart as "school farms" certain parcels of land in said parish, numbered on their plats from one to thirty-three, inclusive, making an aggregate of six thousand acres, more or less: *Therefore, be it further enacted*, That the sales made to "heads of families of the African race," under the instructions of President Lincoln to the United States direct tax commissioners for South Carolina, of date of September sixteenth, eighteen hundred and sixty-three, are hereby confirmed and established; and all leases which have been made to such "heads of families," by said direct tax commissioners, shall be changed into certificates of sale in all cases wherein the lease provides for such substitution; and all the lands now remaining unsold, which come within the same designation, being eight thousand acres, more or less, shall be disposed of according to said instructions.

SEC. 7. *And be it further enacted*, That all other lands bid in by the United States at tax sales, being thirty-eight thousand acres more or less, and now in the hands of the said tax commissioners as the property of the United States, in the parishes of Saint Helena and Saint Luke, excepting the "school farms," as specified in the preceding section, and so much as may be necessary for military and naval purposes at Hilton Head, Bay Point, and Land's End, and excepting also the city of Port Royal, on Saint Helena Island, and the town of Beaufort, shall be disposed of in parcels of twenty acres, at one dollar and fifty cents per acre, to such persons and to such only as have acquired and are now occupying lands under and agreeably to the provisions of General Sherman's special field order, dated at Savannah, Georgia, January sixteenth, eighteen hundred and sixty-five; and the remaining lands, if any, shall be disposed



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of in like manner to such persons as had acquired lands agreeably to the said order of General Sherman, but who have been dispossessed by the restoration of the same to former owners: *Provided*, That the lands sold in compliance with the provisions of this and the preceding section shall not be alienated by their purchasers within six years from and after the passage of this act.

SEC. 8. *And be it further enacted*, That the "school farms" in the parish of Saint Helena, South Carolina, shall be sold, subject to any leases of the same, by the said tax commissioners, at public auction, on or before the first day of January, eighteen hundred and sixty-seven, at not less than ten dollars per acre; and the lots in the city of Port Royal, as laid down by the said tax commissioners, and the lots and houses in the town of Beaufort, which are still held in like manner, shall be sold at public auction; and the proceeds of said sales, after paying expenses of the surveys and sales, shall be invested in United States bonds, the interest of which shall be appropriated, under the direction of the Commissioner, to the support of schools, without distinction of color or race, on the islands in the parishes of Saint Helena and Saint Luke.

SEC. 9. *And be it further enacted*, That the assistant commissioners for South Carolina and Georgia are hereby authorized to examine all claims to lands in their respective States which are claimed under the provisions of General Sherman's special field order, and to give each person having a valid claim a warrant upon the direct tax commissioners for South Carolina for twenty acres of land; and the said direct tax commissioners shall issue to every person, or to his or her heirs, but in no case to any assigns, presenting such warrant, a lease of twenty acres of land, as provided for in section seven, for the term of six years; but at any time thereafter, upon the payment of a sum not exceeding one dollar and fifty cents per acre, the person holding such lease shall be entitled to a certificate of sale of said tract of twenty acres from the direct tax commissioner or such officer as may be authorized to issue the same; but no warrant shall be held valid longer than two years after the issue of the same.

SEC. 10. *And be it further enacted*, That the direct tax commissioners for South Carolina are hereby authorized and required at the earliest day practicable to survey the lands designated in section seven into lots of twenty acres each, with proper metes and bounds distinctly marked, so that the several tracts shall be convenient in form, and as near as practicable have an average of fertility and woodland; and the expense of such surveys shall be paid from the proceeds of sales of said lands, or, if sooner required, out of any moneys received for other lands on these islands, sold by the United States for taxes, and now in the hands of the direct tax commissioners.

SEC. 11. *And be it further enacted*, That restoration of lands occupied by freedmen under General Sherman's field order dated at Savannah, Georgia, January sixteenth, eighteen hundred and sixty-five, shall not be made until after the crops of the present year shall have been gathered by the occupants of said lands, nor until a fair compensation shall have been made to them by the former owners of such lands, or their legal representatives, for all improvements or betterments erected or constructed thereon, and after due notice of the same being done shall have been given by the assistant commissioner.

SEC. 12. *And be it further enacted*, That the Commissioner shall have power to seize, hold, use, lease, or sell all buildings and tenements, and any lands appertaining to the same, or otherwise, formerly held under color of title by the late so-called confederate States, and not heretofore disposed of by the United States, and any buildings or lands held in trust for the

same by any person or persons, and to use the same or appropriate the proceeds derived therefrom to the education of the freed people; and whenever the bureau shall cease to exist, such of said so-called confederate States as shall have made provision for the education of their citizens without distinction of color shall receive the sum remaining unexpended of such sales or rentals, which shall be distributed among said States for educational purposes in proportion to their population.

SEC. 13. *And be it further enacted*, That the Commissioner of this bureau shall at all times cooperate with private benevolent associations of citizens in aid of freedmen, and with agents and teachers, duly accredited and appointed by them, and shall hire or provide by lease buildings for purposes of education whenever such associations shall, without cost to the Government, provide suitable teachers and means of instruction; and he shall furnish such protection as may be required for the safe conduct of such schools.

SEC. 14. *And be it further enacted*, That in every State or district where the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and in every State or district whose constitutional relations to the Government have been practically discontinued by the rebellion, and until such State shall have been restored in such relations, and shall be duly represented in the Congress of the United States, the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of such State or district without respect to race or color, or previous condition of slavery. And whenever in either of said States or districts the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and until such State shall have been restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States, the President shall, through the Commissioner and the officers of the bureau, and under such rules and regulations as the President, through the Secretary of War, shall prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of such immunities and rights, and no penalty or punishment for any violation of law shall be imposed or permitted because of race or color, or previous condition of slavery, other or greater than the penalty or punishment to which white persons may be liable by law for the like offense. But the jurisdiction conferred by this section upon the officers of the bureau shall not exist in any State where the ordinary course of judicial proceedings has not been interrupted by the rebellion, and shall cease in every State when the courts of the State and the United States are not disturbed in the peaceable course of justice, and after such State shall be fully restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States.

SEC. 15. *And be it further enacted*, That all officers, agents, and employés of this bureau, before entering upon the duties of their office shall take the oath prescribed in the first section of the act to which this is an amendment; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SCHUYLER COLFAX,

*Speaker of the House of Representatives.*

LA FAYETTE S. FOSTER,

*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES,  
UNITED STATES, July 16, 1866.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act to continue in force and to amend 'An act to establish a Bureau for the Relief of Freedmen and Refugees,' and for other purposes," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

*Resolved*, That the said bill pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EWD. McPHERSON,  
Clerk H. Reps., U. S.

IN THE SENATE OF THE UNITED STATES,  
July 16, 1866.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to continue in force and to amend 'An act to establish a Bureau for the Relief of Freedmen and Refugees,' and for other purposes," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate with the message of the President returning the bill;

*Resolved*, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,  
Secretary of the Senate, U. S.

CHAP. CCI.—An Act further to prevent Smuggling and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purposes of this act, the term "vessel," whenever hereinafter used, shall be held to include every description of water-craft, raft, vehicle, and contrivance used or capable of being used as a means or auxiliary of transportation on or by water; and the term "vehicle," whenever hereinafter used, shall be held to include every description of carriage, wagon, engine, car, sleigh, sled, sledge, hurdle, cart, and other artificial contrivance, used or capable of being used as a means or auxiliary of transportation on land.

SEC. 2. *And be it further enacted*, That it shall be lawful for any officer of the customs, including inspectors and occasional inspectors, or of a revenue-cutter, or authorized agent of the Treasury Department, or other person specially appointed for the purpose in writing by a collector, naval officer, or surveyor of the customs, to go on board of any vessel, as well without as within his district, and to inspect, search, and examine the same, and any person, trunk, or envelope on board, and to this end, to hail and stop such vessel if under way, and to use all necessary force to compel compliance; and if it shall appear that any breach or violation of the laws of the United States has been committed, whereby or in consequence of which, such vessel, or the goods, wares, and merchandise, or any part thereof, on board of or imported by such vessel, is or are liable to forfeiture, to make seizure of the same, or either or any part thereof, and to arrest, or in case of escape, or any attempt to escape, to pursue and arrest any person engaged in such breach or violation: *Provided*, That the original appointment in writing of any person specially appointed as aforesaid shall be filed in the custom-house where such appointment is made.

SEC. 3. *And be it further enacted*, That any of the officers or persons authorized by the second section of this act to board or search vessels may stop, search, and examine, as well without as within their respective districts, any vehicle, beast, or person on which or whom he or they shall suspect there are goods, wares, or merchandise which are subject to duty or

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shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge, or by, in, or upon such vehicle or beast, or otherwise, and to search any trunk or envelope, wherever found, in which he may have a reasonable cause to suspect there are goods which were imported contrary to law; and if any such officer or other person so authorized as aforesaid shall find any goods, wares, or merchandise, on or about any such vehicle, beast, or person, or in any such trunk or envelope, which he shall have reasonable cause to believe are subject to duty, or to have been unlawfully introduced into the United States, whether by the person in possession or charge, or by, in, or upon such vehicle, beast, or otherwise, he shall seize and secure the same for trial; and every such vehicle and beast, or either, together with teams or other motive-power used in conveying, drawing, or propelling such vehicle, goods, wares, or merchandise, and all other appurtenances, including trunks, envelopes, covers, and all means of concealment, and all the equipage, trappings, and other appurtenances of such beast, team, or vehicle shall be subject to seizure and forfeiture; and if any person who may be driving or conducting, or in charge of any such carriage or vehicle or beast, or any person traveling, shall willfully refuse to stop and allow search and examination to be made as herein provided, when required so to do by any authorized person, he or she shall, on conviction, be fined in any sum, in the discretion of the court convicting him or her, not exceeding one thousand dollars, nor less than fifty dollars; and the Secretary of the Treasury shall from time to time prescribe regulations for the search of persons and baggage, and for the employment of female inspectors for the examination and search of persons of their own sex; and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers or agents of the Government, under such regulations as the Secretary of the Treasury shall from time to time prescribe: *Provided*, That no railway car or engine or other vehicle, or team used by any person or corporation, as common carriers in the transaction of their business as such common carriers shall be subject to forfeiture by force of the provisions of this act unless it shall appear that the owners, superintendent, or agent of the owner in charge thereof at the time of such unlawful importation or transportation thereon or thereby, was a consenting party, or privy to such illegal importation or transportation.

SEC. 4. *And be it further enacted*, That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any goods, wares, or merchandise, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods, wares, or merchandise, after their importation, knowing the same to have been imported contrary to law, such goods, wares, and merchandise shall be forfeited, and he or she shall, on conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding five thousand dollars nor less than fifty dollars, or be imprisoned for any time not exceeding two years, or both, at the discretion of such court; and in all cases where the possession of such goods shall be shown to be in the defendant, or where the defendant shall be shown to have had possession thereof, such possession shall be deemed evidence sufficient to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

SEC. 5. *And be it further enacted*, That any person authorized by this act to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon

or pass through the lands, inclosures, and buildings, other than the dwelling-house of any person whomsoever, in the night or in the daytime, in order to the more effectual discharge of his or their official duties.

SEC. 6. *And be it further enacted*, That if any person shall forcibly assault, resist, oppose, prevent, impede, or interfere with any officer of the customs or his deputy or deputies, or any person assisting them or either of them in the execution of their duties, or any person authorized by this act to make searches or seizures, in the execution of his duty, or shall rescue, or attempt to rescue, or cause to be rescued, any property which shall have been seized by any person authorized as aforesaid, or shall before, at, or after any such seizure, in order to prevent the seizure or securing of any goods, wares, or merchandise by any person authorized as aforesaid, stave, break, throw overboard, destroy, or remove the same, the person so offending shall, for every such offense, on conviction thereof, forfeit and pay a sum of not less than one hundred dollars, nor more than two thousand dollars, or shall be imprisoned not less than one month nor more than one year, or both, at the discretion of the court convicting him or her, and shall stand committed until such fine and the costs of prosecution shall have been fully paid; and if any person shall discharge any deadly weapon at any person authorized as aforesaid to make searches or seizures, or shall use any deadly or dangerous weapon in resisting him in the execution of his duty, with intent to commit a bodily injury upon him, or to deter or prevent him from discharging his duty, every such person so offending shall, upon conviction thereof, be deemed guilty of felony, and shall be imprisoned at hard labor for a term not exceeding ten years nor less than one year.

SEC. 7. *And be it further enacted*, That it shall be the duty of the several collectors of customs to report within ten days to the district attorney of the district in which any fine or personal penalty may be incurred for the violation of any law of the United States relating to the revenue, in all cases in which such fine or penalty shall not be voluntarily paid, a statement of all the facts and circumstances of the case within their knowledge, together with the names of the witnesses, and which may come to their knowledge from time to time, stating the provisions of the law believed to be violated, and on which a reliance may be had for a condemnation or conviction; and such district attorney shall cause suit and prosecution to be commenced and prosecuted without delay for the fines and personal penalties by law in such case provided, unless upon inquiry and examination he shall decide that a conviction cannot probably be obtained, or that the ends of public justice do not require that a suit or prosecution should be instituted, in which case he shall report the facts to the Secretary of the Treasury for his direction; and for expenses incurred and services rendered in prosecutions for such fines and personal penalties, the district attorney shall receive such allowance as the Secretary of the Treasury shall deem just and reasonable, upon the certificate of the judge before whom such prosecution was had; and if any collector shall in any case fail to report to the proper district attorney, as prescribed in this section, such collector's share of any fine or penalty imposed or incurred in such case shall be forfeited to the United States, and the same shall be awarded to such persons as may make complaint and prosecute the same to conviction.

SEC. 8. *And be it further enacted*, That in any case where a vessel or the owner, master, or manager of a vessel shall be subject to a penalty for a violation of the revenue laws of the United States, such vessel shall be holden for the payment of such penalty, and may be seized and proceeded against summarily, by libel, to recover such penalty in any district court of

the United States having jurisdiction of the offense.

SEC. 9. *And be it further enacted*, That the act entitled "An act further to regulate the entry of merchandise imported into the United States from any adjacent territory," approved March two, eighteen hundred and twenty-one, be, and the same is hereby, so amended that wherever in said act the word "merchandise" occurs, the same shall read "goods, wares, or merchandise."

SEC. 10. *And be it further enacted*, That every officer or other person authorized to make searches and seizures by this act shall, at the time of executing any of the powers conferred upon him by this act, make known, upon being questioned, his character as an officer or agent of the customs or Government, and shall have authority to demand of any person within the distance of three miles to assist him in making any arrest, search, or seizure authorized by this act, where such assistance may be necessary; and if such person shall without reasonable excuse neglect or refuse so to assist, upon proper demand, he shall be deemed guilty of a misdemeanor, and shall forfeit a sum not exceeding two hundred dollars, nor less than five dollars.

SEC. 11. *And be it further enacted*, That in all cases of seizure of property subject to forfeiture for any of the causes named in this act, or any other act relating to the customs, or the registering, enrolling, or licensing of vessels, now in force, when, in the opinion of the collector or other principal officer of the revenue making such seizure, the value of the property so seized shall not exceed five hundred dollars, he shall cause a list and particular description of the property so seized to be prepared in duplicate, and an appraisement of the same to be made by two sworn appraisers under the revenue laws, if there are such appraisers at or near the place of seizure; but if there are no such appraisers, then by two competent and disinterested citizens of the United States, to be selected by him for that purpose, residing at or near the place of seizure; which list and appraisement shall be properly attested by such collector or other officer and the persons making the appraisal; and for such services of the appraisers they shall be allowed out of the revenue one dollar and fifty cents each for every day necessarily employed in such service. If the amount of such appraisal shall not exceed the sum of five hundred dollars, said collector or other principal officer shall publish a notice once a week for three successive weeks in some newspaper of the county or place where such seizure shall have been made, if any newspaper shall be published in said county; but if no newspaper shall be published in said county then such notice shall be published in some newspaper of the county in which the principal customs office of the district shall be situated; and if no newspaper shall be published in such county, then notices shall be posted in proper public places, which notices shall describe the articles seized, and state the time, cause, and place of seizure, and shall require any person claiming such articles to appear and file with such collector or other officer his claim to such articles within twenty days from the date of the first publication of such notice.

SEC. 12. *And be it further enacted*, That any person claiming the property so seized may, at any time within twenty days from the date of such publication, file with the collector or other officer a claim, stating his or her interest in the articles seized, and, upon depositing with such collector or other officer a bond to the United States in the penal sum of two hundred and fifty dollars, with two sureties, to be approved by such collector or other officer, conditioned that, in case of the condemnation of the articles so claimed, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation. Such collector

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or other officer shall transmit the same, with the duplicate list and description of the articles seized and claimed, to the United States district attorney for the district, who shall proceed for a condemnation of the property in the ordinary mode prescribed by law. But if no such claim shall be filed nor bond given within the twenty days above specified, such collector or other officer shall give not less than fifteen days' notice of the sale of the property so seized, by publication in the manner before mentioned, and, at the time and place specified in such notice, he shall sell at public auction the property so seized, and shall deposit the proceeds, after deducting the actual expenses of such seizure, publication, and sale, to the credit of the Treasurer of the United States, as shall be directed by the Secretary of the Treasury: *Provided*, That the collector shall have power to adjourn such sale from time to time for a period not exceeding thirty days in all.

SEC. 13. *And be it further enacted*, That any person claiming to be interested in the property sold under the provisions of the *preceding* [preceding] section may, within three months after such sale, apply to the Secretary of the Treasury for a remission of the forfeiture, and a restoration of the proceeds of such sale, and the same may be granted by said Secretary, upon satisfactory proof, to be furnished in such manner as he shall direct, that the applicant, at the time of the seizure and sale of the property in question, did not know of the seizure, and was in such circumstances as prevented him from knowing of the same, and that said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner of such property.

SEC. 14. *And be it further enacted*, That if no application for such remission or restoration shall be made within three months after such sale, the Secretary of the Treasury shall then cause the proceeds of such sale to be distributed in the same manner as if such property had been condemned and sold in pursuance of a decree of a competent court.

SEC. 15. *And be it further enacted*, That whenever seizure shall be made of any property which, in the opinion of the appraisers, shall be liable to perish or waste, or to be greatly reduced in value by keeping, or cannot be kept without great disproportionate expense, whether such seizure consist of live animals, or goods, wares, or merchandise, and when the property thus seized shall not exceed five hundred dollars in value, and when no claim shall have been interposed therefor as is hereinbefore provided, the said appraisers, if requested by the collector or principal officer making the seizure at the time when such appraisal is made, shall certify on oath in their appraisal their belief that the property seized is liable to speedy deterioration, or that the expenses of its keeping will largely reduce the net proceeds of the sale; and in case the appraisers thus certify, such collector or other officer may proceed to advertise and sell the same at auction, by giving notice for such time as he may think reasonable, but not less than one week, of such seizure and intended sale, by advertisement as is hereinbefore provided; and the proceeds of such sale shall be deposited to the credit of the Treasurer of the United States, subject, nevertheless, to the payment of such claims as shall be presented within three months from the day of sale, and allowed by the Secretary of the Treasury.

SEC. 16. *And be it further enacted*, That the Secretary of the Treasury shall have authority to ascertain the facts upon all applications for remission of fines, penalties, and forfeitures incurred or accruing under the revenue laws, where the amount in question does not exceed one thousand dollars, in such manner and under such regulations as he may deem proper; and he may thereupon remit or mitigate such fines, penalties, or forfeitures, if in

his opinion the same shall have been incurred without willful negligence or any intention of fraud.

SEC. 17. *And be it further enacted*, That whenever the proper officer of the customs shall be duly notified of the existence of a lien upon imported goods, wares, or merchandise in his custody, he shall, before delivering such goods, wares, or merchandise to the importer, owner, or consignee thereof, give seasonable notice to the party or parties claiming the lien; and the possession by the officers of customs shall not affect the discharge of such lien: *Provided*, That the rights of the Government shall not be prejudiced thereby. And the Secretary of the Treasury may prescribe all needful regulations to carry this provision into effect: *And provided*, That neither the United States nor its officers shall be in any manner liable for losses incurred in consequence of the omission by accident and without their fault of officers of the customs to give the notice aforesaid.

SEC. 18. *And be it further enacted*, That nothing in this act contained shall be taken to abridge or limit any forfeiture, penalty, fine, liability, or remedy provided for or existing under any law now in force, except as herein otherwise specially provided.

SEC. 19. *And be it further enacted*, That where the value of goods, wares, or merchandise imported or brought into the United States shall not exceed one hundred dollars, the collector is authorized in his discretion to admit the same to entry without the production of the triplicate invoice required by the act of March three, eighteen hundred and sixty-three, entitled "An act to prevent and punish frauds," and so forth, and without submitting the question to the Secretary of the Treasury: *Provided*, That the collector shall be satisfied that the neglect to produce such invoice was unintentional, and that the importation was in good faith and without any purpose of defrauding or evading the revenue laws of the United States.

SEC. 20. *And be it further enacted*, That if any goods, wares, or merchandise shall, at any port or place in the United States on the northern, northeastern, or northwestern frontiers thereof, be laden upon any vessel belonging wholly or in part to a subject or subjects of a foreign country or countries, and shall be taken thence to a foreign port or place, to be reladen and reshipped to any other port or place in the United States on said frontiers, either by the same or any other vessel, foreign or American, with intent to evade the provisions of the fourth section of "the act concerning the navigation of the United States," approved March one, eighteen hundred and seventeen, the said goods, wares, and merchandise shall, on their arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of fifty cents per ton on her admeasurement.

SEC. 21. *And be it further enacted*, That all steam tug-boats, not of the United States, found employed in towing documented vessels of the United States plying from one port or place in the same to another, shall forfeit and pay the sum of fifty cents per ton on the admeasurement of every such vessel so towed by them respectively, as aforesaid, which sum may be recovered by way of libel or suit.

SEC. 22. *And be it further enacted*, That if any vessel enrolled or licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, shall touch at any port or place in the adjacent British Provinces, and the master or other person having charge of such vessel shall purchase any goods, wares, or merchandise, for the use of said vessel, said master or other person having charge of said vessel shall report the same, with cost and quantity thereof, to the collector or other officer of the customs at the first port in the United States at which he shall next arrive, designating them "sea stores;" and in the oath to

be taken by such master or other person in charge of such vessel, on making said report, he shall declare that the articles so specified or designated "sea stores" are truly intended for the use exclusively of said vessel, and are not intended for sale, transfer, or private use, and if, upon examination and inspection by the collector or other officer of the customs such articles are not deemed excessive in quantity for the use of said vessel for the voyage on which she is engaged, such articles shall be declared free of duty; but if it shall be found that the quantity or quantities of such articles or any part thereof so reported are excessive, it shall be lawful for the collector or other officer of the customs to estimate the amount of duty on such excess, which shall be forthwith paid by said master or other person having charge of said vessel, on pain of forfeiting a sum of not less than one hundred dollars nor more than four times the value of such excess, or said master or other person, having charge of such vessel shall be liable to imprisonment for a term of not less than three months nor more than two years, at the discretion of the court. And if any other or greater quantity of dutiable articles shall be found on board such vessel than are specified in such report or entry of said articles, or any part thereof shall be landed without a permit from a collector or other officer of the customs, such articles, together with the vessel, her apparel, tackle, and furniture, shall be seized and forfeited: *Provided, always*, That articles purchased for the use of or for sale on board any steamboat, propeller, or other vessel, as "saloon stores or supplies," shall be deemed goods, wares, and merchandise, and shall be liable (when purchased at a foreign port) to entry and the payment of the duties found to be due thereon at the first port of arrival of such vessel in the United States, and for a failure on the part of the saloon keeper or person purchasing or owning such articles to report, make entries, and pay duties, as hereinbefore required, such articles, together with the fixtures and other goods, wares, or merchandise, found in such saloon or on or about such vessel belonging to and owned by such saloon keeper or other person interested in such saloon, shall be seized and forfeited, and such saloon keeper or other person purchasing and owning as aforesaid shall forfeit and pay the sum of not less than one hundred dollars nor more than five hundred dollars, and in addition thereto shall be imprisoned for a term not less than three months nor more than two years.

SEC. 23. *And be it further enacted*, That the equipments, or any part thereof, (including boats,) purchased for, or the expenses of repairs made in a foreign country upon a vessel enrolled and licensed under the laws of the United States to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of fifty per centum on the cost thereof in such foreign country; and if the owner or owners or master of such vessel shall willfully and knowingly neglect or fail to report, make entry, and pay duties as herein required, such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited: *Provided*, That if the owner or owners or master of such vessel shall furnish good and sufficient evidence that such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into said foreign port and purchase such equipments, or make such repairs, to secure the safety of the vessel to enable her to reach her port of destination, then it shall be competent for the Secretary of the Treasury to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and



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license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments and repairs, made within the year immediately preceding such application, have been duly accounted for under the provisions of this section, and the duties accruing thereon after the passage of this act duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

SEC. 24. *And be it further enacted*, That if any certificate of registry, enrollment, or license, or other record or document granted in lieu thereof, to any vessel shall be knowingly and fraudulently obtained or used for any vessel not entitled to the benefit thereof, such vessel, with her tackle, apparel, and furniture, shall be liable to forfeiture.

SEC. 25. *And be it further enacted*, That on and after the first day of July next, the several provisions of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March two, seventeen hundred and ninety-nine, relating to manifests shall apply as well to vessels owned in whole or in part by foreigners as to vessels of the United States; and that the Secretary of State send copies of this section to all consular officers of the United States in foreign countries.

SEC. 26. *And be it further enacted*, That no goods, wares, or merchandise, taken from any port or place in the United States, on the northern, northeastern, or northwestern frontiers thereof, to a port or place in another collection district of the United States on said frontiers, in any ship or vessel, shall be unladen or delivered from such ship or vessel within the United States but in open day, that is to say, between the rising and the setting of the sun, except by special license from the collector or other principal officer of the port for the purpose, nor at any time without a permit from such collector or other principal officer for such unloading or delivery. And the owner or owners of every vessel whose master or manager shall neglect to comply with the provisions of this section, shall forfeit and pay to the United States a sum not less than one hundred dollars nor more than five hundred dollars: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, from time to time, to make such regulations as to him shall seem necessary and expedient for unloading at and clearance from any port or place on said frontiers of ships or vessels at night.

SEC. 27. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to make such rules and regulations, from time to time, as to him shall seem necessary, relative to the duties of inspectors authorized by law, to be placed on board of vessels destined for one or more ports in the United States.

SEC. 28. *And be it further enacted*, That all vessels which, under the provisions of the fifteenth section of the act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July fourteen, eighteen hundred and sixty-two, of the fourth section of the act entitled "An act to modify existing laws imposing duties on imports, and for other purposes," approved March three, eighteen hundred and sixty-three, and of the fourth section of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March three, eighteen hundred and sixty-five, are exempted from paying tonnage duties more than once in a year, shall hereafter pay the same either at their first clearance from or entry at, according to priority, a custom-house in the United States in each calendar year: *Provided*, That all licensed and enrolled and licensed vessels of the United States shall pay the said duty when taking out or renewing their respective enroll-

ments or licenses, if the same has not previously been paid for the calendar year: *And provided further*, That nothing in this act shall be construed to prevent customs officers from collecting such tonnage duty at the entry of any vessel at their respective custom-houses during the calendar year, if the same shall not previously have been paid for such year: *And provided further*, That all vessels which are subject to enrollment or license shall hereafter be liable to the payment of the fees established by law for services of customs officers incident thereto.

SEC. 29. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized, whenever he shall think it advantageous to the public service of revenue, to abolish or suspend the offices of naval officer, or any other subordinate office, in any collection district of the United States, except in those enumerated in section nine of the act of May seven, eighteen hundred and twenty-two, and the amendment thereto by the act of April nine, eighteen hundred and sixty-four, and the port of San Francisco, and to assign the duties of the office or any other subordinate office so abolished or suspended to a deputy collector or inspector of the customs; and so much of all fines, penalties, and forfeitures as would otherwise inure to either of such naval officers shall, after the discontinuance of their offices respectively, be paid into the Treasury of the United States, and there credited to the fund for defraying the expenses of collecting the revenue from customs. And the Secretary of the Treasury is hereby further authorized, in all cases in which, in his opinion, the public interest demands it, to clothe deputy collectors, located at ports other than the principal port of entry of their respective districts, with all the powers of their principals appertaining to their official acts.

SEC. 30. *And be it further enacted*, That no officer or clerk whose duty it shall be to make payments on account of the salary or wages of any officer or person employed in connection with the customs or the internal revenue service shall make any payment to any officer or person so employed on account of services rendered, or of salary, unless such officer or person so to be paid shall have made and subscribed an oath that, during the period for which he or she is to receive pay for salary or services rendered, neither he nor she, nor any member of his or her family, has received, either personally or by the intervention of another party, any money or compensation of any description whatever, nor any promises for the same, either directly or indirectly, for services rendered or to be rendered, or acts performed or to be performed, in connection with the customs or internal revenue, nor purchased, for like services or acts, from any importer, (if affiant is connected with the customs, or manufacturer, if affiant is connected with the internal revenue service,) consignee, agent, or custom-house-broker, or other person whomsoever, any goods, wares, or merchandise, at less than regular retail market prices therefor. And any person who shall willfully and falsely take and subscribe said oath, and being duly convicted thereof, shall be subjected to the penalties and disabilities by law prescribed for the punishment of willful and corrupt perjury.

SEC. 31. *And be it further enacted*, That all goods, wares, merchandise, or property of any kind seized under the provisions of this act or any other law of the United States relating to the customs shall, unless otherwise provided for by law, be placed and remain in the custody of the collector or other principal officer of the customs of the district in which the seizure shall be made, to abide adjudication by the proper tribunal, or other disposition according to law; and the proceedings in regard to fines, penalties, and forfeitures by virtue of this act, and not herein prescribed, shall be the same as are now provided by law in like cases; and

all such fines, penalties, and forfeitures shall, after deducting all proper costs and charges, be disposed of and applied as provided for in the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March two, seventeen hundred and ninety-nine.

SEC. 32. *And be it further enacted*, That in all cases in which any collector or surveyor of customs has paid or accounted for, or is charged with duties or fees accruing under the act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August five, eighteen hundred and sixty-one, or the act entitled "An act to increase duties on imports, and for other purposes," approved June thirty, eighteen hundred and sixty-four, or the act entitled "An act to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the district of Oregon, and for other purposes," approved June eight, eighteen hundred and sixty-four, or the act entitled "An act amendatory of certain acts imposing duties on foreign importations," approved March three, eighteen hundred and sixty-five, and in regard to which the Secretary of the Treasury shall be satisfied that the collection of said duties or fees was omitted by such collector or surveyor, or by any steamboat inspector, for the reason that he was not informed of the existence of the said acts when the said duties or fees accrued, that the said Secretary be, and he is hereby, authorized, under such rules as he may prescribe, to remit or refund, as the case may require, such duties or fees to such collector or surveyor or steamboat inspector.

SEC. 33. *And be it further enacted*, That in all cases in which the fees and emoluments received by any collector or other principal officer of the customs are, in the opinion of the Secretary of the Treasury, insufficient to afford a reasonable compensation for the services of such officer, after payment out of the same of reasonable incidental expenses of the office, the said Secretary may direct that so much of the said incidental expenses as shall seem to him to be just shall be paid out of the appropriation for paying the expenses of collecting the revenue; and the said Secretary shall have the same power in regard to incidental expenses which have heretofore been incurred, and which have not been settled and paid into the Treasury; and all fees paid into the Treasury by customs officers shall be placed to the credit of the fund for defraying the expenses of collecting the revenue from customs.

SEC. 34. *And be it further enacted*, That the provisions of the first section of the act entitled "An act relative to collectors and other officers of customs," approved February eleven, eighteen hundred and forty-six, shall, from and after the passage of this act, be applied and enforced in regard to all officers, agents, and employés of the United States whomsoever, as well those whose compensation is determined by a commission on disbursements, not to exceed an annual maximum, as those paid by salary or otherwise.

SEC. 35. *And be it further enacted*, That if any person shall, directly or indirectly, at any time make or offer to make to any officer of the revenue, or to any other person or persons authorized by this act to make searches or seizures, any gratuity or present of money, or other thing of value, or give or offer any bribe or reward, of whatever nature, with intent to influence or induce such officer or other person or persons to do any act in violation of his or her or their official duty, or to refrain from doing anything which, under the law, it is or shall be his or her or their duty to do, or if any such officer or person shall ask or receive in any manner any such gratuity, present, bribe, or reward, every person so offending shall be

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liable to indictment, as for a high crime and misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors, and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised or given, asked or received, and imprisonment in a penitentiary not exceeding three years.

SEC. 36. *And be it further enacted*, That from and after the passage of this act no suit begun thereafter shall be maintained in any court for the recovery of duties alleged to have been erroneously or illegally exacted by collectors of customs, unless the plaintiff shall, within thirty days after due notice of the appearance of the defendant, either in person or by attorney, serve on the defendant or his attorney a bill of particulars of the plaintiff's demand, giving the name of the importer or importers, the description of the merchandise and place from which imported, the name or names of the vessel or vessels, or means of importation, the date of the invoice, the date of the entry at the custom-house, the precise amount of duty claimed to have been exacted in excess, the date of payment of said duties, the day and year on which protest was filed against the exaction thereof, the date of appeal thereon to the Secretary of the Treasury, and date of decision, if any, on such appeal. And if a bill of particulars, containing all the above-mentioned items, be not served as aforesaid, a judgment of non pros. shall be rendered against the plaintiff or plaintiffs in said action.

SEC. 37. *And be it further enacted*, That parts of such building as shall be approved by the Secretary of the Treasury may be bonded for the storage of grain, under such rules, regulations, and conditions as he may prescribe for the security of the revenue, and that so much of the act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," approved March twenty-eight, eighteen hundred and fifty-four, as conflicts with this act be, and the same is hereby, repealed.

SEC. 38. *And be it further enacted*, That for the purpose of estimating the duties on importations of grain, the number of bushels shall be ascertained by weight, instead of by measuring; and sixty pounds of wheat, fifty-six pounds of corn, fifty-six pounds of rye, forty-eight pounds of barley, thirty-two pounds of oats, sixty pounds of peas, and forty-two pounds of buckwheat, avoirdupois weight, shall respectively be estimated as a bushel.

SEC. 39. *And be it further enacted*, That in order to facilitate the execution of the provisions of the seventh section of the act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March three, eighteen hundred and sixty-three, relative to the seizure of "invoices, books, and papers," any district judge of the United States may hereafter issue his warrant or warrants and direct the same to any collector or collectors of the customs in whose respective districts any such invoices, books, or papers may be thought to be.

SEC. 40. *And be it further enacted*, That if any collector of the customs, or other officer or agent, shall neglect or refuse to comply with the provisions of the first section of the act entitled "An act requiring all moneys receivable from customs and from all other sources to be paid immediately into the Treasury, without abatement or reduction, and for other purposes," approved March three, eighteen hundred and forty-nine, he shall be subject to be removed from office, and to forfeit to the United States any share or part of the moneys withheld to which he might otherwise be entitled; and all moneys received by collectors for the custody of goods, wares, and merchandise in bonded warehouses, shall be accounted for

as storage under the provisions of the fifth section of the act of March third, eighteen hundred and forty-one.

SEC. 41. *And be it further enacted*, That it shall be the duty of the master of any foreign vessel, laden or in ballast, arriving in the waters of the United States from any foreign territory adjacent to the northern, northeastern, or northwestern frontiers of the United States, to report at the office of any collector or deputy collector of the customs, which shall be nearest to the point at which such vessel may enter said waters; and such vessel shall not proceed further inland, either to unlade or take in cargo, without a special permit from such collector or deputy collector, issued under and in accordance with such general or special regulations as the Secretary of the Treasury may in his discretion, from time to time, prescribe. And for any violation of this section such vessel shall be seized and forfeited.

SEC. 42. *And be it further enacted*, That if any collector of the customs, supervising or local inspector of steamboats, or other officer, shall neglect or refuse to make any of the returns or reports which he is required to make at stated times by any act of Congress or regulation of the Treasury Department, other than his accounts, within the time prescribed by such act or regulation, he shall, upon conviction thereof before the district court of his district, forfeit and pay, for the use of the United States, any sum not less than one hundred dollars nor more than one thousand dollars.

SEC. 43. *And be it further enacted*, That the act entitled "An act for the more effectual recovery of debts due from individuals to the United States," approved March three, seventeen hundred and ninety-five; and the act entitled "An act to extend for a longer period the several acts now in force for the relief of insolvent debtors of the United States," approved May twenty-seven, eighteen hundred and forty; and the last clause of the tenth section of the act entitled "An act for enrolling and licensing ships and vessels to be employed in the coasting trade and fisheries, and for regulating the same," approved February eighteen, seventeen hundred and ninety-three, being all after the words "complied with;" and the seventh section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the thirtieth day of June, eighteen hundred and forty-five, and for other purposes," approved June seventeen, eighteen hundred and forty-four; and the one hundred and third section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March two, seventeen hundred and ninety-nine; and the tenth section of the act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March three, eighteen hundred and sixty-five; and all other acts and parts of acts conflicting with or supplied by this act, be, and the same are hereby, repealed.

SEC. 44. *And be it further enacted*, That the provisions of this act shall not be deemed to affect any action or proceeding or indictment pending at the time this act shall take effect, but the same shall be tried, and disposed of, and judgment or decree executed as if this act had not been passed.

APPROVED, July 18, 1866.

CHAP. CCII.—An Act to establish certain Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following be established as post roads:

NEW YORK.

From Tarrytown to White Plains.

MARYLAND.

From Buena Vista, via Mitchellsville, to Coopersville.

RHODE ISLAND.

From Blackstone, via Pascoag, Slatersville, Mohegan, and Mapleville, to Burrillville.

IOWA.

From Des Moines, via Indianola and Chariton, to Luncville (State line.)

From Des Moines, via McClain, Henry, Payton, Maseville, and Benson, to Grove City.

WISCONSIN.

From Arcadia, via Burnside and Hale, to Sumner.

From Dodgeville, via James's Mills, Wm. S. Bean's, and Booth Hollow, to Avoca.

From Green Bush, via Armstrong's Corners, Dundee, New Prospect, and Eble's Mills, to Barton.

From Wrightstown, via East Wrightstown, Morristown, and Maple Grove, to Pauquette.

From Spring Green, via Plain and White Mound, to Reedsburg.

MINNESOTA.

From Wilton, via Swan Lake, to Blue Earth City.

From Redwood Falls, on the Minnesota River, via Big Stone Lake, Fort Wadsworth, and Fort Berthold, to Fort Union, Montana Territory.

From De Luth to the Falls of Vermillion River.

From Little Falls, via Long Prairie, to Alexandria.

From Sauk Centre, via Westport, Lake Amelia, Reno City, Lake Tokan, Big Stone Lake, and Lake Traverse, to Fort Wadsworth, Dakota Territory.

From Saint Peter, via Lake Prairie, Kelso, and Dryden, to New Auburn.

From Shakopee, via Maple Glenn, New Dublin, New Market, and Cedar Lake, to Oral, returning thence by Helena, Lydia, and Marystown, to Shakopee.

From Winona, via Eau Claire, Chippewa, Mondovi, to Chippewa Falls, Wisconsin.

From Red Wing, via Thomas Carney's Mill, Wisconsin, to Ellsworth.

From Crow Wing, via Otter Tail City and Monta, to Fort Abercrombie, Dakota Territory.

From Elk River, via Pleasant Valley, to Spencer Brook.

From Monticello, via Buffalo, to Watertown.

From Buffalo, via Maple Lake to Fremont.

KANSAS.

From Junction City, via south side of Republican River, Quimby's, Cain's Settlement, and Elk Creek, to Washington.

From Junction City to Batchelder.

From Pleasant Hill, Missouri, via High Blue, Aubrey, Squiresville, Kansas, and Spring Hill, to Baldwin City.

From Media to Oskaloosa.

From American City, via Savannah, to Vienna.

From Ottawa, via Berea, Mount Getiad, and Oakwood, to Mound City.

MISSOURI.

From Kansas City, via Little Santa Fe, Aubrey, Kansas, Cold Water Grove, Rockville, and Trading Post, to Fort Scott.

ARKANSAS.

From Fayetteville, via Rhea's Mill, Cincinnati, and Telegraph, to Fort Gibson.

MISSISSIPPI.

From Ripley to Saulsbury, Tennessee.

ALABAMA.

From Tuscaloosa, via Foster's store, Union, and Clinton, to Gainesville.

MONTANA TERRITORY.

From Sioux City, Iowa, via the Nebraska and Yellow Stone River routes, to Walla Walla, Washington Territory.

NEVADA.

From Wellington Station, via Mammoth and Lone, to Austin.

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From Virginia City to American City.  
 From Aurora, via Columbus, to Silver Peak.  
 From Austin, via Kingston, Ophir Canon, and San Antonio, to Silver Peak.  
 From Ione, via Ophir Canon, Boiling Springs, and San Antonio, to Crystal Springs.

## OREGON.

From Oregon City, via Cutting Mill, Glad Tidings, Silvertown, Sublimity, and Scio, to Lebanon.

From Portland, via Union School House, Philip Foster's on Clackamas, and Cuttingsville, to Silvertown.

From Dallas, via Antelope Valley, Camp Watson, John Day City, Canyon City, Marysville, Union, Strawberry Valley, Camp Logan, and Willow Creek, to Boise City, Idaho Territory.

From Canyon City, via Susanville, Elk District, Trues Station, Olin Creek, Independence, and Auburn, to Baker City.

## CALIFORNIA.

From Los Angeles to Havilah City, in Tulare County.

From Drytown to El Dorado.

From Quincy, via Jamison City, Eureka Mills, Seventy-Six, Red Clover Valley, Mohawk, Little Humburg, and Beckworth's, to Sierra Valley.

From Auburn, via Greenwood, to Georgetown.

From San Rafael, via Olema and Bolinas, to Petaluma.

From Woodland, via Cache Creek, to Buckeye.

## WEST VIRGINIA.

From Sistersville, in Tyler County, via Twiggs, to Hebron, in Pleasants County.

From Sago, in Upshur County, to Huttonsville, in Randolph County.

## ILLINOIS.

From Winchester to Manchester.

From Elkhart, in Logan County, direct to Sweet Water, in Menard County.

## INDIANA.

From Nashville, in the county of Brown, to Morgantown, in the county of Morgan.

APPROVED, July 18, 1866.

CHAP. CCVIII.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-seven, namely:

## LEGISLATIVE.

For compensation and mileage of Senators, two hundred and fifty-two thousand five hundred dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, three thousand six hundred dollars; officer charged with disbursements of the Senate, four hundred and eighty dollars; chief clerk, two thousand five hundred dollars; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each; eight clerks in office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each; keeper of the stationery, one thousand seven hundred and fifty-two dollars; two messengers, at one thousand and eighty dollars each; one page, at five hundred dol-

lars; Sergeant-at-Arms and Doorkeeper, two thousand dollars; assistant doorkeeper, one thousand seven hundred dollars; Postmaster to the Senate, one thousand seven hundred and fifty dollars; assistant postmaster and mail carrier, one thousand four hundred and forty dollars; two mail boys, at one thousand dollars each; superintendent of the document-room, one thousand five hundred dollars; two assistants in document-room, at one thousand two hundred dollars each; superintendent of the folding-room, one thousand five hundred dollars; three messengers, acting as assistant doorkeepers, at one thousand five hundred dollars each; sixteen messengers, at one thousand two hundred dollars each; clerk or secretary to the President of the Senate, one thousand seven hundred and fifty-two dollars; clerk to the Committee on Finance, one thousand eight hundred and fifty dollars; clerk to the Committee on Claims, one thousand eight hundred and fifty dollars; clerk of printing records, one thousand eight hundred and fifty dollars; superintendent in charge of the furnaces, one thousand two hundred dollars; assistant in charge of furnaces, seven hundred and twenty dollars; laborer in charge of private passages, seven hundred and twenty dollars; two laborers, at seven hundred and twenty dollars each; Chaplain to the Senate, seven hundred and fifty dollars; one special policeman, seven hundred and twenty dollars; making eighty thousand nine hundred and fifty-four dollars.

For contingent expenses of the Senate, viz:

For stationery, seventeen thousand dollars.

For newspapers, five thousand dollars.

For Congressional Globe, twenty thousand dollars.

For reporting proceedings in the Daily Globe for the second session of the Thirty-Ninth Congress, twelve thousand dollars.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the second regular session of the Thirty-Ninth Congress, eight hundred dollars each, four thousand dollars.

For one complete set of the Congressional Globe and Appendix for each Senator in the Thirty-Ninth Congress who has not already received them: *Provided, however,* That any Senator who has already, as a member of the House of Representatives, received a portion of a set of the Congressional Globe, shall only be entitled to receive as such Senator the additional volumes required to complete one full set, six thousand eight hundred dollars.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and laws of the United States, twelve thousand nine hundred dollars.

For clerks to committees, pages, horses, and carryalls, twenty thousand dollars.

For Capitol police, twenty-one thousand four hundred and eighty dollars: *Provided,* That three hundred and thirty dollars of the appropriation for the Capitol police may be used during the present fiscal year.

For expenses of heating and ventilating apparatus, twenty thousand five hundred dollars.

For miscellaneous items, thirty thousand dollars.

For compensation and mileage of Members of the House of Representatives and Delegates from Territories, one million dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, three thousand six hundred dollars; chief clerk and one assistant clerk, at two thousand one hundred and sixty dollars each; eleven clerks, at one thousand eight hundred dollars each; principal messenger in the office, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; three

messengers, at one thousand two hundred dollars each; messenger to the Speaker, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; clerk to the Committee of Ways and Means, two thousand one hundred and sixty dollars; clerk to the Committee on Appropriations, two thousand one hundred and sixty dollars; clerk to the Committee of Claims, one thousand eight hundred dollars; clerk to the Committee on Public Lands, one thousand eight hundred dollars; Sergeant-at-Arms, two thousand one hundred and sixty dollars; clerk to the Sergeant-at-Arms, one thousand eight hundred dollars; messenger to the Sergeant-at-Arms, one thousand, two hundred dollars; Postmaster, two thousand one hundred and sixty dollars; assistant postmaster, one thousand seven hundred and forty dollars; four messengers, at one thousand four hundred and forty dollars each; two mail boys, at nine hundred dollars each; Capitol police, twenty-one thousand four hundred and eighty dollars: *Provided,* That three hundred and thirty dollars of the appropriation for the Capitol police may be used during the present fiscal year; Doorkeeper, two thousand one hundred and sixty dollars; superintendent of the folding-room, one thousand eight hundred dollars; superintendent of the document-room and assistant, at one thousand seven hundred and fifty-two dollars; one messenger, at one thousand seven hundred and forty dollars; five messengers, at one thousand five hundred dollars each; six messengers, at one thousand two hundred dollars each; twelve messengers, to be employed during the session of Congress, at the rate of one thousand two hundred dollars each per annum; Chaplain to the House of Representatives, seven hundred and fifty dollars; for stenographer, thirty-six hundred and fifty dollars; making one hundred and thirteen thousand one hundred and forty dollars.

For contingent expenses of the House of Representatives, viz:

For cartage, two thousand dollars.

For clerks to committees and temporary clerks of the House of Representatives, eighteen thousand five hundred and seventy-six dollars.

For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate of the second regular session of the Thirty-Ninth Congress, and one hundred copies of the same for the House library, seventeen thousand seven hundred and ninety-six dollars.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, eight thousand five hundred and fifty dollars.

For folding documents, including materials, thirty thousand dollars.

For fuel and lights, pay of engineers, firemen, and laborers, repairs, and materials, fifteen thousand dollars.

For furniture, repairs, and packing-boxes for members, ten thousand dollars.

For horses, carriages, and saddle horses, nine thousand dollars.

For laborers, eight thousand four hundred dollars.

For miscellaneous items, thirty thousand dollars.

For newspapers, twelve thousand five hundred dollars.

For pages and temporary mail boys, ten thousand dollars.

For reporting and publishing proceedings in the Daily Globe, ten thousand five hundred dollars.

For stationery, eighteen thousand dollars.

For the usual additional compensation to the reporters of the House for the Congressional Globe for reporting the proceedings of the House for the second regular session of the Thirty-Ninth Congress, eight hundred dollars each, four thousand eight hundred dollars.



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## PUBLIC PRINTING.

For compensation of the Superintendent of Public Printing, and the clerks and messengers in his office, eleven thousand five hundred and fourteen dollars.

For contingent expenses of his office, viz: for stationery, postage, advertising, furniture, traveling expenses, horses and wagons, and miscellaneous items, two thousand dollars.

For the public printing, three hundred and sixty-nine thousand four hundred dollars.

For paper for the public printing, four hundred and fifty-six thousand eight hundred and ninety-two dollars.

For the public binding, three hundred and fifty-two thousand two hundred and four dollars.

For mapping in cases pending in the Supreme Court of the United States, three thousand dollars.

For lithographing and engraving for the Senate and House of Representatives, seventy-five thousand dollars.

To enable the Secretary of the Interior to purchase of Messrs. Little, Brown, and Company two thousand copies of the thirteenth volume of the United States Statutes-at-Large, for distribution agreeably to the acts of Congress directing the distribution of the other volumes, seven thousand dollars.

## LIBRARY OF CONGRESS.

For compensation of Librarian, five assistant librarians, messenger, and laborers, twelve thousand six hundred dollars.

For contingent expenses of said Library, two thousand dollars.

For purchase of books for said Library, eight thousand dollars.

For purchase of law books for said Library, two thousand dollars.

For Botanic Garden, grading, draining, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, three thousand three hundred dollars.

For pay of superintendent and assistants, and assistants in Botanic Garden and green-houses, under direction of the Library Committee of Congress, six thousand one hundred and forty-five dollars and eighty cents.

For purchasing files of the leading American newspapers for said Library, one thousand five hundred dollars.

## COURT OF CLAIMS.

For salaries of five judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, and bailiff thereof, thirty-five thousand five hundred dollars.

For stationery, books, fuel, labor, and other contingent and miscellaneous expenses, three thousand dollars.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners, one thousand dollars.

For payment of judgments rendered by the court in favor of claimants, in addition to the unexpended balance of the appropriation for the fiscal year ending June thirty, eighteen hundred and sixty-five, five hundred thousand dollars: *Provided*, That judgments already rendered may be paid out of this appropriation at any time after the passage of this act.

## EXECUTIVE.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of secretary to sign patents for public lands, one thousand five hundred dollars.

For compensation to the Private Secretary, steward, and messenger of the President of the United States, four thousand six hundred dollars.

For contingent expenses of the executive office, including stationery therefor, four thousand dollars.

## DEPARTMENT OF STATE.

For compensation of the Secretary of State and Assistant Secretary of State, chief clerk, superintendent of statistics, clerks, messenger, assistant messenger, and laborers in his office, fifty-eight thousand three hundred dollars.

For increase to one messenger, one hundred dollars.

For increase to assistant, one hundred and forty dollars.

*For the Incidental and Contingent Expenses of the Department of State.*

For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, twenty-five thousand dollars.

For publishing the laws of the Thirty-Seventh and Thirty-Eighth Congresses in two newspapers in each of the lately insurgent States, fifteen thousand dollars.

For proof-reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, four thousand dollars.

For stationery, blank books, furniture, fixtures, and repairs, five thousand dollars.

For miscellaneous items, two thousand five hundred dollars.

For copper-plate printing, books, and maps, five thousand dollars.

For extra clerk hire and copying, ten thousand dollars.

*For the general purposes of the Northeast Executive Building.*

For compensation of four watchmen and two laborers of the Northeast Executive Building, three thousand six hundred dollars.

For contingent expenses of said building, viz: for fuel, lights, repairs, and miscellaneous expenses, five thousand five hundred dollars.

## TREASURY DEPARTMENT.

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, supervising architect and assistant architect, clerks, messengers, assistant messenger, and laborers, one hundred and eighteen thousand two hundred dollars.

For compensation of the First Comptroller, chief clerk, and the clerks, messengers, and laborers in his office, forty-seven thousand nine hundred and forty dollars.

For compensation of the Second Comptroller, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, one hundred and thirty-four thousand three hundred and eighty dollars.

For compensation of the First Auditor, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, fifty-nine thousand two hundred and forty dollars.

For compensation of the Second Auditor, chief clerk, and the clerks, messenger, assistant messengers, and laborers in his office, five hundred and twenty-one thousand one hundred and sixty dollars.

For compensation of the Third Auditor, chief clerk, and the clerks, messengers, assistant messengers, and laborers in his office, three hundred and eighty-two thousand and eighty dollars.

For compensation of the Fourth Auditor, chief clerk, and the clerks, messenger, and assistant messenger, and laborer in his office, one hundred and ten thousand five hundred and forty dollars.

For compensation of the Fifth Auditor, chief clerk, and the clerks, messenger, and laborer in his office, forty-seven thousand eight hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department, chief clerk, and the clerks, messenger, assistant messenger, and the laborers in his office, one hundred and ninety-one thousand five hundred and forty dollars.

For compensation of the Treasurer of the United States, assistant treasurer, cashier, assistant cashier, chiefs of division, book-keepers, tellers, assistant tellers, chief clerk, and the clerks, messengers, assistant messengers, and laborers in his office, one hundred and sixty-nine thousand three hundred and eighty dollars.

For compensation of the Register of the Treasury, assistant register, chief clerk, and the clerks, messengers, assistant messenger, and laborers in his office, ninety thousand eight hundred and forty dollars.

For compensation of the Solicitor of the Treasury, chief clerk, and the clerks and messenger in his office, eighteen thousand three hundred and forty dollars.

For compensation of the Commissioner of Customs, chief clerk, and the clerks, messenger, and laborer in his office, forty thousand six hundred and forty dollars.

For compensation of the chief clerk, clerks, messenger, and laborer of the Light-House Board, nine thousand two hundred and forty dollars.

For compensation of the Comptroller of the Currency, deputy comptroller, clerks, messengers, and laborers, one hundred and twenty-thousand two hundred dollars.

For paper, special dies, and printing of circulating notes, and expenses necessarily incurred (including express charges) in procuring the same, in the office of the Comptroller of the Currency, one hundred and fifty thousand dollars.

For salaries of Commissioner, deputy commissioner, and clerks of Internal Revenue Office, together with rent, dies, paper, and so forth, for stamps and incidental expenses, including the cost of subscription to such number of copies of the "Internal Revenue Record and Customs Journal" as the Secretary of the Treasury may deem necessary to supply the revenue officers, one million dollars.

For office furniture, maps, labor, miscellaneous items, and other contingent expenses for the office of the Commissioner of Internal Revenue, fifty thousand dollars.

*Contingent Expenses of the Treasury Department.*

In the office of the Secretary of the Treasury:

For copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, fifty thousand dollars.

For compensation of temporary clerks in the Treasury Department, and for additional compensation to officers and clerks in the same Department, one hundred and sixty thousand dollars: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *Provided further*, That so much of the appropriation of two hundred and fifty thousand dollars, granted by act approved March second, eighteen hundred and sixty-five, for compensation of temporary clerks in the Treasury Department, and for additional compensation to clerks in the same Department, as remains unexpended shall be divided as follows, viz: one hundred dollars each shall be paid to the clerks in said Department of the first and second classes, who have not received any additional compensation out of said appropriation, and who shall have served in said capacity for one year previous to July first, eighteen hundred and sixty-six. And one hundred dollars shall be paid to each person employed in said Department appointed by the Secretary, at an annual salary amounting to less than twelve hundred dollars, and who shall have served under such appointment for one year previous to July first, eighteen hundred and sixty-six. And if the balance of said appropriation remaining unexpended shall

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be insufficient to pay said clerks and appointees, the sum of one hundred dollars each, as herein provided, the deficiency shall be supplied and paid out of any money in the Treasury not otherwise appropriated.

*In the office of the First Comptroller:*

For furniture, public documents, State and territorial statutes, postage, and miscellaneous items, one thousand dollars.

*In the office of the Second Comptroller:*

For blank books, binding, furniture, and miscellaneous items, including subscription to one city newspaper, to be bound and preserved for the use of the office, four thousand dollars.

*In the office of the First Auditor:*

For stationery, office furniture, and miscellaneous items, one thousand five hundred dollars.

*In the office of the Second Auditor:*

For office furniture and miscellaneous items, including two of the city newspapers, to be filed and preserved for the use of the office, twenty-five thousand dollars.

*In the office of the Third Auditor:*

For office furniture, carpeting, two newspapers, preserving files and papers, bounty-land service, and miscellaneous items, fifteen thousand dollars.

*In the office of the Fourth Auditor:*

For contingent expenses of the office, including two daily newspapers, three thousand dollars.

*In the office of the Fifth Auditor:*

For postage, furniture, and miscellaneous expenses, in which are included two daily newspapers, two thousand dollars.

*In the office of the Auditor for the Post Office Department:*

For contingent expenses of the office, six thousand dollars.

*In the office of the Treasurer:*

For contingent expenses of the office, seven thousand five hundred dollars.

*In the office of the Register:*

For arranging and binding canceled marine papers, and for official papers and records, and miscellaneous items, including office furniture, eight thousand dollars.

*Office of the Solicitor of the Treasury:*

For books, binding, stationery, labor, and miscellaneous items, and for statutes and reports, and for care of library, two thousand two hundred dollars.

*Office of the Commissioner of Customs:*

For stationery, miscellaneous items, and office furniture, three thousand dollars.

*Light-House Board, viz:*

For miscellaneous expenses and postage, six hundred dollars.

*Office of the Comptroller of the Currency:*

For furniture and miscellaneous items, five thousand dollars.

For stationery for the Treasury Department and its several bureaus, one hundred and twenty-five thousand dollars.

*For the general purposes of the Southeast Executive Building, including the Extension.*

For compensation of twelve watchmen and eleven laborers of the Southeast Executive Building, thirteen thousand eight hundred dollars.

For contingent expenses of said building, viz: for fuel, light, labor, and miscellaneous items, seventy-five thousand dollars.

For rent of buildings for the accommodation of clerks who cannot be accommodated in the Treasury building, two thousand dollars.

## DEPARTMENT OF THE INTERIOR.

For compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers in his office, forty-six thousand three hundred and eighty dollars.

For compensation of the Commissioner of the General Land Office, chief clerk, recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, one hundred and seventy-five thousand four hundred and forty dollars.

For compensation of additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty land, and for laborers employed therein, fifty-eight thousand six hundred and forty dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For compensation of the Commissioner of Indian Affairs, chief clerk, and the clerks, messenger, assistant messenger, watchmen, and laborer in his office, thirty-one thousand nine hundred and forty dollars.

For compensation of the Commissioner of Pensions, chief clerk, and the clerks, messengers, assistant messengers, watchman, and laborers in his office, two hundred and fifteen thousand three hundred and forty dollars.

For additional clerks in the Pension Office, twenty-one thousand dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

*Contingent Expenses—Department of the Interior.**Office of the Secretary of the Interior:*

For stationery, furniture, and other contingencies, and for books and maps for the library, seven thousand dollars.

For casual repairs of the Patent Office building, twelve thousand five hundred dollars.

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress approved twenty-eighth January, eighteen hundred and fifty-seven, and act fifth February, eighteen hundred and fifty-nine, six thousand dollars.

For fuel and lights for the Patent Office building, including the salaries of engineer and assistant engineer of the furnaces, eighteen thousand dollars.

*Office of the Commissioner of Indian Affairs:*

For blank books, binding, stationery, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, four thousand dollars.

*Office of the Commissioner of Pensions:*

For stationery, engraving, and retouching plates for bounty-land warrants, and binding the same, office furniture, and repairing the same, and miscellaneous items, including two city daily newspapers, to be filed, bound, and preserved for the use of the office, fifteen thousand dollars.

*Office of the Commissioner of Public Buildings:*

For compensation of the Commissioner of Public Buildings, and the clerk and messenger in his office, four thousand two hundred dollars.

For stationery, blank books, plans, drawings, and other contingent expenses of his office, five hundred dollars.

*Surveyors General and their Clerks.*

For compensation of the surveyor general of Wisconsin and Iowa, and clerks for completing and winding up the business in his of-

fice, four thousand eight hundred dollars: *Provided*, That when this appropriation shall have been exhausted, the said office shall be abolished.

For compensation of the surveyor general of Minnesota, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territories of Dakota and Montana, and the clerks in his office, six thousand three hundred dollars.

For compensation of the surveyor general of Kansas and Nebraska, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territories of Colorado, Utah, and Idaho, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of New Mexico and Arizona, three thousand dollars.

For compensation of the surveyor general of California and Nevada, and the clerks in his office, fourteen thousand dollars.

For compensation of the surveyor general of Oregon, and the clerks in his office, six thousand five hundred dollars.

For compensation of the surveyor general of Washington Territory, and the clerks in his office, six thousand five hundred dollars.

For compensation of recorder of land titles in Missouri, five hundred dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, fifteen hundred dollars.

For rent of surveyor general's office of California and Nevada, fuel, books, stationery, and other incidental expenses, including pay of messenger, five thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For office rent of the surveyor general of Kansas and Nebraska, fuel, and incidental expenses, two thousand dollars.

For rent of surveyor general's office in the Territories of Dakota and Montana, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of office for the surveyor general of Colorado, Utah, and Idaho Territories, fuel, books, stationery, and other incidental expenses, one thousand five hundred dollars.

*Expenses of Courts of the United States.*

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of funds arising from fines, penalties, and forfeitures, in the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, including legal assistance to the Attorney General, and other special and extraordinary expenditures, in cases in the Supreme Court of the United States, in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, in addition to the unexpended balances of appropriations to the credit of the judiciary fund on June thirtieth, eighteen hundred and sixty-six, required to meet the expenses of the courts being re-established in the southern States, so much of the act of March two, eighteen hundred and sixty-five, carrying said unexpended balances of appropriations into the Treasury being, and the same is hereby, repealed, and to replace to the credit of the judiciary fund the amount of four thousand dollars, withdrawn therefrom and expended upon the custom-house at New Orleans, three hundred and four thousand dollars.

To enable the Secretary of the Interior to

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pay the balance due for work done on, and materials furnished for, that part of the custom-house building at New Orleans, reserved for the use of the Federal courts, four thousand two hundred and sixty-eight dollars and sixty-five cents.

## WAR DEPARTMENT.

For compensation of the Secretary of War, Assistant Secretaries of War, Solicitor, chief clerk, and the clerks, messenger, assistant messengers, and laborer in his office, sixty-three thousand eight hundred and eighty dollars.

For compensation of the clerks and messengers in the office of the Adjutant General, two hundred and twenty-three thousand nine hundred and twenty dollars.

For compensation of the clerks, messengers, assistant messengers, and laborers, in the office of the Quartermaster General, three hundred and ninety thousand one hundred and sixty dollars.

For compensation of the clerks, messengers, assistant messengers, and laborers, in the office of the Paymaster General, two hundred and eight thousand four hundred dollars: *Provided*, That the annual compensation of the chief clerk in the office of the Paymaster General, from the first day of July, eighteen hundred and sixty-six, shall be two thousand dollars; and the third-class clerks in said office are hereby reduced three in number, and the fourth-class clerks are hereby increased three in number.

For compensation of the clerks, messenger, and laborers in the office of the Commissary General, eighty-five thousand six hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the office of the Surgeon General, forty-three thousand eight hundred and forty dollars.

For compensation of the clerks, messengers, and laborer in the office of the Chief Engineer, twenty-eight thousand seven hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Colonel of Ordnance, sixty thousand and forty dollars.

For compensation of the clerks in the office of Military Justice, seven thousand two hundred dollars.

*Contingent Expenses of the War Department.*

## Office of the Secretary of War:

For blank books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, twenty thousand dollars.

## Office of the Adjutant General:

For blank books, stationery, binding, and miscellaneous items, twenty-five thousand dollars.

## Office of the Quartermaster General:

For blank books, stationery, binding, and miscellaneous items, twenty thousand dollars.

## Office of the Paymaster General:

For blank books, stationery, binding, and miscellaneous items, ten thousand dollars.

## Office of the Commissary General:

For blank books, stationery, and binding, including rent of office and hire of watchmen, twenty thousand dollars.

## Office of the Chief Engineer:

For blank books, stationery, binding, and miscellaneous items, three thousand five hundred dollars.

## Office of the Surgeon General:

For blank books, stationery, binding, and miscellaneous items, including rent of office, fifteen thousand dollars.

## Office of the Chief of Ordnance:

For blank books, stationery, binding, and miscellaneous items, ten thousand dollars.

## Office of Military Justice:

For blank books, stationery, binding, and miscellaneous items, one thousand five hundred dollars.

*For the general purposes of the Northwest Executive Building.*

For compensation of superintendent, four watchmen, and two laborers of the Northwest Executive Building, three thousand eight hundred and fifty dollars.

For labor, fuel, light, and miscellaneous items, twenty thousand dollars.

*For the general purposes of the Building corner of F and Seventeenth streets.*

For compensation of superintendent, four watchmen, and two laborers for said building, three thousand eight hundred and fifty dollars.

For fuel, compensation of firemen, and miscellaneous items, ten thousand dollars.

*For the general purposes of the Building corner of F and Fifteenth streets.*

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, fifteen thousand dollars.

## NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, Assistant Secretary of the Navy, Solicitor, and Naval Judge Advocate General, chief clerk, and the clerks, messenger, assistant messenger, and laborers in his office, fifty-eight thousand one hundred and forty dollars.

For compensation of the chief of the Bureau of Navy-Yards and Docks, and the civil engineer, chief clerk, clerks, messenger, and laborers in his office, nineteen thousand two hundred and forty dollars.

For compensation of the chief of the Bureau of Equipment and Recruiting, chief clerk, and the clerks, messenger, and laborer in his office, sixteen thousand one hundred and forty dollars.

For compensation of the chief of the Bureau of Navigation, chief clerk, and the clerks, messenger, and laborer in his office, nine thousand three hundred and forty dollars.

For compensation of the chief of the Bureau of Ordnance, and the assistant, chief clerk, clerks, draughtsman, messenger, and laborers in his office, eighteen thousand eight hundred and twenty dollars.

For compensation of the chief of the Bureau of Construction and Repair, chief clerk, and the clerks, draughtsman, messenger, and laborer in his office, sixteen thousand three hundred and forty dollars.

For compensation of the chief of the Bureau of Steam Engineering, chief clerk, and the clerks, draughtsman, messenger, and laborer in his office, ten thousand seven hundred and forty dollars.

For compensation of the chief of the Bureau of Provisions and Clothing, chief clerk, and the clerks, messenger, and laborer, twenty-four thousand three hundred and forty dollars.

For compensation of the chief of the Bureau of Medicine and Surgery, assistant, and the clerks, messenger, and laborer in his office, ten thousand five hundred and forty dollars.

*Incidental and Contingent Expenses of the Navy Department.*

## Office of the Secretary of the Navy:

For stationery, labor, newspapers, periodicals, and miscellaneous items, five thousand dollars.

## Bureau of Yards and Docks:

For stationery, books, plans, drawings, and incidental labor, one thousand eight hundred dollars.

## Bureau of Equipment and Recruiting:

For stationery, books, and miscellaneous items, five hundred dollars.

## Bureau of Navigation:

For stationery, blank books, and miscellaneous items, two thousand four hundred dollars.

## Bureau of Ordnance:

For stationery and miscellaneous items, one thousand three hundred dollars.

## Bureau of Construction and Repair:

For stationery and miscellaneous items, one thousand dollars.

## Bureau of Steam Engineering:

For stationery and miscellaneous items, two thousand five hundred dollars.

## Bureau of Provisions and Clothing:

For stationery and miscellaneous items, one thousand five hundred dollars.

## Bureau of Medicine and Surgery:

For blank books, stationery, and miscellaneous items, eight hundred dollars.

To defray the expense of introducing water into the Naval Academy grounds and buildings at Annapolis, Maryland, nine thousand dollars.

*For the general purposes of the Southwest Executive Building.*

For compensation of five watchmen and two laborers of the Southwest Executive Building, four thousand seven hundred and fifty-two dollars.

For contingent expenses of said building, viz:

For labor, fuel, lights, and miscellaneous items, seven thousand five hundred dollars.

## POST OFFICE DEPARTMENT.

For compensation of the Postmaster General, three Assistant Postmasters General, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers of said Department, one hundred and seventy-seven thousand seven hundred and twenty dollars.

For compensation of authorized additional and for temporary clerks, thirty-seven thousand dollars.

*Contingent Expenses of the Post Office Department.*

For blank books, binding, and stationery, fuel for the General Post Office Building, including Auditor's office, oil, gas, and candles, printing, repair of the General Post Office Building, office furniture, glazing, painting, whitewashing, and for keeping the fire-places and furnaces in order; for engineer for steam-engine, laborers, watchmen, repairs of furniture, and for miscellaneous items, forty-five thousand dollars.

*Money-Order Bureau.*

For compensation of Superintendent and the clerks in his office, seven thousand five hundred dollars.

*Topographer.*

For preparing and publishing post-route maps of the United States, ten thousand dollars.

## DEPARTMENT OF AGRICULTURE.

For compensation of Commissioner of Agriculture, chief clerk, and the clerks and employees in this office, thirty-nine thousand six hundred dollars.

For contingencies, viz: For stationery, purchase of library, laboratory, rent, and miscellaneous items, eleven thousand five hundred dollars.

For collecting agricultural statistics, ten thousand dollars.

For purchase and distribution of new and valuable seeds, viz:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed-bags, and miscellaneous items, sixty thousand dollars: *Provided*, That the Commissioner of Agriculture shall only purchase and distribute, with the fund herein appropriated for that purpose, such seeds as are rare and uncommon to the country, or such as can be made more profitable by frequent changes from one part of our own country to another.

For employees in seed-room, five thousand two hundred dollars.

For propagation and distribution of plants, cuttings, and shrubs, fourteen thousand dollars: *Provided*, That the propagation of plants, cuttings, and shrubs shall be confined to such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States.

For experimental garden in reservation number two, eight thousand eight hundred dollars.



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## MINT AT PHILADELPHIA.

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, thirty-five thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and twenty-five thousand dollars.

For specimens of ores and coins to be preserved in the cabinet of the Mint, six hundred dollars.

For freight on bullion and coin, five thousand dollars.

## BRANCH MINT AT SAN FRANCISCO, CALIFORNIA.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty-two thousand dollars.

For wages of workmen and adjusters, two hundred thousand dollars.

For incidental and contingent expenses, repairs and wastage, one hundred thousand dollars.

## ASSAY OFFICE, NEW YORK.

For salaries of superintendent, assayer, and melter, and refiner, assistant assayer, officers and clerks, twenty-five thousand seven hundred dollars.

For wages of workmen, forty thousand dollars.

For incidental and contingent expenses, thirty-five thousand dollars.

## BRANCH MINT AT DENVER.

For superintendent, assayer, melter, refiner, coiner, and clerks, thirteen thousand dollars.

For wages of workmen, twenty thousand three hundred and one dollars.

For incidental and contingent expenses, twelve thousand dollars.

## INDEPENDENT TREASURY.

For salaries of the Assistant Treasurers of the United States at New York, Boston, Charleston, and St. Louis, viz: for the Assistant Treasurer at New York, eight thousand dollars; those at Boston and Saint Louis, each, five thousand dollars; and the one at Charleston, two thousand five hundred—twenty thousand five hundred dollars.

For additional salary of the treasurer of the Mint at Philadelphia, one thousand dollars.

For additional salary of the treasurer of the branch mint at New Orleans, five hundred dollars.

For additional salary of the treasurer of the branch mint at Denver, five hundred dollars.

For salaries of the clerks and messengers in the office of Assistant Treasurer at Boston, twenty-five thousand two hundred dollars: *Provided*, That in lieu of the clerks heretofore authorized, the Assistant Treasurer of the United States at Boston is hereby authorized to appoint, with the approbation of the Secretary of the Treasury, one chief clerk, at a salary of three thousand dollars per annum; one clerk at a salary of twenty-five hundred dollars per annum; one clerk, at a salary of two thousand dollars per annum; two clerks, at a salary of eighteen hundred dollars per annum, each; two clerks, at a salary of fifteen hundred dollars per annum, each; six clerks, at a salary of twelve hundred dollars per annum, each; one clerk, at a salary of one thousand dollars per annum; two clerks, at a salary of eight hundred dollars per annum, each; one porter, at a salary of seven hundred dollars per annum; and one watchman, at a salary of six hundred dollars per annum.

For salaries of clerks, messengers, and watchmen, in office of the Assistant Treasurer at Philadelphia, eighteen thousand three hundred dollars.

For salary of additional clerks in the office of the Assistant Treasury at Philadelphia, six thousand five hundred and eighty-five dollars.

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at

New York, one hundred and twenty thousand three hundred and twenty dollars.

For salaries of clerks, messenger, and watchmen in the office of the Assistant Treasurer at Saint Louis, nine thousand seven hundred and sixty dollars.

For additional salaries to the messenger at four hundred dollars per annum, and to four watchmen at one hundred dollars per annum each, in the office of the Assistant Treasurer at Saint Louis, eight hundred dollars.

For salaries of clerks, porter, and watchmen in the office of the Assistant Treasurer at New Orleans, nine thousand six hundred dollars.

For compensation to stamp clerk in the office of the Assistant Treasurer at San Francisco, two thousand four hundred dollars.

For compensation of the depository at Santa Fe, and the clerk, watchman, and porter in his office, four thousand eight hundred dollars.

For salary of the clerk to the acting Assistant Treasurer at Denver, one thousand eight hundred dollars.

For salaries of additional clerks, and additional compensation of officers and clerks, under act of August sixth, eighteen hundred and forty-six, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, sixty thousand dollars.

For compensation to designated depositaries, under fourth section of the act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, eight thousand dollars.

For compensation to special agents, under act of the sixth of August, eighteen hundred and forty-six, eight thousand dollars.

For salaries of ten supervising and fifty-six local inspectors, appointed under act of the thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred in carrying into effect the steamboat inspection law, including the expenses of their annual meeting, eighty-five thousand dollars.

For contingent expenses under the act of the sixth of August, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, in addition to premium which may be received on transfer drafts: *Provided*, That no part of said sum shall be expended for clerical services, two hundred and fifty thousand dollars.

For checks and certificates of deposit for office of Assistant Treasurer at New York, and other offices, eighteen thousand dollars: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, at his discretion, to remove the whole or any portion of the machinery, apparatus, and fixtures of the branch mints of the United States at New Orleans, Charlotte, and Dahlonega, to such other branch mints as in his opinion may require the same, or at his discretion to discontinue the branch mint at New Orleans, Charlotte, and Dahlonega, and to dispose of the property belonging thereto, if he shall deem it expedient, at public auction to the highest bidder.

## GOVERNMENTS IN THE TERRITORIES.

*Territory of New Mexico.*

For salaries of Governor, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Utah.*

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, eighteen thousand dollars.

*Territory of Washington.*

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerk, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Nebraska.*

For salaries of Governor, chief justice, and two associate judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

*Territory of Colorado.*

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, ten thousand dollars.

*Territory of Dakota.*

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

*Territory of Arizona.*

For salaries of Governor, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Idaho.*

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Montana.*

For compensation of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

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For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses, twenty thousand dollars.

## JUDICIARY.

*Office of the Attorney General.*

For salaries of the Attorney General, Assistant Attorney General, and the clerks and messenger in his office, twenty-three thousand seven hundred dollars.

For two additional temporary clerks of class one, twenty-four hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, four thousand dollars.

For purchase of law and necessary books for the office of the Attorney General, five hundred dollars.

For legal assistance and other necessary special and extraordinary expenditures in the disposal of private land claims in California, five thousand dollars.

*Justices of the Supreme Court of the United States.*

For salaries of the Chief Justice and nine associate justices, sixty thousand five hundred dollars.

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, one thousand dollars.

For salaries of the district judges of the United States, one hundred and twenty-six thousand dollars.

For salaries of the chief justice of the supreme court of the District of Columbia, the associate judges, and judge of the orphans' court, nineteen thousand dollars.

For salary of the reporter of the decisions of the Supreme Court of the United States, which is hereby fixed at that amount, two thousand five hundred dollars: *Provided*, That said reporter shall within the time now prescribed deliver to the Secretary of the Interior for distribution, according to existing laws, three hundred copies of such of the annual reports of that court as shall be hereafter published.

For additional compensation to three clerks in the department of the Attorney General, for extraordinary services under the amnesty proclamation of May twenty-ninth, eighteen hundred and sixty-five, to be apportioned, one thousand to the principal clerk, and five hundred each to the other two clerks, two thousand dollars.

For compensation of the district attorneys, nineteen thousand two hundred and fifty dollars.

For compensation of the district marshals, twelve thousand dollars.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, two million dollars.

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawback, together with the expense of carrying into effect the forty-fourth section of the internal revenue act of June thirtieth, eighteen hundred and sixty-four, and all other expenses of carrying into effect the various provisions of the several acts providing internal revenue, except salaries of Commissioner, deputy commissioner, and clerks of Internal Revenue Office, together with rent, dies, paper, and so forth, for stamps, and incidental expenses, ten million eight hundred thousand dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, five hundred and thirty-eight dollars.

For compensation for four laborers in Capitol, two thousand four hundred dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of a foreman and twenty-

one laborers employed in the public grounds, thirteen thousand four hundred dollars.

For compensation of the keeper of the western gate, Capitol square, eight hundred and seventy-six dollars.

For compensation of two day watchmen employed in the Capitol square, one thousand two hundred dollars.

For compensation of two night watchmen at the President's House, one thousand two hundred dollars.

To enable the Commissioner of Public Buildings to pay two policemen at the President's House, twenty-six hundred and forty dollars.

To enable the Commissioner of Public Buildings to pay two policemen at the President's House, (one from August twenty-fourth, the other from November twenty-fifth, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six,) two thousand and twenty-three dollars and thirty-four cents.

For compensation of the doorkeeper at the President's House, one thousand dollars.

For compensation of one night watchman at the public stables and carpenter's shops south of the Capitol, one thousand dollars.

For compensation of two watchmen in reservation number two, twelve hundred dollars.

For compensation of eight draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, seven thousand five hundred and fifty-three dollars and sixty cents.

For compensation of two draw-keepers of the two bridges across the eastern branch at the Potomac, and for fuel, oil, and lamps, one thousand three hundred and ninety-six dollars.

For compensation of furnace-keeper under the old Hall of the House of Representatives, six hundred dollars.

For compensation of furnace-keeper at the President's House, six hundred dollars.

## METROPOLITAN POLICE.

For salaries and other necessary expenses of the Metropolitan police of the District of Columbia, one hundred and twenty thousand dollars. And the compensation of said Metropolitan police force, officers, and clerks, be and the same is hereby, increased fifty per centum upon the amount hereby appropriated, commencing on the first day of July, eighteen hundred and sixty-five, said increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington and Georgetown, and the levy court of said county be, and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one per centum for the purpose aforesaid.

For the construction of a police telegraph in the city of Washington, fifteen thousand dollars.

SEC. 2. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-six, the annually salary of the Treasurer of the United States shall be six thousand five hundred dollars, the additional salary herein provided for, for the year ending June thirty, eighteen hundred and sixty-seven, to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-six, the salary of the Commissioner of Public Buildings shall be twenty-five hundred dollars per annum, and the increase of salary herein authorized may be paid out of any money in the Treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That the President is hereby authorized to appoint a private secretary, at an annual salary of three thousand five hundred dollars; an assistant secretary, at an annual salary of twenty-five hundred dollars; a short-hand writer, at an

annual salary of twenty-five hundred dollars; a clerk of pardons, at an annual salary of two thousand dollars; and three clerks of the fourth class; and a steward of the President's household, who shall receive an annual salary of two thousand dollars, and said steward shall have the custody of the plate, furniture, and other public property in the President's House, and shall give a bond to the United States in such sum as the Secretary of the Interior shall deem sufficient, and to be approved by him, for the faithful discharge of his trust; and the amount necessary to pay the salaries of the officers and clerks herein provided for, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, and also such sum as may be necessary to pay the salaries of said officers and clerks from the date of their appointment to the end of the fiscal year eighteen hundred and sixty-six, are hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 5. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-six, there shall be an officer in the Treasury Department, to be known as the assistant solicitor of the Treasury, who shall be appointed by the Secretary of the Treasury, and who shall receive an annual salary of three thousand dollars. And the Attorney General of the United States is hereby authorized to employ in his office, in addition to the present force, a clerk to be known as the law clerk, at an annual salary of twenty-five hundred dollars. And the amount required to pay the salaries of the officer and clerk herein provided for, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, is hereby appropriated.

SEC. 6. *And be it further enacted*, That the female clerks and counters employed in the several Departments and bureaus, whose appointments are made by the several heads of Departments under the provisions of law, and whose legal compensation has heretofore amounted to seven hundred and twenty dollars each per annum, and the female clerks employed at the Post Office Department, shall, from and after the thirtieth day of June, eighteen hundred and sixty-six, receive in lieu of all other compensation an annual salary of nine hundred dollars each per annum; and the amount necessary to pay the increased salaries herein provided for, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 7. *And be it further enacted*, That the addition of twenty per centum to the compensation of the females not otherwise provided for, messengers, watchmen, and laborers employed in the several Departments, and under the Commissioner of Public Buildings and the Commissioner of Agriculture, and at the Capitol, by section three of "An act making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending June thirtieth, eighteen hundred and sixty-five, and for other purposes," is hereby continued in force, and the amount necessary to pay the same for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, is hereby appropriated.

SEC. 8. *And be it further enacted*, That the Secretary of the Navy is authorized to appoint in the several bureaus of his Department, in addition to their chief clerks, and in lieu of the clerical force now authorized, clerks as follows, viz: in the Bureau of Yards and Docks, one clerk of class four, who shall be the draughtsman, two clerks of class three, two clerks of class two, and one clerk of class one; in the Bureau of Navigation, one clerk of class four, and one clerk of class two; in the Bureau of Equipment and Recruiting, one clerk of class four, two clerks of class three, two clerks of class two, and three clerks of class one; in the Bureau of Ordnance, one clerk of class

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four, two clerks of class three, and two clerks of class two; in the Bureau of Constructions and Repairs, one clerk of class four, two clerks of class three, two clerks of class two, and one clerk of class one; in the Bureau of Steam Navigation, one clerk of class three; in the Bureau of Provisions and Clothing, one clerk of class four, three clerks of class three, six clerks of class two, and three clerks of class one; in the Bureau of Medicine and Surgery, one clerk of class four, and one clerk of class three. And the amount necessary to pay the increase of salaries herein provided for, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-seven, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 9. *And be it further enacted*, That the provisions of the act approved April twenty-nine, eighteen hundred and sixty-four, "increasing the compensation of inspectors of customs in certain ports," is hereby continued in force.

SEC. 10. *And be it further enacted*, That in adjusting the accounts of Stewart Gwynn, under and by authority of "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-six," for printing-presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, the proper accounting officers of the Treasury are hereby authorized to make said adjustment without deducting for expenditures made by said Department, or under authority thereof, upon said presses and machinery for the purpose of improving and repairing the same.

SEC. 11. *And be it further enacted*, That the sum of thirty-nine thousand two hundred and seventy-six dollars and fifty cents be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated to purchase Indian annuity goods for the Indians parties to the treaty of Fort Laramie and for the Blackfoot nation, to replace those destroyed by fire on the steamer Frank Bates, at Saint Louis, April seventh, eighteen hundred and sixty-six.

SEC. 12. *And be it further enacted*, That in cases in which moneys accruing to the United States from "fines, penalties, and forfeitures," or other sources, have been erroneously received and covered into the Treasury before the payment of the proper informers' moiety or other charges legally and justly chargeable against the same, so much money as may be necessary to pay said claims, admitted and certified in due course of settlement, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, July 23, 1866.

CHAP. CCIX.—An Act to amend the fifth Section of an Act entitled "An Act donating Public Lands to the several States and Territories which may provide Colleges for the Benefit of Agriculture and the Mechanic Arts," approved July 2, 1862, so as to extend the time within which the Provisions of said Act shall be accepted and such Colleges established.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time in which the several States may comply with the provisions of the act of July two, eighteen hundred and sixty-two, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within five years from the date of the filing of such

acceptance with the Commissioner of the General Land Office: *Provided*, That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the said act of July two, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act: *Provided further*, That any State which has heretofore expressed its acceptance of the act herein referred to shall have the period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two, shall have expired.

APPROVED, July 23, 1866.

CHAP. CCX.—An Act to fix the Number of Judges of the Supreme Court of the United States, and to change certain Judicial Circuits.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no vacancy in the office of associate justice of the Supreme Court shall be filled by appointment until the number of associate justices shall be reduced to six; and thereafter the said Supreme Court shall consist of a Chief Justice of the United States and six associate justices, any four of whom shall be a quorum; and the said court shall hold one term annually at the seat of Government, and such adjourned or special terms as it may find necessary for the dispatch of business.

SEC. 2. *And be it further enacted*, That the first and second circuits shall remain as now constituted; that the districts of Pennsylvania, New Jersey, and Delaware shall constitute the third circuit; that the districts of Maryland, West Virginia, Virginia, North Carolina, and South Carolina shall constitute the fourth circuit; that the districts of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas shall constitute the fifth circuit; that the districts of Ohio, Michigan, Kentucky, and Tennessee shall constitute the sixth circuit; that the districts of Indiana, Illinois, and Wisconsin shall constitute the seventh circuit; that the districts of Minnesota, Iowa, Missouri, Kansas, and Arkansas shall constitute the eighth circuit; and the districts of California, Oregon, and Nevada shall constitute the ninth circuit.

APPROVED, July 23, 1866.

CHAP. CCXI.—An Act to quiet the Title to certain Lands within the corporate Limits of the City of Benicia and the Town of Santa Cruz in the State of California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the right and title of the United States to the land situated within the corporate limits of the city of Benicia, in the county of Solano, State of California, as defined in the act incorporating said city, passed by the Legislature of the State of California, April twenty-four, eighteen hundred and fifty-one, be, and the same are hereby, relinquished and granted to the said city and its successors, upon trust, however, that so much of said lands as is in the bona fide occupancy of parties upon the passage of this act, by themselves or tenants, shall be conveyed by said city to such parties: *Provided, however*, That the relinquishment and grant by this act shall not extend to any lands within said corporate limits occupied as a military depot of the United States, or heretofore reserved by the United States for public purposes; nor shall they interfere with or prejudice any valid adverse right or claim, if such

exist, to said land or any part thereof, or preclude a judicial examination and adjustment thereof.

SEC. 2. *And be it further enacted*, That all the right and title of the United States to the land within the corporate limits of the town of Santa Cruz in the State of California, as defined in the act of the Legislature of that State incorporating said town, be, and the same are hereby, relinquished and granted to the corporate authorities of said town and their successors, in trust for and with authority to convey so much of said lands as are in the bona fide occupancy of parties upon the passage of this act by themselves or tenants, to such parties: *Provided*, That this grant shall not extend to any reservation of the United States, nor prejudice any valid adverse right or claim, if such exist, to said land or any part thereof, nor preclude a judicial examination and adjustment thereof.

APPROVED, July 23, 1866.

CHAP. CCXII.—An Act for a Grant of Lands to the State of Kansas to aid in the Construction of the Northern Kansas Railroad and Telegraph.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there is hereby granted to the State of Kansas, for the use and benefit of the Saint Joseph and Denver City Railroad Company, the same being a corporation organized under the laws of the State of Kansas, to construct and operate a railroad from Elwood, in Kansas, westwardly, via Maryville, in the same State, so as to effect a junction with the Union Pacific railroad, or any branch thereof not further west than the one hundredth meridian of west longitude, every alternate section of land designated by odd numbers, for ten sections in width on each side of said road, to the point of intersection. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold any section or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to tiers of sections above specified, so much land, in alternate sections or parts of sections designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the rights of preemption or homestead settlements have attached as aforesaid; which lands, thus indicated by odd numbers, and selected by direction of the Secretary of the Interior as aforesaid, shall be held by the State of Kansas for the use and purpose aforesaid: *Provided*, That the land to be so selected shall in no case be located further than twenty miles from the line of said road: *Provided further*, That the lands hereby granted for and on account of said road shall be exclusively applied in the construction of the same, and for no other purpose whatever, and shall be disposed of only as in this act hereinafter provided: *Provided, also*, That no part of the land granted by this act shall be applied to aid in the construction of any railroad or part thereof for the construction of which any previous grant of land or bonds has been made by Congress: *And provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States from the operations of this act, except so far as may be found necessary to locate the route of said road through said lands; in which case the right of way for one hundred feet on each side of said



road only shall be granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which by such grant shall remain to the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of the public lands when sold; nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder, at or above the increased minimum price, as aforesaid: *Provided*, That actual and bona fide settlers, under the provisions of the preemption and homestead laws of the United States, may, after due proof of settlement, improvement, cultivation, and occupation, as now provided by law, purchase the same, at the increased minimum price aforesaid: *And provided also*, That settlers on any of said reserved sections, under the provisions of the homestead law, who improve, occupy, and cultivate the same for a period of five years, and comply with the several conditions and requirements of said act, shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the grant of the lands hereby made is upon condition that said company, after the construction of its road, shall keep it in repair and use, and shall at all times be in readiness to transport troops, munitions of war, supplies, and public stores upon its roads for the Government when required to do so by any Department thereof, the Government at all times having the preference in the use of the road for all the purposes aforesaid at fair and reasonable rates of compensation, not exceeding that paid by private individuals or the average paid for like services on other roads. And the lands hereby granted, held, and reserved as aforesaid shall inure to the benefit of said company, as follows: when the Governor of the State of Kansas shall certify that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the said Secretary of the Interior shall issue to the said company patents for so many sections of the land hereinbefore granted as lie opposite to and contemporaneous with the said completed sections. And when certificates of the Governor, aforesaid, shall be presented to said Secretary, of the completion, as aforesaid, of each successive section of ten consecutive miles of said road, the said Secretary shall in like manner issue to said company patents for the said sections of said land as aforesaid for each of said sections of road until said road shall be completed: *Provided*, That if said railroad company or its assigns shall fail to complete at least one section of said road each year from the date of its acceptance of the grant provided for in this act, then its right to the lands for said section so failing of completion shall revert to the Government of the United States: *Provided further*, That if said road is not completed within ten years from the date of the acceptance of the grant hereinbefore made, the lands remaining unpatented shall revert to the United States.

SEC. 4. *And be it further enacted*, That as soon as the said company shall file with the Secretary of the Interior maps of its lines, designating the route thereof, it shall be the duty of the said Secretary to withdraw from the market the lands granted by this act, in such manner as may be best calculated to effect the purposes of this act and subserve the public interest.

SEC. 5. *And be it further enacted*, That the United States mail shall be transported on said road and its extension, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law the Postmaster General shall have power to fix the compensation.

SEC. 6. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said Saint Joseph and Denver City Railroad Company, its successors and assigns, for the construction of a railroad as proposed; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

SEC. 7. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Saint Joseph and Denver City Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within six months after the passage of this act and not afterwards, and shall be deposited with the Secretary of the Interior.

APPROVED, July 23, 1866.

CHAP. CCXIII.—An Act to regulate the Registering of Vessels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act approved on the tenth day of February, in the year one thousand eight hundred and sixty-six, entitled "An act to regulate the registering of vessels," shall not be deemed or construed to affect or limit the operation of the act approved on the twenty-third day of December, in the year one thousand eight hundred and fifty-two, entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," but the same shall be in full force and effect, anything in the act first aforesaid to the contrary notwithstanding.

APPROVED, July 23, 1866.

CHAP. CCXIV.—An Act to authorize the Construction of a Railroad through certain Land of the United States in Kansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Leavenworth City Railroad Company be, and are hereby, authorized to construct a horse railway, with one or two tracks, through the military reservation from Fort Leavenworth to the city of Leavenworth, Kansas, and take for the accommodation of the said road, or the business thereof, a strip of land over said reservation not exceeding twenty feet in width: *Provided*, That the location of said railroad through said reservation shall be on and along the west side of the wagon road leading from the said city to the said fort, and that the said company shall erect their own bridges and crossings, and not be permitted to use those of the wagon road: *And provided also*, That whenever said strip of land shall cease to be used for the purposes of said railroad company or the accommodation of the business thereof, the same shall revert to the United States; that this privilege shall be allowed as long as the Secretary of War shall, in his discretion, determine, and no longer.

APPROVED, July 23, 1866.

CHAP. CCXV.—An Act to amend the Acts approved August six, eighteen hundred and sixty-one, and July sixteen, eighteen hundred and sixty-two, establishing a Metropolitan Police in the District of Columbia, to increase the Efficiency thereof, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the chief executive

officer of the police shall hereafter be styled major; the present sergeants shall be called lieutenants; the roundsmen called sergeants, and the patrolmen called privates; and that, in addition to the officers and employes the commissioners of the Metropolitan police, in the District of Columbia, are now authorized by law to appoint, the said commissioners be authorized to appoint one captain, who shall be the inspector of the force, command it in sickness or absence of the major, and perform such other duties as the said commissioners may direct; one clerk in the office of the major, who shall have charge of the records of the sanitary company, and perform such other duties as the major, by direction or with the approval of the commissioners, may prescribe; twenty sergeants, and fifty patrolmen or privates.

SEC. 2. *And be it further enacted*, That the provisions of the sixth section of the act of July sixteen, eighteen hundred and sixty-two, authorizing the selection of justices of the peace by the board of police, to officiate at the respective station-houses, be construed to provide for the hearing of all cases of offense against statutory, corporation, or common law, of which the said board is charged by law with the execution; and all fines imposed by any justice within either of the jurisdictions of the Metropolitan police district shall be, by the justices imposing the same, paid into the hands of the treasurer of the board of police, on the first Thursday after the same shall have been collected, who shall duly receipt therefor, in duplicate, to the credit of the city or county within which the offense was committed; and such justice shall, in each case, return the original receipt to the treasurer of the same jurisdiction; and the treasurer of the police board shall pay over such sums monthly to the proper officers of said cities or county, upon proper receipts, except as hereinafter provided.

SEC. 3. *And be it further enacted*, That from and after the expiration of licenses already granted it shall be unlawful for any person or persons keeping an ordinary, restaurant, saloon, or other place where spirituous liquors are sold within the District of Columbia, to give, sell, or dispose of any intoxicating drinks without a license approved by the board of police; and hereafter no such license shall be considered legal by any of the authorities having jurisdiction within said District, until the same shall have been approved by the board of police and so certified by the secretary thereof under the office seal.

SEC. 4. *And be it further enacted*, That the board of police shall provide specific rules for uniform clothing of the police force, which shall be procured by each of the members thereof respectively, strictly in conformity with such rules, at his own expense and risk, and he shall be removed from such force for not complying with such rules.

SEC. 5. *And be it further enacted*, That from and after the passage of this act the property clerk of the Metropolitan police district shall be vested with all the powers now conferred by law upon notaries public in the District of Columbia. He may administer oaths and certify depositions which may be necessary to establish the ownership of any property or money lost, abandoned, or returned to him under the directions of the board of police, other than such as may be so returned as the proceeds of crime; and upon satisfactory evidence of such ownership he shall deliver the same to said owner, his heirs and legal representatives, and to him or them only, except it be proven impracticable for such owner, heirs, or representatives to appear, when the same may be delivered and receipted for upon such proof of ownership and the filing in the office of said property clerk, of a duly executed power of attorney from said owner or his heirs or legal representatives. And any property or money returned to the property clerk as the proceeds

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of crime, and which shall not be called for as evidence by any proceeding in the courts of the District within one year from the date of such return, may, unless specially claimed by the owner within that time, be thereafter treated as other unclaimed, abandoned, or lost property or money, as provided in the act of July sixteenth, eighteen hundred and sixty-two.

SEC. 6. *And be it further enacted*, That where animals or articles of property, other than money, are returned to the property clerk as the proceeds of crime, when shown by sufficient evidence to be necessary for the current use of the owners and not for sale, (except perishable property that may be delivered to the owner on ample security being taken by the committing magistrate for his appearance at the criminal court to prosecute the case,) the board of police shall have power, in its discretion, to authorize the property clerk to place the same in the custody of such owners, upon sufficient bonds being given by said owner or owners in the sum of twice the value thereof, conditioned for the production of the same at any time within one year, when required for use in court as evidence in any proceeding thereon, in accordance with the provisions required by the act of July sixteenth, eighteen hundred and sixty-two. And in cases of large quantities of goods held for sale by the owners, that may come into the possession of the property clerk as the proceeds of crime, the same may be delivered to the said owner, his heirs or representatives, as provided in section five of this act, upon ample security to prosecute, except those of an estimated value of fifty dollars, which shall be retained by the property clerk until the discharge or conviction of the accused, as required by said act.

SEC. 7. *And be it further enacted*, That hereafter no person shall assume or practice the occupation of detective within the limits of the District of Columbia who shall not first receive a specific appointment for that purpose, unless pursuing the detection of criminals as a private business outside of such authority, and not otherwise specifically authorized by law. Any person so practicing shall enter into bonds to the board of police with surety in the sum of not less than ten thousand dollars, to be approved by the board of police, for a faithful and correct return to said board, in such manner and at such times as the board of police shall direct, of all business transacted by such private detectives; and in each and every case of a forfeiture of such bond or bonds for failure to make such returns to said board as required, or for failure of persons accused by such bonded private detectives to appear to answer charges in court, it shall be the duty of the attorney of the United States for the said District to immediately prosecute the sureties thereon to the full extent of a recovery of the forfeitures. And it shall be the duty of any person prosecuting the business of a private detective, who may arrest a person for crime, to bring the person arrested with all evidence of the alleged crime, including property or money which may become evidence, immediately to the office of the superintendent of police, or the nearest Metropolitan police station, where the case shall undergo an examination before the magistrate assigned thereto; and all laws or parts of laws that govern the Metropolitan police in the matters of persons, property, or money shall hereafter be applicable to said detectives, (or to persons practicing as detectives, whatever other name they may assume,) who shall make like returns and dispositions thereof, as required by law and the rules of the board of police governing the Metropolitan police force.

SEC. 8. *And be it further enacted*, That upon the execution of a private detective's bond, it shall be the duty of such private detectives to report to the secretary of the board of police, who shall file such bond and record the name, age, description, nationality, and resi-

dence of said private detective; and it shall be unlawful for such detectives, or any member of the Metropolitan police force, or for any and all other persons, to compromise a felony or any other unlawful act, or to participate in, assent to, aid, or assist any person suspected of crime to escape a full judicial examination by failing to give known facts or reasonable causes of suspicion, or withholding any information relative to the charge or suspicion from the police magistrate or justice, or in any manner to receive any money, property, favor, or other compensation, from, or on account of, any person arrested or subject to arrest for any crime, or supposed crime, or to permit any such person to go at large without due effort to secure an investigation of such supposed crime; and for any violation of the foregoing provisions of this section, or either of them, the said police, or private detective, or other person guilty thereof, shall be deemed as having compromised a felony, and be thereafter prohibited from acting as an officer of the Metropolitan police force or as a private detective, and shall be prosecuted to the extent of the law for aiding criminals to escape the ends of justice.

APPROVED, July 23, 1866.

CHAP. CCXVI.—An Act to give certain Powers to the Levy Court of the County of Washington in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in addition to the existing remedy by distress, for the recovery of taxes due to the levy court in the county of Washington, real property in said county, outside the corporate limits of Georgetown and Washington, on which one year's taxes shall be due and unpaid, or so much thereof, not less than one acre, (where the property on which the tax has accrued is not less than that quantity,) as may be necessary to pay any such taxes, with all legal costs and charges arising thereon, may be sold at public sale, to satisfy such taxes and expenses, by the collector appointed by the levy court of said county: *Provided*, That public notice be given of the time and place of sale by advertising once a week for eight successive weeks in some newspaper published in the city of Washington, in which advertisement shall be given a sufficient and definite description of the property selected for sale, the name of the person to whom the same is assessed, and the aggregate amount of taxes due thereon. The purchaser or purchasers of any such property shall pay, at the time of such sale, the amount of taxes due on the property so purchased by him, her, or them, respectively, with the amount of the expenses of sale, and shall pay the residue of the purchase-money within ten days after the expiration of two years from the day of sale, to the collector or other officer of the levy court authorized to receive the same, and the amount of such residue shall be placed in the treasury of said levy court, subject to the order of the original proprietor or proprietors of the property sold, his, her, or their legal representatives; and the purchaser or purchasers of said property shall receive a title thereto in fee-simple, by deed, under the hand of the president of said levy court and its seal, which shall be deemed good and valid in law and equity: *Provided, nevertheless*, That if within two years from the day of any such sale, or before such purchaser or purchasers shall have paid the residue, if any, of the purchase-money as aforesaid, the proprietor or proprietors of any property sold as aforesaid, his, her, or their agents, or legal representatives, shall repay to such purchaser or purchasers the money paid for taxes and expenses as aforesaid, together with ten per centum per annum as interest thereon, or make a tender thereof, or deposit the same with the treasurer of said levy court or other officer authorized to receive the same, for the use of

such purchaser or purchasers, and subject to his or their order, he, she, or they shall be reinstated in his, her, or their original right and title, as if no such sale had been made; and if any purchaser shall fail to pay the residue of the purchase-money as aforesaid within the time required as aforesaid, for any property so purchased by him, he shall pay ten per centum per annum, as interest thereon, in addition to such residue, from the expiration of the two years as aforesaid, until the actual payment of such residue and the receiving of a conveyance as aforesaid, and said interest shall alike be subject to the order of the original proprietor or proprietors as the residue of the purchase-money aforesaid: *Provided also*, That no sale shall be made of any improved property in pursuance of this section, whereon there is personal property of sufficient value to pay said taxes, nor of such improved property whereon there is not such personal property, until the collector shall first file a sworn return with the clerk of said levy court that there is no such personal property, which return shall be prima facie proof of that fact; and that minors, mortgagees, and others having equitable liens or other interests, as creditors, in real property sold for taxes as aforesaid shall be allowed one year after such minors' coming to full age, or after such mortgagees, or others having equitable interests, obtaining possession of, or a decree for the sale of, such property to redeem the same from the purchaser or purchasers, his, her, or their heirs or assigns, on paying the amount of the purchase-money so paid therefor, with ten per centum interest thereon per annum, and the value of any improvements erected on said property by the purchaser or his assigns while in his possession.

SEC. 2. *And be it further enacted*, That it shall be lawful for the collector to postpone, after such advertisement, the sale of the property advertised according to the foregoing section, to any future day, for want of bidders or other reasonable cause, giving public notice of such postponement; and the sale made at such postponed time shall be equally valid as if made on the day stated in the advertisement.

SEC. 3. *And be it further enacted*, That the collector of said levy court shall have authority to collect any tax lawfully imposed by said court, by distress and sale of the goods and chattels of the person chargeable therewith, wherever the same may be found in said county, out of the corporate limits of Washington and Georgetown; but no such sale shall be made unless ten days' previous notice thereof be given in some newspaper printed in the city of Washington.

SEC. 4. *And be it further enacted*, That it shall not be necessary that the said levy court shall have actually paid the portion of the general expenses of the county of Washington, or any other expenses a portion of which either of the cities of Washington or Georgetown is liable for, to enable the said court to demand of either of said cities payment of its proportion of said expenses already incurred, or for the supreme court of the District of Columbia to act summarily in the matter and give judgment, according to the provisions of the act of July one, eighteen hundred and twelve, entitled "An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia."

APPROVED, July 23, 1866.

CHAP. CCXVII.—An Act relating to Public Schools in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the eighteenth section of the act entitled "An act to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes," approved June twenty-five, eighteen hundred and sixty-four, shall be so construed as to require the cities of Washing-

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ton and Georgetown to pay over to the trustees of colored schools of said cities such a proportionate part of all moneys received or expended for school or educational purposes in said cities, including the cost of sites, buildings, improvements, furniture, and books, and all other expenditures on account of schools, as the colored children between the ages of six and seventeen years, in the respective cities, bear to the whole number of children, white and colored, between the same ages. That the money shall be considered due and payable to said trustees on the first day of October of each year, and if not then paid over to them, interest at the rate of ten per centum per annum on the amount unpaid may be demanded and collected from the authorities of the delinquent city by said trustees.

SEC. 2. *And be it further enacted*, That the said trustees may maintain an action of debt in the supreme court of the District of Columbia against said cities of Washington and Georgetown for the non-payment of any sum of money arising under the aforesaid act of June twenty-five, eighteen hundred and sixty-four.

APPROVED, July 23, 1866.

CHAP. CCXVIII.—An Act to incorporate the Metropolitan Mining and Manufacturing Company.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That John Ford, George D. Williams, Thomas W. Hyde, Oliver Edwards, Charles H. Herd, Samuel A. Fulton, Charles Otis, Charles A. Eleston, George W. Holmes, Joseph E. Hollis, John F. Broadhead, and Lewis P. Moody, or any five of them, be, and are hereby, authorized and empowered to receive subscriptions to the capital stock of a corporation to be denominated the Metropolitan Mining and Manufacturing Company of the District of Columbia, who shall open a book for that purpose in the city of Washington, at the time and place to be by them designated, of which they shall give five days' notice in two or more of the daily papers of said city, and shall keep the same open until twenty thousand shares of one hundred dollars a share each shall have been subscribed; and any person of lawful age, and a citizen of the United States, shall be permitted to subscribe upon paying five dollars on each share at the time of subscribing. And it shall be lawful for the said corporation to have a common seal, sue and be sued, plead and be impleaded, and have and exercise all the rights, privileges, and immunities for the purpose of the corporation hereby created.

SEC. 2. *And be it further enacted*, That the affairs of the company shall be managed by nine directors, to be elected annually by ballot on the second Monday of July, by the stockholders or by their legally empowered agents; and each share of stock shall entitle the holder thereof to one vote; the election to be held at the office of the company at a general meeting of the stockholders convened for that purpose, by ten days' public notice in two or more of the daily papers of the city of Washington: *Provided*, That the first election for directors shall be held pursuant to five days' notice given in one or more of the daily papers of the city of Washington by the persons named in the first section of this act, or any five of them, who shall designate the time when and the place where said election shall be held; and the stockholders shall then and there elect nine directors to serve until the next ensuing election and until their successors shall be duly elected and qualified as provided for in this act. And at the first ensuing meeting of the directors after every election they shall appoint one of their number as president, who shall hold office until the election and qualification of his successor. And five members of said board shall compose a quorum. And in case that an elec-

tion for directors should not be made when pursuant to this act it should have been made, the company for that cause shall not be dissolved; and it shall be lawful within forty days thereafter to hold and make an election for directors in such manner as the by-laws of the company may prescribe, and the president and directors for the time being shall be continued in office until such election take place. And in the event of the death, resignation, or removal of any director from office, his place for the remainder of his term may be filled by the president and directors for the time being, in such manner as the by-laws may prescribe.

SEC. 3. *And be it further enacted*, That the president and directors shall have power to appoint a secretary and such other officers, agents, and clerks as may to them appear proper, to fix their compensation, and pay the same.

SEC. 4. *And be it further enacted*, That the capital stock shall be called in and paid in such installments and proportions, and at such times and places, as the president and directors, for the time being, may require and designate. And if any stockholder, subscriber, their assignee or transferee, shall refuse or neglect to pay such proportion or installment at the time and place appointed, such stockholder, subscriber, transferee, or assignee shall, at the option of the president and directors, forfeit to the use of the company all his, her, or their right, title, and interest in and to every share on which such installments have not been duly paid; and fresh subscriptions may be opened for the said shares in such manner as the by-laws may prescribe, or the president and directors may, at their option, commence suit for any installment that may be due and unpaid, and recover against the holder of said stock for the amount of the same: *Provided*, That no stockholder or subscriber shall be permitted to vote at any election for directors or at any general or special meeting of the company, on whose shares any installments or arrearages may be due more than fifteen days previous thereto.

SEC. 5. *And be it further enacted*, That the president and directors for the time being shall have power to ordain, establish, and put in execution such rules, regulations, ordinances, and by-laws as they may deem essential for the well-governance of the institution, not contrary to the laws and Constitution of the United States or of any State, or of this act, and generally to do and perform all acts, matters, and things which a corporation may or can lawfully do.

SEC. 6. *And be it further enacted*, That the president and directors are hereby empowered and fully authorized, on behalf of said company, to carry on the business of mining for iron ore and other native minerals, and manufacturing and preparing the same for market; and to purchase and hold by deed for a term or in fee-simple such real estate and other property within the District of Columbia and State of Virginia as may be necessary and proper for the purposes aforesaid; and to issue bonds not exceeding one half of the capital stock, upon such terms as may be deemed for the best interests of the company: *Provided*, That no bond shall be issued for a less sum than one hundred dollars, or bearing interest at a rate exceeding six per centum per annum.

SEC. 7. *And be it further enacted*, That the president and directors are hereby empowered and fully authorized, on behalf of said company, to lease, demise, bargain, sell, and convey any lands and real estate which may be owned or held by said company, and to execute and deliver to purchasers good and sufficient deeds therefor.

SEC. 8. *And be it further enacted*, That the stock of said company shall be transferred on the books of the company in such manner only as the by-laws of the company shall direct.

SEC. 9. *And be it further enacted*, That nothing in this act shall be so construed as making

it perpetual, but Congress may at any time alter, amend, or repeal the same.

APPROVED, July 23, 1866.

CHAP. CCXIX.—An Act to quiet Land Titles in California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where the State of California has heretofore made selections of any portion of the public domain in part satisfaction of any grant made to said State by any act of Congress, and has disposed of the same to purchasers in good faith under her laws, the lands so selected shall be, and hereby are, confirmed to said State: *Provided*, That no selection made by said State contrary to existing laws shall be confirmed by this act for lands to which any adverse preemption, homestead, or other right has, at the date of the passage of this act, been acquired by any settler under the laws of the United States, or to any lands which have been reserved for naval, military, or Indian purposes by the United States, or to any mineral land, or to any land held or claimed under any valid Mexican or Spanish grant, or to any land which, at the time of the passage of this act, was included within the limits of any city, town, or village, or within the county of San Francisco: *And provided further*, That the State of California shall not receive under this act a greater quantity of land for school or improvement purposes than she is entitled to by law.

SEC. 2. *And be it further enacted*, That where the selections named in section one of this act have been made upon land which has been surveyed by authority of the United States, it shall be the duty of the proper authorities of the State, where the same has not already been done, to notify the register of the United States land office for the district in which the land is located of such selection, which notice shall be regarded as the date of the State selection, and the Commissioner of the General Land Office shall, immediately after the passage of this act, instruct the several local registers to forward to the General Land Office, after investigation and decision, all such selections, which, if found to be in accordance with section one of this act, the Commissioner shall certify over to the State in the usual manner.

SEC. 3. *And be it further enacted*, That where the selections named in section one of this act have been made from lands which have not been surveyed by authority of the United States, but which selections have been surveyed by authority of and under the laws of said State, and the land sold to purchasers in good faith under the laws of the State, such selections shall, from the date of the passage of this act, when marked off and designated in the field, have the same force and effect as the preemption rights of a settler upon unsurveyed public land; and if, upon survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon the filing with the register of the proper United States land office of the township plat in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the same time to present and prove up his purchase and claim under this act as is allowed preëmptors under existing laws; and if found in accordance with section one of this act, the land embraced therein shall be certified over to the State by the Commissioner of the General Land Office.

SEC. 4. *And be it further enacted*, That in all cases where township surveys have been, or shall hereafter be, made under authority of the United States, and the plats thereof approved, it shall be the duty of the Commissioner of the General Land Office to certify over to the State



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of California, as swamp and overflowed, all the lands represented as such, upon such approved plats, within one year from the passage of this act, or within one year from the return and approval of such township plats. The Commissioner shall direct the United States surveyor general for the State of California to examine the segregation maps and surveys of the swamp and overflowed lands made by said State; and where he shall find them to conform to the system of surveys adopted by the United States, he shall construct and approve township plats accordingly, and forward to the General Land Office for approval: *Provided*, That in segregating large bodies of land, notoriously and obviously swamp and overflowed, it shall not be necessary to subdivide the same, but to run the exterior lines of such body of land. In case such State surveys are found not to be in accordance with the system of United States surveys, and in such other townships as no survey has been made by the United States, the Commissioner shall direct the surveyor general to make segregation surveys, upon application to said surveyor general by the Governor of said State, within one year of such application, of all the swamp and overflowed land in such townships, and to report the same to the General Land Office, representing and describing what land was swamp and overflowed under the grant, according to the best evidence he can obtain. If the authorities of said State shall claim as swamp and overflowed any land not represented as such upon the map or in the returns of the surveyors, the character of such land at the date of the grant, September twenty-eight, eighteen hundred and fifty, and the right to the same, shall be determined by testimony, to be taken before the surveyor general, who shall decide the same, subject to the approval of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Commissioner of the General Land Office to instruct the officers of the local land offices and the surveyor general, immediately after the passage of this act, to forward lists of all selections made by the State referred to in section one of this act, and lists and maps of all swamp and overflowed lands claimed by said State, or surveyed as provided in this act, for final disposition and determination, which final disposition shall be made by the Commissioner of the General Land Office without delay.

SEC. 6. *And be it further enacted*, That an act entitled "An act to provide for the survey of the public lands in California, the granting of preemption rights therein, and for other purposes," approved March third, one thousand eight hundred and fifty-three, shall be construed as giving the State of California the right to select for school purposes other lands in lieu of such sixteenth and thirty-sixth sections as were settled upon prior to survey, reserved for public uses, covered by grants made under Spanish or Mexican authority, or by other private claims, or where such sections would be so covered if the lines of the public surveys were extended over such lands, which shall be determined whenever township lines shall have been extended over such land, and in case of Spanish or Mexican grants, when the final survey of such grants shall have been made. The surveyor general for the State of California shall furnish the State authorities with lists of all such sections so covered, as a basis of selection, such selections to be made from surveyed lands, and within the same land district as the section for which the selection is made.

SEC. 7. *And be it further enacted*, That where persons in good faith, and for a valuable consideration, have purchased lands of Mexican grantees or assigns, which grants have subsequently been rejected, or where the lands so purchased have been excluded from the final survey of any Mexican grant, and have used, improved, and continued in the actual possession of the same as according to the lines of

their original purchase, and where no valid adverse right or title (except of the United States) exists, such purchasers may purchase the same, after having such lands surveyed under existing laws, at the minimum price established by law, upon first making proof of the facts as required in this section, under regulations to be provided by the Commissioner of the General Land Office, joint entries being admissible by continuous proprietors to such an extent as will enable them to adjust their respective boundaries: *Provided*, That the provisions of this section shall not be applicable to the city and county of San Francisco: *Provided*, That the right to purchase herein given shall not extend to lands containing mines of gold, silver, copper, or cinnabar: *Provided*, That whenever it shall be made to appear by petition from the occupants of such land that injury to permanent improvements would result from running the lines of the public surveys through such permanent improvements, the Commissioner of the General Land Office may recognize existing lines of subdivisions.

SEC. 8. *And be it further enacted*, That in all cases where a claim to land by virtue of a right or title derived from the Spanish or Mexican authorities has been finally confirmed, and a survey and plat thereof shall not have been requested within ten months from the passage of this act, as provided by sections six and seven of the act of July first, eighteen hundred and sixty-four, "to expedite the settlement of titles to lands in the State of California," and in all cases where a like claim shall hereafter be finally confirmed, and a survey and plat thereof shall not be requested, as provided by said sections within ten months after the passage of this act, or any final confirmation hereafter made, it shall be the duty of the surveyor general of the United States for California, as soon as practicable after the expiration of ten months from the passage of this act, or such final confirmation hereafter made, to cause the lines of the public surveys to be extended over such land, and he shall set off, in full satisfaction of such grant, and according to the lines of the public surveys, the quantity of land confirmed in such final decree, and as nearly as can be done in accordance with such decree; and all the land not included in such grant as so set off shall be subject to the general land laws of the United States: *Provided*, That nothing in this act shall be construed so as in any manner to interfere with the right of bona fide preemption claimants.

SEC. 9. *And be it further enacted*, That from the decrees of the district courts of the United States for the district of California, approving or correcting the surveys of private land claims under Spanish or Mexican grants, rendered after the first day of July, one thousand eight hundred and sixty-five, an appeal shall be allowed for the period of one year after the entry of such decrees to the circuit court of the United States for California, as provided by section three of the act of July first, one thousand eight hundred and sixty-four, to expedite the settlement of titles to land in the State of California, and the decision of the circuit court shall be final: *Provided, however*, That from decrees of the district courts, as aforesaid, made after July one, eighteen hundred and sixty-five, and prior to the passage of this act, an appeal may be taken to the United States circuit court for the State of California within one year from the approval of this act.

APPROVED, July 23, 1866.

CHAP. CCXXX.—An Act to aid in the Construction of Telegraph Lines, and to secure to the Government the use of the same for postal, military, and other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any telegraph company now organized, or which may hereafter be

organized under the laws of any State in this Union, shall have the right to construct, maintain, and operate lines of telegraph through and over any portion of the public domain of the United States, over and along any of the military or post roads of the United States which have been or may hereafter be declared such by act of Congress, and over, under, or across the navigable streams or waters of the United States: *Provided*, That such lines of telegraph shall be so constructed and maintained as not to obstruct the navigation of such streams and waters, or interfere with the ordinary travel on such military or post roads. And any of said companies shall have the right to take and use from such public lands the necessary stone, timber, and other materials for its posts, piers, stations, and other needful uses in the construction, maintenance, and operation of said lines of telegraph, and may preempt and use such portion of the unoccupied public lands subject to preemption through which its said lines of telegraph may be located as may be necessary for its stations, not exceeding forty acres for each station; but such stations shall not be within fifteen miles of each other.

SEC. 2. *And be it further enacted*, That telegraphic communications between the several departments of the Government of the United States and their officers and agents shall, in their transmission over the lines of any of said companies, have priority over all other business, and shall be sent at rates to be annually fixed by the Postmaster General.

SEC. 3. *And be it further enacted*, That the rights and privileges hereby granted shall not be transferred by any company acting under this act to any other corporation, association, or person: *Provided, however*, That the United States may at any time after the expiration of five years from the date of the passage of this act, for postal, military, or other purposes, purchase all the telegraph lines, property, and effects of any or all of said companies at an appraised value, to be ascertained by five competent, disinterested persons, two of whom shall be selected by the Postmaster General of the United States, two by the company interested, and one by the four so previously selected.

SEC. 4. *And be it further enacted*, That before any telegraph company shall exercise any of the powers or privileges conferred by this act, such company shall file their written acceptance with the Postmaster General of the restrictions and obligations required by this act.

APPROVED, July 24, 1866.

CHAP. CCXXXI.—An Act to define the Number and regulate the Appointment of Officers in the Navy, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the number allowed in each grade of line officers on the active list of the Navy shall be one admiral, one vice admiral, ten rear admirals, twenty-five commodores, fifty captains, ninety commanders, one hundred and eighty lieutenant commanders, one hundred and eighty lieutenants, one hundred and sixty masters, one hundred and sixty ensigns, and in other grades the number now allowed by law: *Provided*, That the increase in the grades authorized by this act shall be made by selection from the grade next below of officers who have rendered the most efficient and faithful service during the recent war, and who possess the highest professional qualifications and attainments. And nothing in this act shall preclude the advancement in rank now authorized by law for distinguished conduct in battle, or for extraordinary heroism: *And provided further*, That nothing in this act, nor in the fourteenth section of the act approved July sixteenth, eighteen hundred and sixty-two, entitled "An act to establish and equalize the grade of the line officers of the

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Navy," shall be so construed as to prevent the Secretary of the Navy from promoting to the grade of rear admiral on the retired list those commodores who have commanded squadrons by order of the Secretary of the Navy, or who have performed other highly meritorious service.

SEC. 2. *And be it further enacted*, That of the number of line officers of the Navy on the active list, five lieutenant commanders, twenty lieutenants, fifty masters, and seventy-five ensigns may be appointed from those officers who have served in the volunteer naval service for a period of not less than two years, and who are either now in that service or have been honorably discharged therefrom: *Provided*, That if by reason of these appointments the number of officers in any grade shall exceed the number fixed by law, no more promotions or appointments to that grade shall be made until the number is reduced below the number fixed by law for that grade: *And provided further*, That the authority given by this section shall be exhausted when the number of volunteer officers above named shall have been once appointed.

SEC. 3. *And be it further enacted*, That the Secretary of the Navy shall appoint a board consisting of not less than three naval officers superior in rank to the officers to be thus appointed in the regular Navy from the volunteer service, which board, after examination of the claims of all candidates, shall select and report to the Secretary of the Navy the most meritorious in character, ability, professional competency, and honorable service, the number to be appointed and transferred to the several grades mentioned in the second section of this act, provided they shall find that number who are suitably qualified therefor. And any officer who has served in the volunteer naval service for the term of two years or more, shall have the right to appear before the examining board and present his claims and be examined for an appointment in the regular Navy. And any volunteer officers attached to vessels at sea or on foreign stations may be appointed to the regular Navy, subject to the conditions contained in this section, after their return to the United States.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy be, and he hereby is, authorized to retain, or to appoint under existing laws and regulations, such volunteer officers in the Navy as the exigencies of the service may require.

SEC. 5. *And be it further enacted*, That lieutenant commanders may be assigned to duty as navigation and watch officers on board of vessels-of-war as well as first lieutenants of naval stations and of ships-of-war.

SEC. 6. *And be it further enacted*, That the annual compensation of the Admiral of the Navy shall be ten thousand dollars a year, and he shall be entitled to the services of a secretary, who shall receive the annual sea pay of a lieutenant in the Navy.

SEC. 7. *And be it further enacted*, That naval constructors and first and second assistant engineers in the Navy shall be appointed by the President and confirmed by the Senate, and shall have naval rank and pay as officers of the Navy.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent herewith are hereby repealed.

APPROVED, July 25, 1866.

CHAP. CXXXII.—An Act to revive the Grade of General in the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the grade of "general of the Army of the United States" be, and the same is hereby, revived; and that the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a general of

the Army of the United States, to be selected from among those officers in the military service of the United States most distinguished for courage, skill, and ability, who, being commissioned as general, may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States.

SEC. 2. *And be it further enacted*, That the pay proper of the general shall be four hundred dollars per month; and his allowance for fuel and quarters, when his headquarters are in Washington, shall be at the rate of three hundred dollars per month, and his other allowances in all respects the same as are allowed to the lieutenant general by the second section of the act approved February twenty-nine, eighteen hundred and sixty-four, entitled "An act reviving the grade of lieutenant general in the United States Army;" and the chief of staff to the lieutenant general shall be transferred and be the chief of staff to the general, with the rank, pay, and emoluments of a brigadier general in the Army of the United States; and the act approved March third, eighteen hundred and sixty-five, entitled "An act to provide for a chief of staff to the lieutenant general commanding the armies of the United States," is hereby repealed, and the said general may select from the regular Army for service upon his staff such number of aides, not exceeding six, as he may judge proper, who during the term of such staff service shall each have the rank, pay, and emoluments of a colonel of cavalry. And it is hereby provided, that in lieu of the staff now allowed by law to the lieutenant general, he shall be entitled to two aides and one military secretary, each to have the rank, pay, and emoluments of a lieutenant colonel of cavalry, during the term of such staff service.

APPROVED, July 25, 1866.

CHAP. CXXXIII.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-seven, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, republic of Mexico, China, Italy, Chili, Peru, Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, three hundred and eight thousand five hundred dollars.

For salaries of secretaries of legation, thirty thousand dollars.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For contingent expenses of all the missions abroad, fifty thousand dollars.

For contingent expenses of foreign intercourse, sixty-five thousand dollars.

For expenses of intercourse with the Barbary Powers, three thousand dollars.

For expenses of the consulates in the Turk-

ish dominions, namely: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, two hundred thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of the United States from shipwreck, ten thousand dollars.

For the purchase of blank books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, fifty thousand dollars.

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, forty-five thousand dollars.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, including loss by exchange thereon, namely:

## I. CONSULATES GENERAL.

## Schedule B.

Alexandria, Calcutta, Constantinople, Frankfurt-on-the-Main, Havana, Montreal, Shanghai.

## II. CONSULATES

## Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Bankok, Basle, Belfast, Beirut, Buenos Ayres, Bordeaux, Bremen, Brindisi, Boulogne, Barcelona, Cadiz, Callao, Candia, Canton, Chin Kiang, Clifton, Coaticook, Cork, Demarara, Dundee, Elsinore, Erie, Foo-Choo, Funchal, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Guaymas, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Hankow, Jerusalem, Kanagawa, Kingston, Kingston in Canada, La Rochelle, Laguayra, Lahaina, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, London, Lyons, Malaga, Malta, Manchester, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Naples, Nassau, (West Indies,) Newcastle, Nice, Nantes, Odesa, Oporto, Palermo, Panama, Paris, Pernambuco, Pictou, Ponce, Port Mahon, Prescott, Prince Edward Island, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Saint John, (Canada East,) Santiago de Cuba, Port Sarnia, Singapore, Smyrna, Spezzia, Southampton, Saint John, (Newfoundland,) Saint Petersburg, Saint Pierre (Martinique,) Saint Thomas, Stuttgart, Swatow, Saint Helena, Tampico, Tangier, Toronto, Trieste, Trinidad de Cuba, Tripoli, Tunis, Turk's Island, Valparaiso, Vera Cruz, Vienna, Windsor, Zurich.

## III. COMMERCIAL AGENCIES.

## Schedule B.

Balize, (Honduras,) Madagascar, San Juan del Norte, Saint Domingo.

## IV. CONSULATES.

## Schedule C.

Aux Cayes, Bahia, Batavia, Bay of Islands, Cape Haytien, Cape Town, Carthagena, Ceylon, Cobija, Cyprus, Falkland Islands, Fayal, Guayaquil, Lanthala, Maranhon, Matamoras, Mexico, Montevideo, Omoa, Payta, Para, Paso del Norte, Piraous, Rio Grande, Sabanilla, Saint Catherine, Santa Cruz, (West Indies,) Santiago, (Cape Verde,) Stettin, Tabasco, Tahiti, Talcahuano, Tumbez, Venice, Zanzibar.

## V. COMMERCIAL AGENCIES.

## Schedule C.

Amoor River, Apia, Gaboon, Saint Paul de Loando, [Loanda,] four hundred and twenty-five thousand dollars: *Provided*, That the compensation of the consuls at Malta, Saint John, (Canada East,) Nice, Lisbon, Santa

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Cruz, Tampico, Prince Edward Island, Barcelona, Saint Catherine's, in Brazil, and Nantes, is established at fifteen hundred dollars each annually, and the compensation of the consul at Hankow is established at three thousand dollars annually; and no money shall be paid to the present minister resident at Portugal out of any funds whatever on account of further services in his office.

For interpreters to the consulates in China, and to the consular court at Bangkok, in Siam, including loss by exchange thereon, eight thousand three hundred dollars.

For expenses incurred under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, twenty thousand dollars.

For salaries of the marshals for the consular courts in Japan, including that at Nagasaki, and in China, Siam, and Turkey, including loss by exchange thereon, ten thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

For salaries of commissioners and consuls general to Hayti, Liberia, and Dominica, nineteen thousand dollars; and the title of these diplomatic representatives shall be hereafter minister resident and consul general, with no increase of salary.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, seventeen thousand dollars.

For expenses under the act to encourage immigration, twenty thousand dollars.

For further compensation of the commissioner under the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Company, three thousand dollars in full for his services and personal expenses.

For expenses under the neutrality act, twenty thousand dollars.

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, thirteen thousand one hundred and ten dollars.

For the payment of the second annual installment of the proportion contributed by the United States towards the capitalization of the Scheldt dues, to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium of the twentieth of May, eighteen hundred and sixty-three, the sum of fifty-five thousand five hundred and eighty-four dollars in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for payment of interest on the said sum and on the portion of the principal remaining unpaid.

For repairs of cemetery fences and sexton's house, belonging to the United States, in the city of Mexico, fifteen hundred dollars, to be expended under the direction of the President of the United States.

SEC. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a second Assistant Secretary of State in the Department of State, and also an examiner of claims for the same Department, whose salary shall be three thousand dollars per annum; and the salary of the second Assistant Secretary of State shall be thirty-five hundred dollars per annum; and such sums are hereby appropriated.

SEC. 3. *And be it further enacted*, That all fees collected by any consul or commercial agent not mentioned in schedule B or C, or by any vice consul or commercial agent appointed to perform their duties, or by any other person in their behalf, shall be accounted for to the

Secretary of the Treasury in the same mode and manner as is provided for in section eighteen of the act approved August eighteen, eighteen hundred and fifty-six, entitled "An act to regulate the diplomatic and consular system of the United States." And when the fees so collected by any such consul or commercial agent amount to more than twenty-five hundred dollars in any one year, over and above the expenses of office rent and clerk hire, to be approved by the Secretary of State, of which return shall be made to the Secretary of the Treasury, the excess for that year shall be paid to the Secretary of the Treasury, in the mode provided for by said act.

SEC. 4. *And be it further enacted*, That the salary of any envoy extraordinary and minister plenipotentiary hereafter appointed shall be the salary of a minister resident and nothing more, except when he is appointed to one of the countries where the United States are now represented by an envoy extraordinary and minister plenipotentiary.

APPROVED, July 25, 1866.

CHAP. CCXXXIV.—An Act further to provide for the Safety of the Lives of Passengers on board of Vessels propelled in whole or in part by Steam, to regulate the Salaries of Steamboat Inspectors, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any engineer or pilot, licensed in pursuance of law by any inspector or board of inspectors, shall, to the hinderance of commerce, wrongfully or unreasonably refuse to serve as such on any steam vessel, as authorized by the terms of his license, or shall fail to deliver to the applicant for such services, at the time of such refusal, if the same shall be demanded, a statement in writing, signed by such engineer or pilot, of the reasons therefor, or if any pilot shall refuse to admit into the pilot-house with him any person or persons whom the captain or owners of any steamboat may desire to place there for the purpose of acquiring the knowledge of piloting, he shall forfeit and pay to the party aggrieved thereby the sum of three hundred dollars, to be recovered in an action of debt founded on this statute. And thereupon on such recovery, as well as on such refusal to give such statement in writing, or to admit such person into the pilot-house as aforesaid, his license shall be immediately revoked, upon the same proceedings as are provided by law in other cases of the revocation of such licenses.

SEC. 2. *And be it further enacted*, That when boilers are so arranged on a steamer that there is employed a water connecting-pipe through which the water may pass from one boiler to another, there shall also be provided a similar steam connection, having an area of opening into each boiler of at least one square inch for every two square feet of effective heating surface contained in any one of the boilers so connected, half the flue and all other surfaces being computed as effective. And no boiler shall hereafter be allowed, under any circumstances, a greater working pressure than one hundred and fifty pounds to the square inch.

SEC. 3. *And be it further enacted*, That one or more additional safety-valves, of such dimensions and arrangement as shall be prescribed by the board of supervising inspectors, shall be placed on the boilers of every steamer, and shall be loaded to a pressure not exceeding two pounds above the working steam pressure allowed, and shall be secured by the inspector against the interference of all persons engaged in the management of the vessel or her machinery. And the alloyed metals now required by law to be placed in or upon the flues of boilers shall be fusible, as now required by law, and at a temperature not exceeding four hundred and forty-five degrees of the Fahren-

heit thermometer; and a good and reliable water-gauge and a full set of gauge cocks shall be provided for each boiler, whether connected or otherwise.

SEC. 4. *And be it further enacted*, That no steamboat boiler hereafter built, to which the heat is applied on the outside of the shell, shall be constructed of plates of more than three tenths of an inch in thickness, the ends or heads of boilers only excepted. And every steamboat boiler hereafter built, if employed on rivers flowing into the Gulf of Mexico, or their tributaries, shall have not less than three inches of clear space for water between and around its internal flues. And steamers hereafter built, which shall employ four or more boilers set in a battery, shall have the same divided in such a manner that one half, as nearly as may be, of the number of boilers employed will act independently of the other half, so far as relates to the water connection; but the steam from all the boilers may be connected as provided by this act.

SEC. 5. *And be it further enacted*, That cotton, hemp, hay, straw, or other easily ignitable commodity, shall not be carried on the decks or guards of any steamer carrying passengers, except on ferry-boats crossing rivers, and then only on the sterns of such boats, unless the same shall be protected by a complete and suitable covering of canvas or other proper material, to prevent ignition from sparks, under a penalty of one hundred dollars for each offense. Nor shall coal oil or crude petroleum be hereafter carried on such steamers, except on the decks or guards thereof, or in open holds where a free circulation of air is secured, and at such distance from the furnaces or fires as may be prescribed by any supervisors [supervising] inspector or any board of local inspectors.

SEC. 6. *And be it further enacted*, That barges carrying passengers while in tow of a steamer shall be subject to the provisions of the acts for the preservation of the lives of passengers, so far as relates to fire-buckets, axes, and life-preservers. For a violation of this section the penalty shall be one hundred dollars.

SEC. 7. *And be it further enacted*, That steamers used as freight boats shall be subject to the same inspection and requirements as provided for ferry, tug, and canal boats, by an act relating to steamboats, approved the eighth day of June, eighteen hundred and sixty-four, and to the provisions of this act.

SEC. 8. *And be it further enacted*, That if any person connected, as a member or otherwise, with any association of steamboat pilots, engineers, masters, or owners, shall accept or attempt to exercise the functions of the office of steamboat inspector, it shall be a misdemeanor, for which he shall forfeit his office, and shall be further subject to a penalty of five hundred dollars.

SEC. 9. *And be it further enacted*, That all vessels navigating the bays, inlets, rivers, harbors, and other waters of the United States, except vessels subject to the jurisdiction of a foreign Power and engaged in foreign trade and not owned in whole or in part by a citizen of the United States, shall be subject to the navigation laws of the United States; and all vessels propelled in whole or in part by steam, and navigating as aforesaid, shall also be subject to all rules and regulations consistent therewith, established for the government of steam vessels in passing, as provided in the twenty-ninth section of an act relating to steam vessels, approved the thirtieth day of August, eighteen hundred and fifty-two. And every sea-going steam vessel now subject or hereby made subject to the navigation laws of the United States, and to the rules and regulations aforesaid, shall, when under way, except upon the high seas, be under the control and direction of pilots licensed by the inspectors of steam vessels; vessels of other countries and public vessels of the United States only excepted.



SEC. 10. *And be it further enacted*, That all sea-going vessels carrying passengers, and those navigating any of the northern and northwestern lakes, shall have the life-boats required by law, provided with suitable boat-disengaging apparatus, so arranged as to allow such boats to be safely launched with their complements of passengers while such vessels are under speed or otherwise, and so as to allow such disengaging apparatus to be operated by one person disengaging both ends of the boat simultaneously from the tackles by which it may be lowered to the water.

SEC. 11. *And be it further enacted*, That the provision for a foremast-head light for steamships, in an act entitled "An act fixing certain rules and regulations for preventing collisions on the water," approved the twenty-ninth day of April, eighteen hundred and sixty-four, shall not be construed to apply to other than ocean-going steamers and steamers carrying sail. River steamers navigating waters flowing into the Gulf of Mexico shall carry the following lights, viz: one red light on the outboard side of the port smoke-pipe, and one green light on the outboard side of the starboard smoke-pipe; these lights to show both forward and aft, and also abeam on their respective sides. All coasting steamers, and those navigating bays, lakes, or other inland waters, other than ferry-boats, and those above provided for, shall carry the red and green lights, as prescribed for ocean-going steamers; and, in addition thereto, a central range of two white lights; the after light being carried at an elevation of at least fifteen feet above the light at the head of the vessel; the head light to be so constructed as to show a good light through twenty points of the compass, namely, from right ahead to two points abaft the beam on either side of the vessel; and the after light to show all around the horizon.

SEC. 12. *And be it further enacted*, That the annual compensation paid to local inspectors of steamboats shall be hereafter as follows, to wit:

For the district of Portland, in Maine, three hundred dollars; for the district of Boston and Charlestown, in Massachusetts, one thousand dollars; for the district of New London, in Connecticut, five hundred dollars; for the district of New York, two at two thousand dollars each, two at fifteen hundred dollars each, and one additional inspector of boilers at fifteen hundred dollars; for the district of Philadelphia, in Pennsylvania, thirteen hundred dollars; for the district of Baltimore, in Maryland, twelve hundred dollars; for the district of Norfolk, in Virginia, three hundred dollars; for the district of Charleston, in South Carolina, five hundred dollars; for the district of Savannah, in Georgia, four hundred dollars; for the district of Mobile, in Alabama, one thousand dollars; for the district of New Orleans, or in which New Orleans is the port of entry, Louisiana, two thousand dollars; for the district of Galveston, in Texas, four hundred dollars; for the district of St. Louis, in Missouri, sixteen hundred dollars; for the district of Nashville, in Tennessee, four hundred dollars; for the district of Louisville, in Kentucky, twelve hundred dollars; for the district of Cincinnati, in Ohio, sixteen hundred dollars; for the district of Wheeling, West Virginia, five hundred dollars; for the district of Pittsburgh, Pennsylvania, sixteen hundred dollars; for the district of Chicago Illinois, eight hundred dollars; for the district of Detroit, Michigan, one thousand dollars; for the district of Cleveland, Ohio, six hundred dollars; for the district of Buffalo, New York, twelve hundred dollars; for the district of Oswego, or of which Oswego is the port of entry, New York, three hundred dollars; for the district of Vermont, of which Burlington is the port of entry, three hundred dollars; for the district of San Francisco, California, fifteen hundred dollars; for the district of Memphis, Tennessee, nine hundred dollars; for the district of Galena, Illinois, one thousand dollars; for the district

of Portland, Oregon, seven hundred dollars; to the supervising inspector of the Pacific coast, two thousand five hundred dollars; to other supervising inspectors, two thousand dollars each.

SEC. 13. *And be it further enacted*, That there shall be appointed, under the direction of the Secretary of the Treasury, one clerk each in the local offices at New York and New Orleans, and the annual compensation allowed to these clerks shall be seven hundred and fifty dollars each.

SEC. 14. *And be it further enacted*, That the Secretary of the Treasury may procure, for the supervising and local inspectors of steamboats, such stationery, printing, instruments, and other things necessary for the use of their respective offices, as may be required therefor; and shall make such rules and regulations as may be necessary to secure the proper execution of the steamboat acts; and may from time to time cause special examinations to be made into the administration of the inspection laws.

SEC. 15. *And be it further enacted*, That supervising, and local, and assistant inspectors of steamboats shall execute proper bonds, in such form and upon such conditions as the Secretary of the Treasury may prescribe, and subject to his approval, conditioned for the faithful performance of the duties of their respective offices, and the payment, in the manner provided by law, of all moneys that may be received by them.

SEC. 16. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, July 25, 1866.

CHAP. CCXXXV.—An Act increasing the Pensions of Widows and Orphans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the pension laws are hereby extended to and made to include provost marshals, deputy provost marshals, and enrolling officers, who have been killed or wounded in the discharge of their duties; and for the purpose of determining the amount of pension to which such persons and their dependents shall be entitled, provost marshals shall be ranked as captains, deputy provost marshals as first lieutenants, and enrolling officers as second lieutenants.

SEC. 2. *And be it further enacted*, That the pensions to widows of deceased soldiers and sailors, having children by such deceased soldiers or sailors, be increased at the rate of two dollars per month for each child of such soldier or sailor under the age of sixteen years. And in all cases in which there shall be more than one child of any deceased soldier or sailor leaving no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of section eleven of an act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, the pension granted to such children under sixteen years of age by existing laws shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow if living and entitled to a pension: *Provided*, That in no case shall more than one pension be allowed to the same person.

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, and of the acts supplementary thereto and amendatory thereof, are hereby, so far as applicable, extended to the pensions under previous laws, except revolutionary pensioners.

SEC. 4. *And be it further enacted*, That if any person during the pendency of his application for an invalid pension, and after the completion of the proof showing his right thereto,

has died, or shall hereafter die, but not in either case by reason of a wound received, or disease contracted in the service of the United States and in the line of duty, his widow, or if he left no widow, or in the event of her death or marriage, his relatives in the same order in which th[e]y would have received a pension, if they had been thereunto entitled under existing laws on account of the services and death in the line of duty of such person, shall have the right to demand and receive the accrued pension to which he would have been entitled had the certificate issued before his death; and in all cases where such person so entitled to an invalid pension has died, or shall hereafter die, under circumstances hereinbefore mentioned, whether by reason of a wound received or disease contracted in the service of the United States, and in the line of duty or otherwise, without leaving a widow or such relatives, then such accrued pension shall be paid to the executor or administrator of such person in like manner and effect as if such pension were as much assets belonging to the estate of the deceased at the time of his death.

SEC. 5. *And be it further enacted*, That the repeal by the act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, of parts of certain acts mentioned in the first section of said act, shall not work a forfeiture of any rights accrued under or granted by such parts of such acts so repealed; but such rights shall be recognized and allowed in the same manner and to all intents and purposes as if said act had never been passed, except that the invalid pensioner shall be entitled to draw from and after the taking effect of said act the increased pension thereby granted in lieu of that granted by such parts of such acts so repealed.

SEC. 6. *And be it further enacted*, That nothing in the fourth section of an act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, or in any other supplementary or amendatory act relating to pensions, shall be so construed so as to impair the right of a widow whose claim for a pension was pending at the date of her remarriage, to the pension to which she would otherwise be entitled, had her deceased husband left no minor child or children under the age of sixteen years.

APPROVED, July 26, 1866.

CHAP. CCXXXVI.—An Act authorizing the Construction of a Jail in and for the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized to select a suitable place on some of the public grounds belonging to the Government in the city of Washington, in the District of Columbia, for and construct thereon, upon such plan as he may select, a jail of sufficient capacity to provide for not less than three hundred prisoners, with suitable yards, hospitals, and so forth, the entire cost of which shall not exceed the sum of two hundred thousand dollars.

SEC. 2. *And be it further enacted*, That as soon as said site, and the plan of a jail shall be so selected and agreed upon, the said Secretary of the Interior shall employ an architect and have prepared a design for said building, and plans descriptive thereof, with complete specifications of the work required and the materials to be used, and shall publish notice of a public letting of the contract for the building of the same, at least thirty days before the letting, in the principal newspapers in New York city, Boston, Philadelphia, Cincinnati, Baltimore, and Washington, which notice shall direct a place where such specifications can be seen, and a time at which the contract is to be let; and the said Secretary shall let said contract to the lowest responsible bidder, and the con-

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tractor therefor shall enter into sufficient bond for the faithful completion of the said contract to the approval of the Secretary.

SEC. 3. *And be it further enacted*, That the said Secretary shall pay to the contractor or contractors installments on the contract price as the work progresses, to be certified to by the architect having the direction thereof, but twenty per centum of the estimates shall be retained until the completion of the contract.

SEC. 4. *And be it further enacted*, That there be, and is hereby, *appointed*, [appropriated,] for the purposes aforesaid, out of any money in the Treasury not otherwise appropriated, the sum of two hundred thousand dollars, to be drawn on the order of said Secretary of the Interior.

SEC. 5. *And be it further enacted*, That the Secretary of the Interior be, and is hereby, authorized to sell at public sale, on proper notice thereof, the materials of the old jail, now located in Judiciary square, and the proceeds thereof to be paid into the Treasury of the United States.

SEC. 6. *And be it further enacted*, That for the purpose of reimbursing the United States for a part of the cost of said jail, it shall be the duty of the proper authorities of the city of Washington, and they are hereby required, to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of said jail, the sum of seventy thousand dollars. And it shall be the like duty of the proper authorities of the city of Georgetown, and they are hereby required, to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the completion of said jail, the sum of twenty thousand dollars. And it shall be the like duty of the proper authorities of the county of Washington or said District, and they are hereby required, to raise, by tax or otherwise, and pay into the Treasury of the United States at or before the period aforesaid, the sum of ten thousand dollars, which said several sums shall be deemed the fair proportion of the cost of said jail of each of said cities and said county of Washington; and the said cities and county authorities, respectively, are hereby authorized and required to assess and levy upon the taxable property of said cities and said county of Washington a tax sufficient to raise the amount so by each city and said county required to be paid as aforesaid.

SEC. 7. *And be it further enacted*, That upon the default of payment of the sums aforesaid into the Treasury of the United States at the time before stated, made by either of said cities or by said county of Washington, the said Secretary of the Interior shall appoint a collector for any such delinquent city or county as shall have failed to make its payments as aforesaid, and it shall be the duty of said collector to proceed with the collection of the taxes as assessed, in such manner and form as shall be prescribed by the Secretary of the Interior; or if either of said cities or said county of Washington shall neglect, fail, or refuse to assess such tax, the Secretary of the Interior is hereby authorized and empowered to make such levy and proceed to its collection as aforesaid.

APPROVED, July 25, 1866.

CHAP. CCXXXVII.—An Act to annul the thirty-fourth Section of the Declaration of Rights of the State of Maryland, so far as it applies to the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thirty-fourth section of the Declaration [of] Rights of the State of Maryland, adopted seventeen hundred and seventy-six, so far as the same has been recognized and adopted in the District of Columbia, be, and the same is hereby, repealed and annulled, and that all sales, gifts, and devises prohibited by the said section, or by any law

passed in accordance therewith, shall be, when hereafter made, valid and effectual: *Provided*, That, in case of gifts and devises, the same shall be made at least one calendar month before the death of the donor or testator.

APPROVED, July 25, 1866.

CHAP. CCXXXVIII.—An Act to establish in the District of Columbia a House of Correction for Boys.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be established in the District of Columbia, on the tract of land known as the Government farm, a fit and convenient house of correction, suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations adjoining or appurtenant thereto, for the safe-keeping, correction, governing, and employing of offenders legally committed thereto by authority of the courts and magistrates of the District of Columbia: *Provided*, That the building already erected on that land for the purpose of establishing a similar institution, together with all the other property there collected for the same purpose, shall be transferred to the trustees appointed according to the provisions of this act, at a cost not exceeding one thousand five hundred dollars.

SEC. 2. *And be it further enacted*, That the government of said institution shall be vested in a board of seven trustees, to be appointed and commissioned by the President of the United States, one of whom shall be nominated for appointment by the mayor of Washington, one by the mayor of Georgetown, one by the levy court of the county of Washington, and four by the Secretary of the Interior; and no trustee shall receive compensation for his services, but each trustee shall be allowed the amount of expenses necessarily incurred in the discharge of the duties of his office. The term of office of the said trustees shall be three years; but on the first appointment of the board of trustees two of the members shall be appointed for one year, two for two years, and three for three years, to be determined by the President.

SEC. [3.] *And be it further enacted*, That the said board of trustees shall be a corporation, by the name of the Trustees of the House of Correction for the District of Columbia, for the purpose of taking and holding, in trust, whatever property may be conveyed, devised, donated, or bequeathed for the benefit of said institution, with all the power necessary to carry this purpose into effect.

SEC. 4. *And be it further enacted*, That it shall be the duty of the said board of trustees to take charge of the general interests of the institution; they may appoint a superintendent, a steward, a teacher or teachers, and such other officers as may be found necessary, and may be approved by the Secretary of the Interior; they may fix the salaries of said officers, subject to the approval of the Secretary of the Interior; they may prepare such by-laws as may be necessary to regulate and direct the management of the institution, which, however, shall not be valid until approved by the Secretary of the Interior; and to exercise a vigilant supervision over the institution, its officers, and its inmates.

SEC. 5. *And be it further enacted*, That before entering upon the duties of his office the superintendent shall give a bond to the trustees, with sureties to be approved by the board of trustees and by the Secretary of the Interior, in the sum of three thousand dollars, conditioned that he shall faithfully account for all money received by him, and faithfully perform all the duties incumbent on him as superintendent of said house of correction.

SEC. 6. *And be it further enacted*, That a treasurer of the institution shall be appointed by the board of trustees, subject to the approval of the Secretary of the Interior, who

shall, before entering upon the duties of his office, give a bond to the trustees, with sureties to be approved by the board of trustees and by the Secretary of the Interior, in the sum of five thousand dollars, conditioned that he shall faithfully account for all the money received by him as treasurer; and it shall be his duty to keep a clear and full record of his accounts as treasurer, and report an abstract of the same to the chairman of the board of trustees once in every two months.

SEC. 7. *And be it further enacted*, That, as soon after their appointment as possible, the board of trustees shall take measures to have the land and building designated suitably prepared for the use of said house of correction; and, as soon as the buildings and premises are prepared for occupancy, the trustees shall give notice to the proper authorities and courts of the cities of Washington and Georgetown, and of the county of Washington, that the house of correction is ready to receive inmates.

SEC. 8. *And be it further enacted*, That when any boy under the age of fourteen years is found guilty in a court in the District of Columbia of any crime punishable by imprisonment other than imprisonment for life, he shall be committed to the said house of correction, and there held in custody of the superintendent for the term of his sentence; and when any boy over fourteen and under sixteen years of age shall be found guilty in a court of the District of Columbia of any crime punishable by imprisonment other than imprisonment for life, it shall be the duty of the court trying the case to consider carefully and decide whether he is or is not a fit subject for the house of correction, and make its sentence accord with its decision of this question.

SEC. 9. *And be it further enacted*, That the superintendent shall reside at the institution constantly, and that he, with such subordinate officers as may be appointed in accordance with the fourth section of this act, shall have the charge and custody of the boys; shall govern them in accordance with such rules and regulations as the board of trustees may prescribe in its by-laws; shall employ them in agricultural, mechanical, or other labor; shall give them instruction in reading, writing, arithmetic, geography, and such other studies, and in such arts and trades as the trustees may direct; and shall employ such methods of discipline as will, as far as possible, reform their characters, preserve their health, promote regular improvement in their s[t]udies, trades, and employments, and secure in them fixed habits of religion, morality, and industry.

SEC. 10. *And be it further enacted*, That the superintendent shall have charge of the lands, buildings, furniture, tools, implements, stock, provisions, and every other species of property pertaining to the institution, within the precincts thereof; and he shall keep, in suitable books, regular and complete accounts of all his receipts and expenditures, and of all the property intrusted to him, so as to show clearly the income and expenses of the institution; and he shall account to the treasurer, in such manner as the trustees may prescribe, for all the money received by him from the proceeds of the institution or otherwise; and he shall keep a register of the names and ages of all boys committed to the institution, with the dates of their admission and discharge, and such particulars of their history before and after leaving the institution as he can obtain. His books and all documents relating to the house of correction, shall at all times be open to the inspection of the trustees, who shall once or more in every three months carefully examine his accounts and the vouchers and documents connected therewith, and make a record of the result of such examination.

SEC. 11. *And be it further enacted*, That all contracts on account of the institution shall be made by the superintendent, and, when approved by the trustees, if their by-laws shall

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require their approval, shall be binding in law, and the superintendent, or his successor, may sue or be sued thereon to final judgment and execution; and no suit shall abate by reason of the office of superintendent becoming vacant during the pendency of such suit, but any successor in the office shall assume the prosecution or defense of any pending suit, and continue the prosecution or defense until such suit shall be concluded.

SEC. 12. *And be it further enacted*, That one or more of the trustees shall visit the said house of correction, once, at least, in every two weeks, at which time the condition of the same shall be carefully examined and the register inspected; a record of the visits shall be kept in the books of the superintendent; once in every three months the institution shall be thoroughly examined in all its departments by not less than three of the trustees, and a report of such examinations shall be made to the board; and an abstract of the reports, together with full annual reports of the superintendent and the treasurer, shall be presented to the Secretary of the Interior on or before the fifteenth day of November in each year.

SEC. 13. *And be it further enacted*, That when a boy shall be committed to the said house of correction, the city in which he had his residence at the time of such commitment, or, if his residence was within the county of Washington, and not within the city of Washington, or the city of Georgetown, then the county of Washington shall pay to the treasurer of the house of correction fifty cents a week while he remains therein; the payment shall be made quarterly on the first days of January, April, July, and October; and any sum so paid may be recovered by such city or county of any parent, kindred, or guardian, liable by law to maintain him.

SEC. 14. *And be it further enacted*, That for the purpose of securing a transfer of the building and other property to the trustees, preparing the premises and building for occupancy, and for the payment of other necessary expenses, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of twelve thousand dollars, to be paid only on the order of the Secretary of the Interior: *Provided*, That six thousand dollars of said appropriation is hereby declared to be the sum that shall be assessed and paid by the cities of Washington and Georgetown, and the county of Washington; and it shall be the duty of the proper authorities of the city of Washington to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time when the premises shall be ready for occupancy by the house of correction, the sum of four thousand five hundred dollars; and it shall be the duty of the proper authorities of the city of Georgetown to raise and pay in like manner the sum of one thousand dollars; and it shall be the duty of the proper authorities of the county of Washington to raise and pay in like manner the sum of five hundred dollars; and in case of default of such payment into the Treasury of the United States by either of said cities or by the said county of Washington, the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said district, to enforce the same, with interest thereon after the date of default.

SEC. 15. *And be it further enacted*, That this act shall take effect from the date of its passage.

APPROVED, July 25, 1866.

CHAP. CCXXXIX.—An Act to incorporate "The Soldiers' and Sailors' Union" of Washington, D. C.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That H. A. Hall, W. C.

Porter, Will A. Short, James Cross, J. H. Nightingale, D. S. Curtiss, L. Edwin Dudley, G. M. Van Buren, Wm. S. Morse, Lawrence Wilson, Wm. L. Bramhall, F. E. Drake, B. P. Cutler, W. H. H. Bates, H. N. Rothery, S. G. Merrill, Chas. A. Appel, O. A. Lukenbaugh, J. S. Firman, John H. Simpson, George W. De Costa, L. J. Bryant, J. H. Gray, Lyman S. Emery, and A. I. Bennett, and their successors in office, be, and they are hereby incorporated and made a body politic and corporate, by the name of the "Soldiers' and Sailors' Union of the City of Washington, D. C.," and by that name may sue and be sued, plead and be impleaded in any court of law or equity, and may have and use a common seal, and exercise the powers, rights, and privileges incident to such corporations.

SEC. 2. *And be it further enacted*, That the said corporation shall be capable of acquiring, receiving holding, and conveying real and personal estate, not exceeding two hundred thousand dollars in value; which estate shall never be divided among the members of the corporation, but shall descend to their successors for the promotion of the interests and general welfare of the soldiers and sailors of this corporation, who have served in the Union Army or Navy during the late war for the suppression of the rebellion, and the relief and protection of their widows and orphans.

SEC. 3. *And be it further enacted*, That this corporation shall have power to alter and amend its constitution and by-laws: *Provided*, That they do not conflict with the laws of the United States or the laws of the corporation of the city of Washington, D. C.

SEC. 4. *And be it further enacted*, That said corporation shall not exercise banking privileges, or issue or put in circulation any bank note, paper, token, scrip, or device, to be used as currency.

SEC. 5. *And be it further enacted*, That Congress reserves the right to alter or repeal this act at any time.

APPROVED, July 25, 1866.

CHAP. CCXL.—An Act legalizing Marriages and for other purposes in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all colored persons in the District of Columbia, who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife, and are cohabiting together as such or in any way recognizing the relation as still existing at the time of the passage of this act, whether the rites of marriage have been celebrated between them or not, shall be deemed husband and wife, and be entitled to all the rights and privileges, and subject to the duties and obligations of that relation in like manner as if they had been duly married according to law, and all their children shall be deemed legitimate, whether born before or after the passage of this act. And when the parties have ceased to cohabit before the passage of this act, in consequence of the death of the woman, or from any other cause, all the children of the woman recognized by the man to be his shall be deemed legitimate.

APPROVED, July 25, 1866.

CHAP. CCXLI.—An Act granting Lands to the State of Kansas to aid in the Construction of the Kansas and Neosho Valley Railroad and its Extension to Red River.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the purpose of aiding the Kansas and Neosho Valley Railroad Company, the same being a corporation organized under the laws of the State of Kansas, to construct and operate a railroad from the eastern terminus of the Union Pacific Railroad,

eastern division, at the line between Kansas and Missouri, at or near the mouth of the Kansas river, on the south side thereof, southwardly, through the eastern tier of counties in Kansas, with a view of its extension, so as to effect a junction at Red river with a railroad now being constructed from Galveston to Red river at or near Preston, in Texas, there is hereby granted to the State of Kansas, for the use and benefit of the said railroad company, every alternate section of land or parts thereof, designated by odd numbers, to the extent of ten sections per mile on each side of said road, to be selected within twenty miles of [of] the line of said road; but in case it shall appear that the United States have, when the line of said road is definitely located, sold any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to the sections above specified, so much land as shall be equal to the amount of such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached as aforesaid, which lands, thus indicated by the direction of the Secretary of the Interior, shall be reserved and held for the State of Kansas for the use of said company by the said Secretary for the purpose of the construction and operation of said railroad, as provided by this act: *Provided*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way two hundred feet in width is hereby granted, subject to the approval of the President of the United States: *And provided further*, That none of the lands hereby granted shall be selected beyond twenty miles from the said road.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which by the aforesaid grant shall remain in the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder, at or above the minimum price aforesaid: *Provided*, That actual bona fide settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *And provided also*, That settlers under the provisions of the homestead act, who make their settlement after the passage of this act, and comply with the terms and requirements of said act, shall be entitled, within the said limits of ten miles, to patents for an amount not exceeding eighty acres each.

SEC. 3. *And be it further enacted*, That the grant of lands hereby made is upon condition that said company, after the construction of its road, shall keep it in repair and use, and that [it will] at all times be in readiness to transport troops, munitions of war, supplies, and public stores upon its road for the Government, when required to do so by any department thereof, at the cost, charge, and expense of said company. And the lands hereby granted, held, and reserved as aforesaid shall inure to the benefit of said company, as follows: when the Governor of the State of Kansas shall certify that any section of ten consecutive miles



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of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the said Secretary of the Interior shall issue to the said company patents for so many sections of the land within the limits above named as are continuous with said completed section hereinbefore granted; and when certificates of the Governor aforesaid shall be presented to said Secretary, of the completion, as aforesaid, of each successive section of ten consecutive miles of said road, the said Secretary shall in like manner issue to said company patents for the land for each of said sections of road as in the first instance, until said road shall be completed: *Provided*, That if said road is not completed within ten years from the date of the acceptance of the grant hereinbefore made, the lands remaining unpatented shall revert to the United States: *And provided further*, That the said lands shall not, in any manner, be disposed of or incumbered by said company or its assigns, except as the same are patented under the provisions of this act.

SEC. 4. *And be it further enacted*, That as soon as said company shall file with the Secretary of the Interior maps of its line, designating the route thereof, it shall be the duty of the said Secretary to withdraw from the market the lands granted by this act, in such manner as may be best calculated to effect the purposes of this act and subserve the public interest.

SEC. 5. *And be it further enacted*, That the United States mail shall be transported on said road and its extension, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law the Postmaster General shall have power to fix the compensation.

SEC. 6. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said Kansas and Neosho Valley Railroad Company, its successors and assigns, for the construction of a railroad as proposed; and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

SEC. 7. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Kansas and Neosho Valley Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act, and not afterwards, and shall be deposited with the Secretary of the Interior.

SEC. 8. *And be it further enacted*, That said Kansas and Neosho Valley Railroad Company, its successors and assigns, is hereby authorized and empowered to extend and construct its railroad from the southern boundary of Kansas south, through the Indian Territory, to Red river, at or near Preston, in the State of Texas, so as to connect with the railway now being constructed from Galveston to a point at or near Preston, in said State; and the right of way through the Indian Territory, wherever such right is now reserved or may hereafter be reserved to the United States by treaty with the Indian tribes, is hereby granted to said company, to the same extent as granted by the sixth section of this act through the public lands; and in all cases where the right of way, as aforesaid, through the Indian lands, shall not be reserved to the Government, the said company shall, before constructing its road, procure the consent of the tribe or tribes

interested, which consent, with all its terms and conditions, shall be previously approved and indorsed by the President and filed with the Secretary of the Interior.

SEC. 9. *And be it further enacted*, That the same grants of lands through said Indian Territory are hereby made as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act: *Provided*, That said lands become a part of the public lands of the United States.

SEC. 10. *And be it further enacted*, That said Kansas and Neosho Valley Railroad Company, its successors and assigns, shall have the right to negotiate with, and acquire from any Indian nation or tribe, authorized by the United States to dispose of lands for railroad purposes, and from any other nation or tribe of Indians through whose lands said railroad may pass, subject to the approval of the President of the United States, or from any company or parties incorporated or authorized for such purposes, by such nation or tribe, or which such parties may have acquired under the laws of the United States.

SEC. 11. *And be it further enacted*, That any railroad company chartered under any law of the United States, or of the State of Kansas, which may have been heretofore or shall hereafter be recognized and subsidized by any act of the Congress of the United States, may connect, unite, and consolidate with this railroad company, after the same shall be located to the valley of the Neosho river, upon just, fair, and equitable terms, to be agreed upon between the parties, and shall not be against the public interest or the interest of the United States; nor shall any road authorized to connect as aforesaid charge the road so connecting a greater tariff per mile for freight or passengers than is charged for the same per mile by its own road: *And provided further*, That should the Leavenworth, Lawrence, and Fort Gibson Railroad Company, or the Union Pacific Railroad Company, southern branch, construct and complete its road to that point on the southern boundary of the State of Kansas where the line of said Kansas and Neosho Valley Railroad shall cross the same, before the said Kansas and Neosho Valley Railroad Company shall have constructed and completed its said road to said point, then and in that event the company so first reaching in completion the said point on the southern boundary of the State of Kansas shall be authorized, upon obtaining the written approval of the President of the United States, to construct and operate its line of railroad from said point to a point at or near Preston, in the State of Texas, with grants of land according to the provisions of this act, but upon the further special condition, nevertheless, that said railroad company shall have commenced in good faith the construction thereof before the said Kansas and Neosho Valley Railroad Company shall have completed its said railroad to said point: *And provided further*, That said other railroad company, so having commenced said work in good faith, shall continue to prosecute the same with sufficient energy to insure the completion of the same within a reasonable time, subject to the approval of the President of the United States: *And provided further*, That the right of way through private property when not otherwise provided for in this act, or by the law of any State through which the road may pass, shall be obtained by said Kansas and Neosho Valley Railroad Company, or either of the other companies named in this act, in accordance with the provisions of section three of an act to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other

purposes," approved July first, eighteen hundred and sixty-two.

APPROVED, July 25, 1866.

CHAP. CCXLII.—An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the Central Pacific Railroad, in California, to Portland, in Oregon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the "California and Oregon Railroad Company," organized under an act of the State of California, to protect certain parties in and to a railroad survey, "to connect Portland, in Oregon, with Marysville, in California," approved April sixth, eighteen hundred and sixty-three, and such company organized under the laws of Oregon as the Legislature of said State shall hereafter designate, be, and they are hereby, authorized and empowered to lay out, locate, construct, finish, and maintain a railroad and telegraph line between the city of Portland, in Oregon, and the Central Pacific railroad, in California, in the manner following, to wit: the said California and Oregon Railroad Company to construct that part of the said railroad and telegraph within the State of California, beginning at some point (to be selected by said company) on the Central Pacific railroad in the Sacramento valley, in the State of California, and running thence northerly, through the Sacramento and Shasta valleys, to the northern boundary of the State of California; and the said Oregon company to construct that part of the said railroad and telegraph line within the State of Oregon, beginning at the city of Portland, in Oregon, and running thence southerly through the Willamette, Umpqua, and Rogue River valleys to the southern boundary of Oregon, where the same shall connect with the part aforesaid to be made by the first-named company: *Provided*, That the company completing its respective part of the said railroad and telegraph from either of the termini herein named to the line between California and Oregon before the other company shall have likewise arrived at the same line, shall have the right, and the said company is hereby authorized, to continue in constructing the same beyond the line aforesaid, with the consent of the State in which the unfinished part may lie, upon the terms mentioned in this act, until the said parts shall meet and connect, and the whole line of said railroad and telegraph shall be completed.

SEC. 2. *And be it further enacted*, That there be, and hereby is, granted to the said companies, their successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the line of said railroad, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line; and when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, preempted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said companies in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections; and as soon as the said companies, or either of them, shall file in the office of the Secretary of the Interior a map of the survey of said railroad, or any portion thereof, not less than sixty continuous miles from either terminus, the Secretary of the Interior shall withdraw from sale public lands herein granted on each side of said railroad, so far as located

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and within the limits before specified. The lands herein granted shall be applied to the building of said road within the States, respectively, wherein they are situated. And the sections and parts of sections of land which shall remain in the United States within the limits of the aforesaid grant shall not be sold for less than double the minimum price of public lands when sold: *Provided*, That bona fide and actual settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *And provided, also*, That settlers under the provisions of the homestead act, who comply with the terms and requirements of said act, shall be entitled, within the limits of said grant, to patents for an amount not exceeding eighty acres of the land so reserved by the United States, anything in this act to the contrary notwithstanding.

Sec. 3. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said companies for the construction of said railroad and telegraph line; and the right, power, and authority are hereby given to said companies to take from the public lands adjacent to the line of said road, earth, stone, timber, water, and other materials for the construction thereof. Said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, water-stations, or any other structures required in the construction and operating of said road.

Sec. 4. *And be it further enacted*, That whenever the said companies, or either of them, shall have twenty or more consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated by this act, the President of the United States shall appoint three commissioners, whose compensation shall be paid by said company, to examine the same, and if it shall appear that twenty consecutive miles of railroad and telegraph shall have been completed and equipped in all respects as required by this act, the said commissioners shall so report under oath to the President of the United States, and thereupon patents shall issue to said companies, or either of them, as the case may be, for the lands hereinbefore granted, to the extent of and contemporaneous with the completed section of said railroad and telegraph line as aforesaid; and from time to time, whenever twenty or more consecutive miles of the said road and telegraph shall be completed and equipped as aforesaid, patents shall in like manner issue upon the report of the said commissioners, and so on until the entire railroad and telegraph authorized by this act shall have been constructed, and the patents of the lands herein granted shall have been issued.

Sec. 5. *And be it further enacted*, That the grants aforesaid are made upon the condition that the said companies shall keep said railroad and telegraph in repair and use, and shall at all times transport the mails upon said railroad, and transmit dispatches by said telegraph line for the Government of the United States, when required so to do by any department thereof, and that the Government shall at all times have the preference in the use of said railroad and telegraph therefor at fair and reasonable rates of compensation, not to exceed the rates paid by private parties for the same kind of service. And said railroad shall be and remain a public highway for the use of the Government of the United States, free of all toll or other charges upon the transportation of the property or troops of the United States; and the same shall be transported over said

road at the cost, charge, and expense of the corporations or companies owning or operating the same, when so required by the Government of the United States.

Sec. 6. *And be it further enacted*, That the said companies shall file their assent to this act in the Department of the Interior within one year after the passage hereof, and shall complete the first section of twenty miles of said railroad and telegraph within two years, and at least twenty miles in each year thereafter, and the whole on or before the first day of July, one thousand eight hundred and seventy-five; and the said railroad shall be of the same gauge as the "Central Pacific Railroad" of California, and be connected therewith.

Sec. 7. *And be it further enacted*, That the said companies named in this act are hereby required to operate and use the portions or parts of said railroad and telegraph mentioned in section one of this act for all purposes of transportation, travel, and communication, so far as the Government and the public are concerned, as one connected and continuous line; and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination whatever, on pain of forfeiting the full amount of damage sustained on account of such discrimination, to be sued for and recovered in any court of the United States, or of any State, of competent jurisdiction.

Sec. 8. *And be it further enacted*, That in case the said companies shall fail to comply with the terms and conditions required, namely, by not filing their assent thereto as provided in section six of this act, or by not completing the same as provided in said section, this act shall be null and void, and all the lands not conveyed by patent to said company or companies, as the case may be, at the date of any such failure, shall revert to the United States. And in case the said road and telegraph line shall not be kept in repair and fit for use, after the same shall have been completed, Congress may pass an act to put the same in repair and use, and may direct the income of said railroad and telegraph line to be thereafter devoted to the United States, to repay all expenditures caused by the default and neglect of said companies or either of them, as the case may be, or may fix pecuniary responsibility, not exceeding the value of the lands granted by this act.

Sec. 9. *And be it further enacted*, That the said "California and Oregon Railroad Company" and the said "Oregon Company" shall be governed by the provisions of the general railroad and telegraph laws of their respective States, as to the construction and management of the said railroad and telegraph line hereinbefore authorized, in all matters not provided for in this act. Wherever the word "company" or "companies" is used in this act it shall be construed to embrace the words "their associates, successors, and assigns," the same as if the words had been inserted, or thereto annexed.

Sec. 10. *And be it further enacted*, That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, so much of the timber thereon as shall be required to construct said road over such mineral land is hereby granted to said companies: *Provided*, That the term "mineral lands" shall not include lands containing coal and iron.

Sec. 11. *And be it further enacted*, That the said companies named in this act shall obtain the consent of the Legislatures of their respective States, and be governed by the statutory regulations thereof in all matters pertaining to the right of way, wherever the said road and telegraph line shall not pass over or through the public lands of the United States.

Sec. 12. *And be it further enacted*, That Congress may at any time, having due regard for

the rights of said California and Oregon railroad companies, add to, alter, amend, or repeal this act.

APPROVED, July 25, 1866.

CHAP. CCXLIII.—An Act to Change the Place of holding Court in the Northern District of Georgia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the district court for the northern district of Georgia shall hereafter be held at Atlanta, instead of Marietta; and the clerk of said northern district is hereby required to remove all the books, papers, and records belonging to his office from Marietta to Atlanta.

Sec. 2. *And be it further enacted*, That all process made returnable to the court heretofore held at Marietta shall be taken and considered returnable to the court at Atlanta.

APPROVED, July 25, 1866.

CHAP. CCXLIV.—An Act granting to A. Sutro the Right of Way, and granting other Privileges to aid in the Construction of a Draining and Exploring Tunnel to the Comstock Lode, in the State of Nevada.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purpose of the construction of a deep draining and exploring tunnel to and beyond the "Comstock lode," so called, in the State of Nevada, the right of way is hereby granted to A. Sutro, his heirs and assigns, to run, construct, and excavate a mining, draining, and exploring tunnel; also to sink mining, working, or air shafts along the course of said tunnel, and connecting with the same at any point which may hereafter be selected by the grantee herein, his heirs or assigns. The said tunnel shall be at least eight feet high and eight feet wide, and shall commence at some point to be selected by the grantee herein, his heirs or assigns, at the hills near Carson river, and within the boundaries of Lyon county, and extending from said initial point in a westerly direction seven miles, more or less, to and beyond said Comstock lode; and the said right of way shall extend northerly and southerly on the course of said lode, either within the same, or east or west of the same; and also on or along any other lode which may be discovered or developed by the said tunnel.

Sec. 2. *And be it further enacted*, That the right is hereby granted to the said A. Sutro, his heirs and assigns, to purchase, at one dollar and twenty-five cents per acre, a sufficient amount of public land near the mouth of said tunnel for the use of the same, not exceeding two sections, and such land shall not be mineral land or in the bona fide possession of other persons who claim under any law of Congress at the time of the passage of this act, and all minerals existing or which shall be discovered therein are excepted from this grant; that upon filing a plat of said land the Secretary of the Interior shall withdraw the same from sale, and upon payment for the same a patent shall issue. And the said A. Sutro, his heirs and assigns, are hereby granted the right to purchase, at five dollars per acre, such mineral veins and lodes within two thousand feet on each side of said tunnel as shall be cut, discovered, or developed by running and constructing the same, through its entire extent, with all the dips, spurs, and angles of such lodes, subject, however, to the provisions of this act, and to such legislation as Congress may hereafter provide: *Provided*, That the Comstock lode, with its dips, spurs, and angles, is excepted from this grant, and all other lodes, with their dips, spurs, and angles, located within the said two thousand feet, and which are or may be, at the passage of this act, in the actual bona fide possession of other per-

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sons, are hereby excepted from such grant. And the lodes herein excepted, other than the Comstock lode, shall be withheld from sale by the United States; and if such lodes shall be abandoned or not worked, possessed, and held in conformity to existing mining rules, or such regulations as have been or may be prescribed by the Legislature of Nevada, they shall become subject to such right of purchase by the grantee herein, his heirs or assigns.

SEC. 3. *And be it further enacted*, That all persons, companies, or corporations owning claims or mines on said Comstock lode or any other lode drained, benefited, or developed by said tunnel, shall hold their claims subject to the condition, (which shall be expressed in any grant that they may hereafter obtain from the United States,) that they shall contribute and pay to the owners of said tunnel the same rate of charges for drainage or other benefits derived from said tunnel or its branches, as have been, or may hereafter be, named in agreement between such owners and the companies representing a majority of the estimated value of said Comstock lode at the time of the passage of this act.

APPROVED, July 25, 1866.

CHAP. CCXLV.—An Act to regulate the Times and Manner of holding Elections for Senators in Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Legislature of each State which shall be chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress, in the place of such Senator so going out of office, in the following manner: each House shall openly, by a viva voce of each member present, name one person for Senator in Congress from said State, and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each House shall be entered on the Journal of each House by the clerk or secretary thereof; but if either House shall fail to give such majority to any person on said day, that fact shall be entered on the Journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place, as aforesaid, the members of the two Houses shall convene in joint assembly and the Journal of each House shall then be read, and if the same person shall have received a majority of all the votes in each House, such person shall be declared duly elected Senator to represent said State in the Congress of the United States; but if the same person shall not have received a majority of the votes in each House, or if either House shall have failed to take proceedings as required by this act, the joint assembly shall then proceed to choose, by a viva voce vote of each member present a person for the purpose aforesaid, and the person having a majority of all the votes of the said joint assembly, a majority of all the members elected to both Houses being present and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint assembly shall meet at twelve o'clock, meridian, of each succeeding day during the session of the Legislature, and take at least one vote until a Senator shall be elected.

SEC. 2. *And be it further enacted*, That whenever, on the meeting of the Legislature of any State, a vacancy shall exist in the representation of such State in the Senate of the United States, said Legislature shall proceed, on the second Tuesday after the commencement and organization of its session, to elect a person to fill such vacancy, in the manner hereinbefore provided for the election of a Senator for a full term; and if a vacancy shall happen during the session of the Legislature, then on

the second Tuesday after the Legislature shall have been organized and shall have notice of such vacancy.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Governor of the State from which any Senator shall have been chosen as aforesaid to certify his election, under the seal of the State, to the President of the Senate of the United States, which certificate shall be countersigned by the secretary of state of the State.

APPROVED, July 25, 1866.

CHAP. CCXLVI.—An Act to authorize the Construction of certain Bridges, and to establish them as Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be lawful for any person or persons, company or corporation, having authority from the States of Illinois and Missouri for such purpose, to build a bridge across the Mississippi river at Quincy, Illinois, and to lay on and over said bridge railway tracks, for the more perfect connection of any railroads that are or shall be constructed to the said river at or opposite said point, and that when constructed all trains of all roads terminating at said river, at or opposite said point, shall be allowed to cross said bridge for reasonable compensation, to be made to the owners of said bridge, under the limitations and conditions hereinafter provided. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

SEC. 2. *And be it further enacted*, That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a drawbridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river, and the main span shall be over the main channel of the river and not less than three hundred feet in length: *And provided also*, That if any bridge built under this act shall be constructed as a drawbridge, the same shall be constructed as a pivot drawbridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten above extreme high-water mark, measuring to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats, whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draw during or after the passage of trains.

SEC. 3. *And be it further enacted*, That any bridge constructed under this act, and according to its limitations, shall be a lawful structure, and shall be recognized and known as a post route; upon which, also, no higher charge shall be made for the transmission over the same of the mails, the troops, and the muni-

tions of war of the United States, than the rate per mile paid for their transportation over the railroads or public highways leading to the said bridge.

SEC. 4. *And be it further enacted*, That it shall be lawful for the Chicago, Burlington, and Quincy Railroad Company, a corporation whose road has been completed to the Mississippi river, and connects with a railroad on the opposite side thereof, having first obtained authority therefor from the States of Illinois and Iowa, to construct a railroad bridge across said river, upon the same terms, in the same manner, under the same restrictions, and with the same privileges, as is provided for in this act in relation to the bridge at Quincy, Illinois.

SEC. 5. *And be it further enacted*, That a bridge may be constructed at the town of Hannibal, in the State of Missouri, across the Mississippi river, so as to connect the Hannibal and Saint Joseph railroad with the Pike County and Great Western railroads of Illinois, on the same terms and subject to the same restrictions as are contained in this act for the construction of the bridge at Quincy, Illinois.

SEC. 6. *And be it further enacted*, That a bridge may be constructed across the Mississippi river between Prairie du Chien, in the State of Wisconsin, and North McGregor, in the State of Iowa, with the consent of the Legislatures of Wisconsin and Iowa, on the same terms and subject to the same restrictions as are contained in this act for the construction of the bridge at Quincy, Illinois.

SEC. 7. *And be it further enacted*, That the Keokuk and Hamilton Mississippi Bridge Company, a corporation existing under the laws of the State of Iowa, and the Hancock County Bridge Company, a corporation existing under the laws of the State of Illinois, be and are hereby authorized to construct and maintain a bridge over the Mississippi river between Keokuk, Iowa, and Hamilton, Illinois, of the same character, description, and construction as provided in this act for the bridges at Quincy and Burlington; and the said bridge, in its use and operation, shall be subject to the same restrictions that apply to said bridges at Quincy and Burlington by the terms of this act.

SEC. 8. *And be it further enacted*, That the Winona and Saint Peter Railroad Company, a corporation existing under the laws of the State of Minnesota, is hereby authorized to construct and operate a railroad bridge across the Mississippi river between the city of Winona, in the State of Minnesota, and the opposite bank of the said river, in the State of Wisconsin, with the consent of the Legislatures of the States of Minnesota and Wisconsin; and said bridge by this section authorized is hereby declared a post route, and subject to all the terms, restrictions, and requirements contained in the foregoing sections of this act.

SEC. 9. *And be it further enacted*, That a bridge may be constructed and maintained across the Mississippi river between Dunleith, in the State of Illinois, and Dubuque, in the State of Iowa, with the consent of said States previously given or hereafter acquired, with the same privileges, upon the same terms, and under the same restrictions as are contained in this act for the construction of a bridge at Quincy, Illinois.

SEC. 10. *And be it further enacted*, That any company authorized by the Legislature of Missouri may construct a bridge across the Missouri river, at the city of Kansas, upon the same terms and conditions provided for in this act.

SEC. 11. *And be it further enacted*, That the "Saint Louis and Illinois Bridge Company," a corporation organized under an act of the General Assembly of the State of Missouri, approved February fifth, eighteen hundred and sixty-four, and an act amendatory of the same, approved February twentieth, eighteen hundred and sixty-five, and also confirmed in its corporate powers under an act of the Legisla-



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ture of the State of Illinois, approved eighteen hundred and sixty-four, or any other bridge company organized under the laws of Missouri and Illinois, be, and the same is hereby, empowered to erect, maintain, and operate a bridge across the Mississippi river, between the city of Saint Louis, in the State of Missouri, and the city of East Saint Louis, in the State of Illinois, subject to all the conditions contained in said act of incorporation and amendments thereto, and not inconsistent with the following terms and provisions contained in this act. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said waters, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

SEC. 12. *And be it further enacted*, That the bridge authorized by the preceding section to be built shall not be a suspension bridge, or drawbridge, with pivot or other form of draw, but shall be constructed with continuous or unbroken spans, and subject to these conditions: First, that the lowest part of the bridge or bottom chord shall not be less than fifty feet above the city directrix at its greatest span. Second, that it shall have at least one span five hundred feet in the clear, or two spans of three hundred and fifty feet in the clear of abutments. If the two latter spans be used, the one over the main steamboat channel shall be fifty feet above the city directrix, measured to the lowest part of the bridge at the center of the span. Third, no span over the water at low water mark, shall be less than two hundred feet in the clear of abutments.

SEC. 13. *And be it further enacted*, That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said river by the construction of bridges, is hereby expressly reserved.

APPROVED, July 25, 1866.

CHAP. CCXLVII.—An Act to authorize W. J. Sibley and others, Trustees, to sell and convey Lot Number Nine, in Square Number Seventy-Six, in the City of Washington.

Whereas lot number nine, in said square number seventy-six, in the said city of Washington, was conveyed by J. H. M'Blair to W. J. Sibley, Ro. Ricketts, R. W. Bates, R. L. Sanders, Benjamin M'Coy, and G. Spoarder, in trust, to erect thereon a place of worship for the use of the people of color, members of the Methodist Episcopal church in the United States; and whereas the said trustees have not had the means of erecting such church, and the purpose has been abandoned, and another church, called the Asbury chapel, has been erected in or near the neighborhood of the said lot, which the said trustees desire to sell, and apply the proceeds to the benefit of the congregation worshipping in said Asbury chapel, a purpose which the said J. H. M'Blair, as far as he had any interest therein, has approved by his subsequent deed made to the said trustees: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the said W. J. Sibley, Ro. Ricketts, R. W. Bates, R. L. Sanders, Benjamin M'Coy, and G. Spoarder, trustees of the said lot above mentioned, or the survivors of them, be, and they are hereby, authorized and empowered to sell and convey the said lot number nine, in square number seventy-six, in the said city of Washington, for such price as they shall think proper, or to confirm and carry out any contract for sale already made by them with any person, and to convey the same accordingly, freed and discharged of the trust upon which the same was originally conveyed to them, and to apply the proceeds of sale to the benefit of the congregation worshipping in the said Asbury chapel, as the proper and legal authority thereof may deem

expedient, and for no other purpose whatever.

APPROVED, July 25, 1866.

CHAP. CCXLVIII.—An Act providing for the Appointment of a Commission to examine and report upon certain Claims of the State of Iowa.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, authorized and required to appoint a commissioner, whose duty it shall be to examine and report on or before the first day of December next upon the claim of the State of Iowa for forage, transportation, subsistence, and clothing furnished by said State to certain volunteers of said State, who, under the command of Colonels Morledge and Edwards, and at the request of certain officers commanding troops of the United States in the State of Missouri, marched into the State of Missouri to cooperate with the troops of the United States in that State in suppressing the rebellion. Also the claim of the State of Iowa for repayment of certain moneys paid by said State in raising, arming, equipping, paying, and subsisting certain troops of the State maintained by the State on the southern and northwestern borders thereof during the late rebellion, for the purpose of defending the State against attacks by bushwhackers and Indians. And also the claim of said State for compensation for certain forage procured and barracks built by the State on the northwestern border thereof, and turned over by the State to and used by the United States.

APPROVED, July 25, 1866.

CHAP. CCXLIX.—An Act to incorporate "The National Soldiers' and Sailors' Orphan Home."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Mrs. Julia B. Grant, Mrs. Ellen E. Sherman, Mrs. H. D. Cooke, Mrs. Margaret Fahnestock, Mrs. Kathleen Carlisle, Miss Charlotte Taylor, Mrs. Jane Speed, Mrs. Mary J. Wells, Mrs. A. C. Harlan, Mrs. Jane L. Smith, Mrs. Mary K. Lewis, Mrs. Jane Farnham, Mrs. Eliza M. Morris, Mrs. Cecelia S. Sherman, Mrs. Ellen Boyer, Mrs. Elizabeth A. Howard, Mrs. Kate C. Sprague, Mrs. Elsie B. Nye, Mrs. Annie Rouse, Mrs. Kate L. Plants, Mrs. Elizabeth G. Todd, Mrs. Abby E. Hall, Mrs. J. M. Trumbull, Miss Sarah Wood, Mrs. Jane Anne Pirtle, Miss Elizabeth Howard, and their successors, are constituted a body corporate in the District of Columbia, by the name of the National Soldiers' and Sailors' Orphan Home, and by that name may sue and be sued in any court of the United States.

SEC. 2. *And be it further enacted*, That the persons named in the first section of this act, together with such as may be elected according to the form of the constitution under this act, shall be the first trustees of the corporation; and all vacancies caused by death, resignation, or otherwise, in the office of trustee, shall be filled by the board, by ballot, without unnecessary delay, as may be provided in the constitution and by-laws of the corporation.

SEC. 3. *And be it further enacted*, That said corporation shall have power to provide a home for, and to support and educate the destitute orphans of soldiers or sailors who have died in the late war in behalf of the Union of these States, from whatever State or Territory they may have entered the national service, or their orphans may apply to enter the Home, and which is hereby declared to be the object and purpose of said corporation; and to such end, and for such use, the said corporation may take and hold property real or personal to an amount necessary for the support and maintenance of the Home and the orphans partaking of its benefits.

SEC. 4. *And be it further enacted*, That the affairs of this corporation shall be managed by a board of directors consisting of not less than seventeen representing the District of Columbia, and of seven each, from the respective States and Territories, to be chosen in such manner as the constitution and by-laws of said corporation shall direct, and that the said directors shall have power to make by-laws prescribing the duties of the officers of said corporation, their term of office, and to make all other rules and regulations for said corporation and the management of its affairs, subject to the provisions of this act.

SEC. 5. *And be it further enacted*, That said corporation shall have power to receive under its charge for support and education any minor child of any such soldier or sailor, if so placed in its charge by its surviving parent or guardian, or, in the absence of either, by any person having the care or custody of such orphan; and while such child remains under its care, and until withdrawn as hereinafter provided, or discharged according to the regulations of said corporation, it shall be subject to the same power and control by said corporation as any father or lawful guardian has by law over or relating to such minor child.

SEC. 6. *And be it further enacted*, That no such orphan child shall ever be bound out by said corporation.

SEC. 7. *And be it further enacted*, That the surviving parent or legal guardian of any child placed under charge of said corporation may at any time be by them withdrawn therefrom; and any minor over sixteen years of age, upon his or her own request in writing, shall be discharged therefrom.

SEC. 8. *And be it further enacted*, That any minor child so withdrawn or discharged as provided in the preceding section of this act shall nevertheless continue until majority under charge of said corporation to such an extent as that the said corporation shall have the control and management of any moneys which may be due to such minor from the Government of the United States by virtue of the services of the fathers of such minor children, paying to such minor child or children only such amount thereof as in the judgment of said corporation shall be necessary and beneficial for such minor.

SEC. 9. *And be it further enacted*, That the property of said corporation, held or occupied by them for the uses and purposes of their incorporation, shall be exempt from all taxes to be levied under the authority of the Congress of the United States, or any municipal corporation within the District of Columbia, and no person shall lose or acquire a legal settlement by residence in the Home to be established by said corporation.

SEC. 10. *And be it further enacted*, That Congress may at any time hereafter repeal, alter, or amend this act.

APPROVED, July 25, 1866.

CHAP. CCL.—An Act to amend "An Act to extend the Charter of the Alexandria and Washington Railroad," passed March third, eighteen hundred and sixty-three.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Washington, Alexandria, and Georgetown Railroad Company, a corporation lawfully succeeding to the charter, rights, and privileges of the "Alexandria and Washington Railroad Company," be, and the same is hereby, authorized to extend said railroad from the track, as the same is now, or may hereafter be, laid through Maryland avenue, at its intersection with Virginia avenue, through and along said Virginia avenue, in an easterly direction, to its intersection with D street south; thence along D street, and across the Washington canal, to New Jersey avenue; thence by a curve to the left, of not less than

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one thousand feet radius, to a point in square number seven hundred and thirty-two; thence by an underground excavation or tunnel, passing under squares number seven hundred and thirty-two, seven hundred and sixty-two, seven hundred and sixty-one, seven hundred and sixty, seven hundred and eighty-seven, seven hundred and eighty-six, eight hundred and sixteen, eight hundred and fifteen, eight hundred and thirty-nine, eight hundred and thirty-eight, eight hundred and sixty-six, eight hundred and sixty-five, eight hundred and sixty-four, and the different streets and avenues intervening, to a point in square number eight hundred and ninety-three; thence, by a curve of not less than one thousand feet radius, into Eighth street east; thence by the most direct and eligible route, to an intersection with the Washington branch of the Baltimore and Ohio railroad.

SEC. 2. *And be it further enacted*, That the provisions of sections three and four of the act to which this is an amendment shall be applicable to the extension of said road or tracks as hereby authorized, and that it shall be lawful for said company to construct a draw or other bridge across the Washington canal at its intersection with D street south, of such plans and dimensions as may be approved by the corporation of Washington, and so as not to interfere with the navigation of said canal. And also to use steam power in the transportation of passengers and freight over said railroad and branches, subject, however, to such restrictions and regulations as may be imposed by the corporate authorities of the city of Washington in respect to such portions thereof as may be located in said city.

SEC. 3. *And be it further enacted*, That the consent of Congress be, and the same is hereby, granted for a period of eighteen months from the passage of this act, to the Alexandria, Washington, and Georgetown Railroad Company, to use steam power in drawing the cars of said company on the structure across the Potomac river erected by said company, under the provisions of the act entitled "An act to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes," approved March three, eighteen hundred and sixty-three, and along the railway now laid by said company, or which may be hereafter laid, under the provisions of the said act, along Maryland avenue and First street west, in the city of Washington, to the present depot of the Washington branch of the Baltimore and Ohio railroad, subject always, and in all particulars, to such restrictions and regulations concerning the use of said steam power as the corporation of Washington may, by its ordinances, [at] any time impose upon the said railroad company: *Provided*, That said company shall not propel their engines at a greater rate of speed than five miles per hour within the corporate limits of Washington city.

SEC. 4. *And be it further enacted*, That the said railroad company shall be required to pay any and all damages that may result to private property from the extension of said road, and the tunneling under the several lots and squares of ground as heretofore provided; and that in the event the owner or owners of such property and the said company cannot agree as to the amount of such damages, or the value of any private property so appropriated for the purpose of such extension of said road, such proceedings shall thereupon be had for the appropriation and assessment of the damages thereof as are authorized and required under the laws now in force in the District of Columbia regulating appropriations and assessment of damages for opening roads, streets, and alleys in said District. That upon the payment to the owner or owners of the amount of such award of damages, or the lawful tender thereof, together with the payment of all costs of such proceedings, the said company shall acquire the right to use and oc-

cupy for the purposes of said railroad all such lands so appropriated, in such a manner as may be necessary for the proper working and running said road.

APPROVED, July 25, 1866.

CHAP. CCLI.—An Act to authorize the Extension, Construction, and Use by the Baltimore and Ohio Railroad Company of a Railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia.

Whereas it is represented to this present Congress that the Baltimore and Ohio Railroad Company, incorporated by the State of Maryland, are desirous of extending the road authorized to be built by them, by an act of the General Assembly of that State, entitled "An act to authorize the Baltimore and Ohio Railroad Company to build a railroad from a point on the line of its road between Knoxville and the Monocacy Junction, through Frederick and Montgomery counties, to the boundary of the District of Columbia, so as to make a direct communication with the city of Washington," into and within the District of Columbia: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Baltimore and Ohio Railroad Company shall be, and they are hereby, authorized to extend into and within the District of Columbia the road aforesaid, to such point or points, terminus or termini, as may be agreed upon between the said company and the corporation of Washington, in respect of a road within the limits of Washington, and between the said company and the corporation of Georgetown, as respects a road within the limits of Georgetown. An[d] the said Baltimore and Ohio Railroad Company are hereby authorized to have and exercise the same powers, rights, and privileges, and shall be subject to the same restrictions, in the extension and construction of the said road, into and within the said District as they have, may exercise, or possess, or are subject to within the State of Maryland, under and by virtue of their charter or act of incorporation from the State of Maryland; and shall be entitled to the same franchises, rights, compensation, benefits, and immunities in the use of the said road as are provided in the said charter.

SEC. 2. *And be it further enacted*, That all the provisions of the several acts of Congress relating to the lateral road authorized to be built into and within the District of Columbia by an act passed March second, eighteen hundred and thirty-one, and entitled "An act to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio road into and within the District of Columbia," and the supplements thereto, be, and they are hereby, declared to apply to the Baltimore and Ohio Railroad Company so far as they are severally applicable to the location, construction, and use by the said company of the road now authorized to be constructed into and within the said District.

SEC. 3. *And be it further enacted*, That the said railroad company shall commence the construction of said extension of said road within one year, and complete the same within three years after the passage of this act; and on failure to do so, the privileges granted by this act shall be forfeited by said company.

APPROVED, July 25, 1866.

CHAP. CCLII.—An Act to change the Port of Entry in Puget's Sound.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the first day of October, eighteen hundred and sixty-six, the port of Port Angelos, in the district of Puget's Sound, in Washington Territory, is hereby abolished as a port of entry,

and that Port Townsend be, and is hereby, established as the port of entry and delivery for the said district, from and after said date.

APPROVED, July 25, 1866.

CHAP. CCLIII.—An Act to grade East Capitol Street and establish Lincoln Square.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Public Buildings be, and he hereby is, authorized and directed, in such manner as he may deem most proper, to cause East Capitol street to be graded from Third street east to Eleventh street east, and to cause the square at the intersection of said street with Massachusetts, North Carolina, Tennessee, and Kentucky avenues, between Eleventh and Thirteenth streets east, to be inclosed with a wooden fence, and the same shall be known as Lincoln square. And the sum of fifteen thousand dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated, to enable the said improvement to be made.

APPROVED, July 25, 1866.

CHAP. CCLIV.—An Act in Relation to the unlawful Tapping of Government Water Pipes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the unlawful tapping of any water pipe laid down in the District of Columbia by authority of the United States is hereby declared to be a misdemeanor and an indictable offense; and any person who may be indicted for and convicted of such offense in the criminal court of the District of Columbia shall be subject to such fine as the court may think proper to impose, not exceeding five hundred dollars, or to imprisonment for a term not exceeding one year. And it is hereby made the special duty of the Commissioner of Public Buildings to bring to the notice of the attorney of the United States for the District of Columbia, or to the grand jury, any infraction of this law.

APPROVED, July 25, 1866.

CHAP. CCLV.—An Act to authorize the Entry and Clearance of Vessels at the Port of Calais, Maine.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the passage of this act, the Secretary of the Treasury may authorize, under such regulations as he shall deem necessary, the deputy collector of customs at the port of Calais, in the State of Maine, to enter and clear vessels, and to perform such other official acts as the said Secretary shall think advisable.

APPROVED, July 25, 1866.

CHAP. CCLXII.—An Act granting the Right of Way to Ditch and Canal Owners over the Public Lands, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. *And be it further enacted*, That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situ-

ated, and having expended in actual labor and improvements thereon an amount of not less than one thousand dollars, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country and the local rules, laws, and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. *And be it further enacted*, That as a further condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the rights of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted*, That the

President of the United States be, and is hereby, authorized to establish additional land districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however*, That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of preemption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the act of Congress approved May twenty, eighteen hundred and sixty-two, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to preemption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

APPROVED, July 26, 1866.

CHAP. CCLXIII.—An Act to authorize "The Chesapeake Bay and Potomac River Tidewater Canal Company" to enter the District of Columbia, and extend their Canal to the Anacostia River at any Point above Benning's Bridge.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That "The Chesapeake Bay and Potomac River Tidewater Canal Company," incorporated by the General Assembly of the State of Maryland, at the January session thereof, eighteen hundred and sixty-six, by an act entitled "An act to incorporate the Chesapeake Bay and Potomac River Tidewater Canal Company," be, and the same are hereby, authorized to extend their canal from the point where it strikes the boundary line of the District of Columbia, thence in and through the said District to the Anacostia river at any point thereon above Benning's bridge.

SEC. 2. *And be it further enacted*, That the said company are hereby authorized and empowered to take, purchase, and hold, for the

purpose[s] of this act, so much real estate and other property as shall be necessarily required for the proper construction of the extension aforesaid, and for the construction of all proper and convenient basins, locks, reservoirs, docks, and wharves, to be connected with said extension. And where the said company shall not be able to procure such real estate by purchase from the owner thereof, or the owner thereof shall be a femme covert, infant, non compos mentis, imprisoned, or resident beyond the District of Columbia, then application may be made by the president of said company to the chief justice of the supreme court of the District of Columbia, for the appointment of three persons, who shall be freeholders in said District, as a commission of inquest of damages, and who shall go upon and inspect any property proposed to be taken by said company for the purposes contemplated by this act; and before any person so appointed as such commissioner shall proceed to act, he shall take an oath or affirmation that he will fairly and truly value the damages sustained by the owner or owners of any property by the use and occupation of any such real estate, water rights, or other property, by said company; and said commission shall reduce their inquiry or finding to writing, and sign and seal the same, and it shall then be returned to the said chief justice, who shall file the same in the office of the register of deeds of the city of Washington. But no such inquisition shall be had until after ten days' notice thereof has been served on the owner of the real estate so to be taken, when he resides in the District of Columbia, or by publication of notice in one or more of the daily newspapers published in the city of Washington, for twenty days where such owner resides beyond said District. When the owner is a femme covert, the notice shall be to her and her husband; when he is a minor, to his guardian; and when he is non compos mentis, to his committee, or the person having charge of his estate. The said report shall be confirmed by the supreme court of the District of Columbia at its next term after the return of said report, unless for cause shown to the contrary. And where good cause is thus shown the said chief justice shall set aside said inquest, and appoint another similar commission, who shall qualify in the same manner, and whose inquisition shall be taken, returned, filed, and confirmed, or set aside for good cause shown, in the same manner as the first inquisition was taken, returned, filed, and confirmed, or set aside. And such commission and inquisition shall be renewed as often as may be necessary, until the inquisition made shall be confirmed. Such inquisition shall describe the property taken by metes and bounds, and the valuation thereof shall be paid or tendered within ten days after the confirmation of such inquisition by said District court; and when such valuation or damages are so paid or tendered, said company shall have a full and perfect right to enter upon, use, occupy, and enjoy any property so valued, during its corporate existence, and all expenses incurred by such inquisition, shall be paid by said company.

SEC. 3. *And be it further enacted*, That it shall be lawful for said company to levy, demand, and receive such even tolls and rents for the use of the wharves and docks of said company on said extension, or for freight transported by said company, or for the passage through said extension of boats, rafts, or any other water craft, as a majority of the directors at any regular meeting shall assess therefor: *Provided*, That the Congress of the United States shall at all times have power to increase or reduce such tolls or rents.

SEC. 4. *And be it further enacted*, That the said canal extension, when completed, shall forever thereafter be esteemed and taken to be a public highway for the transportation of all goods, commodities, or produce of every kind



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and description, and for all canal boats, rafts, or other water crafts of every kind whatever, upon the payment of such tolls or rents as are authorized to be imposed by this act.

SEC. 5. *And be it further enacted*, That the said company shall permit all public property belonging to the United States to pass through said canal extension free of all charge or toll; and the said company shall, from time to time, as may be required, lay before Congress a just and true account of their receipts and expenditures on said extension, with a statement of the clear profits thereof.

SEC. 6. *And be it further enacted*, That, subject to the aforesaid provisions of this act, all and singular the provisions of the aforesaid act of the General Assembly of the State of Maryland, entitled "An act to incorporate the Chesapeake Bay and Potomac River Tidewater Canal Company," relating to the powers, liabilities, and authority of said company, in operating and using their canal, shall take effect and apply to the extension aforesaid in the District of Columbia.

SEC. 7. *And be it further enacted*, That this act shall be deemed a public act, and shall take effect and be in force from and after its passage, and shall be subject to alteration or repeal by Congress.

APPROVED, July 26, 1866.

CHAP. CCLXIV.—An Act authorizing the Secretary of the Treasury to issue Certificates of Registry, or Enrollment and License, to certain Vessels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to issue certificates of registry, or enrollment and license, to the steamer "Diana," of Victoria, Vancouver Island; the schooners "M. C. Rowe," of Gloucester, Massachusetts; "Mary," of Dexter, New York; "Jessee Conger," of Oswego, New York; "N. C. Ford," of Buffalo, New York; "Sweet Home," of Rochester, New York; "Alma," of Sodus, New York; "Marco Polo," of Erie, Pennsylvania; brig "Three Bells," of Rochester, New York; bark "J. S. Austin," of Buffalo, New York; and the sloop "Dolphin," of Alexandria Bay, New York: *Provided*, That there shall be paid on each of such vessels that are foreign built a tax equal to the internal revenue tax upon the materials and construction of similar vessels of American build.

APPROVED, July 26, 1866.

CHAP. CCLXV.—An Act to authorize the Issue of certain Bonds in Denominations greater than One Thousand Dollars.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter the bonds of the United States authorized by the act of July first, eighteen hundred and sixty-two, "to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," and by all acts amendatory thereof, may be issued in denominations greater than one thousand dollars, at the discretion of the Secretary of the Treasury: *Provided, however*, That it shall at all times be optional with any railroad company whether they will receive bonds of a larger denomination than one thousand dollars.

APPROVED, July 26, 1866.

CHAP. CCLXVI.—An Act making Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes for the year ending thirtieth June, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums

be, and they are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes—

For the current and contingent expenses of the Indian department, namely:

For the pay of superintendents of Indian affairs and of Indian agents, one hundred and ten thousand and fifty dollars.

For pay of sub-agents, six thousand dollars.

For pay of clerk to superintendent at Saint Louis, Missouri, one thousand two hundred dollars.

For pay of temporary clerks by superintendents of Indian affairs, five thousand dollars.

For pay of clerk to superintendent of Indian affairs in California, one thousand eight hundred dollars.

For pay of interpreters, twenty-eight thousand four hundred dollars.

For presents to Indians, five thousand dollars.

For provisions for Indians, eleven thousand eight hundred dollars.

For buildings at agencies and repairs thereof, ten thousand dollars.

For contingencies of the Indian department, thirty-six thousand five hundred dollars.

For fulfilling treaty stipulations with the various Indian tribes:

*Chasta, Scoton, and Umpqua Indians.*

For twelfth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For twelfth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand dollars.

For twelfth of fifteen installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For twelfth of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand two hundred dollars.

*Chippewas of Lake Superior.*

For two thirds of last of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of last of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of last of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of last of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of last of twenty-five installments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of last of twenty-five install-

ments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For twelfth of twenty installments in coin, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, five thousand dollars.

For twelfth of twenty installments in goods, household furniture, and cooking utensils, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand dollars.

For twelfth of twenty installments for agricultural implements, and cattle, carpenters' and other tools, and building materials, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For twelfth of twenty installments for moral and educational purposes, three hundred dollars of which to be paid to the Grand Portage band yearly, to enable them to maintain a school at their village, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For twelfth of twenty installments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For twelfth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For tenth of twenty installments for the seventh smith and assistant, and support of shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

For gratuities for the purpose of quieting the claim of the Lac de Flambeau band of Chippewas, for an interest in the lands ceded to the United States by the Bois Forte band of Chippewa Indians, three thousand dollars.

*Chippewas of the Mississippi.*

For one third of last of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of last of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of last of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.

For one third of last of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of last of twenty-five install-

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ments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of last of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of last of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For twelfth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

*Chippewas, Pillager, and Lake Winnebago-shish Bands.*

For twelfth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For twelfth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For twelfth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For twelfth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For twelfth of fifteen installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, two thousand one hundred and twenty dollars.

For pay of an engineer to grist and saw mill at Leech Lake, per third article of treaty of twenty-second February, eighteen hundred and fifty-five, six hundred dollars.

*Chippewas of Saginaw, Swan Creek, and Black River.*

For first of two equal installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of August second, eighteen hundred and fifty-five, eighteen thousand eight hundred dollars.

*Chippewa, Menomones, Winnebagoes, and New York Indians.*

For education during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

*Chickasaws.*

For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

*Choctaws.*

For permanent annuity, per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light-horsemen, per thirteenth article treaty eighth October, eighteen hundred and twenty, and thirteenth article treaty, twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per

second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

*Choctaws and Chickasaws.*

For this amount, or so much thereof as may become due to the Choctaws and Chickasaws under the third and forty-sixth articles of the treaty of April twenty-eighth, eighteen hundred and sixty-six, for interest at the rate of five per centum, upon the amount paid for certain lands ceded by them to the United States, fifteen thousand dollars.

For this amount, or so much thereof as may be necessary to enable the Secretary of the Interior to cause a census of each tribe to be taken, as per first clause, eighth article, treaty of April twenty-eighth, eighteen hundred and sixty-six, one thousand five hundred dollars.

For this amount to be advanced the Choctaws for the cession of the leased district, and the admission of the Kansas Indians, as per forty-sixth article treaty of April twenty-eighth, eighteen hundred and sixty-six, one hundred and fifty thousand dollars.

For this amount to be advanced the Chickasaws for the cession of the leased district, and the admission of the Kansas Indians, as per forty-sixth article treaty of April twenty-eighth, eighteen hundred and sixty-six, fifty thousand dollars.

For pay of commissioners to be appointed by the President, as per forty-ninth and fiftieth articles treaty of April twenty-eighth, eighteen hundred and sixty-six, and Senate amendment thereto, or so much thereof as may be necessary, four thousand three hundred and twenty dollars.

*Comanches, Kiowas, and Apaches, of Arkansas River.*

For the third of five installments, being the second series for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the second of five installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

*Creeks.*

For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent annuity for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent annuity for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent annuity for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant, and shop and tools, during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon-maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For five per centum interest on two hundred thousand dollars, for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

*Delawares.*

For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine, for education, per Senate resolution of January nineteenth, eighteen hundred and thirty-eight, and fifth article treaty May sixth, eighteen hundred and fifty-six, [four,] two thousand three hundred and four dollars.

*Iowas.*

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to the first of July, eighteen hundred and sixty-six, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, per second article treaty October nineteenth, eighteen hundred and thirty-eight, and ninth article treaty May seventeenth, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

*Kansas.*

For interest in lieu of investment on two hundred thousand dollars, at five per centum per annum, per second article treaty January fourteenth, eighteen hundred and forty-six, ten thousand dollars.

*Kickapoos.*

For thirteenth installment of interest, at five

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per centum, on one hundred thousand dollars, for educational and other beneficial purposes, per second article treaty May eighteenth, eighteen hundred and fifty-four, five thousand dollars.

For thirteenth installment on two hundred thousand dollars, to be paid in eighteen hundred and sixty-seven, per second article treaty eighteenth May, eighteen hundred and fifty-four, seven thousand dollars.

*Menomonees.*

For eleventh of twelve installments for continuing and keeping up a blacksmith shop and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.

For first of fifteen installments of annuity upon two hundred and forty-six thousand six hundred and eighty-six dollars for cession of lands per third article treaty May twelfth, eighteen hundred and fifty-four, and Senate amendment thereto, sixteen thousand one hundred and seventy-nine dollars and six cents.

For eleventh of fifteen installments for pay of miller, per third article treaty twelfth May, eighteen hundred and fifty-four, six hundred dollars.

*Miamies of Kansas.*

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty June fifth, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For seventh of twenty installments upon two hundred thousand dollars, per third article treaty fifth June, eighteen hundred and fifty-four, seven thousand five hundred dollars.

*Miamies of Indiana.*

For interest on two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, uninvested, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

*Miamies—Eel River.*

For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

*Nisqually, Puyallup, and other Tribes and Bands of Indians.*

For twelfth installment, in part payment for relinquishment of title lands, to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, twelve hundred dollars.

For twelfth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant, if necessary, per tenth article treaty twenty-sixth December, eighteen hun-

dred and fifty-four, six thousand seven hundred dollars.

*Omahas.*

For the ninth of ten installments of this amount, being second of series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars.

*Osages.*

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

For interest on three hundred thousand dollars at five per centum per annum, to be paid semi-annually in money or such articles as the Secretary of the Interior may direct, as per first article treaty of September twenty-nine, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, fifteen thousand dollars.

For transportation of goods, provisions, and so forth, purchased by the Great and Little Osage Indians, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, or so much thereof as may be necessary, three thousand five hundred dollars.

*Ottos and Missourias.*

For ninth of ten installments, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars.

*Ottawas and Chippewas of Michigan.*

For interest on two hundred and six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand three hundred dollars.

*Pawnees.*

For fourth of five installments of the second series in goods and such articles as may be necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, thirty thousand dollars.

For support of two manual-labor schools annually, during the pleasure of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, ten thousand dollars.

For pay of two teachers, under the direction of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For purchase of iron and steel, and other necessities for the shop, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tin-smith, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation of two strikers or apprentices in shop, per fourth article of treaty twenty-fourth September, eighteen hundred and fifty-seven, four hundred and eighty dollars.

For ninth of ten installments for farming utensils and stock, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For pay of farmer, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For eighth of ten installments for pay of miller, at the discretion of the President, per fourth article treaty twenty-fourth September,

eighteen hundred and fifty-seven, six hundred dollars.

For eighth of ten installments for pay of an engineer, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation to apprentices, to assist in working the mill, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For grist and saw mill, and keeping the same in repair, per fourth article treaty September twenty-fourth, eighteen hundred and fifty-seven, three hundred dollars.

*Pottawatomies of Huron.*

For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars.

*Pottawatomies.*

For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.

For education during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars.

For permanent provision for the payment of money in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars.

For permanent provisions for three blacksmiths and assistants, and permanent provision for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, two thousand one hundred and sixty dollars.

For iron and steel, six hundred and sixty dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, four hundred and thirty-seven dollars and fifty cents.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

*Quapaws.*

For education during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure



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of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars.

*Rogue Rivers.*

For thirteenth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

*Sacs and Foxes of Mississippi.*

For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

*Sacs and Foxes of Missouri.*

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

*Seminoles.*

For the last of ten installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For the last of ten installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the last of ten installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on two hundred and fifty thousand dollars, at five per centum, to be paid as annuity, they having joined their brethren West, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

*Senecas.*

For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

*Senecas of New York.*

For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from On-

tario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

*Senecas and Shawnees.*

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

*Shawnees.*

For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For thirteenth installment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

*Six Nations of New York.*

For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four, four thousand five hundred dollars.

*Umpquas (Cow Creek Band.)*

For thirteenth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

*Umpquas and Calapooias, of Umpqua Valley, Oregon.*

For second of five installments, of the third series, of annuity for beneficial objects, to be expended as directed by the President, per third article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand seven hundred dollars.

For twelfth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, two thousand dollars.

For twelfth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand four hundred and fifty dollars.

*Winnebagos.*

For interest on one million dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty thousand dollars.

For twentieth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

For the erection of a saw-mill, with grist-mill attached, on their new reservation, as per third article treaty of March eighth, eighteen hundred and sixty-five, ten thousand dollars.

For expense of breaking and fencing one hundred acres of land for each band of said Indians, as per third article treaty of March eighth, eighteen hundred and sixty-five, nine thousand and eighty-seven dollars and sixty cents.

For expense of sowing and planting one hundred acres of land for each band of said Indians, and furnishing seed for the same, as per third article treaty of March eighth, eighteen hundred and sixty-five, five thousand seven hundred and fifty dollars.

For the purchase of guns for said Indians, as per third article treaty of March eighth, eighteen hundred and sixty-five, two thousand dollars.

For the purchase of four hundred horses, one hundred cows, twenty yoke of oxen, twenty wagons, and forty chains, as per third article treaty of March eighth, eighteen hundred and sixty-five, and Senate amendment thereto of February thirteenth, eighteen hundred and sixty-six, sixty thousand three hundred dollars.

For the purchase of agricultural implements, as per third article treaty of March eighth, eighteen hundred and sixty-five, five hundred dollars.

For the erection of an agency building, school-house, warehouse, and suitable buildings for the physician, carpenter, interpreter, miller, engineer, and blacksmith, on the new reservation of said Indians, as per fourth article treaty of March eighth, eighteen hundred and sixty-five, twenty-one thousand dollars.

For erection of a house for each chief of the said tribes, as per fourth article treaty of March eighth, eighteen hundred and sixty-five, twenty-two thousand five hundred dollars.

For expenses of the removal of the property of said Indians to their new homes, as per fifth article treaty of March eighth, eighteen hundred and sixty-five, three hundred dollars.

For subsistence of the Winnebagos for one year after their arrival at their new homes, as per fifth article treaty of March eighth, eighteen hundred and sixty-five, ninety-six thousand dollars.

*Winnebago and Pottawatomie Indians of Wisconsin.*

To enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Pottawatomie Indians in the State of Wisconsin, five thousand dollars.

*Yancton Tribe of Sioux.*

For eighth of ten installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle and reside upon their reservations, per fourth article treaty nineteenth April, eighteen hundred and fifty-eight, sixty-five thousand dollars.

*Calapooias, Molalla, and Clackamas Indians, of Willamette Valley.*

For second of five installments of the second series of annuity for beneficial objects, per second article treaty twenty-second January, eighteen hundred and fifty-five, six thousand five hundred dollars.

*Poncas.*

For the third of ten installments of the second series, to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle upon the tract reserved for their future homes, per second article treaty twelfth March, eighteen hundred and fifty-eight, ten thousand dollars.

For eighth of ten installments for the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty twelfth March, eighteen hundred and fifty-eight, five thousand dollars.

For eighth of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty twelfth March, eighteen hundred and fifty-eight, seven thousand five hundred dollars.

*D'Wamish and other allied Tribes in Washington Territory.*

For seventh installment on one hundred and fifty thousand dollars, under the direction of

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the President, per sixth article treaty twenty-second January, eighteen hundred and fifty-five, seven thousand five hundred dollars.

For seventh of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, three thousand dollars.

For seventh of twenty installments for the establishment and support of a smith and carpenter shop, and to furnish them with the necessary tools, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, four thousand six hundred dollars.

*Makah Tribe.*

For first of four installments of thirty thousand dollars, (being the fourth series,) under the direction of the President, per fifth article treaty January thirty-first, eighteen hundred and fifty-five, one thousand five hundred dollars.

For seventh of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For seventh of twenty installments for support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, four thousand six hundred dollars.

*Walla-Walla, Cayuse, and Umatilla Tribes.*

For second of five installments of second series, to be expended under the direction of the President, per second article treaty ninth June, eighteen hundred and fifty-five, six thousand dollars.

For seventh of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines and hospital stores, books and stationery for schools, and furniture for the employes, per fourth article treaty ninth June, eighteen hundred and fifty-five, three thousand dollars.

For seventh of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, two millers, one blacksmith, one wagon and plow maker, one carpenter and joiner, one physician, and two teachers, per fourth article treaty ninth June, eighteen hundred and fifty-five, eleven thousand two hundred dollars.

For seventh of twenty installments for the pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands, the sum of five hundred dollars per annum, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand five hundred dollars.

For seventh of twenty installments for salary for the son of Pio-pio-mox-mox, per fifth article treaty ninth June, eighteen hundred and fifty-five, one hundred dollars.

*Yakama Nation.*

For second of five installments, of second series, for beneficial objects, at the discretion of the President, per fourth article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For seventh of twenty installments for the support of two schools, one of which is to be

an agricultural and industrial school, keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty ninth June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For seventh of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty ninth June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For seventh of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for the pay of a physician, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For seventh of twenty installments for keeping in repair the buildings required for the various employes, and for providing the necessary furniture therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for the salary of such person as the said confederated tribes and band of Indians may select to be their head chief, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

*Nez Perce Indians.*

For second of five installments of second series for beneficial objects, at discretion of the President, per fourth article treaty June eleventh, eighteen hundred and fifty-five, eight thousand dollars.

For seventh of twenty installments for the support of two schools, one of which to be an agricultural and industrial school, keeping in repair school building, and for providing suitable furniture, books, and stationery, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For seventh of twenty installments for keeping in repair blacksmiths', tin-smiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty eleventh June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For seventh of twenty installments for keeping in repair saw and flouring mill, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for pay of a physician, per fifth article treaty eleventh June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For seventh of twenty installments for keeping in repair the buildings for the various employes, and for providing the necessary furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For first of four installments to enable the Indians to remove and locate upon the reservation, to be expended in plowing land and fencing lots, as per first clause fourth article treaty of June ninth, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, seventy thousand dollars.

For the purchase of agricultural implements, including wagons and carts, harness, cattle, and sheep, or other stock, as may be deemed most beneficial, as per second clause fourth article treaty of June ninth, eighteen hundred and sixty-three, fifty thousand dollars.

For the erection of a saw and flouring mill, to be located at Kamia, as per third clause fourth article treaty of June ninth, eighteen hundred and sixty-three, ten thousand dollars.

For first of the sixteen installments for boarding and clothing the children who shall attend the schools, providing the schools and boarding-houses with necessary furniture, the purchase of necessary wagons, teams, agricultural implements, tools, and so forth, and for fencing of such lands as may be needed for gardening and farming purposes for the schools, as per fourth clause fourth article treaty of June ninth, eighteen hundred and sixty-three, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, six thousand dollars.

For building two churches, as per fifth clause fourth article treaty of June ninth, eighteen hundred and sixty-three, two thousand five hundred dollars.

For salary of two subordinate chiefs, as per fifth article treaty of June ninth, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand dollars.

For the erection of buildings for the subordinate chiefs, and to plow and fence the land for said chiefs, as well as to procure the necessary furniture, and to complete and furnish the house, and so forth, of the head chief, as per fifth article treaty of June ninth, eighteen hundred and sixty-three, two thousand five hundred dollars.

For the erection of two school-houses, including boarding-houses, and the necessary out-buildings, as per first clause fifth article treaty of June ninth, eighteen hundred and sixty-three, ten thousand dollars.

For the erection of a hospital and providing the necessary furniture, as per second clause fifth article treaty of June ninth, eighteen hundred and sixty-three, twelve hundred dollars.

For the erection of a blacksmith shop, to be located at Kamia, to aid in the completion of the smith's shop at the agency, and to purchase the necessary tools, iron, steel, and so forth, as per third clause fifth article treaty of June ninth, eighteen hundred and sixty-three, two thousand dollars.

For the erection of houses for employes, repairs of mills, shops, and so forth, and providing necessary furniture, tools, and materials, as per fourth clause fifth article treaty June ninth, eighteen hundred and sixty-three, three thousand dollars.

For salary of two matrons to take charge of the boarding schools, two assistant teachers, one farmer, one carpenter, and two millers, as per fifth article treaty of June ninth,

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eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, seven thousand six hundred dollars.

For the erection of a house for Indian chief Timothy, as per sixth article treaty of June ninth, eighteen hundred and sixty-three, six hundred dollars.

To pay the claims of certain members of the Nez Perce tribe for services rendered and for horses furnished by them to the Oregon mounted volunteers on the sixth of March, eighteen hundred and fifty-six, at Camp Cornelius, as per seventh article treaty of June ninth, eighteen hundred and sixty-three (to be paid in gold,) four thousand six hundred and sixty-five dollars.

#### *Fleatheds and other Confederated Tribes.*

For the third of five installments on one hundred and twenty thousand dollars, being the second series, for beneficial objects, at the discretion of the President, per fourth article treaty sixteenth July, eighteen hundred and fifty-five, five thousand dollars.

For seventh of twenty installments for the support of an agricultural and industrial school, keeping in repair the buildings, and providing suitable furniture, books, and stationery, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for providing suitable instructors therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For seventh of twenty installments for keeping in repair blacksmiths', tin and gunsmiths', carpenters', and wagon and plow makers' shops, and providing necessary tools therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of two farmers, two millers, one blacksmith, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, seven thousand four hundred dollars.

For seventh of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for pay of a physician, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand four hundred dollars.

For seventh of twenty installments for keeping in repair the buildings required for the various employes, and furnishing necessary furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For seventh of twenty installments for the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, fifteen hundred dollars.

#### *Confederated Tribes and Bands of Indians in Middle Oregon.*

For second of five installments, second series, of six thousand dollars, for beneficial objects, at the discretion of the President, per second article treaty twenty-fifth June, eighteen hundred and fifty-five, six thousand dollars.

For seventh of fifteen installments for pay and subsistence of one farmer, one blacksmith, and one wagon and plow maker, per fourth article treaty twenty-fifth June, eighteen hundred

and fifty-five, three thousand five hundred dollars.

For seventh of twenty installments for pay and subsistence of one physician, one sawyer, one miller, one superintendent of farming operations, and one school teacher, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five thousand six hundred dollars.

For seventh of twenty installments for payment of salary to the head chief of said confederated bands, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five hundred dollars.

#### *Motel Indians.*

For seventh of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employes, the benefits of which to be shared alike by all the confederated bands, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand five hundred dollars.

For seventh of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty twenty-first December, eighteen hundred and fifty-five, two thousand dollars.

For pay of teachers to manual-labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty twenty-first December, eighteen hundred and fifty-five, three thousand dollars.

#### *Qui-nai-elt and Qui-leh-ute Indians.*

For the first of four installments on twenty-five thousand dollars (being the fourth series) for beneficial objects, under the direction of the President, per fourth article treaty first July, eighteen hundred and fifty-five, one thousand dollars.

For seventh of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty first July, eighteen hundred and fifty-five, two thousand five hundred dollars.

For seventh of twenty installments for support of smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty first July, eighteen hundred and fifty-five, five hundred dollars.

For seventh of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician who shall furnish medicine for the sick, per tenth article treaty first July, eighteen hundred and fifty-five, four thousand six hundred dollars.

#### *S' Klallams.*

For first of four installments on sixty thousand dollars, (being the fourth series,) under the direction of the President, per fifth article treaty twenty-sixth January, eighteen hundred and fifty-five, three thousand dollars.

For seventh of twenty installments for the support of an agricultural and industrial school, and for pay for suitable teachers, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For seventh of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician who shall furnish medicines for the sick, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand six hundred dollars.

#### *Ottawa Indians of Blanchard's Fork and Roche de Boeuf.*

For the last of four installments, in money, per fourth article treaty twenty-fourth June, eighteen hundred and sixty-two, eight thousand five hundred dollars.

For interest on eight thousand five hundred dollars, at five per centum, being the unpaid principal of thirty-four thousand dollars, per fourth article treaty June twenty-fourth, eight-

een hundred and sixty-two, four hundred and twenty-five dollars.

For the last of four installments of the principal sum held in stocks by the Government, to be paid as annuity in eighteen hundred and sixty-seven, per fourth article treaty June twenty-fourth, eighteen hundred and sixty-two, two thousand eight hundred and forty-nine dollars and eighty-seven cents.

#### *Arapahoes and Cheyenne Indians of the Upper Arkansas River.*

For sixth of fifteen installments of annuity of thirty thousand dollars, to be expended for their benefit—that is to say, fifteen thousand dollars per annum for each tribe, commencing with the year in which they shall remove to and settle upon their reservations—per fourth article treaty February eighteenth, eighteen hundred and sixty-one, thirty thousand dollars.

For fourth of five installments to provide the said Indians with a mill suitable for sawing timber and grinding grain, one or more mechanic shops, with necessary tools for the same, and dwelling-houses for an interpreter, miller, engineer for mill, (if one be necessary,) farmers, and the mechanics that may be employed for their benefit, per fifth article treaty February eighteenth, eighteen hundred and sixty-one, five thousand dollars.

For transportation and necessary expenses of delivery of annuities, goods, and provisions, per fifth article treaty February eighteenth, eighteen hundred and sixty-one, five thousand dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Chippewas of Lake Superior, per seventh article treaty September thirtieth, eighteen hundred and fifty-four, five thousand seven hundred and sixty-two dollars and sixty-three cents.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Chippewas of the Mississippi, per fifth article treaty February twenty-second, eighteen hundred and fifty-five, three thousand eight hundred and eighty-six dollars and seventy-five cents.

#### *Chippewas of Red Lake, and Pembina Tribe of Chippewas.*

For annuity to be paid per capita to the Red Lake band of Chippewas, during the pleasure of the President, per third article treaty second October, eighteen hundred and sixty-three, and second article supplementary to treaty twelfth April, eighteen hundred and sixty-four, ten thousand dollars.

For this amount to the Pembina band of Chippewas, during the pleasure of the President, per third article treaty October second, eighteen hundred and sixty-three, and second article supplementary treaty April twelve, eighteen hundred and sixty-four, five thousand dollars.

For the third of fifteen installments to be expended annually for the purpose of supplying them with gilling twine, cotton matter, calico, linsey, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes as may be deemed for their best interests, per third article supplementary treaty of twelfth April, eighteen hundred and sixty-four, eight thousand dollars.

For the third of fifteen installments for same objects for the Pembina band of Chippewas, per third article supplementary treaty twelfth April, eighteen hundred and sixty-four, four thousand dollars.

For third of fifteen installments for pay of one blacksmith, one physician, who shall furnish medicine for the sick, one miller, and one farmer, per fourth article supplementary treaty April twelfth, eighteen hundred and sixty-four, three thousand nine hundred dollars.

For third of fifteen installments for the pur-



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chase of iron and steel, and other articles for blacksmithing purposes, per fourth article supplementary treaty April twelfth, eighteen hundred and sixty-four, one thousand five hundred dollars.

For third of fifteen installments, to be expended for carpentering and other purposes, per fourth article supplementary treaty April twelfth, eighteen hundred and sixty-four, one thousand dollars.

For third of fifteen installments, to defray the expenses of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the said Chippewa Indians, whose salary shall not exceed five dollars per day, nor more than twenty days, and ten cents per mile for traveling expenses, and not to exceed three hundred miles, per sixth article treaty October second, eighteen hundred and sixty-three, three hundred and ninety dollars.

For insurance and transportation of annuity goods and provisions, and material for building mill, including machinery, iron and steel for blacksmiths, for the Chippewas of Red Lake and Pembina tribe, ten thousand dollars.

*Western Bands of Shoshonees.*

For third of twenty installments, to be expended under the direction of the President in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per seventh article treaty October first, eighteen hundred and sixty-three, five thousand dollars.

*Eastern Bands of Shoshonees.*

For third of twenty installments, to be expended under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per fifth article treaty July second, eighteen hundred and sixty-three, ten thousand dollars.

*Northwestern Bands of Shoshonees.*

For third of twenty installments, to be expended under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per third article treaty July thirtieth, eighteen hundred and sixty-three, five thousand dollars.

*Goship Bands of Shoshonees.*

For third of twenty installments, to be expended under the direction of the President, in the purchase of such articles, including cattle for herding, or other purposes, as he shall deem suitable for their wants and condition, either as huntsmen or herdsmen, per seventh article treaty October second [twelfth,] eighteen hundred and sixty-three, one thousand dollars.

*Creek Nation.*

For interest on two hundred thousand dollars, at five per centum per annum, as permanent annuity to be paid them in money, or for such mechanical labor or useful articles as the Secretary of the Interior may from time to time direct, per third article treaty September third, eighteen hundred and sixty-three; as amended by Senate, ten thousand dollars.

For payment of third of five installments, to be expended for their benefit in the purchase of stock, horses, sheep, clothing, and such other articles as the Secretary of the Interior, with the council of said nation, may direct, per fourth article treaty September third, eighteen hundred and sixty-three, as amended by Senate, forty thousand dollars.

*Tabogauche Band of Utah Indians.*

For the third of ten installments for the purchase of goods, under the direction of the Secretary of the Interior, per eighth article treaty of October seventh, eighteen hundred and sixty-three, and Senate amendment of March twenty-

fifth, eighteen hundred and sixty-four, ten thousand dollars.

For the third of five installments, to be applied for the purposes of agriculture, and for the purchase of farming utensils and stock animals, per tenth article treaty October second, eighteen hundred and sixty-three, and Senate amendment thereto, ten thousand dollars.

For the third of ten installments for the purchase of provisions, under the direction of the Secretary of the Interior, per eighth article treaty October seventh, eighteen hundred and sixty-three, and Senate amendment thereto, ten thousand dollars.

For insurance, transportation, and general incidental expenses of the delivery of goods, provisions, and stock, five thousand dollars.

*Chippewas of the Mississippi, Pillagers, and Lake Winnebagoish Bands of Chippewa Indians in Minnesota.*

For third of ten installments to furnish said Indians with ten yoke of good work oxen, twenty log-chains, two hundred grubbing hoes, ten plows, ten grindstones, one hundred axes, handled, twenty spades, and other farming implements, per fifth article treaty May seventh, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand five hundred dollars.

For the employment of two carpenters, one thousand eight hundred dollars, and two blacksmiths, one thousand eight hundred dollars; four farm laborers, two thousand four hundred dollars; one physician, one thousand two hundred dollars, and medicine for the sick, five hundred dollars, per fifth article treaty May seventh, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, seven thousand seven hundred dollars.

For this amount to be applied towards the support of a saw-mill to be built for the common use of the Chippewas of Mississippi and the Red Lake and Pembina bands of Chippewas, so long as the President may deem it necessary, per sixth article treaty May seventh, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand dollars.

For pay of services and traveling expenses of a board of visitors, to consist of not more than five persons, to attend the annuity payments to the Indians, and so forth, and to inspect the fields, buildings, mills, and other improvements, as stipulated in the seventh article treaty May seventh, eighteen hundred and sixty-four, not exceeding any one year more than twenty days' service, at five dollars per day, or more than three hundred miles' travel, at ten cents per mile, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, six hundred and fifty dollars.

For the payment of female teachers employed on the reservations to instruct Indian girls in domestic economy, per thirteenth article treaty May seventh, eighteen hundred and sixty-four, one thousand dollars.

*Minneconjon Band of Dakota or Sioux.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October tenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, ten thousand dollars.

*Lower Brule Band of Dakota or Sioux.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October fourteenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, six thousand dollars.

*Blackfeet Band of Dakota or Sioux.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October nineteenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, seven thousand dollars.

*Two Kettles' Band of Dakota or Sioux.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October nineteenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, six thousand dollars.

For this sum, to be paid the widow and children of Ish-tah-chan-ne-ah, under the direction of the Secretary of the Interior, as per sixth article of treaty of October nineteenth, eighteen hundred and sixty-five, five hundred dollars.

For this sum, being for indemnity, to be paid under the direction of the Secretary of the Interior, as per sixth article of the treaty of October nineteenth, eighteen hundred and sixty-five, five hundred dollars.

*Onk-pah-pah Band of Dakota or Sioux.*

For first of twenty installments, being thirty dollars for each lodge or family, (three hundred lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twentieth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, nine thousand dollars.

*Sans Arcs Band of Dakota or Sioux.*

For first of twenty installments, being thirty dollars to each lodge or family, (two hundred and eighty lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twentieth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, eight thousand four hundred dollars.

*Yanktonai Band of Dakota or Sioux.*

For first of twenty installments, being thirty dollars for each lodge of [or] family, (three hundred and fifty lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twentieth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, ten thousand five hundred dollars.

*Upper Yanktonais Band of Dakota or Sioux.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twenty-eighth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, ten thousand dollars.

*O' Gallala Band of Dakota or Sioux Indians.*

For first of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twenty-eighth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, ten thousand dollars.

*Dakota or Sioux.*

For expense of transporting and delivering articles furnished for Indians on the Upper Missouri river, parties to treaties made at Fort Sully in October, eighteen hundred and sixty-five, twenty thousand dollars.

*Bois Fort Band of Chippewa [Indians.]*

To enable the President of the United States to set apart a reservation for the Bois Fort band

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of Chippewa Indians, as provided in article third, treaty of April seventh, eighteen hundred and sixty-six, one thousand dollars.

For the erection of one blacksmith shop, as per third article treaty of April seventh, eighteen hundred and sixty-six, five hundred dollars.

For the erection of a school-house, as per third article treaty of April seventh, eighteen hundred and sixty-six, five hundred dollars.

For the erection of eight houses for chiefs, as per third article treaty of April seventh, eighteen hundred and sixty-six, three thousand and two hundred dollars.

For the erection of an agency building and store-house, as per third article treaty of April seventh, eighteen hundred and sixty-six, two thousand dollars.

For first of twenty installments, for the support of one blacksmith and assistant, and for tools, iron, and steel, and other articles necessary for the blacksmith shop, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, one thousand five hundred dollars.

For first of twenty installments, for the support of one school teacher, and for necessary books and stationery, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, eight hundred dollars.

For first of twenty installments for the instruction of the Indians in farming, and purchase of seeds, tools, and so forth, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, eight hundred dollars.

For first of twenty installments of annuity in money, to be paid per capita, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, three thousand five hundred dollars.

For first of twenty installments of annuity in provisions, ammunition, and tobacco, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand dollars.

For first of twenty installments of annuity in goods and other articles, as per third article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, six thousand five hundred dollars.

To enable the chiefs, headmen, and warriors to establish their people upon the new reservation, and to purchase useful articles and presents, as per fourth article treaty of April seventh, eighteen hundred and sixty-six, and Senate amendment thereto, thirty thousand dollars.

To pay necessary transportation and subsistence of the delegates who visited Washington for the purpose of negotiating treaty, as per eighth article treaty of April seventh, eighteen hundred and sixty-six, ten thousand dollars.

For transportation and necessary cost of delivery of annuity goods and provisions to the Bois Fort band of Chippewa Indians, as per sixth article treaty of April seventh, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand five hundred dollars.

#### Tabeguache Band of Utah Indians.

For building a blacksmith shop for the Tabeguache band of Utah Indians, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, five hundred dollars.

For the purchase of iron and steel and necessary tools for said shop, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, two hundred and twenty dollars.

For the purchase of iron, steel, and necessary tools for said shop, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, two hundred and twenty dollars.

For the purchase of iron, steel, and necessary tools for said shop, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, two hundred and twenty dollars.

For pay of blacksmith and assistant for the Tabeguache band of Utah Indians, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, one thousand one hundred dollars.

For pay of blacksmith and assistant for the Tabeguache band of Utah Indians, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, one thousand one hundred dollars.

For pay of blacksmith and assistant for the Tabeguache band of Utah Indians, as per tenth article treaty of October seventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand one hundred dollars.

#### Arapaho and Cheyenne Indians of the Upper Arkansas River.

For reimbursing members of the bands of Arapaho and Cheyenne Indians who suffered at Sand Creek, November twenty-ninth, eighteen hundred and sixty-four, to be paid in United States securities, animals, goods, provisions, or such other useful articles as the Secretary of the Interior may direct, as per sixth article treaty of October fourteenth, eighteen hundred and sixty-five, thirty-nine thousand and fifty dollars.

For first of forty installments, to be expended in such manner and for such purposes as the Secretary of the Interior may direct, being an amount equal to twenty dollars per capita, for two thousand eight hundred persons, the number agreed upon for the present year, as per seventh article treaty of October fourteenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth eighteen hundred and sixty-seven, fifty-six thousand dollars.

For transportation of goods, provisions, and so forth, purchased for the Arapaho and Cheyenne Indians of the Upper Arkansas river, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, twenty thousand dollars.

#### Comanches and Kioways.

For first of forty installments, to be expended under the direction of the Secretary of the Interior, being an amount equal to ten dollars per capita for four thousand persons, the number agreed upon for the present year, as per fifth article treaty of October eighteenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, forty thousand dollars.

For transportation of goods, provisions, and so forth, purchased for the Comanche and Kioway Indians, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, or so much thereof as may be necessary, eight thousand dollars.

#### Apaches.

For first of forty installments, to be expended under the direction of the Secretary of the Interior, for the Apache Indians, being an amount equal to twenty dollars per capita for eight hundred persons, as per second article treaty of October seventeenth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, sixteen thousand dollars.

For transportation of goods, provisions, and so forth, purchased for the Apache Indians for

the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, or so much thereof as may be necessary, three thousand five hundred dollars.

#### Omaha Tribe of Indians.

For this sum, to be expended by their agent, under the direction of the Commissioner of Indian Affairs, for goods, provisions, cattio, horses, construction of buildings, farming implements, breaking of lands, and other improvements on their reservation, as per second article of treaty of March sixth, eighteen hundred and sixty-five, fifty thousand dollars.

For this sum to be paid as damages, in consequence of the occupancy of a portion of the Omaha reservation and use and destruction of timber by the Winnebago tribe of Indians, as per third article of treaty of March sixth, eighteen hundred and sixty-five, seven thousand dollars.

For keeping in repair a grist and saw mill, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, three hundred dollars.

For pay of one engineer and assistant, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand eight hundred dollars.

For pay of one miller and assistant, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand two hundred dollars.

For pay of farmer, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, nine hundred dollars.

For pay of blacksmith and assistants, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, one thousand two hundred dollars.

For support of blacksmith shop and supplying tools for the same, as per eighth article of treaty of March sixteenth, eighteen hundred and fifty-four, and third article of treaty of March sixth, eighteen hundred and sixty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, three hundred dollars.

#### Yakama Nation.

For second installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article of treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

For third installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

For fourth installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

For fifth installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

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For sixth installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters' and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article of treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

For seventh installment for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters' and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty June ninth, eighteen hundred and fifty-five, five hundred dollars.

*Klamath and Modoc Indians.*

For first of five annual installments, to be applied under direction of the President, as per second article treaty of October fourteenth, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, eight thousand dollars.

For this amount to pay for such articles as may be advanced the Indians at the time of signing the treaty, and to subsist them during the first year after their removal to the reservation, the purchase of teams, farming implements, seeds, tools, clothing, and provisions, and salary of the necessary employes, as per third article treaty of October fourteenth, eighteen hundred and sixty-four, thirty-five thousand dollars.

For the erection of one saw-mill, one flouring-mill, buildings for the blacksmith, carpenter, and wagon and plow maker, the necessary buildings for one manual-labor school, and for hospital buildings, as per fourth article treaty of October fourteenth, eighteen hundred and sixty-four, eleven thousand three hundred dollars.

For the purchase of tools and material for saw and flour mills, carpenter, blacksmith, wagon and plow makers' shops, and books and stationery for the manual-labor school, as per fourth article treaty of October fourteenth, eighteen hundred and sixty-four, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, one thousand five hundred dollars.

For first of fifteen installments to pay salary and subsistence of one superintendent of farming, one farmer, one blacksmith, one sawyer, one carpenter, and one wagon and plow maker, as per fifth article treaty of October fourteenth, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, six thousand dollars.

For first of twenty installments to pay salary and subsistence of one physician, one miller, and two school teachers, as per fifth article treaty of October fourteenth, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, three thousand six hundred dollars.

For the erection of agency buildings, four thousand dollars.

*Miscellaneous.*

For insurance and transportation of annuity goods and provisions to the Flathead Indians for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, per fifth article treaty July sixteenth, eighteen hundred and fifty-five, eleven thousand nine hundred and twenty dollars and forty-one cents.

*Indian Service in New Mexico.*

For general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars.

*Indian Service in the District of Country leased from the Choctaws for the Indians lately residing in Texas.*

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchasing

clothing, medicine, iron, and steel, maintenance of schools for Indians lately residing in Texas, to be expended under direction of the Secretary of the Interior, twenty-two thousand eight hundred and twenty-five dollars.

*For the Wichitas and other Affiliated Bands.*

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron, and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, thirty-seven thousand eight hundred dollars.

*Miscellaneous.*

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, seven thousand five hundred dollars.

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California, fifty-five thousand dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Indian tribes in Minnesota and Michigan, twenty thousand three hundred and fifty dollars and sixty-two cents.

For insurance, transportation, and necessary expenses of the delivery of Pawnee, Ponca, and Yancton Sioux annuity goods and provisions, ten thousand dollars.

For expenses attending the vaccination of Indians, two thousand five hundred dollars.

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents (where no special provision therefor is made by treaties,) and office and traveling expenses of the superintendent and sub-agents, thirty-five thousand five hundred dollars.

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employes, fifty thousand dollars.

*Indian Service in Nevada.*

For the general incidental expenses of the Indian service in Nevada, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

*Indian Service in Utah Territory.*

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

*Indian Service in Colorado Territory.*

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

For payment of interest on fifteen thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, for the Cherokee school fund, nine hundred dollars.

For payment of interest on sixty-eight thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, of the Cherokee national fund, four thousand and eighty dollars.

*Navajo Indians in New Mexico.*

For subsistence for the Navajo Indians, and for the purchase of sheep and of agricultural implements, seeds, and other articles necessary for breaking the ground on the reservation upon the Pecos river, one hundred thousand dollars.

For payment of interest on one million six hundred and ninety thousand three hundred dollars, non-paying stock held by the Secretary of the Interior in trust for the various Indian tribes, up to and including the interest payable July first, eighteen hundred and sixty-six, one hundred thousand one hundred and fifty-three dollars.

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, one hundred thousand dollars.

*Indian Service in Idaho Territory.*

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and to sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

*Indian Service in the Territory of Arizona.*

For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

*Indian Service in Montana Territory.*

For the general incidental expenses of the Indian service in Montana Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

*California.*

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, upon each of the four reservations in California, at the rate of fifty dollars per month, twelve thousand dollars.

*Indian Service in Dakota Territory.*

For the general incidental expenses of the Indian service in Dakota Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

For the transportation and necessary expenses of delivery of provisions to the Indians within the Utah superintendency, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, twenty-two thousand five hundred dollars.

For salary of a special agent to take charge of Winnebago and Pottawatomie Indians now in the State of Wisconsin, one thousand five hundred dollars.

Sec. 2. *And be it further enacted*, That no funds belonging to any Indian tribe with which treaty relations exist shall be applied in any manner not authorized by such treaty, or by express provisions of law, nor shall money appropriated to execute a treaty be transferred or applied to any other purpose, unless expressly authorized by law.

Sec. 3. *And be it further enacted*, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five hundred thousand dol-



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lars for the payment of supplies already furnished to the destitute Indians of the southern superintendency, for removing them to their homes, and for relieving such destitute persons among said Indians as are in actual want and suffering: *Provided*, That no part of the money hereby appropriated shall be paid until a full examination shall be made by the Secretary of the Interior and the First Comptroller of the Treasury, and they shall ascertain that the money is justly and equitably due under contracts made and executed in entire good faith and for necessary supplies actually delivered to the Indians as aforesaid, at reasonable prices; and for this purpose the Comptroller is hereby authorized to take testimony and state the amount due said contractors upon principles of equity; and no money shall be paid or allowed on account of supplies furnished after the passage of this act.

SEC. 4. *And be it further enacted*, That any loyal person, a citizen of the United States, of good moral character, shall be permitted to trade with any Indian tribe upon giving bond to the United States in the penal sum of not less than five nor more than ten thousand dollars, with at least two good securities, to be approved by the superintendent of the district within which such person proposes to trade, or by the United States district judge or district attorney for the district in which the obligor resides, renewable each year, conditioned that such person will faithfully observe all the laws and regulations made for the government of trade and intercourse with Indian tribes, and in no respect violate the same: *Provided*, That the laws now in force regulating trade and intercourse with Indian tribes, affecting licensed traders, and prescribing the powers and duties of the Commissioner of Indian Affairs, superintendents, agents, and sub-agents in connection therewith, shall be continued in force and apply to traders under this provision, except as herein otherwise provided.

APPROVED, July 26, 1866.

CHAP. CCLXVII.—An Act to establish certain Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following be established as post routes:

## MAINE.

From Sherman to Houlton, in Ar[oo]stook county.

From Wilton, via Bean's Corner, to North Chesterville.

From Flag-Staff to Eustis Mills.

From Hollis to Dayton.

From Brunswick to West Harpswell.

From Porter, via North Porter, Cram's Mills, and Goshen Seminary, to Conway Centre, in New Hampshire.

## VERMONT.

From West Alburgh to Champlain, New York.

## NEW YORK.

From Rochester to Chili Centre, Monroe county.

From Lyon's Falls to Carthage.

From Sherburne, via Columbus, New Berlin, and Oneonta, to Albany.

From Schurours, Otsego county, via Fergussonville, Davenport, and West Kortright, to Bloomville, Delaware county.

From Morris, Otsego county, via New Berlin, Chenango county, to Norwich.

From Delhi, via Elk Creek, Hartwright, and Charlotte Creeks, Meredith and Davenport, to Oneonta, Otsego county.

From Unadilla to Oxford.

From Norwich to Sidney Plains.

From Lockport, Niagara county, via Corners and Maple Street, to Wilson.

From Norwich to Morris.

From North Petersburg Station, via Peters-

burg, Four Corners, and Petersburg, to South Petersburg.

From Smyrna, via Sherburn, Columbus, and New Berlin, to Oneonta.

From Bainbridge, via Guilford and Oxford, to Norwich.

From Plymouth, via Beaver Meadow, to South Ostelic.

From Russell, via Monterey and Clifton Iron Works, to Harewood.

From Oxford to Unadilla.

From Crown Point Centre, via Hammond's Furnace, to Schroon Lake.

From Holland Patent to Big Brook, Oneida county, by way of Steuben.

## PENNSYLVANIA.

From West Chester to Downingtown.

From Pottsville to Shenandoah.

From Lincolnville to Miller's Station.

From Oldforge to Factoryville.

From Johnstown to Shade Gap.

From Gordonsville to Intercourse.

From Westminster to Southampton.

From Mount Union, via Litz store, to Mount Tare factory.

From Quakertown, via Milford Square, Spinnerstown, and Gory's, to Pennsburg.

From Farmington to Brandonville, Virginia.

From Barry's to Weishamptown.

From Oil City, via Oleopolis, to Pithole.

From Sartwell, McKean county, to Forrest House, Potter county.

From Erie, via Wattsburg, to Union Mills.

From Tionesta, in Venango county, to Foxborough, in Forrest county.

From West Decatur, via Clearfield Bridge, to Curwensville.

From Germany to Warren.

From Stevens, via Schoen Creek, and Reinholdsville, to Cocalico, and return to Stevens, via Schoeneck.

From Leopard to Reesville.

From Downingtown, via Brooklyn, Comog, Moorestown Station, and Barnestown Station, to Waynesburg.

From New Bloomfield to Mannsville.

From Ridgway to Shawmut.

From Cove Station, Huntington county, to Martinsburg, Blair county.

From Three Springs to Mount Union, in Huntington county.

From West Chester, via McCall's Boot Road Station, to West Chester Intersection.

From Bethel, via Crosskill Mills, and Mount Aetna, in county of Berks, to Myerstown in the county of Lebanon, State of Pennsylvania.

## MARYLAND.

From Dublin to Rising Sun.

From Ellicott's Mills to Brightown.

## DELAWARE.

From Wyoming, via Lebanon, to Magnolia.

## WEST VIRGINIA.

From Flemington, Taylor county, via Fairview, Noah Smith's, and Fairfield, to Maxwell's Mills.

From Arnoldsburg to Webb's Mills.

From Elm Grove to Dallas.

From Grafton to Belington.

From Mount Hebron to Mouth of Seneca.

From Franklin to Mount Freedom.

From Saint Mary's to Hebron.

## OHIO.

From Logan to East Rush Creek.

From Sparta to Middletown.

From Mount Vernon, via Sparta, Marengo, Macon, and Bennington, to Ashley.

From Beverly, via Dunganon and Kuths, to Sharon.

From Salem to Carrollton.

From Hamden, via Eagle Furnace, Wilkersonville, Ewington, Vinton, and Pine Grove, to Gallipolis.

From Ripley to Bradysville.

From Carrollton, by way of Cabell, Augusta, Maysville, Hanoverton, to Salem.

## INDIANA.

From Mechanicsburg to Middletown.

From Rockville to Covington.

From Jervis, via Hamilton, Alverdale, Metz, Fish Creek, and York Centre, to Camden, in Michigan.

From Augusta Station, via Traders' Point, to Royalton.

From Fairland, via Cyrenius Bishops, Roseburgs, Fountaintown, and Smiths, to Greenfield.

From Philadelphia to New Palestine and Sugar Creek.

From Covington to State Line, in Warren county.

From Jasper to Lynnvill.

From Milroy to Greensburg.

From Fort Wayne, via Saint Vincent, and Oil Ridge, to Auburn.

## ILLINOIS.

From Princeton to Walnut.

From Antioch, via Liberty, to Salem, in Kenosha county, Wisconsin.

From Edwardsville to Troy.

From Blackberry to Hustling's Station.

From Dunleath, via Fairplay, Jamestown, Big Rutch, and Swetzer's Grove, to Platterville, in Wisconsin.

From Lancaster, via Annoton, to New California, in Grant county, Wisconsin.

From Cedar Bluff, via Mount Pleasant, to Mosco.

From Manchester, via Winchester, to Florence.

From McLeansboro, via Belle Prairie, Long Prairie, and Keeneville, to Henia.

From Chili to Bowsenburg.

From Gardner, via Mazou, Highland, Vienna, and Bruce, to Tonica.

From Bedford to Pearl.

From Virders to Taylorsville.

From Danville to Reesville.

From Pilot Grove to Denham.

From Decatur to Newburg.

From McLeansboro, via Buck, to Fairfield.

From Louisville to Henia.

From Teutopolis to Veni.

From Webb's Prairie, via Henning's Store, to Moore's Prairie.

From Florence, Illinois, by Winchester, to Manchester.

## MICHIGAN.

From Pontiac to Rochester.

From Bristol, in Indiana, via Union, Osburn's Mills, and Brownsville, to Cassapolis, in Cass county, Michigan.

From Buchanan, via Wesaw and New Troy, to Laketown.

From Decatur, via Prospect Lake, to Lawrence.

From Easton Rapids, via Spicersville, Brookfield, and Walton, to Olivet.

From Niles, via Berrien Centre, Eau Claire, Pipestone, Sodus, and Benton Harbor, to Saint Joseph.

From Holly to New Hudson.

From Vermontville to Barrysville.

From Sylvania, Lucas county, Ohio, to Whitesford Centre, Michigan.

From Big Rapids, Mecosta county, via Rogers's Bridge, Satterley's Mill, and Cato, to Stanton, in Montcalm county.

From Stanton to Mill Brook.

From Ionia, via Smyrna, to Greenville.

From Newaygo to Mears.

From Holland, via Zeeland, Wiesland, and Jamestown, to Grand Rapids.

From Manistee to Stronach.

From Newaygo, via Fremont Centre, Greenwood, and Elbridge, to Pent Water.

From Croton to Traverse City.

From Newaygo, via Bridgeton, to Minke-

yon.

From Pontiac, via Rochester and Mount Vernon, to Romeo.

From Paw Paw, via New State Road, to Allegan.

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*Laws of the United States.*

From Allison to Newman.  
From Coldwater, via Orangeville and Union, City, to Athens.  
From Stanton to Mount Pleasant.

## MISSOURI.

From Brunswick, via Brookfield, Northcut, Milan, and Unionville, to Centerville, in Iowa.  
From Keytsville, via Bucklin, Strickerville, Greencastle, and Unionville, to Centerville, in Iowa.

From Jefferson to Louisiana.  
From Unionville, Putnam county, via Greencastle, and Strickerville, to Pennsville, thence via New Boston, Buckland, to Hannibal and Saint Joseph Railroad.

From Patterson to Doniphan.  
From Quincy to Stockton.  
From Mount Vernon, via Spring River Academy, Golden Grove, Lamar, Baker's Grove, and Washington Adams, to Fort Scott, in Kansas.

From Savannah, via Maryville, Bedford, and Afton, to Winterset, in Iowa.  
From Saint Joseph, via Rochester, Albany, Eagle, Leon, Osceola, Indianola, to Des Moines, in Iowa.

From Hamilton, via Gallatin, Salem, and Bethany, to Eagle.  
From Chillicothe, via Trenton and Princeton, to Leon, in Iowa.

From Brunswick, via Compton's Ferry, to Chillicothe.

From Bucklin, via New Boston, Pleasantville, Birdseye Bridge, Greencastle, to Cincinnati and Centerville, Iowa.

From Trenton, via Buttsville, Modena, and Burr Oak, to Mine [Nine] Eagles.

From Pattonsburg to Albany.  
From Forest City, via Rush Bottom, Lowell, Hemmes Landing, Sonora, and Linden Landing, to Sidney, in Iowa.

From Princeton, via Ravenna, Cleopatra, and Warsaw, to Corydon, in Iowa.

From Fort Scott to Neosho.

From Sedalia, via Calhoun, Clinton, Osceola, Humansville, Stockton, Greenfield, Bowers's Mills, Sarcxie, Newtonia, and Granby, to Neosho.

From Perryville to Buhle's Store.

From Bloomfield to Kennett.

From Beech to Fourmile.

From Glasgow, via Salisbury, to Callao.

From Gallatin to Leon, Iowa.

From Bethany, via Cameron, to Kansas City.

From Pleasant Hill, via Aubery, in Kansas, Paola, and Staunton, to Ottowa.

From Pleasant Hill, via Bloomington, to Mound City, Kansas.

From Harmony to Potosi.

From Terre Haute, in Missouri, via Ayersville and Warsaw, to Corydon, in Iowa.

## MINNESOTA.

From Dunleath to Vermillion Lake.

From Forest City, via Kimball's Prairie and Maine Prairie, to Saint Cloud.

From Monticello, via Buffalo, Chatham, and Waverly, to Middleville.

From Monticello, via Silver Creek and Corinna, to Fair Haven.

From La Morille, via Pickwick and S. C. Dicks's, to La Crescent.

From Shakopee to Excelsior.

From Mantorville, via Vernon, Waltham, and Mower City, to Austin.

From Buffalo, by Maple Lake, to Fair Haven.

From Saint Charles to Quincy.

From La Suer to Cordova.

From Saint Peter's, Scandian Grove, and Sibley, to Henderson.

From Rushford to Preston.

From Chaska to Saint Bonifacius.

From West Albany, via Read's Ford, to Forest Mound.

From Wabasha to Forest Mound.

From Pedler's Grove to Garden City.

From Red Wing, via Mazeppa, to Rochester.

From Minneaska, via East Indian Creek and Read's Ford, to Mazeppa.

From Buffalo, via Maple Lake, to Fair Haven.

## IOWA.

From Blakesburg to Moravia.

From Des Moines to New Jefferson.

From Sigourney to Askaloosa.

From Towden, via Oxford Mills and Scotch Grove, to Monticello.

From Helena R. R. Station, via Eureka and Kent's Ridge, to Brooklyn.

From Dennison to Magnolia.

From Des Moines to Saint Joseph, Missouri.

From Fort Dodge, via Dakota, Wancosta, Fern Valley, and Emmetsburg, to Estherville.

From Newbury, via Hartland and Bristol, to Northwood.

From Northwood to Mason City.

From Northwood, via Gordonville and Shellrock, to Albert Lea, in Minnesota.

From Burlington, via Toolesboro, to Port Louisa.

From Osceola, via La Salle, to Hopeville.

From Burlington, via Port Louisa and Grandview, to Ononcia.

From Vernon, via Mount Sterling and Upton, to Memphis.

From Rockford, via Rock Grove City, Nora Springs, Shell Rock Falls, and Plymouth, to Northwood.

From Boonsboro, via Dennison, Paradise, Olmstead, and Whitesboro, to Saint John.

From Guttenburg, via Elkport and Littleport, to Strawberry Point.

From Nevada, via Iowa Centre, Peoria, and Greencastle, to Colfax.

From Grundy Centre, via Parkersburg, Butler Centre, West Point, and Coldwater, to Marble Rock.

From Wheatland, via Toronto and Burgess, to Monmouth.

From Webster to Luni.

From Sigourney to Montezuma.

From Iona to New Hartford.

From Winterset to Fort Des Moines.

From Postville, via Sybrand [Lybrand] and Ludlow, to Waukon.

From West Union, via Fredericksburg, Williamstown, and Bradford, to Nashua.

From Centreville, via Cincinnati, Unionville, Pennville, Greencastle, Birdseye Ridge, Pleasantville, New Boston, Bucklin, Westville, to Keitsville.

From Onawa, to Section Eight, township eighty-five.

From Des Moines, via Hickory Grove, Palestine, Ames, Blinkson, and Saratoga, to Webster City.

From Winterset, via Afton, Bedford, and Maryville, to Savannah, in Missouri.

From Postville to Waukon.

From Panora, via Dale City, to Fontanelle.

From Des Moines, via Pilot Grove and Macksville, to Lewis.

From Algona, via Armstrong's Grove and Mud Lakes, to Estherville.

From Parkersburg to Marble Rock.

From Marion to Winthrop.

From Eldoria, via Point Pleasant, to Tipton.

From Recerville, via Wentworth, to Le Roy, in Minnesota.

From Des Moines, via Chariton, Corydon, and Linersville, to Chillicothe, in Missouri.

From Postville to Wauken.

From Lewis, via Red Oak Junction, to Sidney.

From Vernon to Memphis, Missouri.

From Germanville to Coalport.

From Grinnell to New Hartford.

From Homestead to Little City.

From Marshalltown, via Timber Creek and College Farm, to Newton.

From New Oregon to Austin, Minnesota.

From Clio to Iowa Centre.

From Pottsville to Wauken.

From New Oregon, via Vernon Springs, Line Springs, Glen Rock, and Eatonville, in Iowa, and La Roy, in Minnesota, to Austin, Minnesota.

From Brighton, via Germanville, Salina, to Glendale.

From Menomonee, via Mill Spring and Plumb city, to Maiden Rock.

From Ettrick to Mehone.

From Richland Centre, via Boaz, Bradeys, Yankeetown, Rising Sun, and Alexander's Mills, to De Sota.

From Princeton, via Germania, to Montelle.

From Pella to Shawnee.

From Woodman, via Millerville, Mount Hope, and Tafton, to Beetown.

From Port Washington to Wabacca.

From Maysville to Theresa.

From Trempealeau, via Arcadia, Burnside, and Hale, to Sumner.

From Friendship, via Arcade, to Barnum.

From Manston to Warner.

From River Falls to Brookville.

From Melrose to Sparta.

From Alma to Durana.

From White Creek, via Easton, Arcade, Woodworth, and Point Basel, to Plover.

From Denison to Ida.

## WISCONSIN.

From Dunleith, Illinois, to Platteville, Wisconsin.

From Woodman, by Millville, Mount Hope, and Tayton, to Beetown.

From Richland Centre, by Boaz, Brady's Rows, Yanktown, Towerville, Rising Sun, and Alexander's Mill, to De Sota.

From Wilson's Creek, by Black Hawk, to Sauk City.

## CALIFORNIA.

From San Buenaventura, via Ojai, to Camulas.

From Oisalia, via Fort Tejon, to Bakersfield.

From Red Bluff, via Nome Lackee, to Coast Range.

From Cloverdale, via Uncle Sam, Lower Lake, and Lake Port, to Upper Lake.

From Susansville to Taylorsville.

From Fort Bidwell to Susansville.

From Fort Bidwell to Pueblo.

From Taylorville to Carner Place.

From Chico to Colusa.

From Colusa, via Antelope Valley, Bear Valley, and Sulphur Springs, to Lakeport.

From Oak Creek to Independence.

From Suisun City, Solano county, via Gordon Valley, Rag Cannon, and Berryessa Valley, to Lower Lake, in Lake county.

From Smith's Ranch, via Caffey's Cave, Casper Creek Mills, Noyo Mills, Ten Mile River, Bear Harbor, Shelter Cove, and Upper Mattole, to Lower Mattole.

## KENTUCKY.

From Horse Kane to Bucksville.

From Augusta, via Brookville, Powersville, Petra, Milford, to Claysville.

From Richmond to Lexington.

From Irvine to McKee.

From Cattlesburg, via Canonsburg, Botts Fork, Sulphur Spring, and Cherokee, to Blair.

From Somerset to Knorville.

From Beattysville to Thompsonville.

## MONTANA TERRITORY.

From Virginia City, via Formans, Fosters, and Boreman's City, to Yellowstone City.

From Crossing of Gallatin at Foster's farm, to Gallatin City.

## WASHINGTON TERRITORY.

From Seattle, via Tree Posts, Pass Blakeley, to Pass Orchard.

## DAKOTA TERRITORY.

From Fort Randall to Fort Sully.

From Sioux Falls to Ponca.

From Fort Wadsworth to Devil's Lake.

## OREGON.

From Dallas City, via Selilo, Umatilla, Wallula, to Walla-Walla.

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## UTAH TERRITORY.

From Logan to Dexton.  
From Huntsville to Bennington.  
From Logan to Oxford.  
From Nephi to Saint George, via Severe Valley and Fort Gunnison.

## KANSAS.

From Paoli, via Miami, Madora, to Bloomington Grove.  
From Humboldt, via Coonville, Lightning Creek Valley, Chetopah, Cabin Creek, Alburdes, to Fort Gibson.  
From Ottawa to Mound City.  
From Cottonwood Falls to Lincolnville.  
From Wathena, via Columbus, to Iowa City Point.

## NEVADA.

From West Gate to Ione.  
From Austin to Unionville.  
From Austin, via Pahrnagat and Callville, to Fort Mojave.

## NEW JERSEY.

From Woodmansee to Mannahawkin.

## NEBRASKA TERRITORY.

From Dakota City to Yanceton, in Dakota Territory.  
From Plattsmouth to Columbus.  
From Ponca to Fremont.  
From Saint John's, Iowa, via De Soto and Fontanelle, Nebraska, to Buchanan, Nebraska.  
From Brownsville to Table Rock, Nebraska.  
From Brownsville to Grant, Nebraska.  
From Fremont, via Jalappa, Saint Charles, Greenwood, West Point, and Rock Creek, to South Fork of Elk Horn.

## IDAHO TERRITORY.

From Idaho City to Rocky Bar.  
From Ruby City, via Puebla Valley, to Chico, in California.  
From Ruby City to Jacksonville, in Oregon.  
From Placerville, via Warren's Diggings, to Florence.  
From Boise City, via Old Fort Boise, to Clanton City, in Oregon.  
From Idaho City to Silver City.

## MONTANA TERRITORY.

From Helena to Wallula.  
From Wallula to Seattle.  
From Kalmiche to Elma.  
From Jefferson's Crossing, via Silver Prow City and Deer Lodge City, to Blackfoot.  
From Helena to Diamond City.  
From Helena, via Blackfoot, to Hell Gate.  
From Virginia City, via Sterling and Garfield, to Gallatin City.  
From Gallatin City to Boreman.  
From Helena, via Dearborn and San River Farm, to Fort Benton.  
From Diamond City to Fort Benton.  
From Junction, via on Salt Lake Road, via Cut Off, to Virginia City.  
From Hell Gate to Flat Head.  
From Virginia City to Fort Sully, in Dakota Territory.  
From Helena, via Fort Laramie and Fort Reno, to New Fort Kearney, in Nebraska Territory.  
From Helena to Blackfoot City.  
From Bannock City, via German Gulch, to French Gulch.  
From Bannock City to Montana City, on Rattlesnake Creek.  
From Virginia City, via Silver Bow, Deer Lodge City, and Hell Gate, to Fort Owens, in Bitter Root Valley.

## DAKOTA TERRITORY.

From Panca Agency to Chateau.  
From Fort Sully to Virginia City, in Montana Territory.

## INDIAN TERRITORY.

From Fort Gibson, via Creek Agency, to Seminole Agency.

APPROVED, July 26, 1866.

CHAP. CCLXVIII.—An Act in Relation to the Appointment of Clerks to the Courts of Washington Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each judge of the district court shall appoint a clerk for each court in his district, who shall reside and keep his office at the place of holding said court, and exercise the powers now provided by law for the clerk of the supreme court of the Territory of Washington, and be subject to all provisions of law, not inconsistent with this act, applicable to the clerk of said supreme court.

APPROVED, July 26, 1866.

CHAP. CCLXIX.—An Act to provide for and to regulate the Weighing of Exports, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon all weighable articles hereafter exported, upon which a drawback or return duty is allowed, and upon all weighable goods withdrawn from bonded warehouses for export, there shall be levied and collected, by the collectors of the several ports, three cents per hundred pounds, to be determined by the returns of the weighers.

SEC. 2. *And be it further enacted,* That the office of measurer at the port of New York is hereby abolished, and the duties heretofore performed by them shall be performed by the weighers.

SEC. 3. *And be it further enacted,* That the weighers at the port of New York shall receive, from and after the passage of this act, an annual salary of twenty-five hundred dollars: *Provided,* That the increase of compensation, over and above the present salary of said officers, shall not exceed, in any fiscal year, the amount of fees earned by them.

APPROVED, July 26, 1866.

CHAP. CCLXX.—An Act granting Lands to the State of Kansas to aid in the Construction of a southern Branch of the Union Pacific Railway and Telegraph, from Fort Riley, Kansas, to Fort Smith, Arkansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the purpose of aiding the Union Pacific Railroad Company, southern branch, the same being a corporation organized under the laws of the State of Kansas to construct and operate a railroad from Fort Riley, Kansas, or near said military reservation, thence down the valley of the Neosho river to the southern line of the State of Kansas, with a view to an extension of the same through a portion of the Indian Territory to Fort Smith, Arkansas, there is hereby granted to the State of Kansas, for the use and benefit of said railroad company every alternate section of land or parts thereof designated by odd numbers, to the extent of five alternate sections per mile on each side of said road and not exceeding in all ten sections per mile; but in case it shall appear that the United States have, when the line of said road is definitely located, sold any section, or any part thereof, granted as aforesaid, or that the right of pre-emption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to the sections above specified, so much land as shall be equal to the amount of such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or pre-emption has attached as aforesaid, which lands, thus indicated by

the direction of the Secretary of the Interior, shall be reserved and held for the State of Kansas for the use of said company by the said Secretary for the purpose of the construction and operation of said railroad, as provided by this act: *Provided,* That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way, two hundred feet in width, is hereby granted, subject to the approval of the President of the United States: *And provided further,* That said lands hereby granted shall not be selected beyond twenty miles from the line of said road.

SEC. 2. *And be it further enacted,* That the sections and parts of sections of land which by the aforesaid grant shall remain in the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold: *Provided,* That actual bona fide settlers under the pre-emption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *Provided, also,* That settlers under provisions of the homestead act, who make their settlement after the passage of this act and comply with the terms and requirements of said act, shall be entitled, within the said limits of ten miles, to patents for an amount not exceeding eighty acres each.

SEC. 3. *And be it further enacted,* That the grant of lands hereby made is upon condition that said company, after the construction of its road, shall keep it in repair and use, and shall at all times transport troops, munitions of war, supplies, and public stores upon its road for the Government of the United States, free from all cost or charge therefor to the Government, when required to do so by any department thereof. And the lands hereby granted shall inure to the benefit of said company, as follows: when the Governor of the State of Kansas shall certify that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the said Secretary of the Interior shall issue to the said company patents for so many sections of the land herein granted within the limits above named, and coterminous with said completed section hereinbefore granted; and when certificates of the Governor aforesaid shall be presented to said Secretary of the completion, as aforesaid, of each successive section of ten consecutive miles of said road, the said Secretary shall in like manner issue to said company patents for the land for each of said sections of road as in the first instance, until said road shall be completed: *Provided,* That if said road is not completed within ten years from the date of the acceptance of the grant hereinbefore made, the lands remaining unpatented shall revert to the United States.

SEC. 4. *And be it further enacted,* That as soon as said company shall file with the Secretary of the Interior maps of its line, designating the route thereof, it shall be the duty of said Secretary to withdraw from the market the lands granted by this act, in such manner as may be best calculated to effect the purposes of this act and subserve the public interest.

SEC. 5. *And be it further enacted,* That the United States mail shall be transported on said road, and under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided,* That until such price is fixed by law the Postmaster General shall have power to fix the compensation.

SEC. 6. *And be it further enacted,* That the



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right of way through the public lands be, and the same is hereby, granted to said Pacific Railroad Company, southern branch, its successors and assigns, for the construction of a railroad as proposed: and the right is hereby given to said corporation to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also all necessary ground for station buildings, workshops, depots, machine-shops, switches, sidetracks, turn-tables, and water-stations.

SEC. 7. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Pacific Railroad Company, southern branch, shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act, and not afterwards, and shall be deposited with the Secretary of the Interior.

SEC. 8. *And be it further enacted*, That said Pacific Railroad Company, southern branch, its successors and assigns, is hereby authorized and empowered to extend and construct its railroad from the southern boundary of Kansas, south through the Indian Territory, with the consent of the Indians, and not otherwise, along the valley of Grand and Arkansas rivers, to Fort Smith, in the State of Arkansas; and the right of way through said Indian Territory is hereby granted to said company, its successors and assigns, to the extent of one hundred feet on each side of said road or roads, and all necessary grounds for stations, buildings, workshops, machine-shops, switches, sidetracks, turn-tables, and water-stations.

SEC. 9. *And be it further enacted*, That the same grant[s] of lands through said Indian Territory are hereby made as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act: *Provided*, That said lands become a part of the public lands of the United States.

SEC. 10. *And be it further enacted*, That said Pacific Railroad Company, southern branch, its successors and assigns, shall have the right to negotiate with, and acquire title to land for railroad purposes from, any Indian nation or tribe authorized by the United States to dispose of lands, and from any other nation or tribe of Indians through whose lands said railroad may pass, subject to the approval of the United States, or from any company or parties incorporated or authorized for such purposes, by such nation or tribe, or which such parties may have acquired under the laws of the United States.

SEC. 11. *And be it further enacted*, That any railroad company chartered under any law of the United States, or of any State which may have been heretofore or shall hereafter be organized by any act of the Congress of the United States, may connect, unite, and consolidate with this railroad company, after the same shall be located to the valley of the Neosho or Grand river, upon just, fair, and equitable terms, to be agreed upon between the parties, as shall not be against the public interest, or the interest of the United States.

APPROVED, July 26, 1866.

CHAP. CCLXXVII.—An Act to incorporate the Washington Temperance Society of the City of Washington, District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That John S. Hollingshead, William G. Flood, Christopher Cammack, senior, Asbury Lloyd, John B. Wheeler, Zach. B. Brooke, Ros. A. Fish, George W.

Mahe, Wm. P. Drew, Wm. H. Nally, Thomas B. Marche, Oscar Alexander, William Dixon, and others who now are or may hereafter become members of said society, and their successors, are hereby declared to be one community and body corporate by the name, style, and title of the Washington Temperance Society of Washington City and District of Columbia; and by that name they shall be, and are hereby, made able and capable in law to have, receive, and retain to them and their successors property real and personal, also devises and bequests of any person or persons, bodies corporate or politic, capable of making the same, and the same to dispose of or transfer at their pleasure in such manner as they may think proper: *Provided always*, That the said corporation shall not at any time hold or possess property, real, personal, or mixed, exceeding in value the sum of twenty-five thousand dollars, other than that which may be invested in a hall to be erected for the purposes of the society.

SEC. 2. *And be it further enacted*, That the said corporation and their successors, by the name and title aforesaid, shall be capable in law to sue and be sued, plead and beimpleaded, answer and be answered unto, defend and be defended, in all or any courts of justice, and before all and any judges, officers, or persons whatsoever, in all and singular actions, matters, or demands whatsoever.

SEC. 3. *And be it further enacted*, That the said corporation shall have power to hold stated meetings; to establish and put into execution, alter or abolish such by-laws, rules, and regulations as to them shall seem most conducive to the interests of the society: *Provided*, That the same shall not be contrary to the laws of the United States.

SEC. 4. *And be it further enacted*, That nothing in this act shall be so construed as to authorize the said corporation to issue any note, token, device, or other evidence of debt to be used as a currency.

SEC. 5. *And be it further enacted*, That this act may be altered or repealed at the pleasure of the Congress.

APPROVED, July 27, 1866.

CHAP. CCLXXVIII.—An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That John B. Brown, Anson P. Morrill, Samuel F. Hersey, William G. Crosby, Samuel E. Spring, Samuel P. Dinsmore, of Maine; N. S. Upham, Frederick Smyth, Onslow Stearns, S. G. Griffin, William E. Chandler, of New Hampshire; T. W. Parke, H. H. Baxter, John Gregory Smith, A. P. Lyman, of Vermont; Walter S. Burges, William S. Slater, Stephen Harris, Thomas P. Shepard, of Rhode Island; William Merritt, Alexander H. Bullock, George L. Stearns, Genery Twitchell, Charles H. Warren, Chester W. Chapin, of Massachusetts; John Boyd, Robert C. Wetmore, John T. Wait, Cyrus Northrop, of Connecticut; Solon Humphreys, J. Bigler, Homer Ramsdell, Isaac H. Knox, John A. C. Gray, Daniel L. Ross, A. V. Stout, M. K. Jessup, R. E. Fenton, E. L. Fancher, J. C. Fremont, James Hoy, Jesse M. Bolles, Edward Gilbert, James P. Robinson, Oliver C. Billings, of New York; Charles Bachelor, John Edgar Thompson, Morton McMichael, T. Haskins Du Puy, Thomas A. Scott, Charles Ricketson, William Lyon, George W. Cass, Levi Parsons, of Pennsylvania; Charles Knap, J. L. N. Stratton, James B. Dayton, Robert F. Stockton, Alexander G. Cattell, A. W. Markley, of New Jersey; John W. Garrett, Charles J. M. Gwinn, Robert Fowler, Jacob Tome, Thomas M. Latham, of Maryland; Charles J. Dupont, Henry Ridgley, Andrew C. Gray, Nat. Smythers, of

Delaware; Bellamy Storer, George B. Senter, William Baker, Samuel Galloway, David Tod, Charles Anderson, Bird B. Chapman, Edward Sturgis, Israel Dille, of Ohio; Edwin Peck, William D. Griswold, James P. Luse, Samuel E. Perkins, Conrad Baker, of Indiana; Richard J. Oglesby, N. B. Judd, Samuel A. Buckmaster, D. L. Phillips, L. P. Sanger, of Illinois; Eber B. Ward, Omar D. Congar, Nathaniel W. Brooks, Alexander H. Morrison, of Michigan; Z. G. Simmons, Alexander Mitchell, J. J. Williams, G. A. Thompson, J. J. R. Pease, John H. Hersey, of Wisconsin; Henry A. Smith, Sherman Finch, William Mitchell, R. F. Crowell, L. F. Hubbard, E. F. Drake, of Minnesota; Lyman Cook, Platt Smith, Jacob Butler, Henry I. Reid, Hoyt Sherman, of Iowa; William G. Brownlow, of Tennessee; Thomas C. Fletcher, B. R. Bonner, John M. Richardson, Emil Pretorius, E. W. Fox, R. J. McElheny, Charles H. Howland, Madison Miller, George W. Fishback, T. J. Hubbard, George Knapp, Charles K. Dickson, A. G. Braun, G. L. Hewitt, P. A. Thompson, James W. Thomas, Charles E. Moss, Edward Walsh, A. R. Easton, Truman J. Horner, J. B. Eads, D. R. Garrison, W. A. Kayser, George P. Robinson, of Missouri; Thomas E. Bramlette, Benjamin Gratz, C. E. Warren, Lazarus W. Powell, John Mason Brown, Joshua Speed, of Kentucky; Solon Thatcher, Jacob Stotter, William B. Edwards, James G. Blunt, Robert McBratney, of Kansas; Harrison Hagaus, James Cook, Robert Crangle, Benjamin H. Smith, of West Virginia; Lorenzo Sherwood, A. J. Hamilton, of Texas; William Gilpin, Henry C. Leach, of Colorado; Phineas Banning, Timothy G. Phelps, William B. Carr, Edward F. Beale, Fred. F. Lowe, Benj. B. Redding, B. W. Hathaway, Leonidas Haskell, Frederick Billings, of California; W. S. Ladd, J. R. Moores, Walter Monteith, John Kelly, B. F. Dowell, of Oregon; James L. Johnson, Henry Connolly, Francis Perea, of New Mexico; J. H. Mills, A. P. K. Safford, E. S. Davis, of Nevada; King S. Woolsey, William H. Hardy, Coles Bashford, of Arizona; Henry D. Cooke, of the District of Columbia; and all such other persons who shall or may be associated with them, and their successors, are hereby created and erected into a body corporate and politic, in deed and in law, by the name, style, and title of the "Atlantic and Pacific Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and beimpleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal. And said corporation is hereby authorized and empowered to lay out, locate, and construct, furnish, maintain, and enjoy, a continuous railroad and telegraph line, with the appurtenances, namely: beginning at or near the town of Springfield, in the State of Missouri, thence to the western boundary line of said State, and thence by the most eligible railroad route as shall be determined by said company to a point on the Canadian river, thence to the town of Albuquerque, on the river Del Norte, and thence, by way of the Agua Frio, or other suitable pass, to the headwaters of the Colorado Chiquito, and thence, along the thirty-fifth parallel of latitude, as near as may be found most suitable for a railway route, to the Colorado river, at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific. The said company shall have the right to construct a branch from the point at which the road strikes the Canadian river eastwardly, along the most suitable route as selected, to a point in the western boundary line of Arkansas, at or near the town of Van Buren. And the said company is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act, as herein set forth. The capital stock of said company shall consist of one

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million shares of one hundred dollars each, which shall in all respects be deemed personal property, and shall be transferable in such manner as the laws of said corporation shall provide. The persons hereinbefore named are hereby appointed commissioners, and shall be called the board of commissioners of the "Atlantic and Pacific Railroad Company," and fifteen shall constitute a quorum for the transaction of business. The first meeting of said board of commissioners shall be held at the Turner Hall, in the city of Saint Louis, on the first day of October, anno Domini eighteen hundred and sixty-six, or at such time within three months thereafter as any ten commissioners herein named from Missouri shall appoint, notice of which shall be given by them to the other commissioners by publishing said notice in at least one daily newspaper in the cities of Boston, New York, Cincinnati, Saint Louis, Memphis, and Nashville, once a week for at least four weeks previous to the day of meeting. Said board shall organize by the choice from its number of a president, vice president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof, as they may deem proper. The secretary shall be sworn to the faithful performance of his duties, and such oath shall be entered upon the records of the company, signed by him, and the oath verified thereon. The president and secretary of said boards shall, in like manner, call all other meetings, naming the time and place thereof. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times and in such principal cities or other places in the United States as they or a quorum of them shall determine, within twelve months after the passage of this act, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions, and to receipt therefor. So soon as ten thousand shares shall in good faith be subscribed for, and ten dollars per share actually paid into the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each State in which subscription books have been opened, at least fifteen days previous to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by lawful proxy, then and there shall elect, by ballot, thirteen directors for said corporation; and in such election each share of said capital stock shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners, and in case of their absence or inability any two of the officers of said board, shall act as inspectors of said election, and shall certify, under their hands, the names of the directors elected at said meeting. And the said commissioners, treasurer, and secretary shall then deliver over to said directors all the moneys, properties, subscription books, and other books in their possession, and thereupon the duties of said commissioners and the officers previously appointed by them shall cease and determine forever, and thereafter the stockholders shall constitute said body politic and corporate. Annual meetings of the stockholders of the said corporation for the choice of officers. (when they are to be chosen,) and for the transaction of business, shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

SEC. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to the said Atlantic and Pacific Railroad Company, its successors and assigns, for the construction of a railroad and telegraph as proposed; and the right, power, and authority is hereby given to said

corporation to take from the public lands adjacent to the line of said road material of earth, stone, timber, and so forth, for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary grounds for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations; and the right of way shall be exempt from taxation within the Territories of the United States. The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the Indians, and only by their voluntary cession, the Indian title to all lands falling under the operation of this act and acquired in the donation to the road named in the act.

SEC. 3. *And be it further enacted*, That there be, and hereby is, granted to the Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights, at the time the line of said road is designated by a plat thereof, filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers: *Provided*, That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided further*, That the railroad company receiving the previous grant of land may assign their interest to said "Atlantic and Pacific Railroad Company," or may consolidate, confederate, and associate with said company upon the terms named in the first and seventeenth sections of this act: *Provided further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided: *And provided further*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said "Atlantic and Pacific railroad."

SEC. 4. *And be it further enacted*, That whenever said Atlantic and Pacific Railroad Company shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, who shall be paid a reasonable compensation for their services by the company, to be

determined by the Secretary of the Interior; and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report under oath, to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company, conforming to said company the right and title to said lands situate opposite to and conterminous with said completed section of said road. And from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the President of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid, and so on as fast as every twenty-five miles of said road is completed as aforesaid.

SEC. 5. *And be it further enacted*, That said Atlantic and Pacific railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turn-outs, stations, and watering-places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established throughout the entire length of the road. And there shall be constructed a telegraph line, of the most substantial and approved description, to be operated along the entire line: *Provided*, That the said company shall not charge the Government higher rates than they do individuals for like transportation and telegraphic service. And it shall be the duty of the Atlantic and Pacific Railroad Company to permit any other railroad which shall be authorized to be built by the United States, or by the Legislature of any Territory or State in which the same may be situated, to form running connections with it, on fair and equitable terms.

SEC. 6. *And be it further enacted*, That the President of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale or entry, or preemption, before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, eighteen hundred and forty-one, granting preemption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company.

SEC. 7. *And be it further enacted*, That the said Atlantic and Pacific Railroad Company be, and is hereby, authorized and empowered to enter upon, purchase, take, and hold any lands or premises that may be necessary and proper for the construction and working of said road, not exceeding in width one hundred feet on each side of the line of its railroad, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station houses, or any other structures required in the construction and working of said road. And the said company shall have the right to cut and remove trees and other material that might, by falling, encumber its road-bed, though standing or being more than two hundred feet from the line of said road. And in case the owner of such lands or premises

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and the said company cannot agree as to the value of the premises taken, or to be taken, for the use of said road, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by either party to any court of record in any of the Territories in which the lands or premises to be taken lie; and said commissioners, in their assessment of damages, shall appraise such premises at what would have been the value thereof if the road had not been built. And upon return into court of such appraisal, and upon the payment into the same of the estimated value of the premises taken for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved at said appraisal may, within thirty days after the same has been returned into court, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such an appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary and proper in the construction of its road. And said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any cost that may arise upon such appeal; and in case the party appealing does not obtain a verdict more favorable, such party shall pay the whole cost incurred by the appellee, as well as his own, and the payment into court, for the use of the owner of said premises taken, at a sum equal to that finally awarded, shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintenance, and operation of said road. And in case any of the lands to be taken as aforesaid shall be held by an infant, femme covert, non compos, insane person, or persons residing without the Territory within which the lands to be taken lie, or persons subjected to any legal disability, the court may appoint a guardian, for any party under any disqualification, to appear in proper person, who shall give bonds, with sufficient surety or sureties, for the proper and faithful execution of his trust, and who may represent in court the person disqualified, as aforesaid, from appearing, when the same proceedings shall be had in reference to the appraisal of the premises to be taken for the use of said company, and with the same effect as has been already described; and the title of the company to the lands taken by virtue of this act shall not be affected or impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case any party shall have a right or claim to any land for a term of years, or any interest therein, in possession, reversion, or remainder, the value of any such estate, less than a fee-simple, shall be estimated and determined in the manner hereinbefore set forth. And in case it shall be necessary for the company to enter upon any lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purposes of said railroad, and may institute proceedings, in manner described, for the purpose of ascertaining the value of, and of acquiring a title to, the same; but the judge of the court hearing said suit shall determine the kinds of notice to be served on such owner or owners, and he may in his discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred.

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Atlantic and Pacific Railroad Company, upon and subject to the following conditions, namely:

that the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the main line of the whole road by the fourth day of July, anno Domini eighteen hundred and seventy-eight.

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said Atlantic and Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

SEC. 10. *And be it further enacted*, That all people of the United States shall have the right to subscribe to the stock of the Atlantic and Pacific Railroad Company until the whole capital named in this act of incorporation is taken up by complying with the terms of subscription.

SEC. 11. *And be it further enacted*, That said Atlantic and Pacific railroad, or any part thereof, shall be a post route and military road, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation.

SEC. 12. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Atlantic and Pacific Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within two years after the passage of this act, and not afterwards, and shall be deposited in the office of the Secretary of the Interior.

SEC. 13. *And be it further enacted*, That the directors of said company shall make and publish an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least six of the directors, a copy of which shall be deposited in the office of said Secretary of the Interior, and they shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part thereof.

SEC. 14. *And be it further enacted*, That the directors chosen in pursuance of the first section of this act shall, so soon as may be after their election, elect from their own number a president and vice president; and said board of directors shall, from time to time, and so soon as may be after their election, choose a treasurer and secretary, who shall hold their offices at the will and pleasure of the board of directors. The treasurer and secretary shall give such bonds, with such security as the said board from time to time may require. The secretary shall, before entering upon his duty, be sworn to the faithful discharge thereof, and said oath shall be made a matter of record upon the books of said corporation. No person shall be a director of said company unless he shall be a stockholder, and qualified to vote for directors at the election at which he shall be chosen.

SEC. 15. *And be it further enacted*, That the president, vice president, and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place, and qualified. In case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, the corporation shall not for that excuse be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors. The

directors, of whom seven, including the president, shall be a quorum for the transaction of business, shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company, the transfer of shares, the duties and conduct of their officers and servants touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors may have full power to fill any vacancy or vacancies that may occur from any cause, or causes from time to time in their said board. And the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the object of the company, and to do all acts and things touching the location and construction of said road.

SEC. 16. *And be it further enacted*, That it shall be lawful for the directors of said company to require payment of the sum of ten per centum cash assessment upon all subscriptions received of all subscribers, and the balance thereof at such time and in such proportions and on such conditions as they shall deem to be necessary to complete the said road and telegraph lines within the time in this act prescribed. Sixty days' previous notice shall be given of the payments required, and of the time and place of payment, by publishing a notice once a week in one daily newspaper in each of the cities of Boston, New York, Cincinnati, Saint Louis, Memphis, and Nashville, and in case any stockholder shall neglect or refuse to pay, in pursuance of such notice, the stock held by such person shall be forfeited absolutely to the use of the company, and also any payment or payments that shall have been made on account thereof, subject to the condition that the board of directors may allow the redemption on such terms as they may prescribe.

SEC. 17. *And be it further enacted*, That the said company is authorized to accept to its own use any grant, donation, loan, power, franchise, aid, or assistance which may be granted to or conferred on said company by the Congress of the United States, by the Legislature of any State, or by any corporation, person, or persons, or by any Indian tribe or nation through whose reservation the road herein provided for may pass; and said corporation is authorized to hold and enjoy any such grant, donation, loan, power, franchise, aid, or assistance, to its own use, for the purpose aforesaid: *Provided*, That any such grant or donation, power, aid, or assistance from any Indian tribe or nation shall be subject to the approval of the President of the United States.

SEC. 18. *And be it further enacted*, That the Southern Pacific Railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific railroad, formed under this act, at such point, near the boundary line of the State of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific railroad herein provided for.

SEC. 19. *And be it further enacted*, That unless the said Atlantic and Pacific Railroad Company shall obtain bona fide subscriptions to the stock of said company to the amount of one million of dollars, with ten per centum paid, within two years after the passage of and approval of this act, it shall be null and void.

SEC. 20. *And be it further enacted*, That the



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better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes, Congress may, at any time, having due regard for the rights of said Atlantic and Pacific Railroad Company, add to, alter, amend, or repeal this act.

SEC. 21. *And be it further enacted*, That whenever in any grant of land or other subsidies, made or hereafter to be made, to railroads or other corporations, the United States has reserved the right, or shall reserve it, to appoint directors, engineers, commissioners or other agents to examine said roads, or act in conjunction with other officers of said company or companies, all the costs, charges, and pay of said directors, engineers, commissioners, or agents shall be paid by the respective companies. Said directors, engineers, commissioners, or agents, shall be paid for said services the sum of ten dollars per day, for each and every day actually and necessarily employed, and ten cents per mile for each and every mile actually and necessarily traveled, in discharging the duties required of them, which per diem and mileage shall be in full compensation for said services. And in case any company shall refuse or neglect to make such payments, no more patents for lands or other subsidies shall be issued to said company until these requirements are complied with.

APPROVED, July 27, 1866.

CHAP. CCLXXIX.—An Act to incorporate the General Hospital of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Joseph Henry, James C. Hall, Amos Kendall, Thomas Miller, Richard Wallach, George W. Riggs, Grafton Tyler, Henry D. Cooke, D. W. Middleton, Charles Knap, Benjamin B. French, James C. McGuire, Charles H. Nichols, William B. Todd, William Gunton, Edward Simms, and Thomas Young, and their successors in office, are hereby made, declared, and constituted a corporation and body-politic, in law and in fact, under the name and style of the Directors of the General Hospital of the District of Columbia, and by that name they shall be, and are hereby, made capable in law to sue and be sued, to plead and be impleaded, in any court within the county of Washington, in the District of Columbia, to have and use a common seal, and to alter and amend the same at pleasure; to have, purchase, receive, possess, and enjoy any estates in lands, tenements, annuities, goods, chattels, moneys, or effects, and to grant, demise, and dispose of the same in such manner as they may deem most for the interest of the hospital: *Provided*, That the annual income from the same held by such corporation shall not exceed in value the sum of twenty-five thousand dollars.

SEC. 2. *And be it further enacted*, That the said corporation and body-politic shall have full power to appoint from their own body a president and such other officers as they may deem necessary for the purposes of their creation; and in case of the death, resignation, or refusal to serve of any of their number, the remaining members shall elect and appoint other persons in lieu of those whose places may have been vacated; and the said corporation shall have full power and all the rights of opening and keeping a hospital in the city of Washington, for the care of such sick, wounded, and invalid persons as may place themselves under the care of said corporation, and the property held by said corporation shall be devoted exclusively to the purposes of such hospital.

SEC. 3. *And be it further enacted*, That the

said corporation shall also have and enjoy full power and authority to make such by-laws, rules, and regulations as may be necessary for the general accomplishment of the objects of such hospital: *Provided*, That they be not inconsistent with the laws in force in the District of Columbia: *And provided further*, That this act shall be liable to be amended, altered, or repealed at the pleasure of Congress.

APPROVED, July 27, 1866.

CHAP. CCLXXX.—An Act in Relation to the District Courts of the United States in the States of California and Louisiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the southern judicial district of the State of California and the western district of Louisiana shall be, and the same are hereby, abolished, and hereafter the said States shall respectively constitute one judicial district, and shall respectively be called the districts of California and Louisiana. The district judge, marshal, and district attorney of the United States for the northern district of California and the eastern district of Louisiana shall respectively possess and exercise the same powers and jurisdiction in said district courts of California and Louisiana as they now possess and exercise in their respective districts.

SEC. 2. *And be it further enacted*, That all actions, suits, and proceedings, civil or criminal, which shall have been commenced, and at the time of the passage of this act shall be pending in the southern district of California or the western district of Louisiana, and all process, orders, judgments, decrees, records, or other papers or proceedings relating thereto or filed therein, shall be transferred to the said district courts of California and Louisiana respectively, which courts shall possess and exercise over such actions, suits, and proceedings, and the process, orders, judgments, decrees, records, and other papers and proceedings so transferred, the same authority and jurisdiction as they would have had if such actions, suits, and proceedings had been commenced in said courts; and no indictment, writ, process, recognizance, or other proceeding returnable to or to be heard, tried, or considered in the said southern district of California or said western district of Louisiana shall be abated, discontinued, or rendered void by the transfer thereof as aforesaid.

SEC. 3. *And be it further enacted*, That the clerks of the said southern district of California and the said western district of Louisiana shall, as soon as practicable after the passage of this act, deliver to and deposit with the clerks of the said district courts of California and Louisiana, respectively, all property, books, records, documents, and papers remaining in their respective offices, and the same shall be received and kept by the said last-mentioned clerks subject to the order and direction of such courts respectively.

SEC. 4. *And be it further enacted*, That executions may be issued out of the said district court of California and the said district court of Louisiana, respectively, to collect any judgment or decree rendered in the said southern district of California or said western district of Louisiana before the passage of this act with the same effect as the same might now be issued out of the court in which such judgment or decree was rendered; and all process which shall have been issued out of said district court for the southern district of California or said western district of Louisiana, and shall not have been returned before the passage of this act, shall be returned to and filed with the clerks of the district courts of California and Louisiana respectively.

SEC. 5. *And be it further enacted*, That the salary of the United States district judge for the district of Louisiana shall hereafter be four thousand five hundred dollars per annum.

APPROVED, July 27, 1866.

CHAP. CCLXXXI.—An Act to authorize the Use in Post Offices of Weights of the Denomination of Grams.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Postmaster General be, and he is hereby, authorized and directed to furnish to the post offices exchanging mails with foreign countries, and to such other offices as he shall think expedient, postal balances denominated in grams of the metric system; and, until otherwise provided by law, one half ounce avoirdupois shall be deemed and taken for postal purposes as the equivalent of fifteen grams of the metric weights, and so adopted in progression; and the rates of postage shall be applied accordingly.

APPROVED, July 27, 1866.

CHAP. CCLXXXII.—An Act to authorize the Refunding of certain Taxes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That where the license tax imposed upon any wholesale dealer has been calculated upon the amount of such dealer's sales for the previous year, in accordance with the terms of the seventy-ninth section of an act approved June thirtieth, eighteen hundred and sixty-four, and it shall be provided to the satisfaction of the Commissioner of Internal Revenue that the sales made under such license did not equal in amount the sales of such previous year, it shall be lawful for said Commissioner to refund to such wholesale dealer so much of the amount paid for such license as may be in excess of the proper tax chargeable upon the amount of sales actually made under such license during the year for which the same was issued.

APPROVED, July 27, 1866.

CHAP. CCLXXXIII.—An Act amendatory of Section Thirteen of an Act entitled "An Act to amend an Act entitled 'An Act to provide Internal Revenue to support the Government, to pay Interest on the Public Debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thirteenth section of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June thirtieth, eighteen hundred and sixty-four," approved March third, eighteen hundred and sixty-five, be, and the same is hereby, amended by striking out the words "without having first obtained a license so to do," and inserting in lieu thereof the words, "without paying the special tax herefor."

APPROVED, July 27, 1866.

CHAP. CCLXXXIV.—An Act to amend the Acts relating to Officers employed in the Examination of imported Merchandise in the District of New York, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in lieu of the appraisers now authorized by law for the appraisal of goods, wares, and merchandise at the port of New York, the President of the United States shall, by and with the advice and consent of the Senate, appoint for said port one appraiser, who has had experience as an appraiser, or who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisal, and who, before he enters upon the duties of his office, shall take and subscribe an oath faithfully to direct and supervise the examination, inspection, and appraisement according to law, of such goods, wares, and merchandise

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as the collector may direct, and as is herein after provided for, and to cause to be duly reported to the collector the true value thereof, as required by law: *Provided*, That the collector shall not, under any circumstances, direct to be sent for examination and appraisement less than one package of every invoice, and one package at least out of every ten packages of goods, wares, and merchandise, and a greater number should he, or the appraiser, or any assistant appraiser, deem it necessary: *Provided*, nevertheless, that when from the character and description of the goods, wares, and merchandise the Secretary of the Treasury may be of the opinion that the examination of a less proportion of packages will amply protect the revenue, he may, by special regulation, direct a less number of packages to be examined. And the appraiser, created by this act, in cases of his necessary and occasional absence, may perform his functions, ad interim, by deputy, designated by him in writing, from the assistant appraisers to be appointed under the provisions of this act.

SEC. 2. *And be it further enacted*, That in lieu of the assistant appraisers now authorized by law for the port of New York, the Secretary of the Treasury may appoint not exceeding ten assistant appraisers for said port, who have had experience as appraisers, or who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, and included among the goods, wares, or merchandise, to the examination and appraisement of which they are respectively to be assigned, and who shall be employed in appraising goods, according to law, under the direction and supervision of the appraiser; and each of whom shall, before entering upon the duties of his office, take and subscribe an oath diligently and faithfully to examine and inspect such goods, wares, and merchandise as the appraiser may direct, and truly to report to him the true value thereof, according to law; such report to be subject to revision and correction by the appraiser, and when approved by him to be transmitted to the collector, and to be deemed and taken to be the appraisement by the United States local appraiser of the district of such goods, wares, or merchandise required by law.

SEC. 3. *And be it further enacted*, That one of the assistant appraisers to be appointed by virtue of this act, with special reference to his qualifications for the duties in this section set forth, shall, in addition to the duties that may be required of him by the appraiser, perform the duties and act in the place and stead of the special examiner of drugs, medicines, chemicals, and so forth, at the port of New York, as provided by the act of June twenty-six, eighteen hundred and forty-eight, chapter seventy, and one of the assistant appraisers to be appointed by virtue of this act shall be detailed by the appraiser for the supervision of the department for the examination of merchandise damaged on the voyage of importation, and as far as practicable to make examinations and appraisals of such or any other merchandise as the appraiser may direct, and in all cases truly to report to him the extent of such damage, or the true value of the merchandise appraised, as the case may be, according to law, such report to be subject to the same revision, correction, and approval by the appraiser, as prescribed by the second section of this act, and to be in like manner, and for the same purpose, transmitted to the collector.

SEC. 4. *And be it further enacted*, That in lieu of the clerks now employed in the examination, inspection, and appraisement of goods, wares, and merchandise at the port of New York, the Secretary of the Treasury may, on the nomination of the appraiser, appoint such number of examiners as said Secretary may in writing determine to be necessary, their compensation to be limited and fixed by him, but not to exceed the rates of twenty-five hundred dollars per year, to aid each of said assistant

appraisers in the examination, inspection, and appraisement of goods, wares, and merchandise, according to law; and no person shall be appointed such examiner who is not, at the time of his appointment, practically and thoroughly acquainted with the character, quality, and value of the article or articles in the examination and appraisement of which he is to be employed; nor shall any such examiner enter upon the discharge of his duties, as such, until he shall have taken and subscribed an oath faithfully and diligently to discharge such duties according to law; and the Secretary of the Treasury shall also appoint, on the nomination of the appraiser, the clerks, verifiers, samplers, openers, packers, and messengers employed in the appraiser's office, or in any of the departments thereof, and shall limit and fix their number and compensation; but their compensation shall not exceed the rates of compensation usually paid for similar service.

SEC. 5. *And be it further enacted*, That it shall not be lawful for the appraiser, the assistant appraisers, examiners, clerks, verifiers, samplers, messengers, or other persons employed in the departments of appraisal, or any of them, to engage or be employed in any commercial or mercantile business, or act as agent for any person engaged in such business, during the term of their appointment.

SEC. 6. *And be it further enacted*, That the appraiser who may be appointed under the provisions of this act shall receive a compensation of four thousand dollars per annum, and the assistant appraisers shall each receive a compensation of three thousand dollars per annum, to be paid out of the appropriations for defraying the expenses of collecting the revenue.

SEC. 7. *And be it further enacted*, That the compensation allowed, respectively, to the appraiser and the assistant appraisers, under the provision of this act, shall be paid to them in monthly payments, and in due proportion for any period less than one month for the time they may actually serve.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed; and all provisions of existing acts relating to the duties of the appraisers now provided for by law, or to any proceedings consequent or dependent upon the action of such appraisers and not inconsistent with the provisions of this act, shall be construed to apply to the appraiser and assistant appraisers provided for by this act, and shall be continued in full force, and that this act shall take effect on and after the first day of September, anno Domini eighteen hundred and sixty-six.

SEC. 9. *And be it further enacted*, That if at any time, from an increase of importation, or from any other cause, there shall be found upon the floors of the public stores in the city of New York an accumulation of merchandise awaiting appraisement, it shall be the duty of the appraiser, under regulations established by the Secretary of the Treasury, to direct the assistant appraisers, and others associated with them in this branch of the public business, to devote time beyond the usual business hours, in each day, during daylight, to their respective duties, to the end that the business of appraisement may be faithfully and more promptly dispatched.

SEC. 10. *And be it further enacted*, That all aids to the revenue or others performing the duties of inspectors of customs in any collection district, shall be paid the same per diem compensation as inspectors of customs.

APPROVED, July 27, 1866.

CHAP. CCLXXXV.—An Act for the Relief of Sufferers by Fire at Portland.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That on all goods, wares, and merchandise which may be sent from places

without the limits of the United States, as gratuitous contributions to the relief of sufferers by the fire which occurred at Portland, Maine, July fourth and fifth, eighteen hundred and sixty-six, shall, when imported at the port of Portland and consigned to the proper authority for distribution, be admitted free of duty.

SEC. 2. *And be it further enacted*, That there shall be allowed and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials actually used in buildings erected on the ground burned over by said fire, a drawback of the import duties paid on the same: *Provided*, That said materials shall have been imported at the port of Portland during the term of one year from and after said fifth day of July, 1866.

APPROVED, July 27, 1866.

CHAP. CCLXXXVI.—An Act to prevent the Wearing of Sheath Knives by American Seamen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the existing regulations for the government of the Navy of the United States, prohibiting the wearing of sheath knives on shipboard is hereby extended and made applicable to all seamen in the merchant service.

SEC. 2. *And be it further enacted*, That it shall be the duty of the master or other officer in command of any ship or vessel registered, enrolled, or licensed under the laws of the United States, and of the owner or other person entering into contract for the employment of a seaman or other subordinate upon any such ship or vessel, to inform every person offering to ship himself of the provisions of this law, and to require his compliance therewith, under a penalty of fifty dollars for each omission, to be sued for and recovered in the name of the United States of America, under the direction of the Secretary of the Treasury, one half for the benefit of the informer and the other half for the benefit of the fund for the relief of sick and disabled seamen.

APPROVED, July 27, 1866.

CHAP. CCLXXXVII.—An Act to further regulate the Printing of Public Documents, and the Purchase of Paper for the Public Printing.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter it shall be the duty of the Superintendent of Public Printing, in place of the reports of the Executive Departments ordered by the act of June twenty-five, eighteen hundred and sixty-four, to cause to be printed and bound twenty-five hundred copies of the annual reports of the Executive Departments, with such accompanying documents as the heads of those Departments may respectively select, but not to exceed three hundred pages for the use of said Departments, respectively.

SEC. 2. *And be it further enacted*, That whenever papers relating to foreign affairs shall be communicated to Congress, accompanying the annual message of the President, it shall be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, two thousand copies for the use of the members of the Senate, four thousand copies for the use of the House, and two thousand five hundred copies for the use of the State Department, in place of the numbers ordered by the act of June twenty-five, eighteen hundred and sixty-four.

SEC. 3. *And be it further enacted*, That in the publication of the report of the Secretary of the Navy the detailed statement of offers for supplies and of articles embraced in each class under contract be omitted, and in lieu thereof the Secretary of the Navy shall prepare and submit with his report a schedule embracing

the offers by classes, indicating such as have been accepted.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Superintendent of Public Printing, at the commencement of each session of Congress, to submit to the Joint Committee on Printing estimates of the quantity of paper of all descriptions which will, in his opinion, be required for the execution of the public printing during the coming year. The Joint Committee on Printing shall then fix upon a standard of paper for the different descriptions of congressional and executive printing, and it shall be the duty of the Superintendent of Public Printing, under the direction of the Joint Committee on Printing, to advertise in only two newspapers published in each of the cities of New York, Cincinnati, Boston, Philadelphia, Baltimore, and Washington, for sealed proposals to furnish the Government of the United States with paper, of the quality and in the quantity specified in the advertisements, and it shall be the duty of the Superintendent to furnish samples of the standard papers adopted by the committee to applicants therefor; the said sealed proposals to be opened before and the award of contracts to be made by the Joint Committee on Printing to the lowest and best bidder for the interest of the Government: *Provided*, That the advertisement for sealed proposals for furnishing paper shall designate the minimum portion of each particular quality of paper required for either three months, six months, or one year, as the Joint Committee on Printing may determine; but when the minimum portion so specified shall exceed in any case one thousand reams, the advertisement shall state that proposals will be received for one thousand reams or more: *And provided further*, That no proposals shall be considered by the Joint Committee on Printing, unless accompanied by satisfactory evidence that the person or persons making said proposals are manufacturers of or dealers in the description of paper which they propose to furnish: *And provided further*, That, in awarding contracts, an equitable period of time for filling the same shall be designated and allowed by the Joint Committee on Printing, without whose approval no contract shall be valid: *And provided further*, That it shall be the duty of the Superintendent of Public Printing to include in his annual report to Congress a detailed statement of all proposals made and contracts entered into for the purchase of paper.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Superintendent of Public Printing to compare every lot of paper delivered by any contractor with the standard of quality, and also to see that it is of the weight contracted for, and to refuse to accept any paper from any contractor which does not conform to the standard of quality and is not of the stipulated weight. And in case of difference of opinion between the Superintendent of Public Printing and any contractor for paper with respect to its quality, the matter of difference shall be determined by the Joint Committee on Printing: *Provided*, That in default of any contractor to comply with his contract in furnishing the paper contracted for, in the proper time, and of proper quality and weight, it shall be the duty of the Superintendent of Public Printing to report the same to the Joint Committee on Printing if Congress is in session, or to the Secretary of the Interior if during a recess of Congress, and he shall, under the direction of the Joint Committee on Printing or of the Secretary of the Interior, as the case may be, enter into a new contract with the lowest and best bidder for the interest of the Government, amongst those whose proposals were rejected at the last opening of bids, or advertise for new proposals, under the regulations before established; and during the interval which may thus be created, he shall, under the direction of the Joint Committee on

Printing or of the Secretary of the Interior, as above provided, purchase in open market, at the lowest market price, all such paper necessary for the public service. For any increase of cost to the Government in procuring a supply of paper for the use of the Government, the contractor or contractors in default and his or their securities shall be charged with and held responsible for the same, and shall be prosecuted upon their bond by the Solicitor of the Treasury, in the name of the United States, in the circuit court of the United States in the district in which the defaulting contractor resides; and to enable the Solicitor to do so, it shall be the duty of the Superintendent of Public Printing to report to him the default on its happening, with a full statement of all the facts in the case: *And provided further*, That the Joint Committee on Public Printing, or, during the recess of Congress, the Secretary of the Interior, be authorized to empower the Superintendent of Public Printing to make purchases of paper, in open market, at the lowest market price, whenever in their opinion the quantity required is so small, or the want is so immediate, as not to justify advertisement for and award of contract therefor.

SEC. 6. *And be it further enacted*, That all laws and parts of laws, joint resolutions, or parts of resolutions, conflicting with the above provisions, be and they are hereby repealed; nor shall the Superintendent of Public Printing print any greater number of the reports herein named, unless otherwise directed by either House of Congress.

APPROVED, July 27, 1866.

CHAP. CCLXXXVIII.—An Act for the Removal of Causes in certain Cases from State Courts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if in any suit already commenced, or that may hereafter be commenced, in any State court against an alien, or by a citizen of the State in which the suit is brought against a citizen of another State, and the matter in dispute exceeds the sum of five hundred dollars, exclusive of costs, to be made to appear to the satisfaction of the court, a citizen of the State in which the suit is brought is or shall be a defendant, and if the suit so far as relates to the alien defendant or to the defendant who is the citizen of a State other than that in which the suit is brought, is or has been instituted or prosecuted for the purpose of restraining or enjoining him, or if the suit is one in which there can be a final determination of the controversy, so far as it concerns him, without the presence of the other defendants as parties in the cause, then and in every such case the alien defendant, or the defendant who is a citizen of a State other than that in which the suit is brought, may, at any time before the trial or final hearing of the cause, file a petition for the removal of the cause as against him into the next circuit court of the United States to be held in the district where the suit is pending, and offer good and sufficient surety for his entering in such court, on the first day of its session, copies of said process against him, and of all pleadings, depositions, testimony, and other proceedings in said cause affecting or concerning him, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein; and it shall be thereupon the duty of the State court to accept the surety and proceed no further in the cause as against the defendant so applying for its removal; and any bail that may have been originally taken shall be discharged, and the said copies being entered as aforesaid in such court of the United States, the cause shall there proceed in the same manner as if it had been brought there by original process against the defendant who shall have so filed a petition for its removal as above provided. And any

attachment of the goods or estate of the defendant by the original process shall hold the goods or estate so attached to answer the final judgment, in the same manner as by the laws of such State they would have been holden to answer final judgment had it been rendered by the court in which the suit commenced; and any injunction granted before the removal of the cause against the defendant applying for its removal shall continue in force until modified or dissolved by the United States court into which the cause shall be removed; and any bond of indemnity or other obligation given by the plaintiff upon the issuing or granting of any attachment, writ of injunction, or other restraining process against the defendant petitioning for the removal of the cause, shall also continue in full force and may be prosecuted by the defendant and made available for his indemnity in case the attachment, injunction, or other restraining process be set aside or dissolved, or judgment be rendered in his favor, in the same manner and with the same force and effect as if such injunction, attachment, or restraining process had been granted, and such bond had been originally filed or given in the court to which the cause is removed. And such removal of the cause, as against the defendant petitioning therefor, into the United States court, shall not be deemed to prejudice or take away the right of the plaintiff to proceed at the same time with the suit in the State court as against the other defendants, if he shall desire to do so. And the copies of all pleadings filed or entered as aforesaid in the United States court by the defendant applying for the removal of the cause, shall have the same force and effect in every respect and for every purpose as the original pleadings would have had by the laws and practice of the courts of such State if the cause had remained in the State court.

APPROVED, July 27, 1866.

CHAP. CCLXXXIX.—An Act authorizing the Reimbursement to the Territory of Nebraska of certain Expenses incurred in repelling Indian Hostilities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, instructed to examine, adjust, and allow the expenditures and liabilities of the Territory of Nebraska, made and incurred in the year eighteen hundred and sixty-four, for the pay, equipment, and maintenance of territorial troops in the suppression of Indian hostilities and protection of the lives and property of citizens of the United States exposed to the attacks of the confederated tribes; and the amount so allowed, when approved by the proper accounting officers of the Treasury, shall be paid into the territorial treasury by a warrant payable to the order of the Governor of that Territory, and shall be in full for all claims in the premises on the part of said Territory or the troops thereof: *Provided*, That no allowance shall be made for troops beyond the companies called out by the Governor of said Territory in that year, and placed under the command of the general commanding the troops of the United States in that Territory; nor shall any rate of pay or expenses of any kind be allowed higher or greater than those allowed by law to like troops regularly enlisted in the service of the United States; and the sum of forty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated therefor out of any money in the Treasury not otherwise appropriated.

APPROVED, July 27, 1866.

CHAP. CCXIII.—An Act to fix the Compensation of certain Collectors of Customs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the collectors of cus-



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toms hereinafter named shall, from and after the first day of July, eighteen hundred and sixty-six, in lieu of the salaries to which they are now by law respectively entitled, receive the salaries following, to wit: the collectors of the districts of Texas, at Galveston, Saluria, Corpus Christi, and Brazos de Santiago, Texas, each at the rate of one thousand five hundred dollars a year in addition to the fees of office: *Provided*, That such compensation shall in no case exceed the sum of twenty-five hundred dollars per annum in the aggregate; the collectors of the districts of Beaufort, South Carolina, and Pensacola, Florida, each at the rate of one thousand dollars a year; the collectors of the district of Georgetown, in the District of Columbia, and of the districts of Cherrystone, Virginia; Brunswick, Georgia; [Saint] Augustine, Saint Mark's, and Apalachicola, Florida, and Teché, Louisiana, five hundred dollars a year each.

SEC. 2. *And be it further enacted*, That all that part of the State of Texas and the waters thereof included within the counties of Nueces, Starr, Zapata, Duval, Encinac, Webb, La Salle, McMullen, Live Oak, Bee, Refugio, and San Patricio, shall be a distinct collection district, to be called the district of Corpus Christi, and the town of Corpus Christi shall be its only port of entry; and a collector shall be appointed to reside at said port. And Aransas shall be a port of delivery in said district.

SEC. 3. *And be it further enacted*, That the town of Indianola shall hereafter be the port of entry for the district of Saluria, in said State, instead of La Salle. And all acts and parts of acts conflicting with the provisions of this act are hereby repealed; and this act shall take effect on and after the first day of August next.

SEC. 4. *And be it further enacted*, That in lieu of the compensation now allowed by law there shall hereafter be paid to each of the deputy collectors at the ports of New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, and to each of the general appraisers and local appraisers at Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, three thousand dollars per annum; to each of the deputy naval officers and the deputy surveyors at New York, Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, two thousand five hundred dollars per annum; and to each of the custom-house weighers at the ports of Boston, Philadelphia, Baltimore, New Orleans, Portland, and San Francisco, two thousand dollars per annum, out of the appropriation for expenses of collecting the revenue from customs: *Provided*, That the additional compensation of twenty-five per centum, as now provided by law, shall be continued to officers as aforesaid at the port of San Francisco.

SEC. 5. *And be it further enacted*, That all blank books, blanks, and stationary of every kind required by collectors and other officers of the customs, shall, so soon as they can be prepared for delivery, by or under the direction of the Secretary of the Treasury, be furnished to them for the use of their respective offices, upon requisition made by them, and the expense of such books, blanks, and stationary shall be paid out of the appropriation for defraying the expenses of collecting the revenue from customs.

SEC. 6. *And be it further enacted*, That the fourth section of the act of February twenty-eight, eighteen hundred and sixty-five, entitled "An act to revive certain provisions of the act entitled 'An act further to provide for the collection of duties on imports and tonnage,' approved March three, eighteen hundred and fifteen, and for other purposes," shall not be construed to increase the per diem allowed to appraisers by the first section of the act of April two, eighteen hundred and forty-four, which it amends.

APPROVED, July 28, 1866.

CHAP. CCXCIV.—An Act to prescribe the Mode of settling the Accounts of the Clerk of the Supreme Court of the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the clerk of the supreme court of the District of Columbia shall pay into the Treasury of the United States all the earnings of his office, over and above the necessary expenses of the same and his own compensation.

SEC. 2. *And be it further enacted*, That his accounts of said earnings and expenses shall be adjusted by the regular auditor of the court, or by a special auditor to be appointed by the court for the purpose, within thirty days after the first day of January and July, every year; and the auditor shall immediately report his adjustment to the court, with such exceptions thereto as the clerk shall, within four days after the adjustment reported, take and file with the auditor.

SEC. 3. *And be it further enacted*, That the court shall pronounce such decree upon said report and exceptions as may seem to it equitable and just; and said decree shall be final, and be binding upon the United States and the clerk. If, upon such account, a balance be found due from the clerk to the United States, the court shall order payment by the clerk into the Treasury, and enforce its order by execution, process of contempt, or otherwise; and, if the clerk refuse to pay the money, shall remove him from office. If a balance be found due from the United States to the clerk, the same shall be paid upon presenting to the Treasurer a copy of the decree, duly certified.

SEC. 4. *And be it further enacted*, That the clerk shall, as in other cases of judgments to which the United States is a party, furnish the Solicitor of the Treasury a copy of the decree immediately after it is pronounced.

SEC. 5. *And be it further enacted*, That all other modes of accounting for the earnings of said office are hereby repealed.

APPROVED, July 28, 1866.

CHAP. CCXCV.—An Act for the Relief of the Trustees and Stewards of the Mission Church of the Wyandotte Indians.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for refunding to Jacob White-Crow, John Sawahass, and others, trustees and stewards of the Wyandotte and Quindaro mission of the Kansas Conference of the Methodist Episcopal church, for the destruction of their church buildings and library, four thousand six hundred and eighty dollars, to be applied in rebuilding said buildings and inclosing the graveyards of the Wyandotte Indians in the State of Kansas, and that the sum hereby appropriated be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, July 28, 1866.

CHAP. CCXCVI.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and sixty-seven, viz:

## MISCELLANEOUS.

For discharge of such miscellaneous claims not otherwise provided for as shall be admitted in due course of settlement at the Treasury, two thousand dollars.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other

securities of the United States, as well as the coins of the United States, one hundred and fifty thousand dollars.

For supplying deficiency in the fund for the relief of sick and disabled seamen, two hundred thousand dollars.

For repairs and preservation of public buildings, fifty thousand dollars.

For furniture, repairs of furniture, carpets, and miscellaneous items for the same, twenty thousand dollars.

For the completion of north wing of Treasury extension, and grading and fencing grounds, three hundred thousand dollars.

For replacing with slate or copper defective galvanized iron roofs, thirty thousand dollars.

For reconstruction of heating apparatus, thirty thousand dollars.

For burglar-proof safes and vaults, thirty thousand dollars.

For office furniture, and repairs of furniture, and miscellaneous expenses of the Treasury bureaus, sixteen thousand dollars.

For expenses of detecting and bringing to trial and punishment persons engaged in perpetrating frauds upon the United States, to be disbursed under the direction of the Secretary of the Treasury, ten thousand dollars.

For the completion of the custom-house building at Toledo, Ohio, its addition, and the approaches thereto, ten thousand dollars.

For the purpose of preserving from further dilapidation the new custom-house building in Charleston, South Carolina, ten thousand dollars.

For repairs of the United States arsenal at Hudson City, New Jersey, two thousand dollars.

For additional appropriation to complete the new court-house and post office at Springfield, Illinois, fifty thousand dollars.

For repairs of Chelsea marine hospital, Chelsea, Massachusetts, forty thousand dollars.

To establish national cemeteries, and to purchase sites for the same, at such points as the President of the United States may deem proper, and for the care of the same, fifty thousand dollars.

For the purpose of preparing for publication under the direction of the Secretary of War, and of printing at the Government Printing Office five thousand copies of the first volume of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General; and for the purpose of preparing for publication under the direction of the Secretary of War, and of printing at the Government Printing Office five thousand copies of the Medical Statistics of the Provost Marshal General's Bureau, compiled and to be completed by Surgeon J. H. Baxter, sixty thousand dollars: *Provided*, That the editions of both publications thus ordered shall be disposed of as Congress may hereafter direct: *And provided further*, That the necessary engraving and lithographing for these publications may be executed under the direction of the Secretary of War, without advertisement.

For transportation of officers of the Marine corps, their servants, troops, and expenses of recruiting, fifteen thousand dollars.

For the enlargement and repairs of the custom-house and post office buildings at Bangor, Maine, thirty-five thousand dollars.

For the repairs of the custom-house and post office and the walks and fences adjoining the same, at Middletown, Connecticut, five thousand dollars, the same to be expended under the direction of the Secretary of the Treasury.

For the erection of a chapel on the Naval Academy grounds at Annapolis, Maryland, twenty-five thousand dollars, and the existing appropriation for the enlargement of the chapel is hereby repealed.

## SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, including compen-

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sation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, two hundred and fifty thousand dollars.

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, one hundred and thirty thousand dollars.

For continuing the survey of the South Florida reefs, shoals, keys, and coast, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, twenty-five thousand dollars.

For publishing the observations made in the progress of the survey of the coast of the United States, including compensation of civilians employed in the work, five thousand dollars.

For repairs of steamers and sailing schooners used in the coast survey, twenty thousand dollars.

For pay and rations of engineers for four steamers used in the hydrography of the coast survey, no longer supplied by the Navy Department, ten thousand dollars.

To provide for a survey of the Isthmus of Darien, under the direction of the War Department, with the view to the construction of a ship-canal in accordance with the report of the Superintendent of the Naval Observatory to the Navy Department, forty thousand dollars.

To enable the Secretary of the Treasury to collect reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, and which information shall be reported to Congress, ten thousand dollars.

## LIGHT-HOUSE ESTABLISHMENT.

*For the Atlantic, Gulf, and Lake coasts, viz :*

For supplying the light-houses and beacon-lights with oil, wicks, glass chimneys, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, two hundred thousand two hundred and eighty-seven dollars.

For repairs and incidental expenses of improving and refitting the same, one hundred and eighty thousand dollars.

For salaries of five hundred and eighty-nine keepers of light-houses and lighted beacons, and their assistants, two hundred and thirteen thousand one hundred and ninety-three dollars and thirty-three cents.

For salaries of forty-three keepers of light-vessels, twenty-three thousand nine hundred dollars.

For seamen's wages, repairs, supplies, and incidental expenses of forty-three light-vessels, two hundred and forty-two thousand two hundred and thirty-nine dollars and fifty cents.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of beacons and buoys, and for chains and sinkers for the same, one hundred and sixty-two thousand three hundred and fifty dollars.

For compensation to the consul at Quebec, in Canada, fifteen hundred dollars.

*For the Coasts of California, Oregon, and Washington.*

For supplying twenty light-houses and beacon-lights with oil, glass chimneys, chamois skins, polishing powder, and other cleaning materials, transportation, expenses of keeping lamps and machinery in repair, and publishing notices to mariners of changes of aids to navigation, thirty-three thousand and thirty dollars.

For repairs and incidental expenses of twenty light-houses and buildings connected therewith, fifteen thousand dollars.

For salaries of forty-one keepers and assistant keepers of light-houses at an average not ex-

ceeding eight hundred dollars per annum, thirty-two thousand two hundred and fifty dollars.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of floating buoys and beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys, ten thousand dollars.

For fuel and quarters of officers of the Army serving on light-house duty, the same not being provided for by the quartermaster's department, five thousand dollars.

For rebuilding Block Island light-house, near Rhode Island, upon a more eligible site, fifteen thousand dollars.

For a new light-house on Race Rock, or on the southwest end of Fisher's Island, entrance to Long Island Sound, as may be approved by the Light-House Board, ninety thousand dollars.

For rebuilding the following beacons, which have been destroyed, viz: Norwalk beacon, Southport beacon, and Elbow beacon, twenty-four thousand dollars.

For rebuilding beacon-lights on the Breakwater at Plattsburg, New York, three thousand dollars.

For a new light-house with suitable piers for protection at Rondout, New York, twenty-two thousand dollars.

For a new light-house with suitable piers of protection at Cossackie, New York, twenty-two thousand dollars.

For repairs and renovations at Sandy Hook light-station, New York, seven thousand one hundred dollars.

To provide additional station-houses, life-boats, and other appliances for the better preservation of life and property from shipwreck along the coast of New Jersey, between Sandy Hook and Little Egg Harbor, ten thousand dollars.

For repairing and relighting the light-house on Tucker's Beach, on the coast of New Jersey, five thousand dollars.

For repairs and renovations at Esopus, Four-mile Point, Beaver-tail, Passaic, Black Rock, and Great West Bay light-stations, five thousand one hundred dollars.

For additional appropriations for building a new first-class light at Assateague, Virginia, twenty-five thousand dollars.

For a new light-house at Bay Point, Port Royal entrance, South Carolina, fifty thousand dollars.

For building range-lights at St. Clair Flats, Lake St. Clair, sixty thousand dollars.

For the erection of a light-house at Beaver Bay on Lake Superior, fifteen thousand dollars: *Provided*, That the Light-House Board of the Treasury Department, after due examination, shall deem that a light-house at that point is necessary.

For building a new light-house at McGulpin's Point, near old Fort Mackinac, twenty thousand dollars.

For a beacon-light on the end of the pier at Chicago, three thousand dollars.

For a new light-house at Eagle Bluff, Wisconsin, twelve thousand dollars.

For repairs at Grand Island light-house, Lake Superior, seventeen thousand dollars.

For beacon-light at the entrance to Grand Island harbor, Lake Superior, ten thousand dollars.

For additional aids to navigation in Green bay, Wisconsin, including a third-class light-house on Mah-no-mah or Chambers' Island, and beacon on Peshtego shoal, twenty-five thousand dollars.

For repairs to light-house at Huron Island, Lake Superior, seventeen thousand dollars.

For light-house and pierlight at South Haven, in the State of Michigan, six thousand dollars.

For range-lights at Portage entry, Lake Superior, six thousand dollars.

For a light-house to mark the channel between Keewenaw Point and Manitou Island, Lake Superior, fifteen thousand dollars.

For new and efficient fog-signals at Mount Desert Island, Mantinicus, Seguin, Mankiegin, Moose Peak, Cape Elizabeth, Point Judith, Cooper Harbor, Detour, Fort Gratiot, Huron Island, Manitou, McGulpin's Point, Pottawatomie, Sand Point, Waugoshance, White Fish Point, and other light-stations, fifty-nine thousand five hundred dollars.

For compensation of two superintendents for the life-saving stations on the coasts of Long Island and New Jersey, three thousand dollars.

For compensation of fifty-four keepers of stations at two hundred dollars each, ten thousand eight hundred dollars.

For a new light-house at Grand Point, Aux Sables, Lake Michigan, thirty-five thousand dollars.

For a new light-house at the harbor of White River, Muskegon county, Michigan, ten thousand dollars.

For a new light-house at the harbor of Manistee, Manistee county, Michigan, ten thousand dollars: *Provided*, That no expenditure shall be made upon the aforesaid works at White River and Manistee, until a careful survey shall have been made and the character of the structure required shall have been thus determined, for which purpose the sum of one thousand dollars is hereby appropriated.

For completion of pier of protection and repairing Waugoshance light-house at Straits of Mackinac, ninety thousand dollars.

For the establishment of beacon-lights to mark Brewerton channel, Patapsco river, Maryland, thirty thousand dollars.

To enable the Light-House Board to reestablish lights and other aid to navigation on the southern coast, two hundred thousand dollars.

To reimburse the appropriation for furnishing the President's House, the sum transferred from it by the accounting officers of the Treasury, to settle another account of the Commissioner of Public Buildings for annual repairs, four thousand dollars; and the avails of old furniture which may be sold shall be applied to the purchase of new furniture.

To enable the Commissioner of Public Buildings to put in thorough repair the bridge across the Potomac at Little Falls, in accordance with the estimate of the engineer, two thousand four hundred and ten dollars.

To enable the Secretary of the Interior to pay the interest on sundry sums loaned for Government purposes by the First National Bank at Washington, District of Columbia, the sum of five thousand six hundred and seventy dollars and twelve cents.

For compensation to the Commissioner and chief clerk of the General Land Office (to be apportioned by the Secretary of the Interior) in consideration of the increased duties devolving on them from June seventh, eighteen hundred and sixty-five, to December thirty-first, eighteen hundred and sixty-five, in connection with the census of eighteen hundred and sixty, seventeen hundred and fifty dollars.

For painting iron fences, two thousand five hundred dollars.

For repairing gates to the iron fence inclosing La Fayette square, five hundred dollars.

To repair and whitewash the wooden fences around the several reservations, one thousand dollars.

For repairing the arch on New Jersey avenue below the Coast Survey building, one thousand dollars.

To repair or replace the water-pipes which convey the water from the spring in Franklin square to the President's House, and to the Treasury, War, and Navy Departments, six thousand dollars.

For making the road from the President's stable to the house, fifteen hundred dollars.

For four new pave-washers on Pennsylvania avenue, one thousand dollars.

To pay for drainage by pipes of the waste

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water from the President's House, the cow-stable, cow-yard, and small greenhouse, one thousand two hundred and fifty dollars.

For an iron fence around the Botanic Garden, fifteen thousand dollars.

To cause to be painted in the square panels of glass, in the ceiling of the House of Representatives, the esutcheons of the States of West Virginia and Nevada, the sum of one hundred and thirty dollars.

For compensation of one additional laborer hereby authorized to be appointed in the Library of Congress, commencing July first, eighteen hundred and sixty-six, seven hundred and twenty dollars.

For purchase of coal and pay of firemen to warm the Library of Congress, two thousand two hundred and eighty dollars.

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution by the Commissioner of Public Buildings, twelve thousand dollars, or so much thereof as may be necessary.

For hire of carts on the public grounds, two thousand dollars.

For purchase and repair of tools used in the public grounds, four hundred dollars.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, three thousand dollars.

For annual repairs of the Capitol water-closets, and to put the proper number of water-closets in the upper stories, public stables, water-pipes, pavements, and other walks within the Capitol square, broken glass, and locks, and for the protection of the building, and keeping the main approaches to it unencumbered, in addition to the sale of old material, twelve thousand dollars.

For grading and repairing Virginia avenue, ten thousand dollars.

For keeping the spring and water pipes which supply all the drinking water to the Capitol in repair, and erecting a substantial wooden fence around the ground on which the spring at Smith's farm is, one thousand dollars.

For the Capitol extension, two hundred thousand dollars.

For fuel, in part, for the President's House, five thousand dollars.

For lighting the Capitol and President's House and public grounds around them, around the executive offices, and Pennsylvania avenue, sixty thousand dollars.

For lighting Four-and-a-half street across the Mall, and Maryland avenue west, and Sixth street south, fifteen thousand dollars: *Provided*, That the corporation of Washington city shall light their street lamps with seven-foot burners, twenty-one nights in each month, from dark until daylight, and that no part of this appropriation shall be disbursed until it is proved to the satisfaction of the Commissioner of Public Buildings that said corporation have so lighted their street lamps.

For pay of lamp-lighters, gas-fitting, plumbing, lamp-posts, lanterns, glass, paints, matches, materials and repairs of all sorts, twenty thousand dollars.

For casual repairs of the Potomac, navy-yard, and upper bridges, six thousand dollars.

For repairs of Pennsylvania avenue, five thousand dollars.

For public reservation number two and La Fayette square, in addition to the sale of hay which may be raised on the former, three thousand dollars.

For purchase of fuel for the center building of the Capitol, fifteen hundred dollars.

For erecting a new draw in the navy-yard bridge, five thousand dollars.

For taking care of the grounds south of the

President's House, continuing the improvement of the same, and repairing fences, three thousand dollars.

For repairs of water-pipes, five hundred dollars.

For cleaning and repairing sewer traps on Pennsylvania avenue, three hundred dollars.

For casual repairs of all the furnaces under the Capitol, five hundred dollars.

For under-draining the President's garden and Capitol grounds, one thousand dollars.

To enable the Commissioner of Public Buildings to so grade a portion of North Capitol street as to relay the water-pipes leading from the Government spring to the Capitol, sufficiently below the grade as to secure from frost, and to relay said pipes, eight thousand one hundred and forty dollars.

For hauling manure for top-dressing the public grounds, five hundred dollars.

For the protection and improvement of Franklin square, fifteen hundred dollars.

For watchman for Franklin square, six hundred dollars.

For the compensation of eight extra clerks in the office of Indian Affairs, under the acts of August fifth, eighteen hundred and fifty-four, March third, eighteen hundred and fifty-five, and March third, eighteen hundred and sixty-five, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, eleven thousand two hundred dollars.

For the continuation of the work upon the north portico of the Patent Office building, of fifty thousand dollars.

For additional contingent expenses of the Northeast Executive Building, or the building occupied by the Secretary of State, including extra watchmen and laborers, six thousand dollars.

For salaries of commissioners under "An act to provide for the revision and consolidation of the statute laws of the United States," approved June twenty-seven, eighteen hundred and sixty-six, and for clerical services, and other incidental expenses, the printing to be done by the Government Printing Office, twenty-five thousand dollars.

For the payment of temporary clerks of the first class in the office of the Commissioner of Pensions, under the direction of the Secretary of the Interior for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, twenty-five thousand dollars.

To enable the Secretary of the Interior, at his discretion, to rent such rooms in the vicinity of the Department for the use of the Pension Office as may be deemed necessary for the transaction of the business of that office, three thousand dollars.

For the purchase of a site and the erection of a building at Saint Paul, Minnesota, for a custom-house, post office, the accommodation of the Federal courts, and other necessary Government purposes, the same to be expended under the direction of the Secretary of the Treasury, fifty thousand dollars.

## JAIL IN THE DISTRICT OF COLUMBIA.

For the support and maintenance of the convicts transferred from the District of Columbia at such place or places as may be selected by the Secretary of the Interior, fifty thousand dollars.

For salary of warden of the jail in the District of Columbia, two thousand dollars for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, and the same is hereby authorized.

For the payment in part for the purchase of sites and the erection of school-houses in the county of Washington, in the District of Columbia, payable to the board of commissioners of primary schools of said county, the sum of ten thousand dollars.

For support of the Columbia hospital for women and lying-in association, ten thousand dollars.

To enable the Secretary of the Treasury to pay the persons employed by the Committees on the District of Columbia of the two Houses of Congress, under the provisions of the joint resolution approved June eighteen, eighteen hundred and sixty-four, entitled "A resolution to provide for the revision of the laws of the District of Columbia," the compensation provided in said resolution, two thousand dollars, or so much thereof as may be necessary for that purpose.

## SMITHSONIAN INSTITUTION.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

## WASHINGTON AQUEDUCT.

To complete the dam in the Potomac river at the head of the aqueduct, from the shore to Conn's Island, with cut stone, fifty-one thousand six hundred and eighty-seven dollars.

To complete the connecting conduit around and outside the receiving reservoir, seventy thousand eight hundred and ninety-seven dollars.

To finish gate-house at Great Falls, four thousand dollars.

For temporary dam at Conn's Island, one thousand dollars.

For management, miscellaneous, and contingents, fifteen thousand dollars.

## GOVERNMENT HOSPITAL FOR THE INSANE.

For the support, clothing, and medical treatment of the insane of the Army and Navy, and the revenue-cutter service, and of the indigent insane of the District of Columbia, at the Government hospital for the insane in said District, including five hundred dollars for books, stationery, and incidental expenses, ninety thousand five hundred dollars.

For finishing, furnishing, and lighting additional accommodations in the east wing, in part unfinished, five thousand dollars.

For continuation of the wall inclosing the grounds, ten thousand dollars.

For the purchase and fencing fifty-six and one half acres of meadow land, lying near the hospital, provided the Secretary of the Interior shall approve of the purchase in view of the price and quality of the land, and the necessity of adding it to the hospital farm, six thousand dollars.

## PATENT OFFICE.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand eight hundred dollars.

For preparing illustrations and descriptions for the report of the Commissioner of Patents, six thousand dollars.

## COLUMBIAN INSTITUTION FOR THE DEAF AND DUMB.

For the support of the institution, including five hundred dollars for books and illustrative apparatus, twenty thousand seven hundred dollars.

For the erection, furnishing, and fitting up of two extensions to the buildings, to provide enlarged accommodations for the male and female pupils and the resident officers of the institution, thirty-two thousand two hundred and forty dollars.

For the erection of a brick barn, carriage-house, cow-house, shop, gas-house, and ice-house, fourteen thousand five hundred dollars.

For the improvement and inclosure of the grounds of the institution, including under-drainage and sewerage, four thousand five hundred dollars.

## PROVIDENCE HOSPITAL, D. C.

For the purpose of aiding in the erection of an additional building to the Providence Hospital, in the city of Washington, thirty thousand dollars: *Provided*, That if the said property should ever be sold or diverted from the



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uses expressed in the act of Congress entitled "An act to incorporate Providence Hospital, of the city of Washington, District of Columbia," approved April eighth, eighteen hundred and sixty-four, then the sum of thirty thousand dollars shall be first paid out of the proceeds thereof into the United States Treasury to reimburse the sum hereby appropriated.

For the "National Association for the relief of destitute colored women and children," incorporated under an act of Congress approved February fourteenth, eighteen hundred and sixty-three, five thousand dollars, to be expended under the direction of the officers of the association.

To enable the Commissioner of Public Buildings to reimburse the corporation of Washington for expenses incurred in improving streets and avenues passing through and by property of the General Government, under the third section of the act approved May fifth, eighteen hundred and sixty-four, entitled "An act to incorporate the inhabitants of the city of Washington," passed May fifteenth, eighteen hundred and twenty, forty-seven thousand two hundred and fifty-five dollars and eighty-one cents.

## CONGRESSIONAL LIBRARY.

To complete the extension of the Library of Congress, twenty-two thousand dollars.

For furniture for the two wings of the extension of the Congressional Library, and for sliding cases for illustrated books, ten thousand dollars.

For an additional appropriation, to be expended under the direction of the Joint Committee on the Library, to decorate the Capitol with such works of art as may be ordered and approved by said committee, as provided by act approved August eighteen, eighteen hundred and fifty-six, five thousand dollars.

For additional compensation of three laborers employed in the Congressional Library, commencing January one, eighteen hundred and sixty-six, five hundred and forty dollars; and the compensation of said laborers is hereby fixed at seven hundred and twenty dollars per annum.

For the purpose of erecting on the public land adjacent to the Treasury Department, a fire-proof brick building to afford additional room for the Treasury Department, two hundred thousand dollars: *Provided*, That the Secretary of the Treasury be, and he hereby is, authorized to remove and sell at auction or otherwise, any portion of the presses, machinery, and apparatus employed in the Treasury buildings, which from the diminution of the volume of business or otherwise he may from time to time find to be no longer required. And the legal representatives of the corporation of Washington and Georgetown, and the portion of the county of Washington in the District of Columbia, not included in said corporations, be, and they are hereby, directed to provide and suitably furnish, without delay, a suitable room for the use of the orphan's court, and two contiguous rooms and a fire-proof vault for the use of the register of wills in and for said county; and for the repayment of the expense to be incurred in executing this order, the said corporations of Washington and Georgetown, and the levy court of the county of Washington, in the District of Columbia, are hereby authorized and directed to levy and collect a suitable tax upon the property embraced within their respective jurisdictions.

## GENERAL POST OFFICE BUILDING.

For completing the extension of the General Post Office building, forty thousand dollars.

## SURVEYING THE PUBLIC LANDS.

For surveying the public lands in Minnesota, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, twenty thousand dollars.

For surveying the public lands in Dakota Territory, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Nebraska Territory, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township, and five dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Kansas, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township, and five dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Colorado Territory, at rates not exceeding ten dollars per lineal mile for standard lines, eight dollars for township, and seven dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Nevada, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, fifteen thousand dollars.

For compensation of the surveyor general of Nevada, three thousand dollars.

For compensation of the clerks in his office, five thousand dollars.

For office rent, messenger, furniture, books, fuel, stationery, and incidental expenses of office, three thousand dollars.

For surveying the public lands in New Mexico, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, five thousand dollars.

For surveying the public lands in California, at rates not exceeding fifteen [dollars] per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, twenty-five thousand dollars.

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal [mile] for standard lines, twelve dollars for township, and ten dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Washington Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, ten thousand dollars.

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, ten dollars for township, and eight dollars for section lines, fifteen thousand dollars.

For compensation of the surveyor general of Montana, three thousand dollars.

For compensation of clerks in his office, five thousand dollars.

For office rent, messengers, furniture, books, fuel, stationery, and incidental expenses of office, three thousand dollars.

For surveying Indian and other reservations, under treaty stipulations, at not exceeding fifteen dollars per mile, front boundaries, at ten dollars for township, and eight dollars per mile for section lines, fifty thousand dollars.

## EXPENSES OF COLLECTION OF REVENUE FROM SALES OF PUBLIC LANDS.

For salaries and commissions of registers of land offices and receivers of public money, two hundred and six thousand one hundred dollars.

For incidental expenses of the several land offices, nineteen thousand four hundred dollars.

For necessary expenses incident to providing accommodations for internal revenue officers in existing United States fire-proof buildings, wherever possible, fifteen thousand dollars.

For the purchase, inclosure, and preservation of a parcel of ground at Des Moines, the capital of Iowa, as a site for the erection of a building for the use of the Federal courts and for other Federal offices, fifteen thousand dollars, or so much thereof as may be necessary,

to be expended under the direction of the Secretary of the Interior.

For the Government building at Portland, Maine, used as post office, custom-house, and for the United States courts, lately destroyed or rendered almost worthless by fire, to repair or rebuild the same as may prove most advisable, one hundred and fifty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Treasury.

For this amount to be paid under the direction of the Secretary of the Interior, to enable the Seminoles to occupy, restore, and improve their farms, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, thirty thousand dollars.

For the purchase of agricultural implements, seeds, corn, and other stock, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, twenty thousand dollars.

For the erection of a mill, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, fifteen thousand dollars.

For interest on fifty thousand dollars from the date of the ratification of the treaty, at the rate of five per cent per annum, to be paid annually for the support of schools, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven.

For interest on twenty thousand dollars from the date of the ratification of the treaty, at the rate of five per centum per annum, to be paid annually for the support of the Seminole government, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven.

For this amount, to be expended for subsisting the Seminole Indians, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, forty thousand three hundred and sixty-two dollars.

For this amount, or so much thereof as may be necessary, to pay the losses that may be awarded under the provisions of article fourth of treaty March twenty-first, eighteen hundred and sixty-six, as per third article of said treaty, fifty thousand dollars.

For this amount, or so much thereof as may be necessary, to pay the expenses of a board of commissioners, to be appointed by the Secretary of the Interior, to investigate the losses of the loyal Seminole Indians, as per fourth article treaty of March twenty-first, eighteen hundred and sixty-six, seven hundred and twenty dollars.

For the erection of agency buildings, as per sixth article of treaty of March twenty-first, eighteen hundred and sixty-six, ten thousand dollars.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause a census of each tribe to be taken, as per first clause seventh article treaty of March twenty-first, eighteen hundred and sixty-six, two thousand five hundred dollars.

For transportation of such articles as may be purchased under the direction of the Secretary of the Interior, for the Seminole Indians, under treaty of March twenty-first, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, or so much thereof as may be necessary, twelve thousand dollars.

For this amount to be paid per capita in money, unless otherwise directed by the President, upon the ratification of the treaty, to enable the Indians to occupy, restore, and improve their farms; to pay the damages sustained by the mission schools; and to pay the delegates of the council as per third article treaty of June fourteenth, eighteen hundred and sixty-six, two hundred thousand dollars.

For interest on seven hundred and seventy-five thousand one hundred and sixty-eight dol-

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lars from the date of the ratification of the treaty at the rate of five per cent per annum to be expended under the direction of the Secretary of the Interior, as per third article treaty of June fourteenth, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause the line dividing the Creek country as provided for by the terms of the sale of the Creek land to the United States in article third, as per eighth article treaty of June fourteenth, eighteen hundred and sixty-six, four thousand dollars.

For the erection of agency buildings, as per ninth article treaty of June fourteenth, eighteen hundred and sixty-six, ten thousand dollars.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to cause a census of the Creeks to be taken, as per first clause, tenth article treaty of June fourteenth, eighteen hundred and sixty-six, two thousand five hundred dollars.

For this amount, or so much thereof as may be necessary, to pay the expenses incurred in negotiating treaty of June fourteenth, eighteen hundred and sixty-six, as per fourteenth article of said treaty, ten thousand dollars.

For transportation of such articles as may be purchased for the Creek nation of Indians under treaty of June fourteenth, eighteen hundred and sixty-six, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, or so much thereof as may be necessary, seven thousand dollars.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, viz:

Office of the United States depository, Louisville:

For salary of cashier, one thousand eight hundred dollars.

For salary of book-keeper, one thousand five hundred dollars.

For salary of assistant cashier, one thousand three hundred and twenty dollars.

For salary of clerk, one thousand three hundred and twenty dollars.

For contingent expenses, six hundred and twenty-five dollars.

Office United States depository, Chicago:

For salary of cashier, one thousand six hundred dollars.

For salary of clerk, one thousand dollars.

For contingent expenses, four hundred dollars.

Office United States depository, Pittsburg:

For salary of cashier, one thousand five hundred dollars.

For salary of assistant cashier, one thousand dollars.

For salary of watchman, nine hundred dollars.

For contingent expenses, two hundred dollars.

Office United States depository, Baltimore:

For salary of cashier, one thousand eight hundred dollars.

For salary of clerk, one thousand five hundred dollars.

For salary of clerk, one thousand two hundred dollars.

For salary of clerk, one thousand dollars.

For salary of clerk, twelve hundred dollars.

For salary of messenger, nine hundred dollars.

For contingent expenses, three hundred and thirty dollars.

Office United States Assistant Treasurer, San Francisco:

For salary of cashier, two thousand five hundred dollars.

For salary of book-keeper, two thousand dollars.

Office United States depository, Cincinnati:

For salary of assistant cashier, one thousand five hundred dollars.

For salary of assistant cashier, one thousand two hundred dollars.

For salary of assistant cashier, one thousand dollars.

For salary of teller, one thousand three hundred dollars.

For salary of book-keeper, one thousand five hundred dollars.

For salary of two clerks, two thousand five hundred dollars.

For salary of clerk, one thousand two hundred dollars.

For contingent expenses, two thousand dollars.

That so much of any money in the Treasury known as the "commutation fund" as may be necessary be, and the same is hereby, appropriated for the payment to loyal persons claiming service or labor from colored volunteers or drafted men, the amounts heretofore, or hereafter to be awarded them under the provisions of section twenty-fourth of the act entitled "An act to amend an act entitled an act for enrolling and calling out the national forces and for other purposes approved February twenty-fourth, eighteen hundred and sixty-four," for each person so claimed to be held to service or labor who has enlisted or been drafted into the military service of the United States; but such payment shall in no case be made to any person except upon satisfactory proof that the claimant has firmly and faithfully maintained his or her adherence and allegiance to the Government of the United States, by defending its cause against the government and forces of the so-called confederate States of America, in all suitable and practicable ways, and according to his or her ability and opportunity: *Provided*, That no money shall be paid under the foregoing provision until the final report of the commissioners under the act aforesaid shall have been made on all the claims embraced in the twenty-fourth section of said act.

SEC. 3. *And be it further enacted*, That so much of "An act making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, and for other purposes," approved April seventh, eighteen hundred and sixty-six, as provides "for compensation of the revenue agent stationed at New York, in addition to the sum authorized by act of June thirtieth, eighteen hundred and sixty-five, including one thousand dollars for the current fiscal year, two thousand dollars," be, and the same are hereby, repealed.

SEC. 4. *And be it further enacted*, That nine hundred and twenty-five thousand dollars, or so much thereof as shall be necessary, is hereby appropriated out of the revenues of the Post Office Department, to supply the deficiency for the mail service for the fiscal year ending June thirtieth, eighteen hundred and sixty-six.

SEC. 5. *And be it further enacted*, That each watchman in the public buildings and grounds under the Commissioner of Public Buildings, whose pay is less than one thousand dollars a year, shall, from the first day of July, eighteen hundred and sixty-six, receive a compensation of nine hundred dollars per annum.

SEC. 6. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-six, the compensation of the Metropolitan police force of the District of Columbia be, and the same is hereby, increased as follows, viz: twenty dollars per month, and the necessary sum required is hereby appropriated; also, an additional increase of ten

dollars a month, said additional increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and county of Washington outside of the corporate limits; and the cities of Washington and Georgetown, and the levy court of said county, be, and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one per centum for the purpose aforesaid, and for no other purpose whatsoever.

SEC. 7. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to dispose of the property saved from the rebel steamer Florida, and distribute the proceeds thereof as other prize money is required by law to be distributed.

SEC. 8. *And be it further enacted*, That midshipmen and acting midshipmen in the Navy of the United States shall be entitled to one ration, or commutation therefor.

SEC. 9. *And be it further enacted*, That so much of the act approved March third, eighteen hundred and sixty-three, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and sixty-four, and for the year ending the thirtieth of June, eighteen hundred and sixty-three, and for other purposes," as appropriates three thousand seven hundred and fifty dollars for a minister resident in Greece, be and the same is hereby repealed.

SEC. 10. *And be it further enacted*, That there is hereby appropriated for the payment of traveling expenses of the members of the first regiment of Michigan cavalry from the place, in Utah Territory, where they were mustered out of service, in the year eighteen hundred and sixty-six, to the place of their enrollment, a sum sufficient to allow each member three hundred and twenty-five dollars, deducting therefrom the amount paid to each for commutation of travel, pay, and subsistence by the Government, when thus mustered out, and that the accounts be settled and paid under the direction of the Secretary of War.

SEC. 11. *And be it further enacted*, That the provisions of the act to carry into effect the treaties between the United States and China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States, in those countries, and for other purposes, approved, June twenty-second, eighteen hundred and sixty, shall extend to Egypt; and the consul general at Alexandria shall have the power provided by section twenty-two of such act for the consul general or consul residing at the capital of a country where there is no minister.

SEC. 12. *And be it further enacted*, That each and every soldier who enlisted into the Army of the United States, after the nineteenth day of April, eighteen hundred and sixty-one, for a period of not less than three years, and having served the time of his enlistment has been honorably discharged, and who has received or who is entitled to receive from the United States under existing laws, a bounty of one hundred dollars and no more, and any such soldier enlisted for not less than three years, who has been honorably discharged on account of wounds received in the line of duty, and the widow, minor children or parents in the order named, of any such soldier who died in the service of the United States or of disease or wounds contracted while in the service, and in the line of duty, shall be paid the additional bounty of one hundred dollars hereby authorized.

SEC. 13. *And be it further enacted*, That to each and every soldier who enlisted into the Army of the United States, after the fourteenth day of April, eighteen hundred and sixty-one, for a period of not less than two years and who

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is not included in the foregoing section, and has been honorably discharged after serving two years, and who has received or is entitled to receive from the United States, under existing laws, a bounty of one hundred dollars and no more, shall be paid an additional bounty of fifty dollars, and any such soldier enlisted for not less than two years who has been honorably discharged on account of wounds received in the line of duty, and the widow, minor children, or parents, in the order named, of any such soldier who died in the service of the United States, or of disease, or wounds contracted while in the service, and in the line of duty, shall be paid the additional bounty of fifty dollars hereby authorized.

SEC. 14. *And be it further enacted*, That any soldier who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any other act of Congress, shall not be entitled to receive any additional bounty whatever; and when application is made by any soldier for said bounty, he shall be required, under the pains and penalties of perjury, to make oath or affirmation of his identity, and that he has not so bartered, sold, assigned, transferred, exchanged, loaned, or given away either his discharge papers, or any interest in any bounty as aforesaid. And no claim for such bounty shall be entertained by the Paymaster General, or other accounting or disbursing officer except upon receipt of the claimant's discharge papers, accompanied by the statement under oath, as by this section provided.

SEC. 15. *And be it further enacted*, That in the payment of the additional bounty herein provided for, it shall be the duty of the Paymaster General, under such rules and regulations as may be prescribed by the Secretary of War, to cause to be examined the accounts of each and every soldier who makes application therefor, and if found entitled thereto shall pay said bounties.

SEC. 16. *And be it further enacted*, That in the reception, examination, settlement, and payment of claims for said additional bounty due the widows or heirs of deceased soldiers, the accounting officers of the Treasury shall be governed by the restrictions prescribed for the Paymaster General by the Secretary of War, and the payment shall be made in like manner under the direction of the Secretary of the Treasury.

SEC. 17. *And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be five thousand dollars per annum, to be computed from the first day of the present Congress, and in addition thereto mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws: *Provided*, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives: *And provided further*, That the pay of the Speaker shall be eight thousand dollars per annum.

SEC. 18. *And be it further enacted*, That there be allowed and paid to the officers, clerks, committee clerks, messengers, and all other employés of the Senate and House of Representatives, and to the Globe and official reporters of each House, and the stenographer of the House, and to the Capitol police, and the three Superintendents of the Public Gardens, their clerks and assistants, and to the Librarian, assistant librarians, messengers, and other employés of the Congressional Library, an addition of twenty per cent on their present pay, to commence with the present Congress; and the amount necessary to pay this allowance is

hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 19. *And be it further enacted*, That the sum of eight thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated for the preservation of the harbor of Provincetown, Massachusetts, the same to be expended under the supervision of a commission or board of officers to be appointed by the Secretary of War.

APPROVED, July 28, 1866.

CHAP. CCXCVII.—An Act to supply deficiencies in the Appropriations for the Service of the fiscal year ending June thirty, eighteen hundred and sixty-six, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, out of any money in the Treasury not otherwise appropriated.

## EXECUTIVE.

For contingent expenses of the executive office, including stationery thereof, four thousand dollars.

## TREASURY DEPARTMENT.

Office of the First Comptroller:  
For the employment of temporary clerks in said office, two thousand five hundred dollars.

Office of Comptroller of the Currency:  
For compensation of the Comptroller, deputy comptroller, clerks, messengers, and laborers, thirty thousand dollars.

## LIGHT-HOUSE BOARD.

For contingent expenses, viz: for stationery, miscellaneous expenses, and postage, and renewing furniture and cases in the office, one thousand dollars.

For stationery for the Treasury Department and its various bureaus, twenty thousand dollars.

For Southeast Executive Building, including the extension, viz:

For contingent expenses, viz: for fuel, labor, light, and miscellaneous items, twenty thousand dollars.

For rent of buildings for the accommodation of clerks who cannot be accommodated in the Treasury building, five thousand dollars.

## DEPARTMENT OF THE INTERIOR.

For additional compensation for the Assistant Secretary, five hundred dollars.

For compiling and supervising the Biennial Register, five hundred dollars.

## POST OFFICE DEPARTMENT.

For additional compensation to three Assistant Postmasters General, at five hundred dollars each, fifteen hundred dollars.

For compensation of the additional clerks in the Post Office Department, authorized to be appointed by act of Congress approved February sixteenth, eighteen hundred and sixty-six, forty-four thousand two hundred dollars, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven.

For contingent expenses, five thousand dollars.

For twenty per centum additional to the salaries of female clerks employed in the Post Office Department, as per act of June twenty-fifth, eighteen hundred and sixty-four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, four thousand dollars: *Provided*, That from and after June thirtieth, eighteen hundred and sixty-six, the regular compensation of the female folders in the dead-letter office shall be at the rate of fifty dollars per month.

For twenty per centum additional to the sal-

aries of the laborers employed in the Post Office Department, and paid from the contingent fund, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, two thousand and forty dollars.

## DISTRICT ATTORNEYS.

For compensation of attorney for the eastern district of New York, from March twenty-second, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six, two hundred and fifty-five dollars and fifty-five cents.

For mail steamship service between the United States and Brazil, from November first, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six, one hundred thousand dollars, or so much thereof as may be due.

For compensation of three watchmen for the dome of the Capitol, at seven hundred and twenty dollars each, for the fiscal year ending June thirty, eighteen hundred and sixty-seven, twenty-one hundred and sixty dollars.

For navy hospital at Washington, District of Columbia, thirty thousand dollars.

The compensation of the deputy solicitor of the Court of Claims shall be, from and after June thirty, eighteen hundred and sixty-six, three thousand and five hundred dollars, payable quarterly out of any money in the Treasury not otherwise appropriated.

## GENERAL LAND OFFICE.

To supply the deficiency for salaries and commissions of registers and receivers of the district land offices for the year ending June thirtieth, eighteen hundred and sixty-six, forty thousand dollars.

For salary of marshal of the eastern district of New York from March twenty-second, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six, two hundred and fifty-five dollars and fifty-five cents.

## PUBLIC BUILDINGS AND GROUNDS.

To complete the sewer through the Botanic Garden, fifteen thousand dollars: *Provided*, That the Commissioner of Public Buildings shall advertise for two weeks for sealed proposals for the performance of such work and the furnishing of materials therefor in the two newspapers in the city of Washington authorized to publish the official advertisements, and at the expiration of such time, on a day to be specified in such advertisement, the proposals shall be opened by the Commissioner of Public Buildings in the presence of the Secretary of the Interior, and the work shall be then let to the person who shall have offered the same and furnish the materials at the lowest rates and aggregate, and who shall give proper security for the performance of his contract; and the Commissioner of Public Buildings is hereby required to report to Congress at the commencement of the next session a full statement of the expenditure of the present and past appropriations for this work, with the rates that have been paid for work and materials under each appropriation.

To enable the Commissioner of Public Buildings to reconstruct the lower water-closets of the Supreme Court room, to place marble around the furnace register, by way of protection, and to make such other improvements as the Chief Justice of the court may desire, one thousand five hundred dollars.

To repair the planking and for other repairs to Long Bridge, over the Potomac, three thousand dollars.

For iron seats for the public grounds, one thousand dollars.

To enable the Commissioner of Public Buildings to make such alterations in the arrangement of the business offices in the President's House as the President may desire, two thousand dollars.

For repair of one of the greenhouses at the President's, five hundred dollars.



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For annual repairs of the President's House, six thousand dollars, for the year ending June thirtieth, eighteen hundred and sixty-seven.

To complete the repairing and furnishing of the President's House, twenty thousand dollars.

To meet a deficiency in lighting Bridge and High streets, Georgetown, for the three months of the last fiscal year, eleven hundred dollars.

To soalter the roof gutters at the President's House as to prevent injury by overflow of water, three thousand dollars.

For the additional twenty per centum compensation to the messenger of the Court of Claims from January twenty-ninth to June thirtieth, eighteen hundred and sixty-six, sixty-seven dollars and twenty cents.

To ventilate the bath-room of the House of Representatives, two hundred dollars.

To alter and repair the building in the city of Philadelphia belonging to the United States, known as the Pennsylvania Bank building, so as to render it suitable for the occupancy of the appraisers connected with the customs at Philadelphia, under the direction of the Secretary of the Treasury, twenty thousand dollars.

## INDIAN DEPARTMENT.—MISCELLANEOUS.

For the general incidental expenses of Indian service in Nevada, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars; of which amount the sum of nine thousand seven hundred and twenty-three dollars shall be paid to James W. Nye, late Governor and superintendent of Indian affairs for Nevada, for balance found due him.

For additional compensation to the publishers of the Statutes-at-Large, twenty-four hundred and fifty-seven dollars and twenty-one cents.

To pay the salary of Edward Jarvis, from January first, eighteen hundred and sixty-five, to May thirty-first, eighteen hundred and sixty-five, for digesting the facts as to mortality and diseases, collected by the census marshals in eighteen hundred and sixty, seven hundred and fifty dollars.

To enable the Secretary of State to remove his office and contents, twenty-five thousand dollars, in addition to the sum heretofore appropriated.

To enable the Secretary of War to make the pay of the persons employed at any time during the last fiscal year as temporary clerks in the office of the Quartermaster General, or any division thereof, equal to the pay of first-class clerks, which is hereby directed, such sum as may be necessary for this purpose.

To enable the Secretary of the Interior to pay the reasonable costs and expenses actually paid or incurred by the delegates of the southern Cherokees in coming to and going from Washington, and during their stay in and about the negotiation upon the formation of treaties of peace and amity with the Indian tribes, a sum not exceeding ten thousand dollars: *Provided*, That said sum shall be refunded to the Treasury from the proceeds of the sales of the Cherokee neutral lands in Kansas.

SEC. 2. *And be it further enacted*, That for increased compensation of the chief justice and associate justices of the supreme court of the District of Columbia, authorized by the second section of the act of June first, eighteen hundred and sixty-six, from the first day of June, eighteen hundred and sixty-six, to the thirtieth day of June, eighteen hundred and sixty-six, the sum of three hundred and seventy-four dollars and sixty-five cents is hereby appropriated.

SEC. 3. *And be it further enacted*, That the sum of thirty-two thousand dollars be, and is hereby, appropriated to enable the Secretary

of the Interior to quiet the title of the occupants of the following lands, conveyed by the United States to Joseph Richardville, senior, and Joseph Richardville, junior, by treaty at Saint Mary's, October sixth, eighteen hundred and eighteen, to wit: the west half of section number twenty-six (26,) the east half of section number twenty-eight (28,) and section number twenty-seven (27,) of township five south, range four east, lying in the county of Auglaize and State of Ohio.

SEC. 4. *And be it further enacted*, That whereas doubts have arisen whether the fourth section of the act approved March third, eighteen hundred and sixty-five, entitled "An act to amend an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, authorized disbursing agents to disburse other moneys than those appropriated in the said fourth section: therefore, for the purpose of removing such doubts and declaring the true intent and meaning of said fourth [section,] the said fourth section shall be deemed, held, and construed as being and remaining in full force and effect from and after the third day of March, eighteen hundred and sixty-five, until the same shall have been modified or repealed, and as authorizing the disbursement through such agents of moneys heretofore appropriated, and that may hereafter be appropriated, for the payment of the lawful expenses incident to carrying into effect the various acts relative to the assessment and collection of the internal revenues; and all bonds and obligations heretofore entered into by collectors of internal revenue as disbursing agents shall be binding and obligatory upon such collectors and their sureties, as well in respect to moneys which have been or may hereafter be received by said collectors as such disbursing agents as to moneys appropriated in the said fourth section.

SEC. 5. *And be it further enacted*, That the Capitol police and two policemen at the Executive Mansion shall be entitled to the increased compensation allowed by law to officers, clerks, messengers, and others in the employ of the House of Representatives.

SEC. 6. *And be it further enacted*, That the following sums be appropriated out of any money in the Treasury not otherwise appropriated, viz:

For compensation of the depositary at Santa Fe, New Mexico, per act of March third, eighteen hundred and sixty-three, one thousand dollars.

For salaries of additional clerks and additional compensation of officers and clerks, under act of August sixth, eighteen hundred and forty-six, at such rates as the Secretary of the Treasury may deem just and reasonable, ten thousand dollars.

For compensation of two superintendents for the life-saving stations on the coasts of Long Island and New Jersey, per acts December fourteenth, eighteen hundred and fifty-four, and August eighteenth, eighteen hundred and fifty-six, two thousand five hundred dollars.

For compensation of fifty-four keepers of stations, per same acts, six thousand dollars.

For salary of the superintendent of the building occupied by the Quartermaster General's office, two hundred dollars for the current fiscal year.

For contingent expenses of the Senate, viz: For the Senate folding-room, six thousand dollars.

For additional messengers during the session, five thousand dollars.

SEC. 7. *And be it further enacted*, That the Secretary of War be directed to cause estimates to be made for the erection of suitable fire-proof buildings for the War Department in Washington, stating the location and price of the land, and plans and cost of necessary

buildings, to be reported at the next session of Congress.

SEC. 8. *And be it further enacted*, That section four of the act entitled "An act to provide for the payment of horses and other property lost or destroyed in the service of the United States," approved March three, eighteen hundred and forty-nine, be amended by striking out all after the enacting clause, and in lieu thereof inserting the words: "That the said Auditor shall, in all cases, transmit his adjustment, with all the papers relating thereto, to the Second Comptroller, for his revision and decision thereon, the same in all respects as is provided in the act of the second of September, eighteen [seventeen] hundred and eighty-nine."

SEC. 9. *And be it further enacted*, That the sum of five thousand dollars be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of continuing the index to Senate list of private claims down to the present Congress, in pursuance of the order of the Senate, dated March sixteen, eighteen hundred and sixty-six.

APPROVED, July 28, 1866.

CHAP. CCXCVIII.—An Act to protect the Revenue, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the tenth day of August, eighteen hundred and sixty-six, in lieu of the duties now imposed by law on the articles mentioned and embraced in this section, there shall be levied, collected, and paid, on all goods, wares, and merchandise imported from foreign countries, the duties heretofore [hereinafter] provided, viz:

On cigars, cigarettes, and cheroots of all kinds, three dollars per pound, and, in addition thereto, fifty per centum ad valorem: *Provided*, That paper cigars and cigarettes, including wrappers, shall be subject to the same duties as are herein imposed upon cigars: *And provided further*, That on and after the first day of August, eighteen hundred and sixty-six, no cigars shall be imported unless the same are packed in boxes of not more than five hundred cigars in each box; and no entry of any imported cigars shall be allowed of less quantity than three thousand in a single package; and all cigars on importation shall be placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected and a stamp affixed to each box indicating such inspection, with the date thereof. And the Secretary of the Treasury is hereby authorized to provide the requisite stamps, and to make all necessary regulations for carrying the above provisions of law into effect;

On cotton, three cents per pound;

On all compounds or preparations of which distilled spirits is a component part of chief value, there shall be levied a duty not less than that imposed upon distilled spirits: *Provided*, That brandy and other spirituous liquors may be imported in casks or other packages of any capacity not less than thirty gallons; and that wine in bottles may be imported in boxes containing not less than one dozen bottles of not more than one quart each; and wine, brandy, or other spirituous liquor imported into the United States, and shipped after the first day of October, eighteen hundred and sixty-six, in any less quantity than herein provided for, shall be forfeited to the United States.

SEC. 2. *And be it further enacted*, That the second proviso in section four of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March three, eighteen hundred and sixty-five, shall be construed to include any ship, vessel, or steamer to or from any port in the Sandwich Islands or Society Islands.

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SEC. 3. *And be it further enacted*, That so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August eighteen, eighteen hundred and fifty-six, as prohibits the export thereof, is hereby suspended in relation to all persons who have complied with the provisions of section second of said act, for five years from and after the fourteenth day of July, eighteen hundred and sixty-seven.

SEC. 4. *And be it further enacted*, That all laws and parts of laws allowing fishing bounties to vessels hereafter licensed to engage in the fisheries be, and the same are hereby, repealed: *Provided*, That, from and after the date of the passage of [t]his act, vessels licensed to engage in the fisheries may take on board imported salt in bond to be used in curing fish, under such regulations as the Secretary of the Treasury shall prescribe, and upon proof that said salt has been used in curing fish, the duties on the same shall be remitted.

SEC. 5. *And be it further enacted*, That, from and after the passage of this act, all goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the adjacent British Provinces, or arriving at the port of Point Isabel, Texas, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the republic of Mexico, may be entered at the custom-house, and conveyed, in transit, through the territory of the United States, without the payment of duties, under such rules, regulations, and conditions, for the protection of the revenue as the Secretary of the Treasury may prescribe.

SEC. 6. *And be it further enacted*, That imported goods, wares, or merchandise in bond, or duty paid, and products or manufactures of the United States, may, with the consent of the proper authorities of the provinces or republic aforesaid, be transported from one port or place in the United States to another port or place therein, over the territory of said provinces or republic, by such routes, and under such rules, regulations and conditions as the Secretary of the Treasury may prescribe; and the goods, wares, and merchandise, so transported, shall, upon arrival in the United States from the provinces or republic aforesaid, be treated in regard to the liability to or exemption from duty, or tax, as if the transportation had taken place entirely within the limits of the United States.

SEC. 7. *And be it further enacted*, That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that more moneys have been paid to the collector of customs, or others acting as such, than the law requires, and the parties have failed to comply with the requirements of the fourteenth and fifteenth sections of the act entitled "An act to increase the duties on imports, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, and the Secretary of the Treasury shall be satisfied that said non-compliance with the requirements as above stated was owing to circumstances beyond the control of the importer, consignee, or agent making such payments, he may draw his warrant upon the Treasurer in favor of the person or persons entitled to the overpayment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the provisions of the second, third, and fourth sections of the act approved March second, eighteen hundred and thirty-three, entitled "An act further to provide for the collection of duties on imports," and of the twelfth section of the act approved March third, eighteen hundred

and sixty-three, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," shall be taken and deemed as extending to and embracing all cases arising or which may have heretofore arisen, and all suits and prosecutions heretofore brought and now pending, or which may hereafter be brought against any officer of the United States or other person by reason of any acts done or proceedings had by such officer or other person, under authority or color of the act approved March twelve, eighteen hundred and sixty-three, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States," or the act approved July two, eighteen hundred and sixty-four, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection:" *Provided*, That such acts done or proceedings had under the two acts last aforesaid, or under color thereof, shall have been done and had under the authority or by the direction of the executive government of the United States: *And provided further*, That when a recovery shall have been, or shall hereafter be, had in any such suit or prosecution brought, or which may hereafter be brought, as aforesaid, the payment of the amount recovered, as provided for in the said twelfth section of the act approved March third, eighteen hundred and sixty-three, aforesaid, shall be made out of the moneys arising and obtained from the proceeds of sales and leases and fees collected and paid over to the Government under the two acts approved March twelve, eighteen hundred and sixty-three, and July second, eighteen hundred and sixty-four, aforesaid, in relation to captured and abandoned property.

SEC. 9. *And be it further enacted*, That in determining the dutiable value of merchandise hereafter imported, there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal markets of the country from whence the same shall have been imported into the United States, the cost of transportation, shipment, and transshipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States; the value of the sack, box, or covering of any kind in which such goods are contained; commission at the usual rates, but in no case less than two and a half per centum; brokerage, export duty, and all other actual or usual charges for putting up, preparing, and packing for transportation or shipment. And all charges of a general character incurred in the purchase of a general invoice shall be distributed pro rata among all parts of such invoice; and every part thereof charged with duties based on value shall be advanced according to its proportion, and all wines or other articles paying specific duty by grades shall be graded and pay duty according to the actual value so determined: *Provided*, That all additions made to the entered value of merchandise for charges shall be regarded as part of the actual value of such merchandise, and if such addition shall exceed by ten per centum the value so declared in the entry, in addition to the duties imposed by law, there shall be levied, collected, and paid a duty of twenty per centum on such value: *Provided*, That the duty shall in no case be assessed upon an amount less than the invoice or entered value: *Provided further*, That nothing herein contained shall apply to long-combing or carpet wools costing twelve cents or less per

pound, unless the charges so added shall carry the cost above twelve cents per pound, in which case, one cent per pound duty shall be added.

SEC. 10. *And be it further enacted*, That the second proviso in section twenty-one of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July fourteen, eighteen hundred and sixty-two, which provides that any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury, be, and the same is hereby, amended so as to authorize the Secretary of the Treasury, in case of any sale under the said provision, to pay to the owner, consignee, or agent of such goods, the proceeds thereof, after deducting duties, charges, and expenses, in conformity with the provision of the first section of the warehouse act of August six, eighteen hundred and forty-six.

SEC. 11. *And be it further enacted*, That during [the] period of one year from the passage of this act, there may be imported into the United States, free of duty, any machinery designed solely for and adapted to the manufacture of sugar from beets, including all the preliminary processes requisite therefor, but not including any machinery which may be used for any other manufactures.

SEC. 12. *And be it further enacted*, That upon the reimportation of articles once exported of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal revenue laws upon such articles.

SEC. 13. *And be it further enacted*, That there shall be established in and attached to the Department of the Treasury a bureau to be styled "the Bureau of Statistics," and the Secretary of the Treasury is hereby authorized to appoint a Director to superintend and control the business of said bureau, who shall be paid an annual salary of thirty-five hundred dollars. And it shall be the duty of the Director of the Bureau of Statistics to prepare the report on the statistics of commerce and navigation, exports and imports, now required by law to be submitted annually to Congress by the Secretary of the Treasury; and said report, embracing the returns of the commerce and navigation, the exports and imports of the United States to the close of the fiscal year, shall be submitted to Congress in a printed form on or before the first day of December next succeeding; and the said Director, as soon as practicable after the organization of this office shall, under the direction of the Secretary of the Treasury, prepare and publish monthly reports of the exports and imports of the United States, including the quantities and values of goods warehoused or withdrawn from warehouse, and such other statistics relative to the trade and industry of the country as the Secretary of the Treasury may consider expedient. And the Director of the Bureau of Statistics shall also prepare an annual statement of vessels registered, enrolled, and licensed under the laws of the United States, together with the class, name, tonnage, and place of registry of each vessel, and such other information as the Secretary of the Treasury may deem proper to embody therein; and to enable the said Director to furnish the information required, the Secretary of the Treasury shall have power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled, and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to

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be so marked, such vessel shall be no longer recognized as a vessel of the United States. The said Director shall also prepare an annual statement of all merchandise passing in transit through the United States to foreign countries, each description of merchandise, so far as practicable, warehoused, withdrawn from warehouse for consumption, for exportation, for transportation to other districts, and remaining in the warehouse at the end of each fiscal year. It shall be the further duty of said Director to collect, digest, and arrange, for the use of Congress, the statistics of the manufactures of the United States, their localities, sources of raw material, markets, exchanges with the producing regions of the country, transportation of products, wages, and such other conditions as are found to affect their prosperity; and to aid him in the discharge of these duties, the several clerks now employed in the preparation of statistics in the Treasury Department, or any bureau thereof, may be placed under his supervision and direction; and, in addition, the Secretary of the Treasury shall detail such other clerks as may be necessary to fully carry out the provisions of this act. And the expenses of the Bureau of Statistics for clerical service, publication of reports, stationery, books, and statistical periodicals and papers required by the bureau, shall be defrayed on the order and approval of the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated. And all letters and documents to and from the Director of the Bureau of Statistics, relating to the duties and business of his office, shall be transmitted by mail free of postage.

SEC. 14. *And be it further enacted*, That the Secretary of the Treasury be authorized to suspend the collection, in any of the States heretofore declared in insurrection, of the direct tax imposed by an act of Congress passed August fifth, eighteen hundred and sixty-one, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," until January first, eighteen hundred and sixty-eight.

APPROVED, July 28, 1866.

CHAP. CCXCIX.—An Act to increase and fix the Military Peace Establishment of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the military peace establishment of the United States shall hereafter consist of five regiments of artillery, ten regiments of cavalry, forty-five regiments of infantry, the professors and corps of cadets of the United States Military Academy, and such other forces as shall be provided for by this act, to be known as the Army of the United States.

SEC. 2. *And be it further enacted*, That the five regiments of artillery provided for by this act shall consist of the five regiments now organized; and the first, second, third, and fourth regiments of artillery shall have the same organization as is now prescribed by law for the fifth regiment of artillery; but the regimental adjutants, quartermasters, and commissaries shall hereafter be extra lieutenants selected from the first or second lieutenants of the regiment.

SEC. 3. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added four regiments, two of which shall be composed of colored men, having the same organization as is now provided by law for cavalry regiments, with the addition of one veterinary surgeon to each regiment, whose compensation shall be one hundred dollars per month; but the grade of company commissary sergeant of cavalry is hereby abolished.

The original vacancies in the grade of first and second lieutenant shall be filled by selection from among the officers and soldiers of volunteer cavalry, and two thirds of the original vacancies in each of the grades above that of first lieutenant shall be filled by selections from among the officers of volunteer cavalry, and one third from officers of the regular Army, all of whom shall have served two years in the field during the war, and have been distinguished for capacity and good conduct; any portion of the cavalry force may be armed and drilled as infantry or dismounted cavalry at the discretion of the President, and each cavalry regiment shall hereafter have but one hospital steward, and the regimental adjutants, quartermasters, and commissaries shall hereafter be extra lieutenants selected from the first or second lieutenants of the regiment.

SEC. 4. *And be it further enacted*, That the forty-five regiments of infantry provided for by this act shall consist of the first ten regiments, of ten companies each, now in service; of twenty-seven regiments, of ten companies each, to be formed by adding two companies to each battalion of the remaining nine regiments; and of eight new regiments, of ten companies each, four regiments of which shall be composed of colored men and four regiments of ten companies each to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps; and all the original vacancies in the grades of first and second lieutenant shall be filled by selection from among the officers and soldiers of volunteers, and one half the original vacancies in each of the grades above that of first lieutenant, shall be filled by selection from among the officers of volunteers, and the remainder from officers of the regular Army, all of whom shall have served two years during the war, and have been distinguished for capacity and good conduct in the field. The Veteran Reserve corps shall be officered by appointments from any officers and soldiers of volunteers or of the regular Army who have been wounded in the line of their duty while serving in the Army of the United States in the late war, and who may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

SEC. 5. *And be it further enacted*, That the appointments to be made from among volunteer officers and soldiers under the provisions of this act shall be distributed among the States, Territories, and District of Columbia, in proportion to the number of troops furnished by them respectively to the service of the United States during the late war, reduced to an average of three years' term of service: *Provided*, That the regulation provided in this section governing the proportion of officers to be selected from each State, shall not be applied to the States of California, Oregon, and Nevada.

SEC. 6. *And be it further enacted*, That each regiment of infantry provided for by this act shall have one colonel, one lieutenant colonel, one major, one adjutant, one regimental quartermaster, one sergeant major, one quartermaster sergeant, one commissary sergeant, one hospital steward, two principal musicians, and ten companies; and the adjutant and quartermaster shall hereafter be extra lieutenants selected from the first or second lieutenants of the regiment. Each company shall have one captain, one first lieutenant and one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, eight corporals, two artificers, two musicians, one wagoner, and fifty privates, and the number of privates may be increased at the discretion of the President, not to exceed one hundred, whenever the exigencies of the service require such increase; and the President is hereby authorized to enlist and employ in the Territories and Indian country a force of Indians, not to exceed one thousand, to act as scouts, who shall receive the pay and

allowances of cavalry soldiers, and be discharged whenever the necessity for their further employment is abated, or at the discretion of the department commander.

SEC. 7. *And be it further enacted*, That fifteen bands, including the band at the Military Academy, may be retained or enlisted in the Army, with such organization as is now provided by law, to be assigned to brigades in time of war, and in time of peace to assembled brigades, or to forts or posts at which the largest number of troops shall be ordinarily stationed, and the band at the Military Academy shall be placed on the same footing as other bands, one ordnance sergeant and one hospital steward for each military post, and the same number of post chaplains as at present authorized, who shall be appointed as now provided by law; and the President of the United States is hereby authorized to appoint for each national cemetery now established, or that may be established, a superintendent, with the rank, pay, and emoluments of an ordnance sergeant, to be selected from among the non-commissioned officers of the regular Army and volunteer forces who have received certificates of merit for services during the war.

SEC. 8. *And be it further enacted*, That all enlistments into the Army shall hereafter be for the term of five years for cavalry, and three years for artillery and infantry, and recruits may at all times be collected at the general rendezvous in addition to the number required to fill to the minimum all the regiments of the Army, provided that such recruits shall not exceed in the aggregate three thousand men. It shall be competent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, provided it shall be found, on medical inspection, that by such wounds they are not unfitted for efficiency in garrison or other light duty; and such men, when enlisted, shall be assigned to service exclusively in the regiments of the Veteran Reserve corps.

SEC. 9. *And be it further enacted*, That there shall be one general, one lieutenant general, five major generals, and ten brigadier generals, who shall have the same pay and emoluments, and be entitled to the same staff officers in number and grade as now provided by law.

SEC. 10. *And be it further enacted*, That the Adjutant General's department of the Army shall hereafter consist of the officers now authorized by law, viz: one adjutant general, with the rank, pay, and emoluments of a brigadier general; two assistant adjutants general, with the rank, pay, and emoluments of colonels of cavalry; four assistant adjutants general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and thirteen assistant adjutants general, with the rank, pay, and emoluments of majors of cavalry.

SEC. 11. *And be it further enacted*, That there shall be four inspectors general of the Army, with the rank, pay, and emoluments of colonels of cavalry; three assistant inspectors general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and two assistant inspectors general, with the rank, pay, and emoluments of majors of cavalry.

SEC. 12. *And be it further enacted*, That the Bureau of Military Justice shall hereafter consist of one judge advocate general, with the rank, pay, and emoluments of a brigadier general, and one assistant judge advocate general, with the rank, pay, and emoluments of a colonel of cavalry; and the said Judge Advocate General shall receive, revise, and have recorded, the proceedings of all courts-martial, courts of inquiry, and military commissions, and shall perform such other duties as have been heretofore performed by the Judge Advocate General of the Army. And of the judge advocates now in office there may be retained a number not exceeding ten, to be selected by the Secretary of the War, who shall perform their duties under



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the direction of the Judge Advocate General, until otherwise provided by law, or until the Secretary of War shall decide that their services can be dispensed with.

SEC. 13. *And be it further enacted*, That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; six assistant quartermasters general, with the rank, pay, and emoluments of colonels of cavalry; ten deputy quartermasters general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; fifteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; and forty-four assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry; and the vacancies hereby created in the grade of assistant quartermaster shall be filled by selection from among the persons who have rendered meritorious services as assistant quartermasters of volunteers during two years of the war; but after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve, and the number of captains to thirty, and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers.

SEC. 14. *And be it further enacted*, That the number of military storekeepers in the quartermaster's department shall hereafter be as many as shall be required, not exceeding sixteen, who shall have the rank, pay, and emoluments of captains of infantry.

SEC. 15. *And be it further enacted*, That the provisions of the act for the better organization of the quartermaster's department, approved July fourth, eighteen hundred and sixty-four, shall continue in force until the first day of January, eighteen hundred and sixty-seven, and no longer.

SEC. 16. *And be it further enacted*, That the subsistence department of the Army shall hereafter consist of the number of officers now authorized by law, viz: one commissary general of subsistence, with the rank, pay, and emoluments of a brigadier general; two assistant commissaries general of subsistence, with the rank, pay, and emoluments of colonels of cavalry; two assistant commissaries general of subsistence, with the rank, pay, and emoluments of lieutenant colonels of cavalry; eight commissaries of subsistence, with the rank, pay, and emoluments of majors of cavalry; and sixteen commissaries of subsistence, with the rank, pay, and emoluments of captains of cavalry.

SEC. 17. *And be it further enacted*, That the medical department of the Army shall hereafter consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; one chief medical purveyor and four assistant medical purveyors, with the rank, pay, and emoluments of lieutenant colonels of cavalry, who shall give the same bonds which are or may be required of assistant paymaster generals of like grade, and shall, when not acting as purveyors, be assignable to duty as surgeons by the President; sixty surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and fifty assistant surgeons, with the rank, pay, and emoluments of lieutenants of cavalry for the first three years' service, and with the rank, pay, and emoluments of captains of cavalry after three years' service; and five medical storekeepers, with the same compensation as is now provided by law; and all the original vacancies in the grade of assistant surgeon shall be filled by selection by examination from among the persons who have served as staff or regimental surgeons, or assistant surgeons of volunteers in the Army of the United States two years during the late war; and persons

who have served as assistant surgeons three years in the volunteer service shall be eligible for promotion to the grade of captain; and the Secretary of War is hereby authorized to appoint from the enlisted men of the Army, or cause to be enlisted, as many hospital stewards as the service may require, to be permanently attached to the medical department, under such regulations as the Secretary of War may prescribe.

SEC. 18. *And be it further enacted*, That the pay department of the Army shall hereafter consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general; two assistant paymasters general, with the rank, pay, and emoluments of colonels of cavalry; two deputy paymasters general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and sixty paymasters, with the rank, pay, and emoluments of majors of cavalry, to be selected from persons who have served as additional paymasters.

SEC. 19. *And be it further enacted*, That the corps of engineers shall consist of one chief of engineers, with the rank, pay, and emoluments of a brigadier general; six colonels, twelve lieutenant colonels, twenty-four majors, thirty captains, and twenty-six first and ten second lieutenants, who shall have the pay and emoluments now provided by law for officers of the engineer corps.

SEC. 20. *And be it further enacted*, That the five companies of engineer soldiers, and the sergeant major and quartermaster sergeant heretofore prescribed by law shall constitute a battalion of engineers, to be officered by officers of suitable rank detailed from the corps of engineers; and the officers of engineers, acting respectively as adjutant and quartermaster of this battalion, shall be entitled to the pay and emoluments of adjutants and quartermasters of cavalry.

SEC. 21. *And be it further enacted*, That the ordnance department of the Army shall consist of the same number of officers and enlisted men as now authorized by law, and the officers shall be of the following grades, viz: one brigadier general, three colonels, four lieutenant colonels, ten majors, twenty captains, sixteen first lieutenants, and ten second lieutenants, with the same pay and emoluments as now provided by law; and thirteen ordnance storekeepers, of whom a number not exceeding six may be appointed and authorized to act as paymasters at armories and arsenals. The ordnance storekeeper and paymaster at the national armory at Springfield shall have the rank, pay, and emoluments of a major of cavalry, and all other ordnance storekeepers shall have the rank, pay, and emoluments of captains of cavalry, and two thirds of the military storekeepers and ordnance storekeepers to be appointed under this and the fourteenth section of this act, shall be selected from volunteer officers or soldiers who have performed meritorious service in the Army of the United States during the late rebellion.

SEC. 22. *And be it further enacted*, That there shall be one chief signal officer of the Army, who shall have the rank, pay, and emoluments of a colonel of cavalry; and the Secretary of War shall have power to detail six officers, and not to exceed one hundred non-commissioned officers and privates, from the battalion of engineers, for the performance of signal duty; but no officer or enlisted man shall be so detailed until he shall have been examined and approved by a military board, to be convened by the Secretary of War for that purpose; and enlisted men, while so detailed, shall, when deemed necessary, be mounted upon horses provided by the Government.

SEC. 23. *And be it further enacted*, That the Adjutant General, Quartermaster General, Commissary General of Subsistence, Surgeon General, Paymaster General, Chief of Engineers, and Chief of Ordnance, shall hereafter be appointed by selection from the corps to

which they belong, and no person shall be appointed to any vacancy created by this act in the pay, medical, or quartermaster's departments, until he shall have passed the examination now required by law.

SEC. 24. *And be it further enacted*, That no person[s] shall be commissioned in any of the regiments authorized by this act until they shall have passed a satisfactory examination before a board, to be composed of officers of that arm of the service in which the applicant is to serve, to be convened under the direction of the Secretary of War, which shall inquire into the services rendered during the war, capacity and qualifications of the applicants; and such appointments, when made, shall be without regard to previous rank, but with sole regard to qualifications and meritorious services; and persons applying for commissions in any of the regiments authorized by this act shall be entitled in case of passing the examination, and being appointed or commissioned, to receive mileage from the place of his residence to the place of examination, or such portion of that distance as he may actually travel, the same as is paid to officers traveling under orders, but there shall be paid no other compensation.

SEC. 25. *And be it further enacted*, That the office of sutler in the Army and at military posts is hereby abolished, and the subsistence department is hereby authorized and required to furnish such articles as may from time to time be designated by the inspectors general of the Army, the same to be sold to officers and enlisted men at cost prices, and if not paid for when purchased, a true account thereof shall be kept, and the amount due the Government shall be deducted by the paymaster at the payment next following such purchase: *Provided*, That this section shall not go into effect until the first day of July, eighteen hundred and sixty-seven.

SEC. 26. *And be it further enacted*, That for the purpose of promoting knowledge of military science among the young men of the United States, the President may, upon the application of an established college or university within the United States, with sufficient capacity to educate at one time not less than one hundred and fifty male students, detail an officer of the Army to act as president, superintendent, or professor of such college or university; that the number of officers so detailed shall not exceed twenty at any time, and shall be apportioned through the United States as nearly as practicable according to population, and shall be governed by general rules, to be prescribed from time to time by the President.

SEC. 27. *And be it further enacted*, That whenever troops are serving at any post, garrison, or permanent camp, there shall be established a school where all enlisted men may be provided with instruction in the common English branches of education, and especially in the history of the United States, and the Secretary of War is authorized to detail such commissioned officers and enlisted men as may be necessary to carry out the provisions of this section; and it shall be the duty of the post or garrison commander to cause to be set apart a suitable room or building for school and religious purposes.

SEC. 28. *And be it further enacted*, That nothing in this act shall be construed to authorize or permit the appointment to any position or office in the Army of the United States of any person who has served in any capacity in the military, naval, or civil service of the so-called confederate States or of either of the States in insurrection during the late rebellion; but any such appointment shall be illegal and void.

SEC. 29. *And be it further enacted*, That, in construing this act, officers who have heretofore been appointed or commissioned to serve with United States colored troops shall be deemed

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and held to be officers of volunteers, and officers of the regular Army who have also held commissions as officers of volunteers or have commanded volunteers shall not on that account be held to be volunteers under the provisions of this act.

Sec. 30. *And be it further enacted*, That nothing herein contained shall be construed as affecting existing laws respecting the rank, pay, and allowances of chaplains of the Army, but the same shall remain as now established by the act entitled "An act to amend section nine of the act approved July seventeen, eighteen hundred and sixty-two, entitled 'An act to define the pay and emoluments of certain officers of the Army, and for other purposes,'" approved April nine, eighteen hundred and sixty-four; one chaplain may be appointed by the President, by and with the advice and consent of the Senate, for each regiment of colored troops, whose duty shall include the instruction of the enlisted men in the common English branches of education; and chaplains, when ordered from one field of duty to another, shall be entitled to transportation at the same rate as other officers.

Sec. 31. *And be it further enacted*, That nothing in this act shall be so construed as to vacate the commission of any officer now properly in service, or whose name may be borne on the Army Register as partially retired, according to law.

Sec. 32. *And be it further enacted*, That officers of the regular Army, entitled to be retired on account of disability occasioned by wounds received in battle, may be retired upon the full rank of the command held by them, whether in the regular or volunteer service at the time such wounds were received.

Sec. 33. *And be it further enacted*, That the Provost Marshal General's Office and Bureau shall be continued only so long as the Secretary of War shall deem necessary, not exceeding thirty days after the passage of this act.

Sec. 34. *And be it further enacted*, That all officers who have served during the rebellion as volunteers in the armies of the United States, and who have been or may hereafter be honorably mustered out of the volunteer service, shall be entitled to bear the official title, and upon occasions of ceremony to wear the uniform of the highest grade they have held by brevet or other commissions in the volunteer service. In case of officers of the regular Army, the volunteer rank shall be entered upon the official Army Register: *Provided*, That these privileges shall not entitle any officer to command, pay, or emoluments.

Sec. 35. *And be it further enacted*, That the third section of the act entitled "An act making appropriations for the support of the Army for the year ending thirtieth of June, eighteen hundred and sixty-six," shall continue in force for one year from the passage of this act: *Provided*, That no officer who is furnished with quarters in kind shall be entitled to receive the increased commutation of rations hereby authorized.

Sec. 36. *And be it further enacted*, That section three of the act approved February twenty, eighteen hundred and sixty-three, authorizing the appointment of a Solicitor of the War Department, be, and the same is hereby, repealed.

Sec. 37. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to have prepared, and to report to Congress, at its next session, a code of regulations for the government of the Army, and of the militia in actual service, which shall embrace all necessary orders and forms of a general character for the performance of all duties incumbent on officers and men in the military service, including rules for the government of courts-martial. The existing regulations to remain in force until Congress shall have acted on said report.

Sec. 38. *And be it further enacted*, That all laws and parts of laws inconsistent with the

provisions of this act be, and the same are hereby, repealed.

APPROVED, July 28, 1866.

CHAP. CCC.—An Act to revive and extend the Provisions of "An Act granting the Right of Way and making a Grant of Land to the States of Arkansas and Missouri, to aid in the Construction of a Railroad from a Point upon the Mississippi opposite the Mouth of the Ohio River, via Little Rock, to the Texas Boundary, near Fulton, in Arkansas, with Branches to Fort Smith and the Mississippi River," approved February 9, 1853, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the "Act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river," approved February nine, eighteen hundred and fifty-three, with all the provisions therein made, be, and the same is hereby, revived and extended for the term of ten years from the passage of this act; and all the lands therein granted, which reverted to the United States under the provisions of said act, be, and the same are hereby, restored to the same custody, control, and condition, and made subject to the uses and trusts in all respects as they were before and at the time such reversion took effect: *Provided*, That all mineral lands within the limits of this grant and the grant made in section two of this act are hereby reserved to the United States: *And provided further*, That all property and troops of the United States shall at all times be transported over said railroad and branches at the cost, charge, and expense of the company or corporation owning or operating said road and branches respectively, when so required by the Government of the United States.

Sec. 2. *And be it further enacted*, That there is hereby granted, added to, and made part of the donation of lands hereby renewed and made, subject to the same uses and trusts, and under the same custody, control, and conditions, and to be held and disposed of in the same manner as if included in the original grant, all the alternate sections and parts of sections, designated by odd numbers, lying along the outer line of lands heretofore granted, and within five miles on each side thereof, excepting lands reserved or otherwise appropriated by law, or to which the right of preemption or homestead settlement has attached: *Provided*, That the additional quantity of lands hereby granted, when added to the lands specified in section one hereof, shall not exceed, in the aggregate quantity of lands by this act granted, sufficient to amount to ten sections for each mile of railroad: *And provided further*, That the lands embraced in this grant and the grant revived by section one of this act shall be disposed of only as follows: whenever proof shall be furnished, satisfactory to the Secretary of the Interior, that any section of ten consecutive miles of said road and branches is completed in a good, substantial, and workmanlike manner as a first-class railroad, the said Secretary of the Interior shall issue patents for all the lands granted as aforesaid, not exceeding ten sections per mile situate opposite to and within the limits of twenty miles of the section of said road and branches thus completed, and when like proof shall be furnished that another section of ten miles of said road in said States or on the said branches respectively connecting with the preceding section is completed as aforesaid, the Secretary of the Interior shall issue patents in like manner as in case

of the first completed sections, and so on from time to time until the whole is completed as herein provided, when the Secretary of the Interior shall issue patents for all the remaining lands herein granted, not exceeding the aggregate amount provided for and located as required by sections one and two of this act: *And provided further*, That if one section of twenty miles of each of said railroads and branches shall not be fully constructed and completed as a first-class railroad within three years from the time this act becomes a law, and at least one section of twenty miles on each of said roads and branches in each year thereafter, and the whole of said roads and branches within ten years from the time this act shall take effect, then and in either of said cases all the lands granted or the grant of which is revived or extended by this act, and which at the time shall be unpatented to or for the benefit of the road or company making or suffering such failure, shall revert to the United States.

Sec. 3. *And be it further enacted*, That all the lands mentioned in this act, and hereby granted, are hereby reserved from entry, preemption, or appropriation to any other purpose than herein contemplated, for the said term of ten years from the passage of this act: *Provided*, That all lands heretofore given to the State of Missouri for the construction of the Cairo and Fulton railroad, or for the use of said road lying in the State of Missouri, and all lands proposed to be granted by this act for the use or in aid of the road herein named, and lying in said State of Missouri, shall be granted and patented to the said State whenever the road shall be completed through said State, which lands may be held by said State and used toward paying the State the amount of bonds heretofore issued by it to aid said company, and all interest accrued or to accrue thereon: *Provided further*, That the provisions of this act, so far as the same relate to the Memphis and Little Rock and the Little Rock and Fort Smith branches of said road, shall not take effect until the Secretary of the Interior shall make and file a certificate in his office and the office of the secretary of state of Arkansas, stating that the companies or corporations claiming the benefit of this act in behalf of said branches have reorganized their boards of directors in a lawful manner, and, after such reorganization, that they have respectively rescinded all acts, resolutions, or other proceedings, transferring the lands, rights, or privileges of such corporations or companies to any convention, State, or authority recognizing or acting in concert with, or under the authority of the late so-called confederate States of America.

APPROVED, July 28, 1866.

CHAP. CCCL.—An Act to authorize the Use of the Metric System of Weights and Measures.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act it shall be lawful throughout the United States of America to employ the weights and measures of the metric system; and no contract or dealing, or pleading in any court, shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system.

Sec. 2. *And be it further enacted*, That the tables in the schedule hereto annexed shall be recognized in the construction of contracts, and in all legal proceedings, as establishing, in terms of the weights and measures now in use in the United States, the equivalents of the weights and measures expressed therein in terms of the metric system; and said tables may be lawfully used for computing, determining, and expressing in customary weights and measures the weights and measures of the metric system.

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## MEASURES OF LENGTH.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.	
Myriameter .....	10,000 meters.	6.2137 miles.	
Kilometer .....	1,000 meters.	0.62137 miles, or 3280 feet and ten inches.	
Hectometer .....	100 meters.	328 feet and 1 inch.	
Dekameter .....	10 meters.	393.7 inches.	
Meter .....	1 meter.	39.37 inches.	
Decimeter .....	$\frac{1}{10}$ of a meter.	3.937 inches.	
Centimeter .....	$\frac{1}{100}$ of a meter.	0.3937 inches.	
Millimeter .....	$\frac{1}{1000}$ of a meter.	0.0394 inches.	

## MEASURES OF SURFACE.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.	
Hectare .....	10,000 square meters	2.471 acres.	
Are .....	100 square meters	119.6 square yards.	
Centare .....	1 square meter	1550 square inches.	

## MEASURES OF CAPACITY.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE.	
Names.	Number of liters.	Cubic measure.	Dry measure.	Liquid or wine measure.
Kiloliter, or stere	1,000	1 cubic meter .....	1.308 cubic yards .....	264.17 gallons.
Hectoliter .....	100	$\frac{1}{10}$ of a cube meter ...	2 bushels and 8.35 pecks	26.417 gallons.
Dekaliter .....	10	10 cubic decimeters ...	9.08 quarts .....	2.6417 gallons.
Liter .....	1	1 cubic decimeter .....	0.908 quarts .....	1.0567 quarts.
Deciliter .....	$\frac{1}{10}$	$\frac{1}{10}$ of a cubic decimeter	6.1022 cubic inches .....	0.845 gills.
Centiliter .....	$\frac{1}{100}$	10 cubic centimeters ...	0.6102 cubic inches .....	0.338 fluid ounces.
Milliliter .....	$\frac{1}{1000}$	1 cubic centimeter ...	0.061 cubic inches .....	0.27 fluid drams.

## WEIGHTS.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE.	
Names.	Number of grams.	Weight of what quantity of water at maximum density.	Avoirdupois weight.	
Millier or Tonneau .....	1,000,000	1 cubic meter .....	2204.6 pounds.	
Quintal .....	100,000	1 hectoliter .....	220.46 pounds.	
Myriagram .....	10,000	10 liters .....	22.046 pounds.	
Kilogram or kilo .....	1,000	1 liter .....	2.2046 pounds.	
Hectogram .....	100	1 deciliter .....	8.5274 ounces.	
Dekagram .....	10	10 cubic centimeters .....	0.3527 ounces.	
Gram .....	1	1 cubic centimeter .....	15.432 grains.	
Decigram .....	$\frac{1}{10}$	$\frac{1}{10}$ of a cubic centimeter ...	1.5432 grains.	
Centigram .....	$\frac{1}{100}$	10 cubic millimeters .....	0.1543 grains.	
Milligram .....	$\frac{1}{1000}$	1 cubic millimeters .....	0.0154 grains.	

APPROVED, July 28, 1866.

CHAP. CCCII.—An Act to amend an Act entitled "An Act making Appropriations for sundry Civil Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso to the seventeenth section of the act to which this act is an amendment be altered so as to read as follows: And provided further, That where there is no collector at the place of location of any public work herein specified, the Secretary of the Treasury shall have power to appoint a disbursing agent for the payment of all moneys that are, or may be hereafter, appropriated for the construction of any such public work, with such compensation as he may deem equitable and just, and all laws and parts of laws in conflict with the provisions of this section be, and the same are hereby, repealed.

APPROVED, July 28, 1866.

CHAP. CCCIII.—An Act authorizing the Payment of the Rewards offered by the President of the United States and the Officers of the War Department, in April and May, 1865, for the Capture of the Assassins of the late President, Abraham Lincoln, and the Secretary of State, Hon. William H. Seward.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any moneys in the Treasury not otherwise appropriated, in satisfaction of all claims for the rewards offered by the President of the United States or by authority of the War Department for the capture of the assassins of the late President, Abraham Lincoln, and the Secretary of State, William H. Seward, the following sums to the following-named persons, viz:

For the capture of Payne:  
To Major H. W. Smith, who had charge of and commanded the force, the sum of. \$1,000  
Richard C. Morgan, detective..... 500

Eli Devore, detective..... \$500  
Charles H. Rosch, detective..... 500  
Thomas Sampson, detective..... 500  
William M. Wermerskirch, detective..... 500  
John H. Kimball, citizen..... 500  
P. M. Clark, citizen..... 500  
Susan Jackson, colored..... 250  
Mary Ann Griffin..... 250

\$5,000

For the capture of Atzerott:

To Major E. R. Artman, 213th Pennsylvania volunteers..... \$1,250 00  
Sergeant Zachariah W. Gemmill, 1st Delaware cavalry..... 3,598 54  
Private Christopher Ross, 1st Delaware cavalry..... 2,878 54  
Private David H. Barker, 1st Delaware cavalry..... 2,878 78  
Private Albert Bender, 1st Delaware cavalry..... 2,878 78  
Private Samuel J. Williams, 1st Delaware cavalry..... 2,878 78  
Private George W. Young, 1st Delaware cavalry..... 2,878 78  
Private James Longacre, 1st Delaware cavalry..... 2,878 78  
James W. Purdum, citizen..... 2,878 78

\$25,000 00

For the capture of Booth and Herold:

To E. J. Conger..... \$15,000  
" Lafayette C. Baker..... 3,750  
" Luther B. Barker..... 3,000  
" Lieutenant E. P. Doherty..... 5,250  
" James R. O'Bierne..... 2,000  
" H. H. Wells..... 1,000  
" George Cottingham..... 1,000  
" Alexander Lovett..... 1,000

\$32,000

Sergeant Boston Corbett, 16th New York cavalry; Sergeant Andrew Wendell, 16th New York cavalry; Corporal Charles Zimmer, 16th New York cavalry; Corporal Michael Uniacke, 16th New York cavalry; Corporal John Winter, 16th New York cavalry; Corporal Herman Newgarten, 16th New York cavalry; Corporal John Walz, 16th New York cavalry; Corporal Oliver Lonpay, 16th New York cavalry; Corporal Michael Hornsley, 16th New York cavalry; Private John Myers, 16th New York cavalry; Private John Ryan, 16th New York cavalry; Private William Byrne, 16th New York cavalry; Private Philip Hoyt, 16th New York cavalry; Private Martin Kelley, 16th New York cavalry; Private Henry Putnam, 16th New York cavalry; Private Frank McDaniel, 16th New York cavalry; Private Lewis Savage, 16th New York cavalry; Private Abraham Genay, 16th New York cavalry; Private Emery Parady, 16th New York cavalry; Private David Barker, 16th New York cavalry; Private William McQuade, 16th New York cavalry; Private John Millington, 16th New York cavalry; Private Frederick Deitz, 16th New York cavalry; Private John H. Singer, 16th New York cavalry; Private Carl Steinbrugge, 16th New York cavalry; Private Joseph Zisgen, 16th New York cavalry, one thousand six hundred and fifty-three dollars eighty-four, eight tenth cents each..... 43,000

\$75,000 00



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SEC. 2. *And be it further enacted*, That the said several sums shall be paid to the several persons above named, respectively, personally, or in case of their decease, to the persons who would be entitled to the same under the bounty laws of the United States in case of a deceased soldier.

APPROVED, July 28, 1866.

CHAP. CCCIV.—An Act directing a District Court to be held at the City of Erie, in the State of Pennsylvania.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, besides the terms of the district court of the United States, directed by law to be held at Pittsburg, in the county of Alleghany, and at Williamsport, in the county of Lycoming, for the western district of the State of Pennsylvania, the judge of said western district shall hold two terms in every year, at the city of Erie, in the county of Erie, which shall commence the first Monday of July and January in each and every year, beginning in the July or January which shall first immediately follow the passage of this act, and be continued and adjourned from time to time, as the court may deem expedient, for the dispatch of the business thereof.

APPROVED, July 28, 1866.

CHAP. CCCV.—An Act to authorize the Secretary of War to furnish Transportation to Discharged Soldiers to whom Artificial Limbs are furnished by the Government.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War is authorized and directed to furnish to discharged soldiers of the United States, who have been disabled in the service, as well as to those not yet discharged, transportation to and from their homes and the place where they may be required to go to obtain artificial limbs provided for them under authority of law.

APPROVED, July 28, 1866.

CHAP. CCCVI.—An Act supplemental to the Act to appropriate Money for the Postal Services.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for carrying the mail upon the post roads established by acts of Congress passed during the first session of the Thirty-Ninth Congress, for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, the sum of four hundred and eighty-six thousand five hundred and twenty-five dollars.

APPROVED, July 28, 1866.

CHAP. CCCVII.—An Act to protect the Manufacturers of Mineral Waters in the District of Columbia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all manufacturers and vendors of mineral waters and other beverages by law allowed to be sold in bottles, upon which their names or their mark or marks shall be respectively impressed, may file with the clerk of the supreme court of the District of Columbia a description of such bottles and of the name or marks thereon, and shall cause the same to be published for not less than two weeks, successively, in a daily or weekly newspaper, published in said District of Columbia.

SEC. 2. *And be it further enacted*, That it is hereby declared to be unlawful for any person or persons hereafter, without the permission of the owner or owners thereof, to fill with mineral waters or other beverages any such bottles so marked, for sale, or to traffic in any such bottles so marked, and not bought by him or her of such owner or owners thereof;

and every person so offending shall be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the first offense; and of five dollars for every subsequent offense, to be recovered as other fines in said District of Columbia.

APPROVED, July 28, 1866.

CHAP. CCCVIII.—An Act donating certain Lots in the City of Washington for Schools for Colored Children in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Public Buildings be, and he is hereby, authorized and required to grant and convey to the trustees of colored schools for the cities of Washington and Georgetown, in the District of Columbia, for the sole use of schools for colored children in said District of Columbia, all the right, title, and interest of the United States in and to lots numbered one, two, and eighteen in square nine hundred and eighty-five, in the said city of Washington, said lots having been designated and set apart by the Secretary of the Interior to be used for colored schools. And whenever the same shall be converted to other uses, they shall revert to the United States.

APPROVED, July 28, 1866.

CHAP. CCCIX.—An Act to extend the Jurisdiction of Commissioners of the Circuit Courts of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the commissioners who now are, or hereafter may be, appointed by the circuit courts of the United States to take acknowledgments of bail and affidavits, and also to take depositions in civil causes, shall and may exercise all the powers that any justice of the peace may exercise under and in virtue of the seventh section of the act passed the twentieth of July, anno Domini seventeen hundred and ninety, entitled "An act for the government and regulation of seamen in the merchant service."

APPROVED, July 28, 1866.

CHAP. CCCX.—An Act to provide for the Suits, Judgments, and Business of the United States Provisional Court for the State of Louisiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all suits, causes, prosecutions, and proceedings in the United States provisional court for the State of Louisiana, with the records thereof, be, and the same are hereby, transferred to the United States district court for the eastern district of Louisiana; and all suits, causes, prosecutions, and proceedings so transferred shall be proceeded with in said court and tried and determined, and process and judgment issued and executed therein and by said court in the same manner and with like effect as if the same had been commenced originally in said district court: *Provided, however*, That any suit or proceeding so transferred, of which the circuit court could take jurisdiction under the laws of the United States, shall in like manner be heard and determined in the circuit court held in said district.

SEC. 2. *And be it further enacted*, That in case suits or proceedings are pending in said provisional court which could not have been instituted in said circuit or district court, the record shall remain in said district court without further action therein.

SEC. 3. *And be it further enacted*, That all judgments, orders, decrees, and decisions of the United States provisional court for the State of Louisiana, relating to the causes hereby transferred to the district court of the eastern

district of Louisiana, or to the circuit court held in said district, shall at once become the judgments, orders, decrees, and decisions of said district court, or said circuit court, unless the same are inconsistent with the rules and proceedings thereof; and may be enforced, pleaded, and proved, as the judgments, orders, decrees, or decisions of said district court, or said circuit court.

APPROVED, July 28, 1866.

CHAP. CCCXI.—An Act to remove the Office of Surveyor General of the States of Iowa and Wisconsin to Plattsmouth, Nebraska.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the Secretary of the Interior, as soon after the passage of this act as may be, to cause the office of surveyor general of Iowa and Wisconsin to be removed to Plattsmouth in the Territory of Nebraska, and to make the necessary provisions for immediate and effective operations; and when so removed the duties and jurisdiction of said surveyor general shall be coextensive with the limits of the Territory of Nebraska, and include the State of Iowa, and the same shall constitute a surveying district.

SEC. 2. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

APPROVED, July 28, 1866.

CHAP. CCCXII.—An Act to prevent Officers of the Navy from being deprived of their regular Promotion on Account of Wounds received in Battle, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provision of section four of the "Act to amend an act entitled an act to establish and equalize the grade of line officers of the United States Navy," approved July sixteen, eighteen hundred and sixty-two, requiring that no officer in the naval service shall be promoted to a higher grade upon the active list until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea, shall not be construed to apply to and exclude from the promotion to which he would otherwise be regularly entitled any officer in whose case such medical board shall report that his physical disqualification was occasioned by wounds received in the line of his duty, and that such wounds do not incapacitate him for other duties in the grade to which he shall be promoted.

SEC. 2. *And be it further enacted*, That the rate of pay of officers of the Navy on the retired list and not on duty, nor retired on furlough pay, in cases where such rate of pay has not heretofore been fixed by law, shall be one half of the pay to which such officers would be entitled if on duty at sea. And the pay of clerks of navy-yards, of clerks to commandants of navy-yards, and of clerks to naval storekeepers, is hereby increased twenty-five per cent upon their present salaries, from the commencement of the present fiscal year.

SEC. 3. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby authorized in the settlement of the accounts of the disbursing officers of the Navy and Marine corps to allow, subject to the approval of the Secretary of the Navy, such credits for losses of property and funds as have occurred during the late rebellion and as shall occur hereafter, and which shall appear to them by such vouchers and testimony as they shall require to have been occasioned by accidental circumstances, or a condition of things over which such officers had no control and for which they are not justly responsible.

APPROVED, July 28, 1866.

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## PUBLIC RESOLUTIONS.

No. 1.—A Resolution authorizing the President to divert certain Funds heretofore appropriated, and cause the same to be used for immediate Subsistence and Clothing, &c., for destitute Indians and Indian Tribes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be and he hereby is authorized to cause to be expended under the direction of the Secretary of the Interior, for the immediate subsistence and clothing of destitute Indians and Indian tribes within the southern superintendency, and for agricultural implements and seeds for the same, a sum not exceeding five hundred thousand dollars of the unexpended balance in the Treasury of appropriations heretofore made "to enable the President of the United States to carry into effect the act of third of March, eighteen hundred and nineteen, and any other acts now in force for the suppression of the slave trade:" *Provided*, That the accounts of such expenditure shall be laid before Congress during its present session: *And provided also*, That all articles to be furnished to said destitute Indians and Indian tribes shall be delivered to them on or before the first day of July next.

APPROVED, December 21, 1865.

No. 2.—A Resolution for increasing the Bond of the Superintendent of Public Printing.

Whereas the amount of money which can be advanced to the Superintendent of Public Printing under existing law is not sufficient to enable him to meet the current expenditures of his office: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said Superintendent be requested to furnish a new bond, in the penal sum of eighty thousand dollars.

APPROVED, January 12, 1866.

No. 3.—Joint Resolution in Relation to the Industrial Exposition at Paris, France.

Whereas the United States have been invited by the Government of France to take part in a universal exposition of the productions of agriculture, manufactures, and the fine arts, to be held in Paris, France, in the year eighteen hundred and sixty-seven:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That said invitation is accepted.

SEC. 2. *And be it further resolved*, That the proceedings heretofore adopted by the Secretary of State in relation to the said exposition, as set forth in his report and accompanying documents concerning that subject, transmitted to both Houses of Congress with the President's message of the eleventh instant, are approved.

SEC. 3. *And be it further resolved*, That the general agent for the said exposition at New York be authorized to employ such clerks as may be necessary to enable him to fulfill the requirements of the regulations of the imperial commission, not to exceed four in number, one of whom shall receive compensation at the rate of eighteen hundred dollars per annum, one at sixteen hundred dollars, and two at fourteen hundred dollars.

SEC. 4. *And be it further resolved*, That the Secretary of State be, and is hereby, authorized and requested to prescribe such general regulations concerning the conduct of the business relating to the part to be taken by the United States in the exposition as may be proper.

APPROVED, January 15, 1866.

No. 4.—Joint Resolution granting certain public Property to the Soldiers' Orphans' Home of Iowa.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the buildings, sheds, furniture, and other property, now at camp Kinsman, near Davenport, Scott county, Iowa, be, and the same are hereby, donated to the Soldiers' Orphans' Home of Iowa.

APPROVED, January 22, 1866.

No. 5.—Joint Resolution authorizing the Secretary of War to grant the Use of a Portion of Military Reserve on St. Clair River, in the State of Michigan, for Railroad Purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized to grant to Guerdon O. Williams, of the city of Detroit, in the State of Michigan, and his associates, the use of so much of the military reserve on the St. Clair river, in the State of Michigan, known as the site of Fort Gratiot, as is necessary for extending a horse railroad from Port Huron city to the depot of the Port Huron and Detroit railroad, at such rental and upon such terms and conditions as to him may seem proper, reserving to the United States, however, the right of removing the rails, ties, and other parts of said road whenever the Secretary of War shall direct, without any claim or right for damages on the part of the said Williams and associates, or their legal representatives.

APPROVED, January 31, 1866.

No. 6.—A Resolution directing the Distribution of the Writings of James Madison.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Joint Committee on the Library be, and they are hereby, directed to distribute, by mail or otherwise, the five hundred copies of the Writings of James Madison, published by authority of Congress under direction of said committee, in the manner following, to wit: to the President of the United States, one copy; to the libraries of the different Departments, of the Postmaster General and Attorney General, one copy each; to each member of the present Senate and House of Representatives, one copy; to the Library of Congress, ten copies; to the libraries of the several States and Territories of the Union, one copy each; to such public and college libraries as may be designated by the present Joint Committee on the Library, one hundred copies; the residue to be retained in the Department of the Interior for future distribution.

APPROVED, February 7, 1866.

No. 7.—A Resolution extending the Time for the Completion of the Burlington and Missouri River Railroad.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That in case the Burlington and Missouri River Railroad Company shall complete the section of twenty miles from the present terminus of its road by the first day of December, anno Domini eighteen hundred and sixty-six, and the certificate of the Governor shall be filed with the Secretary of the Interior, of such completion, then the said company shall be entitled to its lands, due by reason of the completion of said section of twenty miles, as provided in section eight of the act entitled "An act to amend an act entitled 'An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State,'" and its rights shall be in all respects the same as if the

same section should have been completed on the first day of July next.

APPROVED, February 10, 1866.

No. 8.—A Resolution tendering the Thanks of Congress to Vice Admiral David G. Farragut, and to the Officers, petty Officers, Seamen, and Marines under his Command, for their Gallantry and good Conduct in the Action in Mobile Bay, on the 5th August, 1864.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress are eminently due and are hereby tendered to Vice Admiral David G. Farragut, of the United States Navy, and to the officers, petty officers, seamen, and marines under his command, for the unsurpassed gallantry and skill exhibited by them in the engagement in Mobile bay, on the fifth day of August, eighteen hundred and sixty-four, and for their long and faithful services and unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to communicate this resolution to Vice Admiral Farragut, and that the Secretary of the Navy be requested to communicate the same to the officers, seamen, and marines of the Navy by general order of his Department.

APPROVED, February 10, 1866.

No. 9.—A Resolution for the Payment of Expenses incurred by the Joint Committee to inquire into the Condition of the States which formed the so-called Confederate States of America.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated to pay the expenses of the joint committee of Congress appointed to inquire into the condition of the States which formed the so-called confederate States of America; and that the said sum shall be drawn from the Treasury upon the order of the Secretary of the Senate, as the same shall be required from time to time by the committee having such investigation in charge; and any portion of the sum hereby appropriated that shall be allowed by the said joint committee to witnesses attending before it, or to persons employed in its service, for per diem, traveling, or other necessary expenses, and paid by the Secretary of the Senate in pursuance of the order of the said joint committee, shall be accordingly credited and allowed by the accounting officers of the Treasury Department.

APPROVED, February 10, 1866.

No. 10.—Joint Resolution to encourage and facilitate Telegraphic Communication between the Western and Eastern Continents.

Whereas by an act entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents" approved July first, eighteen hundred and sixty-four, it was provided, among other things, that the Secretary of the Navy be authorized to detail a vessel to assist in surveys and soundings, laying down submarine cable, transporting materials connected therewith, and generally afford such assistance as might be deemed best calculated to secure a successful promotion of the enterprise; and whereas the Emperor of Russia, for the purpose of co-operating with the Government of the United States, under the act aforesaid, has ordered a steam corvette, the "Viarig," of two thousand one hundred and fifty-six tons burthen, seventeen guns, three hundred and six men, to assist in the achievement of said telegraph, and

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has placed the said steamer subject to the orders of said telegraph company; and whereas said telegraph company intend, the ensuing summer, to lay the submarine cable required at Behring's strait, said cable and the material for the entire line being now in transit, and the vessels of the company, seven in number, being ready at San Francisco and Vancouver for the expedition, and require immediate coöperation on the part of the United States, in conformity with said act: Therefore,

*Be it resolved in the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and is hereby, authorized and required to detail one steam vessel from the squadron of the Pacific station, or elsewhere, to assist in making surveys and soundings in that part of the Pacific coast, both of America and Asia, where it is proposed to establish said telegraph, in laying the submerged cable, and generally to afford such assistance as may be best calculated to secure the success of the enterprise and to carry out the purposes of the act approved July first, eighteen hundred and sixty-four, entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents," so far as the same can be afforded without dismantling her, or destroying or impairing her efficiency as a vessel of war.

APPROVED, February 26, 1866.

No. 11.—A Resolution providing for Expenses incurred in searching for missing Soldiers of the Army of the United States, and for the further Prosecution of the same.

Whereas Miss Clara Barton has, during the late war of the rebellion, expended from her own resources large sums of money in endeavoring to discover missing soldiers of the armies of the United States, and in communicating intelligence to their relatives: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to reimburse Miss Clara Barton for the amount so expended by her, and to aid in the further prosecution of the search for missing soldiers; and the printing necessary in the furtherance of the said object shall hereafter be done by the Public Printer.

APPROVED, March 10, 1866.

No. 12.—Joint Resolution giving the Consent of Congress to the Transfer of the Counties of Berkeley and Jefferson to the State of West Virginia.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia; and consents thereto.

APPROVED, March 10, 1866.

No. 13.—Joint Resolution authorizing the Secretary of War to transfer to the National Home for Soldiers' and Sailors' Orphans, of Washington City, certain Stores not needed for the Use of the Government.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized to deliver to the lady directors of the National Home for Soldiers' and Sailors' Orphans, of Washington city, for the use and aid of that society in its benevolent objects, such blankets, bedding, and other furniture and articles as may be proper for their purposes, and as are now on hand in the stores of the Surgeon General's department, and no longer needed for Government account; the Secretary to determine,

at his discretion, the specific amount and character of stores thus to be appropriated, and of which due account shall be taken.

APPROVED, March 10, 1866.

No. 14.—Joint Resolution for the Relief of the Sufferers by the late Explosion at the United States Arsenal, in the District of Columbia.

Whereas by the late explosion at the United States arsenal, in the District of Columbia, ten persons were killed, who were not enlisted men, but were employés of the Government in said arsenal; and whereas those who were so killed left wives and children dependent upon them for support, most of whom are now in a destitute condition: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of twenty-five hundred dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, and placed by the Secretary of the Treasury in the hands of Col. Benton, commandant of said arsenal, to be distributed by him among the sufferers by the said explosion, according to the equity and necessities of their several cases; and that the said commandant report the details of said distribution to Congress, with the vouchers therefor.

APPROVED, March 17, 1866.

No. 15.—Joint Resolution to change the Name of the Ship "Art Union" to the Name "George M. Barnard."

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and hereby is, authorized to change the name of the ship "Art Union," owned by the State of Massachusetts, and used as quarters for the nautical branch of the Reform School of said State, to the name "George M. Barnard," and to grant said ship a register in the latter name.

APPROVED, March 22, 1866.

No. 16.—Joint Resolution authorizing the Secretaries of War and Navy to place Hulks and Vessels at the Disposal of Commissioners of Quarantine, or other proper Authorities, at Ports of the United States, for one year.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War and the Secretary of the Navy be, and they are hereby, respectively authorized, in their discretion, to place gratuitously at the disposal of the commissioners of quarantine, or the proper authorities of any of the ports of the United States, to be used by them temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other uses of the national Government, subject to such restrictions and regulations as the said Secretaries may respectively deem necessary to impose for the preservation thereof: *Provided,* That this resolution shall continue in force one year from its passage.

APPROVED, March 24, 1866.

No. 17.—A Resolution in Relation to the Publication of the Laws of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State be, and he is hereby, authorized and directed to renew the contract of October thirty-first, eighteen hundred and fifty, between the Department of State, and Little, Brown, and Company, of Boston, Massachusetts, for the annual publication of the Statutes-at-Large of the United States, until otherwise ordered by Congress, in conformity with the joint resolutions

approved respectively March third, eighteen hundred and forty-five, and September *thirtieth* [twenty-sixth,] eighteen hundred and fifty: *Provided,* That the time within which the annual edition of the Laws is to be delivered at the Department of State be extended to seventy days after the adjournment of each session of Congress: *And provided further,* That the price shall not exceed the actual expenditures by Little, Brown, and Company, for composition, press-work, paper, binding, editing, and transportation, all of which shall be done at the lowest market prices, the paper to be furnished at as low a price as is paid by the Government for paper of the same quality, and five per cent commission thereon.

APPROVED, March 31, 1866.

No. 18.—Joint Resolution in Relation to the Public Lands appertaining to the Armory at Springfield.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first section of a joint resolution approved June seventeenth, eighteen hundred and forty-four, entitled "A resolution relating to the public lands appertaining to the armories at Springfield and Harper's Ferry," is hereby revived, reenacted, and continued in force.

APPROVED, April 4, 1866.

No. 19.—A Resolution for the Restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the Active List from the Reserved List.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States of America be authorized to nominate and by and with the advice and consent of the Senate to appoint Commanders William Reynolds and Melancton B. Woolsey to the active list of the Navy.

APPROVED, April 5, 1866.

No. 20.—Joint Resolution giving Construction to the Law in relation to Bounties payable to Soldiers discharged for Wounds.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the true intent and meaning of the words "or in the line of duty," used in the fourth section of the act approved March third, eighteen hundred and sixty-five, entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," requires that the benefit of the provision of said section shall be extended to any enlisted man or other person entitled by law to bounty who has been or may be discharged by reason of a wound received while actually in service under military orders, not at the time on furlough or leave of absence, nor engaged in any unlawful or unauthorized act or pursuit.

APPROVED, April 12, 1866.

No. 21.—A Resolution respecting the Burial of Soldiers who died in the military Service of the United States during the Rebellion.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and required to take immediate measures to preserve from desecration the graves of the soldiers of the United States who fell in battle or died of disease in the field and in hospital during the war of the rebellion; to secure suitable burial-places in which they may be properly interred; and to have the grounds inclosed, so that the resting-places of the honored dead may be kept sacred forever.

APPROVED, April 13, 1866.



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No. 24.—A Resolution protesting against Pardons by Foreign Governments of Persons convicted of infamous Offenses, on Condition of Emigration to the United States.

Whereas it appears from official correspondence that the authorities of Basleland, a canton in Switzerland, have recently undertaken to pardon a person convicted of murder on the condition that he would emigrate to America, meaning thereby the United States; and there is reason to believe that similar pardons of persons convicted of infamous offenses have been granted in other countries: Now, therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress of the United States protest against such acts as unfriendly and inconsistent with the comity of nations, and hereby requests the President of the United States to cause a copy of this protest to be communicated to the representatives of the United States in foreign countries, with instructions to present it to the Governments where they are accredited respectively, and to insist that no such acts shall, under any circumstances, be repeated.

APPROVED, April 17, 1866.

No. 25.—A Resolution for the temporary Relief of destitute People in the District of Columbia.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of twenty-five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the temporary relief of the destitute population in the District of Columbia, to be expended under the direction of the Commissioner of Freedmen's Bureau.

APPROVED, April 17, 1866.

No. 26.—Joint Resolution appointing Managers for the National Asylum for Disabled Volunteer Soldiers.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following persons be, and they are hereby, appointed managers of the National Asylum for disabled volunteer soldiers, under the provisions and conditions of the third section of the act approved March twenty-three, [one] eighteen hundred and sixty-six: Richard J. Oglesby, of Illinois, Benjamin F. Butler, of Massachusetts, and Frederick Smyth, of New Hampshire, of the first class, to serve six years; Lewis B. Gunkel, of Ohio, Jay Cook, of Pennsylvania, and P. Joseph Osterhaus, of Missouri, of the second class, to serve four years; John H. Martindale, of New York, Horatio G. Stebbins, of California, and George H. Walker, of Wisconsin, of the third class, to serve two years.

APPROVED, April 21, 1866.

No. 27.—Joint Resolution expressive of the Thanks of Congress to Major General Winfield S. Hancock.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in addition to the thanks heretofore voted by joint resolution, approved January twenty-eighth, eighteen hundred and sixty-four, to Major General George G. Meade, Major General Oliver O. Howard, and to the officers and soldiers of the army of the Potomac, for the skill and heroic valor which at Gettysburg repulsed, defeated, and drove back broken and dispirited the veteran army of the rebellion, the gratitude of the American people and the thanks of their representatives in Congress are likewise due, and are hereby tendered, to Major General Winfield S. Hancock, for his gallant, meritorious,

and conspicuous share in that great and decisive victory.

APPROVED, April 21, 1866.

No. 29.—A Resolution for the Transfer of Funds appropriated for the Payment of Salaries in the Post Office Department to the General Salary Account of that Department.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the unexpended balance on the books of the Treasury Department, from the respective sums of money appropriated by different acts of Congress, for the salaries of Postmaster General, Assistant Postmaster General, clerks, temporary clerks, additional clerks, messengers, watchmen, laborers, and superintendent and clerks of the money-order system, including the amounts appropriated for the payment of twenty per centum increase of certain salaries, (all of the same being appropriations made by Congress for the Post Office Department,) may be transferred on the books of the Treasury Department, from the respective headings under which they are now placed, to the credit of the Post Office Department, to the general salary account of funds placed to the credit of the Post Office Department: *Provided,* That this joint resolution shall not be construed to increase the appropriations already made for the service of the Post Office Department.

APPROVED, April 25, 1866.

No. 31.—A Resolution making Appropriations for the Expenses of collecting the Revenue from Customs.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of two millions one hundred thousand dollars for the expenses of collecting the revenue from customs for each half year from and after the last day of December, eighteen hundred and sixty-five, and in addition thereto such sums as may be received during said half year from fines, penalties, and forfeitures connected with the customs, and from storage, cartage, drayage, and labor; and the first section of an "Act making appropriations for the expenses of collecting the revenue from customs," approved June fourteen, eighteen hundred and fifty-eight, be, and the same is, hereby repealed.

APPROVED, May 3, 1866.

No. 32.—A Resolution expressive of the Gratitude of the Nation to the Officers, Soldiers, and Seamen of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the duty and the privilege of Congress to express the gratitude of the nation to the officers, soldiers, and seamen of the United States, by whose valor and endurance, on the land and on the sea, the rebellion has been crushed and its pride and its power have been humbled, by whose fidelity to the cause of freedom the Government of the people has been preserved and maintained, and by whose orderly return from the fire and blood of civil war to the peaceful pursuits of private life the exalting and ennobling influence of free institutions upon a nation has been so signally manifested to the world.

APPROVED, May 3, 1866.

No. 34.—A Resolution extending the Time for the Completion of the Union Pacific Railway. Eastern Division.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time for the com-

pletion of the first one hundred miles of railroad and telegraph line by the Leavenworth, Pawnee, and Western Railroad Company, (since called the "Union Pacific Railway Company, eastern division,") mentioned in the tenth section of the charter of the Union Pacific Railroad Company, of July first, one thousand eight hundred and sixty-two, and in the fifth section of the amendment thereof, of July second, one thousand eight hundred and sixty-four, be, and the same is hereby, extended until the twenty-seventh day of June, one thousand eight hundred and sixty-six; and that the time for completing each succeeding section of one hundred miles shall be reckoned from the said twenty-seventh day of June in said year.

SEC. 2. *And be it further resolved,* That the time for commencing and completing the Northern Pacific railroad, and all its several sections, is extended for the term of two years.

APPROVED, May 7, 1866.

No. 35.—Joint Resolution to provide for the Exemption of crude Petroleum from Internal Tax or Duty, and for other purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That paraffine oil, not exceeding in specific gravity thirty-six degrees Baumé's hydrometer, the product of a residuum of distillation; crude petroleum; and crude oil, the product of the first and single distillation of coal, shale, asphaltum, peat, or other bituminous substances, shall, from and after the passage of this joint resolution, be exempt from internal tax or duty.

APPROVED, May 9, 1866.

No. 37.—Joint Resolution relative to the attempted Assassination of the Emperor of Russia.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress of the United States of America has learned with deep regret of the attempt made upon the life of the Emperor of Russia, by an enemy of emancipation. The Congress sends greeting to his Imperial Majesty, and to the Russian nation, and congratulates the twenty millions of serfs upon the providential escape from danger of the sovereign, to whose head and heart they owe the blessings of their freedom.

SEC. 2. *And be it further resolved,* That the President of the United States be requested to forward a copy of this resolution to the Emperor of Russia.

APPROVED, May 16, 1866.

No. 38.—Joint Resolution relative to the Courts and Post Office of New York City.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the mayor and postmaster of the city of New York, the district attorney for the United States at New York city, the president of the Chamber of Commerce of the State of New York, and Jackson S. Shultz, Charles H. Russell, and Moses Taylor, of New York city, be appointed a commission to select a proper site for a building for a post office and for the accommodation of the United States courts in the city of New York; and that they report to the Postmaster General and the Secretary of the Interior, at their earliest convenience, the selection upon which they, or a majority of them, may agree, and the price at which such site can be purchased by the Government for the purposes contemplated in this resolution, if a new site should be selected; and that if said report shall meet the approbation of the Postmaster General and the Secretary of the Interior, they shall communicate the same, with such additional suggestions as they may think proper, to Congress.

APPROVED, May 16, 1866.

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No. 39.—A Resolution authorizing the Secretary of War to grant the Use of certain Lumber for the Fair for the Soldiers' and Sailors' Orphan Home.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War is hereby authorized to grant the use of lumber not demanded by the Department for immediate use, for the erection of temporary buildings in the city of Washington for the National Fair for the benefit of the Soldiers' and Sailors' Orphan Home.

APPROVED, May 16, 1866.

No. 40.—A Resolution to extend the Time for the Construction of the first Section of the Western Pacific Railroad.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time for the construction of the first twenty miles of the "Western Pacific railroad" be extended to the first day of January, eighteen hundred and sixty-seven; but this extension is upon the condition to be accepted by said company, and notice of such acceptance to be given by them to the Secretary of the Interior, that the lands known as the lands of the ex-mission of San Jose as included in the map and survey thereof made October, eighteen hundred and sixty-four, by E. H. Dyer, deputy United States surveyor, shall not be included in the grant heretofore made to the said Western Pacific Railroad Company.

APPROVED, May 21, 1866.

No. 41.—A Resolution to authorize certain Medals to be distributed to Veteran Soldiers free of Postage.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the adjutant general of the State of Ohio is hereby authorized to distribute through the mails free of postage, to veteran soldiers reenlisted in Ohio, certain medals furnished by the General Assembly of that State, and in such case the envelope inclosing the same shall be franked by such adjutant general in the mode prescribed by the Postmaster General.

APPROVED, May 26, 1866.

No. 42.—Joint Resolution respecting Quarantine and Health Laws.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, authorized to make and carry into effect such orders and regulations of quarantine, as, in his opinion, may be deemed necessary and proper, in aid of State or municipal authorities, to guard against the introduction of the cholera into the ports of the United States; and the Secretary of the Treasury is further authorized to direct the revenue officers and the officers commanding revenue-cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively in such manner as may to him seem necessary. And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated; provided the authority hereby granted shall expire on the first Monday in January, anno Domini eighteen hundred and sixty-seven.

APPROVED, May 26, 1866.

No. 43.—A Resolution providing for the Acceptance of a Collection of Plants tendered to the United States by Frederick Pech.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States accept the collection of plants tendered by Frederick Pech by his memorial of March sec-

ond, eighteen hundred and sixty-six, and that the same be deposited in the Department of Agriculture; and the sum of three hundred dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Commissioner of Agriculture to procure suitable cases for the protection of such plants.

APPROVED, May 26, 1866.

No. 44.—A Resolution authorizing the Appointment of Examiners to examine a Site for a Fresh-Water Basin for Iron-Clad Vessels of the United States Navy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be authorized and directed to appoint a board of examiners to examine a site at or near Portland, Maine, for a fresh-water basin for iron-clad vessels of the United States Navy, and to ascertain the advantages and cost of said site, and report to this Congress during the present session.

APPROVED, June 1, 1866.

No. 45.—Joint Resolution authorizing [the] Postmaster General to pay additional Salary to Letter-Carriers in San Francisco.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster General be authorized to pay such additional salary to letter-carriers in San Francisco, above that provided by law, as may be necessary to secure competent persons for such service.

APPROVED, June 6, 1866.

No. 46.—A Resolution respecting Bounties to Colored Soldiers, and the Pensions, Bounties, and Allowances to their Heirs.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the omission in the muster-rolls of the words "free on or before April nineteen, eighteen hundred and sixty-one," shall not deprive any colored soldier of the bounty to which he is entitled, and which is now or may hereafter be withheld by reason of such omission, but where nothing appears on the muster-roll or of record to show that a colored soldier was not a freeman at the date aforesaid, under the provision of the fourth section of the "Act making appropriations for the support of the Army, for the year ending the thirtieth of June, eighteen hundred and sixty-five," the presumption shall be that the person was free at the time of his enlistment.

Sec. 2. *And be it further resolved,* That in determining who is or was the wife, widow, or heirs of any colored soldier, evidence that he and the woman claimed to be his wife or widow were joined in marriage by some ceremony deemed by them obligatory, followed by their living together as husband and wife up to the time of enlistment, shall be deemed sufficient proof of such marriage for the purpose of securing any arrears of pay, pension or other allowances due any colored soldier at the time of his death; and the children born of any such marriage shall be held and taken to be the lawful children and heirs of such soldiers.

APPROVED, June 15, 1866.

No. 47.—A Resolution making an Appropriation to enable the President to negotiate Treaties with certain Indian Tribes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That one hundred and twenty-one thousand seven hundred and eighty-five dollars and seventy-seven cents, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to enable the President to negotiate treaties with the Indian tribes of the Upper Mis-

souri, and the Upper Platte rivers; said sum to be expended by the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior.

APPROVED, June 15, 1866.

No. 48.—Joint Resolution proposing an Amendment to the Constitution of the United States.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution; namely:

## ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator, or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

SCHUYLER COLFAX,

*Speaker of the House of Representatives.*

LA FAYETTE S. FOSTER,

*President of the Senate pro tempore.*

Attest:

EDW. MCPHERSON,

*Clerk of the House of Representatives.*

J. W. FORNEY,

*Secretary of the Senate.*

Received at Department of State June 16, 1866.

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No. 49.—Joint Resolution relative to Appointments to the Military Academy of the United States.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the age for the admission of cadets to the United States Military Academy shall hereafter be between seventeen and twenty-two years; but any person who has served honorably and faithfully not less than one year as an officer or enlisted man in the Army of the United States, either as a volunteer or in the regular service, in the late war for the suppression of the rebellion, and who possesses the other qualifications prescribed by law, shall be eligible to appointment up to the age of twenty-four years.

SEC. 2. *And be it further resolved,* That cadets at the Military Academy shall hereafter be appointed one year in advance of the time of their admission, except in cases where, by reason of death or other cause, a vacancy occurs which cannot be thus provided for by such appointment in advance; but no pay or allowance shall be made to any such appointee until he shall be regularly admitted on examination as now provided by law; nor shall this provision apply to appointments to be made in the present year. And in addition to the requirements necessary for admission as provided by the third section of the "Act making further provisions for the corps of engineers," approved April twenty-nine, eighteen hundred and twelve, candidates shall be required to have a knowledge of the elements of English grammar, of descriptive geography, particularly of our own country, and of the history of the United States.

SEC. 3. *And be it further resolved,* That, in all appointments of cadets to the Military Academy after those who enter the present year, the person authorized to nominate shall nominate not less than five candidates for each vacancy, all of whom shall be actual residents of the congressional district, Territory, or District of Columbia, entitled to the appointment: and the selection of one shall be made from the candidates according to their respective merits and qualifications, under such rules and regulations as the Secretary of War shall from time to time prescribe. And in like manner the President of the United States shall be authorized hereafter to nominate fifty at large each year, instead of ten as now provided by law, who shall be examined under like regulations, and of whom the ten who may be reported as most meritorious and best qualified shall be appointed: *Provided, however,* That not more than two of these shall be appointed in any year from one State.

APPROVED, June 16, 1866.

No. 50.—Joint Resolution to extend to the Counties of Berkeley and Jefferson, of West Virginia, the Provisions of the Act approved July fourth, eighteen hundred and sixty-four, entitled "An Act to restrict the Jurisdiction of the Court of Claims, and to provide for the Payment of certain Demands for Quartermasters' Stores and Subsistence Supplies furnished to the Army of the United States."

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the act of Congress of July fourth, eighteen hundred and sixty-four, entitled "An act to restrict the jurisdiction of the Court of Claims, and for other purposes," be and the same are hereby construed to extend to the counties of Berkeley and Jefferson, of the State of West Virginia.

APPROVED, June 18, 1866.

No. 51.—Joint Resolution making an Appropriation for the Repair of the Potomac Bridge.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of ten thou-

sand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to enable the Commissioner of Public Buildings to place the Potomac bridge in such repair as to render it permanently passable, the work to be done immediately after the approval of this joint resolution.

APPROVED, June 18, 1866.

No. 52.—A Resolution to provide for the Payment of Bounty to certain Indian Regiments.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and required to cause to be paid to the enlisted men of the first, second, and third Indian regiments the bounty of one hundred dollars, under the same regulations and restrictions as now determine the payment of bounty to other volunteers in the service of the United States.

APPROVED, June 18, 1866.

No. 53.—A Resolution explanatory of, and in addition to, the Act of May fifth, eighteen hundred and sixty-four, entitled "An Act granting Lands to aid in the Construction of certain Railroads in Wisconsin."

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the words "in a northwestern direction," in the third section of the act entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May fifth, eighteen hundred and sixty-four, shall, without forfeiture to said State, or its assigns, of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of said road, in said third section provided for, along and upon the following route, that is to say: from the city of Portage, by the way of the city of Ripon, in the county of Fond du Lac, and the city of Berlin, in the county of Green Lake, to Steven's Point, and thence to Bayfield, and thence to Superior, on Lake Superior. And the Legislature of the said State of Wisconsin, having, in and by an act entitled "An act to incorporate the Portage and Superior Railroad Company, and to execute the trust created by section three of the act of Congress entitled 'An [act] granting lands to aid in the construction of certain railroads in the State of Wisconsin,' approved May fifth, eighteen hundred and sixty-four," approved April —, eighteen hundred and sixty-six, authorized and required the said Portage and Superior Railroad Company to construct the line of road in the said third section of the said act of Congress provided for, upon and along the route hereinbefore set forth and described, the Congress of the United States hereby gives its assent to the route of the said railroad, as the same is hereinbefore described and set forth, and consents to the selection and application of the lands granted to the State of Wisconsin by the third section of the said act of Congress hereinbefore mentioned, for and to the line of the said railroad, as the same is hereinbefore defined and described, in the same manner and with the same effect as if the said railroad was located and constructed in strict conformity with and upon the route prescribed in the said third section of the said act of Congress. It being the intention of this resolution to give the assent of the United States to the disposition made by the Legislature of the State of Wisconsin of the land grant herein referred to, and the change of route for the railroad in aid of which the same is granted, and not to make any other disposition, change, or alteration of the grant aforesaid.

APPROVED, June 21, 1866.

No. 55.—A Resolution for the Restoration of Lieutenant Commander Richard L. Law, United States Navy, to the Active List from the Reserved List.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be authorized to nominate, and by and with the advice and consent of the Senate to appoint, Lieutenant Commander Richard L. Law to the active list of the Navy, and restore him to his original rank in the grade of lieutenant commander.

APPROVED, June 22, 1866.

No. 57.—Joint Resolution to authorize the Distribution of surplus Copies of the American State Papers in the Custody of the Secretary of the Interior.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to distribute by mail or otherwise four hundred copies of the American State Papers, second series, in seventeen volumes, in the manner following, to wit:

To each member of the Senate and House of Representatives of the present Congress, one copy of each of said seventeen volumes; and to such public and college libraries as may be designated by the Joint Committee on the Library, one copy each.

APPROVED, June 23, 1866.

No. 58.—Joint Resolution to pay the State of Vermont the Sum expended for the Protection of the Frontier against the Invasion from Canada, in eighteen hundred and sixty-four.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and hereby is, authorized to pay the State of Vermont any sum that may be found due, after the same shall have been audited by the proper officers of the Treasury Department, expended by the State of Vermont for the defense and protection of the frontier from invasion from Canada, in eighteen hundred and sixty-four: *Provided,* That the amount to be audited and paid shall not exceed the sum of sixteen thousand four hundred and sixty-three dollars and eighty-one cents.

APPROVED, June 23, 1866.

No. 62.—A Resolution for the Construction of a Railroad Bridge across the Cuyahoga River, over and upon the Government Piers at Cleveland, Ohio.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized to permit the Cleveland and Toledo Railroad Company and the Cleveland and Pittsburgh Railroad Company jointly, or either of said companies for their joint use or separate use, to erect a swing bridge over and upon the Government piers, for the passage of cars across the Cuyahoga river, at the city of Cleveland, in the State of Ohio, upon such plan as shall hereafter be approved by the City Council of said city of Cleveland and by the Board of Trade of the same city, subject, however, to such conditions, restrictions, and limitations as said Secretary of War may see fit to impose at any period of time, whether prior or subsequent to the erection of said bridge: *Provided,* [That] this resolution and all acts done under it shall be subject to the future action of Congress.

APPROVED, July 3, 1866.

No. 63.—A Resolution to authorize the Hiring of a Building or Buildings for the Temporary Accommodation of the Department of State.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State



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be authorized to hire a suitable building or buildings for the temporary accommodation of the Department of State, and that such sum of money, not exceeding twenty-five thousand dollars, as may be necessary towards defraying the expense of such hiring, the transfer of the public archives, and the fitting up of the building or buildings, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, July 3, 1866.

No. 66.—Joint Resolution to enable the People of the United States to participate in the Advantages of the Universal Exhibition at Paris, in eighteen hundred and sixty-seven.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in order to enable the people of the United States to participate in the advantages of the universal exhibition of the productions of agriculture, manufactures, and the fine arts, to be held at Paris, in the year eighteen hundred and sixty-seven, the following sums, or so much thereof as may be necessary for the purposes severally specified, are hereby appropriated, out of any money in the Treasury not otherwise appropriated:

First. To provide necessary furniture and fixtures for the proper exhibition of the productions of the United States, according to the plan of the Imperial Commissioners, in that part of the building exclusively assigned to the use of the United States, forty-eight thousand dollars.

Secondly. To provide additional accommodations in the park, twenty-five thousand dollars.

Thirdly. For the compensation of the principal agent of the Exhibition in the United States, at the rate of two thousand dollars a year: *Provided,* That the period of such service shall not extend beyond sixty days after the close of the Exhibition, four thousand dollars, or so much thereof as may be found necessary.

Fourthly. For office rent at New York, for fixtures, stationery, and advertising; for rent of store-house for reception of articles and products; for expenses of shipping, including cartages, &c.; for freights on the articles to be exhibited from New York to France, and for compensation of four clerks, in conformity with the joint resolution approved on the fifteenth of January, eighteen hundred and sixty-six, and for contingent expenses, the sum of thirty-three thousand seven hundred dollars, or so much thereof as may be found necessary.

Fifthly. For expenses in receiving, bonding, storage, cartage, labor, and so forth, at Havre; for railway transportation from Havre to Paris; for labor in the palace; for sweeping and sprinkling compartments for seven months; for guards, and keepers for seven months; for linguists (eight men) for seven months; for storing, packing-boxes, carting, and for material for packing; for clerk hire, stationery, rent, and contingent expenses, the sum of thirty-five thousand seven hundred and three dollars, or so much thereof as may be found necessary.

Sixthly. For the traveling expenses of ten professional and scientific commissioners, to be appointed by the President, by and with the advice and consent of the Senate, at the rate of one thousand dollars each, ten thousand dollars, it being understood that the President may appoint additional commissioners, not exceeding twenty in number, whose expenses shall not be paid; but no person interested, directly or indirectly, in any article exhibited shall be a commissioner; nor shall any member of Congress, or any person holding an appointment or office of honor or trust under the United States be appointed a commissioner, agent, or officer under this resolution.

Sec. 2. *And be it further resolved,* That the Governors of the several States be, and they

are hereby, requested to invite the patriotic people of their respective States to assist in the proper representation of the handiwork of our artisans, and the prolific sources of material wealth with which our land is blessed, and to take such further measures as may be necessary to diffuse a knowledge of the proposed exhibition, and to secure to their respective States the advantages which it promises.

SEC. 3. *And be it further resolved,* That it shall be the duty of the said general agent at New York, and the said commissioner general at Paris, to transmit to Congress, through the Department of State, a detailed statement of the manner in which such expenditures as are hereinbefore provide[d] for are made by them respectively.

APPROVED, July 5, 1866.

No. 67.—Joint Resolution declaratory of the Law of Bounty.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That where any enlisted man has been or may be detailed for duty as a clerk or for any other duty in any executive bureau, at headquarters or elsewhere, he shall not by such detail be deprived of any rights to bounties now due or hereafter to become due, but shall be as fully entitled thereto as though no such detail had been made.

APPROVED, July 13, 1866.

No. 69.—A Resolution to authorize the President to place at the Disposal of the Authorities of Portland, Maine, Tents, Camp, and Hospital Furniture and Clothing, for the Use of Families rendered houseless by the late Fire.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is hereby authorized to place at the disposal, without charge, of the city authorities of Portland, Maine, such clothing, condemned or ordered sold, and such surplus camp and garrison equipage, bedding, and hospital furniture, on hand, as can be spared by the Army, for the use of families rendered houseless and destitute by the recent conflagration; and that it shall be the duty of the quartermaster's department to deliver these articles at Portland, and to take a receipt for the same of the mayor of the said city, and to receive and properly dispose of the same when no longer needed.

APPROVED, July 14, 1866.

No. 73.—Joint Resolution restoring Tennessee to her Relations to the Union.

Whereas, in the year eighteen hundred and sixty-one, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the twenty-second day of February, eighteen hundred and sixty-five, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Tennes-

see is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

APPROVED, July 24, 1866.

No. 74.—Joint Resolution in regard to Rations of Union Soldiers held as Prisoners of War.

Whereas, by general order of the War Department of February fourteenth, eighteen hundred and sixty-two, rations to Union soldiers held as prisoners of war in the rebel States, were commuted at a cost price during the period of their imprisonment; and whereas a large number of the said prisoners have been paid under said order, but many equally worthy with them and who have suffered in rebel prisons, have not been so paid: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all United States soldiers, sailors, and marines who were held as prisoners of war in the rebel States, shall be paid commutation of rations at cost prices during the period of their imprisonment: *Provided,* That no person who has sold or transferred any interest in the claim for said commutation, nor any purchaser or assignee of such claim or interest, shall be benefited by this resolution; and the amount of such commutation shall be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, July 25, 1866.

No. 75.—Joint Resolution in reference to the Dismal Swamp Canal Company.

Whereas the United States are interested in the Dismal Swamp canal, connecting the inland waters of the Chesapeake with the sounds of North Carolina, by holding eight hundred shares of the stock of the Dismal Swamp Canal Company; and whereas the canal should be kept open as a navigable highway without further outlay on the part of the United States: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and hereby is, authorized to sell said stock at auction, or otherwise, in such manner as will best protect the interest of the United States in said canal, and will insure that the same will be kept open as such navigable highway, without further expense to the Government: *Provided,* That the instruments and papers effecting such sale, in the manner aforesaid, shall be approved by the Attorney General before the delivery thereof.

APPROVED, July 25, 1866.

No. 76.—Joint Resolution authorizing the Commissioner of Public Buildings to employ three additional Watchmen in the Smithsonian Grounds.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioner of Public Buildings and Grounds be, and the same is hereby, authorized to employ three additional watchmen for the Smithsonian grounds.

APPROVED, July 25, 1866.

No. 77.—A Resolution to authorize the Purchase for the Library of Congress of the Law Library of James L. Petigru, of South Carolina.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Joint Committee on the Library be, and they are hereby, authorized to purchase the law library belonging to the estate of the late James Louis Petigru, for the use of the Library of Congress; and the sum of five thousand dollars is hereby appro-

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priated, out of any moneys in the Treasury not otherwise appropriated, to carry into effect the purpose of this resolution, to be paid only to the use of the widow of the said Petigru.

APPROVED July 25, 1866.

No. 79.—A Resolution manifesting the Sense of Congress towards the Officers and Seamen of the Vessels, and others, engaged in the Rescue of the Officers and Soldiers of the Army, the Passengers, and the Officers and Crew of the Steamship San Francisco, from perishing with the Wreck of that Vessel.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be requested to procure three valuable gold medals, with suitable devices, one to be presented to Captain Creighton, of the ship Three Bells, of Glasgow; one to Captain Low, of the bark Kilby, of Boston; and one to Captain Stouffer, of the ship Antarc[c]tic, as testimonials of national gratitude for their gallant conduct in rescuing about five hundred Americans from the wreck of the steamship San Francisco; and that the cost of the same be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further resolved,* That the sum of seven thousand five hundred dollars each is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the above-named captains respectively, as a reward of their humanity and heroism in the rescue of the survivors of said wreck, and in case either of the said captains may have died, then the amount hereby appropriated shall be paid to the widow of said deceased captain respectively; if no widow surviving then to the respective child or children of such deceased captain; and in the event of their being no child or children of such deceased captain surviving, then the amount hereby appropriated shall be paid first to the father, or, if the father be not living, then to the mother of such deceased captain respectively.

SEC. 3. *And be it further resolved,* That there shall be paid to each mate of the three above-named vessels the sum of five hundred dollars, and to each man and boy the sum of one hundred dollars, and in case of the death of the respective mate or mates, or men and boys, that the said respective sums shall be paid in the same way and under the same conditions as the payment is to be made in case of the death of the respective captains.

APPROVED, July 26, 1866.

No. 80.—A Resolution to authorize the Use of certain Plates of the United States Exploring Expedition by the Navy Department.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Joint Committee on the Library be authorized and instructed to grant to the Navy Department the use of such of the engraved plates of the United States exploring expedition under Captain Wilkes, now in charge of said committee, as may be desired for the purpose of printing a supply of charts for the use of said Department.

APPROVED, July 26, 1866.

No. 81.—A Resolution for the Benefit of the Illinois Soldiers' College and Military Academy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be authorized to transfer to the Illinois Soldiers' College and Military Academy, from the surplus on hand and not needed for the public service, coats and bedding necessary to accommodate five hundred persons for the use of free students in said institution disabled by the war.

APPROVED, July 26, 1866.

No. 82.—A Resolution authorizing the Payment of certain Claims against the late Territory of Nevada.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, to enable the Secretary of the Treasury to settle and pay outstanding claims duly examined and allowed, and properly chargeable to the contingent expenses of the executive department of the Territory of Nevada, so much of the unexpended balance of the appropriation for "compensation and mileage of members of the Legislative Assembly, &c., of the Territory of Nevada," as may be found necessary for that purpose, be, and the same is hereby, transferred to the credit of the fund for paying the contingent expenses of the executive department of that Territory, and that the proper accounting officers of the Treasury are hereby authorized and directed, out of the said balance, hereby directed to be transferred, to pay the claims so adjusted and allowed.

APPROVED, July 26, 1866.

No. 83.—A Resolution to provide for codifying the Laws relating to the Customs.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be prepared and submitted to Congress at its next session, under the direction of one member of the Senate and one member of the House of Representatives, each to be appointed by the Presiding Officer of the body to which he belongs, a general customs revenue law, designed to supersede all other laws on that subject, and embracing all necessary provisions for regulating the foreign and coasting trades, the assessment and collection of duties on goods, wares, and merchandise imported from foreign countries, and other subject-matters immediately pertaining thereto; the expenses necessarily incurred in the preparation thereof to be paid from the appropriation for the expenses of collecting the revenue from customs: *Provided,* That the said expenses shall not exceed ten thousand dollars.

APPROVED, July 26, 1866.

No. 84.—A Resolution providing for the Examination of the Accounts of the State of Massachusetts for Moneys expended during the War for Coast Defense.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized and requested to appoint, by and with the advice and consent of the Senate, two commissioners who shall examine into the claim of the State of Massachusetts for moneys expended for coast defense during the war, and shall make a full and complete report thereon to Congress at its next session.

APPROVED, July 26, 1866.

No. 85.—A Resolution granting the Right of Way through Military Reserves to the Union Pacific Railroad Company and its Branches.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to approval by the President, the right of way, one hundred feet in width, is hereby granted to the Union Pacific Railroad Company and the companies constructing the branch roads connecting therewith, for the construction and operation of their roads over and upon all military reserves through which the same may pass; and the President is hereby authorized to set apart to the Union Pacific Railway Company, eastern division, twenty acres of the Fort Riley military reservation, for depot and other purposes, in the bottom opposite "Riley City;" also frac-

tional section "one" on the west side of said reservation, near Junction City, for the same purposes; and also to restore, from time to time, to the public domain, any portion of said military reserve over which the Union Pacific railroad, or any of its branches, may pass, and which shall not be required for military purposes: *Provided,* That the President shall not permit the location of any such railroad or the diminution of any such reserve in any manner so as to impair its usefulness for military purposes, so long as it shall be required therefor.

APPROVED, July 26, 1866.

No. 86.—Joint Resolution amendatory of a Joint Resolution entitled "A Resolution respecting Bounties to Colored Soldiers, and the Pensions, Bounties, and Allowances to their Heirs," approved June 15, 1866.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the words "at the time of his enlistment," at the end of section one of the "resolution respecting bounties to colored soldiers; and the pensions, bounties, and allowances to their heirs," approved June fifteen, eighteen hundred and sixty-six, be, and the same are hereby, stricken out.

SEC. 2. *And be it further resolved,* That whenever application shall be made by any claimant for bounty under the provisions of the joint resolution aforesaid, by or through any agent or attorney, such agent or attorney shall hereafter be required to file with each claim his oath or affirmation that he has no interest whatever in said bounty beyond the fees for collection of the same, which are hereby fixed and established as follows, viz: for the preparation and prosecution of claims for, and the collection and remittance of, all sums not exceeding fifty dollars, the sum of five dollars; for all sums exceeding fifty and less than one hundred dollars, the sum of seven dollars and fifty cents; and for all sums exceeding one hundred dollars, the sum of ten dollars; and said fees shall include all expenses incident to the collection of said claims, except the expense of the necessary affidavits and notarial or other acknowledgments, which shall be defrayed by the claimant; and any agent or attorney who shall charge, directly or indirectly, in any case, a greater sum for his services in preparing and prosecuting said claims and collecting and remitting the amount due, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine not exceeding three thousand nor less than one thousand dollars, and shall be forever excluded from prosecuting military or naval claims against the Government.

SEC. 3. *And be it further resolved,* That in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

SEC. 4. *And be it further resolved,* That it shall not be lawful for any soldier to transfer, assign, barter, or sell his discharge, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of said resolution; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier.

APPROVED, July 26, 1866.

No. 87.—Joint Resolution for the Relief of certain Officers of the Army.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That in every case in which a commissioned officer actually entered on duty

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as such commissioned officer, but by reason of being killed in battle, captured by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered within a period of not less than thirty days, the pay department shall allow to such officer full pay and emoluments of his rank from the date on which such officer actually entered on such duty as aforesaid, deducting from the amount paid in accordance with this resolution all pay actually received by such officer for such period.

SEC. 2. *And be it further resolved*, That the heirs or legal representatives of any officer whose muster into service has been or shall be amended hereby, shall be entitled to receive the arrears of pay due such officer or the pension provided by law for the grade into which such officer is mustered under the provisions of the first section of this resolution.

APPROVED, July 26, 1866.

No. 90.—A Resolution to change the Place of holding the Terms of the Circuit Court for the District of West Virginia.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the terms of the circuit court for the district of West Virginia, heretofore held at Lewisburg, in the county of Greenbrier, shall be hereafter held at the city of Parkersburg, at the time now fixed by law.

APPROVED, July 27, 1866.

No. 91.—A Resolution to provide for the Publication of the Official History of the Rebellion.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the joint resolution entitled "A resolution to provide for the printing of official reports of the armies of the United States," approved May nineteen, eighteen hundred and sixty-four, be, and the same is hereby, repealed.

SEC. 2. *And be it further resolved*, That the Secretary of War be, and he is hereby, authorized and required to appoint a competent person to arrange and prepare for publication the official documents relating to the rebellion and the operations of the Army of the United States, who shall prepare a plan for said publication and estimates of the cost thereof, to be submitted to Congress at its next session.

SEC. 3. *And be it further resolved*, That the person whose appointment is hereby authorized shall receive a compensation for his services not to exceed two thousand five hundred dollars per annum, to be paid monthly by the Secretary by [of] the Treasury, out of any moneys in the Treasury not otherwise appropriated: *Provided*, That said compensation shall not be paid for a longer period than two years from and after the passage of this resolution.

APPROVED, July 27, 1866.

No. 92.—A Resolution for the temporary Relief of the Sufferers by the late Fire in Portland, in the State of Maine.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Internal Revenue is hereby authorized to suspend the collection of such taxes as may have been assessed, or as may have accrued prior to the fifth day of July, eighteen hundred and sixty-six, in the first collection district of the State of Maine, against any person residing or doing business and owning property in that portion of the city of Portland recently destroyed by fire, and who, in the opinion of said Commissioner, has suffered material loss by such fire: *Provided*, That such suspension shall not be continued after the close of the next session of Congress.

APPROVED, July 27, 1866.

No. 93.—Joint Resolution to enable the Secretary of the Treasury to furnish to each State one Set of the Standard Weights and Measures of the Metric System.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to furnish to each State, to be delivered to the Governor thereof, one set of the standard weights and measures of the metric system for the use of the States respectively.

APPROVED, July 27, 1866.

No. 96.—Joint Resolution in relation to the Use of the Soldiers' and Sailors' Orphan Fair Building, in Washington.

Whereas the House has been informed that certain peaceable and law-abiding citizens, while assembled at and within the building recently erected in this city for the benefit of orphans of deceased soldiers and sailors of the United States, situate on the corner of Seventh street and Pennsylvania avenue, have been illegally and improperly dispersed by the mayor of this city, for the alleged reason that they belonged to a Fenian organization, and thus prevented from exercising their rights and privileges as citizens of the United States: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That said citizens are hereby authorized, whenever permitted so to do by the Speaker of this House, or the President of the Senate, to use and to occupy said building for the purpose of holding meetings for any proper and lawful purpose, and particularly in reference to the liberation of Ireland.

APPROVED, July 28, 1866.

No. 97.—Joint Resolution for the Relief of certain Chippewa, Ottawa, and Pottawatomie Indians.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the Chippewa, Ottawa, and Pottawatomie Indians of Michigan, in pursuance of an agreement and compromise made with the Pottawatomie nation of Indians so named and designated by the treaty of eighteen hundred and forty-six, with the United States, the sum of thirty-nine thousand dollars, in full of all claims in favor of said Michigan Indians either against the United States or said nation of Indians, past, present, or future, arising out of any treaty made with them or any band or confederation thereof, and the annuity now paid to them is to be restored, and paid to said nation for the future. Said sum of thirty-nine thousand dollars is to be paid out of funds of said Indians, by the United States now held in trust for said nation, drawing interest at the rate of five per cent, which amount is hereby appropriated, said payment to be made per capita direct to heads of families, adults, and guardians of minors, as is now required by law in reference to annuities, by the proper agent of the Government.

APPROVED, July 28, 1866.

No. 98.—Joint Resolution authorizing a Contract with Vinnie Ream for a Statue of Abraham Lincoln.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he hereby is, authorized and directed to contract with Miss Vinnie Ream for a life-size model and a statue of the late President Abraham Lincoln, to be executed by her at a price not exceeding ten thousand dollars; one half payable on completion of the model in plaster, and the remaining half on completion of the statue in marble to his acceptance.

APPROVED, July 28, 1866.

No. 99.—Joint Resolution to extend the Provisions of the Act of July fourth, eighteen hundred and sixty-four, limiting the Jurisdiction of the Court of Claims to the loyal Citizens of Tennessee.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the act of the fourth of July, eighteen hundred and sixty-four, entitled "An act to limit the jurisdiction of the Court of Claims," is hereby extended to the loyal citizens of the State of Tennessee.

APPROVED, July 28, 1866.

No. 100.—Joint Resolution authorizing the Transmission through the Mails, free of Postage, of certain Certificates, by the Adjutant General of New Jersey.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the adjutant general of New Jersey be authorized to transmit through the mails, free of postage, certain certificates of thanks awarded by the Legislature to the soldiers of that State, under such regulations as the Postmaster General may direct.

APPROVED, July 28, 1866.

No. 101.—Joint Resolution authorizing the Secretary of War to settle with the Territory of Colorado for the Militia of said Territory employed in the Service of the United States in the years eighteen hundred and sixty-four and eighteen hundred and sixty-five.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be authorized to settle with the proper authorities of the Territory of Colorado, for the services of the first regiment of Colorado mounted militia, called into the service of the United States on the requisition of Colonel Thomas Moonlight, in the year eighteen hundred and sixty-five, and for the services of any other militia forces of the said Territory which were employed in the service of the United States on the call of the Governor of the Territory in the year eighteen hundred and sixty-four, allowing in such settlement all amounts paid by the Territory to the said troops for pay, use of horses, clothing and other proper allowances during the time when they were so actually in service, and that he report the amount found to be justly due to said Territory on such account to Congress in December next.

APPROVED, July 28, 1866.

No. 102.—Joint Resolution to prevent the further Enforcement of the Joint Resolution, (No. 77,) approved July 4, 1864, against Officers and Soldiers of the United States, who have been honorably discharged, so as to relieve them from the further Payment of the special five per cent Income Tax imposed thereby.

Whereas by the joint resolution (No. 77) of Congress, approved July fourth, eighteen hundred and sixty-four, a special income tax of five per cent on all incomes exceeding six hundred dollars was directed to be assessed and collected and was enforced generally upon all citizens accessible to the revenue officers, but was not enforced against all our soldiers then in the field in the active service of the country; and whereas since the surrender of the insurrectionary armies, and the disbanding and return of the Federal soldiers to their homes, said tax is being with manifest hardship assessed and collected of them in many parts of the country: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That said special tax, so imposed, shall not be further enforced against officers or soldiers lately in the service of the



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United States, and who have been honorably discharged therefrom, and that the Secretary of the Treasury direct the proper observance of this resolution by all revenue officers.

APPROVED, July 28, 1866.

## PRIVATE ACTS.

CHAP. IV.—An Act for the Relief of Mrs. Mary Lincoln, Widow of the late President of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Mary Lincoln, widow of Abraham Lincoln, late President of the United States, or, in the event of her death before payment, then to the legal representatives of the said Abraham Lincoln, the sum of twenty-five thousand dollars: *Provided always,* That any sum of money which shall have been paid to the personal representatives of the said Abraham Lincoln since his death, on account of his salary as President of the United States for the current year, shall be deducted from the said sum of twenty-five thousand dollars.

APPROVED, December 21, 1865.

CHAP. VII.—An Act for the Relief of Charles F. Anderson.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed to pay to Charles F. Anderson, architect, out of any money in the Treasury not otherwise appropriated, the sum of seven thousand five hundred dollars, in full, for time, labor, and expense in preparing plans and drawings for the Capitol extension.

APPROVED, February 7, 1866.

CHAP. XI.—An Act for the Relief of Charlotte Bence, Widow of Philip H. Bence, late Captain of Company F, Thirtieth Regiment Iowa Volunteer Infantry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Charlotte Bence, of Bloomfield, Davis county, Iowa, widow of Captain Philip H. Bence, of company F, thirtieth regiment of Iowa volunteers, on the pension-roll, at the rate of twenty dollars per month, from and after the passage of this act, for and during her widowhood.

APPROVED, February 17, 1866.

CHAP. XIV.—An Act for the Relief of the Heirs of James Bawdin.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That on payment to the United States of one dollar and twenty-five cents per acre therefor, the Commissioner of the General Land Office shall cause a patent to be issued to the heirs of James Bawdin for that tract of land lying and being at Eagle Harbor, on Lake Superior, situate upon the north part of section number six, in township number fifty-eight north, of range number thirty west, in the Sault Ste. Marie land district, State of Michigan, containing about six and fifty-four hundredths acres of land, and being all that part of the lands known as the light-house reservation at Eagle Harbor, which lies east of the dotted line marked "S. 86° 45' E. 12. 76 chains," as shown on the plat of "Bawd[in]'s Survey" of said reservation in the office of said Commissioner of the General Land Office, except so much of said lands as may be required for the use of a road four rods wide, from the light-house across said six and

fifty-four hundredths acres to the waters of said harbor, as the same is now laid out and used for that purpose: *Provided,* That this act shall only be construed to be a relinquishment of the title of the United States, and shall not interfere with the rights of third persons.

APPROVED, March 8, 1866.

CHAP. XXIII.—An Act for the Relief of Robert Henne.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and hereby is, authorized and directed to increase the pension of Robert Henne, late of company I, twelfth Missouri infantry, from seventeen dollars per month to twenty-five dollars per month, and to pay him such increased pension from the passage of this act.

APPROVED, March 22, 1866.

CHAP. XXX.—An Act for the Benefit of John W. Campbell.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to allow John W. Campbell, late quartermaster seventh Kentucky cavalry, on settlement of his accounts, a credit of four thousand seven hundred and seventy dollars, money expended by him for the use of the said regiment, the vouchers and accounts for which were destroyed and lost by falling into the hands of the enemy at Cynthiana, July seventeenth; Big Hill, August twenty-third; and Richmond, Kentucky, August thirtieth day, eighteen hundred and sixty-two, respectively, if on examining the evidence by the Quartermaster General the said Quartermaster General shall deem him justly entitled to said credit; but said credit shall not be allowed without the said Quartermaster General shall certify his approval thereof.

APPROVED, April 7, 1866.

CHAP. XXXIV.—An Act for the Relief of J. B. Rittenhouse, Fleet Paymaster of the Pacific Squadron.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed, in the settlement of the accounts of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, to release him from all accountability for the amount of thirteen thousand five hundred and nine dollars, public money, stolen from him on the evening of October thirty, eighteen hundred and sixty-five, while on duty at Panama, or such portion thereof as he may or shall fail to recover: *Provided,* That no part of said money shall be allowed said Rittenhouse until the proper accounting officers of the Government are satisfied upon full and complete evidence of the larceny of the money alleged to have been stolen.

APPROVED, April 10, 1866.

CHAP. XXXV.—An Act granting a Pension to Sarah Fitzgibbon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Sarah Fitzgibbon, widow of Thomas C. Fitzgibbon, late major of the fourteenth Michigan volunteer infantry, upon the pension-rolls, at twenty-five dollars per month from the first day of May, one thousand eight hundred and sixty-five: *Provided,* That in the event of the marriage or death of said Sarah Fitzgibbon, that the

pension allowed by this act shall be continued to the children of the late Major Thomas C. Fitzgibbon, subject to the limitation and restrictions now imposed by existing pension laws.

APPROVED, April 10, 1866.

CHAP. XXXVI.—An Act for the Relief of F. A. Patterson, late Captain of the Third Virginia Cavalry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and directed to pay Captain F. A. Patterson full amount of pay and emoluments as a captain of the third Virginia cavalry from the twenty-fifth day of November, eighteen hundred and sixty-two, the date of his commission by the Governor of Virginia, to the date of muster out of his regiment.

APPROVED, April 10, 1866.

CHAP. XXXVII.—An Act for the Relief of Jane W. Nethaway.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place upon the pension-rolls the name of Jane W. Nethaway, of the town of Ohio, county of Herkimer, and State of New York, widow of David Nethaway, late of the eighty-first regiment New York volunteers; the said pension to begin on the twenty-ninth day of September, eighteen hundred and sixty-four, and to continue during her widowhood, at the rate allowed by law to the widow of a first lieutenant.

*Sec. 2. And be it further enacted,* That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to settle and adjust the accounts of the said David Nethaway, late of the eighty-first regiment New York volunteers, as a second lieutenant from June third, eighteen hundred and sixty-four, to August eleventh, eighteen hundred and sixty-four, inclusive, and as a first lieutenant from August twelfth, eighteen hundred and sixty-four, to September twenty-ninth, eighteen hundred and sixty-four, inclusive.

APPROVED, April 10, 1866.

CHAP. XXXVIII.—An Act for the Relief of Emma J. Hall.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and hereby is, authorized and directed to place the name of Emma Jane Hall, widow of Perry Hall, deceased, late a chaplain in the seventy-ninth regiment Indiana volunteers, upon the pension-rolls, at the rate now prescribed by law for officers of his rank, and to be continued during her widowhood.

APPROVED, April 10, 1866.

CHAP. XLII.—An Act to confirm unto Augustin Amiot, his legal Assigns and Representatives, a certain Lot of Ground in the City of Saint Louis, in the State of Missouri.

Whereas, under the act of Congress approved June twenty-second, eighteen hundred and sixty, entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes," the recorder of land titles for the city of Saint Louis, for the State of Missouri, has reported to the Commissioner of the General Land Office that there ought to be confirmed to Augustin Amiot, or to his legal representatives, under class one, under the third section of the act aforesaid, the lot of ground in the town of Saint Louis, Missouri, described as follows: commencing at the northwest corner of the lot in block number forty-six, being the northwest corner of the block at the intersec-

tion of Sycamore and Second streets; thence south fifty-eight degrees forty-one minutes east, along the south edge of Sycamore street to the northern boundary of the lot one hundred and sixty feet five inches, the northeast corner of the lot at the south edge of Sycamore street; thence south thirty degrees thirty minutes west, along the eastern boundary of the lot, one hundred and twenty-eight feet four inches, the southeast corner of the lot; thence north fifty-eight degrees forty-one minutes west, along the southern boundary of the lot, one hundred and sixty feet five inches, the southwest corner of the lot at the east edge of Second street; thence north thirty degrees thirty minutes east, along the east edge of Second street to the western boundary of the lot, one hundred and twenty-eight feet four inches, the beginning northwest corner of the lot, the said lot of ground being one hundred and twenty by one hundred and fifty French feet; and whereas the Commissioner of the General Land Office has approved the report of the said recorder of land titles and has reported the same to Congress for its action: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said lot of ground in the city of Saint Louis, Missouri, be, and the same is hereby, confirmed unto the said Augustin Amiot, his legal assigns and representatives, and that all the right, title, and interest of the United States in and to the same be, and the same is hereby, granted and confirmed unto the said Augustin Amiot, his legal assigns and representatives.

APPROVED, April 12, 1866.

CHAP. XLIII.—An Act for the Relief of the Estate of E. W. Eddy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to allow to the estate of E. W. Eddy, late paymaster in the U. S. Army, a credit of two hundred thousand dollars, the amount of public funds in his hands as paymaster on board the steamer "Brother Jonathan," lost by the wreck of said steamer, on the thirtieth day of July, eighteen hundred and sixty-five, off the coast of California: *Provided,* That the final order for the allowance of the said credit shall not be made until the whole subject connected with the said alleged loss shall be fully investigated by the Paymaster General, and he shall certify to the proper Department of the Government that the loss of the vessel has been fully proved.

APPROVED, April 12, 1866.

CHAP. XLIX.—An Act for the Relief of the Administrators and Securities of Almon W. Babbitt, late Secretary of Utah.

Whereas Almon W. Babbitt, as secretary of the Territory of Utah, in the summer of eighteen hundred and fifty-six, had advanced to him by the Treasury Department, at the city of Washington, twenty-six thousand and five hundred dollars; that a portion of this sum was properly expended by him in the purchase of stationery, carpeting, and other property for the offices of the Territory, and in the purchase of oxen and wagons to transport the said property, together with a quantity of books, belonging to the Territory, from Council Bluffs to Salt Lake City; and while upon the route, not far from Fort Kearney, the said Babbitt and most of the men with him were murdered, the teams taken, and property destroyed by Indians; and whereas there is now standing against said Babbitt upon the books of the Treasury Department a balance of twelve thousand and nine hundred and seventy-two dollars; and it is satisfactorily proven that the property destroyed by said Indians amounted

in value to a sum larger than said balance: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the administrators, heirs, and securities of said Babbitt be, and they are hereby, released and discharged from the payment of said balance, and from all liability on account of the same and of said moneys received from the Treasury Department, as aforesaid.

APPROVED, April 17, 1866.

CHAP. L.—An Act granting a Pension to Mrs. Altazera L. Willcox, of Chenango County, in the State of New York.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Altazera L. Willcox, of Chenango county, in the State of New York, widow of William Willcox, late a private in company "B," in the one hundred and fourteenth regiment, New York volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

APPROVED, April 17, 1866.

CHAP. LI.—An Act granting a Pension to Mrs. Isabella Fogg, of the State of Maine.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Mrs. Isabella Fogg, of the State of Maine, on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of this act, and to continue during her natural life; she, the said Isabella Fogg, having been totally disabled while acting as nurse on board the United States hospital boat near Louisville, in the State of Kentucky.

APPROVED, April 17, 1866.

CHAP. LII.—An Act granting Pension to Virginia K. V. Moore.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Virginia K. V. Moore, daughter of Richard D. Moore, deceased, late of company "K," seventy-second regiment Illinois volunteers, on the list of invalid pensioners, and pay to her, or her legally appointed guardian, the sum of eight dollars per month, from December third, eighteen hundred and sixty-three, the date of the death of Richard D. Moore, until she shall have attained the age of sixteen years.

APPROVED, April 17, 1866.

CHAP. LIII.—An Act granting a Pension to Mrs. Elizabeth York, Widow of Shubal York, late a Surgeon in the Fifty-Fourth Regiment Illinois Infantry, Volunteers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois volunteer infantry, on the pension rolls, at the rate of twenty-five dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

APPROVED, April 17, 1866.

CHAP. LIV.—An Act for the Relief of Charles Youly.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the

Interior be, and is hereby, directed to pay, out of any funds which may have been appropriated for the payment of pensions, to Charles Youly, of Dunkirk, Cha[u]tauqua county, New York, late a private of company "D," seventy-second regiment, New York volunteers, the sum of one hundred and thirty-five dollars and thirty-three and one third cents, it being at the rate of five dollars per month, from the twenty-fifth day of November, eighteen hundred and sixty-two, to the twenty-seventh day of February, eighteen hundred and sixty-five.

APPROVED, April 17, 1866.

CHAP. LV.—An Act for the Relief of Nicholas Hibner, late a Private in the Sixth Regiment Missouri State Militia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Nicholas Hibner, of Caldwell county, Missouri, and late a private in the sixth regiment (cavalry) Missouri State militia, commanded by Colonel Catherwood, upon the list of pensioners, at the rate of eight dollars per month, to commence on the passage of this act, and to continue during his natural life.

APPROVED, April 17, 1866.

CHAP. LVI.—An Act for the Relief of Albert Nevins.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Albert Nevins, late a private in company "K," ninety-second regiment New York State volunteers, upon the list of pensioners at the rate of twenty-five dollars per month, in lieu of the eight dollars per month heretofore allowed him; to commence on the passage of this act, and to continue during his natural life.

APPROVED, April 17, 1866.

CHAP. LVII.—An Act granting Pension to Lewis W. Dietrich.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Lewis W. Dietrich, late a second lieutenant of company "E," thirtieth regiment U. S. colored troops, on the pension-list, and to pay him a pension at the rate of fifteen dollars per month; this act to take effect from and after its passage.

APPROVED, April 17, 1866.

CHAP. LVIII.—An Act for the Relief of James G. Clarke.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby directed, out of any money in the Treasury not otherwise appropriated, to pay to James G. Clarke the sum of six thousand four hundred and eighty-three dollars and ninety-six cents (\$6,483 96), in full for services as acting chargé d'affaires of the United States at Brussels from June eleventh, eighteen hundred and fifty-seven, to September twenty-seventh, eighteen hundred and fifty-eight.

APPROVED, April 18, 1866.

CHAP. LIX.—An Act granting a Pension to Mrs. Sarah E. Wilson.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Sarah E.

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Wilson, widow of William H. Wilson, late acting surgeon United States volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence from the passage of this act, and to continue during her widowhood.

APPROVED, April 18, 1866.

CHAP. LX.—An Act directing the Enrollment of Agnes W. Laughlin, the Widow of a deceased Soldier, as a Pensioner.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to enroll Agnes W. Laughlin, widow of William Laughlin, deceased, late a private in company "C" third Indiana cavalry, as entitled to a pension from first of January, eighteen hundred and sixty-five, to continue during her widowhood.

APPROVED, April 18, 1866.

CHAP. LXI.—An Act for the Relief of Ann Heth, Widow of William Heth, of Harrison County, Indiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Ann Heth, widow of William Heth, of Harrison county, in the State of Indiana, who was killed by the rebel Morgan's men, while resisting their advance upon Corydon, Indiana, upon the pension-roll, at the rate of eight dollars per month, to commence on the ninth day of July, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, April 18, 1866.

CHAP. LXII.—An Act granting a Pension to Mrs. Emerance Gouler.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Emerance Gouler, widow of Charles Gouler, late a private in company "F," ninth New Hampshire volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the passage of this bill, and to continue during her widowhood.

APPROVED, April 18, 1866.

CHAP. LXIV.—An Act for the Relief of Thomas Hurly.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Thomas Hurly, late a private of company "K," eighth Tennessee cavalry upon the pension-rolls, at the rate of twenty dollars per month, from and after the passage of this act, and to continue during his natural life.

APPROVED, April 20, 1866.

CHAP. LXVI.—An Act for the Relief [of] Thomas F. Wilson, late United States Consul at Bahia, Brazil.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to pay to Thomas F. Wilson, late United States consul at Bahia fifteen hundred dollars, out of any money in the Treasury not otherwise appropriated, in full compensation for extra services and for all other claims he may have against the Government, while in the service of the United States as consul.

APPROVED, April 25, 1866.

CHAP. LXVII.—An Act for the Relief of Theodor G. Eiswald.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the

Treasury be, and he is hereby, authorized to issue and pay to Theodor G. Eiswald, of Providence, in the State of Rhode Island, two United States coupon bonds, known as the denomination of seven-thirty bonds, of one thousand dollars each, with coupons attached, in lieu of two seven-thirty bonds of the United States, issued under an act of Congress, partially destroyed by fire, the charred remnants thereof being now deposited in the office of the Secretary of the Treasury, and numbered respectively one hundred and four thousand one hundred and fifty-two, and one hundred and four thousand one hundred and fifty-three, dated June fifteenth, eighteen hundred and sixty-five, and issued under the act of March third, eighteen hundred and sixty-five: *Provided,* That the said Theodor G. Eiswald shall execute a bond in the penal sum of five thousand dollars, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss, cost, or damage on account of the issuing of said bills.

APPROVED, April 25, 1866.

CHAP. LXIX.—An Act for the Relief of George R. Frank, late Captain Thirty-Third Regiment Wisconsin Volunteer Infantry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Paymaster General of the United States Army be, and he is hereby, authorized and directed to settle and pay out of any money appropriated, or hereafter to be appropriated, for the payment of the Army, the account of George R. Frank, late a captain in the thirty-third regiment of Wisconsin volunteer infantry, for his services, and all allowances as captain in said regiment, in the service of the United States, from the date of his last payment to the time of the final muster out and payment of said regiment, the same as though the said George R. Frank had not been mustered out as captain for the purpose of being mustered in as major or otherwise.

APPROVED, April 26, 1866.

CHAP. LXXVII.—An Act for the Benefit of Col. R. E. Bryant.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to allow to R. E. Bryant, late commissary of subsistence, on settlement of his account, a credit of fourteen hundred and eighty-four dollars and thirteen cents, the vouchers and accounts for which were lost and destroyed, falling into the hands of the enemy at Holly Springs, Mississippi, on the twentieth day of September, eighteen hundred and sixty-two, if on examining the evidence by the Commissary General the said Commissary General shall deem him justly entitled to said credit; but said credit shall not be allowed without the said Commissary General shall certify approval thereof.

APPROVED, May 9, 1866.

CHAP. LXXVIII.—An Act for the Relief of R. L. B. Clarke.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Treasurer of the United States be, and he is hereby, directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, the sum of one thousand five hundred dollars to R. L. B. Clarke, in full for the time and expense incurred by him in contesting the seat of Augustus Hall, from the first district of Iowa, in the Thirty-Fourth Congress.

APPROVED, May 9, 1866.

CHAP. XC.—An Act [for] the Relief of Francis A. Gibbons.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise expended, the sum of five hundred and sixty-three dollars and nineteen cents to Francis A. Gibbons, the same being money paid by him for property purchased at a quartermaster's sale in the city of Baltimore, Maryland, on the fifteenth day of February, eighteen hundred and sixty-three, under the direction of Colonel Belger, assistant quartermaster, which was not delivered to the purchaser.

APPROVED, May 22, 1866.

CHAP. XCI.—An Act granting [a] Pension to Spencer Kellogg.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Spencer Kellogg, of Oswego county, State of New York, on the roll of invalid pensions, and pay or cause to be paid to his legally appointed guardian the sum of twenty dollars per month, until he, the said Spencer Kellogg, shall have attained the age of sixteen years; this act to take effect from the sixth day of September, eighteen hundred and sixty-five.

APPROVED, May 22, 1866.

CHAP. XCII.—An Act granting a Pension to John Hoffman, of Madison County, in the State of New York.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, directed to place the name of John Hoffman, of Madison county, in the State of New York, on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of this act, and to continue during his natural life.

APPROVED, May 22, 1866.

CHAP. XCIII.—An Act for the Relief of the legal Representatives of Betsey Nash.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the act of Congress approved March three, eighteen hundred and fifty-seven, for the relief of Betsey Nash, are hereby extended to her legal representatives, and the amount appropriated by said act is hereby directed to be paid to them: *Provided,* That the sum paid by virtue of this act shall not exceed the amount due said Betsey Nash at the time of her death.

APPROVED, May 22, 1866.

CHAP. XCIV.—An Act for the Relief of Martha J. Willey.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Martha J. Willey, widow of George W. Willey, late a corporal in company F, seventh regiment New Hampshire volunteers, on the pension-rolls, at the rate of eight dollars per month, said pension to commence on the eighteenth day of April, eighteen hundred and sixty-five, and to continue during her widowhood; and in the event of the marriage or death of said Martha J. Willey, then to the minor children of George W. Willey, subject to the limitations and restrictions of the pension laws.

APPROVED, May 22, 1866.



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## CHAP. XCV.—An Act for the Relief of Isabella Strubing.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Isabella Strubing, widow of private Damon Strubing, deceased, late of company E, forty-sixth regiment Pennsylvania volunteers, on the pension-roll, and pay or cause to be paid to her the sum of eight dollars per month from the thirtieth day of May, eighteen hundred and sixty-four, and to continue during her widowhood, and in the event of the death or marriage of said Isabella Strubing, to the minor children of Damon Strubing until they shall have attained the age of sixteen years.

APPROVED, May 22, 1866.

## CHAP. XCVIII.—An Act to grant a Pension to Leonard St. Clair.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and hereby is, authorized and directed to place the name of Leonard St. Clair on the pension-rolls of the United States as a pensioner, at the rate of eight dollars per month.

APPROVED, May 24, 1866.

## CHAP. XCIX.—An Act for the Relief of Mrs. William L. Herndon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, required to cause a copyright to issue securing to Mrs. William L. Herndon, to her heirs, assigns, and legal representatives, the exclusive right to republish the book entitled "Exploration of the Valley of the Amazon," heretofore published under order of Congress, and to publish the same for the term of fourteen years from the passage of this act.

APPROVED, May 24, 1866.

## CHAP. CI.—An Act for the Relief of Cornelius B. Gold, late Acting Assistant Paymaster United States Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Government be, and they are hereby, authorized and directed, in the settlement of the accounts of Cornelius B. Gold, late acting assistant paymaster U. S. Navy, to allow a credit of five hundred and ten dollars and nine cents for clothing abstracted from a store-room in charge of said Gold while on duty in Mobile bay in the spring or summer of eighteen hundred and sixty-five: *Provided,* That no credit shall be allowed until the proper officers of the Government shall be satisfied by full and complete proof of the loss of the clothing herein referred to.

APPROVED, May 26, 1866.

## CHAP. CVI.—An Act granting [a] Pension to Mrs. Sally Andrews.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Sally Andrews, of Buxton, York county, Maine, widow of the late Elisha Andrews, quarter gunner on board the "Levetta Adams," on the pension-list of invalid pensioners, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood, the pension to commence from and after the passage of this act.

APPROVED, June 6, 1866.

## CHAP. CVII.—An Act granting a Pension to Mrs. Joanna Winans.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Mrs. Joanna Winans, mother of George W. Winans, late an acting assistant paymaster in the United States Navy, on the roll of naval pensioners, at the rate of twenty dollars per month, to continue during her widowhood, the said pension to be paid out of the naval pension fund.

APPROVED, June 6, 1866.

## CHAP. CVIII.—An Act for the Relief of Christina Elder.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby directed to pay to Christina Elder, of the city of New York, the arrears of pension to which Jessie Elder, mother of the said Christina Elder and of Alexander B. Elder, late lieutenant colonel of the tenth regiment of New York volunteers, would have been entitled, had the certificate of W. T. Otto, acting Secretary of the Interior, countersigned by Joseph H. Barrett, Commissioner of Pensions, and bearing date on the twenty-fifth day of November, in the year one thousand eight hundred and sixty-five, in favor of the said Jessie Elder, been granted in his lifetime.

APPROVED, June 6, 1866.

## CHAP. CIX.—An Act for the Relief of Cordelia Murray.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to pay to Cordelia Murray, widow of George W. Murray, a pension equal in amount to the pension granted to the said George W. Murray, by an act of Congress approved December twentieth, eighteen hundred and sixty four, entitled "An act for the relief of George W. Murray."

APPROVED, June 6, 1866.

## CHAP. CXII.—An Act granting a Pension to Mrs. Martha Stevens.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Mrs. Martha Stevens, widow of John F. Stevens, late deputy provost marshal of the fourth congressional district of the State of Indiana, on the pension-roll, at the rate of seventeen dollars per month, to commence from the tenth day of June, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, June 8, 1866.

## CHAP. CXIII.—An Act granting a Pension to Anna E. Ward.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Anna E. Ward, of the city of Washington, D. C., widow of the late Joseph D. Ward, second Kentucky volunteers, on the list of pensioners, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood; and in the event of the marriage or death of said Anna E. Ward, then to the minor children of Joseph D. Ward, subject to the limitations and restrictions of the pension laws; this act to take effect from and after its passage.

APPROVED, June 8, 1866.

## CHAP. CXVIII.—An Act to confirm the Title of José Serafin Ramirez to certain Lands in New Mexico.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the grant to José Serafin Ramirez of the Cañon del Agua, as approved by the surveyor general of New Mexico January twenty, eighteen hundred and sixty, and designated as number seventy in the transcript of private land claims in New Mexico, transmitted to Congress by the Secretary of the Interior January eleven, eighteen hundred and sixty-one, is hereby confirmed: *Provided, however,* That this confirmation shall only be construed as a relinquishment on the part of the United States, and shall not affect the adverse rights of any persons whomsoever.

APPROVED, June 12, 1866.

## CHAP. CXIX.—An Act to confirm the Grant of certain Lands to José Domingues, in California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the grant to José Domingues of the land known as Los Prietos y Najalayeagua, in the county of Santa Barbara, granted to him at Los Angeles, September twenty-four, eighteen hundred and forty-five, by Governor Pio Pico, and approved by the departmental assembly of Alta California, June third, eighteen hundred and forty-six, is hereby confirmed. And the surveyor general of California is hereby directed to proceed and survey said lands in accordance with the original title papers on file in his office, and when said survey shall have been approved by the Commissioner of the General Land Office, a patent shall be issued for said lands to said Domingues, or parties holding under him by inheritance or otherwise. This confirmation shall only be construed as a relinquishment on the part of the United States, and shall not affect the adverse right of any person whomsoever.

APPROVED, June 12, 1866.

## CHAP. CXX.—An Act for the Relief of Mrs. Anna G. Gaston.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby directed to place upon the pension-roll the name of Mrs. Anna G. Gaston, of the city of Washington, widow of Albert G. Gaston, deceased, late a lieutenant in the sixteenth regiment of Virginia volunteers, from the date of the discharge of her said husband from the military service of the United States, on account of disability arising from disease contracted in the said service, until the date of his death, namely, from the fifth day of May, in the year eighteen hundred and sixty-three, to the seventh day of February, in the year eighteen hundred and sixty-five, and to cause to be paid to the said Mrs. Anna G. Gaston, a pension at the rate of seventeen dollars per month for the said term, without prejudice to the pension heretofore allowed her by the Commissioner of Pensions.

APPROVED, June 12, 1866.

## CHAP. CXXI.—An Act for the Relief of Maria Syphax.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the title to a piece of land, being part of the Arlington estate, in the county of Alexandria, in the State of Virginia, upon which Maria Syphax has resided since about the year eighteen hundred and twenty-six, bounded and described as follows, to wit: beginning at the intersection of the south line of said Arlington estate with the center line of a small run, said point of intersection being about one fourth of a mile from the south-

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west corner of said Arlington estate, running thence westerly along said south line seven chains and forty links; thence in a northeasterly direction, on a line making an angle of thirty-five degrees with the said south line, twenty-two chains and thirty-eight links; thence at right angles, in a southeasterly direction, fifteen chains and sixty-seven links, to the said south line of the Arlington estate; thence westerly along the said south line of the said Arlington estate nineteen chains and ninety-two links, to the place of beginning, containing seventeen acres and fifty-three one hundredths of an acre of land, be the same more or less, be, and the same is hereby, released and confirmed unto the said Maria Syphax, her heirs and assigns.

APPROVED, June 12, 1866.

CHAP. CXXV.—An Act for the Relief of Mrs. Abigail Ryan.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Abigail Ryan, widow of Thomas A. Ryan, late a sergeant in company E, seventeenth regiment West Virginia infantry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the twenty-seventh day of March, eighteen hundred and sixty-five, and to continue during her widowhood.

APPROVED, June 15, 1866.

CHAP. CXXXIII.—An Act for the Relief of Captain John H. Crowell, Assistant Quartermaster in the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow Captain John H. Crowell, on a settlement of his accounts, a credit of two hundred and twenty-five dollars, for so much money disbursed by him to persons in the service of the United States, in payment for such services, the vouchers for which payment were captured by the rebels and destroyed in an attack upon the camp at Baton Rouge, Louisiana, where said John H. Crowell was stationed, on the fifth day of August, eighteen hundred and sixty-two, if, on examining the accounts of said Crowell, the Quartermaster General shall deem said Crowell justly entitled to said credit, and shall certify his approval thereof to said accounting officers.

APPROVED, June 21, 1866.

CHAP. CXXXIV.—An Act for the Relief of the Heirs of Lieutenant Joshua D. Todd, late of the United States Navy, deceased.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury be, and they are hereby, directed to pay to James Todd, administrator of Joshua D. Todd, late of the United States Navy, deceased, the pay of a master in the Navy of the United States, from the seventeenth day of June, eighteen hundred and forty-four, to the tenth day of August, eighteen hundred and forty-six, after deducting therefrom the amount already received by said Joshua D. Todd, deceased, as passed midshipman, during said period, and the said sum shall be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, June 21, 1866.

CHAP. CXXXV.—An Act for the Relief of Jonathan W. Gordon, late Major in the Eleventh Regiment of Infantry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and

directed, in settling the accounts of J. W. Gordon, late major in the eleventh regiment of infantry, to allow him a credit of six hundred dollars on account of bounties paid enlisted men in accordance with the provisions of the act of July, eighteen hundred and sixty-two, but before that act went into effect.

APPROVED, June 21, 1866.

CHAP. CXXXVI.—An Act for the Relief of Elisha W. Dunn, a Paymaster in the United States Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the United States Treasury be, and they are hereby, authorized and directed, in the settlement of the accounts of Elisha W. Dunn, a paymaster in the United States Navy, to receive and allow, where the proper vouchers cannot be obtained, statements verified by his oath, or such other satisfactory evidence as he may present, of all expenditures made by him for the Government, or losses sustained by him in consequence of the destruction by fire of the money, papers, and property of the United States in charge of the said Elisha W. Dunn, on board of the United States naval wharfbat at Mound City, Illinois, at the burning of that vessel on the first of June, one thousand eight hundred and sixty-four.

APPROVED, June 21, 1866.

CHAP. CXXXVII.—An Act for the Relief of the Amoskeag Manufacturing Company.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to the Amoskeag Manufacturing Company, out of any money in the Treasury not otherwise appropriated, the sum of sixteen hundred and fifty dollars, in full for three regimental cook-wagons furnished the Government in eighteen hundred and sixty-one.

APPROVED, June 22, 1866.

CHAP. CXXXIX.—An Act changing the Name of Emil Cohen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Emil Cohen, of the city of Washington, in the District of Columbia, be, and he is hereby, authorized, from and after the passage of this act, to take and use the surname of Cornely, and that his name hereafter be Emil Cornely; and all acts done and entered into by that name shall have the same effect and operation in law as if his name had originally been Emil Cornely, of Washington, in the District of Columbia.

APPROVED, June 23, 1866.

CHAP. CXLV.—An Act to amend an Act entitled "An Act granting a Pension to the Widow of the late Major General Hiram G. Berry."

Whereas in the act granting a pension to the widow of the late Major General Hiram G. Berry, approved March third, eighteen hundred and sixty-five, said widow is erroneously called Eliza Berry: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be authorized and directed to place the name of Almira M. Berry, widow of Major General Hiram G. Berry, on the pension-rolls instead of Eliza Berry, as provided for by the act aforesaid.

APPROVED, June 27, 1866.

CHAP. CXLVI.—An Act for the Relief of Mrs. Jerusha Witter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the

Interior be, and he is hereby, authorized and directed to place the name of Mrs. Jerusha Witter, widow of Doctor Amos Witter, late surgeon of the seventh regiment Iowa infantry volunteers, on the pension-roll, at the rate of twenty-five dollars per month, to commence from the date of her application for a pension, and to continue during her widowhood.

APPROVED, June 27, 1866.

CHAP. CXLVII.—An Act for the Benefit of Ira B. Curtis.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, directed to place Ira B. Curtis on the pension-rolls as assistant surgeon wholly disabled in the service, at the rate of seventeen dollars per month, commencing the twenty-eighth of February, eighteen hundred and sixty-six.

APPROVED, June 27, 1866.

CHAP. CXLVIII.—An Act for the Relief of Jane Harris.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and hereby is, authorized and directed to place the name of Jane Harris, widow of George H. Harris, late a private in company I, sixth Iowa cavalry, now deceased, on the pension-rolls as entitled to a pension at the rate of eight dollars per month during her widowhood, payment to commence from October twenty-third, one thousand eight hundred and sixty-three, the date of the death of said George H. Harris.

APPROVED, June 27, 1866.

CHAP. CXLIX.—An Act granting a Pension to Mrs. Amarilla Cook.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Mrs. Amarilla Cook, widow of John B. Cook, late deputy provost marshal of the sixteenth congressional district of the State of Ohio, on the pension-roll, at the rate of seventeen dollars per month, to commence from the fifth day of March, eighteen hundred and sixty-five, and to continue during her widowhood.

APPROVED, June 27, 1866.

CHAP. CL.—An Act granting a Pension to Benjamin Franklin.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Benjamin Franklin, a private in company H, second regiment Minnesota cavalry volunteers, on the pension-roll, at the rate of twenty-five dollars per month, to commence from the fifteenth day of January, eighteen hundred and sixty-six, and to continue during his natural life.

APPROVED, June 27, 1866.

CHAP. CLI.—An Act granting a Pension to Mrs. Harriet B. Crocker.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Harriet B. Crocker, mother of Henry B. Crocker, late a private in company G, one hundred and fifteenth regiment Ohio volunteer infantry, on the pension-roll, at the rate of eight dollars per month, to commence from the fourth day of October, eighteen hundred and sixty-two, and to continue during her widowhood.

APPROVED, June 27, 1866.

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CHAP. CLII.—An Act granting a Pension to Jane D. Brent.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to place the name of Jane D. Brent, of Detroit, Michigan, widow of Thomas Lee Brent, late a captain in the Army of the United States, on the pension-roll, and to allow and pay to her a pension at the rate of twenty dollars per month, from and after the passage of this act, until her marriage or death, and after either event to continue the said pension to Mary Brent, daughter of the said Thomas Lee Brent, if then under the age of sixteen years, until she attains that age.

APPROVED, June 27, 1866.

CHAP. CLIII.—An Act for the Relief of Cornelius Crowley.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Cornelius Crowley, late a private in company F, third regiment United States infantry, on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of this act, and pay him at that rate in lieu of any other pension to which he may have been entitled.

APPROVED, June 27, 1866.

CHAP. CLIV.—An Act for the Relief of A. J. Gray.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioner of Pensions be, and he hereby is, required to place the name of Andrew J. Gray, late a pilot on board the United States gunboat Judge Torrence, upon the list of invalid pensioners, at the rate prescribed for officers of his rank by act of Congress approved July fourteen, eighteen hundred and sixty-two, to be paid out of the naval fund.

APPROVED, June 27, 1866.

CHAP. CLVII.—An Act granting Land to A. M. Jess, of Josephine County, Oregon.

Whereas the land claimed and settled upon by A. M. Jess, on Applegate river, in Josephine county, State of Oregon, under the provisions of the homestead law of May twentieth, eighteen hundred and sixty-two, has since, without his fault, become of no value to him, and been, in great part, destroyed by a change in the channel of said river; and whereas his title to said land is still inchoate, and justice requires that he should be permitted to locate and settle upon an equal quantity of other public land in lieu thereof: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said A. M. Jess be, and he is hereby, authorized to locate and settle upon one hundred and sixty acres of the public lands of the United States, in accordance with the provisions and requirements of the homestead law aforesaid, and, at the expiration of the period therein prescribed, to receive a patent therefor on the terms and conditions therein prescribed: *Provided,* That the title so acquired by him to the land heretofore located and settled upon by him as aforesaid shall revert to the United States: *And provided further,* That said new location and settlement shall not be made upon mineral lands of the United States.

APPROVED, June 29, 1866.

CHAP. CLXX.—An Act granting a Pension to Jane E. Miles.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the

Interior is hereby authorized and directed to place upon the pension-roll the name of Jane E. Miles, of Somersworth, New Hampshire, widow of William D. Miles, late a landsman in the naval service of the United States, and to allow and pay her a pension, at the rate of eight dollars per month, from the twenty-second day of March, in the year one thousand eight hundred and sixty-five, to continue during her widowhood; the said pension to be paid out of the naval pension fund.

APPROVED, July 4, 1866.

CHAP. CLXXI.—An Act for the Relief of Sarah J. Purcell.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Sarah J. Purcell, widow of Charles W. Purcell, acting captain of artillery, on the pension-roll, at the rate of twenty dollars a month, from the twenty-seventh day of September, eighteen hundred and sixty-four, to continue during her widowhood.

APPROVED, July 4, 1866.

CHAP. CLXXII.—An Act granting a Pension to Mrs. Margaret A. Farran.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Margaret A. Farran, widow of Abraham Farran, late a private in the twenty-fourth battery Indiana light artillery, on the pension-roll, at the rate of eight dollars per month, to commence from the sixteenth day of February, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, July 4, 1866.

CHAP. CLXXIII.—An Act granting a Pension to Mary C. Hamilton.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Mrs. Mary C. Hamilton on the pension-rolls, at the same rate of pension allowed her under the act passed for her benefit, and approved June third, eighteen hundred and fifty-eight, payment to commence from and after the expiration of the term created by the said act of June third, eighteen hundred and fifty-eight, and to continue for and during the term of her natural life.

APPROVED, July 4, 1866.

CHAP. CLXXXV.—An Act amendatory of an Act entitled "An Act granting a Pension to Mrs. Emerance Gouler."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That an act approved April eighteen, eighteen hundred and sixty-six, granting a pension to Mrs. Emerance Gouler, be so amended as to continue the pension granted to Mrs. Gouler, in the event of her death or remarriage, to her minor children under the age of sixteen years, had by her late husband, Charles Gouler, a private in company F, ninth New Hampshire volunteers.

APPROVED, July 13, 1866.

CHAP. CLXXXVI.—An Act for the Relief of Mary A. Patrick.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Mary A. Patrick, widow of Matthew A. Patrick, who was a captain first artillery United States Army, on the pension-rolls, at the rate of twenty dol-

lars per month, said pension to commence from and after the passage of this act.

APPROVED, July 13, 1866.

CHAP. CLXXXVII.—An Act for the Relief of Joel Farley.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Joel Farley, late a private in company F, eleventh Iowa volunteer infantry, on the pension-rolls, at the rate of fifteen dollars per month.

APPROVED, July 13, 1866.

CHAP. CLXXXVIII.—An Act for the Relief of James L. Perham.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to James L. Perham, late of company "G," tenth regiment Maine volunteers, a pension at the rate of eight dollars per month, from February fourth, eighteen hundred and sixty-three, to November seventeenth, eighteen hundred and sixty-four, amounting to one hundred and seventy-one dollars and thirty-six cents.

APPROVED, July 13, 1866.

CHAP. CLXXXIX.—An Act for the Benefit of John W. Jones.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, required to place the name of John W. Jones, late a private in company K seventeenth regiment Ohio volunteer infantry, on the pension-roll, and that he be paid a pension from the passage of this act, at the rate now allowed by law to pensioners who have suffered the loss of the right arm; and if the pension allowed to that class of pensioners should hereafter be changed by law, that said Jones shall thereafter be paid a pension according to such change.

APPROVED, July 13, 1866.

CHAP. CXC.—An Act granting a Pension to Ann Sheehy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Ann Sheehy, of Boston, Massachusetts, on the roll of invalid pensions, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood; and that the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to settle and adjust the accounts of John Sheehy, late a private in company D, twenty-eighth Massachusetts volunteers, and to pay the said Ann Sheehy, out of any moneys in the Treasury not otherwise appropriated, the amount that may be found to have been due said John Sheehy on the third day of July, eighteen hundred and sixty-three, the date of his death.

APPROVED, July 13, 1866.

CHAP. CXCI.—An Act for the Relief of Charles M. Stout, late a Second Lieutenant in Company E, Seventh Regiment Pennsylvania Reserve Corps.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the War Department are hereby authorized and directed to cause to be stated the account of Charles M. Stout, late a second lieutenant of company E, seventh regiment Pennsylvania Reserve corps of volunteers, and allow him pay and allowances as such officer



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from the date of his appointment by general orders of Gen. McClellan, at Harrison's Landing, in Virginia, during the time he served as such officer, from August first, eighteen hundred and sixty-two, to January thirty, eighteen hundred and sixty-three, inclusive, the time he returned again to the ranks as private soldier, and that the amount thereof be paid to the said Charles M. Stout or his legal representatives.

APPROVED, July 13, 1866.

CHAP. CXCI.—An Act for the Relief of Lieutenant Colonel Frank Lynch.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Frank Lynch, late of the twenty-seventh regiment of Ohio volunteer infantry, on the pension-rolls, at the rate of pension allowed to a lieutenant colonel, to which rank he was commissioned, and pay him at that rate in lieu of any other pension to which he may have been entitled.

APPROVED, July 13, 1866.

CHAP. CXCIH.—An Act for the Relief of John Gordon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of John Gordon, late of company "G," ninth United States infantry, upon the pension-rolls at the rate of eight dollars per month, and pay him the same from and after the passage of this act, and to continue during his natural life.

APPROVED, July 13, 1866.

CHAP. CXCIIV.—An Act for the Relief of J. Judson Barclay.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to cause to be paid to J. Judson Barclay, consul at Cyprus, the sum of three thousand dollars, being the amount paid by him for the expenses of his consulate, and that the same be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, July 13, 1866.

CHAP. CXCV.—An Act for the Relief of Matilda I. Monroe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Matilda I. Monroe, widow of David B. Monroe, late a sergeant in company A, sixty-second Ohio volunteers, on the pension-rolls at the rate of eight dollars per month, and continue during her widowhood, commencing on the sixteenth of March, eighteen hundred and sixty-three, and in event of the death or remarriage of said Matilda I. Monroe, then to the minor children of David B. Monroe, subject to the limitations and restrictions of the pension laws.

APPROVED, July 13, 1866.

CHAP. CXCVI.—An Act for the Relief of Lucinda Gates.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Lucinda Gates, widow of the late Horace Gates, of Franklin, Vermont, on the roll of invalid pensions, and pay to her the same pension during her widowhood, from the death of her husband, as was allowed him per special act approved July four, eighteen hundred and sixty-four.

APPROVED, July 13, 1866.

CHAP. CXCVII.—An Act granting a Pension to Mrs. Mary A. McManus, Widow of Captain Andrew McManus, late of the Sixty-Ninth Pennsylvania Volunteer Infantry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to cause the name of Mrs. Mary A. McManus, of Philadelphia, Pennsylvania, and widow of Andrew McManus, late a captain of the sixty-ninth regiment of Pennsylvania infantry volunteers, to be placed on the pension-rolls, at the rate of twenty dollars per month, to continue during her widowhood, and to continue the said pension to the child or children of the said Andrew McManus until they arrive at the age of sixteen years, in the event of the death or marriage of the said Mary A. McManus.

APPROVED, July 13, 1866.

CHAP. CXCVIII.—An Act granting an Increase of Pension to Mrs. Mercie E. Scattergood.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to cause the name of Mrs. Mercie E. Scattergood, widow of Edward Scattergood, to be placed on the roll of naval pensioners, at the rate of fifteen dollars per month, to continue during her widowhood, and to be continued to the children of said Edward Scattergood, who are under sixteen years of age, in the event of the death or marriage of the said Mercie E. Scattergood; the pension herein granted to be in lieu of that now received by her.

APPROVED, July 13, 1866.

CHAP. CXCIIX.—An Act for the Relief of George W. Bush.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to George W. Bush, of the city and county of New York, late a sergeant in company G, ninetieth regiment New York volunteers, a pension of eight dollars per month from August twenty-ninth, eighteen hundred and sixty-three, to March third, eighteen hundred and sixty-five.

APPROVED, July 13, 1866.

CHAP. CCIII.—An Act for the Relief of A. T. Spencer and Gurdon S. Hubbard.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster General be, and he is hereby, authorized and instructed to audit and adjust the account of A. T. Spencer and Gurdon S. Hubbard, for carrying the United States mail from Chicago, Illinois, to Mackinac, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan; La Pointe and Superior, Wisconsin, during the years from eighteen hundred and fifty-four to eighteen hundred and fifty-nine, inclusive, and allow therefor such amount as to him shall appear just and equitable, not exceeding the amount allowed for the same service to the party who afterward performed the same under contract; and the sum by him so found due shall be paid out of the Treasury of the United States out of any of the money therein not otherwise appropriated.

APPROVED, July 13, 1866.

CHAP. CCIV.—An Act for the Relief of Samantha Rader.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Samantha Rader,

widow of John Rader, late a private in company K, seventeenth regiment Ohio infantry, on the list of pensioners, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood; and in the event of the marriage or death of the said Samantha Rader, then to the minor child or children of John Rader, subject to the limitations and restrictions of the pension laws.

APPROVED, July 13, 1866.

CHAP. CCV.—An Act granting [a] Pension to Jonathan W. Beach.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place or have placed upon the pension-rolls the name of Jonathan W. Beach, and pay to him the sum of twenty-five dollars per month during his blindness. This act to take effect from and after its passage.

APPROVED, July 13, 1866.

CHAP. CCVI.—An Act granting a Pension to Mrs. Charlotte E. Reed.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized to issue to Mrs. Charlotte E. Reed, widow of John D. Reed, late of Falls Church, Fairfax county, Virginia, a pension certificate, and place her name on the roll of pensioners, with the pay and under the conditions and limitations of a widow of a private of infantry.

APPROVED, July 13, 1866.

CHAP. CCVII.—An Act for the Relief of the minor Children of Salvador Accadi, deceased.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the names of Adrian J. P. Accadi and Lavinia M. E. Accadi, minor children of the late Salvador Accadi, a musician in the United States Navy, on the pension-rolls, and pay, out of the naval pension fund, a pension of eight dollars per month to their legally appointed guardian, until the youngest of said children shall attain the age of sixteen years. This act to take effect from the first day of January, eighteen hundred and sixty-four.

APPROVED, July 13, 1866.

CHAP. CCXX.—An Act for the Benefit of William G. Lee.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed to pay William G. Lee, or his legal representatives, out of any money in the Treasury not otherwise appropriated, the sum of twenty-eight thousand four hundred and twenty-eight dollars and fifty cents, which said sum shall be in full payment of his claim against the United States, on account of corn purchased by him in the department of Kentucky, as the agent of the quartermaster's department, under the agreement made by him with Captain John A. Morris, in eighteen hundred and sixty-four, and which corn spoiled on his hands by reason of the Government failing to furnish transportation for the same.

APPROVED, July 23, 1866.

CHAP. CCXXI.—An Act for the Relief of William H. Wheeler, of Bangor, Maine.

Whereas William H. Wheeler, of Bangor, Maine, in the month of February, eighteen hundred and sixty-five, lost a United States bond of the denomination of five hundred dollars, issued under the act of twenty-fifth Feb-

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ruary, eighteen hundred and sixty-two, number eighteen thousand three hundred and seventy-four, with all the unpaid coupons attached, which bond has since been found mutilated and partially destroyed; and whereas thirteen of the coupons of said bond have been reclaimed in such condition as to be paid at maturity; and whereas it is uncertain whether the remaining coupons are not still in existence: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized to issue and deliver to said William H. Wheeler a duplicate of said bond, number eighteen thousand three hundred and seventy-four, without coupons attached: *Provided,* That, before issuing the same, said Wheeler shall deliver to the Secretary of the Treasury all the remaining fragments and parts of said bond, excepting the thirteen coupons which have been reclaimed as aforesaid, with a good and sufficient bond, with security to be approved by the Secretary of the Treasury, to indemnify the United States against all loss, cost, or damages incurred by reason of the issuing of said duplicate bond.

APPROVED, July 23, 1866.

CHAP. CCXXII.—An Act for the Relief of the Owners of the Hawaiian Bark "Kamahamaha V."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to Charles Brewer and Company, of Boston, agents for the owners of the Hawaiian bark "Kamahamaha V.," in coin, out of any money in the Treasury not otherwise appropriated, the sum of thirty-five hundred and thirty dollars, in full for the passage, on the Hawaiian bark "Kamahamaha V.," of sixty-eight destitute American seamen belonging to American vessels which were burned by the Anglo-confederate pirate "Shenandoah," from the island of Ascension to Honolulu.

APPROVED, July 23, 1866.

CHAP. CCXXIII.—An Act for the Relief of the Owners of the Bark Maria Henry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of twelve thousand dollars to George Hearn, agent and part owner of the bark Maria Henry, of Portland, Maine, in full compensation for the use and detention of said vessel, by the military authorities of the United States, from the twenty-sixth day of February to the twenty-sixth day of May, eighteen hundred and sixty-five, inclusive, and for any and all damage for the omission of said Government to load said vessel with coal for New Orleans or Port Royal.

APPROVED, July 23, 1866.

CHAP. CCXXIV.—An Act for the Relief of Edward P. McKinney, of Binghamton, New York, late Captain and Assistant Commissary of Subsistence.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the War and Treasury Departments be, and they are hereby, authorized to allow to Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence, upon the settlement of his accounts, the sum of four hundred and seventy-five dollars, or so much thereof as the proof shall establish, upon his proving satisfactorily to such officers that such sum was properly paid by him prior to the thirteenth day of August, eighteen hundred and sixty-four, to men of the first Rhode Island cavalry, and the first, sec-

ond, and fifth United States cavalry regiments, and that his vouchers therefor were forcibly taken from him and destroyed by the enemy on the thirteenth day of August, eighteen hundred and sixty-four, between Harper's Ferry and Winchester, Virginia, without the fault of the said Edward P. McKinney.

APPROVED, July 23, 1866.

CHAP. CCXXV.—An Act for the Benefit of Henry Horne.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to Henry Horne, out of any money in the Treasury not otherwise appropriated, the sum of four hundred dollars in gold, or its equivalent in United States currency, being the amount advanced by him for the use of Federal prisoners at Andersonville, and used for their benefit while prisoners of war at that place during the years eighteen hundred and sixty-four and eighteen hundred and sixty-five, the payment of the said sum to act as a full release of the note given to said Henry Horne by Father Wheeler, under whose supervision the said sum of money was expended.

APPROVED, July 23, 1866.

CHAP. CCXXVI.—An Act for the Relief of William Cook.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to William Cook, of Washington, District of Columbia, the sum of two hundred dollars, in full for the use and occupation of his land by the order of the War Department.

APPROVED, July 23, 1866.

CHAP. CCXXVII.—An Act for the Relief of the Heirs of Horace I. Hodges.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in the settlement of the accounts with the Treasury of Horace I. Hodges, deceased, late captain and assistant quartermaster United States volunteers, there shall be allowed in his favor the sum of one thousand two hundred and fifty-six dollars and forty cents on account of the loss of that amount of public funds in his hands by the capture of Plymouth, North Carolina, by the rebels, on the twentieth day of April, one thousand eight hundred and sixty-four, the loss being without neglect or fault on the part of said Hodges, and he having lost his life at that time in attempting to carry orders from the commanding officer at Plymouth to the United States gunboats.

APPROVED, July 23, 1866.

CHAP. CCXXVIII.—An Act for the Relief of Liston H. Pearce.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed to pay to the Rev. Liston H. Pearce the sum of five hundred and forty dollars, out of any money in the Treasury not otherwise appropriated, in full for his services as chaplain of the one hundred and thirty-second regiment of Illinois volunteers during the recent rebellion.

APPROVED, July 23, 1866.

CHAP. CCXXIX.—An Act for the Relief of James G. Holland, late Acting Assistant Paymaster United States Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to

credit James G. Holland, late acting assistant paymaster of the Navy of the United States, with the sum of five hundred dollars, in the settlement of the accounts of said Holland with the Fourth Auditor of the Treasury; such credit to be given to said Holland for the sum of five hundred dollars in Treasury notes of the United States lost and destroyed without any fault or neglect on the part of said Holland: *Provided,* That the final order for the allowance of the said credit shall not be made until the whole subject connected with the said alleged loss shall be fully investigated by the Fourth Auditor, and he shall certify thereto.

APPROVED, July 23, 1866.

CHAP. CCLVI.—An Act for the Relief of the Owners of the British Vessel Magicienne.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid, out of any money in the Treasury not otherwise appropriated, to the order of the proper functionary of the Government of her Majesty the Queen of Great Britain and Ireland, the sum of eight thousand six hundred and forty-five dollars, as full compensation to the owners of the British vessel Magicienne, or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of this vessel by the United States ship Onward, in the month of January, eighteen hundred sixty-three, and also as full compensation to the owners and shippers of the cargo of the Magicienne; such sum to be distributed agreeably to the award of William M. Evarts and Edward M. Archibald, Esquires, to whom the claim was referred for adjustment, by an agreement bearing date in November, eighteen hundred and sixty-three, between the Secretary of State on the part of the United States, and the British minister at Washington on the part of Great Britain.

APPROVED, July 25, 1866.

CHAP. CCLVII.—An Act for the Relief of Thomas W. Stevens.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be paid to Thomas W. Stevens, out of any money in the Treasury not otherwise appropriated, the sum of one thousand and twenty-five dollars and fifty cents on account of services as inspector of customs at the port of Albany, from the first day of March, eighteen hundred and sixty-two, to the first day of April, eighteen hundred and sixty-three.

APPROVED, July 25, 1866.

CHAP. CCLVIII.—An Act for the Relief of Alois Klaus.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Alois Klaus the sum of thirty-two dollars and ninety cents, in full payment for moneys paid by him for transportation, and due to him for rations, while in the military service of the United States.

APPROVED, July 25, 1866.

CHAP. CCLIX.—An Act for the Relief of James P. Johnson.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and required to pay James P. Johnson, of Iowa, the sum of two hundred and two dollars and fifty cents, out of any money in the Treasury not otherwise appropriated, in full payment for his services as veterinary surgeon in the fourth Iowa cavalry.

APPROVED, July 25, 1866.

CHAP. CCLX.—An Act for the Relief of Daniel Winslow.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Daniel Winslow and his legal representatives be, and they hereby are, released and relieved from all judgments, and from all liens and incumbrances of said judgments in favor of the United States, heretofore obtained against said Winslow, in any district court of the United States, upon a contract entered into by said Winslow with the chief of the Bureau of Provisions and Clothing, to deliver at the navy-yard in Charlestown, Massachusetts, eighteen hundred barrels of Navy beef, which contract was dated September twenty-nine, eighteen hundred and forty-six; meaning hereby to release the said Winslow from all liability arising out of said contract, or any bond given to secure the performance thereof, and from all judgments founded on the same, whether against himself alone, or himself and his sureties, but not to relieve him of any levies heretofore made, or sums paid on said judgments.

APPROVED, July 25, 1866.

CHAP. CCLXI.—An Act for the Relief of Mrs. Eleanor C. Ransom.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized to pay Mrs. Eleanor C. Ransom, out of any money in the Treasury not otherwise appropriated, the sum of four hundred dollars, to compensate her for services performed by her in taking care of sick and wounded soldiers of the United States on the steamship North America, on her voyage from New Orleans to New York, in December, anno Domini eighteen hundred and sixty-four.

APPROVED, July 25, 1866.

CHAP. CCLXXI.—An Act for the Relief of W. B. Kelley.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to W. B. Kelley, late a second lieutenant in company F, first regiment Kentucky cavalry volunteers, a pension, at the rate of fifteen dollars per month, from the thirty-first day of July, eighteen hundred and sixty-three, to March thirteenth, eighteen hundred and sixty-five, amounting to two hundred and ninety-one dollars and fifty cents.

APPROVED, July 26, 1866.

CHAP. CCLXXII.—An Act granting a Pension to Mrs. Nancy A. Stocks.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Nancy A. Stocks, widow of Reuben Stocks, late a private in company K, eighteenth regiment Illinois infantry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the eleventh day of June, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 26, 1866.

CHAP. CCLXXIII.—An Act granting a Pension to Drusey A. Layman.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to place upon the pension-roll the name of Drusey A. Layman, of Palatine, Marion county, West Virginia, widow of Eugenius E. Layman, de-

ceased, late a private in company C, of the seventeenth regiment of West Virginia volunteers, and allow and pay to her a pension of eight dollars per month from the death of her husband, on the thirteenth day of January, in the year eighteen hundred and sixty-five, to continue during her widowhood.

APPROVED, July 26, 1866.

CHAP. CCLXXIV.—An Act granting a Pension to John Pyle.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of John Pyle, late a sergeant in company B, one hundred and fifth regiment Indiana militia volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from and after the passage of this act, and to continue during his natural life.

APPROVED, July 26, 1866.

CHAP. CCLXXV.—An Act granting a Pension to Abraham Lansing.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Abraham Lansing, late a master's mate in the United States Navy, on the pension-roll, at the rate of ten dollars per month, to commence from and after the passage of this act, and to continue during his natural life; said pension to be paid out of the naval pension fund.

APPROVED, July 26, 1866.

CHAP. CCLXXVI.—An Act to extend the Time of Letters-Patent issued to Thaddeus Hyatt.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the letters-patent granted to Thaddeus Hyatt on the twelfth day of November, one thousand eight hundred and forty-five, for improvements in vault covers, and which was reissued on the third day of April, one thousand eight hundred and fifty-five, and subsequently extended by the Commissioner of Patents to the twelfth day of November, one thousand eight hundred and sixty-six, be, and the same is hereby, extended for the term of seven years, commencing on the twelfth day of November, one thousand eight hundred and sixty-six, and ending on the twelfth day of November, one thousand eight hundred and seventy-three, for the benefit of the said Thaddeus Hyatt, his heirs and legal representatives, upon the condition hereinafter set forth. And the Commissioner of Patents is hereby directed, upon the presentation of said patent, and the payment of the fees and charges provided by law, to extend said patent by making a certificate thereon, upon a certified copy thereof, of such extension in the name of the said Thaddeus Hyatt, if in his judgment upon full hearing, that the same should be granted. And the said Commissioner is hereby further directed to cause said extension, if perfected, to be entered on the record of the Patent Office. And the said patent so extended shall have the same effect as if originally granted for the term extending to the end of the term to which it is extended by this act: *Provided, however,* That said extended patent shall be open to legal inquiry and decision in the same manner as if issued under the general law relating to patents: *And provided further,* That all persons enjoying the lawful use of the improvement secured by said patent, and the purchaser of any machine so in use may continue to use the same as if this act had not passed.

APPROVED, July 26, 1866.

CHAP. CCXC.—An Act for the Relief of John Hastings, late Surveyor and Depository of public Moneys at Pittsburgh.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act for the relief of John Hastings, collector of the port of Pittsburgh," approved March third, eighteen hundred and sixty-five, be, and the same is hereby, amended so as to read as follows: that the Secretary of the Treasury be, and he is hereby, authorized and directed, in adjusting the accounts of John Hastings as depository of public monies at Pittsburgh, Pennsylvania, to give him credit for the sum of nine thousand nine hundred and fifty-six dollars and sixty-two cents, the amount of public money of which he was robbed on the tenth day of March, eighteen hundred and fifty-four, while acting in the aforesaid capacity.

APPROVED, July 27, 1866.

CHAP. CCXCI.—An Act to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain Tract of Land in the Stockbridge Reservation, Wisconsin.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Samuel Stevens, a Stockbridge Indian, be, and he is hereby, authorized to enter and purchase the tract of land known as lot number one hundred and twenty-six, in the Stockbridge reservation, in the county of Calumet and State of Wisconsin, under the "act to authorize the issuing of patents for certain lands in the town of Stockbridge, Wisconsin, and for other purposes," approved March third, eighteen hundred and sixty-five.

SEC. 2. *And be it further enacted,* That the Commissioner of the General Land Office be, and he is hereby, authorized and directed, upon the entry and payment therefor, to cause a patent, in due form of law, to be issued to the said Samuel Stevens, in conformity with the act above mentioned.

APPROVED, July 27, 1866.

CHAP. CCXCII.—An Act for the Relief of Mrs. Ann E. Smoot, Widow of Captain Joseph Smoot.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the benefit of the sixth section of "An act to amend 'An act to promote the efficiency of the Navy,'" approved January sixteenth, eighteen hundred and fifty-nine, [seven] be, and the same is hereby, extended to Mrs. Ann E. Smoot, widow of the late Captain John Smoot, of the United States Navy, and that the proper accounting officers of the Treasury be authorized and directed to pay her the waiting orders pay of his rank which her said husband would be entitled to receive at the time he was placed on the reserved list on furlough pay, to the date of his death, deducting therefrom whatever amount he may have received in the mean time on account of pay.

APPROVED, July 27, 1866.

CHAP. CCCXIII.—An Act for the Relief of Francis Colgen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place the name of Francis Colgen, late a private in company B, twelfth regiment Wisconsin volunteers, upon the pension-rolls of the United States, at the same rate that is allowed to soldiers or seamen who have lost the sight of both eyes in the military or naval service of the United States, subject to the biennial examination prescribed in the general pension laws;



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to commence on the fifteenth day of January, eighteen hundred and sixty-three, the date of his discharge from the service.

APPROVED, July 28, 1866.

CHAP. CCCXIV.—An Act for the Relief of William Crosswell.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William Crosswell, of Boston, in the State of Massachusetts, on the roll of invalid pensioners, at the rate of eight dollars per month, said pension to commence on the first day of February, eighteen hundred and sixty-five; to be paid out of the naval pension fund.

APPROVED, July 28, 1866.

CHAP. CCCXV.—An Act for the Relief of Marion M. Buxton.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Marion M. Buxton, widow of James H. Buxton, late an ensign in the United States Navy, on the pension-rolls, at the rate prescribed by law for officers of his rank; said pension to be paid out of the "naval pension fund." And in case of the death or remarriage of the said Marion M. Buxton, then to the minor child or children of the said James H. Buxton, subject to the limitations and restrictions of the pension laws.

APPROVED, July 28, 1866.

CHAP. CCCXVI.—An Act for the Relief of Quincy A. May.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Quincy A. May, of company H, eighty-third regiment of Illinois volunteers, on the list of pensioners, and pay or cause to be paid to him the sum of eight dollars per month from the passage of this act.

APPROVED, July 28, 1866.

CHAP. CCCXVII.—An Act granting a Pension to Daniel Lucas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Daniel Lucas, of Plymouth, Massachusetts, formerly a private of company E, third U. S. infantry, on the roll of invalid pensions, and pay to him monthly such a sum as he may be entitled [to] under the limitations and restrictions regulating the payment of pensions.

APPROVED, July 28, 1866.

CHAP. CCCXVIII.—An Act for the Relief of Robert Baldwin.

Whereas, on the fifth day of December, eighteen hundred and forty-nine, Robert Baldwin located at the land office at Milan, in the State of Missouri, three military bounty land-warrants issued under the act of eighteen hundred and forty-seven, each for one hundred and sixty acres and numbered seven thousand eight hundred and forty-seven, twenty-six thousand eight hundred and one, and fifty thousand two hundred and sixty-three, upon the following-described public lands, to wit: the west half lot number one northwest quarter section five: the east half lots number one and two northeast quarter section six in town fifty-seven range sixteen: the southeast quarter southeast quarter, the west half northeast quarter, the

east half northwest quarter, the west half southeast quarter, the northeast quarter southeast quarter, and the northeast quarter southwest quarter of section thirty-one town fifty-eight range sixteen, receiving from the register of said land office at Milan, duplicate certificates of location; and whereas the said military bounty land-warrants were lost from the mail in their transmission from said land office to Washington, and have not since been heard from: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to cause patents for said lands to be issued to said Robert Baldwin, upon his surrendering to the Commissioner of the General Land Office the said duplicate certificates of location.

APPROVED, July 28, 1866.

## PRIVATE RESOLUTIONS.

No. 22.—A Resolution authorizing Commodore William Radford to accept a Decoration from the King of Italy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the assent of Congress be, and the same is hereby, given to Commodore William Radford, of the Navy of the United States, to accept the decoration of the Equestrian Order of Saint Maurice, bestowed upon him by the King of Italy, as a reward for the assistance rendered by him to the Italian frigate *Re d'Italia*, when she got ashore near Long Branch.

APPROVED, April 13, 1866.

No. 23.—A Resolution authorizing Rear Admiral H. Paulding to accept a Decoration from the King of Italy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Rear Admiral H. Paulding, of the Navy of the United States, may accept a decoration of the Equestrian Order of St. Maurice, which has been tendered to him by the King of Italy as a reward for assistance rendered to the Italian frigate *Re d'Italia* when she got ashore near Long Branch.

APPROVED, April 13, 1866.

No. 28.—Joint Resolution for the Relief of Alexander Thompson, late United States Consul at Maranham.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to adjust and pay all proper accounts and claims of Alexander Thompson for salary and services as consul at Maranham, in Brazil, in as full and ample a manner as if he had been a citizen of the United States while discharging the duties of said office.

APPROVED, April 21, 1866.

No. 30.—A Resolution authorizing the Secretary of the Treasury to adjust the Claim of Beals and Dixon against the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized to cause the accounts of Beals and Dixon, for deliveries of material after May one, eighteen hundred and sixty-one, under their contracts with the United States, to be adjusted and paid; allowing to said Beals and Dixon such additional prices for material delivered after May one, eighteen hundred and sixty-one, as, in his opinion, they

may be justly entitled to under the provisions of their supplementary contract, dated January one, eighteen hundred and fifty-seven: *Provided*, That, in the opinion of the Attorney General, said Beals and Dixon have a legal claim upon the United States for an increase of prices under said contract.

APPROVED, May 2, 1866.

No. 33.—Joint Resolution providing for the Reappraisal of the Lands described in an Act for the Relief of William Sawyer and others of Ohio.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized to appoint a commissioner to reappraise the lands described in the act entitled "An act for the relief of William Sawyer and others of Ohio," approved July second, eighteen hundred and sixty-four: *Provided*, however, that the occupants of said lands shall pay all the expenses of the reappraisalment.

APPROVED, May 5, 1866.

No. 36.—Joint Resolution for the Relief of Rev. Harrison Heermance, late Chaplain of [the] One Hundred and Twenty-Eighth Regiment New York Volunteers.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Paymaster General of the Army be, and he is hereby, authorized and required to adjust and pay, out of any money appropriated or hereafter to be appropriated for the payment of the Army, the account of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment of New York volunteers, for such period as it shall appear that he actually rendered service as chaplain of said regiment, and for which he received no pay by reason of defective muster, or otherwise, though no fault of his own.

APPROVED, May 9, 1866.

No. 54.—A Resolution referring the Petition and Papers in the Case of Joseph Nock to the Court of Claims.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the claim of Joseph Nock for damages occasioned by the annulment of his contract for furnishing locks and keys for the use of the United States mail, and also for the use of said Nock's patent in the manufacture of mail locks subsequent to such annulment, be, and it is hereby, referred to the Court of Claims for its decision, in accordance with the principles of equity and justice: *Provided*, That said court do not render judgment for a greater sum than is contained in the report of Solicitor Comstock to the Senate, dated December twenty-two, anno Domini eighteen hundred and fifty-two.

APPROVED, June 21, 1866.

No. 56.—A Resolution for the Relief of Samuel Norris.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the claim of Samuel Norris of California, for supplies furnished the Indians of that State, under contracts made with certain commissioners, or either of them, authorized to negotiate treaties with said Indians, and all papers relating thereto, be referred back to the Court of Claims for examination and allowance; and that in fixing the amount to be paid the claimant the rule shall be the actual value of the supplies furnished at the times and places of delivery, of which due proof shall be made by the claimant.

APPROVED, June 22, 1866.

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## No. 59.—Joint Resolution for the Relief of Charles M. Blake.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to Charles M. Blake six months' salary as chaplain in the Army in full for the pay of which he was deprived while waiting investigation into the charges preferred against him, at the close of which investigation he was restored to his position by the Secretary of War.

APPROVED, June 27, 1866.

## No. 60.—Joint Resolution for the Relief of Elizabeth Woodward and George Chorpennning, of Pennsylvania.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of twenty-eight thousand one hundred and seventy-five dollars shall be paid by the Secretary of the Treasury, out of any money not otherwise appropriated, in equal moieties to Elizabeth Woodward, widow of Absalom Woodward, and George Chorpennning, for destruction of property by Indians between Salt Lake and California prior to the first of July, eighteen hundred and fifty-two; the moiety paid to the said Elizabeth Woodward to be for the use of herself and her four children.

SEC. 2. *And be it further resolved,* That the further sum of twenty-six thousand three hundred and seventy dollars shall be paid in the same manner to George Chorpennning for property destroyed by Indians between Salt Lake and California prior to the first of April, eighteen hundred and fifty-six; and the amount thus paid shall be deducted from any annuities now due or that may hereafter become due to the Indians inhabiting the said territory.

APPROVED, June 29, 1866.

## No. 61.—Joint Resolution for the Relief of Ambrose L. Goodrich and Nathan Cornish, for carrying the United States Mail from Boise City to Idaho City, in the Territory of Idaho, and of Daniel Wellington and J. C. Dorsey, for extra Services in carrying the Mails.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster General be, and is hereby, authorized to audit and settle, as to him may appear just and equitable, the demand of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail on route sixteen thousand and one, from Boise City to Idaho City, in the Territory of Idaho, from the fifth day of July, eighteen hundred and sixty-four, until the first day of July, eighteen hundred and sixty-five: *Provided,* That the amount to be allowed shall not exceed eight thousand dollars; and also to audit and settle in like manner the demand of Daniel Wellington and J. C. Dorsey, for extra services in carrying the United States mails on route number fourteen thousand six hundred and two, between the towns of Carson City and Aurora, in the State of Nevada, from July first, eighteen hundred and sixty-two, to June thirtieth, eighteen hundred and sixty-five: *Provided,* That the amount to be allowed shall not exceed ten thousand dollars.

APPROVED, June 29, 1866.

## No. 64.—Joint Resolution for the Relief of Joseph Parkins.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officer of the War Department be, and he is hereby, authorized and instructed to pay to Joseph Parkins, who has been and now is delivering the stone for the construction of the

arsenal at Rock Island, in the State of Illinois, in lieu of the contract price, the sum of thirteen dollars and fifty cents per perch for all stone delivered and to be delivered for the construction of said arsenal, and that said Parkins shall receive and accept said sum as full satisfaction of all claims under said contract, and shall never make any further claim for any services rendered by him thereunder.

APPROVED, July 3, 1866.

## No. 65.—Joint Resolution providing for the Settlement of Accounts of W. H. Hamrick.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be directed to settle the accounts of the late Wyatt H. Hamrick, lieutenant and quartermaster of the thirty-ninth Ohio volunteers, upon equitable terms, and upon the best evidence available.

APPROVED, July 3, 1866.

## No. 68.—Joint Resolution for the Relief of Edgar T. Harris.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the name of Edgar T. Harris, late of the first West Virginia infantry, be placed on the list of pensioners and be entitled to such pension as is now or may hereafter be allowed by law to pensioners having total and permanent disability.

APPROVED, July 13, 1866.

## No. 70.—Joint Resolution for the Relief of John Wells and Sons, of Baltimore.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Quartermaster General, with the proper accounting officers of the Treasury Department, is hereby authorized to remit to John Wells and Sons, of Baltimore, Maryland, so much of the penalty incurred by them by reason of their failure to comply with their contract entered into on the fourth day of October, eighteen hundred and sixty-three, with Captain S. H. Dunan, A. Q. M., under the direction of the Quartermaster General, for repairing the steamer "City of Albany" as may not be covered by the actual loss of the Government, by reason of the delay in completing said steamer in accordance with the strict terms of the contract.

APPROVED, July 23, 1866.

## No. 71.—Joint Resolution for the Relief of Caroline A. Randall, Administratrix and Widow of Charles B. Randall, deceased.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay to the legal representatives of Charles B. Randall, deceased, late lieutenant colonel of the 149th regiment New York volunteer infantry, who was killed in action, on the twentieth July, eighteen hundred and sixty-four, at the battle of Beech Tree Creek, Georgia, the sum of one hundred and seventy-five dollars, out of any money in the Treasury not otherwise appropriated, as payment for one private horse used by said Randall in the military service, which horse was lost by starvation five days after the death of said Randall.

APPROVED, July 23, 1866.

## No. 72.—Joint Resolution for the Relief of Isaac Ranney, Internal Revenue Collector for the Eighth District, Ohio.

Whereas, on the night of the twenty-fifth day of June, A. D. eighteen hundred and sixty-

five, the office of Thomas J. Robinson, deputy collector of Isaac Ranney, internal revenue collector for the eighth district, Ohio, located at Mansfield in said State, was burglariously entered by persons whose names are unknown; and whereas said burglars did, on the night aforesaid, at the office aforesaid, by means of drills and gunpowder, break into and enter the iron safe of said deputy collector, and feloniously steal and carry away revenue stamps therefrom belonging to the Government of the United States to the amount of six hundred and thirty-two dollars and twenty-three cents; and whereas, further, said burglarious entry and larceny was not attributable to any neglect of duty on the part of said Thomas J. Robinson, as such deputy collector, and that said office and safe were in all respects such as were required by the law and the regulations of the Treasury Department: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, directed and required in the settlement of the accounts of said Isaac Ranney, as such internal revenue collector, with the Government of the United States, to allow and give credit to the said Ranney for the amount of said stamps stolen as aforesaid.

APPROVED, July 23, 1866.

## No. 78.—A Resolution to refer the Claim of the Administrator of Richard W. Meade, deceased, to the Court of Claims.

Whereas doubts are entertained whether the claim of the estate of Richard W. Meade, deceased, upon the Government of the United States is covered and embraced by the ninth section of the act of third March, eighteen hundred and sixty-three, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February twenty-four, eighteen hundred and fifty-five, which case was referred to the said court by resolution of the Senate, passed twenty-seventh February, eighteen hundred and sixty-one. Now, in order to remove all doubts on that subject,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said claim of Richard W. Meade, administrator of Richard W. Meade, deceased, be, and the same is hereby, referred to the Court of Claims for adjudication thereof, pursuant to authority conferred upon said court by any existing law to examine and decide claims against the United States, referred to it by Congress.

APPROVED, July 25, 1866.

## No. 88.—A Resolution for the Relief of Sergeant Milton McKinnon.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Sergeant Milton McKinnon the sum of fifty-eight dollars and forty-five cents, being the amount of a draft drawn in his favor by Major M. L. Martin, late paymaster in the United States Army, on the Assistant Treasurer of the United States in New York, dated March twenty-four, eighteen hundred and sixty-four, and which was lost in its transmission to New York: *Provided,* That said Milton McKinnon file a duplicate of said draft, duly authenticated, with said Secretary of the Treasury; also, that the payment herein authorized shall not be made until the said McKinnon shall execute to the United States a bond, with security, to be approved by the Secretary of the Treasury, conditioned to indemnify the United States against all loss, cost, or damage incurred by reason of the payment hereby authorized.

APPROVED, July 26, 1866.

## 39TH CONG....1ST SESS.

## Laws of the United States.

No. 89.—A Resolution authorizing the Secretary of the Treasury to audit and settle the Accounts of Caleb T. Fay and William Y. Patch, late Assessor and Collector of Internal Revenue at San Francisco.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be authorized to audit and settle the accounts of Caleb T. Fay, and William Y. Patch, late assessor and collector of internal revenue at San Francisco, as to him may appear just and equitable.

APPROVED, July 26, 1866.

No. 94.—A Resolution for the Relief of Charles M. Blake.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid, out of any money in the Treasury not otherwise appropriated, to Charles M. Blake, the full pay and allowances of a chaplain in the Army for one year from the eighteenth day of May, eighteen hundred and sixty-five to the seventeenth day of May, eighteen hundred and sixty-six, the same being the sum of fifteen hundred and sixty dollars (\$1560) less the amount which may have been paid him by the effect of joint resolution for his relief, approved June twenty-seventh, eighteen hundred and sixty-six.

APPROVED, July 27, 1866.

No. 95.—Joint Resolution for the Relief of Fontaine T. Fox, jr.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Government be, and they are hereby, authorized and directed to pay to Fontaine T. Fox, jr., late aide-de-camp to Brigadier General W. T. Ward, a sum equal to the pay and allowances of a first lieutenant and aide-de-camp, from the eighth day of October, eighteen hundred and sixty-one, to the third day of April, eighteen hundred and sixty-two.

APPROVED, July 27, 1866.

No. 103.—Joint Resolution to reimburse Mrs. Mary Phelps, of Missouri.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to Mrs. Mary Phelps, of Missouri, out of any money in the Treasury not otherwise appropriated, the sum of twenty thousand dollars to reimburse her for expenditures made by her in raising and equipping troops for the United States in the late rebellion, and also for her expenditures made in behalf of the soldiers of the Union wounded in battle, and of the orphan children of soldiers of the Union.

APPROVED, July 28, 1866.

No. 104.—Joint Resolution to provide for Payment of the Claim of Colonel H. C. De Ahna for military Services.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper disbursing and accounting officers of the Treasury be, and they are hereby, authorized and directed to pay to Henry Charles De Ahna a sum equal to the pay, allowances, and emoluments of a colonel of infantry in active service, for one year from the thirty-first day of March, eighteen hundred and sixty-two, and that such amount so allowed as aforesaid be paid to him out of any moneys in the Treasury not otherwise appropriated. And he shall be considered honorably mustered out of the military service.

APPROVED, July 28, 1866.

No. 105.—Joint Resolution authorizing the Secretary of War to contract with Dr. Alexander Dunbar.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be authorized and directed to contract on such terms as, in his discretion he may think fair and reasonable, with Dr. Alexander Dunbar, for the use by the Government of the alleged discovery of the said Dunbar of a mode of treatment of the diseases of the horse's foot, and for his services for one year in instructing the farriers of the Army in such treatment;

the amount agreed upon to be paid out of the fund already appropriated for the purchase of horses or general support of the Army.

APPROVED, July 28, 1866.

No. 106.—Joint Resolution to pay Colonel Lewis F. Fix.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the United States are hereby directed to pay to Lewis Ferdinand Fix of Ohio, the pay and emoluments of a lieutenant colonel of infantry, for the time from the first day of March, eighteen hundred and sixty-five, to the twenty-ninth of July, eighteen hundred and sixty-five.

APPROVED, July 28, 1866.

No. 107.—Joint Resolution authorizing the Secretary of the Interior to pay Charles M. Pott a Pension of fifteen Dollars per Month.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to pay or cause to be paid to Charles M. Pott, late of company K, one hundred and seventy-ninth Pennsylvania militia, now on the pension-roll, the same pension provided for, for persons having lost one hand in the military service of the United States, as provided in section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six.

APPROVED, July 28, 1866.

No. 108.—Joint Resolution to authorize the Payment of Rev. C. B. Boynton, as Chaplain of the House of Representatives of the Thirty-Ninth Congress.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Rev. Charles B. Boynton is authorized to draw the amount appropriated to the payment of the Chaplain of the House for the Thirty-Ninth Congress.

APPROVED, July 28, 1866.

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